

Review of competition rules in the EPG Code

[Review of competition rules in the EPG Code](#) – Welsh overview

CONSULTATION:

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1. Overview

This document sets out our proposals to retain competition rules on electronic programme guide (EPG) providers to continue to support fair and effective competition.

On-screen TV guides, or EPGs, enable viewers to find and select TV programmes on broadcast or 'linear' TV. Our EPG Code sets rules on EPG providers, including rules to protect fair and effective competition.

The Digital Economy Act 2017 introduced a requirement on us to review the EPG Code before 1 December 2020. This document presents our provisional conclusions of our review.

What we are proposing – in brief

Linear TV is still widely watched and valued, and EPGs are an important way to access this content There has been a huge change in how we engage with media since the rules were imposed in 2004. People are increasingly going online to access a variety of content and creating their own. Nonetheless, linear TV is still widely watched, and EPGs are an important way to find TV programmes.

Competition rules are still required In our view it remains necessary to have rules in place on licensed EPG providers to engage with channel providers on fair, reasonable and non-discriminatory terms. This is to ensure that licensees do not enter into or maintain arrangements or engage in a practice which we would consider to be prejudicial to fair and effective competition. We provisionally conclude it is more appropriate to have these rules rather than to solely rely on our powers under the Competition Act 1998.

The existing rules are working well Following engagement with stakeholders, we propose to make only minor amendments to the existing rules. In particular, we propose to require that consultations by EPG providers follow a transparent process and include reasonable timeframes both for channel providers to comment and for implementation of any changes to listings.

Next steps

- 1.1 This is a consultation and we welcome any views and comments from stakeholders on the issues raised in this document. This consultation closes on 25 September 2020. We will consider stakeholder responses to our proposals and plan to publish our decisions before 1 December 2020.

2. Background

- 2.1 In this section we summarise relevant background to this review including: linear TV and other content, the importance of EPGs in accessing linear TV content, the EPG providers, and details of this review.

Linear TV is still widely watched and highly valued but its use is falling

- 2.2 The last ten years have seen unprecedented change in the media sector, enabled by high speed internet access and connected devices. This enhanced connectivity has allowed new services to emerge, which are transforming the way we engage with media content. Consumers can now share videos through services such as YouTube and TikTok, and watch TV shows whenever they want through on demand services. Video on demand includes Subscription Video on Demand (SVoD) services such as Netflix or Disney+¹, as well as Broadcaster Video on Demand (BVoD). BVoD refers to on-demand services provided by broadcasters such as the BBC iPlayer or the ITV Hub.²
- 2.3 In Q1 2020, 53% of UK homes had a subscription to at least one of the following SVoD services - Netflix, Amazon Prime Video or Now TV.³ Uptake of SVoD services may have continued to increase as a result of the lockdown associated with the coronavirus (Covid-19) pandemic.
- 2.4 People are increasingly going online to access a variety of different types of content, with many viewers no longer bound by television schedules or watching programmes only on a television set.⁴ In 2019, individuals spent on average 3 hours, 3 minutes watching linear TV (measured as content which is viewed at the time of broadcast or within seven days afterwards on a TV set). This figure is steadily reducing, down from an average of 3 hours, 12 minutes in 2018 and 3 hours, 41 minutes in 2014.⁵ However, average individual consumption of linear TV remains significant. Further, this form of viewing is likely to remain particularly important for people who do not go online; this group includes some older viewers for whom linear TV remains a vital source of information and entertainment.⁶

¹ Under paid SVoD, consumers pay a flat fee, usually on a monthly or annual basis, to stream and/or download content.

² BVoD services include BBC iPlayer, ITV Hub, All4, My5 and Sky Go. These services may offer more than just broadcast catch-up viewing and may be free to watch, advertising funded or paid for.

³ Source: BARB Establishment Survey.

⁴ In September 2019 the average time spent online each day by adults aged 18+ was 3 hours 29 minutes, up from 3 hours 11 minutes in 2018 (Source: Comscore MMX Multi-Platform, Total Internet, Adults 18+, Sep 2018 & 2019, Online Nation 2020, Ofcom 24 June 2020 https://www.ofcom.org.uk/_data/assets/pdf_file/0027/196407/online-nation-2020-report.pdf).

⁵ Source: BARB. Individuals (age 4+). Consolidated broadcast viewing up to 7-days.

⁶ Thirteen per cent of adults aged 16+ never go online, a figure that has been consistent since 2014. Older adults and DE adults are more likely than average to be non-internet users (27% of DE adults, 30% of 65-74s and 51% of adults aged 75+). Working-age adults (16-64s) in DE households are more than four times as likely as those in non-DE households

- 2.5 Linear TV is therefore still an important way for broadcasters to reach their audiences, who and consequently compete against each other for audiences and, for commercial channels, for advertising revenues.

EPGs are an important way to find content

- 2.6 EPGs consist of the listing and/or promotion of television and radio channels and programmes together with a facility for obtaining access to those programmes.⁷ The content of the EPG is carried in a data stream which is created by EPG providers and distributed via either digital terrestrial television (DTT), Satellite, cable TV, internet protocol (IP), or a combination. EPG data identifies content that is available either through a single delivery technology or, increasingly, a hybrid of technologies, including IP streaming.
- 2.7 EPG providers control the policy that determines a channel's listing position (i.e. the channel number) and the EPG's presentation (design and functionality). Each EPG operator administers its own EPG, with channels typically ranked in ascending numerical order. The allocation of channels to particular slots on the EPG may take into consideration factors such as grouping channels by genre, ownership or whether a channel is a Public Service Broadcast (PSB) channel and requires prominence.⁸ Many EPGs enable viewers to scroll through individual channels, browse by page or filter results by genre, e.g. news. Consumers can scroll through EPGs to watch programmes live, see what is coming up next and, in some cases, what has already been shown.
- 2.8 For those wishing to view linear TV content, a platform's EPG remains an important way to find the channels and content that they want to watch.⁹ The design of the EPGs is an important facilitator for viewers to search content available. While many viewers may know the number of their favourite channels and input these directly, use of the EPG to search for linear content is likely to remain an important way for many viewers to continue to find content.

to not use the internet (13% vs. 3%), showing that differences in non-use of the internet are driven both by age and by socio-economic group. Source: Online Nation 2020, Ofcom 24 June 2020.

