

Review of signing arrangements for relevant TV channels

**Response from the Commercial
Broadcasters Association to Ofcom**

September 2014



A VOICE FOR COMMERCIAL BROADCASTERS IN THE UK

Introduction

1. The Commercial Broadcasters Association (COBA) is the industry body for multichannel broadcasters in the digital, cable and satellite television sector.
2. COBA members play a vital role in the success of the UK broadcasting sector. The multichannel sector is one of the fastest growing parts of the television landscape. In the last decade, the sector has increased its turnover by 30% to more than £5 billion a year. This is approaching half of the UK broadcasting sector's total annual turnover, and has helped establish the sector as the largest in Europe by turnover.¹
3. As part of this growth, the multichannel sector has doubled direct employment over the last decade.² In addition, it has increased investment in UK television production to a record £725m per annum, up nearly 50% on 2009 levels.³
4. This is in addition to providing creative competition in commissioning and audience choice in the range of channels and services on offer to the UK public. For example, COBA members are active commissioners of UK arts, news, drama, comedy and children's programming, and have driven innovation in content delivery with themed or targeted channels and interactive controls such as pin protection.
5. **For further information please contact Adam Minns, COBA's Executive Director, at adam@coba.org.uk or 0203 327 4101**

¹ Ofcom International Broadcasting Market Report 2013

² Skillset, Television Sector – Labour Market Intelligence Profile

³ COBA 2014 Census, Oliver & Ohlbaum Associates for COBA

Executive Summary

1. COBA members are committed to providing access services and the UK broadcasting sector is, as highlighted by the DCMS, “a world leader” in providing television access services.⁴ Of the 69 channels required to provide access services last year, 62 met or exceeded their targets, most comfortably, according to Ofcom.⁵
2. Within the UK regulatory framework for access services provision, the principle of an access services category for channels with a 0.05%-1% audience share is important, providing a margin in which to secure budgets and set up processes in anticipation of providing access services directly on a channel as it develops.
3. In regard to the provision of signing via alternative arrangements, many COBA members are closely involved in the BSLBT and support its work. We support further consideration of whether current funding levels for the BSLBT are appropriate and, to be clear, there may well be a need for an increase in funding for the BSLBT.
4. However, we believe this needs to be done on the basis of a fuller understanding of the opportunities and challenges facing the BSLBT.
5. The proposal represents a substantial increase in fees. While we are open to supporting the work of the BSLBT and potentially increasing fees on an appropriate basis, such a substantial increase is in our view disproportionate without a greater understanding of commissioning trends, programme supply and audience demand. We believe such an analysis is vital for the BSLBT’s sustainability as it will help establish the level of funding required and how that funding should be invested.
6. Just as importantly, we believe the provision and regulation of access services should be approached where possible in a holistic way. New technology has created new opportunities. For example, we understand that disability groups have told ATVOD that they view provision of access services on catch-up programming as a priority. Currently, COBA members are providing or seeking to develop access services across a range of linear and non-linear services, including domestic and non-domestic ones. Ofcom’s general approach to access services should, as far as possible under existing laws, recognise that licence holders face cost increases on a number of levels at the

⁴ Connectivity, Content and Consumers, July 2013, DCMS, page 22

⁵ Television Access Services 2013, Ofcom, 1.16

same time, as well as the fact that new technology is creating opportunities for giving audiences greater choice in how access services are provided.

7. As part of a more coordinated approach, it seems logical to consider whether it remains appropriate for the BSLBT to be funded solely by alternative arrangements on relative channels, and whether such an option should be extended to channels with larger audiences. This would provide larger channels with a greater degree of flexibility, and open up considerable potential for greater funding for the BSLBT.

Response to consultation questions

1. 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?

Many COBA members are closely involved in the BSLBT and support its work. We support further consideration of whether current funding levels for the BSLBT are appropriate and, to be clear, there may well be a need for an increase in funding for the BSLBT.

