

# Channel 4 submission – Code on the Scheduling of Television Advertising Ofcom Consultation

**Public response** (with redacted commercial information)

June 2023



# Key points

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- 01** Channel 4 agrees the stricter PSB advertising minutage rules are no longer justified

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- 02** Changing dynamics in the TV market are increasing the cost of advertising; harmonising minutage could improve the competitiveness of the linear advertising market

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- 03** Channel 4 supports harmonising up minutage while retaining existing frequency restrictions (Option 2) as it represents a good outcome for audiences, PSBs and the wider broadcast market

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- 04** As Ofcom considers its final decision, any changes must be carefully communicated to stakeholders and the wider public

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- 05** The implementation start date for any rule changes should be on Jan 1<sup>st</sup> 2025

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## Summary of proposals (context)

Ofcom is consulting on three options:

- (1) Full harmonisation of the rules between Public Service Broadcasting (PSB) and non-PSB channels
- (2) Partial harmonisation, while retaining the existing limit on the number of internal breaks permitted in programmes on PSB channels. (Ofcom's stated preferred option)
- (3) No change to the rules.

Advertising rule	PSB channels	Non-PSB channels	Proposed change																												
Amount of advertising per hour	<p>On PSB channels, time for television advertising and teleshopping spots must not exceed: 1) an average of 7 minutes per hour for every hour of transmission time across the broadcasting day; and 2) an average of 8 minutes per hour between 18:00 and 23:00 and no more than 12 mins of television advertising in any hour.</p> <p>Peak = 40 mins Total = 168</p>	<p>Non-PSB channels must show no more 12 minutes of television advertising and teleshopping spots for every hour of transmission across the broadcasting day, of which no more than 9 minutes may be television advertising.</p> <p>Peak = 60 min Total = 216 mins</p>	All PSB and non-PSB channels would be subject to the same limit of showing no more than 12 minutes of television advertising and teleshopping spots for every hour of transmission across the broadcasting day, of which no more than 9 minutes may be television advertising.																												
Advertising break duration	Advertising breaks during programmes on PSB channels may not exceed 3 minutes 50 seconds, of which advertising and teleshopping spots may not exceed 3 minutes and 30 seconds.	No restrictions	Harmonise rules to remove PSB break duration restrictions																												
Number of permitted advertising breaks per programme based on schedule duration	<table border="1"> <thead> <tr> <th>Scheduled duration (mins)</th> <th>Number of breaks</th> </tr> </thead> <tbody> <tr> <td>21 – 44</td> <td>One</td> </tr> <tr> <td>45 – 54</td> <td>Two</td> </tr> <tr> <td>55 – 65</td> <td>Three</td> </tr> <tr> <td>66 – 85</td> <td>Four</td> </tr> <tr> <td>86 – 105</td> <td>Five</td> </tr> <tr> <td>106 – 125</td> <td>Six</td> </tr> </tbody> </table>	Scheduled duration (mins)	Number of breaks	21 – 44	One	45 – 54	Two	55 – 65	Three	66 – 85	Four	86 – 105	Five	106 – 125	Six	<table border="1"> <thead> <tr> <th>Scheduled duration (mins)</th> <th>Number of breaks</th> </tr> </thead> <tbody> <tr> <td>&lt; 26</td> <td>One</td> </tr> <tr> <td>26 – 45</td> <td>Two</td> </tr> <tr> <td>46 – 65</td> <td>Three</td> </tr> <tr> <td>66 – 85</td> <td>Four</td> </tr> <tr> <td>86 – 105</td> <td>Five</td> </tr> <tr> <td>106 – 125</td> <td>Six</td> </tr> </tbody> </table>	Scheduled duration (mins)	Number of breaks	< 26	One	26 – 45	Two	46 – 65	Three	66 – 85	Four	86 – 105	Five	106 – 125	Six	<p><b>Option 1</b> would harmonise rules and apply non-PSB break restrictions to PSBs</p> <p><b>Option 2</b> would keep the existing restrictions</p>
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Teleshopping windows	On public service channels, teleshopping windows may be scheduled only between 00:00 and 06:00.	No restrictions when teleshopping windows can be scheduled on non-PSB channels	Remove restrictions on teleshopping windows for PSBs																												

## Introduction

Channel 4 is a public service broadcaster (PSB), freely available to all of the UK, and we operate the UK's biggest free digital streaming service. Channel 4 was created to be a radical, innovative force in UK broadcasting, challenging the status quo and giving a voice to the underrepresented, all at no cost to the taxpayer.

