

Review of prominence for public service broadcasting

Recommendations to Government for a new
framework to keep PSB TV prominent in an
online world

RECOMMENDATIONS:

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1. Key recommendations

This document sets out our recommendations to Government to ensure that public service broadcasting (PSB) remains easy for TV viewers to find and watch on connected services and devices.

What we are recommending – in brief

New legislation is needed to keep PSB prominent and support the sustainability of the public service broadcasters (PSBs). A new framework of legislation and regulation would ensure that viewers can continue to find and access the PSBs' linear *and* on-demand services, across a range of connected devices (smart TVs, set-top boxes and streaming sticks).

These new rules should specify what PSB content is given prominence, and on what platforms. The framework should be flexible, so the new rules can quickly be adapted to changes in technology and viewer behaviour.

The initial focus should be on connected TVs – which means smart TVs, and those connected by a set-top box or streaming stick. These are currently the main ways that viewers select and watch TV online and on-demand. Other TV platforms and services may be subject to the prominence rules in the future, as technology and viewing habits change.

Viewers should be able to find PSB content easily on the homepage of connected TVs. This would include *both* the PSBs' traditional channels and their on-demand services (e.g. 'players'). One practical approach could be to have a single PSB portal or 'tile' through which all of the PSBs' players are made available.

On-demand services should only be given prominence if the service is clearly delivering PSB content. This should be based on the service meeting new requirements for a suitable range and amount of high-quality content made for UK viewers, as well as content in particular genres such as children's, current affairs and factual.

PSB content should also be given protected prominence within TV platforms' recommendations and search results. Viewers are increasingly able to use TV platforms' recommendations and search functions to find content, so new rules would ensure that they can still find a range of high-quality, UK content when selecting *individual* programmes directly.

The new framework should protect the prominence of PSB content that is made available without charge. As PSBs develop new and different routes to make content available to viewers (e.g. BritBox), it may be appropriate going forward for the framework to apply to a broader range of the PSBs' services.

There may need to be new obligations to ensure the continued availability of PSB on-demand content to viewers – equivalent to the existing "must offer" and "must carry" rules for PSBs' traditional channels.

2. Summary

- 2.1 Public service broadcasting (PSB) is how Parliament ensures that UK viewers can access a range of high-quality, original television that meets their needs and interests. It is widely watched and highly valued. It is critical that viewers can find PSB content easily to ensure that they continue to enjoy the benefits of PSB.
- 2.2 The Digital Economy Act 2017 required Ofcom to review the prominence of the public service broadcasters' (PSBs) traditional channels and on-demand services. We started this review last year and asked whether new legislation was needed for PSB to remain easy to find as viewers increasingly watch TV online.¹ Having received views from broadcasters and other stakeholders, we are now setting out our recommendations to Government for a new framework that will ensure that PSB content is easy for viewers to find in the online world.

Prominence underpins the delivery of PSB

- 2.3 Parliament has established PSB to bring a range of benefits to UK viewers, including delivering a wide range of high-quality, original programmes that reflect the UK back to itself; bringing the nation together at important moments; and informing, entertaining and educating society. The Communications Act 2003 sets out the purposes of PSB and the role of the PSBs – the BBC, ITV, STV, Channel 4 Corporation, S4C and Channel 5 – in delivering these.² Ofcom has a range of regulatory responsibilities to support the fulfilment of the PSB purposes and to ensure that these broadcasters meet the needs and interests of different people across the UK.
- 2.4 Prominence makes PSB easy to find and watch. This is currently achieved by making specified traditional (or 'linear') channels easy to find within an electronic programme guide (EPG). However, there are currently no rules that provide for prominence of PSB content in online environments or on connected devices. This document sets out our recommendations for this.

Finding PSB services in an online world

- 2.5 Linear TV remains the most popular means of viewing TV content, with 89% of people watching it each week in 2018.³ But viewer behaviour and the wider market are changing rapidly. The growth in internet-enabled connected devices, coupled with faster broadband speeds, has helped stimulate the growth of new on-demand TV platforms and services.

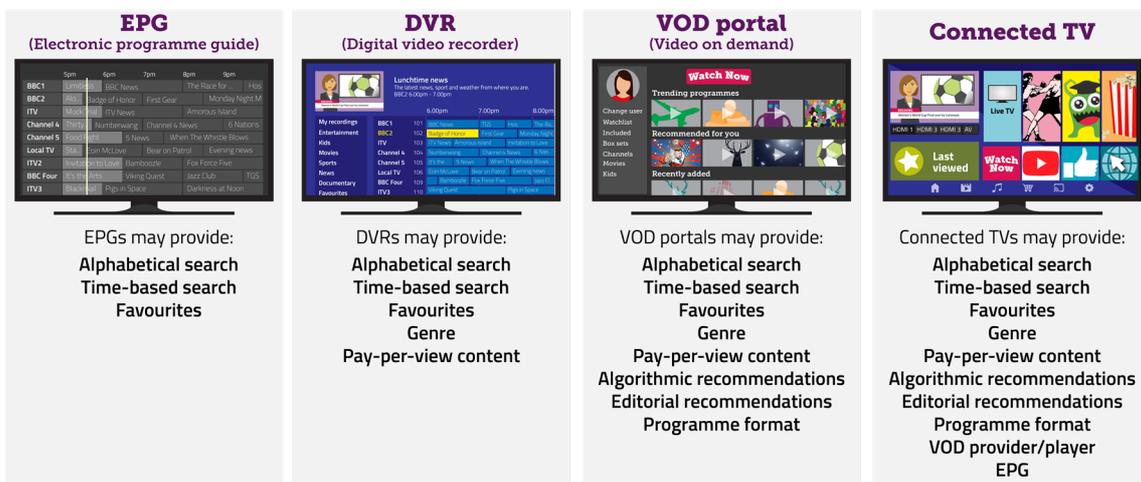
¹ Relevant documents are available at: <https://www.ofcom.org.uk/consultations-and-statements/category-1/epg-code-prominence-regime>

² Sections 264 of the Communications Act 2003: <https://www.legislation.gov.uk/ukpga/2003/21/part/3/chapter/4/crossheading/the-public-service-remit-for-television>

³ Source: BARB. All individuals (age 4+) average weekly reach % (reach criteria 15+ consecutive minutes).

- 2.6 Viewers’ methods for finding and watching TV programmes have become more complex than the traditional EPG route to linear channels, as the graphic below illustrates.

The way viewers find content is changing



- 2.7 Viewers can access content through video on-demand (VoD) players (e.g. apps like BBC iPlayer or Netflix); links to specific programmes (e.g. images or ‘tiles’ with ‘next episode’ or ‘trending’ shows); or through increasingly sophisticated search functions. Some TV platforms and services can also use information about viewers’ habits to personalise what they see, and some allow viewers to customise TV programme guides, menus or the position of players.⁴

- 2.8 In July 2018, we reviewed the availability and discoverability of the PSBs’ linear and on-demand services on connected devices.⁵ We found that they are generally easy to find, but less so for the smaller PSBs. We also identified concerns that, given the rapid changes in the market, PSB may become less visible. We sought views on whether there should be regulatory protection to ensure the PSBs’ linear and on-demand services remain easy to find, and what factors would need to be considered in designing a new framework.

- 2.9 We received responses from a range of interested parties, including broadcasters, TV manufacturers and platform operators. We have considered these responses and commissioned a report from consultants to better understand the trends and commercial drivers of different TV platforms.

A new framework for PSB prominence

- 2.10 The current legislation, which pre-dates widespread availability of TV programmes online, only covers the prominence of linear PSB channels *within* EPGs. Viewing continues to shift online, including accessing the PSBs’ content through catch-up or on-demand services. The market dynamics are also evolving at pace, with subscription video-on-demand (SVoD)

⁴ By TV platform we mean services used to access TV content on smart TVs and internet-enabled devices that connect to a TV.

⁵ Ofcom, *EPG Prominence: A report on the discoverability of PSB and local TV services*, July 2018, available at: https://www.ofcom.org.uk/_data/assets/pdf_file/0026/116288/report-psb-local-tv-discoverability.pdf

services gaining in popularity and able to negotiate multi-market or global deals. We recommend that a new legislative and regulatory framework is established to ensure viewers can continue to find PSB content online easily. This document sets out our views on what content should be easy to discover, and where.

- 2.11 The framework needs to be flexible to stay effective and relevant in a world where the way in which PSBs deliver content, and the technology viewers use to view it, will change. We recommend that this is achieved by incorporating into the primary legislation the ability for it to be updated and amended quickly. This might be achieved through including order-making powers for the Secretary of State to update key definitions and criteria.
- 2.12 TV platforms use a variety of design approaches, using a mix of app and programme tiles, as well as different functions such as genre selections or personalised content to make specific programmes and services easy to find. Design innovation and consumer choice are benefits for viewers, and it is important that the new framework should support this. We recommend that the new framework sets requirements for ‘how’ PSB content is to be made prominent, supplemented by a power for the regulator to give guidance and set rules on how the new framework would apply in practice. We think that principles-based rules are likely to be better than detailed requirements at this stage, and we give some examples of how we think this would work in this document.

New rules should initially focus on connected TV platforms

- 2.13 Viewers can watch PSB on a range of connected devices as well as within specific on-demand services and video-sharing platforms. The new framework should set conditions to determine which TV platforms and services would be in scope. The conditions should be designed to secure discoverability of PSB in a proportionate way as well as supporting continued consumer choice and innovation.
- 2.14 We recommend that the conditions focus on services that a significant number of viewers use as one of their main ways of watching TV content. This would mean that the rules initially focus on connected TV platforms, e.g. smart TVs, streaming sticks and set-top boxes. The scope would need to be able to adapt to changes in how viewers watch TV content; market and technological changes; and demographic variations. For example, younger people may use different routes to access TV content compared to the population as a whole, and there may be a need to ensure that PSB content is easy to find on those particular platforms or services.
- 2.15 We recognise that creating a framework in this area is complex. It is important to understand the impact of regulation in this area, including the potential effect on commercial negotiations between content providers and TV platforms. For example, if a new framework created commercial disincentives for major TV platforms and services to include PSB content, viewers would lose out. We recommend that consideration should also be given to obligations to ensure the continued availability of PSB content to viewers, and what the reciprocal obligations of content providers and TV platforms should be in securing this. This would involve considering whether there should be equivalent rules

online to the current “must offer” and “must carry” rules that relate to traditional PSB channels.

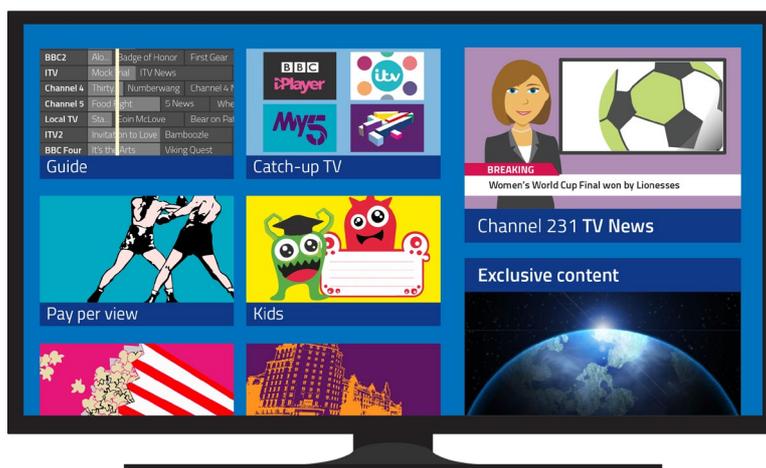
Traditional PSB channels should continue to be easy to find

- 2.16 Our review found that the traditional PSB channels are generally prominent on connected devices through the placement of an EPG on or near the homepage. However, as new on-demand services launch and technology continues to evolve there is a risk that, without protection, these PSB channels become harder to find.
- 2.17 We recommend that the framework safeguards the discoverability of the PSB channels by requiring them to be easy to find on TV platforms’ homepages. In practice, this could mean a TV platform gives a prominent position to an EPG on the homepage. However, there may be other innovative ways to present linear TV other than through an EPG, so the rules should be sufficiently flexible to accommodate these but still achieve the objective of making PSB channels easy to find.

PSB on-demand players should also be easy to find

- 2.18 Viewers are increasingly watching PSB content on-demand, including via the PSBs’ players (BBC iPlayer, ITV Hub, All4, My5, STV player and Clic). Although these on-demand services are an important route to PSB content, there are currently limited regulatory rules to secure delivery of the PSB purposes by these services, and no safeguards to ensure they are easy to find. The PSBs’ players are currently widely available and prominent on most TV platforms. However, this position is not guaranteed and could change in light of evolving viewing habits, the launch of new VoD services and commercial incentives.
- 2.19 We recommend that protection is provided to the PSBs’ players to ensure that they remain highly visible on TV platforms’ homepages where they meet new qualifying criteria. These criteria would be designed to ensure the player delivers an appropriate range of high-quality, original content that contributes to the PSB purposes. We recommend the new criteria should include specific requirements around particular genres, such as children’s, current affairs and factual content, and content made specifically for UK viewers. The new framework should provide for these criteria to be amended and updated as viewers’ tastes and needs change.

