
Review of prominence for public service broadcasting

Statement on changes to the EPG Code

STATEMENT:

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1. Overview

This document sets out our decisions to ensure that the public service broadcasting (PSB) traditional channels remain easy for TV viewers to find and watch on electronic programme guides (EPGs).

Prominence, or the easy discovery of PSB, is important to ensure that viewers continue to enjoy the benefits of PSB, and that public service broadcasters remain sustainable. EPGs enable viewers to find and select traditional (or ‘linear’) TV channels. Ofcom’s EPG Code sets rules on where PSB channels must appear on these guides.

This document outlines the decisions we have reached on updating the EPG Code. Viewers are increasingly watching content online, so alongside this document we are also making recommendations to Government for new legislation to ensure PSB services remain prominent on connected services and devices.¹

What we have decided – in brief

Traditional TV channels are still widely watched and highly valued. PSB was established by Parliament to ensure the public can access a range of high-quality, original television that meets viewer needs and interests. Prominence rules enable viewers to find PSB easily and enjoy the benefits it brings, both now and in the future.

We will safeguard the EPG positions of BBC One, BBC Two, Channel 3 licensees, Channel 4, Channel 5 and S4C. The main five PSB channels are the foundation of the UK’s PSB provision, providing high-quality programmes across a wide range of genres and delivering a wide range of societal and individual benefits. S4C is the only Welsh language broadcaster and provides a broad range of high-quality and diverse programming in Welsh. We are amending the EPG Code to ensure these channels remain easy to find.

We are also setting minimum levels of prominence for other PSB and local TV channels. A range of other PSB channels and local TV channels provide content with either a more specific genre focus (e.g. BBC News or BBC Four) or with specific target audience (e.g. CBeebies which targets very young children or BBC Scotland which targets Scottish viewers). These channels deliver a wide range of societal and individual benefits, and providing minimum levels of prominence will make some PSB channels easier to find and will ensure that these channels are guaranteed an appropriate level of prominence in the future. It will also provide some flexibility for EPG providers about where these channels appear within their channel listings.

This overview is a simplified high-level summary only. Full explanation and conclusions are provided in the main document and supporting annexes.

¹ Review of prominence for public service broadcasting: Recommendations for a new legislative framework for PSB prominence in an online world
https://www.ofcom.org.uk/data/assets/pdf_file/0021/154461/recommendations-for-new-legislative-framework-for-psb-prominence.pdf

Prominence supports the delivery of PSB

- 1.1 PSB is established in statute to bring a range of benefits to UK viewers, including delivering a wide range of high-quality, original programmes that reflect the UK back to itself; bring the nation together at important moments; and inform, entertain and educate society. The Communications Act 2003 sets out the purposes of PSB and the role of the PSBs – the BBC, ITV, STV, Channel 4, S4C and Channel 5 – in delivering these. Ofcom has a range of regulatory responsibilities to ensure that these broadcasters meet the needs and interests of different people across the UK.
- 1.2 The current legislative and regulatory framework supports the availability of PSB and ensures it is prominent. Prominence makes PSB easy to find and watch, which helps the delivery of the PSB purposes and aids the sustainability of the PSBs. The discoverability of PSB is secured by making the specified linear channels easy to find within a programme guide (an ‘electronic programme guide’ or EPG). Ofcom has put in place a Code for EPG providers (the ‘EPG Code’) that includes rules on the appropriate prominence of the PSB channels and local TV services.

Ensuring PSB channels occupy prominent EPG slots

- 1.3 In July 2018, we reviewed the prominence of PSB and consulted on changes to the EPG Code.² We found that the flexibility in our current EPG Code had, over time, contributed to some significant variations across EPG providers. This has meant that some PSB and local TV channels are less easy to discover depending on the platform and television device used.
- 1.4 We received a number of responses from PSB, local TV and commercial broadcasters, EPG providers, TV platform providers and other interested parties. Overall, respondents recognised the importance to viewers of PSB channels being easy to discover, but some raised concerns about the impact and costs of our proposals.
- 1.5 We have carefully considered all of the arguments and evidence provided in consultation responses. Determining appropriate prominence for PSB channels requires a high degree of regulatory judgement and we have placed particular emphasis on the value PSB provides to society and individuals. Greater specificity in the EPG Code will secure appropriate prominence for all PSB channels, while also supporting innovation and consumer choice.
- 1.6 We have decided to proceed with the proposals that we consulted on, with three changes (which we discuss in section 4). We are setting rules based on slot numbers within an EPG rather than page numbers. We are setting a minimum level of prominence for local digital television programme services, but we are not doing so for simulcasts of these services. And we are setting a longer period than our consultation proposal for EPG providers to implement the new rules (18 months rather than 12 months).

² *Review of rules for prominence of public service broadcasters and local TV – Consultation on proposed changes to the linear EPG Code and future of the regime*, available at: https://www.ofcom.org.uk/data/assets/pdf_file/0020/116273/consultation-epg-code-prominence-regime.pdf

- 1.7 For some channels, our requirements set their exact EPG channel number. For others, we specify the lowest slot in which they can be listed. This will safeguard the position of all PSB channels and improve the discoverability of some channels on specific EPGs. These new rules will come into force on 4 January 2021 and are summarised below:

Designated Channel	New obligation	Impact on EPGs
BBC One, BBC Two, Channel 3 licensees, Channel 4 and Channel 5	Slot position 1-5	Safeguards current position
S4C and Channel 4 on EPGs specific to Wales	S4C in slot position 4 in Wales & Channel 4 within first 8 slots	Channel 4 will move up on Sky and Freesat EPGs in Wales
BBC Four; BBC Scotland and BBC Alba in Scotland; and S4C on UK-wide EPGs	Within first 24 slots	S4C will move up on Virgin Media BBC Alba will move up on Virgin Media and Sky BBC Four will move up in Scotland on Freeview
BBC Children’s channels – CBBC and CBeebies	Within first 8 slots of children’s section	Channels will move up on Sky
BBC News & BBC Parliament	Within first 8 slots of news section	Channels must remain above the minimum level
Local TV services	Within first 24 slots on digital terrestrial television only	Channels must remain above the minimum level on Freeview only

Next steps

- 1.8 Our changes to appropriate prominence requirements of the EPG Code will come into force on 4 January 2021 and will replace the current appropriate prominence section of the EPG Code on that date.
- 1.9 Today, we are also publishing our recommendations to Government for a new framework to keep PSB TV prominent in an online world. This will require new legislation so we will engage with Government and industry over the summer to discuss these recommendations and next steps.
- 1.10 Our work on prominence is an important part of our wider PSB programme of work, ensuring that PSB is maintained and strengthened into the future. We have also published today, [the future of public service media](#), which sets out our plans in more detail.

2. Public service broadcasting and the role of prominence rules

- 2.1 This section summarises the purposes of Public Service Broadcasting (PSB), the role of the prominence rules to ensure viewers can easily find PSB and our work to date.
- 2.2 PSB was established by Parliament to ensure the public has access to high quality television that reflects the UK back to itself, brings the nation together at key moments, and informs and educates society. It also helps to ensure that certain types and genres of programmes – which would be less well provided if left to the market alone – get made, e.g. arts, religion and original children’s content. PSB is available to everyone, and free at the point of use.
- 2.3 The purposes of PSB are set out in the Communications Act 2003³ (the Act) and are to:
- a) provide television programmes that deal with a wide range of subjects;
 - b) cater for the widest possible range of audiences, across different times of day and through different types of programme; and
 - c) maintain high standards of programme-making.
- 2.4 PSB is currently provided through a number of services: the BBC’s public services, the Channel 3 services (ITV and STV), Channel 4 and Channel 5. BBC Alba and S4C provide Gaelic and Welsh-language channels. These services are collectively required to deliver content that meets the public service purposes as well as fulfil particular broadcaster specific requirements, remits or duties. In 2011, the Secretary of State also introduced statutory provisions for local TV services that have a remit to provide a television service that will bring social or economic benefits to an area.⁴
- 2.5 Ofcom has a range of regulatory responsibilities to ensure PSB meets audiences’ needs and interests, including monitoring performance and setting enforceable relevant conditions for public service channels which require (amongst other things) that the channels deliver their statutory public service remits⁵. For the BBC, its Operating Licence sets requirements for fulfilment by the BBC of its specific mission and public purposes, as established in the BBC’s Royal Charter. It includes a range of regulatory conditions⁶, including requirements for distinctiveness, quotas for original production and nations and regions programming across the BBC’s public services. For the Channel 4 Corporation (C4C), we set licence conditions for its main channel, Channel 4, as well as evaluating the performance of all C4C

³ These purposes are set out in sections 264(4) to (6) of the Act: <https://www.legislation.gov.uk/ukpga/2003/21/contents>

⁴ The relevant orders were made under sections 244 and 310 of the Act, as well as section 5 of the Wireless Telegraphy Act 2006.

⁵ The statutory public service remits of the channel 3, 4 and 5 services are set out in section 265 of the Act.

⁶ The BBC Operating Framework, including the BBC Operating Licence can be found here: <https://www.ofcom.org.uk/tv-radio-and-on-demand/information-for-industry/bbc-operating-framework/operating-framework>

services in meeting its statutory media content duties⁷ which focus on diversity, alternative viewpoints and younger audiences. For Channel 3 licensees and Channel 5, we set licence conditions including obligations for news, current affairs, and regional production.⁸

- 2.6 It is not enough to simply make sure a range of quality programmes are made and available, they must also be easy to find, watched and enjoyed by viewers. The importance of ease of discovery is recognised by Parliament, and the prominence rules aim to ensure that channels which deliver valuable public service content are easy to find.
- 2.7 Prominence also plays a role in supporting the sustainability of PSB. Regulatory requirements such as original programming or local news provision have a cost impact, and the PSBs also receive a number of benefits to support the sustainability of the system. These benefits include spectrum (DTT), prominence on electronic programme guides (EPGs) and in the BBC's case, licence fee revenues. This balance of obligations and benefits is known as the 'PSB compact'.
- 2.8 Ofcom are considering the sustainability of this compact by facilitating a series of debates on the fundamental challenges facing PSB over the coming months as well as publishing our assessment of the PSBs' performance over the last five years.⁹ Our work on prominence contributes to and will inform this work.

The role of prominence and PSB channels

- 2.9 We publish data on changing viewer habits and attitudes annually, as well as our view on the performance of the UK broadcasting market.¹⁰ This research shows that the broadcasting market has evolved considerably in recent years, and viewers now have access to a much wider selection of television services and content than ever before. Despite this, viewing to PSB remains high.
- 2.10 Eight in ten people (80%) watched at least 15 consecutive minutes of the main five PSB channels in a typical week in 2018 and over half of all television viewing of broadcast content on television sets was to one of the main five PSB channels.¹¹ Audiences also continue to value PSB, with viewers rating the PSBs highly for 'trustworthy news' (59%) and 'shows that are well-made, high quality programmes' (65%).¹²

⁷ The Act s198A <https://www.legislation.gov.uk/ukpga/2003/21/section/198A>

⁸ Channel 3 Licences can be found at www.ofcom.org.uk/manage-your-licence/tv-broadcast-licences/current-licensees/channel-3 and Channel 5 at https://www.ofcom.org.uk/_data/assets/pdf_file/0020/40376/channel-5-attachment-variation.pdf

⁹ The future of public service media https://www.ofcom.org.uk/_data/assets/pdf_file/0022/155155/future-public-service-media.pdf

¹⁰ Ofcom, *Media Nations* reports, available at: <https://www.ofcom.org.uk/research-and-data/tv-radio-and-on-demand/media-nations>

¹¹ Source: BARB. Network, individuals 4+. The main five PSB channels include viewing to their HD channel variants but exclude viewing to their +1 channels

¹² Ofcom PSB tracker 2018, https://www.ofcom.org.uk/_data/assets/pdf_file/0019/142426/PSB-tracker-2018-data-tables.pdf

- 2.11 PSB remains important in delivering a range of public benefits to viewers in the UK. These benefits include building an individual’s knowledge of specific issues (e.g. via documentaries or factual programming), as well as bringing wider social value through bringing the nation together for shared experiences such as sporting events, or supporting informed democratic debate with news and current affairs. Ease of discovery encourages greater viewing and therefore helps to deliver these individual and social benefits.
- 2.12 The discoverability of PSB is currently achieved through rules that affect the prominence or position of specific linear channels on EPGs. The legislation sets out which PSB services (the ‘designated channels’) are entitled to ‘appropriate prominence’. These services are: all BBC channels; the Channel 3 services (ITV and STV); Channel 4; Channel 5; S4C and local TV channels.¹³ Ofcom is responsible for providing guidance on appropriate prominence in a code for EPG providers¹⁴ (the ‘EPG Code’). The current Ofcom EPG Code was set in 2004 and contains guidance on prominence, accessibility and fair and effective competition. This statement only relates to the section on prominence.¹⁵ Further information on the current legislative framework for EPGs and prominence can be found at [Annex 1](#).
- 2.13 The current regulatory framework for prominence does not extend to the PSBs’ on-demand or online services, nor services that enable viewers to navigate and select TV programmes beyond the EPG, such as the user interfaces on connected TVs, set-top boxes and streaming sticks. We have published separately our recommendations for a new regulatory framework for PSB prominence online.

Electronic Programme Guides (‘EPGs’) and the EPG Code

- 2.14 EPGs consist of the listing and/or promotion of television programmes together with a facility for obtaining access to those programmes. On EPGs, channels are typically ranked in ascending order. Viewers can scroll through individual channels, browse by page or filter results by content genre, e.g. news. Consumers can scroll through EPGs to watch programmes being broadcast live, what is coming up next and, in some cases, what has already been broadcast.
- 2.15 The main EPG providers are currently Sky, Virgin Media, YouView, Freesat, Digital UK (which provides the Freeview EPG), BT and EE. The current EPG Code is not prescriptive and affords a broad degree of flexibility to EPG providers in terms of where to position the designated channels on their respective EPGs. However, EPG providers must comply with three broad principles included in the current EPG Code:
- a) EPG providers should ensure their approach to PSB prominence is set out in a statement and is objectively justifiable;

¹³ Section 310(4) of the Act. Local TV channels have been entitled to prominence following an amendment made with effect from 31 January 2012 through the Code of Practice for Electronic Programmes Guides (Addition of Programme Services) Order 2011 ((SI 2011/3003)

¹⁴ The term ‘EPG provider’ means any organisation providing an EPG as defined by section 310 of the Act under a Broadcasting Act licence.

¹⁵ The section in the EPG Code on accessibility was reviewed and updated on 27 June 2018: https://www.ofcom.org.uk/_data/assets/pdf_file/0016/115261/statement-epg-accessibility.pdf.

- b) Ofcom would have regard to the interests of citizens and the expectations of consumers in considering whether a particular approach to listing designated channels constituted appropriate prominence; and
 - c) EPGs should enable viewers of the designated channels in a region to select the appropriate regional versions of those channels through the primary listings for those channels, provided the relevant broadcaster had secured services that enabled this.
- 2.16 Most EPG providers offer nation specific EPGs, for instance in Wales most EPG providers list S4C in the fourth slot whereas in other nations Channel 4 appears in this slot. Virgin Media does not provide a fully regionalised EPG. However, it does provide a slightly different variant of its UK-wide EPG for Scotland (where BBC Scotland is listed at a slot reserved for BBC One HD across the rest of the UK). While we note this variation, for simplicity we refer to Virgin Media’s EPG as UK-wide in this document.

2018 Ofcom report and consultation on the discoverability of PSB and local TV services

- 2.17 The Digital Economy Act 2017 introduced a new duty for Ofcom, to prepare and publish a report on PSB prominence and to review the EPG Code by 1 December 2020.¹⁶ In July 2018, Ofcom published its first report on the availability and discoverability of PSB and local TV content (the 2018 report)¹⁷. The 2018 report highlighted some variations in the prominence of specific channels, including the position of Channel 4 and S4C in Wales on different EPGs, the position of local TV services and the BBC’s children’s channels.
- 2.18 Some of these variances are in part due to the varying functionality of set-top boxes. For example, whether the platforms are designed to provide regionalised EPGs (e.g. a different EPG depending on where the customer lives) and the number of available slots per page on different devices. However, variations are also due to differences in how EPG providers operate their EPGs. For example, slots on Sky’s EPG can be bought and sold by broadcasters through a secondary market, while some platforms more directly control channel positions on their EPGs. We also noted that some EPG providers’ approaches to allocating slots are changing, for example, Virgin Media monetising their EPG.¹⁸ Also, under the current EPG Code, EPG providers can take a range of different approaches to appropriate prominence for the designated channels.
- 2.19 The 2018 report also assessed the availability and discoverability of PSB and local TV video on demand (VoD) content on connected devices. We consider these findings in our separate document on a new regulatory framework for PSB prominence online.¹⁹

¹⁶ Section 95 of the Digital Economy Act 2017, introducing new section 311A to the Act: <https://www.legislation.gov.uk/ukpga/2017/30/contents>.

¹⁷ The report published in July 2018 can be found here: <https://www.ofcom.org.uk/research-and-data/tv-radio-and-on-demand/tv-research/epg-prominence>

¹⁸ Virgin Media sold slot 106 (vacated by BBC Three) to Channel 4 Corporation in 2017

¹⁹ Review of prominence for public service broadcasting: Recommendations for a new legislative framework for PSB prominence in an online world https://www.ofcom.org.uk/data/assets/pdf_file/0021/154461/recommendations-for-new-legislative-framework-for-psb-prominence.pdf

- 2.20 Alongside the 2018 report, we published a consultation on proposed changes to the EPG Code and a set of principles for a new framework for the prominence of on-demand content. We have now considered the nearly 40 responses we received to our consultation. This document set out our decisions on revisions to the EPG Code. These rule changes will secure the appropriate prominence of PSB linear channels and local TV services within EPGs.

Impact assessment

- 2.21 Impact assessments provide a valuable way of assessing the 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 in cases where our conclusions would be likely to have a significant effect on businesses or the general public, or where 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.²⁰
- 2.22 The analysis presented throughout the consultation document (including the annexes) provided our assessment of the impact of our proposals and constituted an impact assessment, as defined by section 7 of the Act, of our proposed changes to the linear EPG Code. In reaching our decisions we have considered representations made to us on the impact assessment and amended our analysis where appropriate.

