



## Review of signing arrangements for relevant TV channels

Consultation

Publication date: 22 July 2014

Closing Date for Responses: 22 September 2014



# Contents

Section		Page
1	Summary	2
2	Background	6
3	Indexing for inflation	10
4	Minimum requirements for signing	16

Annex		Page
1	Responding to this consultation	25
2	Ofcom guidance to broadcasters of relevant channels on arrangements for signing	30
3	Signing of TV programmes on British television	33
4	Proposed changes to the Code and Guidance	37

## About this document

This document is a consultation on the review of signing arrangements for certain TV channels. Ofcom is seeking views on whether the signing obligations applying to low audience channels should be reviewed for the first time since these were set in 2007.

A number of TV channels with an audience share between 0.05% and 1% (referred to in this document as 'relevant channels') are required by Ofcom to show TV programmes presented in sign language ('sign-presented programming') for viewers whose first language is British Sign Language (BSL).

As an alternative, since 2009, these TV channels may decide to contribute towards other arrangements, provided Ofcom is satisfied that these would make sign language programming available to deaf TV viewers. Around 50 channels, as an alternative, contribute money to the British Sign Language Broadcasting Trust (BSLBT), which pays for sign-presented content shown in the BSL Zone on the Community Channel and Film 4.

The consultation asks whether the amount of signed programming on low audience channels should be increased, and if channels which choose to pay alternative contributions should increase the amount they pay over time.

## Section 1

# Summary

## Purpose of this document

- 1.1 This document seeks views on possible changes to the way channels with an audience share between 0.05% and 1% meet their regulatory obligations to help deaf people who rely upon sign language to understand and enjoy television.
- 1.2 All TV channels not exempted by Ofcom are required to provide subtitling, audio description and signing (known collectively as ‘access services’) on a proportion of their programmes, for the benefit of people with hearing or visual impairments, or both.
- 1.3 The requirements for signing depend upon the audience viewing share of the channel, as follows:
  - a) channels with an audience share of 1% or more are required to provide signing on a proportion of their programmes, growing over ten years from 1% to 5%;
  - b) channels with an audience share of less than 0.05% are exempt from providing access services, as Ofcom has concluded that their audiences are too low to warrant the expense; and
  - c) channels with an audience share of between 0.05% and 1% are currently required to provide signing for a minimum of 30 minutes a month between 7pm and 11pm or to enter into alternative arrangements described below<sup>1</sup>.
- 1.4 We are not proposing changes to the arrangements applying to the channels with an audience share greater than 1% or less than 0.05% but, for the reasons explained below, we do think that there is a case for making changes to the regulation of channels with an audience share of 0.05% and 1%.
- 1.5 We describe below the current rules that apply to these channels (which we refer to in this document as ‘relevant’ channels). We also outline possible changes on which we would welcome the views of both sign language users and broadcasters, as well as other interested parties. We will take any responses received by **5pm on 22 September 2014** into account in deciding whether or not to make changes, and if so what changes to make.

## Signing on British TV

- 1.6 Annex 3 provides more detailed information on how signing is currently provided on British television. In brief, there are two approaches to signing on television in the United Kingdom:

---

<sup>1</sup> The access services reports published by Ofcom twice every year show the signing obligation each channel is required to meet in the relevant period according to its average audience share. For the list of channels required to provide access services in 2013 and their relevant signing obligations see *Television Access Services: Final Report on 2013*, April 2014, Ofcom (<http://stakeholders.ofcom.org.uk/market-data-research/market-data/tv-sector-data/tv-access-services-reports/access-services-report-2013/>); low audience channels contributing to alternative signing arrangements are marked by the abbreviation “Alt”.

- a) sign-interpreted programmes are those originally produced without signing, on which a signer has been superimposed, usually in the corner of the screen. Some of the most popular TV programmes are offered with sign-interpreted versions, such as *Holby City*, *Coronation Street* and *Hollyoaks*; and
  - b) sign-presented programmes are presented in sign language, and are often dubbed in English and accompanied by subtitles. Examples include the BBC's *See Hear* programme, and programmes shown in the BSL zones on the Community Channel and Film4, such as *The Hub* and *Punk Chef*.
- 1.7 Ofcom is required by law to publish a code giving guidance to broadcasters on how they should promote the understanding and enjoyment of their television services by people with sensory impairments.
- 1.8 This Code<sup>2</sup> requires all relevant TV channels (as defined above) to show a minimum amount of TV programming (30 minutes a month between 7am and 11pm) presented in sign language for deaf viewers for whom BSL is their first language. In lieu of this, Ofcom's guidance (Annex 2) permits these channels to enter into alternative arrangements, provided that:
- a) Ofcom is satisfied that they would contribute to the availability of sign-presented programming, and
  - b) the channels make an annual contribution equivalent to £20,000 towards those arrangements.
- 1.9 Most channels in this category have opted to contribute to alternative arrangements: some 50 channels contribute £20,000 each a year to the British Sign Language Broadcasting Trust (BSLBT), which pays for sign-presented content shown in the BSL Zone on the Community Channel and Film 4.<sup>3</sup>

## Why we are reviewing the present arrangements

- 1.10 The present arrangements (which were finalised in December 2007, and started in January 2009) provide that both the regulatory obligations (30 minutes a month of sign-presented programming) and alternative arrangements (a minimum annual contribution of £20,000 to arrangements approved by Ofcom) should remain fixed, pending a review.
- 1.11 As the Code and associated guidance make clear, the arrangements are subject to review. We think a review is appropriate now for two main reasons:
- a) first, inflation has eroded the value of the minimum contribution to alternative arrangements (£20,000) since it was set in December 2007; and

---

<sup>2</sup> *Code on Television Access Services*, December 2012, Ofcom (<http://stakeholders.ofcom.org.uk/broadcasting/broadcast-codes/tv-access-services/code-tv-access-services-2013/>).

<sup>3</sup> Those channels contributing to BSLBT in 2013 are indicated by the abbreviation 'Alt' in the report on access services provision at [http://stakeholders.ofcom.org.uk/binaries/research/tv-research/access-service-reports/Access\\_services\\_report\\_2013\\_for\\_publication-\\_Final.pdf](http://stakeholders.ofcom.org.uk/binaries/research/tv-research/access-service-reports/Access_services_report_2013_for_publication-_Final.pdf).

- b) second, rising revenues have reduced the risk that introducing rising obligations for signing would make the provision of access services unaffordable for some channels (see section 2<sup>4</sup>).

## Ofcom's proposals

### Minimum annual contribution to alternative arrangements

- 1.12 We consider that it would make sense to determine a means of updating this contribution periodically, without the need for repeated reviews of the amount of the minimum contribution. We set out proposals for this in section 3.
- 1.13 In brief, we are proposing that the minimum contribution towards alternative arrangements should be adjusted annually in line with inflation using the Consumer Prices Index, backdated to December 2007. This would mean that relevant channels would pay £24,100 in 2015, instead of £20,000 now. This would then rise each year in line with inflation.
- 1.14 We also seek views on whether annual contributions should:
  - a) remain fixed thereafter (subject to adjustments for inflation to maintain their value); or
  - b) rise by more than inflation over a ten-year period from the adjusted level to £60,200 (plus any inflation adjustments in future). The ten year period would start from the date that channels qualified to provide access services. Transitional arrangements would apply to almost all channels, in order to avoid sudden large increases in costs.

### Rising obligations

- 1.15 We believe rising revenues mean that it is now timely to reconsider whether a fixed obligation of 30 minutes of sign-presented programming remains appropriate.
- 1.16 The options we are consulting on are set out in section 4. In brief, we are seeking views on whether the minimum amount of sign-presented programming required to be shown by relevant channels should remain fixed at 30 minutes a month (as at present), or increase from that level to 75 minutes a month. We are also proposing transitional arrangements from which most channels would benefit.
- 1.17 We have assessed the impact of the various proposals, including transitional arrangements that would mean only modest changes in 2015. The analysis in this document comprises Ofcom's impact assessment as defined in section 7 of the Communications Act 2003.

## Next steps

- 1.18 We welcome the views of interested parties on these proposals, and on the consequential changes that would be needed to Ofcom's Code as well as the associated guidance in Annex 3 to the Code ('the Guidance'). These changes are set out in Annex 4. The specific questions posed in the main document are also repeated in Annex 1, together with guidance on how to respond to the consultation. Please let us have your responses by **5pm on 22 September 2014**.

---

<sup>4</sup> Paragraphs 2.13 to 2.17

- 1.19 We expect to publish a statement later this year. If, having considered responses to the consultation, Ofcom decides to introduce changes to the regulation of signing on relevant channels, it would be our intention to bring these into effect from 1 January 2015.

### **This document**

- 1.20 We have prepared a BSL summary of this document, which can be found [at this link](#). The document is available on Ofcom's website in a version (Portable Document Format) which is compatible with most screen-readers. If you would like the document in an alternative format or another language, you can call our Advisory Team on weekdays between 09:00 and 17:00 on 020 7981 3040 or 0300 123 3333. If you are deaf or speech-impaired, you can use our textphone numbers, which are 020 7981 3043 or 0300 123 2024. We will consider all reasonable requests.

## Section 2

# Background

## Introduction

- 2.1 In this section, we explain:
- a) the legal provisions for signing on television;
  - b) why the current arrangements were adopted; and
  - c) why we are undertaking a review.

## Legal provisions

- 2.2 Under the Communications Act ('the Act'), Ofcom's duties are to further the interests of citizens in relation to communications matters and consumers in relevant markets (section 3(1) of the Act). In performing its duties, Ofcom must have regard to the needs of persons with disabilities (section 3 (4)).
- 2.3 Under section 303 of the Act, Ofcom has a specific duty to draw up, and from time to time, review and revise a code giving guidance as to the extent to which broadcasters should promote the understanding and enjoyment of television by the deaf or hard of hearing, the blind or partially sighted and those with a dual sensory impairment; and as to the means of promoting such understanding and enjoyment. Access to television programmes is to be provided by means of subtitling, signing and audio description (described collectively as 'access services').
- 2.4 The Act requires that all non-exempt TV channels should sign 5% of their content by the tenth anniversary of the date they qualify to provide access services ('the qualifying date')<sup>5</sup>. The statute also allows Ofcom to exclude services from the default arrangements, if warranted by reference to criteria in the Act, and the discretion to impose separate arrangements for those services<sup>6</sup>.
- 2.5 In July 2004, in accordance with its obligations under section 303 of the Communications Act 2003, Ofcom published a Code on Television Access Services ('the Code'). This requires channels with an audience share of at least 0.05% to provide access services, if they can afford to do so by spending no more than 1% of their relevant turnover on the cost (as assessed by Ofcom) of meeting their access service targets. At the same time, we explained that we would review the Code within two years to see what changes might be appropriate in the light of experience.

## Why the current arrangements were adopted

- 2.6 In 2005, Ofcom commissioned research to help inform its first review of the Code. Our objectives, established after discussion with disability groups, broadcasters and access service providers, were to establish how many people stood to benefit from the different access services, to look at usage and barriers to use, and to understand the needs and preferences of users and potential users.

---

<sup>5</sup> Section 303(5) of the Act.

<sup>6</sup> Section 303(9) of the Act.

