



## Communications Consumer Panel and ACOD response to Ofcom's consultation on procedures for handling content standards complaints, investigations and sanctions for BBC programmes

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The Communications Consumer Panel (the Panel) and the Advisory Committee for Older and Disabled People (ACOD) welcome the opportunity to comment on procedures for handling content standards complaints, investigations and sanctions for BBC programmes.

The Panel works to protect and promote people's interests in the communications sector, including the postal sector. We are an independent statutory body set up under the Communications Act 2003. The Panel carries out research, provides advice and encourages Ofcom, governments, the EU, industry and others to look at issues through the eyes of consumers, citizens and micro businesses.

The Panel pays particular attention to the needs of older people and people with disabilities, the needs of people in rural areas and people on low incomes, and the needs of micro businesses, which have many of the same problems as individual consumers.

Four members of the Panel also represent the interests of consumers in England, Northern Ireland, Scotland and Wales respectively. They liaise with the key stakeholders in the Nations to understand the perspectives of consumers in all parts of the UK and input these perspectives to the Panel's consideration of issues. Following the alignment of ACOD with the Panel, the Panel is more alert than ever to the interests of older and disabled consumers and citizens.

### Response

We have previously highlighted our belief that it is vital that Ofcom sets a high standard when encouraging the promotion of diversity, equality and equality of opportunity among its stakeholders - including broadcasters. This includes the expectation of equivalent access of broadcast and on demand services.

Our ACOD remit includes the portrayal and representation of older and disabled people in broadcasting. We have welcomed Ofcom's reports on diversity in Public Service Broadcasting, but would also urge Ofcom to take the opportunity to make sure that its complaints processes - including complaints about the BBC - are open to all, to make sure that the views of older and disabled people can be heard.

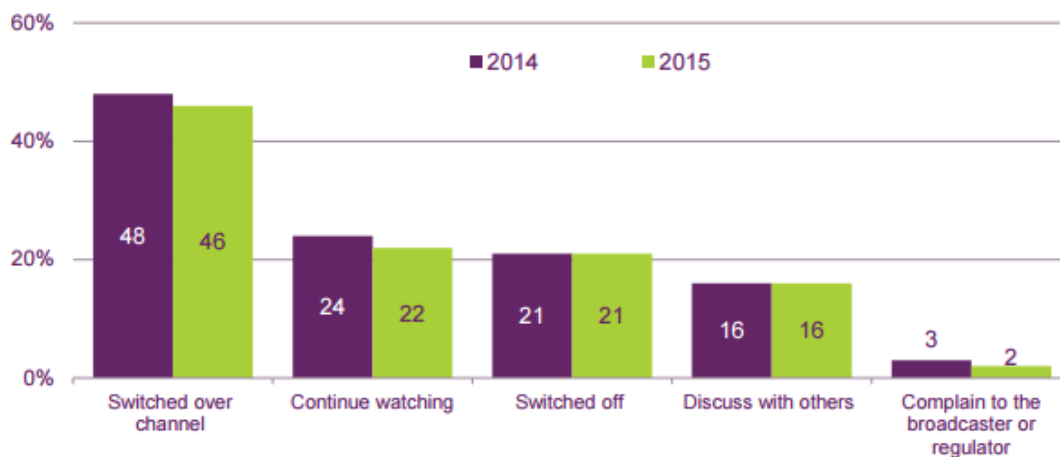
### ***Portrayal and participation of older and disabled people***

The participation of older and disabled people in programmes, and their accurate portrayal, are central to maintaining audiences' confidence and engagement with broadcast content. As ACOD, we welcome Ofcom's commitment to ensuring that the BBC (and other Public Service Broadcasters) represent the diverse communities of the UK Nations and Regions.



We would also urge Ofcom to ensure that it monitors carefully the portrayal and representation of older and disabled people. Ofcom’s PSB Diversity Research Summary 2015<sup>1</sup> certainly indicates that there is more work to be done, with 48% of all PSB viewers - and 51% of PSB viewers with a disability - saying there were too few people with disabilities represented on PSB TV.