Equality impact assessment

- 2.23 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.
- 2.24 We included an EIA of our proposals in our consultation document. We have considered the equality impacts of the decisions we are now taking, and we set out our assessment in [Annex 2](#). It is not apparent to us that the outcome of our decisions to revise the EPG Code would be likely to have any particular impact on any persons with protected characteristics. More generally, we do not envisage the impact of any outcome to be to the detriment of any group of society. Nor do we consider it necessary to carry out separate EIAs in relation to race or gender equality or equality schemes under the Northern Ireland and Disability Equality Schemes

²⁰ For further information about our approach to impact assessments, see Ofcom (2005) Better policy-making: Ofcom's approach to impact assessment https://www.ofcom.org.uk/_data/assets/pdf_file/0026/57194/better_policy_making.pdf

3. Our approach to determining appropriate prominence

- 3.1 In this section, we discuss why we are revising the EPG Code and set out our approach to determining appropriate prominence. The responses to our consultation raised several overarching issues, including whether we should be revising the EPG Code at all, and the importance of supporting innovation and flexibility for EPG providers. We respond to these overarching comments in this section. We also set out our conclusions on the effects of slot position on viewing figures and whether to set requirements in terms of page position or slot position.
- 3.2 We conclude this section with the analytical approach that we are adopting to determine appropriate prominence and we discuss the comments made about our approach in consultation responses. In section 4, we apply this analytical approach and set out our decisions on appropriate prominence for each designated channel.

Are all designated channels appropriately prominent?

- 3.3 In our July 2018 consultation document, we set out our view that the flexibility in our current EPG Code had, over time, contributed to some significant variations across EPG providers. This has meant that some designated channels are less easy to discover depending on the platform and television device used. We argued that there are instances where a greater degree of prominence would be appropriate.²¹ Our proposals to update the EPG Code were designed to achieve this and to provide greater specificity to ensure the EPG Code continues to achieve the policy aims of the statutory framework.
- 3.4 The majority of stakeholders were supportive of our proposed revisions to the EPG Code and welcomed greater regulatory certainty. Arqiva noted that there have ‘clearly been variations in how the current guidelines for PSB prominence have been interpreted by different EPG providers’ and recognised the rationale for our new approach.²² International Broadcasting Trust (IBT) and Voice of Listener and Viewer (VLV) agreed that significant variations across EPG providers had led to some designated channels being less easy to find.²³ VLV agreed that the EPG Code should be revised to provide regulatory certainty for designated channels and EPG providers²⁴ and Viacom and IBT²⁵ were pleased

²¹ In particular, for the reasons set out in section 4, a greater degree of prominence is appropriate for Channel 4 on the Sky Wales and Freesat Wales EPG; for BBC4 on the Freeview Scotland EPG; for BBC Alba on the Virgin Media and Sky Scotland EPGs; for S4C on the Virgin Media EPG and for BBC Children’s channels on Sky.

²² Arqiva, p2 https://www.ofcom.org.uk/data/assets/pdf_file/0020/131177/Arqiva.pdf

²³ International Broadcasting Trust, p5 https://www.ofcom.org.uk/data/assets/pdf_file/0019/131185/International-Broadcasting-Trust.pdf; Voice of the Listener and Viewer, p2 https://www.ofcom.org.uk/data/assets/pdf_file/0009/131211/Voice-of-the-Listener-and-Viewer.pdf

²⁴ Voice of the Listener and Viewer, p2 https://www.ofcom.org.uk/data/assets/pdf_file/0009/131211/Voice-of-the-Listener-and-Viewer.pdf

²⁵ International Broadcasting Trust, p6 https://www.ofcom.org.uk/data/assets/pdf_file/0019/131185/International-Broadcasting-Trust.pdf

that our proposals would provide greater regulatory certainty for the main PSB channels.²⁶ The BBC argued that certainty could encourage investment and highlighted research that indicated that audiences wanted BBC channels to be prominent.²⁷ C4C raised concerns that under the current EPG Code, EPG providers could ‘undermine the discoverability of PSB programming’.²⁸

3.5 A number of respondents,²⁹ however, argued there was a lack of evidence in support of whether there was an issue with the current linear EPG code. For example, COBA highlighted that it did not believe we had evidenced any need for change from an audience perspective³⁰ and that Ofcom’s own research did not indicate that viewers believe that it is important that PSB channels were easy to find. COBA also argued that we had not demonstrated any evidence of PSB failure because of their current EPG positions either in terms of their ability to fulfil their public service duties or their viewing.³¹ Sky disagreed with our assessment that variation in channels’ positions meant there was an issue with delivery of appropriate prominence, noting that ‘...the fact that a public service channel is in a different position on one platform compared to another does not necessarily mean that it is not easily discoverable and highly viewed.’ Some stakeholders also raised concerns about the necessity or proportionality of any revisions to the EPG Code that would not require any immediate action by EPG providers.

3.6 We are required by Parliament to review and the revise the EPG Code.³² In doing so, we consider it is important that viewers have a choice of TV services that differ in terms of the channels available and functionality (e.g. design features such as ‘backward EPGs’ and searching channels by genre), and we note that our research found that the importance viewers attached to ease of discoverability varied significantly between channels.³³ Variations in channel positions across different EPGs are not in themselves incompatible with appropriate prominence for designated channels. However, we remain of the view that the current positions of designated channels do not secure appropriate prominence for all designated channels, and that more specific requirements are needed. We consider

²⁶ Viacom International Media Networks, p3 https://www.ofcom.org.uk/data/assets/pdf_file/0016/131209/Viacom-International-Media-Networks.pdf

²⁷ BBC, para 26-27 https://www.ofcom.org.uk/data/assets/pdf_file/0021/131178/BBC.pdf

²⁸ Channel 4 Corporation, paragraph 3.2-3.3, https://www.ofcom.org.uk/data/assets/pdf_file/0014/131180/Channel-4.pdf

²⁹ Sky, p1 https://www.ofcom.org.uk/data/assets/pdf_file/0010/131203/Sky.PDF, COBA p2-3 https://www.ofcom.org.uk/data/assets/pdf_file/0015/131181/COBA.pdf, PACT, p3-4 https://www.ofcom.org.uk/data/assets/pdf_file/0020/131195/PACT.pdf, BT, p5-6 https://www.ofcom.org.uk/data/assets/pdf_file/0022/131179/BT.pdf, Name Withheld 2, p3 https://www.ofcom.org.uk/data/assets/pdf_file/0018/131193/Name-Withheld-2.pdf, and Virgin Media, p1 https://www.ofcom.org.uk/data/assets/pdf_file/0008/131210/Virgin-Media.pdf

³⁰ COBA, p3 https://www.ofcom.org.uk/data/assets/pdf_file/0015/131181/COBA.pdf; Sky section

³¹ COBA, para 10 https://www.ofcom.org.uk/data/assets/pdf_file/0015/131181/COBA.pdf

³² Section 95 of the Digital Economy Act 2017.

³³ Prior to our consultation on changes to the EPG Code, we undertook an omnibus research questionnaire to help us better understand the importance of discoverability to viewers. Audiences placed particular importance on the main five channels and BBC News being easy to discover. A summary of the results is available in the consultation document (paragraph 4.14) https://www.ofcom.org.uk/data/assets/pdf_file/0020/116273/consultation-epg-code-prominence-regime.pdf

that revising the EPG Code accordingly is in line with the statutory framework for prominence and our other relevant broadcasting duties.³⁴

- 3.7 We do not agree that setting minimum requirements is not necessary or proportionate for those designated channels which we consider are already appropriately prominent. Regulatory certainty is a general benefit to all parties, and were market incentives to change, the revised EPG Code will ensure appropriate prominence continues to be delivered.
- 3.8 The following paragraphs consider the metrics by which we define or describe prominence within an EPG.

Higher EPG slots are more prominent and encourage increased viewing

- 3.9 In our consultation, we considered a range of evidence³⁵ to establish whether higher EPG slots (i.e. slots nearer the start of the EPG or genre section) tend to result in increased viewing for channels relative to lower EPG slots. We also commissioned work on the value of EPG slots³⁶ which also confirmed that higher EPG slots are generally more valuable and therefore prominent. This is described in more detail in [Annex 3](#).³⁷ Broadly, all else being equal, the findings suggested that higher EPG slots do tend to result in increased viewing, although 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.
- 3.10 Stakeholders responding to the consultation did not disagree that the position on the linear EPG was important and that those slots nearer the start of the EPG or genre within the EPG were generally the most attractive in terms of delivering viewing and (for commercial channels) advertising revenues. C4C stated that ‘EPG positioning remains vitally important both to enhance discoverability and for commercial PSBs to secure the revenues needed to aid in the delivery of their remit’.³⁸ The BBC set out that they believed

³⁴ A summary of relevant legislative framework is provided at [Annex 1](#)

³⁵ In particular, we reviewed the following reports: (i) [Technologia](#), The value and optimal management of channel position and prominence on electronic programme guides: A report for DCMS, 4 July 2012; (ii) [Attentional](#), An Analysis of the Audience Impact of Page One EPG Prominence: A report for Ofcom, July 2010; and (iii) [FEH Media Insight](#), An Analysis of the Audience Impact of Page One EPG Prominence: A Report for Ofcom, 29 April 2013. As Dr Farid El-Husseini was the author of both the Attentional and FEH Media Insight reports, for ease of reference we refer to them together as ‘FEH’. We also considered audience data from BARB on reach of channels on the main EPGs in the UK, set out in our EPG report: <https://www.ofcom.org.uk/research-and-data/tv-radio-and-on-demand/tv-research/epg-prominence>

³⁶ We commissioned Expert Media Partners (“EMP”) to examine and report on the market for EPGs, specifically the market price of EPG slots in the Entertainment, News and Kids sections on the Sky and Virgin Media platforms. We published EMP’s report alongside our consultation on the dedicated Ofcom webpage: <https://www.ofcom.org.uk/consultations-and-statements/category-1/epg-code-prominence-regime>. See Expert Media Partners (EMP), Report on the UK Market in EPG Positions, July 2018, https://www.ofcom.org.uk/data/assets/pdf_file/0025/116287/expert-media-partners.pdf.

³⁷ [Annex 3](#), paras A3.3 – A3.16

³⁸ C4C, para 1.4 https://www.ofcom.org.uk/data/assets/pdf_file/0014/131180/Channel-4.pdf

‘that EPG prominence is a necessary condition for performance – without a strong EPG position, no matter how strong the content offer is, audiences may struggle to find it.’³⁹

- 3.11 ITV argued that in some instances, viewers learn slot numbers rather than browse through the EPG, so the impact of our proposed changes would be limited in those instances.⁴⁰ Sky also noted that other routes to content might mean that a channel still attracts relatively high viewing despite being lower down the EPG. For example, they noted that ‘CBBC and CBeebies are destination channels’, meaning that viewers specifically seek them out and are familiar with their channel numbers.⁴¹
- 3.12 As we described in our 2018 report, we recognise that there are other routes outside the EPG which allow viewers to find content.⁴² However, we consider that the EPG remains a key route to linear content and a range of stakeholders acknowledged in their responses that a higher positioned slot in the EPG increases discoverability and therefore, can drive increased viewing. The evidence available to us⁴³ supports the view that all else being equal, higher EPG slots tend to result in increased viewing for channels relative to lower EPG slots. Neither Sky nor ITV’s observations refute this core point. Discussion of the specific impacts of prominence on children’s channels can be found in paragraphs 4.64 - 4.87.

Our updated EPG Code will define prominence by slot position

- 3.13 In our consultation, we generally described the minimum prominence for channels in terms of EPG pages, acknowledging that different EPGs present a differing number of channels per page. For example, we proposed that Nation channels (such as BBC Alba and BBC Scotland) should be presented within the first three pages of an EPG.
- 3.14 A number of respondents including ITV,⁴⁴ Sky,⁴⁵ and Digital UK⁴⁶ highlighted concerns on the feasibility of a page number-based approach given the variations in slots per page on different TV platforms, particularly for Freeview where Digital UK pointed out that it did not control the page breaks on EPGs as these are determined by receiver (TV and box) manufacturers.⁴⁷
- 3.15 TechUK expressed concern that the term ‘pages’ was undefined and so felt that it was an unsuitable measurement for channel prominence and ordering.⁴⁸ Sky noted that a

³⁹ BBC, p2 additional information on BBC Four https://www.ofcom.org.uk/_resources/documents/consultations/category-1/116265-epg-code-and-prominence-regime/responses/bbc-four-response-additional-information.pdf

⁴⁰ ITV, p30 https://www.ofcom.org.uk/_data/assets/pdf_file/0020/131186/ITV.pdf

⁴¹ Sky, para 5.16 https://www.ofcom.org.uk/_data/assets/pdf_file/0010/131203/Sky.PDF

⁴² Ofcom report on discoverability of PSB and local TV services:

https://www.ofcom.org.uk/_data/assets/pdf_file/0026/116288/report-psb-local-tv-discoverability.pdf

⁴³ Annex 3, paras A3.3 – A3.16, https://www.ofcom.org.uk/_data/assets/pdf_file/0021/154380/annex-3-ofcoms-assessment-of-evidence-base.pdf

⁴⁴ ITV, p31 https://www.ofcom.org.uk/_data/assets/pdf_file/0020/131186/ITV.pdf

⁴⁵ Sky, para 7.6 https://www.ofcom.org.uk/_data/assets/pdf_file/0010/131203/Sky.PDF

⁴⁶ Digital UK, p2 https://www.ofcom.org.uk/_data/assets/pdf_file/0017/131183/Digital-UK.pdf

⁴⁷ Digital UK, p3 https://www.ofcom.org.uk/_data/assets/pdf_file/0017/131183/Digital-UK.pdf

⁴⁸ TechUK, p2 https://www.ofcom.org.uk/_data/assets/pdf_file/0012/131205/techUK.pdf

‘requirement to list a channel on a particular page is impractical for EPG providers such as Digital UK, who do not control the number of slots that appear per page – this is controlled by the device manufacturers.’⁴⁹ Sky also noted that a ‘pages approach could be manipulated by EPG providers, for example by changing the number of slots per page, resulting in different levels of prominence for public service channels in terms of actual slot numbers.’⁵⁰

- 3.16 We understand that currently EPGs’ default displays vary from five to eight slots per page, but fewer or greater numbers are possible. The main pay TV platforms, Sky and Virgin Media (which between them are available in 45% of UK homes),⁵¹ have eight slots per page.⁵² Importantly, audiences can also alter the display on some EPGs affecting the number of channels presented per page (for example, by increasing text size to make the information more accessible).
- 3.17 We have considered arguments made by stakeholders, in particular the fact that not all EPG providers have control over the number of slots displayed per page. We have decided that the ‘floor’ or minimum position for any designated channels should be described in terms of slot number rather than page. Using a slot-based approach also allows for variations for accessibility reasons.
- 3.18 While we consider that using a slot-based approach will provide equivalent outcomes to the page number approach set out in our consultation, there are some differences with some designated channels appearing slightly lower down the EPG on certain EPGs than was suggested in our consultation proposals. The slot-based requirements and impacts for each channel are reflected in our updated assessment in section 4.

The revised EPG Code supports innovation

- 3.19 In our consultation, we did not discuss how EPG providers might innovate within the linear EPG. However, several stakeholders raised this issue. BT was concerned that, if Ofcom decided to introduce more prescriptive prominence requirements for designated channels, then this would not only disrupt existing channel listings but would also stifle future innovation.⁵³ Name withheld 1 made a similar argument.⁵⁴
- 3.20 Sky was concerned our approach would reduce the scope for diversity among EPG providers to the detriment of consumers and risk stifling innovation when it is becoming ever more important for traditional platforms to compete against newer market players.⁵⁵

⁴⁹ Sky, para 7.6 https://www.ofcom.org.uk/data/assets/pdf_file/0010/131203/Sky.PDF

⁵⁰ Sky para 7.6 https://www.ofcom.org.uk/data/assets/pdf_file/0010/131203/Sky.PDF

⁵¹ Source: BARB Establishment Survey Q4 2018 (total number of households with either Sky or cable).

⁵² We understand that generally there can be between five and eight slots per page on Freeview. Freeview is the largest platform in the UK (40% of homes have Freeview only); however, there is no reliable data on how many slots per page there are on the many devices it is available on e.g. TV receivers and boxes.

⁵³ BT, p2 https://www.ofcom.org.uk/data/assets/pdf_file/0022/131179/BT.pdf

⁵⁴ Name withheld 1, p2 https://www.ofcom.org.uk/data/assets/pdf_file/0017/131192/Name-Withheld-1.pdf

⁵⁵ Sky para 7.6 https://www.ofcom.org.uk/data/assets/pdf_file/0010/131203/Sky.PDF

Similarly, TechUK also warned of an overly prescriptive approach stifling innovation and restricting consumer choice, instead favouring a lighter touch approach.

- 3.21 While currently available EPGs consist of a list of channels with allocated slots, we are aware that EPG providers may wish to innovate and create new types of linear EPGs. We have therefore clarified the EPG Code to reflect this and set out that in cases where the form of EPG is different, we would expect designated channels to be given an equivalent level of prominence.⁵⁶

The revised EPG Code establishes minimum prominence obligations

- 3.22 In our consultation, we proposed minimum levels of prominence to ensure designated channels do not fall below an appropriate level of prominence, while also supporting viewer choice by allowing some flexibility for EPG providers. Some stakeholders raised concerns that the implications of this approach might lead to a specific designated channel being ‘demoted’ from its current position where the current position was higher than the minimum requirements we proposed. For example, MG Alba was concerned that as it is already higher than our suggested ‘floor’ on the Freeview EPG in Scotland, our proposal may not guarantee its current position.⁵⁷ Local TV providers raised similar concerns.⁵⁸
- 3.23 Introducing minimum requirements gives designated channels certainty, while still allowing EPG providers some flexibility subject to meeting these minimum requirements. Importantly, this approach guarantees appropriate prominence and supports realisation of the associated societal benefits, as well as positive consumer choice benefits. We do not think our revisions significantly increase incentives for EPG providers to move designated channels lower down their EPGs, and we have not seen any evidence that leads us to believe that EPG providers will seek to do so in the near future. However, our aim in setting minimum requirements is to secure the degree of prominence that is appropriate to each designated channel across all EPGs, and that we do not consider it would be appropriate to require EPG providers to preserve the current location of each designated channel in perpetuity.

Our analytical framework

- 3.24 As described in the section 2 on the role of prominence in PSB and [Annex 1](#) on the legislative context, the prominence regime is part of a broader legislative and regulatory framework that supports public service broadcasting and recognises its importance to the UK. Accordingly, we have not considered whether designated channels should be prominent; our focus is on the degree of prominence that is appropriate.