Our unique model – publicly-owned and entirely commercially-funded – means that we are able to offer distinctive British content reflecting communities across the UK.

Channel 4 plays a hugely important role in the success of the UK's creative industries, investing in and supporting the growth of the independent production sector. We work with around 300 creative companies based across the length and breadth of the UK every year.

The majority of Channel 4's funding comes from advertising – on both linear TV and digital - and we play a critical role in drive reach for advertisers across the UK. Advertisers value Channel 4 as we have a unique heritage of communicating with audiences who generically watch very little (light viewers), young adults, and hard to reach audiences. Our unique model means advertising revenue is re-invested straight back into high-quality UK content.

We welcome Ofcom's consultation on changing the Code of Scheduling Television Advertising (COSTA) rules, following a call for input in 2022. We strongly agree with Ofcom's provisional findings that the COSTA rules are no longer justified or proportionate given the fundamental changes in the advertising market and broadcast ecosystem over the last 30 years. We think that updating the rules will strengthen the competitiveness of the linear advertising market, support the pivot to digital distribution by PSBs, and fund distinctively British content which audiences enjoy.

Our response to the consultation addresses the questions in Ofcom's consultation and focuses on these key messages:

- We agree that the stricter PSB advertising minutage rules are no longer justified.
- Changing dynamics in the TV market are increasing the cost of advertising; harmonising advertising minutage could improve the competitiveness of TV advertising market.
- We support harmonising-up minutage while retaining existing frequency restrictions (Option 2) as it represents a good outcome for audiences, PSBs and the wider broadcast market.
- We agree that there should be no changes to genre restrictions and no increase in the maximum amount of advertising permitted per hour.
- As Ofcom considers its final decision, any changes must be carefully communicated to stakeholders and the wider public
- Changes to the minutage rules will require adjustment by broadcasters. We believe that the implementation start date should be Jan 1<sup>st</sup> 2025

**Question 1: Do you agree with our provisional view that the retention of the stricter rules that apply only to PSB channels is not justified? If not, please explain why.**

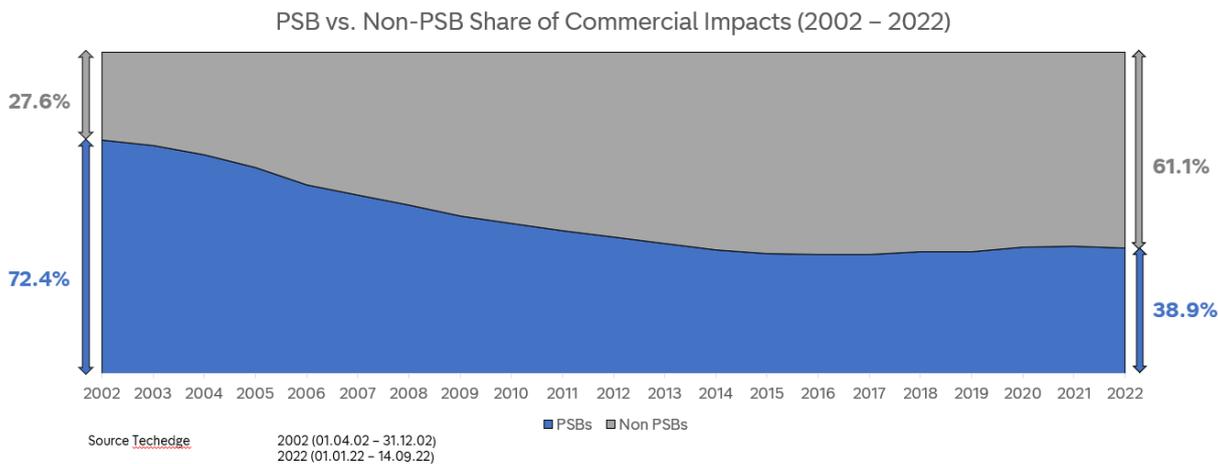
**Yes, Channel 4 agrees that the stricter PSB specific advertising minutage rules are no longer justified.**

The broadcast landscape has fundamentally changed in the 30 years since the advertising minutage rules were last updated with the rise of on-demand services, the growth of commercial channels, and fierce competition in the broadcast advertising market. We strongly support Ofcom’s provisional view that the stricter PSB rules, which were formalised in 1991, are “no longer justified or proportionate for achieving their original purpose.”<sup>1</sup>

The rationale for differentiating advertising minutage in the early 1990s was clear: to support growth and competition in a burgeoning non-PSB commercial market. These rules have played their part over the course of three decades in helping stimulate a thriving UK commercial broadcast market.

