



Consultation on proposals for the Freeview HD genre and on amendments to Digital UK's LCN Policy

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1 Executive Summary

This consultation is published by Digital UK and contains proposals on the Freeview HD (high definition) genre. It also contains some proposed minor revisions to the Digital UK LCN¹ Policy and the size of the IP genre.

These proposals are intended to provide clarity around LCN allocation for HD channels in anticipation of future growth in the number of HD channels launched on DTT (digital terrestrial television). The proposals contained within this consultation will not necessitate any changes to the current LCN of any channel on the DTT platform. They may, depending on decisions made, open up the option for channels to choose to substitute their SD (standard definition) channel with its HD variant (see section 3.5).

This consultation follows the DMOL 2012 LCN Consultation, addressing questions about the HD genre that the 2012 consultation process committed to return to at a later date. Section 2 explains the context and background of this consultation.

1.1 Proposals for the HD Genre

Section 3 of this document discusses the options for arrangement of HD channels in the DTT channel listing, including the following four questions:

- i. How should appropriate prominence be applied in the HD genre?
- ii. Whether an SD channel should be allowed to be substituted in the channel listing by its identical simulcast HD channel?
- iii. Whether all types of HD channel should be placed in the HD genre, or whether children's and news HD channels should be placed within their respective content genres?
- iv. Whether HD channels should be allocated LCNs in the HD genre on a 'first come, first served' basis, or by any other means?

On question (iv) Digital UK believes that the only practical way of allocating LCNs in the HD genre is on a 'first come, first served' basis (notwithstanding any decisions we may reach on reserving LCNs for PSB channels). We remain open-minded on the other three questions. For each of these we present the options as we see them, and would welcome stakeholders' feedback to enable us to come to a balanced conclusion about the way in which we can provide DTT viewers with the best overall experience of the platform.

On the first question of appropriate prominence the current Digital UK LCN Policy suggests that PSB HD channels would be allocated the lowest available LCN (i.e. highest position) as they join the platform. An alternative would be for Digital UK to reserve prominent LCNs for PSB HD channels, perhaps immediately following the current four HD channels. This might require between five and nine LCNs to be reserved for future HD PSBs. We welcome views on these two approaches.

On the second question we have reviewed permitting 'LCN swaps' of identical SD and HD channels for those viewers with HD TV equipment (i.e. where the identical HD and SD

¹ LCN = Logical Channel Number

versions of a channel swap LCNs, placing the HD version in the General Entertainment genre, for example, and the SD version in the HD genre). We do not propose a direct LCN swap in this format as the HD genre will become a mix of SD and HD channels and potentially confusing for consumers trying to navigate to HD channels. It is our view that the HD genre should include only HD channels as it does now. However we suggest that it would be possible to allow the SD channel to be substituted by the identical HD channel, where the SD channel would be moved to a holding area towards the end of channel listing. We welcome views on this approach.

On the third question we suggest that either *all* HD channels could be placed in the HD genre; or that just General Entertainment HD channels could be placed in the HD genre. In the latter scenario any children's or news HD channels would be placed in the Children's and News genres respectively. We welcome views on these alternatives.

On the fourth question we consider how HD channels – of whatever content type - are ordered into the HD genre. Given the space limitations of the current HD genre, with only 19 LCNs (four of which are already in use), we believe that the only viable method is to allocate LCNs on a 'first come, first served' basis (notwithstanding any decisions we may reach on reserving LCNs for PSB channels). However, we note that the disadvantage of this method is that it may not create a logical structure for viewers, and as such we will wish to review the HD channel listing and this method of ordering if the HD genre needs to be expanded beyond the current 19 LCNs at any point in the future, or, as noted in the 2012 consultation, if there is significant change in the market, if there are changes in multiplex availability or capacity, or if significant problems arise with the existing LCN listing. Any such review would of course be subject to a full and open consultation process.

1.2 Proposed clarifications to the Digital UK LCN Policy

In section 4 of this document we summarise some minor clarifications to the Digital UK LCN Policy. These include clarification within the Policy of how local and nations'² channels are able to share LCNs (as they have always done); clarification of when channels require a new LCN allocation; an additional clause restricting the allocation of LCNs to deliver IP content that would not otherwise be permitted for broadcast, including but not limited to linking to R-18 rated content; and clarifications to the appeals process.

1.3 Proposed expansion of the IP genre

The Digital UK channel listing currently sets aside 100 LCNs for use by IP television channel providers, and Digital UK has committed not to allocate DTT channels into the LCN 400 to LCN 499 range.

With IP television channels now widely available in the market in section 5 of this document we propose increasing the range of LCNs set aside for IP channels by a further 100 LCNs so that the IP genre may run from LCN 400 to LCN 599. This can be achieved without affecting any other genre.

² Nations include England, Scotland, Wales and Northern Ireland.

1.4 Timetable and Next Steps

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

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

All responses should reach Digital UK by 17:00 on Tuesday 4 June. Section 6 of this document provides further details on how to respond.

2 Introduction

This consultation is published by Digital UK and contains proposals on the Freeview HD genre. It also contains some proposed minor revisions to the Digital UK LCN Policy and the size of the IP genre.

Digital UK supports Freeview viewers and channels on digital terrestrial television ('DTT'). The functions of DMOL (DTT Multiplex Operators Ltd.) were transferred to Digital UK Ltd. on 1 January 2013. Digital UK now has responsibility for the DTT LCN listing and LCN Policy³.

Digital UK holds an Ofcom EPG Provider Licence (transferred from DMOL on 7 January 2013) and its LCN listings and LCN Policy 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. Within this regulatory framework Digital UK's objective remains 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 each case determined by the Digital UK members in accordance with the Policy) and in accordance with the fair, reasonable and non-discriminatory ('FRND') requirements of the Ofcom EPG Code.

These proposals are intended to provide clarity around LCN allocation for HD channels in anticipation of future growth in the number of HD channels launched on DTT. The proposals contained within this consultation will not necessitate any change to the current LCN of any channel on the DTT platform. They may, depending on decisions made, open up the option for channels to choose to substitute their SD channel with its HD variant (see Section 3.5).

As such these proposals aim:

- i. To provide DTT viewers with an LCN ordering that gives them the best overall experience of the DTT platform in the future;
- ii. To provide for the medium-term evolution and competitive positioning of the platform over the next two to three years in a rapidly changing, competitive environment;
- iii. To provide channel providers with appropriate certainty for future commitments they may make in Freeview HD; and
- iv. To ensure that LCNs are always allocated in an objectively justifiable and FRND manner, observing section 310 of the Communications Act (2003), which requires appropriate prominence to be accorded to channels listed in section 310(4); and observing the Ofcom EPG Code.

This consultation is being conducted because respondents to the DMOL 2012 LCN Consultation raised questions about how LCNs would be allocated to future HD channels yet to be launched. DMOL's 'Statement on reorganisation of the DTT LCN listing and on changes to DMOL's LCN policy' published on 30 July 2012 noted that there were a number of possible approaches to this question, as well as considerations of how any future HD channels entitled to appropriate prominence under section 310(4) of the Communications

³ Note that DTT (Digital Terrestrial Television) is generally synonymous with the Freeview brand, but BT Vision, Top Up TV and YouView all provide DTT channels and adopt the Digital UK LCN listing and LCN policy for the DTT channels on their platforms. They may have different policies for the organisation of IP or other channels.

Act (2003) might be positioned. There was also the related issue of whether SD⁴/HD LCN swaps should be permitted. As such DMOL suggested that these issues would be returned to at a later date.

On 6 February 2013 Ofcom published proposals for the award of the 600MHz band for interim use by two HD DTT multiplexes. Depending on the subsequent process for awarding spectrum in the 600MHz band further HD channels could join the platform as early as 2014. As such it is an appropriate time for the outstanding questions on the HD genre to be revisited.

⁴ SD = Standard Definition

3 Digital UK's Proposals for the HD Genre

3.1 About HD on Freeview

The number of Freeview homes now stands at 11.1 million, of which nearly one third, 3.5 million homes have invested and use Freeview HD TV equipment,⁵ making Freeview HD the second biggest HD platform in the UK.

There are currently four channels in the HD genre, whose positions and number mirror those of their standard definition counterparts in the General Entertainment genre.

Figure 1: LCNs of current HD channels

| General Entertainment genre LCN (Standard Definition) | Channel | HD genre LCN | Channel |
|---|-----------|--------------|-------------|
| 1 | BBC One | 101 | BBC One HD |
| 2 | BBC Two | 102 | BBC Two HD |
| 3 | ITV | 103 | ITV HD |
| 4 | Channel 4 | 104 | Channel4 HD |

The HD genre runs from LCN 101 to LCN 119, and so allows for up to 19 LCNs in total⁶.

Since LCNs 101 to 104 are currently occupied, there are a further 15 LCNs available in the HD genre, from LCN 105 to LCN 119. As explained in section 3.3 below, we expect there to be around 10 additional HD channels joining the platform within the two to three year timeframe addressed by this consultation.

We do not expect this to be the final total number of HD channels on the platform, and recognise that it is possible that within the next two to three years developments may enable a larger range of HD channels to be carried on DTT. Should this be the case there would be a need to undertake a potentially broader reorganisation of the LCN listing to accommodate more than 19 HD channels. Digital UK would consult fully and openly on any such reorganisation should it be necessary.

However, over the next two to three years there are only 15 LCNs available for future new HD channels joining the platform. This limited range is an important factor when considering how any future new HD channels should be positioned in the HD genre.

⁵ Source: BARB Establishment Survey Q4 2012.

⁶ Under the current listing there is no room for expansion beyond 119 because, as set out in the 2012 DMOL 'Statement on reorganisation of the DTT LCN listing and on changes to DMOL's LCN Policy', the Children's genre will run from LCN 121 to LCN 130, (and the News genre will run from LCN 131 to LCN 150). The move of the Children's and News channels from their current positions at LCN 70 and LCN 80 respectively to these new ranges will take place on the Wednesday which follows 16 weeks after the allocation of LCN 65 in the General Entertainment section of the guide.

3.2 Summary of consumer research

Research from Freeview shows that the appetite for HD channels is strong with more than half of Freeview households (59%) saying there is not enough HD content available on Freeview currently, and almost three quarters of Freeview homes (74%) expecting to receive most or all of their channels in HD in the future.⁷ To inform this consultation Digital UK commissioned Kantar Media to carry out new quantitative consumer research to understand how Freeview HD viewers access the HD channels and if there was a viewer preference on where HD channels should be found in the channel listing⁸.