⁷ Radio channels are also accessed through EPGs. Based on the most recent results 2020 Q1, 4% of radio listening was through digital TV (Source: RAJAR; 3-month weight).

⁸ The EPG Code contains provisions relating to prominence or the easy discovery of PSB channels. More details on the PSB prominence rules can be found on the Ofcom website here: <https://www.ofcom.org.uk/consultations-and-statements/category-1/epg-code-prominence-regime>.

⁹ BARB's Lifestyle Insights questionnaire shows that using the EPG is the most common answer to "how do you find out what's on TV" for all age groups, with the exception of over 65s, who are more likely to say that they use newspaper supplements. EPG Prominence: A report on the discoverability of PSB and local TV services, paragraph 3.33.

Higher EPG slots are more prominent and encourage increased viewing

- 2.9 Design of the EPG and the way viewers interact with the EPG, for instance, by scrolling around the EPG list, appears to exert a significant influence on the content that they ultimately view. Our recent review of the prominence provisions of the EPG Code considered the correlation between the viewing of channels and their position on the EPG.¹⁰ We found that channels in higher EPG slots tend to get greater viewing figures,¹¹ although we noted that “EPG position is not the sole determinant of how much viewing a channel attracts as factors such as quality of content, brand value and marketing may also affect viewing”.¹²
- 2.10 All TV channels want their programmes to be seen by as many viewers as possible. For the commercial channels higher levels of viewing tend to positively affect the amount of revenue they can raise through advertising, sponsorship etc. For the BBC, which is funded by licence revenues, it is a way of showing that it is meeting its mission of “serving all audiences through the provision of impartial, high-quality and distinctive output and services which inform, educate and entertain”.
- 2.11 In our engagement with stakeholders during this review, many broadcasters advised us that slot positioning remains very important for channels.

EPG providers

- 2.12 The main EPG providers¹³ in the UK are currently Sky, Virgin Media, YouView, Freesat, Digital UK (which provides the Freeview EPG), BT and EE. Youview¹⁴, Freesat¹⁵ and Digital UK¹⁶ are in part owned by channel shareholders, and Sky and BT have their own channels. The EPG providers also vary in size (both in terms number of channels provided and number of end customers¹⁷) and in the practical features of their EPG policies (how slots are allocated and other terms and conditions with broadcasters).

¹⁰ Information about this review is available from the Ofcom website here:

<https://www.ofcom.org.uk/consultations-and-statements/category-1/epg-code-prominence-regime>

¹¹ By which we mean a lower number which is closer to the start of the EPG.

¹² Review of Prominence for public service broadcasting: Statement on changes to the EPG Code’ 4 July 2019, paragraph 3.9, available: https://www.ofcom.org.uk/data/assets/pdf_file/0028/154459/statement-on-changes-to-the-epg-code.pdf

¹³ The EPG providers referred to here are those to whom the EPG Code applies. These providers each have a condition covering EPG services in their respective Television Licensable Content Service Licences. In June 2020, STV were issued with a Television Licensable Content Service Licence.

¹⁴ BBC, ITV, Channel 4, Channel 5, BT, TalkTalk and Arqiva are shareholders.

¹⁵ Freesat is backed by the BBC and ITV.

¹⁶ BBC, ITV, Channel 4 are channel shareholders.

¹⁷ In Q1 2020, Sky provided 8.41m households in the UK, Virgin Media 3.91m households, Freeview 15.45m households, Freesat 1.08m households and Youview 1.83m households (including BT and TalkTalk TV). Source for those providers: UK households by TV platform Q1 2020 data: <https://www.barb.co.uk/tv-landscape-reports/tracker-uk-households-by-tv-platform/>. BT’s subscribers in Q1 2020 were 1.65m. Source for BT data, Ampere Analysis.

- 2.13 Slots on Sky's EPG can be sold to another broadcaster. Sky is not involved in the commercial transaction and does not gain financially from any slot trades between broadcasters, other than a small administrative levy known as a transfer fee. According to Sky's current price list,¹⁸ broadcasters pay Sky a flat EPG listing charge of £21,000 per channel listed on the Sky EPG per annum. Broadcasters are also required to pay Sky a platform contribution charge. Different channels pay different platform contribution charges.
- 2.14 Virgin Media made changes to its EPG allocation methodology effective from July 2017¹⁹, which enabled Virgin Media to give channels a chance to make financial offers to Virgin Media for EPG positions. To date, Virgin Media has only allocated one slot (slot 106 to Channel Four Television Corporation) after inviting offers on the open market. Broadcasters agree commercial terms related to the EPG slot directly with Virgin Media (as the EPG provider) and not between themselves. Broadcasters commit to paying a fee, over and above their existing carriage fee, but with Virgin Media retaining ownership of the slot. Broadcasters enter into a carriage agreement with Virgin Media relating to the provision of EPG services which, among other things, sets out the carriage fees payable to Virgin Media.
- 2.15 Digital UK provides the Freeview EPG.²⁰ There is no market for EPG slots on Freeview: Logical Channel Numbers (LCNs) on the Freeview platform are not the asset of channel providers and cannot be sold.²¹ Digital UK's terms and conditions prescribe that broadcasters must pay a carriage fee of £1 per annum if demanded by Digital UK.²² Freeview channel listings are used by BT,²³ EE²⁴ and Youview.²⁵
- 2.16 Freesat²⁶ does not levy charges to channel providers directly in relation to EPG slot allocation. Its charging policy sets out its approach to other charges to channel providers.

