



# Television Access Services Review Statement

Statement

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## Section 1

# Summary

## Background

1.1 In March 2006, Ofcom invited comments on its review of the Code on Television Access Services and proposed new Guidelines on access services (subtitling, signing and audio description) for people with hearing and / or visual impairments to replace those inherited from the Independent Television Commission<sup>1</sup>. The consultation closed on 8 June 2006.

## Main conclusions

- 1.2 Non confidential responses were published on our website<sup>2</sup>, and are summarised in section 2. We have taken all the responses into account in formulating our conclusions, which are set out in detail in section 2.
- 1.3 In brief, as regards the Code on Television Access Services, Ofcom concluded that:
- a) the present method for selecting which channels should provide television access services remained appropriate, and that the audience share threshold of 0.05% should be retained for determining which channels should provide subtitling and audio description, notwithstanding the fact that this would mean that no channels aimed at ethnic minorities would be required to provide access services<sup>3</sup>. The current limit on expenditure of 1% of relevant turnover should be retained;
  - b) the Code should be amended to make clear that the revenues of channels that share majority ownership may be considered together if necessary when assessing whether targets are affordable, and if so, what Level of access service provision should apply; and
  - c) it should review the current arrangements for providing signing on television, to see if there are better ways of meeting the needs of people who use signing. Ofcom has held discussions with disability organisations and broadcasters, and expects to consult on any different arrangements that may be proposed towards the end of the year.
- 1.4 Ofcom also concluded that it would be premature to make any recommendation to the Government for changes to the statutory quota for audio description, until awareness improved and the level of take-up amongst potential beneficiaries became clearer. We expect to look again at the position in time for the targets to continue to rise, if warranted, when the current statutory target is reached in 2009.
- 1.5 Ofcom also sought views on draft consolidated Guidelines on how subtitling, signing and audio description should be provided. The final version of the Guidelines is set out in Annex 2 of this document, and will form Appendix 2 to the Code on Television Access Services.

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<sup>1</sup> Television Access Services Review (<http://www.ofcom.org.uk/consult/condocs/accessservs/>)

<sup>2</sup> Responses to the Television Access Services Review (<http://www.ofcom.org.uk/consult/condocs/accessservs/responses/>)

<sup>3</sup> The provision of signing is being reviewed separately.

- 1.6 Ofcom concluded that, as regards signing, the image of the signer should the image of the signer should occupy an area no less than one sixth of the picture, and that programmes with signing should also be subtitled.
- 1.7 As regards subtitling, Ofcom concluded that the present requirement for different colours to denote different speakers should be retained. The guidance will provide for a maximum speed for pre-recorded programmes in the range between 160 – 180 words per minutes, but on grounds of practicability will not specify a limit for live programming. The guidance asks broadcasters to have regard to the needs of the target audiences for children’s programmes when determining the speed and content of subtitling. Subtitles on standard definition digital terrestrial services should be no less than 20 television lines for the capital ‘V’, to include only those lines at the top and bottom of each character containing pixels that are at least 50% illuminated.

### **Document formats**

- 1.8 A copy of this document in a format suitable for use by screen readers has been posted on Ofcom’s website. Ofcom can also provide documents to individuals in alternative formats (e.g. Braille, audiotape or large print) on request. We may also provide translations of documents into languages other than English. To request non-standard versions of documents, please contact the Ofcom Contact Centre at [contact@ofcom.org.uk](mailto:contact@ofcom.org.uk), by phone at 0845 456 3000 or 020 7981 3040, or by textphone at 0845 456 3003. Please note that the time needed to produce an alternative format document will depend on the length of the document.

## Section 2

# Response to consultation submissions

## Background

- 2.1 In July 2004, Ofcom published the Code on Television Access Services, pursuant to section 303 of the Communications Act 2003. In April 2006, we published a review of the Code and the associated guidance on standards<sup>4</sup>, and invited comments.

## Respondents

- 2.2 There were a number of responses from individuals, many of them users of subtitles, signing or audio description. Disability organisations responding included Age Concern (AC), the Deaf Broadcasting Council (DBC), Hearing Concern (HC), Help the Aged, the National Association for Deafened People (NADP), the National Deaf Children's Society (NDCS), PhoneAbility (PA), the Royal National Institute for the Blind (RNIB), the Royal National Institute for the Deaf (RNID), Sense, Telecommunications Action Group (TAG), and the Welsh Deaf Broadcasting Council (WDBC). In addition, Ofcom's Advisory Committee on Older and Disabled People (ACOD) also submitted a response. Several broadcasters also commented, including the BBC, BSkyB, Channel 4 (C4), Five, ITV, Nickelodeon, S4C and two others), as well as access service providers ITFC, Red Bee, and ITV SignPost.
- 2.3 All these submissions have been posted on our website. A few respondents requested anonymity or provided confidential versions of their submissions. We have taken all the responses into account in formulating our conclusions. Key points from the submissions, as well as Ofcom's conclusions, are summarised below.

## Consultation responses

### Selection of channels

*Q1. Do respondents consider that the audience share-based method of selecting which channels should provide access services is reasonable, or do they consider that there are alternative methods that would be better?*

- 2.4 There was general agreement that the current method of selecting channels remained appropriate, both from disability organisations (ACOD, HC, NADP, NDCS, PA, RNIB, RNID, Sense, TAG), broadcasters (BBC, C4, Five, ITV, Nickelodeon, S4C and two others) and access service providers (ITFC, Red Bee). Some individual respondents felt that all channels should be required to provide access services, regardless of audience share. TAG expressed concern about other aspects of the selection method (see 'Other issues').

### Ofcom's response

- 2.5 Ofcom notes that there is a consensus that the audience share method remains an appropriate way to select channels that should provide access services, and will continue to use this approach.

<sup>4</sup> Television access services review (<http://www.ofcom.org.uk/consult/condocs/accessservs/>)

*Q2. Do respondents consider that the audience share threshold of 0.05% remains appropriate having regard to the objectives of the Communications Act, or do they consider a different threshold to be appropriate, and if so, why?*

- 2.6 Most respondents accepted that the current audience share threshold of 0.05% remains appropriate, including disability organisations (ACOD, HC, NADP, NDCS, RNIB, RNID, Sense, TAG), some broadcasters (BBC, Nickelodeon, S4C and one other) and others (ACOD, Red Bee, ITFC). One broadcaster felt that a threshold of 0.1% would be more proportionate, noting that this would ease pressure on emerging channels, and suggesting that this would exclude only 9 channels. A number of broadcasters (C4, Five, ITV) suggested that different audience thresholds would be appropriate for different services, depending on the numbers of people who could or did make use of each service. However, ACOD said it would be concerned about moves to adopt a different threshold for signing, and suggested that it be considered as part of the signing review.
- 2.7 Some respondents wanted further flexibility, for example, to require overseas channels targeting the UK to be made subject to access service requirements (HC), to require all news channels to provide some subtitling (ITFC), or to take account of viewing of news stations and channels such as BBC Parliament in the workplace (RNID).

#### Ofcom's response

- 2.8 The independent research commissioned by Ofcom indicates that large numbers of people with hearing and visual impairments stand to benefit from subtitling and audio description. Although current usage of audio description is much lower than for subtitling, it seems likely to grow as awareness improves. For this reason, Ofcom considers that the current audience share threshold of 0.05% remains appropriate when deciding which channels should provide audio description and subtitling<sup>5</sup>. We agree with ACOD that no change should be made to the audience threshold for signing pending the outcome of the signing review. Accordingly, we see no reason to make any changes to the list of channels required to provide access services in 2007 that was published on our website on 18 July 2006<sup>6</sup>.
- 2.9 While we understand why some respondents would like to see exceptions made to the general approach, Ofcom:
- a) has no power to impose obligations on overseas-based channels targeting the UK;
  - b) notes that while not all news channels meet the criteria for access service obligations, channels such as BBC News 24 and Sky News do provide a significant amount of subtitling. Ofcom does not consider that the benefits to some viewers of imposing special obligations on smaller news channels would outweigh the benefits that most viewers derive from a transparent and consistent approach to regulation that encourages investment in a broad array of television services; and

<sup>5</sup> The issue of the future of signing on television is being addressed separately, and Ofcom expects to consult on proposals towards the end of the year.

<sup>6</sup> Television channels required to provide television access services in 2007 ([http://www.ofcom.org.uk/tv/ifi/guidance/tv\\_access\\_serv/tv\\_access\\_statement07/tv07.pdf](http://www.ofcom.org.uk/tv/ifi/guidance/tv_access_serv/tv_access_statement07/tv07.pdf)).

- c) is not aware of any reliable means of measuring audience viewing in the workplace, and in any case doubts that this would contribute significantly to overall viewing figures.

*Q3. Do consultees agree that the Code should be amended to deal with channels in common ownership on the lines proposed?*

- 2.10 Disability organisations (DBC, HC, NDCS, PA, RNIB, RNID, Sense, TAG), some broadcasters (C4, Five, ITV) and others (ACOD, ITFC) supported the proposed amendment, which would clarify the intention of the Code to allow the revenues of channels that shared majority ownership to be averaged when determining whether targets were affordable. A few respondents disagreed (, Nickelodeon, S4C, and another broadcaster). Nickelodeon suggested that common operation, rather than common ownership, should be the criterion for deciding whether to treat channels as part of a single group. ITV suggested that it should be possible for channels in common ownership to have flexibility about how the obligations were met across channels in the group.

