Small Screen Big Debate

techUK response – March 2020

About techUK

To form this response techUK has received input from members representing different platform segments each with subtle, but very important differences that apply to the scope of this particular consultation. The factors which relate to the various operational, commercial, and business circumstances that currently apply to these segments are very different. This will naturally lead to a range of differing opinions on the issues being raised and solutions proposed, and this is particularly true around the areas 'Must Offer' / 'Must Carry' (MOMC) and the 'Core Regulated Public Service Broadcast Offering'.

The distinct platform segments are:

- Smart TV and device manufacturers.
- Broadcast network (including those who offer on-demand and catchup services).
- Streaming only services (VoD and SVoD).

These distinct segments have very different obligations with regards to the carriage of PSB content. For example, for some techUK members it is a major issue that in order to support PSB content on their platforms they are subject to additional terms and conditions, including fees and for others it is that access to all PSB metadata is not currently openly available. For other members neither of these are relevant issues.

Executive Summary

This consultation comes at an exciting time for the UK television sector with a dynamic ecosystem of platforms and operators delivering a fantastic range of content to viewers. techUK is and will remain a supporter of public service broadcast (PSB), but with viewing habits changing techUK believes the current hybrid system of broadcast and online content provision, where viewers are able to choose to view content from a wide range of sources will continue to grow and evolve as new providers enter the market. This should only be viewed as a positive thing for the consumer and the industry as a whole. PSBs should view the development of streaming as an opportunity to embrace new ways of working and seek innovative ways to engage with viewers while recognising the viewers freedom to choose the provider and format of the content they consume.

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The Platforms (as defined above) are fundamental to the delivery of content to consumers, and their goal is to ensure viewers have easy access to the content they seek without friction, restrictions on innovation, differentiation, or barriers to entry.

In our response we set out several clear recommendations for any future regulatory frameworks (**in bold throughout** and collated in an annex at the bottom of this document), outline our views on related strategic issues and provide answers to the set consultation questions.

Prominence remains a fundamental issue for techUK and members feel PSBs already enjoy a high degree of prominence in online User Interfaces (UIs). techUK feels the case for more intervention is not made and replicating linear broadcast requirements to non-linear (on demand) online settings is fraught with difficulty and would offer no real consumer benefit. However, with DCMS accepting the 2019 recommendations on extending prominence, techUK accepts regulation is coming, and therefore **Ofcom should formulate any new regulations in a clear, unambiguous, and holistic way.**

It is essential to ensure any regulation does not prevent platform innovation and differentiation, is non-prescriptive, unobtrusive and does not undermine existing business models or create new barriers to enter the market. On the issue of UIs, **Ofcom must ensure regulation does not prevent viewers from customising UIs in a way they currently have the option to do.** Furthermore, viewers should not find it more difficult to discover and enjoy the content they seek from providers not protected by prominence requirements.

Before addressing the consultation questions techUK would like to make clear the following relevant points that do not fit neatly within the seven questions.

<u>The UK content ecosystem relies on much more than the PSBs[1]</u>

techUK is a supporter of PSB with members making significant investments in research and development that ultimately benefits both viewers and PSBs alike. These investments include providing the content delivery infrastructure (networks, cloud computing and telco services), building and maintaining platforms, through to the design and manufacture of end-user devices. Combined this techUK member led ecosystem plays a huge role in getting content to viewers.

A number of techUK members commission their own content (including in co-production with PSBs) and add to the richness and variety of British made high-quality content. This combined ecosystem of PSBs, pay-TV operators and online platforms is giving viewers access to an unprecedented range of original content and has pushed the industry forward in areas such as viewing quality (video, audio, and content), diversity, and choice. It is the entirety of this ecosystem that is critical in securing programming, which is important to society, creating shared national experiences and reflecting diverse audiences.

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[1] techUK refers to 'PSB' when discussing current issues but switches to 'PSM' when focusing on future changes.

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A key consumer benefit is that viewers are no longer restricted by the schedules, content and formats dictated by a limited number of providers. Consumers now have the opportunity to access a wealth of high-quality services and content that is more relevant, personalised, diverse and can cater to all audience tastes. techUK recognise that the PSBs see this competition as a concern, however we believe PSBs as well as the UK creative and media industries as a whole have benefited from a more diverse range of offerings and remains an important source of content for the viewer. Therefore, with the consumer benefiting from all this innovation, developments in streaming should be viewed by PSBs, consumers, and policymakers as an opportunity that should be fostered rather than a problem that needs to be solved.