- 2.20 Giving an identical level of prominence to all the players may not be practical or possible in some cases. Multiple services cannot occupy the same position within a homepage, and prominence may need to take account of a player’s target audience. For example, PSB services aimed at a specific nation should be easy to find for viewers in that nation. But these practical challenges could be addressed through innovative solutions – such as a single PSB portal, or ‘tile’, through which all of the PSBs’ players are promoted and made available (see graphic below).



Individual, on-demand PSB programmes should also be easy to find

- 2.21 The PSBs and the wider market are evolving at pace, with the growth in on-demand services, new platforms and technological developments. These developments include viewers being offered direct access to individual programmes without having to navigate via an EPG or an on-demand player. Some TV platforms’ homepages include specific programme recommendations and offer increasingly sophisticated text and voice search, in addition to a range of on-demand players.
- 2.22 We think it is important that viewers should still be able to find a wide range of PSB content when they are using these more ‘integrated’ and programme-based routes to content. We recommend that the new framework should protect prominence of not only the PSBs’ players, but also PSB content that is distributed outside the player environment in this more ‘disaggregated’ way. This would mean that the PSBs’ players, and/or an appropriate variety of the PSBs’ content, is easy to find and quick to access from the homepage, and within suitable recommendations and search results. For example, within a selection of “trending” or recommended drama programmes on a homepage, we would expect to see a variety of programmes from the PSBs included (see graphic below).



- 2.23 At the moment, we recommend that the new framework should protect the prominence of PSB content that is made available without charge. This means that paid-for services, such as SVoD, would not currently be guaranteed prominence. However, PSBs are developing new and different routes to make content available to viewers, including plans for services such as BritBox, and it may be appropriate going forward to look at whether the prominence of a broader range of the PSBs' content services should be protected. The framework should be sufficiently broad that it could be applied to such services in the future without requiring further new primary legislation.

Next steps

- 2.24 Our proposed approach to securing prominence for PSB in an online world would require new legislation. We will engage with Government and industry over the summer to discuss our recommendations and next steps.
- 2.25 Today, we are also publishing *The future of public service media* which sets out our plans to provide a forum on the future of public service media, appraise the PSBs' performance over the last five years and summarises the work Ofcom is already doing to support PSB.⁶ Our recommendations on prominence are an important part of this wider programme of work, ensuring that PSB is maintained and strengthened into the future.

⁶ Ofcom, *The future of public service media*, July 2019, available at: https://www.ofcom.org.uk/_data/assets/pdf_file/0022/155155/future-public-service-media.pdf

3. The importance of prominence for public service broadcasting

- 3.1 This section summarises the purposes of PSB, the role of the prominence rules to ensure viewers can easily find PSB and our work to date.
- 3.2 PSB was established by Parliament to ensure the public has access to high quality television that reflects the UK back to itself, brings the nation together at key moments, and informs and educates society. It also helps to ensure that certain types and genres of programmes – which would be less well provided if left to the market alone – get made, e.g. arts, religion and original children’s content. PSB is available to everyone, and free at the point of use.
- 3.3 The purposes of PSB are set out in the Communications Act 2003 (the ‘Act’)⁷ and are to:
- a) provide television programmes that deal with a wide range of subjects;
 - b) cater for the widest possible range of audiences, across different times of day and through different types of programme; and
 - c) maintain high standards of programme-making.
- 3.4 PSB is currently provided through a number of services: the BBC’s public services, the Channel 3 services (ITV and STV), Channel 4 and Channel 5. BBC Alba and S4C provide Gaelic and Welsh-language channels. These services are collectively required to deliver content that fulfils the public service purposes as well as fulfil broadcaster specific requirements, remits or duties.
- 3.5 Ofcom has a range of regulatory responsibilities to ensure PSB meets audiences’ needs and interests. This includes monitoring performance and setting enforceable relevant conditions for public service channels which require (among other things) that the channels deliver their statutory public service remits.⁸ For the BBC, its Operating Licence sets requirements for fulfilment by the BBC of its specific mission and public purposes, as established in the BBC’s Royal Charter. It includes a range of regulatory conditions,⁹ including requirements for distinctiveness, quotas for original production and nations and regions programming across the BBC’s public services. For the Channel 4 Corporation (C4C), we set licence conditions for its main channel, Channel 4, as well as evaluating the performance of all C4C services in meeting its statutory media content duties¹⁰ which focus on diversity, alternative viewpoints and younger audiences. For Channel 3 licensees and

⁷ The PSB purposes are set out in sections 264(4) to (6) of the Act:

<https://www.legislation.gov.uk/ukpga/2003/21/contents>

⁸ The statutory public service remits of the channel 3, 4 and 5 services are set out in section 265 of the Act.

⁹ The BBC Operating Framework, including the Operating Licence can be found here: <https://www.ofcom.org.uk/tv-radio-and-on-demand/information-for-industry/bbc-operating-framework/operating-framework>

¹⁰ The Act s198A <https://www.legislation.gov.uk/ukpga/2003/21/section/198A>

Channel 5, we set licence conditions including obligations for news, current affairs, and regional production.¹¹

- 3.6 It is not enough to simply make sure a range of quality programmes are made and available, they must also be easy to find, watched and enjoyed by viewers. The importance of ease of discovery is recognised by Parliament, and the prominence rules aim to ensure that channels which deliver valuable public service content are easy to find. The regulatory framework for prominence does not currently extend to the PSBs’ on-demand or online services, nor services that enable viewers to navigate and select TV programmes beyond the EPG, such as the user interfaces (UIs) on smart TVs, set-top boxes and streaming sticks.
- 3.7 Prominence also plays a role in supporting the sustainability of PSB. Regulatory requirements such as original programming or local news provision have a cost impact, and the PSBs also receive a number of benefits to support the sustainability of the system. These benefits include spectrum (DTT), prominence on EPGs and in the BBC’s case, licence fee revenues. This balance of obligations and benefits is known as the ‘PSB compact’.
- 3.8 As viewing habits continue to shift, it is important that viewers still enjoy the benefits envisaged in the PSB purposes – entertaining, informative and educational content that meets the diverse interests and needs to the UK – and that the broadcasters responsible for PSB delivery can do so, effectively and sustainably. Our recommendations on prominence online support this dual objective and we will facilitate a series of discussions on the fundamental challenges facing PSB over the coming months as well as publishing our assessment of the PSBs’ performance over the last five years.¹²

The role of prominence and PSB channels

- 3.9 We publish data on changing viewer habits and attitudes annually, as well as our view on the performance of the UK broadcasting market.¹³ This research shows that the broadcasting market has evolved considerably in recent years, and viewers now have access to a much wider selection of television services and content than ever before. Despite this, viewing to PSB remains high.
- 3.10 Eight in ten people (80%) watched at least 15 consecutive minutes of the main five PSB channels in a typical week in 2018 and over half (52%) of all television viewing of broadcast content on television sets was to one of the main five PSB channels.¹⁴ Audiences also continue to value PSB, with viewers rating the PSBs highly for ‘trustworthy news’ (59%) and

¹¹ Channel 3 Licences can be found at www.ofcom.org.uk/manage-your-licence/tv-broadcast-licences/current-licensees/channel-3 and Channel 5 at https://www.ofcom.org.uk/_data/assets/pdf_file/0020/40376/channel-5-attachment-variation.pdf

¹² Ofcom, *The future of public service media*, July 2019, available at:

https://www.ofcom.org.uk/_data/assets/pdf_file/0022/155155/future-public-service-media.pdf

¹³ Ofcom, *Media Nations* reports, available at: <https://www.ofcom.org.uk/research-and-data/tv-radio-and-on-demand/media-nations>

¹⁴ Source: BARB. Individuals (4+) average weekly reach % (reach criteria 15+ consecutive minutes). The main five PSB channels include viewing to their HD channel variants but exclude viewing to their +1 channels.

‘shows that are well-made, high quality programmes’ (65%).¹⁵ Further discussion of these changing viewing habits is set out in section 4.

- 3.11 PSB remains important in delivering a range of public benefits to viewers in the UK. These benefits include building an individual’s knowledge of specific issues (e.g. via documentaries or factual programming), as well as bringing wider social value through bringing the nation together for shared experiences such as sporting events, or supporting informed democratic debate with news and current affairs.
- 3.12 Viewers increasingly watch PSB content online and on-demand, not just the linear channels. So, many of the positive outcomes of PSB are being delivered through on-demand services, as well as on traditional linear channels. Ease of discovery, whether placing PSB in a high position in an EPG or as a prominent link on a connected TV homepage, encourages greater viewing and therefore helps to deliver these individual and social benefits.
- 3.13 The discoverability of PSB is currently achieved through rules that affect the prominence or position of specific linear channels on EPGs. The legislation sets out which PSB services (the ‘designated channels’) are entitled to ‘appropriate prominence’. These services are: all BBC channels; the Channel 3 services (ITV and STV); Channel 4; Channel 5; S4C and local TV channels.¹⁶ Ofcom is responsible for providing guidance on appropriate prominence in the EPG Code. We have published revisions to the EPG Code and further information on the current legislative framework in our separate statement on the prominence of linear PSB channels on EPGs.¹⁷

2018 Ofcom report and consultation on PSB prominence

- 3.14 The Digital Economy Act 2017 introduced a new duty for Ofcom to prepare and publish a report on PSB prominence and to review the EPG Code by 1 December 2020.¹⁸ In July 2018, Ofcom published its first report on the availability and discoverability of PSB and local TV content (the ‘2018 report’).¹⁹
- 3.15 Our assessment on the appropriate prominence of the PSB linear channels and local TV channels and decisions on revisions to the EPG Code are set out in our separate statement on EPG prominence. We also assessed the availability and discoverability of PSB VoD content on connected devices. We found that the main PSBs’ players (BBC iPlayer, ITV Hub,

¹⁵ Ofcom PSB tracker 2018, available at: https://www.ofcom.org.uk/data/assets/pdf_file/0019/142426/PSB-tracker-2018-data-tables.pdf

¹⁶ Section 310(4) of the Act. Local TV channels have been entitled to prominence following an amendment made with effect from 31 January 2012 through the Code of Practice for Electronic Programmes Guides (Addition of Programme Services) Order 2011 ((SI 2011/3003)

¹⁷ Ofcom, *Review of prominence for public service broadcasting: Statement on changes to the EPG Code*, July 2019, available at: https://www.ofcom.org.uk/data/assets/pdf_file/0028/154459/statement-on-changes-to-the-EPG-Code.pdf

¹⁸ Section 95 of the Digital Economy Act 2017, introducing new section 311A to the Act: <https://www.legislation.gov.uk/ukpga/2017/30/contents>.

¹⁹ The report published in July 2018 can be found here: <https://www.ofcom.org.uk/research-and-data/tv-radio-and-on-demand/tv-research/epg-prominence>

Channel 4's All4 and Channel 5's My5) were generally available but noted that STV and S4C's players were not on the main pay TV platforms at the time of the review. The extent to which these players were available as defaults or pre-loaded varied, as did the extent of PSB content available in recommendations.

- 3.16 We subsequently commissioned a consultancy report on the availability of PSB on major TV platforms, as well as specific design features and underlying business models. This report also covers emerging market trends. We are publishing this report (the 'MTM report') alongside this document.²⁰
- 3.17 In July 2018 we also published a consultation with a set of principles for a new framework for the prominence of on-demand content. We have now considered the nearly 40 responses we received – we discuss these and outline our conclusions and recommendations to Government in this document.

²⁰ MTM, *Review of TV user interfaces in the UK market – Current offerings and future developments*, May 2019, available at: https://www.ofcom.org.uk/data/assets/pdf_file/0022/154390/mtm-review-tv-user-interfaces-uk-market-full-report.pdf

4. Navigating TV in an online world

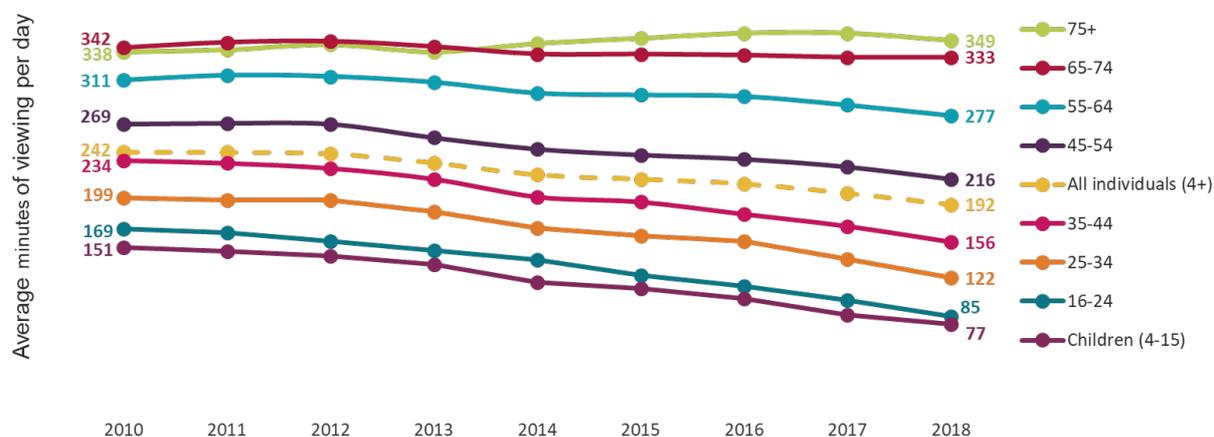
4.1 In this section, we provide up-to-date data on how viewing is changing and illustrate how viewers are discovering and watching content in a multitude of different ways. We also include the key findings of a report we commissioned on trends in the design and business models of TV platforms and services.