#### Ofcom's response

- 2.11 Having considered the various responses, Ofcom does not agree that it would be unfair to shareholders of channels that share majority ownership for the revenues of those channels to be taken into account if necessary when considering whether targets are affordable. Accordingly, the Code (at Annex A) has been amended on the lines proposed.
- 2.12 We see merit in ITV's proposal that channels in common ownership should have some flexibility about how to meet their aggregated obligations, but consider that this should not be done to the detriment of the intended audience for access services. For example, until digital switchover, we would not favour obligations on ITV1 being met on other digital-only channels, since (pending switchover) these are not yet available on a free-to-view basis to all television viewers. Moreover, it would be important to ensure that more flexible arrangements did not diminish the range of programming with access services available to users. As digital switchover nears completion, Ofcom will look again at the idea of allowing more flexibility in the way obligations are met, and will consult on any proposed changes.
- 2.13 As regards the suggestion made by Nickelodeon that common operation rather than common ownership be the determining factor in assessing which channels to group for revenue averaging purposes, we doubt that transparent and consistent rules could be devised without intrusive regulation, or that they would be a fairer than using the common ownership approach.

*Q10 [sic]. Do respondents agree that it is reasonable to apply the rules on the selection of channels to provide access services on a uniform basis, even though this means that no channels aimed at people from ethnic minority backgrounds are required to provide access services? If not, please explain any alternative proposals you may have.*

- 2.14 Respondents generally acknowledged the benefits of a transparent and uniform rule, and the risks of imposing burdensome access service requirements on small channels (ACOD, HC, NDCS, RNIB, RNID, Sense, TAG and two broadcasters), as well as the technical obstacles to providing subtitling in some foreign languages (ACOD, and one broadcaster). However, S4C said that sensory-impaired viewers from an ethnic minority background should not be deprived of access to television,

while other respondents suggested that Ofcom could encourage channels to do so on a voluntary basis (ACOD, ITV, NCDS, RNID, RNIB, Sense, TAG and a broadcaster), with priority being given to subtitles (ITFC, Nickelodeon) as they would benefit more people, including those learning English (ITFC).

### Ofcom's response

- 2.15 Ofcom remains of the view that it would not benefit viewers of ethnic minority channels if the imposition of access service requirements meant that channels had to close or take other measures that reduced the quality of the service. Accordingly Ofcom will continue to apply the rules on the selection of channels on a uniform basis, but will contact licensees providing ethnic minority channels in the UK to ask them to consider providing some access services.

### **Signing on television**

*Q4. Do respondents agree that the current arrangements for providing signing on television should be reviewed, to see if there are better ways of meeting the needs of people who use signing? If so, what alternatives would you favour, and why?*

- 2.16 There was general agreement from disability organisations (NDCS, Sense, RNID, TAG), broadcasters (C4, Nickelodeon, S4C and two others) and others (ACOD, ITFC, Red Bee) that a fresh look should be taken at the current arrangements for providing signing. TAG suggested that part of the problem lay in the unsociable hours at which signed programmes were shown, and said that expecting viewers to record them was not always practicable. It also suggested that viewers had not been consulted on which programmes they wanted with signing. Nickelodeon said that it had received no feedback on its signed programmes, in contrast to subtitled programmes, and that audience sizes were too small to measure. Another broadcaster provided data showing that signed programmes only attracted adult audiences of between 1000 and 5000 (though these were shown very late at night in order to avoid complaints from non sign-language users).
- 2.17 However, ITV SignPost (which prepares signed programmes for a number of broadcasters) queried the validity of the 'market sizing' research on the number of people using BSL to watch television, and suggested that the qualitative research showed that those BSL users with the strongest skills did watch signed television programmes all or some of the time, contradicting the conclusion that the current arrangements were not serving the needs of BSL users. Pending further research, said ITV SignPost, no changes should be made and, in any case, major changes should await digital switchover, by which time, there might be scope for delivering signed television by broadband.
- 2.18 Several respondents made specific suggestions for consideration in the signing review:
- a) one suggested that there should be no changes to the amount of signing on television (WDBC). Some disability organisations (HC, PA, TAG) were keen that whatever arrangements for signing were adopted, they should not prejudice the provision of subtitling and audio description;
  - b) groups representing BSL users indicated in earlier discussions with Ofcom that they would favour more sign-presented programmes (like the BBC's See Hear), using the resources currently devoted to sign-interpreted programmes. While

recognising that Ofcom does not have the power to compel broadcasters to move from sign-interpreted programmes to sign-presented programmes, ACOD suggested that Ofcom seek to negotiate such an arrangement with them. ACOD noted that there might be a case for retaining signed news and children's programmes;

- c) two broadcasters suggested that subtitling should be considered as an adequate alternative to signing, particularly for channels with smaller audiences, for which the number of sign language viewers was likely to be very small;
- d) NDCS said that feedback that it had received from families tended to confirm the research findings that sign-interpreted programmes were not meeting the needs of all sign language users, but said that a joint NDCS-BBC survey suggested that deaf children often watched programmes with sign language, and that their families wanted more such children's programming. NDCS wanted broadcasters to prioritise schools programmes with sign language; and
- e) a number of respondents (HC, PA, S4C) hoped that technological developments would allow closed signing, in the same way that closed subtitling is possible.

#### Ofcom's response

- 2.19 Ofcom is continuing a dialogue with disability organisations and broadcasters on whether there are better ways of meeting the needs of sign language users, and will take the comments made by respondents to the consultation exercise into account. As required by the Communications Act 2003, Ofcom will also have regard to its duties, including the requirement to take account of the needs of people with disabilities, and of the regulatory principles of transparency and proportionality. Ofcom expects to consult on proposals later on in the year, with a view to any different arrangements being implemented with effect from the beginning of 2008.

*Q5. Should the guidance recommend that, for programmes that have not already been signed, broadcasters should display a larger image of the signer on the right hand side of the screen?*

- 2.20 The balance of responses favoured retaining the existing guidance on the size of signers, including both broadcasters (C4, Nickelodeon, S4C and one other) and disability organisations representing the interests of the hearing-impaired (NDCS, PA, RNID, TAG), as well as access service providers (ITFC, ITV SignPost).
- 2.21 A few respondents did support a larger image (ACOD, Sense), though Sense suggested that it would have the negative effect of obscuring more of the picture. Some noted that, ideally, the size of the signer should be capable of adjustment by users (ACOD, PA, RNID, WDBC).

#### Ofcom's response

- 2.22 Ofcom notes that there is not a consensus in favour of change amongst those representing the views of the hearing impaired, and that introducing the change could cause expense for broadcasters and might make signed programmes even more unattractive for non sign language users than they currently are. Accordingly, Ofcom will retain the current guidance, which provides that the image of the signer should occupy an area no less than one sixth of the picture.

*Q6. Should the guidance recommend that signers wear clothing that is appropriate to the type of programme they are interpreting?*

- 2.23 Broadcasters and access service providers generally felt that this was a matter that could be left to the editorial judgement of broadcasters (BBC, C4, ITFC, Nickelodeon, Red Bee, and another broadcaster), while others said that guidance would be helpful (NDCS, Sense, RNID, TAG). Sign language users said that the crucial point was to ensure that the colour and design of clothing contrasted with the face and hands of the signer, so that these could be seen properly – patterns or non-contrasting colours made it more difficult to discern hand movements and facial expressions. NDCS said children had strong views about the appropriateness of signers for particular programmes; an older person signing a music video was seen to be anomalous.

#### Ofcom's response

- 2.24 Ofcom agrees that prescriptive guidance is not necessary, but sees some benefit (e.g. for channels or access service providers which have not hitherto provided signing) in guidance that explains why clothing matters to users: it can enhance or reduce the ability of users to see the signer, and it can enhance or detract from the style of the programme. We have made corresponding changes to the guidance.

#### **Subtitling**

*Q7. Should the guidance recommend the provision of subtitling for all signed programmes?*

- 2.25 Individual respondents who used signing, disability organisations (DBC, HC, NDCS, RNID, Sense, TAG, WDBC) and some access service providers (ITFC, ITV SignPost) agreed that subtitling should be provided for all signed programmes, as this would allow hearing-impaired viewers to choose the access service that suited them best, or to make complementary use of both. ACOD endorsed this position, and NDCS pointed out that subtitles should not run over the image of the signer. Amongst broadcasters, there were differing points of view. Several agreed with the proposition (BBC, C4, Five, ITV, S4C and another broadcaster), while others suggested that it be left to their discretion (C4, , Nickelodeon, Red Bee and another broadcaster), in part because provision of subtitling in peak time, rather than for a signed programme in off-peak hours, would benefit more people.

