

2024 AVIA Regulating for Growth – Pay TV Matrix for **The United Kingdom**

Questions	Pay TV	Foreshadowed changes?
<p>1. How regulated? <i>Details of regulator/s</i></p>	<ul style="list-style-type: none"> Ofcom is the communications regulator in the UK. Ofcom is independent, transparent and well respected. Before making major policy changes it undertakes impact analyses and extensive consultations. General rights of judicial review of decisions by a public body, and certain specific rights of appeal, are available in relation to its decisions. 	<ul style="list-style-type: none"> In May 2024, the Media Bill was given Royal Assent and officially became the Media Act 2024. There are some formal steps remaining, with most parts of the Media Act set to come into force on a date to be determined by the Secretary of State. Further, Ofcom will define and draft many of the high-level principles set out in the Media Act. Ofcom will undertake industry consultations on aspects of the new regime throughout 2024, with many of the changes currently scheduled to take place in 2025 and 2026. See below further information on anticipated changes.
<p>2. Copyright protection?</p>	<ul style="list-style-type: none"> Domestic copyright laws provide strong protection with significant penalties. However, online piracy remains a problem. Enforcement is good with the Police regularly bringing both private and public criminal prosecutions against pirate operators and obtaining both deterrent fines and prison sentences. For online piracy, world leading blocking orders that include orders which allow dynamic blocking of IP addresses of identified servers located outside the UK that are illegally live streaming sports matches. The Copyright, Designs and Patents Act 1988 (CDPA) provides various exemptions, including the use of short clips in news programming for the purpose of reporting current events. The Creative Content UK regime provides for internet service providers (at the instigation of film and music rights owners) to periodically notify internet users if they breach copyright law. Creative Content UK is an industry-led, government-funded initiative, a partnership between content creators and internet service providers. 	<ul style="list-style-type: none"> None.

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3. Convergence and new technologies	<ul style="list-style-type: none"> • Broadly speaking, regulation in the UK is technology-neutral. All types of competing platforms can be licensed and a level playing field exists between platforms. • The Ofcom Code of Practice on Electronic Programme Guides (EPG) regulates how EPG positions are granted. EPG providers are required to give “appropriate prominence” to the public service broadcasters’ core channels. • Pay TV operators are not required to obtain the regulator’s permission before offering ancillary services such as pay per view. However, providers of on-demand program services must notify Ofcom before their service begins and advise if the service closes or undergoes significant changes. • The receipt of television on different end devices is not subject to different regulation. • The Digital Economy Act 2017 has made provision for a broadband universal service obligation giving consumers the legal right to request a connection above a speed of a certain level. Consumers have been able to make such requests from 20 March 2020. • The Regulation on cross-border portability of online content services across the EU (the Portability Regulation) was revoked after the end of the transition period following Brexit (currently, 31 December 2020). UK online content service providers are no longer required to allow consumers to access and use online services paid for when travelling within other EU member states and EU service providers are no longer required to provide access to their consumers who are temporarily in the UK. Providers may do so voluntarily, if they have the requisite permission of the relevant rights holders. 	<ul style="list-style-type: none"> • The Media Act 2024 introduces a framework to ensure Public Service Broadcasting (PSB) services are easily accessible and discoverable on major TV platforms and internet-connected devices. The Secretary of State will define the applicable devices, likely including smart TVs and set-top boxes. Ofcom will advise on the services and platforms to be regulated, based on their significant public usage for online TV content. The final decision on which platforms to regulate rests with the Secretary of State. Decisions regarding which PSB entities will be eligible are planned for spring 2025, with a publication of the qualifying list expected in the summer, followed by a list of designated platforms between October and December 2025.
4. Licensing of foreign channels <i>Allowed, prohibited or unregulated?</i>	<ul style="list-style-type: none"> • Prior to Brexit, channels based and licensed in other EU countries were exempt from additional UK licensing (i.e. they do not require a licence from Ofcom to be made available in the UK market). This is owing to the “country of origin principle” in the EU Audiovisual Media Services Directive (AVMSD). 	<ul style="list-style-type: none"> • The outgoing UJK government had proposed extending the scope of regulated EPGs to include many connected TV platforms, particularly those with large UK customer cohorts. This would have had the effect of massively expanding the regulatory