- 2.7 In March 2006, we published this research alongside a review of the Code<sup>7</sup>. One of the findings was that about 66,000 people had a reasonable understanding of sign language. In qualitative case studies, two thirds of hearing-impaired people with the strongest signing skills expressed a preference for subtitling over signing. We suggested that there was a distinct possibility, therefore, that the number of people actually relying upon signing to watch television is significantly smaller than the number of people who said they understood signing well enough to use it to watch television. Moreover, the number of people likely to be using signing to watch programmes on relevant channels was likely to be very small indeed.
- 2.8 Under the arrangements set out in section 303(5) of the Act, broadcasters have a choice of whether to meet their targets with sign-interpreted or sign-presented programmes. They invariably use sign-interpreted programmes, which are much cheaper to produce than sign-presented programmes. In our discussions with deaf groups, they told us that, in preference to sign-interpreted programmes on relevant channels, they would prefer to see the resources directed towards making more sign-presented programmes available.
- 2.9 Ofcom then began a process of exploring whether there were alternatives to the arrangements that currently apply to relevant channels that might better meet the needs of sign language users. In the course of this, a proposal was made by Sky and the Community Channel that broadcasters contribute to the costs of a sign zone on the Community Channel (in lieu of signing on their own channels). This attracted interest from both broadcasters and deaf groups.
- 2.10 Ofcom invited a Sign Language Working Group largely comprised of deaf people and groups to consider this proposal and to make recommendations within the framework of current legislation. The working group recommended in essence that the Sky / Community Channel proposal be pursued, and that funds contributed by broadcasters be administered by a Trust on which deaf people were strongly represented.

## Current arrangements

- 2.11 Following the 2007 Consultation, Ofcom decided, with effect from 1 January 2009:
- a) to exclude channels with an audience share of between 0.05% and 1% other than public service channels from obligations to meet the signing targets set out in the Code on Television Access Services;
  - b) to require these excluded channels to transmit a minimum of 30 minutes of sign-presented programming each month between 7am and 11pm. This amount would be kept under review;
  - c) to apply (a) and (b) flexibly in the light of criteria set out in section 303(8) of the Act, which enable it to take account of matters such as the benefits to deaf people. For instance, this would enable Ofcom to require a news channel with an audience share of just less than 1% to continue providing sign-interpretation if it was satisfied this would be better for deaf people using sign language. Equally, it would enable Ofcom to require a film channel with an audience share just above 1% to discontinue providing sign-interpretation if it was satisfied that deaf people would benefit more from sign-presented programmes on the channel; and

---

<sup>7</sup> *Provision of Access Services*, Ofcom, March 2006 (<http://stakeholders.ofcom.org.uk/binaries/consultations/accessservs/annexes/provision.pdf>).

- d) not to impose the requirements in (b) above if it is satisfied that alternative arrangements proposed by individual broadcasters or groups of broadcasters would be likely to provide better assistance for deaf people using sign language, such that the requirements under (b) need not be imposed. Ofcom set out guidance for broadcasters on the matters it would take account in determining whether alternative arrangements are acceptable (see Annex 2). Among other things, these require a minimum annual contribution per channel of £20k (an amount which is subject to review from time to time).
- 2.12 All but one of the relevant channels has elected to contribute to the BSLBT, established in cooperation between broadcasters and deaf groups. BSLBT funds sign-presented content shown on the Community Channel and Film 4, and available from the BSLBT website. Annex 3 provides more information on BSLBT-funded programming.

## Why we are undertaking a review

- 2.13 The present arrangements were determined in December 2007, and entered into force in January 2009. As the Code and associated guidance (see Annex 2) make clear, the arrangements are subject to review from time to time.
- 2.14 When Ofcom last reviewed the requirements for all access services (signing, subtitling and audio description) in 2010, we concluded that the arrangements for signing in respect of relevant channels continued to meet the criteria in Annex 1 of the Code. Given the “continuing adverse economic conditions” at the time, Ofcom did not propose any changes either to the amount of sign-presented content, or to the minimum contribution to alternative arrangements.<sup>8</sup>
- 2.15 We think it is now appropriate to review the current requirements for two main reasons. First, inflation has eroded the value of the minimum contribution to alternative arrangements (£20,000) since it was set in December 2007. On the most commonly used measure of inflation (the Consumer Price Index), the value of this contribution has fallen by about 20% since the end of 2007. We consider that it would make sense to determine a means of updating the minimum contribution periodically, without the need for repeated reviews. We set out our reasoning and proposals for this in section 3.
- 2.16 Second, rising revenues have reduced the risk that introducing rising obligations for signing would make the provision of access services unaffordable for some channels. In 2007, Ofcom suggested that the obligations for sign-presented programming could rise from 30 minutes a month to 60 minutes,<sup>9</sup> similar to those that apply to subtitling and audio description and to signing on high audience channels. However, following consultation, this proposal was discarded because of concerns that rising obligations might push expenditure by several broadcasters above the regulatory threshold of 1% of relevant turnover. Were this to happen, the likely effect is that broadcasters might be exempted from the provision of access services, making television less accessible for people with sensory impairments.
- 2.17 Ofcom obtains annual returns from broadcasters, including confidential data on revenues from all licensed channels. Amongst other things, Ofcom uses this data in determining the list of channels required to provide access services in any given

---

<sup>8</sup> *Television Access Services Review*. Ofcom, June 2010 ([http://stakeholders.ofcom.org.uk/consultations/access\\_services/statement](http://stakeholders.ofcom.org.uk/consultations/access_services/statement)).

<sup>9</sup> *Signing on Television* (Consultation), Ofcom, May 2007 paragraph 3.26

year. Analysis of this data shows that the average revenues for relevant channels required to provide access services grew by over 112% from the beginning of 2008 to the end of 2012. As a result, Ofcom has decided that it would be appropriate to look again at whether signing obligations in respect of relevant channels (and the corresponding contributions to alternative arrangements) should rise over time, and if so, what would be the impact on the overall provision of access services. The analysis and options we are consulting on are set out in section 4.

## Section 3

# Indexing for inflation

## Introduction

- 3.1 As explained in section 2, broadcasters may make annual payments of £20,000 to alternative signing arrangements, in lieu of broadcasting sign-presented programmes on their own channels. This sum has remained fixed since it was set in December 2007.
- 3.2 This section seeks the views of interested parties on Ofcom's proposals:
- a) to update the minimum contribution to reflect inflation since December 2007, and annually thereafter; and
  - b) to use the Consumer Prices Index (CPI) for this purpose.

## Updating the minimum level of contributions to alternative signing arrangements

- 3.3 Since the minimum contribution to alternative arrangements was set at £20,000 in December 2007, prices have risen by some 20.4% (as measured by the Consumer Price Index). It is likely, therefore, that the real value of contributions by broadcasters to alternative signing arrangements has fallen.
- 3.4 As a result, the resources available for funding the production and distribution of sign-presented programmes to BSL users are likely to have shrunk, with detrimental effects on viewers to the range and /or quality of first run sign-presented programming. This proposition is supported by data from the BSLBT, which shows that the number of new commissions has gone down from 33 to 19 between 2009 and 2013, while the repeat rate has increased by 50%.
- 3.5 Against this background, Ofcom believes that it would be appropriate to adjust the minimum level of contributions to restore their value, and to make annual adjustments for inflation thereafter. This would help to avoid the burden both to Ofcom and to broadcasters of repeated consultations, whilst maintaining the benefits to BSL users of the alternative signing arrangements over time.

*Q1. Do you agree that it would be appropriate to increase the minimum contributions to alternative signing arrangements to bring them back to the 2007 level in real terms, and to make annual adjustments for inflation thereafter? If not, why not?*

## Linking contributions to an inflation index

- 3.6 Ideally, approaches to indexing contributions to alternative arrangements would reflect changes in the costs connected with making and distributing sign-presented television programmes.
- 3.7 One approach would be to look at how comparable costs have changed. Sign-presented programmes are made by the BBC, ITV and by independent producers commissioned by BSLBT. However, as relatively few sign-presented programmes

are made and consequently there is very limited data, much of which is not directly comparable.

- 3.8 Data on the cost of commissioning independent productions is available from BSLBT, but it deals with a relatively small number of programmes across a broad range of genres (see, for example, Figures 12-13 in Annex 3), and thus does not provide a satisfactory basis from which to draw conclusions about ‘average’ costs. Moreover, given that BSLBT makes relatively few programmes each year, and that these involve changes in the production mix (for instance, as between studio-based programmes like *The Hub*<sup>10</sup>, and location-based dramas like *Confession*<sup>11</sup>), cost structures are likely to vary considerably from one year to the next.
- 3.9 By the same token, it is unlikely that data on BBC and ITV productions would be particularly useful. At present, the BBC makes a narrow range of sign-presented programmes in-house – one magazine (*See Hear*) and one children’s programme (*Something Special*). ITV’s children’s channel (CITV) includes one sign-presented programme – *Signed Stories* – made by its subsidiary ITV Signpost Ltd. This differs from those made on behalf of BSLBT, in that it is studio-based, and uses animation, whereas several of the children’s programmes (*Let’s Go Wild*, *Secret Lab*, *Wicked Kids*) made on behalf of BSLBT were filmed on location. By comparison, BSLBT has much smaller resources at its disposal, commissions all of its programmes from external producers, and covers a wider variety of genres.
- 3.10 Another approach might be to use changes in general TV production costs as a proxy for changes in the cost of making sign-presented programmes. However, it seems likely that the cost structures for sign-presented programmes differ significantly from the cost structures for other TV programmes. For example, in the case of sign-presented programmes, staff costs are likely to be somewhat higher than for other programmes, as interpreters are needed to enable deaf and hearing staff to work together. By comparison with other TV productions, BSLBT’s overhead costs are likely to be much lower, as it has no premises of its own. However, it is likely to incur different marketing costs, as mass market advertising techniques are too expensive and inefficient to reach the small population of sign language users effectively. For this reason, BSLBT uses outreach staff to promote signed programming to BSL groups.
- 3.11 Ofcom’s initial view is that the drawbacks of the approaches outlined above mean that they are not practicable ways of measuring changes in the cost of the sign-presented programming that is funded by broadcasters’ contributions to alternative arrangements.

*Q2. Do you agree that it would not be appropriate to base adjustments to the minimum level of contributions to alternative arrangements on comparisons with the costs of existing sign-presented programmes, or with general TV production costs? If not, why not?*

- 3.12 For this reason, we have looked at whether a published index of inflation could be used as a proxy for changes in the cost of making sign-presented programming. BSLBT is the only current example of alternative arrangements. On average 67% of BSLBT’s programme costs are accounted for by commissioning fees to various

<sup>10</sup> <http://www.bslzone.co.uk/hub/>

<sup>11</sup> <http://www.bslzone.co.uk/watch/zoom-focus-confession/>

external production companies<sup>12</sup>. We do not have data on the cost structures of these productions. Nonetheless, it is reasonable to conclude that programme production costs will include many factors, such as:

- a) the cost of staff involved in filming, editing and post-production work, as well as in interpretation, marketing and distribution; and
- b) non-staff costs, such as studio rental, the hire of props and equipment for filming.

3.13 We have looked at the indices maintained by the Office of National Statistics to see which might be best suited to measuring changes in the cost of these components. In the absence of an index specifically tailored to broadcast production costs, we consider that broadly-based inflation indices are likely to better reflect longer term changes in staff costs and other elements than other more narrowly drawn indices.