#### Ofcom's response

- 2.26 Ofcom understands that some sign language users find it helpful to be able to refer to subtitling from time to time, and notes that those who do not need or want to see it can turn it off. We have considered the argument that, while targets remain low, subtitling such programmes may reduce the effective choice of programming with subtitles for some viewers, but note that the targets will rise substantially in 2007, and progressively thereafter. We have therefore concluded that it would be helpful to some viewers if all signed programmes carried subtitling, and the guidance will provide for this.

*Q8. Do respondents agree that a suggested maximum speed of 160-180 wpm would be appropriate for subtitles in pre-recorded programmes, or do they have an alternative view, and if so, why?*

- 2.27 There was a broad consensus among disability organisations (HC, NDCS, TAG and another), broadcasters (BBC, C4, Nickelodeon, S4C and two others) and others (ACOD, ITFC) that the suggested range of maximum speeds struck a reasonable balance, although concern was expressed by some respondents that this range might be too fast to make reading subtitles comfortable for some (RNIB, RNID, Sense, TAG) or too slow to avoid the need for significant editing (BBC, HC, ITV, Nickelodeon, Red Bee) which would deprive viewers of much of the value of the original programme. While agreeing that this range was the most practicable option, ACOD suggested that, where practicable, broadcasters should use plain English spoken at a measured pace where practicable, particularly for news programmes.

#### Ofcom's response

- 2.28 As Ofcom noted in its consultation paper, different users prefer different speeds. In the light of consultation responses, Ofcom remains of the view that a suggested maximum range of 160-180 wpm would be reasonable, given that it has attracted little adverse comment, and this will be reflected in the guidance.

*Q9. Do respondents agree that, on grounds of practicability, there should be no guidance on the maximum speed for subtitling of live programmes? If not, why, and what alternatives would they suggest?*

- 2.29 Several disability organisations (HC, NDCS, RNID, TAG), broadcasters (BBC, C4, Jetix) and others (ACOD, Red Bee) agreed that it would be impracticable to limit the speed of live subtitling. Some respondents (TAG) hoped that it would be possible to customise the appearance of subtitles in future (e.g. display three lines instead of two, so retaining subtitles for longer). NADP said that live subtitling was sometimes used inappropriately on pre-recorded programmes, and was occasionally of such poor quality (e.g. through bad synchronisation) that it was unwatchable and therefore a waste of resources. Nickelodeon suggested that it might be practicable to edit the subtitles on repeat showings of programmes first broadcast live.

#### Ofcom's response

- 2.30 Ofcom notes the consensus view that it would not be practicable to limit the speed of subtitling for live programmes, but considers that there is merit in TAG's suggestion that it may be appropriate to use three lines of subtitles where subtitling is very fast, so providing longer for viewers to read it. This suggestion has been incorporated in the draft guidance, but broadcasters will need to take a view on a case by case basis as to whether it can be done without obscuring too much of the picture. We agree that, where live programmes are subsequently repeated, the subtitles should be edited to correct any errors, and have amended the guidance to make this clear.

*Q10. Do respondents agree that the guidance should not specify a lower maximum speed for children's programmes, but should advise broadcasters to exercise common sense?*

- 2.31 Many broadcasters (BBC, C4, ITV, Nickelodeon, S4C and two others) and others (HC, ITFC, Red Bee, Sense) agreed with the proposition that the speed of subtitles for children's programmes should be left to the judgement of broadcasters. NDCS, supported by ACOD, DBC and TAG, agreed that no maximum speed should be set, but said that judgements needed to take account of feedback from children and their parents, and factors such as the intended audience, and the likelihood that reading skills may be less advanced amongst deaf children.

Ofcom's response

- 2.32 In the light of responses, Ofcom will not set a maximum speed for subtitling of children's programmes, but has amended the draft guidance to draw attention to the factors to which NDCS has referred to.

*Q11. Do respondents agree that the guidance should continue to specify different colours of subtitling for different speakers?*

- 2.33 There was clear support for retaining different colours for subtitling amongst both subtitle users, and groups representing their interests (ACOD, HC, NADP, NDCS, PA, RNIB, RNID, Sense, TAG, WDBC). Most public service broadcasters also agreed (BBC, C4, Five, S4C) as did Red Bee and another broadcaster. NADP expressed concern that an increasing amount of material was broadcast with black and white subtitles. However, some broadcasters (ITV, Nickelodeon and one other) and ITFC wanted flexibility for the channel to decide whether to use mono-colour subtitles, for example when programmes were originally subtitled in one colour only. ACOD suggested that this be permitted where broadcasters would not otherwise be able to meet the quota.
- 2.34 Several respondents (ACOD, HC, RNIB, RNID, Sense, TAG) also wanted the guidance to make clear that subtitles should be displayed on a contrasting solid black or other background, to make it easier for viewers with dual sensory impairments to watch television. Sense reported that users found DVD subtitles on a grey or transparent background difficult to read. PA suggested that research was needed into the optimum range of colours that could be used for subtitling, as some were too pale to provide sufficient contrast. NDCS suggested research into additional symbols (such as 'smiley' faces) that could convey additional information, like tone of voice or emotion, to young children.

Ofcom's response

- 2.35 Given the clear support amongst users and groups representing the interests for the continued use of coloured subtitling, Ofcom will retain the present guidance. It will also reflect current practice by including a requirement to display subtitles on a contrasting solid black background. Ofcom does not consider that programmes using mono-colour subtitles should be counted as contributing towards quota requirements, but sees no objection to their being used on programmes provided in addition over and above broadcasters' quota obligations.

*Q12. Do respondents agree that the guidance should reflect current practice, and specify a minimum height of 20 full brightness pixels (excluding pixels used for anti-aliasing), as well as encouraging broadcasters to adopt anti-aliasing techniques when renewing or upgrading equipment?*

- 2.36 While most broadcasters who commented agreed that the proposed guidance should reflect current practice (BBC, C4, S4C and one other); others (Nickelodeon and another broadcaster) noted that, with the exception of the digital terrestrial platform, the presentation of subtitles was largely a function of viewer's equipment, such as televisions, or cable and satellite set top boxes. The views of disability organisations were more mixed. HC endorsed the proposal, while TAG and NDCS acknowledged that the majority of viewers find the digital font clearer. PA said that it was unaware of any complaints, but NDCS said that it was aware that some partially-sighted viewers had difficulties with the size of the font. ACOD said that there should be no further

reduction in the minimum size of subtitles, and that the use of anti-aliasing techniques should be strongly encouraged.

- 2.37 Several disability organisations (DBC, RNIB, RNID, Sense) wanted the minimum number of lines to be set at 24, and a number aspired to the ability to customise the size and appearance of subtitles (NDCS, RNID, Sense, TAG). Some individual respondents noted that subtitling on large screen televisions could be too big. One respondent (PA) pointed to the need for research into the appropriate standard for High Definition (HD) television, given that HD pictures consisted either of 720 or 1080 lines, as against the 575 lines of Standard Definition television.

#### Ofcom's response

2.38 Ofcom notes that:

- a) following testing in the early days of digital television, one broadcaster found that the limited processing power of OnDigital boxes (the only set top boxes then available, and still in use by some viewers), combined with the capacity (bit rate) used to broadcast subtitles, would mean that 24-line subtitles might only appear for a brief period before clearing, so that viewers would have little time to read them. That broadcaster therefore used slightly fewer lines in order that the subtitles did not clear too quickly;
- b) the ITC guidance referred to the nominal height of subtitles, which may have been taken by some broadcasters to include half-brightness lines used for anti-aliasing purposes. In any case, although the ITC became aware of variations from the standards set out in its guidance, it chose not to intervene with broadcasters, having regard to the relative absence of complaints. Broadcasters have therefore continued to invest in subtitling systems on the understanding that their approaches are acceptable. When Ofcom measured subtitle dimensions for the purpose of the standards review, it concluded that it should make the results public and consult on the implications before deciding whether intervention was warranted;
- c) the perceived size and legibility of subtitles depends on several variables, of which the number of lines is only one factor – others include the size of television screen used, the distance from the television screen and the use of anti-aliasing. Thus, while the relative height of subtitles for non-HD services does not change, whether viewed on a larger or smaller screen, the actual height of subtitles viewed on a standard definition large screen television will be greater than those viewed on a small-screen television. For example, subtitles on a 43 inch 16 x 9 standard definition television will be 1.9 cm high, as against 1.2 cm on a 26 inch television. As larger screen televisions become more popular, an increasing number of viewers will see have access to larger subtitles, whether they choose to purchase less expensive analogue sets (which can continue to be used post-switchover with a digital set top box) or the more expensive (but progressively cheaper) digital sets. Viewing distances also affect the perceived size of subtitles – the closer a viewer is to the screen, the larger the subtitles will appear to be; and
- d) changes to subtitle heights on digital terrestrial television channels could require equipment to be changed and software to be upgraded before it would otherwise be due, at significant cost to broadcasters. On the cable, satellite and (future) IPTV platforms, the height of subtitling is controlled by the platform provider, not by the broadcaster. Subtitle heights on these platforms are constrained by the

functionality of set top boxes and by the software downloaded into these boxes. Ofcom does not have the power to set standards for set top boxes.

