

Channel 4 Consultation Response for Prominence and Accessibility on Connected TV Platforms

- Public Service Media (PSM) delivers distinctive societal, democratic, and cultural value for the UK – supporting informed citizenship, national cohesion, creative innovation, and economic growth. Its success and sustainability rely on prominence, which ensures that UK PSBs (Public Service Broadcasters) reach audiences effectively while securing the commercial value needed to sustain ongoing investment in public service content.
- The value of the existing prominence protections that PSBs receive via the EPG Code has declined sharply in recent years as audiences have shifted from traditional broadcast to online TV consumption. Increasingly, viewers access content through powerful intermediary platforms operated by global technology companies whose commercial incentives favour global content providers over UK PSBs.
- In this context, the core objective of the new prominence regime for connected TV platforms should be to restore the value lost to PSBs through the decline in the value of EPG-based prominence. We do not believe that the proposals in this consultation meet that ambition.
- Whilst there are elements that we welcome, overall we do not consider that Ofcom is fully using its legal powers to deliver a robust code and guidance capable of meaningfully strengthening prominence on connected TV platforms and sustaining the societal impact of PSM.
- Crucially, Ofcom’s proposals are not sufficient to safeguard the prominence of individual PSBs, leaning instead towards a collective approach. Without addressing this, plurality within UK PSB will be eroded and diversity of content undermined. Equally importantly, there is a lack of robust measurement of prominence outcomes on platforms, which critically undermines the regime.
- If Ofcom adopts a more robust approach in line with the recommendations set out below, this would represent meaningful progress toward strengthening the foundations of PSM. However, even the most rigorous implementation of the Media Act’s prominence regime will not, on its own, be sufficient to secure PSM’s long-term sustainability.
- This reinforces the warnings set out in Ofcom’s 2025 *Transmission Critical* PSM review, which highlighted the significant challenges facing UK PSBs and the need for bold, systemic measures to safeguard their essential role in UK culture and society. We welcome Ofcom’s call to action, including its support for extending PSB prominence to major third-party platforms such as YouTube - a position also backed by the Secretary of State for Culture, Media and Sport.
- The tables below summarise our view on Ofcom’s proposed approach to the Prominence and Accessibility Code, and proposed guidance on the Agreement Objectives.

Glossary

- RTSS = Regulated Television Selection Service
- DIPS = Designated Internet Programme Service
- EPG = Electronic Programme Guide
- UI = User Interface
- DTT = Digital Terrestrial Television
- IP = Internet Protocol (I.e.internet-delivered)

Channel 4 recommendations on the draft Prominence Code of Practice

<p>Ofcom’s principles for considering ‘appropriate prominence’</p>	<ul style="list-style-type: none"> • Ofcom’s principles for considering ‘appropriate prominence’ must be strengthened in key areas: <ol style="list-style-type: none"> 1. The principles must acknowledge the importance of protected prominence for each individual PSB 2. The principles must make clear that ‘appropriate prominence’ means that PSB content is given a higher priority than non-PSB services 3. Ofcom’s principles should address the need to support audience <u>awareness</u> of PSBs, as well as audiences’ ability to easily discover and access PSBs
<p>App menu</p>	<ul style="list-style-type: none"> • The app menu is a key route to PSB content; Ofcom should introduce a specific recommended action to ensure that its prominence within the UI is ensured • Robust protections for PSB prominence in the app menu are essential, and Ofcom must clarify how its code will guarantee them • Channel 4 supports Ofcom’s recommended PSB app order (non-contiguous), as it may help maintain visibility alongside high-use services • User choice must be genuinely user-initiated, without platform prompts to reorder apps • Ofcom’s recommended default PSB app order must apply to all RTSS, even where users have previously rearranged apps • DIPS should be presented equivalently – not just “similarly” – to other IPS apps, with matching tile size, contrast and shape etc
<p>Primary content areas</p>	<ul style="list-style-type: none"> • Prominence for PSB content outside of apps is increasingly important, but faces threats from UI monetisation and algorithmic content selection • Channel 4 supports Ofcom’s overarching principle that PSB content should be no less prominent than non-PSB content overall, but Ofcom needs to adopt more specific and robust recommended actions to ensure this principle is delivered • Ofcom must take a much more robust and specific approach to ensure that RTSS providers can be held to account for delivering prominence in dynamic and constantly changing content environments: <ul style="list-style-type: none"> ○ Ofcom should add new recommended actions for RTSS providers to actively track and monitor levels of prominence across the user interface, to share this data with Ofcom annually, and to contractually agree regular sharing of prominence compliance data with PSBs ○ Ofcom should establish a clear principle that if an RTSS provider cannot provide data / evidence showing that prominence is being delivered, Ofcom will assume that the RTSS provider is <u>not</u> compliant with its prominence duties ○ Ofcom’s code should list examples of the types of data and information it would expect to see from RTSS providers to fulfil the recommended actions noted above

	<ul style="list-style-type: none"> • Ofcom must introduce minimum, data-measurable prominence guarantees for every PSB to ensure fair allocation of PSB slots across the UI • Ofcom’s broad definition of primary content areas gives RTSS providers excessive discretion to steer PSB content into areas of the UI that users engage with less • Ofcom must require RTSS to give PSBs editorial control over the programmes that appear in primary content areas, so that they can ensure that surfaced content supports remit delivery
Search	<ul style="list-style-type: none"> • Channel 4 supports Ofcom’s position that the most relevant public service content should receive the highest degree of prominence, including ahead of sponsored or platform-owned content • However, Ofcom should go further: where public service and non-public service content are similarly relevant, public service content should still be prioritised to safeguard visibility • Allowing search results to take account of users’ past behaviour risks creating a vicious cycle that narrows exposure to public service content • Public service content should also be surfaced ahead of “free-to-me” results where the same programme is available across multiple services • We question the broad discretion given to RTSS providers to define “relevance” and determine how to deliver appropriate prominence in search; stronger transparency requirements are essential to ensure RTSS providers can demonstrate compliance to Ofcom and PSBs
Listed channels	<ul style="list-style-type: none"> • Channel 4 supports the proposal for listed channels to receive prominence in live TV areas of an RTSS • Guidance should include a requirement for RTSS providers to provide evidence of the prominence of the live TV area • We do not agree with users being able to change the ordering of listed channels • It is vital that both the Code of Practice and the Agreement Objective Guidance make clear that PSBs have sole discretion over the distribution mechanism of their listed channels on RTSS
Attribution	<ul style="list-style-type: none"> • We support the requirement for PSB content to be attributed as clearly as non-PSB content • RTSS providers should be required to only use metadata sources that are contractually agreed with PSBs

Channel 4 recommendations on the draft Accessibility Code of Practice

Accessibility	<ul style="list-style-type: none"> • Channel 4 supports Ofcom’s proposals, which we agree will enhance the user experience for disabled people • We remain firmly committed to improving the accessibility of our programmes and services across all platforms • We anticipate that Channel 4 Streaming will shortly have new obligations under Part 4A of the Media Act to provide access services and clear information about them, and we look forward to engaging with Ofcom’s consultation on these duties
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	<ul style="list-style-type: none"> Channel 4 is committed to supplying high-quality metadata and working collaboratively with industry partners to strengthen metadata sharing and integration, improving the overall experience for disabled users
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Channel 4 recommendations on the draft Agreement Objectives Guidance

Payments	<ul style="list-style-type: none"> Channel 4 supports the general principle of no payments for core terms that are reasonably necessary to fulfil our 'Must Offer' obligation and enable prominence Guidance must be clearer that RTSS providers pay PSBs for non-standard delivery of our DIPS, such as syndicating content We support the proposal for payments to be negotiable for additional terms, including issues such as subscriptions and ad skipping
Enabling and maintaining DIPS	<ul style="list-style-type: none"> We support the proposal that DIPS generally bear their own costs for enabling and maintaining the inclusion of our service on a RTSS, but that RTSS providers should make a contribution towards the reasonable costs incurred by a DIPS provider in the case of significant technical changes The guidance should be clear that the standard form of delivery for DIPS is an app The guidance should be clear that PSBs should be treated fairly compared to non-PSBs for development and testing of our service
Prominence	<ul style="list-style-type: none"> Guidance must include within the core terms an obligation for RTSS to measure prominence across the UI, share this data with Ofcom annually and contractually agree to share DIPS-specific data It is vital that both the Code of Practice and the Agreement Objectives Guidance make clear that PSBs have sole discretion over the distribution mechanism of their listed channels on an RTSS We support audience data being an additional term when the carriage deal is standard app delivery Guidance should specify that when PSB services are not delivered via an app, PSBs must get access to audience data Guidance must ensure that product integrations to enable prominence (metadata) cannot be tied to features that don't enable prominence

Consultation Questions:

Question 1: Do you agree with our approach to considering appropriate prominence and our analytical framework? Please provide your reasoning, and if possible, any supporting evidence.

- Whilst there is much to welcome in Ofcom’s proposals, we do not believe that Ofcom is going as far as it can do and using the full extent of its legal powers under this regime to maintain and strengthen PSM.
- The level of protected prominence secured for PSBs under Ofcom’s proposals is weaker than the level of PSB prominence guaranteed on regulated EPGs.
- Ofcom’s principles for considering ‘appropriate prominence’ must be strengthened in key areas to secure robust and effective outcomes – in particular:
 - The principles must acknowledge the importance of protected prominence for each individual PSB.
 - The principles must make clear that ‘appropriate prominence’ means that PSB content is given a higher priority than non-PSB services.
 - Ofcom’s principles should address the need to support audience awareness of PSBs, as well as audiences’ ability to easily discover and access PSBs.