¹⁸ BSKYB and SSSL Published Price List, available here:

<https://static.skyassets.com/contentstack/assets/blt445dd1af9180a917/5d65316c7ec8386f410729c9/sky-and-sssl-published-price-list.pdf>

¹⁹ Virgin Media's listing policy is available here:

<https://www.virginmedia.com/content/dam/virginmedia/dotcom/documents/corporate/EPG-Policy-170714-Final.pdf>

²⁰ Digital UK's listing policy is available here: <https://www.freeview.co.uk/sites/default/files/2019-09/Digital-UK-LCN-Policy-v6.pdf>. The policy is currently under review, details of the consultation are

here <https://www.freeview.co.uk/corporate/platform-management/consultation-lcn-allocation-rules-public-service-channels.Terms.and.conditions.on.EPG.services.are.available.here>: The terms and conditions of EPG services are available at: <https://www.freeview.co.uk/sites/default/files/2019-09/LCN-Allocation-Terms-Conditions-April-2017.pdf>

²¹ Paragraphs 1.9 and 7.1, Digital UK LCN Policy, Version 6.0, 3 April 2017.

²² Paragraph 4.3, Digital UK, LCN Allocation Terms and Conditions, 3 April 2017.

²³ BT applies YouView User Interface policy for linear channels. For pay TV channels, ordering considers factors such as audience expectation, genre, channel family groups, HD vs SD and type of service.

²⁴ The EE box is no longer for sale and is being withdrawn completely in early 2021.

²⁵ Youview's user interface policy is available here: <https://www.youview.com/policies/ui-policy/>.

²⁶ Freesat's listing policy is available here: <https://www.freesat.co.uk/epg-listing-policy/>.

Our role and duties and details of this review

- 2.17 Ofcom is required to draw up, and from time to time review and revise, a code giving guidance as to the practices to be followed in the provision of EPGs (Section 310 of the Communications Act 2003 (the Act)).²⁷
- 2.18 In 2004, Ofcom published a Code on EPGs.²⁸ The Code sets out the practices to be followed by EPG providers to:
- a) give appropriate prominence for public service channels;
 - b) 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) secure fair and effective competition.
- 2.19 In addition, section 318(1) of the Act requires Ofcom, at such intervals as they consider appropriate, to carry out a review of every code made or approved by them under or for the purposes of a broadcasting provision that has an effect for a competition purpose.
- 2.20 The Digital Economy Act 2017 introduced a requirement on Ofcom to review and revise the Code before 1 December 2020.²⁹ We completed our review of the accessibility section in 2018³⁰ and the prominence section of the EPG Code in 2019³¹.
- 2.21 As noted above, the EPG Code also includes rules to secure fair and effective competition, including a requirement for EPG providers to engage with television channels in a fair, reasonable and non-discriminatory (FRND) way. In this review we consider the fair and effective competition provisions of the EPG Code. We have considered whether:
- a) it remains appropriate to impose *ex ante* conditions on EPG providers to ensure fair and effective competition in the provision of licensed services;
 - b) as required by section 317(2) of the Act, a more appropriate way of proceeding in relation to some or all of the matters in question would be under the Competition Act 1998; and
 - c) if *ex ante* rules remain appropriate, what rules are required to protect fair and effective competition.
- 2.22 The EPG Code also includes code review provisions which provides for Ofcom to review the Code at intervals of no more than two years, or more frequently if circumstances warrant it. In this review, we also take the opportunity to review these provisions. This

²⁷ The full legal framework is discussed in Section 3 of this document.

²⁸ Statement on Code on Electronic Programme Guides, Statement by Ofcom, 26 July 2004: https://www.ofcom.org.uk/data/assets/pdf_file/0010/34003/statement.pdf.

²⁹ Sections 95(2) and (3) Digital Economy Act 2017.

³⁰ Information about this review is available from the Ofcom website here: <https://www.ofcom.org.uk/consultations-and-statements/category-2/epg-accessibility>.

³¹ Information about this review is available from the Ofcom website here: <https://www.ofcom.org.uk/consultations-and-statements/category-1/epg-code-prominence-regime>.

review of the fair and effective competition provisions and the code review provisions will complete our review of the EPG Code.

Impact assessment

- 2.23 Impact assessments provide a valuable way of assessing different options for regulation and showing why the chosen option was preferred. They form part of best practice policy-making. This is reflected in section 7 of the Act, which means that, generally, we have to carry out impact assessments where our proposals would be likely to have a significant effect on businesses or the general public, or when there is a major change in Ofcom's activities. However, as a matter of policy Ofcom is committed to carrying out impact assessments in relation to the great majority of our policy decisions.³²
- 2.24 The analysis presented throughout this consultation document provides our assessment of the impact of our proposals and constitutes an impact assessment, as defined by section 7 of the Act.

Equality impact assessment

- 2.25 We assess the potential impact of all our functions, policies, projects and practices on the following equality groups: age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief and sexual orientation. This is known as an equality impact assessment (EIA). EIAs also assist us in making sure that we are meeting our principal duty of furthering the interests of citizens and consumers regardless of their background or identity.
- 2.26 We set out our EIA of our proposals in Annex 2. We consider that our proposals should have an over-arching positive impact on channel providers as well as all consumers and citizens who use EPGs. We consider that our proposals would not have a detrimental impact on any defined equality group.

Structure of the consultation and next steps

- 2.27 The remainder of this document is organised as follows:
- a) Section 3 sets out the legal framework;
 - b) Section 4 sets out our analysis and proposals;
 - c) Annex 1 sets our proposed modified EPG Code;
 - d) Annex 2 sets out the EIA; and
 - e) Annexes 3-5 set out information about how to respond to this consultation.

³² For further information about our approach to impact assessments, see the guidelines, Better policy-making: Ofcom's approach to impact assessment, which are on our website:

http://stakeholders.ofcom.org.uk/binaries/consultations/ia_guidelines/summary/condoc.pdf.

- 2.28 We welcome any views and comments which interested stakeholders may have on the issues raised in this document. This consultation closes on 25 September 2020. We will consider stakeholder responses to our proposals and plan to publish our decisions before 1 December 2020.

3. Legal framework

- 3.1 This section sets out the legislative basis for the fair and effective competition provisions in the EPG Code as well as details of the provisions in the EPG Code.