Linear TV viewing is declining as viewing shifts online

4.2 Linear TV remains the most popular means of watching content. In 2018, 89% of people watched linear TV each week.²¹ However, viewer behaviour continues to change at pace. The take-up and use of ‘connected’ devices like smart TVs is growing, and viewers increasingly use global online content services such as Netflix and YouTube. These changes in UK viewers’ habits appear to represent a structural shift that is particularly pronounced among younger viewers.

4.3 Broadcasters now compete for viewers’ time with a range of online and on-demand content services. As shown in Figure 1 below, viewing of linear content on a TV set has fallen by 21%, from 4 hours 2 minutes per day in 2010 to 3 hours 12 minutes a day in 2018. Young people in particular are watching less linear TV with viewing down by 49% among 16-24s, and by 49% among children (aged 4-15) between 2010 and 2018.

Figure 1: Average total live TV daily viewing by age (in minutes), 2010 – 2018



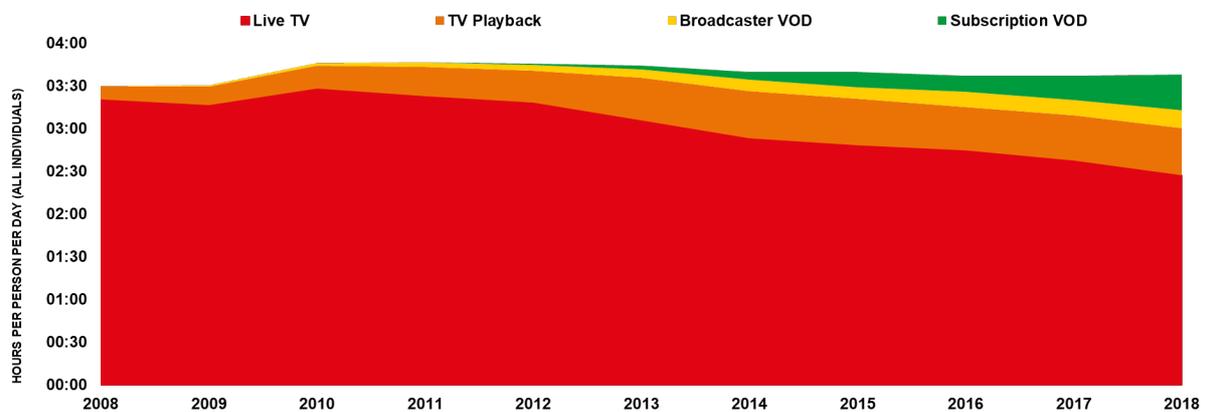
Source: BARB.

4.4 Thinkbox’s chart in Figure 2 similarly shows how linear viewing (shown as “Live TV”) has declined over time. But it also shows that in overall terms the amount of viewing has remained broadly stable. Viewers are watching as much TV content as they were a decade ago, but watching it through a different combination of ways – including linear content recorded on digital video recorders, and VoD services (including free and subscription

²¹ Source: BARB. All individuals (age 4+) average weekly reach % (reach criteria 15+ consecutive minutes).

based). While the decline in linear viewing has had some impact on PSBs, they have been able to mitigate this to some extent via their on-demand players (e.g. BBC iPlayer, ITV Hub and Channel 4’s All4) and recorded programmes (or TV playback).

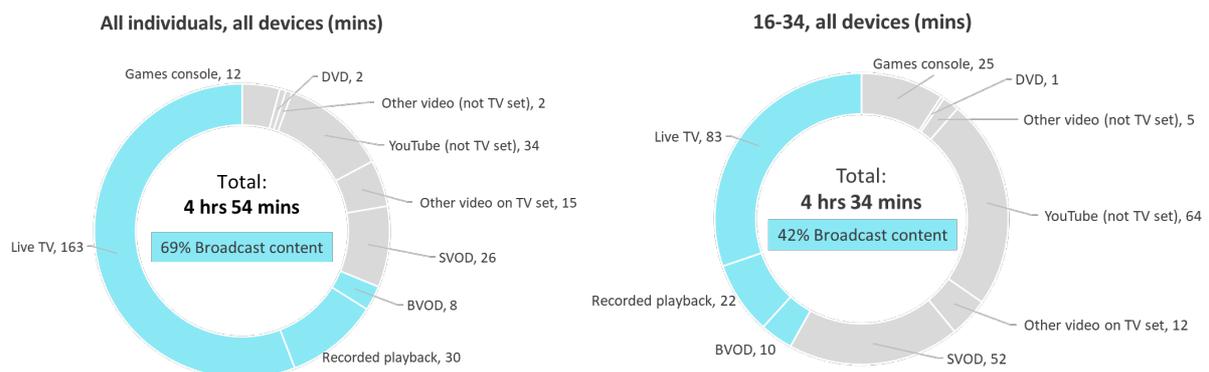
Figure 2: Changes in viewing



Source: Thinkbox from BARB / Broadcaster stream data / OFCOM Digital Day / IPA Touchpoints 2018.

4.5 Viewers also watch content on other devices. Across all devices (not just television sets), people’s total TV and audio-visual daily viewing in 2018 was 4 hours 54 minutes, as seen in Figure 3. Broadcast content (including live TV, recorded playback and broadcaster VoD) made up 69% of this; the remaining 31% was non-broadcast content such as YouTube (12%) and subscription video on-demand (SVoD) services such as Netflix and Amazon Prime Video (9%). However, among 16-34 year olds, broadcast content viewing dropped to 42% with SVoD at 19%.

Figure 3: Total audio-visual viewing time spent per day 2018, all individuals vs. 16 - 34s

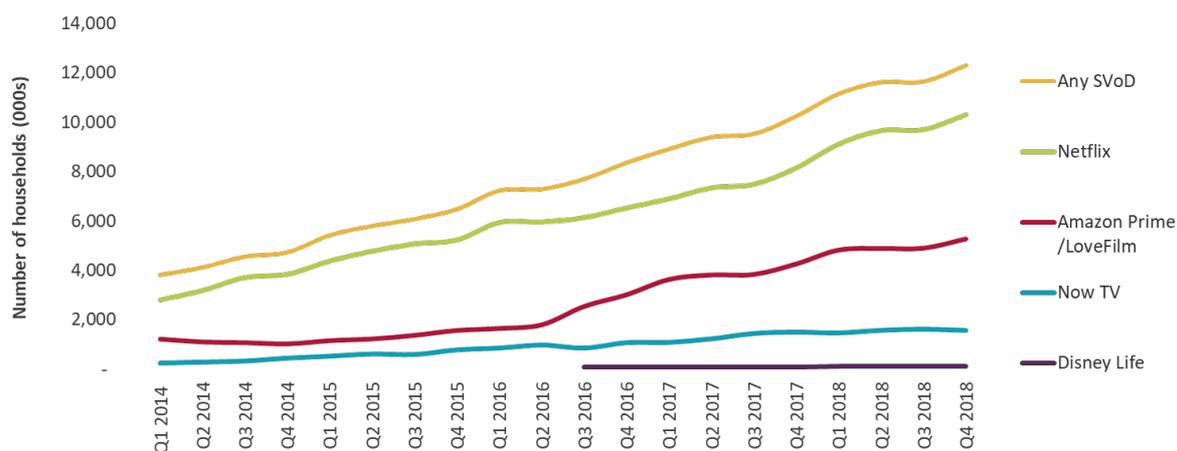


Source: Ofcom analysis/BARB/TouchPoints/Comscore.

Growth of VoD services

- 4.6 Around two-thirds of households now say they use a broadcaster video on-demand (BVoD) service at least once a month.²² A report we commissioned from Ampere Analysis stated that “an unusually high number of the most popular [VoD] platforms in the UK are broadcaster-led catch-up – with BBC iPlayer, ITV Hub and All4 all in the top five”.²³
- 4.7 There has also been a significant increase in the number of subscribers to SVoD services such as Netflix, Amazon and NOW TV. The total number of SVoD subscriptions in the UK exceeds the total number of subscriptions to pay TV services such as Sky or Virgin Media. The number of pay TV subscriptions in the UK in Q4 2018 totalled 14.1 million, down from 14.6 million in Q4 2017, whereas the total number of subscriptions to Netflix, Amazon Prime, Now TV or Disney Life reached 17.3 million in Q4 2018, rising from 14 million in Q4 2017.²⁴
- 4.8 Some households subscribe to more than one SVoD service, so the number of subscriptions exceeds the number of households that have any SVoD service as shown in Figure 4.

Figure 4: SVoD household subscribers



Source: BARB Establishment Survey.

²² The UK VoD Market, Ampere Analysis, p.6, https://www.ofcom.org.uk/data/assets/pdf_file/0026/149075/ampere-analysis-current-status-future-development.pdf?utm_source=podnews.net&utm_medium=web&utm_campaign=podnews.net:2019-05-2

²³ The UK VoD Market, Ampere Analysis, p.7, https://www.ofcom.org.uk/data/assets/pdf_file/0026/149075/ampere-analysis-current-status-future-development.pdf?utm_source=podnews.net&utm_medium=web&utm_campaign=podnews.net:2019-05-2

²⁴ BARB Establishment Survey. The number of Pay-TV subscriptions is the cumulative number of households with paid-for satellite TV (excluding Now TV), cable TV, BT Vision, TalkTalk and Plusnet (and includes double counting of households that have more than one service). The number of SVoD subscriptions is the cumulative number of households with each service and may include those on a free trial (and includes double counting of households that have more than one service).

Growth of YouTube and video on social media

- 4.9 Our research shows that as well as linear TV, BVoD and SVoD, viewers are increasingly watching other types of video services. This includes content provided on video sharing platforms (VSPs) like YouTube and social media sites, such as Facebook Watch. YouTube is the most widely used of the VSPs with 92% of UK online users accessing it at least once a month for 27 minutes per day on average.²⁵ Of those who ever watch videos on sites or apps like YouTube, Vimeo, Snapchat or Facebook, the majority say they watch music videos (62%) and/or ‘how to’ videos (57%). VSPs can also be used as a way of watching TV programmes, although only 25% of video service users say they use it to watch whole TV programmes or films.²⁶
- 4.10 The content available on, and usage of, VSPs and social media sites is continuing to evolve. However, VSPs are currently predominantly used for short-form, user-generated (shared by individuals) and creator content (posted by specific users such as ‘vloggers’) rather than TV programmes. Traditional broadcasters, including the PSBs, generally make some content available on VSPs and social media, although this is often in the form of short clips or promotional material.

Take-up of internet-enabled devices

- 4.11 The growth in internet-enabled or connected devices as shown in Figure 5, along with faster broadband speeds, has helped to stimulate the growth of VoD services. Smart TVs, and internet-enabled devices connected to the TV like streaming sticks or games consoles, mean that televisions are the main way of accessing VoD, with 65% of all VoD viewing in 2018 via a TV set.²⁷
- 4.12 Among those with a TV in the household, 53% of UK households have connected their TV to the internet to watch something on the TV screen either through a smart TV or via another device such as a set-top box, games console, laptop or streaming media stick – one in eight households (13%) now use streaming sticks or set-top boxes to access VoD services, up from 5% in 2016.²⁸

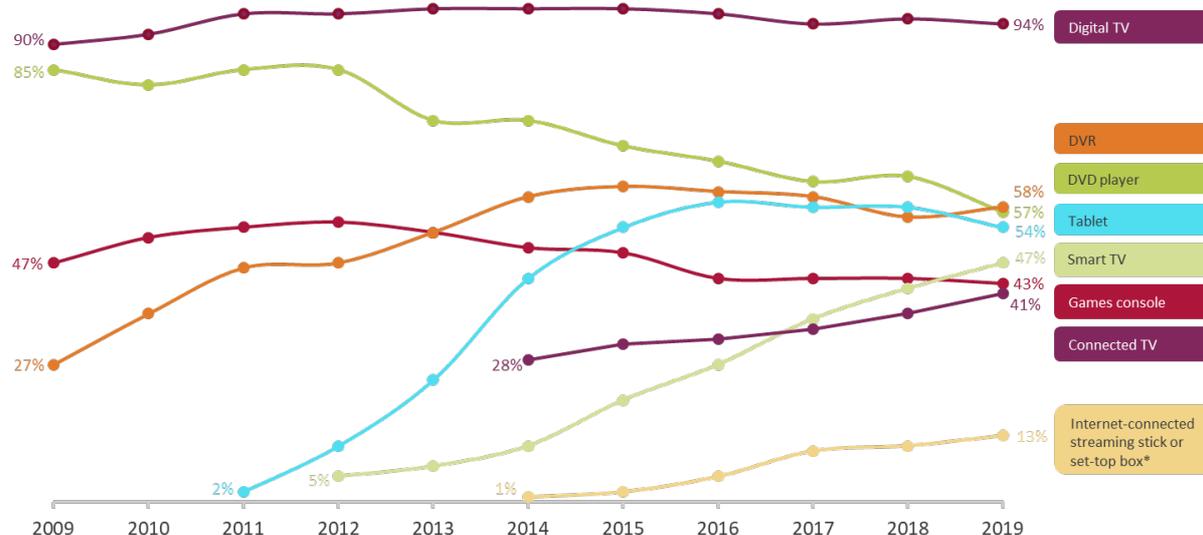
²⁵ Online Nation, p.10, https://www.ofcom.org.uk/_data/assets/pdf_file/0025/149146/online-nation-report.pdf

²⁶ Ofcom Adults’ Media Literacy Tracker 2018.

