

Question 1: Do you agree that television broadcasters should be directly responsible for PRS in programmes and also for other forms of communication where viewers seek to interact with programmes?

Please explain why.:

YES Broadcasters are in the mind of the viewer the person responsible for all content on the channel. As such any issues relating to content are usually directed at the channel, the viewers do not in general understand the commercial relationships and other businesses involved in the delivery of PRS and other services. At all times promotion of any interactive or other services on all media should be fair transparent and fully auditable.

We believe there need to be thought to empowering the licensee to ensure that they have the means to force service providers to deliver the appropriate technology to manage PRS's for the broadcaster. Currently the networks pay the service providers and information providers directly. This creates a problem for the information provider (broadcaster) where services, which would be covered by a services contract, are due to changes in regulation or operational requirements no longer, in the view of the Broadcaster compliant or stringent enough. Clearly the ability to change service providers is limited in the short term as and there is under the current payment system no incentive for the Service provider to act to the broadcasters requests thus exposing the broadcaster to risk of being non-compliant. We would therefore suggest that further amendments to regulations may be required to ensure the Broadcaster can maintaining an effective client - service provider relationship. It must be the main contracting party and receive all payments from the network provider. The broadcaster should control payments to the service provider.

There are potentially situations, due to technical failure, human error or deliberate action (cost cutting measures for example), where faults in the systems could occur or the level of service is diminished below that required. These may, even with the best monitoring and testing processes, take a period of time to identify. Where this happens clearly the broadcaster should act appropriately from the point the failure is identified and manage or bar access to the failed systems. It is highly likely that a breach has in this instance occurred yet due to circumstances beyond their control. Obviously there would be contractual clauses and service level agreements in place and possibly an indemnity clause covering the broadcaster for such losses. Care would need to be taken in dealing with such cases to ensure that the broadcaster's reputation is damaged unfairly. Possible amendments to regulations would be required to manage this type of scenario.

Question 2: If so, do you agree that a variation to television licences would be the most appropriate way of ensuring that broadcasters are responsible for such PRS compliance?:

Yes, There needs to be consideration to ensure that the broadcaster has all the tools necessary to manage the commercial relationship with service providers effectively to ensure ongoing compliance.

Question 3: Do you agree that there is a need for broadcasters to obtain independent, third-party verification that they are in fact complying with the draft licence obligations set out in Paragraph 2 of the draft licence variation? If so, which of the options for verification discussed in Section 4 do you think is most appropriate? Are there other appropriate options? Again, please provide reasons.:

YES. We feel that there is no need for regular reporting as this will add and unnecessary burden both to the broadcaster and regulators. There should be a clear direction from OFCOM setting out the levels of audit required. Ofcom should then have the power to request the information with a suitable notice period. This process allows OFCOM to target their efforts whilst ensuring there is a clear incentive for the broadcaster to maintain appropriate records. All participation should be clearly promoted, operated fairly and transparently and be fully auditable. This is a combination of Option 1 and 3

Question 4: Do you have any comments on the draft licence variation set out in Annex 5? Please support your comments with adequate explanation and provide drafting proposals as appropriate.:

As mentioned in 3 above we believe the draft should be a combination where broadcaster must maintain records to a set standard that Ofcom can request giving a reasonable notice period. This notice period being in the matter of weeks rather than months. Broadcasters should be required to retain the data for a significant period of time.

Question 5: Do you agree that the draft licence obligations should not be limited to television but should also apply to radio broadcasters? Please provide reasons.:

Yes, We believe the regulations adapted as necessary should cover all forms of media to minimise confusion to the general public and to effectively cover the increasing number of cross media brands. There are increasingly instances where products and services are being promoted on different media at the same time. As long as the viewer is fully informed of the service being offered and that they are fairly and transparently operated then care should be taken not to restrict future growth in this area through restrictive legislation.

Question 6: Which of the options proposed in Section 6 do you believe is most appropriate to ensure separation of advertising from editorial content? Please explain why.:

Neither draft seems to meet the requirements of the industry. Participation TV can and will come in many forms and across many platforms and media. The current wording is far too restrictive. On one side option two restricts the method of payment to the detriment of the viewer (PRS and SMS are costly to operate for the broadcaster approximately 25% going to networks. Credit cards cost in the region of 1-3% to operate. The clause restricting using customer data seems overly restrictive when data

protection laws and polices exist and there can be valid reasons to contact them. The requirement to add more text to already cluttered screens in option 3 is restrictive and unnecessary we do feel it may be necessary to make the situation clear at the beginning and regularly through programmes but we should not restrict the creative process and overstress the viewer with too much information.

We believe that all paid for participation should be in context with the programme material, be clearly explained, fairly operated and auditable. The viewer should at all times understand what is on offer and at what cost so they are in a position to make an informed choice. If they choose to pay via credit card to interact or new digital payment systems that are currently being launched then this should be available. If technology exists now or in the future that simplifies the processes and costs this can only be of benefit to the viewer. This consultation provides the opportunity to draft regulations that are broad and flexible yet maintain a clear policy of fairness transparency and auditability.

Question 7: Do you have any comments on the draft new rules and guidance in respect of Options 2, 3 and 4 set out in Annex 6? Please support your comments with adequate explanation and provide drafting proposals as appropriate.:

As per 6 above

Question 8: Do you agree that Option 2 clarifies the existing provisions of the Broadcasting Code and therefore should not be limited to dedicated PTV only, but should apply to all editorial content (on both television and radio) which invites viewers to pay to take part? Please give reasons.:

Yes but we do believe there is an opportunity to redraft based the rules based on the principal of "context" "fairness" and "transparency" All PTV offerings should be in context of the programme, should be operated in a fair manner. All processes should be transparent and backed up by an audit process. We should encourage innovation through a regulatory framework that ensures viewers can make their own choices safely.

Question 9: Has Ofcom correctly identified, in Section 6 and the Impact Assessment in Annex 7, the various impacts arising from each option for dedicated PTV? Again, please give reasons.:

Probably. As we are a small company we do not have the direct access to some relevant information and resources to fully answer this question. We do feel that the method used appears to be appropriate.

Comments: