

Ofcom rules on Party Political and Referendum Broadcasts

Effective from: 31 December 2020

Introduction

1. Section 333 of the Communications Act 2003 (“the Act”)¹ requires Ofcom to ensure that Party Political Broadcasts (“PPBs”) (including Party Election Broadcasts (“PEBs”)) and Referendum Campaign Broadcasts (“RCBs”) on behalf of registered political parties and designated referendum organisations² are included in every licensed public service television channel (regional Channel 3³, Channel 4, Channel 5), every local digital television programme service, and every national (i.e. UK-wide, commercial) analogue radio service, and their digital simulcast services (Classic FM, Talksport and Absolute Radio AM)(“the Licensees”).
2. The BBC Agreement requires Ofcom to ensure that PPBs and RCBs are included in such of the BBC’s UK Public Services as Ofcom consider appropriate. These rules also apply to the following BBC services in accordance with the BBC Agreement: BBC One; BBC Two; BBC Radio Two; BBC Radio Four; BBC London Radio; BBC Radio Scotland; BBC Radio Nan Gaidheal⁴; BBC ALBA; BBC Radio Wales; BBC Radio Cymru⁵; BBC Radio Foyle; and BBC Radio Ulster (“the BBC Services”).
3. This document contains the Rules which Ofcom has made in accordance with section 333 of the Act and the BBC Agreement. The Rules reflect minimum requirements which Licensees and BBC Services (“the Relevant Services”) are required to follow in determining the length, frequency, allocation and/or scheduling of party political or referendum campaign broadcasts. They are not intended to fetter the discretion of Relevant Services to exceed these minimum requirements.
4. Within the terms of these Rules, decisions as to the precise length, frequency, allocation and/or scheduling of broadcasts offered to political parties/designated organisations are the responsibility of Relevant Services in the first place. When Relevant Services make such decisions, they should notify the relevant political party/designated organisation promptly in writing, setting out the basis of the relevant decision, and enabling that party/organisation to make further representations to the Relevant Service if they choose to dispute any part of the decision.
5. If any dispute remains unresolved between any Relevant Service and any political party/designated organisation, as to the length, frequency, allocation and/or scheduling of broadcasts it may be referred by the party/designated organisation or the Relevant Service to Ofcom for determination under these Rules. For this purpose, Relevant Services and

¹ Under Schedule 12, paragraph 18 of the Act, the Welsh Authority must prepare and publish a policy with respect to party political and referendum broadcasts and their inclusion in S4C. In doing so it must have regard to (a) any views expressed by the Electoral Commission, and (b) any rules made by Ofcom with respect to party political and referendum broadcasts.

² See section 333(3) of the Act, and sections 37 and 127 of the Political Parties, Elections and Referendums Act 2000.

³ Excluding Channel TV; this section of the Act does not apply in the Channel Islands.

⁴ Broadcast in Gaelic.

⁵ Broadcast in Welsh.

political parties/designated organisations should follow Ofcom’s Procedures on the referral and determination of disputes under these Rules.

6. Section Six of Ofcom’s Broadcasting Code⁶ (“the Code”) provides that broadcasts under these Rules are required to comply with the relevant provisions of the Code (for example, the provisions regarding harm and offence) notwithstanding that the content of broadcasts is normally the responsibility of the relevant political parties (or designated referendum organisations). Licensees should apply these Rules in accordance with relevant provisions of the Code.
7. Relevant Services are advised to issue guidance on the acceptability of content and technical matters. Broadcasters are advised to seek legal indemnities from parties against defamation, copyright and similar legal risks. Any use of Parliamentary footage should abide by Parliament’s rules on such use.

Services carrying broadcasts

8. General election broadcasts will be carried by all of the Relevant Services named above (except local digital television programme service licensees, BBC Two, BBC Radio Two, BBC Radio Four, BBC Radio London and BBC ALBA).
9. RCBs will be carried by all of the Licensees named above (except local digital television programme service licensees) and BBC One, BBC Two, BBC Radio Two, BBC Radio Four in the case of a UK referendum. RCBs will be carried by the relevant regional Channel 3 licensee, BBC One, and by BBC Radio Scotland, BBC Radio Nan Gaidheal, BBC ALBA, BBC Radio Wales, BBC Radio Cymru, BBC Radio Foyle and BBC Radio Ulster as relevant in the case of nations/regions referendums.
10. The regional Channel 3 licensee⁷ and BBC One will additionally carry: local election broadcasts in those UK nations/regions⁸ where such elections are taking place; broadcasts in the relevant nations/regions for Scottish Parliament, Welsh Parliament, Northern Ireland Assembly elections; and broadcasts for the elections for the London Assembly and Mayor of London⁹. The regional Channel 3 licensee and BBC One will carry PPBs in each nation of the United Kingdom on a seasonal basis (as set out in Rule 21).
11. BBC One, BBC Radio Scotland, BBC Radio Nan Gaidheal, BBC Radio Wales, BBC Radio Cymru, BBC Radio Foyle and BBC Radio Ulster will carry broadcasts in the relevant nations/regions for Scottish Parliament, Welsh Parliament and Northern Ireland Assembly elections.

