



OFCOM CONSULTATION

REVIEW OF THE MANDATORY DAYTIME PROTECTION RULES IN THE OFCOM BROADCASTING CODE

Introduction

In principle, BT and EE welcome the proposed changes to the rules as they will allow for more flexibility in scheduling, will promote healthy competition and also address the changing viewing habits of consumers.

This response reflects the combined views of the BT Group (from both a broadcaster and a platform provider perspective), including the views of EE. It also takes into consideration BT's position as each of a shareholder, affiliate ISP and content provider in relation to the YouView platform.

Consultation questions

Q1: Would extending mandatory daytime protection have an adverse impact on the 9pm watershed? Could the change erode public confidence in the 9pm watershed?

As outlined in our response to the Call for Inputs (2016), the 9pm watershed is still relevant, however it may become less so given the changing viewing habits of consumers who are viewing more on-demand content and time-shifted content.

Traditional linear broadcasts are now competing for attention with catch-up TV, boxsets and "binge viewing"¹ via services such as Amazon Prime Video and Netflix. Nevertheless, despite traditional viewing being in decline, peak viewing on linear channels still remains in the evening. In order to maximise their shares of viewing, broadcasters still target these prime time slots with their most popular programming and this is evidenced by the investment made in peak programming by public service broadcasters.²

Arguably the proliferation in mobile devices and games consoles via which on demand content can be consumed already presents a much larger risk to the watershed than the extension of the mandatory PIN protection rules.

¹ See Ofcom research on viewing habits, Communications Market Review UK 2017 -

https://www.ofcom.org.uk/__data/assets/pdf_file/0016/105442/uk-television-audio-visual.pdf

² See https://www.ofcom.org.uk/__data/assets/pdf_file/0019/103924/psb-annual-report-2017.pdf

Q2: Would extending mandatory daytime protection increase the risk of children viewing post watershed content?

We do not believe that an extension of the rules will increase the risk to children. As noted above, the increasing consumption of content via devices such as mobile phones, tablets and games consoles arguably presents more challenges for parents wanting to prevent their children from viewing unsuitable content (even where parental controls are in place).

Q3: How effective are mandatory PINs currently in protecting children? As part of this response we welcome views on the effectiveness of the protection offered for younger and older children.

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Q4: What more could be done to bolster the effectiveness of PINs?

BT is a founding member and funder of the Internet Matters programme which educates parents about online use. Working in partnership with Ofcom, Internet Matters is potentially a good vehicle for broadcasters and platforms to develop appropriate communication programmes to ensure audiences are well informed about any potential changes.

It would be useful to have an awareness campaign to better inform viewers of the mandatory PIN functionality, with the introduction of a universal icon that could easily signify to viewers that a PIN is required.

Q5: Do you agree with Ofcom's assessment of the technical limitations involved in implementing an extension to the mandatory daytime protection rules? Have there been any technical advancements in this area since the Call for Inputs in 2016?

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Q6: As a broadcaster or platform provider, do you foresee any issues with the provision or collection of metadata required for an extension to the mandatory daytime protection rules?

As a platform provider, we do not foresee significant issues with the collection of metadata from content providers. We see it as the content provider's responsibility to provide the correct metadata that it is compatible with our tech specifications in order to enable the correct restrictions to be applied to specific programming.

Q7: How would unconnected and legacy devices behave with the introduction of extended mandatory daytime protection rules? How do broadcasters and platform providers intend to ensure that there would be no risk of inadvertently broadcasting unsuitable content which is not secured by mandatory PIN protection?

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Q8: How would mandatory daytime protection interact with the live pause/ rewind/ fast forward functions on certain devices?

The current PIN functionality on both the BT TV and EE TV platforms requires a customer to enter their PIN whenever they navigate away from a channel whilst watching PIN protected content.

If a programme has been paused whilst being viewed during pre-watershed, customers will not be prompted to enter their PIN again as it would have been entered at the start of the programme.

Further development is required to ensure that this same functionality also works for programmes requiring a mandatory PIN across all channels on our platforms which don't currently utilise the mandatory PIN functionality.

