



Reorganisation of the DTT LCN listing and changes to Digital UK's LCN Policy

CONSULTATION

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1 Executive Summary

1.1 Introduction

Digital UK supports Freeview viewers and channels on the digital terrestrial television ('DTT') platform – the UK's largest TV platform, used in around 20 million homes.

Digital UK holds Ofcom licences to provide an Electronic Programme Guide ('EPG')¹. Its listing of logical channel numbers ('LCNs') and its LCN Policy ('the LCN Policy') both conform to the requirements of the Communications Act 2003 and Ofcom's Code of Practice on Electronic Programme Guides (the 'Ofcom EPG Code') published in July 2004.

The Digital UK LCN listing is used by Freeview, Freeview Play, BT TV, TalkTalk TV, YouView, EE TV and Now TV.

The ongoing popularity of DTT among channel providers and viewers is reflected in the growing demand for channel numbers on the platform. Over the last 12 months we have seen a net increase of 21 LCNs in use, with growth primarily focused in the General Entertainment and Children's genres.

Digital UK's objective is to develop its listing and apply the LCN Policy in such a way as it considers to be for the long-term benefit of the DTT platform and in the interests of viewers. In particular, we aim to:

- Make it easy for viewers and listeners to discover content through simple navigation.
- Ensure the ongoing prominence of broadcast public service channels, in line with our regulatory obligations.
- Protect consumers from potential harm.
- Give channel providers the opportunity to reach viewers and listeners.
- Allocate and manage LCNs efficiently.

In pursuit of these objectives the LCN Policy should:

- Be transparent, clear and simple to operate.
- Be compatible with regulatory requirements, including being objectively justifiable and fair, reasonable and non-discriminatory ('FRND').
- Minimise disruption to consumers and channel providers by providing reasonable certainty.
- Be flexible in the face of changing market conditions.
- Give channel providers flexibility to manage their content to the benefit of viewers and listeners.

This consultation sets out proposals to help meet these objectives and principles.

¹See <http://www.ofcom.org.uk/static/radiolicensing/html/tv/cs/dtas000044ba2dttepgservicemux2.htm> and <http://www.ofcom.org.uk/static/radiolicensing/html/tv/cs/tlcs101213ba1enhancedipmetadataforthedttbroadcastepg.htm>

All capitalised terms in this document bear the meaning given to them in the current LCN Policy unless otherwise specifically defined herein. When discussing channel numbers, we use the word ‘lower’ to mean numbers that are closer to 1 and ‘higher’ to mean numbers that are further away from 1.

1.2 Proposals

The proposals in this consultation are divided into two sections:

Proposals to reorder the LCN listing

This section contains proposals to reorganise the DTT channel listing in order to:

- Meet channel demand for the next three to four years.
- Strengthen consumer protection measures in the light of viewers’ clear preferences.

It sets out two options which Digital UK has identified, and invites respondents’ comments on those options.

During 2016, the Children’s genre has seen demand for LCNs outstrip availability, meaning we had to create an ‘overflow’ section for this genre. The General Entertainment section is also close to its current capacity.

At a minimum, the new LCN listing resulting from this consultation must address the Children’s overflow section and create enough capacity in all genres to meet the foreseeable demand for LCNs for the time horizon of this review.

While both options do require some channels to move to a new position in the listing, it is important to note that the relative position of channels within a genre will not change, and viewers will not lose access to any services as a result of these changes.

Proposals to revise the LCN Policy

This section contains proposals to revise the LCN Policy in order to:

- Give channel providers more flexibility – by making it easier for them to reorder and change their channels.
- Simplify and clarify the LCN Policy – by defining key terms, clarifying rules on IP-delivered content on DTT channels, clarifying our appeals process, and revising the wording and the structure of the LCN Policy as a whole, to make it clearer and easier to read.
- Ensure efficient management of LCNs – by introducing a ‘minimum broadcast hours’ requirement in certain genres, introducing rules about LCN sharing, and strengthening the ‘shuffle-up’ procedure to help close gaps in the LCN listing.
- Provide opportunities for single channel providers and new entrants to improve their LCN position – by examining options to improve the process for allocating vacated LCNs.

1.3 Timetable and next steps

We encourage responses from all stakeholders in the DTT platform, particularly channel providers, multiplex operators, consumer groups and viewers and listeners. We ask respondents to consider how they may be affected by the proposals, and to provide evidence-based responses to describe any potential effect. All responses should reach Digital UK by 17:00 on **Friday 6 January 2017**. Section 5 of this document provides further details on how to respond.

Following the consultation period, we expect to issue a statement in March 2017.

Changes to the LCN listing

In accordance with the LCN Policy, we must allow time for appeals and a minimum eight-week period from the date of the consultation statement before any changes to the LCN listing are implemented. As such, we propose that changes to the LCN listing are co-timed to take place on one day in summer 2017. More information, including detail on the support that Digital UK will offer to channel providers and viewers, is in Section 3.5 of this document.

Changes to the LCN Policy

A new version of the LCN Policy will be published alongside the statement and will take effect immediately.

Section 4.3.2 of this document outlines possible methods to revise the vacated LCNs process. If, as a result of this consultation, Digital UK decides to make changes to the process, then we will issue a further consultation in summer 2017 on a proposed new mechanism and how it would work in practice.

2 Context

2.1 Our LCN Policy objectives and guiding principles

Digital UK's LCN listing and LCN Policy conform to the requirements of the Communications Act 2003 and Ofcom's Code of Practice on Electronic Programme Guides published in July 2004. Within this regulatory framework, our objective is to develop the channel listing and apply the LCN Policy in the interests of viewers and listeners and for the long-term benefit of the DTT platform.

In developing consultation proposals, our LCN Policy objectives are to:

- Make it easy for viewers and listeners to discover content through simple navigation.
- Ensure the ongoing prominence of broadcast public service channels, in line with our regulatory obligations.
- Protect consumers from potential harm.
- Give channel providers the opportunity to reach viewers and listeners.
- Allocate and manage LCNs efficiently.

In pursuit of these objectives, our LCN Policy guiding principles are to:

- Be transparent, clear and simple to operate.
- Be compatible with regulatory requirements, including being objectively justifiable and FRND.
- Minimise disruption to consumers and channel providers by providing reasonable certainty.
- Be flexible in the face of changing market conditions.
- Give channel providers flexibility to manage their content to the benefit of viewers and listeners.

2.2 Review cycle

Since Digital UK has become formally responsible for managing the DTT listing, we have sought to conduct in-the-round LCN Policy reviews every three to four years, to ensure the LCN Policy continues to deliver against the objectives.

In the interest of striking a balance between adapting to changing market conditions and providing reasonable certainty to stakeholders, the proposals set out in this consultation are intended to cover a similar time horizon.

2.3 Effects of policy revisions since the 2012 review

We last undertook a major review of the DTT channel listing and LCN Policy in a consultation in 2012². Following that consultation, a number of changes were made to the position of channel genres and to the rules of the LCN Policy.

2.3.1 Changes to the channel listing

To accommodate a genre-based channel listing with sufficient capacity to meet anticipated channel demand for three to four years, several channel genres were required to move, with the changes implemented in two stages:

- In 2012, the HD, Adult, Text and MHEG genres moved to new LCN ranges.
- In 2014, the Children's and News genres moved to new LCN ranges, as growth in the General Entertainment genre reached a trigger point indicating that the genre was almost full.

We have assessed the impact on channels' viewership following the 2014 genre moves. The News genre moved from the LCN 80-99 range to the LCN 130-149 range and the Children's genre moved from the LCN 70-79 range to the LCN 120-129 range.

A number of measures were put in place to mitigate any potential impact on channel providers' ability to reach their viewers. For example, on-screen messages were displayed by public service broadcasters advising viewers to retune, information was provided on the Freeview website, changes were promoted on social media, and troubleshooting advice was available via a team of agents at the Freeview Advice Line.

Our analysis of BARB viewing data suggests that the 2014 genre moves did not materially affect children's and news channel providers' abilities to reach their viewers. Noting that a multitude of factors can affect a channel's audience, of which LCN position is only one, we looked at the channels' viewing data before and after the change and compared them to outcomes on other platforms during the same period. We found that:

- There was a small negative short-term effect on channels' reach, but little evidence of a significant impact on channels' reach over the medium term.
- There was no noticeable effect on channels' share.
- There was little evidence of an effect on channels' average audience.

² http://www.digitaluk.co.uk/industry/About_DTT/consultations

2.3.2 Changes to the LCN Policy rules

Key changes to the rules included:

- An amendment to the rule that uses vacated LCNs to bring channels from the same broadcaster family closer together (the 'associated channels rule').
- Allowing associated channels to swap their LCNs with each other, in defined circumstances and at certain times, in order to better meet viewer expectations.

We have analysed the effect of these changes.

Associated channels rule

Vacated LCNs are, in the first instance, offered to public service channels whose prominence could be improved by moving to that LCN. This is consistent with our regulatory duty to give appropriate prominence to such channels.

Next, they are used to bring channels from the same broadcaster family closer together. To do this, we first look at the channel next to the vacated LCN in a lower channel number³. If that channel has an associated channel in a higher LCN, then we offer the vacated LCN to that associated channel, thus bringing the two associated channels together. If not, then we look at the channel next to the vacated LCN in a higher channel number, and follow the same procedure. Next, we look at the channel two positions lower than the vacated LCN, then at the channel two positions higher than the vacated LCN, and so on.

Prior to the 2012 consultation, there was no limit to how far up and down the listing we would look – we would keep looking until we reached a channel that had an associated channel in a higher LCN.

Following the 2012 consultation, we imposed a limit on the rule such that we would only look at channels within five positions of the vacated LCN, because we felt there was little benefit to the viewer in bringing associated channels to within six or more LCNs of each other as they would be unlikely to appear on the same EPG grid as each other on most devices.

The revised rule has been used by a wide variety of broadcasters, including Al Jazeera, AMC, BT, Channel 4, Discovery, Fox, Global, Ideal World, ITV, QVC, Scripps, Sony and Viacom, in order to bring associated channels from their portfolios closer to each other in the listing. In total, it has been used over 30 times since the 2012 consultation. On 12 occasions it has enabled associated channels to be placed directly adjacent to each other.

Limiting the use of the associated channels rule to channels within five positions above or below the vacant LCN has meant that, on a number of occasions, vacant LCNs could not be filled using this mechanism. Under such circumstances, the slot remains vacant until a channel launches which is associated with *any other* channel in the genre; the vacated LCN is then allocated to this new channel. This has proven to be very effective at closing gaps in the listing, especially when considered against the 'shuffle-up' procedure, which is the LCN Policy's alternative mechanism for closing gaps. In a 'shuffle-up', channels in higher LCNs than the

³ When discussing channel numbers, we use the word 'lower' to mean numbers that are closer to 1 and 'higher' to mean numbers that are further away from 1.

vacated LCN are offered the opportunity to move to a lower LCN, and if they accept then this in turn creates another vacancy which other channels may shuffle into. This procedure can be complex to manage and disruptive to channel providers and viewers and listeners, and is not usually a proportionate measure to address a single vacant slot.

However, launching new associated channels into a vacated LCN does not necessarily help to unite channel families, since the new channel's LCN is often still some distance from the channel it is associated with. In one example, a channel was allocated an LCN under this rule and its nearest associated channel was 22 LCNs away.

LCN swapping

Following the 2012 consultation, we decided to allow applications to swap the LCNs of associated channels where the channels are in the same genre, none of the channels is a public service channel and the channel provider submits compelling evidence to demonstrate the new order would be more likely to reflect viewer or listener expectations. We were concerned that there could be a negative viewer impact if the swaps occurred too frequently, and we therefore decided that a channel provider should only be permitted to undertake a channel swap once per year.

In practice, the LCN swapping rule has been used quite sparingly since 2012, and has not resulted in significant viewer disruption. Sony, UKTV and Viacom have each made use of the rule, and have used it to migrate content to LCNs where they believe the intended audience for that content will be more likely to discover it.

Public service channels were not permitted to swap. This ensured that the appropriate prominence awarded to channels from their public service status was not conferred on non-public service channels – for example, Channel 4 cannot swap with More4. It also meant that public services could not swap with each other – for example, CBBC cannot swap with CBeebies.

2.4 Changes to the LCN Policy regarding HD channels

In 2013, we consulted on whether to maintain a separate HD technical genre, or to substitute SD channels with HD channels where technically possible (e.g. such that BBC One HD would appear automatically at LCN 1 for viewers with HD receivers). We decided to maintain a separate HD genre in the DTT channel listing for the time being.

Any future review of this position would be a matter for a separate consultation. We note that the main public service broadcasters continue to investigate the feasibility of deploying regionalised HD channels – the technical complexity of which was one of the main reasons for maintaining a separate HD genre.

In 2016 (following a consultation) we decided to reserve LCNs within content genres for HD channels that did not have an SD simulcast on the platform⁴. This ensures that, in the event a future decision is taken to implement HD substitution and the HD technical genre is closed,

⁴ http://www.digitaluk.co.uk/industry/About_DTT/statements

each HD-only channel could then be reallocated to its reserved LCN in the relevant content genre.

2.5 Changes to the size and position of the LCN range reserved for IP delivered services

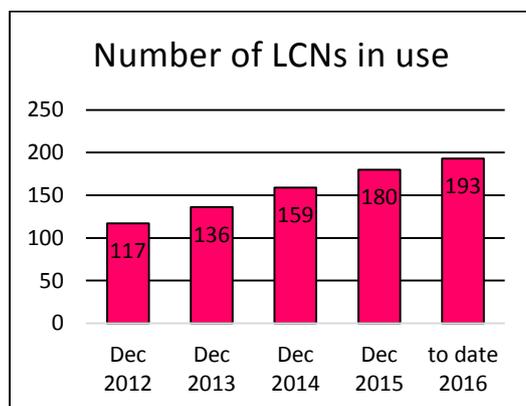
In July 2014, following a consultation, we moved the starting point of the LCN range reserved for IP delivered services from LCN 400 to LCN 300 and expanded the range by 100 LCNs⁵. Digital UK does not currently allocate LCNs for channels delivered solely by IP but reserves this range for use by third parties (e.g. YouView). In the future, if and when channels delivered solely by IP appear on the Freeview Play platform, Digital UK will allocate LCNs to them within this range.

2.6 Key changes in market conditions and viewer preferences since the last review

Since our 2012 review a number of changes have taken place which are relevant to the LCN Policy.

2.6.1 Demand for LCNs

The number of assigned LCNs has increased from 117 in December 2012 to 193 in September 2016.



In particular, demand for Children’s LCNs has outstripped capacity and we have created an overflow Children’s section at the end of the General Entertainment LCN range as a temporary measure. We are also observing particular growth of LCNs in use in the General Entertainment genre, which is now nearing capacity.

⁵ http://www.digitaluk.co.uk/industry/About_DTT/statements

Growing demand for LCNs has been supported by:

- A move to free-to-air distribution by some channel providers who have historically placed greater focus on pay TV. We expect this to continue over the next few years.
- Ongoing improvements in multiplex transmission and compression technology, making additional video streams available on the existing multiplexes. We expect this trend to continue.
- The continued use of day-parting – where channels on different LCNs share DTT capacity by broadcasting at different times of day (there are currently 19 day-parted services in the General Entertainment genre).
- The launch of new multiplexes. Since 2012, we have seen the launch of three new multiplexes: the T2 multiplexes Com 7 and Com 8, and the local TV multiplex. We are not aware of any plans for spectrum to be released to allow new multiplexes to launch in the next few years, and therefore do not expect this trend to continue. However, we do expect the existing multiplexes to continue to operate throughout the time horizon of this review⁶, and for any remaining capacity on these multiplexes to be fully used.

To estimate the likely demand for LCNs over the time horizon for this review, we have assessed the growth trends in each genre during the full years 2013, 2014 and 2015, and used this as a base assumption for future growth. Where the trend appears to have changed significantly during 2016, we have taken that into account. However, past trends are not a perfect guide and demand can suddenly increase significantly in a genre: this happened with the Children's genre, which saw no increase in demand for a period of six years (2006 to 2012) but in the four years since has more than tripled its number of allocated LCNs. We have therefore taken a prudent approach and forecast additional LCNs in each genre.

In particular, we note that the News genre did not see an increase in demand in 2013-2015, and two channels have left the platform during 2016 to date, such that five LCNs are currently allocated in that genre⁷. However, we prudently forecast that 20 LCNs may be required as we want to avoid a genre overflow should demand increase over the time horizon of this review. The Freesat platform currently carries 13 SD news channels, suggesting there may be a viable free-to-air strategy for news channels that are not currently broadcasting on DTT.

There has been a reduction in demand for LCNs for text and streamed services. In 2012, there were seven text services on DTT whereas there are now four. Streamed services⁸ (previously known as MHEG-ICS services) saw an increase in demand between 2013 and 2015 at an average rate of four additional LCNs per year, but during 2016 have seen a net reduction of nine LCNs in use.

