

## Response to Ofcom Consultation on Mandatory PIN Protection on linear TV

Deadline: 21 May 2016

### Introduction

A+E Networks® UK<sup>1</sup> broadcasts in the UK on four Ofcom licensed channels, *History*, *Crime & Investigation*, *Lifetime* and *H2*, and is a joint-venture between the UK broadcaster and platform Sky, and A+E Television Networks in the USA. A+E Networks® UK also broadcasts from the UK to Poland, Romania, the Netherlands, Scandinavia, and on a number of pan-European feeds, using Ofcom licences<sup>2</sup>.

A+E Networks® UK launched in November 1995 and now has 118 million subscriptions to its channels, which are available in 19 languages, in 90 countries, across the UK, Scandinavia, Benelux, Central & Eastern Europe, Sub-Saharan Africa and the Middle East. The UK portfolio of channels has grown more than 30% in audience share across 2012 - 2015.

Since A+E Networks® UK launched *The History Channel* in the UK in 1995 with 20 staff, our portfolio has grown to include 20 Ofcom licensed UK and European channels, and some 200 staff.

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*With reference to specific questions in your consultation A+E Networks® UK would like to provide the following answers:*

### **Question 1:**

***To what extent do you think allowing a wider range of post-watershed content to be shown during the daytime behind a mandatory PIN would benefit audiences?***

Scheduling a wider range of post-watershed content during the day behind a mandatory PIN would, we think, benefit the audiences of specialist factual channels, including for example our crime channel, *Crime + Investigation*™ (“CI”), by allowing audiences to watch sought after, and brand defining, content at a time of their choice. Our research for CI in particular, which we have shared with Ofcom, indicates that viewers will frequently PVR post-watershed content and watch it during the day, or similarly watch post-watershed content on-demand during the day, rather than watch the edited-for-daytime material available on the same channel during the day.

### **Question 2:**

***Are there likely to be any negative impacts on the user experience for viewers accessing channels or programmes where the content is restricted behind a mandatory PIN? For example, if a viewer had to enter a mandatory PIN every time they change between a restricted channel or programme, or if a viewer is unable to update to a new PIN system?***

Viewers already have experience entering PINs when viewing linear movie channels, on-demand programmes using set-top-boxes, and content on certain digital platforms, such as iPlayer. CI, the channel we would consider using Mandatory PIN Protection (“MPP”) on, is not a general entertainment channel with a wide variety of formats and genres, but a specialist channel that focuses on crime documentaries. CI’s audience skews towards men and women over 40, and has a very low average child index. There is a well establish ‘audience expectation’ with regard to the

<sup>1</sup> A+E Networks® UK’s Ofcom television channels are licensed with Ofcom under the company name AETN UK.

<sup>2</sup> A+E Networks® UK also provides content to some 32 ODPS platforms across Europe on Ofcom notified services.



content played on the channel, and our research indicates that viewers make a conscious choice to seek out CI and its content, rather than “stumbling” across it while channel surfing. In this context we do not think the requirement to enter a PIN for selected content would have a negative impact upon viewers. CI is a subscription channel, available within the UK on platforms (Sky, Virgin, and BT) which already offer MPP for linear movie channels. It is not currently available on a free-to-air platform.

### **Question 3:**

***If you are a broadcaster, would you be likely to change your output following any revision to Ofcom’s rules to allow post-watershed content to be broadcast pre-watershed behind a mandatory PIN, and what genre of material might you wish to broadcast during the daytime as a result?***

In the event that Ofcom’s rules changed to allow post-watershed content to be broadcast pre-watershed behind MPP, as a broadcaster we would not change the nature of our output as such, but rather we would change the way in which certain sought after content was scheduled. The genre we think would most benefit from this is crime, and the channel, as referenced above that would most benefit would be CI. CI is a specialist crime channel with an established adult audience and ‘audience expectation’ with regard to its content.