- 2.39 While the best solution for consumers would be the ability to increase or reduce the size of subtitles to meet their individual needs, this would depend on the availability of suitable equipment. Ofcom will talk to receiver manufacturers about the scope for including this capability in future. For the time being, Ofcom considers that the balance of advantage for subtitle users lies in maintaining current subtitle sizes (given that current sizes have attracted few complaints and that larger subtitles might not work properly with some set top boxes) and in setting a specification that recognises that lines of less than full brightness can contribute to the perceived height and clarity of subtitles. Excluding lines of less than full brightness from the calculation could incentivise broadcasters to adopt more ragged characters, comprising full brightness lines only, which would be less legible.
- 2.40 Accordingly, the guidance provides that subtitles on standard definition DTT services should be no less than 20 television lines for the capital 'V', to include only those lines at the top and bottom of each character containing pixels that are at least 50% illuminated. Although Ofcom does not regulate equipment used to render subtitles in cable and satellite services, Ofcom also recommends that cable and satellite platform providers adhere to the same standards. Ofcom will brief disability groups in greater detail at a forthcoming forum on subtitling issues, and will initiate discussions with both broadcasters and disability groups on appropriate standards for high definition television.

### Impact assessment

*Q11. Do you agree with Ofcom's assessment of the risks identified above, and the actions taken to address them? If not, please explain your answer.*

*Q12. Do you agree that the approach taken to determining the average costs of broadcasters is reasonable? If not, please what alternative approaches that you consider would be appropriate?*

*Q13. Do you have any comments on the assessment of average costs? If you disagree with the assessment, please provide data to support any arguments you make.*

*Q14. Do you have any comments on Ofcom's approach to assessing the benefits?*

*Q15. Do you have any other comments on the impact assessment?*

- 2.41 Amongst the relatively few respondents who commented on the questions related to the impact assessment, there was broad agreement that both the risk assessment and the approach taken to determining the average costs of broadcasters were reasonable (ACOD, BBC, NDCS, S4C and another broadcaster).
- 2.42 As regards costs, ACOD felt that future assessments should take account of the scope for greater economies over time, such as the ability to use audio-description files created for films when broadcasting those films on television. ITFC suggested that Ofcom consult service providers when assessing costs.
- 2.43 As regards benefits, ACOD suggested that access services could contribute to the achievement of a wide range of Government objectives, such as making independent living easier for disabled people, and tackling social exclusion in later life. ITFC suggested that Ofcom take account of the benefits of subtitles to users without hearing impairments.

Ofcom's response

- 2.44 We note the comments made by respondents on the impact assessment. We agree with ACOD that there are broader societal benefits from the provision of access services, though it is very difficult to place a value on these. Our invitation to broadcasters to provide data on access service costs sought information on the extent to which subtitling and audio description files could be re-edited for use, and we will take this aspect into account in framing information requests for future cost assessments.

**Other issues****Audio description targets**

- 2.45 The RNIB, supported by several submissions from users of audio description, opposed Ofcom's proposal not to review the statutory target for audio description until the scale of take-up is clearer. In support of its proposal that the audio description target should be increased to 20% by the start of digital switchover in 2008, it pointed to significant potential demand for audio description, the fact that audio description was available on all platforms, and its decreasing cost. Asserting that the BBC was already committed to achieving 20% audio description (this is subject to the licence fee settlement), the RNIB suggested that more audio description was needed in order to incentivise blind and partially-sighted people to switch to digital television. Other respondents were also sympathetic (ACOD, AC); ACOD wanted Ofcom to press broadcasters to promote awareness of audio description, and said that there should be an early review of the targets.

Ofcom's response

- 2.46 Ofcom recognises that audio description is now available on all the main digital platforms (indeed we took steps to secure this), that those who have used it value audio description highly and that it has the potential to benefit many more people than currently use it – we commissioned research that demonstrated these points. We also gathered data showing that the cost of audio description has decreased. And we accelerated the provision of audio description by requiring that the statutory target be achieved in five years rather than ten.
- 2.47 But we are not convinced that the low take-up to date stems from the lack of audio-described programming. In any given week, there are many hours of programming with audio description on the main public service channels, including all the most popular soap operas, as well as documentaries, dramas, films, comedy, lifestyle programmes, and children's programmes. Current examples include The Bill, Coronation Street, CSI:NY, Eastenders, Emmerdale, Friends, Home & Away, Little Britain, Lost, Neighbours, and Taggart. More than 50 other channels<sup>7</sup> broadcast audio-described programmes at present. The evident enthusiasm for audio description shown by individual respondents to the consultation and in separate feedback to Ofcom suggests that there is already sufficient programming to convince potential beneficiaries who are aware of audio description to switch to a digital platform that delivers audio description.

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<sup>7</sup> For a full list of channels currently required to provide audio description, together with applicable quotas, see the Television Access Services: First Quarter Report for 2005 at [http://www.ofcom.org.uk/tv/ifi/guidance/tv\\_access\\_serv/tvaccessrep/accessq1rep/](http://www.ofcom.org.uk/tv/ifi/guidance/tv_access_serv/tvaccessrep/accessq1rep/).

- 2.48 Naturally, visually-impaired viewers would like more audio-described programmes. The amount of television programming with AD will increase significantly in 2007, as a result of rising targets applying to many channels (up by 50%, from 4% to 6%), and a considerable increase in the number of channels required to provide access services. The amount of AD should continue to rise each year until the statutory target is reached in 2009.
- 2.49 We think that the main obstacle to wider adoption of audio description lies in low awareness. The independent research we commissioned showed that only about 30% of potential users were even aware of audio description – indeed, given the evident confusion that some respondents showed between subtitling and audio description, it is possible that the awareness levels are even lower.
- 2.50 The net effect is that comparatively few potential beneficiaries are using audio description. Ofcom believes that before it can consider recommending to Government an increase in the statutory target, it needs to be able to demonstrate that the extra expense that broadcasters may incur will, over time, deliver benefits to a significant number of users. This does not mean that there is a straightforward equation between take-up and whether it is appropriate to recommend a higher statutory target – a variety of issues will be relevant. Factors that Ofcom will need to weigh in the balance include:
- a) the level of awareness and the rate at which it is growing;
  - b) the level of take-up and the rate at which it is growing;
  - c) the proportion of potential beneficiaries who are aware of audio description who make use of it;
  - d) the extent to which reasonably-priced equipment is available to receive audio-description on the various digital platforms; and
  - e) the costs to broadcasters of providing audio description.
- 2.51 Ofcom's present thinking is that it would make sense to look again at the factors described above, as well as any other relevant matters in time, to allow Ofcom to require the progressive increase in audio description to continue in 2010 and beyond, if the circumstances justified it and both Government and Parliament were so minded.
- 2.52 In the meantime, we agree with both ACOD and the RNIB that publicity for audio description should be stepped up, with the aim of increasing awareness. Ofcom will be discussing with the RNIB and broadcasters how best to do this, including the possibility of co-ordinating on-screen publicity campaigns across different channels in order to maximise reach, and encouraging channels to make periodic announcements about programmes that are audio described.

### **Expenditure limit**

- 2.53 TAG, with support from ACOD, NDCS and Sense, expressed concern that the exemption of broadcasters unable to meet access service targets within 1% of their relevant turnover from providing access services could lead to fewer channels being required to provide subtitling in future, particularly when subtitling targets rise to 60% for many broadcasters. In a related point, some respondents (HC, NADP) wanted Ofcom to end the approach under which broadcasters unable to meet the cost of

access service targets within 1% of their relevant turnover are required to meet audio description and signing targets, but a reduced level of subtitling. NADP said that this approach significantly disadvantaged deafened people; HC pointed out that subtitles benefit many more people than either of the other access services.

### Ofcom's response

- 2.54 We accept that some organisations would like Ofcom to require broadcasters to spend more than 1% of their relevant turnover so that they can meet all of the access service targets. However, Ofcom has an obligation to ensure that such expenditure is not disproportionately burdensome. We have previously concluded, following consultation, that an expenditure limit of 1% of relevant turnover would be appropriate, and no new arguments have been advanced as to why a higher limit would be more reasonable. Moreover, the current limit does not appear to work against the immediate interests of access service users. Despite a very substantial rise in subtitling obligations in 2007 (from 10% to 35% for many channels), Ofcom's analysis of cost data supplied by broadcasters enabled us to conclude that even more channels would be able to afford to provide access services in 2007 than in 2006 – an increase from 76 channels to 90 channels. Accordingly, we see no justification at present for reviewing the 1% limit.
- 2.55 Against this background, the consequence of scrapping the different levels would be that channels now at Level Two or Three would be exempted from providing access services altogether. This would reduce the amount of subtitling available to viewers, and would not be in the interests of people with hearing impairments. As regards the concern that Levels Two and Three discriminate against subtitle users, Ofcom notes that the targets for audio description and signing are far lower than for subtitling, so that the impact on users of a reduction in these targets would be much greater than a corresponding cut in subtitling targets. Finally, we note that many broadcasters choose voluntarily to exceed their subtitling targets, many very substantially<sup>8</sup>. Thus, the net effect of an undifferentiated approach to setting access service targets might simply be to penalise users of audio description and signing, with little or no additional benefit to subtitle users. Accordingly, we do not think that it would be in the interests of users of subtitling or other access services to scrap the current arrangements.
- 2.56 A further substantial rise in subtitling obligations is due to take place in 2009, when the target for many channels will rise from 35% to 60%. We shall look again at both costs and affordability before that increase takes effect. But Ofcom does not consider that its duties allow it to impose disproportionate costs upon broadcasters, nor do we consider that it would be in the overall interests of television viewers, since it could result in the closure of some channels, or a diminution in quality.

