

Ofcom rules on Party Political and Referendum Broadcasts



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## Introduction

1. Section 333 of the Communications Act 2003 ("the Act") requires Ofcom to ensure that Party Political Broadcasts (including Party Election Broadcasts) and Referendum Campaign Broadcasts on behalf of registered political parties and designated referendum organisations<sup>1</sup> are included in every licensed public service television channel (regional Channel 3<sup>2</sup>, Channel 4, Five) and every national (i.e. UK-wide, commercial) analogue radio service, and their digital simulcast services (Classic FM, talkSPORT and Absolute Radio AM)("the Licensees").
2. This document contains the Rules which Ofcom has made in accordance with section 333 of the Act. The Rules reflect minimum requirements which Licensees are required to follow in determining the length, frequency, allocation and/or scheduling of party political or referendum campaign broadcasts. They are not intended to fetter the discretion of Licensees to exceed these minimum requirements.
3. Within the terms of these Rules, decisions as to the precise length, frequency, allocation and/or scheduling of broadcasts offered to political parties/designated organisations are the responsibility of Licensees in the first place. When Licensees make such decisions, they should notify the relevant political party/designated organisation promptly in writing, setting out the basis of the relevant decision, and enabling that party/organisation to make further representations to the Licensee if they choose to dispute any part of the decision.
4. If any dispute remains unresolved between any Licensee and any political party/designated organisation, as to the length, frequency, allocation and/or scheduling of broadcasts it may be referred by the party/designated organisation or the Licensee to Ofcom for determination under these Rules. For this purpose, Licensees and political parties/designated organisations should follow Ofcom's Procedures on the referral and determination of disputes under these Rules.
5. Section 6 of Ofcom's Broadcasting Code<sup>3</sup> ("the Code") provides that broadcasts under these Rules are required to comply with the relevant provisions of the Code (for example, the provisions regarding harm and offence) notwithstanding that the content of broadcasts is normally the responsibility of the relevant political parties (or designated referendum organisations). Licensees should apply these Rules in accordance with relevant provisions of the Code.
6. Licensees are advised to issue guidance on the acceptability of content and technical matters. Broadcasters are advised to seek legal indemnities from parties against defamation, copyright and similar legal risks. Any use of Parliamentary footage should abide by Parliament's rules on such use.

<sup>1</sup> See section 333(3) of the Act, and sections 37 and 127 of Parties, Elections and Referendums Act 2000

<sup>2</sup> Excluding Channel TV; this section of the Act does not apply in the Channel Islands

<sup>3</sup> The Broadcasting Code can be found at <http://www.ofcom.org.uk/tv/rf/codes/bcode/>

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### Services carrying broadcasts

7. General election broadcasts will be carried by all of the Licensees named above. Broadcasts for European Parliamentary elections will be carried by regional Channel 3 services and Five.
8. Referendum campaign broadcasts will be carried by all of the Licensees named above in the case of a UK referendum, or by the relevant regional Channel 3 licensee in the case of nations/regions referendums.
9. The regional Channel 3 licensee will additionally carry: local election broadcasts in those UK nations/regions where such elections are taking place; broadcasts in the relevant nations/regions for Scottish Parliament, Welsh Assembly, Northern Ireland Assembly and Greater London Authority elections; and broadcasts for the "major parties" in Great Britain (see Rule 11) around other key events in the political calendar, such as the Queen's Speech, the Budget and party conferences.

### Political parties / Designated Referendum Organisations

10. Party political broadcasts may only be allocated to political parties registered by the Electoral Commission. Referendum campaign broadcasts may only be allocated to organisations as designated by the Electoral Commission.
11. At present, "major parties" in Great Britain are defined as: the Conservative Party, the Labour Party, and the Liberal Democrats and, in Scotland and Wales respectively, the Scottish National Party ("SNP") and Plaid Cymru. The major parties in Northern Ireland are: the Democratic Unionist Party, Sinn Fein, the Social Democratic & Labour Party, and the Ulster Unionist Party.

### Allocation of broadcasts

#### *Party Election Broadcasts ("PEBs")*

12. Before a General Election, and in the case of other elections where appropriate, each major party (referred to in Rule 11) should be offered a series of two or more PEBs, the length of a series offered to a particular party being determined by the Licensee. This includes the SNP and Plaid Cymru on Channel 4 and Five. In every case, the number of PEBs should be determined having regard to the circumstances of a particular election, the nation in which it is held, and the individual party's past and/or current electoral support in that nation (see Rule 15).
13. Other registered parties should qualify for a PEB if they are contesting one sixth or more of the seats up for election in the case of first-past-the-post, multi-constituency elections such as a General Election. For proportional representation systems of election (such as the European Parliamentary Elections), the minimum qualifying requirement for the allocation of one PEB should be adapted appropriately, reasonably and fairly for each election, according to criteria which have regard to the particular system of voting, the number of seats available for election, the number of constituencies/regions, and the number of candidates nominated by the party.

14. Licensees should consider making additional allocations of PEBs to other registered parties (which satisfy the criteria at Rule 13) if evidence of their past and/or current electoral support at a particular election or in a relevant nation/electoral area means it would be appropriate to do so. In this regard, Licensees should consider whether other registered parties should qualify for a series of PEBs and/or peak-time scheduling, as major parties do.
15. In determining allocations of PEBs at elections, the four nations of the UK should be considered separately.
16. In accordance with Rules 7 to 9 above, parties which qualify for at least one PEB in one of the nations of England, Scotland, Wales or Northern Ireland will be offered PEBs on the Channel 3 licensee in the appropriate regions of those nations.
17. Parties which qualify for a PEB in all three nations of England, Scotland and Wales will additionally be offered a PEB on Channel 4 (at General Elections), Five (at General Elections and European Elections) and the UK-wide analogue radio services (at General Elections) (provided these broadcasters are carrying the relevant series of broadcasts; see Rules 7 – 9 above).

#### *Other Events / Referendums*

18. Major parties will be offered one broadcast on each occasion in relation to other key political events (see Rule 9).
19. Each designated referendum organisation will be allocated a series of referendum campaign broadcasts before each referendum. The allocation should be equal for each referendum organisation.

#### **Length of broadcasts**

20. Parties and designated organisations may choose a length of 2'40", 3'40" or 4'40" on TV. For radio, parties and designated organisations may choose any length up to 2'30".

#### **Scheduling of broadcasts**

21. PEBs on television on behalf of 'major parties' throughout Great Britain must be carried in peak time (6.00pm to 10.30pm), as must PEBs on Channel 3 in the relevant nations on behalf of the SNP, Plaid Cymru and the major Northern Ireland parties. Referendum campaign broadcasts on behalf of designated organisations must also be scheduled in peak time. Other broadcasts should normally be carried in the period 5.30pm to 11.30pm.
22. UK referendum campaign broadcasts and PEBs for major parties before a General Election must be carried on UK-wide analogue radio services between 5.00pm and 9.00pm. Other broadcasts must be transmitted between 6.00am and 10.00pm.