

## **BBC Response to Ofcom Broadcasting Code Review: Preparing for Ofcom's new responsibilities for regulating the BBC.**

The BBC welcomes the opportunity to comment on Ofcom's review of its Broadcasting Code in readiness for Ofcom's regulation of BBC content commencing from April 3. In general the proposed revisions effect the simple change of the application of the Ofcom Code sections 1-4 and 7-10 to the BBC, with the exception of the World Service and online material other than BBC On Demand Programme Services (ODPS). There are very few occasions on which this does not appear to have been done in a simple and straightforward way.

### **"Prominence and Position"**

The BBC does have a concern about meaning of "likely to be accessed by children" at 1.2 in Section One: Protecting the Under Eighteens. Ofcom proposes a number of "factors affecting whether content is likely to be accessed by children". These include "the prominence and position of the content within the BBC ODPS". Whilst the prominence and position of content may be factors affecting the accessibility of programmes to children in scheduled TV and Radio programmes it is difficult to envisage how taking prominence online in to account would not adversely affect the design of eg the iPlayer front page so as to exclude post watershed content. Such an interpretation would clearly have an adverse impact on adult audiences who might not find content designed for them and of which they were previously unaware. It is hard to believe this is Ofcom's intention, especially as content inappropriate for children on iPlayer offers Guidance on the suitability of material and also offers pin protection to parents to control the on demand viewing and listening of their children. And, of course, the BBC offers a separate iPlayer for Children, iPlayer Kids. Ofcom may want to make it clear whether the generic reference to iPlayer in the proposed Code encompasses iPlayer Kids and other media players employed by the BBC.

The same factor – the prominence and position of the content within the BBC ODPS - is cited in 2.3 in Section Two: Harm and Offence as a factor affecting the meaning of context. The effect could be the same, ie limiting the prominence of post watershed content on iPlayer despite the other safeguards employed to protect children or the unwary.

The BBC urges Ofcom to reconsider the application of this factor in both circumstances.

## ODPS

The BBC is concerned that the number of references to BBC ODPS in the proposed revised code may give rise to the misunderstanding that other ODPS is unregulated. Of course non BBC ODPS is not regulated against the Broadcasting Code but for better understanding of Ofcom's regulatory scope it would help to avoid this misunderstanding if either the number of references to BBC ODPS could be reduced, and possibly replaced by a more general statement, or a footnote could be added on each occasion ODPS is mentioned to explain how other non-BBC ODPS is regulated.

## "Alternative Finance"

The BBC welcomes Ofcom's recognition that the BBC Agreement allows certain alternative means of finance to be used to partially fund licence fee funded BBC services and expects that the application of the rules of Section Nine when applied will not subvert this intention.

It should be noted that the wording in relation to alternative finance in the proposed Code does not match that in the BBC Agreement. The Code uses the term "alternative means of finance" to apply to funding that is permitted on the BBC whereas the BBC Agreement uses the term "alternative means of finance" to apply to the activities that are not permitted.

## "Cross Promotion"

In Section 4 of the consultation – Other proposed revisions to the Code – paragraph 4.7 makes it clear that the Cross-promotion Code "does not apply to the BBC". For the purposes of clarity it may be helpful to re-state this in

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paragraph 9.32 of Section Nine: Commercial References in Television  
Programmes where the Note suggests that “Broadcasters” . . . . . “should also  
comply” etc.

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