

Q40.

## Privacy Notice

1. Information provided through this consultation may include the name, email address, and employer of the respondents, as well as their opinions. It is possible that respondents will volunteer additional identifying information about themselves or third parties.
2. The personal information is processed for the purpose of obtaining the opinions of representatives of organisations and companies as well as citizens to help inform the government's position on the implementation of particular provisions in the amending Audiovisual Media Services Directive (AVMSD). We may also use this personal data to contact respondents in relation to their response.
3. The processing is necessary for the effective performance of a task carried out in the public interest or in the exercise of official authority vested in the Department for Digital, Culture, Media and Sport (DCMS).
4. This is a public consultation, and we intend that the responses to this consultation be made available to the public via the gov.uk website. Information provided in responses may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA) and the Environmental Information Regulations 2004 (EIR).
5. If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence.
6. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on DCMS.
7. Personal information in responses will be retained for two calendar years after the consultation has concluded. This is so that the DCMS is able to contact you regarding your response.
8. Your rights:
  - a. you have the right to request information about how your personal data are processed and to request a copy of that personal data;
  - b. you have the right to request that any inaccuracies in your personal data are rectified without delay;
  - c. you have the right to request that your personal data are erased if there is no longer a justification for them to be processed;
  - d. you have the right, in certain circumstances (for example, where accuracy is contested), to request that the processing of your personal data is restricted; and
  - e. you have the right to object to the processing of your personal data where it is processed for direct marketing purposes.
9. Your personal data will not be sent outside the EEA.
10. Your personal data will not be used for any automated decision making.
11. Your personal data will be stored in a secure government IT system.
12. The data controller for any personal data collected as part of this questionnaire is the Department for Digital, Culture, Media and Sport ("DCMS"), the contact details for which are:

Department for Digital, Culture, Media and Sport  
100 Parliament Street  
London SW1 2BQ  
Telephone - 020 7211 6000  
Email - avms-consultation@culture.gov.uk

The contact details for the DCMS Data Protection Officer are:

The Data Protection Officer  
Department for Digital, Culture, Media and Sport  
100 Parliament Street  
London SW1 2BQ  
Email - dcmsdataprotection@culture.gov.uk

You can find out more here.

13. If you have any concerns about the use of your personal data, please contact us via this mailbox: dcmsdataprotection@culture.gov.uk. If we are unable to address your concerns to your satisfaction, you can make a complaint to the Information Commissioner, the UK's independent regulator for data protection. The Information Commissioner can be contacted at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire SK9 5AF  
Telephone - 0303 123 1113

Email - casework@ico.org.uk

Any complaint to the Information Commissioner is without prejudice to your right to seek redress through the courts.

Q39. Please provide your name, organisation and contact details.

(Please note you can proceed with the questionnaire without typing any of your personal details. However, we will not be able to contact you in relation to your responses)

Name	<input type="text" value=""/>
Organisation	<input type="text" value="S4C"/>
Email	<input type="text" value=""/>

#### Q1. Protection of Minors

Do you agree with our proposed approach to amend s368E of the Communications Act 2003 to align the protection of minor requirements for linear and on-demand?

Yes

No (please give details)

Q2.

Noting that recital 19 envisages that a system of that viewers should be provided with sufficient information regarding the nature of the content, should be equally applicable to both video-on-demand and linear services.

Do you consider that Ofcom updating the relevant sections of the Broadcasting Code would be enough to sufficiently meet this requirement?

Yes

No (please give details)

Q3.

If no, what would be your preferred way of introducing a new requirement for ensuring that viewers have sufficient information about the nature of content on video-on-demand catalogues? Could you indicate from the following:

*This question was not displayed to the respondent.*

Q4.

Should the measures above use:

standardised system of content descriptors, or

age-ratings used for broadcast and/or video-on-demand

Q5.

What would the benefits/obstacles be for introducing a standardised system to such content?

The Ofcom Broadcasting Code sets out the measures which broadcasters should take to protect minors from harm, but is not prescriptive about how warnings should be issued. This enables broadcasters to provide warnings which are appropriate for the context. This gives flexibility to adopt language and tone which are appropriate to the slot and the degree of potential harm within the programme. In S4C's case, it can also select appropriate wording in the Welsh language. We would recommend giving ODPS providers some flexibility to adopt an appropriate method of giving information about VoD content, provided it meets the overarching requirements in the regulations designed to protect minors.

Q6.

Should the government consider a self or co-regulatory model for provision of sufficient information to protect minors?

## Q7. Advertising

The government invites views on how best to implement the requirement to ensure that VSPs comply with the

relevant advertising provisions, noting that the Directive encourages the use of co-regulation by Member States to meet its aims, and that there already exists a co-regulatory framework for advertising on linear broadcast and VoD in the UK.

Q8.

The government's preferred approach is not to make legislative change with regards to the change of advertising minutes. Do you agree with this approach?