Ofcom must use the full extent of its legal powers under the Media Act to maintain and strengthen UK PSBs

- We welcome Ofcom’s consultation on its draft proposals for a Prominence and Accessibility Code and Agreement Objectives Guidance, which is the culmination of many years of work since Ofcom’s initial 2019 recommendations for a new regulatory framework to secure PSB prominence on connected TV platforms.
- In the years since Ofcom made those initial recommendations, the challenges facing the UK PSB system have continued to mount and the need for robust intervention to strengthen the position of PSBs has only grown more urgent.
- Ofcom’s 2025 review of PSM, *Transmission Critical*, set out a stark warning about the challenges facing UK PSM and made a clear case for bold measures to secure its crucial role in UK culture and society for the long-term future. Ofcom’s review found that “traditional broadcasters are in a fierce battle for audience attention, while global tech giants flood the market with an ever-growing range of content.” In response to this threat, Ofcom called for “urgent action, both now and in the coming years to strengthen and maintain PSM content which provides trusted and accurate news, tells UK stories and represents the diversity of the nations and regions of the UK”.
- Ofcom’s proposals in this consultation must be assessed in the context of this clear call to arms. Whilst there is much to welcome in Ofcom’s proposals, we do not believe that Ofcom is using the full extent of its legal powers to maintain and strengthen PSM. We believe there is scope for Ofcom to take a more robust and specific approach and that this is achievable without disproportionate impacts on RTSS.

The level of protected prominence secured for PSBs under Ofcom’s proposals is weaker than the level of prominence guaranteed on regulated EPGs

- Taking all of Ofcom’s proposals into account, the degree of protected prominence secured for PSBs under the new RTSS regime is weaker than under the EPG Code.

- Securing prominence for PSBs on connected TV platforms was always going to require a different and less prescriptive regulatory approach compared to the EPG licensing regime. Connected TV user interfaces are more complex and dynamic than linear EPGs, and the new prominence regime must be flexible enough to apply to different user interface designs as technology and audience habits continue to evolve. For this reason, the Media Act has established a legal framework based on high-level statutory duties and objectives, with Ofcom given broad discretion to frame how these are interpreted via its code of practice and guidance.
- Notwithstanding these factors, the disparity between the levels of protection that PSBs have under the EPG Code, and what they will receive under Ofcom’s proposed Prominence Code for RTSS, is striking – particularly given PSBs are facing more competition from other content services than ever before.

Table 1: Comparison of PSB prominence on EPGs vs under Ofcom’s proposals for RTSS

	‘Appropriate prominence’ on EPGs	‘Appropriate prominence’ on RTSS
Level of platform flexibility	<u>Limited</u> : licensed EPG providers have legal requirement to display PSB channels in order specified in Ofcom’s EPG Code.	<u>High</u> : Code sets out ‘recommended actions’ that are not in themselves legal requirements; platforms may adopt different approaches to fulfilling overall prominence duty.
Service ordering	Fixed in the EPG Code; main PSB channels always come ahead of commercial channels.	Other apps allowed to come ahead of PSBs.
Ability to change order	Users <u>cannot</u> re-order channels.	Users <u>can</u> re-order apps and linear IP channels.
Individual PSB protections	Each individual PSB has guaranteed channel slot.	Lack of guarantees for each individual PSB – e.g. no fixed app position; no guaranteed individual PSB prominence within ‘primary content areas’.

- We highlight this disparity to emphasise the need for Ofcom to use the full extent of its new powers under the Media Act and adopt the most robust approach possible. Throughout our responses to Ofcom’s questions, we identify changes that would make Ofcom’s Prominence Code and Agreement Objectives Guidance more robust and useful as a practical guide for PSBs and RTSS providers, whilst still ensuring flexibility and workability.

Ofcom’s principles for considering ‘appropriate prominence’ must be strengthened in key areas in order to secure robust and effective outcomes

- Ofcom’s consultation sets out the following principles which guide its consideration of what is ‘an appropriate degree of prominence’:

We consider that an appropriate degree of prominence is one that:

- a) *Enables audiences to easily discover and access PSB apps and public service content – the benefits of public service broadcasting are hard to assess, but we consider it relevant to take into account both the personal audience impact of changes in prominence (which may vary depending on individual preference for different kinds of content) and the societal value of supporting prominence of high-quality public service content;*⁴⁷

- b) *Ensures audiences continue to benefit from a range of content, including public service and non-public service content from a range of providers, as well as a range of RTSS which offer different features and user experiences; and*
 - c) *Supports user discovery and access to relevant public service content, including content intended to serve audiences in the user's location.*
- There is much that is positive in these principles. However, there are also critical weaknesses which may undermine Ofcom's approach to finalising the prominence code and enforcing it once it is in place.
 - We welcome that these principles are fundamentally focused on audience outcomes: i.e. if it is not the case in practice that audiences can easily discover, access and benefit from PSM, then a platform cannot be said to be delivering its prominence obligations. It is essential that Ofcom follows through on the spirit of this outcome-focused approach by setting out clear, robust expectations regarding how RTSS must measure and demonstrate that prominence is being delivered. We explore this further in our response to question 3.
 - We also appreciate the wider societal value of prominence being placed on an equal footing with personal audience impact. This principle is crucial: if Ofcom were to allow RTSS providers to prioritise personal audience impact at the expense of societal value, this might allow them to reduce the prominence of PSB for any viewers whose consumption of PSB content is lower than others. This would not be in line with the principle of universality and would undermine the ability of PSBs to act as cultural common ground in UK society, with wide reach across all audience groups.
 - However, whilst we welcome Ofcom's focus on real-world outcomes and on societal value, there are also some critical weaknesses in Ofcom's principles for considering an appropriate degree of prominence:

1. The principles do not acknowledge the importance of protected prominence for each individual PSB:

- Ofcom's principles only apply to 'PSB' in a collective sense, which implies that an 'appropriate degree of prominence' could be one that overwhelmingly promotes the largest UK-wide PSBs.
- Ofcom's first principle should be amended to state explicitly that an appropriate degree of prominence is one that applies to "each PSB app and public service content from each PSB", or similar. This reflects the clear intention of legislation that each individual PSB app must be given appropriate prominence.

2. Ofcom's principles make no reference to the prominence of PSBs in relation to other content services.

- The EPG Code sets a clear precedent that 'appropriate prominence' means giving PSBs priority over non-PSB services (i.e. the highest channel slots). This meaning of prominence is also clear from the explanatory notes published alongside the Media Act, which state that the Government's intention was to give PSBs a "privileged" position on in-scope platforms.¹
- This sense of prioritisation for PSBs must be stated explicitly in Ofcom's principles for determining what is an appropriate degree of prominence on RTSS: doing so is

¹ Explanatory Notes to the Media Bill as brought from the House of Commons on 31 January 2024 (HL Bill 44).

essential because this regime affords much more flexibility to platforms than is allowed under the EPG Code.

3. Ofcom’s principles should address the need to support audience awareness of PSBs

- We welcome that paragraph 3.41 of Ofcom’s consultation acknowledges that there are benefits associated with “influencing user awareness of public service content”. We would urge Ofcom to explicitly recognise this within its underlying principles for appropriate prominence. In a context where audiences are faced with a wide array of content sources from around the world, it is essential not just that audiences are able to easily discover and access PSB services, but that they also continue to be aware of these services in the first place.
- In addition to the above principles regarding Ofcom’s approach to considering ‘appropriate prominence’, Ofcom’s consultation also sets out the analytical framework that Ofcom uses to formulate and assess its proposed recommendations in the code.
- Broadly, we believe Ofcom’s framework sets out a clear and sensible approach to assessing context, effectiveness, and impacts. The framework helpfully combines qualitative assessment with quantitative evidence: qualitative assessment is crucial to determining what is appropriate prominence given limitations on available data.
- However, we suggest that Ofcom’s framework should take greater account of market context and the inherent difference in scale between national PSBs and global TV manufacturers / tech companies: this is a crucial factor in assessing what level of impact on RTSS providers is proportionate.

Question 2: Do you agree with our proposals on app menus, and our assessment of their associated impacts? Please provide your reasoning, and if possible, any supporting evidence.

- The app menu is a key route to PSB content; Ofcom should introduce a specific recommended action to ensure that its prominence within the UI is ensured
- Robust protections for PSB prominence in the app menu are essential, and Ofcom must clarify how its Code will guarantee them.
- Channel 4 supports Ofcom’s recommended PSB app order (non-contiguous), as it may help maintain visibility alongside high-use services.
- User choice must be genuinely user-initiated, without platform prompts to reorder apps
- Ofcom’s recommended default PSB app order must apply to all RTSS, even where users have previously rearranged apps
- DIPS should be presented equivalently - not just “similarly” - to other IPS apps, with matching tile size, contrast and shape etc.