⁶ https://www.ofcom.org.uk/consultations-and-statements/category-1/maximising-benefits-700mhz-clearance?utm_source=updates&utm_campaign=maximising-benefits-700mhz-clearance-statement&utm_medium=email

⁷ Including a reservation for Al Jazeera Eng HD, as per Digital UK's policy decision of 1 March 2016: http://www.digitaluk.co.uk/_data/assets/pdf_file/0005/88817/Digital_UK_HD-Only_LCN_Reservation_Statement_1March16.pdf

⁸ Streamed services are those where audio visual content is delivered over IP but access is enabled via an MHEG application which is broadcast over DTT.

Based on these assumptions, the new listing should provide the following number of LCNs to each genre, at a minimum, for the time horizon of this review:

- General Entertainment – 140 LCNs.
- HD – 30 LCNs.
- Children’s – 30 LCNs.
- News – 20 LCNs.
- Text – five LCNs.
- Streamed – 25 LCNs.
- Interactive – 10 LCNs.
- Adult – 20 LCNs.
- Radio – 40 LCNs.
- SD simulcast area⁹ – 30 LCNs.

2.6.2 The number of connected DTT receivers

Our LCN Policy makes available number ranges for two types of IP-delivered channel:

- Channels delivered entirely by IP – for which Digital UK does not currently allocate LCNs but we have reserved a range from LCN 300 to 599 for third-party platforms to use (for example, BT TV and TalkTalk TV use these LCNs for the IP-delivered channels on YouView). In the future, if and when channels delivered solely by IP appear on the Freeview Play platform, Digital UK will allocate LCNs to them within this range.
- Channels where audio visual content is delivered over IP but access is enabled via an MHEG application which is broadcast over DTT. Services of this type are usually allocated an LCN within the Streamed services genre (previously known as the MHEG-ICS genre), with the exception of adult and children’s services, which for consumer protection purposes are allocated an LCN within their relevant content genre.

The proportion of DTT receivers capable of receiving IP-delivered services has grown significantly since our last review, and continues to grow:

- The media analyst firm 3Reasons Ltd estimates that at the end of 2015 16% of DTT primary sets could receive IP multicast services from BT or TalkTalk, up from 6% at the end of 2011¹⁰.

⁹We may in the future, following a further consultation, decide that HD channels should appear to those viewers who can receive them in the LCN currently allocated to their SD equivalent, with the SD version moving to an area in a much higher LCN (see section 2.4). To be clear, we are not consulting on that issue at the present time, but since this consultation will decide the broader channel line-up for the medium term, we think it prudent to preserve a space now for an SD simulcast area, in order to keep the option viable.

¹⁰ Source: 3 Reasons Ltd multichannel model Spring 2016.

- 3Reasons also estimates that at the end of 2015 50% of DTT primary sets were compatible with DVB-T2 over-the-air transmissions (via either a DVB-T2 TV set, or a connected DVB-T2 set top box, or both), up from 15% at end 2011¹¹. The majority of these receivers are technically capable to receive MHEG-ICS services, although only a subset are likely to be effectively connected, either because viewers have no broadband in the home, have insufficient broadband speed or performance, or do not know how to, or choose not to, connect these receivers to a broadband connection.
- There is no industry-standard method of assessing how many receivers are connected to broadband, but our working estimate (based on 3Reasons' estimates of the number of connected set-top boxes plus the number of connected smart TVs) is that at the end of 2015 just under one third of DTT primary receivers were capable of receiving IP services, via multicast and/or via MHEG-ICS.

We expect that, during our review horizon period, a sizeable number of DTT receivers will remain incapable of receiving channels delivered by IP, but this will change over time and IP distribution will become an increasingly important feature of the platform in the future.

In 2015, Freeview Play launched, which is a service built into internet-enabled DTT TVs and set-top boxes. Freeview Play seamlessly combines linear TV and catch-up players. It uses the interactive TV standard HbbTV and also supports the MHEG technology that has traditionally been used on DTT. The expected growth of Freeview Play in the coming years will be an important factor in driving viewers to connect their receivers to a broadband connection.

2.6.3 Automatic retuning

Another significant change in the DTT receiver base is the growth of equipment capable of automatically retuning when channels move to different LCNs, thus ensuring minimal disruption for viewers and listeners. All new DTT receivers launched by manufacturers since 2014 can automatically retune within 24 hours of a change to the channel listing. Some do so with no action at all required from viewers, and others inform viewers that there has been a change and ask if they would like their equipment to commence an automatic retune.

According to our testing and sales data, around 34% of all DTT primary sets currently installed in people's homes respond almost immediately to changes in the channel listing in one of these ways.

2.6.4 Changes in viewer preferences

We commissioned an independent research agency, Ipsos Connect, to conduct a piece of quantitative research ('the Ipsos research') to inform this consultation exercise with up-to-date evidence on viewer preferences in relation to the DTT listing. Appendix 2 presents the agency's assessment of its key findings.

¹¹ Source: 3 Reasons Ltd multichannel model Spring 2016.

Where relevant, we have also compared these findings with the consumer evidence we collected in 2012¹² and 2013¹³.

In particular, we note the Ipsos research suggests:

Viewers continue to rely on a variety of navigation methods to watch channels on DTT The most common way of selecting what to watch was flicking through the channels, with 84% of DTT viewers reporting that they ever do this. This was closely followed by scrolling through the guide (83%), typing in the channel number (79%) and scrolling through the mini-guide (69%). Only 38% of DTT viewers said they ever used the ‘favourites’.

We note that the Ipsos results may indicate a higher prevalence of use of the channel guide compared to 2012. The 2016 Ipsos research shows that 40% of those with Freeview use the EPG to find content ‘regularly’ compared to 33% in Kantar Media’s 2012 research¹⁴. This may indicate how, as the number of channels on the platform has grown, viewers rely more on the EPG to see what is available.

Viewers value the grouping of channels into genres, and to a lesser extent, channel families 50% of DTT viewers consider it important to group channels into genres.
In addition, a significant proportion of DTT viewers value channels in the same family being next to (35%) or near each other (29%), although the majority do not consider such groupings important.

Familiarity of the channel listing is important 71% of DTT viewers consider it important that the channel listing is ‘in an order everyone is familiar with’.

DTT viewers have a strong preference for the Children’s genre to be distant from the Adult genre This is apparent from both unprompted and prompted responses. When asked to rank genres in the order that they would like them to appear in the EPG, considering what would be best for everyone in society, a clear majority (59% of respondents) selected adult channels in last place out of all the genres in the order. Further, when respondents were subsequently asked to consider the importance of specific factors when considering the channel line-up, 89% thought that it was important that ‘Adult channels should be kept apart from children’s channels’.

¹² http://www.digitaluk.co.uk/_data/assets/pdf_file/0019/77302/2012lcnresearchreport.pdf

¹³ http://www.digitaluk.co.uk/_data/assets/pdf_file/0008/86552/Digital_UK_HD_Consultation_FINAL_8May2013.pdf

¹⁴ It should be noted that the 2012 Kantar Media research did not include the option to ‘scroll through the mini-guide’, therefore results are not directly comparable.

3 Proposals to reorder the LCN listing

3.1 Introduction

This section of the consultation outlines two options for reordering the DTT channel listing. It sets out the issues we are attempting to address, the assumptions upon which we are working, and considerations around the impact of changes.

During 2016, the Children's genre has seen demand for LCNs outstrip the availability of vacant LCNs, meaning we had to create an 'overflow' section for this genre.

The General Entertainment section is also close to its current capacity.

Overflow sections are temporary solutions which result in channels being allocated an LCN in a different part of the listing from other channels in the same genre. Viewers value channels of the same genre being listed together (see section 2.6.4 above), and may find it harder to discover content that is listed in an overflow section.

One of our LCN Policy objectives is to make it easy for viewers and listeners to discover content through simple navigation¹⁵. Therefore, at a minimum, the new LCN listing resulting from this consultation must address the Children's overflow section and create enough capacity in all genres to meet the foreseeable demand for LCNs for the time horizon of this review.

Digital UK would also like to take this opportunity to consider the relative positions of the Children's and Adult genres, and assess whether it may be better for consumers' protection to increase the distance between these two genres.

While both options presented do require some channels to move to a new position in the listing, it is important to note that the relative position of channels within a genre will not change, and viewers will not lose access to any services as a result of these changes. Many TV receivers will detect the changes and adjust accordingly (see section 2.6.3 above). Other equipment will require viewers to retune their equipment to update their TV guide, but viewers who do not retune will not lose services: they will continue to see them at their old LCN position.

3.2 LCN capacity and genre assumptions

The use of genres on the DTT platform is a method of grouping like channels together, to aid viewer navigation. Our recent consumer research confirms that this remains a valuable tool for viewers and listeners – see section 2.6.4 above.

Each genre needs to be large enough for our assumed level of additional demand for LCNs over the next few years.

¹⁵ See section 2.1.

The Children's genre is currently full, and Digital UK has created a temporary overflow section for this genre, resulting in the following genre structure:

Genre	First LCN	Last LCN
General Entertainment	1	94
Temporary Children's overflow	95	99
Freeview Information	100	100
HD	101	119
Children's	120	129
News	130	149
Adult	170	199
Text	200	224
Streamed services (MHEG-ICS)	225	299
IP delivered services	300	599
Interactive services	600	620
Currently unused	621	699
Radio	700	750
Testing area	751	799
Reserved for manufacturer use	800	999

Where possible, we propose to retain the relative order of genres in the channel listing. The Ipsos research showed that viewers attribute a high amount of importance to familiarity in order of channels (see Appendix 2). However, the Ipsos research also indicated that viewers would like us to strengthen our consumer protection measures by increasing the distance between the Children's and Adult genres (see section 3.3 below). The need to balance familiarity against strengthened consumer protection is reflected in the difference between the two LCN listing options presented in section 3.4 below.

The Ipsos research showed that many viewers would ideally put the News genre in second place in the listing, after General Entertainment. We do not propose to reorder the genres in this way: it conflicts with viewers' preference for a familiar order, and would cause significant disruption to viewers and channel providers, whereas one of our guiding principles is to minimise disruption¹⁶. It would also reduce the number of channels between the Children's and Adult genres, which would reduce the level of our consumer protection on the platform, contravening our LCN Policy objective to protect consumers from potential harm¹⁷.

We do not propose to move the HD genre. This means that any option to extend the General Entertainment genre will involve splitting the General Entertainment genre around the HD genre. We consider this would be an acceptable outcome for several reasons. Viewers without HD equipment do not see the HD channels and will therefore experience a continuous list of SD General Entertainment channels. Viewers with HD equipment will see a channel listing with SD General Entertainment channels first, followed by HD channels, followed by more SD

¹⁶ See section 2.1.

¹⁷ See section 2.1.

General Entertainment channels. We note that the majority of channels in the HD genre consist of General Entertainment content.

3.3 Consumer protection issues

One of our LCN Policy objectives is to protect consumers from potential harm¹⁸.

The Ipsos research demonstrated that viewers think it is very important for adult channels to be kept apart from children's channels, and have a strong desire for the Adult genre to be positioned towards the end of the channel listing – see section 2.6.4 above.

Currently, the Children's genre is separated from the Adult genre by the News genre.

In 2012, when the current channel listing was decided upon, we considered that having the News genre in between Children's and Adult, coupled with the use of 'bookends' to mark the beginning and end of the Adult genre, provided viewers, particularly younger viewers, with sufficient warning to prevent them from being inadvertently exposed to unsuitable material¹⁹.

However, since 2012, the number of channels in the News genre has decreased from seven to four. This means that currently, children's services are just five LCNs away from the Adult genre bookend, and that the last children's service in the listing is just six LCNs away from the first adult service. Around 85% of EPG grids display six or more channels simultaneously²⁰, meaning schedule information for children's services and adult services can appear on the same EPG screen for most viewers.

Meanwhile, the broadcast hours of children's services have increased significantly. There are now a number of children's channels on the DTT platform whose broadcast hours overlap with those of adult channels on the platform. Adult services do not begin broadcasting until after 10pm, which is after the 'watershed' (the time when, according to Ofcom's Broadcasting Code, TV programmes which might be unsuitable for children can be broadcast, i.e. post-9pm). Nonetheless, we need to consider whether the risks associated with overlapping broadcast hours of children's and adult services, coupled with the decreasing number of news services separating the genres, should be minimised by increasing the distance between the Children's and Adult genres.

We are also mindful that some platforms which use the Digital UK channel listing, such as YouView, carry IP-delivered children's services in the 300-599 LCN range, which is currently higher in the listing than the Adult genre meaning that viewers might scroll past adult services in order to find IP-delivered children's services. In the future, if and when channels delivered solely by IP appear on the Freeview Play platform, Digital UK will allocate LCNs to them within the 300-599 range.

¹⁸ See section 2.1.

¹⁹ http://www.digitaluk.co.uk/industry/About_DTT/statements

²⁰ Figures from February 2015, according to the results of testing commissioned by Digital UK.

3.4 Proposed changes to the LCN listing

The current channel listing will not provide sufficient capacity to meet demand for LCNs. The Children’s genre has already overflowed and the General Entertainment genre is nearing capacity. The status quo is therefore unsustainable and a new listing is essential, in keeping with our LCN Policy objectives (see section 2.1 above).

This section sets out:

- A DTT channel listing that seeks to address capacity requirements and strengthen consumer protection measures – Option A.
- A DTT channel listing that seeks to address capacity requirements and maintains the relative genre order of the current listing – Option B.
- A comparison of Options A and B and the current LCN listing.

Option A

Genre	First LCN	Last LCN
General Entertainment	1	99
Freeview Information	100	100
HD	101	139
General Entertainment	140	199
Children’s	200	229
News	230	249
Text	250	259
Streamed services (MHEG-ICS)	260	299
IP delivered services	300	599
Interactive services	600	609
SD simulcast area ²¹	610	669
Adult	670	699
Radio	700	750
Testing area	751	799
Reserved for manufacturer use	800	999

Option A delivers enough LCNs in each genre for the time horizon of this review, based on our assessment of likely demand.

It also addresses our consumer protection concerns by increasing the distance between the Children’s and Adult genres and placing the Adult genre behind any IP-delivered children’s services.

²¹ See footnote 9.

Under Option A:

- No channels in the General Entertainment, HD, Radio or Interactive genres would be required to move. The Freeview Information channel would not move and there would be no change to the area reserved for IP-delivered services.
- Five genres would be required to move: Children’s, News, Text, Streamed services and Adult. The Adult genre would be required to move away from other DTT-delivered video channels.

Option B

Table 3: Option B		
Genre	First LCN	Last LCN
General Entertainment	1	99
Freeview Information	100	100
HD	101	139
General Entertainment	140	199
Children’s	200	229
News	230	249
Adult	250	269
Text	270	274
Streamed services (MHEG-ICS)	275	299
IP delivered services	300	599
Interactive services	600	620
SD simulcast area ²²	621	699
Radio	700	750
Testing area	751	799
Reserved for manufacturer use	800	999

Option B also delivers enough LCNs in each genre for the time horizon of this review, based on our assessment of likely demand.

It preserves the current relative order of genres in the channel listing, but does not strengthen consumer protection since the distance between the Children’s and Adult genres is not increased, and the Adult genre remains lower than the IP-delivered children’s services. It does, however, retain a genre between Children’s and Adult, as per the current listing.

Under Option B:

- No channels in the General Entertainment, HD, Radio or Interactive genres would be required to move. The Freeview Information channel would not move and there would be no change to the area reserved for IP-delivered services.
- Five genres would be required to move: Children’s, News, Text, Streamed services and Adult. However, they would retain their relative order in the listing.

²² See footnote 9.

Comparison of Options A and B

Table 4 – comparison of Options A and B				
Genre	Assumed number of LCNs required for the review period	Number of LCNs provided by the current listing	Number of LCNs provided by Option A	Number of LCNs provided by Option B
General Entertainment	140	94	159	159
HD	30	19	39	39
FV info page	1	1	1	1
Children’s	30	14 (incl. overflow)	30	30
News	20	20	20	20
Text	5	25	10	5
Streamed services (MHEG-ICS)	25	73	40	25
IP	300	300	300	300
Interactive	10	21	10	20
Adult	20	30	30	20
Radio	40	51	51	50
SD simulcast area	30	77 available	40	79

Options A and B each satisfy the level of anticipated demand in every genre over the time horizon of this review.

On balance, we consider that Option A better meets our policy objectives and guiding principles (see section 2.1 above), because of the additional consumer protection it provides. However, we recognise that Option A requires adult channels to move further away from their current position, and indeed away from other DTT-delivered video channels. We will carefully consider respondents’ views, and any evidence presented to us, before deciding between the options.

‘Shuffle-up’ required under both options

In developing proposals, we are seeking to allocate LCNs efficiently, in accordance with our LCN Policy objectives²³.

Some genres currently have a number of gaps in their listing: News, Adult, Text, and Streamed services. If the genres are moved to new LCN ranges as per our proposals, it will be necessary to simultaneously ‘shuffle-up’ the channels in these genres to fill gaps and ensure that LCNs are being used efficiently. The relative order of channels within the genre will be maintained.