**Figure 12: Reaction to harmful or damaging content on television**



*Source: Ofcom Media Tracker 2015. Q51 – How did you react when you saw something you thought was harmful or damaging? In other words what did you do? Base: all who said they’d seen something harmful or damaging on TV in last 12 months in 2014 (399); 2015 (429). Prompted, multicode. Significance testing shows any difference between 2014 and 2015.*

But not every viewer or listener is able to take part in research, so is vital that older and disabled people are able to proactively give their input via accessible complaints processes that allow them to contact broadcasters without difficulty, including the BBC - and Ofcom - via the communications channels that they are able to use. Statistics on complaints can provide insights into ways that communications services are working - or not - for groups of viewers and listeners and can support the publication of research in providing evidence of gaps in provision, portrayal and representation. Alongside statistical data, individual experiences - as evidenced by complaints - can provide useful insight.

***Making it clear who the audience should complain to***

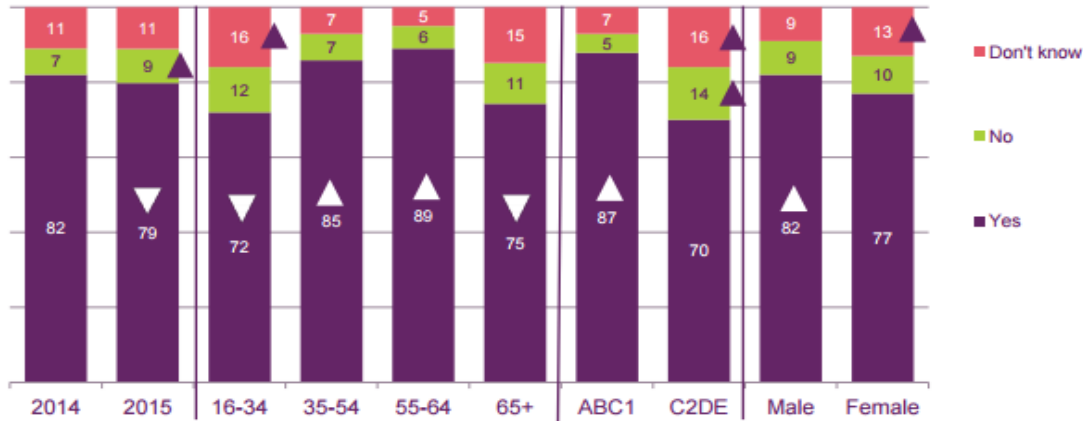
It is vital to make clear who is responsible for the handling of complaints and therefore who the viewer or listener can contact with a complaint. In a report published by Ofcom in April 2016<sup>2</sup>, awareness of TV regulation was relatively high, but it was slightly lower (75%) in the over-65s category than the 79% average.

<sup>1</sup> [https://www.ofcom.org.uk/\\_\\_data/assets/pdf\\_file/0023/59333/psb\\_diversity\\_report.pdf](https://www.ofcom.org.uk/__data/assets/pdf_file/0023/59333/psb_diversity_report.pdf)

<sup>2</sup> [https://www.ofcom.org.uk/\\_\\_data/assets/pdf\\_file/0027/83709/uk-audience-attitudes-towards-broadcast\\_media-2016-summary.pdf](https://www.ofcom.org.uk/__data/assets/pdf_file/0027/83709/uk-audience-attitudes-towards-broadcast_media-2016-summary.pdf)



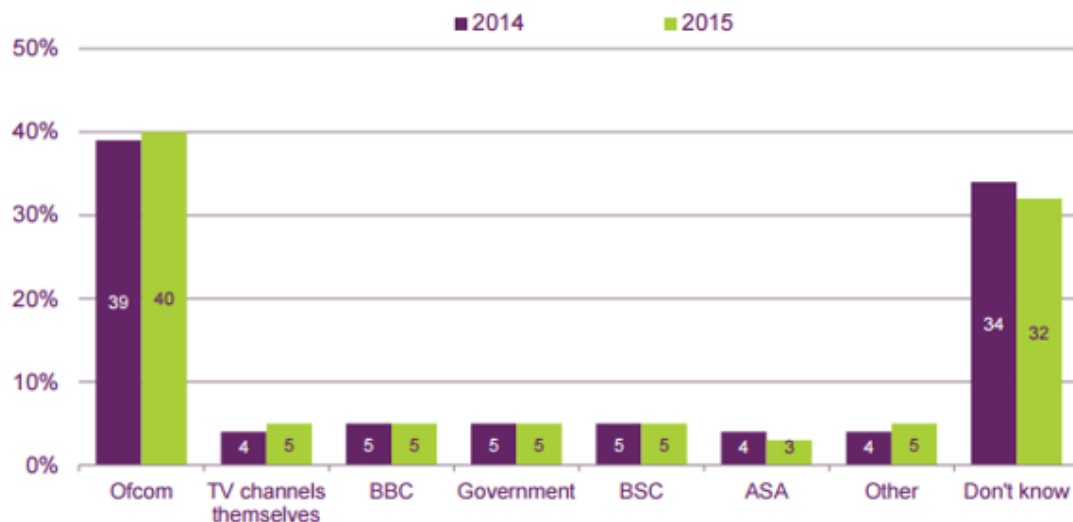
**Figure 14: Whether TV programmes are currently regulated (% of all adults)**



