Consultation response form

Professor Catherine Johnson

I am responding in my position as Professor of Media and Communications at the University of Leeds, with over 25 years' experience researching the television industry, policy and audience, including over 6 years studying prominence. I advised the CMS select committee's inquiry into the Media Bill.

There are a number of positives in Ofcom's suggestions for the implementation of the prominence legislation as set out in the Media Act. However, the draft Code of Practice falls far short of the intention of the Media Act - and, indeed, Ofcom's own statements about the need for prominence - in a number of ways. For the Media Act to achieve appropriate prominence for public service broadcasters (PSBs) there need to be a number of amendments to the draft Code of Practice, particularly in relation to the recommendations related to app rails. My response focuses on this aspect of the Code of Practice.

Question	Your response
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.	Confidential? – N The draft Code of Practice is clear on the need for prominence legislation, stating that PSBs 'have played a unique role in the UK's media landscape for decades … [and] provide trusted, accurate news and a diverse range of high-quality programmes that are valued by audiences across the country.' It goes on to note that as 'viewing preferences evolve, it is important that viewers can continue to find and discover public service content easily, so the benefits of public service media are not lost.' (1.1). In responding to this consultation, my focus has been on ensuring that the proposals in the draft Code of Practice will actually work to achieve this objective - ensuring that the benefits of public service media are not lost. I agree with Ofcom's assessment of the 5 areas that need to be covered by the legislation. Ofcom's assessment of the most important parts of the user interface

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	accord with other research in this area, noting that the app rails are most important, but that disaggregated content areas are commonly used and valued, hero banners are important for making viewers aware of content, and search and live TV areas are also important parts of people's discovery journeys (2.11). It is important that the Code of Practice addresses these 5 different areas of the user interface. What is missing here, however, is reference to the importance of the homepage and, in particular, the parts of the homepage that can be seen without scrolling right or down (3.35 mentions that users were more likely to engage with content rows nearer to the top of the UI, see also, for example, Bruun at al, 'Publishing Public Service Media on Demand', Journal of Digital Media and Policy, Jan 2025). There is also plenty of research in user interface design that demonstrates that these are the most important parts of a user interface as they are visible to the viewer without any further interaction. It is unsurprising, therefore, that the two examples of international prominence legislation mentioned by Ofcom specifically focus on the homepage (France and Australia, paragraph 3.47). Ofcom's Code of Practice needs more specific reference to the homepage. Throughout, the draft Code of Practice makes reference to changing viewing habits and uses this as evidence that as viewers move to connected devices they want to spend less time with PSBs (see, for example, 2.3, paragraph 3.14, paragraph 3.17). It cannot be assumed that a change in behaviour (e.g. watching less PSM content on connected devices) stems from a change in preference (e.g. no longer wanting to watch as much PSM content). It is equally likely that PSM content is harder to find on connected devices, so when people start using them they watch less PSM content. This was one of the reasons why prominence legislation for connected devices was introduced. Similarly, people might be buying connected TVs, not because they want to watch online content, but because it is becoming harder to find non-connected TVs in shops. There is clear evidence that for certain audiences, smart TVs are extremely difficult to use

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	(DTG, 'Usability Project', 2025; Johnson et al 'An Audience Studies' Contribution to the Discoverability and Prominence Debate' Convergence, 2024; Johnson et al, 'Default Viewing', Media Culture and Society, 2025). There is also evidence from research I conducted in 2021 with a representative sample of UK adults, that a subset of the audience who particularly enjoy PSM content and services are lower uses of connected TV, choosing instead to watch more linear TV (Johnson et al, 'Ways of Watching', University of Leeds, 2023). Again, prominence legislation was, in part, introduced for these audiences, to make it easier for them to find PSM content and services when switching to connected TV devices. Devising the Code of Practice for prominence on the basis of the behaviour of audiences currently using connected TV platforms is highly problematic. Paragraph 2.3 also states that audiences are exploring a 'broader range of content online', but does not provide evidence for this. Our research showed that while around half of viewers watch a wide range of genres from a wide range of services (including linear and on-demand, PSB and non-PSB), a similar proportion have narrower viewing habits, whether they largely watch linear TV or online (streaming TV and video-sharing platforms) (Johnson et al, Ways of Watching). It is, therefore, problematic to assume that audience viewing is broader when they shift to watching online. Paragraph 2.7 states that connected TV platforms act as intermediaries between content providers and viewers, but it is important to also clearly state that a significant number of them are also content providers. This gives them a built-in incentive not to want prominence legislation that will disadvantage their own commercial services. The draft Code of Practice sets out three principles in paragraph 3.20. The first principle is highly problematic: it introducing doubt into the benefits of public service media. This contradicts multiple other parts of the draft code that clearly set out the benefits of PSM, as well as Ofcom's own PSM reports and a wide range of academic

