



# Ofcom rules on party political and referendum broadcasts

**Consultation document**

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## Section 1

# Summary

Under section 333(1) of the Communications Act, commercial public service TV channels and national commercial radio services must include referendum, as well as party political/party election broadcasts. Ofcom is expected to make rules for this purpose (there was no provision for referendums under the previous Broadcasting Act).

**Ofcom is seeking views on whether the attached draft rules follow the right approach to the allocation of referendum broadcasts. As explained below, no other changes of policy are proposed. The Government will shortly be consulting on wider issues covered in the Electoral Commission's Report and Recommendations on Party Political Broadcasting. Ofcom will then consider the outcomes of this process.**

The draft rules require that the relevant broadcasters must allocate one or more broadcasts to each organisation designated by the Electoral Commission for each referendum. In the case of a referendum across the UK, the draft rules provide that the broadcasts must be carried by every broadcaster that is now required to carry party broadcasts at a general election. In the case of referendums in the nations and regions, it is proposed that these will be carried only in relevant ITV1 regions.

In line with precedent for party broadcasts, it is expected that each broadcaster will be given scope to decide the precise allocation of broadcasts; and that Ofcom, as the regulator, should make an adjudication, in the event of any dispute between the broadcaster and party or referendum organisation.

While no change of policy is now proposed in relation to party political and party election broadcasts, the draft document differs from past ITC and Radio Authority rules in that:

- The rules will now be self-standing, ie they will no longer form part of the general programme content codes. This reflects the fact that the allocation of broadcasts is related to public service and programme format requirements, rather than actual broadcast content. However, the content of party and referendum broadcasts - for example, in relation to offensive or harmful material - will continue to be dealt with by the Ofcom Broadcasting Code.
- TV and radio are amalgamated. But as noted above the rules on party broadcast allocation remain as before except that:
- The four-party system in Northern Ireland is reflected, as in other parts of the Ofcom code; and
- The draft incorporates the established requirements that Channel 4 and Five must carry broadcasts for the SNP, and Five by Plaid Cymru, and - like national commercial radio - broadcasts on these channels for parties qualifying separately in each of England, Scotland and Wales.

As required by statute, Ofcom must consult and have regard to any views expressed by the Electoral Commission, before making these rules.

## Section 2

# The new draft rules

## Ofcom rules for party political, party election and referendum broadcasts on ITV1, Channel 4, Five and national commercial radio

1. Section 333 of the Communications Act 2003 requires Ofcom to ensure that Party Political Broadcasts (including Party Election Broadcasts) and Referendum Campaign Broadcasts are included in the UK regional ITV1, Channel 4, Five, Classic FM, talkSPORT and Virgin 1215 services. This document reflects the rules which Ofcom has determined in accordance with the Act. Within the terms of these rules, the precise allocation of broadcasts is the responsibility of licensees. Unresolved disputes between any licensee and any political party, as to the length, frequency, allocation or scheduling of broadcasts, should be referred by the party or the licensee to Ofcom.

### Services carrying broadcasts

2. General election broadcasts will be carried by all of the broadcasters named above. Broadcasts for the European Parliamentary election will be carried by ITV1 and Five.
3. Referendum broadcasts will be carried by all of the broadcasters named above in the case of a UK referendum, or by the relevant ITV1 regions in the case of regional referendums.
4. ITV1 will additionally carry: local election broadcasts in those UK nations/regions where such elections are taking place; broadcasts in the relevant nations/regions for Scottish Parliament, Welsh Assembly, Northern Ireland Assembly and London Assembly elections; and broadcasts for the major parties in Great Britain around other key events in the political calendar, such as the Queen's Speech, the Budget and party conferences.
5. Major parties in Great Britain are defined as: Labour, Conservative, Liberal Democrats and, in Scotland and Wales respectively, the SNP and Plaid Cymru. Major parties in Northern Ireland are defined as Democratic Unionist, SDLP, Sinn Fein and Ulster Unionist.
6. Referendum broadcasts will be allocated to referendum organisations designated by the Electoral Commission (see the Political Parties, Elections and Referendums Act, 2000).

