

Your response

Question	Your response
<p>Question 1: Do you agree with our suggested approach to assessing exemptions for affordability, i.e. using overall turnover?</p>	
<p>Question 2: Do you agree with our suggestion that 'small companies' should be exempted from the requirements?</p>	
<p>Question 3: Do you agree that a threshold level of 1% for the remaining ODPS providers is proportionate?</p>	
<p>Question 4: If you are an ODPS provider, can you provide any information on the costs of providing access services, including in relation to the various platforms by which services are delivered?</p>	<p>Costs for Sky would come from two areas: 1) costs associated with producing or re-purposing access services; 2) costs associated with establishing technical functionality for access services on a platform.</p> <p>1) Creation of Access Services</p> <p>As a high-level estimate we would expect that our additional costs incurred for subtitles would be approximately £130,000 per year (comprising around £30,000 of repurposing costs and around £100,000 for new creation).</p> <p>For Audio Description we would expect to incur in the region of another £30,000 per year in repurposing costs plus additional costs for new creation dependent on the volumes required.</p>

	<p>With regard to Sign Language content Sky already pays around £1,800,000 per year to BSLBT. This is a significant payment which goes towards enabling the creation of a large body of signed content. The legislation and subsequent rules and guidance should therefore be drafted so that there is reasonable recognition made for providers that already make a substantial contribution to BSLBT, and certainly we would not want to see a significant increase in costs in this area. See our response to Question 17 for further detail.</p> <p>2) Establishing Technical Functionality</p> <p>Providing costs for establishing technical functionality on a platform/device is challenging. It depends on many factors which are often changeable – for example the exact nature of the solution, the provider, and how the solution functions across various devices and platforms. As a rough estimate based on recent costings, we would anticipate a budget of around £2-3 million being required for technical developments across our platforms.</p>
<p>Question 5: If you are an ODPS provider, can you provide any information on the proportion of your ODPS catalogue which is replaced over a given month/ year (rather than archived)?</p>	<p>It is very challenging to provide meaningful data in relation to this question as such data is difficult to collate and may not be very robust.</p> <p>We understand, from paragraphs 5.4 and 5.5 of the consultation document, that Ofcom is interested in this kind of data in order to try to ensure an ODPS provider is producing access services continually, as opposed to archiving a static selection in order to meet targets. However, this can't necessarily be assessed by churn data.</p> <p>On our ODPS, programmes are constantly both being added and removed - we work with what our licence periods allow i.e. generally speaking we don't choose to remove programmes as a scheduling preference, rather programmes are simply removed as and when their licences expire. Often agreements with rights holders dictate periods where content must be taken down and put on hiatus. Due to rights issues and arrangements it is common for titles to come off a service for a period and then go</p>

	<p>back on at a later stage; indeed, a title may go on and off a service multiple times over a period of months or even years. Existing reports are not currently nuanced enough to consider the fluid nature of programme rights.</p> <p>It would likely be possible for reporting to be developed that attempted to look purely at new titles going onto a service but, as detailed above, the picture this paints is prone to being distorted e.g.</p> <ul style="list-style-type: none"> - If a title goes back on a service more than a year after it had come down would this be considered “new” in that period? - How would titles be counted where they were put on the service prior to the reporting period i.e. they’re therefore not “new” but need to be counted? <p>When gathering data, we would urge Ofcom to only require that which is crucial to its work. It is often the case that reporting is much more complicated than it appears. Often it requires considerable effort (in resource, time and budget) to gather information manually or to develop automated reporting functions. ODPS providers should not be required to divert additional time and money to any extraneous work/reporting in order that we can focus on the main aim of providing access services and doing any essential reporting.</p>
<p>Question 6: If you are an ODPS provider and 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?</p>	<p>Whilst we understand the intentions behind this question, due to the way content is scheduled and catalogues built, we would caution Ofcom from formally requiring this data of ODPS providers.</p> <p>Assessing with accuracy what programmes are broadcast on linear TV and then made available on VOD is fraught with difficulty. For example, it is not possible to ascertain by analysing what rights exist, as even when rights are granted this does not necessarily result in both linear TX and inclusion in ODPS catalogue, or in that sequence.</p>

It is also very important to note, and relevant more widely than this question, that even for linear broadcasters, On Demand is not merely a “catch-up” service of a linear offering. For example, we are increasingly putting full series On Demand as a box set release ahead of any use on linear. Over time (which may be months or even years) these programmes may be broadcast on linear, but in the short-term there may be a significant raft of content put onto a VOD service so that it is immediately available for viewers to consume without the constraints of linear scheduling.