Reservation of LCNs at the beginning of the Children’s and News genres

We propose to reserve the first LCN at the beginning of the Children’s genre (LCN 200 in options A and B) and the News genre (LCN 230 in Options A and B) for future use to aid viewer navigation and content discovery. The first children’s channel in the listing (CBBC) would appear at LCN 201, and the first news channel (BBC News) would appear at LCN 231; other channels in each genre would follow in the same relative order as in the current listing.

Consultation questions:

1. Do you believe that Option A would be a suitable new LCN listing structure for the DTT platform?
2. Do you believe that Option B would be a suitable new LCN listing structure for the DTT platform?
3. Do you have a preference for one option over the other?
4. Do you have any other comments on Digital UK’s proposed changes to the LCN listing?

Wherever possible, please provide evidence-based reasons for your response.

3.5 Implementing the changes

Following the consultation period, we expect to issue a statement in March 2017. In accordance with the LCN Policy, we must allow time for appeals and a minimum eight-week period from the date of the consultation statement before any changes are implemented. As such, we propose that changes are co-timed to take place on one day in summer 2017.

The date will be agreed closer to the time and will be subject to any platform change lockdowns, during which no LCN changes can be made.

One of our LCN Policy objectives is to give channel providers the opportunity to reach viewers and listeners, and one of our guiding principles is to minimise disruption²⁴. We recognise that when channels change their LCN allocation, some viewers may need help to find services at their new location and that channel providers need time to prepare for such events.

²³ See section 2.1.

²⁴ See section 2.1.

While many TV receivers will detect channel changes and adjust accordingly (see section 2.6.3 above), some equipment will continue to show the channel at its old LCN and will require the viewer to carry out a retune to keep their TV guide up to date. Consumer research carried out on behalf of Digital UK before and after digital switchover found that the vast majority of those who have retuned their equipment found it easy. It is important to note that viewers will not lose access to services if they do not retune but will continue to see them at their old LCN.

Digital UK, working with Freeview, will co-ordinate the technical changes and provide support through a national retune campaign. We will follow a similar model used successfully to support the Children's and News genre moves in 2014. Activity will include on-screen retune messages deployed by public service broadcasters, provision of information on the Freeview website, online advertising, social media activity, PR, and troubleshooting advice via a team of agents at the Freeview Advice Line.

We will work closely with the channel providers affected on how they can also inform their viewers, and we will ensure that all channel-led activity is co-ordinated with the wider campaign.

Consultation question:

5. Do you agree with Digital UK's proposed approach to the timing of any changes?

4 Proposals to revise the LCN Policy

4.1 Introduction

This section of the consultation document outlines proposed revisions to the LCN Policy that governs the way in which LCNs are allocated to channels.

Section 2.1 of this document sets out the objectives and guiding principles for the LCN Policy, which is the basis under which we have developed the proposals.

Where possible, we are looking to simplify the LCN Policy, and give more flexibility to channel providers, in keeping with our guiding principles. We believe channel providers are best placed to manage their portfolios to the benefit of viewers and listeners.

However, we need to retain control over LCN allocations in order to meet our regulatory obligations and to ensure that the application of the LCN Policy continues to meet our objectives and principles.

We consider that our proposals would deliver benefits to existing channel providers, prospective new channel providers, and channel providers with larger or smaller portfolios. They would create new opportunities for channel providers to improve their LCN position, to migrate their content so that target viewers and listeners are more likely to discover it, and to change the services on their LCNs – all of which should achieve positive outcomes for viewers and listeners.

In summary, the key proposals are as follows.

Giving channel providers more flexibility

- Clarifying, simplifying and extending the rules that permit channel providers to reorder the LCNs of channels in their portfolios, in a number of ways:
 - A channel provider would be able to reorder channels that are under common control and within the same genre, regardless of whether they are ‘associated channels’ or not²⁵.
 - Channel providers would be allowed to reorder their channel portfolio twice per year (rather than once, as per the current Policy).
 - The emphasis of the current rule would be shifted, putting less onus on channel providers to demonstrate that a reordering of their channels would result in an order more likely to reflect viewer or listener expectations.
 - We would clarify that a channel may reorder its LCN after it has been allocated an LCN but before it has launched, and that a channel may reorder its LCN and immediately leave the platform if it so chose.
 - We would remove the guideline stating that swaps should be aggregated in the third quarter of a calendar year.

²⁵ Where channels have exactly 50% shareholding in common then they will be required to demonstrate that there is common branding between them in order to qualify as being under ‘common control’ – see section 4.3.1.

- Giving channel providers the flexibility to change the channel on an LCN with a different channel under their control: perhaps a new channel, or a channel that already exists but is not currently carried on the DTT platform.

Providing opportunities for single channel providers and new entrants to improve their LCN position

- Considering options to replace the current mechanism for allocating a vacated LCN that cannot be used to improve the prominence of a public service channel or to bring associated channels together. The options presented in this consultation are intended as high-level overviews to test stakeholder views: a ‘beauty contest’ whereby the LCN is allocated to the channel that best meets specific criteria; and a transactional approach such as an auction, where the LCN is allocated to the highest bidder. If, as a result of this consultation, Digital UK decides to make changes to the process, then we will issue a further consultation in summer 2017 on a proposed new mechanism and how it would work in practice.

Ensuring efficient management of LCNs

- Introducing a ‘minimum broadcast hours’ requirement of 14 hours of audio-visual content per week in DTT video genres.
- Amending the timescales outlined in our channel launch process, to ensure fairness for channel providers and to avoid poor outcomes for viewers and listeners.
- Introducing rules about channels which are available only in some parts of the UK sharing an LCN with other channels which are only available in different parts of the UK.
- Strengthening the ‘shuffle-up’ procedure to ensure Digital UK can close gaps in the LCN listing whenever we consider it necessary for effective and efficient management of the channel listing (but not so frequently that it would be to the detriment of viewers and listeners).

Simplifying and clarifying the LCN Policy

- Defining ‘common control’ for the purpose of the LCN Policy.
- Ensuring that all content carried on an LCN, whether it is delivered via DTT or IP, is suitable for the content genre of that LCN.
- Clarifying our appeals process.
- Revising the wording and the structure of the LCN Policy as a whole, to make it clearer and easier to read.

4.2 Proposed amendments to rules concerning the allocation of LCNs

4.2.1 Minimum broadcast hours

The current Policy does not specify a minimum number of hours of content that a channel must carry in order to be eligible for an LCN. This could, in theory, mean that a channel could use an LCN for just one hour per week. This would not meet our objective to allocate and manage LCNs efficiently²⁶, and would not be in the best interests of the DTT platform and viewers.

Other UK television platforms specify a minimum number of hours per week that a channel must broadcast, and Digital UK proposes to introduce such a rule to the DTT platform.

We do not wish to set the minimum broadcast hours at too high a level, since that could discourage new or niche channels, which viewers would enjoy, from launching on to the platform. We propose that a minimum of two hours per day or 14 hours per week would be appropriate. This approach is similar to that of the Sky platform, which requires channels to broadcast a minimum of 12 hours per week (with the exception of channels in the Shopping and 3D genres, which are not genres in the DTT listing). We consider that a useful benchmark. We note that the vast majority of channels currently broadcasting on the platform already meet our proposed requirement.

This rule will not apply to channels in the Streamed services genre, the Text genre or the Radio genre, where by definition it is not appropriate to require channels to broadcast 14 hours per week of audio-visual content via DTT.

It will also not apply to channels in the Adult genre, because those channels broadcast limited hours per day due to regulatory constraints.

The rule will apply to channels in the Children's genre, but streamed children's channels²⁷ will continue to be allocated LCNs in the Children's genre for consumer protection reasons (see section 4.4.1 below).

In keeping with our current rule which allows channel providers to cease making a channel available for up to 12 weeks in a year without losing its LCN, we would permit channels to fall beneath the minimum broadcast hours for up to 12 weeks, accrued in a rolling 12-month period.

The rule would apply immediately to any new channels launching in relevant genres, or to any existing channels in relevant genres seeking to reduce their broadcast hours to below 14 hours per week.

However, there are a limited number of channels currently broadcasting fewer hours per week than would be permitted under the new rules: three channels in the General Entertainment genre each broadcast for one hour per day. We propose that these channels should be granted two years, or until the end of their current DTT multiplex capacity agreement

²⁶ See section 2.1.

²⁷ Where audio visual content is delivered over IP but access is enabled via an MHEG application which is broadcast over DTT.

(whichever is the later) to comply with the rule. However, if the number of channels broadcasting less than 14 hours per week in relevant genres increases significantly before the publication of our consultation statement, we reserve the right to reconsider this grace period.

Proposals:

- In order to be allocated or retain an LCN, channels must broadcast a minimum of two hours per day or 14 hours per week of audio-visual content via DTT. A static slate does not count as visual content for the purpose of this rule. However:
 - this rule does not apply to channels in the Adult genre, the Streamed services genre, the Text genre or the Radio genre; and
 - channels which were broadcasting on the DTT platform for less than 14 hours per week prior to [the date on which this rule change comes into effect] must comply with this rule by [date two years after this rule comes into effect] or (if later) upon the expiry of their current carriage agreement with a multiplex operator.
- A channel may reduce its broadcast hours to beneath this threshold for up to 12 weeks, accrued in any 12-month rolling period. The channel provider should (where circumstances permit) notify Digital UK in advance in writing before reducing its broadcast hours. If a channel falls below the minimum broadcast hours for more than 12 weeks accrued in any 12-month rolling period then, upon notice from Digital UK to the channel provider, its LCN will be withdrawn.

Consultation question:

6. Do you agree with Digital UK's proposals regarding minimum broadcast hours?

4.2.2 Launch process

Under current LCN Policy rules, the earliest a channel provider may apply for an LCN is 12 weeks before its intended launch date. Then, from the intended launch date, the channel provider has 12 weeks to launch the service. In effect, under the current rules, a channel could 'hold' an LCN for 24 weeks (almost six months) without using it.

We consider that this could lead to a poor viewer experience, and might not be fair to other channel providers which apply for an LCN later but launch sooner than the channel provider 'holding' the LCN. It would not meet our objective to allocate and manage LCNs efficiently²⁸.

Under current LCN Policy rules, the latest a channel provider can apply for an LCN is six weeks before its intended launch date. Our processes have improved since those rules were written and in practice, we could allow channels to apply later.

²⁸ See section 2.1.

Proposals:

- The earliest a channel provider can apply for an LCN should be eight weeks before its intended channel launch date. (Channel providers will still be welcome to discuss their application with Digital UK at any time in advance of this.)
- We cannot begin the process of allocating an LCN application until the channel provider has provided us with a completed application form, a copy of its broadcast licence, and details of its arrangements to provide schedule data information, and has arranged for its multiplex operator to confirm that it has DTT capacity. Once this paperwork is received, it will usually take two weeks for us to allocate an LCN to the channel.
- A channel provider should apply for an LCN not later than four weeks before its intended channel launch date. Applications received after the four weeks would not be rejected, but would risk not meeting their intended launch date.
- Digital UK will only process an application when the eligibility criteria have been met as set out in the LCN Policy.
- We would allow a channel eight weeks to launch following its proposed launch date. If the channel does not launch within this period, the LCN allocated will be forfeited by the channel provider.

See Appendix 1, Schedule 1 for a workflow describing the proposed application process.

Consultation question:

7. Do you agree with Digital UK's proposed new launch process and timings?

4.2.3 Sharing an LCN

Currently, channels which are available only in some parts of the UK share an LCN with other channels which are only available in different parts of the UK, with overlap between any of the channels' coverage at a minimum.

Such 'geographic sharing' occurs on LCN 7 (BBC Alba, Channel 4 Wales, some local public service channels in England and Northern Ireland) and LCN 8 (other local public service channels in Scotland, Wales and England), and in Radio (where some regional BBC services share LCNs with each other).

In the interests of meeting our LCN Policy objective of allocating and managing LCNs efficiently²⁹, we propose to introduce rules about sharing, including when it should be permitted and/or mandatory.

We consider that non-public service channels should not be permitted to share with public service channels. When a vacancy arises in the LCN listing, public service channels on a higher LCN are eligible to move down the listing into the vacant LCN. If they shared their current LCN with a non-public service channel, that non-public service channel could benefit

²⁹ See section 2.1.

from the public service channels' improved prominence, which would be unfair to other services.

We need rules in place to decide which public service channel should retain the LCN in the event that channels are no longer able to share as one channel's coverage expands such that the channels' coverage overlaps beyond a minimum. We propose that the fairest rule is that the expanding channel should leave the LCN and be allocated a new LCN.

If a channel qualified to move to a lower LCN under the associated channels rule (see section 4.3.2 below), and it shared an LCN with a channel that would not qualify to move into that LCN, the non-qualifying channel should not be able to take advantage of the associated channel rule by moving alongside the channel it shared with. We therefore further propose that non-public service channels should only be permitted to share LCNs with other channels that they are associated with³⁰.

Where channels meet the criteria to be allowed to share an LCN, we propose that Digital UK should have the right to insist that they do so, in the interests of LCN efficiency and viewer benefit.

Proposals:

- Where channels broadcast to distinct areas of the UK, and their coverage does not overlap (except in the case of some local public service channels, see below), those channels may share an LCN if:
 - all of the channels under consideration are public service channels, or
 - all of the channels under consideration are associated with one another.
- Digital UK may, in the interests of LCN efficiency and viewer benefit, require that channels which meet these criteria share an LCN.
- Where channels share an LCN and one channel expands its coverage such that it overlaps with the coverage of one or more other channels on the LCN (except in the case of some local public service channels, see below), the expanding channel must apply for a new LCN.
- In the case of some local public service channels, while the channels may be licensed to serve distinct geographic areas, in practice there may be some overlap in their actual coverage. In such cases, Digital UK may decide that the channels should share an LCN.

Consultation question:

8. Do you agree with Digital UK's proposed approach to LCN sharing?

³⁰ 'Associated channels' are defined in section 4.3.1.

4.3 Proposed changes to rules that govern channel moves and changes

4.3.1 Key definitions

Digital UK considers that it is still in the best interest of viewers and listeners to group together channels from the same ‘family’ of channels: we refer to such channels as ‘associated channels’. Our consumer research demonstrates that a significant proportion of viewers consider it important for channels in the same family to be next to, or near to, each other in the listing – see section 2.6.4 above. In keeping with our LCN Policy objectives, this makes it easier for viewers and listeners to discover content through simple navigation³¹.

The current Policy defines ‘associated channels’ as channels that are classified in the same genre as each other; are under common control; and have common branding and/or a significant degree of existing or intended cross-promotion. The LCN Policy also states that public service channels (as listed under s.310 of the Communications Act and subsequently added by the Secretary of State) are not considered to be associated channels³². Digital UK considers that this definition continues to be appropriate.

In this package of proposed Policy reforms, ‘associated channel’ status continues to confer certain benefits: it is one method of moving into a vacated LCN in a lower slot (see section 4.3.2 below) and one of the criteria for being permitted to share an LCN (see section 4.2.3 above).

In the proposed new rules, channels would no longer need to demonstrate associated channel status in order to swap their LCNs, but they would need to demonstrate that they are under common control (see section 4.3.3 below).

The current Policy does not define what is meant by ‘common control’. We propose to base our definition of common control on the definitions of ‘subsidiary’ and ‘holding company’ in section 1159 of the Companies Act 2006³³, which provides:

“A company is a ‘subsidiary’ of another company, its ‘holding company’, if that other company—

(a) holds a majority of the voting rights in it, or

(b) is a member of it and has the right to appoint or remove a majority of its board of directors, or

(c) is a member of it and controls alone, pursuant to an agreement with other members, a majority of the voting rights in it,

or if it is a subsidiary of a company that is itself a subsidiary of that other company.”

³¹ See section 2.1.

³² We do not propose to change the definition to include public service channels. In our proposed new set of rules, associated channel status would convey two benefits: the right to move into a vacated LCN (see section 4.3.2), and the right to share an LCN (see section 4.2.3). Public service channels would qualify for both by nature of their public service status.

³³ <http://www.legislation.gov.uk/ukpga/2006/46/section/1159>

Where a channel provider (Company A) holds directly or indirectly 50% of the voting rights in a channel (Channel B), and does not otherwise fall within the definition of a holding company in relation to Channel B, it might or might not be appropriate for Company A's majority-owned subsidiary channels to be considered under common control with Channel B. We propose that a further test should be applied in such cases: if there is common branding between Channel B and Company A's majority-owned subsidiary channels, then they are under common control; if there is no common branding then they are not under common control.

In considering whether two channels have common branding, we will consider the following non-exhaustive factors: the names of the channels, and the look and feel of their logos and idents.