Our research suggests that while there is significant appetite for HD channels (and 49% of Freeview HD viewers say that they would watch more HD if there were a wider range of content) viewers do not always watch the HD versions of channels that are available to them. Of the 466 respondents who have Freeview HD on a main or secondary set 29% always or usually watch the HD version rather than the SD version of a channel, suggesting that there is an inertia to consumption patterns, with many of those with Freeview HD equipment still 'defaulting' to viewing the SD versions. While the majority (59%) of respondents know where to find the HD channels, 25% actively search out HD channels and 50% often forget they can watch channels in HD.

There was no strong preference expressed by viewers on where they would prefer to find the HD channels in the channel listing. Thirty per cent would rather HD channels were found in the main channel listing (e.g. BBC One HD at LCN 1), whereas 25% would rather they remain in the HD genre, and notably 42% had no preference.

When asked where they would expect to find a news HD channel or a children's HD channel in the listing around one quarter of respondents expressed a preference that they should be listed within the HD genre (news 27% and children's 22%). Around one third expected the news and children's HD channels to be included in the respective content genre (news 33% and children's 30%). A further one in ten respondents felt that any HD version should appear in both the HD genre and the News or Children's genres and notably around one third had no preference when presented with these options (news 27% and children's 37%).

A summary of the research results are in [Appendix 1](#).

3.3 The future of HD on Freeview

On 6 February 2013 Ofcom published proposals for the award of the 600MHz band for interim use by two HD DTT multiplexes. The proposal included a licence end date of 2026, with a minimum initial term to 31 December 2018 and coverage obligations to ensure 50% of UK coverage (and a minimum of 25% in each UK Nation).

Ofcom will publish a statement on the 600MHz award as soon as possible after the consultation closing date of 4 April. We anticipate this will be in May 2013. Depending on the subsequent process for awarding spectrum in the 600MHz band further HD channels could join the platform from as early as 2014.

⁷ Source: Freeview/Kantar Media quantitative research, May 2012.

⁸ Source: Digital UK/Kantar Media quantitative research March/April 2013.

The launch of additional multiplexes utilising DVB-T2/MPEG4 technology will allow for around 10 additional HD channels to be introduced within the next two years. This in turn will encourage consumer take-up of receiver equipment which makes use of these more spectrum efficient technologies and supports the long-term competitiveness of the DTT platform.

The interim use of 600MHz by two HD multiplexes is supportive of Ofcom's long term objective of enabling the future release of 700MHz spectrum for mobile broadband, while protecting the on-going provision of DTT at its current capacity and coverage. A key element of the strategy is that the 600MHz band should be available, if and when needed, to accommodate DTT channels displaced by any future 700MHz band clearance.

Currently we do not see a compelling case for clearing DTT services from 700MHz to accommodate mobile broadband and look forward to seeing a detailed cost benefit analysis. Should government and Ofcom decide to clear television from the 700MHz band, we believe maintaining a strong consumer proposition which meets viewer expectations in terms of channel line-up, picture quality and coverage would require a platform upgrade to more efficient standards, supported by Government and Ofcom. The use of such standards for the interim allocation of additional channels in the 600MHz band would assist this process.

3.4 Options for applying appropriate prominence for HD PSB channels

3.4.1 The appropriate prominence requirements for PSB channels

Section 310(2) of the Communications Act (2003) ('the Act') stipulates that Ofcom's code of practice on electronic programme guides should provide for a degree of prominence that Ofcom considers appropriate to "the listing or promotion, or both the listing and promotion, for members of its intended audience, of the programmes included in each public service channel", and section 310(4) subsequently defines those public service channels as being:

- (a) any service of television programmes provided by the BBC in digital form so as to be available for reception by members of the public;
- (b) any Channel 3 channel in digital form;
- (c) Channel 4 in digital form;
- (d) Channel 5 in digital form;
- (e) S4C Digital;
- (f) the digital public teletext channel.

In 2011 an Order amending section 310 of the Communications Act added local television services to the list of services specified above as public service channels⁹:

- (g) a local digital television programme service;
- (h) a simulcast local service.

⁹ Addition of local television was made under the 'Code of Practice for Electronic Programme Guides (Addition of Programme Services) Order 2011. The Order is effective from 31 January 2013 and amends section 310 of the Communication Act 2003.

It is clear that all BBC services, including HD services, meet the Act's definition of public service channels. We have sought confirmation from Ofcom that this section of the Act also applies to HD versions of the other channels listed above.

Section 3 of Ofcom's current Code of Practice on Electronic Programme Guides ('the Code') states that Ofcom considers that 'appropriate prominence' permits a measure of discrimination in favour of PSB channels, but that Ofcom will not be prescriptive about what appropriate prominence means, though notes the general principle that EPG providers should ensure that the approach they adopt to the requirement for appropriate prominence is objectively justifiable and should publish a statement setting out their approach.

Digital UK has set out the objectively justifiable basis on which it meets the requirements of the Act and the Code in section 5 of its LCN Policy (a copy of which is contained in Appendix 3). This explains that any public service channel listed in section 310(4) of the Act will first be allocated to its most appropriate genre, and will then generally be assigned the lowest available vacant LCN (i.e. that which is highest in the listing) within the relevant genre. Where a lower LCN (i.e. one higher up the listing) subsequently becomes available Digital UK will offer that LCN to the next public service channel below it before considering any other claims to it.

3.4.2 Options for applying appropriate prominence for HD PSB channels

One option for applying appropriate prominence in the HD genre would be a continuation of the current policy, whereby HD channels eligible for appropriate prominence are allocated the lowest LCN (i.e. highest position in the listing) available at the time they join the DTT platform. This option would require no change to the current LCN Policy.

An alternative would be to reserve prominent LCN positions for PSB HD channels immediately following the current HD channels. Some precedent for this has been set with the reservation in 2012 of LCN 8 for local PSB channels in England and Northern Ireland, and LCN 45 for local PSB channels in Scotland and Wales.

A possible practical challenge to reservation of LCNs within the HD genre is the relatively limited range of LCNs available. Since only 15 LCNs remain vacant within the genre, and we expect the introduction of an additional 10 HD channels, any decision to reserve LCNs for PSB channels will need to accurately estimate the number that should be reserved. The number of HD PSB television channels could potentially be as high as a further nine channels (in addition to the existing four HD channels), though in reality might be expected to be between five and nine¹⁰. We note that the number of LCNs that might need to be reserved within the HD genre would be affected by the decisions on permitting substitution of HD channels (see section 3.5 below) and whether or not the HD genre should include news and children's channels (see section 3.6).

We note that the decision on which types of HD channel to include in the HD genre, discussed in section 3.5.1 of this consultation document, will affect the demand for LCNs in the HD genre, and so may either increase or relax the need for an accurate estimation of the number of LCNs to be reserved.

We assume that if the alternative option of reserving LCNs for PSB HD channels were followed, PSB HD channels would be allocated into those reserved LCNs on a first come, first served basis.

¹⁰ If it is assumed that the HD versions of all television channels listed under s.310 of the Communications Act (2003) are eligible for appropriate prominence, and that all those channels not already on the platform would launch an HD version on DTT within the next two to three years, then this would comprise the following ten services: BBC Three, BBC Four, BBC News, BBC Parliament, CBeebies, CBBC, BBC Alba/S4C, Channel 5 and the local PSB.

Adoption of the alternative option would require an adjustment to the LCN Policy.

Question 1: Do you believe that PSB HD channels should be afforded appropriate prominence by being allocated the lowest LCN available, or, that Digital UK should reserve prominent LCNs for PSB HD channels? If you believe that Digital UK should reserve prominent LCNs for PSB HD channels we would welcome views on how this should be done.

3.5 Options for LCN swapping of SD and HD channels

The 2012 LCN Consultation committed to return to the question of whether or not swapping of identical HD and SD channels should be permitted, where that swap would only effect viewers with Freeview HD equipment.

Digital UK has now reviewed the option of permitting LCN swaps for identical SD and HD channels, where the identical simulcast HD channel will be swapped with the SD channel for HD Freeview viewers. For example BBC One HD would appear at LCN 1 and the SD BBC One channel would move to LCN 101 in the HD genre.

We do not propose allowing LCN swaps in this format as the HD genre will become a mix of SD and HD channels and confuse viewers trying to navigate to HD channels. It is our view that the HD genre should include only HD channels as it does now.

However there is an option where we could retain the coherence of the HD genre and permit LCN the substitution of SD/HD channels for HD Freeview viewers. In this option the SD channel would be substituted for the identical simulcast HD channel, however the SD channel would be moved to a SD 'parking zone' in the channel listing.

Adoption of this option would require an adjustment to the LCN Policy.

Question 2: Do you believe that Digital UK should allow an SD channel to be substituted by its identical simulcast HD channel? Why?

3.6 Options for the types of content that should be included in the HD genre

An important question on the future arrangement of HD channels is whether the HD genre should be a genre for all HD channels, or whether HD channels should instead be organised in some way according to their content type. The four channels currently in the HD genre are all channels that would otherwise be classified as General Entertainment.

Digital UK believes there are three possible options:

- (i) That the HD genre should be a genre for all HD channels, regardless of their content type.
- (ii) That the HD genre should be a genre for all HD channels, regardless of their content type, but that there should be some segmentation of the genre so that children's and news channels could be clustered together within the genre¹¹.

¹¹ Note that any Adult channel would be allocated into the Adult genre for consumer protection reasons. Other genres are not television genres (radio, text and MHEG services, interactive and IP delivered services) and so would not be listed in the HD genre..

- (iii) That the HD genre should be a genre for General Entertainment channels in HD format only, while HD format children’s and news channels should appear within the Children’s and News genres respectively; either allocated LCNs amongst SD channels as and when they join the platform, or in a segmented section at the back of the genre.

Figure 2 discusses the pros and cons of each of these three options.

Figure 2: Options for content types that should be included in the HD genre

| Option | PROS | CONS |
|--|--|--|
| <p>1 All HD channels are in HD genre (regardless of content type)</p> | <ul style="list-style-type: none"> • HD channels are easy to find – all in one place • Likely to create an attractive destination for HD viewers | <ul style="list-style-type: none"> • Content-based genres are preferred by viewers¹² • Content-based genres are used for all other television channels • Increases the likelihood that the genre fills up sooner (versus Option 3), requiring a reorganisation of the LCN listing |
| <p>2 All HD channels are in HD genre (regardless of content type) – but the genre is segmented so that children’s and news channels can be clustered together</p> | <ul style="list-style-type: none"> • Preserves the principle of channels being arranged by content type • HD channels are easy to find – all in one place • Likely to create an attractive destination for HD viewers | <ul style="list-style-type: none"> • It will be very difficult to accurately predict the future required number of children’s and news HD channels and reserve the appropriate number of LCNs within the HD genre • With only 15 LCNs available there is very little margin for error on the prediction without creating vacant LCNs that may be needed for General Entertainment channels • Viewers may expect to see children’s HD channels with all other children’s channels (and same for news) • Might create consumer confusion by creating two ‘versions’ of the Children’s and News genres • While General Entertainment HD channels will appear after the General Entertainment (SD) genre; Children’s and News HD channels would appear before the Children’s and News (SD) genres subsequent to any move of those genres. • Until such time as the start of the Children’s genre moves from LCN 70 to LCN 120, and the start of the News genre moves from LCN 80 to LCN 130 (which will happen 16 weeks from the allocation of LCN 65 in the General Entertainment genre¹³) it is possible that a segmentation of children’s and news channels to the back of the HD genre could place any children’s HD channels close or adjacent to the Adult genre starting at LCN 171. For consumer protection reasons this would be unacceptable to Digital UK. |

¹² This was demonstrated in DMOL’s 2012 LCN Consultation research.

¹³ As per DMOL’s statement setting out the appeals decision published on 4 October 2012. Following publication on 30 July 2012 of proposals to update the Freeview programme guide appeals were lodged by two organisations – Sky and an adult channel provider.

| | | | |
|---|---|--|---|
| 3 | General Entertainment channels in HD format are allocated into the HD genre, but children's and news channels in HD format are allocated into their respective genres | <ul style="list-style-type: none"> • Preserves the principle of channels being arranged by content type • Integrates HD channels into the main channel listing | <ul style="list-style-type: none"> • No longer possible to find all HD channels in one place, which may diminish the appeal of the HD genre as a destination of Freeview HD viewers • May suggest that the Children's and News genres should be segmented so that HD channels can be clustered together within the genre. There is relatively little space within the Children's and News genres in which to do this. |
|---|---|--|---|

Our consumer research sought to understand whether there was any viewer preference between the options above. We asked Freeview HD homes if a news HD channel were launched (using BBC News as an example), or a children's HD channel were launched (using CBeebies as an example) where they would expect to find it in the listing. Around one quarter of respondents expressed a preference for Options 1 or 2, that they should be listed within the HD genre (for BBC News 27%, for CBeebies 22%). Around one third of respondents preferred Option 3, that any news HD or children's HD channel be launched in its respective News or Children's content genre (for BBC News 33%, for CBeebies 30%)¹⁴. A further one in ten respondents (9% for both BBC News and CBeebies) felt that any HD version should appear in both the HD genre and the News or Children's genre. Notably around one third had no preference when presented with these options (for BBC News 27%, for CBeebies 37%).

Based on the discussion of pros and cons above, we believe that Option 2 (to segment the HD genre for children's and news channels) is not practically possible within the limited range of 15 LCNs available. It would require a good prediction to be made of the number of children's and news HD channels that may join the platform, and then two blocks of suitable size to be segmented at the end of the HD genre. We have no special information about the types of HD channels that might launch in the future, so any such prediction would be little more than a rough estimate. If one assumed that there could be two or three children's HD channels, and two or three news HD channels, then Digital UK could reserve LCNs 114 to 116 for children's HD and LCNs 117 to 119 for news HD. This would leave nine LCNs from LCN 105 to 113 available for further general entertainment HD channels. If ten or more of the new HD channels were in fact general entertainment, then there would be an issue with the listing. Conversely, if we found that there were four rather than three news HD channels we would not have sufficient space. We also note the possible consumer protection implications of placing children's HD channels close or adjacent to the Adult genre starting at LCN 171. As such we believe that this is not a viable option.

Having discounted Option 2, we find the arguments around Option 1 and Option 3 reasonably evenly balanced. The consumer research suggests a mild preference for Option 3 over Option 1, but we also note the high degree of indifference in the proportion who express no preference at all.

¹⁴ Within this number around 60% preferred that the HD version sat alongside its standard definition counterpart in the News or Children's genre, and 40% felt that the HD version could simply replace its standard definition counterpart for HD viewers. Section 3.4 has previously discussed the option of permitting substitution of HD for SD channels for HD viewers

Option 3 would require definition of how HD versions of children's and news channels are allocated LCNs in the Children's and News genres. They would either simply be allocated the next available LCN (i.e. SD and HD channels may become mixed together) or the two genres could be segmented so that, for example, five LCNs towards the back of each genre are reserved for HD channels, enabling HD channels to be found in a cluster (notwithstanding the question around substitution of HD and SD channels as discussed in section 3.5). The former method of allocating children's and news HD channels LCNs within their content genres as they join the platform would create a mix of HD and SD channels. The effect would be that general entertainment channels would be split into their SD and HD genres, but children's and news SD and HD channels would be mixed together. We regard that outcome as one which is potentially confusing for consumers trying to navigate to HD channels. The latter method would require segmentation of both the Children's and HD genres. While neither genre is as space constrained as the HD genre might be in the next two to three years¹⁵, segmenting the genres in this way creates similar risks that if our predictions are incorrect we create an issue in the channel listing.

We would welcome stakeholders' views on whether they prefer Option 1 (that all HD channels should be placed in the HD genre) or Option 3 (that children's and news HD channels should be placed in their respective content genres) and why. If stakeholders prefer Option 3 we would welcome views on whether children's and news HD channels should be mixed in with SD channels in the same genre, or if the Children's and News genres should be segmented in some way so that HD channels can be clustered together within the genre.

Question 3: Do you prefer that all HD channels are placed in the HD genre, or that children's and news HD channels are placed within their respective content genres? Why?

¹⁵The Children's genre is 10 LCNs and currently has three services; the News genre is currently 10 LCNs and will grow to 20 LCNs if it moves to start at LCN 131. It currently has six services.

3.7 Options for the ordering of channels within the HD genre

The final question in relation to the HD genre is how Digital UK should order HD channels within the genre.

We believe that there are three possible methods:

- (i) Following the ordering of the SD genres;
- (ii) Ordering by channel families; or
- (iii) Allocating LCNs on a ‘first come, first served’ basis (notwithstanding any decision we may reach about reserving LCNs for public service channels).

Note that we do not consider it viable to mirror the LCNs of future HD channels with their SD counterparts (as with BBC One at LCN 1 and BBC One HD at LCN 101) because the HD genre only runs to LCN 119, and the General Entertainment genre alone runs to 57. It should also not be assumed that every future HD channel will have an SD counterpart. Some may only be available in HD.

The first option above would attempt to list HD channels in the same sequence as they appear in the SD parts of the listings. This would mean that we would need to predict which channels might provide an HD variant in order to leave gaps in the appropriate places, or it would require frequent changes to the LCNs of existing HD channels as new HD channels joined. It might also be necessary to segment the HD genre to create a section for children’s channels and a section for news channels– which would be difficult to do for the same reasons as discussed in 3.6.1 above.

The second option is to group HD channels by channel family. For example, to display the BBC HD channels together, any Sky HD channels together, any UKTV HD channels together, and so on.

The third option is to simply allocate HD channels LCNs on the order in which they make their application (having secured carriage) – not withstanding any decision we may reach about reserving LCNs for public service channels. This ‘first come, first served’ basis is the same as that currently used in the SD genres. Figure 3 discusses the pros and cons of each of these three options.

Figure 3: Options for ordering within the HD genre

| Option | PROS | CONS |
|-------------------------|---|---|
| 1 Following SD ordering | <ul style="list-style-type: none"> • Maintains consistency with the current SD ordering • May aid viewer navigation (if they know the sequence of the SD channels) • Maintains the principle of ordering by content type, which we know viewers prefer | <ul style="list-style-type: none"> • Potentially impossible to operate with only 15 available LCNs in the HD genre (or perhaps only 9 LCNs if 3 are left for children’s HD channels and 3 for news HD channels). . If a channel low down the General Entertainment (SD) genre launched an HD variant then Digital UK would have to estimate how many spaces to leave above it in the HD genre to allow the correct sequence to be maintained. • Experiences the same difficulties of estimating how many LCNs within the HD genre should be reserved for children’s and news HD channels as discussed in 3.5.1 above. |

| | | |
|----------|-----------------------------------|--|
| | | <ul style="list-style-type: none"> • It would not be possible to apply the associated channels provisions of the Digital UK LCN Policy because vacant LCNs would not appear simultaneously in both the SD and HD genres. This would create an inconsistency with all other parts of the channel listing. |
| 2 | Ordering by channel family | <ul style="list-style-type: none"> • Some marginal viewer preference for this expressed in the 2012 consultation research. • Principle of ordering by channel family strongly resisted by most respondents to the 2012 consultation. • Within only 19 LCNs there is not sufficient space to reserve room for all channel families available in SD, of which there are nine¹⁶ in the General Entertainment genre alone. • Would require a logic for the ordering of the channel families. • A decision would be required whether to “reserve” LCNs for new channel family members. • Dependent on decisions around content type within the HD Genre (section 3.6.1) it could have the effect of grouping channels of different content types (e.g. BBC Three HD and BBC News HD) which is not a principle used elsewhere in the listing. |
| 3 | First come, first served | <ul style="list-style-type: none"> • Consistent with the method used in all other genres. • Objectively justifiable method which does not require judgments to be made by Digital UK on the appropriate spaces to leave between channels, or the appropriate ordering of channel families. • Provides clarity for channels about which LCNs will be available, and encourages HD channels to launch on the platform early by rewarding them with more prominent EPG positions. • Is unlikely to create a logical structure for the channels (neither arranged by content type, channel family, nor following any existing part of the listing). |

On the basis of the discussion set out in figure 3, we believe that the only viable way of ordering HD channels within the current range of 19 LCNs is to do so on a ‘first come, first served’ basis (not withstanding any decision we may reach about reserving LCNs for public service channels). We would welcome any alternative views held by stakeholders.

The important advantage of this method is that it will provide clarity for HD channels joining the Freeview platform about which LCNs will be available, and encourages HD channels to join the platform early by rewarding them with more prominent EPG positions, thus supporting the development of Freeview HD.

¹⁶ Available on a UK-wide basis.

