



A review of the Rules on Party Political and Referendum Broadcasts

A consultation on proposed new PPRB Rules and on
proposed Guideline procedures for the determination of
disputes under the PPRB Rules

Consultation

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Section 1

Issues for consultation

- 1.1 Under section 333(1) of the Communications Act 2003 (“the Act”), every licensed public service television channel and every national commercial radio service must include party political broadcasts and referendum campaign broadcasts, and must observe rules for such broadcasts made by Ofcom. Section 333(2) empowers Ofcom to make rules which may include provision for determining the political parties on whose behalf party political broadcasts may be made and the length and frequency of referendum broadcasts on behalf of designated organisations.
- 1.2 Under Section 333(5) of the Act, Ofcom must have regard to any views expressed by the Electoral Commission before making (or changing) its rules on this subject.
- 1.3 The television and radio channels referred to above are Channels 3, 4 and Five, Classic FM, talkSPORT and Absolute AM (“the Licensees”). A major role is, of course, also played by the BBC and S4C, which also allocate party political and referendum broadcasts on a similar basis. However, neither the BBC nor S4C is regulated by Ofcom in this connection.
- 1.4 In October 2004, following consultation¹, Ofcom published its Rules on Party Political and Referendum Broadcasts (the “PPRB Rules”). The current PPRB Rules are attached to this document at Annex 5 and can also be found at <http://www.ofcom.org.uk/tv/ifi/guidance/ppbrules/ppbrules.pdf>
- 1.5 The PPRB Rules are minimum requirements set by Ofcom to assist Licensees in deciding the allocation, length, frequency and scheduling of party political and party election broadcasts. Ofcom applies the PPRB Rules in determining any disputes referred to it by the political party or Licensee.
- 1.6 In light of recent experience with application of the PPRB Rules in advance of the European Parliamentary Elections in June 2009, we have reviewed the current PPRB Rules to provide greater clarity and flexibility where necessary in certain areas. We also propose to reflect several particular points put to us by the Electoral Commission.
- 1.7 Ofcom’s intention is to have this revision to the PPRB Rules in place ahead of the next General Election, which has to take place on or before 3 June 2010. We aim to consult and publish the revised PPRB Rules in good time before the election is called. In the event that a General Election is called before new rules are finalised, the existing PPRB rules will apply.
- 1.8 Given the aim of introducing new rules on the above timetable, Ofcom is not proposing more extensive changes of policy within the PPRB Rules at the present time.

The proposed new PPRB Rules

- 1.9 The proposed PPRB Rules are set out in full in Section 3. The most significant changes we are proposing to the PPRB Rules (with the relevant rule in brackets) are:

¹ Ofcom’s report on its consultation in 2004 is available at:
http://www.ofcom.org.uk/consult/condocs/ppb/ppb_resp/resp_sum.pdf

- to provide that the number of PEBs allocated to major parties and other registered parties should be determined having regard to the circumstances of a particular election, the nation in which it is held, and the individual party's past and/or current electoral support in that nation; this addition reflects recent established practice by Licensees (rules 12 and 14)
- to include specific guidance for the minimum qualifying requirements for other registered parties in proportional representation systems of election, as the current PPRB Rules simply state that the criteria should be "modified as appropriate for proportional representation systems" (rule 13);
- to provide for greater flexibility, so that registered parties other than designated major parties may qualify for a series of broadcasts, and peak-time scheduling, if evidence of their electoral support at a particular election or in a relevant area means it would be appropriate to do so; this change acknowledges that different parties may have differing strengths at different kinds of elections (rule 14);
- to treat designated referendum organisations as "major parties" for allocation and scheduling purposes i.e. they should be allocated a series of broadcasts, before a referendum; this is to reflect the Electoral Commission's views that the PPRB Rules should make clear that the designated referendum organisations should receive a "series" of broadcasts (as opposed to "one or more" as currently specified in the PPRB Rules) (rule 19).

1.10 We have made general tidying-up changes to other sections of the PPRB Rules to make them clearer and easier to understand. We have not specifically identified the individual changes, but readers may wish to make comparisons with the current PPRB Rules at Annex 5 and at <http://www.ofcom.org.uk/tv/ifi/guidance/pprbrules.pdf>

Guideline procedures for determination of disputes

1.11 The allocation decision is the responsibility of each individual Licensee under the PPRB Rules. The Licensee and the political party/designated organisation should attempt to resolve any dispute concerning length, frequency, allocation and/or scheduling of broadcasts between themselves. However, if a dispute cannot be resolved, it may be referred by the Licensee or the political party/designated organisation to Ofcom for determination. If a dispute is resolved by agreement after referral to Ofcom, but before Ofcom reaches a decision, Ofcom should be notified that it has been resolved.

