

Procedures for determination of disputes under PPRB rules



Procedures for determination of disputes
under Ofcom's rules on Party Political
and Referendum Broadcasts

Publication date: 25 February 2010

Procedures for determination of disputes under Ofcom's rules on Party Political and Referendum Broadcasts

1. This document outlines the procedures which apply to Ofcom's determination of unresolved disputes between political parties and broadcast licensees under Ofcom's Rules on Party Political and Referendum Broadcasts ("Ofcom's PPRB Rules"): <http://www.ofcom.org.uk/tv/ifi/guidance/pprbrules.pdf>
2. Such disputes will be determined by Ofcom's Election Committee ("the Committee") applying Ofcom's PPRB Rules, in accordance with section 333 of the Communications Act 2003 ("the Act") which requires Ofcom to ensure that party political broadcasts (including party election broadcasts) and referendum broadcasts are included in the services of every "licensed public service channel" and "national (i.e. UK-wide, commercial) radio service" ("the Licensee").
3. Under Ofcom's PPRB Rules, decisions as to the precise length, frequency, allocation and/or scheduling of broadcasts offered to political parties/designated organisations are the responsibility of the Licensee in the first place. When Licensees make the decision, they should notify the relevant political party/designated organisation ("the Party") promptly in writing, setting out the basis of the relevant decision. If the Party wishes to dispute any element of the Licensee's decision, it should first make representations direct to the Licensee to enable the Licensee to reconsider its decision.
4. If any dispute remains unresolved between any Licensee and any Party, as to the length, frequency, allocation and/or scheduling of broadcasts ("the dispute"), it may be referred by the Party or the Licensee to Ofcom for determination under Ofcom's PPRB Rules using these procedures.
5. These procedures contemplate a dispute being referred to Ofcom in the first place by a political party/designated organisation under Ofcom's PPRB Rules, and will be appropriately modified where a dispute is first referred by a Licensee.

Initial Referral of Disputes

6. If the Party considers it appropriate to refer the dispute to Ofcom under Ofcom's PPRB Rules, it should do so in writing by email to the Committee ("the Referral Letter") as soon as reasonably practicable. The letter should be addressed to the Secretary to the Corporation at Ofcom: graham.howell@ofcom.org.uk.
7. The Party's Referral Letter should set out the details of the dispute and the Licensee in relation to which the dispute is referred, together with the Party's grounds for disputing a Licensee's decision.

Procedures for determination of disputes under PPRB rules

8. The Referral Letter should also enclose any correspondence relevant to the disputed decision, and provide any other relevant evidence or background information. For example, if the Party's dispute concerns the number of party election broadcasts allocated to the Party by a Licensee during an election period, the Party should provide correspondence from the Licensee notifying the Party and setting out the basis of its decision, together with any relevant supplementary information about the Party (e.g. its size, support, number of candidates at the election).

Acceptance of Dispute

9. On receipt of a Party's Referral Letter, the Committee will write to the Party confirming whether it has accepted the dispute and, where applicable, requesting any relevant further information ("the Acceptance Letter"). The Acceptance Letter will set out an appropriate timetable under which the dispute will be determined (including the date when the Committee intends to meet), having regard to the need to determine disputes promptly and fairly. For practical reasons, to enable Licensees to schedule all PEBs before polling day, both the Party and the Licensee must be prepared to respond very rapidly to requests from Ofcom in furtherance of its considerations of a dispute, and all correspondence will be expected by email.
10. The Committee will also forward the Referral Letter (and any other documentation provided by the Party) to the Licensee, giving the Licensee an opportunity to respond to the dispute with any comments, representations and additional evidence. The Committee will state a deadline by which the Licensee should respond.
11. On receiving the Licensee's response, the Committee will write to the Party again, giving it a final opportunity to reply to the contents of the Licensee's response, and stating the deadline for doing so. Any further response from the Party will be forwarded to the Licensee, together with any other relevant documentation, to give it a final opportunity to respond, with a deadline for doing so.

Resolution of the Dispute

12. Prior to determination of the dispute by the Committee, if the Licensee and the Party are able to resolve the dispute, the Party should notify the Committee that it wishes to withdraw the dispute from the Committee. In such circumstances, the Committee will take no further action.

Determination of the Dispute

13. If the dispute remains unresolved, the Committee will meet at an arranged time to determine the dispute under Ofcom's PPRB Rules, considering all the written representations and evidence provided by the Party and the Licensee.
14. The Committee will not normally hold an oral hearing. However, the Committee may consider it appropriate to do so in exceptional circumstances, in which case both the Party and the Licensee will be invited to attend.
15. The Committee may also consult any relevant third parties (e.g. the Electoral Commission) in order to obtain or confirm any factual or contextual information relevant to determining the dispute. Where appropriate, the Committee will give the Party and/or Licensee the opportunity to respond to such information.

Decision Letter

16. Once the Committee has determined the dispute, the Committee will write to the Party and the Licensee informing them of its decision, and setting out its reasoning.
17. The Committee will publish its decision on the Ofcom website in accordance with its normal process and the principles of transparency and best regulatory practice under section 3(3) of the Act.
18. The Committee's decision is final and not subject to internal appeal.