However, we note that the disadvantage of this method is that it may not create a logical structure for viewers. If all content types are placed in the HD genre it will mix dissimilar content, and is unlikely to follow the ordering of any of the SD genres.

Question 4: Do you agree that HD channels should be allocated LCNs in the HD genre on a 'first come, first served' basis? Why?

4 Proposed Clarifications to the Digital UK LCN Policy

In this section we propose some minor clarification to the Digital UK LCN Policy (the 'Policy'). A revised version 5.2 of the Policy is attached in [Appendix 2](#).

4.1 Clarification of LCN allocation for local and nations' channels

Version 5.1 of the Policy did not specify the way in which channels broadcasting to specific geographic areas of the UK (i.e. less than UK nationwide) may share LCNs with other such channels. This has long been the convention on the platform (for example, BBC Alba in Scotland and Channel 4 in Wales share LCN 8), and supports efficient use of LCNs. To clarify this point a new paragraph 4.2 has been added to version 5.2 of the Policy.

4.2 Clarification of when channels require a new LCN allocation

To provide clarity on when a new LCN is required Digital UK has added a new paragraph 2.3 to version 5.2 of the Policy.

4.3 R-18 content

Digital UK is of the firm view that any and all content made available on or through an LCN, irrespective of how it is delivered, should meet viewer expectations for broadcast content and be appropriate for viewing on the platform. As such Digital UK will now stipulate that all content accessible by an LCN allocated by Digital UK must, if broadcast, be lawful and compliant with the relevant Ofcom broadcast codes and licences. To this end a new paragraph 1.10 has been added to the Policy.

An effect of this new clause is to restrict use of an LCN allocated by Digital UK to deliver IP content (or any content) that would not otherwise be permitted for broadcast, including but not limited to the use of LCNs by MHEG-IP channels to deliver IP linear or on-demand content which should not link to R-18 rated content.

4.4 Clarifications to the appeals process

Version 5.1 of the Policy was ambiguous on some details of the appeals process introduced in version 5 of the Policy. Some clarifications have been made to paragraphs 10.1, 10.3 and 10.4.

4.5 Revisions to Schedule 1

Digital UK has implemented a new online system for processing LCN applications, and Schedule 1 of the LCN Policy has been amended accordingly.

5 Proposed expansion of the IP genre

DMOL's 30 July 2012 'Statement on reorganisation of the DTT LCN listing and non changes to DMOL's LCN policy' concluded that 100 LCNs should be set aside for IP delivered channels between LCN 400 and LCN 499. DMOL (now Digital UK) would not allocate LCNs to IP channels, but the LCN 400 to 499 would be set aside for IP television channel providers' use, according to their own allocation policies. The current genre listing is provided in [Appendix 3](#).

At the time a number of IP television channel providers argued that 100 LCNs might be insufficient. DMOL noted that further LCNs would remain available between LCN 500 and LCN 699 (immediately before the start of the radio genre at LCN 700) but preferred not to reserve large numbers of LCNs before IP television channels had gained a significant market presence and the need for further LCNs had been demonstrated

IP television channels are now widely available in the market, and Digital UK has received further representations on this point since 30 July 2012. Digital UK is therefore consulting on the proposal to expand the range of LCNs set aside for IP channels by a further 100 LCNs so that the IP genre may run from LCN 400 to LCN 599. This would increase the size of the IP genre from 100 LCNs to 200 LCNs. The proposed new genre listing, incorporating this amendment, is provided in [Appendix 4](#).

Question 5: Do you agree that Digital UK should expand the range of LCNs set aside for IP channels by a further 100 LCNs spanning LCN 400 to LCN 599?

6 Timetable and Next Steps

This consultation is published on Wednesday 8 May 2013 and closes for responses on Wednesday 5 June.

A summary of the 2013 consultation questions is provided in Appendix 5.

We are keen to receive responses from channel providers and all other stakeholders to Freeview and the DTT platform. We would welcome views from consumer groups, other representatives of Freeview viewers, and viewers themselves.

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

All responses should reach Digital UK by 17:00 on Wednesday 5 June 2013.

Responses can be emailed to consultation@digitaluk.co.uk or mailed in hard copy to the following address:

Sarah Fox
Digital UK
The Met Building
22 Percy Street
London
W1T 2BU

We will publish all non-confidential responses on our website as we publish the statement. **Please indicate on your response whether none, some or all of your response can be published.**

Having given full consideration to the responses we receive we expect to publish a statement in July 2013. This will be sent to all respondents and posted to the Digital UK website.

We intend that the conclusions reached in that statement should take effect from the date of publication of the statement, but will confirm this in the statement itself.

Since there are no proposals to change the LCN of any existing channel (with the possible exception of channels that may choose to replace their SD channel with its HD variant – see Section 3.5) we do not expect there to be any LCN re-organisation arising from the statement.

APPENDIX 1: Summary of consumer research results

Objectives and methodology

Digital UK commissioned Kantar Media to incorporate a number of questions to their national omnibus to understand how Freeview viewers access HD channels and to understand whether there was any viewer preference on where HD channels are found with the channel listing.

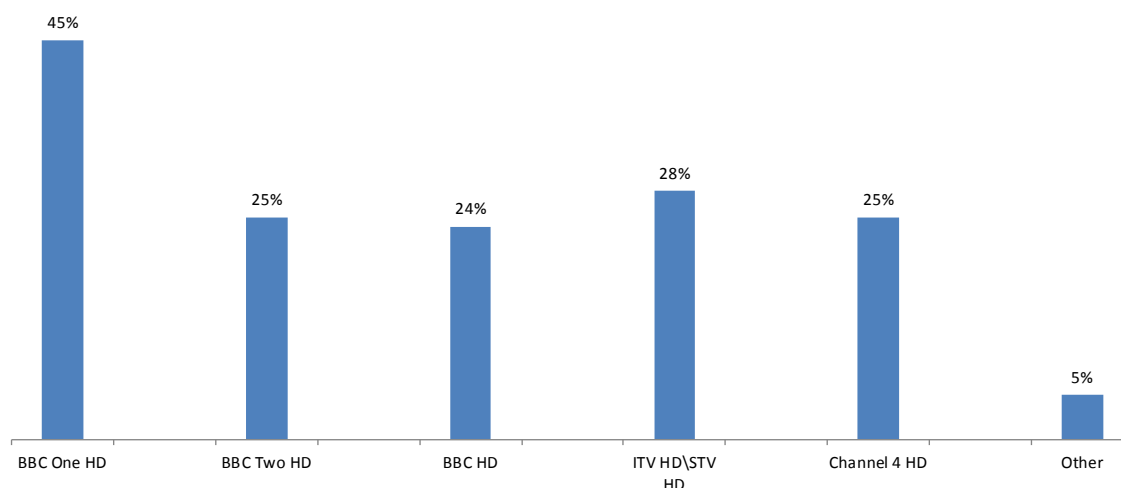
The research took the form of 13 questions added to three waves of the national omnibus. Each round of the omnibus captured 2000 adults in Great Britain (Northern Ireland was not included).

In total 466 Freeview HD users (main set and secondary sets) were achieved.

Fieldwork used face-to-face surveys and took place between 20 March 2013 and 7 April 2013.

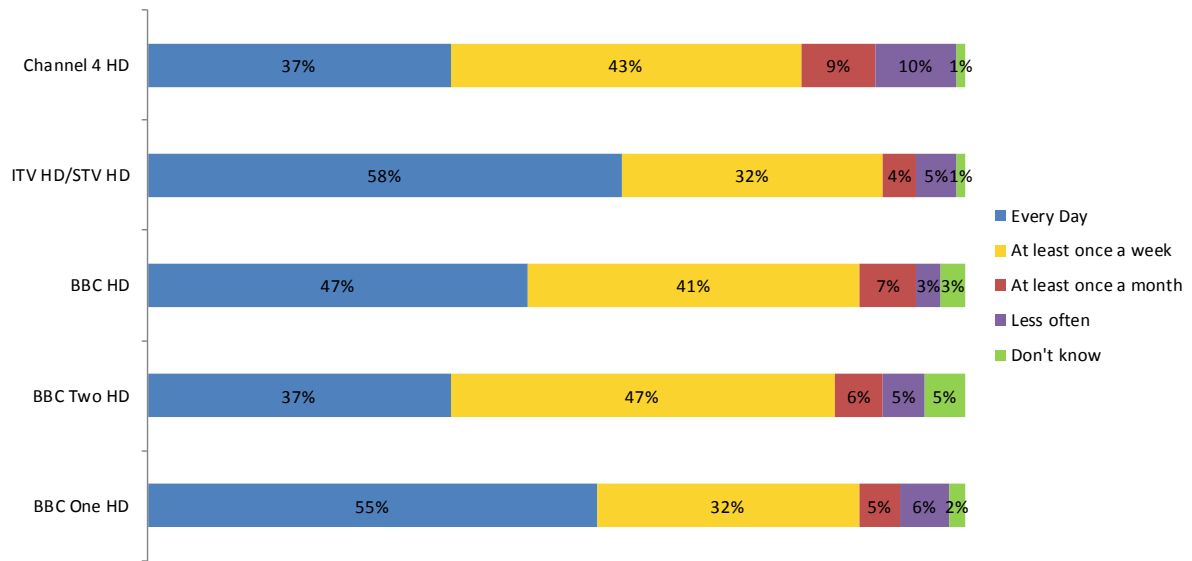
Results

Which HD channels do you regularly watch?



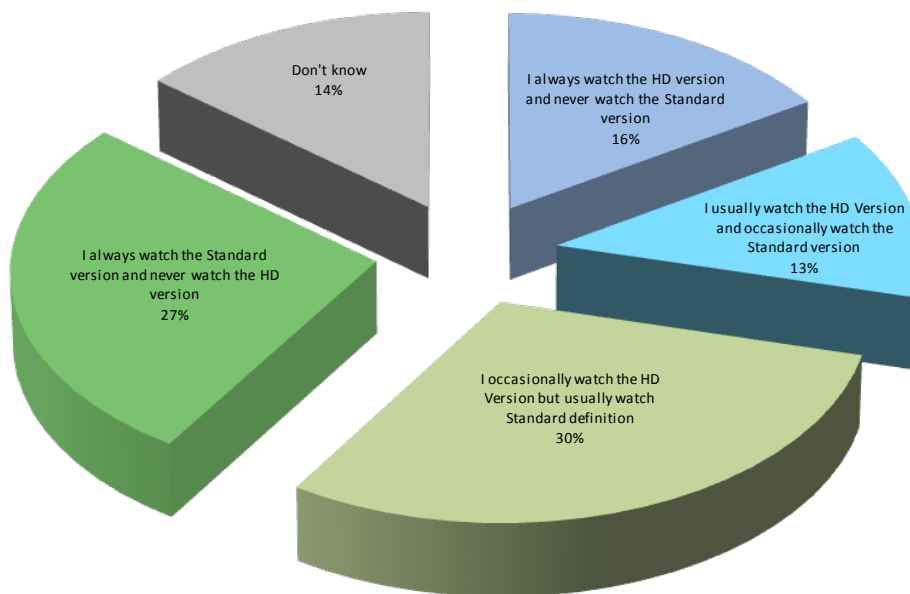
Base: All with Freeview HD in the household (466 respondents)

How often do you watch each HD channel?