⁶ The Broadcasting Code can be found at <https://www.ofcom.org.uk/tv-radio-and-on-demand/broadcast-codes/broadcast-code>

⁷ For the purposes of PEBs to be broadcast in relation to Scottish elections, the relevant regional Channel 3 licensees are those for the following regions: Central Scotland; the North of Scotland; and Borders.

⁸ BBC Two will not be obliged to carry PEBs for English local elections.

⁹ The relevant Channel 3 licensee, BBC One and BBC Two will not be obliged to carry PEBs in respect of: Mayoral elections (other than London); Police and Crime Commissioner elections; by-elections of any kind; English Parish Council elections; Scottish Community Council elections; and Welsh Community Council elections.

12. Local digital television programme service licensees will carry: local election broadcasts in those UK nations/regions where such elections are taking place. The local digital television programme service licensee for London and BBC Radio London will also carry broadcasts for the elections for the London Assembly and Mayor of London¹⁰.

Political parties / Designated Referendum Organisations

13. PEBs and PPBs may only be allocated to political parties registered by the Electoral Commission. RCBs may only be allocated to organisations as designated by the Electoral Commission.

Allocation of broadcasts

PEBs

14. Before a General Election, and in the case of other elections where appropriate, each registered party should be offered (subject to Rules 15 and 16) one or more PEBs, the length of a series offered to a particular party being determined by the Relevant Service. In addition, Channel 4 and Channel 5 must each offer one or more PEBs to the SNP and Plaid Cymru. In every case, the number of PEBs should be determined having regard to the circumstances of a particular election, the nation in which it is held, and the individual party's past electoral support and/or current support in that nation (see Rule 16).
15. Registered parties should qualify for a PEB if they are contesting one sixth or more of the seats up for election in the case of first-past-the-post, multi-constituency elections such as a General Election. For proportional representation systems of election (such as Scottish Parliament, Welsh Parliament and Northern Ireland Assembly elections), the minimum qualifying requirement for the allocation of one PEB should be set, reasonably and fairly for each election, according to criteria which have regard to the particular system of voting, the number of seats available for election, the number of constituencies/regions, and the number of candidates nominated by the party.
16. Relevant Services should consider making additional allocations of PEBs to registered parties (which satisfy the criteria at Rule 15) if evidence of their past electoral support and/or current support at a particular election or in a relevant nation/electoral area means it would be appropriate to do so.
17. In determining allocations of PEBs at elections, the four nations of the UK should be considered separately.
18. In accordance with Rules 8 to 12 above, parties which qualify for at least one PEB in one of the nations of England, Scotland, Wales or Northern Ireland will be offered PEBs on the Channel 3 licensee and relevant BBC Service(s) in the appropriate regions of those nations.

¹⁰ Local digital television programme service licensees will not be obliged to carry PEBs in respect of: General Elections; Scottish Parliament, Welsh Parliament and Northern Ireland Assembly elections; Mayoral elections (other than London); Police and Crime Commissioner elections; by-elections of any kind; English Parish Council elections; Scottish Community Council elections; and Welsh Community Council elections.

19. Parties which qualify for a PEB in all three nations of England, Scotland and Wales will additionally be offered a PEB on Channel 4 (at General Elections), Channel 5 (at General Elections) and the UK-wide analogue radio services (at General Elections) (provided these broadcasters are carrying the relevant series of broadcasts; see Rules 8 to 12 above). The purpose of a PEB must not be to promote any particular outcome of a referendum.
20. Where a local digital television programme service licensee is required to broadcast a PEB as a result of Rule 12, local digital television programme service licensees will carry the same PEB as broadcast by the relevant Channel 3 licensee.

PPBs / RCBs

21. In each nation of the UK, parties will be offered one or more PPBs over a 12-month period if:
 - a party holds one seat or more in that nation in any relevant parliament or assembly¹¹; and
 - evidence of their past electoral support and/or current support at a particular election or in that nation means it would be appropriate to do so.
22. Parties in Great Britain (subject to Rule 21) will be offered one PPB in each of the following three periods: Autumn; Winter; and Spring. Parties in Northern Ireland (subject to Rule 21) will be offered one or two PPBs in the period 1 September to 30 March (excluding December). No PPBs should be broadcast during election or referendum periods.
23. Each designated referendum organisation will be allocated a series of RCBs before each referendum. The allocation should be equal for each referendum organisation.

Length of broadcasts

24. Parties and designated organisations may choose a length of 2'40", 3'40" or 4'40" on TV. For radio, parties and designated organisations may choose any length up to 2'30".

Scheduling of broadcasts

25. PEBs, PPBs and RCBs on television must be carried between 5.30pm and 11.30pm.
26. PEBs and RCBs on radio must be carried between 6.00am and 10.00pm.

¹¹ Relevant parliaments and assembly:

- The House of Commons;
- The Scottish Parliament;
- The Welsh Parliament;
- The Northern Ireland Assembly.