²⁷ Ofcom analysis/BARB/TouchPoints/Comscore 2018.

²⁸ Ofcom Technology Tracker 2019.

Figure 5: Household take-up of devices



Source: Ofcom Technology Tracker 2019

Base: All adults (2005, 2217) (2006, 2214) (2007, 2311) (2008, 5812) (2009, 6090) (2010, 9013) (2011, 3474) (2012, 3772) (2013, 3750) (2014, 3740) (2015, 3756) (2016, 3737) (2017, 3743) (2018, 3730) (2019, 3909).

Note: The Question wording for DVD Player and DVR was changed in 2009 so data is not directly comparable with previous years.

*Internet-connected streaming stick or set-top box includes NOW TV set-top box, Roku, Google Chromecast, Amazon Fire TV stick, Amazon Fire TV, Apple TV

The EPG is now only one of many routes to content

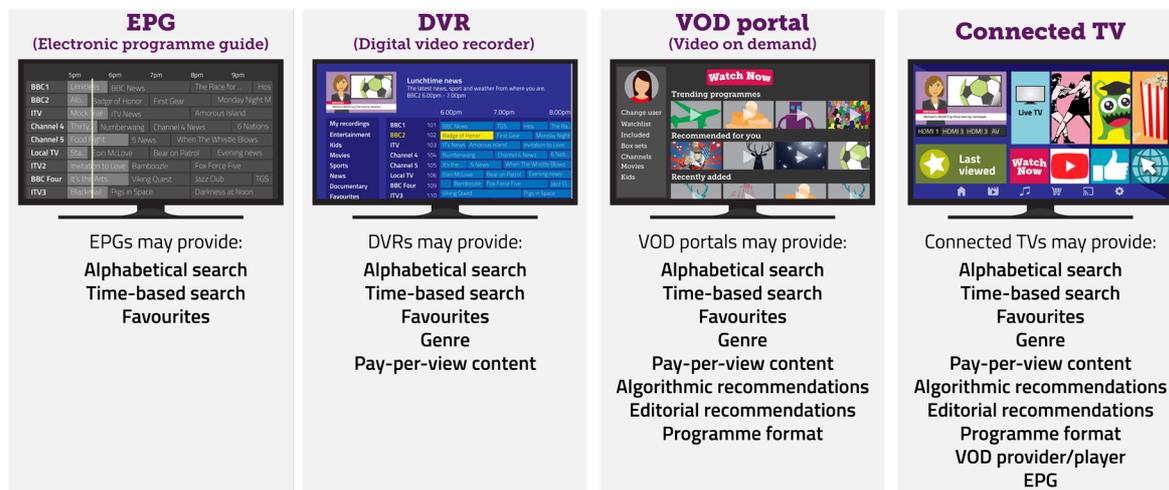
4.13 As a result of these changes in viewing, the EPG is now only one of many different routes to discover content. As discussed in previous sections, the discoverability of PSB is currently secured through rules that affect the prominence or position of specific linear channels on EPGs. We have set out in our separate statement on EPG prominence our decision to update these rules to establish minimum prominence obligations to guarantee appropriate prominence to help achieve the broader social benefits of PSB, while also supporting consumer choice.

4.14 While linear TV viewing and the use of EPGs as a navigation tool remain popular and well used by audiences,²⁹ the number of ways in which viewers can find and select content has grown significantly. The UK's main TV platforms, including Sky, Virgin Media, Freesat, YouView and Freeview (through Freeview Play), have all upgraded their interfaces in recent years, including making it much easier for viewers to select on-demand content. Smart TVs, gaming consoles and streaming sticks similarly provide viewers with access to a wide-range

²⁹ See paragraph 2.14 of the 2018 consultation, available at: https://www.ofcom.org.uk/_data/assets/pdf_file/0020/116273/consultation-epg-code-prominence-regime.pdf

of content services, including SVoD, BVoD, VSPs like YouTube, and in some cases, social media apps with video streams, such as Facebook Watch.

Figure 6: Different routes to content



4.15 Many of these TV platforms have supplemented, or even moved away from, channel-based EPG lists to more advanced UIs with programme recommendations and more sophisticated search functions, sometimes based on personal viewing data, as depicted in Figure 6. For instance, the Sky Q set-top box highlights on-demand content and boxsets based on viewers’ past choices, ahead of linear broadcast channels.

4.16 Viewers on different services can now discover and select TV programmes a range of ways, including through:

- Schedules for individual channels;
- Listings by programme genre, e.g. ‘drama’ or ‘comedy’;
- A-Z lists of programmes;
- Searching directly for a programme title;
- Recommendation tools that give suggestions on what to watch based on previous viewing history;
- Hardware shortcuts such as remote-control buttons that take the viewer directly to a particular third-party VoD app, bypassing the default homepage of the platform; and
- Autoplay functionality that causes a programme to play automatically, without action from the user, often based on previous viewing or recommendation tools.

4.17 Within this variety of routes to content, there are functions that provide increased personalisation – that is, displaying content in a way that is tailored to a viewer. Algorithms providing recommendations are becoming increasingly sophisticated and we can expect personalisation tools to become more capable over time. VoD services, including the PSBs’ players, are moving in this direction and it seems to be increasingly important to viewers. Nearly one in eight (12%) of internet users report selecting personalised and recommended content on a platform, with four in ten internet users saying that they use

this more than they did a year ago.³⁰ Meanwhile, 16% of internet users report using the autoplay feature (e.g. on Netflix or YouTube) with nearly half (47%) of them saying that they use this more than they did a year ago.

We have published a study on how content discovery is changing

- 4.18 To find out more about the ways in which viewers’ means of accessing content is changing, who controls the discoverability of content and the underlying business models of key UIs, we commissioned a report from independent consultants, MTM London (‘MTM’). MTM tested a number of key user UIs,³¹ undertook desk-based research and spoke to a range of industry stakeholders including broadcasters, pay TV platforms, and online services. We have published its report alongside this document.

TV platforms offer a range of services and functions, accommodating a wide range of viewer preferences and behaviours

- 4.19 MTM confirmed that there is huge variety in the way content is presented on different TV platforms and services, as well as notable differences in the features available. Most of the TV platforms and devices it tested allowed viewers to access an EPG, with some also featuring a backward EPG functionality (whereby viewers can scroll back in time to TV schedules from the past few days and select programmes via BVoD services).
- 4.20 The majority of TV platforms and devices tested by MTM also included a menu allowing viewers to access a selection of third-party players or ‘apps’ such as BBC iPlayer. Most also allowed users to find content using text search, with a small number featuring voice search as an option. Some of the more sophisticated platforms and devices also provided recommended content. Figure 7 summarises the major platforms, devices, and services that were tested and their key design features.³²

³⁰ Ofcom-ICO research 2019.

³¹ The devices tested are listed in the MTM report (slide 59).

³² The MTM report describes the platforms, services and devices that were tested. Note that Freeview Play and some Freesat devices offer many of the functionalities described in Figure 7 but were not tested by MTM.

Figure 7: Major TV platforms and key design features

		Sky Q	Sky+	Virgin V6	BT TV	Freeview	YouView ⁽¹⁾	Samsung	Sony	LG	Fire TV Stick	Apple TV	Now TV	Xbox One	PlayStation 4
Channels and apps	Linear EPG	✓	✓	✓	✓	✓	✓	✓	✓	✓	✗	✗	✓	✗	✗
	Backwards EPG	✗	✗	✓	✓	✗	✓	✗	✓	✗	✗	✗	✗	✗	✗
	Third party app menu	✓	✗ ⁽²⁾	✓	✓	✗	✓	✓	✓	✓	✓	✓	✓	✓	✓
Content	Curated recommendations	✓	✓	✓	✓	✗	✓	✓	✓	✗	✓	✓	✓	✗	✓
	Most popular section	✓	✓	✓	✗	✗	✓	✓	✗	✗	✓	✓ ⁽³⁾	✓	✓	✓
	Personalised recommendations	✓	✓	✓	✗	✗	✗	✓	✗	✗	✓	✓ ⁽³⁾	✓	✗	✗
	Text search	✓	✓	✓	✓	✗	✓	✓	✓	✓	✓	✓	✓	✓	✗
	Voice search	✓	✗	✗	✗	✗	✗	✓ ⁽⁴⁾	✓ ⁽⁴⁾	✓ ⁽⁴⁾	✓	✓	✓ ⁽⁴⁾	✗	✗

Source: MTM product testing, March 2019; Additional information on product features and detail on products tested is provided in appendix of the MTM report. Notes: (1) YouView has been tested using a combination of the BT YouView set-top box and a YouView enabled Sony Smart-TV (2) Sky+ hosts third party content from PSB streaming libraries, but does not host the apps themselves; (3) Features available only within iTunes sections; (4) Later models are voice enabled

Some areas or positions within an interface are more desirable than others

- 4.21 When viewers switch on a connected TV or set-top box they usually see a ‘homepage’ as the first screen available on start-up. The homepage can include an EPG, links to third-party apps, and on-demand content from one or more providers. There are some exceptions, however, with some TVs re-starting with the most recently watched channel or VoD service. Some TVs and services also offer direct hardware shortcuts to VoD services (see box below), which can bypass the homepage.
- 4.22 The MTM report found broad industry consensus that certain areas and positions for promoting content or apps within a TV platform’s UI are more desirable than others, with each “click” away from the homepage seen as a barrier to discovery. The most desirable position varies between platform as they take different design approaches and have varying navigation functions. However, a strong presence on the homepage (e.g. the top of the homepage) was identified as critically important by content providers participating in the MTM research.³³

³³ Slide 22 in MTM report.

Hardware shortcuts

Some platforms feature hardware shortcuts that allow users to bypass default homepages and access third-party VoD apps. Many smart TVs or connected devices carry one or more buttons to launch these apps, including Freeview Play, Netflix and Amazon Prime Video. Manufacturers control these hardware shortcuts with content providers negotiating to secure them. In its report, MTM noted that in the past content providers have paid significant amounts to get these shortcuts installed but that the amounts paid have shrunk or disappeared entirely as services like Netflix and Amazon Prime Video have grown in popularity. Increasingly, the negotiating power is shifting, with technology companies and SVoD services striking global deals to include hardware shortcuts to their content services with device manufacturers.

Illustration of hardware shortcuts remote controls



Linear channels and VoD services are central to viewer experience, but more sophisticated recommendations and search are likely areas of growth

4.23 The evidence available suggests that linear TV and catch-up TV (including BVoD and recordings) remain central to viewers and so still feature prominently on the majority of TV platforms. In the following paragraphs, we consider the availability and prominence of these services, as well as new ways to present content including recommendations and search.

Access to linear channels

4.24 As noted above at paragraph 4.19, most TV platforms include an EPG as a means to access linear channels – the main exceptions to this are devices or services that do not carry linear content (e.g. certain streaming sticks, Apple TV).³⁴ In its report, MTM found that the

³⁴ EPGs were available on all the FTA, pay TV and smart TV platforms tested.

continued popularity of linear viewing leads TV platforms to ensure that generally the linear EPG (which carries the live PSB channels) is easily accessible. MTM found, however, that linear EPGs were less prominent on newer pay TV platforms such as Sky Q.³⁵

Access to on-demand content via backward EPGs and apps

- 4.25 Backwards EPGs permit users to access recently broadcast, on-demand content through a backwards-scrolling EPG. The ability to present on-demand content via a backwards EPG depends on whether the TV platform or service carries the relevant third-party VoD players and/or has struck a deal with the relevant content provider. MTM found that only a limited number of platforms and devices it tested offered this functionality.
- 4.26 All of the TV platforms tested by MTM allowed viewers to select different online content services via ‘apps’. These apps provide access to a range of third-party content providers, such as the PSBs’ VoD players, Netflix and YouTube. Some of the services tested also provided content recommendations. Some platforms also aggregate content and draw recommendations from across third-party apps, which allows users to enter and browse within different content providers’ VoD services.

