



Review of the rules for
mandatory daytime PIN
protections
Call for Inputs

	Call for Inputs
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About this document

Ofcom is considering whether to update rules in the Broadcasting Code (“the Code”) relating to the protection of children. Specifically, Ofcom is considering whether broadcasters should be allowed to show a wider variety of content more suitable for adults before the watershed, provided that a mandatory PIN protection system is in place.

Through this Call for Inputs we are seeking the views of industry and consumers on these potential changes to the rules. We will take responses into account before publishing any proposals for changes to the Code later this year.

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Section 1

Introduction

Background

- 1.1 Under section 319 of the Communications Act 2003 (“the Act”), Ofcom has a duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives. One of the standards objectives is to ensure “that persons under the age of eighteen are protected”¹. This is reflected in Section One of the Broadcasting Code (“the Code”). Ofcom considers the standards it has set for the protection of children to be among the most important in the Code, and they will continue to be a priority for Ofcom.
- 1.2 Under Rule 1.4 of the Code, television broadcasters must observe the watershed. This means that television material unsuitable for children should not, in general, be shown before 21:00 or after 05:30. The watershed exists to protect children from television content that is unsuitable for them. Ofcom’s research demonstrates that the watershed is still the most recognised and valued tool for parents to achieve this aim. It is important to note that this review does not seek in any way to undermine the effectiveness of the watershed as a tool for protection.
- 1.3 However, the Code also allows for particular types of television content that is unsuitable for children to be broadcast before the watershed (i.e. between 05:30 and 21:00) if “mandatory restricted access” is in place. This is defined in the Code:
- “Mandatory restricted access means there is a PIN protected system (or other equivalent protection) which cannot be removed by the user, that restricts access solely to those authorised to view”.*
- 1.4 Specifically, premium subscription film services may broadcast films rated up to ‘15’ by the British Board of Film Classification or their equivalent at any time of the day as long as there is a form of mandatory PIN protection in place between 05:30 and 20:00. This exemption was introduced in 2005 and is reflected in Rule 1.24 of the Code².

Rule 1.24: Premium subscription film services may broadcast up to BBFC 15-rated films or their equivalent, at any time of day provided that mandatory restricted access is in place pre-2000 and post-0530.

In addition, those security systems which are in place to protect children must be clearly explained to all subscribers.

¹ section 319 (2)(a)

² The Code also contains a rule which allows pay per view services to broadcast films rated up to '18' by the British Board of Film Classification provided that a mandatory PIN protection is in place between 05:30 and 21:00 (Rule 1.25). However, we do not consider Rule 1.25 to be relevant to this review as any potential changes in this area will relate only to content on scheduled broadcast channels and not pay per view services.

- 1.5 The Code does not apply to video on demand (VOD) services (which include catch-up services)³. Broadcast television and VOD are currently regulated in the UK to different standards. VOD services are regulated in accordance with the minimum requirements of the Audiovisual Media Services Directive⁴, set at a European level, and are subject to far fewer standards protections compared to linear television broadcast services licensed in the UK. In particular, the rules in relation to the protection of under-18s are limited.
- 1.6 In practice however, VOD services provide a range of protection measures to prevent children from accessing unsuitable material at any time during the day. For example, the VOD service may use a user age confirmation screen (usually a pop-up window) to access content that was originally broadcast post-watershed (or has an equivalent rating). Voluntary PINs can also be set to restrict viewing of rated on-demand content, or programmes recorded on a set-top box after the 21:00 watershed. Importantly, users have the choice to opt out or switch off this tool if they choose. These are not mandatory restricted access measures as defined in the Code.

The market in context

Changes in TV viewing habits

- 1.7 Developments in audio-visual content and delivery in recent years means that audiences now have access to an extensive range of content almost anywhere and anytime they choose, both inside and outside the home.
- 1.8 This increased range of viewing options means that a larger proportion of content is viewed via forms of delivery distinct from traditional television broadcasting⁵ (i.e. audiences are increasingly viewing content via on-demand services such as catch-up players, recorded programmes, and short-form content). Ofcom's Digital Day research conducted in 2014 showed that just under 70% of total time spent watching audio-visual content involves traditional television⁶.
- 1.9 Take-up and use of VOD services continues to drive this change, as such services become increasingly popular with viewers. Almost six in ten adults say that they have used at least one VOD service in the past 12 months. The BBC iPlayer remains the most popular of the services provided by the major broadcasters and platforms, with almost a third (31%) of British adults claiming to have used it within the past year⁷.
- 1.10 'Over the top' (OTT) VOD services providing content streamed over the internet, are increasing in popularity. Since its launch in the UK in 2012, Netflix has increased its subscriptions to 4.4 million households, while 1.2 million households now have a subscription to Amazon Prime Instant Video (formerly LoveFilm)⁸.

