Review of rules for prominence of public service broadcasters and local TV.
Consultation on proposed changes to the linear EPG Code and future of the regime.

Introduction

techUK represents the companies and technologies that are defining today the world that we will live in tomorrow. 900 companies are members of techUK. Collectively our members employ more than 700,000 people, which represents nearly half of all ICT sector jobs in the UK. These companies range from leading FTSE 100 companies to new innovative start-ups. The majority of techUK's members are small and medium sized businesses.

This response is made primarily on behalf of techUK's device manufacturing members. We do not seek to represent the views of other members but where those views have been expressed they have been included.

Summary

techUK members support ease of discovery of PSB channels though EPGs and device user interfaces. Device manufacturers and content providers have invested, and will continue to do so, in solutions and services that will enable the search and discovery of PSB content as well as other content that viewers wish to consume.

We do believe that it is important to strike a balance between prominence of core PSB channels and the recognition that the world of content choice and delivery is changing. The connected content world opens up a vast array of alternative content choices and platforms and we must balance the ease of discovery of PSB channels without overly restricting options for viewers to choose the content that is surfaced to them.

It is also important to strike a balance between regulation and market creativity and differentiation. An overly prescriptive approach can stifle innovation and restrict consumer choice. We continue to favour a light touch approach to these regulatory requirements.

Ofcom must consider UK regulatory requirements in the context of a global content and device market place, the UK broadcast and PSB landscape needs to be managed in a way that allows it to dovetail with non UK specific market services and devices. Many consumers now consider other national and global content and services to be of equal interest to traditional PSB content and therefore these services should not be unduly disadvantaged or discriminated against in any prescriptive legislation.

We do have a strong concern that the description of 'pages' is undefined and therefore is an unsuitable descriptor for channel prominence and ordering. Users may prefer to configure EPGs at a greater magnification thus reducing the number of channels displayed on any given page. Page size is relative to the screen size of a TV. This approach is particularly relevant to viewers with visual impairments. It appears to conflict with the recent requirements issued by Ofcom relating to EPG accessibility and text magnification requirements. By specifying X number of channels should be displayed within a given page range Ofcom are restricting the options to change the display size of an EPG. We do not believe that this is an intended consequence of this consultation. This approach also assumes that EPGs are displayed as a traditional grid layout, again that is not a given and this approach would restrict or prevent alternative layouts which may provide the viewer with clearer information.

The code must be very clear as to which aspects of the user interface it refers to, i.e. the "traditional EPG", which nowadays is but one element of a complete user interface. We would therefore request that these descriptions are changed to define where a channel sits within the total length of a channel list (e.g. 'In the Top 5) as opposed to 'On the first page'. No considerations of EPG page positioning are made in the current LCN services and this is not a change that would be in the interest of viewers.

Q1) Do you agree with our proposals that the main five PSB channels hold the top five slots on EPGs provided UK wide or in the UK outside of Wales?

We support the ease of discovery for viewers relating to linear content delivery in a broadcast environment and therefore agree that the 5 'main' PSB channels should continue to sit at the top of the EPG listings.

Q2) Do you agree that on EPGs provided for viewers specifically in Wales BBC One, BBC Two and the relevant Channel 3 service should take the top three slots, with S4C in slot four, Channel 5 in slot five and Channel 4 guaranteed a position on the first page?

Whilst we support the ease of discovery and support prominence relating to the relevant regional channel variants we would caution against using a description such as 'first page' for any channel position. Users may prefer an EPG configuration that delivers larger text size and therefore displays less lines on a single page. This may be particularly relevant to those with visual impairments. In such an example the channel may have high prominence within the channel list but may appear on a subsequent page to page 1. It may be better to set the requirement as 'within the top X channels', rather than 'X pages'.

Q3) Do you agree that BBC Four should be guaranteed a slot within the top three pages of all EPGs?

We do not support the proposal that BBC channels should have guaranteed prominence on the basis that the BBC should automatically have prominence versus other content providers. Merit relating to BBC 4 prominence should be judged against its audience share versus other channels. BBC 4 is a time limited channel, this should also be a factor when positioning its prominence versus other channels with a greater time span of broadcast.

Rather than subjectively choosing which services are considered to be "of general interest" it would be more appropriate to apply objective and measurable criteria, such as actual viewing figures, that represent whether the service is valued by the viewer or not (similar to the way in which Ofcom places captioning and subtitling requirements on broadcasters).

