

# Politicians presenting news

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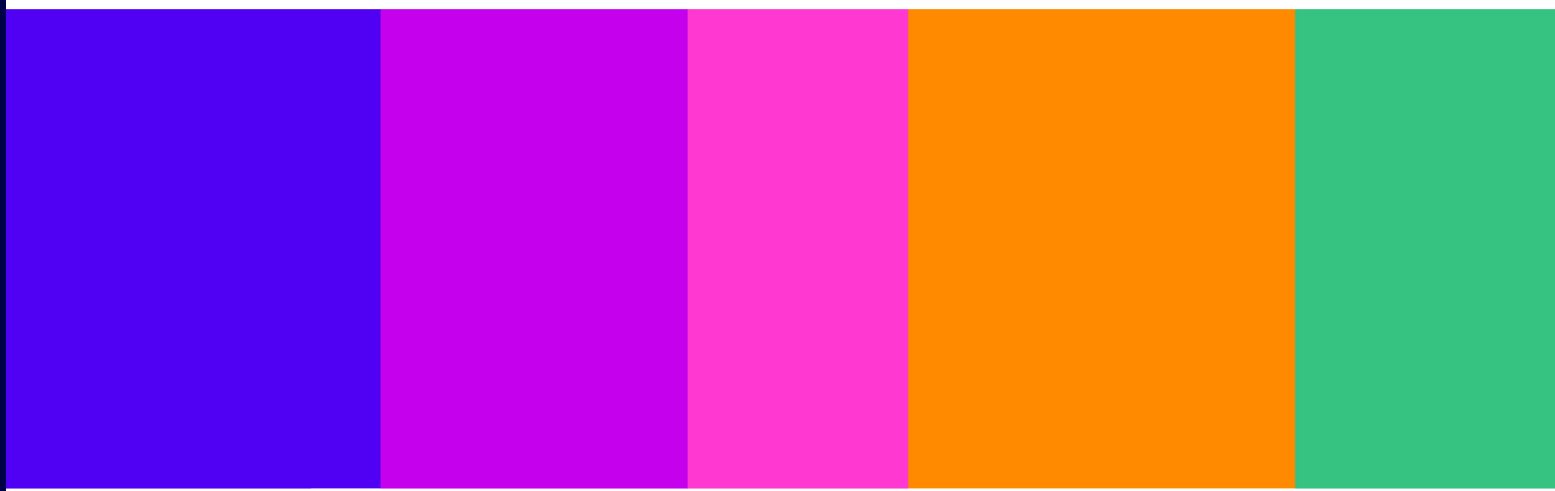
Consultation on proposed amendment to Rule 5.3 of the Ofcom Broadcasting Code

## Consultation

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# 1. Overview

## What we are proposing – in brief

Following a recent High Court judgment<sup>1</sup>, we propose to amend Rule 5.3 of the Ofcom Broadcasting Code. The purpose of the proposed amendment is to restrict politicians from presenting news in any type of television or radio programme. Ofcom considered Rule 5.3 applied to any programme that contained news, but the High Court has determined that currently the rule applies more narrowly, namely only to politicians presenting news in “news programmes”.

We consider this proposed change reflects the reality of the evolving media environment, in which the distinction between news and current affairs content has become more blurred and the use of politicians presenting programmes has become more prevalent.

Under the proposed amendment, politicians may not be used as newsreaders, news interviewers or news reporters in any type of programme, except where there is exceptional editorial justification. In such cases, broadcasters are required to make clear to the audience the political allegiance of that person.

We invite stakeholders’ views on whether they agree with the proposed amendments to Rule 5.3 of the Ofcom Broadcasting Code and the accompanying Guidance.

The full list of consultation questions is set out in Annex A8.

The closing date for responses is 23 June 2025.

The overview section in this document is a simplified high-level summary only. The proposals we are consulting on and our reasoning are set out in the full document.

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<sup>1</sup> [\*R \(on the application of GB News Limited\) v Ofcom\* \[2025\] EWHC 460 \(Admin\)](#)

## 2. Background and rationale for proposed amendment to Rule 5.3

2.1 This section sets out:

- the importance of preserving due impartiality in news;
- the wider context of the changing media environment;
- audience attitudes towards politicians presenting programmes on television and radio;
- Ofcom’s recent enforcement work and the High Court judgment regarding Rule 5.3; and
- the rationale for our proposed amendment to Rule 5.3.

### Background to proposed amendment to Rule 5.3 of the Code

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2.2 Following the [High Court judgment](#)<sup>2</sup>, Ofcom considers that Rule 5.3 of the Ofcom Broadcasting Code (“the Code”) should be amended to make clear that no politician may be used as a newsreader, news interviewer or news reporter **in any type** of programme included in a television or radio service (i.e. not just in “news programmes” on such services), unless there is exceptional editorial justification. Our reasons for proposing this change are set out below.

2.3 Annex A1 provides further detail about the relevant statutory framework, the existing Code rules and the history and rationale of the relevant requirements.

### The importance of preserving due impartiality in news

2.4 As explained in Annex A1, the legal and regulatory framework reflects the importance of news in a democratic society. Accordingly, the due impartiality requirements are highest for news. This is reflected in Rules 5.1<sup>3</sup> and 5.3<sup>4</sup> of the Code.

2.5 Together with the requirement for due accuracy, the due impartiality requirements aim to secure that audiences have access to duly accurate and impartial news on television and radio. This promotes democratic debate by enabling audiences to be well-informed about current events and to encounter a range of views on topical issues.

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<sup>2</sup> [R \(on the application of GB News Limited\) v Ofcom \[2025\] EWHC 460 \(Admin\)](#)

<sup>3</sup> Rule 5.1 states that “News, in whatever form, must be reported with due accuracy and presented with due impartiality”.

<sup>4</sup> Rule 5.3 states that “No politician may be used as a newsreader, interview or reporter in any news programmes unless, exceptionally, it is editorially justified. In that case, the political allegiance of that person must be made clear to the audience”.

- 2.6 Due impartiality in UK broadcast news is particularly important because other sources of news, such as national newspapers and social media, are often partial. The UK broadcasting sector as a whole benefits from due impartiality regulation in terms of building trust, and both audiences and society in general benefit from the fact that broadcast news in the UK must meet Ofcom’s standards of due accuracy and due impartiality.<sup>5</sup>
- 2.7 In considering the provenance and importance of the due impartiality provisions in the Act in 2020, the High Court found that “Ofcom has consistently found that audiences say that impartiality and accuracy in broadcast news is important to them (para 1.13 [of the Guidance to Section Five of the Code]).<sup>6</sup> Further, industry responses to a 2007 Discussion Paper published by Ofcom were overwhelmingly in favour of retaining the due impartiality requirements, for the reason, amongst others, that they secure the credibility of broadcast media in the United Kingdom”.<sup>7</sup>
- 2.8 It is in our view essential that audiences can trust and expect that the news content they watch on regulated broadcasting services is presented with due impartiality.

## Changing media environment

- 2.9 The UK media environment as a whole has evolved significantly since the passage of the Communications Act (“the Act”) in 2003, which is the legislation governing Ofcom’s broadcast standards work. Among other developments, the growth of digital media and the internet has had a substantial impact on the landscape more generally, and on the broadcasting sector in particular.
- 2.10 In many cases, the delivery mechanisms for television and radio services have changed, with online platforms providing new ways of accessing broadcast content (e.g. IPTV).<sup>8</sup> How audiences consume programmes has also been transformed, with the use of time-shifted viewing, catch-up and video-on-demand services becoming more prevalent.<sup>9</sup> The take-up of internet-enabled devices and especially social media has increased opportunities for audiences to participate in and engage with programmes. Finally, the evolution of the broader media environment has changed the context within which television and radio services operate.
- 2.11 One consequence of these technologically driven developments is that media consumption has become more diverse and fragmented.<sup>10</sup> There is increasing pressure on news

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<sup>5</sup> Ofcom’s research shows that audiences trust the accuracy and impartiality of broadcast news more than online and social media news platforms. See: [News consumption in the UK: 2024](#), Ofcom, September 2024, pp.10-11.

<sup>6</sup> This reference relates to a previous version of the Guidance to Section Five of the Code, which is available [here](https://www.ofcom.org.uk/siteassets/resources/documents/tv-radio-and-on-demand/broadcast-codes/code---march/april-2017/broadcast-code-guidance-section-5-march-2017.pdf?v=335875): <https://www.ofcom.org.uk/siteassets/resources/documents/tv-radio-and-on-demand/broadcast-codes/code---march/april-2017/broadcast-code-guidance-section-5-march-2017.pdf?v=335875>.

<sup>7</sup> *R (on the application of Autonomous Non-Profit Organisation TV-Novosti) v Ofcom* [2020] EWHC 689 (Admin), paragraphs 22 and 24.