Proposals:

- Channels will be considered to be under common control where they are owned or controlled by companies in the same corporate group. The corporate group consists of a holding company and all its subsidiaries, the terms 'holding company' and 'subsidiary' having the meanings given in section 1159 of the Companies Act 2006.
- In addition, where a holding company directly or indirectly holds 50% of the voting rights in a channel which does not otherwise fall within the definition of 'subsidiary' in section 1159 of the Companies Act 2006, that channel will be treated as under common control with any of the holding company's subsidiaries with which the channel in question has common branding.
- In considering whether two channels have common branding, we will consider the following non-exhaustive factors: the names of the channels, and the look and feel of their logos and idents.

Consultation question:

9. Do you agree with Digital UK's definition of 'common control'?

4.3.2 Vacated LCNs

Under the current Policy, vacated LCNs are allocated using a three-stage process: the stages are described in detail below.

The process helps us to meet several of our LCN Policy objectives³⁴: it helps ensure the ongoing prominence of public service channels, in line with our regulatory obligations; it makes it easy for viewers and listeners to navigate the channel listing, because it unites channel families; and it helps us to allocate and manage LCNs efficiently, by providing an effective mechanism to fill gaps.

However, it does not offer opportunities for new channels, or channels that do not belong to a larger portfolio (other than public service channels) to launch at, or move to lower LCNs.

³⁴ See section 2.1.

By retaining the current first stage, amending the current second stage and replacing the current third stage, there may be an opportunity to preserve the benefits and address the limitations of the current process, and we would welcome stakeholders' views.

If, as a result of this consultation, Digital UK decides to make changes to this process, then we will issue a further consultation in summer 2017, focusing on a proposed new mechanism and how it would work in practice.

Stage 1

Stage 1 is the 'public service rule'. The vacated LCN is offered to public service channels at higher LCNs within the genre.

This meets our objective of "ensuring the ongoing prominence of broadcast public service channels", which derives from our Ofcom licence obligations and ultimately from the Communications Act 2003. Although Ofcom is not prescriptive about how the 'appropriate prominence' requirements should be met, one example given by Ofcom is "giving public service channels first refusal on vacant listings"³⁵.

We therefore propose to retain this rule, with one clarification. The current rule does not explicitly state that, where there is more than one public service channel at a higher LCN than the vacated LCN, Digital UK will offer the vacated LCN first to the public service channel that is nearest to the vacant LCN, and then to the next nearest, and so on until it has been offered to all public service channels at higher LCNs within the genre. However, it is clear from elsewhere in the current LCN Policy³⁶ that "Digital UK will offer the lower vacated LCN to the public service channel at the next lowest LCN". We propose to clarify this in the wording of the rule itself.

Proposal:

- State that vacated LCNs will be offered "to a public service channel at a higher LCN within the genre, starting with the public service channel that is nearest to the vacant LCN, and then to the next nearest and so on until it has been offered to all public service channels at higher LCNs within the genre".

Consultation question:

10. Do you agree with Digital UK's proposal regarding the 'public service rule'?

Stage 2

Stage 2 is the 'associated channels rule'. When a vacated LCN cannot be allocated using Stage 1, we attempt to bring existing associated channels closer together.

First, we look at the channel next to the vacated LCN in a lower channel number. If that channel has an associated channel in a higher LCN, then we offer the vacated LCN to that associated channel, thus bringing the two associated channels together. If not, then we look

³⁵ https://www.ofcom.org.uk/_data/assets/pdf_file/0031/19399/epgcode.pdf

³⁶ Section 5.5 of Version 5.5 of the LCN Policy.

at the channel next to the vacated LCN in a higher channel number, and follow the same procedure. Next, we look at the channel two positions lower than the vacated LCN, then at the channel two positions higher than the vacated LCN. We continue this process until we have looked at channels in five positions either side of the vacated LCN.

This rule helps to unite channel families, placing associated channels near to each other. This makes the channel listing easier for viewers and listeners to navigate in two ways: channels are listed in an intuitive order; and channels which cross-promote each other's programmes are near to each other, allowing viewers and listeners to easily move from one to the other.

In their responses to our 2012 consultation, some respondents suggested that any rules based on associated channel status would disproportionately benefit Digital UK shareholders³⁷ over other channel providers³⁸. In fact, in practice since 2012, other channel providers have benefited greatly from the rules – including some without particularly large portfolios (see section 2.3.2 above).

The benefit to viewer and listener navigation is greatest when the rule brings associated channels into adjacent positions. There is still a clear benefit in bringing associated channels to within five LCNs of each other, because the channels are likely to appear on the same page of an EPG grid: around 85% of EPG grids display six or more channels simultaneously³⁹.

Nonetheless, if we were to reform Stage 3 to a mechanism that delivered even more benefits to viewers and listeners (see below) then we could consider reducing the limit from five LCNs. This would increase the number of incidents of Stage 3 being invoked.

We note that Freesat, another UK television platform which aims where possible to group associated channels more closely together, operates a similar rule and limits its application to two positions either side of the vacated LCN.

Proposal:

- Retain the associated channels rule, but assess it alongside any reform to Stage 3, and consider limiting its application to channels in two positions either side of the vacated LCN, rather than the current five.

Consultation question:

11. Do you agree with Digital UK's proposal regarding the 'associated channels rule'?

Stage 3

Stage 3 is the 'launch into a vacancy rule'. Where a slot cannot be filled using the first two stages, it remains vacant until a channel launches which is associated with *any other* channel in the genre; the vacated LCN is then allocated to this new channel.

The 'launch into a vacancy rule' has proven to be an effective method for filling vacant slots, and thereby ensuring the efficient use of LCNs. However, it has often placed a new channel

³⁷ Digital UK's shareholders are Arqiva, the BBC, Channel 4 and ITV.

³⁸ http://www.digitaluk.co.uk/industry/About_DTT/statements

³⁹ Figures from February 2015, according to the results of testing commissioned by Digital UK.

in an LCN that is quite a distance from its associated channel (see section 2.3.2 above). It therefore does not necessarily provide the same clear benefits to viewer navigation as Stage 2 does.

We are therefore considering different options to replace the current Stage 3. This presents an opportunity to create a rule which could be used by any channel provider, regardless of whether their channel is an established DTT channel or new to the platform, and regardless of whether they operate a single channel or a portfolio. For the first time, single channel providers and new entrants could potentially launch or move their channels to more prominent LCNs.

We have considered two possible options for a new Stage 3, which are presented in this consultation as high-level overviews to test stakeholder views:

- A. a 'beauty contest', whereby the LCN is allocated to the channel that best meets specific criteria;
- B. a transactional model, where the LCN is allocated to the highest bidder.

Our current preference is for Option B but we would welcome respondents' views on the pros and cons of both these options as well as on any alternative options that respondents may wish to present and on the status quo.

If we decide to replace Stage 3, a specific consultation will follow in summer 2017, focusing on a proposed new mechanism and how it would work in practice.

Options to address Stage 3 of the Vacated LCNs process

Option A: beauty contest

In a beauty contest, channel providers who wished to launch or move a channel into a vacated LCN would apply to Digital UK, and their applications would be judged against specified criteria, with the LCN being allocated to the applicant which Digital UK considered best met those criteria.

The criteria might include any or all of the following, non-exhaustive list: the broadcast coverage area of the channel; the timetable to launch the channel; the channel's appeal to specific demographics (for example, we could favour channels appealing to demographics which currently have fewer DTT channels aimed at them); the number of hours per day that the channel operates; the channel's investment in first-run content; or the channel's audience share.

All of these criteria would be objectively judged, but there would necessarily be an element of subjectivity involved in deciding which criteria to include. While Digital UK is responsible for applying the LCN Policy to the benefit of the DTT platform and in the interests of viewers and listeners, we are not in a position to determine whether one channel better serves the needs of viewers and listeners than another. It might be possible to objectively judge a channel's appeal to viewers and listeners by looking at its audience ratings, but this would exclude new channels from the contest as they do not have prior audience data for us to judge; meanwhile, a channel's existing LCN position could be expected to have an influence on its ratings, and we would need to develop a method of weighting the data to reflect this.

Any subjective method of judging one channel against another is likely to be complex to operate and to attract a high administrative burden both for Digital UK and for the applicants. It is also likely to be open to challenge, with unsuccessful applicants having recourse to Digital UK's appeals process. This could lead to delays in LCN allocations while appeals were considered, thus leaving LCNs vacant for extended periods.

Option B: transactional model

Under a transactional model, such as an auction, applicants would bid for the right to use the LCN, which would be allocated to the highest bidder.

The LCN would not become an asset of the channel provider and Digital UK would retain the right to move channels as necessary in accordance with the Policy.

A transactional model has the benefit of being completely objective and should in theory allow the market to determine the best use of a vacated LCN that not been allocated either to a public service channel under Stage 1 or an associated channel under Stage 2.

It is likely that an application fee would be required to discourage spurious bids and to fund the operation of the process. The successful bidder would then have to pay the fee it had bid for the right to use the LCN.

Digital UK has not historically charged for the right to use LCNs and currently has no plans to introduce charging generally for this right. Option B could therefore create the situation where some channels have paid for the right to use an LCN via an auction conducted to allocate a vacated LCN while other (possibly most other) channels have not paid for the right to use their LCNs.

Any auction process would need to be carefully managed to ensure fairness between bidders. Three of Digital UK's shareholders are themselves channel providers, and we would need to design and run a process to ensure that they would have no advantage (actual or perceived) over other bidders if they chose to bid for an LCN. All auction receipts would be used to the benefit of the DTT platform, in line with Digital UK's funding principles⁴⁰, and not paid to shareholders or used for any other purpose.

Other options we have considered

We have also considered abolishing Stage 3 and moving straight to the 'shuffle-up' procedure. Currently, vacated LCNs which cannot be allocated following the three-stage process may be subject to a 'shuffle-up' – see section 4.3.5 below. However, that procedure usually involves multiple LCN changes and can be disruptive to viewers and listeners as well as to channel providers, with only a small improvement in the channels' position in the listing. It should therefore continue to be used as a last resort and not as a general method of allocating vacated LCNs.

⁴⁰ http://www.digitaluk.co.uk/_data/assets/pdf_file/0003/86718/Funding_Principles_-_Final_published_8Jul13_v2.pdf

Consultation question:

12. We would welcome stakeholder's views on the options for Stage 3 of the vacated LCN rules.

Timeline to complete a move

The LCN Policy is currently silent on how long existing DTT channels may take to complete a move once they are allocated a new LCN under the vacated LCN rules. This could lead to inefficient use of LCNs, with a channel retaining its existing LCN indefinitely while a different LCN is also allocated to it.

Proposal:

- Any channel that already has an LCN on the platform which is allocated a different LCN under any of the vacated LCN processes will have eight weeks to complete its move following the allocation, or it will lose the right to use the vacated LCN. Any new channel launching onto the platform into a vacated LCN will be subject to the timelines proposed in section 4.2.2 above.

Consultation question:

13. Do you agree with Digital UK's proposed timeline for channels to complete an LCN move following an allocation under the vacated channel rules?

4.3.3 Requests to reorder channels

Currently, channel providers have the right to swap the LCNs of associated channels within their portfolio, if the channel provider submits compelling evidence to Digital UK to demonstrate that doing so would result in channels being listed in an order more likely to reflect viewer or listener expectations. Channel providers may not carry out more than one set of swaps per year.

Digital UK considers that this rule has allowed channel providers to reorganise their channels to the benefit of viewers and listeners, migrating stronger content to more prominent LCNs. The rule has, in practice, been used rather sparingly and has not caused significant disruption for viewers and listeners.

In keeping with our guiding principle that channel providers should be given flexibility to manage their portfolios⁴¹, we propose to clarify, simplify and extend the swapping rules in a number of ways.

⁴¹ See section 2.1.

Eligibility to reorder channels, and emphasis of the rules

We would continue to allow channel providers to request to reorder channels within their portfolio. In practice this could be a straight-forward swap of two channels or it could be a request to reorder some or all of the channels within their portfolio.

There is no obvious viewer and listener benefit from the current requirement for channels to demonstrate that they have common branding or cross-promotion when they apply to reorder. For instance, when channels are swapped the distance between them is unchanged, so this mechanism does not bring channel families closer together. We therefore propose that a channel provider should be able to reorder channels that are under common control and within the same genre, regardless of whether they are ‘associated channels’ or not⁴².

We also propose that the emphasis of the current rule be shifted, so that there is less onus on channel providers to demonstrate that a reordering of their channels would result in “an order more likely to reflect viewer or listener expectations”. Instead, when channel providers apply to reorder their channels, they would provide Digital UK with the rationale for their intentions and their preferred date for changes to take place. Digital UK would have a presumption in favour of allowing the changes, unless we considered, in our discretion, that it would be detrimental to viewer or listener or platform interests. Digital UK’s discretion would include, for example, a decision that it would not be in the best interests of viewers for a part-time channel to move into a more prominent position and a full-time channel into a less prominent position, or for a channel that is only available to a minority of viewers to move into a more prominent position and a channel that is available to the majority of viewers to move into a less prominent position.

Proposals:

- Digital UK will consider all applications to reorder channels that are under common control and in the same genre. The channel provider should set out its preferred date for the channel changes and explain its rationale for requesting the change, and Digital UK will usually permit it unless:
 - The channel provider’s annual limit of channel reordering has already been met, or
 - Digital UK believes that proposed changes would not be in the best interests of viewers and listeners and/or the platform. For example, Digital UK may decide it would not be in the best interests of viewers for a part-time channel to move into a more prominent position and a full-time channel into a less prominent position, or for a channel that is only available to a minority of viewers to move into a more prominent position and a channel that is available to the majority of viewers to move into a less prominent position.
- Where a timeshifted channel (e.g. a +1 service) moves or launches into a vacated LCN, and this move results in the timeshifted channel appearing in a lower LCN than the channel of which it is a timeshift, the channel provider may reorder the two channels without this counting towards the limit of its annual channel reordering.

⁴² Where channels have exactly 50% shareholding in common then they will be required to demonstrate that there is common branding between them in order to qualify as being under ‘common control’ – see section 4.3.1.

Number of applications per year, and timing of changes

Channel providers have told us that limiting them to one set of changes per year could be constraining, and could prevent them from making interesting changes to the benefit of viewers and listeners. We propose that channel providers should instead be allowed to reorder their channel portfolio twice in a rolling 12-month period.

The LCN Policy currently contains a guideline stating that swaps should be aggregated in the third quarter of a calendar year. In practice, this guideline has not been enforced since it does not permit flexibility for channel providers, and we therefore propose to remove it. However, in keeping with our guiding principles⁴³, we do wish to minimise disruption to viewers and listeners, and we will continue to investigate ways to encourage channel providers to co-time their changes with those of other providers, which might also allow for more effective public communication of changes. In addition, so that Digital UK can manage the technical and operational processes involved and minimise disruption to the viewer and listener, the timing of any reordering of channels must be expressly agreed with Digital UK.

We would review this rule after 18 months and assess whether it should revert to a limit of one set of changes per year, or whether we could allow even more changes per year. This review would also consider how any changes to our rules around channels changing name and/or content had worked in practice (see section 4.3.4 below).

Proposals:

- A channel provider may reorder channels under this rule on no more than two occasions in any 12-month rolling period.
- The timing of any channel reorder must be agreed with Digital UK. Where possible, Digital UK will seek to co-time the reordering with other changes to the platform to minimise disruption for viewers and listeners.

Reordering channels before launch

The LCN Policy is currently silent on whether a channel may reorder its LCN after it has been allocated an LCN but before it has launched. We propose that this mechanism should be allowed, since otherwise a channel might launch at one LCN and immediately move to another LCN, causing unnecessary disruption to viewers or listeners.

Proposal:

- As soon as a channel has been allocated an LCN, Digital UK considers that it is using its LCN for the purpose of these rules, even if the channel has not yet launched.

Reordering channels and then leaving the platform

The LCN Policy is also silent on whether a channel provider may reorder its channel and immediately remove it from the platform. This could allow a channel provider to effectively replace a channel with a completely different channel from its portfolio. Since we propose to explicitly permit such replacements in the new version of the LCN Policy (see section 4.3.4

⁴³ See section 2.1.

below), we propose that channels should be permitted to ‘reorder and close’ in this way if they so choose.

Proposal:

- Channel providers may reorder the LCNs of two or more of their channels and then close one of the affected channels.

Reordering of public service channels

Ofcom’s EPG Code requires that all listed public service channels are awarded appropriate prominence. As a consequence, Digital UK’s LCN Policy currently prioritises these channels when allocating LCN positions to meet this responsibility. Such channels launch at the best available LCN, and can also move up the listing in priority to any other channel as more prominent LCNs become available.

The LCN Policy currently prohibits public service channels from swapping their LCNs with other channels. The rule ensures that the appropriate prominence awarded to public service channels is not conferred on non-public service channels – so that, for example, Channel 4 cannot swap with More4.

The BBC is currently the only channel provider which has a portfolio of public service channels on different LCNs, all of which are afforded appropriate prominence in the listing in line with our obligations under the Ofcom EPG Code.

