

Consultation response

Name Withheld for publication 1:

The following points all relate to Ofcom's proposals on app menus and app ordering on open, app-based platforms such as Fire TV, Roku, and Apple TV devices.

I strongly disagree with Ofcom's proposals that PSB apps be gifted positions within the first 9 tiles and that the apps be pre-installed on devices.

I also have strong concerns that Ofcom has seemingly made no mention of the users' right to delete PSB apps if they wish to do so.

The BBC and other PSBs have enjoyed more than a decade of fixing the rules on their own platforms (Youview, then Freesat, then Freeview Play and now Freely) to bag themselves the best positions on app grids to the exclusion and detriment of other UK services.

Ofcom's proposals risk cementing and perpetuating this uncompetitive and monopolistic practice which users have been increasingly rejecting by moving away from traditional EPGs and broadcaster designed interfaces to open platforms.

Forcing the installation and default ordering of apps which a user might not even want is a reversal of the usual 'consumer choice' approach Ofcom takes with pay-TV, mobile and broadband providers.

It also rewards broadcasters who make little effort to ensure their services are attractive to users - Channel 5's app still doesn't stream VOD content in High Definition on several platforms covered by these proposals.

The BBC - purely as a matter of internal policy - withholds Full HD and 4K UHD from the iPlayer app on Apple TV because Apple won't allow it to deploy its usual minimal effort web-based 'app' on the platform and instead requires apps to run locally.

Why should a user have an app which offers a lesser viewing experience forcibly prioritised over one which offers a better experience?

Further, some of the designated TSS' run on devices which have very low levels of onboard storage and mandating the forced installation of unwanted apps reduces the amount of storage available to users for those they do want.



Given that Ofcom's proposals make no reference to users being allowed to delete unwanted PSBs apps (where supported by the TSS operating system), this point is especially salient.

Ofcom's statement on the re-ordering of apps:

"We do not intend to prevent users from doing this, nor do we consider the duty to give appropriate prominence should override a user's active choice as to the apps they want to prioritise."

is deeply concerning as it implies that Ofcom has the right and power, albeit unexercised at this point, not to allow such behaviour on devices which consumers have paid for.

It also opens up the risk that the broadcasters - especially the BBC which is hyper-aggressive in its prominence demands - will lobby for such re-ordering to be banned once the prominence gifted to them fails to halt or even slow their declining share of viewing.

Ofcom should make it absolutely clear that users are the owners and sole controllers of their devices, and that - subject to the platform's native capabilities - they have the full, unchallenged and unchallengeable right to determine which apps are installed on their devices and how they're displayed.

Additionally, Ofcom's insistence on the forced installation and silence on the right to delete is troubling specifically in connection with the BBC iPlayer.

Hundreds of thousands of people opt out of paying the BBC Licence Fee each year.

Forcing the iPlayer onto their devices could make it harder for such viewers to prove their legitimate non-paying status to TV Licensing whose aggressive tactics and questionably worded letters are well documented.

It also risks causing user confusion about whether the default inclusion of iPlayer means they now needs to pay the TV Licence when they otherwise would not.

Instead of Ofcom's forced installation approach, it would be better, more proportionate and more in keeping with consumer choice to require TSS platforms to display a list of popular or suggested apps during the set up process which the user is then free to install or not and to also display the PSB apps prominently within any app store.

Platforms operators should also be free and entitled to make it clear via onscreen messaging that PSB apps can be re-ordered and even removed at a later date should the user wish.