



Arqiva submission to Ofcom consultation, *Proposed changes to the linear EPG Code and future of the prominence regime*

This submission supports that of Digital UK, the organisation which leads the development of Freeview and of which Arqiva is a shareholder. Digital UK holds the EPG provider licence for Freeview and allocates its channel numbers. As such, it is best placed to respond to this consultation in detail. Arqiva, however, welcomes the opportunity to make a number of observations in support of Digital UK's representations.

Ofcom's consultation sets out the guiding principles behind the concept of public service broadcasting – that of reaching large audiences, bringing the nation together at key moments and informing, educating and educating society. At the heart of achieving these ambitions lies the DTT platform, being the *only* platform that provides TV on a free-to-air and universal basis. Arqiva provides the spine of the DTT platform with its network of over 1,100 transmitters throughout the UK.

Government supports its policy objectives for public service broadcasting in three ways, namely through:

- The TV licence fee which enables the BBC to provide high quality original and innovative content;
- Access to suitable and sufficient spectrum to enable PSB content to be transmitted to homes over the DTT platform, supported by non-PSB content to provide choice for viewers; and
- Guaranteeing prominence for PSB channels on linear EPGs to ensure that PSB content is easily discoverable.

All of the three levers above have been subject to discussion in recent years by policy makers to assess whether they are still, in their current form, core to the objectives of public service broadcasting. Arqiva's view is unequivocally that they are.

We, therefore, welcome Ofcom's consultation on prominence as a key element underpinning PSB in the UK. This comes at a point where the TV market is clearly evolving and where viewing habits are changing and fragmenting. Traditional linear TV consumption, on the other hand, remains by far the most popular way of accessing TV content and EPG regulation is, therefore, as relevant as ever. However, industry developments on linear EPGs and the growth of on-demand means that this review of PSB prominence is timely.

With regards to the challenges that Ofcom has identified on prominence in its consultation we would make the following two broad observations:

- There have clearly been variations in how the current guidelines for PSB prominence have been interpreted by different EPG providers. As a result, we recognise the rationale for the newer more prescriptive approach proposed by Ofcom. We note however, that Digital UK's existing approach to prominence in its channel listings is compliant with the new proposed approach. This indicates that its interpretation of the existing guidelines has been correct; and
- Given the overarching public policy objectives for PSB, it is inevitable that Ofcom would need to consider the role of prominence in an increasingly on-demand world. The existing narrower regime focussing on linear EPG's only would increase the risk that PSB content becomes less discoverable and could undermine the ambition of reaching large audiences with high quality content.

Finally, we would emphasise the challenges inherent in the DTT market structure and which Digital UK sets out in its submission. Freeview Play represents the success of effective industry collaboration in a connected TV world. Over the past few years, this has successfully delivered a high-quality consumer product aligned within the prominence public policy framework. However, manufacturers of connected TV's will likely come under commercial pressure in future to deliver user interfaces which conflict with the PSB discoverability objectives of the current prominence regime. Unlike other platforms, the DTT value chain is not vertically integrated and Freeview cannot control the decisions of those manufacturers. Ofcom and government will need to seek a solution which reflects the ambitions of its public policy.

Our view remains that the most effective way of securing the objectives of prominence – an engaged and informed population – is to ensure and *promote* the principle of a vibrant free-to-air TV platform. This should be at the heart of policy and regulation in the UK.

About Arqiva

Arqiva is a communications infrastructure and media services company, operating at the heart of the broadcast and mobile communications industry. Arqiva provides much of the infrastructure behind television, radio, mobile and other wireless communications in the UK and we are at the forefront of network solutions and services in an increasingly digital world.

Arqiva is a founder member and shareholder of Freeview, YouView, Digital UK and DRUK. Freeview is the most watched TV platform in the UK delivering over 70 digital TV channels, including a number of HD services and digital radio free to the UK public. Arqiva owns and operates the networks for all of the Freeview multiplex licence holders and is the licence holder for four of the DTT multiplexes.

