



# **Prominence and Accessibility on Connected TV Platforms**

Consultation on Ofcom Code of Practice & draft Guidance on the Agreement Objectives

**Virgin Media O2 response**

**25<sup>th</sup> March 2026**

**Non-Confidential response**

## EXECUTIVE SUMMARY

Virgin Media O2 welcomes the opportunity to respond to Ofcom's consultation regarding the proposed Code of Practice and Agreement Objectives relating to prominence and accessibility across regulated Television Selection Services (RTSS). As we have made clear throughout this process, the extension of the existing prominence regime requires careful consideration, and we believe detailed engagement between Ofcom and platforms is essential in order to create an outcome that balances the impact on RTSS with the objectives of the Media Act ('the Act') and meets the changing needs of audiences.

Virgin Media O2 acknowledges the changing viewing habits of audiences. Although linear viewing is still an important way in which audiences consume content, especially in relation to Public Service Broadcasters ('PSB'), an increasing amount of content is now accessed via VOD and Internet Programme Services ('IPS'). Reflecting this evolution in changes to the prominence regime, such that it applies to online PSB services, requires careful and robust consideration, taking into account a number of significant factors, highlighting the key differences between the linear and on-demand world. It is vital that any Code of Practice meets the requirements of the Act whilst also ensuring platforms are allowed to meet the needs of audiences.

In this response, we set out two principal concerns.

First, we are mindful that many of the TSS that will be captured as part of the new regime are currently 'absent' from any prior regime. As audience behaviour shifts, and these platforms are increasingly used to access content, it is vital that a level playing field, across all platforms (both those already subject to a prominence regime and those who have not previously been in scope), should be sought.

Second, there are clearly elements of the proposed code which lend themselves to somewhat of a replication of the linear regime; the potential 'linear' layout of an app menu for example. However, much of the user interfaces Ofcom is looking to regulate are, by design, dynamic, allowing users to access the content they want based on numerous factors. By looking to formalise such elements of the UI, Virgin Media O2 believes the code (Σ) and is not in line with the clear objectives set out within the Act.

We are supportive of Ofcom's overarching approach to determining an *"appropriate degree of prominence,"* which is grounded in a set of clear, proportionate and forward-looking principles. When assessing what constitutes an appropriate degree of prominence, Ofcom states this is one that:

- *"Enables audiences to easily discover and access DIPS and public service content."*
- *"Ensures audiences continue to benefit from a range of content, including public service and non-public service content."*
- *"Supports user discovery and access to relevant public service content, including content intended to serve audiences in the user's location."*

We agree that these principles form the correct foundation for a modern and flexible prominence regime that reflects how audiences navigate connected TV environments. Furthermore, we

welcome Ofcom's recognition that user interfaces across regulated television selection services (RTSS) are highly diverse and dynamic. As Ofcom itself acknowledges, UI designs vary greatly, with the presentation of content both dynamic and ever changing and the code should be designed in such a way as to be flexible, allowing platforms to adapt to changes in both technology and viewing habits.

This acknowledgement must be the fundamental basis of any regulatory regime in this space. It is vital that a workable prominence regime does not lead to the homogenisation of user interfaces or constrain the wide variation in design, content surfacing and discovery pathways across platforms.

A key pillar is ensuring this comes in the form of the Innovation Objective which must inform how 'appropriate' is interpreted. This is a critical safeguard, requiring that arrangements between PSBs and RTSS providers *"do not disproportionately restrict how an RTSS provider may make innovations in the ways users may select and access IPS or IPS programmes on its service."*

This objective protects against interpretations of "appropriate prominence" that would:

- limit the evolution of UI design;
- impose formulaic or prescriptive rules on dynamic content areas; or
- prevent platforms from differentiating their services or innovating.

We strongly believe that any reading of the Code that implies parity, quotas, proportionality rules, or a volumetric balancing of inventory would be incompatible with this statutory requirement and therefore must not form any part of the code.

We have assessed the code in relation to each specific area in the sections which follow.