<sup>8</sup> See: [Future of TV Distribution: Early market report to Government](#), Ofcom, May 2024.

<sup>9</sup> See: [Communications Market Report 2024](#), Ofcom, July 2024; and [Media Nations: UK 2024](#), Ofcom, July 2024.

<sup>10</sup> On publication of our report *Media Nations: UK 2023*, Ofcom noted: “The media diets of viewers and listeners in the UK appear to be more diverse and fragmented than ever”. *Media Nations: UK 2024* confirmed this trend: “Broadcast TV’s weekly reach fell from 79% in 2022 to 75% in 2023, marking a second consecutive year of record decline. For the first time, less than half (48%) of 16-24-year-olds tuned into broadcast TV in an average week...[T]he long-term decline in viewing of broadcast TV also continued”. See: [Media Nations 2023](#):

broadcasters to capture audiences in a crowded market, with more people accessing news online. For example, Ofcom's 2024 News Consumption Survey found (for the first time) that television is no longer the single main source of news for UK adults, as online sites and apps are now as popular as television news.<sup>11</sup>

- 2.12 In response, new formats and approaches are being developed for television and there has been a diversification of news providers. In particular, the UK has recently seen the emergence of new services such as GB News and Talk (formerly Talk TV) that are intended to provide audiences with distinctive news and current affairs programmes, including what they say are unheard voices and "straight talking opinions"<sup>12</sup>
- 2.13 These new services generally feature a mix of news and current affairs programming. They feature personality-led programmes consisting mainly of opinion, debate and discussion on topical issues, as well as interviews with experts, politicians, campaigners, journalists and commentators. These are interspersed with news bulletins and updates about developing stories, as well as some audience interaction.

### News and current affairs in the evolving media environment

- 2.14 As set out above, the distinction between news and current affairs content has become more blurred in this evolving media environment.
- 2.15 News, including in the conventional forms of a news bulletin or a news flash, is a well-established format on television and radio. It would immediately be recognisable as news to most viewers or listeners, on account of its factual and topical content, as well as by reference to a range of visual and/or auditory markers. These may include such features as: a newsreader presenting directly to the audience; a running order or list of stories, often in short form; the use of reporters or correspondents to deliver packages or live reports; and a mix of video and reporter items.<sup>13</sup>
- 2.16 Current affairs content, by contrast, is typically distinguished by such features as: a more long-form programme; the presence of extensive discussion, analysis or interviews with guests, often live; and long-form video reports.<sup>14</sup> Like news, current affairs content deals with topical issues, but it often presents a particular point of view on those issues or analyses them in greater depth than is usually the case in, for example, a news bulletin.
- 2.17 News programming has over time become blended with other types of programming. Audiences now regularly view and listen to news contained within programmes that also contain non-news content, such as daily magazine programmes.<sup>15</sup> News may be included within a non-news programme without it being clearly demarcated from the rest of the

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[Latest UK viewing and listening trends revealed](#), Ofcom, 3 August 2023; [Media Nations: UK 2023](#), Ofcom, August 2023; [Media Nations: UK 2024](#), Ofcom, July 2024, p.3.

<sup>11</sup> "[T]he ways in which people access the wide variety of news platforms are changing. In 2024, seven in ten (71%) say they consume online news in some capacity, level with news consumed via TV and on demand (70%). Social media is a significant component of online news consumption, with more than half of UK adults (52%) using it as a news source...Although online and social media have increased in use, traditional platforms outperform them on a number of attribute ratings; in particular, trust, accuracy and impartiality". See: [News consumption in the UK: 2024](#), Ofcom, September 2024, p.3.

<sup>12</sup> See, for example: [GB News Editorial Charter: A call to bold, fearless Journalism](#); and [Talk TV Launches 7pm Monday 25 April](#).

<sup>13</sup> [Can politicians present TV and radio shows? How our rules apply](#), Ofcom, 21 March 2023.

<sup>14</sup> Ibid.

<sup>15</sup> For example, *Good Morning Britain* (ITV1); *Breakfast* (BBC 1).

programme as with a conventional news bulletin. For example, a news flash about a breaking news event or an update on a developing story could be included in a live current affairs programme. In the case of rolling news and current affairs output, broadcasters may move more or less seamlessly between these types of content.

- 2.18 Another increasing trend has been politicians presenting programmes, in particular current affairs programmes. This is permitted under the Code as long as due impartiality is preserved. It is not a new phenomenon, but it has increased in recent years, particularly on television. This led to public discussion and scrutiny about politicians presenting programmes, which was reflected in the rise in the number of complaints that Ofcom received about this type of content in 2023 and 2024. This led us to conduct research on audience attitudes to politicians presenting programmes, as set out below.

## Audience attitudes

- 2.19 In April 2024, Ofcom published a report on *Audience attitudes towards politicians presenting programmes on television and radio*,<sup>16</sup> which presented the results of consumer research conducted on our behalf by Ipsos UK. The research explored audiences' understanding of news and current affairs, and their expectations of due impartiality when politicians are presenting this type of content. We commissioned this study in light of the rise in the number of programmes presented by politicians, the keen public interest in this issue, and to build our evidence to inform our work.

- 2.20 The main findings of the report were as follows:

- **Audiences may sometimes have difficulty distinguishing news and current affairs.** The similarities between news and current affairs, in terms of the topics covered and their presentation, sometimes led to confusion among participants. This was the case especially when participants felt that programmes contained both types of content.
- **Nearly all participants were instinctively against politicians presenting the news, as they expected it to be factual and felt politicians would naturally have a viewpoint to promote.** Participants thought news should be held to a higher standard than current affairs because it has a broader audience who are tuning in to hear facts. There were concerns around whether audiences would be able to recognise the news was being presented by a politician and around potential conflicts of interest. It was strongly felt that news should be delivered by somebody impartial and that audiences would expect this.
- **Although there was concern about politicians presenting current affairs, there was no consensus for preventing them from doing so.** The most prevalent opinion was feeling uncomfortable with politicians presenting current affairs, based on the expectation that they would lead conversations in a direction which promoted their own party and potentially mislead audiences by not voicing all perspectives. However, participants were divided on the question of whether politicians should be prevented from presenting current affairs.

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<sup>16</sup> [Audience attitudes towards politicians presenting programmes on television and radio](#), Ofcom/Ipsos UK, April 2024.

- **Participants balanced concerns about a potential lack of due impartiality against the importance of freedom of expression.** Those who thought politicians should be allowed to present current affairs often prioritised freedom of expression. They considered that politicians should be able to share their viewpoints without interference and emphasised the importance of audiences being able to choose what they watch and listen to. Some participants acknowledged potential advantages to politicians presenting current affairs, including how this could provide an accountability mechanism for the public.
- **While there was no consensus for preventing politicians from presenting current affairs, participants thought certain mitigations could help alleviate concerns about audiences being misled.** Potential mitigations supported by participants included: making it easier to visually differentiate between current affairs and news on television; telling audiences that a politician is presenting and making clear their party affiliation; clarifying who counts as a “politician” for the purposes of the rules; preventing politicians from interviewing members of their own party; and ensuring politicians present alternative points of view robustly and respectfully.

## Ofcom’s recent enforcement work and a High Court judgment

- 2.21 As explained above, in 2023 and 2024, Ofcom received an increased number of complaints about politicians presenting programmes, including complaints that politicians were presenting the news. This in turn resulted in increased regulatory activity in relation to this issue.
- 2.22 Most notably, on 18 March 2024 Ofcom found that five programmes broadcast on GB News had breached Rules 5.1 and 5.3 of the Code. GB News challenged two of these decisions, relating to editions of *Jacob Rees-Mogg’s State of the Nation* broadcast on 9 May and 13 June 2023, by way of judicial review.
- 2.23 On 28 February 2025, the High Court issued its judgment.<sup>17</sup> The High Court found that, in law, a programme cannot be a news programme and a current affairs programme at the same time. It held that as currently worded, Rule 5.3 only applies to politicians acting as a newsreader, news interviewer or news reporter in “news programmes”. *Jacob Rees-Mogg’s State of the Nation* was a current affairs programme. Politicians acting as a newsreader, news interviewer or news reporter in any other programmes, including current affairs programmes, fall outside Rule 5.3 and are regulated under Rule 5.1. The High Court accordingly quashed Ofcom’s two decisions and remitted them to be reconsidered by Ofcom.
- 2.24 Following the High Court judgment, we confirmed that we accepted the guidance of the Court. We announced that we would review and consult on proposed revisions to the Code to restrict politicians from presenting news in any type of programme, so as to ensure this is clear for all broadcasters.<sup>18</sup>
- 2.25 We decided not to reinvestigate the two editions of *Jacob Rees-Mogg’s State of the Nation* that had been remitted back to us. Accordingly, on 13 March 2025, we withdrew the three

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<sup>17</sup> [R \(on the application of GB News Limited\) v Ofcom \[2025\] EWHC 460 \(Admin\)](#)