Source: Ofcom Media Tracker 2015. Q30 – As far as you know, are TV programmes regulated? Are there rules or guidelines about what can and can't be shown? Base: all in 2015 (2107); 16-34 (620); 35-54 (675); 55-64 (344); 65+ (468); ABC1 (1090); C2DE (1013); male (997); female (1110). Prompted, single code. Significance testing shows any difference between 2014 and 2015, between any age group and all adults, and any difference between socio-economic groups and by gender.

An extract from the same report, below, shows that while there is a general awareness of the regulation of TV programmes, when asked who is responsible for regulating TV programmes, 60% of the UK adults who responded either gave an incorrect response, or didn't know.

**Figure 16: Opinion on who regulates TV programmes (% of adults aware of TV programme regulation)**



Source: Ofcom Media Tracker 2015. Q31 – Who do you think is responsible for regulating TV programmes? Base: All respondents aware of TV programme regulation 2014 (1485); 2015 (1446). Unprompted, single code. Significance testing shows any difference between 2014 and 2015.

If not handled well, the handover of BBC regulation to Ofcom has the potential leave people uncertain about who to contact if they wish to complain. However, this regulatory



change presents an ideal opportunity to communicate clearly with the audience overall about who regulates programmes; what they as an audience of consumers can expect; and who they can complain to if they are dissatisfied. We hope that Ofcom - with support from the BBC - takes that opportunity.

### ***Broadcast and On Demand Access Services***

The delivery of audio-visual content has been transformed in recent years. We believe that, as far as practicable, everyone should have the opportunity to take advantage of these developments and have equivalent access to both broadcast and on demand programme services (ODPS).

We have applauded the Government's commitment to introduce Code powers for Ofcom in respect of Access Services (subtitling, audio description and signing) for ODPS. It is vital that Ofcom measures and understands how effectively user requirements are being met, with equivalent access being the ultimate goal.

The availability and quality of Access Services is currently an area of grave concern for the Panel/ACOD. We have been disappointed by the recent lack of progress in Access Services - especially in relation to subtitling and speaking Electronic Programme Guides - and have strongly encouraged Ofcom to commit more resource to this area. We are currently conducting research into users' and potential users' awareness and experience, which we aim to publish in the Spring.

In an associated area, we would encourage Ofcom to ensure that their broadcast and on demand complaints procedures are accessible to all, including Access Services users, who may need to use other communications channels, such as textphones, Next Generation Text services, video relay, email and post. We are pleased to note that there is already a dedicated email address for complaints about audio description by visually-impaired consumers and would recommend extending the use of email so that other consumers are able to make complaints via this communication channel if they wish.

### ***Summary: Interpreting the requirements of the BBC Agreement for the benefit of all complainants***

We note that the BBC Agreement states that Ofcom's complaints procedures must give information on how complainants can expect to be treated by complying with at least the following:

- a) the public must know about their right to make a complaint and how;
- b) referring a complaint to Ofcom must be straightforward and accessible;
- c) references must be considered and resolved effectively;
- d) handling of references must be timely; and
- e) a complaint must be handled in a proportionate manner.

In addition the procedures must give clear guidance explaining:

- a) how the complaints system works;
- b) the remedies and sanctions Ofcom has the power to apply;

- c) where relevant, the availability of other methods of redress in relation to the type of issues raised by the complainant or prospective complainant; and
- d) how complainants will be notified of the resolution of the complaint and provided with an explanation appropriate to the nature of the complaint.”

In interpreting these guidelines, we would urge Ofcom to consider the needs of older and disabled complainants, including - as highlighted above - allowing complaints by letter, telephone and email, and using assistive technology.

More generally, we would like to see a definition of “timely” so that complainants have some idea about how long a response to their complaints may take; a measure related to keeping complainants informed if a response is complex or likely to take a while; and an obligation on the BBC to ensure that it accurately signposts the complaints process and, especially in the early days following the handover of regulation, that it is equipped and ready to guide complainants who may contact it in error.