### **Other suggestions**

- 2.57 Respondents made some other suggestions:
- a) NDCS suggested that programme trailers and continuity announcements fell outside the current access service requirements, and noted that deaf children are excluded from the extensive discussions, quizzes and interviews that often

<sup>8</sup> See, for example, the report on access services provision for Q4 of 2005, which gives the cumulative position for the whole of 2005. The pattern has continued in 2006, as the report for Q1 shows. [http://www.ofcom.org.uk/tv/ifi/guidance/tv\\_access\\_serv/tvaccessrep/](http://www.ofcom.org.uk/tv/ifi/guidance/tv_access_serv/tvaccessrep/).

separate children's programmes. It urged Ofcom to clarify the position in the Code;

- b) ACOD suggested that the Government should consider legislation to extend access service obligations to new media, such as online television or mobile television. In a related point, NDCS welcomed the decision of the BBC to providing subtitling for certain of its online programmes, and urged Ofcom to encourage other multi-media providers to follow suit;
- c) ACOD also suggested that the Code should not be confined to addressing the needs of people with hearing and / or visual impairments, but should also encourage broadcasters to improve access and enjoyment for those with other disabilities, such as learning disabilities;
- d) HC asked Ofcom to use its influence to dissuade broadcasters from making excessive use of background music or sound effects, as this can make it difficult for many people to decipher the speech; and
- e) a number of respondents expressed concern about the quality of subtitling. The NADP said that live subtitling was sometimes used inappropriately on pre-recorded programmes, and was occasionally of such poor quality (e.g. through bad synchronisation) that it was unwatchable and therefore a waste of resources. TAG noted that subtitles were not always inserted when they should be, and that it appeared that broadcasters didn't monitor them closely enough to spot when they had failed.

#### Ofcom's response

2.58 As regards the points summarised above, Ofcom notes that:

- a) programme trailers and continuity announcements are subject to access service requirements in the same way as other broadcast content, since they are included within the term 'programme' as defined by the Communications Act. However, Ofcom accepts that this is not widely appreciated, and has clarified the Code to make this clear;
- b) decisions on whether to legislate to impose access service requirements on online content providers are a matter for Government. Online services are not yet a significant source of television-type content for many people, although they may well become so in future. For the time being, Ofcom will monitor the development of online content offered by broadcasters and others, as well as the extent to which access services are provided;
- c) Ofcom appreciates that people with disabilities other than visual and / or hearing impairments could benefit from special television programmes (e.g. programmes geared to the needs of those with learning difficulties). However, the Communications Act does not empower Ofcom to require broadcasters to provide such content;
- d) although Ofcom is not empowered to interfere in the editorial process of programme-making, it agrees that programme makers should be made aware of the difficulties that background music or sound effects cause for some viewers, and has drawn this to the attention of broadcasters. Ofcom's Guidelines on the Provision of Access Services will also include a link to Hearing Concern's guidance for broadcasters; and

- e) Ofcom acknowledges, that although the independent research it commissioned shows that subtitle users are generally satisfied with subtitling, there are problems with quality from time to time, particularly with live programmes. Ofcom encourages broadcasters to review and edit subtitles if necessary when programmes first broadcast live are repeated. It also encourages individual viewers to notify broadcasters when there are particular problems, but intends to convene a forum of access service providers, broadcasters and disability organisations later this year to discuss the problems that arise from time to time, and what is being done to resolve them.



## Annex 1

# Code on Television Access Services

## Summary

1. This code sets out the requirements on subtitling, sign language and audio description ('television access services') that apply to television services licensed in accordance with the Communications Act 2003, the Broadcasting Act 1996, or the Broadcasting Act 1990. Guidance on practices to be followed in providing access services is set out in Appendix 1 to this code. Ofcom notes that some broadcasters already provide television access services on a voluntary basis, and encourages broadcasters to do so where possible, and to have regard to relevant parts of the code and guidance.

## Statutory provisions

2. Under Sections 303 to 305 of the Communications Act 2003 ('the Act'), Ofcom is required to draw up, and from time to time review and revise, a code giving guidance as to the extent to which television services should promote the understanding and enjoyment by persons who are deaf or hard of hearing, as well as those who are blind or partially sighted, or who have a dual sensory impairment (deafblind).
3. The code is to apply to licensed public service channels, digital television programme services, television licensable content services (TLCS), and restricted television services, as well as any digital television programme services (DPS) provided by the Welsh Authority (including S4C Digital). The BBC Agreement<sup>9</sup> also requires the BBC to observe the code in respect of its public television services subject to any exclusions agreed between Ofcom and the BBC having regard to the considerations set out in section 303(8). The code is not to apply to electronic programme guides provided under a TLCS or DPS licence, or to services comprising advertising (teleshopping), which is excluded from the definition of programme for the purpose of section 303.
4. Ofcom is required to set ten year targets for subtitling, signing and audio description ('television access services'), as well as five year targets for subtitling. It is also empowered to set other interim targets, and these are set out in the table below. The targets apply to the anniversary of the relevant date for the service in question.
5. The 'relevant date' for the purpose of determining the tenth anniversary of services is 1 January 1997 in the case of BBCs 1 and 2, 1 January 1998 for Channel 5, and 1 January 2000 for Channels 3 and 4 and S4C Digital. In the case of digital television programme services, the relevant date is the date on which the provision of that service began, and in the case of television services that began before 29 December 2003, the date is the entry into force of the legislation, which is 29 December 2003. In the case of television services starting after 29 December 2003, the relevant date is the date on which provision of that service commenced. Ofcom may determine that a television service should be treated as a continuation of a previous service in order to prevent broadcasters from avoiding the requirements of this code by replacing one service with another.

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<sup>9</sup> *Copy of the Amendment dated 4th December 2003 to the Agreement of 25th Day of January 1996 (as amended) Between Her Majesty's Secretary of State for Culture, Media and Sport and the British Broadcasting Corporation*, December 2003, Department of Culture, Media and Sports ([http://www.bbc.co.uk/info/policies/charter/pdf/agreement\\_amend.pdf](http://www.bbc.co.uk/info/policies/charter/pdf/agreement_amend.pdf)).

6. Ofcom is also empowered to exclude certain types of programme or service from the requirement to provide television access services, or apply different targets to excluded programmes.

## Targets

7. The statutory targets for broadcasters are expressed as percentages of the service, including all programmes<sup>10</sup> other than advertisements and programmes that have been excluded by reference to the factors summarised in paragraph 10. They rise from a low level to the ten-year targets prescribed by the Act, that is eighty per cent (80%) for subtitling, five per cent (5%) for signing and ten per cent (10%) for audio description. In the case of Channel 3 and Channel 4, the relevant target for subtitling is 90%. The targets reflect the statutory requirement for subtitling to be applied at the rate of sixty per cent (60%) of non-excluded programmes from the fifth anniversary.
8. Licensed public service broadcasters and S4C which are already under an obligation to provide television access services are required to continue meeting the interim targets set in Tables 3 to 7 of the Annex. The BBC is required to continue meeting the interim targets to which it has committed itself, also set out in Tables 1 and 2 of Appendix 1. Other broadcasters are required to meet the targets set out in the Table below (see also Tables 8 to 11 of Appendix 2).

**Table: interim annual targets for the provision of television access services with effect from the anniversary of the relevant date**

Anniversary of relevant date	Subtitling	Signing	Audio description
First	10%	1%	2%
Second	10%	1%	4%
Third	35%	2%	6%
Fourth	35%	2%	8%
Fifth	60%	3%	10%
Sixth	60%	3%	10%
Seventh	70%	4%	10%
Eighth	70%	4%	10%
Ninth	70%	4%	10%
Tenth	80%	5%	10%

9. The targets and interim targets represent minimum obligations and apply in each year, from each anniversary referred to in the table. In compliance with section 303(3) of the Communications Act, from the fifth anniversary, targets will apply on a rolling basis starting each week from one week after the date to which the previous annual average has been calculated.

## Excluded programmes

10. Ofcom may exclude programmes and services having regard, in particular, to:

<sup>10</sup> Section 405 of the Communications Act provides that 'programme' includes an advertisement and, in relation to a service, anything included in that service. Section 303(13) excludes advertisements from the meaning of programme for the purpose of that section.

- (a) the extent of the benefit which would be conferred by the provision of the assistance for disabled people in relation to the programmes;
- (b) the size of the intended audience for the programmes;
- (c) the number of persons who would be likely to benefit from the assistance and the extent of the likely benefit in each case;
- (d) the extent to which members of the intended audience for the programmes are resident in places outside the United Kingdom;
- (e) the technical difficulty of providing the assistance; and
- (f) the cost, in the context of the matters mentioned in paragraphs (a) to (e), of providing the assistance.