By contrast, under current Digital UK rules, the BBC, unlike all other providers with a number of channels, is prohibited from reordering channels within its public service portfolio. For example, it could not swap the LCNs of CBBC and CBeebies, whereas a commercial channel provider such as Sony could apply to swap the LCNs of its children’s services Pop and Tiny Pop. We understand that the BBC is currently able to swap its channels on other television platforms in the UK.

Given this, we now wish to consider whether it would be appropriate to amend the rules to enable reordering of public service channels. If we were to make this change, we would not propose to permit LCN reordering for the first five positions on the EPG: BBC One at LCN 1, BBC Two at LCN 2, the Channel 3 licensees at LCN 3, and so on. There is a long history of these services being allocated the first five positions, and this is consistent across TV platforms in the UK, so there is likely to be strong viewer expectation of accessing these services at these LCNs. Similarly, while we continue to operate an HD genre we consider that the HD versions of the public service channels using LCNs 101 to 105 should be excluded from the reordering rules.

We would also not permit a public service channel swapping with a non-public service channel (e.g. Channel 4 with More4) given this would allow a channel that had not been awarded prominence as a listed public service channel to benefit from a channel that had been.

Making this change would allow the BBC (as currently the only national broadcaster with more than one listed public service channel) the flexibility to manage its current and future portfolio.

While the reordering of channels within the BBC’s portfolio would not have any impact on the relative positioning of channels within the listing (e.g. if CBeebies were to swap with CBBC,

no other channel's relative position would change), it is possible in some scenarios that reorganisation of the BBC's current or future portfolio could allow it to optimise the performance of its channels across the LCNs it uses. The consequence of this optimisation could have a wider impact on viewer outcomes and the performance of other commercial channels on the platform.

Given the arguments for and against making this change, we would welcome stakeholder views on whether to maintain the status quo or extend the channel reordering rule to include public service channels.

Consultation questions:

14. Do you agree with Digital UK's proposals to amend the rules around channel providers reordering channels within their channel portfolio?

15. We welcome stakeholder views on whether public service channels should be permitted to reorder the channels they control within a genre.

4.3.4 Channels changing name and/or content

In keeping with our guiding principles⁴⁴, we propose to change our rules to give more flexibility to channel providers.

The current LCN Policy permits a channel to 'evolve' by changing its name, content and broadcast hours and nonetheless retain its LCN, so long as it does not evolve to such an extent that Digital UK considers it should no longer be considered to be the same channel.

Viewers and listeners might appreciate channel providers changing the channel on an LCN from time to time, perhaps with a new channel or a channel that already exists but is not currently carried on the DTT platform, or with a seasonal 'pop-up' channel. Any new channel using an LCN under these rules would have to meet all of the criteria to be eligible for an LCN on the DTT platform as laid out in the LCN Policy, and would have to be appropriate to the genre in which it appears.

We consider that the proposed new rules will give greater flexibility to all channel providers, and may be of particular interest to those who only operate a single channel within a genre. Channels with larger portfolios already have some flexibility to migrate content using the rules to reorder their channels; this proposal would, however, for the first time give flexibility to single channel providers.

However, it is important to balance this flexibility with an aim to minimise disruption to the viewer and listener. We therefore propose that channel providers may only submit one request to change the name of their channel in any 12-month rolling period. This request may be for a temporary name change, i.e. one where the channel changes its name at a certain date and reverts to the old name at a certain date.

⁴⁴ See section 2.1.

We would review this rule after 18 months, alongside a review of the rules on reordering LCNs (see section 4.3.3 above).

Note that we do not permit LCNs to be traded between channel providers, and none of the proposed changes should be taken as an indication of a change in this position.

Proposals:

- Channel providers may change the content and/or name of a channel, and nonetheless retain that channel's LCN so long as it remains appropriate to the genre in which it has been placed. This could mean replacing the channel with a new channel or a channel that already exists but is not currently carried on the DTT platform.
- To minimise disruption on the platform, channel providers may only submit one request to change the name of their channel in any 12-month rolling period. This request may be for a temporary name change, i.e. one where the channel changes its name at a certain date and reverts to the old name at a certain date.
- If, at any time, Digital UK finds that a channel has changed such that it would be more appropriately placed in a different genre, the channel may be moved to that genre. It will be allocated an LCN within that genre, according to the usual rules for LCN allocation.

Consultation question:

16. Do you agree with Digital UK's proposals around channels changing their name and/or content?

4.3.5 'Shuffle-ups'

Currently, where large gaps or large numbers of gaps open up between LCNs, Digital UK may undertake a 'shuffle-up' procedure. This allows us to allocate and manage LCNs efficiently, as per our LCN Policy objectives⁴⁵.

It is likely that, if new vacated LCN procedures are implemented (see section 4.3.2 above), it will be relatively rare for gaps to open up. However, for cases where gaps do open up, we need to retain a right to undertake a 'shuffle-up' procedure. We propose that Digital UK should not be restricted to undertaking such a procedure when "large gaps or large numbers of gaps" open up; instead, we should be able to undertake a 'shuffle-up' whenever we consider it necessary for effective and efficient management of the channel listing (but not so frequently that it would be to the detriment of viewers and listeners). We also propose that the LCN Policy should explicitly state that, while no channel is obliged to move to a new LCN under a 'shuffle-up' procedure, if they choose not to move, then the vacant LCN may be offered to another channel.

⁴⁵ See section 2.1.

Proposal:

- Where vacated LCNs have not been filled using the vacated LCN procedures, Digital UK may undertake a 'shuffle-up procedure'. The channel in the next highest LCN will be offered the opportunity to move into the vacant LCN. They will usually be given two weeks to decide whether to take up the offer. No channel will be obliged to move, but if the offeree chooses not to move then the vacant LCN may be offered to the channel in the next highest LCN.

Consultation question:

17. Do you agree with Digital UK's proposal to retain but re-word the 'shuffle-up' rule?

4.4 Policy clarifications

4.4.1 Streamed services

Some channels consist of services where audio visual content is delivered over IP but access is enabled via an MHEG application which is broadcast over DTT. We have previously called these channels 'MHEG-ICS services', and there is a technical genre dedicated to them in the DTT listing. In the future it is probable that similar services will be enabled by HbbTV applications or triggers which are broadcast over DTT, and these services would also be allocated LCNs within this genre.

The name 'MHEG-ICS services' is not meaningful to viewers, and we now prefer to use the term 'streamed services'.

Note that these are distinct from channels that are delivered solely by IP, for which Digital UK does not currently allocate LCNs, but reserves a range between LCNs 300 and 599 for third-party platforms to use. In the future, if and when channels delivered solely by IP appear on the Freeview Play platform, Digital UK will allocate LCNs to them within this range.

Children's and adult streamed services

The current LCN Policy is clear that adult streamed services will be placed in the Adult genre. However, the LCN Policy does not explicitly state that streamed children's channels will be placed in the Children's genre. We propose that the LCN Policy should be made explicit on this point, to support our LCN Policy objective to protect consumers from potential harm⁴⁶.

Proposal:

- Children's and adult streamed services will be allocated an LCN within their relevant content genres.

⁴⁶ See section 2.1.

Supplementary streamed content on a DTT channel

Some channels that are broadcast via DTT carry supplementary streamed content using MHEG-ICS technology, for instance via a 'red button' application. Supplementary content of this type can be beneficial to viewers, offering those with compatible internet-connected equipment the opportunity to access more programmes. However, two of our LCN Policy objectives are to make it easy for viewers to discover content through simple navigation, and to protect viewers from potential harm⁴⁷; we therefore need to ensure that the additional content is appropriately licensed and suitable for the content genre in which the 'parent' DTT channel sits. We propose to introduce a rule that will allow us to ensure this is the case.

Hybrid DTT/IP-delivered services of this type are a nascent development and are not currently widely used on the platform. We do not propose to introduce any further rules regarding hybrid DTT/IP-delivered services at this time. If and when these services develop and become more prevalent, and as viewer behaviour changes over time, we will consider whether our current rules remain appropriate.

Proposal:

- A channel in any DTT genre may link to supplementary content carried via IP, but this content must be licensed by an appropriate regulatory authority and suitable for the genre of the DTT channel.

Consultation question:

18. Do you agree with Digital UK's proposals around the treatment of streamed services?

4.4.2 Policy drafting

We have revised the wording and the structure of the LCN Policy, in accordance with our guiding principle that the LCN Policy should be transparent, clear and simple to operate⁴⁸. We have also taken the opportunity to make the wording of the Policy consistent with the LCN Allocation Terms and Conditions. The proposed new Policy is in Appendix 1.

The revisions include:

- Emphasising that an LCN is not the asset of a channel provider and may not be sold. This is already clear in the LCN Allocation Terms and Conditions.
- Amendments to Digital UK's appeals process to make clear that:
 - a channel provider may appeal a decision only where its own channels are affected by that decision;
 - if a channel benefits from a decision and another channel appeals it, the beneficiary should have a right to make representations in the appeal;
 - the appeals process as carried out by the Chair of Digital UK applies only to decisions of the Digital LCN Group in the operation of the LCN Policy, not to broader policy decisions of Digital UK.

⁴⁷ See section 2.1.

⁴⁸ See section 2.1.

Consultation question:

19. Do you have any comments on the proposed new wording and structure of the LCN Policy, aside from issues you have mentioned in response to other consultation questions?

5 Responding to this consultation

We encourage responses from all stakeholders in the DTT platform, particularly channel providers, multiplex operators, consumer groups and viewers and listeners.

We ask respondents to consider how they may be affected by the proposals, and to provide evidence-based responses to describe any potential effect.

We will publish all non-confidential responses on our website. Please indicate on your response whether none, some, or all of your response is confidential. In the absence of an indication to the contrary, responses will be treated as non-confidential.

To be considered, a response must reach Digital UK by 17:00 on **Friday 6 January 2017**, unless Digital UK accepts that mitigating circumstances apply.

Responses can be emailed to consultation@digitaluk.co.uk or mailed in hard copy to the following address: FAO: Sarah Fox, Digital UK, 2nd Floor, 27 Mortimer Street London W1T 3JF.

Appendix 1 – Proposed LCN Policy v 6.0

Version 6.0, [date]

This Policy supersedes all previous versions.

1 INTRODUCTION

- 1.1 Digital UK supports Freeview and channels, providing viewers with information about their options for receiving terrestrial TV and advice on reception and equipment. Digital UK also handles day-to-day technical management of the Freeview Electronic Programme Guide ('EPG'), allocates logical channel numbers ('LCNs') and manages the launch of new services onto the digital terrestrial television ('DTT') platform.
- 1.2 Digital UK holds Ofcom licences to provide an EPG⁴⁹ and allocates LCNs to a wide range of different services on the DTT platform, e.g. television, radio, text and interactive. For the sake of convenience, all DTT services are referred to within this Policy as 'channels' and those who provide such services are referred to as 'channel providers'.
- 1.3 This Digital UK LCN Policy (the 'Policy') governs the way in which the Digital UK LCN Group (the Digital UK-member approval forum) will allocate channels to genres, and to LCNs within genres. It was implemented following a consultation [link] and replaces Version 5.5 of this Policy that was published on 22 March 2016.
- 1.4 The Policy conforms with the requirements of the Communications Act 2003 and Ofcom's Code of Practice on Electronic Programme Guides published in July 2004 (the 'Ofcom EPG Code'). Within this regulatory framework, Digital UK's objective will be to apply the Policy in such a way as it considers to be for the long-term benefit of the DTT platform and in the interests of viewers (in each case as determined by Digital UK members in accordance with the Policy) and in compliance with the fair, reasonable and non-discriminatory ('FRND') requirements of the Ofcom EPG Code.
- 1.5 For the avoidance of doubt, Digital UK interprets its FRND obligation to mean that the Policy is applied consistently to all channels on or joining the platform regardless of their ownership.
- 1.6 Digital UK's terms and conditions of LCN allocation are contained within the Digital UK LCN Allocation Terms and Conditions (the 'Terms'). By making an application to Digital UK for allocation of an LCN, or broadcasting a channel using an LCN, channel providers also agree to be bound by the Terms⁵⁰. Furthermore, the benefits of this Policy are only available where the channel provider accepts the Terms in full.
- 1.7 Where there is a change of control of a channel or a channel provider, it is the responsibility of the new provider to comply with the Policy and the Terms.
- 1.8 After an LCN allocation has been made by Digital UK, the LCN continues to belong to Digital UK and will remain subject to its discretion and the Policy. Digital UK reserves the right to move a channel to an alternative LCN in accordance with this Policy.

⁴⁹ See <http://www.ofcom.org.uk/static/radiolicensing/html/tv/cs/dtas000044ba2dttepgservicemux2.htm> and <http://www.ofcom.org.uk/static/radiolicensing/html/tv/cs/tlcs101213ba1enhancedipmetadataforthedttbroadcastepg.htm>

⁵⁰ http://www.digitaluk.co.uk/_data/assets/pdf_file/0011/87626/LCN_Allocation_Terms_and_Conditions.pdf

- 1.9 LCN trading between channel providers is not allowed. See section 7.
- 1.10 Digital UK will allocate LCNs to channels using DTT capacity that meet the criteria for an LCN as set out in sections 2.2 and 2.3. Pursuant to the Terms and this Policy, Digital UK will not allocate LCNs to any channels delivered without use of any DTT capacity, for example those that are delivered solely by IP or by any other means. Digital UK has reserved a range of LCNs in which IP television platforms may allocate channels according to their own allocation policy. As such Digital UK takes no responsibility for channel allocation in the IP-delivered range. In the future, if and when channels delivered solely by IP appear on the Freeview Play platform, Digital UK will allocate LCNs to them within this range.
- 1.11 For the purposes of this Policy, the following definitions are applied:
- i. **‘Lower LCNs’** refers to lower channel numbers; i.e. smaller numbers which appear closer to the beginning of the LCN list. **‘Higher LCNs’** refers to larger channel numbers which are further away from number 1 in the channel list.
 - ii. **‘Public service channels’** are those channels identified as such in accordance with section 310 of the Communications Act 2003, and HD simulcasts thereof. When allocating LCNs to public service channels, Digital UK will seek to give ‘appropriate prominence’ to these channels in the appropriate genre in accordance with the Ofcom EPG Code.
 - iii. **‘Associated channels’** are two or more channels that are:
 - classified into the same genre as each other; and
 - are under common control; and
 - have common branding and/or a significant degree of existing or intended cross-promotion.

Public service channels are not considered to be associated channels.

In order to improve viewer or listener navigation Digital UK considers that it is in the best interests of viewers and listeners to group associated channels together.
 - iv. **‘Common branding’** may take a number of forms. In considering whether two channels have common branding, Digital UK will consider the following non-exhaustive factors: the names of the channels, and the look and feel of their logos and idents.
 - v. Channels will be considered to be under **‘common control’** where they are owned or controlled by companies in the same corporate group. The corporate group consists of a holding company and all its subsidiaries, the terms ‘holding company’ and ‘subsidiary’ having the meanings given in section 1159 of the Companies Act 2006. In addition, where a holding company directly or indirectly holds 50% of the voting rights in a channel which does not otherwise fall within the definition of ‘subsidiary’ in section 1159 of the Companies Act 2006, that channel will be treated as under common control with any of the holding company’s subsidiaries with which the channel in question has common branding.
 - vi. **‘Streamed channels’** are channels where audio visual content is delivered over IP but access is enabled via an MHEG or HbbTV application which is broadcast over DTT. They should not be confused with channels that are delivered solely by IP (see section 1.10). When assessing whether streamed channels qualify for associated channel status, or whether they are under common control, Digital UK will consider a ‘channel’ to be the audio-visual content accessible via the LCN, rather than the MHEG/HbbTV application

and/or any MHEG/HbbTV slate carried on the LCN.

- 1.12 Previous decisions of Digital UK regarding the allocation of LCNs prior to the adoption of this version of the Policy will not be considered relevant in the interpretation of this Policy and will not bind Digital UK as precedent.

2 REQUIREMENTS TO BE ELIGIBLE FOR AN LCN

- 2.1 By making an application to Digital UK for allocation of an LCN, or broadcasting a channel using an LCN, channel providers agree to be bound by the Terms.
- 2.2 To be eligible for an LCN a channel is required to have:
- A DTT capacity agreement with a multiplex operator (a 'carriage agreement'); and
 - A valid broadcasting licence (or equivalent authorisation) permitting the channel to broadcast on the DTT platform in the UK (a 'broadcast licence'); and
 - Arrangements for providing EPG schedule data (a 'schedule provider agreement').
- 2.3 In order to be allocated or retain an LCN, channels must broadcast a minimum of two hours per day or 14 hours per week of audio-visual content via DTT. A static slate does not count as audio-visual content for the purpose of this rule. However:
- This rule does not apply to channels in the Adult genre, the Streamed services genre, the Text genre or the Radio genre.
 - Channels which were broadcasting on the DTT platform for less than 14 hours per week prior to [the date on which this rule change comes into effect] must comply with this rule by [date two years after this rule comes into effect] or (if later) upon the expiry of their current carriage agreement with a multiplex operator.
 - A channel may reduce its broadcast hours to less than the minimum threshold for up to 12 weeks, accrued in any 12-month rolling period. The channel provider should (where circumstances permit) notify Digital UK in advance in writing before reducing its broadcast hours. If a channel falls below the minimum broadcast hours for more than 12 weeks accrued in any 12-month rolling period then, upon notice from Digital UK to the channel provider, its LCN will be withdrawn.
- 2.4 A channel provider may cease to make a channel available for up to 12 weeks in any rolling 12-month period without losing its LCN. The channel provider should notify Digital UK in advance in writing of its intention to temporarily cease broadcasting its channel. If the channel does not resume broadcasting within the 12-week time limit, then the LCN will be deemed vacated and can be re-allocated by Digital UK in accordance with this Policy.
- 2.5 Digital UK may allocate LCNs for test channels if, at its absolute discretion, it thinks it appropriate to do so.
- 2.6 A channel in any DTT genre may link to supplementary content carried via IP, but this content must be licensed by an appropriate regulatory authority and suitable for the genre of the DTT channel.