## **Assessment of different indices**

3.14 With this in mind, we have considered the CPI, the Retail Prices Index (RPI), the Services Producer Price Index (SPPI) and the Average Weekly Earnings index (AWE).

### Consumer Price Index

3.15 The CPI is a measure of consumer price inflation produced to international standards and in line with European regulations. In recent years there has been a shift towards using the CPI in preference to the Retail Price Index for a number of uses. This includes the Government's monetary policy target which changed to the CPI in 2003, as a deflator in the ONS national accounts which changed in 2010 and for the uprating of government pensions and some benefits which changed in 2011.

### Retail Prices Index

3.16 RPI was used as the UK's general purpose domestic measure of inflation until April 2011, when the Government's decision to use CPI for the indexation of benefits, tax credits and public service pensions came into effect. The main differences between the RPI and the CPI relate to the population base, the commodity coverage, and the formulae used to combine prices.

### Services Producer Price Index

3.17 SPPI tracks price changes for a limited range of service industries (excluding broadcasting). It differs from the CPI and the RPI in that these measure inflation at the level of consumers, whereas the SPPI tracks the change in prices faced by business purchasers (i.e. not end consumers) of services.

### Average Weekly Earnings Index

3.18 AWE serves as an indicator of (short-term) earnings growth in monthly estimates of the level of average weekly earnings per employee. While the other indices are a measure of changes in the prices of goods and services, AWE provides a measure of the labour cost faced by firms in operating their businesses. For completeness, we considered AWE both for the whole economy and for the "Information and Communication" industry, as provided by the ONS.

---

<sup>12</sup> Source: BSLBT

### Impact of different indices

3.19 Figure 1 shows that, historically, these indices would have had a broadly similar impact on the level of the minimum contribution. Both CPI and RPI suggest that the appropriate level for optional alternative contributions in 2015 would be just over £24,000. SPPI would indicate an increase to just over £21,000. AWE (whole economy) would indicate an increase to just over £22,000, and AWE (communications) to just under £23,000.

**Figure 1: Impact of various inflation indices on contributions to alternative arrangements**<sup>13</sup>

	2008	2009	2010	2011	2012	2013	2014*	2015
<b>CPI Growth %</b>	3.63%	2.12%	3.34%	4.45%	2.84%	2.52%	N/A	N/A
<b>CPI-indexed contribution levels</b>	-	£20,000	£20,726	£21,165	£21,872	£22,846	£23,496	£24,088
<b>RPI Growth %</b>	3.97%	-0.51%	4.63%	5.19%	3.19%	3.05%	N/A	N/A
<b>RPI-indexed contribution levels</b>	-	£20,000	£20,794	£20,687	£21,646	£22,769	£23,495	£24,211
<b>SPPI Growth %</b>	3.43%	-0.70%	1.11%	0.70%	1.29%	0.98%	N/A	N/A
<b>SPPI-indexed contribution levels</b>	-	£20,000	£20,685	£20,540	£20,768	£20,914	£21,184	£21,391
<b>AWE Growth (Whole Economy)</b>	2.10%	0.70%	4.30%	0.20%	1.10%	1.60%	N/A	N/A
<b>AWE-indexed contribution levels (Whole Economy)</b>	-	£20,000	£20,420	£20,563	£21,447	£21,490	£21,726	£22,074
<b>AWE Growth (Comms Industry)</b>	0.85%	0.42%	6.45%	1.58%	2.08%	1.78%	N/A	N/A
<b>AWE-indexed contribution levels (Comms industry)</b>	-	£20,000	£20,170	£20,256	£21,563	£21,903	£22,358	£22,756

\* the level of contribution of any given year is estimated by applying inflation from two years before, to correspond with the data Ofcom receives on turnover.

### **Pros and cons**

3.20 In looking at the relative advantages and disadvantages of each of the indices, we had regard to Ofcom's approach to choosing an inflation index for setting telecommunication charge controls.<sup>14</sup> In particular, we considered:

<sup>13</sup> Source: ONS website (<http://www.ons.gov.uk/ons/index.html>)

- a) the official status of the indices;
- b) the extent to which the indices may reflect, directly or indirectly, changes in the costs of making and distributing sign-presented TV programme (cost causality);
- c) the extent to which the index might be capable of being controlled by the relevant firm (exogeneity); and
- d) the availability of independent forecasts for relevant indices.

#### Official Status

- 3.21 While the ONS continues to maintain each of these indices, Ofcom notes that, from 2011, CPI replaced RPI as the index used by Government for the indexation of benefits, tax credits and public service pensions came into effect. RPI lost its status as a designated “National Statistic” in April 2013, as the ONS considers that the upwards bias inherent in the RPI means that it does not meet international standards. CPI is used by the Bank of England’s Monetary Policy Committee for measuring whether the Government’s inflation target is being achieved.

#### Cost Causality

- 3.22 In terms of cost causality, measures of wage inflation – such as AWE, and in particular its industry-specific component – are likely to accurately track changes in the labour cost of producing sign-presented programming. Though not exact, both RPI and CPI might be expected to reflect changes in staff costs, as they could influence pay settlements. However, this is less likely to be the case for SPPI, as it tracks the change in prices faced by suppliers of services (though not in relation to broadcasting in general or television in particular).

#### Exogeneity

- 3.23 We do not consider that any of the indices under consideration are susceptible to control or manipulation by producers of sign-presented programmes.

#### Availability of Independent Forecasts

- 3.24 Finally, we note that independent forecasts are available for each of the indices under consideration, with the exception of SPPI and for the industry-specific AWE.

---

<sup>14</sup> *Fixed access market reviews: wholesale local access, wholesale fixed analogue exchange lines, ISDN2 and ISDN30 – Volume 2: LLU and WLR Charge Controls*, Ofcom, May 2014 (<http://stakeholders.ofcom.org.uk/binaries/telecoms/ga/fixed-access-market-reviews-2014/draftstatement/volume2.pdf>).

**Figure 2: summary of Ofcom’s assessment of factors bearing on the suitability of indices as a proxy for cost changes**

Factor	CPI	RPI	SPPI	AWE	AWE / Comms
<b>1. Official status</b>	Yes	No	Yes	Yes	Yes (by extension)
<b>2. Cost causality</b>	In part	In part	No	In part	In part
<b>3. Exogeneity (whether index is beyond control of relevant firm)</b>	Yes	Yes	Yes	Yes	Yes
<b>4. Availability of independent forecasts</b>	Yes	Yes	No	Yes	No

## Proposal

- 3.25 Given the reason why RPI lost its official status in 2013, Ofcom does not consider that this would be an appropriate index to use. We also consider that SPPI is less likely to reflect cost causality than other indices, and that independent forecasts are not available for this index. Accordingly, Ofcom does not consider that this would be an appropriate index to use.
- 3.26 Of the remaining indices, we consider that CPI is the better, as it is more broadly based than either of the AWE indices, and is used for a wide range of purposes (see paragraph 3.15 above). Accordingly, we propose to adopt CPI as the measure of inflation for adjusting the minimum contributions made to alternative arrangements. We also propose to make annual adjustments, rounded to the nearest £100.
- 3.27 The consequential changes to the Guidance that Ofcom is minded to make if this proposal is adopted are set out in Annex 4.

*Q3. Do you agree that it would be appropriate to make annual adjustments to the minimum contributions to alternative arrangements in line with the Consumer Price Index, and to make consequential change to the Guidance, as set out in Annex 4? If not, why not?*

## Section 4

# Minimum requirements for signing

## Introduction

4.1 In this section, we explain:

- a) why Ofcom believes that it may be appropriate for signing obligations on relevant channels to rise over time;
- b) why, similarly, it may be appropriate for corresponding minimum contributions to alternative arrangements) to rise over time;

and we invite views on proposals for change, including transitional arrangements to avoid the need for broadcasters to face sudden large increases in costs.

## Signing obligations on relevant channels

### Context

4.2 Minimum requirements for subtitling and audio description on all channels rise over time, as they do for signing on channels with audience shares equal to or greater than 1%. When putting in place the current arrangements for relevant channels, Ofcom initially suggested that minimum requirements for sign-presented programming should also rise over time. The May 2007 consultation<sup>15</sup> suggested that the obligations for sign-presented programming could rise from 30 minutes a month from the first until the fifth anniversary of the relevant date<sup>16</sup>, 45 minutes from the fifth until the seventh anniversary, and 60 minutes from the seventh anniversary onwards.

4.3 However, Ofcom concluded that, at least initially, the minimum requirements for signing on relevant channels should be fixed at 30 minutes of sign-presented programmes a month. The reason for this was concern that rising obligations could mean that the costs of providing access services might exceed the cap of 1% of relevant turnover for several broadcasters, leading to a reduction in accessible programming for people with sensory impairments.<sup>17</sup>

4.4 In setting the minimum requirement of 30 minutes a month, Ofcom concluded that:

- a) shorter or less frequent obligations than 30 minutes a month would not be reasonable, given the policy objective of increasing the amount of sign-presented programming<sup>18</sup>; and
- b) a requirement for 30 minutes of sign-presented content programming should be substituted for the then target of 2% of sign-interpreted content that applied to most relevant channels.

---

<sup>15</sup> Paragraph 3.26 of *Signing on Television* (Consultation), Ofcom, May 2007 ('May 2007 Consultation')

<sup>16</sup> the date on which the channel qualifies for the purpose of determining access service targets

<sup>17</sup> Paragraph 4.52, *Signing on Television* (Statement), Ofcom, December 2007 ('December 2007 Statement')

<sup>18</sup> Paragraph 3.27, May 2007 Consultation

- 4.5 Since then, the annual returns of broadcasters of relevant channels indicate that their average revenues rose by some 112% from 2008 to 2012 inclusive. As explained in paragraph 2.17 above, this increase in revenues has reduced the risk that introducing rising obligations for signing would make the provision of access services unaffordable for some channels. We have therefore looked again at the options.

### **Status quo**

- 4.6 One option would be to leave the minimum requirement unchanged at 30 minutes a month. This would have no impact on either broadcasters or sign language users, not least because, at present, only one channel (CITV) chooses to provide sign-presented content rather than contribute to alternative arrangements – it already provides well in excess of 30 minutes of such programming each month. Signed programmes are believed to be unpopular with non-sign language users on adult-oriented channels, so broadcasters appear keen to avoid including them in their schedules.

### **Rising obligations**

- 4.7 However, Ofcom considers that there is a reasonable case for raising the minimum content requirements over time, for three main reasons:
- a) unlike other access service users, viewers relying on sign language to watch these channels do not benefit from increasing provision over time. Subtitling and audio description on relevant channels have grown respectively from 10% to 80%, and from 2% to 10%;
  - b) there is an inconsistency in the regulation of signing on TV. The signing obligations on channels with an audience share of 1% or more have risen over ten years from 346 minutes to 1,730 minutes a month<sup>19</sup> (though this can be met by cheaper sign-interpreted programming), while relevant channels have a fixed obligation of 30 minutes a month; and
  - c) we believe that the risk identified in the December 2007 Statement that rising signing obligations might disadvantage other access service users, by reducing the number of channels able to afford access services, has been significantly mitigated by the increase in revenues of relevant channels in recent years.
- 4.8 We have therefore considered a framework of rising minimum requirements for sign-presented programming over time. Under this option, Ofcom considers that it would be appropriate to:
- a) start from a minimum base of 30 minutes, reflecting Ofcom's earlier conclusions that monthly programming of less than 30 minutes would not be reasonable (see paragraph 4.4 above);
  - b) timetable increases in obligations on relevant channels to correspond to increases in obligations for channels with audience shares of 1% or more;
  - c) proceed from the basis established in 2007, which was that a requirement for 30 minutes of sign-presented content programming should be substituted for the then target of 2% of sign-interpreted content. On that basis, each percentage point of the targets previously applying to relevant channels would equate to 15

---

<sup>19</sup> Calculated on a base of 24 hours a day, excluding maximum amount of advertising permitted.

minutes of sign-presented programming, subject to the minimum of 30 minutes referred to in (a) above.