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	<ul style="list-style-type: none"> Following Brexit, the UK is no longer a party to the AVMSD and is classed as a 'third country' under the terms of the Directive. Subject to exceptions, the UK has now moved to a country of destination system, requiring television services available in the UK on regulated EPGs (currently the main DTT, satellite and cable platforms) to be licensed and regulated by Ofcom. However, the "country of origin" principle under the European Convention on Transfrontier Television (ECTT), which has similar effect to the AVMSD, still applies to both foreign services being received into the UK and UK licensed services being received outside of the UK. There are, however, some fundamental differences between the ECTT and AVMSD, these include that: <ul style="list-style-type: none"> (i) only 20 of the 27 EU members are signatories to the ECTT and therefore countries that are not signatories to the ECTT cannot rely upon it (note some non-EU countries are also a party to the ECTT); and (ii) the ECTT does not apply to non-linear or internet-only services. 	scope of Ofcom over non-UK channels. However, that development is currently on hold and it remains to be seen whether an incoming government will seek to resurrect the proposals. These proposals would also impact FAST channels (see section 14 below).
5. Licence fees and taxation	<ul style="list-style-type: none"> Fees are set annually to recover Ofcom's costs. 	<ul style="list-style-type: none"> Ofcom keeps the fee regime under review as required.
6. Rate regulation <i>Including wholesale and retail rate regulation and whether there are any price controls on e.g. basic tier</i>	<ul style="list-style-type: none"> In general, there is no regulation of pricing of pay TV content in the United Kingdom. However, Ofcom has the power to regulate pricing where there are specific competition concerns. Operators must also comply with general competition law. 	<ul style="list-style-type: none"> The proposals mentioned above regarding PSB discoverability include must-offer/must-carry rules with a fallback regime for Ofcom to determine commercial terms of such distribution.
7. Programme packaging <i>Including tiering, bundling, any mandatory a la carte</i>	<ul style="list-style-type: none"> Packaging and bundling of pay TV content, or content together with services such as telephony, is not subject to specific regulation in the United Kingdom, but must comply with general competition law. Nonetheless, market practice is typically for pay television providers to bundle a basic tier package with tiered subscriptions to premium content such as movies and sports. 	<ul style="list-style-type: none"> None.

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	<ul style="list-style-type: none"> In 2019, the UK's major broadband, mobile, pay TV and home phone firms signed up to Ofcom's new Fairness for Customers commitments. These include, but are not limited to, the commitment that: <i>"Customers get a fair deal, which is right for their needs. Providers offer customers packages that fit their needs and have a fair approach to pricing. Prices are clear and easy to understand."</i> 	
8. Restrictions on advertising <i>Including localisation rules, revenue and minutage restrictions</i>	<ul style="list-style-type: none"> Advertising minutage restrictions apply to linear channels. These can be found in Ofcom's Code on the Scheduling of Television Advertising (COSTA). Time devoted to television advertising and teleshopping spots on any channel in any clock hour must not exceed 12 minutes. Further the content of advertising must comply with the UK Code of Broadcast Advertising (BCAP Code). Broadcasters must distinguish between advertising and editorial content. Product placement is generally permitted but not for news and children's programmes. Sponsorship is also generally permitted if sponsorship credits do not contain advertising but is not permitted for news and current affairs programmes. Currently, offshore services from within the EU are not subject to UK advertising rules due to the "country of origin" principle. 	<ul style="list-style-type: none"> None, but see section 4 above re licensing of foreign channels.
9. (a) Content regulation <i>Including local content quotas, content control and insertion of classification and other content labels into international feeds</i>	<ul style="list-style-type: none"> The Ofcom Broadcasting Code generally regulates content to ensure certain standards in programming, sponsorship/ product placement, fairness and privacy. Ofcom can impose sanctions including requiring a broadcaster to broadcast a statement of Ofcom's findings or a correction or financial penalties. Broadcasters should not show material on TV that is unsuitable for children before 9:00PM or after 5:30AM. There are specific rules with regards to the watershed for premium film services. Since 1 January 2019, Ofcom has permitted scheduled television channels to show programmes, which previously could only be shown after the 9:00PM watershed, before this time, if mandatory daytime protection (i.e. PIN code protection) is in place. 	<ul style="list-style-type: none"> None.