Arqiva operates more than 1,450 transmission sites for radio, providing coverage to 90% of the population for terrestrial broadcasting in the UK. We are a shareholder and operator for both commercial national DAB radio multiplexes and service provider for the BBC national DAB radio multiplex. Our wholly owned subsidiaries, Now Digital Ltd and Now Digital (Southern) Ltd, operate 23 DAB digital radio multiplexes. These multiplexes cover a number of regions of the UK, predominantly in the Midlands, South West and the south of England.

Our major customers include the BBC, Bauer Media, Global Radio, ITV, Channel 4, Viacom, BSkyB, UKTV, Sony, AMC, Ideal World, QVC, Russia Today, Al Jazeera Networks, BT and the four UK mobile operators.

Arqiva is owned by a consortium of infrastructure investors and has its headquarters in Hampshire, with major UK offices in London, Buckinghamshire and Yorkshire and operational centres in Greater Manchester, West Midlands and Scotland.

Responses to questions

Question 1. Do you agree with our proposals that the main five PSB channels hold the top five slots on EPGs provided UK wide or in the UK outside of Wales?

We support this proposal and note that this is consistent with existing UK linear TV practice.

Question 2. Do you agree that on EPGs provided for viewers specifically in Wales, BBC One, BBC Two and the relevant Channel 3 service should take the top three slots, with S4C in slot four, Channel 5 in slot five and Channel 4 guaranteed a position on the first page?

We agree with this proposal in principle. However, as Digital UK, points out in its submission at more length, the absence of vertical integration in the DTT platform means that we cannot control some of the EPG practices on user interfaces. Specifically, we are aware that some EPGs will have fewer than seven slots on each page and, as a result, the stipulation would need to be for Channel 4 to have a position “in one of the first seven slots”.

As a matter of consistency, all other proposals within this consultation would need to bear in mind that a “page” does not necessarily mean seven (or more) slots and obligations should be reworded accordingly.

Question 3. Do you agree that BBC Four should be guaranteed a slot within the top three pages of all EPGs?

While we agree with this proposal in principle, as Digital UK sets out in its submission there will likely be a period of time where BBC Four sits outside the first 21 slots. This is a result of the likely placing of BBC Scotland being placed in the current BBC Four slot nine (at the request of the BBC).

We respond to the transition period for this to be resolved in question 12 below.

Question 4. Do you agree that the designated public service News channels (currently BBC News and BBC Parliament) should be guaranteed slots on the first page of the news genre section or an equivalent position within the grouping of news channels on the EPG as applicable?

Question 5. Do you agree that CBeebies and CBBC should have guaranteed slots on the first page of the Children’s genre or area of the EPG, as applicable?

For the above two questions, we agree with the proposals and note that these are consistent with existing linear TV EPGs (subject to interpreting a page as equivalent to seven slots).

Question 6. Do you agree that S4C, BBC Alba, and BBC Scotland should be guaranteed prominence within the first three pages of UK wide EPGs?

Question 7. Do you agree that Local TV should be guaranteed prominence within the first three pages of UK wide EPGs?

We do not offer a view on the above two questions.

Question 8. Do you agree that S4C, BBC Alba, and BBC Scotland should be guaranteed prominence within the first three pages of relevant Nation specific EPGs e.g. S4C in Wales, BBC Alba and BBC Scotland in Scotland?

Question 9. Do you agree that Local TV should be guaranteed prominence within the first three pages of relevant regionalised EPGs?

For the above two questions, we agree with the proposals and note that these are consistent with existing linear TV EPGs (subject to interpreting a page as equivalent to seven slots which may not always be the case).

Question 10. Do you agree with our proposals to ensure prominence for either the SD or HD version of BBC channels rather than both?

We agree with this proposal. The current practice of giving prominence to PSB HD channels, but within the HD genre on the EPG serves viewers well and we would endorse a continuation of this approach.

