20 March 2026

Response to Ofcom's Call for Input: Review of Broadcast Regulation

1. Summary

We welcome Ofcom's call for input regarding the broadcast regulatory framework and would like to take this opportunity to comment on the appropriateness of the application of the on-demand programme service ("ODPS") regulatory regime in the context of the realities of digital-first content in the current media environment. In particular, we are concerned with any suggestion of the application of ODPS regulation to professionally produced video and podcast content ("Video and Podcast Content") distributed via:

- a provider's own website and apps; and
- third-party platforms such as YouTube.

This is principally because the ODPS regime was designed for a VOD environment closely analogous to linear television. While we are not aware of any particular concerns about how it applies to those "traditional" VOD services, applying this regime to Video and Podcast Content:

- creates regulatory outcomes that are commercially unworkable;
- risks inhibiting innovation and investment in UK-originated content; and
- fails to reflect how audiences discover, consume and understand online content.

The UK podcast sector is now a significant and fast-growing part of the creative economy, with advertising revenues expected to exceed £100 million this year (having reached £90million in 2024[1]) and continuing to grow at pace relative to other, more mature parts of the advertising market. At a time when traditional broadcast advertising revenues face sustained economic headwinds, it is particularly important that regulatory frameworks support, rather than inadvertently constrain, emerging digital formats that are delivering growth, investment and UK-originated content. Any extension of the ODPS regime into this space therefore has potentially material economic consequences which we would urge Ofcom to carefully consider.

We explain this further below.

[1] https://www.ofcom.org.uk/siteassets/resources/documents/research-and-data/multi-sector/media-nations/2025/medianations-2025-uk-report.pdf?v=401287

2. The development of Video and Podcast Content

Over the last decade, and with particular acceleration in recent years, Video and Podcast Content has become some of the most dynamic, innovative and culturally significant elements of the UK media landscape, driven by changing audience behaviours and the mainstream adoption of on-demand digital formats.[2]

Podcasts[3] in particular have transformed the way audiences discover, engage with and consume content, enabling new voices, perspectives and formats to reach substantial and loyal audiences at relatively low cost and with minimal barriers to entry. This has materially enhanced plurality, experimentation and audience choice within the media ecosystem.

This development has been characterised by three particularly notable features.

First, the podcast sector is marked by extraordinary diversity and range. It encompasses everything from small-scale, independently produced podcasts created in domestic settings, through to professionally produced titles backed by established media organisations and commercial networks, many of which attract global audiences. Subject matter spans news, current affairs, entertainment, education, culture, sport and highly specialised niche interests, often serving audiences that are underserved by traditional broadcast media. This breadth is one of the sector's defining strengths.

Secondly, the UK has demonstrated sustained expertise, creativity and international success in podcasting. UK-originated podcasts and podcast producers are widely recognised for their quality, originality and influence, and the sector continues to attract investment, talent and audience growth. There is no indication that this momentum is slowing; on the contrary, the UK podcast industry remains an important export of British creative and editorial excellence, reinforcing the UK's position as a global leader in audio and digital media.

Thirdly, and importantly from a regulatory perspective, podcasting has given rise to remarkably few problems in terms of content standards, consumer harm or audience complaints. There has been little evidence of systemic issues relating to advertising, sponsorship or other ancillary matters, and the sector has largely operated within existing legal and platform-based frameworks without difficulty. The format is notable for its freshness, editorial freedom and responsiveness to audiences, rather than for regulatory concern. There appears to be no clear need, and we are not aware of any widespread calls, for material regulatory intervention or enclosure of this area. On the contrary, there are strong

[2] https://www.ofcom.org.uk/siteassets/resources/documents/research-and-data/multi-sector/media-nations/2025/medianations-2025-uk-report.pdf?v=401287

[3] https://www.edisonresearch.com/wp-content/uploads/2024/06/The-UK-Podcast-Consumer-2024-Presentation.pdf

reasons to conclude that regulatory oversight should remain proportionate and minimal, so as not to inhibit innovation, diversity or growth.