1.12 We have prepared Guideline procedures that Ofcom will normally apply when determining a dispute between a Licensee and a political party/designated organisation under the PPRB Rules. These are set out in full at Section 4.

Impact Assessment

1.13 Taking into account the proposed changes to the PPRB Rules and the proposed Guideline procedures for handling disputes under the PPRB Rules, we do not consider that the proposals will result in any major change to our regulatory activities, as the principal purpose is to clarify the PPRB Rules and to explain our procedures for dealing with any disputes. Therefore a full impact assessment is not considered necessary.

- 1.14 We have conducted an Equality Impact Assessment, and conclude that the changes proposed would have no differential impact in terms of disability, racial background, gender or sexual orientation.

Next Steps

- 1.15 Written views and comments are requested on the revised PPRB Rules and the Guideline procedures **by 25 November 2009**.
- 1.16 Following the end of the consultation period, Ofcom intends to publish revised PPRB rules and the finalised Guideline procedures.

Section 2

Statutory framework and background

- 2.1 Section 333(1) of the Act provides that there are conditions included in the regulatory regime for “every licensed public service channel” (defined as any Channel 3 service, Channel 4 and Channel 5), and “every national radio service” (within the meaning of section 245 of the Act), requiring (a) the inclusion in that channel or service of party political broadcasts and referendum campaign broadcasts; and (b) licence holders to observe such rules with respect to these types of broadcast as may be made by Ofcom.
- 2.2 Section 333(2) empowers Ofcom to make rules (the PPRB Rules) which may include, among other things, provision for determining the political parties on whose behalf party political broadcasts may be made, and the length and frequency of referendum broadcasts on behalf of designated organisations.
- 2.3 Section 333(3) provides that the PPRB Rules have effect subject to sections 37 and 127 of the Political Parties, Elections and Referendums Act 2000, which in turn require that only registered political parties and designated organisations are entitled to party political/election and referendum broadcasts.
- 2.4 Section 333(4) allows Ofcom to make provision in its rules for different cases, and section 333(5) requires Ofcom to have regard to any views expressed by the Electoral Commission before making the PPRB Rules.
- 2.5 The PPRB Rules (as published in October 2004) were drafted in accordance with the provisions of section 333 of the Act (as set out above). They are free-standing and do not form part of the Broadcasting Code (“the Code”).
- 2.6 However, section 6 of the Code (“Elections and Referendums”) provides that party political broadcasts, party election broadcasts and referendum campaign broadcasts are required to comply with the relevant provisions of the Code (for example, the provisions regarding harm and offence), notwithstanding that the content of such broadcasts is normally the responsibility of the relevant political parties.
- 2.7 As presently drafted, Rule 1 of the PPRB Rules states that “Within the terms of these rules, the precise allocation of broadcasts is the responsibility of the licensees” and that “unresolved disputes between any licensee and any political party, as to the length, frequency, allocation or scheduling of broadcasts, should be referred by the party or the licensee to Ofcom.”
- 2.8 Rule 2 states that the PPRB Rules “reflect minimum requirements [which] are not intended to fetter the broadcasters’ discretion to make additional allocations.”
- 2.9 Ofcom therefore applies the PPRB Rules in determining disputes referred to it by political parties and/or licensees concerning the minimum requirements as set out under the PPRB Rules.