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	and industry research that clearly states the value of PSM to society, the UK economy and individuals. This statement needs to be removed and replaced by a clear statement of the value of PSM, along the lines of paragraph 2.1. It is also problematic for the principles to include the 'personal audience impact of changes in prominence' as it is unclear how Ofcom will measure and evaluate this, particularly given that viewing figures alone are a poor indicator of audience value and impact. It would be clearer if the principles included a statement of the objectives of prominence legislation, along the lines of paragraph 3.2, that prominence legislation should encourage greater viewing and awareness of public service content on RTSS. Ofcom should also set out how they will measure this and be prepared to strengthen the requirements if there isn't greater viewing and awareness of PSBs and their content after implementation of the Code of Practice. In relation to the second principle, as discussed below, any changes to prominence will not affect the *range* of content that is provided. There are a limited number of slots and as long as these slots are taken by different providers (e.g. different PSBs) then range is provided. The intention of the prominence legislation, as clearly stated by Ofcom elsewhere in the draft Code, is that the *benefits of PSB are prioritised*. This should be emphasised in the principles in paragraph 3.20. The draft Code of Practice claims to have examined a range of evidence, but provides no citations to the wide range of independent academic research in this area (even in Annex 4), and only provides one piece of Ofcom's own research. This makes it impossible to adequately review the evidence base that Ofcom has used to come to its proposals.

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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.	Confidential? – N The draft Code of Practice references Ofcom's own Transmission Critical report, which states that further reforms will be needed (beyond those in the Media Act) to secure the benefits of public service media. Given that, it is startling that the draft Code of Practice is so weak, particularly in relation to the prominence of DIPS in app menus – the areas of the user interface that Ofcom's own research demonstrates is the most important in people's routes to content. Ofcom advocated for 'appropriate prominence' in the Media Act as this would align with existing EPG prominence, which provides PSBs with the top slots that are most visible and used (see, for example, oral evidence by Ofcom to the CMS Select Committee's scrutiny of the Media Bill on 4 July 2023 that advocates for 'appropriate prominence' to ensure that the Media Act is 'consistent with' and has 'equivalence' with the linear broadcast regime). Given this, then the same principle should apply here - the prominence legislation should ensure that PSBs are clearly visible and are placed in the top slots that are most used by audiences. There is no clear justification given for why the draft Code of Practice states that PSB apps should appear within the highest *nine* positions, as opposed to aligning with prominence in the EPG and giving PSB apps the top positions in app rails. How has this number been decided? This number appears to have been selected because it will create no change for the vast majority of RTSS (as stated in the draft Code of Practice). The draft Code of Practice claims that it is taking into account 'the value to UK audiences of having access to a diverse range of services and content' (paragraph 3.17). The implication is that audiences will have access to a diverse range of services and content as long as there are both non-PSB and PSB apps available in the top 9 slots. This argument treats all of the UK PSBs as homogenous, which they are not. They each have different characters, brands, remits and collections of content. One of the

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	unique things about the UK media ecosystem is that we have created competition between a number of different PSB providers to ensure that audiences get access to a diverse range of public service, UK content. requiring the PSBs to be placed in the top 6 slots, rather than the top 9 slots, would in no way reduce people's access to 'a diverse range of services and content'. It may make non-PSB (largely US conglomerate-owned) apps less visible, but it will achieve the intention of the Media Act, which was to ensure that audiences have access to a diverse range of high-quality UK, public service content. User choice is clearly covered by allowing audiences to alter the order of IPS apps in app menus. The draft Code of Practice also expresses concern about decreased prominence of commercial non-PSB apps (3.95). The introduction of prominence legislation was always going to lead to decreased prominence for non-DIPS, given that the whole point of the legislation was to correct the current situation where larger commercial IPS providers are able to buy better slots, or gain better slots because they are owned by the RTSS itself. As Ofcom has clearly stated in its recommendations for the introduction of prominence legislation, and in the draft Code of Practice, prominence legislation in the Media Act is designed to be a corrective to this. It is also worth remembering that many of these larger commercial providers will still benefit from the advantage of increased buying power and/or self-promotion. In addition, the larger providers (Netflix, YouTube, Amazon Prime) also benefit in many cases from buttons on remote controls, which are outside of legislation but widely used by audiences as short-cuts to access apps. Given that requiring the PSB apps to be in the top 6 slots does nothing to limit the range of services that audiences can access, the only other reason for diverging from the principles that are applied to the EPG and, instead, placing PSBs in the top 9 slots is the impact on RTSS providers (3.22). While the draft Code of Practice suggests that the proposed approach in 'proportionate', in reality it is designed to create the smallest amount of disruption for RTSS while not significantly changing the