Our view is that the growth and competition that the rules were designed to foster has been successful. There is now an abundance of choice for consumers with over 480+ non-PSB channels.<sup>2</sup> There is strong competition between PSB and non-PSB channels with the latter increasing their share of commercials impacts (SOCI) from 28% in 2002, to 61% in 2022 (Figure 1).<sup>3</sup>

Figure 1.



Additionally, as Ofcom highlights in this consultation, there is “increased competition from well-funded global streaming services”.<sup>4</sup> The rise of video-sharing platforms (VSPs), broadcast VoD (BVoD), and subscription VoD (SVoD) services, has intensified competition for viewing. Fast-growing VSP services such as YouTube are key players in the digital advertising market generating record global revenues<sup>5</sup>, all while not being subject to any minutage restrictions. Whilst we are not advocating for (and Ofcom is not proposing) further minutage restrictions in the digital advertising market, it is important context for PSBs who are competing with these services for viewer attention.

Additionally, SVoDs carrying new advertising tiers have no minutage restrictions and this will further increase competitive pressures for PSBs. Global players such as Netflix started carrying advertising tiers on their SVoD service late 2022, with other major streaming services expected to follow. While these are entrants into the VoD advertising market, this is also likely to have an impact on the linear advertising market due to the nature of agency deals. Media agencies make linear revenue commitments with broadcasters on behalf of their portfolio of advertisers and these typically trade on share, not volume. In practice this means that agencies will have the flexibility to reduce their linear advertising budgets, while honouring their share deals with broadcasters, allowing them to potentially shift linear spend to new VoD players.

It is clear that the broadcast advertising landscape is thriving with strong competition between PSBs and non-PSBs. However, PSBs are competing on an uneven playing field, and this is no longer justified. At a time when competition

<sup>1</sup> Ofcom, COSTA consultation, 2023, p.g 2

<sup>2</sup> Sky EPG TV channels

<sup>3</sup> Tech Edge, PSBs include ITV, Channel 4, Channel 5, and S4C. All other channels are included in non-PSB data.

<sup>4</sup> Ofcom, COSTA consultation, 2023, p.g 1

<sup>5</sup> <https://www.campaignlive.co.uk/article/youtubes-ad-revenue-growth-decelerates-substantially-q1/1754128>



in the market is set to further increase, we welcome Ofcom's recognition that the market conditions no longer justify the stricter COSTA rules and are they unduly penalising PSBs.

### **Changing dynamics in the TV market are increasing the cost of advertising, and minutage restrictions are accentuating these inflationary pressures**

UK broadcast TV remains a powerful medium for reaching mass audiences and generated record revenues in 2021 of £5.46bn<sup>6</sup>. However, against this backdrop the broadcast market is undergoing well-documented structural changes in viewing. In 2010, there were 868 billion adult impacts, whereas in 2021 there were 756 billion adult impacts.<sup>7</sup> This gradual decline in linear viewing is fuelling inflationary pressures in the cost of advertising. According to the ECI Media Management Inflation Report, the price of TV slots increased 32% YoY in 2021.<sup>8</sup> ✂

As highlighted by leading industry figures, TV advertising inflation is "the biggest challenge for media buyers right now."<sup>9</sup> The pressure on pricing is reducing the cost-effectiveness for advertisers and media agencies, particularly as other forms of media, such as outdoor and print, aren't facing the same inflationary pressures. ✂

Against this backdrop of inflationary headwinds, we welcome that Ofcom has acknowledged that the modernising the COSTA rules is a mechanism that could help to alleviate the pressure on TV advertising. The current advertising minutage rules, which set a lower amount of PSB advertising, are limiting the supply of TV advertising into the linear market. This has the impact of accentuating inflationary pressures in the linear market by restricting supply. Therefore, harmonising minutage across PSBs and non-PSBs could have a positive deflationary impact on the market which we will outline in the next section. ✂

On top of the changing dynamics in the TV market is the impact of incoming watershed advertising restrictions which are likely to intensify inflationary pressures. The HFSS watershed ban in 2025 is expected to take £200m of revenue out of the TV advertising market.<sup>10</sup> These restrictions will add additional inflationary pressure to the price of TV advertising as advertiser demand will be further concentrated post 9pm. ✂