However, we believe this needs to be done on the basis of a fuller understanding of the opportunities and challenges facing the BSLBT, while recognising changes in technology and, potentially, audience demand as part of a more holistic approach to the provision of access services.

The proposal represents a substantial increase in fees. While we are open to supporting the work of the BSLBT and potentially increasing fees on an appropriate basis, such a substantial increase is in our view disproportionate without a greater understanding of three areas: commissioning, programme supply and audience demand. We believe such an analysis is vital for the Trust's sustainability as it will help establish the level of funding required and how that funding should be invested.

The consultation notes that there has been a drop in the number of commissions, but this alone does not provide an adequate picture of the situation. Has the number of first-run hours also fallen? If so, is this due to commissioning trends? What is the cost per hour of those commissions? And has the supply base shrunk – i.e. is the BSLBT commissioning from a smaller number of suppliers and what proportion of those commissions are from new suppliers to the Trust? On this latter point, as the consultation document notes, the signing supply sector is small. There may be weaknesses in the supply sector in terms of the range and/or volume of companies with the necessary specialist skills. This may have led, in part at least, to the drop in the volume of commissions noted by Ofcom. This issue needs to be better understood, as simply increasing commissioning budgets may not be the answer. For example, it may be necessary to stimulate competition for commissions from companies in the wider production sector (through, for example, offering longer term tenders for programmes as is done on shows such as Question Time).

Just as importantly, we believe the provision and regulation of access services should be approached where possible in a holistic way. New technology has created new opportunities. For example, we understand that disability groups have told ATVOD that they view provision of access services on catch-up programming as a priority. Currently, COBA members are providing or seeking to develop access services across a range of linear and non-linear services, including domestic and non-domestic ones. Ofcom's general approach to access services should, as far as possible under existing laws, recognise that licence holders face cost increases on a number of levels at the same time, as well as the fact that new technology is creating opportunities for giving audiences greater choice in how access services are provided.

As part of a more coordinated approach, it seems logical to consider whether it remains appropriate for the BSLBT to be funded solely by alternative arrangements on relative channels, and whether such an option should be extended to channels with larger audiences. This would provide larger channels with a greater degree of flexibility, and open up considerable potential for greater funding for the BSLBT.

Longer term, while we appreciate that Section 303 (5d) of the 2003 Communications Act places specific access services requirements on linear services, we support in principle further consideration of allowing linear services to fulfil an appropriate proportion of their access services requirements through the provision of such content via on-demand services, providing this does not undermine the work of the BSLBT. Such a move would make the need to understand properly the necessary funding levels for the BSLBT all the more important in order to ensure that it remains properly funded going forward.

- 2. 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?**

We believe there is a need for a far greater understanding of the opportunities and challenges facing the BSLBT in commissioning sign-presented programming, as we have outlined in response to Question 1.

- 3. 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?

No. Far greater understanding of the issue is required, as we have outlined in response to Question 1. We do not believe it is proportionate to introduce an inflation-linked rise in fees in perpetuity without a clear and robust analysis of audience demand and supply costs.

- 4. 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.**

The first step in determining the appropriate level of any increase in signing requirements should in our view be to understand audience demand. There have been considerable developments in technology and television consumption since Ofcom's 2007 consultation, in which increases were discussed. We understand, for example, that at least some disability groups view the provision of signing on on-demand services as a priority. As we have mentioned, we believe Ofcom should as far as possible look at the provision of signing on a holistic basis.

- 5. 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?**

Please see our answer to Question 4.

- 6. 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.**

Ofcom has not presented any evidence to establish that there is a need for such an increase, as we have outlined in response to Question 1. It is our firm

view that increased revenues for the sector are not in themselves a reason to increase the regulatory burden. Ofcom should first establish the nature of any problem to be addressed and be able to demonstrate that increased fees are the way to solve it. We do not believe the regulator has done this.

We also point out that increased revenues do not necessarily entail a greater ability to pay fees, particularly with increased competition amongst a greater number of channels means investing in marketing and exclusive content, amongst other things.