⁵⁶ Annex 5, para 5 https://www.ofcom.org.uk/_data/assets/pdf_file/0025/154384/annex-5-epg-code-appropriate-prominence-provisions.pdf

⁵⁷ MG Alba, p2 https://www.ofcom.org.uk/_data/assets/pdf_file/0016/131191/MG-Alba.pdf

⁵⁸ KMTV, p3 https://www.ofcom.org.uk/_data/assets/pdf_file/0023/131189/KMTV.pdf; Latest TV https://www.ofcom.org.uk/_data/assets/pdf_file/0015/131190/Latest-TV.pdf

- 3.25 There are now 13 PSB channels plus local TV channels that are entitled to prominence.⁵⁹ Given this number of designated channels and the nature of the linear EPG, not all channels can be afforded the same level of prominence. Ofcom must exercise judgement as to the degree of prominence we consider appropriate. In our consultation, we grouped channels into three broad categories: the main five channels (BBC One, BBC Two, Channel 3 services, Channel 4 and Channel 5), other UK-wide PSB channels (BBC Four, BBC News, BBC Parliament, CBeebies and CBBC) and nation and area specific channels (S4C, BBC Alba, local TV and now BBC Scotland).
- 3.26 In our consultation we set out proposals that we considered would deliver appropriate prominence for each designated channel in light of the role each channel plays in the PSB landscape and the public value generated. We also took account of the impacts on different stakeholder groups that may arise as a result of our proposed changes. We summarised these impacts, both positive and negative, for audiences, the designated channels, other commercial broadcasters and the EPG providers. We discuss the comments that we received in relation to our proposals for specific designated channels in section 4.
- 3.27 Most stakeholders did not comment on the factors that we proposed should be considered when deciding on appropriate prominence for a specific designated channel. However, Sky and COBA queried the proportionality of our approach, on the basis that the benefits of a revised EPG Code may not outweigh the negative impacts, such as loss of revenues for commercial broadcasters. Sky stated that Ofcom’s proposed changes do not meet the tests for good regulation of being ‘necessary and proportionate’, based on sound consideration of robust evidence and that ‘the proposals in fact deliver little or no benefit to viewers or public service broadcasters, while causing potentially significant disruption’.⁶⁰ COBA stated that our proposals were disproportionate and risked harming the health of non-PSB channels.⁶¹
- 3.28 Societal benefits of PSB are generally qualitative in nature and challenging to quantify in any meaningful or reliable way. In our consultation we highlighted the key qualitative factors in our consideration as well as undertaking a quantitative assessment of the potential financial impact of our proposals on commercial channels’ profitability (as a result of moving down the EPG) and on EPG providers’ ability to monetise their EPG slots (where applicable). Our assessment of financial impacts was, however, only a proxy for the likely impact on commercial channels’ profitability and on relevant EPG providers as there are a number of other factors affecting costs, such as an individual broadcaster’s financial position, that we cannot reasonably model.
- 3.29 Determining the degree of prominence that is appropriate for each of the designated channels requires a high degree of judgement on our part. In light of our statutory duties,

⁵⁹ These are: all BBC channels; the Channel 3 services (ITV and STV); Channel 4; Channel 5; S4C and local TV channels. Since Ofcom’s July 2018 consultation, the BBC has launched the BBC Scotland channel on 24 February 2019 thereby increasing the number of designated PSB channels from 12 to 13.

⁶⁰ Sky, p2 https://www.ofcom.org.uk/_data/assets/pdf_file/0010/131203/Sky.PDF

⁶¹ COBA, p2 https://www.ofcom.org.uk/_data/assets/pdf_file/0015/131181/COBA.pdf

we have decided to place particular emphasis on the value to society and individuals of having a mixed broadcasting market that provides a range of high-quality television services to UK audiences, in a way that recognises the special role that the designated channels play. We have assured ourselves on the proportionality of our proposals by taking into account all relevant factors and the evidence available to us, on both the qualitative and quantifiable elements, including stakeholder submissions. More information on our evidence base can be found in Annex 3 and 4 and in our updated model of potential financial impacts published alongside this statement.

3.30 In assessing designated channels, we have considered the specific factors relevant to each designated channel on an individual basis. To aid the readability of this document we have presented the analysis of some channels – for example, BBC News and BBC Parliament – together, where it makes sense to do so.

3.31 In determining appropriate prominence for each designated channel we have considered the following factors. In doing so we recognise that some of these factors are interrelated:⁶²

- **Audiences:** Making a designated channel more prominent will affect citizens and consumers. As noted above, prominence is part of the broader framework that supports the provision of public service broadcasting and recognises its importance to the UK. We consider “societal value” and “personal audience value”.
 - **Societal value:** There are a range of wider societal benefits, over and above the personal benefits the viewer gets from watching certain content. Making a designated channel more prominent will tend to increase viewing of that channel and, given the type of content they carry, can increase societal value.⁶³ For example, TV content can support social cohesion by giving viewers insight into others’ lives or allowing viewers to see their communities reflected on screen; and accurate, impartial news supports informed participation in society and the effective operation of local and national democracy.
 - **Personal audience value:** Audiences also derive a range of personal benefits from watching content. These can be affected by making a designated channel more prominent and consequentially making other channels less prominent. For some viewers these effects can be positive. For example, viewers with an interest in educational or cultural content that might otherwise not be particularly prominent are more likely to find it. However, we have also taken into account that other viewers may also face some negative impacts. For example, they may find it harder to find their preferred content because PSB channels fill the upper part of the EPG or because their preferred channel has moved.

- **The designated channel:** Making a designated channel more prominent will tend to increase viewing of that channel. In the case of commercial channels, this will tend to

⁶² For example, insofar as changes in channels’ positions affects their incentives to invest in content then this will have a consequential impact on citizens and consumers.

⁶³ This may also be offset by some loss of societal value if viewing of other channels (e.g. a commercial news channel) falls.

increase advertising/sponsorship revenue, which supports their ability to deliver high quality PSB services. The designated channel may also incur one-off costs from moving to a new position, for example marketing the new slot number.

- **Other broadcasters:** Making other broadcasters less prominent in order to accommodate a designated channel will tend to reduce their viewing. This will tend to decrease the advertising/sponsorship revenue earned by commercial broadcasters. The sustainability and ability of other broadcasters to invest is relevant to securing the availability of a wide range of quality television services. They may also incur one-off costs from moving to a new position, for example marketing the new slot number.
- **EPG providers:** By reserving prominent positions for designated channels, this may limit the flexibility of EPG providers to arrange their EPG in the manner they consider most attractive for their customers, and this may also reduce EPG providers' ability to raise revenue from selling particular positions. They may also incur one-off costs of rearranging their EPG, for example administration and technical testing. We also understand from responses to our consultation that it is generally accepted industry practice that EPGs provide the same slot number for a specific channel across all Nations and so have now factored this into our assessment.

- 3.32 Our analysis focuses on the impacts arising on the main licensed EPGs, namely those provided by Digital UK, Sky, Virgin Media, Freesat and YouView. We believe that this captures the bulk of the costs and benefits since the other licensed EPG providers account for a small proportion of viewing.
- 3.33 In the next section, we apply the above framework to each designated channel and set out our decision in each case.

4. Decisions on appropriate prominence for designated channels

- 4.1 In this section, we apply the analytical approach we described in section 3 to each designated channel and set out our decision on appropriate prominence in each case. We also provide our view on the treatment of HD version channels. We conclude with considering the collective impact of all our decisions, the implementation period and next steps. Our decisions will be implemented by means of the replacement of the current text of the appropriate prominence section of the EPG Code⁶⁴ with the text set out at [Annex 5](#).
- 4.2 There are a large number of alternative options that could be considered (e.g. first 23 slots rather than first 24). Some stakeholders made specific alternative suggestions to the proposals in our consultation document.⁶⁵ In general, an approach that moves a designated channel into a higher position will tend to: (i) be beneficial for the designated channel; (ii) be detrimental for the other channels that need to move to accommodate it and for the EPG provider; (iii) have a mix of effects on citizens and consumers. As we explain above, these decisions involve the exercise of a high degree of regulatory judgement. In reaching the decisions set out below, we have taken into account that other options will have different impacts under the various factors we consider.^{66,67} We consider other stakeholder comments not discussed within the main text in [Annex 6](#).

Main five channels (BBC One, BBC Two, ITV, Channel 4 and Channel 5) UK-wide and S4C in Wales

Current position

- 4.3 Across all platforms (outside of Wales) the main five PSB channels (BBC One, BBC Two, Channel 3 services, Channel 4 and Channel 5) are all located at channel slots 1 to 5 or, where the EPG numbering begins at 100 or 101, slots 101 to 105 and appear on the first page of the EPG general entertainment lists.⁶⁸ They appear in the same order: BBC One,

⁶⁴ The text in the current EPG Code that will be replaced is at paragraphs 2 to 4 https://www.ofcom.org.uk/data/assets/pdf_file/0031/19399/epgcode.pdf

⁶⁵ These stakeholders included Sky, S4C, MG, Alba, ITV and YouView.

⁶⁶ We have updated some of our evidence since the consultation (e.g. to use more recent viewing data). In reaching our decisions, we have used a mix of evidence from the last few years. We consider that this material is relevant and suitable for the conclusions that we draw from it.

⁶⁷ We have updated our analysis to reflect changes to our proposals, changes to channel positions since we published our consultation and the point made to us in consultation responses that it is industry practice for channels to have the same slot number across the whole of the UK on any given EPG. Our updated analysis is set out in [Annex 3](#).

⁶⁸ Note we exclude any static or simple promotional channels e.g. slot 0 or 100 that some EPG providers use.

BBC Two, ITV/STV, Channel 4 and Channel 5 across all of the boxes we tested during the course of our report.⁶⁹

- 4.4 In Wales, S4C was the fourth channel launched and has historically been located in slot four. It initially provided a mixture of programming in Welsh along with some Channel 4 programming. Following digital switchover, Channel 4 became available across Wales and S4C became a 100% Welsh language channel. S4C retained its slot on EPGs provided for viewers in Wales and Channel 4 has been located in slots further down on these EPGs.⁷⁰

Consultation proposal and response themes

- 4.5 Our consultation proposed to guarantee the main five PSB channels' current positions in the top five slots on the EPGs operating on a UK-wide basis or outside of Wales.⁷¹ On EPGs provided to viewers specifically in Wales, we proposed to guarantee the fourth slot to S4C.⁷²
- 4.6 Most stakeholders agreed with our consultation proposal, citing the benefits of greater certainty and potential investment. BT noted the importance of PSBs to the broadcasting ecology and the role they play in informing the public.⁷³ Freesat supported guaranteeing the fourth slot for S4C in Wales.⁷⁴
- 4.7 Some EPG providers questioned the necessity or proportionality of such a rule given it will not require any changes in practice and argued that future EPG moves are unlikely to affect these channels. For example, Sky reasoned that the market currently delivers the intended outcome and therefore regulation was unnecessary and contrary to regulatory best practice.⁷⁵ They noted we had failed to provide any evidence that the slots were at risk or that we would be unable to take action against an EPG provider under our current regulatory arrangements.⁷⁶

Reasoning and decision on main five PSB channels and S4C

Impacts for citizens and consumers

- 4.8 The main five PSB channels are the foundation of the UK's PSB provision, providing high-quality programmes across a wide range of genres that appeal to and are widely watched

⁶⁹ For further information on testing and findings, see Ofcom's July 2018 publication, *EPG Prominence: A report on the discoverability of PSB and local TV services* https://www.ofcom.org.uk/data/assets/pdf_file/0026/116288/report-psb-local-tv-discoverability.pdf

⁷⁰ For example, page 3 on Sky Wales, page 1/2 on Freeview Wales (note, this is dependent on the number of slots per EPG page – both Freeview boxes we tested for the report had seven slots per page but some Freeview boxes do have six slots per page), page 4 on Freesat Wales.

⁷¹ Top five slots means slots 1 to 5 / 101 to 105, noting some platforms' EPGs allow for a promotion channel in slot 0 or 100.

⁷² Fourth slot means slots 4 or 104, noting some platforms' EPGs allow for a promotion channel in slot 0 or 100.

⁷³ BT, p5 https://www.ofcom.org.uk/data/assets/pdf_file/0022/131179/BT.pdf

⁷⁴ Freesat, p1 https://www.ofcom.org.uk/data/assets/pdf_file/0011/144101/Freesat.pdf

⁷⁵ Sky para 5.9 5.14 https://www.ofcom.org.uk/data/assets/pdf_file/0010/131203/Sky.PDF

⁷⁶ Sky, para 5.11 – 5.13 https://www.ofcom.org.uk/data/assets/pdf_file/0010/131203/Sky.PDF

by viewers across the UK. These PSB channels remain highly viewed, despite the considerable changes that have occurred in the UK TV landscape. These channels therefore deliver a wide range of societal and individual benefits, including general entertainment, as well as programmes that inform and educate.

- 4.9 These channels have maintained their share of audiences, with more than half (52%) of all broadcast viewing on the TV going to these channels (the same as it was in 2016)⁷⁷ and audience satisfaction remains high at 74% of viewers either very or quite satisfied.⁷⁸ As noted above, viewers also value PSBs as a trusted source for news and for high-quality, original programmes.⁷⁹ Viewers are accustomed to these channels being highly prominent.
- 4.10 As discussed in section 2, the wide range of benefits these services provide is underpinned with regulatory requirements designed to secure delivery of the purposes of public service broadcasting and, for the BBC, its specific mission and public purposes. For example, specific conditions for BBC One and BBC Two include 90% of peak time allocated to original productions,⁸⁰ quotas for news and current affairs programming and a range of requirements designed to secure the distinctiveness of these services.⁸¹ ITV, Channel 4 and Channel 5 must fulfil a number of specific licence conditions on origination, news and current affairs, independent productions and regional programme-making.
- 4.11 S4C is the only Welsh language broadcaster and is required to provide a broad range of high-quality and diverse programming including a children’s service, drama, news, entertainment, sport, factual programming, music and events. Specific requirements include providing 200 hours of news and 60 hours of current affairs programming a year,⁸² 90% of content shown in peak time must be original⁸³ and 140 hours of original children’s programming, which helps to reflect the lives of children in Wales. S4C stated in its response that the Government has highlighted the vital role S4C plays ‘in reflecting Welsh culture and society and promoting the Welsh language’.⁸⁴ S4C also drew attention to results of its recent survey showing that the vast majority of both Welsh speakers and non-Welsh speakers considered that S4C was relevant to the identity of Wales and its people and provided the best coverage of events in Wales.⁸⁵
- 4.12 We consider that guaranteeing the position of these channels will ensure they remain the most prominent and easy to discover channels, and so support the continued delivery of a wide range of benefits. As set out in paragraph 3.29, in light of our statutory duties, we are attaching particular importance to these citizen and consumer effects. As observed by Sky,

⁷⁷ Source: BARB. Network, all individuals (4+). Channels include their HD variants but exclude their +1 channels.

⁷⁸ Ofcom’s PSB tracker 2018

⁷⁹ Ofcom’s PSB tracker 2018; viewers rated the PSBs highly for ‘trustworthy news’ (59%) and ‘shows that are well-made, high quality programmes’ (65%).

⁸⁰ BBC Operating Licence for the BBC’s UK Public Services, p15

https://www.ofcom.org.uk/data/assets/pdf_file/0017/107072/bbc-operating-licence.pdf

⁸¹ BBC Operating Licence for the BBC’s UK Public Services, p18-19

https://www.ofcom.org.uk/data/assets/pdf_file/0017/107072/bbc-operating-licence.pdf

⁸² Schedule 12(9) CA03 – the quota is as agreed with or directed by Ofcom.

⁸³ Schedule 12(8) CA03 –the quota is as agreed with or directed by Ofcom.

⁸⁴ S4C response, p2 https://www.ofcom.org.uk/data/assets/pdf_file/0023/131198/S4C-English.pdf

⁸⁵ S4C response, p3 https://www.ofcom.org.uk/data/assets/pdf_file/0023/131198/S4C-English.pdf

since these channels already occupy the top EPG positions, our proposals have modest additional benefits. Rather they provide a clearer regulatory underpinning to the status quo.⁸⁶

Impacts for the main five PSB channels and S4C

- 4.13 Retaining current slots will help these channels retain viewing and so help the commercial PSBs sustain their advertising revenues. For the BBC, high levels of viewing of BBC One and BBC Two contributes to achieving its mission and public purposes. Establishing regulatory certainty could also reduce all these channels' exposure to future commercial risk as they plan for future programme investment.
- 4.14 Stakeholders including the BBC,⁸⁷ Voice of the Listener and Viewer (VLV)⁸⁸ and Viacom⁸⁹ considered that ensuring that the main five PSB channels stayed in the top five slots would provide certainty and the BBC noted that this could drive investment in content. ITV agreed with the proposal but did not consider it provided any material benefit.⁹⁰ The Culture, Welsh Language and Communications Committee of the National Assembly for Wales, TAC and S4C supported guaranteeing the fourth slot for S4C in Wales.⁹¹
- 4.15 Some stakeholders queried these effects as they suggested the popularity of these channels meant there is minimal risk of these channels being moved out of their prominent slots and that additional regulation was unnecessary.⁹²
- 4.16 We accept there is no specific evidence that these channels are likely to be moved down by EPG providers in the near future and that there are currently strong incentives to retain the main five channels within the first five slots. However, the market is changing rapidly and these incentives could change. We also note the benefits of certainty in promoting investment. We think these channels provide significant societal benefits and that it is appropriate to guarantee their position as the most prominent channels.

Impacts for other broadcasters

- 4.17 As we noted in the consultation, this proposal does not require any channel moves so would not have any material direct cost implications for broadcasters.

⁸⁶ We address Sky's comment that regulatory change is unnecessary in section 3.5 - 3.8.

⁸⁷ BBC, para 27 https://www.ofcom.org.uk/data/assets/pdf_file/0021/131178/BBC.pdf

⁸⁸ VLV, p6 https://www.ofcom.org.uk/data/assets/pdf_file/0009/131211/Voice-of-the-Listener-and-Viewer.pdf

⁸⁹ Viacom International Media Networks, p3 https://www.ofcom.org.uk/data/assets/pdf_file/0016/131209/Viacom-International-Media-Networks.pdf

⁹⁰ ITV p29 https://www.ofcom.org.uk/data/assets/pdf_file/0020/131186/ITV.pdf

⁹¹ The Culture, Welsh Language and Communications Committee of the National Assembly for Wales, p1 https://www.ofcom.org.uk/data/assets/pdf_file/0016/131182/Culture,-Welsh-Language-and-Communications-Committee-of-the-National-Assembly-for-Wales.pdf; TAC (Teledwyr Annibynnol Cymru), p2 https://www.ofcom.org.uk/data/assets/pdf_file/0014/131207/Teledwyr-Annibynnol-Cymru.pdf; S4C p2-3 https://www.ofcom.org.uk/data/assets/pdf_file/0023/131198/S4C-English.pdf

⁹² Sky, para 5.9 – 5.19, https://www.ofcom.org.uk/data/assets/pdf_file/0010/131203/Sky.PDF and COBA, p13 https://www.ofcom.org.uk/data/assets/pdf_file/0015/131181/COBA.pdf

Impacts for EPG providers

4.18 Our proposal would not require any change by EPG providers and so incurs no direct commercial losses. In principle, EPG providers may lose the opportunity to allocate these slots to other broadcasters. However, in practice the impact on EPG providers is likely to be negligible. Sky noted it would not use 'EPG slot allocation to strengthen its bargaining position with PSBs'⁹³ and Virgin Media noted the strong incentives for them to keep these channels in their current slots.⁹⁴

Conclusion on main five PSB channels on UK-wide EPGs and S4C on EPGs in Wales

4.19 Having considered the factors set out above, and having considered all of the evidence and the responses to the consultation, we have decided that appropriate prominence for the main five PSB channels (BBC One, BBC Two, Channel 3 services, Channel 4 and Channel 5) is the first five slots on UK-wide EPGs⁹⁵ and those outside Wales, and that appropriate prominence for S4C on EPGs which are specific to Wales is the fourth slot.

