

Ofcom Review of Television Access Services 2009

Sky Response

This document constitutes Sky's response to the Ofcom Consultation Document "2009 Review of Television Access Services" published on 3 September 2009 (the "Consultation Document").

The criteria for selecting TV channels required to provide access services and the exemption for channels targeting areas outside the UK

While Sky agrees that the economic downturn is putting pressure on broadcasters, Sky considers that the current expenditure-relative-to-turnover and audience share thresholds for selecting channels required to provide access services should remain unchanged. With respect to the current exemption from providing access services for channels targeting areas outside the UK, Sky's wholly owned channels are not aimed primarily at an overseas audience and Sky therefore does not propose to comment on suggestions to re-examine the exemption.

The case for increasing audio description quotas

Sky has focussed its response principally on the proposed options for the provision of audio description ("AD").

Sky is committed to meeting the needs of blind and partially sighted subscribers

Sky recognises the importance of AD to blind and visually impaired people. In 1999, Sky was the first broadcaster in the United Kingdom to transmit AD and Sky has remained committed to serving the needs of blind and visually impaired viewers. This is why, in March 2009, Sky committed to increasing the percentage of audio described programming to 20% on all its wholly owned channels required to provide access services, with the exception of the Sky Sports channels.¹ Sky's commitment to increase its AD provision has been implemented in consultation with and been welcomed by the Royal National Institute of Blind People (RNIB).² Further, Sky is currently working towards increasing the level of audio description to 30% across all wholly owned channels, required to provide access services, (except the Sky Sports channels) for the Christmas 2009 period.

A full assessment of usage and preferences should be made before deciding whether to increase AD quotas

Ofcom is consulting on whether to increase AD quotas. In Sky's view further research is first needed, particularly into the *type* of programming on which blind and visually impaired people find AD beneficial, before a decision on this issue can reasonably be made. Merely increasing the volume of available AD hours without a full understanding of usage and preference, may not necessarily better serve the needs of blind and visually impaired people.³ As Ofcom states in the Consultation Document, it has "*measured the benefits of*

¹ This is noted in the Consultation Document (paragraph 3.7)

² See RNIB press release at

www.rnib.org.uk/aboutus/mediacentre/mediareleases/media2009/Pages/mediarelease24feb2009.aspx

³ Ofcom appears to have considered usage only in quantitative terms. For example, at paragraph 5.23 of the Consultation Document Ofcom states "*there is currently no way of accurately measuring the number*

*each option to hearing and visually impaired people simply in terms of the volume of hours of programming they deliver to access service users”.*⁴ The assessment is stated to be limited to availability rather than usage, since Ofcom does “*not have reliable data on how many visually impaired people use subtitling and audio description*”.⁵ In the Consultation Document Ofcom does recognise the importance of an assessment of AD usage and preferences rather than merely of AD availability, noting that “*we have not been able to measure the desirability of audio description on one type of programme over another. Ideally, we would want to take into account not just usage but also viewers’ preferences for different types of programming*”.⁶ In Sky’s view a qualitative assessment of usage (an assessment of the “*viewers’ preferences for different types of programming*”) would be necessary and proportionate, before the question of whether AD quotas should be increased is properly addressed.

An increased AD quota is likely to entail technical and practical difficulties for broadcasters of certain channels, without a demonstrable benefit to blind and partially sighted people

As stated above, Sky is committed to improving the quality of its service for hearing and visually impaired people and in particular Sky has voluntarily undertaken extensive work to increase delivery of AD where this has been possible and where it considers this is likely to deliver greatest benefit. However, applying an increased AD quota across the board is likely to entail technical and practical difficulties for certain broadcasters, in particular in respect of single-genre channels consisting predominantly of live or near live content (notably the Sky Sports channels). This problem is recognised by the RNIB. The Consultation Document notes “*the RNIB’s view that not all programmes are suitable for audio description and that efforts to deliver higher quotas could encounter practical difficulties*”.⁷