Section 3

The proposed new PPRB Rules

Introduction

1. Section 333 of the Communications Act 2003 (“the Act”) requires Ofcom to ensure that Party Political Broadcasts (including Party Election Broadcasts) and Referendum Campaign Broadcasts on behalf of registered political parties and designated referendum organisations² are included in every licensed public service television channel (regional Channel 3³, Channel 4, Five) and every national radio service (Classic FM, talkSPORT and Absolute Radio AM)(“the Licensees”).
2. This document contains the Rules which Ofcom has made in accordance with section 333 of the Act. The Rules reflect minimum requirements which Licensees are required to follow in determining the length, frequency, allocation and/or scheduling of party political or referendum campaign broadcasts. They are not intended to fetter the discretion of Licensees to exceed these minimum requirements.
3. Within the terms of these Rules, decisions as to the precise length, frequency, allocation and/or scheduling of broadcasts offered to political parties/designated organisations are the responsibility of Licensees in the first place. When Licensees make such decisions, they should notify the relevant political party/designated organisation promptly in writing, setting out the basis of the relevant decision, and enabling that party/organisation to make further representations to the Licensee if they choose to dispute any part of the decision.
4. If any dispute remains unresolved between any Licensee and any political party/designated organisation, as to the length, frequency, allocation and/or scheduling of broadcasts it may be referred by the party/designated organisation or the Licensee to Ofcom for determination under these Rules. For this purpose, Licensees and political parties/designated organisations should follow Ofcom's Guideline Procedures on the referral and determination of disputes under these Rules [see following section of this consultation].
5. Section 6 of Ofcom's Broadcasting Code⁴ (“the Code”) provides that broadcasts under these Rules are required to comply with the relevant provisions of the Code (for example, the provisions regarding harm and offence) notwithstanding that the content of broadcasts is normally the responsibility of the relevant political parties (or designated referendum organisations). Licensees should apply these Rules in accordance with relevant provisions of the Code.
6. Licensees are advised to issue guidance on the acceptability of content and technical matters.⁵

² See section 333(3) of the Act, and sections 37 and 127 of Parties, Elections and Referendums Act 2000

³ Excluding Channel TV; this section of the Act does not apply in the Channel Islands

⁴ The Broadcasting Code can be found at <http://www.ofcom.org.uk/tv/ifi/codes/bcode/>

⁵ Licensees may also wish to seek legal indemnities from political parties and designated organisations against defamation, breach of copyright and similar legal risks. Any use of Parliamentary footage should abide by Parliament's rules on such use.

Services carrying broadcasts

7. General election broadcasts will be carried by all of the Licensees named above. Broadcasts for European Parliamentary elections will be carried by regional Channel 3 services and Five.
8. Referendum campaign broadcasts will be carried by all of the Licensees named above in the case of a UK referendum, or by the relevant regional Channel 3 licensee in the case of nations/regions referendums.
9. The regional Channel 3 licensee will additionally carry: local election broadcasts in those UK nations/regions where such elections are taking place; broadcasts in the relevant nations/regions for Scottish Parliament, Welsh Assembly, Northern Ireland Assembly and Greater London Authority elections; and broadcasts for the “major parties” in Great Britain (see Rule 11) around other key events in the political calendar, such as the Queen’s Speech, the Budget and party conferences.

Political parties / Designated Referendum Organisations

10. Party political broadcasts may only be allocated to political parties registered by the Electoral Commission. Referendum campaign broadcasts may only be allocated to organisations as designated by the Electoral Commission.⁶
11. At present, “major parties” in Great Britain are defined as: the Conservative Party, the Labour Party, and the Liberal Democrats and, in Scotland and Wales respectively, the Scottish National Party (“SNP”) and Plaid Cymru. The major parties in Northern Ireland are: the Democratic Unionist Party, Sinn Féin, the Social Democratic & Labour Party, and the Ulster Unionist Party.

Allocation of broadcasts

Party Election Broadcasts (“PEBs”)

12. Before a General Election, and in the case of other elections where appropriate, each major party (referred to in Rule 11) should be offered a series of two or more PEBs, the length of a series offered to a particular party being determined by the Licensee. This includes the SNP on Channel 4, and SNP and Plaid Cymru on Five. In every case, the number of PEBs should be determined having regard to the circumstances of a particular election, the nation in which it is held, and the individual party’s past and/or current electoral support in that nation (see Rule 15).
13. Other registered parties should qualify for a PEB if they are contesting one sixth or more of the seats up for election in the case of first-past-the-post, multi-constituency elections such as a General Election. For proportional representation systems of election (such as the European Parliamentary Elections), the minimum qualifying requirement for the allocation of one PEB should be adapted appropriately, reasonably and fairly for each election, according to criteria which have regard to the particular system of voting, the number of seats available for election, the number of constituencies/regions, and the number of candidates nominated by the party.

⁶ See again section 333(3) of the Act, and sections 37 and 127 of the Political Parties, Elections and Referendum Act 2000.