This model of scheduling negates, or certainly drastically changes, the concept of access services being able to be repurposed between linear and VOD. It is clearly relatively simple that where a programme is transmitted on a linear channel with access services it can then be subsequently put onto a VOD service with “repurposed” access services. However, if (hundreds of) episodes of a series are immediately released onto a VOD service there will not be the resources or time to enable these to all have access services from the outset. Rather they are likely to gradually receive access services broadly in-line with eventual linear transmission.

As an example, on the day that the linear channel Sky Comedy was launched, over 1000 new episodes of programming were made immediately available to viewers via our VOD platforms. If we had been required to make access services immediately available, given the huge numbers and resources involved this would inevitably have meant that we would have had to make far few titles available to viewers, thereby significantly reducing the overall quality and choice offered by the service. Whilst this situation was compounded by the channel being entirely new, currently both Sky Comedy and Sky Documentaries continue to schedule a selection of titles on VOD ahead of linear, and for Sky Comedy this is typically with one “high volume” boxset planned for release every 2/3 months.

Clearly whilst the time constraints of linear scheduling allows for a gradual provision of

	<p>access services, the potentially unlimited VOD schedules can lead to significant amounts of content being made immediately available. Ofcom should ensure that there is flexibility afforded to ODPS providers for gradual provision when dealing with large catalogues.</p> <p>Otherwise there will likely be a situation where the overall quality of the service is compromised due to programmes having to be held back until there is sufficient time to apply access services, or where scheduling decisions are affected by the periods in which reporting is due e.g. holding back content to the next reporting period to give more time to add the access services.</p>
<p>Question 7: If you are an ODPS provider with more than one ODPS, can you provide any information on the hours of unique content provided across all your ODPS over a given year?</p>	<p>Sky only has one notified ODPS, however we do split this ODPS offering across separately branded services. We understand from Paragraph 5.21 of the consultation document that Ofcom is interested in data pertaining to content shared across services under the same OPDS.</p> <p>As already noted, sourcing robust/precise data of this nature is difficult as our systems are not set-up to be easily compared in this way. Also as noted we would prefer not to be required to divert resources to enabling precise data on this to be gathered. However, it would be relatively simple to provide a high-level estimate on occasion as to these amounts.</p>
<p>Question 8: If you are an ODPS provider, can you provide any information on how much advertising/ subscription revenue you would expect to gain from providing access services on your content?</p>	<p>Providing high quality accessible platforms and programming is a key part of our service offering as we want all our products to be safe and easy to use by everyone.</p> <p>We have invested in this area as part of our commitment to customers rather than as a result of an analysis of additional revenues available, and as such, we are not able to quantify this.</p>

<p>Question 9: If you have provided answers for any of Question 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?</p>	<p>Yes</p>
<p>Question 10: Do you agree with our suggested approach to making exemptions on the basis of audience size?</p>	
<p>Question 11: Do you agree with our suggested threshold for assessing audience size?</p>	
<p>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)</p>	<p>As Ofcom recognises, measuring On Demand viewing is more complicated than for linear services and different reports and metrics may be used where an ODPS is available across different platforms and devices. We therefore welcome Ofcom’s willingness to be flexible with regard to the potential for different viewing metrics to be used.</p> <p>Currently at Sky we are able to measure activity in the form of: downloads for Sky On Demand; initiated streams for Sky Go and Sky Kids; number of rentals for Sky Store; and unique visitors and views for Now TV. Therefore, our available metrics do vary, and aren’t always looking at “unique visitors”, but we are confident that the data we do have will give Ofcom the required information for assessing audience size. We therefore welcome (and require) the ability to use a variety of equivalent and reasonable metrics.</p> <p>There may also be limitations on the data that we can gather stemming from:</p> <p>1) Data Protection legislation - For example, for customers that view Now TV via the web</p>

	<p>browser on PC, Cookies legislation means that they can opt out of all data capture and so for customers that do this we have no visibility for data reporting.</p> <p>2) Legacy platforms - It may not always be possible to get data from old legacy devices and platforms such as boxes/consoles that cease being supported with updates and development.</p> <p>3) Third party platforms and devices - There may be occasions where Sky (and other ODPS providers) will struggle to get viewing data in respect of platforms that we do not control.</p> <p>However, we anticipate that we will be capturing the vast majority of viewing to the ODPS with only a small percentage being unaccounted for due to these reasons.</p>
<p>Question 13: Do you agree with our suggested approach to assessing exemptions on the grounds of technical difficulty?</p>	<p>We agree that technical exemptions should apply where a platform does not support access services (or has failed to support access services for a given period e.g. due to a technical fault), and that ODPS providers should have the opportunity to describe the reasonable endeavours that they have taken to provide access services on a particular platform.</p>
<p>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?</p>	<p>We support Ofcom’s proposal for it to be given discretion to exempt additional genres of programmes taking account of the qualitative benefit to audiences and/ or technical difficulties. For example we often find that certain quiz-show formats often have continual dialogue offering very little opportunity to benefit visually impaired customers.</p>
<p>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</p>	<p>In the absence of discretion, we believe that the genre of programmes specified by Government to be potentially exempt should be broader than news and music programmes, and for example include genres such as sporting events in respect of which audio</p>