3 APPLICATION FOR AN LCN

3.1 Any channel provider which intends to launch a channel onto the DTT platform should submit its LCN application as per the process set out in Schedule 1, between eight and four weeks prior to the channel provider's intended launch date of the channel. Applications received less than four weeks before the intended launch date of the channel will be processed, but in such cases Digital UK cannot guarantee that the intended launch date will be met.

3.2 The channel provider should:

- provide evidence confirming that its channel meets the criteria for an LCN as set out in sections 2.2 and 2.3. Evidence of a capacity agreement will be by way of a letter of corroboration from the relevant multiplex operator; and
- state which genre it believes would be most appropriate for the channel; and
- at its cost, supply Digital UK with any other information as specified in the allocation process or as Digital UK may otherwise reasonably request regarding the channel.

The channel provider must ensure that all information provided by it or on its behalf is accurate, complete and up-to-date. Once a valid application with the relevant detail is received, it will usually take two weeks for Digital UK to allocate an LCN to the channel.

3.3 Digital UK will review the proposed genre, in accordance with Schedule 3 of this Policy. If the channel might meet the definition of more than one genre, the following considerations will apply, in this order:

- Whether any consumer protection issues might exist (in particular, any service which would qualify for an LCN in the Adult genre will be placed in that genre).
- Whether the channel is HD, streamed, text, interactive or radio in nature.
- The nature of the content on the channel as per our genre definitions.

3.4 If a channel is allocated an LCN and does not launch within eight weeks of the specified launch date, the LCN which was allocated to the channel may be withdrawn.

3.5 Requests for an LCN made on a speculative basis (i.e. channels without confirmed genre and intended launch date) will not be considered. However, Digital UK will be willing to engage in confidential pre-application discussions with channel providers about the availability of LCNs and other matters connected with the operation of Policy and will permit the use of 'working' channel names in any application for an LCN.

3.6 The LCN allocation process may change from time to time. Any amendments to Schedule 1 will be published on the Digital UK website.

4 GENRES

4.1 Genres are the basis for grouping channels. They assist viewer navigation, and can protect consumers from content that may harm or offend.

4.2 Digital UK may from time to time add, remove, merge or move genres, following a consultation process.

4.3 In the event a genre overflows its prescribed LCN range, Digital UK will temporarily place any additional channels of that genre in the most appropriate alternative location as determined by Digital UK.

4.4 See Schedule 3 for descriptions of genres. Any amendments to Schedule 3 will be published on the Digital UK website.

5 ALLOCATION OF LCNs

- 5.1 Public service channels will generally be assigned the lowest available vacant LCN within their relevant genre (unless sections 5.10 and/or 5.12 apply).
- 5.2 For all other channels, unless section 5.6 is invoked, Digital UK will allocate the channel the next available LCN at the end of the genre.
- 5.3 As soon as a channel has been allocated an LCN, Digital UK considers that it is occupying its LCN for the purpose of the rules in this sections 5.6, 5.7 and 6, even if the channel has not yet launched or moved.
- 5.4 If a channel is allocated an LCN in the HD genre and the channel has no equivalent standard definition simulcast channel on the DTT platform, Digital UK may also reserve the lowest available LCN in the genre in which such simulcast channel would otherwise have been allocated an LCN. Digital UK may at any time elect to revoke or amend any reservation made under this section 5.4 if it considers it appropriate for prudent LCN management. For the avoidance of doubt, sections 5.6 and 6 shall not apply to LCNs reserved in accordance with this section 5.4. Reservations made under this section 5.4 will automatically be revoked if:
 - a) a standard definition version of the channel is allocated an LCN on the DTT platform (in which case, the standard definition channel would be allocated an LCN in the same way as any other new channel launch); or
 - b) the HD channel is withdrawn.

Vacated LCNs

- 5.5 Where a channel is withdrawn from its LCN for any reason, it will trigger the vacated LCNs procedure below.
- 5.6 Vacated LCNs will be offered to channels in the following order:
 - To a public service channel at a higher LCN within the genre, starting with the public service channel that is nearest to the vacant LCN, and then to the next nearest and so on until it has been offered to all public service channels at higher LCNs within the genre.
 - To existing associated channels (as defined under section 1.11) at higher LCNs within the genre, in the following way:
 - First, Digital UK will identify the channel that appears next in the listing in a lower LCN than the vacated LCN. Digital UK will offer the vacated LCN to any channel associated with this channel
 - Second, Digital UK will look at the channel that appears next in the listing in a higher LCN than the vacated LCN. Digital UK will offer the vacated LCN to any channel associated with this channel
 - Third, Digital UK will look at the channel that is two positions lower than the vacated LCN. Digital UK will offer the vacated LCN to any channel associated with this channel
 - Fourth, Digital UK will look at the channel that is two positions higher than the vacated LCN. Digital UK will offer the vacated LCN to any channel associated with this channel
 - And so on for five positions higher and lower than the vacated LCN
 - Finally, to any new associated channel (as defined under section 1.11) launching on the platform.

Any channel provider which is offered a vacated LCN will have two weeks in which to consider the offer and respond in writing to Digital UK. If no response is received within that timescale, Digital UK may offer the LCN to another channel provider in accordance with this Policy.

- 5.7 Where vacated LCNs have still not been filled pursuant to section 5.6, Digital UK may either:
- undertake a 'shuffle-up' procedure. The channel in the next highest LCN will be offered the opportunity to move into the vacant LCN. They will usually be given two weeks to decide whether to take up the offer. No channel will be obliged to move, but if the offeree chooses not to move then the vacant LCN may be offered to the channel in the next highest LCN. Or,
 - use the LCNs for any other reason it deems reasonable.
- 5.8 Any channel that already has an LCN on the platform which is allocated a different LCN under any of the above processes will have eight weeks to complete its move following the allocation, or it will lose the right to use the vacated LCN. Any new channel launching onto the platform into a vacated LCN will be subject to the timelines in section 3.
- 5.9 Channels already on the platform may not request vacant LCNs from Digital UK; Digital UK will always offer vacant LCNs to channels as described above.

Sharing LCNs

- 5.10 Where channels broadcast to distinct areas of the UK, and their coverage does not overlap (except where section 5.12 applies), those channels may share an LCN if:
- all of the channels under consideration are public service channels, or
 - all of the channels under consideration are associated with one another.

Digital UK may, in the interests of LCN efficiency and viewer benefit, require that channels which meet these criteria share an LCN.

- 5.11 Where channels share an LCN and one channel expands its coverage such that it overlaps with the coverage of one or more other channels on the LCN (except where section 5.12 applies), the expanding channel must apply for a new LCN.
- 5.12 In the case of some local public service channels, while the channels may be licensed to serve distinct geographic areas, in practice there may be some overlap in their actual coverage. In such cases, Digital UK may decide that the channels should share an LCN.

6 CHANGING A CHANNEL AFTER AN LCN HAS BEEN ALLOCATED

Requests to reorder channels

- 6.1 Digital UK will consider all applications to reorder LCNs of channels that are under common control (as defined under section 1.11) and in the same genre. The channel provider should set out its preferred date for the channel changes and explain its rationale for requesting the change, and Digital UK will usually permit it unless:
- The channel provider's annual limit of swaps has already been met (see section 6.3); or
 - Digital UK believes that proposed changes would not be in the best interests of viewers and listeners and/or the platform. For example, Digital UK may decide it would not be in the best interests of viewers for a part-time channel to move into a more prominent position and a full-time channel into a less prominent position, or for a channel that is only available to a minority of viewers to move into a more prominent position and a channel that is available to the majority of viewers to move into a less prominent position.
- 6.2 [Note: a paragraph will be inserted here following the consultation, saying either:
- Public service channels are allowed to reorder their channels (if they meet the criteria above) except those at LCNs 1-5 and 101-105. Public service channels may not be reordered with non-public service channels; or
 - Public service channels may not reorder their channels.]
- 6.3 A channel provider may reorder channels under this rule on no more than two occasions in any 12-month rolling period.
- 6.4 The timing of any channel reordering must be agreed with Digital UK. Where possible, Digital UK will seek to co-time the reordering with other changes to the platform to minimise disruption for viewers and listeners.
- 6.5 Where a timeshifted channel (e.g. a +1 service) moves or launches into a vacated LCN, and this move results in the timeshifted channel appearing in a lower LCN than the channel of which it is a timeshift, the channel provider may reorder the two channels without this counting towards the limit of its annual channel reordering.
- 6.6 Channel providers may reorder the LCNs of two or more of their channels and then close one of the affected channels.

Changing a channel's name and/or content

- 6.7 Channel providers may change the content and/or name of a channel, and nonetheless retain that channel's LCN so long as it remains appropriate to the genre in which it has been placed. This could mean replacing the channel with a new channel or a channel that already exists but is not currently carried on the DTT platform.
- 6.8 To minimise disruption on the platform, channel providers may only submit one request to change the name of their channel in any 12-month rolling period. This request may be for a temporary name change, i.e. one where the channel changes its name at a certain date and reverts to the old name at a certain date.
- 6.9 If, at any time, Digital UK finds, at its discretion, that a channel has changed such that it would be more appropriately placed in a different genre, the channel may be moved to that genre. It will be allocated an LCN within that genre according to the principles in section 5.

7 TRADING

- 7.1 An LCN is not the asset of a channel provider and may not be sold. If a channel is sold as a going concern, the new channel provider will be required to inform Digital UK in writing prior to the sale completion that it will continue to use the LCN in accordance with this Policy and the Terms.

8 CONSULTATIONS

- 8.1 Digital UK will consult with channel providers on any proposed enforced move of LCNs (i.e. where the moves are not conducted under sections 5.6, 5.7, 5.10, 5.11, 5.12, 6.1 or 6.7 of this Policy).
- 8.2 Where there are fewer than five channels to be moved, Digital UK will generally conduct a 'light' consultation process. A notification of the consultation will be sent to all channel providers, and responses invited from the channels proposed to be moved and any other channels which Digital UK believes will be significantly affected by the proposed changes. A notification will also be placed on the Digital UK website. A consultation period of approximately four weeks will be used (time limit to be set and communicated by Digital UK in its discretion), following which Digital UK will consider responses, communicate its conclusion to the channel providers and publish a notice on the Digital UK website at least eight weeks prior to the date set to coordinate any move(s).
- 8.3 Where there are more than five channels to be moved, Digital UK will generally conduct a full consultation process with all channel providers. Responses will be invited from all channel providers and stakeholders and a notification will be placed on the Digital UK website. A consultation period of approximately eight weeks will be used (time limit to be set and communicated by Digital UK in its discretion), following which Digital UK will consider responses, communicate its conclusion to channel providers and any other responders and publish a notice on the Digital UK website at least eight weeks prior to the date of any move(s).
- 8.4 Digital UK reserves its right to conduct an expedited consultation process where there are deemed to be, or might be, consumer protection issues.
- 8.5 Where Digital UK reviews the Policy and believes there is a need to make substantive amendments to the Policy, Digital UK will conduct a consultation process with channel providers and stakeholders following that described in 8.3 of this Policy.

9 APPEALS PROCESS

9.1 The appeals process is available should a channel provider (the ‘appellant’) wish to appeal the Digital UK LCN Group’s decision on:

- (a) The application of sections 4.3, 5 or 6 of this Policy, i.e.
- allocating an LCN or genre to a new channel;
 - moving an existing channel to a different LCN or genre;
 - placing a channel in an ‘overflow’ section;
 - applying the vacated LCN rules;
 - allowing, not allowing, or insisting on LCN sharing;
 - allowing or not allowing channels to reorder their LCNs;
 - allowing or not allowing a channel to change its name.

(b) Changes to the LCNs of existing channels that are made following a consultation process as set out in section 8.

The appeals process does not apply to other policy decisions made by Digital UK.

9.2 Any appeal to Digital UK is without prejudice to recourse to Ofcom, or other relevant authorities as may be available to the appellant.

9.3 The appellant may appeal a decision only if it can demonstrate that one or more of its channels is directly affected by the decision.

9.4 Where the appellant appeals against a decision that benefits or adversely affects a third party, the third party may make representations in the appeal.

Appealing a decision made under sections 4.3, 5 or 6 of this Policy:

9.5 The following process will apply:

- i. The appellant should appeal in writing to the Chair of Digital UK.
- ii. Where the decision relates to a channel under the appellant’s control, the appellant must appeal within four weeks of being notified of the decision. Where the appeal relates to another channel (but nonetheless directly affects the appellant’s channel), the appellant must appeal within four weeks of the decision being published on the Digital UK website or taking effect in the channel listing.
- iii. The letter must be as evidence-based as possible and explain why, in the appellant’s view, the decision does not meet the Policy. If relevant, the letter should explain which genre or LCN the appellant thinks the channel should be eligible for, and why.
- iv. The channel may launch at or move to the LCN allocated without prejudice to the concurrent appeals process.
- v. The appellant may be named publicly by Digital UK, and where the appeal relates to a channel other than those operated by the appellant, the relevant channel provider affected will also be informed of the appeal.
- vi. The Chair of Digital UK will review the process that was followed in allocating the LCN, and decide whether the correct process was followed.
- vii. The Chair of Digital UK may take up to four weeks to consider the appeal, and will then respond in writing to the appellant and, where they are different, the provider of the channel whose LCN allocation was appealed.
- viii. Within the four-week period of consideration, the Chair of Digital UK may ask any channel provider for further information to assist with the review.
- ix. If the Chair of Digital UK agrees that the appellant has presented a sufficiently

compelling case that the decision does not meet the Policy, the decision will not stand. The Digital UK LCN Group will then reconsider its decision including (if relevant) the appellant's proposal for an alternative genre or LCN allocation. Digital UK may move the relevant channel into the relevant LCN or genre at the earliest reasonable date.

- x. If the Chair of Digital UK does not agree that the appellant has presented a sufficiently compelling case, the Digital UK LCN Group's decision will stand.
- xi. Digital UK may publish appeal adjudications subject to redaction of any commercially sensitive material.

Appealing changes to the LCNs of existing channels following a consultation

9.6 The following process will apply:

- i. The appellant should appeal in writing to the Chair of Digital UK.
- ii. The appellant must appeal within four weeks of the consultation statement being published on the Digital UK website.
- iii. The letter must be as evidenced-based as possible and explain why, in the appellant's view, the consultation decision should not stand.
- iv. Receipt by Digital UK of an appeal will place the appealed move on hold until the end of the appeals process.
- v. The appellant may be named publicly by Digital UK, and where the appeal relates to a channel other than those operated by the appellant, the relevant channel provider affected will also be informed of the appeal.
- vi. The Chair of Digital UK will review the consultation process that was followed, and decide whether the correct process was followed.
- vii. The Chair of Digital UK may take up to four weeks to consider the appeal, and will then respond in writing to the appellant and, where they are different, the provider of the channel whose LCN allocation was appealed.
- viii. Within the four-week period of consideration, the Chair of Digital UK may ask any channel provider for further information to assist with the review.
- ix. If the Chair of Digital UK agrees that the appellant has presented a sufficiently compelling case, the appealed changes to the LCNs will not go ahead. The Digital UK LCN Group may decide to undertake a further consultation.
- x. If the Chair of Digital UK does not agree that the appellant has presented a sufficiently compelling case, the Digital UK LCN Group's decision will stand and Digital UK will move channels as per its consultation statement generally no more than eight weeks from the date of the Chair of Digital UK's decision.
- xi. Digital UK may publish appeal adjudications subject to redaction of any commercially sensitive material.

10 CHARGES

- 10.1 Digital UK reserves the right to levy fair and reasonable charges in respect of the allocation and use of any LCNs and to suspend or withdraw the allocation or use of LCNs if any such charges are not properly paid in accordance with Digital UK's payment terms.