Content choice and quality are essential to viewers

Viewers today benefit from an incredible range of high-quality content that serves all audience segments. This means viewers can watch what they want, when they want and how they want across a range of devices and platforms. This is possible because of an ecosystem of that meets the needs of audiences.

Newer providers of content are also expanding their content offerings, with archive classics, experimental forms of content and creating programming for under-represented audiences. These providers have also experimented with new delivery formats leading to improvements in picture and sound quality and have produced cutting edge content that PSBs have been reluctant to make. This innovation has been good news for consumers as well as for ensuring media plurality and providing more opportunities and revenue for the UK creative industries.

Within this landscape the PSB's continue to play an important and distinct role and will continue to do so in the future as they evolve to become 'Public Service Media' (PSM). However, any expansion of regulation must be fair to all parties, meet real consumer needs and not simply the needs of the PSBs. Regulation needs to be carefully designed and fully justified especially given the fact PSBs have a privileged status and funding models that other media providers do not benefit from.

Prominence

Prominence requirements on providers of Electronic Programme Guides (EPGs) have helped the PSBs retain some of their audience share in the face of growing competition. With audience habits shifting away from linear TV services discovered through an EPG[2], the natural temptation for PSBs is to seek to replicate this by creating a similar regime for UIs optimised to access non-linear content. techUK does not consider the absence of prominence as the main driver behind the perceived decline in PSB viewing figures. Indeed, this view is supported by research carried out by a techUK member which showed PSB catch up players always placed in a highly prominent position due to a mixture of user expectation and contractual

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[2] https://www.ofcom.org.uk/research-and-data/tv-radio-and-on-demand/media-nations-reports/media-nations-2020

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obligations. Any policy response to restore PSB audiences must focus on relevance, demographics, and marketing. Enforcing prominence via device and platform UI's is not a panacea to ensuring viewer retention and growth.

One possible solution for the TV tuner segment could be to increase use of the red button as a launchpad to PSB services, using established HbbTV methods.

Another solution that has been mentioned recently in the national press[3] (although not circulated formally within the industry) is to aggregate all PSB content within a single application or combined PSB tile. This could create a new brand proposition for viewers and while this is an interesting possibility, for it to be acceptable for techUK members there would need to be a great deal of further clarity on the details of such a proposition in order for it to be considered a possible solution. For example, it would certainly have to include all PSBs and not require separate prominence of individual PSB Apps (whilst not preventing any manufacturer from optionally electing to separately include individual Apps). Similarly requiring such an experience to be presented by HbbTV OpApp[4] would also not be an acceptable proposition. The requirements for this app should encompass both publicly and commercial funded PSBs and be offered on the same open terms to all types of platform seeking to carry it.

With respect to prominence among streaming services, **techUK would encourage Ofcom to concentrate on the principles that PSM content should be easily discoverable, easy to access and made available on platforms with minimal restrictions (commercial, technical or conformance)**. It is important to recognise that in this context access, discoverability and availability do not necessarily equate to an absolute primary position in any specific service or application list, UI design etc. and should be viewed in terms of the reasonable actions of a reasonable consumer, considering the nature of the UI. **Ofcom should also consult with stakeholders on what the principles mean in respect to 'core' and 'expanded' offerings and all the possible routes to compliance for manufacturers and platform operators.**

techUK believes that the principles relating to prominence should be determined by Ofcom as a neutral arbitrator and the 'notification' approach proposed in 2019 could form the basis for a workable regime. Manufacturers and platforms would design their UI/UX according to the guidelines (which could be a 'code of conduct') and would provide confirmation to the arbitrator, if so requested. Not meeting all the individual criteria would not be deemed as not compliant, providing sufficient application of the overall prominence had been delivered. For clarity it would not be necessary to get pre-approval of a UI design from any PSB. The regulated guidelines would be sufficiently clear such that they could be applied to any

[3] https://www.telegraph.co.uk/business/2021/01/30/broadcasters-channel-one-stop-streaming-player-keep-us-giants/

[4] https://www.hbbtv.org/wp-content/uploads/2017/12/HbbTV-SPEC-00200-003-Operator-Applications-Explained.pdf

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reasonable UI design. It is also important that these guidelines show all possible routes to compliance to give businesses a clear understanding of what is required. Moreover, it is critical that **Ofcom avoids overly prescriptive requirements for conspicuousness, availability, and discoverability.** All platforms must have the freedom to innovate, design and develop the best user interfaces and user experiences for their customers in order to meet their evolving habits and demand for content and services without restrictive regulation.