Q4) Do you agree that the designated public service News channels (currently BBC News and BBC Parliament) should be guaranteed slots on the first page of the news genre section or an equivalent position within the grouping of news channels on the EPG, as applicable?

We support ease of discovery for public service news channels within the relevant genre section of EPGs. This should apply to all such channels and not specifically favour the BBC.

It is important to note that not all devices support channel genre selection so discovery via this route is only available on devices that provide genre based listings.

Q5) Do you agree that CBeebies and CBBC should have guaranteed slots on the first page of the Children's genre or area of the EPG, as applicable?

We support ease of discovery for Children's channels within the relevant genre section of EPGs. This should apply to all such channels and prominence should have a relevance to the share of viewing of channels, not just favour the BBC where other alternatives exist which command strong audience share.

It is important to note that not all devices support channel genre selection so discovery via this route is only available on devices that support genre based listings.

We also refer you to our comment on page display capacity as covered in Q2.

Q6) Do you agree that S4C, BBC Alba, and BBC Scotland should be guaranteed prominence within the first three pages of UK wide EPGs?

We do not agree. These channels are not prime channels for the majority of viewers across the UK and therefore should not be compelled to occupy slots for the majority, displacing programmes that may be more relevant to a wider audience. We support that they are displayed in the list, but not that their prominence is set at a minimum position.

Q7) Do you agree that local TV should be guaranteed prominence within the first three pages of UK wide EPGs?

Prominence for local channels to the local audience is supported where these channels can deliver audience shares that justify a prominent position within the EPG listing. There is not cross sector support to give prominence to channels with very small audience shares where this can reduce the prominence of channels that viewers are more likely to want to discover.

Due to constraints on bandwidth and multiplexes within the DTT environment it may not always be possible to provide the capacity for all local TV services though broadcast. Some of these services may be delivered via IP. We believe that this introduces additional complexity relating to EPG prominence for local TV services and these factors need to be considered in detail before confirming that this can be delivered.

In terms of page numbering we refer you to the comments we make in answering Q2.

Q8) Do you agree that S4C, BBC Alba, and BBC Scotland should be guaranteed prominence within the first three pages of relevant Nation specific EPGs e.g. S4C in Wales, BBC Alba and BBC Scotland in Scotland?

We support the principle of prominence for these channels within the nation specific EPGs. Again, our comments on pages are as Q2.

Q9) Do you agree that local TV should be guaranteed prominence within the first three pages of relevant regionalised EPGs?

We refer to our answer on Q7.

Q10) Do you agree with our proposals to ensure prominence for either the SD or HD version of BBC channels rather than both?

We disagree. Prominence should be given to the highest quality variant of a channel where options exist as it in the viewers interest to receive the best viewing experience. We encourage the delivery of regional content (e.g. BBC News) via the HD channel feed as a matter of urgency as the continued failure to deliver this option in the UK forces viewers to choose the lower picture quality (SD) option and reduces the number of viewers that will use HD as their default channel selection. We understand that there are solutions available to deliver regional content via HD streams (IP insertion for example). It is important to give HD channels the highest possible prominence to support the growth in viewing hours of the optimal viewing experience.

Q11) Do you agree with our proposals to allow broadcasters to swap HD simulcast variants of their SD designated channels, such that those HD variants could occupy the slots which the SD channels would be entitled to?

We believe that it is in viewers interests that the highest priority should be given to HD channels. We believe that the HD variant should occupy the highest slot within the EPG. Our answer to Q10 expands on this point.

Q12) Do you agree with our proposal to provide a 12 month transition period once the Code is finalised?

To allow for changes to be implemented and consider any impact on legacy devices we agree that a transition period will be required should any changes be mandated as a result of this consultation. Whether or not this is 12 months depends at which stage of the product development cycle changes to the code are implemented.

Q13) Do you think that the prominence regime should be extended to ensure EPGs themselves can be easily found?

We support easy discovery of EPGs but do not support mandating devices in terms of how the EPG is located within a device's UI as this restricts manufacturer and product differentiation and innovation.

We assume that this refers to the discovery of an EPG that is displayed as a traditional grid layout. It is not a given that all devices adopt this approach and this requirement would restrict or prevent alternative layouts which may provide the viewer with clearer information.

Q14) Do you agree with the broad range of factors for consideration we have identified? Are there other factors that policy makers should consider?

