



RESPONSE OF CHANNEL 5 BROADCASTING LTD TO OFCOM'S CONSULTATION ON ITS RULES ON DUE IMPARTIALITY, DUE ACCURACY, ELECTIONS AND REFERENDUMS

Channel 5 welcomes the opportunity to respond to this consultation. We are particularly pleased that Ofcom has come round to recognising the difficulties inherent in maintaining a central list of 'larger parties'. We also welcome Ofcom's amendments of its rules to take account of its new responsibilities for regulating the BBC, not least as all the public service broadcasters will now be subject to a common framework. We set out our reasoning in response to Ofcom's consultation questions

Question 1: Do you agree with Ofcom's proposal to remove the list of larger parties from Section Six of the Code and the PPRB Rules? Give reasons for your answer.

Channel 5 warmly welcomes this proposal. In our response to Ofcom's 2012 consultation on the PPRB rules and Section Six¹ we drew attention to the "increasing fragmentation of political support and the growth in support for smaller parties and independent candidates" and argued that the concept of "major parties" (as they were then called) did not have "continuing relevance at a time of increasing political flux and fragmentation within the electorate"². We also argued that "broadcasters are used to making fine and balanced judgements" and would be well able to make such judgements about Party Election Broadcasts and election coverage in the absence of a list of major parties³.

¹ Ofcom, *A review of the Ofcom Rules on Party Political and Referendum Broadcasts and Proposed Ofcom Guidance for broadcast coverage of elections* 19 November 2012

² Response of Channel 5 Broadcasting Ltd to Ofcom Review of Party Political and Referendum Broadcast Rules and Election Coverage Guidance, January 2013

³ Ibid.

We recognise that Ofcom gave our and other broadcasters' views serious consideration before deciding on balance that it wished to continue with a list of major parties. We are now pleased that in the light of experience Ofcom has decided to revise its views. We particularly welcome its recognition of how the list may not "adequately reflect the current fragmented state of the political landscape" and that "many broadcasters have the knowledge and expertise to cover elections in a duly impartial manner".

As we argued four years ago, we believe major broadcasters are more than capable of making their own judgements about the allocation of party political broadcasts and editorial coverage of particular elections in light of the then current political situation.

Question 2: Do you agree with the proposal laid out in paragraph 3.30 that Ofcom produce an annual digest of electoral support? Give reasons for your answer.

We strongly welcome Ofcom's proposal that it should continue to publish an annual digest of evidence of past electoral support and/or current support ahead of each spring's elections. We believe this will provide a robust factual underpinning for the decisions broadcasters need to make.

Broadcasters have always relied on such information when, for example, deciding exactly how many Party Election Broadcasts (PEBs) a party should be allocated. However, it will assist both broadcasters and political parties for such information to be published on a consistent and impartial basis so it is clear on what sources broadcasters are drawing to make their decisions.

Question 3: Do you agree with the proposed amendments to Section Six set out in Annex 5 a) in relation to larger parties and b) to include BBC broadcasting services and BBC ODPS? Give reasons for your answer.

We agree with the purpose of the amendments and have no further comment on the details of them.

Question 4: Do you agree with the proposed amendments to the PPRB Rules set out in Annex 4 a) in relation to larger parties and b) to include BBC broadcasting services? Give reasons for your answer.

Channel 5 is broadly happy with the way in which the two main proposals in the consultation paper – the termination of the larger parties list and the inclusion of the BBC alongside the commercial broadcasters – are carried through in the redrafting of the Rules.

However, one anomaly needs to be addressed. The major effect of Ofcom's proposals is to remove any mention of any specific party from the Rules. But Rule 14 continues to make mention of two parties: it states that before an election parties should be offered one or more PEB subject to the qualification principles set out in Rules 15 and 16 and "This includes the SNP and Plaid Cymru on Channel 4 and Channel 5".

We believe the retention of this sentence is both effectively meaningless and unnecessary. It is meaningless, because as now drafted Rule 14 is purely a requirement on all Relevant Services to consider giving all registered parties the possibility of a PEB. So Channel 5 (like Channel 4) will need to consider offering PEBs to all registered parties, subject to them passing the qualification hurdles set out in Rules 15 and 16. Of course, because these two parties only stand in Scotland and Wales respectively, they will never qualify under Rule 15 – so writing them into Rule 14 has no material effect whatsoever.

We think we understand what Ofcom is trying to do. The existing version of the rules, which has the concept of "larger parties", has always stated that the SNP and Plaid Cymru should be considered as larger parties by Channel 5 and Channel 4 even though we are UK wide broadcasters. We believe Ofcom wishes to maintain that position. But that cannot be achieved by the way Rule 14 has been redrafted.

We strongly believe that no specific mention of the SNP and Plaid Cymru is necessary. The whole thrust of the Ofcom proposal is to give broadcasters' responsibility for making editorial and allocation decisions based on past electoral support and/or current support. For the almost 20 years Channel 5 has been on air we have allocated PEBs to both the SNP and Plaid Cymru at both General Elections and European Elections. This has not been just because of Ofcom and ITC rules – it

is because those parties clearly play a significant role in the political life of the United Kingdom. The new Rules' aim is to give more responsibility to broadcasters; and we will discharge that responsibility by continuing to recognise those parties appropriately in our PEB allocations.

Question 5: Do you have any comments on Ofcom's proposed amendments set out in Annex 5 for the purpose of regulating BBC broadcasting services and BBC ODPS in the area of due impartiality and due accuracy?

No.

Channel 5 Broadcasting Ltd

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