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	<ul style="list-style-type: none"> • Ofcom does not have power to monitor or censor programmes before broadcast, but there is an obligation on broadcasters to ensure that programmes they air are compliant with the regulatory framework. • The Audiovisual Media Services Regulations (AVMSR) which came into force on 1 November 2020 implement the revised AVMSD into UK law. • Under the revised AVMSD (incorporated into law by the AVMSR), TV broadcasters are required to reserve at least 50% of their transmission time (excluding time allocated to news, sports events, games, advertising, teletext services and teleshopping) for European works. TV broadcasters are also required to reserve at least 10% of their transmission time (excluding the time allotted to the categories above), or at least 10% of their programming budget, for European works created by independent producers. These quotas only apply to TV broadcasts intended for national audiences. 	
<p>9. (b) Content regulation <i>Including languages, dubbing/subtitling and captioning</i></p>	<ul style="list-style-type: none"> • There are no regulatory constraints on broadcast language. • Ofcom's Code on Television Access Services sets targets for the amount of TV subtitling, signing and audio-description that eligible broadcasters are required to provide. • Ofcom requires domestic and non-domestic linear pay TV broadcasters to meet the following targets over 10 years from launch: generally, 80% subtitling, 5% signing, 10% audio description. Different arrangements apply to channels with smaller audience shares and to public service broadcasters. • Small channels with 0.05% or lower annual viewing share (and, in respect of signing only, with less than 1% viewing share) are exempt. Ofcom publishes an annual list of broadcasters subject to these requirements. • Currently, offshore services from within the EU are not subject to UK subtitling rules due to the "country of origin" principle. 	<ul style="list-style-type: none"> • None.

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	<ul style="list-style-type: none"> In April 2024, Ofcom announced minor changes to its Access Services Code and associated best practice guidelines. Through the changes, Ofcom have made clear that: <ul style="list-style-type: none"> broadcasters must make sure access services are of a good enough quality to count towards the targets; and when something goes wrong with access services, broadcasters must make every effort to tell their viewers what is going on and keep them up to date. 	
10. Programme supply restrictions <i>Including must provide rules and other restrictions on exclusivity and anti-siphoning rules</i>	<ul style="list-style-type: none"> In general, conclusion of contracts for exclusive carriage of content is permitted, and such agreements are common in the market. Contractual arrangements (including between operators) are subject to general competition law and to scrutiny by Ofcom in relation to competitiveness and the effective functioning of markets. Public service broadcasters must make their core channels available to all platforms. The government maintains a list of specific sporting events considered to be of major national importance and which must be provided free-to-air, including the Olympic Games and FIFA World Cup finals. The list of events can be found here. 	<ul style="list-style-type: none"> None.
11. Restrictions on FDI <i>Including platforms and wholesale supply of programming and cross-media ownership restrictions</i>	<ul style="list-style-type: none"> 100% foreign investment is permitted in pay TV platforms and content providers. The Communications Act of 2003 and the Broadcasting Act of 1990 regulate cross-media ownership so as to prevent, for example, a newspaper operator with 20% or more of the market share for print newspapers from holding a Channel 3 licence or a stake in a Channel 3 licensee that is greater than 20%. Mergers and acquisitions, including vertical integration, are subject to general competition law. The government may also intervene on public interest grounds relating to media plurality. The National Security and Investment (NSI) Act came into force on 4 January 2022. The NSI Act gives the government powers to scrutinise and intervene in business transactions, such as 	<ul style="list-style-type: none"> None.