³ VOD services include both catch up services showing previously broadcast programmes, e.g. BBC iPlayer, ITV Hub and All 4; and over-the-top video services which include content not necessarily previously broadcast on TV e.g. Amazon Prime.

⁴ Directive 2010/13/EU of 10 March 2010. The provisions relating to on-demand programme services are reflected in section 368A and following of the Act.

⁵ When we refer to traditional television broadcasting we mean programmes watched at the time of broadcast.

⁶ Ofcom, [Communications Market Report 2015](#), p. 5

⁷ Ibid. p.53

⁸ Ibid. p.54

- 1.11 Ofcom research has found that there are clear variations in viewing habits across different age groups. For 16-24 year olds, half of audio-visual content consumption is in the form of traditional television programming via a TV set. This figure increases with each age cohort with over-65s spending 82% of their viewing time watching traditional TV⁹.
- 1.12 Among younger age groups, more than four in ten 5-15s (44%) watch on-demand TV content, rising to half (51%) of 12-15s. While the TV set remains the most popular device among 12-15s for watching this type of content, four in ten watch on-demand programmes on devices other than a TV set (43%). 12-15 year olds now spend more than three and a half hours a week more online than they do watching a TV set. Much of this time is spent consuming increasing amounts of content through digital intermediaries such as YouTube and Google¹⁰.

Audience expectations

- 1.13 Deliberative research commissioned by Ofcom and published in December 2014¹¹ indicated that the majority of audiences have an expectation of comprehensive and broadly homogenous regulation across traditional broadcast TV and catch-up services, and for many, OTT VOD services.
- 1.14 Brand perceptions were also found to be important in shaping audience expectations of protections, as brands extend beyond traditional broadcast platforms. This means audiences expect brands to retain the same quality standards regardless of the method of delivery or point of access.

Audience views on current audience protections tools

- 1.15 Ofcom research shows that audiences still value traditional protections for traditional broadcast viewing. Nine in ten adult viewers understand the 21:00 watershed, and 77% of parents agree that it is set at the right time¹².
- 1.16 Participants in an Ofcom research study in 2014 showed that there is a high awareness among audiences of PIN protections available for programmes or whole channels, particularly among those subscribing to or having previously used paid-for TV packages¹³. This research also indicated that PIN protections and programme scheduling (e.g. the watershed) were considered the two most important tools for audience protection. The confidence to use access control tools, such as PINs however, was found to be lower among older, less technologically engaged viewers.
- 1.17 Ofcom is conducting new research alongside this Call for Inputs to further explore audience use and attitudes to PIN protection systems.

Scope and purpose of this project

- 1.18 As stated above, Ofcom considers the standards for the protection of children, as set out in Section One of the Code, to be among the most important in the Code. These standards will continue to be a priority for Ofcom. This review does not seek to

⁹ Ibid. p.50

¹⁰ Ofcom, [Child and Parents: Media Use and Attitudes, 2015](#).

¹¹ Ofcom, by Kantar Media, [Protecting audiences in an online world, 2015](#).

¹² Ofcom, [UK attitudes to the broadcast media, 2015](#), p.12

¹³ Ofcom, by Kantar Media, [Protecting audiences in an online world, 2015](#). P.58

question the effectiveness of the watershed as a tool for protection. As noted above, Ofcom's research demonstrates that the watershed is still the most recognised and valued tool for parents to protect their children from unsuitable content.