<p>description on news and music programmes?</p>	<p>description may have limited benefit given existing commentary.</p>
<p>Question 16: Do you have any views on our proposed approach to determining applicable signing requirements?</p>	<p>We are supportive of ODPS providers being given the ability to choose between interpreted or presented content (or alternative funding arrangements). It makes sense for broadcasters who are already providing signing to be able to repurpose this onto their ODPS. Similarly, we would expect that where a broadcaster is already making alternative funding payments for their linear services that this is taken into account with only small additional funding requirements requested in relation to their ODPS service.</p>
<p>Question 17: Do you prefer Option A or Option B for determining the levels of each signing requirement?</p>	<p>We are supportive of providers having the freedom to choose between interpreting and presenting.</p> <p>As a broadcaster of “smaller” channels, with a requirement to provide signing on our linear broadcast channels or to instead provide alternative funding arrangements, Sky currently provides funding to BSLBT rather than producing our own sign-presented content in-house.</p> <p>We believe that the programming made by BSLBT is valued by those who rely on BSL.</p> <p>However, broadcasters who choose alternative funding arrangements for their broadcast channels (rather than producing signed content that can be repurposed for VOD) should not be required to effectively “pay twice”. For example, it would clearly be unfair if there was a situation where ‘Broadcaster A’ pays for signing on its linear broadcast service and is therefore able to repurpose this content in order to meet its ODPS obligations at no or little extra cost, whereas ‘Broadcast B’, who pays for alternative funding via BSLBT in lieu of signing on linear broadcast channels, has nothing to repurpose and would have to pay once again for alternative arrangements in respect of its OPDS.</p>

	<p>Accordingly, if an ODPS provider is already making payments to BSLBT in respect of broadcast services, any additional funding required for its ODPS should be appropriately reduced to take this into account.</p> <p>If the legislation/rules do create a system whereby broadcasters effectively have to “pay twice” this would likely cause some broadcasters to cease funding BSLBT in order to more cost-effectively and efficiently provide signing across its broadcast and ODPS services. Care should therefore be taken so as not to essentially de-fund BSLBT through the drafting of these requirements.</p>
<p>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?</p>	<p>As above whilst we are supportive of the work BSLBT do, and supportive of funding for BSLBT as an alternative to a broadcaster providing signed content made in-house, it is important that a provider’s existing funding of BSLBT in respect of linear broadcast is taken into account in any new requirements.</p>
<p>Question 19: Do you believe there should be an exemption for signing in cases where it allows ODPS providers to offer subtitling and AD?</p>	
<p>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.</p>	
<p>Question 21: Do you agree with our suggested approach to setting targets across ODPS services and platforms?</p>	<p>We would just highlight that Ofcom states in paragraph 5.11 that the prescriptive approach “<i>should encourage industry players to work together to achieve greater technical standardisation across platforms</i>”. We do not</p>

	<p>believe it is axiomatic that a prescriptive approach to setting targets will lead to standardisation. Instead, it is more likely that the costs of complying with technical standards on certain platforms, may reduce the operational investment in providing access services more generally.</p>
<p>Question 22: Do you agree with our suggested approach to implementing the targets?</p>	<p>Ofcom’s suggested approach to determine targets does appear complex with many factors potentially to be considered when assessing targets. Broadcasters will need to be given ample time and guidance in order to provide Ofcom with the information they require.</p>
<p>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 two years)?</p>	<p>As mentioned above, much of this data will be relatively simple to estimate but may be more difficult to confirm with total accuracy. Reporting can be complex, time consuming and costly. Therefore, we welcome as much flexibility as can be afforded over metrics, and the ability to use reasonable estimates when providing data.</p>
<p>Question 24: Do you have any comments on the cost assumptions included in Annex 2?</p>	
<p>Question 25: Do you agree with our assessment of the impact of our proposals on the relevant equality groups? If not, please explain why you do not agree.</p>	