Content recommendations

- 4.27 The MTM report describes the different ways that TV platforms can provide recommendations. Some recommendations are editorially selected or generated using non-personalised information (i.e. ‘curated’ by the platform); others are generated via personalised recommendations based on past viewing or other information on preferences (such as previously liked content). Different types of recommendations require different levels of collaboration and data sharing between content providers and TV platforms, agreed through commercial negotiations.
- 4.28 TV platforms negotiate with content providers for the inclusion of their content in curated recommendations, as well as how programmes are selected, and when and how they are displayed. With personalised recommendations, viewers are presented with a selection of tailored content, based on viewing history and inferred preferences. These recommendations can be simple, e.g. a list of the next episodes of a previously watched programme, or they can be more complex, e.g. based on algorithms employing machine learning that determine the kind of content that the viewer is likely to find appealing.
- 4.29 Personalised recommendations require content providers to create and share detailed content metadata to enable the TV platform to surface relevant results. Algorithmically generated, personalised recommendations (and search) are usually controlled by the platform or device manufacturer and so may not always be fully transparent to content providers, thereby making it difficult for content providers to achieve specific outcomes.
- 4.30 While personalised content recommendations can be beneficial to viewers and allow them to find content that is of interest to them, the distinction between curated and personalised recommendations may not always be clear. For example, some platforms

³⁵ Slide 18 in MTM report.

offer ‘popular’ content recommendations (labelled, for example, as ‘trending’ or ‘selected’) that provide a changing selection of content, drawn from its own content library or from across third-party providers. The extent of personal or viewer data used in generating these selections may vary, depending on platform. Moreover, the algorithms may make recommendations based on the selection of content the platform wants a viewer to discover (e.g. due to commercial arrangements with specific content providers). Our Online Nation report gives more details of how search and recommendation engines work.³⁶

Search

- 4.31 Most TV platforms employ a text search function that allows users to navigate to the specific content they want. The search results can be based on the particular term searched (such as programme title) or they can be based on more general terms (e.g. programme genre or a particular actor).
- 4.32 MTM found that search tools are becoming more sophisticated, with simple text search being supplemented by predictive text search and/or voice search. Voice search technology allows users to search and select content simply by issuing a voiced request. A number of voice-enabled devices have been launched in the UK market, including Amazon’s Echo in 2016 and Google’s Home and Google Assistant, with several TVs and streaming sticks now also featuring voice search technology often through a microphone in the device itself or in its remote control, although only 3% of internet users currently say they use voice assistants on TV devices.³⁷
- 4.33 Search functionality on a connected TV platform or device can return results from a range of different content services but in order to do so the content provider has to provide suitable metadata about the content. The granularity of this metadata helps determine how sophisticated and relevant search functions can be (e.g. metadata about the cast is required for searches for programmes with a specific actor). Search functionality can present the viewer with a variety of options for accessing content; some may be ‘free’ and other options may require a subscription or one-off payment, e.g. a search for a particular programme may offer results from both a BVOD service and an SVOD service; and may order the results in various ways depending on the algorithm.
- 4.34 As with recommendations, search tools can vary in their level of sophistication and transparency. A search result may simply deliver a single result or it may also list relevant recommendations. For instance, in cases where there is a request for a specific programme (e.g. “Line of Duty”) search tools will usually return the specific programme. However, it could include free or paid for versions, and also recommend other dramas alongside it. More general search requests deliver a range of different results from which the viewer chooses. For example, a search for ‘UK drama’ would return a number of programmes, one of which might be Line of Duty, but the results could also include other dramas, or other

³⁶ Ofcom *Online Nation 2019*, available here: <https://www.ofcom.org.uk/research-and-data/internet-and-on-demand-research/online-nation>

³⁷ Ofcom-ICO research 2019.

programmes that the platform or service wants to promote, or has negotiated the ability to promote.

- 4.35 Arguably, all parties have a commercial incentive to make content discovery work in a way that viewers find useful and appealing. For example, in terms of influencing search results, some content providers may impose conditions on how results appear (e.g. free content is required to appear ahead of paid content, or more recent content appears higher) in exchange for metadata and content availability. However, the right balance has to be struck when influencing general search results to avoid damaging viewer perceptions. For example, platforms that skew search results to favour particular types of content may frustrate users who have a clear view of what they are seeking.

Scale and data are key to who influences content discoverability

- 4.36 The MTM report summarises how the availability and prominence of content services and specific programmes depends on commercial negotiations between TV platforms, content providers and, if relevant, third-party technology providers such as Android TV and TiVo. These negotiations involve complex trade-offs that include, but are not limited to, the discoverability of content. Variables that affect discoverability include hardware shortcuts, presence on the homepage, location and integration of on-demand content, position among third-party apps, inclusion and input into recommendation sections as well as inclusion and position within search results. These factors are often part of complex negotiations over a range of issues including the level of integration with the available content more generally, data sharing, control over the onward viewer journey, advertising deals and potentially joint promotions. For instance, in its response to our consultation YouView said it *“supports the PSBs by providing them with value for their services through attribution of content within the UI and providing valuable data insights on discoverability and usage, both at a viewing and behavioural level.”*³⁸
- 4.37 Within the parameters of delivering a good viewer experience, industry participants in the MTM research suggest that the scale and popularity of a TV platform or content provider affects the outcome of negotiations. For example, its report highlights that global players like Netflix may exert particular influence, such as being able to secure near global deals on a hardware shortcut on remote controls for certain devices. Similarly, smaller content providers may be unable to meet the requirements of all potential platform providers, due to resource constraints, thereby limiting the availability of their content – for example, ensuring their individual players or apps are technically compatible with all platforms.

Business models are evolving with different strategies used to meet consumer expectations and seek differentiation from other services

- 4.38 The MTM report explored the variety of business models that underpin content availability and discoverability across TV platforms. Currently, TV platforms’ revenues are generated through a mix of sales, subscriptions, one-off payments, advertising and platform fees.

³⁸ YouView, p.5 https://www.ofcom.org.uk/_data/assets/pdf_file/0012/131214/YouView-TV.pdf

These variances in revenue sources affect how content is made available on a specific TV platform, for example through carriage of linear services, content acquisitions and links through to third-party services.

- 4.39 International services, such as Netflix, bring scale and popularity to their commercial negotiations with platform providers. The MTM report also notes the extent to which these international providers are investing in a portfolio of TV products and services. For example, Apple provides a TV platform with third-party apps and content, a streaming app and is soon to launch a VoD service with third-party and Apple-commissioned, original content.
- 4.40 MTM also sought industry views on how these commercial dynamics may continue to evolve. In particular, the impact of any new market entrants such as Disney’s planned SVoD service and potential further growth for existing services, such as further take up of Android UIs on TV sets. We discuss these future trends further below.

Content discoverability may change in a range of incremental or more radical ways

- 4.41 TV and on-demand viewing are evolving rapidly. The continued shift away from linear programming towards on-demand content is likely to lead to further innovations in technology and opportunities for new entrants to the market. The dynamic between TV platforms, content providers and technology providers is also likely to evolve, including who and how routes to content are controlled. MTM engaged with a selection of industry to identify emerging trends and we highlight some key themes here.³⁹
- 4.42 Industry participants in the MTM report suggested that Virtual Assistants (such as Amazon’s Alexa and Google Home),⁴⁰ and casting content from mobile devices to the TV set may further disrupt content discoverability.⁴¹ The report also suggests that a number of popular TV platforms already available in the UK, including smart TVs, appear to be shifting from presenting content through a “*wall of channels and apps [to] an integrated content experience*”.⁴² This would mean that more sophisticated recommendations, search and personalised functions may increasingly feature on platforms and services. These more sophisticated interfaces may further blur the line between ‘live’ scheduled TV content and VoD services, and influence viewer content selections.
- 4.43 The MTM report highlighted a range of views on how voice-controlled UIs may evolve and impact on content discoverability. As previously noted, uptake and usage of voice in content discovery and navigation is currently relatively limited. Some participants suggested it may quickly become more mainstream and critical to TV platforms, while others cited a range of commercial and technical barriers. However, there is potential for more sophisticated adaptations of voice within TV platforms and services, for example in

³⁹ More detail is available on slides 54-57 of the MTM report.

⁴⁰ Online virtual assistants respond to consumer voice-activated queries for information and directions.

⁴¹ Casting is where the mobile device delivers and controls the content on the screen.

⁴² Slide 54 in MTM report.

delivering greater personalisation (e.g. via recognition of individual voices) or a more interactive navigation tool rather than a substitute for text-based search.

- 4.44 As summarised in paragraphs 4.36 to 4.37, TV platforms strike commercial deals with content providers on the inclusion and prominence of their content, as well as related factors such as joint promotions and advertising. However, technology providers also play a key role in the design and operation of TV platforms and services. The exact role of each party will vary depending on the device or platform, but there are already signs that technology providers' operating systems may play a greater role in content visibility and navigations, through greater take-up of an existing service (e.g. Android TV) or through technology companies seeking more growth by expanding existing offerings (e.g. Apple TV+).

The way recommendations and search selections are made may not be transparent to the viewer

- 4.45 There is an emerging trend of TV platforms providing greater content integration and personalisation. This presents a number of benefits for viewers, in terms of functionality, relevance and choice. However, more sophisticated data use, for example delivering more personalised or targeted content selections, may increasingly influence content discovery in ways that may not be immediately apparent for the viewer or content provider. For example, viewers are unlikely to know that the results of a search can be affected by agreements between content providers and TV platforms about the availability of metadata, nor that commercial deals may lead to particular programmes or versions of programmes being favoured in search algorithms.
- 4.46 It is difficult to predict with any degree of accuracy at what pace or to what extent new content discovery models may see viewers move away from traditional, linear services and app-based VoD services. However, these changes may have significant implications for the PSBs, which we discuss in the next section of this document.

5. Ensuring discoverability of PSB on-demand content

- 5.1 This section focuses on what the viewing, technological and market changes described in section 4 mean for the availability and discoverability of PSB content. We include a summary of stakeholder views on how easy it is currently to find PSB content and how future evolution of TV platforms and services may affect this.
- 5.2 We conclude this section with our view that a new regulatory framework is needed to protect the prominence of PSB content online. Section 6 then sets out our recommendations in more detail.

The availability and prominence of PSB content

- 5.3 As described in paragraphs 4.2 to 4.12, viewing habits are changing, with declining linear viewing and the routes to content becoming more diverse and complex. For the PSBs, linear TV remains the main route to reach large audiences, but these channels are complemented with a range of on-demand and online content services, including:
- the PSBs' players, e.g. BBC iPlayer, ITV Hub, STV Player, Channel 4's All4, S4C's Clic and Channel 5's My5, that offer a wide range of programmes;
 - individual programmes, presented via recommendations and search tools; and
 - content (including short-form, promotional and text) provided on a variety of online platforms, such as YouTube and social media.

The availability of the PSBs' linear TV channels

- 5.4 Traditional, linear TV remains important to audiences and the EPG is a main way to navigate available channels. The prominence of the PSB channels within the EPG is protected through rules in Ofcom's EPG Code. However, the prominence of these channels and the EPG itself on a connected TV platform are not covered under current regulation.
- 5.5 In our 2018 report, we found that on most platforms the linear EPG is the first available option for viewers to select. The exception to this is Sky's latest set-top box Sky Q, where the home page landing point is on a "Home" menu, which includes access to personalised recommendations, top picks and last viewed shows.⁴³ The availability and position of an EPG or alternative route to access linear TV is generally decided by the TV platform.

The presence and position of PSBs' players

- 5.6 As discussed in the previous section, content providers including the PSBs negotiate the availability and position of their players with the relevant TV platform provider. Some

⁴³ Ofcom, A report on the discoverability of PSB and local TV services, p.4
https://www.ofcom.org.uk/_data/assets/pdf_file/0026/116288/report-psb-local-tv-discoverability.pdf

devices such as smart TVs often come with a number of BVoD and SVoD applications pre-installed on the UI, while game consoles usually require consumers to actively download these.

5.7 The 2018 report found that the PSBs’ players (or an equivalent service⁴⁴) were generally available on the major online TV platforms and services and this finding was confirmed by MTM (see Figure 8 below). In its report, MTM states that “*established linear channel orderings, and the popularity of PSB content, mean that audiences expect PSB streaming services to be prominent and easily accessible.*”

Figure 8: Availability of PSB online players

	Sky Q	Sky+	Virgin V6	BT TV	Freeview	Freesat	YouView	Samsung	Sony	LG	Fire TV Stick	Apple TV	Now TV	Xbox One	PlayStation 4
BBC iPlayer	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
ITV Hub	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✗
All4	✓	✓	✓	✓	✓	✗	✓	✓	✓	✓	✓	✓	✓	✓	✓
My5	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
STV Player	✓ ⁽²⁾	✓ ⁽²⁾	✓ ⁽³⁾	✗	✓ ⁽³⁾	✓	✓	✓	✓ ⁽⁴⁾	✗	✓	✗	✓	✗	✗
S4C Clic	✗	✗	✗	✗	✗	✗	✓	✓	✓ ⁽⁴⁾	✗	✓	✗	✗	✗	✗

Source: MTM product testing, March 2019. Notes: (1) Table reflects availability of PSB apps. These are often pre-installed, but may have to be installed by the user prior to use in some cases; (2) Launch announced in January 2019; (3) Only available in Scotland; (4) YouView model

5.8 MTM also supported our findings that smaller PSB players like S4C’s Clic were not always available and that the prominence of PSB players varied from platform to platform. Specifically, STV’s and S4C’s players were unavailable on some platforms or devices, while My5 and All4 sometimes featured less prominently than BBC iPlayer and ITV Hub.