The establishment of these principles must be fair to all and readily achievable. As well as prominence relating to positioning, techUK members have witnessed unachievable PSB prominence requirements related to recommendations and discoverability that includes having to anticipate what viewers might be trying to search for (e.g., most recent version of a programme) without sufficient access to the essential metadata that would surface the best possible answer to their search queries.

techUK agrees that any (core) principles shall only apply to on device UIs and not physical devices such as remote controls. Businesses must be legitimately allowed to make economically sustainable global products whether that be a physical device or software / cloud based audio-visual service offerings. For physical products specifically techUK would highlight the potential waste issues and associated costs incurred by replacing physical products such as remote controls with locally specific buttons and the e-waste issue of having to process and manage end-of-life redundant hardware. It is essential that the outcome of any PSB prominence regulation ensures business certainty for manufacturers and platforms with clear and unambiguous conditions to market entry that are stable and transparent.

In their position paper setting out what future terms and offerings could be, the PSBs comment on future prominence requirements, beyond those set because of this consultation, including calls for a full consultation, annual reviews, and the right to negotiate prominence requirements further. **techUK urges Ofcom that should any further consultation on prominence be required, it must include all stakeholders within scope of the regulation. Additionally, any future reviews should occur at a period of no less than 5 years with legislative protection to prevent movement away from the guidelines** as this would negatively impact consumers and device manufacturers.

techUK agrees that thresholds would be required to determine whether a UI or device falls within the scope of any regulation and these thresholds must be clearly defined – the 'Qualified Undertakings' and **requirements must genuinely encompass only major audio-visual distribution platforms, and not devices with niche and specific use cases.**

Attribution

PSBs are also requiring full attribution of their services and content. While this is not a technically difficult prospect, it relies fully on the provider's commitment to serve the necessary metadata robustly and reliably. This does not currently happen so in future **PSMs must guarantee the provision of metadata for their content before demanding reliable attribution.** This can be done directly or via third party metadata providers which would

provide relevant reliable data with full and correct attribution already in place. **Access must also be free from any fees to the platforms and without prescriptive requirements that are difficult or expensive to implement.**

techUK would like to highlight one significant problem on the assigning of correct attribution to content that is co-produced. If a PSM would only be a minor contributor to a co-production should it then still be deserving of PSM attribution if the major producer is not a PSM? What thresholds would apply to determining the true /correct attribution to be assigned? And what metadata could manufacturers use to implement such attribution reliably and robustly? These are all questions needing resolution before they can be considered as options.

<u>The PSB offering needs to adapt and be of the highest quality</u>

All providers of content face an audience with increasing demands, both in terms of content (quality writing, performance, and production) but also technical delivery. For example, support for UHD and HDR is now the default on new smart TV's. The SVoD and pay-TV operators currently offer considerably more content in these formats while PSBs have used this technology more sparingly and still broadcasts a significant amount of content in standard definition. PSBs should ultimately keep improving on viewing quality and **Ofcom should regularly review minimum requirements related to audio and visual quality (for example UHD or object audio)** so there is not a demonstrable reduction in technical quality of future PSM content compared to pay-TV and SVoD services. This would also ensure regulation is able to keep pace with evolving technology standards.

<u>The position of DTT</u>

Due to the efficiency, security, and energy performance of broadcast networks techUK recommends that Ofcom should set out a long-term strategy and a clear commitment to retain the existing DTT platform. While no one doubts that online viewing will grow as a proportion of all viewing hours, linear TV is still the most watched platform for many audience segments (according to Ofcom Media Nations). However, given recent calls and suggestions that DTT may be switched off, **Ofcom should ensure the DTT platform will remain active until at least 10 years after a formal notification of its cessation**.

Specific answers to the questions in the consultation are below.

Question 1: Do you agree that a new regulatory framework for PSM delivery should support a more flexible 'service neutral' delivery approach that is more outcomes focused?

Q2: Do you agree with our proposals for a clear accountability framework?

Questions 1 and 2 will be answered together as they are related.

techUK agrees that an outcomes focused approach is an effective way to future proof regulation for PSM providers, platforms, and the manufacturers whose devices are used to host or consume the content.