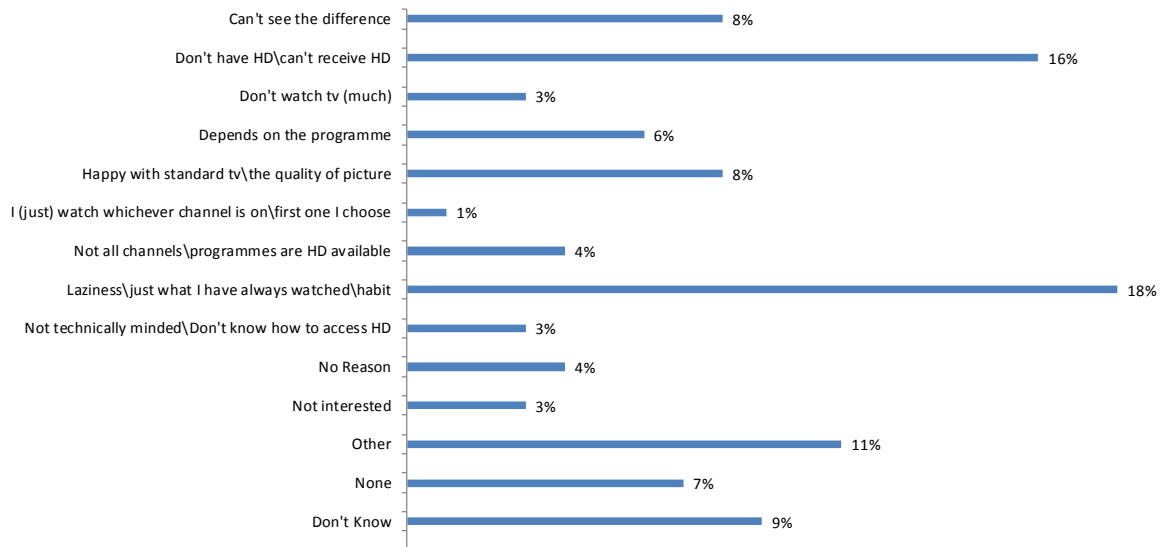
Base: All who regularly watch at least one HD channel (275 respondents)

How often do you watch an HD channel rather than its SD version?



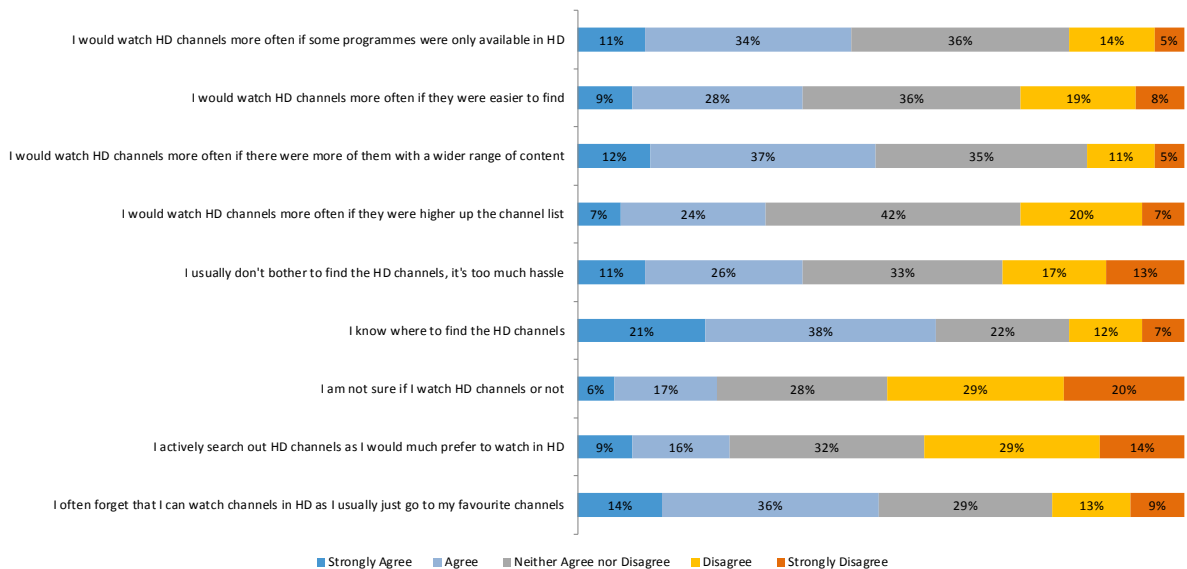
Base: All with Freeview HD in the household (466 respondents)

Why do you watch SD channels rather than the HD version?



Base: All who watch SD rather than HD or don't know (391 respondents)

To what extent do you agree or disagree with the following?



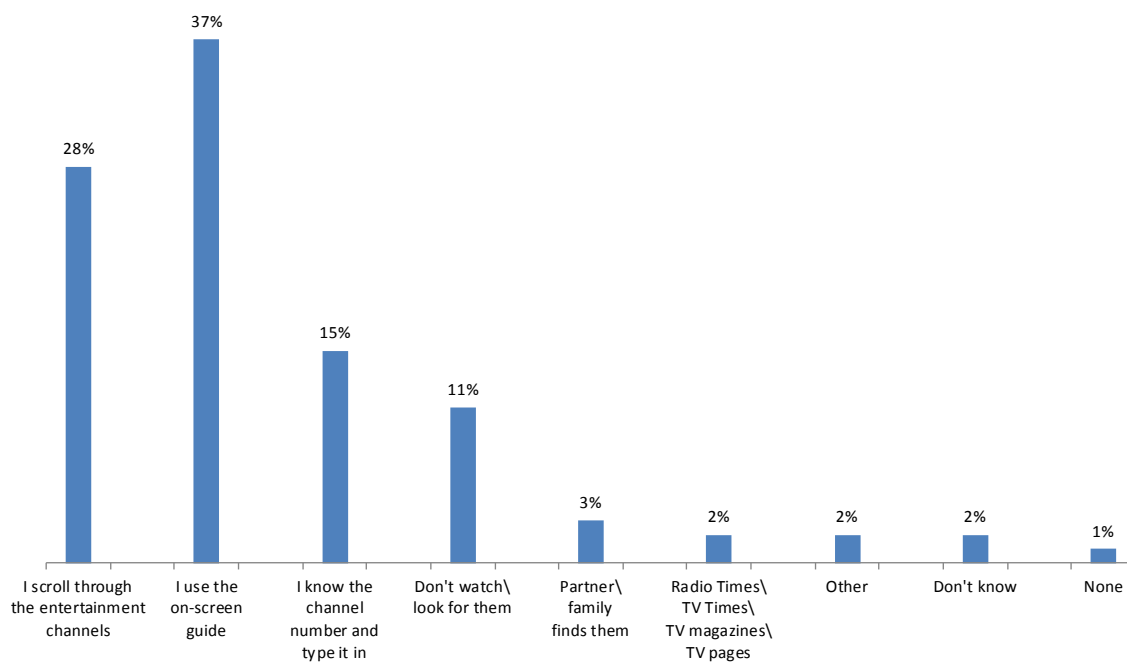
Base: All with Freeview HD in the household (466 respondents)

Do you know the channel number of the BBC One HD channel?



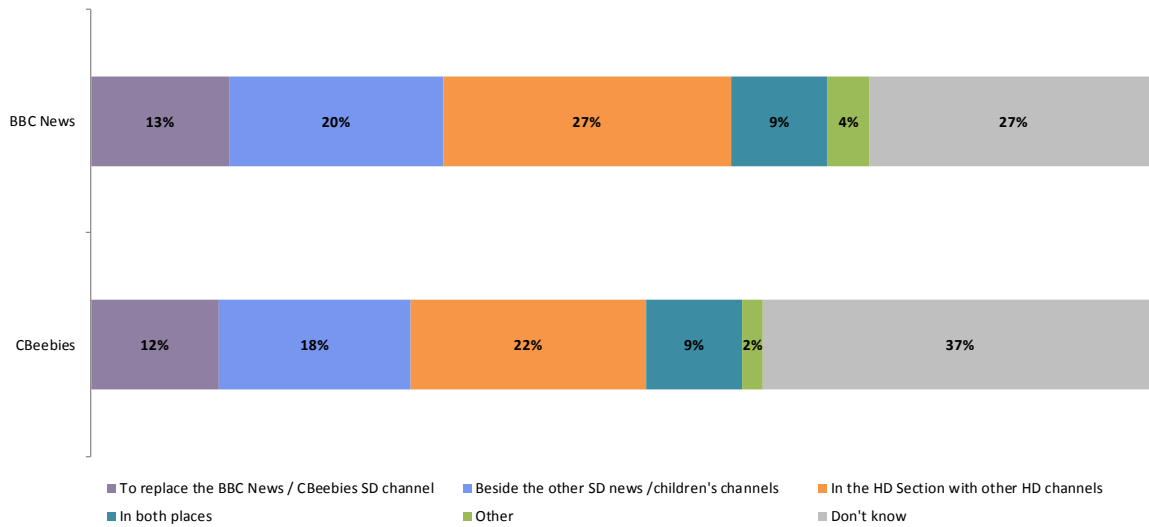
Base: All with Freeview HD in the household (466 respondents)

How do you usually find the HD channel that you watch?