Q9: What accessibility features are currently available, or could in future be implemented, to assist visually impaired people in accessing content restricted by a mandatory PIN?

It would be useful if a voiced information slate was triggered when PIN protected content is accessed by viewers with access service requirements. We would suggest that customers should have the choice to switch this voice feature on and off at their discretion, however the information slate should be mandatory.

Additionally, the BT TV set-top box currently has the following accessible features to help customers with access service requirements have a better user experience:

- High contrast colour scheme - a user can change the settings so that the menu is displayed as white text on black background
- Removal of channel logos from TV guide - makes the guide easier to read
- Removal of transparency of the TV guide - creates a solid background rather than being transparent which makes it easier to read
- Audio feedback – when users press certain buttons on the remote a tone is played, users can adjust the volume
- Zoom - users can zoom in when using the main menu or TV Guide, enlarging the text
- Grid 2 - users can control the YouView box without the need for keyboard or remote
- Use a keyboard instead of a remote - users can use a UK USB keyboard to interact with their box instead of using the remote
- Presence of Subtitles and/or Audio Description is indicated in the programme information using the [AD] and/or [S] icons
- Capture existing access services on recorded programmes which can be turned on or off when replaying the content
- Facility for switching signing on or off (not currently used due to lack of signed content)

The EE TV box has the following accessibility features:

- Supports audio descriptions for linear channels
- PIN control screen is presented in a very large, high contrast (white on black) font
- If EE TV is used on a mobile app within the home to watch live or recorded programmes, then existing Android and iOS accessibility features apply (screen readers, font zoom etc.)

Q10: Are there any other technological, practical or cost issues involved which Ofcom should be aware of?

From a BT TV perspective, further technological development will be required to enable a mandatory PIN when accessing content via an app, website or games console. At present we do not have data available to share on costings.

Any set-top boxes that has been retired will have significant technological, practical and costs associated and therefore we would expect these boxes to be excluded from any requirements should the rules be extended.

Further to this is the number of customer enquiries in relation to the PIN services we have today are numerous particularly in cases of forgotten PIN, this would be expected to rise in line with any extension to the daytime protection rules.

See also above in Q5 (with regards the EE TV platform) and Q7.

Q11: Which particular types of pay TV subscribers could benefit from increased viewing choice, as a result of an extension in mandatory daytime protection? We welcome information and evidence from stakeholders about the size of such groups.

Generally, programming viewed on linear via our platform is skewed towards older viewers. This suggests that the older population may be slower in embracing on-demand or app-based services. Extending the mandatory protection rules, could potentially see an increase in choice for older viewers if, for example broadcasters were to schedule boxsets or previously exclusive VOD-only content during pre-watershed utilising a mandatory PIN.

Q12: To what extent could an extension of mandatory daytime protection result in any decreased choice for households with children? We welcome information and evidence from stakeholders.

We do not have any evidence to suggest that there will be decreased choice for households with children should the mandatory PIN protection rules be extended.

Q13: As a broadcaster, would you be likely to use mandatory daytime protection to broadcast content on your channel(s)? What type of content would this be? Please provide an estimate of the number of hours of broadcast that would be likely to take place in a typical month.

As indicated in the Call for Input (2016), as a sports broadcaster, it is unlikely we would change our output if a revision of the Code took place. However, it *may* be a useful tool to deploy for events such as UFC (Ultimate Fighting Championship), which can contain bloody fights. This could provide an extra layer of protection for viewers who may, at the moment, come across this content by accident (e.g. by scanning through the EPG).

The number of UFC events vary year on year, therefore it is difficult to estimate how many hours of content per month this would be applicable to *should* we deploy these proposed changes.

In our wider BT TV offering, a potential change would give us more choice in terms of how we broadcast post-watershed drama. Channels like AMC from BT, which include shows such as "Fear The Walking Dead", could be broadcast at pre-watershed times under PIN protection.

Q14: To what extent would there be any increase in choice for pay TV household groups as a result of the expansion of the mandatory daytime protection rules? We welcome information and evidence.