The EPG Code

- 3.2 Section 310(1) of the Act requires Ofcom to draw up, and from time to time review and revise, a code giving guidance as to the practices to be followed in the provision of EPGs.
- 3.3 Further, under section 316(1) of the Act, Ofcom may impose conditions on broadcast licensees as it considers appropriate to ensure fair and effective competition in the provision of licensed services. According to section 232(2) of the Act, the provision of an EPG service constitutes a licensed service. Such conditions must include any conditions that Ofcom considers appropriate to prevent arrangements or practices that Ofcom considers would be prejudicial to fair and effective competition in the provision of licensed services or connected services (section 316(2)). Further, Ofcom may require compliance by the licence holder with codes for the purposes of such conditions (section 316(3)).
- 3.4 In 2004, Ofcom published a Code on EPGs giving effect to the requirements under sections 310 and imposing conditions to ensure fair and effective competition as permitted under section 316 of the Act.

Review of the fair and effective competition provisions

- 3.5 Section 318(1) of the Act requires Ofcom, at such intervals as they consider appropriate, to carry out a review of every code made or approved by them under or for the purposes of a broadcasting provision that has an effect for a competition purpose.
- 3.6 In addition, sections 95(2) and (3) of the Digital Economy Act 2017 require Ofcom to review and revise the EPG Code before 1 December 2020. In accordance with these requirements, we have reviewed the accessibility and prominence aspects of the EPG Code. This review of the fair and effective competition provisions and the code review provisions will complete our review of the EPG Code.
- 3.7 In considering whether it is appropriate to revise these provisions of the EPG Code, Ofcom must have regard to its statutory duties, as set out below.

General duties

- 3.8 In carrying out its functions, Ofcom must have regard to its principal duty, set out in section 3(1) of the Act, to further the interests of:
- a) citizens in relation to communications matters; and
 - b) consumers in relevant markets, where appropriate by promoting competition.

- 3.9 In carrying out Ofcom's statutory duties, it is further required by section 3 of the Act to have regard in all cases to a number of factors, including:
- a) the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed (section 3(3)(a)); and
 - b) any other principles appearing to Ofcom to represent the best regulatory practice (section 3(3)(b)).
- 3.10 In addition, section 3(2) of the Act requires Ofcom to secure certain things in carrying out our statutory functions, including the availability throughout the United Kingdom of a wide range of television and radio services which (taken as a whole) are both of high quality and calculated to appeal to a variety of tastes and interests (section 3(2)(c)).
- 3.11 In carrying out its duties, Ofcom must also have regard to certain matters listed in section 3(4) of the Act, as appear to be relevant in the circumstances. Relevant matters include, in particular:
- a) the desirability of promoting the fulfilment of the purposes of public service television broadcasting in the UK (section 3(4)(a));
 - b) the desirability of promoting competition in relevant markets (section 3(4)(b));
 - c) the desirability of encouraging investment and innovation in relevant markets (section 3(4)(d));
 - d) the different interests of persons in the different parts of the UK, of the different ethnic communities within the UK and of persons living in rural and in urban areas (section 3(4)(l)); and
 - e) the extent to which, in the circumstances of the case, the furthering or securing of the matters mentioned in sections 3 (1) and (2) of the Act is reasonably practicable.
- 3.12 In performing Ofcom's duty to further the interests of consumers, it is also required to have regard in particular to the interests of those consumers in respect of choice, price, quality of service and value for money (section 3(5)).
- 3.13 Ofcom is also required to keep the carrying out of its functions under review to ensure that regulation does not involve the imposition of burdens which are unnecessary or the maintenance of burdens which have become unnecessary (section 6).

Primacy duties

- 3.14 Under section 317(2) of the Act, before Ofcom may exercise its Broadcasting Act powers (which include powers exercised under section 316 of the Act) for a competition purpose, it has a duty to consider whether a more appropriate way of proceeding in relation to the matters in question would be under the Competition Act 1998.
- 3.15 In this context, a power is exercised for a competition purpose if the only or main reason for exercising it is to secure that the holder of a Broadcasting Act licence does

not enter into or maintain arrangements, or engage in a practice, which Ofcom considers would be prejudicial to fair and effective competition in the provision of licensed services or connected services (section 317(9)).

3.16 In addition, before modifying or revoking the provisions in the EPG Code that have an effect for a competition purpose, Ofcom must consult such persons as they consider appropriate (section 318(3)).

3.17 If Ofcom decides that a more appropriate way of proceeding would be under the Competition Act 1998, it may not, to the extent of that decision, exercise its Broadcasting Act powers in relation to that matter (section 317(3)). However, if it decides to exercise its Broadcasting Act powers for a competition purpose, under section 317(4) of the Act it must give a notification of this decision:

- a) to such persons, or published in an appropriate manner, as appears to Ofcom to be appropriate for bringing it to the attention of persons who are likely to be affected by this decision (sections 317(5)); and
- b) which describes the rights of a person affected by the decision to appeal to the Competition Act Tribunal against so much of that decision as relates to the exercise of the competition purpose (sections 317(5) and (6)).

Provisions in the EPG Code

3.18 Under the Broadcasting Act 1990, Ofcom licenses providers of EPGs that are ‘made available for reception by members of the public’ and consist of the listing or promotion (or both) of television programmes together with a facility for obtaining access to those programmes (the ‘EPG licensees’ or ‘EPG providers’). EPG licensees are required to ensure that the rules set out in the EPG Code are observed in the provision of EPGs.

Fair, reasonable and non-discriminatory treatment

3.19 The EPG Code sets out (at paragraph 16) that EPG licensees are required to:

- a) ensure that any agreement with broadcasters for the provision of an EPG service is made on fair, reasonable and non-discriminatory terms;
- b) 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) 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 (reference is made to the prominence part of the EPG Code);
- d) carry out periodic reviews of their listing policy and of channel listings made in accordance with that policy, in consultation with channel providers;

- e) 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) 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) 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.
- 3.20 The Code also states (at paragraph 17) that “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

- 3.21 The EPG Code (paragraph 18) discusses Ofcom’s intention to review the Code at intervals of no more than two years, or more frequently if circumstances warrant it.
- 3.22 The EPG Code (paragraph 19) also states that 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.

