

22nd September 2014

Review of signing arrangements for relevant TV channels

Response from Viacom International Media Networks UK and Ireland

Viacom International Media Networks UK & Ireland (Viacom) is the most successful international supplier of pay TV channels to the UK, with more than 20 owned and operated TV channels offering the very best in music, comedy, kids and general entertainment programming through its MTV, Comedy Central and Nickelodeon brands. Channel 5 became part of the Viacom family this month.

Eleven of Viacom's channels will qualify to make alternative arrangements in respect of their signing obligations in 2015. These are: 5USA, 5*, Nickelodeon, Nick JR, Nick JR 2, Nicktoons, MTV, MTV Music, Viva, Comedy Central and Comedy Central Extra. If we were to pay the current rate of £20,000 per channel this would cost us £220,000 in 2015.

We recognise there has been no increase in the payment made on behalf of each channel since the alternative arrangements were introduced. We also acknowledge that the British Sign Language Broadcasting Trust (BSLBT) has had considerable success on a limited budget in producing sign-presented programmes for the small specialist audience that appreciates them. Therefore, we do not think it unreasonable for the annual payments from qualifying channels to increase in line with inflation.

However, we do not think there is a strong enough case to justify an increase substantially beyond this level without more thorough examination of audience demand, changes in technology, and costs of production as part of a more thorough review of access service provision.

We provide our reasoning in response to each of Ofcom's consultation questions.

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?

Yes. At the time the alternative arrangements were introduced, there was no guarantee that they would result in the provision of a significant service for people with profound hearing loss whose main language was British Sign Language (BSL). Since it was created, the BSLBT has demonstrated that it has been able to serve this small specialist audience with a variety of original programmes. While it may have been prudent not to adjust fees for inflation when the BSLBT was still proving itself (and the broadcasting industry was suffering the impact of the recession), it is now timely to introduce an inflation-linked increase.

We estimate that 65 channels will make alternative arrangements in respect of their signing obligations next year. Without an increase, this would provide BSLBT with an income of £1.3million; the inflation-based increase proposed by Ofcom would see its income rise to around £1.5million, compensating BSLBT for the impact of inflation and allowing more programmes to be commissioned.

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?

Yes.

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?

We agree that using the Consumer Price Index (CPI), as a widely accepted objective measurement of general inflation, is preferable to any other potential way of measuring inflation.

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?

None of our channels make sign presented programmes, so this issue is not of direct relevance to us.

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.

Viacom is opposed to this steep increase in payments to the BSLBT. While we are happy for our annual payments per channel to increase in line with inflation, we see no justification for them to increase threefold in the space of just four years. There are a number of reasons for this position.

Firstly, the level of increase is disproportionate. Current payments levels of £220,000 would increase to over £660,000 plus inflation – a rise of almost half a million pounds for Viacom alone.

It is not clear what the benefit would be to the intended audience. Estimates of the number of sign language users in the UK vary, but are generally reckoned to be less than 100,000. Of these, a very large number also read English and so are able to follow subtitles. Increasing threefold the funds available to the BSLBT would enable it to greatly increase the number of programmes it commissions – by far more than the “modest increase in the quantity, quality and diversity of new content” predicted by Ofcom. But - especially given the limited broadcast hours available to it - the extra benefit delivered may not be capable of justifying the additional costs.

Ofcom has compared the two per cent level of signing provision required for most channels at the time the alternative arrangements were introduced and the five per cent maximum level that these channels would have reached ten years after launch, and then applied that 150% increase in quota to the level of the BSLBT subvention. This ignores how quotas are satisfied in practice, in particular by repeating some programmes. For example, broadcasters will tend to audio describe their most popular programmes – and because they are popular, they will be repeated, sometimes on secondary

channels, sometimes more than once. So an hour long programme can be audio described (or signed or subtitled) just once; but each time that programme is broadcast with the appropriate access services, it contributes an hour towards meeting the relevant quotas. Ofcom's approach is flawed in its own terms because it assumes that a 150% increase in quota necessarily results in a 150% increase in broadcasters' costs, even though that is not the case in practice.

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Viacom believes the question posed in this part of the consultation is too narrowly focused. Instead, Ofcom should go ahead with the inflation-based 20% increase in the subvention and then conduct a wider review that can address in detail the potential benefits of further increasing the payments, the opportunity cost in terms of broadcasters' programme budgets, and whether Ofcom's duties are best discharged through continuing with a linear-based regime for signed programmes when there is the potential for increasing access to such content online. Such a review should include in-depth research about the target audience's preferences and how widely BSLBT programmes are watched; and also look at such questions as whether channels with larger audiences should be given the opportunity to contribute to BSLBT instead of persisting with sign-interpreted programmes.

Notwithstanding the above, we are also aware that eleven of the channels that will be funding the BSLBT in 2015 are children's channels. But only ten of the 136 programmes commissioned by BSLBT over its first five years were children's programmes. If there was a step-like increase in subventions, and this pattern of commissioning persisted, significant sums would be taken from the budgets of hard-pressed children's channels to fund signed programmes in adult genres. This disparity between origins of funding and programme commissioning should also be considered as part of a wider review.

Should Ofcom wish to discuss this matter further with Viacom and its members of staff responsible for access services please contact

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