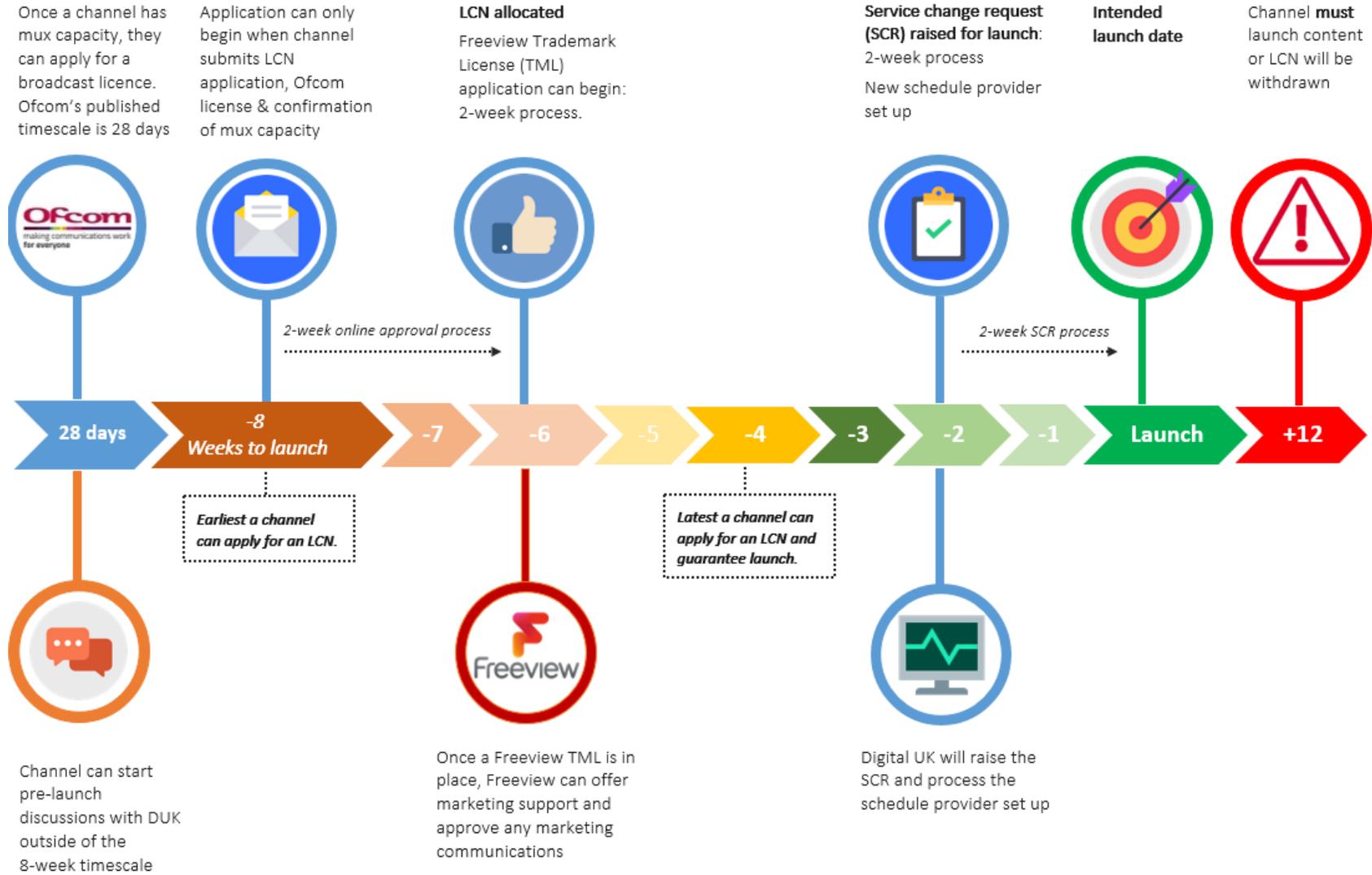
11 INFORMATION PROVISION AND MONITORING

- 11.1 Digital UK is not obliged to monitor the content of the channels which are on the DTT platform in order to ensure that they continue to comply with any representations made to Digital UK by the channel provider about the channel or to investigate allegations brought by channel providers about such on-going compliance. However, Digital UK reserves the right at its discretion to monitor the content of channels and to investigate allegations that may arise.
- 11.2 Channel providers shall at their cost provide all such information as Digital UK reasonably requests in order to enable it: (i) To conduct any monitoring or investigations which Digital UK at its discretion wishes to conduct; and/or (ii) To provide viewers with scheduling information.
- 11.3 Channel providers must take steps to ensure that all information provided by them or on their behalf is accurate, complete and up-to-date. Channel providers are expressly obliged to inform Digital UK of changes to their channel.

12 REVIEWS

- 12.1 Digital UK will carry out periodic reviews of the Policy.

Schedule 1 of Proposed LCN Policy: The LCN Allocation Process



Schedule 2 of Proposed LCN Policy: Digital UK's Genre Ranges

To be decided following consultation.

Schedule 3 of Proposed LCN Policy: Digital UK's Genre Definitions

General Entertainment

Programming of an entertainment nature that targets a wide viewing audience.

The channel must contain a variety of entertainment programming and the channel must not be more appropriately listed in another existing genre.

HD

A channel is defined as HD where it meets the video parameters for high-definition services as defined in Table 6 of Ofcom's Reference parameters for DTT transmissions in the UK, version 6.11 dated 19/11/2009 (as amended from time to time). All channels meeting this definition will be allocated LCNs in the HD genre with the exception of adult and children's services, which for consumer protection purposes will be allocated an LCN within their relevant content genre.

Children's

Programming aimed at children aged 15 or under. There should be no material unsuitable for children aged 15 or under on any channel assigned to this genre.

News

Programming consisting predominantly of news and/or current affairs.

Adult

Digital UK will determine, in its reasonable opinion, whether it is appropriate to locate a channel in the Adult genre. Adult channels are channels which contain content of an adult nature, such that it features the depiction or description of, or behaviour of, a sexual or sexually suggestive nature, especially if this is of a lascivious nature. This includes the exhibition or depiction of sexual organs or sexual activity of any kind.

When considering if a channel should be listed in the Adult genre, Digital UK will consider the amount and nature of programming which is of an adult nature that is broadcast on to that channel.

For the avoidance of doubt, transactional sex chat channels (or 'Adult Chat' services) will be located in the Adult genre.

Text

The presentation of on-screen text services which are predominantly used by viewers to seek out specific information.

Streamed services

Channels where audio visual content is delivered over IP but access is enabled via an MHEG or HbbTV application which is broadcast over DTT. Services of this type will usually be allocated an LCN within the Streamed services genre, with the exception of adult and children's services, which for consumer protection purposes will be allocated an LCN within their relevant content genre.

IP-delivered

IP-delivered channels with no DTT element. Digital UK does not allocate LCNs to these channels but has reserved a range of LCNs for third-party platforms to use.

Interactive

Programming that can be accessed by the viewer as and when they demand, including push video-on-demand (VOD) services; or programming that enables the viewer to interact with the content or service in some way by utilising a button function on their TV remote control.

SD simulcast area

Reserved for possible future use. Digital UK may decide, following a consultation, that HD channels should appear to those viewers who can receive them in the LCN currently allocated to their SD equivalent, with the SD version moving to this area.

Radio

Audio-only programming that is licensed as a radio station rather than as a television channel.

Testing

Reserved for Digital UK testing purposes and/or for viewer and listener support in the event of platform changes.

Appendix 2 – Ipsos Connect Research

DTT Viewer Experience

August 2016



Background & Objectives

Ipsos MORI was commissioned by Digital UK to conduct a Digital Terrestrial Television ('DTT') viewing experience study, to document and explore the experience of households when using their DTT television sets.

The research aimed to understand the views of DTT audiences on the role of the channel listing in facilitating channel navigation and content discovery.

The specific objectives of the research:

1. Understand how viewers navigate and discover content on the DTT platform
2. Explore the value of channel genres and channel families
3. Establish a viewer preference on the location of Adult channels in the channel guide
4. Understand the impact of channels that only broadcast for limited hours



Methodology

Questionnaire structure and length

Module 1 of the questionnaire was dedicated to the management of the DTT LCN Policy. It was asked to a UK representative sample of 1,904 GB adults aged 15+ (of which 1,069 people said they had DTT on any TV), with an overall length of 5 minutes and comprising of 10 questions. This included questions relating to methods of channel navigation (i.e. finding something to watch on TV), as well as feelings towards channel positioning. The module also included an ordering exercise, whereby the participant would select their ideal channel order, plus a separate question probing their opinions on the proximity of Adult channels to Children's channels.

Cognitive Interview Analysis

To ensure that the research was robust, the questionnaire was subject to a day of intense cognitive interview analysis, whereby members of the public were taken through the questionnaire by one of our specialist qualitative researchers. The aim of the day was to establish where there were ambiguities in the wording, misunderstanding, and to help add general clarity and clearness to the questions once it had gone in to field. Six participants of a range of ages, genders and background were interviewed, giving us helpful pointers and indications as to where the questionnaire could be clearer.

Sample

Out of the 1,904 sample, 1,069 participants had DTT on any of their televisions. Most of these came in the form of Freeview, followed by BT (YouView), TalkTalk (YouView) and YouView (not BT or TalkTalk).

Sample Sizes – DTT Televisions		Total
Any TV		1069
Freeview		974
BT (YouView)		97
TalkTalk (YouView)		34
YouView (not BT or TalkTalk)		4
Main TV		749
Freeview		620
BT (YouView)		91
TalkTalk (YouView)		34
YouView (not BT or TalkTalk)		4

With regards to what type of television people had on their main TVs, 749 participants had DTT, with a similar frequency of types to those with DTT on any TV. As such, of those who have DTT, 70% have it on their main TV.

Interpretation of the Data

All interviews were processed and computer analysed by Ipsos MORI. The final data for the main sample were weighted to be nat-rep, according to gender, age, working status, social grade and household size. The achieved sample size for the total sample is 1,904 participants including 1,069 with DTT on any television and 749 with DTT on their main TV. Whilst confidence intervals can only truly be used for random samples, they do give us an indication when using quota sampling, which is the case for this study. Confidence intervals using effective base sizes are +/-2.4 for all participants, +/-3.2 for DTT households and +/- 3.8 for DTT main TV households.

Executive Summary

1

The channel guide continues to be widely used, with young people using it more significantly than older people

2

Familiarity in the channel order is important for DTT viewers

3

Half of viewers consider channel genres to be important

4

A significant minority of viewers consider channel families to be important

5

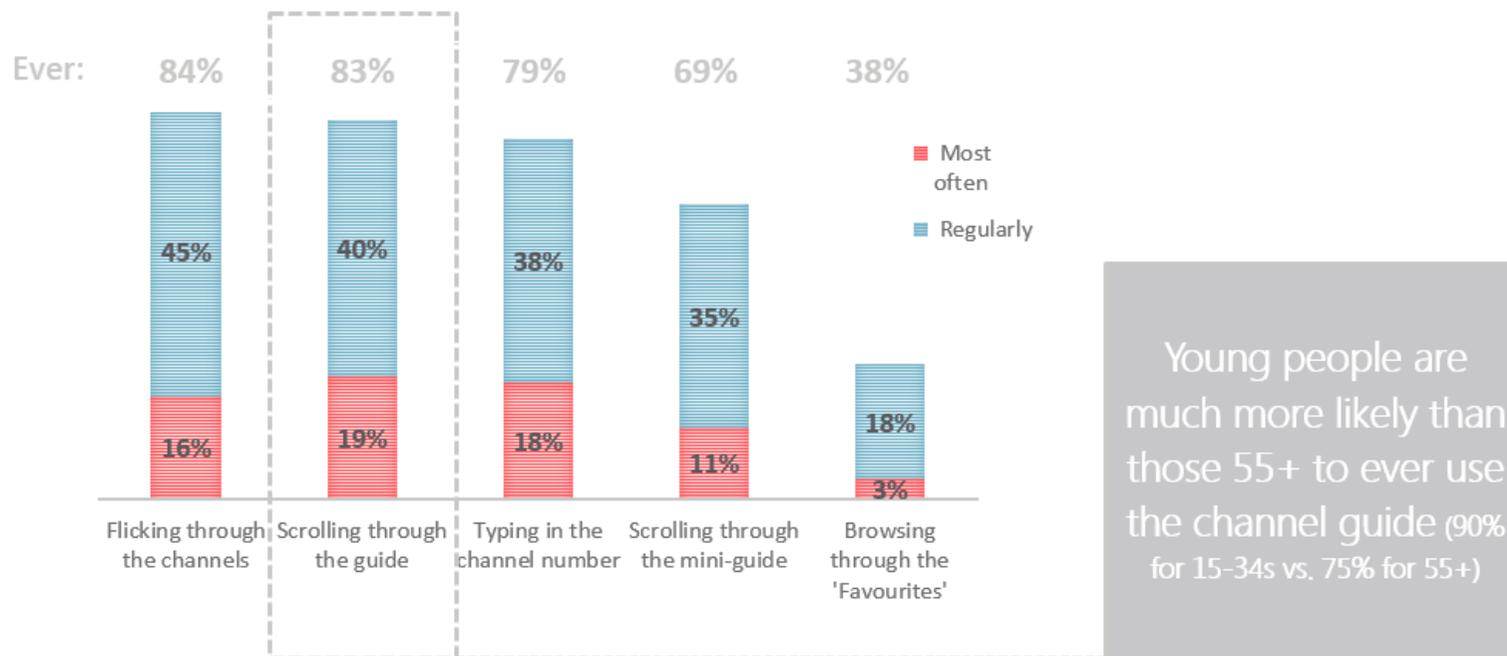
A clear preference of channel order has emerged with adult & children's channels being separated in the guide a fundamental concern to viewers

6

The majority of viewers do not consider channels that only broadcast at certain times of day to be a problem

Viewers use a variety of methods to pick the channel they are going to watch, with the channel guide used almost universally

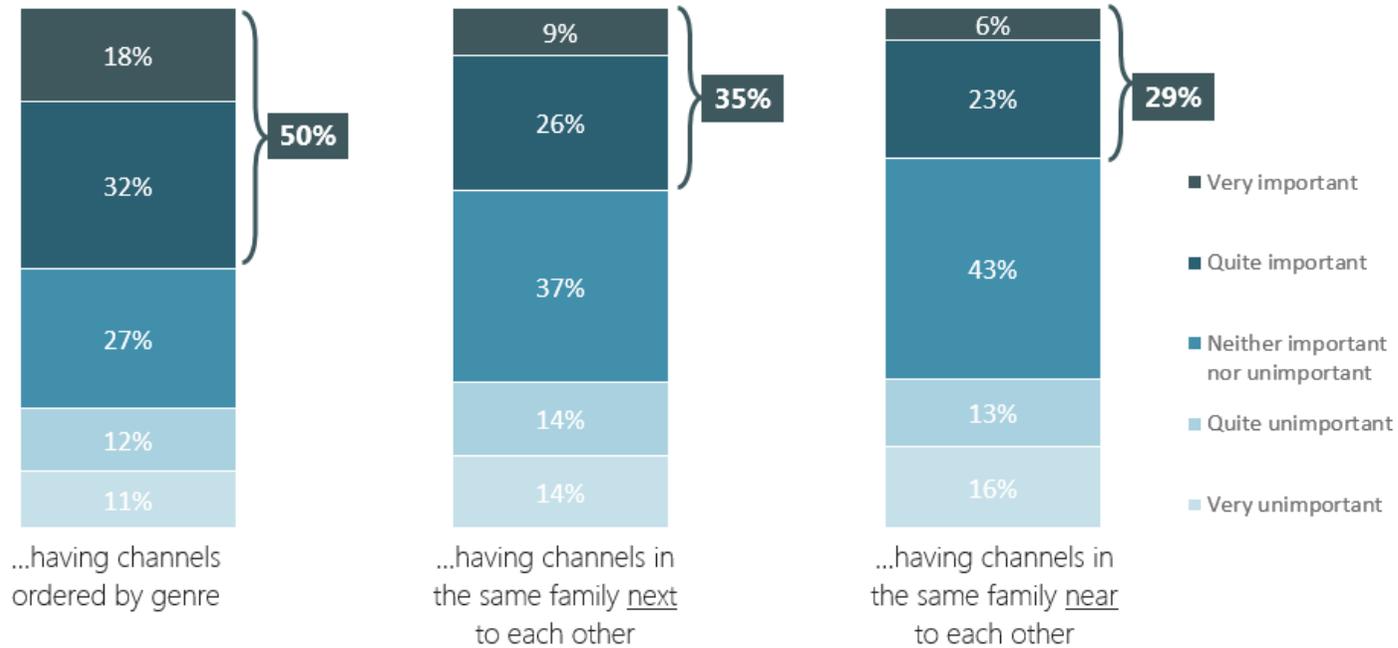
Preferred method of navigating channels



Ipsos Connect MR1_3 I'm now going to read out various methods for finding something to watch on TV and would like you to tell me how often you do each when watching
 Freeview. Base: All participants who have DTT on any TV n= 1069

Grouping channels by genre remains important for viewers; a significant proportion of viewers also value channel families

Importance of...