Channel 4 on EPGs provided to viewers specifically in Wales

Current position of Channel 4 in Wales

4.20 Channel 4 is in slot position 4 on UK-wide EPGs and on those EPGs which are specific to areas outside Wales. However, because S4C is located in slot 4 on EPGs which are provided to viewers in Wales, Channel 4 appears further down on those EPGs. Currently Channel 4 is in the following positions on EPGs which are specific to Wales:

- a) Sky Wales – Channel 4 is in slot position 16 (LCN 117);⁹⁶
- b) Freesat Wales – Channel 4 is in slot position 20 (LCN 120);
- c) Freeview Wales – Channel 4 is in slot position 7 (LCN 7).

Consultation proposal and response themes

4.21 Our consultation proposed that Channel 4 should be on the first page of EPGs provided for viewers in Wales. The proposal would therefore have required Channel 4 to move up 8 slots on the Sky Wales, 12 slots on the Freesat Wales EPGs and also potentially move up on the Freeview EPG. In line with our decision to set requirements based on slot position

⁹³ Sky, para 5.13b https://www.ofcom.org.uk/data/assets/pdf_file/0010/131203/Sky.PDF

⁹⁴ Virgin Media, p1 https://www.ofcom.org.uk/data/assets/pdf_file/0008/131210/Virgin-Media.pdf

⁹⁵ Currently, Virgin Media is the only major EPG provider that does not provide a fully regionalised EPG. However, it does provide a slightly different variant of its UK-wide EPG for Scotland (where BBC Scotland is listed at a slot reserved for BBC One HD across the rest of the UK). While we note this variation, for simplicity we refer to Virgin Media's EPG as UK-wide.

⁹⁶ Some EPGs start at 100 or 101. Note we exclude any static or simple promotional channels e.g. slot 0 or 100 that some EPG providers use. The slot position relates to the position of the channel within the channel list, assuming the first channel listed is at position 1. Blank slots are not counted, as they do not appear to the viewer. LCN or logical channel number relates to the number allocated to the channel and is the number viewers can use to access the channel.

rather than page position,⁹⁷ in the remainder of this section we consider the impacts of requiring Channel 4 to be listed within the first eight slots of EPGs provided for viewers in Wales.

- 4.22 Several stakeholders who responded to the consultation agreed that Channel 4 should move to the first page of EPGs provided to viewers in Wales. These included C4C and bodies representing viewers, namely the Culture, Welsh Language and Communications Committee of the National Assembly for Wales and VLV.⁹⁸ The latter noted that the move would bring benefits to Channel 4 and audiences in Wales.⁹⁹ The proposal was also supported by two EPG operators, Freesat and Youview.
- 4.23 However, several stakeholders (COBA, Sky, BT and Virgin Media)¹⁰⁰ said that they did not agree with this proposal, suggesting that the benefits had not been shown and, if present, were likely to be small.

Reasoning and decision on Channel 4 in Wales

Impacts for citizens and consumers

- 4.24 Channel 4 is one of the main UK nationwide PSBs, reaching a wide audience (with a reach of 40.6% in 2018) with a range of quality content.¹⁰¹ Channel 4 has a statutory public service remit to deliver high-quality, innovative content which exhibits a distinctive character and appeals to the tastes and interests of a culturally diverse society; programming of an educational nature and value; and content that appeals to older children and young adults.¹⁰² It also has a range of specific regulatory requirements for the provision of news and current affairs, and original programming.¹⁰³ It is commercially funded and operates a not-for-profit model, whereby surplus revenues go back into content investment.
- 4.25 We received varying views on the likely impact of viewing to Channel 4 if it were to be afforded greater prominence in Wales. C4C supported the proposed move and said that its internal modelling suggested that this would increase its viewing share in Wales by [X] (and its viewing share in the UK by [X]) with consequent increases in advertising revenues

⁹⁷ See paragraph 3.13 - 3.18.

⁹⁸ C4C, p25 https://www.ofcom.org.uk/_data/assets/pdf_file/0014/131180/Channel-4.pdf;

⁹⁹ VLV, p6 https://www.ofcom.org.uk/_data/assets/pdf_file/0009/131211/Voice-of-the-Listener-and-Viewer.pdf; Culture, Welsh Language and Communications Committee of the National Assembly for Wales, p1 https://www.ofcom.org.uk/_data/assets/pdf_file/0016/131182/Culture,-Welsh-Language-and-Communications-Committee-of-the-National-Assembly-for-Wales.pdf and VLV, para 32 -34 https://www.ofcom.org.uk/_data/assets/pdf_file/0009/131211/Voice-of-the-Listener-and-Viewer.pdf

¹⁰⁰ COBA p13 https://www.ofcom.org.uk/_data/assets/pdf_file/0015/131181/COBA.pdf, Sky para 6.6 – 6.34

https://www.ofcom.org.uk/_data/assets/pdf_file/0010/131203/Sky.PDF, BT p5

https://www.ofcom.org.uk/_data/assets/pdf_file/0022/131179/BT.pdf, Virgin Media p2

https://www.ofcom.org.uk/_data/assets/pdf_file/0008/131210/Virgin-Media.pdf

¹⁰¹ Source: BARB. Network, all individuals (4+). Reach criteria: 15+ consecutive minutes. This includes viewing to Channel 4 HD but excludes Channel 4 +1.

¹⁰² Section 265(3) of the Act.

¹⁰³ Channel 4 Licence https://www.ofcom.org.uk/_data/assets/pdf_file/0018/40266/channel-4-attachment-variation.pdf

and therefore its ability to invest in new programming for audiences.¹⁰⁴ However, we consider that evidence from two stakeholders (Sky,¹⁰⁵ COBA¹⁰⁶) suggests lower gains to Channel 4.

- 4.26 After assessing this evidence, we remain of the view that a move to within the first eight slots would increase discoverability, and as a result, increase Channel 4's reach and viewing and therefore the positive benefits for audiences.¹⁰⁷ The magnitude of the improvement on each platform would depend on the extent of the move upwards and the size of the potential audience on the specific platform involved. [Annex 3](#) reviews Channel 4's viewing performance on EPGs specific to Wales, on UK-wide EPGs and on those EPGs aimed at other UK Nations and various evidence provided by stakeholders. The Annex suggests that if Channel 4 moved up to slot 8 on Freesat Wales and Sky Wales, a reasonable range for the rise in Channel 4's share of viewing in the UK could be 0.3% to 1%.
- 4.27 We also considered arguments made by Sky that, in the case of Channel 4 moving to the first page of the Sky EPG in Wales, most of the viewing gained would come from the other PSB channels above Channel 4 (i.e. BBC One, BBC Two, ITV, S4C and Channel 5), given their close proximity to Channel 4 in the new listing. Sky considers that the channels above Channel 4 would suffer a decrease in viewing share, despite these channels not changing slot position. As set out in [Annex 3](#), we accept it is possible that some of the increase in Channel 4 viewing may come from other PSB channels located above Channel 4. However, the range of evidence we have considered on the relationship between slot position and viewing (see [Annex 3](#)) strongly suggests that it is the channels that move down that will lose the vast majority of viewing. Therefore, while some of the gain in Channel 4's viewing may come from the other PSB channels, we consider that any impact on viewing for PSB channels above Channel 4 is not likely to be significant.
- 4.28 We consider that affording Channel 4 a higher degree of prominence for viewers using Sky Wales and Freesat Wales EPGs is likely to make an overall positive contribution to the societal benefits that Channel 4 supports. As set out in section 3.29, in light of our statutory duties, we are attaching particular importance to these citizen and consumer effects.
- 4.29 In reaching this view, we have also taken into account the potential negative impacts for some audiences. A drawback of attaching a higher degree of prominence for Channel 4 in Wales is that, when viewers are interested in other content, it may hinder the easy discoverability of other channels. However, this drawback is likely to be limited given that there is scope for a range of alternatives to it within the first 8 slots. Channel 4 is a widely viewed channel and so most viewers are unlikely to be inconvenienced if this channel is highly prominent.

¹⁰⁴ C4C, para 3.8 https://www.ofcom.org.uk/data/assets/pdf_file/0014/131180/Channel-4.pdf

¹⁰⁵ Sky, para 6.21 https://www.ofcom.org.uk/data/assets/pdf_file/0010/131203/Sky.PDF

¹⁰⁶ This is based on the O&O model prepared by O&O for COBA.

¹⁰⁷ Moving Channel 4 to within the first 8 slots on Sky Wales will lead to BBC Four going down by one slot on the Sky Wales EPG. However, BBC Four will still be no worse-off in terms of slot position on Sky Wales compared to the other nations.

Impacts for Channel 4

- 4.30 In our consultation, we suggested that increased viewing could result in improved advertising revenues for Channel 4. However, as set out above, stakeholder views about this were mixed. Sky suggested that the increase in Channel 4's viewing share in Wales would lead to a very small increase in adult commercial impacts for Channel 4, which would make no difference to Channel 4's ability to monetise its airtime.¹⁰⁸ In contrast, we consider that evidence from others (C4C¹⁰⁹ and COBA¹¹⁰) suggests that even relatively "small" viewing gains could translate into small but significant absolute rises in advertising revenues.
- 4.31 We have set out our consideration of this evidence in [Annex 3](#). Overall, for the reasons set out there, we consider there is likely to be some small albeit not insignificant rises in advertising revenues for Channel 4 as a result of our decision, and that these may be in the range of £0.7m to £2.4m p.a.. Given that Channel 4 is a not-for-profit corporation, an increase in its revenues may be particularly likely to contribute to investment.

Impacts for other broadcasters

- 4.32 As discussed above, moving Channel 4 onto the first 8 slots of EPGs specific to Wales will increase its discoverability and is likely to lead to increases in its reach and share of viewing. This implies that other channels will be made less prominent and are likely to see falls in their share of viewing and potentially related reductions in their advertising revenues.
- 4.33 Channel 4's upward move would require 7 commercial broadcasters to be moved down on the Sky EPG specific to Wales and 9 commercial broadcasters to be moved down on the Freesat EPG specific to Wales, potentially reducing their viewing. The commercial channels moved may incur a total loss in advertising revenues in the range of £0.7m to £2.4m p.a. (this may be an overestimate) as a result of reduced viewing.
- 4.34 There may also be one-off costs for channels that are moved to a new position, for example marketing their new slot number. As set out in [Annex 3](#) and taking into account our transition period of 18 months,¹¹¹ we cannot reasonably model any direct one-off costs but there are mitigating factors (i.e. the transition period) and so we anticipate that the costs are unlikely to be material.

Impacts for EPG providers

- 4.35 Sky and Freesat are the only EPG providers affected by the decision but they will not incur any direct commercial losses as, unlike Virgin Media, they do not monetise the slots on their EPGs. However, they may face one-off costs related to any administrative, technical and legal costs of altering the locations of channels on their platforms. Taking into account

¹⁰⁸ Sky, para 6.21 https://www.ofcom.org.uk/_data/assets/pdf_file/0010/131203/Sky.PDF

¹⁰⁹ C4C, para 3.8 https://www.ofcom.org.uk/_data/assets/pdf_file/0014/131180/Channel-4.pdf

¹¹⁰ This is based on the O&O model prepared by O&O for COBA.

¹¹¹ See paragraphs 4.153 - 4.160.

the potential one-off costs described in [Annex 3](#) and the transition period we are setting of 18 months, we anticipate that costs for EPG providers are unlikely to be material.

Conclusion on Channel's 4 on EPGs in Wales

4.36 Having considered the factors set out above, and having considered all of the evidence and the responses to the consultation, we have decided that appropriate prominence for Channel 4 is within the first 8 slots of the general entertainment section of EPGs specific to Wales.

Other UK-wide PSB channels: BBC Four

Current position

4.37 At the time of Ofcom's consultation, BBC Four enjoyed a relatively high position across EPGs. Since we consulted with stakeholders, BBC Scotland has been launched and BBC Four SD moved out of its slot on the Freeview Scotland EPG to accommodate it. BBC Four is currently at the following positions on the major EPGs in the UK:

- a) Slot position 77 (LCN 82) on the Freeview Scotland EPG;
- b) Slot position 8 or 9 (LCN 9) on the Freeview EPG for all other UK nations;
- c) Slot position 15 or 16 (LCN 116) on the Sky EPGs;
- d) Slot position 7 (LCN 107) on the Virgin Media EPG;
- e) Slot position 7 (LCN 107) on the Freesat EPGs.

Consultation proposal and response themes

4.38 Our consultation proposed that BBC Four should be guaranteed a slot within the first three pages of each EPG. In line with our decision to set requirements based on slot position rather than page position,¹¹² in the remainder of this section we consider the impacts of requiring BBC Four to be listed within the first 24 slots.

4.39 PSBs and bodies representing viewer interests were generally supportive of this proposal.¹¹³ Some EPG providers and TV platforms voiced general concerns about the need for specific rules, highlighting BBC Four's prominent slot position at the time.¹¹⁴ Name

¹¹² See paragraph 3.13.

¹¹³ VLV, para 35-37 https://www.ofcom.org.uk/_data/assets/pdf_file/0009/131211/Voice-of-the-Listener-and-Viewer.pdf; BBC, <https://www.ofcom.org.uk/resources/documents/consultations/category-1/116265-epg-code-and-prominence-regime/responses/bbc-four-response-additional-information.pdf>; C4C, p25 https://www.ofcom.org.uk/_data/assets/pdf_file/0014/131180/Channel-4.pdf https://www.ofcom.org.uk/_data/assets/pdf_file/0014/131180/Channel-4.pdf

¹¹⁴ COBA, para 3.1 https://www.ofcom.org.uk/_data/assets/pdf_file/0015/131181/COBA.pdf; Sky, para A5.4 https://www.ofcom.org.uk/_data/assets/pdf_file/0010/131203/Sky.PDF; Virgin Media, p2 https://www.ofcom.org.uk/_data/assets/pdf_file/0008/131210/Virgin-Media.pdf

withheld 3 and techUK also noted that BBC Four does not broadcast all day and that this should be a factor when considering appropriate prominence.¹¹⁵

Reasoning and decision

Impacts on citizens and consumers

- 4.40 BBC Four is a nationwide PSB channel that typically broadcasts from 7pm to 4am and reaches 7.3m people each week.¹¹⁶ It has a specialist content remit, mixed genre but focused on output that provides “an intellectually and culturally enriching alternative to mainstream programming on other BBC channels”¹¹⁷ and in particular the provision of factual and arts programming. BBC Four must comply with a number of specific regulatory requirements set out in the BBC’s Operating Licence.¹¹⁸
- 4.41 BBC Four’s remit, with a focus on factual, arts and original programming, is not widely available on other free-to-air channels. A higher degree of prominence for BBC Four is likely to make it easier for viewers to find it, who may be otherwise poorly served with such content. This is particularly the case for Freeview viewers in Scotland, where BBC Four occupies a lower position.
- 4.42 The Scottish Government raised concerns in its response that BBC Four would not appear in the first three pages of the EPG following the launch of BBC Scotland.¹¹⁹ Indeed, since the launch of BBC Scotland and the downward move of BBC Four on Freeview Scotland, we have observed a 42% fall in BBC Four viewing on Freeview Scotland since February 2019¹²⁰. This appears to indicate that citizens and consumers using Freeview Scotland are finding BBC Four harder to discover in this less prominent EPG position. The negative impacts of this for citizens and consumers could be limited by introducing a minimum prominence obligation, as it would guarantee that BBC Four would not be located lower than the first 24 slots of EPGs.¹²¹
- 4.43 A number of respondents highlighted the important role that BBC Four has in reflecting UK cultural identity. Teledwyr Annibynol Cymru (TAC) noted the importance of BBC Four in bringing Welsh dramas such as Y Gwyll (Hinterland) to a wider audience.¹²² We recognise that BBC Four’s specialist nature and more limited transmission hours means the audience it is expected to reach is narrower than ‘mainstream’ channels (including the main five PSBs). However, BBC Four broadcasts across peak hours and 75% of output is original,

¹¹⁵ Name withheld 3, p1 https://www.ofcom.org.uk/data/assets/pdf_file/0019/131194/Name-Withheld-3.pdf; techUK, p3 https://www.ofcom.org.uk/data/assets/pdf_file/0012/131205/techUK.pdf

¹¹⁶ Source: BARB 2018. Network, individuals (4+). Reach criteria: 15+ consecutive minutes.

¹¹⁷ Part 1 of Schedule 1 to the BBC Agreement.

¹¹⁸ Regulatory requirements for BBC Four are set out in the Operating Licence: https://www.ofcom.org.uk/data/assets/pdf_file/0025/135187/Operating-licence-for-the-BBCs-UK-Public-Services.pdf

¹¹⁹ Scottish Government, p3 https://www.ofcom.org.uk/data/assets/pdf_file/0009/131202/Scottish-Government.pdf

¹²⁰ BARB data for the BBC Scotland area: on Freeview Scotland, BBC Four’s share of viewing by all individuals 4+ fell from 1.6% (in the twelve full weeks before the launch of BBC Scotland) to 0.93% (in the twelve full weeks after BBC Four was moved down the Freeview Scotland EPG).

¹²¹ We address COBA’s argument that regulatory change is unnecessary in paras 3.3 - 3.8.

¹²² TAC, p2 https://www.ofcom.org.uk/data/assets/pdf_file/0014/131207/Teledwyr-Annibynol-Cymru.pdf

including innovative, in-depth arts programming.¹²³ We consider this content provides significant consumer and citizen benefits and, as set out in section 3.29, in light of our statutory duties we are attaching particular importance to these citizen and consumer effects.

- 4.44 We have also taken into account the potential negative impacts on some consumers. When viewers are interested in other channels or do not watch BBC Four, it may hinder the easy discoverability of other channels of appeal. However, these potential negative effects are modest since under our proposals only a minority of the top 24 slots would be occupied by designated channels (see paragraphs 4.135 - 1.1 below). Further, our approach sets a 'floor' or lowest possible position for BBC Four, which retains a reasonable level of discretion and flexibility for EPG providers.

Impacts on BBC Four

- 4.45 Overall, we consider that requiring BBC Four to be listed in the first 24 slots would be positive for BBC Four. [Annex 3](#) provides details about BBC Four's viewing performance on various EPGs. We note that the evidence shows that BBC Four's viewing share has become much lower¹²⁴ since it moved down on the Freeview Scotland EPG and that restoring it to a higher position on the EPG is likely to improve its viewing performance. On other EPGs, BBC Four would be protected from a reduction in its prominence beyond the floor we are setting.¹²⁵

Impacts on other broadcasters

- 4.46 Requiring BBC Four to be listed in the first 24 slots would have a negative effect for some commercial channels. We have modelled that BBC Four's upward move on the Freeview Scotland EPG would require 53 commercial broadcasters to be moved down and potentially reduce their viewing. As set out in [Annex 3](#), the total annual revenue loss for commercial broadcasters may be £0.4m p.a. as a result of reduced viewing.¹²⁶
- 4.47 There may also be one-off costs for channels that are moved to a new position, for example marketing their new slot number. As set out in [Annex 3](#) and taking into account our transition period of 18 months,¹²⁷ we cannot reasonably model any direct one-off costs but there are mitigating factors (i.e. the transition period) and so we anticipate that the costs are unlikely to be material.