Given its significance as a route to content, Ofcom should build protected prominence for the app menu itself into the Code

- The placement of PSB apps on a TV platform’s user interface is a key factor in how easily audiences can find and use services. Where an app sits on the UI has a significant impact on ease of access, user engagement and discoverability.
- Ofcom’s research highlights the centrality of app placement to user journeys, noting that the “app rail is the primary gateway to content...the central feature on TSS, shaping most content journeys”² and that an estimated 90% of clicks are from apps compared with 10% on disaggregated content areas.³ *[Text redacted – commercially sensitive]*
- We therefore welcome Ofcom’s recognition of the app menu as “a key route to content for most users and therefore an important area where appropriate prominence can and should be secured”.⁴ However, despite this acknowledgement, Ofcom’s draft code includes no safeguards to protect the prominence of the app menu itself.
- Indeed, the recommendations apply only to RTSS that include an app menu. As Ofcom notes, there is a risk that RTSS providers could choose to make the app menu smaller, less prominent, or remove it altogether, although it suggests that platforms are “unlikely in practice to be incentivised to do this”.⁵ However, we do not agree with this assessment. There are commercial incentives for platforms to move away from app-led discovery towards disaggregated content, including self-preferencing and owning the entire data journey that comes from syndicating content. *[Text redacted – commercially sensitive]*
- In light of these commercial incentives, Channel 4 considers it likely that, in the absence of specific protections, platforms may increasingly bury app menus in low-engagement areas of the UI - or sunset them altogether – in order to mitigate or bypass app-placement obligations.
- Given the universally recognised importance of the app menu as a primary means for users to find and access PSB services, any reduction in its visibility would materially undermine PSB prominence across RTSS. Prominence for disaggregated PSB content is not equivalent to prominence for the PSB app: without a visible “front door”, individual PSB brands are diluted, and it becomes significantly harder to ensure audiences encounter the full breadth and diversity of public service content.
- It is therefore essential that prominence for the app menu itself (as well as the PSB apps within it) is built into the code as a specific recommended action. Without this safeguard, one of the most important mechanisms for securing prominence for PSB apps could be easily undermined.

Strong protections for PSB prominence within the app menu are essential, and Ofcom must provide greater clarity for how its Code will safeguard this

- As set out above, the app menu is the most important route for audiences to find and access PSB content. PSBs face competition for prominent slots within the app menu, as many TSS increasingly promote their own or global services ahead of pre-installed local services. The need for strong protections for PSB apps in this key part of the TSS UI is therefore clear, to ensure that audiences can easily access trusted and high-quality public service content.

² Ofcom, Consultation: Prominence and Accessibility on Connected TV Platforms, p. 25.

³ Ofcom, Consultation: Prominence and Accessibility on Connected TV Platforms, p. 26.

⁴ Ofcom, Consultation: Prominence and Accessibility on Connected TV Platforms, p. 27.

⁵ Ofcom, Consultation: Prominence and Accessibility on Connected TV Platforms, p. 34.

- Ofcom proposes that all six PSB apps should be immediately visible in each app menu - without any user action - within the top nine positions (with variations for regionalised RTSS). We are broadly supportive of this approach and consider that the minimum thresholds for app placement are reasonable.
- Nonetheless, we wish to emphasise several points that are fundamental to ensuring the recommendations are effective. Firstly, app visibility without user action is essential. If users are required scroll or navigate to sub-menus in order to see PSB apps, the intent of this aspect of the Code is totally undermined. It is also crucial that this requirement applies consistently across every app menu in the UI (whether that is an app rail on the homepage or on a separate page of the UI which presents apps).
- Ofcom’s draft Code proposals would appear to guarantee these conditions. However, to ensure total clarity and to help guide negotiations between PSBs and RTSS providers, we consider that the draft Code would benefit from including practical examples of how the recommended actions would apply in different scenarios. For instance, if an app menu displays only six visible slots, the six PSB apps should occupy all of those slots. It would also be beneficial to make clear that PSB apps should be prominent in line with the recommended actions, regardless of whether or not the user is signed in.
- Additionally, we would welcome clarity on how the recommended action applies where an app menu has fewer than six visible slots. In such cases, we assume that the RTSS would be required to make an additional slot available in order to be compliant. As Ofcom notes, “the total number of apps visible on the homepage row without scrolling varied significantly across TSS”, and while most display at least six, this is not universal or guaranteed.⁶

Ofcom’s proposal for non-contiguous app ordering may help to drive viewing and awareness of PSB apps

- We are supportive of Ofcom’s recommendation for the order of PSB apps to follow the same order of their corresponding PSB channels as set out in the EPG Code (depending on regionalisation and audience location). This reflects current practice and we agree with Ofcom that it would be in line with audience expectations.
- We also support Ofcom’s recommendation that PSB apps should not be required to appear in contiguous order. Although placing PSB apps together might seem the more intuitive approach to securing appropriate prominence, mirroring the EPG Code, we recognise that allowing non-contiguous ordering may, in practice, encourage platforms to position PSB apps alongside other high-use IPS (such as major global SVoDs), which may in turn help drive their overall visibility and usage.

Ofcom should introduce safeguards to prevent RTSS providers from prompting users to rearrange app placement

- Ofcom’s recommended actions do not prevent users from choosing the order of apps (including PSB apps) within each app menu. This is a departure from, and lessening of, the prominence protections that PSBs receive under the EPG Code – which requires PSB channels to occupy fixed slots that cannot be altered by users. Whilst some individual users may prefer to rearrange their apps to suit their own preferences, Ofcom must carefully weigh up the individual value that this offers to some against the impact of lessening of prominence protections for UK PSM and the value that these protections deliver to UK society.

⁶ Ofcom, Consultation: Prominence and Accessibility on Connected TV Platforms, p. 28.

- If Ofcom’s final determination is that it is not in UK audiences’ interests to ensure PSB apps remain visible regardless of individual preferences, then Ofcom must adopt firm measures to safeguard against RTSS providers exploiting this flexibility.
- RTSS providers have a clear commercial incentive to steer users toward app configurations that favour their own or other global services. It is therefore critical that any changes to app ordering are initiated *solely* by the user, with the available options for app ordering determined only by them. It would not be appropriate for RTSS providers to prompt users to “opt in” to dynamic app placement or to present pre-defined alternative app menu order options which result in PSB apps not appearing in the top nine positions. We are concerned that Ofcom’s consultation wording - that its “proposed recommendation would also allow RTSS to offer users the option to customise their app menu”- could leave room for RTSS providers to undertake such practices and still claim that they are following the recommended actions in Ofcom’s Code with regard to PSB app prominence.⁷
- If app re-ordering by users is permitted, Ofcom’s code should include a specific recommended action to secure that this can only be initiated exclusively by the user. The code should also make clear that PSBs must receive treatment no less favourable than other services - for example, it would be unacceptable for PSB apps to be movable while major SVoDs such as Netflix remain fixed.

Ofcom must make clear that default PSB app order should still apply when the regime begins, even for users who have previously reordered their apps

- Finally, Ofcom notes that the proposed actions would apply only to the default order of apps. We would welcome clarification in the code that, where a user has previously rearranged the order of their apps, the recommended default order should nonetheless apply at the point that the regime takes effect. The user would remain free to reorder their apps again should they wish.

Ofcom should specify that PSB apps require equal presentation relative to other IPS apps

- Ofcom proposes that PSB apps should be presented in a “similar” manner to other IPS apps in terms of shape, size, form, contrast and highlighting etc. We are concerned that this wording is too vague and subjective, giving RTSS providers broad discretion to interpret “similar” presentation in ways that may disadvantage PSB apps. It also creates a potential loophole whereby RTSS providers could claim compliance through nominally similar presentation that, in practice, reduces the appeal or visibility of PSB apps and may mean audiences are less likely to engage with them.
- We therefore consider that Ofcom should require equivalent presentation - meaning that PSB app tiles must match other IPS tiles in terms of the factors listed above. This would provide clearer expectations for all parties and ensure that PSB apps are presented in a way that makes them equally as visually engaging as other IPS.

⁷ Ofcom, Consultation: Prominence and Accessibility on Connected TV Platforms, p. 36.

Question 3: Do you agree with our proposals on primary content areas, and our assessment of their associated impacts? Please provide your reasoning, and if possible, any supporting evidence.

- Prominence for PSB content outside of apps is increasingly important, but faces threats from UI monetisation and algorithmic content selection
- Channel 4 supports Ofcom’s overarching principle that PSB content should be no less prominent than non-PSB content overall, but Ofcom needs to adopt more specific and robust recommended actions to ensure this principle is delivered.
- Ofcom must take a much more robust and specific approach to ensure that RTSS providers can be held to account for delivering prominence in dynamic and constantly changing content environments:
 - Ofcom should add new recommended actions for RTSS to actively track and monitor levels of prominence across the user interface, to share this data with Ofcom annually, and to contractually agree regular sharing of prominence compliance data with PSBs.
 - Ofcom should establish a clear principle that if an RTSS provider cannot provide data / evidence showing that prominence is being delivered, Ofcom will assume that the RTSS is not compliant with its prominence duties.
 - Ofcom’s Code should list examples of the types of data and information it would expect to see from RTSS providers to fulfil the recommended actions noted above.
- Ofcom must introduce minimum, data-measurable prominence guarantees for every PSB to ensure fair allocation of PSB slots across the UI.
- Ofcom’s broad definition of primary content areas gives RTSS providers excessive discretion to steer PSB content into areas of the UI that users engage with less.
- Ofcom must require RTSS to give PSBs editorial control over the programmes that appear in primary content areas, so that they can ensure that surfaced content supports remit delivery.