### App Menus

Virgin Media O2 understand the desire to replicate much of the linear prominence regime within the app menu section of an RTSS, and this is the area which understandably lends itself most to a linear-style prominence regime. We agree in principle with the proposed ordering of PSB IPS and also appreciate the way in which Ofcom has provisioned for platforms which provide a regional UI. As we have already observed, as much as appropriate prominence is key to this regime, platforms, broadcasters and regulators must ensure audience experience is fundamental to any obligations placed in this space. The world of apps and on-demand content is very much audience led as they look to access the content they wish to consume, not that which is 'forced' upon them. Therefore, we agree with the provision within the code that would allow users to change the order of any app menu, if they were to have the ability to do so. However, we do believe there is scope to clarify that platforms have the ability to change the order in which apps are presented based upon viewer usage habits. Although not directly changed by the user, if it is clearly based upon their choices, with users favouring particular apps, platforms should be given the ability to curate content accordingly.

Within the consultation, and via reference within the code itself, Ofcom refers to '*relevant app menus*'. As much as we understand the code is looking to support differing UIs with numerous conflicting user journeys, we believe any prescriptive ordering of app menus should only apply to the main app menu found on platforms where users would navigate in order to see a list of apps

available to them. Clearly, apps may be found elsewhere within the UI, but these are usually areas such as 'for you' or individual apps, potentially based upon what has previously been viewed. We would expect these types of areas to remain out of scope of any linear-style ordering.

### Primary Content Areas

As already outlined, we support Ofcom's overarching approach to determining an appropriate degree of prominence. However, as much as we acknowledge the desire for prominence across RTSS interfaces, we consider the Innovation Objective to be a key pillar in such an approach, and believe the way in which the code is currently written does not accurately reflect the stated purpose of the Act or fit within this objective.

Specifically, we are concerned that the current wording of action A2.2 within the code could unintentionally imply a volume or parity-based requirement which platforms would be compelled to follow. The combination of '*no less prominence*' and repeated use of the term '*taken together*' across multiple measurement factors leads to the assumption that compliance can only be demonstrated through comparative volumes, counts or equivalent placements across primary content areas. Fundamentally, this terminology implies equal representation or a de facto 50/50 split of PSR and non-PSR content across content areas. We would strongly suggest this appears inconsistent with Ofcom's stated intent. Upon review of the consultation, we believe this language does not fully reflect the high-level principles laid out in paragraph 3.20 or the need for flexibility given the stated dynamic nature of RTSS UIs. We would once again emphasise that 'appropriate prominence' should be context dependant and highlight the Innovation Objective which looks to explicitly prohibit those arrangements which restrict innovation and development.

Furthermore, unlike the existing linear regime, in which the notion of PSR content is well established, mandating any form of prominence within primary content areas of a UI requires a focus on individual programming never before seen. Aside from BBC content, a review of the definitions within the code highlights PSR content as that which contributes to a PSB's public service remit, meaning that simply appearing within one of the designated IPS does not confirm content as PSR. Therefore, we believe this places an overly burdensome requirement on RTSS providers to not only provide PSR content with the appropriate degree of prominence but to be responsible for defining which content meets the definition of PSR content. This is not a decision which should rest on the shoulders of platforms whose priority must be the needs of audiences. If this were to rest with platforms, the subjectivity involved presents a significant challenge and one which could easily result in unwanted outcomes. We believe placing such a burden on platforms is neither reasonable nor proportionate. In addition to this, there is the potential for negative impacts to be felt by PSBs as platforms may meet any regulatory obligation through providing prominence to programming which conflicts with what a PSB may wish to have prominent.

Finally, as Ofcom refers to throughout the consultation, the needs of audiences must be a primary focus for platforms. As a Pay TV platform, our customers subscribe to our services to gain access to the content they wish to consume, primarily content which is not available through Free-to-air services or found via PSB IPS. Therefore, it is incumbent upon us as a platform to ensure audiences are provided with the content they wish to consume. This is not to suggest our audiences do not wish to consume PSB content, and as a business we would always look to present to them content which is most relevant to their needs, as well as that which is 'popular', no matter the source of such

content, but we must ensure we provide consumers with what they expect from our platform. This means allowing content to be easily discoverable, accessible and beneficial to audiences all of which is in line with the code. However, requiring platforms to meet comparative volume quotas regarding PSR content is not reasonable, proportionate or in line with the needs of our customers. Once again, this must not be achieved via an essentially mandated quota system and at the expense of audience needs.