Licence conditions are on the whole well understood, however techUK would also need a clear understanding of the process, timelines for doing so and costs associated with being accountable to Ofcom as a provider of PSM. The use of licences for PSM would be something techUK supports provided the conditions for needing a licence are well understood and do not catch smaller services or act as a barrier to new services entering the market.

The service neutral concept for public service content is an idea techUK supports as this is the key requirement when seeking to create an outcomes focused framework. However, techUK feels Ofcom must be clear service neutrality should not impact the delivery platforms whether that be a smart-TV, pay-TV, or online streaming service. In practical terms this means any regulation should focus on the media organisation itself and not impact on the platform hosting or displaying the content (e.g. require the platform to provide large amounts of user usage data etc).

Regarding the accountability framework, techUK members feel this is not clearly defined and are unable to answer fully. That said members do feel a principles-based accountability framework makes sense to avoid regulation becoming obsolete as technology evolves. PSMs must also accept that in the application of such a framework, equally valid interpretations of a 'principle' could legitimately exist, and that one interpretation of a high-level principle is not the only one. Ofcom should also set the boundaries of any regulatory principles and ensure there is a clear pathway to challenge a regulatory decision or raise an objection.

In conclusion techUK believes the provider of the PSM service should be the one responsible for meeting licence criteria and Ofcom needs to state this is the case.

Q3: What do you think should be included in the PSM 'offer'?

techUK believes the expansion of 'public service broadcasting' to 'public service media' is a potential risk for members and **calls on Ofcom to set out the criteria for how a media provider gets designated as PSM** as well as the process and timelines for doing so, and how it will address issues such as prominence in crowded user interfaces.

techUK members acknowledge the potential benefits of a 'Must offer Must Carry' (MOMC) regime as it enables platform agnostic access to PSB content by the UK consumer though

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there may also be fully justifiable reasons as to why a particular organisation may wish to opt out of such an arrangement. For example, an SVoD provider may make a streaming stick that only carried their own content as a value-added service. This could be a popular value add, but uneconomic if unfairly forced to carry PSM content.

The PSB's position paper indicated that MOMC must apply to 'all major TV distribution platforms, services and User Interfaces'. If Ofcom choses to accept this, a clear definition of the entities (platforms and UIs) that are in scope together with clearly defined thresholds must be established to ensure platforms are able to clearly recognise whether they fall within the scope of any MOMC requirement.

All public service content should be governed by the MOMC regime and offered with Terms and Conditions overseen by Ofcom, with no additional contractual, commercial, or other terms added. Any regime would precisely define the content offerings to be supplied from the PSMs and the required baseline technologies to be supported by the manufacturers (for the UK this means specifications as set out in the relevant DTG D-Book and HbbTV specifications).

In their position paper the PSBs anticipated and attempted to precisely define a number of low-level terms such as 'In-scope Content User Services', 'User Interfaces', 'Qualifying Undertakings' etc. techUK considers this premature and consider the suggested definitions inconsistent and ambiguous and as such they are unacceptable to techUK members. One possible solution is to align the definitions with those of the 'Core Regulated PSB Offering' to ensure a level playing field. techUK would also like assurance from Ofcom that **all public service content remains 'core' and must not be subject to additional Terms and Conditions** or ever be put behind additional paywalls. This could be achieved via Ofcom ensuring 'In-Scope Content Services' remains equivalent to reasonable consumer expectations and that the offering will not degrade over time, or the offering moves to being subject to additional Terms and Conditions.

Further to these terms the PSB proposed concept of a 'Core Regulated PSB Offering' unreasonably changes to become a 'regulated Commercial PSB Offer' later in their position paper. The suggestion that there should be a legal requirement for each (PSM) to make a baseline 'Regulated Offer 'overseen by Ofcom which effectively creates a standard (and standing) contractual proposal for the inclusion/carriage of In-Scope Content Services' is reasonable, however such a rule must encompass all PSBs, not just the 'commercial' ones.

techUK would therefore require a single set of 'reasonable conditions as approved/set by Ofcom' which would be applicable to all PSBs. This could be done via a well-defined 'code of conduct' requiring no further contractual negotiations between any party to implement such a core offer.