- 4.9 On this basis, relevant channels would be required to provide 30 minutes of sign-presented programming a month from the first to the fifth anniversary, 45 minutes a month from the fifth to the seventh anniversary, 60 minutes a month from the seventh to the tenth anniversary, and 75 minutes a month from the tenth anniversary onwards. Figure 3 below shows this in tabular form.
- 4.10 The consequential changes to the Code that Ofcom is minded to make if this proposal is adopted are set out in Annex 4.

**Figure 3: relevant channels – summary of proposed consultation options for minimum signing requirements**

Anniversary of qualifying date	Options	1 <sup>st</sup> to 4 <sup>th</sup>	5 <sup>th</sup> to 6 <sup>th</sup>	7 <sup>th</sup> to 9 <sup>th</sup>	10 <sup>th</sup> onwards
<b>Monthly signing requirements for channels with audience share of 1% or more (mins / target %)</b>	<b>[Current rules for comparison purposes only]</b>	346 - 692	1038	1384	1730
		1% to 2%	3%	4%	5%
<b>Monthly signing requirements for relevant channels (mins)</b>	Status quo	30	30	30	30
	Sign-presented content rising over ten years	30	45	60	75

### Proposed transitional obligations

- 4.11 The impact on relevant channels of rising obligations would vary, according to when they qualified to provide access services. Newer channels (e.g. 4Seven) would see their obligations increase gradually. But longer-established channels would face a significant increase in obligations from 2015, albeit from a low base. We have therefore considered what transitional arrangements might be appropriate if rising obligations were adopted.
- 4.12 In these circumstances, Ofcom would propose that the arrangements shown in Figure 4 should apply to all channels that have reached the fourth (or later) anniversary of their qualifying date by 2015. This would avoid the anomaly of newer channels facing greater obligations than longer-established channels, which would happen if these transitional arrangements applied only to channels reaching the fifth or later anniversary of their qualifying date in 2015.
- 4.13 All but one of the current relevant channels would benefit from the proposed transitional arrangements. That channel, 4Seven, would face a more gradual increase in its obligations, as would any other channel newly subject to access service obligations from 2015 that had not reached the fourth anniversary of its qualifying date by that year.
- 4.14 The consequential changes to the Code that Ofcom is minded to make if transitional obligations are adopted are set out in Annex 4.

**Figure 4: proposed transitional arrangements for channels reaching or surpassing the 4<sup>th</sup> anniversary of their qualifying date in 2015**

Monthly signing requirements for relevant channels (minutes, sign presented content)	2015	2016	2017	2018
	30	45	60	75

### Estimated impact

- 4.15 Only one channel (CITV) presently meets its obligations by broadcasting sign-presented programming, and we would expect this to continue. If CITV continued with its present volume of sign-presented programming<sup>20</sup>, it could meet the regulatory obligations in full at no additional expense and with no change to its current schedules. For this reason, we do not think that these proposals alone would change the way CITV chose to meet its obligations.
- 4.16 By the same token, the proposed changes are unlikely to change the incentives on other broadcasters of other channels, which we would expect to continue contributing to alternative arrangements. Nonetheless, we have estimated the costs that such broadcasters would face if they all decided to meet rising obligations by providing sign-presented content on their own channels, assuming the transitional arrangements were in place.
- 4.17 The estimated costs:
- a) start from the estimated annual costs of meeting the requirement for 30 minutes of sign-presented content a month (£60,000) which was adopted following consultation in 2007;<sup>21</sup> Indexing this for inflation using CPI, the equivalent cost in 2014 would be just over £71k.<sup>22</sup>; and
  - b) assume that the transitional arrangements described above are in place.
- 4.18 On this basis, we are able to estimate the costs per channel of providing sign-presented programming, and from that, the estimated costs that broadcasting groups would face. For these purposes, we have assumed zero growth in both inflation and broadcasting revenues.
- 4.19 In sum, should every channel take the same approach as CITV in 2015, the costs of providing 30 minutes of sign-presented programming a month would be affordable by all channels within the 1% cap on relevant turnover; only one channel would be exempted on the grounds of costs. Should all channels opt to schedule sign-

<sup>20</sup> In 2013, CITV showed an average of 3 hours and 12 minutes of sign-presented programming a month. Source: *Television Access Services: Final Report on 2013*, April 2014, Ofcom.

<sup>21</sup> On the basis of data provided by the Community Channel in 2007, the basic cost of a sign-presented half-hour programme was then around £30,000. Assuming a repeat rate of six times, this would equate to an annual cost of £60,000. For more details, see paragraph A5.23 of the May 2007 Consultation.

<sup>22</sup> Given the total CPI growth between December 2007 (date the required contribution was set) and December 2014 (inflation estimate for 2014) of 18.66%, the cost of meeting the 30-minute signing obligation in 2015 was calculated by applying total CPI growth to the estimated cost of meeting the signing requirement in 2007 - £60k; in short,  $£60k \times (1 + 18.66\%) = £71.2k$ . Source for the inflation estimate: HMT, *Forecasts for the UK economy: a comparison of independent forecasts* (February 2014)

([https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/291898/201402forecom.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/291898/201402forecom.pdf))

presented programming in 2016 (when, under the proposed transitional obligations, each channel would need to show 45 minutes of sign-presented programming a month), we estimate that six further channels would be exempted on cost grounds from providing access services, though this would depend on revenue growth.

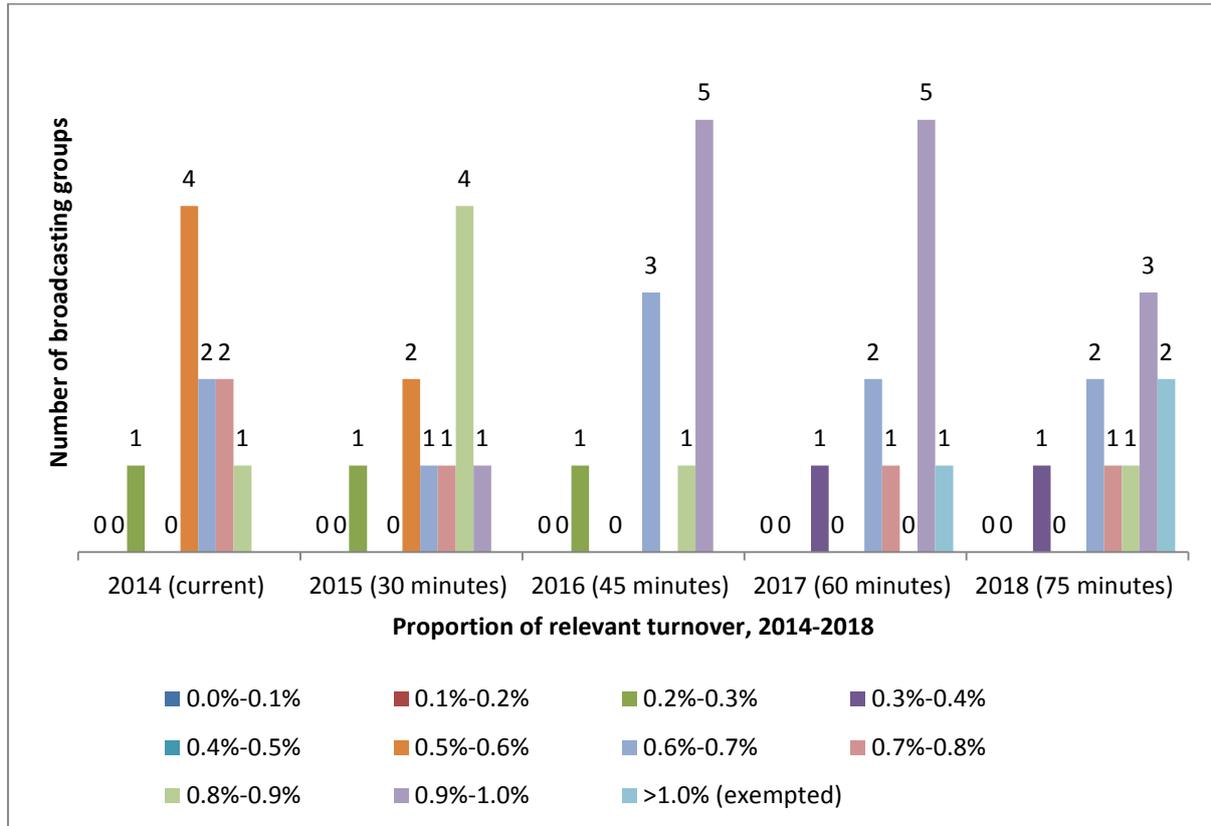
4.20 As well as looking at the impact on individual channels, we have also assessed the potential impact on broadcasting groups. This would vary according to how many relevant channels they operate. For reasons of commercial confidentiality, we are not publishing these specific estimates. However, the graph in Figure 5 below gives some indication of the likely impact, by showing how much of their relevant turnover broadcasting groups could expect for access services as a result of these proposals.<sup>23</sup> The graph shows, for example, that:

- a) in 2014, on the basis of their actual choices about how to meet access service obligations, one broadcasting group is estimated to pay between 0.2% to 0.3% of its relevant turnover on access services, four pay between 0.5% and 0.6%, two would pay between 0.6% to 0.7%, two between 0.7% to 0.8% and one between 0.8% and 0.9%. This means that nine broadcasting groups are estimated to be paying 0.5% or more of their relevant turnover for access services. Of these, three groups are paying 0.7% or more;
- b) in 2015, nine broadcasting groups could expect to pay 0.5% or more if rising obligations were imposed, subject to the transitional arrangements. Of these, five groups would be paying 0.7% or more;
- c) by 2018, although the number of broadcasting groups paying 0.5% or more would remain the same (nine), seven would be paying 0.7% or more. Two broadcasting groups (accounting for four relevant channels) would be exempted from providing access services on those channels. The reason for this is that the estimated cost of meeting their access service obligations would exceed 1% of their relevant turnover. It should be noted that this projection assumes that there is no growth in revenues.

---

<sup>23</sup> Consistent with paragraph 26 of the Code, in the case of channels in common ownership, Ofcom will determine which channels should provide access services by averaging the total relevant turnover across all channels with an audience share of 0.05% or more. Paragraph 26 further states that if the averaging of relevant turnover would mean that none of the services in common ownership would need to provide access services, Ofcom will assess eligibility on the basis of the individual relevant turnover attributable to each service; this approach has been followed in the impact assessment conducted for this consultation, and the chart above shows the spend on access services of the average of the channels that would be eligible on the basis of individual relevant turnover which are in common ownership.

**Figure 5: How much broadcasting groups would have to pay for access services if signing obligations on relevant channels increase**



4.21 In the medium term, there might be very small reductions in the amount of subtitled and audio-described programming related to the increase in signing obligations, however these are not easily quantifiable, given potential future variations in turnover and audience share. The impact on sign language users would be a large increase in the amount of sign-presented programming available.