- 1.19 Instead we wish to understand better the potential benefits and risks in updating the current rules around mandatory restricted access.
- 1.20 As outlined at paragraph 1.3, the Code currently allows films rated up to '15' by the British Board of Film Classification to be broadcast on television on a premium subscription film service before the watershed if behind a mandatory PIN system. However, Rule 1.24¹⁴ of the Code was first introduced in 2005 and we recognise that there have been significant technological developments since then. In our view, it is therefore an appropriate time to consider whether this rule, as currently drafted, is still fit for purpose and adequately reflects the needs of consumers.
- 1.21 A potential outcome of this review could be a broadening of Rule 1.24 to allow broadcasters, other than film subscription services, to show before the watershed a wider range of content more suitable for adults, provided that robust mandatory PIN protection is in place.
- 1.22 During the course of 2015, we received a submission from members of the Commercial Broadcasters Association (CoBA) and conducted a range of meetings with relevant stakeholders (including platform providers and content providers). This has provided us with important background information about these issues, and will help to inform our next steps. In principle, Ofcom recognises that there would be potential consumer and industry benefits arising from a widening of Rule 1.24 of the Code. However we believe we need to take into account a wider range of views and more information before deciding how to move forward.
- 1.23 Seeking the views of stakeholders at this early stage through this Call for Inputs will help us to do this, and will inform any proposals Ofcom is minded to consult on later this year.
- 1.24 Details on how to respond to this Call for Inputs are in **Annex 1**.

¹⁴ See paragraph 1.4.

Section 2

What could changes to the rules for mandatory daytime PIN mean for audiences and broadcasters?

- 2.1 Ofcom is gathering stakeholder views and evidence through this Call for Inputs to inform next steps. This section outlines some of the issues that have been brought to our attention already through early stakeholder engagement, but we welcome views on other aspects of changing the rules in this area.

Audiences and the user experience

- 2.2 Allowing broadcasters greater flexibility to deliver a wider range of programming to audiences before the watershed would be likely to further promote consumer choice.
- 2.3 Some broadcasters have expressed the view to Ofcom that for certain content more suitable for adults, it is not desirable or practical to significantly edit material for a daytime broadcast schedule, given the potentially adverse effect on the quality of this content. They believe it would be desirable for audiences who want to watch this content during the day to be able to view post-watershed unedited versions, accessible through a mandatory PIN code.
- 2.4 We are interested to determine the level of appetite among audiences for a change to the rules in this area to allow for a greater range of content to be broadcast throughout the day. We welcome evidence to support any benefits it may bring to viewers or to highlight any concerns. Please note that Ofcom is also separately carrying out research to ascertain consumers' appetite for, and potential concerns about, broadcasters being permitted to show post-watershed content during the daytime behind appropriate PIN protections.
- 2.5 Ofcom will conduct a full equality impact assessment as part of any proposals put forward, with due consideration given to the protection of the most vulnerable viewers. We will also consider the effects of any changes in this area on people with, for example a visual impairment.

Question 1:

To what extent do you think allowing a wider range of post-watershed content to be shown during the daytime behind a mandatory PIN would benefit audiences?

Question 2:

Are there likely to be any negative impacts on the user experience for viewers accessing channels or programmes where the content is restricted behind a mandatory PIN? For example, if a viewer had to enter a mandatory PIN every time they change between a restricted channel or programme, or if a viewer is unable to update to a new PIN system?

Question 3:

If you are a broadcaster, would you be likely to change your output following any revision to Ofcom's rules to allow post-watershed content to be broadcast pre-

watershed behind a mandatory PIN, and what genre of material might you wish to broadcast during the daytime as a result?

Technology constraints

- 2.6 Mandatory daytime PIN protection may be more straightforward to implement for services and platforms that are technically integrated and under the direct control of the operator of the TV subscription service. Examples of such technically integrated services include Sky or Virgin Media. Both provide subscribers with Set-Top-Boxes (“STBs”) as part of the subscription. In general, operators of TV subscription services are able to deploy software updates direct to the STB in the consumer’s home, either over the air or via its network connection.
- 2.7 For operators of Free-to-air TV services (services that do not necessarily require a subscription, for example FreeSat and Freeview), providing software updates to accommodate changes in PIN protection is more complex. Free-to-air STBs are often manufactured under licence by third parties and sold via third party retail outlets. The operators of these Free-to-air services may not have access to accurate data concerning the location, age and technical capability of STBs in UK TV households.
- 2.8 Any changes to the rules in the Code which would allow post-watershed content to be broadcast earlier in the schedule would require the necessary technical capabilities to be in place. This would mean that either the television set or STB which is able to receive the channels would need to operate mandatory PIN protections. We are aware from some early discussions with industry that legacy STBs which are too old to receive an ‘over the top’ update from the provider may be unable to support a new restricted access system. If a newer generation STB is not connected to the internet it may also not be able to receive the updates required. These factors indicate that it may be difficult to update all STBs to ensure they have a consistent and up to date mandatory PIN protection system in place to allow post-watershed content to be broadcast pre-watershed, but Ofcom would welcome further submissions on this issue.
- 2.9 If a broadcaster wanted to schedule content suitable for adult audiences during the day, it would be essential that the broadcaster provides adequate metadata. Metadata is the descriptive information about programmes which contain a broad range of identifiers necessary for programme management, discoverability, and scheduling. Accurate and consistent metadata will be essential to ensure that mandatory PIN protections are in place at the correct times and work effectively.
- 2.10 It is important that Ofcom has all the necessary information from industry and other stakeholders on the full range of technological limitations, and solutions, related to potential changes to the current mandatory PIN protection regime.