5.9 The availability and presentation of the PSBs’ players on a TV platform is dependent on complex, sometimes annual, commercial negotiations between broadcasters and TV platform operators and potentially also influenced by technology providers. As described in the MTM report, these negotiations include a range of trade-offs, not limited to prominence and may include both monetary and non-monetary considerations. So, the outcome of these negotiations may vary across platforms, with potentially different outcomes depending on the level of influence of each of the parties involved.

Discoverability of PSB content through recommendations and search

5.10 Our 2018 report found that although PSB content was generally available through most of the main free TV platforms’ recommendation menus, pay TV platforms tended to have

⁴⁴ For instance, Sky Q – as tested by MTM – presents content from each of the PSBs via individual programme stills or tiles within a separate catch-up area of its UI.

fewer overall PSB recommendations than free TV platforms. This may in part be due to variations in the amount of content available and consumer expectation on pay platforms compared to free options, but the outcome of commercial negotiations may also play a role.

- 5.11 The availability of specific programmes within recommendations or search results requires content providers and TV platforms to share information, including metadata, visuals (e.g. programme pictures or logos), and/or a list of content the content provider wants to be recommended. In its report, MTM suggested that PSB content is not always sufficiently integrated (e.g. through sharing of metadata) to enable individual programmes to be prominently displayed on platforms that offer recommendations. PSBs may choose to restrict this functionality for a range of reasons, including editorial control or because they would receive little or no viewing data in return. Similarly, there are a range of commercial factors for platforms to consider in securing the necessary agreement with the PSBs.
- 5.12 The PSBs' players enable viewers to search for programmes within the service, but the effectiveness of search within a TV platform (i.e. across several VoD services) varies and can lead to inconsistent results. For example, MTM found that at present, some connected devices and smart TVs' search tools will not surface PSB content because the necessary degree of integration has not been successfully negotiated. This may be for a range of reasons including editorial control, content rights and costs. This can mean that when a viewer searches for a particular programme, the search function provides a link to a pay-to-own version of the programme or a subscription service version, even though the same programme is available for free on the relevant PSB's player.
- 5.13 Recommendations and search appear to be a less regularly used way to surface content than EPGs, recordings and use of specific on-demand players. However, as noted by industry participants in the MTM report and some respondents to our consultation, these areas are fast developing, and so they may become increasingly important for viewers in discovering and accessing PSB content.

Other online PSB content and audio content

- 5.14 The focus of our review has been TV content, and so we have not considered the availability or discoverability of short-form, promotional or text content that the PSBs may make available across a variety of online platforms, including YouTube and social media. These other forms of content can be widely used and valued by viewers, however, for the purposes of prominence, we consider the PSBs' core services to be their linear and on-demand TV services as defined in this document.
- 5.15 In its response to our consultation, the BBC argued that steps should also be taken to protect the discoverability of public service audio and online news content. As audio and online news content was outside the scope of our review, we have not considered in detail if or how such regulation could be achieved.

- 5.16 We note, however, that the main way of listening to radio content continues to be through analogue and digital radios⁴⁵ where stations are accessed through a variety of routes including direct tuning and alphabetical listings, with listeners often able to customise their devices by setting presets.
- 5.17 Audio listening is changing, however, with online listening continuing to grow in importance. On online platforms, listeners choose what to listen to in a variety of different ways depending on the platform and device. For instance, content can be listened to directly from websites, using apps, or directly through devices that stream content such as smart speakers. This variety of listening methods means that there is no simple read-across from online TV content to online audio content. If, in future, online platforms become a major way of listening to content and evidence of a problem around the discoverability of public service content emerges, then the case for prominence for audio content could be considered in more detail.

Diverse views on whether the discoverability of PSB content is under threat

- 5.18 In our consultation document, we sought views on the discoverability of PSB content in an online world and how a new regulatory framework for prominence online could be structured. We set out some key principles for any future regulation that were designed to protect viewers' interests, chiefly that consumer choice and functionality, including personalisation, should not be inhibited.
- 5.19 In the following paragraphs, we summarise views provided in response to our consultation on whether the prominence of PSB is at risk, as well as views on the discoverability of linear channels, the PSBs' players and PSB content in recommendations and search. We conclude this section with our view that a regulatory safeguard is needed and that the framework should support the delivery of PSB as well as encourage continued consumer choice and innovation.

Is there a threat to the prominence of PSB online and on-demand?

- 5.20 A number of respondents to the consultation said that the prominence of PSB on-demand content was under threat for a range of reasons. In its response, the BBC said "*while PSBs are typically able to negotiate a place on such devices in national markets on the basis of their popularity and strength of content, there is a risk that this won't continue.*"⁴⁶ This concern was echoed in the joint response from the BBC, ITV, STV, Channel 4, Channel 5 and S4C who stated that global online platforms and global TV distributors are playing an ever-increasing role in content distribution and discovery.⁴⁷ This view was also generally consistent with the findings of the MTM report that highlighted both new international

⁴⁵ Ofcom, Media Nations 2018, p.70 https://www.ofcom.org.uk/_data/assets/pdf_file/0014/116006/media-nations-2018-uk.pdf

⁴⁶ BBC, p.22, https://www.ofcom.org.uk/_data/assets/pdf_file/0021/131178/BBC.pdf

⁴⁷ Joint PSB position paper, p.1, https://www.ofcom.org.uk/_data/assets/pdf_file/0021/131196/PSBs.pdf

content providers entering the UK market (e.g. Disney, Warner) and the potential impact of international technology companies increasing their offer (e.g. Apple and Amazon plans for expanding TV platforms).

- 5.21 The PSBs argued that global online content platforms and TV distributors already have significantly more bargaining power than PSBs and can strike global deals to ensure their content is the first thing audiences see. The PSBs’ response proposed that the current prominence regime should be extended beyond linear television and EPGs to address what they saw as a “growing threat” to the discoverability of PSBs’ own services. In its own response, the BBC said concerns about prominence extended beyond TV content and there were also concerns about audio content and text-based news online.
- 5.22 Some respondents however, including Sky and Virgin Media, argued that there was little evidence of a risk to the PSBs, as the PSBs’ on-demand services were readily discoverable now. They argued that if PSBs continued to make attractive content then platforms would continue to accord them prominence because that is what consumers would demand.⁴⁸ Hence, these respondents stated that any proposals for the extension of the prominence regime were premature and were not supported by evidence. COBA for instance stated that “[it does] not believe there is a credible threat to the discoverability of PSB on-demand services currently or in the foreseeable future”.⁴⁹

Views on prominence of the PSBs’ linear channels

- 5.23 In our consultation, we asked whether the prominence regime should ensure EPGs themselves can be easily found. Respondents’ views were mixed, with some respondents such as Sky saying no such extension was necessary as viewers were likely to continue to demand that EPGs are visible, but others such as the BBC arguing that there was a tangible risk that linear EPGs will become less visible over time.

Views on prominence of PSBs’ players

- 5.24 In our consultation, we asked whether prominence rules should ensure that the PSBs’ players can be easily found. While PSBs agreed that it should, TV platform operators argued that the evidence does not warrant the extension of the prominence regime to PSB players, as PSB on-demand content is already prominently displayed on UK TV platforms and the platforms are incentivised to make the content prominent as long as it is popular with viewers.
- 5.25 The BBC stated that it is finding it increasingly difficult to negotiate prominence and that disaggregation can undermine positive public service outcomes. It also highlighted the additional services the iPlayer provides and the benefits these bring. On the other hand, Virgin Media and Sky stated there are strong commercial incentives to ensure PSB players are easily discoverable. Virgin Media also highlighted that the PSBs’ players contain a

⁴⁸ Sky, p.1, https://www.ofcom.org.uk/_data/assets/pdf_file/0010/131203/Sky.PDF ; Virgin Media, p.1 https://www.ofcom.org.uk/_data/assets/pdf_file/0008/131210/Virgin-Media.pdf

⁴⁹ COBA, p.1, https://www.ofcom.org.uk/_data/assets/pdf_file/0015/131181/COBA.pdf

variety of content, so alongside content from the PSB channel, content from portfolio services can also feature highly (e.g. Love Island or Made in Chelsea).

Views on prominence of PSB content in recommendations and search

- 5.26 We asked in our consultation whether the growing importance of recommendations and or/search meant that the prominence regime should be extended to disaggregated content. PSBs agreed that it should while acknowledging that this was a developing area and that any regulation would need to protect the benefits of personalisation for viewers. In their joint response, the PSBs said that *“PSB prominence should not be enforced above audiences’ own direct actions”* but that *“in search with any ambiguity, where more than one outcome may be presented or served to consumers, prominence rules should apply”*.⁵⁰ They added that where individual pieces of content are discoverable as a result of editorial decisions and/or algorithmic curation, *“a substantial amount of such content should be immediately visible and attributable to the relevant PSB, and quick to access.”*
- 5.27 In its response, the BBC suggested that *“as a minimum, platforms need to be more transparent as problems in both search and other menus are made more complicated by a lack of transparency with regards to how content is surfaced through recommendation menus and search results”*.⁵¹
- 5.28 On the other hand, TV platform operators argued such an extension was not justified, would be impractical, and would work against viewers’ interests. Sky for instance said that *“recommendations are a nascent method of consumers discovering and accessing content, and are infrequently used”*, adding that *“any new regulation would risk running counter to the wider interests of viewers”*.⁵² Virgin Media said there was a *“clear distinction between disaggregated content, and content that is packaged up within a ‘gated environment’ such as within a Player or a channel”* and added that *“extension of prominence to search and recommendations would inhibit consumer choice (in the case of search) and stifle innovation (in the case of recommended content).”*⁵³
- 5.29 Some TV platforms and device manufacturers also argued that any extension of the prominence regime should not capture recommendations and search results. For example, Samsung added that new rules for prominence could make search results and recommendations biased in favour of PSBs, which would not be in the best interests of consumers.
- 5.30 As discussed in section 4, recommendations and search can include varying degrees of personalisation, from platform curated (e.g. ‘trending’ this week) through to viewer driven (e.g. ‘continue watching’). In our consultation document we suggested that new regulatory principles should ensure that personalisation is not inhibited. A number of stakeholders

⁵⁰ Joint PSB position paper, p.2, https://www.ofcom.org.uk/_data/assets/pdf_file/0021/131196/PSBs.pdf

⁵¹ BBC, p.22, https://www.ofcom.org.uk/_data/assets/pdf_file/0021/131178/BBC.pdf

⁵² Sky, p.17, https://www.ofcom.org.uk/_data/assets/pdf_file/0010/131203/Sky.PDF

⁵³ Virgin Media, p.5 https://www.ofcom.org.uk/_data/assets/pdf_file/0008/131210/Virgin-Media.pdf

provided views on this principle. In their joint response, the PSBs agreed that prominence should not be enforced above a viewer's direct actions but highlighted that there can be ambiguity in some outcomes, for example search results.⁵⁴ ITV also added in its separate response that a principle which relied too heavily on consumer preference may dilute or undermine the intention of new regulation.⁵⁵

- 5.31 The responses we received, as well as available evidence, support the view that there are not clear dividing lines between curation (i.e. editorially driven by a content provider or platform), personalisation (i.e. driven by personal data and/or commercial incentives) and customisation (driven by the viewer). The role of personal data and commercial influences in surfacing specific content or services may not be clear to the viewer, nor indeed to the relevant content provider. We also recognise that the availability and popularity of more customisable and personalised TV platforms may grow.

