

Consultation response form

Question	Your response
<p data-bbox="204 353 695 421">Do you have any comments on Ofcom's proposed changes?</p>	<p data-bbox="810 387 1171 432">General (Question 1)</p> <p data-bbox="810 443 1382 864">We believe that in the long term the UK's move to "country of destination" regulation will undoubtedly ultimately be to the detriment of the UK consumer. Whilst we acknowledge that the motivations for doing so are made with the best of intentions to protect the UK consumer and provide a safe haven within the TV environment the reality will be that UK consumers will be denied access to more content on their TVs compared to their European counterpart consumers, due to the additional barriers that will now exist in the UK.</p> <p data-bbox="810 891 1382 1279">Whilst we fully support the generic concepts of the TV being a trusted and safe environment for the consumer, adding additional layers of administration only serves as an unnecessary barrier to educating, informing and entertaining UK consumers, with a global context. Rather than benefiting the consumer and being at the forefront of content assimilation and global appreciation the UK consumer could easily now fall behind their European counterparts.</p> <p data-bbox="810 1305 1382 1693">Aside from the fine details, the major problem with the proposed changes is that they are restricted to the European dimension only and ignore the fact that consumers now expect and need access to globally originated content. Regulatory uncertainty relating to providing global content to the UK consumer is an undoubted barrier, or significant risk, for foresighted providers who wish to bring the best of global content to what is an extremely culturally diverse UK viewing population.</p> <p data-bbox="810 1720 1382 1962">Any regulatory changes that are made should be done so, only if they can be assured to benefit the consumer. The current changes largely appear to simply scratch the surface of the real issues that need to be resolved and mostly add administration rather than significant benefits to the consumer.</p>

Increasingly in the global context many legitimate and high quality, network agnostic, linear TV services are being developed and targeted at global audiences, rather than national audiences than this legislation assumes, e.g. services being targeted at cultural audiences, not national ones. Simply limiting these changes to EU, EEA, ECTT areas and specific national regimes mostly complicates rather than resolves any real issues.

EPGs (Question 2)

We also believe that the proposed conditions being proposed on EPGs are too onerous and possibly impossible to guarantee with legal certainty. Consumers have provided the industry with a clear message as to what they desire from an effective EPG and User Interface / User Experience, e.g. 84% of respondents in a recent survey indicated that they wanted the “ability to view, browse and search all available content from every available source – from broadcast television to subscription streaming services – unified in a single experience or interface”

As such many device manufacturers and platform operators are “merging” the metadata from different EPG service providers into a single user experience. As such it is becoming increasingly difficult to establish where, in a User Interface, the responsibility of one EPG service starts and another one begins. It is almost certainly the case the traditional definitions of EPGs are no longer appropriate and fit for purpose and before any fine tweaking of regulations are enacted relating to EPGs, the higher level structural definition issue must be addressed.

We agree with the views of the existing licensee, in that the EPG provider can only act in good faith and not legally guarantee that all its content provider’s services will remain compliant over time. As such clear, fair and reasonable reparation processes must be defined such that providers of EPGs can honestly and judiciously manage their platforms.

Concerning “Online services” (Clause 3.25 onwards) it is written that online EPGs are not

covered by the definition of a “regulated EPG”. We welcome this situation as a significant clarification, however the subsequent statement that “precisely which EPGs will be caught is not possible to determine until the day of exit” is not a helpful contribution. As it is then subsequently acknowledged that “Ofcom does not have the power to resolve this concern as it is the UK Government who is responsible for the changes made by the Exit Regulations” we would advocate that until this situation is resolved, the status quo situation should remain, rather than attempt to incorrectly determine and apply new regulation. As such online EPG components should remain out of scope of this legislation.

New Definitions and conditions (Question 3)

We have no significant comments to make on these at this stage.

Other Changes (Question 4)

As alluded to above, part of our offering to our consumers are services that are sourced from global content providers and delivered over the internet to Smart TVs. Currently these have been confined to a separate application completely separated from the traditional EPG, however in order to meet consumer expectations there needs to be an increased blurring of the boundaries between traditionally delivered content and alternative sources.

We commend Ofcom’s desire to make broadcast licences easier to use, understand and implement and in principle does not disagree with the concept of there being a level playing field for all. However we struggle to envisage that some of the conditions that apply to traditional legacy services could be applied to online services being sourced from anywhere in the globe.

Again as above, if such existing licencing conditions were to be simply transposed without due consideration, that would probably result in further barriers to UK consumers being able to view sought after global content. For

example it is difficult to envisage being able to enforce or ensure that global content sources retain and archive long periods of programme recordings.

Not all internet content services are purely linear in nature and increasing degrees of personalization can be, and are, overlaid over a linear viewing experience resulting in very different, but apparently similar, linear services being consumed by individual viewers. Global industry wisdom and consumer expectation is that personalization of services will only increase in future years. As such this would make recordings of each consumer's "linear TV service" practically impossible.

If the (traditional) EPG is to survive into the future, then it must be possible for it to be integrated with other alternative sources of content metadata and reasonable consideration must be given to the capabilities of other forms of programming. We would welcome further discussion and consultation as to how new and innovative services can be compliant without potentially preventing them from even starting in the UK.