



EPG Accessibility

Consultation on proposed improvements for people with visual impairments

TalkTalk response to consultation

February 2018

NON-CONFIDENTIAL VERSION

1 Summary

- 1.1 This paper is TalkTalk's response to Ofcom's consultation, dated 4 December 2017, on proposed improvements in EPG accessibility features to support customers with visual impairments.
- 1.2 TalkTalk supports Ofcom's aim of progressing on this issue. It is important that the industry continues to move towards increased support for the needs of those with impaired vision. There will be both a greater need to do so, along with increased incentives as the importance of accessibility services to consumers as a whole increases, as the proportion of elderly and very elderly customers increases.
- 1.3 The final position that Ofcom has reached, of applying a '*reasonable measures to secure so far as practicable*' test for accessibility measures, appears broadly appropriate and proportionate. It appears to reflect a balance between the aim of enhancing the viewing experience for consumers with visual impairments, and the potential costs of adding functionality to set top boxes, particularly when such functionality is added via retrofitting, rather than as part of the design of a new box.
- 1.4 However, much of the anecdotal evidence and argument used is from responses to consultations in July 2014 and July 2015, and in a technological market such as this it is plausible that the situation may have advanced (for example, with more TVs incorporating text to speech ('**TTS**') functionality). In the absence of data from the past 30 months, or a robust cost-benefit analysis, there is a risk that Ofcom is over-regulating to solve issues which have already been substantially dealt with in the market.
- 1.5 Given this limited evidential base, it is appropriate for Ofcom to be cautious in applying additional regulation. This further reinforces the appropriateness of a reasonable endeavours approach. It is particularly helpful that Ofcom has acknowledged that it would only expect additional functionality to be introduced when new set top boxes are being designed; this will considerably reduce the costs of Ofcom's proposal, whilst at the same time permitting progress towards the goal of universal adoption of TTS and related functionalities.

2 Answers to questions

2.0 Question 1 (accessibility features)

- 2.1 TalkTalk agrees with Ofcom that it would be appropriate for EPG providers to have to use reasonable endeavours to include options for users to use TTS, filtering or highlighting, magnification, and high contrast displays within their EPGs. As set out by Ofcom at Figure 1 of its consultation document, most EPGs already incorporate one or more of these features, particularly high contrast displays and magnification, the main exceptions being the Freesat and Freeview EPGs, which do not offer any accessibility features, even those such as high contrast displays which are now

standard in other EPGs. It is appropriate that there should be continued progress towards increased accessibility features by EPG providers, whether or not they have already implemented some of these features, but Ofcom should prioritise ensuring that all providers meet the minimum standards of accessibility which have become generally established in the market.

- 2.2 A 'reasonable endeavours' approach is appropriate and proportionate. By setting such a requirement, Ofcom is avoiding being prescriptive and enabling operators to defer implementation of features which are found to be disproportionately costly. As set-top box and TV hardware improves, and as software becomes more mature, TalkTalk is confident that there will be increasing provision of all types of accessibility feature.
- 2.3 As regards the appropriateness of the changes to the EPG code, TalkTalk agrees that the proposed amendments to the code as set out by Ofcom in Annex 5 of the consultation are an appropriate implementation of Ofcom's proposals.

2.1 Question 2 (Rolling out to all TV receivers)

- 2.4 TalkTalk considers that Ofcom's proposal that increased EPG accessibility features should be rolled out to all TV receivers, and not only to those defined as 'multi-functional' by Ofcom, is appropriate.
- 2.5 By setting the same requirements on all types of TV receiver, rather than the previous proposals which would only have impacted multi-functional receivers, Ofcom is reducing the risk that the proposed regulation distorts substitution between the various types of receiver, and encourages providers to adopt receivers which are not multi-functional. In any case, in a world where on demand streaming via VOD services is rising rapidly, Ofcom's previous proposals raised the risk that the regulation would prove ineffective, as a decreasing proportion of viewing is on multi-functional TV receivers. Even worse, Ofcom's prior proposals create perverse incentives for firms to remove recording capabilities from their TV receivers, in order to escape the costs of the proposed regulation.
- 2.6 It is also appropriate for Ofcom to only apply a reasonable endeavours obligation for additional accessibility features on new models of TV receivers, rather than legacy receivers. These legacy receivers have widely differing levels of hardware capability, and the costs of retrofitting and hardware upgrades are also likely to vary widely. Any requirement to engage in retrofitting would also cause market distortions as such costs would only fall on TV receivers subject to an ongoing subscription (those of TalkTalk, BT, Sky, and Virgin). The receivers of non-subscription EPG providers (Freeview, Freesat, Youview) would be unlikely even to be able to be found in order to be upgraded to offer increased accessibility.

2.2 Question 3 (Reporting requirements)

- 2.7 Ofcom proposes, contrary to its previous position in the 2015 consultation, that there should be continued reporting requirements on EPG licensees to state what steps they have taken and what steps they plan to take to make their EPGs more accessible.
- 2.8 Given that Ofcom has proposed to move to a 'reasonable endeavours' obligation, TalkTalk considers that, on balance, it is appropriate for Ofcom to leave reporting requirements in place. However, it needs to be taken into account that Ofcom's proposals are regarding new models of TV receivers, rather than the existing estate. There should be no supposition that there has been any breach of the EPG Code by an operator which has not made progress towards increasing accessibility in a year when it has not launched a new set top box, or fundamentally overhauled an existing model.