EXPLANATORY MEMORANDUM TO

THE REGULATED ELECTRONIC PROGRAMME GUIDE (PRESCRIBED DESCRIPTION AND TRANSITIONAL ARRANGEMENTS) REGULATIONS 2026

2026 No. 529

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Culture, Media and Sport, and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Ian Murray, Minister of State for Creative Industries, Media and Arts at the Department for Culture, Media and Sport, confirms that this Explanatory Memorandum meets the required standard.

2.2 Mark Griffin, Deputy Director for TV and Broadcasting at the Department for Culture, Media and Sport, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Jason Cotton at the Department for Culture, Media and Sport can be contacted by email at the following address with any queries regarding the instrument: enquiries@dcms.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 These Regulations expand on the definition of a "regulated electronic programme guide", with the result that additional electronic programme guides (EPGs) and television channels are subject to regulation by Ofcom.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales, Scotland and Northern Ireland.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. Policy Context

What is being done and why?

5.1 An "electronic programme guide" (EPG) is the legal term for a service that lists and/or promotes the television programmes of one or more third party channels, and provides a way to access those channels. The regulatory framework set out in the Communications Act 2003 (c. 21) ("the 2003 Act") means that only services defined in legislation as "regulated electronic programme guides", and the TV channels that appear on them, are generally subject to UK regulation through Ofcom. Ofcom serves as the independent regulator for both regulated EPGs and TV channels that require broadcast licences. Under section 211A(2)(a) of the 2003 Act, Freeview, Freesat, Sky,

Virgin Media, and YouView are regulated EPGs; no new regulated EPGs have been added since 31 December 2020.

5.2 Under section 211A of the 2003 Act, the Secretary of State has powers to bring additional EPGs under the current regulatory framework, either by designating specific providers (or those with a prescribed connection to those providers) or by setting a description in legislation of a "regulated electronic programme guide".

5.3 This statutory instrument expands who is a regulated EPG for the purposes of the 2003 Act- as well as the EPGs mentioned in paragraph 5.1, this will now also include EPGs that meet the definition in this instrument. In addition, any services that can be accessed through such an EPG will be subject to regulation by Ofcom, as long as they are not exempt foreign services. Exempt foreign services include Republic of Ireland channels RTÉ1, RTÉ2, TG4, and services provided within the jurisdiction of an European Convention on Transfrontier Television state, other than the UK.

5.4 This instrument also updates our current legislation whereby providers of EPGs, which are regulated EPGs under section 211A(2)(a) (see paragraph 5.1) are now delivering other newer EPGs, such as Freely and Sky Glass which are unregulated. This is important as it extends Ofcom regulation (and audience protections) to newer services that audiences would more likely expect to be regulated as they are from existing trusted providers.

5.5 The instrument enables Ofcom regulation of 'portal' services, which are unregulated EPGs accessed through a channel slot on a regulated EPG. This update will help close a gap which allows unlicensed, and therefore unregulated, TV channels to be accessed via a regulated EPG.

What was the previous policy, how is this different?

5.6 Previously, the only regulated EPGs (set at the point the UK left the European Union) were Freeview, Freesat, Sky, Virgin Media, and YouView. The emergence of smart TVs and growth in the number of unregulated EPGs means that audiences are exposed to an increased level of unregulated television content, with no recourse to complain to Ofcom. The way that previous legislation was drafted meant that newer EPGs are not automatically added to the list of regulated EPGs, and secondary legislation is required to add further services. In addition, existing legislation allowed unregulated 'portal' services to be accessed by audiences through regulated EPGs. However, this instrument will not cover all unregulated EPGs with some remaining unregulated. Following the implementation of the instrument, multiple EPGs will be regulated, consisting of hundreds of regulated channels.

6. Legislative and Legal Context

How has the law changed?

6.1 An EPG will now fall under section 211A(2)(c) of the 2003 Act, and will therefore be subject to regulation, if it meets the following four conditions:

6.1.1 The EPG can be accessed by a means of television or a streaming device connected to a television. A "streaming device" is apparatus which can connect to the internet and is designed primarily for enabling the user to select and access programmes, and display programmes, where the device cannot display programmes on its own. The policy does not include EPGs that can only be accessed by a device that is not a television or streaming device, such as a laptop.