<sup>18</sup> [Ofcom statement in response to High Court Judgment: GB News v Ofcom](#), Ofcom, 28 February 2025.



other breach decisions against GB News and one “not pursued” decision and removed all six decisions from GB News’ compliance record.<sup>19</sup>

## Rationale for proposed amendment to Rule 5.3

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### Politicians presenting programmes

- 2.26 Section 319 of the Act requires Ofcom to set standards to secure a range of objectives, including that “news included in television and radio services is presented with due impartiality” (section 319(2)(c) of the Act). Rule 5.3 of the Code has been put in place in service of this objective.
- 2.27 As such, Rule 5.3 is part of a wider regulatory scheme which seeks to maintain audience trust in broadcast news and ensure that it is presented with due impartiality. A similar rule featured in the ITC Programme Code and Radio Authority Code (see paragraphs A1.24 and A1.25 of Annex A1 below).
- 2.28 The regulatory framework was designed to be flexible enough to respond to technological change and innovation, based on overarching principles which can be applied consistently to an evolving broadcasting landscape. Given the fundamental importance of maintaining audience trust in broadcast news, and in view of the fact that programme genres and editorial techniques can change significantly over time, no definition of “news” is included in the Code. It is important to note that Parliament did not define “news” in the Act and it was clear that it was intended to be wide ranging and to apply to “news in whatever form” (section 319(8) of the Act).
- 2.29 This is reflected in the fundamental principles set out at the beginning of Section Five of the Code, notably the first principle that Section Five serves to “ensure that *news, in whatever form*, is reported with due accuracy and presented with due impartiality”. Likewise, Rule 5.1 states: “*News, in whatever form*, must be reported with due accuracy and presented with due impartiality”. The Guidance accompanying Section Five makes clear that “*news in whatever form* would include news bulletins, news flashes and daily news magazine programmes”<sup>20</sup> [emphases added].
- 2.30 In Ofcom’s view, the policy rationale for the Code’s restriction on politicians being used as a newsreader, news interviewer or news reporter is clear. Politicians are political representatives. They represent a particular political party each with its own political ideology, attitudes and policy positions. Politicians are therefore likely to be widely understood by audiences as people who both hold, and who also have an inherent interest in promoting, a partial view on topical issues. We therefore consider that politicians being used to present news risks undermining the integrity and credibility of regulated broadcast news.
- 2.31 The Guidance accompanying Section Five of the Code states: “For the purpose of Rule 5.3, a politician is likely to include an elected representative e.g. an MP or councillor, a candidate, an applicant to be a candidate or a prospective candidate (that is a candidate for election

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<sup>19</sup> Ofcom also discontinued six open investigations under Rules 5.1 and 5.3. The details of these investigations are as follows: *Jake Berry*, Talk TV, 12 December 2023; *Jake Berry*, Local TV, 12 December 2023; *Farage*, GB News, 17 January 2024; *David Lammy*, LBC 97.3FM, 29 March 2024; *Alex Phillips*, Talk, 22 May 2024; *Morning Glory*, Talk, 19 July 2024.

<sup>20</sup> See paragraph 1.12 of the Guidance to Section Five of the Code.

who knows they have been chosen to represent a party at an election), an employee of a political party or an activist.”<sup>21</sup>

- 2.32 The restriction on politicians in Rule 5.3 of the Code serves to reinforce and promote the general standard of due impartiality for broadcast news which is required by the standards objective that “news, in whatever form, is presented with due impartiality”. Rule 5.3 has not been amended since 2005, however, as set out above, the media landscape in which news is delivered has fundamentally changed, with the distinction between news and current affairs content becoming more blurred.
- 2.33 As noted in paragraph 2.20 above, Ofcom’s recent research indicates that audiences are instinctively against politicians presenting the news, as they expect it to be factual and feel politicians would naturally have a viewpoint to promote.<sup>22</sup> In setting, revising and applying the Code, it is important for Ofcom to take account the need to maintain the high level of trust audiences place in broadcast news and audience expectations that broadcast news will be presented with due impartiality.
- 2.34 Ofcom’s recent research also indicated there was a lack of consensus among audiences for preventing politicians from presenting current affairs. For some participants there was discomfort with politicians presenting current affairs, based on the expectation that they would conduct conversations in a partial manner and potentially mislead audiences, but overall participants were divided on the question of whether this practice should be prohibited. Some participants prioritised freedom of expression and acknowledged potential advantages to politicians presenting current affairs, such as providing an accountability mechanism for the public.
- 2.35 We do not consider at this stage that there is sufficient evidence to justify action by Ofcom to restrict politicians from presenting current affairs programmes on television or radio. We have taken into account the lack of consensus for doing so that was revealed by our research, including having regard to the potential advantages of politicians presenting current affairs that were cited by participants. In particular, we note the concerns about undue interference with the right to freedom of expression. We also consider that there are already sufficient protections in the Code to ensure the preservation of due impartiality in content featuring matters (as well as major matters) of political or industrial controversy or current public policy. This includes in circumstances where a politician is presenting programmes about such matters.<sup>23</sup> We are aware of many examples where Ofcom-licensed services have ensured such content is compliant with the Code, notwithstanding the potential compliance risks involved. Finally, the Act clearly intended that there should be a higher level of protection for news as compared to non-news content (see Annex A1).
- 2.36 In this context, and taking account of the fundamental need to preserve the due impartiality of broadcast news as set out above, Ofcom considers there is a need for clarity on the scope of Rule 5.3. Our proposed amendment to Rule 5.3 would make clear that the restriction on politicians presenting news applies to news in any type of programme included in a service, and is not limited to “news programmes”.

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<sup>21</sup> See paragraph 1.26 of the Guidance to Section Five of the Code.

<sup>22</sup> [Audience attitudes towards politicians presenting programmes on television and radio](#), pp.18-20.

<sup>23</sup> For example: [Saturday Morning with Esther and Philip, GB News, 11 March 2023](#)

# 3. Proposed amendment to Rule 5.3 of the Code

3.1 In this consultation, Ofcom is proposing to amend Rule 5.3 of the Code and the accompanying guidance. This section sets out:

- the text of the proposed revised version of the rule; and
- associated consultation questions.

## Proposed amendment to Rule 5.3

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3.2 The current version of Rule 5.3 restricts politicians from presenting news programmes (unless there is exceptional editorial justification). Outside of this, there is no rule that restricts a politician from presenting or appearing on a television or radio programme, provided:

- the broadcaster preserves due impartiality on matters and major matters of political or industrial controversy or relating to current public policy<sup>24</sup>; and
- the politician is not a candidate in a UK election or a representative of a permitted participant in a UK referendum taking place.<sup>25</sup>

This means that politicians can present current affairs programmes which deal with matters (as well as major matters) of political or industrial controversy and relating to current public policy, as long as steps are taken to ensure the programme reflects alternative views and/or provides appropriate context.

3.3 Rule 5.3 of the Code currently states: **“No politician may be used as a newsreader, interviewer or reporter in any news programmes unless, exceptionally, it is editorially justified. In that case, the political allegiance of that person must be made clear to the audience.”**

3.4 Ofcom’s Guidance to Section Five of the Code includes specific guidance on Rule 5.3, as summarised below at paragraph A1.17 in Annex A1.

3.5 For the reasons detailed above in paragraphs 2.4 to 2.8, Ofcom considers it is important for due impartiality to be preserved in news, including by restricting politicians from presenting this type of content in any type of programme included in a television or radio service.

3.6 We are therefore proposing to amend Rule 5.3 of the Code so that it will be clear to broadcasters that this rule restricts politicians from presenting news within all types of programming. Specifically, politicians may not be used as newsreaders, news interviewers or news reporters in any type of programme, except where there is exceptional editorial justification. In such cases, broadcasters are required to make clear to the audience the political allegiance of that person.

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<sup>24</sup> See Rules 5.5, 5.11 and 5.12 of the Code.

<sup>25</sup> A candidate, an applicant to be a candidate or a prospective candidate (i.e. a candidate for election who knows they have been chosen to represent a party at an election).

- 3.7 For the avoidance of doubt, we view politicians being used as newsreaders, news interviewers or news reporters as them presenting the news.
- 3.8 The proposed amendment to Rule 5.3 of the Code is set out in full below. In Ofcom’s view, this is consistent with the legislative scheme; reflects the importance of preserving due impartiality in news; and responds to the need for clarity on the scope of the rule.