4. Analysis and proposals

4.1 In this section we set out our assessment of the FRND provisions and the code review provisions in the EPG Code as well as our proposals.

Fair, reasonable and non-discriminatory provisions

Our approach

4.2 Our review of the fair and effective competition provisions has considered whether it is appropriate to revise or remove the FRND provisions. We have considered whether:

- a) it remains appropriate to impose *ex ante* conditions on EPG providers to ensure fair and effective competition in the provision of licensed services;
- b) as required by section 317(2) of the Act, a more appropriate way of proceeding in relation to some or all of the matters in question would be under the Competition Act 1998; and
- c) if *ex ante* rules remain appropriate, what rules are required to protect fair and effective competition.

Competition concerns

4.3 We have considered whether it remains appropriate to impose rules on licensed EPG providers to ensure fair and effective competition. We have considered whether competition on its own would facilitate the achievement of the objectives in the EPG Code and so obviate or reduce the need for *ex ante* regulation, or whether the promotion of competition requires continuing regulation.

4.4 EPGs remain an important way for consumers to find and select linear TV content. EPG slot positions remain important and channels with higher EPG slots (positions close to the start of the EPG and sometimes near the start of sub-genres) tend to get relatively greater viewing figures.

4.5 Broadly, advertisers want their advertisements to be seen by as many people as possible, as quickly as possible. As a result, advertising slots within programmes which deliver mass audiences are very attractive to them. Channels which deliver mass audiences and high shares of viewing overall have tended to attract the highest shares of advertising revenues from media agencies (who purchase TV advertising on behalf of the advertisers). Therefore, slots nearer to the start of the EPG which are associated with higher viewing shares, tend to command higher shares of advertising revenues.

4.6 In the current situation with the Covid-19 pandemic, the decline in economic activity has led to significant reductions in channels' revenues due to large falls in advertising spend. However, longer term we still think it is reasonable to assume that a channel's EPG position, its viewing shares and the shares of advertising revenues it attracts will

continue to be linked. From our informal engagement with stakeholders as part of this review, we understand that this view is commonly held.

- 4.7 If channels wish to be present on a platform, they must agree terms for their inclusion on the EPG with the relevant EPG provider. EPG providers control the policy that determines a channel's listing position and control the EPG's presentation (including its design and functionality). The terms that EPG providers impose on channels for inclusion on the EPG could be discriminatory (for example, treating equivalent channels differently) and this could be prejudicial to fair and effective competition. This is because discriminatory treatment, e.g. placing a channel into a relatively less attractive slot, could constrain a particular channel's ability to compete effectively with other channels for viewers and advertising revenue. This could ultimately affect the quality and diversity of services received by viewers.
- 4.8 We provisionally conclude that rules to ensure fair and effective competition are necessary and provide an effective backstop to prevent behaviour that could be prejudicial to fair and effective competition. We do not consider that competition alone would facilitate the achievements of the objectives in the EPG Code.

Are *ex ante* rules appropriate?

- 4.9 As required by section 317(2) of the Act, before exercising its Broadcasting Act powers for a competition purpose, Ofcom has considered whether it would be more appropriate to deal with any unfair, unreasonable or discriminatory treatment that did arise under the Competition Act 1998.
- 4.10 We provisionally conclude that it would be more appropriate to exercise our Broadcasting Act powers for a competition purpose in these circumstances, for the following reasons:
- a) exercising our *ex ante* powers would allow Ofcom to issue directions to:
 - i) prevent behaviour that would be prejudicial to fair and effective competition; and
 - ii) ensure a wide range of channels that appeal to a variety of tastes and interests are available for consumers throughout the United Kingdom.
 - b) competition alone would not facilitate the achievements of the objectives in the EPG Code (to protect channels from discriminatory treatment by EPG providers), and the promotion of fair and effective competition therefore requires continuing regulation.
 - c) it would be likely that any harm sustained by unfair, unreasonable or discriminatory treatment would have crystallised (such as allocating new slot positions) before Ofcom could seek remedies. This would be detrimental to the negatively affected channels (who might lose viewing and revenues). It would also be detrimental to consumers, who may become accustomed to channels' new slot positions and find repeated changes frustrating and inconvenient.

- d) the fair and effective competition provisions in the EPG Code provide a clear framework to EPG providers and channels of the practices to be followed, while allowing them commercial freedom to develop an allocation policy that fits with their commercial objectives.
- e) maintaining the fair and effective provisions, which have been in place since 2004, would provide continuity and certainty to EPG providers and channels.
- f) licensees would retain the right to appeal to the Competition Appeal Tribunal in respect of a decision made by Ofcom under those rules relating to fair and effective competition.

What rules are required to protect fair and effective competition?

- 4.11 Having provisionally concluded that *ex ante* rules are appropriate, in this section we consider whether the existing rules remain appropriate or whether changes are required, having regard to our duties.
- 4.12 During this review, we have engaged with stakeholders including PSBs, the association for commercial broadcasters and on-demand services and EPG providers. We have sought to understand whether the rules are helpful and what changes, if any, are needed. All stakeholders we have spoken to were supportive of the rules, which are considered an important framework for engagement between EPG providers and channel providers.
- 4.13 Given there is overwhelming support for the current rules, we have approached our assessment by looking at the existing rules and whether there is a case to amend them rather than setting out “new” rules. In this respect, some broadcasters have highlighted concerns around:
- a) the efficacy of consultations regarding changes to allocation policies by EPG providers: in particular, the timescales allowed to respond to proposed changes and the reasonableness of implementation times of changes;³³ and
 - b) the flexibility granted to EPG providers to allocate listings on an ‘objectively justifiable’ basis.³⁴
- 4.14 We discuss each of these topics in turn and set out our consultation proposals in relation to these provisions. We do not consider whether to amend the remaining requirements of the fair and effective competition provisions, and stakeholders have not raised issues or concerns with the other rules.³⁵ Similarly, we do not propose to introduce any additional rules, noting that the current framework is working well, and

³³ Provision 16d) in the EPG Code, set out in Annex 1.

