



Non-Confidential

Virgin Media's Response Ofcom Consultation "Review of the mandatory daytime protection rules in the Ofcom Broadcasting Code"

Virgin Media summary position

As stated in our response to the call for inputs in 2016, Virgin Media is broadly supportive of Ofcom's proposal to adjust the broadcast code to allow post watershed content to be broadcast before 9pm if that content is behind a PIN.

Consumers today expect content to be delivered when they want, how they want and where they want it, in no small part because of the prevalence of competing on demand services. We therefore agree with Ofcom's starting premise that reform of the current framework is needed to address customer expectations while maintaining existing important consumer protections. We believe that in evolving the current framework, Ofcom will begin to make significant strides towards achieving parity in the market.

Virgin Media makes comments in relation to the following questions.

Question 1: Would extending mandatory daytime protection have an adverse impact on the 9pm watershed? Could the change erode public confidence in the 9pm watershed?

We have no reason to believe that the extension of mandatory daytime protection would have an adverse impact on the watershed. We believe the watershed is a concept that consumers understand to relate to the timing of broadcast content, which is available without any physical barrier to access, i.e. after inputting a PIN set by an adult account holder. The existence of subscription channels – such as movie channels – that demand a consumer enter a PIN supports this proposition.

It is possible that the introduction of a PIN for content pre-watershed would have the effect of drawing consumers' attention further to the role of the watershed. By implementing PINs for content pre-watershed, this could have the effect of bolstering consumer confidence in the watershed as an important child protection mechanism.

Question 2: Would extending mandatory daytime protection increase the risk of children viewing post watershed content?

We do not believe that extending the mandatory daytime PIN protection would provide any greater risk to children viewing post watershed content. There are already risks present for children accessing age-inappropriate material on broadcast – such as viewing broadcast content after the watershed, or accessing material online where a household has not implemented parental filters.

Question 3: How effective are mandatory PINs currently in protecting children? As part of this response we welcome views on the effectiveness of the protection offered for younger and older children.

The efficacy of the protection offered by PINs can be understood in terms of:

- 1) Awareness levels amongst households with children
- 2) Numbers of households where children are aware of the PIN number
- 3) Usage of mandatory and voluntary PINs
- 4) Complaints

Awareness of PINs amongst households with children is high. We refer to the latest publication of Ofcom's Children and Parents: Media Use and Attitudes Report 2017, which demonstrates that the majority of parents identify that mandatory PINs are in use on their TV service in their home 3-4s (57% of parents of 3-4 year olds and 60% of 5-15 year olds). The report further highlights that "Parents of 5-15s whose main TV service is satellite or cable are more likely than those with Freeview to say that mandatory PINs are in use." A small minority are unaware of mandatory PINs.

The Ofcom report shows that the majority of households have not disclosed PIN numbers to their children. This is particularly the case for households with younger children (10% of 3-4s and 12% of 5-7s). Older children are more likely to be aware of the household PIN number, yet these are still a minority of households (17% 8-11s and 35% 12-15s).

We consider voluntary PINs to be a further effective method of restricting access to content at the discretion of the account holder. The Ofcom report found that the majority of parents are aware of voluntary PINs, and that parents of older children (5-15 year olds) are more likely to have set these up. This fits with further Ofcom analysis of when children are viewing content during the day, and whether they watch alone or with parental oversight.

Anecdotal evidence from our Executive Complaints Team suggests that customer complaints related to PINs are scarce, at no more than a couple per year.

Question 4: What more could be done to bolster the effectiveness of PINs?

As we outline in our response to question 3, we believe PINs are already an effective tool, which are well understood by consumers.

At Virgin Media we offer PIN protection to our customers on their TV service. The customer account PIN is required to view Catch Up, On Demand and broadcast Sky Movies content rated "12" or above before 8pm; rated "G", "15" or above before 9pm; and rated "18" before 10pm. The PIN is also required to view recordings made after 9pm and 10pm on channels that comply with the Watershed rules when the recordings are viewed before these times – the customer may optionally switch this check off, however the PIN is required to change this setting.

Adult content requires the PIN to view at all times and customers may also hide adult channels so that they do not appear in the channel guide. In addition, any channel can be locked by the customer, requiring the PIN to be entered to view at any time of day.

The PIN is required in order to make Purchases on the TV service - the customer may turn this check off, however the PIN is required in order to change this setting.

We noted comments by the NSPCC in their response to the call for inputs regarding the effectiveness of PINs and how this would work with ISP filtering. ISP network level filtering only applies to our broadband product and is entirely separate to PIN protection on set top boxes. One does not have an impact on another and should not be conflated.