Ofcom has already exempted music and news programmes from the current AD quotas in recognition of the technical difficulties of providing AD on such channels and the lack of demonstrable demand from blind and visually impaired people. Ofcom has stated that music and news programmes are currently exempted on the basis that “*there is little space within the dialogue/sound track to provide audio description, and less need*”.⁸ Further, the AD Research conducted by Ofcom recognises that AD on live events, where attempted, is likely to be a poor viewer experience: referring to the level of dissatisfaction with AD on news and current affairs, Ofcom states that “*this is likely to be linked to the fact that the topical, fluid format of such programmes precludes the type of in-depth AD that is possible with drama and films where the script is available well in advance*”.⁹

These same considerations apply equally to sports channels which show a large amount of live or near live programmes. For example, approximately 80% of the schedule of Sky

of audio description users, or the volume of audio described programming that is consumed in the UK” (emphasis added). See also paragraphs 5.40 – 5.44 of the Consultation Document.

⁴ Consultation Document, paragraph 6.12

⁵ Consultation Document, paragraph 6.13

⁶ Consultation Document, paragraph 6.13

⁷ Consultation Document, paragraph 6.4

⁸ Instead broadcasters of news and music channels are “*required to ensure that producers, editors and presenters are trained in techniques to describe the significance of images for the benefit of the blind and partially-sighted audience. Broadcasters are required to provide a statement of the training they are providing within 12 months of becoming subject to the code*” (Code on Television Access Services)

⁹ 2009 Research into the awareness and usage of Audio Description (Report by Ipsos Mori for Ofcom, September 2009) (“AD Research”) pages 39-40

Sports 1 comprises live or near live programming.¹⁰ The remit of Sky Sports is geared towards live and near live programming, which reflects the demand of subscribers.¹¹ There are technical and practical difficulties in delivering AD on live or near live programming: the process of providing audio description services involves a significant amount of pre-broadcast time and planning, in addition to the actual production of the AD. For example, the approximate average time required to prepare an AD script to a suitable quality level is [CONFIDENTIAL], which prevents delivery of high quality AD on live or near live sporting events. Single-genre sports channels such as the Sky Sports channels can therefore, in practice, only meet AD quotas by delivering AD principally on non-live sports programmes. In comparison to the live or near-live content of Sky Sports these non-live programmes are often less popular, less viewed and consequently often scheduled outside peak viewing times. For example, between 13 September and 1 November 2009 Sky delivered AD on non-live sporting events, which accounted for only 0.7% of the total viewing on Sky Sports 1.¹²

Further, it is not clear, given the technical and practical difficulties of delivering AD on sports channels, that an increase in the AD quota applied to such channels would in fact proportionately deliver benefits to blind and partially sighted people. The burden of meeting a higher AD quota on the Sky Sports channels would impose a significant burden on Sky and given the difficulties outlined above, result in increased AD delivery on non-live sports programmes, which tend to generate low audience levels, or by inevitably inferior quality AD on near-live sports events (AD on live sports events being almost impossible), which provides little benefit to blind and partially sighted subscribers.

While Sky is highly supportive of initiatives to increase broadcast services which benefit hearing and visually impaired people, further research into the type of programming on which blind and visually impaired people find AD beneficial would be necessary and proportionate before AD quotas are increased across the board. In particular, for single-genre channels consisting of predominantly live or near-live content, for which the delivery of access services entails technical and practical difficulties, it is important that Ofcom considers whether increasing the burden on such channels would in fact proportionately deliver benefits to blind and visually impaired people. Sky would therefore support detailed research undertaken by Ofcom, in conjunction with representative bodies such as the RNIB, which analyses the type of programming on which blind and visually impaired viewers find AD most beneficial. Without such further research, the case for increasing AD quotas, across the board, is not yet fully made out.

Sky
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¹⁰ "Near live programming" has been defined as broadcast within a limited number of hours of the relevant event.

¹¹ For example, Sky's own survey evidence has found that the key reasons for Sky customers to subscribe to Sky Sports is the live or near-live sporting content of the channels.

¹² This over estimates the viewing of AD delivered programmes on Sky Sports 1, since the 0.7% of viewing relates to programmes which in the period carried AD, including broadcasts of the same programme which did not carry AD.