



**CONSULTATION: PROPOSED CHANGES TO THE LINEAR EPG
CODE AND FUTURE OF THE PROMINENCE REGIME**

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A submission from STV Group plc

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Contact information

Hazel Noton
Ofcom
Riverside House
2A Southwark Bridge Road London
SE1 9HA
epgprominence@ofcom.org.uk

Introduction

STV is pleased to take this opportunity to respond to Ofcom's consultation on proposed changes to the linear EPG Code and the future of the regime.

As the holder of two Channel 3 licences for central and north Scotland (branded as "STV"), we provide a strong contribution to Public Service Broadcasting as a part of the wider Channel 3 network.

Channel 3 remains the largest commercial investor and provider of original PSB content across a wide range of genres: drama, entertainment, news and current affairs, live

sport and events. Regionality remains a defining factor of the network's composition with the fifteen regional licences combining to provide a competitive network television service.

Through consolidation, thirteen of the fifteen licences are now in common ownership under ITV plc. As an independent plc, STV retains its own identity and branding for the delivery of network content in its territory, as well as injecting original local programming made in and for our licensed areas such as regional news (of which there are four variants), as well as current affairs and non news material.

STV's regional slate of programmes continue to perform very strongly with audiences in Scotland. The 6pm weekday **STV News at 6** bulletin is often the most watched news programme on any channel in our regions on a given day. In Ofcom's 2018 Media Nations report, Scottish respondents cited the highest level (85%) of satisfaction with the provision of regional news in their area¹.

As a network producer, STV is also a supplier of content to Channel 3 and all other UK PSB networks, as well as a growing range of UK commercial and international partners.

The commercial profitability - and therefore the ability to provide a PSB service - of Channel 3 relies on a federal system whereby individual licences contribute towards the cost of the network schedule and in return receive the exclusive right to distribute the service in their area and generate revenues through advertising and sponsorship.

The footprints of the primary television platforms, terrestrial, satellite and cable are all delineated to reflect these regional licensed areas so that viewers receive the relevant variant of the Channel 3 service.

As digital distribution and streaming have emerged as significant platforms to watch live television and catch up programming over the last decade, Channel 3 licensees have, as far as possible replicated the television regionality, respecting the exclusivity of different licensees to exploit and enabling the "correct" Channel 3 variant, i.e. ITV or STV to be made available to viewers. As a result, a number of services including online/web players, iOS, Android, Amazon Fire, Freeview Play, YouView, connected TVs etc are configured to serve geo-targeted Channel 3 content. In the case of STV, our channel is simultaneously streamed online and programmes are available via VOD catchup exclusively via STV Player which is accessible on ten different platforms through thousands of supported device types.

However, there is currently a lack of regionalisation capability on some of the major platforms in the UK, specifically Sky and Virgin, and while we are in advanced conversations with one and have concluded a deal with the other, STV Player is currently absent from the main TV set on half of all Scotland's TV households (c1.1m of c.2.2m homes) and has been for years. This cannot be an acceptable situation for public service broadcasting in Scotland. While we strongly support prominence being extended to PSB on demand services and to the surfacing content from those services in search and recommendations, step one is to ensure that PSB players, including STV Player, are on these platforms in the first place.

In the context of Ofcom's consideration of prominence for Public Service Broadcasters, on television and with potential extension to online and digital platforms, it is crucial that this regional dimension of Channel 3 is clearly understood and reflected as regulatory outcomes emerge. All of the challenges identified by Ofcom at section 6 of the Consultation document apply equally to all regional licensees in the Channel 3 network. Ofcom refers to the Channel

¹ <https://www.ofcom.org.uk/research-and-data/tv-radio-and-on-demand/media-nations/interactive-report>

3 services as one of the “main five PSB channels”. However, we emphasise that it is important to note that the Channel 3 network is not one channel. It is a network of discrete licensed services that share common content but are regionally diverse.

For PSB prominence to have meaning, platforms need to be required to regionalise so they are capable of offering Channel 3 content on an exclusive basis in respective nations of the UK. As such, STV Player should automatically be afforded prominence on every digital content platform or television set that has a material penetration in Scotland.

STV is pleased to include its responses to Ofcom’s consultation questions below. We have concentrated our submission on areas that directly impact our own services.

Questions/Answers

Q1) 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?

STV agrees that greater regulatory certainty is required in order to ensure that EPG prominence is afforded to PSB services now and in the future. We agree that the top five slots should be reserved for UK PSB services. Ofcom needs to ensure clarity in any Code with regard to Channel 3 (a UK wide service comprising individual regional services). The entitlement to prominence must clearly attach to the relevant regional licensee and its service.

Q2) 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?

The issue of the EPG lineup in Wales does not affect STV and therefore we have no view, other than agreeing that calibration of PSB prominence is welcome for certainty and consistency.

Q3) Do you agree that BBC Four should be guaranteed a slot within the top three pages of all EPGs?

STV agrees with the proposal that all PSB services should be accommodated within the first three pages of EPGs.

Q4) 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?

STV agrees that PSB news services should be guaranteed slots on the first page of news genre EPGs.

Q5) 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?

STV agrees that PSB children's services should be guaranteed slots on the first page of news genre EPGs.

Q6) Do you agree that S4C, BBC Alba, and BBC Scotland should be guaranteed prominence within the first three pages of UK wide EPGs?

STV agrees with the proposal that PSB services should be accommodated within the first three pages of EPGs. However, care needs to be taken to ensure that the BBC, as the only provider operating multiple PSB services, does not abuse the power it will yield over EPG guides. Incumbent PSB services from should be protected from BBC services potentially moving up EPG lists and guidelines should restrict the number of swaps or changes that can be made in specific time periods.