14. Licensees should consider making additional allocations of PEBs to other registered parties (which satisfy the criteria at Rule 13) if evidence of their past and/or current electoral support at a particular election or in a relevant nation/electoral area means it would be appropriate to do so. In this regard, Licensees should consider whether other registered parties should qualify for a series of PEBs and/or peak-time scheduling, as major parties do.
15. In determining allocations of PEBs at elections, the four nations of the UK should be considered separately.
16. In accordance with Rules 7 to 9 above, parties which qualify for at least one PEB in one of the nations of England, Scotland, Wales or Northern Ireland will be offered PEBs on the Channel 3 licensee in the appropriate regions of those nations.
17. Parties which qualify for a PEB in all three nations of England, Scotland and Wales will additionally be offered a PEB on Channel 4 (at General Elections⁷), Five (at General Elections and European Elections⁸) and the national radio services (at General Elections) (provided these broadcasters are carrying the relevant series of broadcasts; see Rules 7 – 9 above).

Other Events / Referendums

18. Major parties will be offered one broadcast on each occasion in relation to other key political events (see Rule 9).
19. Each designated referendum organisation will be allocated a series of referendum campaign broadcasts before each referendum. The allocation should be equal for each referendum organisation.

Length of broadcasts

20. Parties and designated organisations may choose a length of 2'40", 3'40" or 4'40" on TV. For radio, parties and designated organisations may choose any length up to 2'30".

Scheduling of broadcasts

21. PEBs on behalf of major parties in the relevant nation on television must be carried in peak time (6.00pm to 10.30pm), as must referendum campaign broadcasts on behalf of designated organisations. Other broadcasts should normally be carried in the period 5.30pm to 11.30pm.
22. UK referendum campaign broadcasts and PEBs for major parties before a General Election must be carried on national radio services between 5.00pm and 9.00pm. Other broadcasts must be transmitted between 6.00am and 10.00pm.

⁷ See Rule 7

⁸ See Rule 7

Section 4

Guideline procedures for determination of disputes under the PPRB Rules

1. This document outlines the procedural guidelines which apply to Ofcom's determination of unresolved disputes between political parties and broadcast licensees under Ofcom's Rules on Party Political and Referendum Broadcasts ("Ofcom's PPRB Rules): <http://www.ofcom.org.uk/tv/ifi/guidance/pprbrules.pdf>
2. Such disputes will be determined by Ofcom's Election Committee ("the Committee") applying Ofcom's PPRB Rules, in accordance with section 333 of the Communications Act 2003 ("the Act") which requires Ofcom to ensure that party political broadcasts (including party election broadcasts) and referendum broadcasts are included in the services of every "licensed public service channel" and "national radio service" ("the Licensee").
3. Under Ofcom's PPRB Rules, decisions as to the precise length, frequency, allocation and/or scheduling of broadcasts offered to political parties/designated organisations are the responsibility of the Licensee in the first place. When Licensees make the decision, they should notify the relevant political party/designated organisation ("the Party") promptly in writing, setting out the basis of the relevant decision. If the Party wishes to dispute any element of the Licensee's decision, it should first make representations direct to the Licensee to enable the Licensee to reconsider its decision.
4. If any dispute remains unresolved between any Licensee and any Party, as to the length, frequency, allocation and/or scheduling of broadcasts ("the dispute"), it may be referred by the Party or the Licensee to Ofcom for determination under Ofcom's PPRB Rules using these procedural guidelines.
5. These guidelines contemplate a dispute being referred to Ofcom in the first place by a political party/designated organisation under Ofcom's PPRB Rules, and will be appropriately modified where a dispute is first referred by a Licensee.

Initial Referral of Disputes

6. If the Party considers it appropriate to refer the dispute to Ofcom under Ofcom's PPRB Rules, it should do so in writing by email to the Committee ("the Referral Letter") as soon as reasonably practicable. The letter should be addressed to the Secretary to the Corporation at Ofcom: graham.howell@ofcom.org.uk.
7. The Party's Referral Letter should set out the details of the dispute and the Licensee in relation to which the dispute is referred, together with the Party's grounds for disputing a Licensee's decision.
8. The Referral Letter should also enclose any correspondence relevant to the disputed decision, and provide any other relevant evidence or background information. For example, if the Party's dispute concerns the number of party election broadcasts allocated to the Party by a Licensee during an election period, the Party should provide correspondence from the Licensee notifying the Party and setting out the

basis of its decision, together with any relevant supplementary information about the Party (e.g. its size, support, number of candidates at the election).