### **Audience benefit**

- 11. Ofcom considers that television services achieving an average audience share of all UK households over a 12 month period of 0.05% or more should be required to meet the targets, subject to passing an affordability threshold and not facing technical difficulties that are impracticable to surmount.
- 12. To aid planning for broadcasters not currently required by reason of audience share or revenue to provide television access services, Ofcom will carry out a mid year review based on corresponding data for revenue and audience shares, and will publish a statement indicating which channels will be required to provide access services (see paragraph 23 below) in the following year<sup>11</sup>.
- 13. In the event that the audience share of a television service currently required to provide television access services falls below the threshold in two successive quarters, Ofcom will notify the broadcaster that the obligation will discontinue at the end of the calendar year in question.
- 14. Television services aimed primarily at an overseas audience are exempt from television access service requirements.

### **Technical difficulty**

- 15. Television access services need not be provided if Ofcom is satisfied that this would be impracticable on grounds of technical difficulty, including the following cases:
  - (a) audio description of music and news programmes and services, where there is little space within the dialogue/sound track to provide audio description, and less need. However, broadcasters are required to ensure that producers, editors and presenters are trained in techniques to describe the significance of images for the benefit of the blind and partially-sighted audience. Broadcasters are required to provide a statement of the training they are providing within 12 months of becoming subject to the code;

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<sup>11</sup> Those channels whose relevant date falls before the end of a calendar year will be expected to start providing access services from the anniversary of that date, subject to meeting the audience threshold, unless they can demonstrate that they would be unable to meet the cost of Level 3 (or higher) obligations from 1% of their actual or projected relevant turnover.

- (b) provision of subtitling that is not supported by commercially-available set top boxes (e.g. Chinese or Urdu); and
- (c) provision of subtitling or signing, where a service is broadcast with several different language feeds, making the choice of language for subtitling or signing problematic.

## Cost

16. Ofcom has determined average costs per hour of providing programming with subtitling, signing and audio description. These have been used to calculate the costs of three levels of provision:
  - (a) Level One equates to the full current annual targets for subtitling, signing and audio description;
  - (b) Level Two equates to 66% of the current annual target for subtitling, as well as 100% of the targets for signing and audio description; and
  - (c) Level Three equates to 33% of the current annual target for subtitling, as well as 100% of the targets for signing and audio description.
17. In determining the applicable costs for each channel, Ofcom will have regard to the number of hours broadcast each day, the proportion of the schedule that is exempted from the provision of one or more access services, and the percentage of repeats.
18. Broadcasters whose services are not otherwise excluded will be required to achieve the highest Level of provision they can afford within a budget equating to 1% of their UK-derived 'relevant turnover'<sup>12</sup>. Only broadcasters unable to afford Level Three costs will be exempt from provision altogether on grounds of cost.
19. In determining the applicable amount of relevant turnover, Ofcom will have regard to the most recent declarations of relevant turnover.
20. In the case of channels in common ownership<sup>13</sup>, Ofcom will determine which channels that are not otherwise excluded should provide television access services by averaging the total relevant turnover across all services in common ownership. If this means that each of the channels would have an average relevant turnover which would enable it to meet one of the three Levels at a cost of 1% or less of that average relevant turnover, those channels will be required to provide the relevant Level of television access services. If the averaging of relevant turnover would mean that none of the services would need to provide television access services, Ofcom will assess eligibility on the basis of the individual relevant turnover attributable to each service.

<sup>12</sup> As defined in Ofcom's Statement of Charging Principles, 8 February 2005. ([www.ofcom.org.uk/consult/condocs/socp/main/?a=87101](http://www.ofcom.org.uk/consult/condocs/socp/main/?a=87101)).

<sup>13</sup> For the purpose of the Code, Ofcom will treat a channel as being in common ownership with one or more other channels if each channel is a subsidiary (within the meaning of the Companies Act 1985) of a common holding company or if they share a common parent at any point in the chain of ownership which has a majority interest in each. In determining whether channels are in common ownership, Ofcom will also have regard to other relevant factors of the kind set out in Ofcom's *Guidance on the definition of control of media companies* (<http://www.ofcom.org.uk/consult/condocs/media2/statement/>).

21. Services which meet the 1% threshold in the most recent declarations of relevant turnover before the start of the next calendar year will be required to provide television access services at the appropriate level for the whole of the next calendar year.

### Other exclusions

22. Other television services excluded by section 303 of the Communications Act 2003 from the requirement to provide television access services are:
- (a) those comprising advertising only, for example, a shopping channel;
  - (b) electronic programme guides; and
  - (c) those licensed outside the United Kingdom.

### Changes in audience share and relevant turnover

23. Ofcom will conduct a mid-year review of the audience share and relevant turnover of channels licensed in the United Kingdom, based on the most recent four quarters for which corresponding data is available. Ofcom will notify the licensee, if on the basis of that review Ofcom considers that a channel is likely, in the following year, to become:
- (a) subject to a requirement to provide television access services;
  - (b) subject to a different Level of provision; or
  - (c) excluded from the requirement to provide television access services.
24. If a mid-year review indicates that the audience share of a television service providing television access services has fallen below 0.05% but remains at 0.04% or above, and this is confirmed by figures for the subsequent quarter, the licensee will be required to maintain the existing level of provision in the following year, against the targets applying in the current year. In the event that the average audience share remains below 0.05% in the following year, the requirement to provide television access services will cease at the end of that year, or earlier if the licensee demonstrates to Ofcom's satisfaction that continuation of the obligation would threaten the viability of the service.
25. If a service that ceases to be required to provide television access services subsequently regains the levels of audience share and / or qualifying revenue that would subject it to the requirement once more, the licensee will be required to resume provision at the appropriate Level described in paragraph 16 above. Ofcom will determine which level of annual target should apply in consultation with the licensee.
26. If, at any time, a licensee demonstrates to Ofcom's satisfaction that continuation of access service obligations would threaten the viability of its service, Ofcom may reduce, suspend or terminate those obligations.

### Presentational and technical standards

27. Broadcasters are required to observe the standards set out in the Guidelines on Television Access Service Standards in Appendix 2 to the code.
28. There are currently no technical standards for the means by which Television Access Services are to be made available to viewers. However, Ofcom expects television

service providers to use reasonable endeavours to ensure that such television access services can be accessed by the greatest number of viewers in their homes (whether they receive their services by terrestrial signal, or by satellite or cable).

### Promotion of awareness

29. Ofcom requires television service providers to promote awareness of the availability of their television access services to potential users of the services by making available accurate and timely information to electronic programme guide (EPG) operators listing their services, and by providing similar information on their website. Ofcom has imposed corresponding obligations on EPG operators through the EPG code made under section 310 of the Act. Broadcasters who provide programme synopses for use in EPGs should indicate which programmes are accompanied by television access services by including the standard upper-case acronyms for subtitling (S), audio description (AD) and signing (SL).
30. Ofcom will also expect television service providers to demonstrate that they are taking effective steps to publicise awareness of their television access services through other means, including periodic on-air announcements and information in publications aimed at persons likely to benefit from television access services. Where the nature of the access service is not spelt out in full, the standard abbreviations referred to in paragraph 29 above should be used.

### Programming and scheduling

31. Ofcom expects that broadcasters will normally schedule programming with subtitling and audio description at peak viewing times for each channel. However, as signing is currently only provided in open format, it is accepted that signed programmes may need to be shown outside peak viewing hours and recorded by viewers with hearing impairments. In selecting programmes for which access services are to be provided, broadcasters should seek advice from disability groups about how best to maximise the benefits to the blind and those with visual impairments, to the deaf and hard of hearing, and to the deafblind. Ofcom encourages broadcasters not to seek to fulfil their obligations by scheduling multiple repeats of programmes, as this will detract from the benefit of providing access services to users.

### Disability Discrimination Act

32. Broadcasters will need to have regard to their obligations under the Disability Discrimination Act 1995 to make reasonable adjustments in the delivery of services so as to make these accessible to disabled people and should seek their own advice on this.

### Monitoring and compliance

33. Broadcasters to whom this code applies:
  - (a) are required to submit quarterly returns covering quarters starting from 1 January 2005, in the form and format to be notified separately by Ofcom. Ofcom will review the frequency of reports in the first periodic review of the code; and
  - (b) shall make and retain a recording in sound and vision in a form acceptable to Ofcom of every programme included in the service for a period of 60 days

from the date of its broadcast, and provide a copy of the recording for examination and reproduction on request by Ofcom.

### **Review**

34. This code is subject to periodic review.

## Annex 2 (Appendix 1 to the Code on Television Access Services)

# Guidelines on the provision of television access services

### General

1.1 Broadcasters licensed in the United Kingdom that are providing television access services (subtitling, signing and audio description) should have regard to these Guidelines, whether or not they are subject to the Code on Television Access Services. All broadcasters are requested to have regard to paragraph 1.9.