- Q4. Do you consider that minimum signing requirements for relevant channels should remain fixed at 30 minutes a month or should rise progressively over a ten year period to 75 minutes a month? If the latter, do you agree that consequential changes should be made to the Code, as set out in Annex 4? Please explain the reasons for your preference.
- Q5. Do you consider that the transitional arrangements set out in Figure 4 would be appropriate if relevant channels are made subject to rising obligations? If so, do you agree that consequential changes should be made to the Code, as set out in Annex 4?

### Minimum contributions to alternative arrangements

4.22 We discuss below the two options for minimum contributions to alternative arrangements on which we are consulting.

#### Status quo plus indexation

4.23 If Ofcom made no change to the 30-minute monthly signing obligation, there would be an arguable case for retaining the fixed contribution of £20k a year to approved alternative arrangements (e.g. BSLBT). However, in this case, we would propose to index the contribution for inflation, backdated to when the contribution was set in December 2007, as explained in section 3. Using CPI, this would result in a one-off

increase for broadcasters in 2015 of £4,100 followed by annual adjustments to take account of inflation in subsequent years.

### Estimated Impact

- 4.24 If all broadcasters opted to continue contributing to alternative arrangements at rate of £24,100 a year, one channel would be exempted on cost grounds in 2015. Assuming average revenues rise at the same rate as inflation (CPI), we would not expect any further channels to become exempt in subsequent years, although this would of course depend on actual revenues.
- 4.25 Sign language users would see the value of funding for sign-presented programming restored to 2007 levels, which would allow BSLBT to slightly reduce its reliance on repeats. There would be minimal impact on users of subtitling or audio description.

### **Rising contributions plus indexation, with transitional arrangements**

- 4.26 If monthly programme obligations did rise over time as set out in Figure 3 above, we consider that it would be appropriate to make corresponding increases to the minimum contributions to alternative arrangements, and to index the contributions for inflation.
- 4.27 This would mean, for example, that from the fifth anniversary of their qualifying date, relevant channels would be required to increase sign-presented programming by 50% from 30 minutes to 45 minutes per month. If, instead, they wished to contribute to approved alternative arrangements, the minimum contribution would also increase by 50% from £24.1k to £36.1k, adjusted to take account of CPI. Figure 6 below shows how this would work in practice.
- 4.28 The consequential changes to the Code that Ofcom is minded to make if this proposal is adopted are set out in Annex 4.

**Figure 6: proposed minimum contributions to alternative arrangements for relevant channels**

Anniversary of qualifying date	1 <sup>st</sup> to 4 <sup>th</sup>	5 <sup>th</sup> to 6 <sup>th</sup>	7 <sup>th</sup> to 9 <sup>th</sup>	10 <sup>th</sup> onwards
<b>Monthly signing requirements for relevant channels (minutes, sign presented content)</b>	30	45	60	75
<b>Minimum annual contributions to approved alternatives for relevant channels (in lieu of monthly signing requirements above)</b>	£24.1k	£36.1k plus CPI	£48.2k plus CPI	£60.2k plus CPI

### Proposed transitional arrangements

- 4.29 Just as with rising obligations for sign-presented content, we propose that increases in contributions to alternative arrangements should be phased in over four years, as illustrated in Figure 7 below.
- 4.30 The consequential changes to the Guidance that Ofcom is minded to make if transitional obligations are adopted are set out in Annex 4.

**Figure 7: proposed transitional arrangements for channels  $\geq$  4<sup>th</sup> anniversary of qualifying date in 2015**

Minimum annual contributions to approved alternatives for relevant channels	2015	2016	2017	2018
	£24.1k	£36.1k plus CPI	£48.2k plus CPI	£60.2k plus CPI

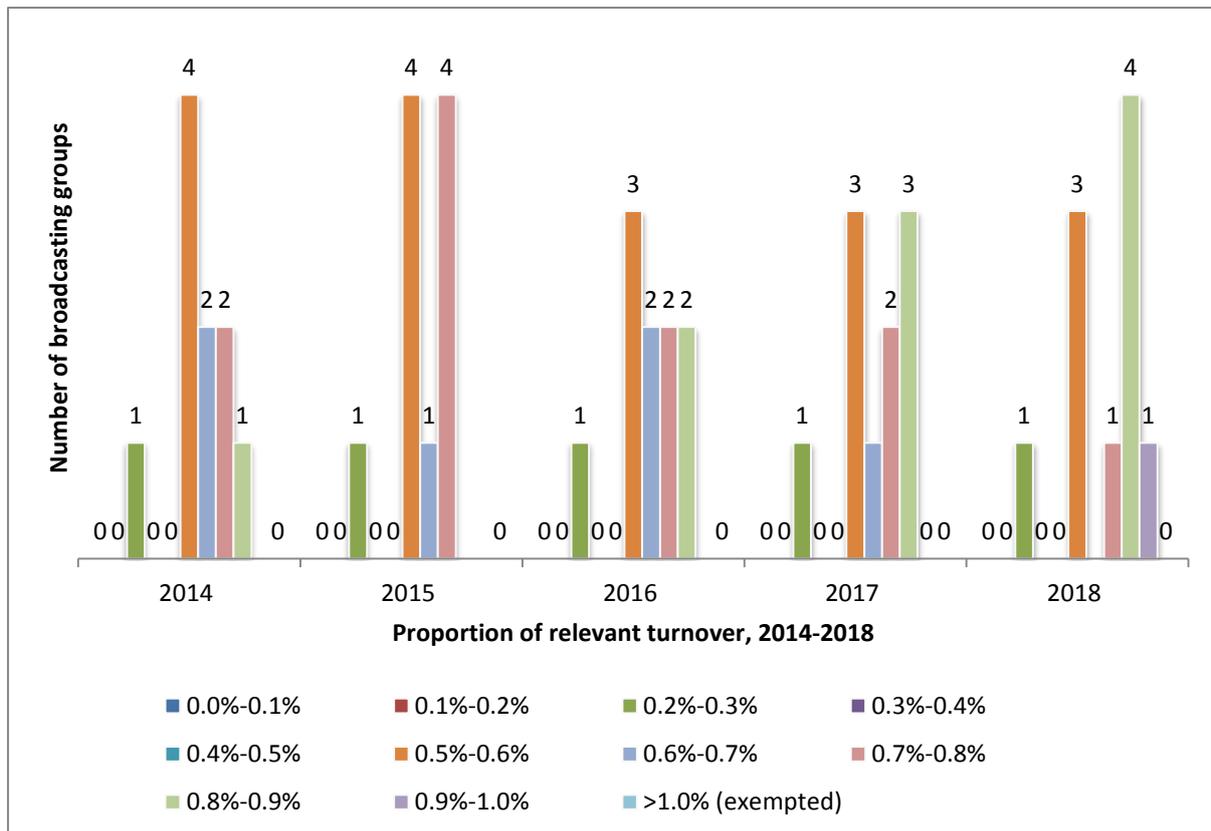
### Estimated impact

- 4.31 Under this option, sign language users would benefit from a gradual increase in funding for sign-presented programming, which would translate over time in to a modest increase in the quantity, quality and diversity of new content, and a reduction in repeats. BSLBT would have more time to plan for this.
- 4.32 There would be no impact on those using audio description, and very little impact on subtitle users - only one channel would be able to reduce the amount of subtitling it provides.
- 4.33 Broadcasters would face gradual increases in their contributions to alternative signing arrangements. One channel would cease to be required to provide access services in 2015, after the initial indexation; however even at the highest estimated contribution of £60.2k, all other channels would continue to provide access services, between 2014 and 2018.
- 4.34 For reasons of commercial confidentiality, we are not publishing specific estimates of the impact of rising contributions to alternative signing arrangements. However, the graph in Figure 8 below gives some indication of the likely impact, by showing the proportion of relevant turnover we estimate that broadcasters would have to pay (in bands from 0.1% to 1%)<sup>24</sup>. This shows, for example, that:
- in 2014, on the basis of their actual choices about how to meet access service obligations, one broadcasting group is estimated to pay between 0.2% to 0.3% of its relevant turnover on access services, four pay between 0.5% and 0.6%, two would pay between 0.6% to 0.7%, two between 0.7% to 0.8% and one between 0.8% and 0.9%. This means that nine broadcasting groups are estimated to be paying 0.5% or more of their relevant turnover for access services. Of these, three groups are paying 0.7% or more;
  - in 2015, nine broadcasting groups could expect to pay 0.5% or more if rising obligations were imposed, subject to the transitional arrangements. Of these, four groups would be paying 0.7% or more;
  - by 2018, although the number of broadcasting groups paying 0.5% or more would remain the same (nine), six would be paying 0.7% or more.

<sup>24</sup> This is consistent with the procedure set out in paragraph 26 of Ofcom's Code on Television Access Services, which establishes that in the case of channels in common ownership, Ofcom will determine which channels should provide access services by averaging the total relevant turnover across all services in common ownership. Paragraph 26 further states that if the averaging of relevant turnover would mean that none of the services in common ownership would need to provide access services, Ofcom will assess eligibility on the basis of the individual relevant turnover attributable to each service; this approach has been followed in the impact assessment conducted for this consultation, and the chart above shows the spend on access services of the average of the channels that would be eligible on the basis of individual relevant turnover which are in common ownership.

4.35 However, even in 2018, all ten broadcasting groups that currently contribute to the BSLBT would still be able to afford the cost of providing access services below the cap of 1% of relevant turnover, even at the highest level of contribution to alternative signing arrangements. Taking all relevant channels together, we estimate that the average total cost of providing access services would rise from 0.61% of their total relevant turnover in 2014 to 0.72% in 2018 (everything else staying constant).

**Figure 8: How much broadcasting groups would have to pay for access services if minimum contributions to alternative arrangements are increased**



4.36 We consider that continuing to apply the expenditure limit of 1% of relevant turnover as the maximum share that broadcasters should spend on the provision of the different types of access services will help to prevent disproportionate burdens being placed on broadcasters; as now, broadcasters which in Ofcom's judgement would exceed this limit will be subject to reduced obligations or exempted altogether.

*Q6. Do you consider that minimum contributions by relevant channels to alternative requirements should remain fixed at £20,000 a year (adjusted for inflation) or should rise progressively over a ten year period to £50,000 a year (also adjusted for inflation)? Please explain the reasons for your preference.*

## Annex 1

# Responding to this consultation

## The issues

A1.1 Ofcom invites written views and comments on the issues raised in this document, to be made by 5pm on 26 July 2013. It would be helpful if your response could include direct answers to the questions asked in this document, repeated below. It would also help if you can explain why you hold your views and how Ofcom's proposals would impact on you.