Acceptance of Dispute

9. On receipt of a Party's Referral Letter, the Committee will write to the Party confirming whether it has accepted the dispute and, where applicable, requesting any relevant further information ("the Acceptance Letter"). The Acceptance Letter will set out an appropriate timetable under which the dispute will be determined (including the date when the Committee intends to meet), having regard to the need to determine disputes promptly and fairly. For practical reasons, to enable Licensees to schedule all PEBs before polling day, both the Party and the Licensee must be prepared to respond very rapidly to requests from Ofcom in furtherance of its considerations of a dispute, and all correspondence will be expected by email.
10. The Committee will also forward the Referral Letter (and any other documentation provided by the Party) to the Licensee, giving the Licensee an opportunity to respond to the dispute with any comments, representations and additional evidence. The Committee will state a deadline by which the Licensee should respond.
11. On receiving the Licensee's response, the Committee will write to the Party again, giving it a final opportunity to reply to the contents of the Licensee's response, and stating the deadline for doing so.

Resolution of the Dispute

12. Prior to determination of the dispute by the Committee, if the Licensee and the Party are able to resolve the dispute, the Party should notify the Committee that it wishes to withdraw the dispute from the Committee. In such circumstances, the Committee will take no further action.

Determination of the Dispute

13. If the dispute remains unresolved, the Committee will meet at an arranged time to determine the dispute under Ofcom's PPRB Rules, considering all the written representations and evidence provided by the Party and the Licensee.
14. The Committee will not normally hold an oral hearing. However, the Committee may consider it appropriate to do so in exceptional circumstances.
15. The Committee may also consult any relevant third parties (e.g. the Electoral Commission) in order to obtain or confirm any factual or contextual information relevant to determining the dispute. Where appropriate, the Committee will give the Party and/or Licensee the opportunity to respond to such information.

Decision Letter

16. Once the Committee has determined the dispute, the Committee will write to the Party and the Licensee informing them of its decision, and setting out its reasoning.
17. The Committee will publish its decision on the Ofcom website in accordance with its normal process and the principles of transparency and best regulatory practice under section 3(3) of the Act.
18. The Committee's decision is final and not subject to internal appeal.

Annex 1

Responding to this consultation

How to respond

- A1.1 Ofcom invites written views and comments on the issues raised in this document, to be made **by 5pm on Wednesday 25 November 2009**.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at <http://www.ofcom.org.uk/consult/condocs/pprb/howtorespond/form>, 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 consultation responses - particularly those with supporting charts, tables or other data - please email steve.perkins@ofcom.org.uk attaching your response in Microsoft Word format, together with a consultation response coversheet.

Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.

Steve Perkins
Head of Content Policy
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA

Fax: 020 7981 3806

- A1.4 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.
- A1.5 It would be helpful if your response could include direct answers to the questions asked in this document, which are listed together at Annex X. It would also help if you can explain why you hold your views and how Ofcom's proposals would impact on you.

Further information

- A1.6 If you want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact Steve Perkins on 020 7981 3866.

Confidentiality

- A1.7 We believe it is important for everyone interested in an issue to see the views expressed by consultation 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.

- A1.8 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.
- A1.9 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/about/account/disclaimer/>

Next steps

- A1.10 Following the end of the consultation period, Ofcom intends to publish a statement in December 2009.
- A1.11 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/static/subscribe/select_list.htm

Ofcom's consultation processes

- A1.12 Ofcom seeks to ensure that responding to a consultation is easy as possible. For more information please see our consultation principles in Annex 2.
- A1.13 If you have any comments or suggestions on how Ofcom conducts its consultations, please call our consultation helpdesk on 020 7981 3003 or e-mail us at consult@ofcom.org.uk . We would particularly welcome thoughts on how Ofcom could more effectively seek the views of those groups or individuals, such as small businesses or particular types of residential consumers, who are less likely to give their opinions through a formal consultation.
- A1.14 If you would like to discuss these issues or Ofcom's consultation processes more generally you can alternatively contact Vicki Nash, Director Scotland, who is Ofcom's consultation champion:
- A1.15 Vicki Nash
Ofcom
Sutherland House
149 St. Vincent Street
Glasgow G2 5NW
- Tel: 0141 229 7401
Fax: 0141 229 7433
- Email vicki.nash@ofcom.org.uk