¹²³ BBC Operating Licence, para 2.21 & 2.32 https://www.ofcom.org.uk/data/assets/pdf_file/0025/135187/Operating-licence-for-the-BBCs-UK-Public-Services.pdf

¹²⁴ On Freeview Scotland, BARB figures show that if we compare performance in the twelve full weeks before its move, to the twelve full weeks after its move, BBC Four's share of viewing by individuals 4+ fell by 42%. Where reach is concerned, BARB figures show that BBC Four's average weekly reach fell by 56% in the same period.

¹²⁵ Such a reduction in prominence is not purely hypothetical. As explained above, it previously occurred on the Freeview Scotland EPG.

¹²⁶ In [Annex 3](#), we have also modelled the impact of moving BBC Four to a higher slot position on the Freeview Scotland EPG as this would allow consistency of LCN on the Freeview regionalised EPG across nations.

¹²⁷ See paragraphs 4.153 - 4.160.

4.48 PACT was concerned about the effect on commercial broadcasters of any resultant fall in advertising revenues and so programme investment.¹²⁸ Given the scale of the impact created by moving channels down, we consider that it is unlikely to materially alter the viability of channels. However, we cannot rule out an impact on their incentives to invest in content.

Impacts on EPG providers

4.49 Freeview would be the only EPG provider affected by our decision and it will not incur any direct commercial losses. However, it may face one-off costs including any administrative and technical costs relating to altering the locations of channels on its platform. As set out in [Annex 3](#) and taking into account that we are setting a transition period of 18 months, we anticipate that this cost will not be material.

Conclusion on BBC Four

4.50 After considering the factors set out above, and having considered all of the evidence and the responses to the consultation, we have decided that appropriate prominence for BBC Four is within the first 24 slots of the general entertainment section of EPGs.

Other UK-wide PSB channels: BBC news channels

Current position of BBC news channels

- 4.51 The BBC broadcasts two UK-wide news channels: BBC News and BBC Parliament.
- 4.52 These channels are within the first 8 slots of all the major EPGs' news genres/areas:
- BBC News slot position 3 (LCN 503) and BBC Parliament slot position 4 (LCN 504) on the Sky News genre;
 - BBC News slot position 1 (LCN 601) and BBC Parliament slot position 4 (LCN 605) on the Virgin Media News genre;
 - BBC News slot position 1 (LCN 200) and BBC Parliament slot position 2 (LCN 201) on the Freesat News genre;
 - BBC News slot position 1 (LCN 231) and BBC Parliament slot position 2 (LCN 232) in the Freeview News grouping.¹²⁹

Consultation proposal and response themes

4.53 In our consultation, we proposed to guarantee the two PSB news channels positions on the first page of the news genre or groupings. In line with our decision to set requirements based on slot position rather than page position,¹³⁰ in the remainder of this section we

¹²⁸ PACT, para 3.1 – 3.2 https://www.ofcom.org.uk/_data/assets/pdf_file/0020/131195/PACT.pdf

¹²⁹ Freeview channel listings are used by BT, EE and Youview.

¹³⁰ See paras 3.13 - 3.18.

consider the impacts of requiring these channels to be listed within the first eight slots of the news genre or groupings.

- 4.54 Many stakeholders did not express a view on this proposal, although VLV, and the International Broadcast Trust (IBT) acknowledged the importance of the BBC News channel in providing high quality impartial news.¹³¹ The BBC itself highlighted the importance of audiences being able to find trustworthy, news sources.¹³² However, some stakeholders questioned the need for a rule given the existing prominence of these BBC channels within the news section of all EPGs.¹³³

Reasoning and decision

Impacts on citizens and consumers

- 4.55 The remits of BBC News and BBC Parliament are set out in the BBC's Framework Agreement. BBC News is a rolling news channel providing news, analysis and other informational programmes; while BBC Parliament provides substantial live coverage of debates and committees of the UK's Parliaments and Assemblies, and other political coverage.¹³⁴ The BBC Operating Licence establishes a range of regulatory requirements such as percentage of original programming they should provide.¹³⁵
- 4.56 Under the Operating Licence, the BBC is required to provide more international news and more local/regional news on BBC News than other main continuous news channels in the UK.¹³⁶ This means that its output is distinctive to its competitors and that it is providing a differing range of content to help inform citizens.
- 4.57 BBC Parliament provides a unique service as the only channel that provides substantial live coverage of debates and committees of both the UK's Parliaments and Assemblies. Alongside this, it provides additional political coverage. BBC Parliament provides the opportunity for citizens not only to become more informed but also to see democracy in action.
- 4.58 Ensuring that BBC News and BBC Parliament remain prominent will help ensure that citizens, who may be otherwise poorly served with such content, can continue to discover the content provided by these channels and help realise these benefits.

¹³¹ IBT, para 36-37 https://www.ofcom.org.uk/data/assets/pdf_file/0019/131185/International-Broadcasting-Trust.pdf; VLV, para 38-39 https://www.ofcom.org.uk/data/assets/pdf_file/0009/131211/Voice-of-the-Listener-and-Viewer.pdf

¹³² BBC, Para 30-31 https://www.ofcom.org.uk/data/assets/pdf_file/0021/131178/BBC.pdf

¹³³ COBA Para 3.1 and 4.1 page 14-15 https://www.ofcom.org.uk/data/assets/pdf_file/0015/131181/COBA.pdf
Sky, para A5.2 & A5.5 https://www.ofcom.org.uk/data/assets/pdf_file/0010/131203/Sky.PDF

¹³⁴ Part 1 of Schedule 1 to the BBC Framework Agreement:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/584329/57965_Cm_9366_Print_1_.pdf

¹³⁵ BBC Operating Licence, paras 2.7, 2.32 & 2.70

https://www.ofcom.org.uk/data/assets/pdf_file/0025/135187/Operating-licence-for-the-BBCs-UK-Public-Services.pdf

¹³⁶ BBC Operating Licence, paras 2.7 https://www.ofcom.org.uk/data/assets/pdf_file/0025/135187/Operating-licence-for-the-BBCs-UK-Public-Services.pdf

4.59 As set out in section 3.29, in light of our statutory duties we are attaching particular importance to these citizen and consumer effects.

Impacts on BBC news channels

4.60 Overall, we consider that requiring the BBC news channels to be within the first eight slots of the news genre or groupings would be positive for these channels. Guaranteeing the prominence of the BBC news channels will support their current viewing performance and delivery of public purposes and protect them from any significant reduction in prominence in the future. Since these channels already occupy prominent EPG positions, our proposals have modest additional benefits. Rather they provide a clearer regulatory underpinning to the status quo.¹³⁷

Impacts on other broadcasters

4.61 A requirement to list the BBC news channels within the first eight slots of the news genre or grouping would not have any direct negative effects on other channels as it would not require any changes across current EPGs. Hence, commercial channels should not experience any loss in their viewing or advertising revenues.

Impacts on EPG providers

4.62 As BBC News and BBC Parliament would not need to move on any of the major EPGs, there would be no direct impact on EPG operators' commercial revenues and no one-off costs. In principle it would remove the ability of Virgin Media to monetise these slots under its current EPG slot allocation policy. However, these slot positions are located in specialist genres, and as such would not be expected to generate significant advertising revenues and profits to broadcasters – this suggests that any impact on Virgin Media would similarly be expected to be relatively limited.

Conclusions on the BBC news channels

4.63 After considering the factors set out above, and having considered all of the evidence and the responses to the consultation, we have decided that appropriate prominence for the BBC news channels is within the first eight slots of the news section or genre of EPGs.

Other UK-wide PSB channels: BBC children's channels

Current position

4.64 The designated children's channels entitled to prominence are the BBC's CBeebies and CBBC. Currently, CBBC and CBeebies are in slots at or near the top of their genres on the Virgin Media, Freeview and Freesat EPGs. The exception is the Sky EPG, where the two channels are located on the second page of the children's genre.

¹³⁷ We address Sky and COBA's comment that regulatory change is unnecessary in paras 3.3 - 3.8.

- 4.65 Specifically, the two channels are at the following slot positions on the major EPGs:
- a) slot positions 13 and 14 (LCNs 613 and 614) respectively on the Sky Children’s genre;
 - b) slots positions 1 and 2 (LCNs 701 and 702) respectively on the Virgin Media Children’s genre;
 - c) slots positions 1 and 2 (LCNs 600 and 601) respectively on the Freesat Children’s genre;
 - d) slots positions 1 and 2 (LCNs 200 and 201) respectively on the Freeview EPG in the Children’s grouping.

Consultation proposal and response themes

- 4.66 In our consultation, we suggested that the two PSB children’s channels should be guaranteed slots on the first page of the children’s genre/area on each EPG. In line with our decision to set requirements based on slot position rather than page position,¹³⁸ in the remainder of this section we consider the impacts of requiring these channels to be listed within the first eight slots of the children’s genre/area.
- 4.67 Several stakeholders agreed with our proposals including C4C, Arqiva, TAC, Youview, Digital UK, STV, Freesat and MG Alba.¹³⁹ VLV and IBT both disagreed, setting out their view that we should have gone further, and that these channels should be top of their genre or grouping. IBT and VLV highlighted the important role of CBBC and CBeebies in providing UK originated content that reflects children’s lives.¹⁴⁰
- 4.68 Other stakeholders disagreed with our proposal. BT considered that regulation in this area is unnecessary.¹⁴¹ COBA highlighted that our own data showed that in reality a higher EPG position makes little or no difference to the BBC children’s channels and linked this to the higher rate of direct channel entry used to access these channels.¹⁴² Sky set out that ‘...data suggest viewing would not increase, or would only increase by a small percentage, if these channels were moved to the first page of the Kids genre on Sky’s EPG’.¹⁴³ Virgin Media was not aware of any evidence that the prominence of these channels was at risk.¹⁴⁴

¹³⁸ See paras 3.13 - 3.18.

¹³⁹ C4C, p25 - 26 https://www.ofcom.org.uk/data/assets/pdf_file/0014/131180/Channel-4.pdf; Arqiva p4 https://www.ofcom.org.uk/data/assets/pdf_file/0020/131177/Arqiva.pdf; TAC, p3 https://www.ofcom.org.uk/data/assets/pdf_file/0014/131207/Teledwyr-Annibynnol-Cymru.pdf; YouView, p1 https://www.ofcom.org.uk/data/assets/pdf_file/0012/131214/YouView-TV.pdf; Digital UK, p4 https://www.ofcom.org.uk/data/assets/pdf_file/0017/131183/Digital-UK.pdf; STV, p3 https://www.ofcom.org.uk/data/assets/pdf_file/0012/131214/YouView-TV.pdf; Freesat, p1 https://www.ofcom.org.uk/data/assets/pdf_file/0011/144101/Freesat.pdf; MG Alba, p1 https://www.ofcom.org.uk/data/assets/pdf_file/0016/131191/MG-Alba.pdf

¹⁴⁰ IBT, para 39-42 https://www.ofcom.org.uk/data/assets/pdf_file/0019/131185/International-Broadcasting-Trust.pdf; VLV, para 41 - 42 https://www.ofcom.org.uk/data/assets/pdf_file/0009/131211/Voice-of-the-Listener-and-Viewer.pdf

¹⁴¹ BT p6 https://www.ofcom.org.uk/data/assets/pdf_file/0022/131179/BT.pdf

¹⁴² COBA Para 5.6 - 5.7 https://www.ofcom.org.uk/data/assets/pdf_file/0015/131181/COBA.pdf

¹⁴³ Sky para 6.41 https://www.ofcom.org.uk/data/assets/pdf_file/0010/131203/Sky.PDF

¹⁴⁴ Virgin p3 https://www.ofcom.org.uk/data/assets/pdf_file/0008/131210/Virgin-Media.pdf

Reasoning and decision

Impacts on citizens and consumers

- 4.69 Both of these channels are available UK-wide and deliver public value through providing a wide range of high-quality, original content to children, parents and carers. The BBC's Framework Agreement describes CBeebies as 'a channel providing a range of programming to educate and entertain very young children', and CBBC as 'a mixed-schedule channel for pre-teen children';¹⁴⁵ and the BBC Operating Licence sets regulatory requirements on sub-genre mix and original programming¹⁴⁶.
- 4.70 The BBC remains the most significant player in terms of investment and hours across all children's genres. We noted in our children's content review that the BBC provided a range of content, including live action and factual programming on CBeebies¹⁴⁷ and a mix of genres on CBBC including factual and drama.¹⁴⁸ The provision of live action and drama is one way to ensure that children's lives are reflected back at them and reflecting and strengthening UK cultural identity more widely. The BBC must also provide news specifically for children and is currently the only provider doing so. TV is still a popular route for children to access the news¹⁴⁹ and this programming helps to inform their understanding of the world and prepares them to participate in democracy.
- 4.71 The BBC highlighted the diverse nature of the content on the channels which goes beyond cartoons to include pre-school learning, comedy, entertainment, drama, news, education and factual content tailored for children.¹⁵⁰ VLV noted that 'most other channels in the UK aimed at children are dominated by imported content which is not culturally relevant to British children's lives'. In this context, VLV believed that 'there is a strong public interest case for CBBC and CBeebies to be given prominence above all other children's channels in the Children's genre or area of the EPG, regardless of platform'.¹⁵¹
- 4.72 Ensuring that CBeebies and CBBC are prominent would help ensure that audiences can discover the content provided by these channels and help realise a range of public benefits. As discussed in paragraphs 3.9, increasing the prominence of these channels should increase viewing of the content that they provide.
- 4.73 This extra viewing of CBBC and CBeebies is likely to be at the expense of other children's channels. However, these channels are not subject to the same regulatory requirements as

¹⁴⁵ BBC Framework Agreement, Part 1 of Schedule 1

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/584329/57965_Cm_9366_Print__1_.pdf

¹⁴⁶ BBC Operating Licence https://www.ofcom.org.uk/_data/assets/pdf_file/0025/135187/Operating-licence-for-the-BBCs-UK-Public-Services.pdf

¹⁴⁷ Children's content review: update para 5.17 https://www.ofcom.org.uk/_data/assets/pdf_file/0023/116519/childrens-content-review-update.pdf

¹⁴⁸ Children's content review: update para 5.25 https://www.ofcom.org.uk/_data/assets/pdf_file/0023/116519/childrens-content-review-update.pdf

¹⁴⁹ Children's content review: update 5.34, https://www.ofcom.org.uk/_data/assets/pdf_file/0023/116519/childrens-content-review-update.pdf

¹⁵⁰ BBC, para 35 https://www.ofcom.org.uk/_data/assets/pdf_file/0019/131185/International-Broadcasting-Trust.pdf

¹⁵¹ VLV para 42 https://www.ofcom.org.uk/_data/assets/pdf_file/0009/131211/Voice-of-the-Listener-and-Viewer.pdf

CBBC and CBeebies. Their content is thus less likely to contribute to the wider educational, cultural and social goals that the EPG prominence regime seeks to support. As set out in paragraph 3.29, in light of our statutory duties we are attaching particular importance to these citizen and consumer effects.

- 4.74 We have also taken into account the potential negative impacts on some consumers. When viewers prefer other children’s channels, it may hinder the easy discoverability of them. However, this drawback is likely to be limited given the modest nature of our proposals: EPG providers would continue to be free to organise the majority of the top slots in the children’s genre (six out of the top eight) as they see fit. Also, the BBC Children’s channels are popular channels within the genre and many viewers might value them being more discoverable so these negative impacts are likely to be minimal.

Impacts on BBC children’s channels

- 4.75 In our consultation document, we discussed how a move to the first page of the Sky Children’s EPG would result in an increase in viewing of CBBC and CBeebies. However, our view was that evidence for the scale of any increase was mixed.
- 4.76 Since the consultation, we have received a range of evidence on the performance of these channels. COBA noted that the analysis in our consultation had suggested that BARB data was “less persuasive”, showing that in reality a higher EPG position makes little or no difference to the viewing of the BBC children’s channels.¹⁵² Name withheld 2 and COBA argued that direct channel entry is the most common means of navigating to children’s channels and, in particular, to CBeebies.¹⁵³ Sky put forward the view that the high viewing of these channels indicated they were easily discoverable and noted viewers are familiar with their channel numbers.¹⁵⁴ Sky also said that we had not shown clearly that there was likely to be a benefit to these channels in terms of viewing.¹⁵⁵
- 4.77 The BBC, however, provided BARB data which showed that the lower position of its children’s channels on the Sky EPG has led to their content being viewed less by their target audience than on Virgin Media, where they are higher in the listings.¹⁵⁶
- 4.78 We have reviewed the data provided by stakeholders and reconsidered our approach to analysis of BARB data, and this is discussed in greater detail in [Annex 3](#). Whilst direct channel entry may be a popular means of navigating to these types of channels, we think it likely that the EPG is still used to discover children’s content. This seems to be reflected in the comparisons of the two channel’s recent performance and would be consistent with our general views regarding performance and position on EPGs. Therefore, overall, we

¹⁵² COBA, para 5.7 https://www.ofcom.org.uk/_data/assets/pdf_file/0015/131181/COBA.pdf

¹⁵³ Name withheld 2, p3 https://www.ofcom.org.uk/_data/assets/pdf_file/0018/131193/Name-Withheld-2.pdf; COBA, para 5.6 https://www.ofcom.org.uk/_data/assets/pdf_file/0015/131181/COBA.pdf

¹⁵⁴ Sky para 5.16(b) https://www.ofcom.org.uk/_data/assets/pdf_file/0010/131203/Sky.PDF

¹⁵⁵ Sky para 6.41 https://www.ofcom.org.uk/_data/assets/pdf_file/0010/131203/Sky.PDF

¹⁵⁶ BBC para 36 https://www.ofcom.org.uk/_data/assets/pdf_file/0021/131178/BBC.pdf

consider that the evidence indicates that moving up the BBC children’s channels within the Children’s genre on the Sky platform will probably increase their viewing.