Question 4:

What, if any, are the technological difficulties associated with showing post-watershed content during the daytime behind a mandatory daytime PIN? What impact would these technological difficulties have on affected broadcasters (please provide evidence or estimates)? How might these technological difficulties be overcome?

Question 5:

Are there practical or cost issues with consistent implementation of PIN protection across a variety of set-top-boxes or receivers?

Impact on the watershed and effectiveness of mandatory restricted access

- 2.11 The television watershed provides an effective means to protect children and is highly valued by parents and guardians. However, with internet-connected devices offering viewers post-watershed content at any time in the day on a VOD service – with lesser protections, such as an age confirmation screen or voluntary PIN access – parents and carers may welcome further robust controls being applied to children’s viewing of traditional broadcast TV programmes during the day.
- 2.12 Any new mandatory daytime PIN regime should clearly continue to offer robust protection to ensure that children are appropriately protected from unsuitable content broadcast before the watershed. It is important, therefore, that any potential changes to the rules for mandatory PIN protection before the watershed should not undermine the valued and well understood 21:00 watershed.
- 2.13 Ofcom first introduced the Code rules allowing for films which may be unsuitable for children to be shown before the watershed subject to mandatory restricted PIN access in 2005. Technology has changed enormously since that date – as has public awareness and familiarity with that technology. Children and young people are often more familiar with technology than their parents, and correspondingly may be more able to circumvent technology like mandatory restricted access designed to protect them from unsuitable content. Ofcom is therefore interested to receive information and views on how effective mandatory restricted access currently is.

Question 6:

How effective is mandatory restricted access in providing protection to children from unsuitable broadcast content? Do you think allowing a wider range of post-watershed content to be shown in the daytime behind a mandatory PIN still offers sufficiently robust protection for children?

Question 7:

Do you think allowing a wider range of post-watershed content to be shown in the daytime behind a mandatory PIN could have an adverse impact on the 21:00 watershed or dilute its effectiveness for audiences?

Question 8:

If Ofcom were to amend the Code to allow a wider range of post-watershed content to be shown in the daytime behind a mandatory PIN, are there any particular obligations that should be placed on broadcasters providing content behind mandatory PIN during the daytime (e.g. additional information to parents and carers)?

Competition

- 2.14 Some broadcasters are in favour of a change to the rules that would allow their general entertainment channels to broadcast post-watershed content during the daytime (behind a mandatory PIN protection). This would allow their broadcast programmes to compete more directly with VOD content which is subject to fewer standards protections and permitted to be viewed at any time of the day.
- 2.15 Any update to the rules for mandatory daytime PIN could, however, have a negative impact on other broadcast channels that are unable or unwilling to apply mandatory PIN protections more widely. Such channels may be faced with increased daytime

and early evening competition from broadcasters that choose to schedule post-watershed content before 21:00, particularly in the primetime 19:00 to 21:00 slots.

- 2.16 Ofcom recognise that some broadcasters may not want to make use of any potential rule changes in this area given the nature of their channel or brand, for example channels aimed at family audiences.
- 2.17 We also recognise that there may be other impacts on competition.

Question 9:

What effect might any revision of the Code to allow a wider range of post-watershed content to be shown in the daytime behind a mandatory PIN have on competition between broadcast services, and also between linear broadcast and on-demand services?

Question 10:

Are there any other issues, factors or information you think should be considered as part of our review on mandatory restricted PIN access?

Section 3

Call for Inputs questions

Question 1:

To what extent do you think allowing a wider range of post-watershed content to be shown during the daytime behind a mandatory PIN would benefit audiences?

Question 2:

Are there likely to be any negative impacts on the user experience for viewers accessing channels or programmes where the content is restricted behind a mandatory PIN? For example, if a viewer had to enter a mandatory PIN every time they change between a restricted channel or programme, or if a viewer is unable to update to a new PIN system?