Yes

No (please explain why)

S4C would welcome the relaxation of the current restrictions on advertising minutage per hour and the flexibility to apply a 20% limit over a greater number of hours. The current restrictions can prove problematic during live events. For example: - If we are broadcasting a live concert with an advertising break scheduled for the interval, we cannot fully control the timings of the concert and a delay in the interval can cause the advertising break to be pushed into the next clock hour. - Similarly with live sports, there may be delays, e.g. with a late kick-off or injury stoppage, which can affect the scheduled time for an advertising break. The current rules do not allow sufficient flexibility for this type of occurrence, as it is not always possible to recoup the lost minutage. This can lead to loss of advertising income to us as a broadcaster. We also believe relaxing the rules would improve the editorial experience for the viewer, as we could schedule advertising breaks during natural breaks in the programme, rather than at points dictated by the current rules. We would therefore welcome a change to the rules to allow advertising minutage to be calculated over more than one clock hour.

Q9.

Do you consider that a review of the advertising minutes in the UK market should take place in relation to the liberalisation of scheduling of minutes set out in paragraphs 45-47?

- Yes
- No (please provide evidence that supports your view)

Please see our response to the above question.

### Q10. Accessibility

The government's preferred approach is to consider the recommendations set out in Ofcom's report on accessibility for on-demand regarding the design and implementation of accessibility for on-demand; in the event that time-scales do not align with the implementation deadline of 19 September 2020 that copy-out is used to update the wording s368BC for video-on-demand of the Communications Act 2003.

Do you agree with this approach?

- Yes
- No (please explain why)

Q11.

Do you agree with the government's preferred approach to ensure that the accessibility of emergency communications is made through existing provisions in Section 336 of the Communications Act?

- Yes
- No (please explain why)

### Q12. European Works

We propose that government amends the Communications Act 2003 to ensure that Ofcom produces a report every two years on the European Works quotas and prominence obligations, via copy-out. Do you agree?

- Yes
- No (please explain why)

Q13.

We propose that government amends the Communications Act 2003 to ensure that Ofcom has to produce guidance on prominence of European Works in video-on-demand catalogues. Do you agree?

- Yes
- No (please explain why)

Q14.

Are there core framework elements that should be included in this requirement to produce guidance?

Q15.

Noting that prominence in on-line catalogues could encompass a wide range of practices (e.g separate section, dedicated search, information on home page), please indicate which would consider would be appropriate:

- Separate section
- Dedicated search
- Information on home page
- Other (please specify)

Q16.

What would be your preferred way of introducing a new prominence requirement for European works content on video-on-demand catalogues?

Q17.

Noting that the Commission is due to publish guidance in relation to low turnover and low audience, do you agree with the proposed approach that we allow for exemptions for quota and prominence obligations by amendment to section 368C(3) and 368Q (3) for the Welsh Authority of the Communications Act 2003?

- Yes
- No (please explain why)

Q18.

Do you consider that the current level of funding for European Works in the UK is sufficient? Please provide evidence.

Q19.

The government currently has no plans to introduce a levy, however, do you think a levy scheme to fund European Works could be an effective way to provide funding? Please explain why.

Q20.

Are there alternative methods of funding European Works that you wish to provide views on?

### Q21. Video Sharing Platforms

Do you agree with the proposed approach of implementing the provisions pertaining to VSPs in the 2018 Directive through the regulatory framework outlined in the Online Harms White Paper?

- Yes
- No
- Don't know

Q22.

If not, please explain why you deem this approach to be deficient and what alternative approach you would advocate.

Q23.

Do you agree with the approach set out in paragraph 82 to appoint Ofcom as the National Regulatory Authority as an interim measure if required?

- Yes
- No (please explain why)

Q24.

Which VSPs, if any, do you expect would fall under the UK's jurisdiction under the Country of Origin principle? Please explain your answer.

*info.*

Please refer to the Online Harms White Paper Consultation for other questions related to the implementation of 2018 Directive, including:

- the scope of the proposed regulatory framework and measures;
- the appointment of an independent regulator; and
- the funding and enforcement powers of said regulator.

### Q25. Signal Integrity

What would be your preferred way of introducing a new requirement for ensuring that appropriate and proportionate measures to ensure that audiovisual media services provided by media service providers are not, without the explicit consent of those providers, overlaid for commercial purposes or modified?

### Q26. Media Literacy

In addition to the measures described in the section on Media Literacy, are there any other legislative and non-legislative measures government should be taking to fulfill the obligations of promoting the development of media literacy skills set out in Article 33a(1)?

### Q27. Transparency of ownership of audiovisual media Service providers

Are you in favour of introducing additional measures which would require audiovisual media services providers under the UK jurisdiction to make information concerning their ownership structure, including the beneficial owners, accessible?

Yes

No

### Q28. General

Please provide any further comments you may have on the government's proposed approach to implementation of the AVMSD:

*info.* I wish to answer questions on business impact

Yes

No

### Q1. Country of Origin

Will the additional references in jurisdiction criteria, relating to the location of staff making programme related decisions, or the reference to editorial decisions, relating to the day-to-day activity, affect you or your business?



- Yes (please give details)
- No
- Don't know

Q2.  
Will the amended derogation procedures affect you or your business?