Views on new PSB criteria for PSB on-demand services

- 5.32 In its consultation response Sky argued that if Ofcom did propose new rules for PSB on-demand prominence then it should consider the resulting commercial benefit to PSBs and factor that into future discussions about the value of the PSB licence and the balance of duties and obligations. It added that Ofcom's most recent review of the respective benefits and obligations for commercial PSBs found that the PSB obligations were sustainable and hence there was no evidence that additional benefits like greater prominence were needed to ensure sustainability. Any further benefits of being a PSB should therefore only be granted in return for greater content obligations, Sky suggested.⁵⁶ Virgin Media suggested that *"there is no evidence that PSBs are willing to entertain the obligations that a PSB designation would confer on their players, such as imposed quotas for defined PSB content"*.⁵⁷

The discoverability of PSB content may diminish in future

- 5.33 PSB content, whether on linear channels, players or provided at a programme level, remains widely used by viewers, so platforms have an incentive to display it prominently. For example, because PSBs' programmes are usually the most watched in any given week, a TV platform has a strong interest in displaying them as part of their recommended content. However, the availability and level of prominence afforded to PSB content is subject to commercial negotiations between a number of parties and the outcome of these cannot currently be guaranteed.
- 5.34 TV platforms' homepages offer finite space, in other words they can only accommodate a certain number of VoD service apps or programme tiles within the homepage. There are however many different content providers and ease of discovery is highly valued by all of

⁵⁴ Joint PSB position paper, p.2, https://www.ofcom.org.uk/_data/assets/pdf_file/0021/131196/PSBs.pdf

⁵⁵ ITV, p.35 https://www.ofcom.org.uk/_data/assets/pdf_file/0020/131186/ITV.pdf

⁵⁶ Sky, p.22 https://www.ofcom.org.uk/_data/assets/pdf_file/0010/131203/Sky.PDF

⁵⁷ Virgin Media, p.5 https://www.ofcom.org.uk/_data/assets/pdf_file/0008/131210/Virgin-Media.pdf

them. As international VoD services like Netflix and YouTube grow in popularity or new services of scale launch in the UK, at least some PSBs may find it increasingly difficult to ensure their content is widely available and easy to find.

- 5.35 As described in section 4, global content and technology providers are playing an increasingly important role in the availability and discoverability of content for UK audiences. International platforms may be reluctant to make country-specific changes to interface designs and functions, and the most valuable screen positions may already have been allocated as part of international content deals. Technology companies may similarly not be willing to tailor solutions to the UK market. For example, global brands such as YouTube and Netflix are generally the only available and prominent hardware short cuts on connected TV remote controls, as illustrated in section 4.
- 5.36 As the range of on-demand content expands and the routes to content multiply, we believe there is a real risk that PSB content may become more difficult for viewers to find. The rapid pace of change to date in the market and in viewer behaviour is likely to continue and may mean that, without regulatory safeguards, changes to how easy it is for viewers to find PSB content could happen quickly and be difficult and costly to reverse. A decline in the visibility of PSB content may reduce viewing to these services and consequently reduce the benefits that PSB delivers to individuals and society, as well as the sustainability of PSB.
- 5.37 We think a new regulatory framework is needed to protect the discoverability of PSB content, and we set out in the next section our detailed recommendations for this framework.

6. Recommendations for a new prominence framework

- 6.1 In sections 4 and 5, we set out the case for developing a new legislative and regulatory framework to ensure PSB content continues to be prominent for viewers. In this section, we set out our recommendations for how new rules should work.
- 6.2 It will be for Government and Parliament to decide whether a new framework is introduced and the detail of how it is structured. Our recommendations are designed to provide an outline of a new regulatory framework and to stimulate further discussion with industry to inform potential new legislation.
- 6.3 We have considered:
- what TV platforms or UIs would be subject to regulation;
 - the type of content that should be afforded prominence, as it would no longer be limited to the linear PSB TV channels;
 - how to secure prominence in an online environment; and
 - the mechanism by which compliance would be ensured.

The new framework should be flexible

- 6.4 Regulation of an area that is technologically and commercially complex, and subject to both significant and rapid change, requires careful consideration. In particular, we recognise the danger of intervening too early or in an overly prescriptive way, particularly because such premature intervention could harm investment and innovation, or stifle developments that benefit consumers, such as choice and better personalisation tools.
- 6.5 We have developed our recommendations with these factors in mind, to set out a new framework that provides safeguards for the prominence of PSB content but also allows sufficient flexibility to take account of technological innovation and viewer behaviour changes.
- 6.6 In order to keep pace with future changes, the legislation should include order-making powers for the Secretary of State to update key definitions (including any supporting criteria or conditions) without the need for further primary legislation. In addition, we recommend that the regulator should have the power to give guidance and set rules on how the new framework would apply in practice.

The new prominence rules should apply to connected TV platforms

- 6.7 Viewers access TV content via UIs, which are the means by which viewers navigate and select content. In section 4, we described how EPGs are now only one part of these UIs. TV platforms' UIs are moving away from simple EPGs to more complex UIs, offering a range of third-party apps and, increasingly, more programme level interfaces with advanced search

and recommendation functions. Viewers benefit from this choice of UIs and platforms. We consider that a proportionate approach to regulation would support this choice, securing the positive benefits of PSB while not disincentivising investment and innovation.

- 6.8 We recommend that a new prominence framework should ensure that viewers in the UK can easily discover PSB content on UIs of TV platforms that are used as one of the main ways to access TV content. The new framework should set conditions to determine which TV platforms and services would be in scope. The conditions should be designed to secure discoverability of PSB in a proportionate way as well as supporting continued consumer choice and innovation.
- 6.9 We recommend that these conditions should focus on services that a significant number of viewers use as one of their main ways of watching TV content. The conditions may also need to take into account the behaviour of specific groups within the UK population. For example, young people may use different routes to access TV content compared to the population as a whole, and there may be a need to ensure that PSB content is easy to find on those particular platforms or services.
- 6.10 The new rules will only apply to the UIs of TV platforms which make PSB on-demand content available, i.e. content that satisfies the qualifying criteria that we propose should form part of the new prominence framework. We discuss below the regulatory steps that may need to be taken to ensure PSB content remains widely available to viewers (see paragraphs 6.13 to 6.18).
- 6.11 We think that under such conditions, the TV platforms likely to be within the initial scope of the framework include connected (i.e. internet-enabled) DTT, satellite and cable TV services as well as smart TVs, set-top boxes and streaming sticks. We note that viewer behaviour continues to evolve, and we expect that a conditions-based approach would allow the scope of the regime to reflect these changes.
- 6.12 We have noted earlier in this document the growing role played by international players in competing for UK viewers. We consider that in order to be effective, the new prominence requirements should apply to all providers of TV platforms used by UK viewers that satisfy these conditions, wherever they are based.

Ensuring PSB remains widely available

- 6.13 The PSB purposes and positive societal benefits can only be achieved, and the requirements of a new prominence framework could only apply, where PSB content is made available. The current legislative framework for PSB linear services includes provisions to secure the availability of these services, commonly called the ‘must carry’ and ‘must offer’ rules.⁵⁸
- 6.14 We have considered the range of views provided in response to our consultation on the necessity or desirability of similar rules for on-demand content. Some respondents such as

⁵⁸ Sections 64 and 272-275 of the Act <https://www.legislation.gov.uk/ukpga/2003/21/contents>

the BBC argued that there should be a “regulatory backstop” to help ensure the availability of PSB content where *“terms can’t be agreed with platforms and services”*.⁵⁹ Other respondents, including Sky, said that extension of prominence rules to on-demand content would require introduction of corresponding ‘must offer’ obligations for PSBs’ on-demand content on the basis that *“platforms are only able to give prominence to content if they are provided with that content in the first place.”*⁶⁰

- 6.15 We recognise that new rules for on-demand PSB prominence may change the dynamic of complex commercial negotiations and there is a risk of unintended consequences for the availability of PSB content. For example, although PSB content is currently widely available, the introduction of new prominence regulation may disincentivise UIs from making PSB content available.
- 6.16 Any new availability requirements would also need to take account of potential commercial impacts. For example, there may be a considerable cost implication for PSBs if they were required to make a version of their on-demand players compatible with many different connected devices, each of which may have its own operating system. Similarly, there may also be costs for connected platforms, devices and services if they were required to carry PSB content in a specified format or where carriage may not necessarily fit with their business model or main purpose (e.g. games consoles).
- 6.17 If there were an availability obligation, for it to be effective, we think it would require a backstop mechanism to determine terms if commercial negotiations fail. We also note that the terms on which content is currently supplied and, on which the TV platform services provide access, do not necessarily involve any financial payments. They may also include multiple non-monetary factors including, for example, the extent to which data is shared. Any new rules around availability of on-demand content would also have to take into account other relevant issues including technical feasibility, proportionality (including cost impacts), and consumer expectations.
- 6.18 We will engage with industry and Government on availability obligations for PSB on-demand content and relevant TV platforms. The detail of these obligations will need careful consideration to ensure that their impact on the market is proportionate and any obligations support the effective delivery of the policy objective, which is to ensure PSB remains available and prominent.

PSB content should benefit from prominence

- 6.19 A new legislative and regulatory framework for securing the prominence of PSB content would need to set out what PSB content was entitled to prominence. Under the current rules applying to EPGs, it is only the linear PSB channels that are afforded prominence; but as we described in section 4, there are now many different ways of presenting and

⁵⁹ BBC, p.6 https://www.ofcom.org.uk/data/assets/pdf_file/0021/131178/BBC.pdf

⁶⁰ Sky, p23 https://www.ofcom.org.uk/data/assets/pdf_file/0010/131203/Sky.PDF

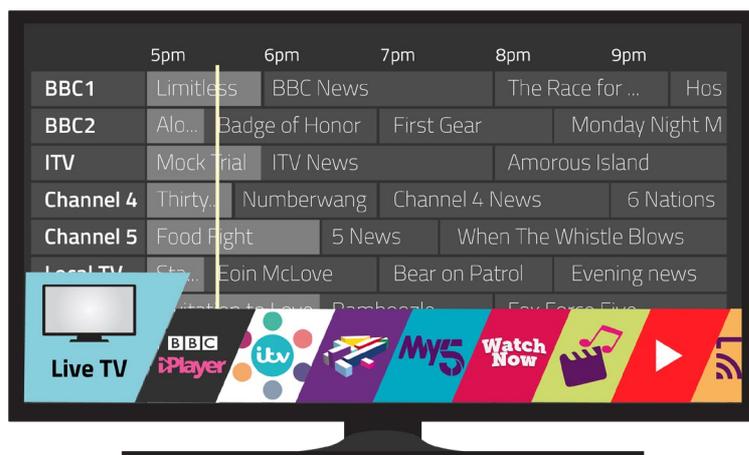
accessing PSB content. A new framework would also need to describe the desired level of prominence afforded to PSB content on TV platforms.

- 6.20 On a linear EPG it is relatively easy to measure prominence (i.e. an appropriately high slot in the channels list), but prominence for on-demand content may take many different forms, for example, navigation varies across platforms so different locations within a UI may be more valuable than the same position on an alternative UI. Functions like auto-play and re-start, as well as hardware shortcuts can also affect the discoverability of content.
- 6.21 As discussed in section 4, TV platforms use a range of design approaches with limited common standards across the industry. Some UIs include curated recommendations or include personalised elements, based on viewer or global data sets such as highlighting the ‘most watched’ apps. Some UIs also offer customisation as a function, where viewers can select and move apps, or tag and select specific programmes. However, we note the MTM finding that the homepage is critical for viewer navigation on all platforms tested and every ‘click’ away from the homepage may reduce visibility.
- 6.22 We recommend a new framework sets broad requirements for ‘how’ PSB content is made prominent, to support continued design innovation and consumer choice. We think that principles-based rules are likely to be better than detailed requirements at this stage. We give some examples of how we think this would work in this section.

Discoverability of PSB linear channels

- 6.23 In section 4, we describe how linear TV continues to be important to viewers. PSB linear channels (the ‘designated’ channels under the EPG prominence regime) carry a range of obligations to secure the delivery of the PSB purposes, reach wide audiences and remain the cornerstone of the PSB system in the UK. We therefore recommend that a new framework continues to protect easy discovery of linear PSB channels.
- 6.24 As we discussed in our consultation and as supported by the MTM report, the EPG as a key route to linear channels is generally available and prominent across TV platforms. However, the level of prominence it is afforded varies across platforms. On some platforms, on-demand content is given a higher profile on the homepage. For instance, the Sky Q set-top box can promote on-demand content and box sets based on viewers’ past choices, ahead of linear channels.
- 6.25 We believe that linear PSB channels are likely to remain a valuable route to deliver the benefits of PSB to large numbers of viewers and so it is important that these services remain easy to find. These services also already carry a range of content obligations to ensure that, together, they deliver the public purposes established in statute.
- 6.26 We recommend that the new framework safeguards the discoverability of PSB linear channels on the homepage. In practical terms, this could be achieved by platforms making an EPG available in a prominent position on the homepage (as illustrated in Figure 9 below). However, there may be new and innovative ways to present linear TV other than through an EPG, so the rules should be sufficiently flexible to accommodate these and still achieve the objective of making PSB channels easy to find.

Figure 9: Safeguarding easy access to linear PSB channels



New PSB criteria for on-demand services

- 6.27 Currently, the PSB regulatory framework is based on PSBs’ linear channels, and their on-demand services are not required to contribute directly to the statutory PSB purposes.⁶¹ The PSBs’ online and on-demand services include content from their linear PSB channels, together with a wide range of archive material, content from portfolio channels and content made specifically for on-demand services.⁶²
- 6.28 The PSBs’ players are one of the main ways in which viewers access these broadcasters’ on-demand content. Importantly, PSBs also generally control the appearance and content of their players. As reflected in our July report and the work undertaken by MTM, the majority of TV platforms carry the PSBs’ players (or provide an equivalent service) and feature them prominently, although this is not always the case for smaller players like S4C’s Clic.
- 6.29 We recommend that PSBs’ on-demand services should be afforded prominence where they meet new qualifying criteria. These criteria would be designed to ensure the services deliver an appropriate range of high quality, original content that contributes to the PSB purposes.
- 6.30 The new criteria should include specific requirements around particular genres, such as children’s, current affairs and factual content, as well as content made specifically for UK viewers. These criteria could also include requirements about how content is presented on PSBs’ players, for example to enable audiences to easily find a range of PSB content that reflects the PSB purposes. We recommend that the framework allows for these criteria to be amended and updated as viewers’ tastes and needs change without further new

⁶¹ The BBC’s online and on-demand UK public services contribute to the delivery of its Royal Charter mission and purposes, and Channel 4 Corporation’s online and on-demand services contribute to the delivery of its media content statutory remit (section 198A of the Act).