**Table 1: Proposed amendment to Rule 5.3 of the Ofcom Broadcasting Code**

|                 | Current text  | Proposed text   |
|-----------------|---|---|
| <b>Rule 5.3</b> | No politician may be used as a newsreader, interviewer or reporter in any news programmes unless, exceptionally, it is editorially justified. In that case, the political allegiance of that person must be made clear to the audience. | No politician may be used as a newsreader, news interviewer or news reporter in any type of programme unless, exceptionally, it is editorially justified. In that case, the political allegiance of that person must be made clear to the audience. |

- 3.9 No consequential amendments to the other rules or supporting information are required to ensure the readability and interoperability of the Code. An annotated version of the revised text of Section Five of the Code, showing the proposed revision to Rule 5.3 in context, is included at Annex A2.
- 3.10 As set out in paragraphs A1.27 to A1.35 in Annex A1 below, Ofcom must perform its duties in accordance with the right to freedom of expression set out in Article 10 of the Convention. We consider that the interference with freedom of expression involved in restricting politicians from presenting news in any type of programme is justified. Please see Annex A4 for our detailed analysis in this regard.

## Proposed amendment to accompanying Guidance to Rule 5.3

- 3.11 We propose to amend Ofcom’s Guidance on Section Five of the Code to reflect the proposed change to Rule 5.3. Annex A3 sets out an annotated version of the revised Guidance, showing the proposed revisions to the Guidance on Rule 5.3.

## Consultation questions

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- 3.12 Ofcom welcomes stakeholders' views on the proposed amendments to Rule 5.3 of the Code and accompanying Guidance. The consultation questions are set out below and included at Annex A8.

**Consultation question 1:**

Do you agree with the proposed amendment to Rule 5.3 of the Ofcom Broadcasting Code? Please give reasons for your answer.

**Consultation question 2:**

Do you consider that Rule 5.3 of the Ofcom Broadcasting Code, if amended as proposed, will provide sufficient protection for audiences? Please give reasons for your answer.

**Consultation question 3:**

Do you agree with the assessment of the potential impacts of the proposed amendment to Rule 5.3 of the Ofcom Broadcasting Code (as set out in Annex A2)? Please give reasons for your answer.

**Consultation question 4:**

Do you agree with the proposed amendments to the Guidance on Rule 5.3?

**Consultation question 5:**

Do you have any other comments to make on the proposals, including in relation the scope of the proposed changes?

# A1. Legislative and regulatory background

## General duties

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- A1.1 Ofcom is the UK's independent regulator for communications services. We have regulatory responsibilities for the broadcasting, telecommunications and post sectors, as well as for online services.
- A1.2 The Communications Act 2003 ("the Act") places a number of duties on Ofcom that we must fulfil when exercising our regulatory functions, including in relation to broadcasting. Section 3(1) of the Act states that it shall be our principal duty, in carrying out our functions:
- to further the interests of citizens in relation to communication matters; and
  - to further the interests of consumers in relevant markets, where appropriate by promoting competition.
- A1.3 In performing that principal duty, we are required to have regard to principles set out in the Act under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed, as well as any other principles appearing to us to represent best regulatory practice.<sup>26</sup>
- A1.4 In carrying out our functions Ofcom is required to secure, in particular, the application of standards that provide adequate protection to members of the public from the inclusion of offensive and harmful material in television and radio services.<sup>27</sup>
- A1.5 Section 3(4) of the Act further provides that in performing our duties, we must have regard to certain matters as appear to us to be relevant in the circumstances, including:
- the need to secure that the application of standards in the case of television and radio services is in the manner that best guarantees an appropriate level of freedom of expression;
  - the opinions of consumers in relevant markets and of members of the public generally; and
  - the different interests of persons in the different parts of the United Kingdom, of the different ethnic communities within the United Kingdom and of persons living in rural and in urban areas.<sup>28</sup>

## The Ofcom Broadcasting Code

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- A1.6 Section 319 of the Act requires Ofcom to set, and from time to time review and revise, standards for the content of television and radio programmes as appear to us best calculated to secure the standards objectives set out in section 319(2) of the Act.

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<sup>26</sup> Section 3(3) of the Act.

<sup>27</sup> Section 2(e) of the Act.

<sup>28</sup> Section 4(g) of the Act.

- A1.7 These objectives include that news included in television and radio services is presented with due impartiality and that the impartiality requirements of section 320 of the Act are complied with.<sup>29</sup> Section 319(8) makes clear that “news” means news in whatever form it is included in a service.
- A1.8 In setting or revising standards, Ofcom must have regard, in particular and to such extent as appears to us relevant, to each of the following matters:
- the degree of harm or offence likely to be caused by the inclusion of any particular sort of material in programmes generally, or in programmes of a particular description;
  - the likely size and composition of the potential audience for programmes included in television and radio services generally, or in television and radio services of a particular description;
  - the likely expectation of the audience as to the nature of a programme’s content and the extent to which the nature of a programme’s content can be brought to the attention of potential members of the audience;
  - the likelihood of persons who are unaware of the nature of a programme’s content being unintentionally exposed, by their own actions, to that content;
  - the desirability of securing that the content of services identifies when there is a change affecting the nature of a service that is being watched or listened to and, in particular, a change that is relevant to the application of the standards set under this section; and
  - the desirability of maintaining the independence of editorial control over programme content.<sup>30</sup>
- A1.9 The standards set by Ofcom must be contained in one or more codes.<sup>31</sup> Ofcom has published the [Broadcasting Code](#) (“the Code”), which has been in force since 2005. The standards derived from the due impartiality requirements in sections 319 and 320 of the Act are reflected in [Sections Five \(Due Impartiality and Due Accuracy\)](#) and [Six \(Elections and Referendums\)](#). Broadcasters are required to comply with the Code as a condition of their licence.
- A1.10 Section 324 requires that before setting or revising standards, Ofcom must publish a draft of the proposed code containing those standards. Ofcom must consult broadcasters and certain other persons as we think fit, including those representing the interests of audiences. Ofcom must then publish the code containing the revised standards and send a copy of it to the Secretary of State among others.

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<sup>29</sup> Section 319(2)(c) of the Act. Section 320 of the Act sets out the special impartiality requirements that apply to all programmes. These include the preservation of due impartiality in relation to matters of political or industrial controversy and matters relating to current public policy. There is a similar requirement in relation to matters of major political or industrial controversy and major matters relating to current public policy.

<sup>30</sup> Section 319(4) of the Act.

<sup>31</sup> Section 319(3) of the Act.

## Section Five of the Code

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- A1.11 Section Five of the Code begins by setting out two guiding “Principles”, to which the following rules give effect, namely: “[t]o ensure that news, in whatever form, is reported with due accuracy and presented with due impartiality”; and “[t]o ensure that the special impartiality requirements of the Act are complied with”.<sup>32</sup>
- A1.12 Rules 5.1 to 5.3 apply to news. Rule 5.1 states “News, in whatever form, must be reported with due accuracy and presented with due impartiality”. This rule applies to such programming in its entirety, not just insofar as it relates to matters (as well as major matters) of political or industrial controversy or relating to current public policy.
- A1.13 Rule 5.2 concerns the acknowledgement and correction of significant mistakes in news.
- A1.14 Rule 5.3 in its current form states “No politician may be used as a newsreader, interviewer or reporter in any news programmes unless, exceptionally, it is editorially justified. In that case, the political allegiance of that person must be made clear to the audience”.
- A1.15 Outside of news programmes, there is no Ofcom rule that prevents a politician from hosting or appearing on a television or radio programme – provided they are not standing as a candidate in an election taking place, or about to take place, or are a representative of a permitted participant, as designated by the Electoral Commission, in a UK referendum.<sup>33</sup> This means that politicians are allowed to present current affairs programmes such as audience phone-ins and discussion programmes. Both news programmes and current affairs programmes must comply with all relevant rules in the Code, including the need to preserve due impartiality on matters<sup>34</sup> (as well as major matters<sup>35</sup>) of political or industrial controversy or relating to current public policy.
- A1.16 The remainder of the rules in Section Five apply to news and other types of programmes.
- A1.17 Ofcom has also published guidance notes on the Code (“the Guidance”), including on [Sections Five](#) and [Six](#). The current guidance on Rule 5.3 states that the use of politicians as reporters or presenters in news programmes could be problematic in the context of the requirement for due impartiality. It clarifies that for the purpose of Rule 5.3, a “politician” is likely to include an elected representative (e.g. an MP or a councillor); a candidate, an applicant to be a candidate, or a prospective candidate (i.e. a candidate for election who knows they have been chosen to represent a political party at an election); an employee of a political party; or an activist.<sup>36</sup>

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<sup>32</sup> The “special impartiality requirements” are the requirements under section 320 of the Act, which are reflected in particular in Rules 5.5, 5.6, 5.11 and 5.12 of the Code.

<sup>33</sup> This is prohibited under Rule 6.6 of the Code.

<sup>34</sup> Matters of political or industrial controversy are political or industrial issues on which politicians, industry and/or the media are in debate. Matters relating to current public policy need not be the subject of debate but relate to a policy under discussion or already decided by a local, regional or national government or by bodies mandated by those public bodies to make policy on their behalf, for example non-governmental organisations, relevant international institutions, etc.