Question 11. Do you agree with our proposals to allow broadcasters to swap HD simulcast variants of their SD designated channels, such that those HD variants could occupy the slots which the SD channels would be entitled to?

As set out in the Digital UK submission, this type of swapping is not facilitated on Freeview. There is still a significant (though decreasing) number of viewers who do not have access to HD content and it would not be in their interest for a HD channel to occupy a prominent slot on the EPG.

Question 12. Do you agree with our proposal to provide a 12 month transition period once the Code is finalised?

We refer Ofcom to the detailed response of Digital UK on this issue. Digital UK is seeking to be compliant with this policy proposal which it deems to be reasonable. In particular, we would urge a process whereby an appropriate process is established with industry being consulted on any changes. However, we would urge Ofcom to take into account the complication of there being no certainty of a slot becoming available for BBC Scotland at the stipulated level of prominence.

Our view is that Digital UK's proposed way forward strikes an appropriate balance between the interests of the ongoing regulatory policy and the reality of the current demands for prominence between existing channels.

Question 13. Do you think that the prominence regime should be extended to ensure EPGs themselves can be easily found?

Question 16. Do you think that the prominence regime should be extended to ensure PSB Players can be easily found?

Question 17. Do you think that the prominence regime should be extended to ensure PSB content can be easily found via recommendations and / or search? If so, what key parameters would you set for this aspect of the regime?

We respond to questions 13, 16 and 17 together.

Industry works in a collaborative manner to broadly achieve discoverability of PSB content in the ways set out in these questions. Digital UK's submission sets out in detail how this works in practice. However, Ofcom will need to consider whether the overarching public policy objectives of PSB prominence can be best served in the absence of any regulatory obligations on connected device manufacturers. As we set out in our answer to question 18, it is likely that there will be a requirement to extend the prominence regime.

With specific reference to question 16, Ofcom will need to consider its position on prominence where both PSB and non-PSB content is aggregated within a single app¹. This raises a policy question as to whether it should come under the definition of PSB for prominence purposes.

More generally, Ofcom will need to consider the role of voice searches as this functionality is likely to grow in importance over the coming years. There is a clear case to ensure that an extension of the prominence regime should capture voice developments.

While industry works collaboratively in this area, the choice on how connected UIs are configured and how any prominence is secured remains ultimately with the manufacturer. Ofcom will need to consider the implications of this in any future regime if it is seeking to achieve and continue the public policy objectives which underpin the existing prominence regime for linear EPGs.

Question 18. Do you think that the prominence regime should be extended to platforms and devices not currently captured by the EPG prominence regime? If so, how do you think the regime could be extended and who should be captured?

We fully endorse the views set out in the submission by Digital UK to this submission. Freeview Play is expected to reach 10 million devices within the next 10 years and there will

¹ Digital UK announced in 2019 that it would be developing a mobile app toward the end of the year a part of the development of the free-to-air DTT platform.
http://www.digitaluk.co.uk/_data/assets/pdf_file/0004/94504/11-6-18_Broadcasters_collaborate_to_secure_future_of_free-to-view_TV.pdf

be a significant level of variation between manufacturers on how UIs are designed. Connected TV providing live and on-demand content is rapidly becoming the norm for users of the FTV platform.

While industry collaboration broadly secures an acceptable level of PSB prominence at present, this cannot be guaranteed in the future. Commercial pressures from non-PSB and global content providers on manufacturers would likely reduce the level of PSB prominence in the future. This would potentially be relevant to all of the themes identified by Ofcom in its consultation in paragraph 6.2.

It is difficult to envisage a solution to securing PSB prominence in an increasingly digital viewing environment which does not involve an extension of the regime to take into account the wider choice of TV devices. In making a decision on how to take this forward, Ofcom and government will have to assess what the risk are of a regime which is conspicuously not future-proofed.

Question 19. Do you think that the prominence regime should be extended to online services? If so, who should be captured?

We do not offer a view on this question.