### Allocation of broadcasts

7. Major parties will normally be offered a series of broadcasts before each election. This includes SNP on Channel 4 and SNP and Plaid Cymru on Five.
8. Other registered parties may qualify for a broadcast on the basis of contesting one sixth or more of the seats up for election, modified as appropriate for proportional representation systems. The four nations of the UK will be considered separately. Parties which do not qualify in England AND Scotland

AND Wales will be offered broadcasts on ITV1 only, in the appropriate regions. Parties which do qualify in all of these three nations will additionally be offered broadcasts on Channel 4, Five and national commercial radio (provided these broadcasters are carrying the relevant series of broadcasts; see items 2-6 above).

9. Major parties will be offered one broadcast on each occasion, in relation to other key political events.
10. Each designated referendum organisation will be allocated one or more broadcasts before each referendum.

#### **Length of broadcasts**

11. Parties and organisations may choose a length of 2'40", 3'40" or 4'40" on TV. For radio, parties and organisations may choose any length up to 2'30".

#### **Scheduling of broadcasts**

12. TV election broadcasts by the Conservatives, Labour, the Liberal Democrats and Northern Ireland major parties must be carried in peak-time (6pm to 10.30pm), as must SNP and Plaid Cymru broadcasts on ITV1 in Scotland and Wales, and all referendum broadcasts. Other broadcasts should normally be carried in the period 5.30pm to 11.30pm.
13. UK referendum broadcasts and general election broadcasts by the Conservatives, Labour and Liberal Democrats must be carried on national radio between 1700 and 2100. Other broadcasts must be transmitted between 0600 and 2200.

### Section 3

# Responding to this consultation

## How to respond

Ofcom invites written views and comments on the issues raised in this document, to be made by **5pm on Thursday 2 September**.

Ofcom strongly prefers to receive responses as e-mail attachments, in Microsoft Word format, as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing a response cover sheet (see Annex 2) to indicate whether or not there are confidentiality issues. The cover sheet can be downloaded from the 'Consultations' section of our website.

Please can you send your response to [Steve.Perkins@ofcom.org.uk](mailto:Steve.Perkins@ofcom.org.uk).

Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.

Steve Perkins,  
Manager – TV Programmes,  
Ofcom  
Riverside House  
2A Southwark Bridge Road  
London SE1 9HA

Fax: 020 7981 3333

Note that we do not need a hard copy in addition to an electronic version. Also note that Ofcom will not routinely acknowledge receipt of responses.

It would be helpful if your response could explain why you hold your views, and how Ofcom's proposals would impact on you.

## Further information

If you have any questions about the issues raised in this consultation, or need advice on the appropriate form of response, please contact Steve Perkins on 020 7981 3866, email [Steve.Perkins@ofcom.org.uk](mailto:Steve.Perkins@ofcom.org.uk).

## Confidentiality

Ofcom thinks it is important for everyone interested in an issue to see the views expressed by consultation respondents. We will therefore usually publish all responses on our website, [www.ofcom.org.uk](http://www.ofcom.org.uk), as soon as possible after the consultation period has ended.

All comments will be treated as non-confidential unless respondents specify that part or all of the response is confidential and should not be disclosed. Please place any confidential parts of a response in a separate annex, so that non-confidential parts may be published along with the respondent's identity.

Ofcom reserves its power to disclose certain confidential information where this is necessary to fulfil its functions, although in practice it would do so only in limited circumstances.

Please also note that copyright in responses will be assumed to be assigned to Ofcom unless specifically retained.

### **Next steps**

Following the end of the consultation period, Ofcom will finalise and publish the rules.

Please note that you can register to get automatic notifications of when Ofcom documents are published, at [http://www.ofcom.org.uk/static/subscribe/select\\_list.htm](http://www.ofcom.org.uk/static/subscribe/select_list.htm).

### **Ofcom's consultation processes**

Ofcom is keen to make responding to consultations easy, and has published some consultation principles (see Annex 1) which it seeks to follow, including on the length of consultations.

If you have any comments or suggestions on how Ofcom conducts its consultations, please call our consultation helpdesk on 020 7981 3003 or e-mail us at [consult@ofcom.org.uk](mailto:consult@ofcom.org.uk). We would particularly welcome thoughts on how Ofcom could more effectively seek the views of those groups or individuals, such as small businesses or particular types of residential consumers, whose views are less likely to be obtained in a formal consultation.

