



Further consultation: Making on-demand services accessible

Executive Summary:

Providing access services (subtitles, signing, audio-description) for on-demand programmes is the right thing to do for consumers so that viewers who have a hearing/sight impairment or additional access needs are not left behind. We welcome Ofcom's further consultation on this matter.

We believe there are some points that have been not addressed as part of this consultation which would be of great value across the industry and have an impact on consumers giving them access to more products and services.

1. Responsibility of creation of access services:

- We previously advocated that content providers should hold the responsibility to create access services for their content and the responsibility of platform providers should be to surface these services to consumers. This would avoid duplication of effort for platform providers and would standardise the level of coverage of access services on VOD platforms. Creation costs could be consumed by the content providers and included as part of the content licensing agreement which would then be spread across all platforms onboarding the content. We would ask that Ofcom re-review this

2. Standardisation of access services:

- Further to the responsibility of the creation of access services we believe it would be prudent to have a standardised technical format. This is particularly for the case of subtitles. It is possible for platform providers to implement facilities to convert subtitle formats suitable for their platform. This solution is widely available and low cost.

Looking at potential financial impacts of the proposed regulation, we are concerned that the impact will have the opposite desired affect where platform providers will be forced to reduce their content catalogue as the cost of providing access serviced content is significant, particularly in regard to the signing requirement.

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In light of this, we have responded to this consultation with BT TV (platform) and BT Sport (content provider) in mind.

Consultation questions

Question 1: Do you agree with our suggested approach to assessing exemptions for affordability, i.e. using overall turnover?

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Question 2: Do you agree with our suggestion that 'small companies' should be exempted from the requirements?

Yes, we would agree that small companies should be exempt from the requirements, however, we maintain our standpoint that the responsibility and therefore the cost of creating access services should be placed onto the content provider and not the platform provider. Looking across platform providers there is duplicated content across the industry with the central point being the content provider, therefore we believe that the content provider should be the source of access services and the platform providers should have responsibility for surfacing these access services to the consumers. This would remove the disparity of coverage across the industry by levelling out the playing field for smaller platforms who would not have to bear the cost of creating the access services themselves. Content providers could also bake in the cost of the access service files within their wholesale pricing.

Question 3: Do you agree that a threshold level of 1% for the remaining ODPS providers is proportionate? The following questions are applicable to ODPS providers only:

Yes. we agree with the 1% threshold where the company is appropriate.

Question 4: Can you provide any information on the costs of providing access services, including in relation to the various platforms by which services are delivered?

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Question 5: Can you provide any information on the proportion of your ODPS catalogue which is replaced over a given month/ year (rather than archived)?

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Question 6: If you have a broadcast television service, can you provide any information on the proportion of your ODPS catalogue which is repurposed from broadcast television over a given month/ year?

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Question 7: If you have more than one ODPS, can you provide any information on the hours of unique content provided across all your ODPS over a given year?

Of our notified services, we have added 4,767 hours of content on BT Sport, and 16,850 hours of content on BT TV over the last 12 months. This content is not unique to BT as it is available through other ODPS.

Question 8: Can you provide any information on how much advertising/ subscription revenue you would expect to gain from providing access services on your content?

BT TV on demand does not have integrated advertising within the content itself. It is an ad-free service. We supply our VOD on a subscription basis for BT Sport and TV catch-up but also a rent/buy

model for Films and TV Shows. It's not possible for us to separate the impact of access services on our subscriptions or rent/buy options. We believe this would be negligible.

Question 9: *If you have provided answers for any of Qs 4-8 above, would you be happy for Ofcom to share this information with Government on a confidential basis, for the purpose of their impact assessment to inform the drafting of regulations?*

We would be comfortable with sharing this information with the government providing additional anonymity steps are taken before sharing figures with the government. The figures provided should be confidential as to its origin and, if possible, aggregated at an industry level.

Question 10: *Do you agree with our suggested approach to making exemptions on the basis of audience size?*

We agree with the suggested approach, However, we would be interested to know how does Ofcom plan to assess this in practice? We are concerned how this may affect low volume audiences with specialist interest which doesn't appeal to the mainstream audiences.

Question 11: *Do you agree with our suggested threshold for assessing audience size?*

Yes, we would agree with the suggested threshold for assessing audience size, however, unlike linear, audience sizes for video on demand is not readily available. What is Ofcom's proposal to ensure this is fair and equal amongst platform providers? Currently there is no independent central reporting capability for video on demand as yet.

We are able to report on our own direct platform as to audience size, but we are not able to directly report on audience size through other platforms e.g. BT Sport on Virgin Media.