Prominence for PSB content outside of apps is increasingly important, but faces threats from UI monetisation and algorithmic content selection

- Whilst app prominence is the most important form of prominence, prominence in primary content areas is also critical for the future sustainability of PSM – particularly as more platforms are shifting towards a more content-led rather than app-led experience. *[Text redacted – commercially sensitive]*
- RTSS providers have strong commercial incentives to monetise the ‘primary content areas’ of their user interfaces. This may mean preferencing content that is exclusive to their own platforms, promoting pay-to-view content, and/or increasing the amount of paid marketing or advertising displayed on a user interface. These incentives place increasing constraints on the amount of space that PSBs are allowed to occupy.
- Personalisation and algorithmic recommendations are also becoming more important in determining the content displayed in primary content areas. This creates risks to the prominence of PSB. If a user happens to view more content from non-PSB content providers, they will be fed more of that content and less content from PSBs. In this scenario the lack of prominence given to PSB content then leads to further declines in viewing, creating a negative cycle.

- In this context, strong protections for PSB content within primary content areas are critical and likely to become more important over time.

Ofcom has established reasonable overarching principles – but must adopt stronger and clearer recommended actions for RTSS to support this

- To secure PSB prominence in disaggregated ‘primary content areas’ of the user interface, Ofcom has proposed that:
 - RTSS providers should give public service content (taken together) a degree of prominence across the primary content areas (taken together) that is no less than the degree of prominence given to other content (taken together), in terms of the following factors (taken together): the number of programmes presented in the primary content areas; the length of time for which they are presented; their positions; the times of day they are presented; the manner of presentation (e.g. size of content tiles); and any other factor which is relevant to giving prominence.*
 - RTSS providers may give a different degree of prominence to the public service content in each DIPS, in which case they should have regard to the order of DIPS set out in the app menus recommendation.*
 - Users should be able easily to access public service content from the primary content areas in which that content is presented.*
- We support Ofcom’s broad proposal that PSB content (taken together) should be no less prominent than non-PSB content (taken together). This is helpful as an objective benchmark which represents a de facto prioritisation of PSBs over non-PSBs, given that there are fewer PSBs than there are non-PSBs. We also support that this is an outcome-led approach that applies regardless of whether disaggregated content selections are determined editorially, or via algorithms. It can apply to different UI designs and can remain in place as a guiding principle for the future.
- However, whilst the broad principle is appropriate, Ofcom must adopt more robust and specific recommended actions in its Prominence Code to ensure that the principle is followed in practice and that the Code can operate as a practical guide for PSBs and RTSS providers in commercial negotiations.
- The Media Act established an inherently flexible model for the Prominence Code itself: whilst RTSS providers are assured of compliance with their statutory duties if they follow the recommended actions in Ofcom’s Code, they are not legally required to follow Ofcom’s recommended actions provided that they can demonstrate they have taken alternative steps to secure PSB prominence.
- Given that the legal framework automatically provides RTSS providers with flexibility, we believe there is scope for Ofcom to be considerably more specific and detailed in the recommended actions it suggests for RTSS. This will benefit both PSBs and RTSS: more specificity will make the Code more useful in practice as a guide for commercial negotiations, and it will give RTSS providers more legal certainty about the practical steps they need to take to ensure compliance with their prominence duties.

Ofcom must take stronger measures to secure transparency from RTSS providers so that they can be held to account for delivering prominence

- Whilst we agree that Ofcom’s overarching principle for prominence in primary content areas – that PSBs taken together should be no less prominent than non-PSBs taken together – is reasonable, Ofcom’s consultation sets out very little detail about how compliance with this

principle will be measured to ensure that RTSS are held to account. Without transparent reporting and data sharing by RTSS providers to demonstrate prominence levels, there cannot be effective regulatory oversight and the new regime will not secure the intended policy goals.

- Ofcom’s proposals give almost total discretion to RTSS providers to decide how, and even whether, they monitor their own compliance with this principle. Ofcom states that RTSS providers should have discretion over whether prominence across primary content areas is achieved through “measuring and monitoring each factor”, or “by implementing principles and processes that ensure the intended outcome by default.” Ofcom also states that it “would advise providers to keep records to ensure they can demonstrate compliance” and that “RTSS providers should...decide on an appropriate period over which they measure prominence”.⁸
- Ofcom must take a much more robust and specific approach to ensure that RTSS providers can be held to account for delivering prominence in dynamic and constantly changing content environments:
 - I. Ofcom should add new recommended actions for RTSS to actively track and monitor levels of prominence across the user interface, to share this data with Ofcom annually, and to contractually agree regular sharing of prominence compliance data with PSBs.
 - II. Ofcom should establish a clear principle that if an RTSS provider cannot provide data / evidence showing that prominence is being delivered, Ofcom will assume that the RTSS is not compliant with its prominence duties. This is particularly crucial where an RTSS provider has chosen not to follow a recommended action but is delivering prominence via alternative means. Failure to provide compelling evidence that this alternative approach offers equivalent prominence to Ofcom’s recommended action should be automatically deemed in breach of the statutory prominence duties.
 - III. Ofcom’s Code should list examples of the types of data and information it would expect to see from RTSS providers to fulfil the recommended actions noted above. Whilst there may not be universal forms of reporting that can apply to all RTSS given differing technical functionalities and UI designs across the full range of RTSS, we believe that listing examples in Ofcom’s Code would helpfully set expectations about what RTSS would normally be expected to provide:
 - PSB apps content slots / deep-links⁹ as a percentage of all content slots / deep-links on the UI. Given Ofcom’s overarching principle that PSBs collectively should be no less prominent than non-PSBs, we would expect to see a minimum of 50% of slots / deep-links for PSBs taken together, and minimum shares for each individual PSB in line with table 2 below.
 - PSB app content impressions as a percentage of total content impressions on the UI. This is crucial as it demonstrates both how often our content appears and how visible it is to users across both editorial and algorithmic areas, as well as taking into account the time of day and length of time that PSB content is shown.
 - Performance data for PSB content split by area of UI – i.e. allowing PSBs to compare engagement via different UI features
 - Transparency regarding the principles behind RTSS recommendation algorithms, and advance notice when there are material changes to how these algorithms operate;

⁸ Para 3.119 / p.44

⁹ By ‘deep-links’ we mean entry points from the RTSS UI into a PSB app. These may be disaggregated content tiles, or a slot on a linear EPG (see response to Q5 below).

- Data tracking placement of app row tiles, including the percentage of users that have manually chosen to move PSB app tiles if this ability is offered to users.

Ofcom must establish minimum backstop protections to secure the prominence of each individual PSB

- We are concerned that Ofcom is not proposing any safeguards for how prominence is allocated between PSBs. This risks allowing RTSS to give an unduly large amount of prominence to the largest UK-wide PSBs, the BBC and ITV, at the expense of mid-sized and smaller PSBs.
- RTSS providers have a natural commercial incentive to prioritise the BBC and ITV over C4 and other smaller PSBs when making carriage deals because of their larger share of viewing. On Sky, for example, BBC content appears more visibly than our own – which leads us to believe they have a larger prominence commitment from Sky, and that their commitment includes terms about content tile placement as well as the overall proportion of tile slots. Most platforms typically negotiate with the BBC and ITV (and global players) ahead of Channel 4 which disadvantages us and leaves us negotiating for a smaller number of slots. *[Text redacted – commercially sensitive]*
- We are not challenging the premise that it is reasonable for larger PSBs to receive a higher degree of prominence, as this is in line with audience expectations and the precedent of the EPG Code. However, the commercial tendency of platforms to favour the largest PSBs must be addressed in Ofcom’s approach to securing PSB prominence across disaggregated content areas. It is essential that each PSB should receive a minimum baseline prominence guarantee, which is measurable via the data provision that we set out above, to ensure that regulation continues to support a plurality of PSM provision, with a rich diversity of content from different PSB providers.
- *[Text redacted – commercially sensitive]*
- The agreement that PSBs jointly have within the Freely platform provides a useful benchmark for considering appropriate backstop protections for each PSB. Under this agreement, PSBs have agreed minimum proportions of slots on the UI, but there is also a significant number of unallocated UI slots that can be allocated between PSBs. This approach gives appropriate backstop guarantees to ensure each PSB has a reasonable share of UI slots, whilst still allowing appropriate flexibility and recognising that the dynamic nature of disaggregated content areas.
- Ofcom should adopt a similar approach and include a recommended action in the Code for RTSS to secure that each PSB has a minimum proportion of the disaggregated content slots / deep-links across the UI. In order to comply with this recommended action, an RTSS would have to maintain that minimum proportion for each individual PSB regardless of whether an individual PSB’s viewing declines. Moreover, the minimum proportion of slots must be delivered regardless of whether or not a user has signed in to PSB apps.
- We suggest the following minimum guaranteed proportions, which also leave a significant proportion of unallocated PSB slots / deep-links. These proportions align with Ofcom’s overarching principle that PSBs collectively should be at least as prominent as non-PSBs (giving PSBs overall a minimum of 50% of primary content areas).¹⁰

¹⁰ This table would apply to UK-wide RTSS; regionalised RTSS could adopt different approaches to reflect the differing status of S4C and STV in different UK nations.