Impacts on other broadcasters

- 4.79 We said in the consultation document that our proposals would have a negative effect for some commercial channels. BBC children’s channels’ upward move on the Sky EPG would require 6 commercial broadcasters to be moved down and potentially reduce their viewing. As set out in [Annex 3](#), the total annual revenue loss for commercial broadcasters may be around £0.3m p.a. as a result of reduced viewing.
- 4.80 COBA raised concerns about the impact the moves would have on commercial channels in terms of revenue, and therefore investment in content. It also highlighted that because of the BBC model of funding there would be no increase of revenue for the BBC and therefore it was unlikely there would be increased investment from the BBC into children’s content, meaning overall there could be a net decline in investment.¹⁵⁷ Name withheld 2 noted that the changes would move viewers away from commercial channels at a time of difficult trading conditions.¹⁵⁸
- 4.81 We recognise the importance of continued investment in original children’s content and that changes in viewer behaviour and the advertising market present particular challenges for children’s broadcasters. Children’s viewing fell by 11% year-on-year in 2018 to an average of 1 hour 17 minutes per day.¹⁵⁹
- 4.82 Given the scale of the impact created by moving channels down, we consider that it is unlikely to materially alter the viability of channels. However, we cannot rule out an impact on their incentives to invest in content. As set out by COBA, the impacts in this case may be more significant given the current relatively low level of investment in children’s content.
- 4.83 COBA estimated that our modelled financial loss represents 10% of average annual investment in first-run UK children’s content over the last three years by COBA’s members (£15.6m).¹⁶⁰ However, our estimates of financial losses that we set out in the consultation document represented costs to commercial broadcasters and/or EPG providers over a number of years rather than the cost per year. In this statement, we have now expressed the estimated costs on an annual basis (as set out in [Annex 4](#)), and our estimated annual costs to commercial broadcasters represent 2% of average annual investment in first-run UK children’s content by COBA members.
- 4.84 Commercial broadcasters are an important part of the children’s broadcasting ecology for viewers in the UK as they help to ensure there is a variety of content available to appeal to a range of tastes. Their investment in original first run content forms a small but important part of investment in children’s TV, at a time when investment in this genre has been falling. However, we consider the cost impact of our proposals is relatively small in terms

¹⁵⁷ COBA Para 5.9 https://www.ofcom.org.uk/_data/assets/pdf_file/0015/131181/COBA.pdf

¹⁵⁸ Name withheld 2, p3 https://www.ofcom.org.uk/_data/assets/pdf_file/0018/131193/Name-Withheld-2.pdf

¹⁵⁹ Source: BARB. Network, children (age 4-15).

¹⁶⁰ COBA para 5.9 https://www.ofcom.org.uk/_data/assets/pdf_file/0015/131181/COBA.pdf

of the total investment by broadcasters on an annual basis. Therefore, we think that our proposals are unlikely to significantly impact future investment.

- 4.85 There may also be one-off costs for channels that are moved to a new position, for example marketing their new slot number. As set out in [Annex 3](#) and taking into account our transition period of 18 months,¹⁶¹ we cannot reasonably model any direct one-off costs but there are mitigating factors (i.e. the transition period) and so we anticipate that the costs are unlikely to be material.

Impacts on EPG providers

- 4.86 Sky would be the only provider directly affected and would not incur any direct commercial losses as, unlike Virgin Media, they do not monetise the slots on their EPGs. It may face one-off costs including any administrative and technical costs relating to altering the locations of channels on their platforms. As set out in [Annex 3](#) and taking into account that we are setting a transition period of 18 months, we anticipate that this cost will not be material.

Conclusion on the BBC's children's channels

- 4.87 After considering the factors set out above, and having considered all of the evidence and the responses to the consultation, we have decided that appropriate prominence for the BBC children's channels is within the first eight slots of the children's section or genre of EPGs.

Nation specific channels: BBC Scotland and BBC Alba (on regionalised and UK-wide EPGs) and S4C (on UK-wide EPGs only)

Current position

- 4.88 BBC Scotland is currently at the following locations on the major EPGs:
- a) Slot position 15 (LCN 115) on the Sky Scotland EPG;
 - b) Slot position 8 (LCN 108) on Virgin Media's EPG in Scotland;
 - c) Slot position 9 (LCN 9) on the Freeview Scotland EPG;
 - d) Slot position 6 (LCN 106) on the Freesat Scotland EPG.
- 4.89 BBC Alba is currently at the following locations on the major EPGs:
- a) Slot position 40 (LCN 141) on the Sky Scotland EPG;
 - b) Slot position 60 (LCN 161) on Virgin Media's EPG;
 - c) Slot position 7 (LCN 7) on the Freeview Scotland EPG;
 - d) Slot position 9 (LCN 109) on the Freesat Scotland EPG.

¹⁶¹ See paragraphs 4.153 - 4.160

4.90 As discussed in paragraphs 4.3 to 4.19, we have decided that S4C should be listed on EPGs which are specifically aimed at Wales at slot 4 or 104. This section therefore only deals with S4C's position on EPGs that do not provide a Wales specific EPG and not those aimed at Wales exclusively. Currently, this includes only Virgin Media's EPG, which carries S4C at slot position 64 (LCN 166).

Consultation proposal and response themes

- 4.91 In our consultation, we proposed that BBC Scotland and BBC Alba should be guaranteed slots within the first three pages of the EPGs which were specifically aimed at Scotland and UK-wide EPGs.¹⁶² We also proposed that on UK-wide EPGs, S4C should similarly be located within the first three pages. In line with our decision to set requirements based on slot position rather than page position,¹⁶³ in the remainder of this section we consider the impacts of requiring these channels to be listed within the first 24 slots.
- 4.92 Several stakeholders who responded to our consultation agreed that BBC Scotland and BBC Alba should be guaranteed positions within the top three pages of the Scottish EPGs and all three Nation based services should be afforded page three prominence within UK-wide EPGs.¹⁶⁴ Other stakeholders considered that regulation in this area was not necessary¹⁶⁵ or that it would cause significant disruption.¹⁶⁶ These stakeholders argued that there are small benefits available relative to the costs that would be imposed on other channels and EPG providers,¹⁶⁷ and that this may have unintended adverse impacts.¹⁶⁸ Others considered that the niche nature of these channels meant they should not occupy slots towards the top of UK-wide EPGs.¹⁶⁹
- 4.93 S4C suggested that it would be appropriate for S4C to be listed within the first three pages across regionalised EPGs in England, Scotland and Northern Ireland as well as UK-wide EPGs.

¹⁶² As noted above, currently Virgin Media is the only major EPG provider that does not provide a fully regionalised EPG. However, it does provide a slightly different variant of its UK-wide EPG for Scotland (where BBC Scotland is listed at a slot reserved for BBC One HD across the rest of the UK). While we note this variation, for simplicity we refer to Virgin Media's EPG as UK-wide.

¹⁶³ See paras 3.13 - 3.18.

¹⁶⁴ These included VLV, para 45 – 47 https://www.ofcom.org.uk/data/assets/pdf_file/0009/131211/Voice-of-the-Listener-and-Viewer.pdf; The International Broadcasting Trust, para 43 – 44 https://www.ofcom.org.uk/data/assets/pdf_file/0019/131185/International-Broadcasting-Trust.pdf; Freesat, P1 -2 https://www.ofcom.org.uk/data/assets/pdf_file/0011/144101/Freesat.pdf; Culture, Welsh Language and Communications Committee of the National Assembly for Wales, p1 https://www.ofcom.org.uk/data/assets/pdf_file/0016/131182/Culture,-Welsh-Language-and-Communications-Committee-of-the-National-Assembly-for-Wales.pdf

¹⁶⁵ BT p6-7 https://www.ofcom.org.uk/data/assets/pdf_file/0022/131179/BT.pdf;

¹⁶⁶ Virgin p2 https://www.ofcom.org.uk/data/assets/pdf_file/0008/131210/Virgin-Media.pdf

¹⁶⁷ COBA paragraph 6.1 – 6.10 https://www.ofcom.org.uk/data/assets/pdf_file/0015/131181/COBA.pdf; Sky section 7 https://www.ofcom.org.uk/data/assets/pdf_file/0010/131203/Sky.PDF

¹⁶⁸ Sky section 7 https://www.ofcom.org.uk/data/assets/pdf_file/0010/131203/Sky.PDF

¹⁶⁹ Tech UK p3 - 4 https://www.ofcom.org.uk/data/assets/pdf_file/0012/131205/techUK.pdf; Name withheld 3, p2 https://www.ofcom.org.uk/data/assets/pdf_file/0019/131194/Name-Withheld-3.pdf

Reasoning and decision

Impacts on citizens and consumers

- 4.94 BBC Alba and S4C are the indigenous language channels aimed at the speakers of these languages in Scotland and Wales respectively. BBC Alba is provided by the BBC in partnership with MG Alba. BBC Scotland is an English language channel aimed at Scottish audiences – it was launched on 24 February 2019, replacing BBC Four on the Freeview Scotland EPG.
- 4.95 As a mixed genre channel, BBC Alba provides a range of content including children’s programming, news and current affairs, arts and cultural programming, documentaries, sports coverage and drama series for Gaelic speakers and those interested in the Gaelic language and culture. Under the BBC’s operating licence, three quarters of BBC Alba broadcast hours must be original productions and there must be at least 5 hours of originated programming aimed at those learning the Gaelic language. It must also provide live news programmes each weekday evening and a longer news review at weekends.¹⁷⁰
- 4.96 The type of content provided by BBC Alba is not widely available on any other TV channels. A higher degree of prominence for BBC Alba is likely to make it easier for viewers to find it, who may be otherwise poorly served with such content. This is particularly the case for Sky and Virgin Media viewers in Scotland where the channel is found lower down on the EPG. On other EPGs where these channels are already located within the top 24 slots, setting a floor at this level would ensure that they remain easily discoverable in future.
- 4.97 BBC Scotland is a mixed genre television channel that is intended to appeal to and reflect the diversity of Scotland. Under the BBC’s operating licence, BBC Scotland is required to provide a range of genres in its programming that reflects Scotland’s culture, and news programmes from across Scotland or reflecting a Scottish perspective. Three quarters of BBC Scotland’s broadcast hours must be original productions.¹⁷¹ It also plays a role in the wider UK broadcasting ecology as at least 90% of its first run UK originations should be made in Scotland and the content with a Scottish focus is not widely available on any other TV channels. Maintaining a high degree of prominence for BBC Scotland is likely to ensure it remains easy for viewers to find it, who may be otherwise poorly served with such content.
- 4.98 We have discussed the public service remit and associated benefits of S4C in paragraph 4.11. The type of content provided by S4C is not widely available on any other TV channels. For viewers in Wales who use a UK-wide EPG, a higher degree of prominence for S4C on UK-wide EPGs is likely to make it easier for viewers to find it, who may be otherwise poorly served with such content.

¹⁷⁰ BBC operating licence, para 2.24, 2.32 & 2.81

https://www.ofcom.org.uk/data/assets/pdf_file/0025/135187/Operating-licence-for-the-BBCs-UK-Public-Services.pdf

¹⁷¹ BBC Operating Licence, para 2.32 & 2.80 https://www.ofcom.org.uk/data/assets/pdf_file/0025/135187/Operating-licence-for-the-BBCs-UK-Public-Services.pdf

- 4.99 We consider this content provides significant consumer and citizen benefits and, as set out in section 3.29, in light of our statutory duties we are attaching particular importance to these citizen and consumer effects.
- 4.100 We have also taken into account the potential negative impacts on some audiences. A drawback of attaching a higher degree of prominence for BBC Scotland, BBC Alba and S4C on certain EPGs is that, for audiences that are interested in other content, it may hinder the easy discoverability of other channels of wider appeal. However, these effects are mitigated on regionalised EPGs that can target viewers in specific Nations in that there would only be one or two nations channels within first 24 slots. Even on UK-wide EPGs, such as VM there are only three nations channels to be listed within the first 24 slots.

Impacts on nations channels

- 4.101 Overall, prominence within the first 24 slots would be positive for BBC Scotland. Guaranteeing the prominence of BBC Scotland will support their current viewing performance and delivery of public purposes and protect them from a significant reduction in prominence in the future.
- 4.102 Overall, prominence within the first 24 slots would be positive for BBC Alba. Whilst the directly targeted population for the Scottish indigenous language channel is small and hence any absolute viewing gains are likely to be small, we consider that more people are likely to ‘discover’ the channel on the Virgin Media and Sky Scotland EPG as a result of moving it within the first 24 slots and as such, viewing is likely to increase to *some* degree due to this move. It is also likely to increase the wider knowledge of the channel’s availability and raise its profile within Scotland.
- 4.103 Overall, we consider that prominence within first 24 slots on UK-wide EPGs would be positive for S4C. Whilst the primary target audience for the Welsh language channel is relatively small in UK terms and hence any absolute viewing gains also likely to be small, we consider that more people are likely to discover the channel if the service is more prominent on UK-wide EPGs and as such, viewing is likely to increase to *some* degree. It is also likely to increase the wider knowledge of the channel’s availability and raise its profile within Wales.

Impact on other broadcasters

- 4.104 Overall, we consider prominence for BBC Scotland and BBC Alba within 24 slots on EPGs specific to Scotland and UK-wide EPGs, as well as S4C within 24 slots of UK-wide EPGs would have a negative effect for some commercial channels. BBC Alba’s upward move on the Sky Scotland EPG and Virgin Media EPG and S4C’s upward move on the Virgin Media EPG would require a number of commercial broadcasters to be moved down and potentially reduce their viewing and advertising revenue.
- 4.105 COBA suggested that the proposals to move up S4C and BBC Alba were the most disruptive and costly of those proposed by Ofcom. In particular, COBA noted that a large number of channels would have to move down as a result and said that Ofcom had significantly underestimated the negative effect on commercial channels, particularly in relation to the

Virgin Media platform.¹⁷² Similarly, Sky and Virgin Media stressed the levels of disruption involved.¹⁷³

- 4.106 We agree that there would be costs to other channels as a result of their moving down the EPGs to accommodate BBC Alba and S4C. The level of prominence that we proposed for BBC Alba and S4C will require 16 commercial channels to be moved down on the Sky Scotland EPG and 38 commercial channels to be moved down on the Virgin Media EPG and potentially reduce their viewing. As set out in [Annex 3](#), we estimate that the total annual loss in profits to commercial broadcasters may be about £0.1m p.a. on the Sky Scotland EPG as a result of reduced viewing, while the annual commercial impact on the Virgin Media platform may be up to £2.7m p.a., some of which will fall on Virgin Media (as an EPG provider) and the remainder on the commercial channels that will be moved down.¹⁷⁴ Given the scale of this impact, we consider that it is unlikely to materially alter their viability. However, we cannot rule out an impact on their incentives to invest in content.
- 4.107 There may also be one-off costs for channels that are moved to a new position, for example marketing their new slot number. As set out in [Annex 3](#) and taking into account that we are setting a transition period of 18 months, we cannot reasonably model any direct one-off costs but there are mitigating factors (i.e. the transition period) and so we anticipate that the costs are unlikely to be material.

Impact on EPG providers

- 4.108 Sky and Virgin Media would be the EPG providers directly affected by our decisions. The impact on Virgin Media is likely to be greater as it will lose potential future revenues which it could have received through monetising these slots and because it has traditionally offered a UK-wide EPG to its customers. As set out in paragraph 4.106 above, we estimate that this loss could be up to £2.7m p.a., some of which will fall on Virgin Media (as an EPG provider) and the remainder on the commercial channels that will be moved down. However, we note in Virgin Media's response the potential to offer geographically differentiated services which may mitigate these costs to a certain extent. Virgin Media have already begun to offer a differentiated EPG in Scotland, where BBC Scotland now appears in slot 108, which is reserved for BBC One HD across the rest of the UK.
- 4.109 Both Sky and Virgin Media may both face one-off costs as a result of the requirement to move BBC Alba and S4C to within the first 24 slots of its EPG. These costs may include any administrative and technical costs as set out in [Annex 3](#). However, taking into account that we are setting a transition period of 18 months, we anticipate that these costs will not be material.

¹⁷² COBA, 6.1 – 6.7 https://www.ofcom.org.uk/data/assets/pdf_file/0015/131181/COBA.pdf

¹⁷³ Sky, para 7.6 https://www.ofcom.org.uk/data/assets/pdf_file/0010/131203/Sky.PDF; Virgin Media, p2 https://www.ofcom.org.uk/data/assets/pdf_file/0008/131210/Virgin-Media.pdf

¹⁷⁴ Virgin Media does not currently fully regionalise its EPG, so nations channels will need to be moved up the EPG across the UK. If Virgin Media chose to regionalise its EPG, these channels would only need to move up within the EPG specific to the relevant nation, thereby changing the impact.

Conclusion on BBC Scotland, BBC Alba in Scotland and UK-wide EPGs and S4C on UK-wide EPGs

- 4.110 After considering the factors set out above, and having considered all of the evidence and the responses to the consultation, we have decided that appropriate prominence for BBC Scotland and BBC Alba is within the first 24 slots of the general entertainment section of EPGs specific to Scotland and on UK-wide EPGs.
- 4.111 We have also decided that appropriate prominence for S4C is within the first 24 slots of the general entertainment section of UK-wide EPGs. Its position on EPGs specific to Wales is discussed in paragraphs 4.8 - 4.19.

Area specific services: Local TV

Current position

- 4.112 The regulatory framework for local TV services was introduced in 2012¹⁷⁵ and was designed to establish local TV on digital terrestrial television (DTT).¹⁷⁶ According to Ofcom's 2018 Media Nations Report, it is estimated that in April 2018, 51.2% of UK homes could receive a local TV service via DTT.¹⁷⁷ It is not possible to quantify availability to satellite or cable households.¹⁷⁸
- 4.113 Usually, the same one or two EPG slots are reserved for all local TV services throughout the UK on any given platform. In most cases there will be no overlap between the local areas that enjoy a local TV service offering, so that allocating one or two slots for all local TV services is an efficient way of making these available on EPG platforms. Currently, local TV services can be found at the following EPG positions:
- a) On Freeview, at slot position 7 or 8 (LCN 7 or 8) depending on the viewer's area;
 - b) On Sky:
 - Cardiff TV is available in the relevant location at slot position 33 (LCN 134);
 - London Live is available in the relevant location at slot position 17 (LCN 117);¹⁷⁹

¹⁷⁵ The framework is constituted of three statutory orders: Code of Practice for Electronic Programme Guides (Addition of Programme Services) Order 2011 (SI 2011/3003), the Local Digital Television Programme Services Order 2012 (SI 2012/292) and the Wireless Telegraphy Act 2006 (Directions to OFCOM) Order 2012 (SI 2012/293).

¹⁷⁶ The regulatory framework for local TV is focused on the broadcast of local TV services pursuant to L-DTPS licences. It is those services which are required to deliver the licensees' respective public service programming commitments and benefit from reserved spectrum capacity on the local television multiplex managed by Comux.

¹⁷⁷ Ofcom data

¹⁷⁸ See, Ofcom, Media Nations Report 2018, 18 July 2018, page 61:

https://www.ofcom.org.uk/_data/assets/pdf_file/0014/116006/media-nations-2018-uk.pdf.

¹⁷⁹ As at October 2018, Sky only carried the Cardiff TV and London Live local TV services. Source: Sky, Sky Response to Ofcom review of rules for prominence of public service broadcasters and local TV, October 2018, footnote 76 (page 35): https://www.ofcom.org.uk/_data/assets/pdf_file/0010/131203/Sky.PDF.