Ofcom need also to consider:

- IP Channel insertion and swapping relating to connected devices and what impact or requirements these proposals will have.
- Radio channels. There remains a strong appetite for listeners to consume digital radio content via PSB broadcasting so radio channel prominence requirements should also be considered.

Q15) Do you agree with the principles we have set out? Are there other principles that should be considered?

Many consumers now consider other national and global content and services to be of equal interest to traditional PSB content; these services should not be disadvantaged or discriminated against in any prescriptive legislation.

Should prominence requirements be extended to cover on-line content it must not restrict viewer options to configure viewer preferences to meet user discovery needs.

Viewers must be allowed to modify/ change default EPG settings to personalise both the display and the content listings where they choose to do so. Restricting such options would hinder rather than help content discovery.

Q16) Do you think that the prominence regime should be extended to ensure PSB Players can be easily found?

We do not see this as a requirement. PSB Players are currently prominent due to LCN order from a backwards EPG or 'Red Button' type of launch service. We do not see a viewer requirement for additional prominence.

It is also important to note that some device manufacturers have global agreements with VoD requirements which result in a uniform order of display of Players/ Apps within the connected device UI. It is not practical/ possible in many circumstances to require device manufacturers to take a country or territory approach to application ordering within the device UI. Such a requirement is likely to negatively impact the choice of devices available to UK consumers which is not in the interests of viewers.

Q17) Do you think that the prominence regime should be extended to ensure PSB content can be easily found via recommendations and / or search? If so, what key parameters would you set for this aspect of the regime?

We support content search and recommendation solutions that support viewer access to content. However, we do not support a mandated approach to such prominence. We believe that these solutions are and can be adequately managed by the device manufacturers. For example, manufacturers currently pay for metadata through per device fees from Freeview Play and YouView and should be free to create their own value proposition/ USPs through their own EPG/ UI solutions relating to discovery and recommendation.

Many manufacturers have started to apply AI technologies to search and recommendation engines that aim to provide true and more appropriate recommendations according to individual characteristics and requirements that reflect the needs of the individual. This is a nascent innovative and developing improvement to the consumer experience and must not be hamstrung by legislation that results in inappropriate or unwanted outputs being forced upon the viewer.

It is important that PSB platforms remain horizontal by nature and are built upon common standards that enable those manufacturers that wish to display such content to do so.

We do not support PSB content providers charging device levies to manufacturers for enabling devices to receive PSB content (both linear and catch-up).

Q18) Do you think that the prominence regime should be extended to platforms and devices not currently captured by the EPG prominence regime? If so, how do you think the regime could be extended and who should be captured?

techUK
10 St Bride Street
London
EC4A 4AD

T +44 (0) 20 7331 2000
F +44 (0) 20 7331 2040
www.techuk.org

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It is important that there is no distortion of market competition or stifling of innovation and product differentiation as an unintended consequence of regulation.

Whilst we accept that the primary means which people use to consume television content should be regulated in a balanced way across platforms and devices that facilitate such access to PSB channels, it does not necessarily follow that all devices that provide access to such content should be regulated (or regulated in the same manner).For example, if a games console is plugged into a TV set, should that console automatically be subject to the same obligations as the native TV interface?

It is also questionable how practical it is to apply the same requirements to non-traditional PSB content delivery devices such as smartphones, tablets and PCs. We request more clarity from Ofcom on devices that may be in scope.

Individual viewers consume content across a variety of devices at their disposal. We have concerns that a blunt regulatory approach fails to recognise the changing habits of PSB consumption and the devices upon which this content is consumed.

It is important to note that we do have concerns that regulating for one group of devices (e.g. TVs) and not for another set of devices that are used for viewing PSB content (e.g. tablets) can distort a balanced market/ level playing field.

It must be noted that CE manufacturers providing devices into an open horizontal market should not be considered to be in the same device category as devices that are specified, managed and frequently owned by vertical platform operators. Any legislation intended to address issues that are primarily an issue with vertical platforms should not result in collateral damage to other devices that serve horizontal platforms.

Q19) Do you think that the prominence regime should be extended to online services? If so, who should be captured?

We do not support extending the prominence regime to online services, in the absence of any identified market failure. While PSB content remains attractive to viewers we believe that market-led solutions will ensure that it will remain discoverable with an appropriate level of prominence within these services. We do not believe that the way the global online content and service delivery market operates supports this approach

Ends

For further information on this response please contact:

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