Table 2: suggested minimum allocations of slots / deep-links for each PSB on UK-wide RTSS

	% of UI slots / deep-links
Non-PSBs (taken together)	50%
PSBs (taken together) - of which:	50%
BBC	7.5%
ITV	7.5%
C4	7.5%
C5	7.5%
S4C	4.0%
STV	4.0%
Unallocated PSB:	12%

- We agree with Ofcom that it would not be reasonable to set “prescriptive thresholds” for each and every factor that determines the placement of content across dynamic and ever-changing UI environments.¹¹ However, we believe it is feasible to apply broad minimum thresholds as set out above. These retain significant flexibility as they would apply across the RTSS UI as a whole, not to specific areas. There is also flexibility built into the threshold levels we have suggested: RTSS would retain 50% of primary content areas to allocate freely to non-PSB content, and we have also suggested that a substantial portion of slots or deep-links could be allocated flexibly across PSBs. As such we do not believe that our proposed thresholds would disproportionately restrict RTSS providers’ ability to differentiate and innovate their services.
- In any case, as set out above, the fact that the Prominence Code is based on a “safe harbour” approach means that none of the recommended actions in the Code are in themselves legal requirements on RTSS. It would always be open to an RTSS provider not to follow Ofcom’s recommended actions, provided they can satisfy Ofcom (using data / appropriate metrics) that they have provided an equivalent alternative form of prominence.

Ofcom’s proposals give RTSS too much discretion to determine which parts of the user interface constitute ‘primary content areas’

- Ofcom defines primary content areas as comprising:
 - i. The “primary promotional area”, which is the primary area of the UI where at any one time an individual programme, film or series is presented or promoted to users. The main example of this is the ‘hero banner’.
 - ii. The parts of the disaggregated content area(s) that users engage with the most. Ofcom proposes that RTSS providers themselves “should identify which parts of their disaggregated content area or areas meet this definition”.
- This gives RTSS providers a huge amount of flexibility for how to achieve the overarching recommended action for the “same degree of prominence” across primary content areas. This flexibility creates a risk that RTSS providers would be able to exclude certain disaggregated content areas from the definition of ‘primary content areas’ – for example, by designating one area of the UI as a ‘paid area’ – and still be considered compliant with this recommended action.
- There is also a risk that RTSS will use this flexibility to argue that certain areas of their UI are more beneficial to PSB content where we may not agree. *[Text redacted – commercially sensitive]*

¹¹ Ofcom consultation, paragraph 3.144.

- These risks can only be addressed through additional measures in Ofcom’s Code regarding the data and information that RTSS providers share with PSBs and with Ofcom, as we set out above. This should include data on user engagement with different UI features, and impressions data, as evidence to support the RTSS provider’s identification of which parts of the UI are the “areas that users engage with the most”, and hence must be included within the definition of the “primary content areas” in which PSBs must be given appropriate prominence.
- Ofcom must also set a clear expectation that primary promotional areas should be included in the scope of the prominence given to PSBs across primary content areas, unless an RTSS provider can clearly demonstrate that it is providing a higher degree of prominence in other primary content areas to compensate for the exclusion of primary promotional areas. Ofcom’s current proposal that RTSS providers do not need to give PSBs prominence within primary promotional areas “if they do not wish to do so” fails to recognise the importance of hero banners for maintaining audience awareness of PSB content and brands. This awareness is critical for driving viewing levels [*Text redacted – commercially sensitive*].
- Ofcom also proposes to exclude disaggregated content areas which enable users to continue watching programmes they have already started watching, or programmes they have actively saved (such as ‘continue watching’ or ‘my list’). We are content with this element of Ofcom’s approach, as we agree audiences would be expecting those elements of a UI to naturally reflect their organic behaviour on the platform and their choice of content.

Ofcom’s Code should recognise the need for PSBs to have editorial control over the content shown in primary content areas

- We have seen platforms move away from allowing editorial curations in favour of more algorithmic personalisation and paid-for content. C4 used to have a pop up ‘preview row’ of content on Samsung TVs when users hovered over the C4 app tile; we had editorial control over the shows that appeared in this row. However, this feature was removed from subsequent Samsung TVs. Some RTSS, such as Google TV, are almost entirely driven by personalisation algorithms, about which we have no information or data.
- It is crucial that PSBs have the right to shape their contribution to the mix of content that is displayed via RTSS. Ensuring that a sufficient range of content is being shown to all audiences is important for our remit delivery. Commercial PSBs also need the opportunity to commercially optimise content selection, drawing on our own data about content performance, to help drive viewing and revenues.
- Ofcom should therefore adopt a new recommended action in its Prominence Code stating that RTSS providers should make arrangements to allow PSBs to have editorial discretion over the content from their own services that is shown in disaggregated content areas across the UI. This editorial discretion should apply broadly across the UI: an RTSS should not be considered in compliance with the recommended action if it merely offered PSBs a limited, separate ‘editorial area’ of the UI but gave us no discretion over the selection of content throughout the majority of the UI.
- Securing editorial control for PSBs is not incompatible with personalised and automated recommendation systems: it would be possible for a largely personalised RTSS to meet this recommended action by allowing PSBs to select specific examples of content from their own services which should be picked up or prioritised by recommendation algorithms and shown to users where relevant. This reflects existing practice with certain TV platform partners, with whom we have long-established editorial relationships; but in other cases, we have no say over which content is displayed to audiences.

- PSBs may not need to exercise this discretion in all instances: if an RTSS is providing sufficient data to show that its automated curation of content is driving appropriate engagement to the full range of content made available by a PSB, then active PSB editorial input may be less necessary. But it is essential that PSBs have the right to exercise editorial judgement over the content mix shown to audiences and optimise this for remit delivery and viewing growth.

Question 4: Do you agree with our proposals on search, and our assessment of their associated impacts? Please provide your reasoning, and if possible, any supporting evidence.

- Channel 4 supports Ofcom’s position that the most relevant public service content should receive the highest degree of prominence, including ahead of sponsored or platform-owned content.
- However, Ofcom should go further: where public service and non-public service content are similarly relevant, public service content should still be prioritised to safeguard visibility.
- Allowing search results to take account of users’ past behaviour risks creating a vicious cycle that narrows exposure to public service content.
- Public service content should also be surfaced ahead of “free-to-me” results where the same programme is available across multiple services.
- We question the broad discretion given to RTSS providers to define “relevance” and determine how to deliver appropriate prominence in search; stronger transparency requirements are essential to ensure RTSS can demonstrate compliance to Ofcom and PSBs.

We welcome Ofcom’s position that public service content should receive the highest level of prominence whenever it is the most relevant result

- Ofcom’s research indicates that while search is a relatively less frequently used feature within TSS, overall usage remains significant.¹² It reports that more than half of online adults and teenagers aged 13+ use text search at least weekly, with 22% using voice search.¹³ This aligns with research commissioned by Channel 4, the BBC and Channel 5, which found that 69% of UK adults aged 16+ use text or voice search each week.¹⁴ It is therefore clear that search represents an important route through which audiences discover content, and we agree with Ofcom that the objectives of the Code may not be achieved if public service content is not made prominent within search. Ofcom’s analysis further shows that TSS can display sponsored results and may prioritise their own content, reinforcing the need for regulatory intervention to ensure that public service content is not disadvantaged.¹⁵
- We firmly support Ofcom’s proposal that where public service content is the most relevant search result, it should benefit from the highest level of prominence, including through the number and positioning of programmes within search results. We also welcome the clarification that this requirement applies to - though is not limited to - sponsored and platform-owned content.

Ofcom must ensure that PSB content is also given greater prominence where public service and non-public service content are similarly relevant

- However, we are less supportive of Ofcom’s current position that where public service and non-public service content are similarly relevant, they should receive a similar degree of

¹² Ofcom, Consultation: Prominence and Accessibility on Connected TV Platforms, p. 27.

¹³ Ofcom, Consultation: Prominence and Accessibility on Connected TV Platforms, p. 26.

¹⁴ MTM ‘PSB UI prominence research’ (August 2023) in collaboration with BBC, Channel 4 and Paramount.

¹⁵ Ofcom, Consultation: Prominence and Accessibility on Connected TV Platforms, p. 49.

prominence. We consider that Ofcom should go further. In circumstances where public service and non-public service content are of similar relevance, public service content should be given *greater* prominence rather than merely similar prominence. This would ensure clarity for all parties, particularly as it is not clear to us how multiple pieces of content can, in practice, have “similar” prominence when search inherently requires content to be ranked. More importantly, this approach would provide stronger safeguards for the visibility of public service content and more effectively support the intended outcomes of the Code, while still allowing users to access a wide range of non-public service results.

- Ofcom notes that it considered this approach but concluded that it could “potentially result in a negative user experience, reducing the effectiveness of search as a content discovery tool and causing frustration for viewers”.¹⁶ It is not clear why this would be the case, given that the recommended action would not require public service content to be prioritised when it is less relevant - only when it is of equal or similar relevance. In such circumstances, prioritising public service content should not diminish user experience; rather, it would ensure that users are appropriately exposed to public service content that meets the terms of their search.