- Yes (please give details)
- No
- Don't know

Q3.  
**Protection of Minors**

Do you expect the new measure which restricts processing, collecting or otherwise generating personal data of minors for commercial purposes set out in Article 6a(2) to impact your audiovisual media service (or video sharing platform in the case of VSP providers)?

- Yes (please give details) 

Whilst we agree with the need for measures to protect minors from undue commercial influences, we believe the proposed restrictions on using personal data of minors go further than the General Data Protection Regulation (GDPR), as that enables parental consent to be given to process data relating to minors. In S4C's case, we intend to collect data about users of our on-demand services in order to personalise the user experience. This will include identifying user profiles and preferences in order to recommend content which is likely to appeal and be of interest to them. We would obtain all necessary GDPR consents to process data for purpose. The new measure proposed by DCMS would mean we cannot, even with parental consent, select programmes which children may wish to view, based on their previous choices or personal data such as age.
- No

Don't know

Q4.

Noting the government preferred approach to update S368 of the Communications Act 2003 to align the protection of minors requirements for video on demand with linear television, , which would anticipate Ofcom to do a corresponding update to the Broadcasting Code.

Do you expect the new measure on providing sufficient information to viewers about content which may impair the physical, mental or moral development of minors, by providing sufficient information to viewers about the nature of the content, as set out in Article 6a(3), to impact your audiovisual media service?

Yes (please give details)

No (please giv

Don't know

Q5.

Would a standardised system of content descriptors or age-ratings used for broadcast and/or video-on-demand to provide sufficient information to viewers about content impact on your audiovisual media service?

Q6.

### Advertising

Would the further prohibitions on alcohol and e-cigarette advertising as referenced in paragraph 45 have an impact on your business?

Yes (please give details)

No

Don't know

Q7.

### Accessibility

Would reporting obligations, set out in Article 7(2) of the 2018 Directive, occur any administrative costs to your business? If so, can you quantify them [answers must be provided as total cost in pounds sterling]?

Q8.

Would the development of accessibility action plans in respect of continuously and progressively making services more accessible to persons with disabilities, as set out in Article 7(3), occur any administrative costs to your business?

S4C agrees that ODPS's should be made more accessible to users with hearing and visual impairments. As with the current linear requirements, we believe that provisions are needed to ensure that the ODPS access services requirements are proportionate and affordable. S4C offers a greater volume of on-demand content than linear content. As well as all its linear content, S4C offers on-line only content, such as box sets from the archive and short-form and mid-form content targeting younger audiences. Extending the access services requirements to ODPS providers would result in increased costs for S4C and therefore a proportionate approach is important in order that we can continue to invest in growing our digital offering.

Q9.

Would the new requirement on the accessibility of emergency communication have any impact on your business?

- Yes (please give details)
- No
- Don't know

Q10.

### European Works

For on-demand providers, how much of your catalogue currently consists of European works (based on minutage)?

Q11.

For on-demand providers, how much of your catalogue currently consists of European works (based on titles)?

Q12.

Will meeting the new 30% requirement of European works in on-demand catalogues financially impact your business?

- Yes (please give details)
- No
- Don't know

Q13.

Will making European Works prominent in you catalogues financially impact on your business?

- Yes (please give details)
- No
- Don't know

Q14.

Noting that the European Commission is required by Article 13 to publish guidance on the definition of low audience and low turnover. Do you anticipate that your on-demand service to be exempt from the obligations on the basis of a low audience or low turnover definition?

- Yes (please give details on why you think this should apply to your service)
- No
- Don't know

Q15.

Do you expect the new reporting obligations mentioned in paragraph 66 to generate any additional costs to your business?

- Yes (please give details)
- No
- Don't know

Q16.

How much revenue do you currently generate from EU countries if transmitting in the EU? Please give your answer to the nearest £1000.

S4C's ODPS service Clic is available across the UK and, where rights allow, on a world-wide basis. This service is offered free of charge, without generating any income. Although the usage numbers are relatively low, the service is greatly valued by Welsh speakers and learners living outside the UK. If other EU territories sought to impose Country of Destination levies on S4C's world-wide service, we believe it would threaten the continued viability of this service.

Q17.

Which European Union countries do you generate revenue from?

Q18.

### Signal Integrity

Do you expect the new provision, set out in Article 7b, will generate any impact on your media service?

- Yes (please give details)
- No
- Don't know

Q19.

**Transparency of ownership of media Service providers**

Do you expect such a requirement would generate any impact on your media service?

- Yes (please give details)
- No
- Don't know

Q20.

**Economic Impact**

What economic impact would new/amended provisions made by the 2018 Directive have on your business? How would the provisions lead to such impact?

Q21.

How would your business familiarise itself with the implications of these changes? Would you use in-house legal support, seek external legal advice or neither?

Q22.

How much time (in hours) would it take for you/your staff/trade mark owners to familiarise yourself with the legal implications of the changes required by the Directive? How much would the use of staff time for this purpose cost your business?

Q23.

Are there any costs to you/your business beyond staff time? For example, preparation of guidance or amending existing licence agreements. Please outline what costs these are, and the financial cost to your business.