Q7) Do you agree that local TV should be guaranteed prominence within the first three pages of UK wide EPGs?

Although this issue does not affect STV directly, we agree with the general proposal that all PSB services should be accommodated within the first three pages of EPGs. In the case of local TV, STV recognises that there are areas of the UK where there is no local TV service and therefore the notion of “*guaranteed prominence within the first three pages of UK wide EPGs*” does not apply. However, achieving prominence within relevant regionalised EPGs for eligible local TV services (Q9) requires, in practice, a reserved slot to be made available across the UK, even though it would not be in use in regions where there is no local service.

Q8) 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?

STV agrees with the proposal that all PSB services should be accommodated within the first three pages of EPGs.

Q9) Do you agree that local TV should be guaranteed prominence within the first three pages of relevant regionalised EPGs?

STV agrees that local TV PSB services should be entitled to prominence within the first three pages of relevant regionalised EPGs.

Q10) Do you agree with our proposals to ensure prominence for either the SD or HD version of BBC channels rather than both?

STV agrees prominence could be awarded to either the HD or SD service, provided that both services are otherwise identical and subject to our comments at Q11) below. However, increasingly, EPG listings differentiate between HD and SD services through, for example different number ranges. In those circumstances STV considers it important and logical to mirror the prominence given to PSB services in respective quality number ranges.

Q11) 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?

STV agrees prominence could be awarded to either the HD or SD service, provided that both services are otherwise identical. However, it is crucial not to lose sight of the important distinction, namely that it is the SD services which constitute PSB, and not their HD simulcasts. As a consequence of that distinction, the distribution of HD services can be on different commercial terms from SD, and the discretion to choose whether or not to enter into such commercial arrangements needs to remain intact. In other words, the ability to swap HD for SD versions of a service should not confer any automatic entitlement to distribute HD, nor should the SD service’s underlying right to prominence be affected

Q12) Do you agree with our proposal to provide a 12 month transition period once the Code is finalised?

STV agrees that a transitional period will be required to enact the new requirements of an updated code however we believe implementation of a new

Code could be achieved more quickly than proposed and we suggest six months rather than a year.

Q13) Do you think that the prominence regime should be extended to ensure EPGs themselves can be easily found?

STV agrees that the prominence regime is reliant on easy access to EPGs. The objective is not met if PSB services are on a list that is itself difficult to access.

Q14) Do you agree with the broad range of factors for consideration we have identified? Are there other factors that policy makers should consider?

STV agrees that the broad range of factors identified by Ofcom is appropriate. The types of content afforded prominence and the relationship between PSB and non PSB material bundled under single or related branding needs further consideration. The primary objective of the regulatory objective should be to deliver prominence for PSB material. Currently only the BBC delivers multiple PSB channels by virtue of all its services being awarded such status under s310 of the Communications Act.

Large commercial providers typically hold and operate a PSB licensed service(s) (or in case of ITV plc, 14 such licensed regional PSB services, under ITV branding) alongside their additional linear channels which are not designated as such.

In a prominence regime, it is crucial that to ensure that all relevant licensed PSB operators (including where there are geographically differentiated services) receive prominence on any designated platforms, ranking ahead of other non-PSB commercial interests, and of other PSBs from outside the territory. An example would be the Channel 3 network, where STV and ITV operate within discrete and mutually exclusive regions of the UK. Each is a PSB operator within its own licensed territories and accordingly entitled to prominence in that region only, but not in other regions for which it does not hold PSB licences.

Q15) Do you agree with the principles we have set out? Are there other principles that should be considered?

STV agrees with the principle that personalisation and consumer choice functionality should be out of scope for EPG prominence. However it is important that these aspects of user interaction remain primarily user- initiated and controlled, as opposed to becoming routinely offered as default behaviours programmatically by platform technologies.

Q16) Do you think that the prominence regime should be extended to ensure PSB Players can be easily found?

With the increasing consumption of television and PSB content online and through other digital platforms, STV believes that the societal benefit recognised by Parliament in securing discoverability of PSB content should be extended. We believe that it is important for audiences and for the health of PSB content.

Prominence has many benefits:-

- It incentivises operators to support innovation with new platforms;
- adds to impact and reach by increasing the means of distribution for PSB content; and
- continues to make it easy for high quality, originated programming including news and current affairs to be discovered.

Q17) 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?

Accessing content through search results, rather than via EPGs is becoming much more prevalent, particularly for VOD material. New technologies such as voice recognition make it easy for consumers to find specific programmes quickly and with minimal interaction. Preserving the principle of prominence being afforded to PSB services requires that their status is also reflected in search results. STV strongly supports prominence for PSB content in search and recommendations. This is subject to the need for regionalisation as described above to ensure all PSBs benefit.

Q18) 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?

STV supports the extension of the prominence regime to new platforms and devices. The key characteristics of PSB content such as origination, impartiality, high quality production, news and current affairs material etc remain relevant and resonant as viewing moves online and digital. The future profile and discoverability of PSB material will not be maintained by prominence on TV EPG guides alone. In order to preserve the value and impact of PSB content, extension of the prominence regime is required. This prominence on digital platforms needs to mirror the original linear television world from where it stems and will require regionalisation in order to deliver relevant content to different audiences.

Q19) Do you think that the prominence regime should be extended to online services? If so, who should be captured?

STV believes that the same principles apply to the availability of PSB content online and through digital platforms as are being considered for television services. In our view, platforms and services which are home to recognised ODPS operators and/or the providers of television-like licensable content – for example the holders of TLCS licences should be subject to rules for PSB prominence. This would ensure that single and aggregated video services would be in scope whereas platforms which were more clips based, or with greater reliance on user generated material were not.

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