Ofcom should require RTSS to surface public service content before “free to me” alternatives, to support PSB remit delivery

- Ofcom’s analysis indicates that some TSS also factor in whether a user has a subscription to a service - or whether the service is free - when ranking results. In Channel 4’s experience, certain TSS prioritise content from subscription streaming services in search results, even where the same programme is available free-of-charge on our app. For example, a search for the Channel 4 original drama *It’s a Sin* on Amazon Fire TV surfaces a result on Disney+, despite the programme being available on Channel 4 Streaming (see figure 1 below).

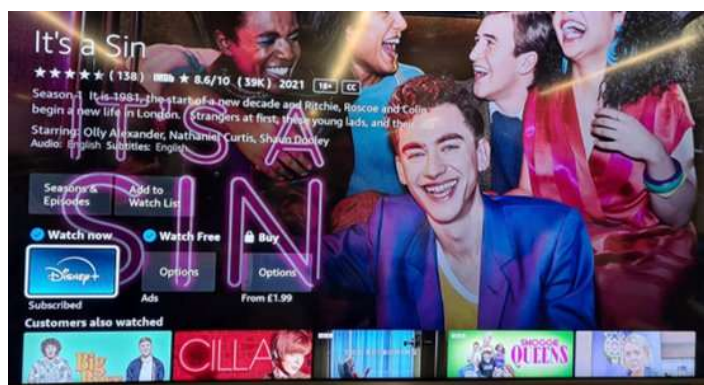


Figure 1: Screen shot of Amazon Fire TV UI

- This practice reduces audiences’ awareness of the breadth of high-quality public service content available to them free of charge and ultimately makes it more challenging for PSBs to deliver their remits. Ofcom should therefore address this gap in the Code by specifying that public service content must always be surfaced ahead of “free-to-me” results where the same content is available across multiple services - including free SVoD services or services to which a user already subscribes.

¹⁶ Ofcom, Consultation: Prominence and Accessibility on Connected TV Platforms, p. 53.

Ofcom must introduce transparency measures to hold RTSS providers to account for interpreting relevance fairly, and for delivering appropriate prominence for PSB content in search

- We also have concerns about the extent to which Ofcom will be able to hold RTSS providers to account for delivering the search-related recommended actions. Ofcom notes that “it would be for RTSS providers to decide how best to determine relevance, given the information and systems they have in place”.¹⁷ However, the recommended actions provide little guidance on how relevance should be determined or how Ofcom and PSBs could monitor RTSS’ compliance. We consider that greater clarity would be welcome for all parties, particularly given the inherently subjective nature of “relevance”: while this may be straightforward for searches for a specific programme, it is far less so for broader searches such as for “comedy” or “news”.
- Furthermore, Action A3.4 indicates that RTSS may take account of a user’s past behaviour when determining relevance. This underplays the significant influence of algorithmically driven search results and risks creating a self-reinforcing cycle in which users who frequently search for non-public service content are, as a result, infrequently or never served PSB content. Such an approach undermines the intention of the Code by failing to secure meaningful prominence and discoverability for public service content, and it is not in the interest of audiences, who are less likely to “stumble upon” relevant PSB content that is of interest to them.
- Ofcom also states that it is for RTSS providers to “determine how to provide the appropriate degree of prominence in practice”, taking in to account a number of factors - such as the number and position of programmes in search results - that RTSS providers should “have regard to”. As noted above, at a practical level it is unclear how multiple pieces of content could be given “similar levels of prominence”. More fundamentally, this approach affords RTSS providers excessive discretion in determining what constitutes appropriate prominence and, without corresponding transparency obligations, risks making this aspect of the Code unenforceable.
- Overall, we consider that Ofcom affords RTSS providers too much discretion in how they interpret key terms and evidence compliance. Ofcom should require RTSS providers to be transparent with both Ofcom and PSBs about how their search functionality operates and the factors used to determine relevance. RTSS providers should also be required to collect and share the data necessary to monitor - and demonstrate to Ofcom - that they are meeting the requirement to give public service content appropriate prominence in search results.

¹⁷ Ofcom, Consultation: Prominence and Accessibility on Connected TV Platforms, p. 50.

Question 5: Do you agree with our proposals on listed channels, and our assessment of their associated impacts? Please provide your reasoning, and if possible, any supporting evidence.

- Channel 4 supports the proposal for listed channels to receive prominence in live TV areas of an RTSS
- Guidance should include a requirement for RTSS providers to ensure the live TV area is appropriately prominent
- We do not agree with users being able to change the ordering of listed channels
- It is vital that both the Code of Practice and the Agreement Objective Guidance make clear that PSBs have sole discretion over the distribution mechanism of their listed channels on RTSS

Channel 4 supports the proposal for listed channels to receive prominence in live TV areas of an RTSS

- We agree that our listed channel, Channel 4, should be positioned in slot four in all areas where live TV is displayed, including features such as IP TV guides and 'On Now' rails. If the RTSS is regionalised, we agree with the proposal for Channel 4 to be no lower than slot eight. Both proposals are aligned with the EPG Code which we agree provides appropriate prominence.

Guidance should include a requirement for RTSS providers to ensure the live TV area is appropriately prominent

- Where RTSS do have a live TV area (the majority of RTSS do), the guidance should include a recommended action for the platforms to provide appropriate prominence to this area.
- We are not suggesting that platforms must necessarily alter how they are designed. Rather, in order to comply with this recommended action, an RTSS provider would have to evidence how they are supporting appropriate prominence for live TV areas given our listed channels are a core element of remit delivery and sustainability.

We do not agree with users being able to change the ordering of listed channels

- This is misaligned with existing EPG regulation which does not allow for channel re-ordering. We have seen no evidence to explain why introducing a new ability for users to re-order channels is more important than the need to secure linear channel prominence. Unlike app menus, which users are accustomed to being able to re-order, users are familiar with the fixed ordering of linear channels within EPGs and so there is no case for undermining prominence protections within this context.
- Additionally, this proposal opens the possibility for platforms to personalise channel ordering based on user engagement, which is in platforms' commercial interest. Ofcom should remove A4.7 the option for users to decide the order of listed channels in live TV areas.

It is vital that both the Code of Practice and the Agreement Objective Guidance make clear that PSBs have sole discretion over the distribution mechanism of their listed channels on RTSS

- There are two main mechanisms for distribution of IP linear channels, native feed integration and deep-linking. On Freely, we supply a native feed integration as this is fundamental to the

commercial viability of a joint PSB platform and enables long term investment in Freely.¹⁸ On other platforms, *[text redacted – commercially sensitive]*, we supply a deep-link feed to our IP linear channels (users clicking on the channel are directed to our app for playback). *[Text redacted – commercially sensitive]*

- Platforms may argue that deep-linking to IP linear streams provides a sub-optimal experience for audiences and audiences benefit to have direct access to native streams, similar to their prior experience of DTT. However, this is not a fair statement – the vast majority of platforms already deep-link to our app and content which audiences are familiar with and benefit from. Deep-linking to our IP listed channel is the same mechanism and provides convenience and value to audiences. *[Text redacted – commercially sensitive]*
- Some platforms want access to our native IP feed integrations (outside of Freely) as there are huge monetisation opportunities, however this would entail a significant value transfer from PSBs to platforms which would undermine our sustainability. Platforms want access to the first party data and insights that can be extracted from native feed IP linear viewing to support monetisation of their platforms and enhance their ad services offerings. If PSBs transfer the value of native integration feeds to platforms, it critically undermines our sustainability as we are competing with platforms to effectively monetise the channels in which we take the investment and risk, and which are a core part of delivering our remit.
- Ofcom must include in the Code of Practice that it is the PSB’s decision on how to distribute their listed channel. The Agreement Objectives Guidance should include the distribution of listed channels as a core term, with standard delivery via deep-link. If platforms want access to native feed integration, they have the optionality to enter into commercial negotiation with Freely.
- If Ofcom does not provide guidance on the method of distribution of listed channels, the likely outcome is that platforms will seek to negotiate for access to native feed integrations and then raise a dispute with Ofcom when PSBs do not agree to provide our listed channels in this manner. *[Text redacted – commercially sensitive]*

Question 6: Do you agree with our proposals on attribution, and our assessment of their associated impacts? Please provide your reasoning, and if possible, any supporting evidence.

- Channel 4 supports the requirement for PSB content to be attributed as clearly as non-PSB content
- RTSS should be required to only use metadata sources that are contractually agreed with PSBs

Channel 4 supports the requirement for PSB content to be attributed as clearly as non-PSB content

- Attribution is critically important for audiences recognising PSB content and supporting brand visibility. The proposal for PSB content to be attributed as clearly as non-PSB content is welcome. Attribution ensures that audiences are aware of PSB content and are more likely to value and engage with that content going forward.

RTSS should be required to only use metadata sources that are contractually agreed with PSBs

¹⁸ *[Text redacted – commercially sensitive]*

- PSBs typically offer both direct metadata feed integrations and/or allow platforms to combine our metadata with authorised third-party sources, such as Gracenote. Ofcom Guidance should specify that any metadata source used to attribute PSB content should be contractually agreed. This restriction is important as there must be guardrails as to which PSB metadata can be used by an RTSS and for what purposes.
- Metadata is significantly valuable to platforms as it underpins their search and algorithmic logic and there are commercial incentives for platforms to sell and mix our metadata with third party sources. Ensuring only contractually agreed metadata sources can be used to attribute PSB content will ensure our branding is protected and there is no inappropriate content in the images used.