<sup>35</sup> These will vary according to events but are generally matters of political or industrial controversy or matters of current public policy which are of national, and often international, importance, or are of similar significance within a smaller broadcast area.

<sup>36</sup> Paragraphs 1.25-1.26 of the Guidance to Section Five of the Code.



## The history and rationale of the relevant requirements

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- A1.18 Section Five of the Code has existed in its present form since the Code was first published in 2005. However, licensed broadcasters have been subject to requirements of due accuracy and due impartiality in the presentation of news from 1954 and these have been repeatedly re-enacted by Parliament since then.<sup>37</sup>
- A1.19 Access to accurate, unbiased news has been recognised as essential to democracy, as is the ability of citizens to trust that news reporting is accurate and unbiased. As the Chief Executive of the Independent Television Commission (“ITC”) observed in a research paper published in October 2002:
- “[A]ccess to trustworthy, informative news can no more be taken for granted than clean air. It requires conscious acts of public policy to guarantee it.”<sup>38</sup>
- A1.20 A Department of Trade and Industry policy paper on the draft Communications Bill stated:
- “News services perform a vital function in a democratic society. They provide a platform for open debate, and allow citizens to make informed and responsible decisions. Many consider television news to be particularly trustworthy, and one of the principles of regulation has been to ensure that high quality, impartial news is available to all viewers.”<sup>39</sup>
- A1.21 In particular, the due impartiality standards required under sections 319 and 320 of the Act form part of a tripartite series of measures (the others being a prohibition on paid political advertising<sup>40</sup> and the provision of free party political and party election broadcasts according to defined rules<sup>41</sup>) which aim to safeguard the integrity of democratic debate on matters of public concern by preventing influential broadcast media platforms from being hijacked by wealthy or well-placed interests promoting a partial agenda. The Government’s White Paper<sup>42</sup> published in advance of the Communications Bill in December 2000 stated that the due impartiality obligations would remain “at the heart of licensed broadcasting services” and explained:
- “...one of the cornerstones of broadcasting in the UK has been the obligation on all broadcasters to present news with due accuracy and impartiality. There are also important impartiality obligations applying to other programming. The Government believes that these obligations have played a major part in ensuring wide public access to impartial and accurate information about our society and the opportunity to encounter a diverse array of voices and perspectives. They ensure that the

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<sup>37</sup> See: Television Act 1954, section 3(1)(c); Television Act 1964, section 3(1)(b); Independent Broadcasting Authority Act 1973, section 4(1)(b); Broadcasting Act 1990, section 6(1)(b).

<sup>38</sup> *New news, old news: An ITC and BSC Research Publication*, Ian Hargreaves and James Thomas, October 2002, p.4.

<sup>39</sup> The draft Communications Bill – the Policy, Department of Trade and Industry, May 2002, p.46.

<sup>40</sup> See: section 319(2)(g) and section 321(2) of the Act.

<sup>41</sup> Section 333 of the Act provides that licences for certain broadcasters must require the inclusion of free broadcasts and the observance of the Ofcom Rules on Party Political and Referendum Broadcasts. Those Rules regulate party political broadcasts (offered to qualifying parties outside election periods); party election broadcasts (offered to qualifying parties during election periods); and referendum campaign broadcasts (offered to each designated referendum organisation before each referendum).

<sup>42</sup> [Communications White Paper](#) (Safeguarding the interests of citizens, 6.6.1).

broadcast media provide a counter-weight to other, often partial, sources of news. They therefore contribute significantly to properly informed democratic debate.”

- A1.22 The specific principle that politicians should not be used in certain roles associated with the presentation of news, because of the requirement of due impartiality, has been a feature of broadcasting regulation for many years. The Independent Broadcasting Authority’s (“IBA”) 1977 Programme Guidelines restricted politicians from acting as newscasters and, more broadly, as presenters of current affairs or discussion programmes, explaining that:

“...In addition to the need mentioned above to avoid a politician gaining unfair advantage by appearances on the screen, there is the need also to preserve due impartiality in appearance as well as in reality. However nonpartisan and objective the on-screen deportment of such a person, it might be difficult for viewers to accept as truly impartial a programme presented by him on a matter of current political or industrial controversy.”<sup>43</sup>

- A1.23 The IBA’s 1976 Yearbook further explained the underlying concern as follows:

“...One specific difficulty...arises with those programmes in which politicians appear regularly in what, to all intents and purposes, is a non-political capacity...But the question to be asked is, can any appearance by a known active politician in whatever role be thought – realistically – to be non-political?...

The main obstacle is the overriding commitment of the broadcasting authorities to impartiality in the presentation of news and current affairs programmes. This makes it virtually impossible for active politicians (or active party supporters) to be employed in roles where they would present or preside over news or current affairs programmes.”<sup>44</sup>

- A1.24 The Independent Television Commission’s (“ITC”) Programme Code, published in 2002, contained the following restriction on politicians presenting news in similar terms to the current Rule 5.3:

“Because of the need to preserve due impartiality, no currently active politician should appear as newscasters, interviewers or reporters in any news programme, unless their use can be clearly justified, in which case their party allegiance should be clearly identified.”<sup>45</sup>

- A1.25 The Radio Authority’s News and Current Affairs Code and Programme Code, also published in 2002, contained a similar requirement:

“Politicians may host programmes, although care and discretion should be exercised. They should not present news bulletins or longer news programmes.”<sup>46</sup>

- A1.26 Ofcom emphasised the continuity of these requirements in our 2004 consultation on the Code. We stated that the draft rule that became the current Rule 5.3 “explains how, in practice, ‘due impartiality’ must apply to politicians who present news and acknowledges the need for transparency. Broadcasters currently abide by this rule”.<sup>47</sup>

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<sup>43</sup> Independent Broadcasting Authority Annual Report and Accounts 1976-77, p.114.

<sup>44</sup> Independent Broadcasting Authority Yearbook 1976, pp.72-73.

<sup>45</sup> The ITC Programme Code, January 2002, Section 3.7.

<sup>46</sup> Radio Authority News and Current Affairs Code and Programme Code, January 2002, Section 2.1.

<sup>47</sup> Consultation on the proposed Ofcom Broadcasting Code, 14 July 2004, p.44.

## Freedom of expression

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- A1.27 As a public authority, Ofcom must act in accordance with its public law duties to act lawfully, rationally and fairly, and it is unlawful for Ofcom to act in a way which is incompatible with the European Convention of Human Rights (“the ECHR”).<sup>48</sup> Of particular relevance to Ofcom’s functions under section 319 of the Act is the right to freedom of expression (Article 10 of the ECHR).
- A1.28 Freedom of expression is one of the essential foundations of a democratic society. It encompasses the broadcaster’s right to freedom of expression as well as the audience’s right to receive creative material, information and ideas without interference.<sup>49</sup> It applies not only to the content of information but also to the means of transmission or reception.<sup>50</sup>
- A1.29 Article 10(2) of the ECHR states that this right may be restricted in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.
- A1.30 Any interference with the right to freedom of expression must be prescribed by law, pursue a legitimate aim, and be necessary in a democratic society (i.e. proportionate to the legitimate aim pursued and corresponding to a pressing social need).
- A1.31 Decisions at both a domestic level and before the European Court of Human Rights make clear the scope for restrictions on freedom of expression is likely to be especially limited in two overlapping fields, namely political speech and on matters of public interest. Accordingly, a high level of protection of freedom of expression will normally be accorded, with the authorities having a particularly narrow margin of appreciation.
- A1.32 It is well established that the freedom of expression of licensed broadcasters may legitimately be restricted where such measures are necessary to achieve the positive objective of maintaining fair and equal democratic discourse on influential media platforms to the benefit of society generally.<sup>51</sup>
- A1.33 Section 319 of the Act requires that “news is presented with due impartiality”. In passing the Act, Parliament set out in legislation the restrictions prescribed by law and which it judged to be necessary in our democratic society. The legitimate aim is for the protection of the rights of others.
- A1.34 The statutory framework set by Parliament specifically assigns an area of judgment, to be exercised by Ofcom, as to what regulatory requirements are best calculated to secure the legislative objectives and in turn, how these requirements are to be applied to the facts of each case.
- A1.35 In setting, revising and enforcing standards in relation to due impartiality, Ofcom must give careful consideration to broadcasters’ and audiences’ Article 10 rights. Ofcom must also

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<sup>48</sup> Section 6, Human Rights Act 1998.

<sup>49</sup> *Lingens v Austria* (1986) 8 EHRR 407.

<sup>50</sup> *Autronic v Switzerland* (1990) 12 EHRR 485.

<sup>51</sup> *Animal Defenders v United Kingdom* [2013] EMLR 28 and *R (On The Application of Animal Defenders International) v Secretary of State For Culture, Media and Sport* [2008] 1 AC 1312 and *Animal Defenders v United Kingdom* [2013] EMLR 28.

give due regard to the matters specified in section 149(1) of the Equality Act 2010 and section 75 of the Northern Ireland Act 1998. Please see Annex A4 for further detail.