### **Question 4:**

***What, if any, are the technological difficulties associated with showing post-watershed content during the daytime behind a mandatory daytime PIN? What impact would these technological difficulties have on affected broadcasters (please provide evidence or estimates)? How might these technological difficulties be overcome?***

In the UK, CI is only available as part of a subscription package on satellite and cable platforms such as Sky, BT, Virgin and Talk Talk on which MPP is already an established and available option within the respective content management systems. Our compliance team currently provide content schedulers and on-air planners with a range of information including pre-programming warnings, transmission time restrictions, and child-indexing data in order to ensure that our output on CI, and other channels, remains within the standards parameters of the Ofcom Broadcasting Code. We are confident that the information necessary to ensure a particular programme was PIN protected could be provided in the same way. As stated above, CI and its content is not currently available on any free-to-air platforms, and in any event we would not broadcast a schedule of programmes on a free-to-air platform where the programme schedule necessitated daytime PIN protection for certain content, without an assurance from the platform that MPP was available and robustly effective.

### **Question 5:**

***Are there practical or cost issues with consistent implementation of PIN protection across a variety of set-top-boxes or receivers?***

This is a question best addressed to a platform. But we would not PIN protect a programme during the day on a particular channel unless we were confident that all the platforms we were broadcasting that channel on, were able to deliver the required PIN protection. We do not envisage that a series of programming decisions to schedule a number of post-watershed programmes during the day would significantly add to work required by our on-air planners, or those at the platform, to such an extent that it would have significant cost implications. In the event that it did, this would be subject to commercial negotiation between us and the platform.



**Question 6:**

***How effective is mandatory restricted access in providing protection to children from unsuitable broadcast content? Do you think allowing a wider range of post-watershed content to be shown in the daytime behind a mandatory PIN still offers sufficiently robust protection for children?***

PIN protection is widely used by parents to protect children from inappropriate content on the internet and on set-top boxes. That said, it would not be our intention to roll out daytime MPP on linear channels with significant child indexes, or on channels that did not have the requisite audience expectation.

**Question 7:**

***Do you think allowing a wider range of post-watershed content to be shown in the daytime behind a mandatory PIN could have an adverse impact on the 21:00 watershed or dilute its effectiveness for audiences?***

We do not think allowing a wider range of post-watershed content to be shown in the daytime behind a mandatory PIN could have an adverse impact on the 21:00 watershed or dilute its effectiveness in the way in which we intend to use it because, as referenced above, we only intend to use MPP for sought after content on a specialist channel with low child indexing and an established audience expectation for crime content that is stronger in nature than content that would be expected on a general entertainment channel. The watershed would still remain and be adhered to on the majority of our channels.

**Question 8:**

***If Ofcom were to amend the Code to allow a wider range of post-watershed content to be shown in the daytime behind a mandatory PIN, are there any particular obligations that should be placed on broadcasters providing content behind mandatory PIN during the daytime (e.g. additional information to parents and carers)?***

In addition to inserting the usual pre-programme warnings, we are open to discussion about the possibility of including age ratings (or other appropriate indicators) in the EPG and/or listings. We would also be undertaking an on-air and digital audience awareness campaign to inform viewers of our intention to schedule stronger PIN protected content during the day.

**Question 9:**

***What effect might any revision of the Code to allow a wider range of post-watershed content to be shown in the daytime behind a mandatory PIN have on competition between broadcast services, and also between linear broadcast and on-demand services?***

It is conceivable that broadcasters whose portfolios comprise predominantly of general entertainment channels, and who might therefore feel that MPP was inappropriate for their mixed age audience, could raise the objection that allowing some competing channels in certain circumstances to schedule stronger content during the day, would confer a certain advantage on those channels. Our response would be that MPP is already in use on linear movie channels, and PIN protection is widely available in the on-demand and online arenas. The amount of content we would choose to apply MPP to would be extremely modest in comparison with the volume of content currently available with PIN protection online or on-demand. Accordingly if PIN protection is having an effect on competition between broadcasters, we would argue that, any distortion is on account

of it being available in the online and on-demand arenas, and not currently in the linear market, outside movie channels.

**Question 10:**

***Are there any other issues, factors or information you think should be considered as part of our review on mandatory restricted PIN access?***

As stated above, we think that audience expectation, child indexing, and the availability of warnings (pre-content and in EPGs and listings) should all be considered by a broadcaster before implementing MPP for stronger content during the day. We would also seek to roll this out in a graduated manner accompanied by an appropriate viewer awareness campaign. We would not embark on this without reassurance from our platform partners that our processes for implementing MPP were robust.

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