### Users

1.2 People using access services do not fall neatly into homogenous groups. For example, many people using audio description have visual impairments, but by no means all are completely blind, and most have had some vision at some time. By the same token, those using subtitles can range from those with normal hearing (using subtitles so that the television sound can be turned down), through those with relatively minor hearing loss, to those who are profoundly deaf. Some people (particularly the deafblind) may benefit from more than one access service – certain conditions that lead to the loss of one sense may also impair another<sup>14</sup>. Those using access services range from the very young to older people, but a significant proportion of viewers using access services are older people, as the incidence of hearing and sight loss increases with age.

### Selection and scheduling of programmes

1.3 The Code on Television Access Services requires that, in selecting and scheduling signed programmes, broadcasters should seek advice from disability groups about how best to maximise the benefits to those with hearing impairments.

1.4 When a series of programmes commences with access services, every effort should be made to ensure that all programmes in the series are accompanied by the relevant access services. If unforeseen problems prevent this, and a repeat is scheduled in the near future, a continuity announcement should be made (and subtitled) explaining when the repeat can be seen with the appropriate access services. An on-air apology should also be broadcast, preferably both before and after the programme. If this is not possible, because a technical fault does not come to light until after the programme has been broadcast, an apology should be broadcast at the beginning of the next programme in the series.

1.5 Ofcom encourages broadcasters not to seek to fulfil their obligations by scheduling multiple repeats of programmes with access services, as this will detract from the benefit of providing access services to users.

### Monitoring for consistency and quality

1.6 Broadcasters should monitor playout at regular intervals to ensure that scheduled access services are being provided correctly. The failure of access services is just as

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<sup>14</sup> People with Usher syndrome are born deaf or hard of hearing then start to have problems with their sight in adolescence, typically developing tunnel vision. However, many people with Usher have reasonably good central vision.

disruptive for those who rely upon them as a break in transmission would be for others. Where practicable, broadcasters should insert an apology (either spoken or subtitled, as appropriate) as soon as a problem has been identified, with a brief explanation of the cause.

1.7 Broadcasters should also regularly monitor the quality of their access services. Focus groups and feedback from individual viewers can be a helpful indicators of quality.

### Consultation and feedback

1.8 Broadcasters should ensure that they consult periodically with groups representing access services users on issue such as the quality of access services, and the selection and scheduling of programmes. To facilitate feedback from access service users, broadcasters should also provide contact details on their websites, including e-mail addresses and telephone and textphone numbers. Broadcasters should monitor and respond to this feedback.

### National emergencies

1.9 In order that access service users are kept informed about national and local emergencies, it is important that broadcast information, including relevant telephone numbers, is subtitled (preferably in open captions) leaving sufficient time to write the details down and spoken.

### Reference material

1.10 While Ofcom is not responsible for the content of external websites, broadcasters and access service providers may find it helpful to consult the following reference material:

- the former ITC guidelines, which provide examples of both good and bad practice ([http://www.ofcom.org.uk/tv/ifi/guidance/tv\\_access\\_serv/archive/](http://www.ofcom.org.uk/tv/ifi/guidance/tv_access_serv/archive/))
- the RNIB's guidance on improving accessibility to programming for visually-impaired people, including audio description for children's programmes ([http://www.rnib.org.uk/xpedio/groups/public/documents/publicwebsite/public\\_TVprofessionals.hcsp](http://www.rnib.org.uk/xpedio/groups/public/documents/publicwebsite/public_TVprofessionals.hcsp));
- the BBC's *Guidelines for visually-impaired television audiences* (<http://www.bbc.co.uk/guidelines/editorialguidelines/assets/advice/guidelinesforvisuallyimpairedtelevisionaudiences.doc>);
- *Incidental music and effects – a note for broadcasters*, Hearing Concern ([http://www.hearingconcern.org.uk/campaigns/camp\\_music.html](http://www.hearingconcern.org.uk/campaigns/camp_music.html));
- *A new font for digital television subtitles* – Janet Silver, John Gill, Christopher Sharville, James Slater and Michael Martin. ([http://www.tiresias.org/fonts/design\\_report\\_sf.htm](http://www.tiresias.org/fonts/design_report_sf.htm)); and
- *Deaf children and television*, National Deaf Children's Society ([http://www.ndcs.org.uk/information/technology/tv\\_videos\\_films/in\\_their\\_own.html](http://www.ndcs.org.uk/information/technology/tv_videos_films/in_their_own.html))

## Subtitling

### What is subtitling?

2.1 Subtitling is text on screen representing speech and sound effects that may not be audible to people with hearing impairments, synchronised as closely as possible to the sound.

## **Users**

2.2 People using subtitling range from those who have become hard of hearing in later life, to those who have been profoundly deaf since birth. Many people with good hearing also use subtitles so that they can watch television with the sound muted (e.g. so that they can simultaneously talk on the telephone), or learn English, but they are not the target audience. For the deaf, and those suffering severe hearing loss, subtitles are likely to be the most important source of audio information. Viewers with a mild hearing loss to moderate hearing loss are likely to rely on subtitles to aid their hearing rather than as a substitute. But all are likely, consciously or subconsciously, to lip read to a degree. Subtitle users reflect the full range of proficiency in English; some profoundly deaf people regard BSL as their first language, and are less fluent in English. While the varying needs of subtitling users make it difficult to provide subtitling that suits everybody, the guidelines below reflect generally accepted practice.

## **Selection and scheduling of programmes**

2.3 Broadcasters with limited quotas (e.g. 10%) should give priority to the most popular programmes, as subtitling on these is likely to benefit most people. Broadcasters should also bear in mind subtitling programmes likely to be of more interest to older people, as these account for a large proportion of subtitle users, many of whom watch television a lot. As quotas grow, the emphasis of programme selection and scheduling should shift towards subtitling a broader range of programmes appealing to different types of viewer.

## **Best practice**

2.4 Presentation: subtitling should use the Tiresias Screenfont for all subtitles. Subtitles on standard definition DTT services should be no less than 20 television lines for the capital 'V', to include those lines at the top and bottom of each character containing pixels that are at least 50% illuminated. Although Ofcom does not regulate equipment used to render subtitles in cable and satellite services, Ofcom also recommends that cable and satellite platform providers adhere to the same standards. Broadcasters are encouraged to use anti-aliasing techniques to help make the appearance of subtitles clearer. Subtitles should be placed within the 'safe caption area' of a 14:9 display and should normally occupy the bottom of the screen, except where they would obscure the speaker's mouth or other vital information or activity. It is particularly important to avoid obscuring the face, as this convey emotions and tone of voice, as well as being necessary for lip-reading.

2.5 Pre-recorded and live subtitles: pre-prepared block subtitles are the best approach to providing accurate, easily legible and well-synchronised subtitles and should be used for pre-recorded programmes. Recommended colours are white, yellow, cyan and green against a solid black background as these provide the best contrast. When scrolling subtitles need to be used, any scripted material should be used for advance preparation. In addition to achieving the highest possible levels of accuracy and synchronisation, live subtitles should flow continuously and smoothly.

2.6 Lay-out: subtitles should normally comprise a single sentence occupying no more than two lines, unless three lines will not obscure the picture. If necessary, sentences should be broken or reformed into more than one sentence at natural linguistic breaks so that each subtitle forms an understandable segment. Where breaks occur, the split should be made in

a way that makes clear that there is more to come. This can be achieved by ending the first subtitle with a conjunction, a colon or semi-colon as appropriate, or even a short run of dots. Line breaks within a word must be avoided.

2.7 Non-speech information: in addition to speech, subtitles should clearly describe relevant non-speech information, such as the mood of any music playing and the words of songs if possible (using the # sign to precede and conclude music), louder speech (using capital letters), inaudible mutterings or incoherent shouts etc. (which should be explained as such). Subtitles should be displayed horizontally in the direction of any sound effects, and where the source of speech is not immediately apparent the first subtitle should have a caption to label the source. Italics or punctuation marks may be used to indicate emphasis. Where long speechless pauses in programmes occur, an explanatory caption should be inserted. Different colours should be used to denote different speakers. Subtitles should be used to identify the source of off-screen/off-camera speech where this is not obvious from the visible context.

2.8 Synchronisation of speech and subtitling: the aim should be to synchronise speech and subtitling as closely as possible. Subtitle appearance should coincide with speech onset and disappearance should coincide roughly with the end of the corresponding speech segment. If necessary, subtitling may be edited conservatively if this is necessary to avoid long delays between speech and subtitling. In live programmes, the aim should be to keep the inevitable delay in subtitle presentation to the minimum (no more than 3 seconds) consistent with accurate presentation of what is being said. If possible, subtitles should not over run shot changes and should commence on a shot change when synchronous with the start of speech.

2.9 Speed of subtitling: the speed should not normally exceed 160 to 180 words per minutes for pre-recorded programmes. Although it may not be practicable to restrict the speed of subtitles for all live programmes, commissioning editors and producers should be aware that dialogue which would require subtitles faster than 200 wpm would be difficult for many viewers to follow. Consideration may be given to displaying three lines of subtitling rather than two, to allow longer for the subtitles to be read, provided that this does not obscure important parts of the picture. Slower speed and more heavily edited subtitles are appropriate for young children, though care should be taken to ensure that these are accurate and grammatical, as children and parents use subtitles in developing literacy skills.