³⁴ Provision 16b) in the EPG Code, set out in Annex 1.

³⁵ Provisions 15, 16a), c), d)-g) and 17 in the EPG Code, set out in Annex 1.

additional rules could involve the imposition of burdens which are unnecessary (and therefore would not be in line with our duties).³⁶

Periodic reviews of listing policy in consultation with channel providers

- 4.15 EPG providers are required to carry out periodic reviews of their listing policy and of channel listings made in accordance with that policy, in consultation with channel providers.
- 4.16 As part of our review, some stakeholders raised concerns about the transparency and efficacy of consultations pending changes to allocation policies or listings. We have therefore considered whether to amend the rule in the EPG Code to ensure:
- a) EPG providers set out reasons for amending listings policies, and consultation processes are clear and transparent;
 - b) there is sufficient time for channels to comment on consultations; and
 - c) EPG providers allow channels sufficient time for implementation of changes following consultation.
- 4.17 We remain of the view that the rules should apply at a framework level and allow the EPG providers flexibility in their approach. There are, however, principles which EPG providers should reflect in how they consult with channels to ensure that they are offered a genuine opportunity to engage. We therefore propose to amend the wording of the EPG Code to provide additional clarity to both EPG providers and channels on our expectations around consultation processes.
- 4.18 First, EPG providers' reviews of listing policies and channel listings in accordance with that policy, should be clear and transparent.³⁷ EPG providers should:
- a) inform all channels (or all affected channels if the review is limited in scope) of their intention to undertake a review. We would expect an EPG provider to have assessed who its key stakeholders are at an early stage; and
 - b) set out details of the review including information about the scope of the review (including the issues being considered or proposed changes to the allocation policy), relevant thinking on those issues and details of next steps including a timetable of the review and an implementation plan (subject to consultation).
- 4.19 Second, in undertaking reviews, EPG providers should ensure there is a reasonable timeframe for consultation with channel providers as well as for implementation of outcomes of the review. The length of consultation and implementation will depend on a range of factors which will vary depending on the nature of the review. We do not

³⁶ We were asked to consider providing guidance on the delivery of IP channels within the EPG Code. The FRND provisions set a framework of principles of engagement between EPG providers and channel providers, given this, we do not think it is appropriate to introduce guidance on this issue in the provisions themselves. However, as discussed in paragraph 2.6, EPG data identifies content that is available either through a single delivery technology or, increasingly, a hybrid of technologies – including IP streaming.

³⁷ Whether the review is periodic or not, these principles should apply.

consider it is appropriate for us to set prescriptive rules on this. However, the framework EPG providers should apply needs to allow for reasonable timeframes. Relevant factors to determine what a reasonable timeframe for consultation might include:

- a) how many channels are affected by the proposed change(s); and
- b) the potential impact of any proposed change(s) on channel providers.

4.20 Finally, we believe the outcome of any review should clearly set out the decisions taken, including how channel providers' comments have been taken into account and the implementation timeframe.

4.21 In light of the above principles, we propose to add the following sentence to the existing provision on consultation³⁸:

Consultations with channel providers should be transparent, have reasonable timeframes for comment and set reasonable implementation timeframes.

4.22 The proposed wording retains a flexible approach, which allows EPG providers to set consultation processes that work for them, within the framework provided by the EPG Code. Our provisional view is that this approach is proportionate and targeted to the areas of concern. We do not consider that this additional sentence should be burdensome for EPG providers to implement, given the additional requirements reflect best practice principles, which EPG providers may already be following. However, we acknowledge there may be some small administrative costs associated with our proposals and we welcome estimates of any such costs as part of this consultation process, of which we will take account in reaching our decisions.

4.23 We propose that our decisions in this review take effect from the date of our statement, which will be before 1 December 2020. We are not aware of any reasons that would mean our decisions could not take immediate effect. However, we welcome views from stakeholders on this proposal and evidence to support any view that a delayed implementation date is required.

Objectively justifiable method of allocating listings

4.24 EPG providers are required 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.

4.25 Some broadcasters have asked us to provide guidance on what objectively justifiable methods might mean in practice and have suggested that the rules allow for too much flexibility for EPG providers, which could be abused. We have therefore considered whether the rule in the EPG Code requires amending to clarify the requirement to set and comply with an objectively justifiable method for allocating listings.

³⁸ Provision 16d) in the EPG Code, set out in Annex 1.

- 4.26 We provisionally consider that the term ‘objectively justifiable’ is one that is commonly used and understood. While the following description is not intended to amount to a ‘legal’ definition, broadly speaking, in our view, an objectively justifiable method would be impartial, rational, dispassionate and reflect a legitimate aim. For example, an illegitimate aim would be an allocation method which aims to unduly favour channels that are connected to an EPG provider. The listing method used should be reasonable and proportionate to achieve the legitimate aim.
- 4.27 We understand that EPG providers employ a range of allocation policies, as discussed in Section 2. We note that the existing wording of the rule contains examples of methods that would be deemed objectively justifiable, while acknowledging that other methods may be appropriate. We continue to believe that it is appropriate for EPG providers to retain the flexibility to use a range of allocation methods – this should enable them to innovate in the design and use of their EPG, as their particular circumstances and EPG allow. We do not consider it appropriate to explicitly state the method providers should use, because this would be going further than our remit to address the risk of discriminatory treatment of channels. So long as the method being used by an EPG provider is objectively justifiable – and does not result in unfair, unreasonable or discriminatory treatment, which would in any case be in breach of other requirements in the EPG Code – this should be sufficient to protect against this concern.
- 4.28 We further note that EPG providers are required to carry out periodic reviews of their listing policy in consultation with channel providers (which we are proposing to amend, as discussed above). This provision ensures that channel providers have an opportunity to comment on any proposed changes to allocation methods, including raising concerns if allocation methods proposed are, in channel providers’ views, not objectively justifiable.
- 4.29 We do not currently have evidence to support the assertion that the term ‘objectively justifiable’ could be abused by EPG providers. However, if stakeholders have specific concerns about methods of allocating listings we would welcome views on this matter (and evidence to support any such views) during this consultation.
- 4.30 In light of the above, our provisional view is that the current wording of the rule is sufficiently clear, and amendment or additional guidance is neither necessary nor appropriate. We therefore provisionally conclude to retain the rule as it is currently drafted.