If you would like to discuss these issues, or Ofcom's consultation processes more generally, you can alternatively contact Philip Rutnam, Partner, Competition and Strategic Resources, who is Ofcom's consultation champion:

Philip Rutnam  
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## Annex 1

# Ofcom's consultation principles

Ofcom has published the following seven principles that it will follow for each public written consultation:

### Before the consultation

1. Where possible, we will hold informal talks with people and organisations before announcing a big consultation to find out whether we are thinking in the right direction. If we do not have enough time to do this, we will hold an open meeting to explain our proposals shortly after announcing the consultation.

### During the consultation

2. We will be clear about who we are consulting, why, on what questions and for how long.
3. We will make the consultation document as short and simple as possible with a summary of no more than two pages. We will try to make it as easy as possible to give us a written response. If the consultation is complicated, we may provide a shortened version for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.
4. We will normally allow ten weeks for responses, other than on dispute resolution.
5. There will be a person within Ofcom who will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organisations interested in the outcome of our decisions. This individual (who we call the consultation champion) will also be the main person to contact with views on the way we run our consultations.
6. If we are not able to follow one of these principles, we will explain why. This may be because a particular issue is urgent. If we need to reduce the amount of time we have set aside for a consultation, we will let those concerned know beforehand that this is a 'red flag consultation' which needs their urgent attention.

### After the consultation

7. We will look at each response carefully and with an open mind. We will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.



## Annex 2

# Consultation response cover sheet

A2.1 In the interests of transparency, we will publish all consultation responses in full on our website, [www.ofcom.org.uk](http://www.ofcom.org.uk), as soon as possible after the consultation period has ended, unless a respondent specifies that all or part of their response is confidential. We will also refer to the contents of a response when explaining our decision, unless we are asked not to.

A2.2 We have produced a cover sheet for responses (see below) and would be very grateful if you could send one with your response. This will speed up our processing of responses, and help to maintain confidentiality by allowing you to state very clearly what you don't want to be published. We will keep your completed cover sheets confidential.

A2.3 We strongly prefer to receive responses in the form of a Microsoft Word attachment to an email. Our website therefore includes an electronic copy of this cover sheet, which you can download from the 'Consultations' section of our website.

A2.4 Please put any confidential parts of your response in a separate annex to your response, so that they are clearly identified. This can include information such as your personal background and experience. If you want your name, contact details, or job title to remain confidential, please provide them in your cover sheet only so that we don't have to edit your response.

## Cover sheet for response to an Ofcom consultation

### BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

### CONFIDENTIALITY

What do you want Ofcom to keep confidential?

Nothing

Name/contact details/  
job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts?

If you want part of your response, your name or your organisation to be confidential, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

Yes

No

### DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response. It can be published in full on Ofcom's website, unless otherwise specified on this cover sheet. If I have sent my response by email, Ofcom can disregard any standard email text about not disclosing email contents and attachments.

Name

Signed (if hard copy)

## Annex 3

# Communications Act 2003, section 333

### Party political broadcasts

1. The regulatory regime for every licensed public service channel, and the regulatory regime for every national radio service, includes-
  - (a) conditions requiring the inclusion in that channel or service of party political broadcasts and of referendum campaign broadcasts; and
  - (b) conditions requiring that licence holder to observe such rules with respect to party political broadcasts and referendum campaign broadcasts as may be made by OFCOM.
2. The rules made by OFCOM for the purposes of this section may, in particular, include provision for determining-
  - (a) the political parties on whose behalf party political broadcasts may be made;
  - (b) in relation to each political party on whose behalf such broadcasts may be made, the length and frequency of the broadcasts; and
  - (c) in relation to each designated organisation on whose behalf referendum campaign broadcasts are required to be broadcast, the length and frequency of such broadcasts.
3. Those rules are to have effect subject to sections 37 and 127 of the Political Parties, Elections and Referendums Act 2000 (c. 41) (only registered parties and designated organisations to be entitled to party political broadcasts or referendum campaign broadcasts).
4. Rules made by OFCOM for the purposes of this section may make different provision for different cases.
5. Before making any rules for the purposes of this section, OFCOM must have regard to any views expressed by the Electoral Commission.

6. In this section-

"designated organisation", in relation to a referendum, means a person or body designated by the Electoral Commission under section 108 of the Political Parties, Elections and Referendums Act 2000 (c. 41) in respect of that referendum;

"national radio service" means a national service within the meaning of section 245 of this Act; and

"referendum campaign broadcast" has the meaning given by section 127 of that Act