## A2. Proposed revised text of Section Five

A2.1 An annotated version of the revised text of Section Five of the Code, showing the proposed amendment to Rule 5.3 in context, is set out in full below.

### Section Five: Due Impartiality and Due Accuracy and Undue Prominence of Views and Opinions

(Relevant legislation includes, in particular, sections 319(2)(c) and (d), 319(8) and section 320 of the Communications Act 2003, Article 7 of the European Convention on Transfrontier Television (for ECTT Services only), the BBC Charter and Agreement, and Article 10 of the European Convention on Human Rights.)

#### Principles

**To ensure that news, in whatever form, is reported with due accuracy and presented with due impartiality.**

**To ensure that the special impartiality requirements of the Act are complied with.**

#### Rules

##### Meaning of “due impartiality”:

“Due” is an important qualification to the concept of impartiality. Impartiality itself means not favouring one side over another. “Due” means adequate or appropriate to the subject and nature of the programme. So “due impartiality” does not mean an equal division of time has to be given to every view, or that every argument and every facet of every argument has to be represented. The approach to due impartiality may vary according to the nature of the subject, the type of programme and channel, the likely expectation of the audience as to content, and the extent to which the content and approach is signalled to the audience. Context, as defined in [Section Two: Harm and offence](#) of the Code, is important.

##### Due impartiality and due accuracy in news

- 5.1 News, in whatever form, must be reported with due accuracy and presented with due impartiality.
- 5.2 Significant mistakes in news should normally be acknowledged and corrected on air quickly (or, in the case of BBC ODPS, corrected quickly). Corrections should be appropriately scheduled (or, in the case of BBC ODPS, appropriately signaled to viewers).
- 5.3 No politician may be used as a newsreader, news interviewer or news reporter in any type of news programmes unless, exceptionally, it is editorially justified. In that case, the political allegiance of that person must be made clear to the audience.

##### Special impartiality requirements: news and other programmes

*Matters of political or industrial controversy and matters relating to current public policy*

**Meaning of “matters of political or industrial controversy and matters relating to current public policy”:**

Matters of political or industrial controversy are political or industrial issues on which politicians, industry and/or the media are in debate. Matters relating to current public policy need not be the subject of debate but relate to a policy under discussion or already decided by a local, regional or national government or by bodies mandated by those public bodies to make policy on their behalf, for example non-governmental organisations, relevant international institutions, etc.

### *The exclusion of views or opinions*

(Rule 5.4 applies to television and radio services (except restricted services) and to BBC ODPS.)

- 5.4 Programmes in the services (listed above) must exclude all expressions of the views and opinions of the person providing the service on matters of political and industrial controversy and matters relating to current public policy (unless that person is speaking in a legislative forum or in a court of law). Views and opinions relating to the provision of programme services are also excluded from this requirement.

### *The preservation of due impartiality*

(Rules 5.5 to 5.12 apply to television programme services, teletext services, national radio and national digital sound programme services, all BBC radio services and BBC ODPS.)

- 5.5 Due impartiality on matters of political or industrial controversy and matters relating to current public policy must be preserved on the part of any person providing a service (listed above). This may be achieved within a programme or over a series of programmes taken as a whole.

#### **Meaning of “series of programmes taken as a whole”:**

This means more than one programme in the same service, editorially linked, dealing with the same or related issues within an appropriate period and aimed at a like audience. A series can include, for example, a strand, or two programmes (such as a drama and a debate about the drama) or a ‘cluster’ or ‘season’ of programmes on the same subject.

- 5.6 The broadcast of editorially linked programmes dealing with the same subject matter (as part of a series in which the broadcaster aims to achieve due impartiality) should normally be made clear to the audience on air<sup>52</sup>.
- 5.7 Views and facts must not be misrepresented. Views must also be presented with due weight over appropriate timeframes.
- 5.8 Any personal interest of a reporter or presenter, which would call into question the due impartiality of the programme, must be made clear to the audience.
- 5.9 Presenters and reporters (with the exception of news presenters and reporters in news programmes), presenters of “personal view” or “authored” programmes or items, and chairs of discussion programmes may express their own views on matters of political or industrial controversy or matters relating to current public policy. However, alternative viewpoints must be adequately represented either in the programme, or in a series of programmes taken as a whole. Additionally, presenters must not use the advantage of regular appearances to promote their views in a way that compromises the requirement for due impartiality. Presenter phone-ins must encourage and must not exclude alternative views.

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<sup>52</sup> For BBC ODPS this should be made clear to the audience by appropriate signalling to the audience.

- 5.10 A personal view or authored programme or item must be clearly signalled to the audience at the outset. This is a minimum requirement and may not be sufficient in all circumstances. (Personality phone-in hosts on radio are exempted from this provision unless their personal view status is unclear.)

**Meaning of “personal view” and “authored”:**

“Personal view” programmes are programmes presenting a particular view or perspective. Personal view programmes can range from the outright expression of highly partial views, for example by a person who is a member of a lobby group and is campaigning on the subject, to the considered “authored” opinion of a journalist, commentator or academic, with professional expertise or a specialism in an area which enables her or him to express opinions which are not necessarily mainstream.

*Matters of major political or industrial controversy and major matters relating to current public policy*

- 5.11 In addition to the rules above, due impartiality must be preserved on matters of major political and industrial controversy and major matters relating to current public policy by the person providing a service (listed above) in each programme or in clearly linked and timely programmes.

**Meaning of “matters of major political or industrial controversy and major matters relating to current public policy”:**

These will vary according to events but are generally matters of political or industrial controversy or matters of current public policy which are of national, and often international, importance, or are of similar significance within a smaller broadcast area.

- 5.12 In dealing with matters of major political and industrial controversy and major matters relating to current public policy an appropriately wide range of significant views must be included and given due weight in each programme or in clearly linked and timely programmes. Views and facts must not be misrepresented.

*The prevention of undue prominence of views and opinions on matters of political or industrial controversy and matters relating to current public policy*

(Rule 5.13 applies to local radio services (including community radio services), local digital sound programme services (including community digital sound programme services) and radio licensable content services. For the avoidance of doubt, it does not apply to any BBC services.)

- 5.13 Broadcasters should not give undue prominence to the views and opinions of particular persons or bodies on matters of political or industrial controversy and matters relating to current public policy in all the programmes included in any service (listed above) taken as a whole.

**Meaning of “undue prominence of views and opinions”:**

Undue prominence is a significant imbalance of views aired within coverage of matters of political or industrial controversy or matters relating to current public policy.

**Meaning of “programmes included in any service...taken as a whole”:**

Programmes included in any service taken as a whole means all programming on a service dealing with the same or related issues within an appropriate period.

# A3. Proposed revised Guidance on Rule 5.3 for inclusion in Guidance Notes: Section Five

- A3.1 An annotated version of the revised text of the guidance accompanying Rule 5.3, showing the proposed amendments to this section of the Guidance Notes to Section Five of the Code in context, is set out in full below.

## Rule 5.3

No politician may be used as a newsreader, news interviewer or news reporter in any type of news programme unless, exceptionally, it is editorially justified. In that case, the political allegiance of that person must be made clear to the audience.

## Guidance

- 1.1 — Rule 5.3 restricts politicians from acting as a newsreader, interviewer or reporter ~~in news programmes~~ unless, exceptionally, it is editorially justified. In that case, the political allegiance of the person must be made clear to the audience.
- 1.2 — Rule 5.3 is a specific restriction on politicians in ~~news programmes~~. However, if a politician acts as a newsreader, interviewer or reporter in any other type of programme, including current affairs programmes, it will not apply and Rule 5.1 will apply instead. In such circumstances, broadcasters should carefully consider the compliance of that content with Rule 5.1 of the Code. Whether Rule 5.1 is breached in such circumstances would require a full contextual analysis, in which case the fact that the news had been presented by a politician may be a highly relevant factor depending on the context, alongside the nature and content of the news and of the programme. Broadcasters should note that there is no exceptional justification test in Rule 5.1.
- 1.3 The use of politicians as news reporters or presenters in any type of news programme could be problematic in the context of the requirement for due impartiality.
- 1.4 For the purpose of Rule 5.3, a politician is likely to include an elected representative e.g. an MP or councillor, a candidate, an applicant to be a candidate or a prospective candidate (that is a candidate for election who knows they have been chosen to represent a party at an election), an employee of a political party or an activist.
- 1.5 The rationale for the Code's restriction on politicians being used as a newsreader, news interviewer or news reporter in any type of news programme is that politicians represent a particular political party each with its own political ideology, attitudes and policy positions. Politicians are therefore likely to be widely understood by audiences as people who both hold, and who also have an inherent interest in promoting, a partial view on topical issues<sup>53</sup>.