⁶² By “portfolio channels” we mean channels which are provided by the PSBs, but which are not subject to PSB obligations. These include, for example, ITV2 and 5USA.

primary legislation. Only those PSBs that choose to deliver content that meets these criteria would benefit from these new prominence rules.

- 6.31 We recommend that the new framework should protect the prominence of PSB content that is made available without charge. This means that paid-for services, such as SVoD, would not be within the scope of the new framework. However, we recognise that PSBs are developing new and different routes to make content available to viewers, including plans for services such as BritBox, and it may be appropriate going forward to look at whether the prominence of a broader range of PSB content services should be protected. The framework should be sufficiently broad that it could be applied to such services in the future without requiring further new primary legislation.
- 6.32 The following paragraphs discuss how the PSBs' on-demand services, delivered through both their players and on a programme-by-programme or disaggregated basis, could be made prominent under a new regulatory framework.

Prominence for PSBs' players

- 6.33 As described in section 4, the carriage and position of the PSBs' players within a UI (as well as the extent of brand attribution and level of integration) are secured through complex commercial negotiations. As market dynamics continue to evolve, the incentives to carry the PSBs' players (or an equivalent service) may also change and they may become less prominent. We recommend that those PSBs' players that meet the new qualifying criteria should be easy to find on TV platforms' homepages or in the area of the UI where VoD services are located (provided that this area is easy to access from the homepage).
- 6.34 The form in which the PSBs' players are made available and shown on different devices/platforms varies considerably, and a principles-based approach would enable a variety of different design approaches to continue. Giving identical prominence to all PSBs' services may not be practical or possible, in light of limits to how many apps or tiles can be fitted on to the same area within a homepage. Some regard to the services' characteristics and target audience may need to be taken into account in developing a new prominence framework. For example, we may expect services targeted at a specific nation to be made prominent for viewers in those particular nations.
- 6.35 We think that the new framework should support PSBs and platforms to develop innovative solutions to prominence. For instance, the PSBs could choose to collaborate and request platforms to give prominence to a single PSB portal or 'tile' through which all of the PSBs' players are made available. This would allow all of the PSBs to have the same visibility on the homepage while also allowing space on the homepage for a range of other on-demand services (Figure 10 below illustrates an example).

Figure 10: PSB on-demand services are easy to find

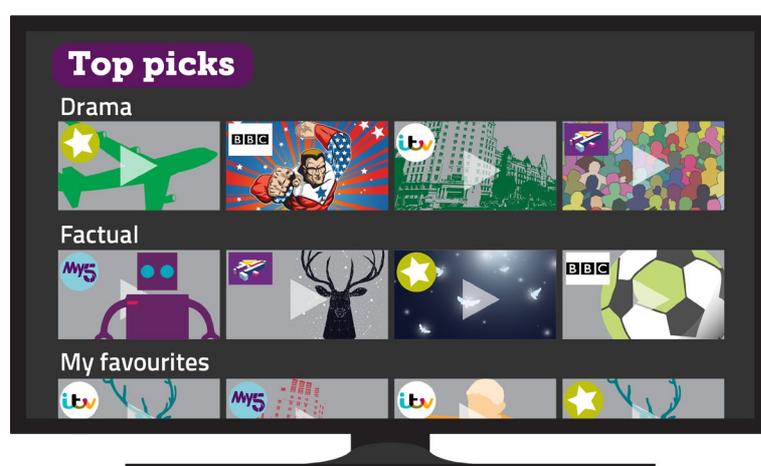


Prominence for PSBs' programmes in recommendations and search

- 6.36 As we discussed in section 4, on-demand content is also presented on some TV platforms on a programme-by-programme (or 'disaggregated') basis, through recommendations and search functions. We understand that linear TV, recordings and VoD services are currently the main routes to content for viewers. However, evidence from the MTM report suggests that these programme-based interfaces may become more widespread and popular with viewers.
- 6.37 Unlike linear channels or on-demand players, content presented in this way may not be mixed genre (e.g. it may be found in a 'drama' recommendations section) and it may vary in the extent to which use of personal viewing data affects what is surfaced. The control of its availability and presentation varies depending on the outcome of commercial negotiations between TV platform, content and technology providers. These negotiations include agreement on the availability of content as well as relevant supporting data (e.g. viewing data and programme metadata). If a new regulatory framework were to impose requirements about how data is to be shared between PSBs and UIs, this might impose disproportionate costs or be difficult to implement in practice.
- 6.38 These factors present some practical challenges in how new rules could apply to PSB content presented in this way. However, there are already good examples of a range of PSB content being surfaced prominently within recommendations or programme-based areas of UIs. This suggests that the discoverability of PSB content can be safeguarded in these more programme-led UIs and that there is potential to align the incentives of TV platform operators to deliver a strong proposition to customers and drive commercial returns, while also ensuring viewers continue to easily find and access a range of PSB content.
- 6.39 We recommend the new prominence framework's definition of PSB on-demand services includes disaggregated PSB content (e.g. in recommendation and search results) because these routes to content are likely to become more important to viewers over time. Like the PSBs' players, there would need to be comparable arrangements to ensure any content

afforded prominence in this way clearly contributes to the PSB purposes. This would mean that an appropriate amount and variety of PSB content should be easy to find and quick to access from the homepage. For example, we would expect to see a variety of programmes from the PSBs included within a selection of “trending” or recommended drama programmes on a homepage (see Figure 11 below for an illustration). A principles-based approach would enable this to be delivered in a variety of ways, depending on the specific design of the UI. Where viewers or platforms have specifically customised a UI in line with viewer preferences (e.g. ‘last watched’, ‘favourites’ etc.), this functionality should not be interfered with.

Figure 11: Prominence for a variety of PSBs’ programmes



Enforcing a new framework

6.40 We consider that to be effective, a new prominence regulatory framework would need to be able to require compliance by TV platform providers within scope. Accordingly, we recommend that any new legislation should include provisions for enforcement in cases of non-compliance.

A notification rather than licence-based approach

6.41 Providers of EPGs are required by legislation to have broadcasting licences. Regulatory obligations relating to EPGs (including the obligation to comply with the prominence requirements in the EPG Code) are implemented through these licences. These licences also require licence holders to provide Ofcom with information, and where conditions of the licence are breached sanctions may be imposed, which may include the imposition of a financial penalty.

6.42 We think that requiring the many different providers of TV platforms who may fall within the scope of the new framework to have licences would be disproportionate. A better alternative is likely to be a requirement for any TV platform provider that meets the conditions to be in scope of the new framework to notify the regulator that it does so. This

would require the conditions to be clear and assessable using the data held by individual TV platforms. This approach is currently used for VoD services under the Act.⁶³

- 6.43 Under this approach the regulator would need appropriate powers to request information from TV platform providers that meet or may meet the notification criteria to ensure compliance with the requirement to notify, and also to ensure compliance with the applicable requirements to give prominence to designated content. As noted above, under current legislation providers of EPGs that breach the regulatory obligations in relation to prominence and requests for information can be subject to penalties, and we recommend that similar mechanisms would be needed to address non-compliance as part of the new framework.
- 6.44 We also recommend that the new framework should not be limited to UIs from UK-based providers but should apply to all TV platform providers within the initial focus of the new framework (which as set out above we recommend should be TV platforms used by viewers in the UK as one of the main ways to access TV content).⁶⁴

Funding the new framework

- 6.45 We suggest that the cost of carrying out new regulatory functions could be met by way of a fee levied on providers that notify the relevant regulator that they are providing services within the scope of the new framework.

Next steps

- 6.46 The current legislative and regulatory framework for PSB prominence relates to linear channels within EPGs only, so our recommendations for PSB prominence online and on-demand would require new legislation, which is for Government and Parliament to consider.⁶⁵ Our recommendations would have significant implications for stakeholders and raise a number of complex and technical issues. We also appreciate this is a matter of significant interest for the PSBs and industry more widely, so we plan to engage with industry and Government further over the summer to discuss our recommendations and next steps.
- 6.47 Today, we are also publishing *The future of public service media* which sets out our plans to facilitate debate on the broader PSB system, appraise the PSBs' performance over the last five years and summarises the work Ofcom is already doing to support PSB. This work includes fulfilling our duty to conduct a PSB Review. Our recommendations on prominence

⁶³ Part 4A of the Act.

⁶⁴ The scope of any requirements that would apply to TV platform providers with a presence outside the UK would need to be compatible with any relevant European legislation in relation to jurisdiction.

⁶⁵ We have not carried out an impact assessment in respect of our recommendations for a new legislative and regulatory framework for PSB prominence on-demand, as these do not constitute a policy decision and would have no effect on industry or the general public until implemented by Government and Parliament. More generally, we do not envisage the impact of any outcome to be to the detriment of any group of society.

are an important part of this wider programme of work, ensuring that PSB is maintained and strengthened into the future.

A1. Glossary

Backwards EPG: An EPG that also surfaces recently broadcast on-demand content.

BARB: Broadcasters Audience Research Board.

Broadcaster video on-demand (BVOD): Free video-on-demand services from the major broadcasters, including BBC iPlayer, ITV Hub, All4, My5 (these services offer more than just on demand but are referred to as BVOD for ease of reference).

Connected TV: TVs which are connected to the internet via either smart TV functionality, a set-top box, a streaming stick or a games console. A smart TV is not always connected if it has not been connected to the internet.

Content provider: Broadcasters and streaming services, which operate their own channels and/or applications.

Curated recommendations: Content selection generated either editorially (e.g. Sky's 'Top Picks') or using data that is not specific to the individual users (e.g. most popular).

Digital terrestrial television (DTT): The television technology that carries the Freeview service.

Digital video recorder (DVR): Digital video recorder (also known as 'personal video recorder' or 'digital television recorder'). A digital TV set-top box including a hard disk drive which allows the user to record, pause and rewind live TV.

Electronic programme guide (EPG): A programme schedule, typically broadcast alongside digital television, to provide information on the content and scheduling of current and future television programmes.

EPG Code: The Ofcom Code of practice for electronic programme guides.

Hardware shortcuts: Buttons on a remote control leading the user directly to a specific area of the user interface or third-party app.

Homepage: The first screen visible to the user when they turn on (or restart) a TV platform.

Linear TV: Television programmes consumed in real time or at the time of broadcast.

Local TV: A local digital television programme service is included in a television multiplex service and intended for reception only within a particular area or locality.

Main five PSB channels: BBC One, BBC Two, the Channel 3 licensees (ITV/STV), Channel 4 and Channel 5.

Non-linear viewing: Content that is delivered 'on demand' as opposed to linear, broadcast content.

Operating system: The back-end software underpinning the user interface.

Pay TV platforms: Platforms which offer access to linear channels (and potentially third-party streaming apps and content), via a set-top box, on a subscription basis.

Public service broadcasters (PSBs): The BBC, the Channel 3 licensees (ITV and STV), Channel 4, Channel 5 and S4C.

PSB players: BBC iPlayer, ITV Hub, All4, My5, Clic and STV player.

Personalised recommendations: Content selection generated based on a specific user profile (e.g. Netflix recommends), including previous viewing/browsing data and contextual information.

Search: The process by which viewers find content through either manual text entry or voice command.

Set-top box: A device that enables a television set to become a user interface to the internet and/or to receive and decode digital television broadcasts (e.g. Now TV set-top box).

Smart TV: An internet connected TV set which offers access to free-to-air linear channels and third-party streaming apps.

Streaming stick: A small device that plugs into an HDMI port on a television or audio-visual receiver, allowing for the streaming of media (e.g. Amazon Fire TV stick).

Subscription video on-demand (SVoD): Paid-for subscription video-on-demand services such as Netflix, Amazon Prime Video and NOW TV. While these services offer more than just video on demand (e.g. streaming, linear pay-TV channels, as well as content to own or rent) they are categorised as SVOD in this report for ease of reference.

Technology provider: Technology suppliers providing software or hardware, including open-source solutions, to TV platforms (e.g. Android TV, Vewd, TiVo).

TV platform: Refers to a service used to access TV content on smart TVs and internet enabled devices that connect to a TV.

User interface (UI): The front-end of a TV platform, through which the user can search for and navigate channels, apps and content.

Video on-demand (VoD): Includes both paid for subscription video on demand (SVoD) and free broadcaster video on demand (BVOD) services, as described above.