

S4C Response to Ofcom's Consultation and Review of the PPRB Rules and Proposed Guidance for broadcast coverage of elections.

## **Introduction**

S4C welcomes the opportunity to respond to this consultation. Under Section 18, Schedule 12, of the 2003 Communications Act, the S4C (Welsh) Authority has a duty to publish and revise its own policy on party political broadcasts and referendum campaign broadcasts<sup>1</sup> and subsection (5) requires the Authority to have regard to any rules made by Ofcom under Section 333 of the Act. We note that this consultation also covers the guidance issued by Ofcom in relation to Sections 5 and 6 of the Broadcasting Code. Compliance with the Code is a statutory requirement for services provided by the S4C Authority<sup>2</sup>.

The Authority's current rules<sup>3</sup>, as required by Section 18, Schedule 12 above, can be found at:

<http://www.s4c.co.uk/production/downloads/guidelines-to-political-parties-s4c.pdf>

The rules require that, *“Notwithstanding that content is normally the responsibility of the relevant political parties/designated organisations, all broadcasts must comply with the Ofcom Broadcasting Code and during an election or referendum period, parties/designated organisations must also comply with the Ofcom Rules on Political and Referendum Broadcasts”*.

We note that the BBC Trust published the outcome of its consultation on Party Political Broadcasts in February 2012 and the BBC is already implementing its revised policies in this area.

S4C is also an active Member of the Broadcasters Liaison Group. The Group's joint response to this consultation relates specifically to the proposed amendments applying to local television services. We have therefore not included comments relating to Questions 4 and 5 covering local television and our response is limited to those issues which are directly relevant to the provision of the S4C service.

Ofcom Rules on Party Political and Referendum Broadcasts.

### **Question 1: Major Parties**

We agree with Ofcom's proposed approach, to remove the list of major parties from the PPRB Rules and the Broadcasting Code and place it in an annex which can be regularly reviewed, to take account of the level of electoral support and other relevant evidence, which may impact on the political landscape either across the UK as a whole or in the UK nations including Wales. We firmly agree with Ofcom's conclusion that a list of major parties would be preferable to a set of flexible criteria, as the latter would create too much uncertainty and risk of challenge for broadcasters.

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<sup>1</sup> Section 93 of the Representation of the People Act requires the S4C Authority to draw up rules for constituency reports during elections. However, the Authority has adopted the rules set out by Ofcom in sections 6.8 – 6.13 of the Broadcasting Code.

<sup>2</sup> Section 12, Schedule 12 of the Communications Act places a duty on the Welsh Authority to observe the standards set by Ofcom in section 319 of the Act.

<sup>3</sup> The Authority intends to review its own rules in the light of the BBC Trust and Ofcom consultations and we will also consult the Electoral Commission over any proposed changes.

We also agree with Ofcom's proposed revised wording of **Rule 11** to create consistency between the definition of major parties in the PPRB Rules and the Code.

**Question 6:** The 'one sixth' threshold for PEB allocation

We note the concerns expressed by some stakeholders that smaller political parties have in the past fielded candidates in Wales in order to ensure they receive a PEB. In Wales, a party fielding candidates in only 7 out of 40 Welsh constituencies in Westminster elections is entitled to receive a PEB, even if they have a very low level of support in Wales. We therefore believe that there is a case to consider raising the threshold to a quarter or even one third of seats in Wales. Based on the 2010 General Election, adopting either of these thresholds would have almost no impact on the majority of parties that currently fight elections in Wales.

Link between First Past The Post (FPTP) and Proportional Representation (PR) allocation rules.

For the sake of clarity, in our view it would be helpful to remove the implied link regarding PEB allocation between FPTP and PR elections (such as those for the European Parliament) in the present **Rule 13**.

PEBs during referendum campaigns

We agree with the proposed amendment to clarify that PEBs broadcast during a referendum period should not focus on promoting a particular outcome.

**Question 7:** PPB, PEB, RCB Duration Requirements

We agree with proposal C2, which would set all broadcasts at 2',40".

**Question 9:** Timing of PPBs (i.e. when broadcasts outside election periods should be shown during the year).

We agree that the present timing requirements of the Ofcom PPRB Rules should be brought into line with the seasonal allocation basis required by the BBC Trust. PPBs created for S4C are usually Welsh language versions of PPBs which have already been created for English language channels. Political parties may be reluctant to invest in a Welsh language PPB if it cannot also be broadcast in English on the BBC. We therefore agree with the proposed amendment to **Rule 18**, setting out the three periods covering winter, spring and autumn. In addition, we agree that the proposed amendment to **Rule 9**, to ensure that no PPBs should be broadcast during election or referendum periods.

Proposed Code Guidance Amendments

The proposed amendments are appropriate in our view and we do not have any additional comments.