We do not have specific evidence to suggest there will be an increase in choice, however there will of course be particular broadcasters who can take full advantage of the change to the rules due to their genre specialisms, e.g. Sky Atlantic, Comedy Central, Crime & Investigation channel. Overall, expanding the rules could allow for greater diversity of programming available which would be a benefit for the consumer.

Q15: To what extent might households be likely to switch away from FTA platforms due to the provision of mandatory daytime protection on pay TV platforms only? Ofcom would welcome information and evidence.

We do not have any consumer information to suggest that viewers would switch away from FTA platforms to pay TV platforms if mandatory daytime protection was only provided on pay TV platforms. However as the 2017 Communications Market Review report confirms, traditional linear viewing is on the decline³ in correlation to viewing content on mobile devices, which arguably poses more of a threat to FTA platforms than is presented by the expansion of the mandatory protection rules.

Q16: To what extent would channels which currently broadcast on FTA platforms be likely to stop broadcasting on those platforms, because mandatory daytime protection can only be used on pay TV platforms? Ofcom would welcome information and evidence.

We do not have any evidence to suggest that channels would move away from FTA platforms in these circumstances.

Q17: To what extent could platform competition be stimulated as a result of an extension to mandatory daytime protection? What effects could there be in the longer run on innovation and investment? Ofcom would welcome views and evidence.

We do not have specific evidence that demonstrates that the extension of mandatory daytime protection would stimulate platform competition. However, we are of the view that extending the mandatory protection rules could allow for healthy competition among broadcasters. As mentioned throughout this response, viewing habits are changing as traditional linear broadcasters compete with streaming services, on-demand programming and box-sets, and consumption via mobile devices. As

³ See Ofcom research on viewing habits, Communications Market Review UK 2017 - https://www.ofcom.org.uk/__data/assets/pdf_file/0016/105442/uk-television-audio-visual.pdf

stated in our response to Q14, there will of course be particular broadcasters who can take full advantage of the change to the rules due to their genre specialisms being a natural fit for the rules. To an extent, such broadcasters could potentially use the expansion of the rules as a point of difference and cause viewers to churn from their existing service. Whilst we do not have evidence to support this view it would be remiss not to note this possibility. Overall, expanding the rules could allow for greater diversity of programming available which would be a benefit for the consumer.

Q18: To what extent are viewers likely to switch to channels that offer content behind mandatory daytime protection?

We do not have evidence to suggest that viewers will have a preference for mandatory PIN protected content. Viewers have become accustomed to entering a PIN as part of the user experience in the on-demand world, and therefore would be unlikely to be deterred from viewing a channel because of a requirement to enter a PIN.

Q19: Do you agree with our competition assessment above? Please give reasons and evidence where available for your answer.

See Q17. We do not have any further evidence to add here.

Q20: Are there any other relevant competition considerations that Ofcom has not taken into account? Please give details

As referenced in Q5, portability is another issue worth considering. Further research is required to understand what the implications would be (if at all any) for customers travelling abroad and wanting to stream linear content on their devices whilst outside the UK.

Q21: Do you have any comments on the proposed revisions to the rules in Section One to allow for an extension to the mandatory daytime protection regime?

We have no further comments to add here.

Q22: Should the revised rules allow up to BBFC 15-rated films to be shown at 20:00 on premium subscription film channels (as the current rules do)? Or would consistency across all channels be more beneficial?

We are of the view that a consistent approach across all channels would be beneficial. This will provide clarity to the consumer.

It is important to note that having a consistent approach also extends to the relationship between the content provider and the platform. This is to ensure that accurate metadata is supplied by content providers to the platforms in order to apply mandatory PIN protections effectively and efficiently to consumers.

Q23: What information should/could be provided with programmes using a mandatory daytime protection to inform viewers on the suitability of the content?

Adopting current signposting such as age certifications, BBFC ratings, content warnings (e.g. for strong language, flashing images, violence, adult themes) and provision of access services would help inform viewers on suitability of content and recognise that a mandatory PIN is required. This is the method that consumers are already accustomed to.

In addition to this, it would also be beneficial to have an audio prompt informing viewers who have accessibility needs that a mandatory PIN is required (which can be enabled at the viewers' discretion).