*Q1. Do you agree that it would be appropriate to increase the minimum contributions to alternative signing arrangements to bring them back to the 2007 level in real terms, and to make annual adjustments for inflation thereafter? If not, why not? Q2. Do you agree that it would not be appropriate to base adjustments to the minimum level of contributions to alternative arrangements on comparisons with the costs of existing sign-presented programmes, or with general TV production costs? If not, why not?*

*Q3. Do you agree that it would be appropriate to make annual adjustments to the minimum contributions to alternative arrangements in line with the Consumer Price Index, and to make consequential change to the Guidance, as set out in Annex 4? If not, why not?*

*Q4. Do you consider that minimum signing requirements for relevant channels should remain fixed at 30 minutes a month or should rise progressively over a ten year period to 75 minutes a month? If the latter, do you agree that consequential changes should be made to the Code, as set out in Annex 4? Please explain the reasons for your preference.*

*Q5. Do you consider that the transitional arrangements set out in Figure 4 would be appropriate if relevant channels are made subject to rising obligations? If so, do you agree that consequential changes should be made to the Code, as set out in Annex 4?*

*Q6. Do you consider that minimum contributions by relevant channels to alternative requirements should remain fixed at £20,000 a year (adjusted for inflation) or should rise progressively over a ten year period to £50,000 a year (also adjusted for inflation)? Please explain the reasons for your preference.*

A1.2 If you want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact Jacopo Genovese on 020 7981 3725.

## How to respond

A1.3 We strongly prefer to receive responses via the online web form which incorporates the coversheet shown at the end of this Annex. This will speed up our processing of responses, and help to maintain confidentiality where appropriate. If you are responding via email, post or fax you can download an electronic copy of the

coversheet in Word or RTF format from the 'Consultations' section of our website at <http://stakeholders.ofcom.org.uk/consultations/consultation-response-coversheet/>.

- A1.4 For larger consultation responses - particularly those with supporting charts, tables or other data - please email [jacopo.genovese@ofcom.org.uk](mailto:jacopo.genovese@ofcom.org.uk) attaching your response in Microsoft Word format, together with the coversheet.
- A1.5 Please put any parts of your response you consider should be kept confidential in a separate annex to your response and include your reasons why this part of your response should not be published. This can include information such as your personal background and experience. If you want your name, address, other contact details, or job title to remain confidential, please provide them in your cover sheet only, so that we don't have to edit your response.
- A1.6 Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.

Jacopo Genovese

5th Floor

Riverside House

2A Southwark Bridge Road

London SE1 9HA

Fax: 020 7981 3806

- A1.7 Note that we do not need a hard copy in addition to an electronic version. Ofcom will acknowledge receipt of responses if they are submitted using the online web form but not otherwise.

## Publication of responses

- A1.8 The quality of consultation can be enhanced by publishing responses before the consultation period closes. In particular, this can help those individuals and organisations with limited resources or familiarity with the issues to respond in a more informed way. We will therefore usually publish all responses on our website, [www.ofcom.org.uk](http://www.ofcom.org.uk), ideally on receipt. Ofcom would encourage respondents to complete their coversheet in a way that allows Ofcom to publish their responses upon receipt, rather than waiting until the consultation period has ended.
- A1.9 If you think your response should be kept confidential, can you please specify what part or whether all of your response should be kept confidential, and specify why. Please also place such parts in a separate annex.
- A1.10 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and will try to respect this. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.11 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's approach on intellectual property rights is explained further on its website at <http://www.ofcom.org.uk/about/accoun/disclaimer/>.

## Next steps

- A1.12 Following the end of the consultation period, Ofcom intends to publish a statement in Autumn 2014. You can register to receive free mail Updates alerting you to the publications of relevant Ofcom documents. For more details please see: [http://www.ofcom.org.uk/static/subscribe/select\\_list.htm](http://www.ofcom.org.uk/static/subscribe/select_list.htm).

## Ofcom's consultation principles

- A1.13 Ofcom has published the following seven principles that it will follow for each public written consultation:

### Before the consultation

- A1.14 Where possible, we will hold informal talks with people and organisations before announcing a big consultation to find out whether we are thinking in the right direction. If we do not have enough time to do this, we will hold an open meeting to explain our proposals shortly after announcing the consultation.

### During the consultation

- A1.15 We will be clear about who we are consulting, why, on what questions and for how long.
- A1.16 We will make the consultation document as short and simple as possible with a summary of no more than two pages. We will try to make it as easy as possible to give us a written response. If the consultation is complicated, we may provide a shortened Plain English Guide for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.
- A1.17 We will consult for up to 10 weeks depending on the potential impact of our proposals.
- A1.18 A person within Ofcom will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organisations interested in the outcome of our decisions. Ofcom's 'Consultation Champion' will also be the main person to contact with views on the way we run our consultations.
- A1.19 If we are not able to follow one of these principles, we will explain why.

### After the consultation

- A1.20 We think it is important for everyone interested in an issue to see the views of others during a consultation. We would usually publish all the responses we have received on our website. In our statement, we will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.
- A1.21 If you have any comments or suggestions on how Ofcom conducts its consultations, please call our consultation helpdesk on 020 7981 3003 or e-mail us at [consult@ofcom.org.uk](mailto:consult@ofcom.org.uk). If you would like to discuss these issues or Ofcom's consultation processes more generally you can alternatively contact Graham Howell, Secretary to the Corporation, who is Ofcom's consultation champion:

Graham Howell  
Ofcom  
Riverside House  
2a Southwark Bridge Road  
London SE1 9HA

Tel: 020 7981 3601

Email [Graham.Howell@ofcom.org.uk](mailto:Graham.Howell@ofcom.org.uk)

## Cover sheet for response to an Ofcom consultation

### BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

### CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing

Name/contact details/job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts?

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

### DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

## Annex 2

# Ofcom guidance to broadcasters of relevant channels on arrangements for signing

## Introduction

A2.1 Ofcom's guidance to broadcasters of relevant channels on arrangements for signing is set out in the Code on Television Access Services ('the Code'), and in Annex 3 to the Code. Relevant extracts can be found below. The complete text of both documents can be found on Ofcom's website.<sup>25</sup>

## Extracts from the Code

[numbering of paragraphs as set out in the Code]

"13. Ofcom would expect to exclude television services from providing signing if they do not meet the relevant signing threshold. The signing thresholds for:

- a) domestic television services is an average audience share of all UK households over a 12 month period ('audience share') of 1% or less;
- b) non-domestic television services is the average audience share indicated in Annex 2.

14. Ofcom will consider, in the light of the factors set out above, whether or not channels with an audience share of slightly more than or slightly less than the signing threshold should be excluded.

15. Section 303(10) (c) of the Act allows Ofcom to impose alternative requirements with respect to the provision of assistance for disabled people in relation to any programmes or services it has excluded. In considering whether alternative requirements should be imposed on individual channels, it is open to Ofcom to take into account any voluntary arrangements entered into by broadcasters that would also meet the needs of sign-language users more effectively.

16. Having regard to this, Ofcom requires that television services achieving an audience share between the relevant audience share and signing thresholds should, from the first anniversary of the relevant date, broadcast between 7am and 11pm local time 30 minutes of programming presented in sign language each month. Ofcom will keep this requirement under review.

17. Broadcasters may, if they wish, propose alternatives to the arrangements set out in paragraph 13, and Ofcom will consider these in the light of the factors set out in paragraph 10, the needs of people with hearing impairments and the guidance set out in Annex 3 to the Code. Further guidance on this is set out in Annex 3 to the Code."

---

<sup>25</sup> Code on Television Access Services, December 2012, Ofcom (<http://stakeholders.ofcom.org.uk/broadcasting/broadcast-codes/tv-access-services/code-tv-access-services-2013/>).

## Extracts from the Guidance

[numbering of paragraphs as set out in the Guidance]

- A3.1 “This Annex to the Code on Television Access Services sets out guidance for broadcasters of relevant channels on signing on television. Relevant channels are those which:
- a) are required as a result of Ofcom’s mid-year review to be subject to access service obligations in the following year;
  - b) are determined by Ofcom to have had an average audience share of all UK households over the preceding year of less than 1%; and
  - c) are excluded under section 303(9) of the Communications Act from the targets set out in paragraph 7 of the Code on Television Access Services (‘the existing obligations’).
- A3.2 Ofcom expects to notify broadcasters of relevant channels (subject to the timely provision by them of information on relevant turnover<sup>26</sup>) by 31 May each year that, as a result of the mid-year review, they will be subject to the arrangements applying to channels with an audience share of less than 1%. For advance planning purposes, broadcasters currently subject to obligations under the Code on Television Access Services that spend less than 1% of the relevant turnover of relevant channels on access services should work on the premise that they will be excluded from the existing obligations and will be required to meet the new requirements described below.

## Regulatory requirements

- A3.3 From 1 January 2009, and in accordance with section 303(10)(c) of the Communications Act 2003, relevant channels will be required to transmit 30 minutes of sign-presented programming each month between 7am and 11pm. This amount is subject to review from time to time.
- A3.4 Broadcasters of relevant channels who wish to propose that they should not be subject to these regulatory requirements should follow the procedures below.

## Alternative arrangements

- A3.5 Ofcom will consider proposals from individual broadcasters or groups of broadcasters of relevant channels for alternative ways of achieving the objective of making more sign-presented programming available to deaf or hearing-impaired sign language users. Broadcasters are not obliged to propose alternative arrangements. Nor is Ofcom required to accept that the proposal by broadcasters of any alternative arrangements will result in Ofcom not imposing the regulatory requirements. In deciding whether or not to impose the regulatory requirements in

---

<sup>26</sup> As part of their annual information return, non-PSB licensees are required to provide data on relevant turnover for the previous year by 31 March. In accordance with the Code on Television Access Services, Ofcom will use this data together with audience share data to assess which channels will be required to provide television access services in the following year. Ofcom will aim to notify relevant channels by 31 May. Broadcasters that do not provide information on their relevant turnover by the time requested may have less notice of whether or not some or all of their channels will be subject to access service requirements.

A3.3 on broadcasters that have submitted alternative proposals, Ofcom will have regard to the matters set out in A3.7 a-e below.

A3.6 Broadcasters may discuss possible alternative arrangements for relevant channels with Ofcom in advance of a formal proposal, and Ofcom encourages them to do so. In any case, in order that broadcasters and / or third parties have sufficient time to plan for the implementation of alternative arrangements, they should submit proposals no later than 30 June in the year before they wish to implement them. If they do not submit proposals by this date, broadcasters are likely to be obliged to be obliged to implement the regulatory requirements set out in A3.3. Provided the proposals contain sufficient information, Ofcom will endeavour to decide whether or not to impose the regulatory requirements by 31 July.

A3.7 In determining whether the regulatory requirements should be imposed on broadcasters that have proposed alternative arrangements, Ofcom will consider whether the alternative arrangements would be likely to provide better assistance for deaf people using sign language, and in particular whether they would:

- a) contribute to a diversity of sign-presented programming broadcast between 7am and 11pm;
- b) incorporate effective mechanisms for taking account of the views of deaf groups about the preferences of deaf people for programming;
- c) ensure that the terms of access to sign-presented programming are no less favourable to sign language users than access to the channel in respect of which alternative arrangements are proposed:
- d) amount to, or be equivalent to, an annual financial contribution in respect of each relevant channel of approximately £20,000<sup>27</sup>. This amount is subject to review from time to time; and
- e) commit the broadcaster to implement the arrangements or to contract with an acceptable party to implement the arrangements for a period of not less than two years, subject to a provision allowing the channel to discontinue the arrangements if it ceases to be subject to access service obligations.

A3.8 A broadcaster that has, in good faith and with Ofcom's agreement, contracted for the alternative arrangements to be implemented by a third party shall not be required to resume the implementation of regulatory requirements referred set out in A3.3 for the duration of the paid-for period of the contract, even if the third party fails to fulfil the requirements of the contract.