Question 3:

If you are a broadcaster, would you be likely to change your output following any revision to Ofcom's rules to allow post-watershed content to be broadcast pre-watershed behind a mandatory PIN, and what genre of material might you wish to broadcast during the daytime as a result?

Question 4:

What, if any, are the technological difficulties associated with showing post-watershed content during the daytime behind a mandatory daytime PIN? What impact would these technological difficulties have on affected broadcasters (please provide evidence or estimates)? How might these technological difficulties be overcome?

Question 5:

Are there practical or cost issues with consistent implementation of PIN protection across a variety of set-top-boxes or receivers?

Question 6:

How effective is mandatory restricted access in providing protection to children from unsuitable broadcast content? Do you think allowing a wider range of post-watershed content to be shown in the daytime behind a mandatory PIN still offers sufficiently robust protection for children?

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If Ofcom were to amend the Code to allow a wider range of post-watershed content to be shown in the daytime behind a mandatory PIN, are there any particular obligations that should be placed on broadcasters providing content behind mandatory PIN during the daytime (e.g. additional information to parents and carers)?

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What effect might any revision of the Code to allow a wider range of post-watershed content to be shown in the daytime behind a mandatory PIN have on competition between broadcast services, and also between linear broadcast and on-demand services?

Question 10:

Are there any other issues, factors or information you think should be considered as part of our review on mandatory restricted PIN access?

Section 4

Next Steps

- 4.1 This Call for Inputs will be open to responses until 21 April 2016.
- 4.2 Alongside this we are conducting consumer research to further understand:
 - use of existing PIN protection systems ;
 - the confidence users have in PINs (both mandatory and voluntary) as a protection mechanism;
 - the level of appetite for accessing a wider range of content subject to a mandatory PIN system amongst consumers;
 - any potential benefits to broadcasters and audiences;
 - consumers' perceptions of the effectiveness of these tools in ensuring that children are protected from unsuitable content; and
 - children's knowledge and use of PINs (both mandatory and voluntary).
- 4.3 Both this Call for Inputs and the consumer research will inform proposals in any consultation document published later in 2016.

Annex 1

Responding to this Call for Inputs

How to respond

- A1.1 Ofcom invites written views and comments on the issues raised in this document, to be made **by 5pm on Thursday 21 April 2016**.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at <http://stakeholders.ofcom.org.uk/consultations/mandatory-daytime-PIN-protections/howtorespond/>, as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing a response cover sheet (see Annex 3), to indicate whether or not there are confidentiality issues. This response coversheet is incorporated into the online web form questionnaire.
- A1.3 For larger Call for Inputs responses - particularly those with supporting charts, tables or other data - please email adam.baxter@ofcom.org.uk attaching your response in Microsoft Word format, together with a Call for Inputs response coversheet.
- A1.4 Responses may alternatively be posted or faxed to the address below, marked with the title of the Call for Inputs.
- Adam Baxter
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- Fax: 020 7981 3807
- A1.5 Note that we do not need a hard copy in addition to an electronic version. Ofcom will acknowledge receipt of responses if they are submitted using the online web form but not otherwise.
- A1.6 It would be helpful if your response could include direct answers to the questions we are asking in this document, which are listed in Section 3 of this Call for Inputs. It would also help if you can explain why you hold your views and how Ofcom's proposals would impact on you.

Further information

- A1.7 If you want to discuss the issues and questions raised in this Call for Inputs, or need advice on the appropriate form of response, please contact Adam Baxter on 020 7981 3236.

Confidentiality

- A1.8 We believe it is important for everyone interested in an issue to see the views expressed by respondents. We will therefore usually publish all responses on our website, www.ofcom.org.uk, ideally on receipt. If you think your response should be

kept confidential, can you please specify what part or whether all of your response should be kept confidential, and specify why. Please also place such parts in a separate annex.

- A1.9 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and will try to respect this. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.10 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's approach on intellectual property rights is explained further on its website at <http://www.ofcom.org.uk/terms-of-use/>

Next steps

- A1.11 Any responses to this Call for Inputs and the research that we are undertaking will help inform any proposals Ofcom may consult on later this year.
- A1.12 Please note that you can register to receive free mail Updates alerting you to the publications of relevant Ofcom documents. For more details please see: <http://www.ofcom.org.uk/email-updates/>

Cover sheet for response to an Ofcom Call for Inputs

BASIC DETAILS

Call for Inputs title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

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 there is no separate annex, which parts?	

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)?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal Call for Inputs 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 seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the Call for Inputs has ended, please tick here.

Name

Signed (if hard copy)