EPG Code review provision

- 4.31 The code review provision sets out Ofcom’s intention to review the EPG Code at intervals of no more than two years, or more frequently if circumstances warrant it. We have taken the opportunity in this review to consider if this provision remains appropriate.
- 4.32 In practice, we have not reviewed the EPG Code at intervals of two years as this has not been necessary. Since the EPG Code was introduced in 2004, we have reviewed the

accessibility and prominence parts of the Code, and in this review we consider the FRND provisions as well as the code review provision.

4.33 We consider there is still merit in including a provision in the EPG Code regarding reviews of the code. However, we no longer think it is necessary to include a specific timeframe for any such reviews within the EPG Code itself and believe it is appropriate to introduce more flexibility to the timings of reviews. We therefore propose to remove the intention to carry out a review every two years and to revise the drafting to review the EPG Code *as appropriate*.³⁹

4.34 The code review provision also sets out that as part of the review we will consult with stakeholders, including EPG providers, broadcasters, and disability groups and the sorts of issues we would consider in a review. We believe that these provisions are still appropriate. We also consider that in carrying out reviews of the EPG Code in the interests of transparency it is also appropriate for us to publish our consultations and statements on our website. We propose to include our intention to publish consultations and statements on our website within the EPG Code. We propose adding the following sentence to the provision:⁴⁰

In the interests of transparency Ofcom will also provide relevant information including its consultations and statements on its website.

4.35 The provision also sets out issues we might consider in a review. We consider this provision is still appropriate, although the list of issues that is relevant to a particular review will depend on the circumstances. We note that in our reviews of the EPG Code over the past few years, we decided it was appropriate to review aspects of the EPG Code at different times which has meant different factors are relevant to each of those reviews.

4.36 Finally, the provision also sets out that, 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. This is an important provision (which we are taking into account in our assessment of the competition provisions as set out above) and we see no reason to amend the provision itself in this review.

4.37 We also propose that our proposals take effect from the date of our statement so before 1 December 2020. We welcome views from stakeholders on any matters related to these proposals.

Summary of proposals

4.38 We consider discriminatory treatment of a channel in terms of listings or presentation on an EPG could constrain its ability to compete effectively with other channels for

³⁹ Provision 18 in the EPG Code, set out in Annex 1.

⁴⁰ Provision 18 in the EPG Code, set out in Annex 1.

audience share and advertising revenue and so could be prejudicial to fair and effective competition. This could ultimately affect the quality and diversity of services received by viewers. We have therefore provisionally decided to retain the fair and effective competition conditions imposed on EPG providers in the EPG Code.

- 4.39 As required by section 317(2) of the Act, before exercising its Broadcasting Act powers for a competition purpose Ofcom has considered whether a more appropriate way of proceeding in relation to some or all of the matters in question would be under the Competition Act 1998. We provisionally conclude that *ex ante* rules would be more appropriate in these matters.
- 4.40 We have considered whether the existing rules remain appropriate or whether changes are required. In general, the rules are working well. However, this consultation proposes to require that consultations by EPG providers follow a transparent process and include reasonable timeframes both for channel providers to comment and for implementation of any changes to listings. We do not consider that the implications of this additional sentence would be burdensome for EPG providers to implement, given the additional requirements reflect best practice principles, which EPG providers may already be following. There may be some small administrative costs associated with our proposals, on which we welcome stakeholder views as part of this consultation.
- 4.41 We have also taken the opportunity to review the code review provisions. We believe it is appropriate to allow more flexibility on the timings of our reviews of the Code, so propose to review the Code as appropriate rather than every two years. We also propose to include an additional sentence in the rules, in the interests of transparency, which sets out our intention to publish consultations and statements on our website.
- 4.42 We also propose that our proposals take effect from the date of our statement, which will be before 1 December 2020.
- 4.43 This is a consultation and we welcome any views and comments from stakeholders on the issues raised in this document. This consultation closes on 25 September 2020. We will consider stakeholder responses to our proposals and plan to publish our decisions before 1 December 2020.

A1. EPG Code – competition rules and code review

The relevant sections of the EPG Code are included below. Our proposed revisions are marked up in yellow highlight, new text is highlighted, and text that we propose to remove has a line through (example).

Fair, reasonable and non-discriminatory treatment

15. 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.

16. 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;
- a) 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;
- b) 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 [reference is made to the prominence section of the EPG Code];
- c) to carry out periodic reviews of their listing policy and of channel listings made in accordance with that policy, in consultation with channel providers. Consultations with channel providers should be transparent, have reasonable timeframes for comment and set reasonable implementation timeframes;
- d) 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;
- e) 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
- f) 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.

17. 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

18. Ofcom intends to review the Code ~~at intervals of no more than two years, or more frequently if circumstances warrant it as appropriate.~~ As part of ~~the~~ any such review, it will consult stakeholders, including EPG providers, broadcasters, and disability groups. ~~In the interests of transparency Ofcom will also provide relevant information including its consultations and statements on its website.~~ The issues it will consider in reviews 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/or
- 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.

19. Where appropriate, Ofcom will consider whether competition would facilitate the achievements of the objectives in the ~~e~~Code, and so obviate or reduce the need for regulation, or whether the promotion of competition requires continuing regulation.