Question 12: *If you are an ODPS provider, do you have information on unique visitors to your service, including by the platforms through which your service is delivered? Would you be prepared to share estimated audience metrics with Ofcom on a confidential basis, for use in our impact analysis? (Please provide if so)*

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Question 13: *Do you agree with our suggested approach to assessing exemptions on the grounds of technical difficulty?*

Most platforms support Subs and Audio Description exemptions on legacy platforms, so in theory they are not technically impossible. The only issue would be one of scale with regards to large catalogues of content which would be less of an issue for smaller providers. We understand that signing may be more of an issue for platforms which don't support this access feature. However, we do still strongly advocate for the standardisation of formats or a base format that content providers use and that the onus be on content providers to provide access source material.

Question 14: *If Ofcom is given discretion in this area, do you agree with our suggested approach to making exemptions for particular genres/types of programmes?*

In addition to 'adult' content, we believe live commentated sport, music videos and programmes targeted to babies/toddlers should be subject to reduced requirements. Where content providers identify an audience benefit for a particular programme (on a case-by-case basis), for example with live sport, and where practically possible, they should make best endeavours to make this content accessible. However, this should not be mandated by regulation.

As a content aggregator, we source content from multiple providers to offer to our customers, many of these content providers are international and therefore we would expect them to be exempt from regulation and reported on accordingly. However, if this is made available to us, we accept that as a platform we should make reasonable endeavours to surface them.

Question 15: *If Government wants to specify which types of programming should be exempt in the regulations, do you agree with our provisional view that the exemptions should only be for audio description on news and music programmes?*

We agree that some exemptions should be applicable but also want to draw attention to where services are not able to be practically applied to certain content genres. For example, in a highly commentated sport programming, there are no obvious breaks in the action to provide quality audio description and therefore would provide no extra benefit to the user.

Question 16: *Do you have any views on our preferred approach to determining applicable signing requirements?*

We agree that all providers should have the choice of providing sign-interpreted/presented content or providing a financial contribution. We believe all providers have a duty to provide this service to consumers who have a AS requirement, despite the size of the company.

Question 17: *Do you prefer Option A or Option B for determining the levels of sign-presentation / funding for alternative arrangements and why?*

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Question 18: *What alternative signing arrangements do you think should be in place for ODPS? Should this be an extension of the current arrangement with BSLBT?*

BSLBT contribution is an appropriate arrangement currently for linear, with the new legislation requiring an additional contribution for VOD signing it may cause a negative effect on BSLBT contributions overall where platform providers will start to provide sign interpreted content for linear then repurpose this for VOD to meet both regulations. We would be keen to hear from Ofcom further information on the suggested contribution amount and how this would be calculated, also taking into consideration the linear contribution for those who are both broadcasters and ODPS providers.

We would also like to see the output of the Ofcom research into the consumers preference for sign presented content (BSLBT) vs sign interpreted content which would help inform us on our decision.

Question 19: *Do you believe there should be an exemption for signing in cases where it allows ODPS providers to offer subtitling and AD?*

Consumers who require signing are not consumers of Audio Description therefore we do not believe that a reduction in signing would be compensated by an increase in Audio Description.

Subtitles is a good alternative to signed content however many deaf people have BSL as their first language and find it hard to consume subtitles due to the speed at which they are presented on screen. Having an exemption, we do not believe is appropriate but perhaps a reduction in the requirements/BSLBT contribution would be better for consumers.

Question 20: *Do you have any information on the relative costs of providing sign-interpreted or sign-presented programming? If so, please indicate whether you would be happy for Ofcom to share*

this information with Government on a confidential basis, for the purpose of their impact assessment to inform the drafting of regulations.

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Question 21: *Do you agree with our suggested approach on how targets should be met across ODPS services and platforms?*

Option 1 – The Flexible Approach would be our preference as we would be able to do the requisite due diligence on this to meet the targets. We would prioritise platforms with the largest user base first, rather than focussing on smaller platforms which would not drive as much benefit for consumers.

We would also ensure that we cover a range of genres whilst giving priority to most popular content. There is also consideration to be made on the shelf life of content, for example on BT Sport we curate short form content which can be live on the platform for as little as 24 hours. It is near impossible for us to provide access services on short form content due to the turnaround time of creating this. To add subtitles to a VOD asset would take around 24hours before it is live on the platform, at which time the content could be in the last few hours of its life cycle. For Audio Description it takes even longer (3-5 days) and Signing (estimated 7 days minimum).

Taking a prescriptive approach where numbers on a page are reported back would not take into consideration all the variables which are associated with VOD. Linear broadcast is much more straightforward as there is a finite number of hours in a day. VOD catalogues give users access to thousands of hours of content to pick and choose from.

Question 22: *Do you agree with our suggested approach to implementing the requirements?*

We agree this is a sensible approach to implementing and enforcing the targets for Subtitles and Audio Description, we (BT TV) are already working towards the 2-year targets with the current Subtitle coverage of 37% and 2% for Audio Description across our content catalogue.

We would need further information on the signing requirements and any alternative arrangements before commenting on that aspect.

Question 23: *If you are an ODPS provider, would you be able to provide Ofcom with the information outlined in 5.18 to 5.21 on a regular basis (e.g. every 2 years)?*

Yes, we would be able to provide this data on request.