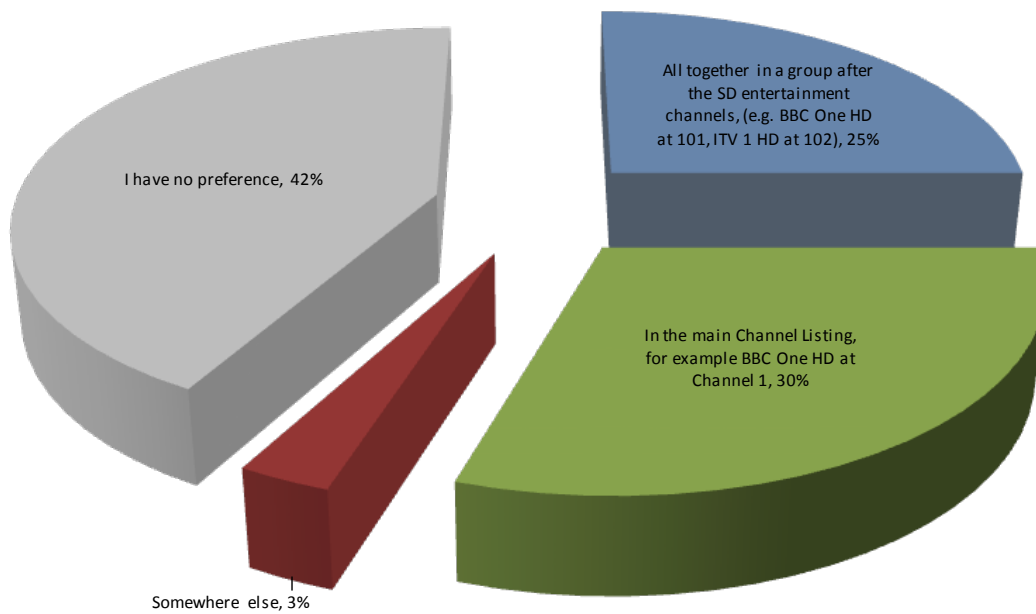
Base: All with Freeview HD in the household (466 respondents)

If BBC News or CBeebies HD channel was launched, where in the channel listings would you expect it to be located?



Base: All with Freeview HD in the household (466 respondents)

Where would you rather find HD channels?



Base: All with Freeview HD in the household (466 respondents)

APPENDIX 2: Revisions to Digital UK LCN Policy

Digital UK LCN Policy

Version 5.2, [DATE] 2013

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 channel numbers and manages the launch of new services onto the platform.
- 1.2 Digital UK holds an Ofcom EPG Provider Licence and allocates LCNs to a wide range of different services on the DTT platform, e.g. television, radio, interactive and data download. 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 will allocate channels into genres, and into LCNs within genres. It replaces Version 5.1 of this Policy that was published on 1 January 2013.
- 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 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 Agreement. New LCNs shall only be allocated where the relevant Digital UK LCN Agreement has been signed by the channel provider; and the benefits of this Policy are only available where the Digital UK LCN Agreement has been signed for all relevant channels.
- 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 Digital UK's LCN Agreement.
- 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 onto an alternative LCN in accordance with this Policy.
- 1.9 Digital UK will allocate LCNs for channels using DTT capacity only. Digital UK will not allocate LCNs for any channels delivered without use of any DTT capacity, for example those that are delivered solely by IP or by any other means.
- 1.10 All content made available on or through an LCN allocated by Digital UK, irrespective of how it is delivered, should meet viewer expectations for broadcast content and be appropriate for viewing on the platform. All content accessible by an LCN must, if broadcast, be lawful and compliant with the relevant Ofcom broadcast codes and licences.
- 1.11 Digital UK uses the terminology 'lower LCNs' to refer to lower channel numbers; i.e. smaller numbers which are further up the channel list. Conversely, 'higher LCNs' is used to refer to larger channel numbers which are further down the channel list.

- 1.12 For the avoidance of doubt, 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.

2 LCN APPLICATIONS

- 2.1 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 (the “LCN Allocation Process”) between twelve and six weeks before the intended launch of the channel.
- 2.2 The LCN Allocation Process may change from time to time. Any amendments to Schedule 1 will be published on the Digital UK website.
- 2.3 Digital UK requires an LCN application for any new

- TV channel;
- MHEG or Text channel;
- Interactive channel; or
- Radio channel

which is to be carried on the digital terrestrial television platform, and

- is deemed to be distinct from any existing channel or channel on the platform at the time of the application by virtue of it having:
 - i. a different name to an existing channel or channel (unless the difference in name is only to differentiate the geography of the channel –for example ‘ITV Wales’ and ‘ITV London’); or
 - ii. different ownership to channel or channel on the platform with which it shares or is intended to share an LCN; and
 - is listed separately in the broadcasting licence issued by Ofcom or has a separate licence recognised by Ofcom.
- 2.4 In order to be allocated an LCN, a channel provider must supply Digital UK with:
- (i) A copy of the broadcasting licence (or equivalent authorisation) permitting the broadcast of the channel on the DTT platform in the UK;
 - (ii) A letter of corroboration from the relevant multiplex operator confirming that the channel has secured the necessary capacity to broadcast on the DTT platform; and
 - (iii) Any other information as specified in the allocation process or as Digital UK may otherwise reasonably request regarding the channel.
- 2.5 The channel provider is required at its cost to provide all such information as Digital UK is likely to require, or specifically requests, in order for Digital UK properly to consider an allocation in accordance with the Policy. The channel provider must ensure that all information provided by it or on its behalf is accurate, complete and up-to-date.
- 2.6 If the channel is a public service channel listed in s.310 of the Communications Act (2003), an LCN will be allocated in accordance with sections 4 and 5 of the Policy.
- 2.7 If Digital UK deems that the channel is an associated channel, an LCN will be allocated in accordance with sections 4 and 6 of the Policy.
- 2.8 If the channel is neither a public service channel nor an associated channel, an LCN will be allocated in accordance with section 4 of the Policy.

- 2.9 Requests for an LCN made on a speculative basis (i.e. channels without confirmed genre and intended launch date) will not be considered, but Digital UK will have due regard to confidentiality requirements and will permit the use of 'working' channel names.
- 2.10 Channel providers should notify Digital UK of the intended launch date of the channel and if the intended launch date of the channel changes for any reason. If a channel provider does not launch a channel within 12 weeks of the intended launch date which was notified to Digital UK, any LCN which was allocated to the channel may be withdrawn.

3 GENRES

- 3.1 Genres are the basis for the grouping of channels on the DTT platform in order to assist viewer navigation of content, and where deemed necessary by Digital UK to protect consumers from content that may harm or offend.
- 3.2 The genres available for allocation of LCNs on the DTT platform, and the number ranges in which they will generally operate, are described in Schedule 2. Any amendments to Schedule 2 will be published on the Digital UK website.
- 3.3 Digital UK will generally not allocate LCNs for test channels, unless, at its discretion, it considers it appropriate to do so.
- 3.4 Digital UK will not allocate LCNs for channels delivered solely by IP but commits not to allocate LCNs into the 400 to 499 range so that IP channel providers may allocate channels into this range according to their own channel allocation policy. As such Digital UK takes no responsibility for channel allocation in the 400 to 499 range.
- 3.5 Digital UK will not allocate LCN 0; or LCNs in the range 800 to 999 which under the DTG's D-Book are reserved for manufacturer use.
- 3.6 Channel providers should indicate in the LCN application what they consider to be the most appropriate genre for their channel according to Digital UK's genre definitions, which are provided in Schedule 3 ("Digital UK Genre Definitions") and as may be varied from time to time.
- 3.7 Digital UK will review the proposed genre, and, in the case of channels already broadcasting on another UK TV platform, Digital UK will in general make its assessment based on the content of the channel over the three month period immediately preceding the date of the LCN application.
- 3.8 Digital UK will first review whether the channel might, by the type, nature, or balance of its content, meet the definition of more than one of the genres set out in Schedule 3. In such cases Digital UK will apply the following hierarchy of considerations when assigning the channel into a genre:
- (i) Digital UK will firstly consider whether any consumer protection issues might exist, with reference to the Ofcom Broadcasting Code or other relevant Ofcom guidance and decision documents. In particular, channels consisting predominantly of adult content (as per the genre definitions described in Schedule 3) of any type will be placed in the Adult genre.
 - (ii) Digital UK will secondly consider whether the channel is video, text, interactive or radio in nature. If there are no consumer protection issues then a text, interactive or radio channel will generally be placed in the Text and MHEG, Interactive or Radio genre respectively.
 - (iii) Digital UK will thirdly consider the nature of the content on the channel as per the Digital UK Genre Definitions.
- 3.9 In deciding the most appropriate genre for a channel Digital UK may ask the channel provider for:
- (i) Scheduling, event and synopsis information; and

- (ii) Any other information that Digital UK considers relevant.
- 3.10 Digital UK may from time to time, in the context of a review of its Policy or otherwise, add, remove, merge or move genres (including creating new types of genre) in consultation with channel providers (as described in section 9 of this Policy).
- 3.11 New genres may be created where either:
- (i) There is a sufficient number of channels with a sufficiently distinct type of content to warrant the introduction of a new genre; or
 - (ii) There are other compelling reasons for the introduction of a new genre.
- 3.12 Existing genres may be merged or removed where there are no longer a sufficient number of channels to warrant a separate genre, and Digital UK has reason to believe that the situation is one that will persist. This may require Digital UK to reallocate LCNs in consultation with channel providers (as described in section 9 of this Policy).
- 3.13 In the event that a genre overflows its prescribed LCN range Digital UK will place any additional channels of that genre launching on the platform in the most appropriate alternative location in the LCN listing or may consult with channel providers on moving the genre. Any resulting changes to the genre ranges described in Schedule 2 will be published on the Digital UK website.

4 ALLOCATION OF LOGICAL CHANNEL NUMBERS WITHIN GENRES

- 4.1 Subject to paragraph 4.2 below, and unless sections 5 or 6 of this Policy apply (and unless paragraph 3.13 has been invoked), Digital UK will allocate the channel the lowest available LCN at the end of the genre in which it has decided to place such channel.
- 4.2 Channels broadcasting to a specific geographic area of the UK may share LCNs with any other such service where possible. As such any such channel may be allocated the lowest available LCN in its geographic broadcast area, subject to any reservations made under paragraph 5.4.
- 4.3 Where Digital UK is considering the allocation of LCNs within a genre to more than one channel at the same time Digital UK will apply the following hierarchy of considerations:
- (i) Firstly, the applicability of section 5 to any of the channels applying for an LCN;
 - (ii) Secondly the applicability of section 6 to any of the channels applying for an LCN; and
 - (iii) Thirdly, the time order in which LCN applications were received by Digital UK.
- 4.4 Once a channel has launched into its allocated LCN Digital UK will not consider requests for moving to an alternative LCN unless the channel is classified as a public service channel eligible for appropriate prominence under section 5 of this Policy; or under the process for offering vacated LCNs described in section 8 of this Policy.