Based on the above, we would strongly recommend refining the current drafting of action A2.2 in order to ensure it is truly reflective of the principles Ofcom has laid out. Any refining must also reflect the contextual, holistic and non-formulaic methodology Ofcom intended as part of the code whilst also adequately reflecting the basis of the Innovation Objective, ensuring providers are not forced to adopt volume-based or quota-like approaches to prominence in dynamic content areas. A clearer focus on discoverability and avoidance of disadvantage, rather than equivalence or quantitative parity, would ensure that the Code delivers the intended outcomes.

### Search

Search functionality is another area in which platforms can look to meet the needs of audiences as they seek out the content they wish to consume. On review of the consultation, Virgin Media O2 once again understands the desire to ensure that relevant PSR content is provided with appropriate prominence. However, there is a clear balance to be struck in this space between ensuring appropriate prominence whilst also ensuring platforms are able to provide what the customer is looking for. The clear distinction between Search functionality and the majority of other areas of the UI is that this is a purely customer-led function – it requires specific engagement by consumers to input search terminology and platforms' main focus must be to look to return results which match with this terminology as much as possible.

Where specific searches are performed, we understand that the most relevant PSR content should be returned with a greater degree of prominence where it is most relevant. For example, a search for 'Line of Duty' would return the iPlayer version of that particular programme first. However, a search of the term 'Duty' would return results based upon the logic we have in place and, although 'Line of Duty' would appear in the search, it would not necessarily be presented as the first option. This is due to the key basis of the search being relevance rather than whether or not it is PSR content. As with primary content areas, the main focus must be meeting audience needs and returning searches which are deemed to be most relevant.

Where a particular piece of content can be found in more than one area, be that linear channels or apps, the most relevant source will be presented first, with all other sources listed with an 'also available from' section of the search. Based upon current logic, as the PSBs are located at the highest point of the linear EPG, as well as positioned similarly in app rails, content found within those services would be presented first if they were the most relevant to the search terminology.

However, when looking at more generic searches, the onus appears to once again be placed on platforms to not only provide existing functionality (i.e. returning results which are deemed to be the most relevant to the search made) but additional functionality which means providers must be responsible for designating individual PSB programming based upon if they believe it to be PSR content or not. As previously mentioned, opening up PSB content at an individual programme level,

we believe disproportionately impacts RTSS platforms, introducing a level of subjectivity which in itself presents a risk of both false positives and negatives, and Ofcom should reassess such an impact.

Overall, where specific programme searches are made, we do not have any specific objections to PSB content being returned 'first', and therefore being given increased prominence, where that programme is deemed to be the most relevant. However, Ofcom must take a suitably pragmatic approach to search functionality and RTSS providers must continue to be allowed to prioritise the needs of their customers and return search results which best fit what they are looking for.

#### Agreement Objectives

Overall, we believe the three agreement objectives presented within the consultation are reasonable and can be used for both RTSS and DIPS providers to meet the objectives of the Act. The objectives, presented as they are, look to achieve appropriate prominence, allow PSBs to meet their PSR objectives whilst enshrining the 'must offer, must include' requirement and also look to ensure platforms are not restricted in terms of innovation and meeting the needs of audiences.

However, as much as these objectives appear reasonable in and of themselves, as we have highlighted in our response, we believe the way in which they have been interpreted, and therefore laid out within the code, do not reflect their original purpose or that of the Act. Whilst we do not object to the notion of appropriate prominence, we believe the way in which the code sets out how platforms would go about achieving this to be disproportionate and incompatible with the statutory requirement whilst, at the same time, directly contravening the Innovation Objective. Ofcom has acknowledged how RTSS UIs can differ greatly and that the presentation of content is both dynamic and ever-changing. However, there is also the need to acknowledge how the platforms themselves differ, specifically in relation to what particular consumers expect of them. As a Pay TV platform, the expectations of our customers differ from those who are accessing non-paid for RTSS platforms. Unlike Smart TV or Freeview platforms, our customers are making a choice to pay for access to content, and it is this content they would expect to be visible across our UI. As we have made clear, we do not object in principle to ensuring PSR content is given appropriate prominence but the way in which the code is currently written forces platforms into a situation where comparative volumes would be used to assess if they are meeting their regulatory obligation. Once again, we do not believe this is in the spirit or principle of the regulation and Ofcom must look to refine the current code in order to truly reflect these guiding principles.