As an organisation we fully recognise the pressures on linear advertising and that is why our Future4 strategy, which focuses on digital and BVoD growth, is designed to offset declines in linear advertising revenue and diversify our revenue streams. The core pillars of this strategy are:

- Double All 4 (now Channel 4 streaming) by 2025
- Digital advertising to be 30% of total revenue by 2025
- Non-advertising to be at least 10% of total revenue by 2025

Our Future4 strategy is seeing strong success with a record 1.5bn views of Channel 4 streaming in 2021, representing 21% YoY growth. ✂ We are excelling at growing our digital revenues with a record £224m in 2021 (+40% YoY grow). While increasing these revenues is at the core of our strategy, the mass reach of linear TV will remain a fundamental part of our advertiser proposition and commercial revenue for the foreseeable future - underlining the need to ensure this area market remains competitive.

### **We welcome the recognition from Ofcom that harmonising advertising minutage could improve the competitiveness of TV advertising market**

Increasing PSB advertising minutage to the same levels as non-PSBs would increase supply into the broadcast advertising market. As Ofcom's response acknowledges, "we may see a decrease in the price of linear television advertising".<sup>11</sup> ✂

This deflationary impact would benefit the whole of the linear advertising market. Critically, it would reduce the risk of existing and new advertisers and media agencies being priced out of the market. Secondly, it ensures TV advertising remains competitive for advertisers compared to other forms of media, such as outdoor and print, and could potentially lead to greater investment in the market overall as CPT pricing reduces. We strongly agree with

<sup>6</sup> <https://advanced-television.com/2022/03/09/data-record-year-for-uk-tv-advertising/> (this includes VoD advertising revenues)

<sup>7</sup> <https://the-media-leader.com/the-price-and-value-of-tv-advertising>

<sup>8</sup> <https://www.thedrum.com/news/2022/03/07/tv-ad-price-inflation-keeping-media-buyers-up-night>

<sup>9</sup> <https://www.thedrum.com/news/2022/03/07/tv-ad-price-inflation-keeping-media-buyers-up-night>

<sup>10</sup> <https://www.thedrum.com/news/2020/07/27/advertising-trade-bodies-united-distaste-junk-food-tv-and-online-ad-ban>

<sup>11</sup> Ofcom, COSTA consultation, 2023, p.g 4

Ofcom's provisional conclusion that "this may contribute to promoting [...] the future competitiveness of television advertising more generally."<sup>12</sup> 

**Question 2: Do you have a preference between the proposals under Option 1 and Option 2? If you do not agree with the proposals under either option, please explain why.**

***Channel 4 supports Option 2 as it represents a good outcome for audiences, PSBs, and wider broadcast market***

We have carefully considered both options and believe that Option 2 is the optimal route for adjusting the COSTA rules. This option strikes the right balance between modernising the regulations and the numerous benefits that it provides, whilst also factoring in and mitigating key audience concerns around the frequency of advertising. Harmonisation of the rules, albeit with existing PSB frequency restrictions, will still provide meaningful regulatory fairness, increase the competitiveness of linear advertising and fundamentally support PSB sustainability and our funding of high-quality content which audiences enjoy.

Ofcom's independent audience research highlighted that the frequency of advertising breaks is a top concern for viewers. This research found that "too many advertising breaks" was a major concern for 31% of respondents and is backed up Ofcom's deliberative research.<sup>13</sup> Engaging viewers in high quality programming is at the heart of Channel 4's purpose and it is certainly not in our interest to lose viewers or weaken the overall broadcast ecosystem. Advertisers strongly value young adults, and 'light touch' viewers (individuals who do not watch a lot of television) that our channel has a regulatory obligation to reach and continues to deliver. We have the strongest profile of 16-34 year olds, indexing 27% higher than the total commercial TV market.

We recognise that keeping the existing PSB frequency restrictions could be an important mitigation for retaining quality viewing experience that audiences enjoy on PSB services. Option 2 delivers these protections for audiences while removing the outdated restrictions. Crucially, due to Channel 4's unique model of commercially funded but publicly owned, any additional revenue that these rules generate will go straight back into the funding of high-quality British content that audiences love, and providing commissioning opportunities for independent producers based across the UK.