5 LISTING OF PUBLIC SERVICE CHANNELS

- 5.1 "Public service channels" are those channels identified as such in accordance with section 310 of the Communications Act 2003. 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 paragraphs 2 to 4 of the Ofcom EPG Code.
- 5.2 Public service channels, in common with all channels, will first be allocated to their most appropriate genre under section 4 of this Policy.
- 5.3 Public service channels will generally be assigned the lowest available vacant LCN within their relevant genre.

- 5.4 Digital UK may reserve LCNs for Local TV public service channels listed under s.310 of the Communications Act in advance of the time period described in 2.1 above.
- 5.5 Where a lower LCN number becomes available within a genre than that which is assigned to a public service channel, Digital UK will offer the lower vacated LCN to the public service channel at the next lowest LCN before considering any other claims on the vacated LCN under any other section of this Policy.

6 ASSOCIATED CHANNELS

- 6.1 In order to improve viewer navigation Digital UK considers that it is in the best interests of viewers to group together channels which:
- (i) Are classified into the same genre; and
 - (ii) Are under common control; and
 - (iii) Where there is either common branding – and/or – a significant degree of existing or intended cross-promotion between the channels.

Digital UK considers any two such channels to be “associated channels” if neither channel is listed under s.310 of the Communications Act.

- 6.2 Vacated LCNs will be offered by Digital UK to associated channels in the way described in section 8 of this Policy.

7 EVOLUTION OF CHANNELS

- 7.1 Digital UK accepts that any channel may evolve over time, principally either by way of:
- (i) Change of name; or
 - (ii) Change of content; or
 - (iii) Change of hours

and may nevertheless be considered to be the same channel.

- 7.2 Where any channel evolves to such an extent that Digital UK considers that it should no longer be considered to be the same channel (in which case, the channel shall be a “new channel”), Digital UK shall inform the channel provider in writing that it must either:
- (i) Restore the new channel to the extent necessary to satisfy Digital UK that it is still the same channel as that in respect of which the original application for an LCN was made; or
 - (ii) Apply for a new LCN for the new channel to be allocated in accordance with sections 3 and 4 of the Policy.

Digital UK expects a response from the channel provider within four weeks of the date of the letter, and implementation of any plans to restore the New Channel to the extent necessary to satisfy Digital UK that it is still the same channel within 24 weeks of Digital UK’s first letter.

- 7.3 Any channel which evolves by way of a change of content will be moved to a new genre if its content becomes a better fit for an alternative genre under section 3 of this Policy.
- 7.4 In considering whether or not a channel has evolved into a new channel, Digital UK will take into account the following non-exhaustive factors:

- (i) Whether the nature of a significant proportion of the content of the channel and the name of the channel have changed. If this is the case, unless there are very clear factors to show that the channel is not a New Channel, the channel will be considered to have evolved into a New Channel;
 - (ii) The extent to which the type of content of the channel has changed ;
 - (iii) The extent to which the broadcast hours of the channel have reduced; and
 - (iv) The channel provider's channel portfolio on other UK TV platforms.
- 7.5 If the channel provider does not comply with a written notice issued by Digital UK under 7.2, Digital UK may on four weeks written notice to the channel provider withdraw the allocation of the LCN to that channel and remove the channel to the next available LCN at the bottom of the relevant genre or to a different genre, as appropriate.
- 7.6 Digital UK will consider applications to swap the LCNs of two associated channels (as defined in paragraph 6.1 of the Policy) where the two channels:
- (i) Are in the same genre; and
 - (ii) Neither channel is a public service channel listed in s.310 of the Communications Act; and
 - (iii) 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 viewers' expectations.

If Digital UK agrees to a swap of LCNs for two associated channels, it will be implemented at a time to be agreed with Digital UK.

See Schedule 4 for further guidance on the criteria under which Digital UK will consider swapping LCNs of associated channels; and the timing of implementation.

- 7.7 Digital UK does not permit any trading or sale of LCN positions between channel providers.

8 ALLOCATING VACATED LCNs IN THE SAME GENRE

- 8.1 A channel provider may cease to make a channel available on an LCN for a limited period of time without that channel being considered to have been removed from the platform and its LCN withdrawn provided that the channel provider:
- (i) Notifies Digital UK in writing, prior to the temporary withdrawal, of its intentions to make that channel available again within a period of 12 weeks from the point of temporary withdrawal of audio-visual content, and
 - (ii) Ensures that the channel is available again within such period.

Digital UK reserves the right to withdraw the LCN from the channel where the channel provider fails to resume transmission of the channel within such period.

- 8.2 Where a channel is withdrawn from its LCN for any reason the LCN will be offered by Digital UK to channels in the following order:
- (i) Firstly, to any public service channel (i) on a higher LCN than that which is in question (see paragraph 5.5 of this Policy); then if it remains vacated
 - (ii) Secondly, to existing associated channels (as defined under paragraph 6.1) already on the platform at LCNs higher than the vacated LCN, in the following way:
 - Firstly, to a channel which is associated with the channel which is immediately above the vacated LCN;

- Secondly, to a channel which is associated with the channel which is immediately below the vacated LCN;
 - Thirdly, to a channel which is associated with the channel which is two positions above the vacated LCN;
 - Fourthly, to a channel which is associated with the channel which is two positions below the vacated LCN;
 - And so on for up to five positions above and below the vacated LCN; and then if it remains vacated
- (iii) Finally, to any new associated channel (as defined under paragraph 6.1) launching on the platform.
- 8.3 Any channel provider offered a vacated LCN under paragraph 8.2 will have two weeks in which to consider the offer and respond in writing to Digital UK; beyond which time Digital UK may offer the LCN to another channel provider.
- 8.4 If no public service channel or associated channel takes the vacated LCN under the process described in paragraphs 8.2 then it will remain vacant until such time as a new public service channel or associated channel launches on the DTT platform (in accordance with paragraph 8.2); or Digital UK undertakes a shuffle-up procedure (see 8.6); or Digital UK for any other reason deems it reasonable to use the LCN.
- 8.5 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.
- 8.6 A channel provider may elect not to move a channel into a vacated LCN offered to it in accordance with this section of the Policy.
- 8.7 Without prejudice to paragraph 8.6, if large gaps or large numbers of gaps open up between LCNs within a genre Digital UK may undertake a shuffle-up procedure under this paragraph of the Policy to close some or all of the vacant LCNs within that genre. To operate this procedure Digital UK will write to all channels providers with channels occupying higher LCNs than the vacated LCN(s) explaining that it intends to undertake a shuffle-up procedure and explaining which vacated LCNs are available or might become available under this process. From this date Digital UK will close these vacated LCNs to new channels launching on the platform that might otherwise have had a claim to those LCNs under sections 5 or 6 of this Policy. Channel providers will be given two weeks to express interest in some or all of the LCNs that are available, and should prioritise their preferences. No channel will be under an obligation to move under the terms of this shuffle-up procedure. Digital UK will generally take two weeks to consider the responses. Digital UK will take into account any outstanding claims to vacated LCNs under either section 5 (which will always take priority) or section 6 of this Policy, and will then assign a vacated LCN to the channel with the next highest LCN.

9 CONSULTATION

- 9.1 Digital UK will consult with channel providers on any proposed LCN moves.
- 9.2 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, 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 of any move(s).
- 9.3 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, following which Digital UK will consider responses, communicate its conclusion to channel providers and publish a notice on the Digital UK website at least eight weeks prior to the date of any move(s).

- 9.4 Digital UK reserves its right to conduct an expedited consultation process where there are deemed to be, or might be, consumer protection issues
- 9.5 Where Digital UK reviews the Policy and believes there is a need to make substantive amends to the Policy Digital UK will conduct a consultation process with channel providers and stakeholders following that described in paragraph 9.3 of this Policy.

10 APPEALS PROCESS

- 10.1 The appeals process is available should a channel provider wish to appeal the Digital UK LCN Group's decision on either:
- (i) The genre or LCN allocation for a new channel launching on the DTT platform for the first time;
 - (ii) A move to a different genre or different LCN within a genre for an existing channel;
 - (iii) The addition, removal, merging or moving of genres; or
 - (iv) The decision to allocate or not to allocate a vacated LCN.
- Any appeal to Digital UK is without prejudice to recourse to Ofcom or other relevant authorities.
- 10.2 Where the appeal relates to a new channel, the channel may launch at the LCN allocated without prejudice to the ensuing appeals process.
- 10.3 To initiate the appeals process for a new channel the channel provider should write to the Chair of Digital UK within four weeks of the LCN allocation explaining why in the channel provider's view either the genre or the LCN assigned does not meet the Policy. The letter should further explain which genre or LCN the channel provider thinks the channel should be eligible for, and why. Any channel provider initiating an appeals process may be named by Digital UK. The Chair of Digital UK may take up to four weeks to consider the appeal, and will then respond in writing to the channel provider. Within the four week period the Chair of Digital UK may ask the channel provider for further information to assist with the review. If the Digital UK Chair agrees that the channel provider has presented a sufficiently compelling case, and agrees to the channel provider's counter proposed genre or LCN, Digital UK will move the channel into the relevant LCN or genre as soon as it is able to do so, and at the earliest date which is convenient to the channel provider. If the Digital UK Chair does not agree that the channel provider has presented a sufficiently compelling case, the Digital UK LCN Group's decision will stand. Digital UK may publish appeal adjudications subject to redaction of commercially sensitive material.
- 10.4 Changes to the LCNs of existing channels would be subject to the consultation process set out in section 9 of this Policy. If, following consultation and notification from the Digital UK LCN Group of its conclusion, the channel provider wishes to appeal that decision the channel provider should write to the Chair of Digital UK within four weeks. The letter should explain why in the channel provider's view either the genre or the LCN assigned does not meet the Policy. Receipt by Digital UK of an appeal will place the move on hold until the end of the appeals process. Any channel provider initiating an appeals process may be named by Digital UK. The Chair of Digital UK may take up to four weeks to consider the appeal, and at the end of the four week period, will respond in writing to the channel provider. Within the four week period the Chair of Digital UK may ask the channel provider who lodged the appeal for further information to assist with the review. If the Digital UK Chair agrees that the channel provider has presented a sufficiently compelling case and that the channel should not move, no further action will be taken. If the Digital UK Chair does not agree that the channel provider has presented a sufficiently compelling case, the Digital UK LCN Group's decision will stand and Digital UK will move the channel into the relevant LCN or genre generally no more than 8 weeks from the date

of the Digital UK Chair's decision.. Digital UK may publish appeal adjudications subject to redaction of commercially sensitive material.