A2. Equality Impact Assessment

- A2.1 Section 149 of the Equality Act 2010 (the “2010 Act”) imposes a duty on Ofcom, when carrying out its functions, to have due regard to the need to eliminate discrimination, harassment, victimisation and other prohibited conduct related to the following protected characteristics: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex and sexual orientation. The 2010 Act also requires Ofcom to have due regard to the need to advance equality of opportunity and foster good relations between persons who share specified protected characteristics and persons who do not.
- A2.2 Section 75 of the Northern Ireland Act 1998 (the “1998 Act”) also imposes a duty on Ofcom, when carrying out its functions relating to Northern Ireland, to have due regard to the need to promote equality of opportunity and regard to the desirability of promoting good relations across a range of categories outlined in the 1998 Act. Ofcom’s Revised Northern Ireland Equality Scheme⁴¹ explains how we comply with our statutory duties under the 1998 Act.
- A2.3 To help us comply with our duties under the 2010 Act and the 1998 Act, we assess the impact of our proposals on persons sharing protected characteristics and, in particular, whether they may discriminate against such persons or impact on equality of opportunity or good relations.
- A2.4 We have not considered it necessary to carry out separate EIAs in relation to race or sex equality or equality schemes under the Northern Ireland and Disability Equality Schemes. This is because we anticipate that our proposed changes to the EPG Code will not have a differential impact on people of different sexes or ethnicities, consumers with protected characteristics in Northern Ireland or disabled consumers compared to consumers in general.
- A2.5 Our proposals to retain the competition rules and make minor amendments to the existing rules should help facilitate competition between channels delivering the best outcome including a wide range of services. We consider that our proposals should have an over-arching positive impact on channel providers as well as all consumers and citizens who use EPGs. We consider that our proposals would not have a detrimental impact on any defined equality group.

⁴¹ Available at: https://www.ofcom.org.uk/_data/assets/pdf_file/0023/123737/Revised-NI-Equality-Scheme.pdf

A3. Responding to this consultation

How to respond

- A3.1 Ofcom would like to receive views and comments on the issues raised in this document, by 5pm on 25 September 2020.
- A3.2 You can download a response form from be <https://www.ofcom.org.uk/consultations-and-statements/category-2/review-competition-rules-in-epg-code>. You can return this by email to EPGcompetition@ofcom.org.uk or post to the address provided in the response form.
- A3.3 If your response is a large file, or has supporting charts, tables or other data, please email it to EPGcompetition@ofcom.org.uk, as an attachment in Microsoft Word format, together with the [cover sheet](#).
- A3.4 Responses may alternatively be posted to the address below, marked with the title of the consultation:
EPG competition review team
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- A3.5 We welcome responses in formats other than print, for example an audio recording or a British Sign Language video. To respond in BSL:
- Send us a recording of you signing your response. This should be no longer than 5 minutes. Suitable file formats are DVDs, wmv or QuickTime files. Or
 - Upload a video of you signing your response directly to YouTube (or another hosting site) and send us the link.
- A3.6 We will publish a transcript of any audio or video responses we receive (unless your response is confidential).
- A3.7 We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt if your response is submitted via the online web form, but not otherwise.
- A3.8 It would also help if you could explain why you hold your views, and what you think the effect of Ofcom's proposals would be.
- A3.9 If you want to discuss the issues and questions raised in this consultation, please contact the team on 020 783 4340, or by email to EPGcompetition@ofcom.org.uk.

Confidentiality

- A3.10 Consultations are more effective if we publish the responses before the consultation period closes. In particular, this can help people and organisations with limited

resources or familiarity with the issues to respond in a more informed way. So, in the interests of transparency and good regulatory practice, and because we believe it is important that everyone who is interested in an issue can see other respondents' views, we usually publish all responses on [the Ofcom website](#) as soon as we receive them.

- A3.11 If you think your response should be kept confidential, please specify which part(s) this applies to, and explain why. Please send any confidential sections as a separate annex. If you want your name, address, other contact details or job title to remain confidential, please provide them only in the cover sheet, so that we do not have to edit your response.
- A3.12 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and try to respect it. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A3.13 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's intellectual property rights are explained further in our [Terms of Use](#).

Next steps

- A3.14 Following this consultation period, Ofcom plans to publish a statement before 1 December 2020.
- A3.15 If you wish, you can [register to receive mail updates](#) alerting you to new Ofcom publications.

Ofcom's consultation processes

- A3.16 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex 4.
- A3.17 If you have any comments or suggestions on how we manage our consultations, please email us at consult@ofcom.org.uk. We particularly welcome ideas on how Ofcom could more effectively seek the views of groups or individuals, such as small businesses and residential consumers, who are less likely to give their opinions through a formal consultation.
- A3.18 If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact the corporation secretary:

Corporation Secretary
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA
Email: corporationsecretary@ofcom.org.uk

A4. Ofcom's consultation principles

Ofcom has seven principles that it follows for every public written consultation:

Before the consultation

- A4.1 Wherever possible, we will hold informal talks with people and organisations before announcing a big consultation, to find out whether we are thinking along the right lines. If we do not have enough time to do this, we will hold an open meeting to explain our proposals, shortly after announcing the consultation.

During the consultation

- A4.2 We will be clear about whom we are consulting, why, on what questions and for how long.
- A4.3 We will make the consultation document as short and simple as possible, with a summary of no more than two pages. We will try to make it as easy as possible for people to give us a written response. If the consultation is complicated, we may provide a short Plain English / Cymraeg Clir guide, to help smaller organisations or individuals who would not otherwise be able to spare the time to share their views.
- A4.4 We will consult for up to ten weeks, depending on the potential impact of our proposals.
- A4.5 A person within Ofcom will be in charge of making sure we follow our own guidelines and aim to reach the largest possible number of people and organisations who may be interested in the outcome of our decisions. Ofcom's Consultation Champion is the main person to contact if you have views on the way we run our consultations.
- A4.6 If we are not able to follow any of these seven principles, we will explain why.

After the consultation

- A4.7 We think it is important that everyone who is interested in an issue can see other people's views, so we usually publish all the responses on our website as soon as we receive them. After the consultation we will make our decisions and publish a statement explaining what we are going to do, and why, showing how respondents' views helped to shape these decisions.

A5. Consultation coversheet

BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing

Name/contact details/job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts?

-

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If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

A consultation on the competition rules in the EPG Code

Name

Signed (if hard copy)

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