

## **Method for allocating listings in Sky's EPG in the UK**

### **1. Introduction**

Sky anticipates implementing certain changes to its electronic programme guide (“EPG”), Sky Guide, in October and November 2005. Some viewers will see the changes in the EPG earlier than others. This statement explains Sky's method for allocating new listings in its EPG in the UK after those changes take effect. The “Method for allocating listings in Sky's EPG in the UK” dated November 2004 shall apply prior to such time. This statement does not seek to address Sky's previous method(s) for allocating such listings.

Sky anticipates updating this statement from time to time as its method for allocating EPG listings evolves.

### **2. Categories of services listed in Sky's EPG**

Sky allocates EPG listings to television channels, radio stations and interactive platforms (all of which are referred to as “channels”, where appropriate, in this statement).

### **3. Launch into the EPG**

The rate at which Sky can launch new channels into its EPG is influenced by many operational and technical factors, and may change over time.

When necessary, Sky maintains lists of television channels, radio stations and/or interactive platforms waiting to launch into the EPG. In order to be added to the appropriate list, a broadcaster or distributor of a channel must provide Sky with:

- (i) a copy of the broadcasting licence (or equivalent authorisation) permitting the broadcast of the channel by satellite in the region where the channel will be available via the EPG;
- (ii) details of which satellite capacity provider the channel will use;
- (iii) details of the entity which will provide EPG scheduling data to Sky (whether this is the broadcaster itself or a third party acting on its behalf);
- (iv) sample schedules for 7 days' programming; and
- (v) sufficient funds to clear any debts owed by the broadcaster or distributor to Sky for EPG, conditional access and/or access control services.

Sky will generally allocate launch dates in the order in which broadcasters and distributors join the appropriate list of channels waiting to launch. Sky anticipates departing from this “*first-come, first-served*” policy only in exceptional circumstances.

Broadcasters and distributors will be informed of the operational deadlines that must be met in order to ensure the launch of their channel into the EPG on the allocated launch date. Channels which do not launch into the EPG within 7 days of their allocated launch date will forfeit their launch date. If, in such circumstances, the broadcaster or distributor still wishes to launch the channel into the EPG, it will be placed at the end of the list of television

channels, radio stations and/or interactive platforms (as appropriate) which are waiting to launch.

The broadcaster or distributor of the channel must enter into an EPG Services Agreement with Sky before the allocated launch date for its channel. Sky anticipates that the EPG Services Agreement will generally be with the distributor of the channel where a pay TV distribution arrangement is in place.

One important provision of the EPG Services Agreement is that Sky will only provide an EPG listing in respect of a television channel or radio station for so long as it continues to broadcast at least 12 hours of scheduled non-repeating programming each week.

A broadcaster or distributor may be required to provide a deposit or other security for the charges payable under the EPG Services Agreement.

**4. Determination of appropriate menu and genre**

Sky’s EPG is divided into a number of different menus. Channels may be listed in the TV Guide menu or, in the case of interactive platforms only, in the Interactive menu.

**4.1 TV Guide menu**

Before allocating a programme number to a channel, it is necessary to determine the most appropriate genre or sub-genre for the channel.

“Genres” are the categories that make up the top-level menu within the TV Guide menu on the EPG. “Sub-genres” are sub-categories within certain genres. Sub-genres are not separately labelled on the EPG.

The TV Guide menu on Sky’s EPG is divided into the genres and sub-genres shown in the table below:

<b>Genre</b>	<b>Sub-Genres</b>
Entertainment	None
Lifestyle & Culture	None
Movies	Subscription and Free-to-air Movies Pay-per-view Movies
Sports	Subscription and Free-to-air Sports Pay-per-view Sports
News	None
Documentaries	None
Kids	None
Music	Music

<b>Genre</b>	<b>Sub-Genres</b>
	Audio
Radio	None
Shopping	None
Religion	None
International	None
Gaming & Dating	Gaming Dating
Specialist	None
Adult	Subscription and Free-to-air Adult Pay-per-view Adult

Within the EPG, genres and sub-genres will generally be listed in the same order as they are listed in the table above. Where a genre or sub-genre becomes full, however, it may be necessary to create an overspill section for that genre or sub-genre elsewhere in the EPG.

Sky may make a preliminary assessment of the appropriate genre or sub-genre for a channel before allocating a provisional launch date to the broadcaster or distributor. This allows Sky to forecast how many EPG programme numbers will be needed in each genre and sub-genre to accommodate channels waiting to launch. Where such preliminary assessments are made, they will be communicated to the broadcaster or distributor.

The final decision as to the appropriate genre or sub-genre is made by Sky after reviewing:

- (i) scheduling, event and synopsis information for the first 14 days of the channel's broadcast (this information must be transmitted to Sky at least 14 days before the channel's launch into the EPG);
- (ii) any other information which Sky may request from the broadcaster or which the broadcaster wishes to provide: the information that Sky may request may include a preview tape showing a sample of the programming that will be broadcast on the channel, information about the content to which the broadcaster has acquired rights and details of the broadcaster's business plan;
- (iii) any relevant publicly available information: this may include information on the broadcaster's website, the broadcaster's marketing material and, if the channel is already broadcasting via satellite or on another platform, the broadcast output itself.