Annex 2

Ofcom's consultation principles

- A2.1 Ofcom has published the following seven principles that it will follow for each public written consultation:

Before the consultation

- A2.2 Where possible, we will hold informal talks with people and organisations before announcing a big consultation to find out whether we are thinking in the right direction. 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

- A2.3 We will be clear about who we are consulting, why, on what questions and for how long.
- A2.4 We will make the consultation document as short and simple as possible with a summary of no more than two pages. We will try to make it as easy as possible to give us a written response. If the consultation is complicated, we may provide a shortened Plain English Guide for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.
- A2.5 We will consult for up to 10 weeks depending on the potential impact of our proposals.
- A2.6 A person within Ofcom will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organisations interested in the outcome of our decisions. Ofcom's 'Consultation Champion' will also be the main person to contact with views on the way we run our consultations.
- A2.7 If we are not able to follow one of these principles, we will explain why.

After the consultation

- A2.8 We think it is important for everyone interested in an issue to see the views of others during a consultation. We would usually publish all the responses we have received on our website. In our statement, we will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.

Annex 3

Consultation response cover sheet

- A3.1 In the interests of transparency and good regulatory practice, we will publish all consultation responses in full on our website, www.ofcom.org.uk.
- A3.2 We have produced a coversheet for responses (see below) and would be very grateful if you could send one with your response (this is incorporated into the online web form if you respond in this way). This will speed up our processing of responses, and help to maintain confidentiality where appropriate.
- A3.3 The quality of consultation can be enhanced by publishing responses before the consultation period closes. In particular, this can help those individuals and organisations with limited resources or familiarity with the issues to respond in a more informed way. Therefore Ofcom would encourage respondents to complete their coversheet in a way that allows Ofcom to publish their responses upon receipt, rather than waiting until the consultation period has ended.
- A3.4 We strongly prefer to receive responses via the online web form which incorporates the coversheet. If you are responding via email, post or fax you can download an electronic copy of this coversheet in Word or RTF format from the 'Consultations' section of our website at www.ofcom.org.uk/consult/.
- A3.5 Please put any parts of your response you consider should be kept confidential in a separate annex to your response and include your reasons why this part of your response should not be published. This can include information such as your personal background and experience. If you want your name, address, other contact details, or job title to remain confidential, please provide them in your cover sheet only, so that we don't have to edit your response.

Cover sheet for response to an Ofcom consultation

BASIC DETAILS

Consultation 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

☐

Name/contact details/job title

☐

Whole response

☐

Organisation

☐

Part of the response

☐

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 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 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 consultation has ended, please tick here.

☐

Name

Signed (if hard copy)

Annex 4

Legal Annex

Section 333 Communications Act 2003

Party Political Broadcasts

- (1) The regulatory regime for every licensed public service channel, and the regulatory regime for every national radio service, includes-
 - a. conditions requiring the inclusion in that channel or service of party political broadcasts and of referendum campaign broadcasts; and
 - b. conditions requiring that licence holder to observe such rules with respect to party political broadcasts and referendum campaign broadcasts as may be made by Ofcom.
- (2) The rules made by Ofcom for the purposes of this section may, in particular, include provision for determining –
 - a. the political parties on whose behalf party political broadcasts may be made;
 - b. in relation to each political party on whose behalf such broadcasts may be made, the length and frequency of the broadcasts; and
 - c. in relation to each designated organisation on whose behalf referendum campaign broadcasts are required to be broadcast, the length and frequency of such broadcasts.
- (3) Those rules are to have effect subject to sections 37 and 127 of the Political Parties, Elections and Referendums Act 2000 (c.41) (only registered parties and designated organisations to be entitled to party political broadcasts or referendum campaign broadcasts).
- (4) Rules made by Ofcom for the purposes of this section may make different provisions for different cases.
- (5) Before making any rules for the purposes of this section, Ofcom must have regard to the views expressed by the Electoral Commission.
- (6) In this section –

A4.1 “designated organisation”, in relation to a referendum, means a person or body designated by the Electoral Commission under section 108 of the Political Parties, Elections and Referendum Act 2000 (c.41) in respect of that referendum;

A4.2 “national radio service” means a national service within section 245 of this Act; and

A4.3 “referendum campaign broadcast” has the meaning given by section 127 of that Act.