2.10 Accuracy: subtitle users need to be able both to watch what is going on, and to read the subtitles, so it is important that these are as accurate as possible, so that viewers do not need to guess what is meant by an inaccurate subtitle. Broadcasters should ensure that subtitles for pre-recorded programmes are reviewed for accuracy before transmission. Where live subtitling is to be provided, advance preparation is vital – where possible, any scripted material should be obtained, and special vocabulary should be prepared. The subtitling for repeated programmes first broadcast live should be reviewed and edited if necessary.

2.11 Publicity: the word ‘Subtitles’ should be displayed legibly on the screen at the start of the programme.

## **Audio description**

### **What is audio description?**

3.1 Audio description is a service primarily aimed at blind or visually-impaired people. It comprises a commentary woven around the soundtrack, exploiting pauses to explain on-

screen action, describe characters, locations, costumes, body language and facial expressions to enhance meaning and enjoyment for blind or visually-impaired viewers.

## Users

3.2 While people with visual impairments are drawn from all age ranges, a majority will experience loss of some or all of their vision later in life, for example, as a result of macular generation. Accordingly, audio describers should take account of the fact that most potential users of audio description will have some sight, or will have had sight at some stage.

## Selection and scheduling of programmes

3.3 Although visually-impaired people like to watch the same sorts of programmes as everybody else, not all programmes lend themselves to audio description. Some programmes are too fast-moving, or offer little opportunity to insert audio description (e.g. news), or may not be significantly enhanced by the provision of audio description (e.g. quiz programmes).

## Best practice

3.4 What to describe: to the extent relevant to the storyline, audio description should describe characters, locations, time and circumstances, any sounds that are not readily identifiable, on-screen action, and on-screen information.

3.5 Characters: identifying and describing characters is vital to effective audio description. Key features should be identified as soon as practicable, to help identify the person in the listener's mind's eye and avoid the need for long-winded and confusing descriptions, e.g. *'the tall man'*, *'district attorney Lopez'*. But do not give the name away if the plot requires the character's identity to be revealed at a later date. When describing characters, aspects such as dress, physical characteristics, facial expression, body language, ethnicity and age may be significant. Don't shy away from using colours or describing a character as pretty, or handsome, where relevant to the story. Generally names (rather than 'he' or 'she') are used more often than in normal speech, so as to avoid confusing the audience, particularly when there are several people taking part in a dialogue.

3.6 On-screen action: wherever possible try to describe at the same time as the action occurs. This is particularly important with regard to comic situations, where the audience, sighted and visually impaired, should be able to laugh at the same time. Where relevant, key back-references can be included. It may be necessary to set up the next scene during the current description.

3.7 Settings: when describing locations, try to cover scene changes where possible. the locations (including scene changes wherever possible); the time of day/season/date setting where appropriate; any sounds that are not readily identifiable; and on-screen information (e.g. signs, hieroglyphics, open subtitles for foreign languages, captions, and opening and closing credits). The description should not censor what is on screen. However, it should not be necessary to use offensive language, unless (for example) when referring to content that is integral to understanding the programme, such as graffiti scrawled on a wall.

3.8 What not to describe: the description should only provide information about what can be seen on the screen. Information unavailable to the sighted viewer should not be added though discretion is always necessary. *'A turreted bridge over a city river'* would fall short if the sighted audience sees London's Tower Bridge, even without an identifying caption. Generally, 'filmic' terms such as camera angles should not be used.

3.9 When to describe: audio description should not encroach on dialogue, important or complementary sound effects, or critical sound effects unless really necessary. Even then, audio description should only be used to impart relevant information when the dialogue or other sound is inconsequential, or to read subtitles or on-screen captions. To differentiate between subtitles and description the describer should do this by either the use of their voice (e.g. stating the obvious, '*He says in Russian...*' or '*A caption reads...*') or a second voice. During opening titles and end credits, care should be taken to avoid clumsy overlaps with song lyrics. During songs, audio description should ideally where there is a reprise of the lyrics and where the lyrics are not relevant to the storyline.

3.10 Language: audio description provides a real-time commentary, so should generally be in the present tense (*he sits*), the continuous present (*he is sitting*) or the present participle ('*Standing at the window, he lets out a deep sigh*'), as appropriate. Variety is important, particularly with verbs. '*She scuttles into the room*' rather than the simple fact '*She enters the room*' creates a clearer image for the viewer (a Thesaurus is always useful). Adverbs are a useful shorthand to describing emotions and actions, but should not be subjective. Vocabulary should be matched to the genre of the programme, and should be accurate, easily understood, and succinct.

3.11 Delivery: delivery should be steady, unobtrusive and impersonal in style (but not monotonous), so that the personality and views of the describer do not colour the programme. Avoid the term '*we see*'. However, it can be important to add emotion, excitement, lightness of touch at different points in different programmes to suit the mood and the plot development – the style should be matched to the genre of the programme. Diction should be clear, and not hurried – every word should be clear, audible and timed carefully so that it does not overrun subsequent dialogue. The aim should be to enhance the enjoyment of a programme not to distract from it.

3.12 Balance: judgement is needed in striking an appropriate balance between the amount of detail that is conveyed, and the risk of overburdening the audience with detail and detracting from the enjoyment of the programme. Too much description, even where there is a lot of space for description, can make it difficult for viewers to absorb information. The programme should be allowed '*to breathe*'. On the other hand, long gaps in the dialogue may need to be explained if the viewer is not to be left confused, e.g. '*the cowboy rides across the prairie into the distance*'. If a slot available for audio description is short, it is better to focus on key moments and dynamics rather to rush the description or fill every available moment. For example, it may be distracting in dance or fight scenes to describe every piece of action. A consistent approach is important: if a description starts out as detailed, it should not suddenly become scant.

3.13 Describers: describers should be chosen to fit the genre, the nature of the programme and the intended audience. Ideally, the same people should be used to describe a series of programmes, both to ensure a consistent style (e.g. in terms of level of detail) and because the description forms a part of the programme for users.

3.14 Children's programmes: Language and pace of delivery for children's TV need particular care, having regard to the age and background of the target audience, as well as feedback from children and their parents. A more intimate style may be appropriate than would be the case for programmes aimed at adults.

3.15 Publicity: periodic announcements should be made about programmes with audio description.

## Signing

## What is sign language?

4.1 Sign language comprises the use of manual gestures, facial expression and body language to convey meaning. British Sign Language (BSL) is the most popular sign language in the United Kingdom. This is a distinct language (recognised as such by the Government) with different syntax and vocabulary from English. In addition to different forms of sign language in other countries, Sign Supported English (which tends to follow the syntax and vocabulary of English) and Makaton (a simplified form of sign language sometimes used with deaf children) are also used in the UK.

## Users

4.2 Some people who are deaf or have significant hearing impairments (usually those who are profoundly deaf, often from birth or early in life) use BSL as their preferred form of communication. Young deaf children who are not yet literate in English rely particularly on sign language to understand and enjoy children's programming.

## Best practice

4.3 Language: BSL should be the default language for signed programmes. However, broadcasters may also use other forms of sign language (e.g. Makaton for children's programmes, or Sign Supported English for programmes aimed primarily at people who have gone deaf in later life) where consultation with disability groups has indicated that this would be acceptable. So far as possible, interpretation and voice-overs of signed programmes should be synchronised with the original speech / sign language.

4.4 Presentation: Signed programmes may be presented or interpreted into sign language. Sign language users particularly appreciate programmes presented in sign language; young deaf children who are learning sign language find it easier to understand and enjoy programmes presented in sign language, than those interpreted into sign language. Signed programmes, whether presented or interpreted in sign language, should be subtitled, to make it easier for people using both signing and subtitling to understand and enjoy them.

4.5 Signers: sign language presenters, reporters and interpreters should be appropriately qualified, both to use sign language of native competency, and to communicate effectively through television. Some latitude is allowed for guests and interviewees, though broadcasters should ensure that are understandable. The signer should use a style of interpretation and wear clothing that is appropriate to the style of the programme. For example, sober and business-like clothing should be worn for news and current affairs programming, while a more colourful and informal style of dress would be appropriate for children's programmes. It is important that signers' clothing allows them to be seen distinctly against the picture.

4.6 Size of image: the image of the signer superimposed upon the original programme should generally appear on the right hand of the screen and occupy a space no smaller than one sixth of the picture.

4.7 Techniques: the signer should use appropriate techniques to indicate whose speech he or she is interpreting, and to draw attention to significant sound effects.

4.8 Delivery: different methods of delivery are permissible, provided that the provision of sign language complies with the Guidelines, and that it is available in a form that is accessible to all viewers who want it, without the need to purchase special equipment or services. For example, broadcasters may choose to use interactive services to provide a

signed version of a programme simultaneously with an unsigned version, provided the interactive option is publicised at the beginning of the programme, is full-screen and complies with the standards set out in these guidelines. Broadcasters may also use 'closed' signing should this become feasible. However, the requirement for accessibility would preclude the use of IPTV to provide signed programmes, unless viewers had the necessary equipment or were provided with it free-of-charge. In any case, broadcasters who wish to use new forms of delivery should consult Ofcom and disability groups first.