#### Conclusion

Overall, we do not object to the overarching principles laid out by Ofcom in the consultation. We appreciate the first steps to creating a level playing field and ensuring those platforms previously sitting outside the regulatory sphere become subject to the same rules as others. However, as we have laid out in our response, we believe the current drafting of the code is not in line with the objectives and principles laid out by Ofcom and, specifically in relation to primary content areas, does not meet the key agreement objectives which should guide regulation in this area. Therefore, we would strongly support the refining of the code in its current form and a move away from a de facto quota system that the current wording looks to enforce.

## 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.**

On review of the consultation, Virgin Media O2 understand and have no major objections to the high-level principles proposed by Ofcom when assessing appropriate prominence. These principles appear to be those which reflect the purpose of the regime and the Act.

However, as we discuss in our response, we believe that these principles have not been adequately adhered to in certain aspects of the proposed Code of Practice and therefore these particular areas require further consideration and refinement ahead of any code becoming enacted.

**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.**

As we have highlighted in the main body of our response, we understand the desire to extend the linear prominence regime to app menus and, by their very nature, these areas of the UI lend themselves to such an extension. We also appreciate Ofcom making relevant provisions for customers to be allowed to curate the app menu as they sit fit and to what best meets their needs. However, we would appreciate confirmation this provision also extends to changes made by platforms based upon consumer viewing habits. We also believe it should be clear that any prominence obligation relates solely to the specific area of the UI in which an app menu is present and not other areas where apps may appear based on viewing habits.

**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.**

Virgin Media O2 strongly believes this particular area of the code requires particular refinement. We believe the way in which the code is currently written is a significant deviation from the high-level principles which should be woven throughout the code and goes beyond looking to provide PSR content appropriate prominence. By stating PSR content must be 'no less prominent' than non-PSR content, the code places an arbitrary volume-based metric upon platforms, something which is not reflective of the principles of the code and the innovation objective.

Furthermore, unlike the linear regime, the extension to primary content areas brings into sharp focus individual programming and whether or not they are PSR content. It is overly onerous and burdensome to expect platforms to make decisions based upon individual programming when the fundamental focus should be on providing appropriate prominence, allowing the easy discovery of PSR content and meeting the needs of our audiences.

**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.**

As highlighted in the main body of our response, we believe that a certain level of nuance is required in this particular area, specifically in relation to general search terminology. Platforms must be able to prioritise relevance for their customers and not be in a position where they are expected to rule upon the PSR nature of individual programmes.

**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**

As Virgin Media O2 do not believe these elements of the proposals impact our platform, we have no further comments at this time.

**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.**

Virgin Media O2 do not object in principle with this proposal. However, we would appreciate clarity in regard to where attribution may not be applied. Where content may be available across multiple sources, attribution may not occur in the first instance until a customer moves through the UI where programming would then be attributed. We assume this meets the requirements of the code as both PSR and non-PSR content is treated in the same way.

**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.**

In relation to accessibility, Virgin Media O2 has worked alongside Ofcom to ensure any customer with an accessibility need is able to access our EPG content to the same extent as those without such needs. We continue to work towards a similar situation across our UI and note the features required that we already make available to our customers. However, unlike in other similar codes and guidance, we note Ofcom has not included language such as 'where technically feasible' and we believe this is something that should be addressed. Due to technical restraints and the fact that platforms may eventually become out of scope, it may not be possible for platforms to implement those features highlighted within the code. This must be something Ofcom considers as part of this work.

**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.**

Please see our response to question 7.

**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.**

Please see our response to question 7.

**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.**

Please see our response to question 7.

**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.**

Please see our response to question 7.

**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.**

Please see our response to question 7.

**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.**

Please see our response to question 7.

**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.**

(X)

**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.**

**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**

This timeline appears to be reasonable although depending on the complexity of certain changes, Ofcom should keep this under review.

**Virgin Media O2**

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