Annex 5

Current PPRB Rules

Ofcom's rules on party political and referendum broadcasts

- A5.1 Section 333 of the Communications Act 2003 requires Ofcom to ensure that Party Political Broadcasts (including Party Election Broadcasts) and Referendum Campaign Broadcasts are included in the UK regional ITV, Channel 4, Five, Classic FM, talkSPORT and Virgin 215 services. This document reflects the rules which Ofcom has determined in accordance with the Act. Within the terms of these rules, the precise allocation of broadcasts is the responsibility of the licensees. Unresolved disputes between any licensee and any political party, as to the length, frequency, allocation or scheduling of broadcasts, should be referred by the party or the licensee to Ofcom.
- A5.2 These rules reflect minimum requirements. They are not intended to fetter broadcasters' discretion to make additional allocations.
- A5.3 Ofcom's Broadcasting Code⁹ states that while editorial control of broadcasts normally rests with parties or designated referendum organisations (see below, para. 9), broadcasters are responsible for ensuring that broadcasts comply with the terms of the Broadcasting Code.
- A5.4 Broadcasters are advised to seek legal indemnities from parties and referendum organisations, against defamation, breach of copyright and similar legal risks. Broadcasters are also advised to issue guidance on the acceptability of content, and technical matters. Any use of Parliamentary footage should abide by Parliament's rules on such use.

Services carrying broadcasts

- A5.5 General election broadcasts will be carried by all of the broadcasters named above. Broadcasts for the European Parliamentary election will be carried by ITV and Five.
- A5.6 Referendum broadcasts will be carried by all of the broadcasters named above in the case of a UK referendum, or by the relevant ITV regions in the case of regional referendums.
- A5.7 ITV will additionally carry: local election broadcasts in those UK nations/regions where such elections are taking place; broadcasts in the relevant nations/regions for Scottish Parliament, Welsh Assembly, Northern Ireland Assembly and Greater London Authority elections; and broadcasts for the major parties in Great Britain around other key events in the political calendar, such as the Queen's Speech, the Budget and party conferences.
- A5.8 Major parties in Great Britain are defined as: Labour, Conservative, Liberal Democrats and, in Scotland and Wales respectively, the SNP and Plaid Cymru.

⁹ The new Broadcasting Code is currently in draft form, and will be issued early in 2005. Ofcom's current codes contain similar provisions.

Major parties in Northern Ireland are defined as Democratic Unionist, SDLP, Sinn Féin and Ulster Unionist.

- A5.9 Referendum broadcasts will be allocated to referendum organisations designated by the Electoral Commission (see the Political Parties, Elections and Referendums Act, 2000).

Allocation of broadcasts

- A5.10 Major parties will normally be offered a series of broadcasts before each election. This includes SNP on Channel 4 and SNP and Plaid Cymru on Five.
- A5.11 Other registered parties may qualify for a broadcast on the basis of contesting one sixth or more of the seats up for election, modified as appropriate for proportional representation systems. The four nations of the UK will be considered separately. Parties which qualify in one or two of the nations of England, Scotland and Wales will be offered broadcasts on ITV, in the appropriate regions of those nations. Parties which qualify in all of these three nations will additionally be offered broadcasts on Channel 4, Five and national commercial radio (provided these broadcasters are carrying the relevant series of broadcasts; see items 5 – 9 above).
- A5.12 Major parties will be offered one broadcast on each occasion, in relation to other key political events.
- A5.13 Each designated referendum organisation will be allocated one or more broadcasts before each referendum. The allocation should be equal for both sides.

Length of broadcasts

- A5.14 Parties and organisations may choose a length of 2'40", 3'40" or 4'40" on TV. For radio, parties and organisations may choose any length up to 2'30".

Scheduling of broadcasts

- A5.15 TV election broadcasts by the Conservatives, Labour, the Liberal Democrats and Northern Ireland major parties must be carried in peak time (6.00pm – 10.30pm), as must SNP and Plaid Cymru broadcasts on ITV in Scotland and Wales, and all referendum broadcasts. Other broadcasts should normally be carried in the period 5.30pm to 11.30pm.
- A5.16 UK referendum broadcasts and general election broadcasts by the Conservatives, Labour and Liberal Democrats must be carried on national radio between 5.00pm and 9.00pm. Other broadcasts must be transmitted between 6.00am and 10.00pm.