A3.9 This guidance will be reviewed periodically".

---

<sup>27</sup> This figure represents the lower end of the range of current assessed direct costs of about £19,000 and the estimated cost of the regulatory requirements set out in paragraph A3.3 (£60,000 for a channel currently required to sign 2% of programming)

## Annex 3

# Signing of TV programmes on British television

## Introduction

A3.1 In this Annex, we summarise how TV programmes on British television are signed for BSL users.

## Sign-interpreted programming

A3.2 High audience channels (generally, those with an audience share of 1% or more) are required to meet quotas for signed programming rising from 1% of non-excluded programming, to 5%, over ten years. In meeting their quotas, broadcasters generally seek to make available signed versions of their most popular programming, such as *Holby City* (BBC1), *Coronation Street* (ITV2) and *Hollyoaks* (Channel 4).

## Sign-presented programming

A3.3 In addition to broadcasting sign-interpreted versions of a wide variety of programmes, the BBC also broadcasts the longest-running sign-presented programme on British television - *See Hear* - a magazine programme for and by Deaf people that started in 1981.<sup>28</sup>

A3.4 The table below shows the availability of sign-presented and sign-interpreted programming on British television channels in a sample week of 2014.

---

<sup>28</sup> <http://www.bbc.co.uk/programmes/b006m9cb>

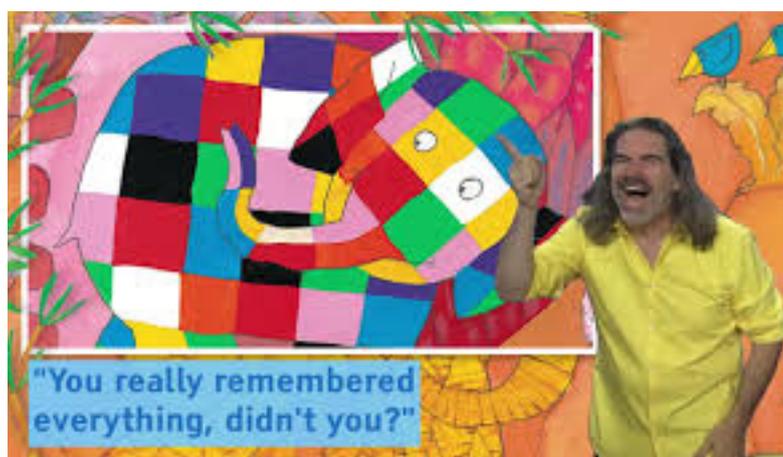
**Figure 9: Signed programming on British television channels (week commencing 5 July)**

5-11 July 2014	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
<b>BBC One</b>							
<b>BBC Two</b>	1:05-3:05 am 8:20-10:35 am	12:20-1:20 am 8:20-10:35 am	12:20-1:20 am 8:15-11:00 am	12:20-1:20 am 8:20-10:35 am	12:20-1:50 am 8:20-10:35 am	1:50-2:50 am	
<b>ITV 1</b>	4:15-5:05 am	3:00-5:05 am	4:15-5:05 am	4:15-5:05 am	4:15-5:05 am	3:00-3:40 am 6:25-6:50 am*	6:25-6:50 am*
<b>Channel 4</b>			4:40-5:05 am		5:15-5:45 am		2:25-4:35 am
<b>Channel 5</b>	4:00-4:50 am	4:00-6:00 am	4:00-6:00 am	4:00-6:00 am	4:00-6:00 am	4:00-6:00 am	4:00-4:50 am
<b>BBC Three</b>		3:00-4:00 am	3:30-4:00 am	3:00-4:00 am	3:00-4:00 am		
<b>BBC Four</b>		2:50-3:50 am	2:30-3:30 am	2:50-3:50 am	3:00-4:00 am		
<b>CBBC</b>	10:55-11:25 am	10:55-11:25 am	10:55-11:25 am	10:55-11:25 am	10:55-11:25 am		
<b>CBeebies</b>						2:00-4:25 pm	2:00-4:25 pm
<b>BBC News</b>							
<b>ITV 2</b>						6:10-8:35 am	6:55-9:15 am
<b>ITV 3</b>	4:25-6:00 am	1:10-2:00 am	1:10-2:00 am	1:10-2:00 am		3:40-6:00 am	
<b>ITV 4</b>	7:00-7:55 am	2:00-3:00 am 6:55-7:45 am	6:55-7:45 am	6:55-7:45 am	6:55-7:45 am	1:30-2:00 am 6:40-7:30 am	6:10-6:40 am
<b>CITV</b>						6:25-6:50 am	6:25-6:50 am
<b>E4</b>	3:20-6:00 am	6:00-6:25 am	6:00-6:25 am	6:00-6:25 am	6:00-6:25 am	6:00-6:25 am	6:00-6:50 am
<b>Film 4</b>	8:00-8:30 am						
<b>Community Channel</b>		2:00-2:30 pm		7:30-8:00 pm		7:30-8:00 am	

\*simulcast with CITV

A3.5 Almost all broadcasters of relevant channels choose to contribute to an approved alternative arrangement (see paragraph A3.6 below). The only current exception is ITV, which shows *Signed Stories* on its children's channel, CITV and makes them available on a dedicated website ([www.signedstories.com](http://www.signedstories.com)). In 2013, CITV broadcast over 3 hours of sign-presented programming each month, significantly exceeding the regulatory requirement of 30 minutes a month.

**Figure 10: screen shot from *Signed Stories*, a sign-presented programme shown on CITV**



### Alternative arrangements approved by Ofcom

A3.6 Most broadcasters of relevant channels have opted to contribute to alternative arrangements approved by Ofcom for making sign-presented programming available. Thus far, the only arrangements proposed to and approved by Ofcom is the contribution of funding to the British Sign Language Broadcasting Trust (BSLBT), which pays for programmes shown in the BSL Zone on the Community Channel, and since 2010, Film 4. Over 99% of BSLBT's funding comes from broadcaster contributions, which have fluctuated between £980,000 and £1,260,000, depending on the number of relevant channels subject to access service requirements.

A3.7 Current schedules are shown in Figure 11 below. The programmes are also made available on demand at [www.bslzone.co.uk](http://www.bslzone.co.uk).

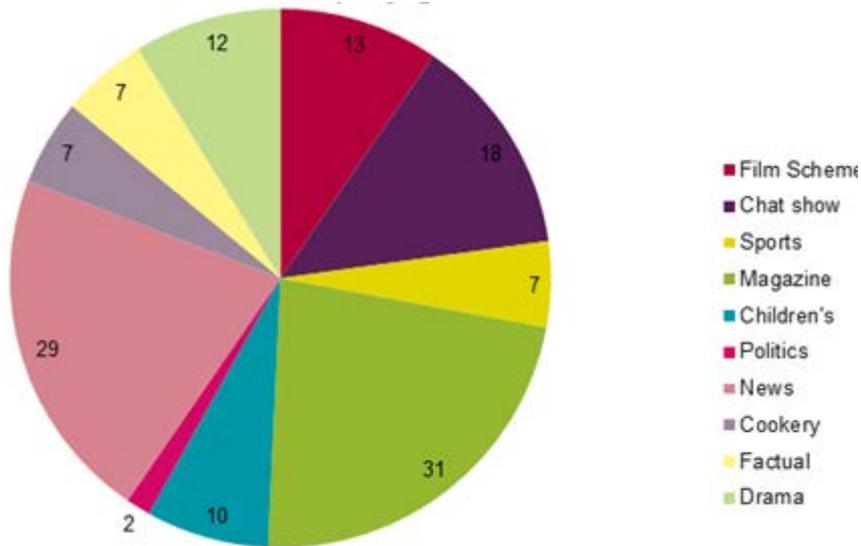
**Figure 11: BSL zones on the Community Channel and Film4**

Programme slots			Free to air		Pay TV	
Day	Time	Channel	Freeview	Freesat	Sky	Virgin
Monday	8am – 8.30am	Film 4	✓	✓	✓	✓
Tuesday	2pm – 2.30pm	Community	X	✓	✓	✓
Thursday	7.30pm – 8pm	Community	X	✓	✓	✓
Saturday	7.30am – 8am	Community	✓	✓	✓	✓

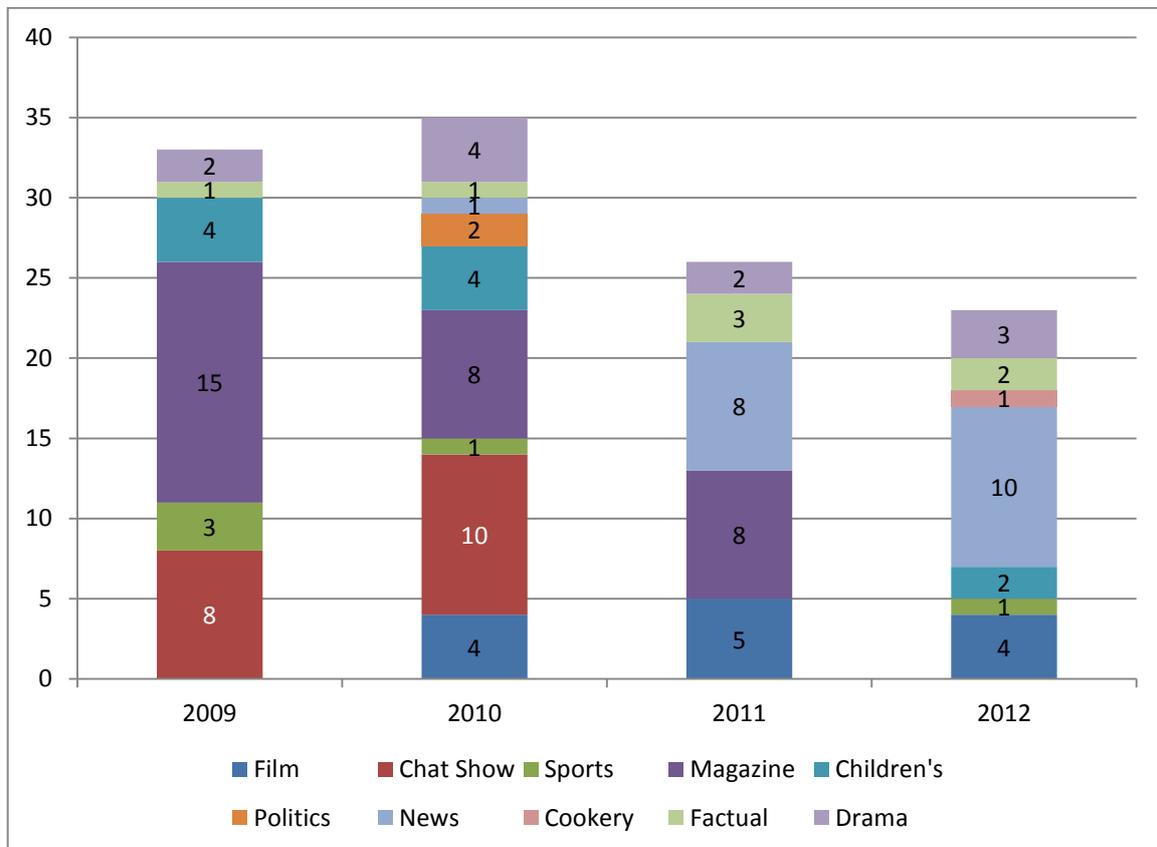
A3.8 BSLBT has commissioned programmes across a wide range of genres, many of which are relevant to the public service television broadcasting purposes set out in section 264(6) of the Communications Act 2003. Programmes of particular note include *The Hub* (a news and current affairs programme for the Deaf), the *Maze of Democracy* ('how Westminster works and how to vote in the 2010 General Election'), *Deaf History* (a series about deaf people who have achieved success), and *Who Cares?* (a programme about care for elderly deaf people).