- c) On Virgin Media, a number of local TV services are available at slot position 58 (LCN 159).¹⁸⁰

Local TV services are not currently carried on Freesat.

- 4.114 Some areas of the UK do not have dedicated local TV services¹⁸¹. In 2018 we decided not to require the extension of the local TV transmission network as we considered that it would have an adverse impact on the economic viability of the local TV sector.¹⁸²

Consultation proposal and response themes on local TV

- 4.115 In our consultation, we proposed that local TV channels should be guaranteed slots on the first three pages of the general entertainment section of every EPG. In line with our decision to set requirements based on slot position rather than page position,¹⁸³ in the remainder of this section we consider the impacts of requiring these channels to be listed within the first 24 slots of the general entertainment section.
- 4.116 While some stakeholders agreed with our proposals (for example, C4C, IBT, VLV, STV, TAC, Digital UK and Arqiva),¹⁸⁴ many raised concerns including BT, YouView, Freesat, techUK and ITV.¹⁸⁵ Concerns in relation to local TV included arguments that our proposal was not necessary and would be disproportionate, whilst some highlighted potential carriage issues, the low reach of these channels despite their relatively high EPG position on most EPGs and the trend for local TV services to request the reduction of their content obligations.
- 4.117 Supportive stakeholders also submitted that any degree of prominence lower than the first page of the EPG would threaten the financial viability of local TV services and Government's policy objectives when introducing the regime, particularly in relation to

¹⁸⁰ We understand that Virgin Media only carries the local TV services of some local TV service licensees. These include three of the That's TV network – That's Cambridge, That's Humber and That's Swansea Bay and also London Live; NVTV, Latest TV, KMTV, Notts TV, Sheffield Live!, Birmingham TV, Bristol TV, Liverpool TV, Cardiff TV, North Wales TV, Teeside TV & Leeds TV

¹⁸¹ The 34 locations served by Comux and L-DTPS licensees are set out in the Technical Plan attached to the Comux Multiplex Licence: https://www.ofcom.org.uk/data/assets/pdf_file/0022/104656/Comux-Technical-Plan.pdf.

¹⁸² Further information on this decision and the sustainability of the sector can be found here:

<https://www.ofcom.org.uk/consultations-and-statements/category-2/local-tv-licensing>

¹⁸³ See paras 3.13 - 3.18.

¹⁸⁴ C4C, p24 & 25 https://www.ofcom.org.uk/data/assets/pdf_file/0014/131180/Channel-4.pdf; International Broadcasting Trust, p9 https://www.ofcom.org.uk/data/assets/pdf_file/0019/131185/International-Broadcasting-Trust.pdf; VLV, p8 https://www.ofcom.org.uk/data/assets/pdf_file/0009/131211/Voice-of-the-Listener-and-Viewer.pdf; STV, p4 https://www.ofcom.org.uk/data/assets/pdf_file/0011/131204/STV.pdf; TAC, p3 https://www.ofcom.org.uk/data/assets/pdf_file/0014/131207/Teledwyr-Annibynol-Cymru.pdf; Digital UK, p5 https://www.ofcom.org.uk/data/assets/pdf_file/0017/131183/Digital-UK.pdf; Arqiva, p5 https://www.ofcom.org.uk/data/assets/pdf_file/0020/131177/Arqiva.pdf

¹⁸⁵ BT, p7 https://www.ofcom.org.uk/data/assets/pdf_file/0022/131179/BT.pdf; YouView, p2 https://www.ofcom.org.uk/data/assets/pdf_file/0012/131214/YouView-TV.pdf; Freesat, p2 https://www.ofcom.org.uk/data/assets/pdf_file/0011/144101/Freesat.pdf; techUK, p3 https://www.ofcom.org.uk/data/assets/pdf_file/0012/131205/techUK.pdf; ITV p30, https://www.ofcom.org.uk/data/assets/pdf_file/0020/131186/ITV.pdf

local TV services’ position on the DTT platform (KMTV,¹⁸⁶ Latest TV,¹⁸⁷ and 2 anonymous stakeholders). These stakeholders suggested that local TV should appear on the first page of the EPG or slot 106.

Reasoning and decision

- 4.118 In the following paragraphs, we take account of the distinction made in the statutory scheme between the position of local TV services on DTT and the position on other broadcasting platforms. The regulatory regime put in place by Government for local TV services focuses on the delivery of these services on DTT, and these services are defined in the legislation as local digital television programme services (local DTPS)¹⁸⁸. The licences for these services require the service to meet specified programme commitments, and the multiplex operator (Comux) is required to reserve capacity on the relevant multiplex to carry the service.
- 4.119 Providers of local DTPS may, if they wish, obtain a separate licence which permits them to broadcast a service on satellite, cable or online. Where that service consists of the same programmes that are included in the relevant local DTPS, and those programme are broadcast at the same time as they are on the local DTPS, then the service is a “simulcast local service” and is designated for the purposes of the prominence statutory provisions¹⁸⁹. However, there is no regulatory framework to secure that simulcast local services are carried or made available on satellite, cable or online platforms. Securing carriage of these services is a matter of commercial negotiation between the service provider and the platform provider.
- 4.120 In the following section, we use the term “local TV” to refer collectively to local DTPS and local simulcast services.

Impact on citizens and consumers

- 4.121 Local DTPS providers are expected to offer a range of valued and diverse programming including local news and content that informs, educates and entertains and which is otherwise not available through national programmes and so meets the needs and interests of the different people living and working in the localities.¹⁹⁰ These programming commitments vary from provider to provider, and may be changed with Ofcom’s consent after public consultation.¹⁹¹ Typically local DTPS licensees will deliver several hours per

¹⁸⁶ KMTV p 3-4 https://www.ofcom.org.uk/data/assets/pdf_file/0023/131189/KMTV.pdf

¹⁸⁷ Latest TV, https://www.ofcom.org.uk/data/assets/pdf_file/0015/131190/Latest-TV.pdf

¹⁸⁸ Section 310(4)(g) and (9) of the Act.

¹⁸⁹ Section 310(4)(h) and (10) of the Act.

¹⁹⁰ These requirements are secured by Ofcom through programming commitments which are specified in each local DTPS licence, pursuant to section 19(3A)(c) of the Broadcasting Act 1996 as modified by the Local Television Programme Services Order 2012.

¹⁹¹ Pursuant to section 19 of the Broadcasting Act 1996 as modified by the Local Television Programme Services Order 2012.

week of local programming content, local news and current affairs. By way of illustration, as at 4 July 2018 local DTSP providers have:

- a) commitments to provide first run local programming range from 7 hours (e.g. local DTSP in York) to 49 hours (local DTSP in Manchester) per week;¹⁹² and
- b) commitments to provide first run local news and current affairs range from 5 hours (local DTSP in Scarborough) to 22.5 hours (local DTSP in Manchester) per week.¹⁹³

4.122 Local TV operator KMTV highlighted the University of Kent’s ‘...aspiration to build on the first year of KMTV operation to ‘confirm KMTV as the ‘go-to’ TV station for local news and community involvement in Kent and to help build a sense of common purpose and identity in the region’.¹⁹⁴ Latest TV also highlighted the quality of their local journalism and their coverage of local democracy.¹⁹⁵ That’s Media’s stated its ‘ambition is for local TV to be widely seen as the ‘sixth’ public service television network in the UK’.

4.123 However, several respondents sought to distinguish local TV services from other PSB services, highlighting the more limited nature of their programming obligations and noting ‘that over time, the obligations to which these services are subject have been diluted’.¹⁹⁶ ITV highlighted ‘...that the direction of travel for local television appears to be to reduce licence commitments.’¹⁹⁷

4.124 Securing a degree of prominence for local TV services is likely to make it easier for viewers to discover the content they provide and help realise the benefits of access to local programming and news. As set out in paragraph 3.29, given our statutory duties, we are attaching particular importance to these citizen and consumer effects. However, we have taken into account that there is no regulatory requirement for carriage of simulcast local services, and we consider that the positive citizen and consumer benefits provided by simulcast local services would be compromised if prominence rules incentivised non-DTT platforms to no longer carry these services.

4.125 We have also taken into account the potential negative impacts on some audiences. A drawback of attaching a higher degree of prominence for local TV services on certain platforms is that, for audiences that are interested in other content, it may hinder the easy discoverability of other channels of wider appeal. However, these potential negative effects are modest since under our proposals only a minority of the top 24 slots would be occupied by designated channels. Further, setting a ‘floor’ or the lowest possible position for local TV services would retain a reasonable degree of discretion for EPG providers.

¹⁹²That’s York Licence, p 30 https://www.ofcom.org.uk/_data/assets/pdf_file/0017/102707/York-L-DTSP-Licence-Granted-05-June-2017.pdf; Your TV Manchester Ltd Licence p30

https://www.ofcom.org.uk/_data/assets/pdf_file/0022/45265/Manchester-L-DTSP-Licence.pdf

¹⁹³ That’s North Yorkshire Licence p 30 https://www.ofcom.org.uk/_data/assets/pdf_file/0017/103427/Scarborough-L-DTSP-Licence-Granted-26-June-2017.pdf; Your TV Manchester Ltd Licence p30

https://www.ofcom.org.uk/_data/assets/pdf_file/0022/45265/Manchester-L-DTSP-Licence.pdf

¹⁹⁴ KMTV, p3-4 https://www.ofcom.org.uk/_data/assets/pdf_file/0023/131189/KMTV.pdf

¹⁹⁵ Latest TV, https://www.ofcom.org.uk/_data/assets/pdf_file/0015/131190/Latest-TV.pdf

¹⁹⁶ Virgin Media, p 3 https://www.ofcom.org.uk/_data/assets/pdf_file/0008/131210/Virgin-Media.pdf

¹⁹⁷ ITV, page 30 https://www.ofcom.org.uk/_data/assets/pdf_file/0020/131186/ITV.pdf

Impact on local TV channels

- 4.126 Our consultation proposal did not require any change to the position of local DTPS on the Freeview platform (due to the position of these services already being in line with the proposals) but would protect local DTPS on this platform from a significant reduction in prominence in the future.
- 4.127 Viewing of local TV services is relatively low. In 2017, BARB figures showed an average of 1.6 million households (6%) per week watched a local TV channel for at least three consecutive minutes. While there are limitations with the BARB measurements for local TV services given limited number of BARB registered local TV services, they nevertheless indicate that the reach of these services is small.¹⁹⁸ Listing local TV services within the first 24 slots would only increase prominence on Sky and Virgin Media's EPGs, as local TV services (local DTPS) already appear within the first 24 slots on Freeview's EPG and available viewing data suggests any uplift in viewing is likely to be small.
- 4.128 While in principle our proposals could have led to positive effects on viewing for local simulcast services, some stakeholders pointed to a risk that some platforms may opt to no longer carry local simulcast services. Virgin Media stated that, 'If such prominence was to be imposed, the disruption caused (including to consumers) by the need to reposition other channels, would potentially make the future carriage of these channels hard to justify.'¹⁹⁹
- 4.129 Whilst providers of local simulcast services have in some cases reached agreement for carriage of their services on Virgin Media and Sky, not all local TV services are carried on these platforms. The geographical target audience of these channels is necessarily limited and their low viewership means that ceasing provision of these channels is unlikely to have any significant commercial impact on these EPG providers and is unlikely to be of significant concern to their customers in the way that non-carriage of other channels might. Under these circumstances, we consider it a material risk that a regulatory intervention to require a specific minimum level of prominence on platforms other than DTT may negatively impact on carriage of local simulcast services.²⁰⁰

¹⁹⁸ Source: BARB. Network, individuals (4+). Reach criteria: 3+ consecutive minutes. This is based on BARB measuring between 12 and 17 local TV services during the course of that year (which does not include the That's TV network, representing the majority of local TV licences). The BARB figures for 2017 were reported in Ofcom, Media Nations Report 2018, page 62: https://www.ofcom.org.uk/data/assets/pdf_file/0014/116006/media-nations-2018-uk.pdf. The services measured by BARB for 2017 were: Estuary TV, Latest TV, Notts TV, NVTV Belfast, Sheffield Live TV (all of the local TV Network, measured on BARB until 2 July 2017); Made in Bristol, Made in Cardiff, Made in Leeds, Made in Newcastle, Made in Liverpool, Made in Birmingham (all of the Made TV Network), STV Glasgow, STV Edinburgh, STV2 Aberdeen, STV2 Ayr, STV2 Dundee (all of STV2); and London Live (see Annex 1 to the Report, Figure 2, page 10: https://www.ofcom.org.uk/data/assets/pdf_file/0028/115993/media-nations-2018-methodologies-annex.pdf). Fewer local TV services were measured in 2018 and we have therefore not used the latest BARB measurements, as these would have less indicative value than the 2017 data.

¹⁹⁹ Virgin Media response, page 3.

²⁰⁰ An anonymous stakeholder set out that 'perversely, Ofcom will create a disincentive for Virgin Media to carry local TV in some locations, such as Scotland, by failing to require it to reserve one single UK-wide EPG slot for all local TV services. Virgin Media could decide, instead, to grant the 'English local TV' EPG slot in Scotland to another service such as BBC Scotland. This would potentially prevent local TV securing carriage agreements with Virgin Media in some locations, whilst

Impact on other broadcasters

- 4.130 The local DTPS (provided on DTT) are currently positioned in slots 7 and 8. As a result, we do not expect these services or those of other broadcasters to move on the Freeview EPG.
- 4.131 With regard to simulcast local services (provided on other platforms), assuming these services continued to be carried then under our consultation proposal some broadcasters might have been adversely affected. However, as noted above, we consider that there would have been a significant risk that simulcast local services would no longer have been carried on these platforms.

Impact on EPG providers

- 4.132 Under our consultation proposal, EPG providers on DTT (i.e. those using Freeview EPG data) would not have had to make any changes. They would therefore not incur any direct costs.
- 4.133 Sky would have been required to make changes to its regionalised EPG in Wales, and Virgin Media would have also had to make changes to its UK-wide EPG. As noted above, the costs, reduced flexibility and disruption associated with these more specific prominence requirements might have caused these EPG providers to reconsider the business case for carrying simulcast local services altogether.

Conclusion on local TV

- 4.134 After considering the factors set out above, and having considered all of the evidence and the responses to the consultation, we have decided that appropriate prominence for local DTPS (on DTT) is within the first 24 slots of EPGs. For simulcast local services (on other platforms), we have concluded that it is not appropriate to set a specific minimum requirement for prominence. We are, however, requiring EPG providers for these platforms to allocate slots on their EPG to simulcast local services in a way that gives an appropriate degree of prominence in light of these channels' nature and characteristics and their intended audience.

the operator continues to auction the most prime slots to maximise private value.' As explained above, there is no regulatory requirement for cable or satellite platforms to carry local simulcast services (as distinct from the regulatory provisions to secure carriage of local DTPS on the relevant DTT local multiplex service).

Cumulative impact of our decisions

- 4.135 In reaching our decisions on the level of appropriate prominence for specific designated channels, we have taken into account whether the cumulative impact of our decisions as a whole may be different from the sum of the impacts considered on an individual basis (as set out above). The following figure summarises the current position of designated channels, the requirements under the revised EPG Code and modelled commercial impacts.
- 4.136 Our decisions mean that designated channels will make up a sizable portion of the channels within the first 24 slots (between 33% and 38% on Scotland specific and UK-wide EPGs where there are the greatest number of relevant designated channels) but there is still a significant percentage of slots available for other channels. This allows for a mix of designated channels and other channels allowing EPG providers to continue to include a range of channels to meet consumers' needs.
- 4.137 We do not consider that the cumulative impacts of our proposals differs from the total of the impacts of our proposals considered on an individual basis.

Figure 1: Summarising the new obligations under our EPG Code and their impact

Designated channel	New obligation	Impact on EPGs ²⁰¹	Ongoing cost to commercial channels (£m p.a.) ²⁰²
BBC One, BBC Two, Channel 3 licensees, Channel 4 and Channel 5	Slots 1-5 (on UK-wide EPGs and those specific to Scotland, England and NI)	No changes necessary	None
S4C and Channel 4 on EPGs specific to Wales	S4C in slot 4 in Wales and Channel 4 within first 8 slots	Sky: 7 commercial channels and 1 BBC channel moved down the EPG in Wales	0.7-2.4 ²⁰³
		Freesat: 9 commercial channels and 3 BBC channels moved down the EPG in Wales	
Other UK-wide or National channels: BBC Four, BBC Scotland and BBC Alba in Scotland, and S4C on UK-wide EPGs	Within first 24 slots	Virgin Media (S4C and BBC Alba): 38 commercial channels and 1 BBC channel moved down the EPG	<2.7 ²⁰⁴
		Sky (BBC Alba in Scotland): 16 commercial channels moved down the EPG in Scotland	0.1
		Freeview (BBC Four in Scotland): If BBC Four moved to slot 24: 53 commercial channels moved down the EPG in Scotland <i>[If BBC Four moved to slot 10: 67 commercial channels moved down the EPG in Scotland]</i>	0.4 [0.9]
BBC Children's channels: CBBC and CBeebies	Within first 8 slots of children's section	Sky: 6 channels moved down the EPG	0.3
BBC News and BBC Parliament	Within first 8 slots of the news section	No changes necessary	None
Local TV services	Within first 24 slots on DTT EPGs only	No changes necessary	None

²⁰¹ We use the published channel positions on EPGs as at 12 June 2019 as the basis for required EPG position changes. Source: <https://www.sky.com/tv-guide> for Sky channels (for each nation, we have used the corresponding guide for that nation); <https://www.virginmedia.com/virgin-tv-edit/tips-and-tricks/virgin-tv-channel-guide.html> for Virgin Media channels; <https://www.freeview.co.uk/tv-guide> and <https://www.freeview.co.uk/app/uploads/2019/04/Freeview-Channel-Guide-2019.pdf> for Freeview channels (for each nation, we have used the corresponding guide for that nation); and <https://www.freesat.co.uk/tv-guide/> for Freesat channels (for each nation, we have used the corresponding guide for that nation). We also assume that EPG providers will implement our decisions by moving channels down by one slot to

Treatment of HD versions of designated channels

Current position

- 4.138 At the time of Ofcom’s first EPG Code, designated channels were only provided in SD. When high definition (HD) TV was introduced to the UK, HD channels were not exact simulcasts of standard definition (SD) channels. Over the years, as viewers upgraded their TV sets and boxes to HD-enabled devices and began to watch more programmes in HD, broadcasters have invested in HD technology and have gradually been introducing exact simulcasts of SD channels in HD.
- 4.139 We noted in our consultation that in some cases PSBs have wanted to allow their HD simulcasts to occupy the more prominent position that their SD channels are entitled to, and we have not previously considered this to be in breach of the EPG Code.