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<sup>53</sup> In a previous decision Ofcom found that "This [Rule 5.3] is to ensure that the news is presented, and is perceived to be presented, with due impartiality" – see *News*, London Greek Radio, [Broadcast Bulletin Issue number 65 \(ofcom.org.uk\)](#)



- 1.6 In setting and applying the Code, it is important for Ofcom to maintain audience trust in broadcast news and audience expectations that it will be presented with due impartiality. Rule 5.3 of the Code therefore serves to reinforce and promote the general standard of due impartiality for broadcast news which is required by Rule 5.1.
- 1.7 Politicians being used to present news risks undermining the integrity and credibility of regulated broadcast news because of their inherently partial role in society. News presented by them is likely to be viewed by audiences in light of that perceived bias. For that reason, the presentation of news by a politician without exceptional editorial justification, in whatever programming context it appears, is not permitted under Rule 5.3.
- 1.8 ~~Outside of news programmes~~ While a politician may not be used as a newsreader, news interviewer or news reporter in any type of programme, there is no Ofcom rule that prevents a politician from hosting or appearing on a television or radio programme – provided they are not standing as a candidate in an election taking place, or about to take place, or are a representative of a permitted participant, as designated by the Electoral Commission, in a UK referendum<sup>54</sup>, and the programme otherwise complies with the Code. This means that politicians are allowed to present current affairs programmes such as audience phone-ins and discussion programmes.
- ~~1.9 Both news programmes and current affairs programmes, must comply with all relevant rules in the Code, including the need to preserve due impartiality on matters (as well as major matters) of political or industrial controversy or current public policy<sup>55</sup>. Sometimes programmes may be on channels that also broadcast news. As set out in paragraph 1.9 under Rule 5.1, there are some typical factors that could lead Ofcom to classify content as a news programme or a current affairs programme.~~
- 1.10 If a licensee chooses to use a politician as a presenter in a programme, then the licensee must take steps to ensure that it complies with the requirements of Rule 5.3, bearing in mind the overarching standards objective that news in whatever form is presented with due impartiality. For the avoidance of doubt, broadcasters retain the editorial freedom to create programmes which move between non-news and news content. However, if the licensee chooses to use a politician as the host of such a programme, the licensee will have to take steps so that the politician does not act as a newsreader, news interviewer or news reporter in that programme. This could include handing over to another presenter to ensure that the politician does not present a news item.
- 1.11 We recognise, however, that there may be exceptional circumstances which make it editorially justified for a politician to present the news. What constitutes exceptional circumstances under Rule 5.3 will always depend on the particular circumstances of a case. However, in general, exceptional circumstances will typically be those which are outside the control of the licensee, could not have been foreseen by a licensee and/or where the licensee may have had no other option than for a politician to present the news. We would expect such situations to be rare. In these cases, the political allegiance of that person must be made clear to the audience.

Relevant Ofcom audience research: [Audience attitudes towards politicians presenting programmes on television and radio.](#)

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<sup>54</sup> This is prohibited under Rule 6.6 of the Code.

<sup>55</sup> As required by Rules 5.5 and 5.11 of the Code.

## A4. Impact assessments

- A4.1 Ofcom recognises that the decisions we make can deliver significant value for citizens and consumers but can also impose significant costs on our stakeholders. We use impact assessments to help us understand and assess the potential impact of our policy decisions before we make them.
- A4.2 An impact assessment is a structured process to consider these possible effects, including:
- general impacts on citizens and consumers;
  - impacts on the industries we regulate; and
  - impacts on specific groups of persons, including persons sharing protected characteristics identified in equality legislation.
- A4.3 Section 7 of the Act requires Ofcom to carry out impact assessments in cases where our conclusions would be likely to have a significant effect on businesses or the general public, or where there is a major change in Ofcom’s activities. As a matter of policy, Ofcom is committed to carrying out impact assessments in relation to the great majority of our policy decisions. As set out in section 7(5) of the Act, Ofcom has discretion as to the substance and form of an impact assessment, and this will depend on the particular proposals and/or decisions being made.
- A4.4 Our provisional assessment of the potential impact of the amendments to Rule 5.3 of the Code and accompanying Guidance proposed in this consultation is set out below.

### General impact assessment

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- A4.5 Ofcom considers that the general impact on citizens and consumers of the proposed amendments to Rule 5.3 of the Code and accompanying Guidance is likely to be positive. In clarifying the scope of the application of Rule 5.3, with the effect that politicians are restricted from presenting news in any type of programme, Ofcom aims to secure that audiences have access to duly impartial news on television and radio, in whatever context it appears. This helps to ensure that citizens and consumers are well-informed about current events and encounter a range of views on topical issues, which is important in a democratic society.
- A4.6 Similarly, Ofcom considers that regulated broadcasters generally will benefit from greater clarity on the scope of Rule 5.3 of the Code. This is because it is easier and more efficient for broadcasters to ensure their programming is compliant with the applicable regulatory requirements in the context of a consistent and transparent regulatory regime, where all those regulatory requirements, including the extent of their application, are clearly and unambiguously set out in a code (or codes).
- A4.7 As noted in paragraph 2.5 above, both audiences and society in general benefit from the fact that broadcast news in the UK must meet Ofcom’s standards for due impartiality, and the UK broadcasting sector as a whole benefits from due impartiality regulation in terms of building trust. The proposed amendments to Rule 5.3 of the Code and accompanying Guidance form part of due impartiality regulation and will therefore contribute to these positive impacts.

- A4.8 We acknowledge our proposals will specifically impact those television and radio services which carry rolling news and current affairs content and make use of politicians as presenters of non-news programmes. However, we do not consider these broadcasters, who currently represent a small proportion of the total number of services licensed by Ofcom, will be unduly impacted. While the proposed amendment to Rule 5.3 expands the scope of the current rule, in our view it is a limited expansion in the service of the same underlying objective. Under this proposal, politicians will still be allowed to present non-news programmes, provided they are not used as a newsreader, news interviewer or news reporter in those programmes, and provided the content otherwise complies with the Code. The proposed amendments to Rule 5.3 would also retain the ability for politicians to present news where there is an exceptional editorial justification.

## Freedom of expression

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- A4.9 Ofcom has given particular consideration to the impact of the proposed amendments to Rule 5.3 and accompanying Guidance on broadcasters' and audiences' Article 10 rights. We acknowledge that these proposals amount to an interference with these persons' rights to freedom of expression.
- A4.10 However, we consider that the interference is limited, and in particular, that our proposed amendment to Rule 5.3 meets the requirements of Article 10(2) of the ECHR as being prescribed by law, in the pursuit of a legitimate aim and necessary and proportionate. The Act and the Code as set out above (see Annex A1) are the applicable law for the purposes of Article 10(2). The legitimate aim pursued by the Act and the Code is protecting the rights of others, specifically by aiming to maintain fair and equal democratic discourse on influential media platforms to the benefit of society generally, protecting audiences from harmful partial broadcast news by ensuring the availability of duly accurate and duly impartial news, and ensuring that a range of viewpoints are received by viewers who may then participate on an informed basis in democratic processes.
- A4.11 In considering the proportionality of our proposals, and as referred to above, we acknowledge that the proposed amendment expands the scope of Rule 5.3 from news presented by politicians in "news programmes" to news presented by politicians in "any type of programme". However, we consider this represents a limited expansion to the current rule and is necessary to provide clarity and to give effect to the policy rationale underpinning this and the other rules in Section Five of the Code.
- A4.12 We have had regard, in particular, to the importance of maintaining audience trust and public confidence in the UK broadcasting regime and to Ofcom's duty to uphold standards protecting audiences from harm. The due impartiality rules in particular guard against the risk that democratic debate would become distorted if partial programming was permitted to be broadcast on licensed services. As explained above, additional protections are afforded to news because of its fundamental importance in a democracy. Politicians have an inherently partial role in society and news content presented by them is likely to be viewed by audiences in light of that perceived bias. In our view, the use of politicians to present the news – in whatever programming context it appears – risks undermining the integrity and credibility of regulated broadcast news.
- A4.13 We do not consider the status quo, or another less intrusive measure, achieves the policy objectives. This is because the current wording of Rule 5.3 restricts politicians from presenting news in news programmes but allows politicians to present news content in

programmes that are categorised as non-news programmes. We consider this leads to arbitrary results. In our view, our proposed amendments are the only way of restricting politicians from presenting news in general, i.e. news in any type of programme. We also note that the exception in Rule 5.3 will remain, in that politicians may present the news in exceptional circumstances if it is editorially justified (and in that case, the political allegiance of that person must be made clear to the audience); and that politicians will remain able to present non-news programmes, as is the case currently.