In making its decision, Sky will give greater weight to its analysis of programming which is scheduled for broadcast at launch (and interactive content which can be accessed from the channel) rather than to representations about content which is planned for the future.

If the final decision as to the appropriate genre is different to any preliminary assessment previously communicated to the broadcaster or distributor, it may be necessary to withdraw the provisional date which was previously communicated to the broadcaster or distributor for launch of its channel into the EPG. This action will be taken where, in light of the final genre decision for the channel, it becomes apparent that there may not be enough room left in that genre or sub-genre to accommodate the launch of all channels which, based on Sky's preliminary assessments, are scheduled for launch into that genre or sub-genre.

The assessment of the appropriate genre or sub-genre, in light of the criteria set out below, is ultimately a matter for Sky. Sky will seek to be fair, reasonable and non-discriminatory in its approach to such assessment.

The following guidance explains the criteria applied by Sky in determining the relevant genre or sub-genre.

#### ***4.1.1 Entertainment***

A channel will be allocated a programme number in the Entertainment genre if its programming is predominantly of a general entertainment nature, is of appeal to a wide audience and is not more appropriately listed in another existing genre. (For example, a movie channel may carry programming which is of a general entertainment nature and appeals to a wide audience; nevertheless, such a channel is more appropriately listed in the Movies genre.)

#### ***4.1.2 Lifestyle & Culture***

A channel will be allocated a programme number in the Lifestyle & Culture genre if its programming is predominantly related to lifestyle and culture, including, without limitation, programming related to the arts, travel, design, the home, gardens, property, health, food or fashion.

#### ***4.1.3 Movies***

A channel will be allocated a programme number in the Movies genre if its programming is predominantly feature-length movies and pre-view/promotional material relating to movies. The genre is divided into a sub-genre for subscription and free-to-air channels and a sub-genre for pay-per-view channels.

#### ***4.1.4 Sports***

A channel will be allocated a programme number in the Sports genre if its programming is predominantly sports and/or sports related programming. The genre is divided into a sub-genre for subscription and free-to-air channels and a sub-genre for pay-per-view channels.

#### ***4.1.5 News***

A channel will be allocated a programme number in the News genre if its programming is predominantly news and/or current affairs.

#### ***4.1.6 Documentaries***

A channel will be allocated a programme number in the Documentaries genre if its programming is predominantly documentaries.

#### **4.1.7 Kids**

A channel will be allocated a programme number in the Kids genre if its programming is aimed at children aged 15 and under. Channels in this genre should not comprise any material unsuitable for children aged 15 or under.

#### **4.1.8 Music**

##### Music

A channel will be allocated a programme number in the Music sub-genre if its programming is predominantly music and music related programming. Channels in this sub-genre must have video programming throughout the hours during which they broadcast; a channel will not be listed in this sub-genre if it comprises audio-only programming or audio-only programming with on-screen stills.

##### Audio

A channel will be allocated a programme number in the Audio sub-genre if it comprises audio-only programming with on-screen stills. A channel will not be listed in this sub-genre if it comprises video programming (other than via any interactive application which may be launched from the channel).

#### **4.1.9 Radio**

A channel will be allocated a programme number in the Radio genre if it comprises audio-only programming and is licensed as a radio station rather than as a television channel. A channel will not be listed in this genre if it comprises video programming or on-screen stills (other than via any interactive application which may be launched from the channel).

#### **4.1.10 Shopping**

A channel will be allocated a programme number in the Shopping genre if its programming is of a shopping or advertising nature. Channels in this genre are those which are not required to comply with licensing requirements limiting the amount or scheduling of broadcast advertising.

#### **4.1.11 Religion**

A channel will be allocated a programme number in the Religion genre if its programming is predominantly related to religion.

#### **4.1.12 International**

A channel will be allocated a programme number in the International genre if it includes a significant amount of foreign language programming; that is, programming that is not in English (or Welsh), or another language which is indigenous to the UK, whether sub-titled or not. Sky considers that 15% or more of the programming would be a “significant amount” in this context.

In assessing the amount of foreign programming over a particular period, any single programme that comprises more than a minimal amount of content in any language other than English (or Welsh), or another language which is indigenous to the UK, will be regarded as foreign language programming.

#### **4.1.13 Gaming & Dating**

##### Gaming

A channel will be allocated a programme number in the Gaming sub-genre if there is a substantial element of programming on the channel which falls into one or both of the following categories:

- (i) programming which includes the presentation of virtual events on which viewers can place bets or otherwise gamble (whether on a “for real” or “for fun” basis); or
- (ii) programming that features or promotes services that are intended predominantly for adults and that allow viewers to participate in a competition (e.g. play along poker).

For these purposes, a virtual event shall include any event the outcome of which is determined by means of a random number generator, whether electronic or otherwise (including roulette wheels, tombolas, balls machines and the like).