Option 2 has also been partially tested during the period of National Mourning and Ofcom research found that viewers were unlikely to notice the difference in minutage. Ofcom's research showed that most viewers (around 80%) did not notice any change to the amount of advertising shown during the PSB recoupment period in late 2022.<sup>14</sup> This is a particularly important finding as during this period, the existing PSB frequency restrictions were applied, and is therefore a helpful illustration of how Option 2 could impact audiences. This case study underlines a key point that increasing minutage on PSBs channels does not meaningfully impact audiences or disrupt the viewer experience. Just as audiences enjoy the viewing experience on non-PSB channels that already use the higher levels of minutage.

***Channel 4 agrees there should be no changes to genre restrictions and no increase in the maximum amount of advertising permitted per hour***

We support Ofcom retaining the broader genre restrictions in the COSTA rules. This includes key provisions that limit interruptions in the genres of news, children's programmes and films. Additionally, the wider PSB legislative and regulatory framework which ensures a high-quality, audience focused output from PSBs. Quotas in particular are a powerful regulatory tool that guarantees crucial investment in distinctively British content, investment in the nations and regions, and high-quality news and current affairs output. We regularly broadcast more news hours than our regulatory obligation of 208 hours per year. In 2022 alone we broadcast over 269 hours of news and 420 hours of current affairs. Any proposed COSTA changes will not affect our delivery of Channel 4 News which is of vital importance to British audiences, particularly young viewers, and a crucial component of Channel 4's remit. Changes to the COSTA regime will not impact the wider safeguards and obligations that are fundamental to the PSB framework.

Additionally, we agree that there should be no change to the maximum amount of advertising permitted per hour. It is crucial that Ofcom continues to communicate that there are no changes to 12 minutes allowed per hour, nor the maximum 216 minutes per day of advertising allowed for non-PSBs. As discussed in more detail in the below section, viewers already overestimate how much advertising there is on linear television. While there has been

<sup>12</sup> Ofcom, COSTA consultation, 2023, p.g 4

<sup>13</sup> Ofcom, COSTA consultation, 2023, p.g 17

<sup>14</sup> Ofcom, COSTA consultation, 2023, p.g 15

discussion in the media that harmonising the COSTA rules will lead to 730 more hours of TV adverts per year on each PSB channel, we do not think that this reflects what will happen in reality. Given that advertising would be capped at an average of 9 mins per hour, the majority of the 730 hours would need to be taken as teleshopping (438 hours). Within our own portfolio of non-PSB channels (such as E4 and More 4), we currently only schedule c.60 hours of teleshopping per channel per year and don't expect our approach on Channel 4 to fundamentally differ should the rules change. So, while these headline figures are technically possible, they do not align with editorial and commercial realities.

**As Ofcom considers its final decision, any changes must be carefully communicated to stakeholders and the wider public**

It is vital that when Ofcom announces its conclusion on changes to the COSTA rules that the impact and rationale is clearly communicated to stakeholders and the wider public. We believe that the impact on viewers can be well managed and minimised, particularly as the majority of television viewers are already acclimatised to the proposed minutage adjustments (in 2021, 60% of commercial viewing was for non-PSB channels).<sup>15</sup> Indeed, Channel 4's other portfolio channels such as E4 and Flim4, are subject to non-PSB advertising minutage rules and continue to be popular with viewers. Crucially, these audiences are already used to higher levels of minutage with 92% of viewers for non-PSB channels also watching at least one PSB channel.<sup>16</sup> Indeed, while PSBs channels enjoy more engaged audiences over the course of a programme, it is only 1% higher than non-PSB channels.<sup>17</sup>

We believe that Ofcom should proceed with Option 2 and if that is the case, there is an important role for both the regulator and PSBs in communicating these changes to stakeholders and viewers. Currently, there is a general understanding by the UK public that some channels play more ads than others. In recent audience research, 60% of respondents recognise that broadcast channels have different amounts of adverts.<sup>18</sup> However, viewers already overestimate the amount of TV advertising on PSB channels. The same research found that 71% of respondents think that there are more than 168 minutes of advertising time on TV channels in the UK per day and 45% of respondents think there is more than 216 minutes of advertising per day on TV.<sup>19</sup> Clearly communicating to viewers that these changes would bring parity with other channels will be essential to ensuring audiences understand the rationale and are well informed about the changes.

