

OFCOM CONSULATION

Listed Events -

Identifying television services that are free-to-view and widely available

INTERNATIONAL OLYMPIC COMMITTEE (“IOC”) RESPONSE – 1 FEBRUARY 2019

Question 1: Do you agree that our proposed methodology is appropriate? In particular –

a) Do you agree that it is appropriate for us to consider the reception of TV programme services through all four main TV platforms, including IPTV?

Yes. Further, given the IOC’s Olympic Charter commitment to ensure the fullest coverage by different media and the widest possible audience, we continue to assess whether such comprehensive coverage could best be achieved through the inclusion of, amongst other things, IPTV, satellite and cable transmission in addition to over-the-air transmission in order to determine whether a service is widely available in a particular country.

b) Do you agree that it is appropriate for us to consider the reception of TV programme services on the main device in the house, being the largest screen - a TV set if that is available, or a computer or tablet if not?

The IOC understands why OFCOM has taken this approach. However, as a matter of internal policy, the IOC when applying its “free to air television” criteria does not distinguish between “main screen” and “secondary screen” viewing.

However, given that the approach of OFCOM is based on an unsubstantiated assumption that the “main screen” is “typically the screen [viewers] would prefer for the type of events included on the list” to be viewed on, the IOC considers that this approach should be used with caution.

This is particularly so considering that, in effect, it: a) essentially serves to exclude any solely-OTT service provider, despite such services being generally available across the territory to connected devices (and with the ability to “cast” any such OTT content accessed via advanced smartphone devices to connected/smart televisions, if so desired); and b) it appears to somewhat disregard trends regarding the consumption of video by younger viewers, as set out in OFCOM’s own reports (for example, see <https://www.theguardian.com/tv-and-radio/2017/jul/07/ofcom-young-people-watch-a-third-less-broadcast-tv-as-they-move-online>).

While OFCOM may determine that it is not appropriate for such services to come into consideration as “qualifying services” at the present time, the IOC is of the opinion that the methodology for determining what is a “qualifying service” should be frequently reviewed.

c) Do you agree that it is appropriate for us to use data collected through the BARB ES survey in order to calculate the proportion of the population that can receive services?

The IOC does not have sufficient expertise regarding the BARB ES survey in order to make any comment of substance on this matter.

d) Do you agree that our proposed adjustment for individuals able to receive services on the commercial DTT multiplexes compared with the PSB DTT multiplexes is appropriate?

The IOC does not have sufficient expertise regarding the underlying information used to determine this approach in order to make any comment of substance on this matter.

e) Do you agree that our proposed approach in relation to IP multi-stream capability is appropriate?

Yes.

f) Do you agree that our proposed approach in relation to assessing the ‘free-to-view’ condition is appropriate? Please set out reasons for your views and supporting evidence. In particular if you do not agree that our proposed approach is appropriate, please explain what alternative approach you consider would be appropriate. Similarly, if you consider that we should use alternative or additional data, please explain what that data is and provide it to us if possible.

Yes. The approach taken is materially similar to the approach used by the IOC to determine “free to air television” services.

Question 2: Do you agree that our proposed approach for keeping the list of qualifying services up to date is appropriate?

Yes, although given the pace of change in this area, the IOC suggests that both the list of qualifying services and the proposed methodology discussed in Question 1 should be reviewed regularly.

Given the ever-broadening scope of media providers with substantial offerings in the United Kingdom, the IOC would be concerned if the criteria for “qualifying services” and the methodology employed to determine those served to reduce even further the quantity of services permitted to make available the Olympic Games (for so long as it remains on the “listed events” list). The IOC is concerned, in particular, that should the methodology described in this consultation be implemented, there would actually be one less operator (Channel 5) with services that meet the criteria for a “qualifying service” than there is at present.

As a more general comment, the IOC notes that on the basis of the information in the consultation paper, if the reception threshold was lowered by merely 2% (to 93%), this would result in a substantial number of the services available for free on Freeview being eligible to participate in the market for the acquisition of listed events.

While the reception threshold is not being directly considered in this consultation, it would seem reasonable in the opinion of the IOC to consider whether such a small reduction in the threshold would serve to “deprive a substantial proportion of the public” of watching the event, particularly when balanced against the potentially significant benefit resulting from an increase in competition for acquisition of the rights to “listed events”. Given that the “listed events” regime already represents a material restriction on the freedom of rightsholders such as the IOC in licensing its broadcast rights, implementing the minor threshold change described above does not seem inappropriate or unreasonable in the circumstances.