A channel will also be allocated a programme number in the Gaming sub-genre if its programming is predominantly related to gambling or similar themes.

##### Dating

A channel will be allocated a programme number in the Dating sub-genre if its programming is predominantly of a kind which offers viewers the opportunity to arrange a date or otherwise communicate with each other (e.g. via on-screen text messages).

#### **4.1.14 Specialist**

A channel will be allocated a programme number in the Specialist genre if its programming is predominantly directed towards a specific, focussed or niche group of viewers. This may include programming that offers a service to viewers (e.g. information about job vacancies) or programming about a special interest. A channel will also be allocated a programme number in the Specialist genre if it comprises programming which is not appropriate to any other genre or sub-genre.

#### **4.1.15 Adult**

A channel will be allocated a programme number in the Adult genre if, in Sky’s reasonable opinion, the channel should be located in the Adult genre.

In determining whether a channel should be located in the Adult genre Sky will have regard to the amount of and nature of any programming of an adult nature on the channel. In this context, programming of an adult nature will include any programming which features the depiction (particularly when that depiction is lascivious) of behaviour of a sexual or sexually suggestive nature, including the exhibition of breasts, genitals or sexual activity of any kind.

The genre is divided into a sub-genre for subscription and free-to-air channels and a sub-genre for pay-per-view channels.

## **4.2 Interactive menu**

Interactive platforms are divided into two categories for the purpose of allocating EPG listings in the Interactive menu:

- (i) broad interactive platforms, which are platforms that offer access to 5 or more different kinds of interactive services (banking, shopping, e-mail etc); and
- (ii) niche interactive platforms, which are platforms that offer access to fewer than 5 different kinds of interactive services.

Broad interactive platforms are listed above niche interactive platforms in the Interactive menu.

## **5. Allocation of programme numbers**

Programme numbers within any genre or sub-genre or, in the Interactive menu, within any category are generally allocated sequentially in order of launch into the genre, sub-genre or category (that is, on a “*first-come, first-served*” basis), with some exceptions discussed below. Where two or more channels launch into the same genre, sub-genre or category on the same day, programme numbers will be allocated to the channels in the order in which they joined Sky’s launch list.

## **6. Multiplexes**

In some genres and sub-genres (currently Entertainment, Lifestyle & Culture, Subscription and Free-to-air Movies, Subscription and Free-to-air Sports, Documentaries and Kids), Sky may reserve programme numbers below each “principal” channel launching into the EPG. Sky’s policy is to allocate these reserved programme numbers to “multiplexes” of the principal channel.

In this context, Sky regards a multiplex as a channel that either:

- (i) is a timeshift of the principal channel (e.g. UKTV Gold and UKTV Gold + 1); or
- (ii) is manifestly linked by theme to the principal channel (e.g. Paramount and Paramount 2).

Where there is limited space within a genre or sub-genre, Sky may stop reserving programme numbers in this way and may withdraw any unallocated programme numbers which have previously been reserved in this way. The withdrawal of such unallocated programme numbers may be achieved by moving channels in the genre or sub-genre to fill any vacant programme numbers. Broadcasters and distributors should note that they have no contractual right to be allocated programme numbers which have been reserved in accordance this policy.

## **7. Listing of public service channels**

“Public service channels” are those channels identified as such in accordance with Section 310 of the Communications Act 2003. When allocating listings to public service channels, Sky seeks to give such channels the degree of prominence which Ofcom considers appropriate.

Each public service channel is different and, therefore, different analysis is applied in determining the appropriate programme number for each such channel. Nevertheless, Sky anticipates taking the following into account when allocating programme numbers to public service channels:

- (i) the launch date or intended date of launch of the channel into the Sky EPG;
- (ii) the nature of the programming on the channel;
- (iii) the programme numbers which are available at the time of the launch into the EPG: it would generally be unfair and disproportionate to permit a public service channel to take over an EPG programme number which has been allocated to another channel; and
- (iv) the territory within the UK in respect of which the broadcaster's public service obligations extend. It may be appropriate to allocate different programme numbers to a channel in different parts of the UK when its public service obligations extend only to part of the UK (provided that the broadcaster has acquired the necessary conditional access (regionalisation) service from Sky to enable this).

Regional variants of a channel (including "out of area" regional variants) are listed in the same EPG genre. Out of area services may, however, be listed towards the end of the EPG rather than at the next available programme number.

Viewers with an access card should be able to view the correct regional variant of a public service channel (where regional variants exist) at the "primary" EPG listing for that channel (provided that the broadcaster has acquired the necessary conditional access (regionalisation) service from Sky to enable this).

## **8. Movement to another genre**

Where it becomes apparent to Sky at any time after the launch of a channel into the EPG that a different genre, sub-genre or category is more appropriate, Sky may, after consulting with the broadcaster, move the channel to the more appropriate genre, sub-genre or category. This may happen if the content on a channel changes or if Sky changes the criteria for listing channels in particular genres, sub-genres or categories. Where a channel is moved in this way, it will generally be allocated the next available programme number at the end of the more appropriate genre, sub-genre or category, regardless of when it originally launched into the EPG.