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	<p>takeovers to protect national security. The mandatory regime requires qualifying transactions to be notified for approval before they take place, which includes certain communications related transactions.</p> <ul style="list-style-type: none"> • Foreign investors are legally required to submit a mandatory notification if any of the following apply. The entity being acquired either: <ul style="list-style-type: none"> ○ is a public electronic communications network or service (PECN/S) with a UK turnover of at least £50 million ○ makes available an ‘associated facility’ to a PECN/S with a turnover of at least £50 million (exceptions apply, see below) ○ owns a building where its main purpose is to host active telecommunications equipment ○ owns a submarine cable system with a UK turnover of at least £50 million ○ owns a cable landing station which is used by a PECN/S with UK turnover at least £50 million ○ owns a repair or maintenance service for submarine cable systems or cable landing stations which is used by PECN/S with UK turnover at least £50 million. ○ has a top-level domain name registry, domain name system resolver, authoritative hosting service or internet exchange points subject to certain thresholds ○ provides broadcast infrastructure for either: <ul style="list-style-type: none"> ▪ the BBC ▪ Channel 3 (ITV and STV) ▪ Channel 4 ▪ Channel 5 ▪ S4C 	
<p>12. Retransmission arrangements <i>Including must carry and remuneration</i></p>	<ul style="list-style-type: none"> • Retransmission (and relevant payments) for most pay TV channels are decided by commercial negotiation. Prior “may carry” (without payment) rights for networks to distribute public service channels were abolished in 2017 to facilitate free negotiation. 	<ul style="list-style-type: none"> • None.

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	<ul style="list-style-type: none"> However, relevant legislation requires public service broadcasters to make their core channels available on all major platforms (i.e. those networks used by a significant number of end-users as their principal means of receiving television programming). 	
13. Consumer protection <i>Including cooling-off period, termination rights and payment mechanism</i>	<ul style="list-style-type: none"> There is no specific consumer protection in relation to pay TV services (unlike, for example, telecommunications services). However, general consumer protection law will apply, for example the inclusion of informational requirements and a cooling-off period of (typically) 14 days. 	<ul style="list-style-type: none"> None.
14. Entering a new market: FAST TV	<ul style="list-style-type: none"> Channels distributed online, namely Free Ad-supported Streaming Television (FAST) do not come under the same regulatory regime as linear channels available on regulated EPGs. As such, unless a FAST channel is available on one of the regulated EPGs, there is currently no regulation of FAST channels. Some FAST channels are offered on regulated EPGs (such as Virgin Media's integrated EPG) and these are subject to the same Ofcom regulation as linear channels. 	<ul style="list-style-type: none"> In September 2023, the outgoing UK government launched a consultation on proposals to expand the list of regulated EPGs to include many connected TV platforms, particularly those with large UK customer cohorts. This would have had the effect of bringing unregulated FAST channels into scope of Ofcom's Broadcasting Code. However, the status and potential progression of this proposal remains uncertain.
15. Data handling	<ul style="list-style-type: none"> Following Brexit, the the General Data Protection Regulation (GDPR) was retained in the UK at the end of the transition period (31 December 2020) and incorporated into UK law as the "UK GDPR", which sits alongside an amended version of the Data Protection Act 2018 (DPA 2018). Data must be handled in accordance with the UK GDPR and the DPA 2018. The UK GDPR restricts the transfer of personal data to receivers outside of the UK where that country is not covered by UK adequacy regulations (i.e. a country that the UK government does not regard as providing adequate protection for individuals' personal data). 	<ul style="list-style-type: none"> None.
Other country-specific information not already covered	<ul style="list-style-type: none"> None. 	<ul style="list-style-type: none"> None.