Consultation proposal and response themes

- 4.140 As described above, the EPG Code was drafted before designated channels were broadcast in HD, so it does not specifically consider HD versions of designated channels. In our consultation, we proposed to make a clarification in the EPG Code to allow for HD simulcasts to replace the SD variant and to confirm that only one variant had to be afforded prominence.
- 4.141 Most stakeholders broadly agreed with our proposals to enable the swapping of HD and SD variants of designated channels and not requiring that HD variants be made prominent as well as SD variants.²⁰⁵ However, there were some alternative views.

accommodate each designated channel moving up, and that in the case of regionalised EPGs, EPG providers will try to maintain the uniformity of LCN across nations.

²⁰² The figures are indicative only.

²⁰³ This is an estimate of the combined cost of the new obligation regarding Channel 4 on commercial channels that are moved down the Freesat and Sky EPGs in Wales. This may be an overestimate.

²⁰⁴ This is the total commercial impact on the Virgin Media platform. We assume that Virgin Media will allocate EPG slots following commercial negotiations. Consequently, part of this impact will fall on the commercial channels that move down the EPG and the remaining will fall on Virgin Media as an EPG provider.

²⁰⁵ For example, YouView, p2-3 https://www.ofcom.org.uk/_data/assets/pdf_file/0012/131214/YouView-TV.pdf, MG Alba (page 2); MG Alba, p3 https://www.ofcom.org.uk/_data/assets/pdf_file/0016/131191/MG-Alba.pdf; COBA, paras 10.1 and 11.1 https://www.ofcom.org.uk/_data/assets/pdf_file/0015/131181/COBA.pdf; BT, p7 https://www.ofcom.org.uk/_data/assets/pdf_file/0022/131179/BT.pdf; VLV, paras 53-54 https://www.ofcom.org.uk/_data/assets/pdf_file/0009/131211/Voice-of-the-Listener-and-Viewer.pdf International Broadcasting Trust, paras 49-50 https://www.ofcom.org.uk/_data/assets/pdf_file/0019/131185/International-Broadcasting-Trust.pdf; S4C, page 4 https://www.ofcom.org.uk/_data/assets/pdf_file/0023/131198/S4C-English.pdf; STV, p 4 https://www.ofcom.org.uk/_data/assets/pdf_file/0011/131204/STV.pdf; Samsung, p7 https://www.ofcom.org.uk/_data/assets/pdf_file/0008/131201/Samsung.pdf; Arqiva, p 5 (subject to technical feasibility) https://www.ofcom.org.uk/_data/assets/pdf_file/0020/131177/Arqiva.pdf; Digital UK, p5-6 (subject to technical feasibility) https://www.ofcom.org.uk/_data/assets/pdf_file/0017/131183/Digital-UK.pdf and Name withheld 1, p3 https://www.ofcom.org.uk/_data/assets/pdf_file/0017/131192/Name-Withheld-1.pdf.

4.142 Some stakeholders wanted HD take-up to be encouraged through the prominence regime, by promoting HD variants ahead of their SD equivalent.²⁰⁶ Others argued that HD/SD swaps might cause confusion for viewers,²⁰⁷ while some favoured mirroring the prominence of SD designated channels in the HD section of EPGs.²⁰⁸

Reasoning and decision

4.143 As the prominence of HD channels is primarily a technical matter and, in some regards, mirrors the effects of the relevant SD designated channel, we have not replicated the analysis by channel here. Instead, we have considered specific arguments made by stakeholders on HD channels and available evidence.

4.144 In addition to arguments made on encouraging HD take-up and the potential to cause audience confusion, stakeholders also made submissions in relation to the following topics:

- a) who ought to decide on the swapping of SD with HD variants (Sky, C4C and the BBC);²⁰⁹
- b) the distribution of HD services often being based on different commercial terms than the SD variant (STV),²¹⁰ which can be an important revenue stream for broadcasters and should not be jeopardised (ITV);²¹¹
- c) difficulties associated with swapping SD with HD variants, for example, due to legacy TV sets and set-top boxes that are not HD-enabled, and/or the high cost of offering regional variants in HD (Arqiva, Digital UK, Name withheld 1, ITV, BT).²¹²

We consider each of these issues in turn.

4.145 A number of stakeholders have urged Ofcom to use the prominence regime as a lever to support the further roll-out of HD. While we support the roll-out of HD as it is in viewers' interests to experience better quality TV services, our position is that the prominence regime ought to function in a way which enables the growth of technology and innovation, not dictate which technology ought to prevail. The industry's existing approach of

²⁰⁶ Tech UK, p4-5 https://www.ofcom.org.uk/_data/assets/pdf_file/0012/131205/techUK.pdf; Name withheld 3, p2-3 https://www.ofcom.org.uk/_data/assets/pdf_file/0019/131194/Name-Withheld-3.pdf and Virgin Media, p3-4 https://www.ofcom.org.uk/_data/assets/pdf_file/0008/131210/Virgin-Media.pdf.

²⁰⁷ Name withheld 2, p4-5 https://www.ofcom.org.uk/_data/assets/pdf_file/0018/131193/Name-Withheld-2.pdf

²⁰⁸ C4C, p26-27 https://www.ofcom.org.uk/_data/assets/pdf_file/0014/131180/Channel-4.pdf; Digital UK, p6 https://www.ofcom.org.uk/_data/assets/pdf_file/0017/131183/Digital-UK.pdf and BBC, p12 https://www.ofcom.org.uk/_data/assets/pdf_file/0021/131178/BBC.pdf and <https://www.ofcom.org.uk/resources/documents/consultations/category-1/116265-epg-code-and-prominence-regime/responses/bbc-response-additional-information.pdf>

²⁰⁹ Sky, para A5.11 https://www.ofcom.org.uk/_data/assets/pdf_file/0010/131203/Sky.PDF; C4C 4, p26-27 https://www.ofcom.org.uk/_data/assets/pdf_file/0014/131180/Channel-4.pdf and BBC, para 47 https://www.ofcom.org.uk/_data/assets/pdf_file/0021/131178/BBC.pdf

²¹⁰ STV, p5 https://www.ofcom.org.uk/_data/assets/pdf_file/0011/131204/STV.pdf

²¹¹ ITV p31-31, https://www.ofcom.org.uk/_data/assets/pdf_file/0020/131186/ITV.pdf

²¹² Arqiva, p 5 https://www.ofcom.org.uk/_data/assets/pdf_file/0020/131177/Arqiva.pdf; Digital UK, p5-6 https://www.ofcom.org.uk/_data/assets/pdf_file/0017/131183/Digital-UK.pdf Name withheld 1, p3 https://www.ofcom.org.uk/_data/assets/pdf_file/0017/131192/Name-Withheld-1.pdf; ITV p31-31, https://www.ofcom.org.uk/_data/assets/pdf_file/0020/131186/ITV.pdf and BT, p7 https://www.ofcom.org.uk/_data/assets/pdf_file/0022/131179/BT.pdf

swapping HD variants where they are exact simulcasts of the relevant SD version of a channel is consistent with this and reflects the fact that we are in a period of technological transition.

- 4.146 Where the HD version is an exact simulcast of the SD version, we do not consider that the swapping of these channel versions on the EPG risks causing confusion to viewers. In particular, a version of the designated channels remains easily discoverable at all times and viewers can see the same programmes on either channel version (viewers may also tailor their EPG to suit their viewing preferences, for example, through tagging specific channels as favourites).
- 4.147 On the matter of who determines a SD/HD channel swap, PSB broadcasters have commercially agreed with some platforms to swap exact simulcasts of some of their channels so that the HD version is afforded the more prominent slot on the EPG.²¹³ However, we are still in a transition period. For example, there are still some local variations of designated channels which do not have exact simulcasts in HD. Most notably, it is Ofcom’s understanding that:
- a) BBC1 England HD is a network version shown throughout England, meaning that local programming on BBC1 is only available in SD (viewers watching BBC1 England HD are invited to switch to the SD version of the channel when local programming is on via a holding message on the screen);
 - b) some ITV regional variants are not available in HD, in which case an out-of-region HD version of ITV is made available to the region (in addition to the relevant region’s SD regional variant).²¹⁴
- 4.148 During such a period of transition towards HD, and in the light of existing channel swapping practices (whereby the HD version of a designated channel is increasingly made available in the more prominent slot where it is an exact simulcast), we believe it would be disproportionate for Ofcom to impose prominence obligations on EPG providers in relation to both SD and HD variants, for example, by requiring that HD variants are made prominent within a dedicated HD sub-menu.
- 4.149 PSBs and EPG providers have been successfully negotiating the terms of carriage of SD and HD versions of designated channels for some time and we see no justification for interfering with this ecology. We therefore intend to leave it to these stakeholders to agree the terms of any further HD roll-out and channel swapping arrangements.
- 4.150 On legacy sets and boxes, 74% of UK TV households were equipped to watch programmes in HD or Ultra HD-4K as at December 2018, and this has been growing year on year.²¹⁵ It is also our understanding that, while theoretically some SD only TV receivers could still be

²¹³ We also note that Virgin Media has recently agreed with the BBC to stop carrying the SD version of certain channels where the HD variant is an exact simulcast (e.g. BBC Scotland, BBC Four, BBC News, CBBC and CBeebies). This is in a context where the Virgin Media platform no longer supports SD receivers, so that all its subscribers use HD-enabled devices. See Virgin Media press release, 19 February 2019: <https://www.virginmedia.com/virgin-tv-edit/customer-exclusive/channel-number-changes-march.html>.

²¹⁴ In such cases, industry practice has been for the SD version to remain in the most prominent slot on platforms’ EPG.

²¹⁵ Source: Ofcom analysis of BARB Establishment Survey 2011 Q3 to 2018 Q3.

sold in the UK, such sales would be insignificant. This is because by the beginning of 2016, it was only possible to use the Freeview brand logo for HD and Ultra HD TV sets. These figures indicate that the majority of UK households already have HD TVs sets, and that as HD penetration continues, we can expect more households to do so over the next few years.

- 4.151 It is our understanding and expectation that when HD channel swapping is agreed between PSBs and platforms, this does not result in the more prominent slot for that designated channel being empty for any viewers (whether HD or SD). By way of example, viewers who use legacy TVs or receivers should still view the SD version of the designated channel, for instance BBC1, in the more prominent EPG slot for that channel i.e. the first slot of the EPG.

Conclusion on HD/SD

- 4.152 In considering availability of services, audience take up and other available evidence – including stakeholder responses – and in the interests of greater regulatory clarity, we have decided to amend the EPG Code so that the prominence requirements may be satisfied in respect of an HD TV version of a designated channel instead of the SD TV version of that channel, where the HD TV version is an exact simulcast of the SD TV version.

Transition period and next steps

Consultation proposal

- 4.153 In the consultation, we asked stakeholders whether they agreed with our proposal to provide a 12-month transition or implementation period once the EPG Code is finalised to make any channel moves required under the EPG Code.

Themes in stakeholder responses

- 4.154 We received a range of views on the proposed transition period. PACT, WGGB and COBA agreed with our proposal for a 12-month transition period.²¹⁶ VLV, IBT and Digital UK want the EPG Code to be fully implemented as quickly as possible.²¹⁷ The BBC saw the timescale as challenging but also believe it should be implemented as soon as possible.²¹⁸ C4C and BT also agreed with our 12-month transition period, believing it important that Ofcom introduces a minimum period by which platforms should deliver prominence for any newly

²¹⁶ PACT p12 https://www.ofcom.org.uk/_data/assets/pdf_file/0020/131195/PACT.pdf, Writer's Guild of Great Britain p2 https://www.ofcom.org.uk/_data/assets/pdf_file/0011/131213/Writers-Guild-of-Great-Britain.pdf, COBA p22 https://www.ofcom.org.uk/_data/assets/pdf_file/0015/131181/COBA.pdf

²¹⁷ VLV p9 https://www.ofcom.org.uk/_data/assets/pdf_file/0009/131211/Voice-of-the-Listener-and-Viewer.pdf, IBT p9 https://www.ofcom.org.uk/_data/assets/pdf_file/0019/131185/International-Broadcasting-Trust.pdf, Digital UK p6-8 https://www.ofcom.org.uk/_data/assets/pdf_file/0017/131183/Digital-UK.pdf

²¹⁸ BBC, para 48 https://www.ofcom.org.uk/_data/assets/pdf_file/0021/131178/BBC.pdf

launched or designated PSB channel.²¹⁹ S4C agreed with the proposed transition period as a maximum.²²⁰ STV suggested 6 months as a transition period.²²¹

- 4.155 A number of stakeholders, however, raised concerns about the proposed transition period. Sky recommended increasing the period to 18 months.²²² Virgin Media and Name withheld 2 stated that a 12-month period would have to be the minimum.²²³ YouView also argued that it may take longer than 12 months for it to respond to any changes if Digital UK needed to review and consult upon them.²²⁴ Freesat warned that some proposals may require significant technical work and therefore request an extension to bring the transition period up to 18 months.²²⁵ Samsung also disagreed with our proposed timeline, stating that global platforms such as themselves have a 12-month development cycle which requires plans to be agreed beforehand. It suggested a transition period of 18-24 months once the EPG Code is finalised.²²⁶ KMTV also stated that 12 months is too short for TV stations to make commercial adjustments.²²⁷
- 4.156 ITV also stated that 12 months is not a sufficient amount of time, with reorganisations on DTT having taken 18 months to two years in the past. ITV suggest Ofcom should specify a backstop of two years to complete any changes. However, ITV believe that a better approach would be to allow compliance to be delivered over time via a ‘right to promotion’ for any PSB services in non-compliant slots as and when higher slots become vacant.²²⁸ techUK agree that there should be a transition period but that the length of this period would depend at which stage of the product development cycle changes to the EPG Code are implemented.²²⁹
- 4.157 Many respondents were keen to see the new EPG Code implemented as soon as possible, arguing that implementing the requirements in a shorter timescale would mean the benefits are achieved earlier. However, other respondents noted the need for both EPG providers and other broadcasters to have a transitional period to plan and implement any changes required. This includes time for EPG providers to consult with affected parties.

Our decision on the transition period and next steps

- 4.158 We have considered arguments made about a staggered implementation, where EPG providers implement the requirements of our EPG Code as and when slots become available for designated channels not already in a sufficiently prominent position. We

²¹⁹ C4C p27 https://www.ofcom.org.uk/data/assets/pdf_file/0014/131180/Channel-4.pdf, BT p7 https://www.ofcom.org.uk/data/assets/pdf_file/0022/131179/BT.pdf

²²⁰ S4C p4 https://www.ofcom.org.uk/data/assets/pdf_file/0023/131198/S4C-English.pdf

²²¹ STV p4-5 https://www.ofcom.org.uk/data/assets/pdf_file/0011/131204/STV.pdf

²²² Sky p57 https://www.ofcom.org.uk/data/assets/pdf_file/0010/131203/Sky.PDF

²²³ Virgin Media p4 https://www.ofcom.org.uk/data/assets/pdf_file/0008/131210/Virgin-Media.pdf, Name withheld 2 p5 https://www.ofcom.org.uk/data/assets/pdf_file/0018/131193/Name-Withheld-2.pdf

²²⁴ YouView p3 https://www.ofcom.org.uk/data/assets/pdf_file/0012/131214/YouView-TV.pdf

²²⁵ Freesat p2 https://www.ofcom.org.uk/data/assets/pdf_file/0011/144101/Freesat.pdf

²²⁶ Samsung p7 https://www.ofcom.org.uk/data/assets/pdf_file/0008/131201/Samsung.pdf

²²⁷ KMTV p4 https://www.ofcom.org.uk/data/assets/pdf_file/0023/131189/KMTV.pdf

²²⁸ ITV p32 https://www.ofcom.org.uk/data/assets/pdf_file/0020/131186/ITV.pdf

²²⁹ TechUK p5 https://www.ofcom.org.uk/data/assets/pdf_file/0012/131205/techUK.pdf

asked EPG providers (Sky, Digital UK, Virgin Media and Freesat) about the availability of free slots over the last 5 years within their first three pages. One provider set out that one slot had become available nationwide, two in Scotland and one in Wales on their EPG. Other EPG providers set out that one slot had become available in this time period on their EPGs. This suggests that slots rarely become available within the first 24 slots of the EPG.²³⁰ We do not consider that a staggered implementation period for the EPG Code is a workable option, as we think it has the potential to mean that some of the requirements in the EPG Code would never be implemented by some EPG providers and that consequently designated channels would not be appropriately prominent on some EPGs.

- 4.159 While we accept that a longer implementation period will delay the realisation of the benefits for those channels that are currently not appropriately prominent, we want to ensure EPG providers and broadcasters have reasonable time to plan for and implement changes to secure a smooth transition in the interests of audiences, for example, by allowing for technical testing.
- 4.160 On the basis of feedback from respondents regarding the time needed to consult on changes to the EPG and the time needed to make technical changes we have decided on an implementation period of 18 months. Our changes to appropriate prominence requirements of the EPG Code will come into force on 4 January 2021. On that date, the text set out at [Annex 5](#) will replace the current appropriate prominence section of the EPG Code.

²³⁰ Information provided to Ofcom by EPG providers

Glossary and abbreviations

The 2018 Report: Ofcom's report on the availability and discoverability of PSB and local TV content

The Act: The Communications Act 2003.

BARB: Broadcasters Audience Research Board.

Designated channels: All BBC television services; the Channel 3 services (including ITV and STV); Channel 4; Channel 5; S4C; local digital television programme services; and local simulcast services.

Digital terrestrial television (DTT): The television technology that carries the Freeview service.

Electronic Programme Guide (EPG): A programme schedule, typically broadcast alongside digital television, to provide information on the content and scheduling of current and future television programmes and access to those programmes.

The EPG Code: The Ofcom code of practice for providers of electronic programme guides.

EPG providers Any organisation providing an EPG as defined by section 310 of the Act under a Broadcasting Act licence. The current main licensed EPG providers are Digital UK, Sky, Virgin Media, Freesat, YouView, EE and BT.

Local TV: A local digital television programme service is included in a television multiplex service and intended for reception only within a particular area or locality. A local simulcast service corresponds to a local digital television programme service and is broadcast on cable or satellite platforms or online.

Logical Channel Number (LCN): The number allocated to a programme service on an EPG e.g. BBC1 is often allocated LCN 1.

Main five PSB channels: BBC One, BBC Two, the Channel 3 services (ITV and STV), Channel 4 and Channel 5.

Nation and area specific channels: S4C, BBC Alba, local TV, BBC Scotland.

Nation specific EPGs: EPGs that are regionalised, where channel listings vary depending on nation or region.

Other UK-wide PSB channels: BBC Four, BBC News, BBC Parliament, CBeebies and CBBC.

Pay TV platforms: Platforms which offer access to linear channels (and potentially third party streaming apps and content), via a set-top box, on a subscription basis.

Public Service Broadcasters (PSBs): The BBC, the Channel 3 licensees (ITV and STV), Channel 4 Corporation, Channel 5 and S4C.

Set-top boxes: A device that enables a television set to become a user interface to the internet and/or to receive and decode digital television broadcasts (e.g. Now TV set-top box).

UK-wide EPGs: EPGs that are the same in all regions and nations in the UK, in other words they are not regionalised.