

Written evidence submitted by Roku, Inc.

Pre-legislative scrutiny of the Draft Media Bill: Call for Evidence

Introduction

Roku pioneered streaming to the TV. Today, Roku streaming devices are used by more than 70 million consumers across North America, South America, the UK and other parts of Europe. We connect users to the streaming content they love, whether that content is made available on a free, advertising-supported, subscription, or transaction basis. And we enable public service broadcasters (PSBs) and other content publishers to build and monetize large audiences and provide advertisers with unique capabilities to engage consumers.

Roku believes that its success in the UK is inextricably intertwined with the success of the PSBs, and for that reason we have historically and consistently made our partnership with the PSBs a critical part of our platform. Roku not only makes PSB content available on its platform, but also takes great pride in the lengths to which we go to ensure that PSB content is prominently featured so that all consumers can easily find and interact with PSB apps. In fact, Roku was an early partner with the PSBs in supporting Freeview Play, and it was the first licensable global Connected TV operating system to support the app's specifications.

Roku is uniquely positioned with its sophisticated TV streaming platform and growing scale. We operate the No. 1 TV streaming platform in the U.S., Canada, and Mexico as measured by hours streamed (Dec 2022, Hypothesis Group). The features and functionality of our platform, powered by the Roku operating system, enable us to address the needs of consumers, content publishers, advertisers, Roku TV brand partners, and other partners. In the U.S., Roku's value proposition as a streaming platform is well-established and familiar to all of these constituencies. Roku looks forward to a policy and regulatory environment in the UK that allows us to continue to bring this same value proposition to the UK as we expand and grow our platform.

Roku is fully supportive of the UK's ecology which features a mixture of public service media and commercial media. Roku recognises the valuable contribution made by PSBs to the economic, cultural, and democratic life across the UK, and we already take active steps to guarantee that PSB apps receive prominence on the Roku platform, including by ensuring that PSB apps are among the most likely to be installed when consumers first set up their Roku devices and Roku TVs.

We welcome the Government's intention to introduce a proportionate regulatory regime that promotes the policy goal of ensuring easy access to media content whilst protecting future innovation.

Roku hereinafter provides responses to a selection of the questions included in the Call for Evidence.

Public Service Broadcasting

- Should the Media Bill provide a clear definition of what prominence in online services looks like?

Roku agrees with the approach of the Department for Culture, Media & Sport (Dep. CMS) that the Media Bill should provide the general framework and objectives for the new prominence regime, while Ofcom should be tasked with developing the more granular details within secondary legislation or guidance, such as providing further clarity as to what prominence in online services should look like. We consider that this approach will allow Ofcom to respond to technological innovations and changing consumer preferences, consistent with the Media Bill's instruction to steer clear of prescriptive mandates and avoid tying the hands of Connected TV platforms that seek to provide the best possible experiences for their consumers and PSB partners.

Video-on-Demand

- What should be the specific criteria for designating an on-demand programme service as Tier 1?

Recital 250 of the Media Bill Explanatory Notes indicates that “details such as audience figures, turnover, and size of catalogue” will be considered by the Secretary of State when determining which services should come under the enhanced Tier 1 regulations. This strongly suggests that only the largest on-demand programme services (ODPS) should be designated Tier 1. In addition, the Dep. CMS press release announcing the publication of the draft Bill refers to “mainstream” ODPSs.

However, clauses 368HA and 368HB of the draft Bill make no reference to any criteria that will be used to determine whether or not an ODPS is Tier 1. While we agree that the precise line-drawing should be left to regulations made by the Secretary of State, we consider that the Media Bill itself should include some form of objective criteria establishing that only the largest and most widely-used ODPSs should be designated as Tier 1. This will ensure that the Media Bill achieves its goal of levelling the playing field between traditional media outlets and the largest ODPSs, while at the same time avoiding placing potentially burdensome new regulations on smaller and nascent online video services that still are trying to gain a foothold in the marketplace.

Radio

- Is the definition of a radio selection service appropriate?

Dep. CMS has indicated that the policy intention behind Part 6 of the draft Bill is to regulate certain voice-activated ‘smart speaker’ devices (see recitals 338 and 339 of the Media Bill Explanatory Notes).

However, the proposed definition of a ‘radio selection service’ within clause 362BA is overly broad. Roku is concerned that, in addition to smart speaker devices, the current wording could potentially sweep within scope a wide range of other devices, through which it technically may be possible – albeit difficult – to access internet radio services through a series of voice commands. These devices, such as smart televisions and streaming players that plug into television, principally are intended for video streaming and radio station consumption is not the usual use case.

We therefore ask that Dep. CMS introduce wording into Section 362BA that narrows the definition of a RSS so that the Bill covers specifically, and only, those ‘smart speaker’ devices that appear to be the intended targets of regulation.

General issues

- Are there any issues missing from the draft Bill within the scope of public service broadcasting, video-on-demand or radio?

Issue 1: regional prominence

Clause 362AL (2) provides that RTSS providers are not required to give DIPs “prominence or the same degree of prominence in relation to every area of the United Kingdom”.

We ask that wording be inserted into the Bill to make clear that any regional prominence requirements must be both reasonable and proportionate for RTSS providers to deliver, having due regard to technical considerations.

Issue 2: requirement for PSBs to offer metadata as part of “Must Offer”

Roku sees increasing consumer demand for the ability to search for and discover content from across the platform interface, rather than purely within particular apps. TSS providers are continuing to innovate on content discovery features to take into account these consumer preferences. Roku, especially, has worked hard to innovate on programme level content discovery in a robust universal search ecosystem, with support from our global content partners. Roku believes that UK consumers and PSBs will benefit significantly from PSB content being surfaced consistently in this kind of universal search environment, in line with the prominence objectives set out in the Media Bill.

An RTSS provider, however, generally has no visibility as to the programmes available within an IPS. Accordingly, IPSs must provide RTSSs with metadata regarding their programming catalogues if an IPS wants to ensure that its content is integrated into the search and discovery process. That metadata powers content discoverability across the platform. Dep. CMS already has set out in the Media Bill (clause 362AI(6)) the notion that RTSS providers will be obliged to give due prominence to PSB public service remit content and listed channels. In order to ensure that RTSSs are fairly positioned to meet this responsibility, Roku requests that Dep. CMS include in the Media Bill a requirement that PSBs be required to include content metadata as part of their “Must Offer” obligations.

We consider that this principle should form part of the Media Bill itself, with implementation delegated to Ofcom, given its fundamental importance to RTSS providers in being able to meet their Must Carry obligations under the Bill.

Roku, Inc.
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