6.1.2 United Kingdom users form one of the target markets for the EPG, or the only target market.

6.1.3 The EPG is either provided by an organisation already providing a regulated EPG under section 211A(2)(a) of the 2003 Act on the day the statutory instrument comes into force, or provided by an organisation that is closely linked to that existing provider, for example through the same parent company. An EPG also qualifies if users can access it through a regulated EPG, including one that becomes regulated through this instrument, collectively known as 'portal' services.

6.1.4 The EPG is not an already regulated EPG under section 211A(2)(a) of the 2003 Act.

6.2 The transitional arrangements state that if the EPG is provided by an existing regulated provider or a closely linked provider, they have until 1st December 2026 to obtain a broadcasting licence. If the EPG is in scope because it can be accessed through a regulated EPG, they have until 1st June 2027 to obtain a licence. Providers of any other service requiring a television licensable content service licence such as a digital television programme service (that is not an exempt foreign service) accessed via a regulated EPG, have until 1st December 2027 to obtain the relevant licence(s).

Why was this approach taken to change the law?

6.3 Legislation is needed to make these changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 A consultation[1] took place, under the previous government, from September to November 2023 covering the use of these statutory powers, where evidence was gathered from any interested parties, including relevant stakeholders such as the providers of both regulated and unregulated EPGs and channels. The consultation sought views on whether to use the existing powers in section 211A of the 2003 Act, and asked for evidence from providers about the potential impact of the regulation of additional EPGs. A summary of responses[2] to that consultation has been published.

7.2 As required by section 211A(6), the Secretary of State has consulted Ofcom before making this statutory instrument.

8. Applicable Guidance

8.1 Ofcom already provides extensive guidance for regulated EPGs and licensed broadcasters which is available through their website[3]. Ofcom will provide any further relevant guidance for EPGs and channels that will now be in scope of regulation following commencement of these regulations as Ofcom considers appropriate. The guidance will outline how the regulations apply in practice, and make clear what is expected of providers.

[1] https://www.gov.uk/government/consultations/consultation-on-the-regulation-of-additional-electronic-programme-guides/regulation-of-additional-electronic-programme-guides-consultation-document

[2] https://www.gov.uk/guidance/summary-of-responses-to-the-2023-consultation-on-the-regulation-of-additional-electronic-programme-guides

[3] https://www.ofcom.org.uk/tv-radio-and-on-demand/digital-tv/guidance-for-tv-broadcast-licensees

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because of the low level of impact. On this basis, a proportionate analysis has been undertaken by the Department for Culture, Media and Sport to assess the costs and benefits of the regulation.

Impact on businesses, charities and voluntary bodies

9.2 There is no significant impact on business, charities or voluntary bodies for the reasons set out above.

9.3 There is potential for some impact on small and micro businesses, but this is expected to be limited to broadcasters or 'portal' EPGs that choose, or are unable to meet requirements of regulation, such as adherence to audience protection rules set out in Ofcom's Broadcasting Code.

9.4 This policy will ensure that newer EPGs covered by the description in regulation 2, including 'portal' EPGs, and other services accessible on these newly regulated EPGs, will operate under the same standards and are subject to the same obligations as those EPGs and channels that are already regulated. Audiences will benefit from greater protection and regulatory consistency, including a clear mechanism to raise complaints.

9.5 There will be minimal impact on Ofcom, which will need to allocate additional resources to accommodate the changes introduced by this policy. This cost is recovered from industry through fees. There is no, or no significant, impact on the rest of the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The Department for Culture, Media and Sport will continue to monitor the implementation and impact of this measure on an ongoing basis through engagement with stakeholders and reference to relevant data sources. The Department meets with a wide range of stakeholders regularly and will continue to do so following commencement of these regulations.

10.2 The Secretary of State has powers to amend the definition of a regulated EPG in the future, should evidence show that this would be appropriate.

10.3 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Ian Murray, Minister of State for Creative Industries, Media and Arts at the Department for Culture, Media and Sport, has made the following statement:

"A statutory review clause is not necessary, as there is not expected to be a significant annualised net impact on business and there are no other factors that would make it desirable to have a review clause. The Department for Culture, Media and Sport will continue to monitor the implementation and impact of this measure on an ongoing basis through engagement with stakeholders and reference to relevant data sources."

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").