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	status quo for the largest PSB apps, particularly BBC iPlayer and ITVX (see paragraph 3.45). Yet the intention of the Media Act was to improve the prominence of *all* PSB players (not just the smaller ones, such as S4C Clic), with clear evidence accepted by government that the future of the larger PSBs, such as the BBC and ITV, were equally at risk if prominent legislation was not introduced. Currently, Ofcom's proposals will improve the visibility of BBC and ITV content in search and live TV areas, but it will do nothing to improve the discoverability of BBC iPlayer and ITVX apps in the 'app rail' which Ofcom states is the 'primary gateway to content' (3.35) and therefore the most important part of the draft Code of Practice. Indeed, the draft Code of Practice notes that *the prominence of the PSB apps could fall* under the current guidance (3.93). This is clearly not the intention of the Media Act. I therefore propose that the draft Code of Practice should be amended to state that PSB apps should be pre-installed or listed for installation on set-up and placed in the top slots, and that where an app rail is visible on the homepage, the PSB apps should also be visible on the homepage (e.g. if there are 6 apps on the homepage, the PSBs should appear in the top 6 slots). The draft Code is also keen not to recommend introduction of new features which 'could reduce innovation and variety' (3.40). What evidence is there that users appreciate and benefit from this variety? There is plenty of evidence, including Ofcom's own research (DTG, 2025), that shows that many people struggle to use smart TVs and connected devices, and the variety in the design of user interfaces is one aspect that makes smart TVs harder to use than TVs with a traditional EPG with familiar channel numbers (consistent channel numbering being the most accessible route for those who find TV sets difficult to use – DTG, 2025). There is, therefore, a strong argument for the Code of Practice to introduce some consistency in design in the most important parts of the UI, such as the homepage. RTSS would still be able to innovate with

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	other features, including optional features that those users who want could adopt. Finally, there is no reference to personalisation of app rails. Can RTSS personalise app rails in line with user behaviour and thus change their order?
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.	Confidential? – N I support including primary content areas in the prominence Code of Practice. However, the wording of the Code of Practice focuses on making PSB content 'no less visible' than other content. In practice, this creates a parity standard, rather than providing distinctive prominence for PSB content as set out in the Media Act. As Ofcom state, larger commercial competitors already benefit from greater buying power in primary content areas and prominence legislation is designed to increase the benefits of PSB, not maintain the status quo.
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.	Confidential? – N I support including search in prominence legislation. However, I would argue that the Code of Practice should go further in order to ensure that PSB content is prioritised when it is relevant to a user's query. In particular, when a programme is available on both a PSB and non-PSB service, the PSB service should be prioritised in search results.
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.	Confidential? – N Yes.
Question 6: Do you agree with our proposals on **attribution**, and our assessment of their associated impacts?	Confidential? – N Again, the presumption here is of providing parity. But this would allow an RTSS not to attribute PSB content if

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Please provide your reasoning, and if possible, any supporting evidence.	other content is not attributed. I would recommend that all PSB content be clearly attributed with a visible logo.
Question 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.	Confidential? – N
Question 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.	Confidential? – N
Question 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.	Confidential? – N
Question 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.	Confidential? – N
Question 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.	Confidential? – N

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Question 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.	Confidential? – N It is not sufficient for accessibility features to be in a settings or accessibility menu. Many of those who need accessibility features would not have the digital skills to know to look for them in a settings menu. Ofcom's own research has suggested that all connected devices should have a 'simple' mode with accessibility features designed in that can be accessed from a clearly labelled tile at or near the top of the homepage (DTG, 2025, Usability project). This should also be clearly indicated on set-up. If Ofcom is not prepared to follow this advice, then at the very least accessibility features should be accessible with one click from a tile or icon on the homepage that is clearly labelled and should also be clearly offered on set-up.
Question 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.	Confidential? – Y / N
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.	Confidential? – Y / N
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.	Confidential? – N

Question	Your response
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.	Confidential? – Y / N