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By definition any 'expanded offer', over and above the 'core offer', would be subject to negotiation on all aspects, potentially including prominence, but nevertheless not affecting prominence of the core-regulated offering. techUK requests more details on how this could work in practice, and under what terms an expanded offering would be made to determine our final position.

techUK agrees that only expanded offerings above and beyond the core regulated offer, from PSMs would be subject to additional, negotiated commercial Terms and Conditions, to be mutually agreed bilaterally between PSMs and Suppliers. **It is critical for techUK members that the principles and regulatory regime for core and expanded offerings would apply to all PSMs – there would be no special cases and all PSMs would be treated equally under a single regulatory regime.** By comparison elsewhere in Europe, no other country has a concept of a more privileged PSB, and no other country has a concept of additional individual commercial Terms and Conditions for devices to gain access to PSB content, enabling those markets to operate much more efficiently.

The initial PSB definition of 'User Interface' is extremely confusing and quite ambiguous. It must be very clear that the design of the UI and indeed the entirety of the user experience on a platform, remains the responsibility of platforms and manufacturers who see this is a differentiator, a space for innovation, and essential for operating legitimate business models and operations and not subject to PSM 'pre-approval'. Given the rise of voice activation and the very different nature of visual and audio interfaces we advise that visual and audio interfaces be defined and managed separately to avoid any ambiguity and confusion.

The Terms and Conditions (in some cases including fees from PSB-driven joint ventures) currently imposed by PSBs on the platforms and device manufacturers associated with carrying services constitute the principal barrier in making PSB content easily and widely available to consumers. The terms are often opaque and vary between PSBs, which causes confusion and there is no transparency to ensure that they are applied to all manufacturers in a fair, reasonable, and non-discriminatory manner. To resolve this, and ensure all viewers have access to PSB content, **Ofcom should introduce a singular set of PSB Terms and Conditions that is overseen by Ofcom, and has no additional contractual, commercial, or other terms added by individual PSMs.**

The role of data

The move to a hybrid IP system of content delivery has created large quantities of user and platform data and techUK believes 'real time data access' to such data as proposed by the PSBs should not be considered part of the 'core offering' and instead only be part of a mutually agreed extended offering that does not prejudice or influence access to the core PSB service. When a consumer uses a PSB online service, that PSB service provider inherently knows exactly what content and services it is providing to the consumer, however it would not be possible for device manufacturers to provide additional data from other content providers to PSBs.

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techUK members consider any data that they may collect relating to the use of their platforms is commercial data that the members use and cannot be subject to mandatory open access requirements, particularly as open access would not be possible without the consumer's consent. Finally, the PSBs proposals suggest these are the sole prerequisites for services such as personalised advertising, despite the fact some already do so with success using their own technology, not the device or platform.

Q4: What options do you think we should consider on the terms of PSM availability?

techUK members believe a major barrier to PSB availability is the complex suite of proprietary test packages and technical certifications that PSB's require smart-TV manufacturers pass before being able to carry PSB on-demand services. This is an unduly lengthy process which uses excessive and significant resource, creating unnecessary burden on manufacturers and platform providers and can have impacts as severe as devices going onto the market without certain PSB catch-up players installed (a clear solution is to take a self-certification, self-declaration-based approach examples of which already exists such as HbbTV interoperability, CI Plus or CE marking). This situation is both unacceptable and unsustainable and has an obvious negative impact on all stakeholders in the value chain including and most importantly the license fee paying viewer. Unhindered access to the market is essential to enable any PSB core offering to reach the widest viewing audience and requires the removal of any commercial terms, restrictive certification, or carriage requirements.

Our strong expectation is that **any obligations in terms of 'must-carry' for PSB catch up services would have an equal and symmetrical requirement on those PSB providers** hence anything deemed 'core' should be obligated to be offered without any barriers.

Ofcom should also require PSMs to provide open, unfettered access to their program metadata, without fees, as this is a fundamental necessary pre-requisite to deliver reliable and robust attribution.

techUK also believes that prominence should not extend to algorithms, personalised content, voice, or text search result rankings, or have the ability to supersede commercial deals (often agreed at a global level) that include prominence for platforms. This would-be protectionist and prevent the consumer from being able to access the full range of content. Before any such regulation is proposed there should be a clear and proven case of user harm.

Ofcom must also recognise and take account of the extra issues arising if other new providers were to become designated as 'PSMs'. Whilst techUK welcomes all new contributors of quality content, 'prominence' clearly cannot be provided to an ever-increasing number of companies classed as PSM, given limited and finite space on a user interface. The 'single tile' model previously proposed to encompass all PSMs could be a tool used to address this issue, provided there were no exceptions.