Questions 7-13:

7. Do you agree with our proposal on alternatives to visual information, and our assessment of its associated impacts? Please provide your reasoning, and if possible, any supporting evidence.
8. Do you agree with our proposal on text and image enlargement, and our assessment of its associated impacts? Please provide your reasoning, and if possible, any supporting evidence.
9. Do you agree with our proposal on distinguishable text and images, and our assessment of its associated impacts? Please provide your reasoning, and if possible, any supporting evidence.
10. Do you agree with our proposal on information on accessibility features, and our assessment of its associated impacts? Please provide your reasoning, and if possible, any supporting evidence.
11. Do you agree with our proposal on labelling of accessible content, and our assessment of its associated impacts? Please provide your reasoning, and if possible, any supporting evidence.
12. Do you agree with our proposal on enabling use of the available accessibility features, and our assessment of its associated impacts? Please provide your reasoning, and if possible, any supporting evidence.
13. Do you have any views or evidence on the effectiveness or impact of any other actions in relation to making use of the RTSS and finding/making use of accessible programming? Please provide your reasoning, and if possible, any supporting evidence.

- Channel 4 supports Ofcom’s proposals, which we agree will enhance the user experience for disabled people
- We remain firmly committed to improving the accessibility of our programmes and services across all platforms
- We anticipate that Channel 4 Streaming will shortly have new obligations under Part 4A of the Media Act to provide access services and clear information about them, and we look forward to engaging with Ofcom’s consultation on these duties
- Channel 4 is committed to supplying high-quality metadata and working collaboratively with industry partners to strengthen metadata sharing and integration, improving the overall experience for disabled users

Channel 4 supports Ofcom’s proposals to ensure disabled people can make use of RTSS and remains strongly committed to improving the accessibility of our programmes and services

- We are strongly supportive of Ofcom’s proposed accessibility-related recommendations, which we consider will help secure the Code’s intended outcome of ensuring that RTSS providers inform users about, and enable them to make use of, assistance for disabled people across the IPS available on their services.
- Channel 4 is firmly committed to accessibility and to working to ensure our programmes and services can be enjoyed by all audiences, regardless of disability or the technology they use. We have worked to ensure that subtitles are now available on all of our on-demand content and have also significantly increased our volume of sign-interpreted programmes available to stream. More than 45% of our streaming catalogue includes audio description, available on enabled platforms, and the forthcoming transformation of our streaming service will see this functionality extended to more devices. This programme will also further strengthen accessibility by investing in accessibility audits and enhancing the user interface and content navigability across our platforms, reducing many digital barriers and supporting more audiences who rely on assistive technologies.
- We recognise that most recommended actions in this area fall on RTSS providers and have therefore focused our comments on those elements most relevant to PSBs. We also note that Part 4A of the Media Act introduces new accessibility obligations for Tier 1 ODPS, which we expect Channel 4 Streaming to be designated as. These forthcoming duties - including providing access services on a proportion of our catalogue and clear information about those services - complement Ofcom’s proposed actions for RTSS providers. We look forward to engaging with Ofcom’s forthcoming consultation on the new ODPS Code.
- Action B2.3 relates to the labelling of accessible content, and we agree that disabled users should be provided with clear and accurate information about the availability of access services before selecting a programme. As Ofcom notes, this requirement depends on RTSS providers having complete and reliable metadata, and there is a risk that gaps in this information could lead to inconsistent labelling. Channel 4 is committed to supplying high-quality metadata to RTSS to mitigate this risk, but challenges can arise when considering the complexities of legacy devices and software applications across audiences. We are working towards ensuring that access service users can rely on accurate, meaningful information about the relevant features and services available to them. Indeed, as noted above, we expect to shortly have a duty to provide this information under Part 4A. We will continue to participate actively in Ofcom’s regular Accessibility Forum sessions and remain committed

to working with the wider industry to improve collaboration, including on metadata sharing and standardisation.

- We also support Action B2.4 on enabling the use of access services and agree with Ofcom that, where access services or other assistance for disabled people have been provided for a programme, interoperability issues between RTSS providers and PSBs should not prevent users from making use of them. We welcome Ofcom’s recognition that the effective delivery of access services depends not only on IPS providers but also on RTSS providers ensuring their software supports these features. This recommendation should strengthen the integration of access services across platforms and ultimately deliver meaningful benefits for disabled users.

Question 14: Do you agree with our proposed draft Guidance, and our assessment of its associated impacts? Please provide your reasoning and, where relevant, any supporting evidence.

Payments

- Channel 4 supports the general principle of no payments for core terms that are reasonably necessary to fulfil our ‘Must Offer’ obligation and enable prominence
- Guidance must be clearer that RTSS pay PSBs for non-standard delivery of our DIPS, such as syndicating content
- We support the proposal for payments to be negotiable for additional terms, including issues such as subscriptions and ad skipping

Enabling and maintaining DIPS

- We support the proposal that DIPS generally bear their own costs for enabling and maintaining the inclusion of our service on a RTSS, but that RTSS should make a contribution towards the reasonable costs incurred by a DIPS provider in the case of significant technical changes
- The guidance should be clear that the standard form of delivery for DIPS is an app
- The guidance should be clear that PSBs should be treated fairly compared to non-PSBs for development and testing of our service

Prominence

- It is vital that both the Code of Practice and the Agreement Objective Guidance make clear that PSBs have sole discretion over the distribution mechanism of their listed channels on RTSS
- We support audience data being an additional term when the carriage deal is standard app delivery
- Guidance should include that when PSB services are not delivered via an app, PSBs must get access to audience data
- Guidance must ensure that product integrations to enable prominence (metadata) cannot be tied to features that don’t enable prominence

- Ofcom’s Guidance on the interpretation of the Agreement Objectives will play a crucial role in shaping all future negotiations between PSBs and RTSS. Many RTSS providers are vast, global tech companies, creating an inherent imbalance of power between RTSS and PSBs. It is critical that Ofcom’s Guidance is framed in this context, and that it is detailed enough to be of practical use to both PSBs and RTSS providers.

- The Agreement Objectives are that:
 - each PSB app is given an appropriate degree of prominence within an RTSS (which includes giving appropriate prominence to the public service remit content and any listed channel included in the PSB app);
 - the arrangements between the providers do not adversely affect the ability of the relevant PSB to fulfil its individual remit (or the BBC's ability to promote its public purposes); and
 - the arrangements do not disproportionately restrict how an RTSS provider may make innovations in the ways that users may select and access IPS or IPS programmes on its service.
- Ofcom sets out three main areas of Guidance to aid how these objectives should be interpreted. These are:
 - 1) Guidance regarding **payments** between PSBs and RTSS
 - 2) Guidance around **enabling and maintaining PSB apps on RTSS**, and
 - 3) Guidance on the terms necessary to enable the delivery of PSB **prominence**.


Payments

We support the general principle of no payments for core terms that are reasonably necessary to fulfil our 'Must Offer' obligation and enable prominence

- Channel 4 strongly agrees with the proposal for no payments for core terms. This broadly reflects what is standard practice in carriage agreements where our app is distributed. We strongly support that the draft guidance rules out payment for inclusion on a platform (i.e. revenue sharing). This is crucial given our 'Must Offer' obligation within this regime, as platforms could seek to leverage that to extract payment to include our service.
- The guidance should clarify that there should be no payments for features that are linked to user watch behaviour, such as 'continue watching' or 'watch lists'. The draft guidance understandably excludes these features from prominence requirements as they are linked to a user's watch history, however it should be clear that RTSS provider cannot demand payment to be included in these features.

Guidance must be clearer that RTSS pay PSBs for non-standard delivery of our DIPS, such as syndicating content

- The draft guidance acknowledges that payments can be made when the DIPS is distributed in a form which is not an app, such as syndicating content. However, the guidance must be clear that when the RTSS provider has requested delivery that is non-standard, there should be a payment value exchange from the RTSS provider to the PSB. This is standard industry practice and reflects that the platform is receiving value from the content being syndicated directly to the platform.
- We disagree that a platform requesting syndicated content is "exceptional circumstances". One of our key platform deals for views and revenue, Sky, includes payment terms for syndication of our content. *[Text redacted – commercially sensitive]*. We supplied syndicated content to Virgin until 2024, and we are aware of Amazon Fire TV exploring syndication of content on their platform.
- While syndication of content is less common than app distribution, the guidance should still be clear that the market norm is for RTSS to provide payment for non-standard delivery of a



PSB app. This is crucial for reflecting existing practice and future-proofing the guidance in the case that more RTSS platforms seek to syndicate content from PSB apps.

We support the proposal for payments to be negotiable for additional terms, including issues such as subscriptions and ad skipping

- Channel 4 agrees that payments should be negotiable for additional terms. This reflects existing market practice where we negotiate bespoke terms for integrations such as C4+ (our ad-lite tier) and ad-skipping.

Enabling and maintaining DIPS

Guidance should be clear that the standard form of delivery for DIPS is an app

- While the draft guidance recognises that “apps [are the] most common for delivering IPS”, we think the statement should be more definitive that distribution via an app is ‘standard’ and anything else is ‘non-standard’.