We asked participants to rank genres in the order that they would like them to appear in the EPG, considering what would be best for everyone in society

MRI_5 Rank these categories from 1 to 7, where 1 indicates the group of channels that you would like to appear first, and 7 indicates the group you would like to appear last
Base: All those who have DTT on any TV, n=1069

A clear ranking preference emerges, starting with Entertainment and ending with Adult channels



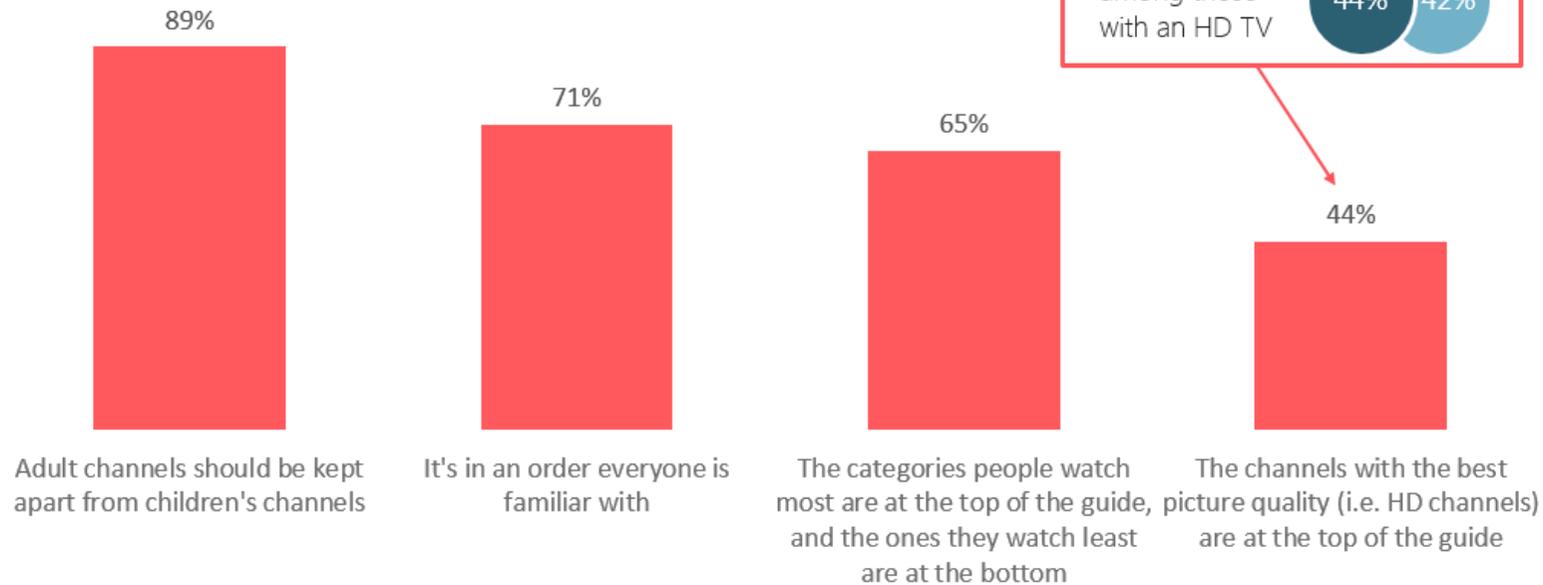
Ipsos Connect MR1_5 Rank these categories from 1 to 7, where 1 indicates the group of channels that you would like to appear first, and 7 indicates the group you would like to appear last
 Base: All those who have DTT on any TV, n=1069

Following the unprompted ranking exercise, we asked participants to consider how important specific factors, including the separation of Adult and Children's channels, are when considering the channel line-up

MRI_7 Thinking of everyone in society, how important are each of the following factors when considering the channel order? Base: All those who have DTT on at least one television. Base: All those who have DTT on any TV (1037).

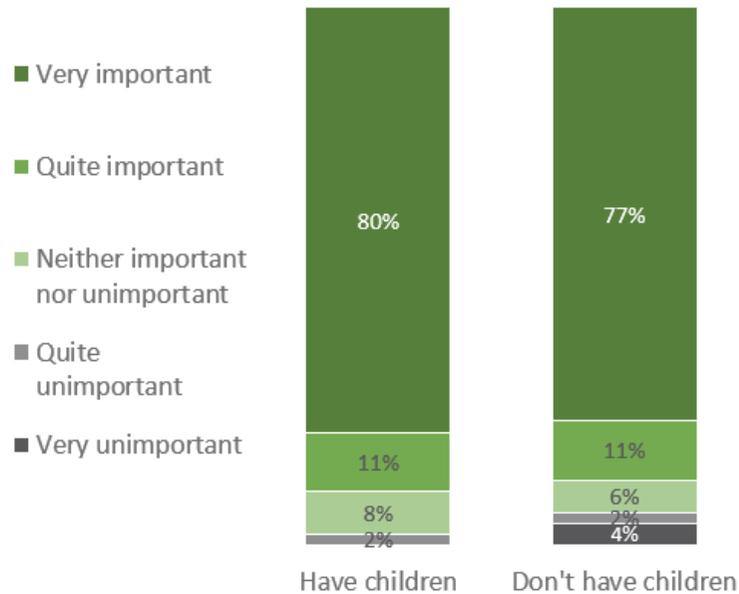
When considering the channel line-up, consumer protection and familiarity are important for most

Importance when considering the ordering of channels
% Very/Quite important (net)

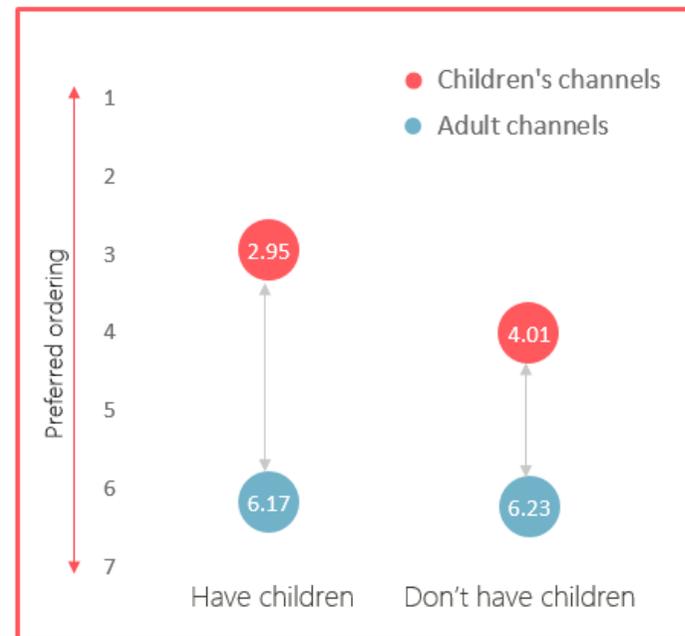


Separation of Adult and Children's channels is important for all, despite non-parents preferring Children's channels to appear lower in the ordering

Importance of Adult channels being kept apart from Children's channels



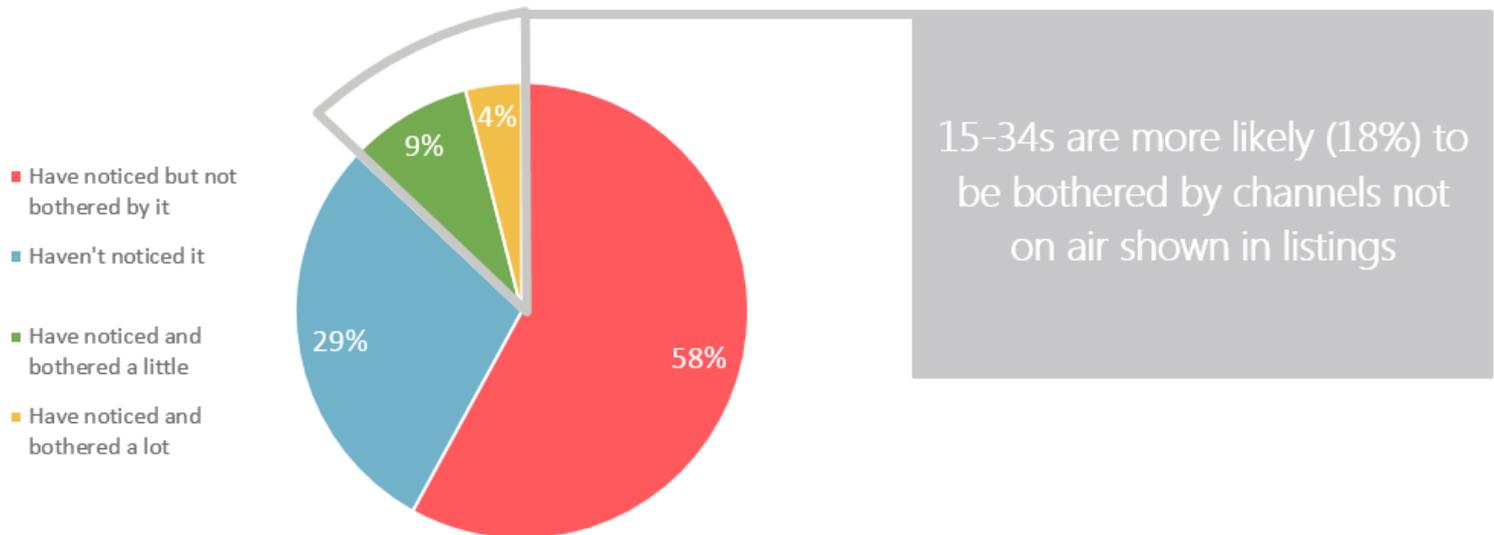
Mean preferred rank (out of 7) given for categories



↑↓ Significantly higher/lower at 95%

Most viewers don't find channels that are only on air at certain times of day to be a problem

Feelings towards channels not on air visible in listings



Ipsos Ipsos Connect MR1_9 Some channels appear in your programme guide all the time but only show programmes at certain times of day e.g. some channels only show programmes in the evening. Which of these statements most closely describes how you feel about this. Base: All those who have DTT on any TV n=1069

Appendix

Digital UK – DTT Viewing Experience - Questionnaire

MR MODULE

SAMPLE: 2000 Adults aged 15+

ASK ALL WITH A TV

MR1_1

How many working TV sets do you have in your household?

SINGLECODE

- 1
- 2
- 3
- 4
- 5 or more

Don't have a working television

MR1_2

ASK ALL WHO ANSWER 1-5 AT MR1_1

For each TV in your household, please tell us which television provider you use on that TV.

Please choose from the following television providers:

1. Freeview
2. Freesat
3. BT (YouView)
4. Virgin Media
5. Sky
6. TalkTalk (YouView)
7. YouView (not BT or TalkTalk)
8. Other
9. Don't know

Please tell us first for your main TV and then any other TVs

NUMERIC FIELD PER ROW

- Main TV: _____
- Television 2: _____ ONLY SHOW IF 2, 3, 4 OR 5 OR MORE SELECTED AT MR1_1
- Television 3: _____ ONLY SHOW IF 3, 4 OR '5 OR MORE' SELECTED AT MR1_1
- Television 4: _____ - ONLY SHOW IF 4 OR '5 OR MORE' SELECTED AT MR1_1
- Television 5 _____ - ONLY SHOW IF '5 OR MORE' SELECTED AT MR1_1

SHOW IF ANSWER CODE 3, 6 OR 7 FOR ANY TV AT MR1_2

INTERVIEWER READ OUT: The following questions ask about Freeview TV. By this we want you to think about the Freeview, BT, TalkTalk, or YouView you have. The reason for this, is all of these use the same Freeview channel guide.

MR1PERMISSION

ASK TO ALL WHO HAVE FREEVIEW, BT, TALKTALK, YOUVIEW AS THEIR MAIN TV

INTERVIEWER TO ESTABLISH WHERE MAIN TV IS, IF THE REMAINDER OF THE INTERVIEW CAN BE CONDUCTED IN THE ROOM OF THE MAIN TV.

READ OUT: 'Which room is your main TV in? IF ANSWER NON-BEDROOM Please could we continue with the rest of the interview in your <INSERT ROOM> as we have a few questions where we would like to use your TV to get a better understanding of your TV viewing?'

INTERVIEWER TO FILL OUT:

Permission given?

Yes, we are continuing the interview in the room of the main set

No, we are not continuing in the room of the main set

MR1_3

ASK ALL WHO HAVE FREEVIEW, BT, TALKTALK, YOUVIEW IN HH

I'm now going to read out various methods for finding something to watch on TV and would like you to tell me how often you do each when watching Freeview

SHOW AS GRID

DOWN THE SIDE:

INTERVIEWER: READ OUT THEN TURN TO SHOW OPTIONS

INTERVIEWER: IF UNSURE WHAT A 'MINI-GUIDE' IS, PLEASE EXPLAIN: The mini-guide is when you're watching a channel, and have the information bar taking up around a third of the screen. You can scroll through this bar to see what's on other channels while still watching your show

1. Type in the channel number on the remote
2. Scroll through the channel list on the Channel Guide, one channel or page at a time
3. Browsing through the 'Favourites' that you've set
4. Scroll through the mini-guide on the screen while watching one channel
5. Flick through the channels

ACROSS THE TOP:

INTERVIEWER: DO NOT READ OUT

1. Most often (THIS CODE SHOULD ONLY BE SELECTED FOR ONE ROW)
2. Regularly
3. Rarely
4. Never (THIS CODE CANNOT BE SELECTED FOR ALL ROWS)

MR1_4

ASK ALL WHO HAVE FREEVIEW, BT, TALKTALK, YOUVIEW IN HH

Channels are ordered by the category they fall in to. For example, news channels are grouped together, Children's channels are grouped together. How important is it to you that channels are grouped together in categories like this?

SINGLECODE

1. Very important
2. Quite important
3. Neither important nor unimportant
4. Quite unimportant
5. Very unimportant

TEXT SCREEN TO ALL WHO HAVE FREEVIEW, BT, TALKTALK, YOUVIEW IN HH (C.1 OR 3 OR 6 OR 7 FOR ANY TV AT MR1_2)

INTERVIEWER TO READ OUT: We would now like you to think about the order in which the channels appear on your Freeview set and whether this could be changed to improve your experience on Freeview

MR1_5

ASK ALL WHO HAVE FREEVIEW, BT, TALKTALK, YOUVIEW IN HH

The following list describes types of TV channel that may be grouped together on the Electronic Programme Guide on your Freeview TV. Now please think about the order of these categories that would be best for everyone in society. Rank them from 1 to 7, where 1 indicates the group of channels that you would like to appear first, and 7 indicates the group you would like to appear last

INTERVIEW TO SHUFFLE CARDS AND SHOW CARDS

Type of Channel	Order
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Entertainment

News

Children's

HD channels

Radio

Adult

Interactive (e.g. Text, Red button)

INTERVIEWER: IF RESPONDENT IS UNSURE ABOUT THE DEFINITION OF 'ADULT': Adult refers to material that contains images and/or language of a strong sexual nature which is for the primary purpose of sexual arousal or stimulation

MR1_6

ASK ALL WHO HAVE FREEVIEW, BT, TALKTALK, YOUVIEW IN HH

Why do you think this order is best for society?

OPEN END

MR1_7

ASK ALL WHO HAVE FREEVIEW, BT, TALKTALK, YOUVIEW IN HH

Thinking of everyone in society, how important are each of the following factors when considering the channel order?

SHOW AS GRID:

ACROSS THE TOP

1. Very important
2. Quite important
3. Neither important nor unimportant
4. Not very important
5. Not at all important

DOWN THE SIDE:

1. It's in an order everyone is familiar with
2. Adult channels should be kept apart from children's channels
3. The categories people watch most are at the top of the guide, and the ones they watch least are at the bottom
4. The channels with the best picture quality (i.e. HD channels) are at the top of the guide

SINGLECODE PER STATEMENT

MR1_8a

Sometimes channels that come from the same company appear next to each other in the listing. For example, More4 is next to E4, and True Crime is next to True Entertainment. How important is it to you that channels from the same company appear next to each other in the channel ordering?

SINGLECODE

1. Very important
2. Quite important
3. Neither important nor unimportant
4. Quite unimportant
5. Very unimportant

MR1_8b

Sometimes channels from the same company appear near to each other in the listing, but not directly next to each other. For example, CBS Action is two places away from CBS Reality, and ITV4 is two places away from ITVBe. How important is it to you that channels from the same company appear near to each other in the channel ordering if they cannot be next to each other?

SINGLECODE

1. Very important
2. Quite important
3. Neither important nor unimportant
4. Quite unimportant
5. Very unimportant

MR1_9

ASK ALL WHO HAVE FREEVIEW, BT, TALKTALK, YOUVIEW IN HH

Some channels appear in your programme guide all the time but only show programmes at certain times of day e.g. some channels only show programmes in the evening. Which of these statements most closely describes how you feel about this?

INTERVIEWER TURN SCREEN AND SELECT OPTIONS NOTICED

1. I have never noticed this
2. I have noticed this and it doesn't bother me at all
3. I have noticed this and it bothers me a little
4. I have noticed this and it bothers me a lot