A more recent development has been the evolution of podcasts from a purely audio format to one that increasingly incorporates video elements, often with rising production values. While even the most professionally produced video podcasts remain clearly distinct from traditional television programming in terms of format, purpose and audience expectations, this shift reflects changing audience preferences and platform behaviours. The addition of video has been widely welcomed by audiences as a

complementary enhancement rather than a fundamental transformation, enabling deeper engagement while retaining the essential characteristics that distinguish podcasts from broadcast television.

Why the ODPS regulatory framework is not fit for Video and Podcast Content

2.1 ODPS regulation is rooted in a "TV-like" model that no longer reflects audience behaviour

The ODPS regime assumes:

- a catalogue-based service;
- discrete "programmes" commissioned, funded and scheduled in a TV-style environment; and
- a clear separation between editorial content and commercial messaging.

Video and Podcast Content does not operate in this way. Key differences include:

- non-linear consumption, often via algorithmic discovery;
- direct audience relationships, rather than a broadcaster–viewer model;
- commercial funding models integrated into content, particularly host-read advertising and branded series; and
- multi-format distribution, where the same content exists simultaneously as audio, video, clips, shorts and social extracts.

Applying ODPS rules across this type of content designed for VOD services risks regulating *form* rather than *harm*.

2.2 Digital platforms are converging rapidly with television

The ODPS regime is becoming increasingly strained as platform boundaries collapse.

Examples include:

- YouTube's expansion onto TV screens, with increasing volumes of long-form, professionally produced content consumed in a living-room context and vice versa as seen with the recent BBC announcement around making shows for YouTube,
- The realistic prospect of other social media platforms (e.g. TikTok, Instagram) following a similar path, including longer-form content optimised for TV viewing.
- Hybrid content models, such as Netflix's expansion into podcasts and the recently announced *The Rest Is Football x Netflix* partnership.

These developments show the blurring of lines around content being produced and published on different platforms and increasingly highlights the potential issues around the ODPS framework being unsuitable for regulating content that is already regulated under other regimes namely from the Online Safety Act 2023, the CAP Code, Consumer Protection laws such as Consumer Protection from Unfair Trading Regulations 2008 and Business Protection from Misleading Marketing Regulations 2008 and individual platform controls such as YouTube's Own Terms and Community Guidelines.

3. Why ODPS regulation does not work for content on proprietary platforms and other platforms like YouTube

3.1 The concept of an "on-demand programme service" creates material unfairness and market distortion

Applying ODPS regulation to certain video podcast services but not to others would create an artificial, unfair and commercially distortive regulatory landscape.

In practice, this would mean that some providers of video podcasts would be subject to Ofcom regulation while other providers offering identical or near-identical content would remain entirely unregulated. This distortion would be particularly acute on open platforms such as YouTube, where professionally produced video podcasts from UK broadcasters, independent producers, global media companies and individual creators compete directly for the same audiences.

If video podcasts made available on any online platform including on YouTube were to be designated as an ODPS, it would follow logically that the curation of the provision of a bundle of video podcasts by any UK entity on YouTube or other video-enabled platforms would also need to be designated as an ODPS. This would include podcast networks, digital publishers and, ultimately, YouTube UK itself. We do not consider this outcome to be realistic or credible.

The inevitable result would therefore be selective regulation of some UK providers and not others, creating a structurally unfair market. For example:

- some podcast publishers would be permitted to fund news and current affairs content through advertising and sponsorship, while others would not;
- some would be able to rely on product placement or integrated brand partnerships, while others would be prohibited from doing so; and

- UK-based, professionally produced content would be subject to stricter rules than both amateur UK content and overseas professional content available on the same platform.

Such outcomes would be unworkable in practice and fundamentally incompatible with a level playing field in a global digital market.

4. Specific ODPS rules that would be particularly problematic for Video and Podcast Content

We consider the following rules to be especially ill-suited to Video and Podcast Content.

4.1 Rule 13: Sponsorship

(a) Prohibition on sponsored news and current affairs

This rule prohibits the inclusion of sponsored news or current affairs programmes within an ODPS.

This rule is:

- workable in a traditional broadcast context; but
- unworkable for podcast-led news and current affairs, where host-read advertising and sponsorship are standard, well-understood by audiences, and transparently disclosed.

For example:

- News and current affairs podcasts routinely include advertising without any audience confusion about editorial independence, in line with ASA guidance.
- Audiences understand and expect this funding model and do not equate it with sponsor control over editorial content.