When considering the proposals it is vital to highlight that changes would not impact mass audience, high reach programmes in peak as these often already use the maximum 12 minutes of minutage. As highlighted in Figure 4<sup>20</sup>, the majority of viewing for Channel 4 (63%), occurs during peak hours.

Under the current rules, we often already uses the maximum 12 mins allowance of advertising for mass audience, high reach programmes such as Googlebox and Bake Off.

A change in the minutage rules could mean fewer advertising breaks during these programmes as end breaks could be removed and there could be a slight increase (30 seconds) during other breaks (Figure 5). The proposed rules would mean advertising time being optimised, instead of more advertising breaks. We strongly support Ofcom keeping the existing genre restrictions around film and news which limit the amount of breaks during these programmes. ✂

Figure 4

C4(TOTAL) Daypart	Ads 16+ Avg Aud 000s '000 (AVG)
0600 - 0659	49.8
0700 - 0759	80.8
0800 - 0859	109.6
0900 - 0959	173.3
1000 - 1059	175.7
1100 - 1159	172.8
1200 - 1259	172.4
1300 - 1359	207.8
1400 - 1459	302.0
1500 - 1559	371.9
1600 - 1659	496.4
1700 - 1759	500.8
1800 - 1859	437.8
1900 - 1959	698.4
2000 - 2059	1350.9
2100 - 2159	1633.6
2200 - 2259	730.1
2300 - 2359	368.7
2400 - 2459	177.6
2500 - 2559	101.1
2600 - 2659	59.8
2700 - 2759	46.4
2800 - 2859	47.0
2900 - 2959	46.3

<sup>15</sup> Tech Edge

<sup>16</sup> BARB/Techedge – June-Aug 22, dynamic target non-PSB. Reach criteria 3 mins or more

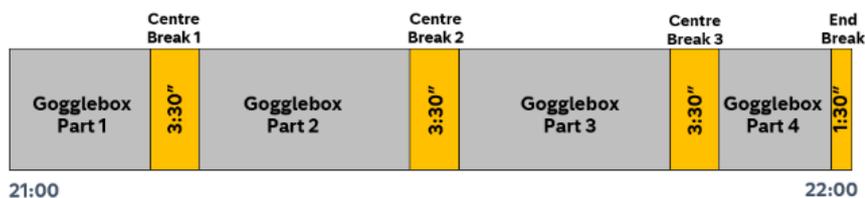
<sup>17</sup> BARB/Advantage, May 2022, Avg Aud and Avg mins, Net vs. Gross, PSB = C4+C5, Non PSB = all other commercial channels, ITV 1 excluded)

<sup>18</sup> OnePulse, UK Adult Sample, n=500, survey live 23/9-25/9 2022

<sup>19</sup> OnePulse, UK Adult Sample, n=500, survey live 23/9-25/9 2022

<sup>20</sup> Channel 4, Sept 21 – Aug 22, Ads 16+, Avg 000s

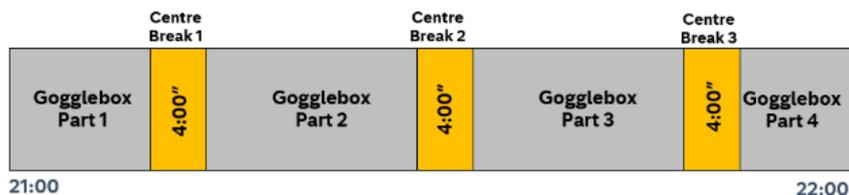




### Current minutage rules

Figure 5

This graphic shows how mass audience, peak time programmes could be adapted under new minutage rules.



### Proposed minutage rules

**Question 3: In the event that we proceed with Option 1 or 2, we suggest a one-year period before implementation. Do you agree? If not, please explain why.**

***Changes to the minutage rules will require adjustment by broadcasters. Channel 4 believes the implementation period should be Jan 1<sup>st</sup> 2025***

As Ofcom considers adjustments to the minutage rules, it is important to highlight that any changes will require considerable lead time to allow both PSBs and non-PSBs time to prepare and certainty for market players. This is so important for Channel 4 given our current publisher-broadcaster model and the fact we commission our long-form content from external companies. ✂

Due to these factors we would request Ofcom sets an implementation date of Jan 1<sup>st</sup> 2025 and this gives sufficient lead time to adjust any programme or commercial contracts. If Ofcom makes a final decision in September 2023, this is a 15-month lead time which we think is sufficient, rather than a 3 month lead time of Jan 1<sup>st</sup> 2024.