Question 5: Do you agree with Ofcom's assessment of the technical limitations involved in implementing an extension to the mandatory daytime protection rules? Have there been any technical advancements in this area since the Call for Inputs in 2016?

Since our response to the Call for Inputs in 2016, Virgin Media has undertaken investment in the functionality of our set top box. On the basis of this investment we would therefore be able to implement PIN protection for broadcasters who request it for their content. This of course would be conditional on the broadcaster taking responsibility for the accurate categorisation of their content and ensuring it is reflected in the metadata provided to TV platforms.

Question 6: As a broadcaster or platform provider, do you foresee any issues with the provision or collection of metadata required for an extension to the mandatory daytime protection rules?

As a platform Virgin Media is reliant upon broadcasters correctly categorising the content in metadata. Broadcasters already have to undertake compliance work to ensure that content is compliant under the existing codes, and the onus should therefore rest with the broadcaster to supply the correct data. On this basis, the proposed extension should not pose further work for Virgin Media to implement.

Question 7: How would unconnected and legacy devices behave with the introduction of extended mandatory daytime protection rules? How do broadcasters and platform providers intend to ensure that there would be no risk of inadvertently broadcasting unsuitable content which is not secured by mandatory PIN protection?

Devices that are unconnected do not work and therefore PIN protection would not apply. All Virgin Media Set Top Boxes are capable of supporting the proposal.

Virgin Media would not be able to identify the compliance status of content which is broadcast, we would be entirely reliant upon the broadcaster providing the correct data.

Question 8: How would mandatory daytime protection interact with the live pause/rewind/fast forward functions on certain devices?

If the programme is correctly categorised, a PIN will be demanded, the time of day will not impact this functionality or the PIN being displayed. The PIN acts as a kind of front door to the content behind, once it is unlocked by the account holder, the user is then responsible for whether they use functions which alter the viewing time.

Question 9: What accessibility features are currently available, or could in future be implemented, to assist visually impaired people in accessing content restricted by a mandatory PIN?

When an incorrect PIN is entered the set top box alerts the audience member with a low pitched ping.

Virgin Media is currently undertaking significant work to address the accessibility needs of our customers across all of our products and services. As part of this review, and as we develop new generations of set top box, we are considering whether PINs might be made more accessible for visually impaired people. However we are also mindful that any new accessibility feature should balance important child protection considerations. For example an audio described PIN could reveal a PIN to others in a room, undermining the concept of the PIN.

Question 10: Are there any other technological, practical or cost issues involved which Ofcom should be aware of?

On the basis of the current proposal, we do not believe that as a platform we would incur any cost associated with implementing the proposed changes on our set top box.

We would however want to align the consumer experience for our TV GO app, which would require some development work to support pin protection for linear channels – given at present we’re reliant on watershed controls.

Virgin Media believes that Ofcom should work to ensure the entire industry is able to comply at the same date, before changing the rules to ensure a level playing field.

Question 11: Which particular types of pay TV subscribers could benefit from increased viewing choice, as a result of an extension in mandatory daytime protection? We welcome information and evidence from stakeholders about the size of such groups.

Consumer appetite and preferences for content have shifted, with the rise in popularity of ‘big production’ programmes which are cinematic in look and feel. The programmes tend to have stronger, more adult narratives and themes. Consumers today not only accept, but enjoy much stronger themes in entertainment genres. We believe all adult consumers who enjoy such content will benefit from increased choice and that given the serendipitous nature of linear broadcasting viewing; the extension would allow consumers to come across new content which they may not have chosen to seek out independently on on-demand services.

Question 12: To what extent could an extension of mandatory daytime protection result in any decreased choice for households with children? We welcome information and evidence from stakeholders.

We do not foresee any impact on choice to households with children.

Question 14: To what extent would there be any increase in choice for pay TV household groups as a result of the expansion of the mandatory daytime protection rules? We welcome information and evidence.

We have not undertaken any assessment.

Each platform has its own characteristics and content offer to differentiate it in the market. This diversity helps to create a competitive market. It is possible broadcasters might choose to create new, or designate existing channels with PIN protected content which are only available to pay TV platforms as part of their commercial plans.

Question 22: Should the revised rules allow up to BBFC 15-rated films to be shown at 20:00 on premium subscription film channels (as the current rules do)? Or would consistency across all channels be more beneficial?

We believe Ofcom should adopt a consistent approach to regulation.

Question 23: What information should/ could be provided with programmes using a mandatory daytime protection to inform viewers on the suitability of the content?

We provide ratings information alongside programming. Our PIN does not support providing any further information.

Ofcom should support a uniform industry-wide approach to platforms and broadcasters communicating about mandatory PINs to ensure consumer clarity around the changes if enacted.

Virgin Media
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