We support the proposal that DIPS generally bear their own costs for enabling and maintaining the inclusion of our service on a RTSS

- Channel 4 generally bears its own costs for the launch and maintenance of our service on a platform. We agree that is common practice for PSBs and RTSS providers to bear their own costs with respect to the technical steps required for PSB DIPS to be included and maintained on the RTSS. Ofcom is correct to highlight that we often have to customise our service in order to meet the different technical specifications of platforms.
- PSBs typically offer both direct metadata feed integrations and / or allow platforms to combine our metadata with authorised third-party sources, such as Gracenote. The Agreement Objective Guidance should specify that any metadata sources used to enable and maintain DIPS on an RTSS must be contractually agreed. As outlined in response to Q6, metadata is significantly valuable to platforms as it underpins their algorithmic logic and there are commercial incentives for platforms to sell and mix our metadata with third party sources.

We support the principle that RTSS providers should pay PSBs for significant technical changes

- We agree with the guidance highlighting the requirement for RTSS to make a contribution towards the reasonable costs incurred by a PSB in the case of significant technical changes. This reflects common market practice, *[text redacted – commercially sensitive]*.

Guidance should be clear that PSB should be treated fairly compared to non-PSB for development and testing of our service

- The draft guidance states that quality assurance (QA) and testing for inclusion of DIPS and subsequent updates to maintain the service should be completed in a “timely manner”. We think the guidance must go further and make clear that PSBs should be treated fairly compared to non-PSBs with regards to supporting launch and updates.
- Our experience is that while platforms are supportive in including our app onto the platform in time for device launch, subsequent updates can be difficult to secure QA resource. For example, on one major platform we developed support for a ‘continue watching’ feature which is a key route to views, but the feature was placed in the QA pipeline for two months. There should be an obligation on platforms to treat us fairly compared to non-PSBs with regards to the development and maintenance of our service.

Prominence

Guidance must include within the core terms an obligation for RTSS to measure prominence across the UI, share this data with Ofcom annually and contractually agree to share DIPS-specific data

- As outlined in our response to question 3 above, Ofcom must take a robust and specific approach to ensure that RTSS providers can be held to account for delivering prominence. The regime will only be effective if RTSS providers can be held accountable for the prominence they provide and there is regulatory oversight of that evidence.
- The Agreement Objectives guidance must include a core term that RTSS and DIPS should contractually agree sharing of DIPS specific data to ensure the prominence requirements are being fulfilled. This is vital as currently there is no consistency of data received from platforms during business reviews and no reliable method to track how our prominence changes each year. A requirement to contractually agree DIPS performance data will ensure PSBs can accurately track their prominence and support fair commercial negotiations.
- Without this measurement requirement the regime will not be effective. Platform UIs are constantly changing – there must be robust measures to track how that affects PSB prominence and that platforms are fulfilling their statutory duties.

It is vital that both the Code of Practice and the Agreement Objective Guidance make clear that PSBs have sole discretion over the distribution mechanism of their listed channels on RTSS.

- As outlined in our response to Q5, Ofcom must include guidance on the terms for distribution of listed channels. The Code of Practice should recommend that it is the PSB's decision on how to distribute their listed channel. The Agreement Objectives Guidance should include the distribution of listed channels as a core term, with standard delivery via deep-link.
- It is vital that Ofcom provides guidance on listed channels as it is a key area of value for PSBs and impacts both our sustainability and delivery of remit. If we are unable to retain the value of our listed channels, whether via deep-linking or via Freely, this will lead to a significant value transfer to platforms (as set out in our response to Q5). This value transfer would be in conflict with the statutory Agreement Objective to not agree to terms which adversely affect the fulfilment of the PSB remit. Platforms may suggest that not having access to native streams directly via PSBs impacts their ability to innovate, but this is patently not true given they accept deep-links to other forms of content and have the ability to access native streams via a Freely commercial agreement.
- The guidance must be clear that PSBs can offer their listed channel via deep-link as standard. This aligns with current market norms and is the same way that both our app and content is distributed (unless the carriage agreement includes syndication). If platforms want access to non-standard delivery, such as native feed integrations, they can enter commercial negotiations with Freely.
- If Ofcom does not provide Agreement Objective Guidance on the distribution of listed channels, the likely outcome is that RTSS providers will negotiate for access to native feed integrations (outside of Freely) and then attempt to raise a dispute with Ofcom if PSBs do not agree to provide our listed channels in this manner. Hence it is important for Ofcom to issue guidance on this matter, otherwise there will be material delay to audiences accessing linear channels.

We support audience data being an additional term when the carriage deal is standard app delivery

- Channel 4 supports the guidance that audience data is generally an additional term. The majority of our carriage deals are based on app distribution and content which deep-links back to our app which means we retain access to our first-party audience data. Typically, we contractually agree regular business reviews where both the platform and Channel 4 share aggregated data on key metrics (e.g. audience demographics, content performance, routes to view). This distribution arrangement ensures we retain the monetisation value of our audience data and effectively compare our data with platform insights to track remit delivery.
- The draft guidance is appropriate for when distribution is primarily via an app, however when delivery is nonstandard (e.g. syndication) we think the guidance needs to go further.

Guidance should include that when PSB services are not delivered via an app, PSBs must get access to audience data

- Channel 4 thinks that the guidance needs to address that PSBs require audience data when delivery is nonstandard (e.g. syndication of content). In carriage agreements where content is syndicated, the platform has access to the first party audience data as the content is ingested directly on the platform (rather than deep-linked back to our app).
- The guidance needs to include that when content delivery is nonstandard (e.g. syndicated), audience data should be shared with PSBs to ensure a fair value exchange and ensure we can track delivery of our remit. This codifies what is common practice in syndication deals. If Ofcom does not clarify the guidance there is a significant risk that platforms will refuse to share audience data in non-standard delivery contexts as it is an additional term.

Guidance must ensure that product integrations to enable prominence (metadata) cannot be tied to features that do not enable prominence.

- The guidance should be clear that integrations to enable prominence, such as metadata integrations, cannot be contractually tied to features that do not enable prominence. Some platforms we have negotiated with seek to link product features, such as supporting their payment platform, with features that support prominence, such as featuring in key content areas.
- While the draft guidance helpfully distinguishes between core and additional terms, it would be useful to make explicit that prominence enabling integrations should not be made dependent on supporting other features.

Question 15: Do you agree with the assessment of the combined impact of our proposals when considered as a package? Please provide any relevant evidence that supports your position.

- We agree that Ofcom’s proposals will not have a disproportionate impact on RTSS providers
- The extent to which Ofcom’s proposals will contribute to PSBs’ ongoing ability to fulfil their remit is less certain. Ofcom could secure far more certain benefits for PSBs by adopting the recommendations we have made throughout this document

- As we set out throughout this document, there is much to welcome in Ofcom’s approach to designing the Code and Guidance on the Agreement Objectives. However, we are concerned that in certain critical respects the Prominence Code and Agreement Objectives Guidance do

not go as far as they must to deliver the intended outcomes of the regime and secure the positive societal impact of PSM in the long-term.

- An important limitation of Ofcom’s impact assessment is that it mainly considers the impact on PSBs overall, without sufficient consideration of the level of impact for individual PSBs. As we set out above, we are concerned that Ofcom’s proposals regarding prominence in primary content areas could allow RTSS providers to allocate the large majority of PSB prominence to the BBC and ITV, at the expense of smaller PSBs. We would urge Ofcom to give greater consideration to how its proposals will affect individual PSBs given difference in scale, as well as PSBs taken together. This is essential to protect the plurality of different PSBs which is the strength of the UK’s PSM system.
- Given that the regime incorporates a high degree of flexibility, the impact on PSBs and RTSS providers will depend entirely on Ofcom’s readiness to accept disputes for resolution, and to investigate and enforce breaches of the underlying statutory duties. We are concerned that in several key areas, Ofcom’s proposed approach will make it harder for it to take these actions and make the regime effective. Perhaps the most critical of these is the lack of specific requirements regarding data provision and measurement from RTSS. Without this, it will be much harder for PSBs to have clear grounds for bringing a dispute to Ofcom and seeking appropriate remedial action.
- Ofcom is right to note that its proposals would not impose undue burdens on RTSS providers; however, we believe the code and guidance could - and should - go significantly further, with clearer expectations and additional recommended actions that would meaningfully strengthen PSB protections, without unduly increasing the regulatory burden on RTSS providers. Fundamentally, the code and guidance are not directly legally enforceable in themselves: RTSS have the opportunity to adopt different approaches to complying with their statutory duties provided they deliver equivalent outcomes, and that this can be sufficiently evidenced. This automatically limits the scope for disproportionate impacts on RTSS providers.

Question 16: Do you agree that 12 months is a reasonable period for all providers to bring themselves into compliance? Please provide your reasoning, and if possible, any supporting evidence.

- 12 months is a reasonable period given that both RTSS and PSBs may need to make adjustments in order to bring themselves into full compliance

12 months is a reasonable period given that both RTSS and PSBs may need to make adjustments in order to bring themselves into full compliance.

- Channel 4 supports Ofcom’s proposal for a 12-month period for all providers to bring themselves into compliance. It is appropriate to allow this period for both PSBs and RTSS providers to adopt necessary technical changes *[text redacted – commercially sensitive]*.
- We also think that 12 months would be an appropriate time for RTSS providers to bring their services into compliance with the more detailed recommended actions that we have proposed throughout our response to this document: in particular, the critical need to establish robust data provision and reporting mechanisms so that RTSS providers can demonstrate compliance to PSBs and to Ofcom, which we discuss in our answers to questions 3 and question 14.