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Q5: What are the options for future funding of PSM and are there lessons we can learn from other countries' approaches?

With the exception of the BBC, public service broadcasting is advertiser funded with some targeted support to de-risk investment in children's content. techUK sees no reason why this model cannot be utilised going forward, along with a recognition that subscription-based services offer plurality of public service content. Advertising technology is also changing, and this represents new opportunities for PSM providers who are already investigating these technologies and using new platforms to monetise content. The way Channel 4 utilises brand partnerships on social media is an example of this and brings public service content to new audiences.

Ofcom should also ensure that funding is not restricted to only PSMs and that other companies in media production or distribution are allowed to benefit from tax incentives (such as the High-end Television Tax Relief) or access specific content funds like the Young Audience Content Fund which has accelerated content investment for that segment[5].

The increasing role of SVoD players in the UK has seen more investment in the UK creative industries (Netflix alone is investing £750m in UK production[6]) and is helping to bridge the investment gap. Ofcom's Media Nations states PSBs[7] are still the primary investors in content, but with pay-TV and SVoD producing more content in the UK, this helps with financing the creative sector as a whole and allows for co-productions which de-risks investment in new content, something we discuss in more detail in the response to question 6.

Q6: What do you think about the opportunities for collaboration we have referred to? Are there other opportunities or barriers we have not identified?

PSBs already collaborate with each other and with new providers as highlighted above. Though this collaboration could be significantly improved through a single core entry point for PSM content, which is a strong opportunity for manufacturers, broadcasters, and viewers. This comes with challenges and PSBs would have to accept this over a siloed approach they use now (and address issues such as single sign in) and that it would not impede UI design. This could further open-up new opportunities around searching for content in a way that does not have to be app-by-app, in line with consumer expectations as reported by the TiVo's Video Trends Report Q1 2020[8], that found that *'84 per cent of survey respondents are interested in viewing, browsing and searching content from every available source – from broadcast television to subscription streaming services – unified in a single experience or interface'*.

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[5] https://www.bfi.org.uk/news/young-audience-content-fund-production-development-awards
[6] https://deadline.com/2020/10/netflix-bela-bajaria-promises-to-continue-spending-big-in-the-uk-1234604669/
[7] https://www.ofcom.org.uk/research-and-data/tv-radio-and-on-demand/media-nations-reports/media-nations-2020
[8] https://dm4.tivo.com/l/43592/2020-06-18/bmj596

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PSMs should also look at adopting successful features and practices introduced by SVoD and other platforms that consumers have become used to. techUK notes that BritBox is an example of successful PSB collaboration on a commercial basis. PSM core services should be free to carry and have no barriers to being carried/installed on smart-TV/online UIs. Therefore, services that form the core offering should follow international broadcast standards in a way that is open and not proprietary. techUK members acknowledge that these standards are complex and accept an element of profiling may be required, but techUK rejects the need to extend international standards by the adding local proprietary extensions. However, unilaterally publishing (and mandating) PSB technical specifications without industry consultation and then taking those for wider international adoption is not an acceptable method of defining and engineering such specifications. A true international standards-based approach will minimise complexity and make it easier for manufacturers and platforms to give UK consumers access to the content they want.

The current Communications Act dates back to 2003. Assuming it may take another year or so to finalise its replacement that will make it virtually 20 years of active service. It is quite likely that the lifetime of a new updated Communications Act will apply for a similar timeframe. We already know that in this timeframe there will be even more change an adoption of IP based delivery services, which may include technologies such as DVB-I or similar. The approach that both industry and regulation takes must be fit for the duration of this multi decade period and as far as is reasonably possible be flexible enough to change with the times.

Rather than try to fit and mould existing and legacy technologies and practices and constraints into this ever-increasing IP based world, there is a relatively short window of opportunity to re-think the TV distribution market, re-invent it and not saddle it with out-of-date analogue constraints. An example might be the regional design of TV. Local TV regions were based on the constraints and reach of high-power transmitters. No such constraints exist in an IP world so the opportunity to re-invent 'TV regions' to make them more efficient exists. This will require cross industry collaboration, not only the views of PSBs, to think about new ways of doing things to the benefit of all as opposed to the 'easy' approach of shoe-horning the existing ways into a more flexible new way.

techUK encourages Ofcom to facilitate a more cooperative approach to the way that the TV / AV / PSM develops, by ensuring the entire value chain is represented on an equal basis.