11 CHARGES

- 11.1 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.

12 INFORMATION PROVISION AND MONITORING

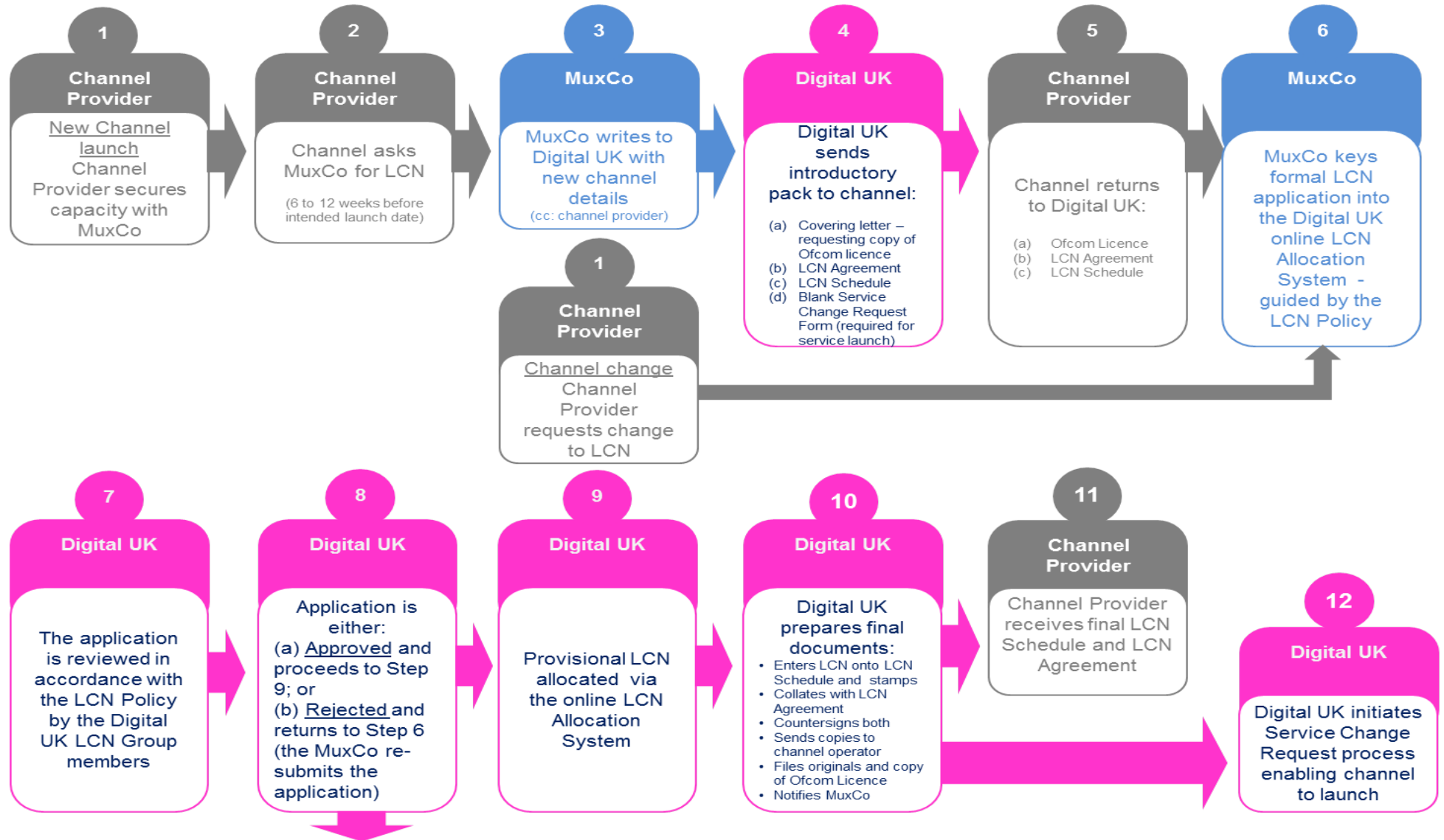
- 12.1 Digital UK is not obliged to monitor the content of the channels which are on the DTT platform in order to ensure that they continue to comply with any representations made to Digital UK by the channel provider about the channel or to investigate allegations brought by channel providers about such on-going compliance. However, Digital UK reserves the right at its discretion to monitor the content of channels and to investigate allegations brought by other channel providers.
- 12.2 Channel providers shall at their cost provide all such information as Digital UK 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.

Channel providers must take steps to ensure that all information provided by them or on their behalf is accurate, complete and up-to-date.

13 REVIEWS

- 13.1 Digital UK will carry out periodic reviews of the Policy which are likely to be every three to four years, or earlier at the discretion of Digital UK.

SCHEDULE 1: The LCN Allocation Process



SCHEDULE 2: Digital UK's Genre Ranges

| Genre | First LCN | Last LCN |
|---------------------------|------------|------------|
| General Entertainment | 1* | 99* |
| HD | 101 | 120 |
| Children's | 121 | 130 |
| News | 131 | 150 |
| Adult | 171** | 198** |
| Text and MHEG services | 200 225 | 224 299 |
| Interactive services | 300 | 320 |
| IP delivered services | 400 | 499 |
| Radio | 700 | 750 |

* LCNs 8 and 45 are reserved for Local services with PSB status.

** LCNs 170 and 199 are reserved for the slates that bookend the Adult section.

SCHEDULE 3: 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 service 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). |
| 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 | <p>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.</p> <p>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.</p> <p>For the avoidance of doubt, transactional sex chat channels (or 'Adult Chat' services) will be located in the Adult genre, rather than within any other transactional genre within the EPG.</p> |
| Text and MHEG Services | <p>A service will be included in the Text and MHEG services genre if a substantial element of the programming on the channel falls into either of the categories:</p> <ul style="list-style-type: none"> • The presentation of on-screen text services which are predominantly used by viewers to seek out specific information, or • Programming which is accessed by the viewer via an MHEG application, but which may be delivered to the viewer via IP. |
| Interactive Services | <p>A service will be included in the Interactive genre if a substantial element of the programming of the channel falls into either of the categories:</p> <ul style="list-style-type: none"> • Programming that can be accessed by the viewer as and when they demand, including push 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. |
| Radio | Audio-only programming that is licensed as a radio station rather than as a television channel. If a channel comprises video programming or on-screen stills (other than via any interactive application which may be launched from the channel) the channel will not be assigned to the Radio genre. |

SCHEDULE 4: Guidance on paragraph 7.6

When considering (iii) of paragraph 7.6 of the Policy, whether the swap of LCNs would be deemed to result in channels being listed in an order more likely to reflect viewers' expectations, Digital UK would generally expect to take the following non-exhaustive list of factors into account:

- (i) Any sequencing implied by the name or branding of the channels; and/or
- (ii) The ordering of the two channels on other UK TV platforms; and/or
- (iii) Any other information that may support the channel provider's case.

When considering the timing of the swap of LCNs, Digital UK is mindful of the fact that some viewers need to re-tune their Freeview equipment for LCN changes and therefore sees a potentially negative viewer impact arising from frequent or un-coordinated LCN changes and so:

- (i) A channel provider may only undertake one swap of any LCNs of any associated channels within its portfolio in any given year; and
- (ii) A channel provider may only swap LCNs at a time agreed with Digital UK; and
- (iii) Digital UK prefers that LCN changes are co-ordinated on the platform, and will seek to aggregate LCN changes on a date in calendar quarter 3 (July to September) of any given year.

APPENDIX 3: Current Genre LCN Ranges (at 7 May 2013)

| Genre | First LCN | Last LCN |
|-----------------------|-----------|----------|
| General Entertainment | 1 | 69* |
| Children's* | 70 | 79 |
| News* | 80 | 89 |
| HD | 101 | 119 |
| Adult channels | 171** | 198** |
| Text & MHEG channels | 200 | 224 |
| | 225 | 299 |
| Interactive channels | 300 | 320 |
| IP delivered channels | 400 | 499 |
| Radio | 700 | 750 |

Genre definitions are provided in the Digital UK LCN Policy.

*Note that the Children's and News genres will move to start at LCNs 121 and 131 respectively on the Wednesday 16 weeks from the moment that LCN 65 in the General Entertainment genre is allocated. This will allow for the continued expansion of the General Entertainment genre, if required, up to LCN 99.

**Note that LCNs 170 and 199 are reserved for the slates that bookend the Adult section.

APPENDIX 4: Proposed Genre LCN Ranges (with change to the IP genre)

| Genre | First LCN | Last LCN |
|-----------------------|-----------|------------|
| General Entertainment | 1 | 69* |
| Children's* | 70 | 79 |
| News* | 80 | 89 |
| HD | 101 | 119 |
| Adult channels | 171** | 198** |
| Text & MHEG channels | 200 | 224 |
| | 225 | 299 |
| Interactive channels | 300 | 320 |
| IP delivered channels | 400 | 599 |
| Radio | 700 | 750 |

Genre definitions are provided in the Digital UK LCN Policy.

*Note that the Children's and News genres will move to start at LCNs 121 and 131 respectively on the Wednesday 16 weeks from the moment that LCN 65 in the General Entertainment genre is allocated. This will allow for the continued expansion of the General Entertainment genre, if required, up to LCN 99.

**Note that LCNs 170 and 199 are reserved for the slates that bookend the Adult section.

APPENDIX 5: Summary of Consultation Questions

Question 1: Do you believe that PSB HD channels should be afforded appropriate prominence by being allocated the lowest LCN available, or that Digital UK should reserve prominent LCNs for PSB HD channels? If you believe that Digital UK should reserve prominent LCNs for PSB HD channels we would welcome views on how this should be done.

Question 2: Do you believe that Digital UK should allow an SD channel to be substituted by its identical simulcast HD channel? Why?

Question 3: Do you prefer that all HD channels are placed in the HD genre, or that children's and news HD channels are placed within their respective content genres? Why?

Question 4: Do you agree that HD channels should be allocated LCNs in the HD genre on a 'first come, first served' basis? Why?

Question 5: Do you agree that Digital UK should expand the range of LCNs set aside for IP channels by a further 100 LCNs spanning LCN 400 to LCN 599?