- A4.14 In considering the necessity and proportionality of our proposed amendments to Rule 5.3 and accompanying Guidance, we also took into account that these will only impact broadcasters who use politicians as presenters and the audiences of those services. Given politicians are already restricted from being used as a newsreader, interviewer or reporter in news programmes, we do not consider the proposed amendments to restrict politicians from taking on these roles in other types of programming will unduly interfere with broadcasters' editorial discretion.
- A4.15 For all of the above reasons, Ofcom provisionally concludes that the interference with freedom of expression from our proposed amendments to Rule 5.3 and accompanying Guidance is proportionate and overall justified.

## Equality impact assessment

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- A4.16 Section 149(1) of the Equality Act 2010 imposes a duty on Ofcom, when carrying out its functions, to have due regard to the need to eliminate discrimination, harassment, victimisation and other prohibited conduct related to the following protected characteristics: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex and sexual orientation. Section 149(1) also requires Ofcom to have due regard to the need to advance equality of opportunity and foster good relations between persons who share specified protected characteristics and persons who do not.
- A4.17 Section 75(1) of the Northern Ireland Act 1998 imposes a separate duty on Ofcom, when carrying out its functions relating to Northern Ireland, to have due regard to the need to promote equality of opportunity between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation; men and women generally; persons with a disability and persons without; and persons with dependents and persons without. Section 75(2) also requires Ofcom to have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group.
- A4.18 In relation to equality (whether in Northern Ireland or the rest of the UK), Ofcom considers on the whole that the proposed amendments to Rule 5.3 of the Code and accompanying Guidance would be likely to affect citizens and consumers in a similar way as the current Rule 5.3 and Guidance does. We do not consider the proposed amendments to Rule 5.3 and accompanying Guidance would have a particular impact on persons sharing protected characteristics.
- A4.19 In relation to our equality duties in Northern Ireland, specifically the requirement to have regard to the desirability of promoting good relations between persons of different religious beliefs, political opinion or racial group, Ofcom considers that our proposal is consistent with these duties and does not warrant a more in-depth equality impact assessment.

# A5. Responding to this consultation

## How to respond

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- A5.1 Ofcom would like to receive views and comments on the issues raised in this document, by 5pm on 23 June 2025.
- A5.2 You can download a response form [here](#). You can return this by email or post to the address provided in the response form.
- A5.3 If your response is a large file, or has supporting charts, tables or other data, please email it to [Rule5.3consultation@ofcom.org.uk](mailto:Rule5.3consultation@ofcom.org.uk), as an attachment in Microsoft Word format, together with the cover sheet. This email address is for this consultation only and will not be valid after 23 June 2025.
- A5.4 Responses may alternatively be posted to the address below, marked with the title of the consultation:
- Review of Rule 5.3 consultation: Politicians presenting news  
Standards Team – Broadcasting and Media Group  
Ofcom  
Riverside House  
2A Southwark Bridge Road  
London SE1 9HA
- A5.5 We welcome responses in formats other than print, for example an audio recording or a British Sign Language video. To respond in BSL:
- > send us a recording of you signing your response. This should be no longer than 5 minutes. Suitable file formats are DVDs, wmv or QuickTime files; or
  - > upload a video of you signing your response directly to YouTube (or another hosting site) and send us the link.
- A5.6 We will publish a transcript of any audio or video responses we receive (unless your response is confidential)
- A5.7 We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt of a response submitted to us by email.
- A5.8 You do not have to answer all the questions in the consultation if you do not have a view; a short response on just one point is fine. We also welcome joint responses.
- A5.9 It would be helpful if your response could include direct answers to the questions asked in the consultation document. The questions are listed at Annex A8. It would also help if you could explain why you hold your views, and what you think the effect of Ofcom’s proposals would be.
- A5.10 If you want to discuss the issues and questions raised in this consultation, please contact us by email at [Rule5.3consultation@ofcom.org.uk](mailto:Rule5.3consultation@ofcom.org.uk).

## Confidentiality

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- A5.11 Consultations are more effective if we publish the responses before the consultation period closes. This can help people and organisations with limited resources or familiarity with the issues to respond in a more informed way. So, in the interests of transparency and good regulatory practice, and because we believe it is important that everyone who is interested in an issue can see other respondents' views, we usually publish responses on the Ofcom website at regular intervals during and after the consultation period.
- A5.12 If you think your response should be kept confidential, please specify which part(s) this applies to and explain why. Please send any confidential sections as a separate annex. If you want your name, address, other contact details or job title to remain confidential, please provide them only in the cover sheet, so that we don't have to edit your response.
- A5.13 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and try to respect it, either by not publishing the response at all, or by only publishing the bits that are not confidential. Sometimes we might think it is important to disclose parts of a response that have been marked as confidential for reasons of transparency, but we will consult you before we do. Occasionally we might have a legal obligation to publish information or disclose it in court, but again, as far as possible, we will let you know.
- A5.14 To fulfil our pre-disclosure duty, we may share a copy of your non-confidential response with the relevant government department before we publish it on our website.
- A5.15 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's intellectual property rights are explained further in our Terms of Use.

## Next steps

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- A5.16 Following this consultation period, Ofcom plans to publish a statement in September 2025.
- A5.17 If you wish, you can register to receive mail updates alerting you to new Ofcom publications.

## Ofcom's consultation processes

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- A5.18 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex A6.
- A5.19 If you have any comments or suggestions on how we manage our consultations, please email us at [consult@ofcom.org.uk](mailto:consult@ofcom.org.uk). We particularly welcome ideas on how Ofcom could more effectively seek the views of groups or individuals, such as small businesses and residential consumers, who are less likely to give their opinions through a formal consultation.
- A5.20 If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact the corporation secretary:

Corporation Secretary  
Ofcom  
Riverside House

2a Southwark Bridge Road  
London SE1 9HA  
Email: [corporationsecretary@ofcom.org.uk](mailto:corporationsecretary@ofcom.org.uk)

# A6. Ofcom's consultation principles

Ofcom has seven principles that it follows for every public written consultation:

## Before the consultation

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1. Wherever possible, we will hold informal talks with people and organisations before announcing a big consultation, to find out whether we are thinking along the right lines. If we do not have enough time to do this, we will hold an open meeting to explain our proposals, shortly after announcing the consultation.

## During the consultation

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2. We will be clear about whom we are consulting, why, on what questions and for how long.
3. We will make the consultation document as short and simple as possible, with an overview of no more than two pages. We will try to make it as easy as possible for people to give us a written response.
4. When setting the length of the consultation period, we will consider the nature of our proposals and their potential impact. We will always make clear the closing date for responses.
5. A person within Ofcom will be in charge of making sure we follow our own guidelines and aim to reach the largest possible number of people and organisations who may be interested in the outcome of our decisions. Ofcom's Consultation Champion is the main person to contact if you have views on the way we run our consultations.
6. If we are not able to follow any of these principles, we will explain why.

## After the consultation

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7. We think it is important that everyone who is interested in an issue can see other people's views, so we usually publish the responses on our website at regular intervals during and after the consultation period. After the consultation we will make our decisions and publish a statement explaining what we are going to do, and why, showing how respondents' views helped to shape these decisions.



# A7. Consultation coversheet

## Basic details

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Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

## Confidentiality

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Please tick below what part of your response you consider is confidential, giving your reasons why

- |                                  |                          |
|----------------------------------|--------------------------|
| > Nothing                        | <input type="checkbox"/> |
| > Name/contact details/job title | <input type="checkbox"/> |
| > Whole response                 | <input type="checkbox"/> |
| > Organisation                   | <input type="checkbox"/> |
| > Part of the response           | <input type="checkbox"/> |

If you selected 'Part of the response', please specify which parts:

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If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

Yes ☐      No ☐

## Declaration

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I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom aims to publish responses at regular intervals during and after the consultation period. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

# A8. Consultation questions

Please tell us how you came across this consultation.

- ☐ Email from Ofcom
- ☐ Saw it on social media
- ☐ Found it on Ofcom's website
- ☐ Found it on another website
- ☐ Heard about it on TV or radio
- ☐ Read about it in a newspaper or magazine
- ☐ Heard about it at an event
- ☐ Somebody told me or shared it with me
- ☐ Other (please specify)

## Consultation question 1:

Do you agree with the proposed amendments to Rule 5.3 of the Ofcom Broadcasting Code? Please give reasons for your answer.

## Consultation question 2:

Do you consider that Rule 5.3 of the Ofcom Broadcasting Code, if amended as proposed, will provide sufficient protection for audiences? Please give reasons for your answer.

## Consultation question 3:

Do you agree with the assessment of the potential impacts of the proposed amendments to Rule 5.3 of the Ofcom Broadcasting Code (as set out in Annex 2)? Please give reasons for your answer.

## Consultation question 4:

Do you agree with the proposed amendments to the Guidance on Rule 5.3?

## Consultation question 5:

Do you have any other comments to make on the proposals, including in relation the scope of the proposed changes?