On the issue of content UK PSBs have been co-producing content with SVoDs for several years now and this approach should be actively encouraged. New regulation should not inhibit this at all or create a situation where doing so is more difficult.

Q7: What are your views on the opportunities for new providers of PSM

The viewer now has infinitely more choice when it comes to accessing top-quality content and this is something that should be welcomed by all parties. This extra choice and investment in content delivers for the creative industries and enhances media plurality, better serves underrepresented audiences, and means viewers have more opportunity than ever to access more top-quality content to both enjoy and learn from. The multi-platform approach has also led to new innovations in content type, distribution technologies and device functionality.

PSBs are already extending their audience reach by using platforms such as YouTube as well as subscription services and already have established collaborations with online providers. In future PSMs should consider how content shared on other platforms could be attributed, by embedding logos and branding into the content itself, as that ultimately is what the viewer is watching. There is room for more and PSBs can learn from new providers in terms of viewing quality, benefiting from creative and technical talent unearthed by new media providers, and seeing new types of content and format that could be adopted by PSBs.

A further opportunity is to pool resources around research and further implement international standards, as currently PSBs do not fully adopt or use international broadcasting standards (for example DVB) which causes inter-operability concerns and limits services to UK viewers that other European viewers get to enjoy.

Annex of techUK recommendations and positions

- **Approach to regulation:**
  - Ofcom should formulate any new regulations in a clear, unambiguous, and holistic way.
  - Principles and regulatory regime for core and expanded offerings should apply to all PSMs – there would be no special cases and all PSMs would be treated equally under a single regulatory regime
  - Any new requirements must genuinely encompass only major audio-visual distribution platforms, and not devices with niche and specific use cases.
  - techUK would encourage Ofcom to concentrate on the principles that PSM content should be easily discoverable, easy to access and made available on platforms with minimal restrictions (commercial, technical or conformance).
- **Regulation needs to respect innovation and UIs:**
  - Regulation should not prevent platform innovation and differentiation, is non-prescriptive, unobtrusive and does not undermine existing business models or create new barriers to enter the market.
  - Ofcom must ensure regulation does not prevent viewers from customising UIs in a way they currently have the option to do. Ofcom avoids overly prescriptive requirements for conspicuousness, availability, and discoverability.

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- **Prominence:**
    - Principles relating to prominence should be determined by Ofcom as a neutral arbitrator and the 'notification' approach proposed in 2019 could form the basis for a workable regime.
    - Future prominence rules must require consultation with all stakeholders and future reviews should occur at a period of no less than 5 years with legislative protection to prevent movement away from the guidelines.
    - Prominence should not extend to algorithms, personalised content, voice or text search result rankings, or have the ability to supersede commercial deals that include prominence for platforms.
    - A single launch point for PSM content could help deliver prominence in a way that does not compromise business models or lead to poor consumer experience.
- **Metadata and attribution:**
    - Ofcom should require PSMs to provide open, unfettered access to their program metadata as this is fundamental to reliable and robust attribution.
    - Access must also be free from any fees to the platforms and without prescriptive requirements that are difficult or expensive to implement.
- **Must Offer Must Carry and associated Terms and Conditions:**
    - Ofcom should consult with stakeholders on what the principles mean in respect to 'core' and 'expanded' offerings and all the possible routes to compliance for manufacturers and platform operators.
    - All public service content should be considered 'core', governed by the MOMC regime, and offered with Terms and Conditions overseen by Ofcom, with no additional contractual, commercial, or other terms added.
    - Ofcom should introduce a singular set of Terms and Conditions that is overseen by Ofcom, and has no additional contractual, commercial, or other terms added by individual PSMs.
    - Obligations in terms of 'must-carry' for PSB catch up services would have an equal and symmetrical requirement on those PSB providers.
- **Quality:**
    - Ofcom should regularly review minimum requirements related to audio and visual quality, for example UHD or object audio.
- **Future of DTT:**
    - Ofcom should ensure the DTT platform will remain active until at least 10 years after a formal notification of its cessation.
- **Co-operation:**
    - Ofcom should facilitate a more cooperative approach to the way that the TV / AV / PSM develops, by ensuring the entire value chain is represented on an equal basis.