Applying this prohibition risks:

- undermining the commercial viability of high-quality UK news and current affairs content online; and
- placing UK providers at a competitive disadvantage to unregulated global platforms.

(b) Editorial independence and direct encouragement Rules

requiring that sponsorship:

- must not influence editorial content; and
- must not directly encourage the purchase of goods or services,

are misaligned with digital advertising norms, particularly:

- host-read advertising;
- branded series; and
- limited-run sponsored content.

Host-read advertising *necessarily* involves:

- promotional references; and
- encouragement to purchase or engage.

This does not equate to loss of editorial independence and is clearly understood by audiences in the digital context.

(c) Statutory definitions of "sponsored programme" and "sponsored service"

The statutory definitions in sections 368G(12)–(16):

- blur the distinction between advertising, sponsorship and brand partnerships as they operate in digital media; and
- risk capturing activity that is better understood as advertising rather than sponsorship.

We consider there is a strong argument that digital host-read advertising should not be treated as "sponsorship" at all, and that the current definitions fail to reflect modern commercial practices.

4.2 Rule 14: Product Placement (Conditions B–D)

The prohibitions on:

- direct encouragement to purchase; and

- undue prominence,

are particularly difficult to apply to:

- creator-led content;
- conversational formats; and
- authentic brand integrations.

In digital content:

- audience trust is driven by authenticity and transparency, not rigid separation;
- brands are often integrated openly rather than subtly; and
- prominence is inherent to the format, not evidence of editorial compromise.

These rules risk:

- discouraging legitimate commercial partnerships; and
- pushing providers towards less transparent monetisation models.

4.3 Rule 15: European Works

While we acknowledge that exemptions may apply (e.g. where compliance is impracticable or unjustified), the European works quota:

- reinforces the sense that the ODPS regime is designed for catalogue-based VOD services, not dynamic digital platforms;
- creates unnecessary complexity for services whose content mix fluctuates rapidly.

5. Why the ODPS regime is not fit for the future

Looking ahead, we are concerned that the ODPS framework:

- will become increasingly difficult to enforce consistently;
- risks regulating UK providers more heavily than global competitors; and
- may actively discourage innovation in UK digital content.

A future-proof framework should:

- focus on actual audience harm, not legacy service categories;
- recognise platform convergence rather than resisting it; and
- support sustainable funding models for UK content in a global market.

In particular, taking a platform such as YouTube, where consumers are protected from harm by obligations under the Online Safety Act 2023, consumers will not expect some content on that platform to be subject to more onerous regulation than other content, particularly because creators from all over the world compete for the same audiences. That market will be distorted if UK professionally produced content is subject to regulatory controls making it less attractive than UK amateur content and overseas professional content.

6. Suggested direction of reform

We encourage Ofcom to consider:

- whether it is appropriate or realistic to require the designation of individual providers' video podcast services as ODPS where those services are distributed on open platforms such as YouTube, unless Ofcom is prepared to require the same designation consistently across all providers of comparable content on those platforms;
- whether selective designation of ODPS in this context would create unfair and distortive outcomes that disadvantage UK-based providers without improving audience protection;

- whether a lighter-touch, principles-based approach, aligned with existing obligations under the Online Safety Act 2023, consumer protection legislation and the ASA CAP Code, would better reflect how digital content is produced, distributed and monetised in practice; and
- whether sponsorship and product placement rules should be re-conceptualised to reflect the realities of digital funding models, drawing a clearer distinction between editorial control and transparent commercial support.

In our view, unless Ofcom considers it appropriate to designate platforms such as YouTube (or all equivalent aggregators of video podcasts) as ODPS in their own right, the designation of individual providers' video podcast services on those platforms would be inherently inconsistent and should be avoided.

7. Conclusion

We support Ofcom's aim of ensuring appropriate standards and protections. However, the ODPS regime, in its current form, is not an appropriate model for Video and Podcast Content and risks becoming increasingly disconnected from how audiences consume media.

This Call for Input presents a timely opportunity to rethink the framework so that it:

- protects audiences;
- supports UK content creation; and
- remains relevant in a rapidly evolving media environment.