A3.9 Figure 12 below shows the number of programmes commissioned by genre over the period 2009 to 2013; Figure 13 shows the equivalent annual data for 2009 to 2012 inclusive.

**Figure 12: Programmes commissioned by BSLBT by genre (2009-2013)**



**Figure 13: total BSLBT commission by genre, 2009-2012<sup>29</sup>**



<sup>29</sup> Source: BSLBT

## Annex 4

# Proposed changes to the Code and Guidance

## Introduction

- A4.1 This Annex sets out the changes to the Code and Guidance that Ofcom proposes to make if, depending on the outcome of this consultation the proposals set out in Section 3 and 4 were to be adopted. Annex 2 above reports the relevant extracts of Ofcom's Code on Television Access Services and the guidance to broadcasters of relevant channels on arrangements for signing as set out in and in Annex 3 to the Code. The complete text of both documents can be found on Ofcom's website.<sup>30</sup>
- A4.2 For ease of reference, proposed changes to the text of the Code and Guidance are highlighted in yellow, additions are underlined, and deletions are scored through.

## Indexing for inflation

- A4.3 If the proposals to index minimum contributions to alternatives (as summarised in paragraph 3.25 and 3.26 are adopted), Ofcom is minded to amend the Guidance as follows:

'A3.7 In determining whether the regulatory requirements should be imposed on broadcasters that have proposed alternative arrangements, Ofcom will consider whether the alternative arrangements would be likely to provide better assistance for deaf people using sign language, and in particular whether they would:

- a) contribute to a diversity of sign-presented programming broadcast between 7pm and 11pm;
- b) incorporate effective mechanisms for taking account of the views of deaf groups about the preferences of deaf people for programming;
- c) ensure that the terms of access to sign-presented programming are no less favourable to sign language users than access to the channel in respect of which alternative arrangements are proposed;
- d) amount to, or be equivalent to, an annual financial contribution in respect of each relevant channel of approximately ~~£20,000~~<sup>34</sup> £24,100<sup>32</sup> from 2015 onwards, adjusted annually thereafter to take account of inflation, by reference to the Consumer Prices Index. This amount is subject to review from time to time; and

<sup>30</sup> Code on Television Access Services, December 2012, Ofcom (<http://stakeholders.ofcom.org.uk/broadcasting/broadcast-codes/tv-access-services/code-tv-access-services-2013/>).

<sup>34</sup> ~~This figure represents the lower end of the range of current assessed direct costs of about £19,000 and the estimated cost of the regulatory requirements set out in paragraph A3.3 (£60,000 for a channel currently required to sign 2% of programming)~~

<sup>32</sup> This figure was obtained by indexing the level of contribution set in 2007 at £20,000 to CPI between December 2007 and December 2013.

- e) commit the broadcaster to implement the arrangements or to contract with an acceptable party to implement the arrangements for a period of not less than two years, subject to a provision allowing the channel to discontinue the arrangements if it ceases to be subject to access service obligations’.

## Minimum requirements for signing

- A4.4 In the event that Ofcom decides to make no change to the amount of sign-presented programming required to be shown by relevant channels, there would be no need for consequential changes to the Code or Guidance.
- A4.5 If the proposals for the amount of sign-presented content to rise over time are adopted (as summarised in paragraph 4.9), subject to the transitional arrangements referred to in paragraph 4.11, Ofcom is minded to amend the Code as described below.

## “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 2 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.
2. In this code:
  - a) ‘average audience share’ means the audience share over a year in each country where the service is received;
  - b) ‘domestic broadcaster’ means the provider of a television programme service which is primarily intended for reception by members of the public within the United Kingdom;
  - c) ‘non-domestic broadcaster’ means the provider of a television programme service which is primarily intended for reception by members of the public in Member States of the European Union other than the United Kingdom.

## Statutory provisions

3. 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).
4. 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 any digital television programme services (DPS) provided by the Welsh Authority (including S4C Digital). The BBC Agreement<sup>33</sup> also requires the BBC to observe the code in respect of its public television services subject to any exclusions agreed between

---

<sup>33</sup>[http://www.bbc.co.uk/bbctrust/assets/files/pdf/regulatory\\_framework/charter\\_agreement/bbcagreement\\_july06.pdf](http://www.bbc.co.uk/bbctrust/assets/files/pdf/regulatory_framework/charter_agreement/bbcagreement_july06.pdf)

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.

5. 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.

6. 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.

7. 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.

8. The statutory targets for broadcasters are expressed as percentages of the service, including all programmes<sup>34</sup> other than advertisements and programmes that have been excluded by reference to the factors summarised in paragraph 11. 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. Different signing arrangements apply to 'relevant channels', as defined in paragraph A3.1 of Annex 3 to the Code. 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.

9. 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 Annex 1. The BBC is required to continue meeting the interim targets to which it has committed itself, also set out in Annex 1. Other broadcasters are required to meet the targets set out in the Table below<sup>35</sup>.

Anniversary of relevant date or notice date	Subtitling	Signing* ( <u>sign-presented content on relevant channels; sign-presentation or sign-interpretation on others</u> )	Audio Description
---------------------------------------------	------------	------------------------------------------------------------------------------------------------------------------------	-------------------

<sup>34</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.

<sup>35</sup> A list of channels required to provide access services is available on Ofcom's website at [http://stakeholders.ofcom.org.uk/broadcasting/guidance/other-guidance/tv\\_access\\_serv/](http://stakeholders.ofcom.org.uk/broadcasting/guidance/other-guidance/tv_access_serv/). The targets applying to all these channels can be found in the most recent of the periodic reports published by Ofcom on its website at <http://stakeholders.ofcom.org.uk/market-data-research/market-data/tv-sector-data/tv-access-services-reports/>.

		<u>Relevant channels (monthly)</u>	<u>Other channels (annually)</u>	
First	10%	<u>30 minutes</u>	1%	2%
Second	10%	<u>30 minutes</u>	1%	4%
Third	35%	<u>30 minutes</u>	2%	6%
Fourth	35%	<u>30 minutes</u>	2%	8%
Fifth	60%	<u>45 minutes</u>	3%	10%
Sixth	60%	<u>45 minutes</u>	3%	10%
Seventh	70%	<u>60 minutes</u>	4%	10%
Eighth	70%	<u>60 minutes</u>	4%	10%
Ninth	70%	<u>60 minutes</u>	4%	10%
Tenth	80%	<u>75 minutes</u>	5%	10%

\*Transitional arrangements apply to all channels that have reached the fourth (or later) anniversary of their qualifying date by 2015. Their monthly signing obligations are 30 minutes in 2015, 45 minutes in 2016, 60 minutes in 2017 and 75 minutes in 2018.\*

10. 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

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

- 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

12. Having regard to these factors, the following television services are excluded from providing television access services if their share of viewing falls below the audience share threshold<sup>36</sup>. The audience share threshold for:

a) domestic television services is an average audience share of all UK households over a 12 month period ('audience share') of 0.05% or less;

b) non-domestic television services is the average audience share in the relevant EU Member State or States where the service is received over a 12 month period indicated in Annex 2.

13. Ofcom would expect to exclude television services from providing signing if they do not meet the relevant signing thresholds. The signing thresholds for:

a) domestic television services is an average audience share of all UK households over a 12 month period ('audience share') of 1% or less;

b) non-domestic television services is the average audience share indicated in Annex 2.

14. Ofcom will consider, in the light of the factors set out above, whether or not channels with an audience share of slightly more than or slightly less than the signing threshold should be excluded.

15. Section 303 (10) (c) of the Act allows Ofcom to impose alternative requirements with respect to the provision of assistance for disabled people in relation to any programmes or services it has excluded. In considering whether alternative requirements should be imposed on individual channels, it is open to Ofcom to take into account any voluntary arrangements entered into by broadcasters that would also meet the needs of sign-language users more effectively.

16. Having regards to this, Ofcom requires that television services achieving an audience share between the relevant audience share and signing thresholds should, from the first anniversary of the relevant date, broadcast each month no less than the minimum amounts of sign-presented programming specified in the table following paragraph 9, such programming to be shown between 7am and 11pm local time<sup>37</sup>. ~~30 minutes of programming presented in sign language each month.~~ Ofcom will keep this requirement under review."

## Minimum contributions to alternative arrangements

A4.6 In the event that Ofcom decides to make no change to the minimum contribution to alternative arrangements, other than to make annual adjustments for inflation, the only changes that would be required are those referred to in paragraph A4.3 above.

A4.7 If Ofcom concludes that minimum contributions to alternative arrangements should rise over time (as summarised in paragraph 4.26), subject to the transitional

<sup>36</sup> The provisions in paragraphs 12 to 14 apply to television services that are required to provide access services (otherwise than by reason of the provisions in paragraphs 12 to 14) including those that have been exempted in the circumstance described in paragraph 7, which have had different targets applied to them.

<sup>37</sup> Programming that, in Ofcom's opinion, contains a substantial proportion of sign-interpreted content will not fulfil this obligation.

arrangements referred to in paragraph 4.28, Ofcom is minded to amend the Guidance as described below.

“A3.7 In determining whether the regulatory requirements should be imposed on broadcasters that have proposed alternative arrangement, Ofcom will consider whether the alternative arrangements would be likely to provide better assistance for deaf people using sign language, and in particular whether they would:

- a) contribute to a diversity of sign-presented programming broadcast between 7pm and 11pm;
- b) incorporate effective mechanisms for taking account of the views of deaf groups about the preferences of deaf people for programming;
- c) ensure that the terms of access to sign-presented programming are no less favourable to sign language users than access to the channel in respect of which alternative arrangements are proposed;
- d) amount to, or be equivalent to, an annual financial contribution in respect of each relevant channel, as set out in the table below ~~of approximately £20,000~~. This amount is subject to review from time to time; and
- e) commit the broadcaster to implement the arrangements or to contract with an acceptable party to implement the arrangements for a period of not less than two years, subject to a provision allowing the channel to discontinue the arrangements if it ceases to be subject to access service obligations.

<b><u>Anniversary of qualifying date*</u></b>	<b><u>1<sup>st</sup> to 4<sup>th</sup></u></b>	<b><u>5<sup>th</sup> to 6<sup>th</sup></u></b>	<b><u>7<sup>th</sup> to 9<sup>th</sup></u></b>	<b><u>10<sup>th</sup> onwards</u></b>
<b><u>Minimum annual contributions to approved alternatives for relevant channels</u></b> (in lieu of monthly signing requirements)	<u>£24.1k</u>	<u>£36.1k plus CPI</u>	<u>£48.2k plus CPI</u>	<u>£60.2k plus CPI</u>

\*Transitional arrangements apply to all channels that have reached the fourth (or later) anniversary of their qualifying date by 2015. The minimum annual contributions they would need to make to alternative arrangements are £24.1k in 2015, and from 2016 onwards, the following sums, as adjusted for inflation: £36.1k in 2016, £48.2k in 2017 and £60.2k in 2018.”