



Satellite & Cable
Broadcasters' Group

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Response to the Ofcom Consultation on Access Services 2009

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The SCBG is the trade association for digital programme providers who are independent of one of the main terrestrial broadcasters. Its members are responsible for over 100 channels in the UK. Many member companies are pan-European broadcasters, producing and commissioning content for different national markets.

According to recent Deloitte research, SCBG members made a total economic contribution to the UK economy in 2007 of over £2.2 billion and invested a total of £1.2 billion in programming, employing nearly 25 000 people in skilled jobs.

SCBG member channels provide citizens and consumers with programmes and services for a diverse range of audiences across a wide range of genres and audiences, including entertainment, factual, educational, history, music, nature, art and science. Our member companies make and show programmes for children and young people, and for ethnic minorities in their own languages. SCBG members' channels can be found on all of the UK's major digital pay and free-to-air platforms, which are now available in nearly 90% of UK homes.

For a full list of members and more details about the SCBG please go to www.scbg.org.uk

The SCBG welcomes Ofcom's invitation to contribute to its consultation on access services and is keen to maintain its dialogue with Ofcom on this issue. This submission represents the shared view of SCBG members. Individual broadcasters will also be submitting their own responses to the consultation.

Current Threshold Levels for Provision of Access Services

The SCBG agrees with Ofcom's assessment that the current system for determining whether a broadcaster should provide access services is fit for purpose. There must be consideration of the feasibility of providing access services where audiences are very small or where the provision of access services would be disproportionately expensive.

Whilst the SCBG considers the model currently in use to be a suitable compromise and supports its continuation, the criteria used for consideration of exceptions due to the 'viability' of provision of the service should be more flexible - particularly in economic downturn – and should take into consideration not just the turnover of a channel but its profit and loss, the nature of the channel and whether that same content might be available on PSB services which can deliver the required outcome more effectively.

New Technology

The SCBG is concerned that more discussion is necessary on what the access services regime for VoD should be. This is a nascent sector of the content business and distinctions must be drawn on the method of delivery to take account of technical limitations. It is important to give it time to develop and evaluate what access service provisions are in place before imposing quotas which may be unrealistic or unnecessary.

We would be interested to understand how OFCOM intends to apply the Code on Television Access Services to new platforms that will receive licensed linear services once AVMS comes into force and Section 233(3) of the Communications Act ceases to apply. Platforms such as mobile telephony platforms do not, we believe, support the concept of separate audio streams and it is questionable how subtitles would work. Therefore, to provide access services via mobile phone platforms one would have to provide an entirely new service with different audio (i.e. two channels instead of one) and there will be no consumer option to turn the services on and off. Again it should be noted the increase in bandwidth to supply these services will be an increased cost to the consumer. For services delivered via the internet there will also be technical issues because of the lack of universal standard for players and therefore the cost is likely to be a major factor. A consequence of the extension of these requirements to these new platforms could be that each channel can easily demonstrate that their costs of provision far exceed 1% of relevant turnover resulting in a loss of access services on traditional television platforms.

Options for Audio Description

The SCBG supports an increase in the audio description quotas to 20% for Public Service Broadcasters (PSBs) only.

We welcome the pragmatic way Ofcom has approached the question of how to ensure audio description services are provided in the most effective way possible. We agree

that the key to successful provision of audio description services lies in identifying how to ensure they reach as wide an audience as possible.

Given their high share of viewer figures, even in the multi-channel environment, the PSBs should be considered as the natural choice for any increase in audio description services, as they would be able to reach more viewers at minimal additional cost. Furthermore, PSBs benefit from a number of advantages, including the allocation of spectrum and privileged positioning on the EPG because they also have public service responsibilities. It should be considered part of the PSBs' public service remit to lead the way on access service provision and to promote the uptake of audio description services.

It is also important to consider the possible costs involved in an increased audio description requirement for non-PSBs. Most non-PSBs do not have the economies of scale enjoyed by PSBs. It is therefore more expensive in real terms for them to increase their levels of access service provision.

The SCBG believes that a combination of smaller audience share and lack of public funding of their infrastructure should exempt its members from an increase in audio description requirements.

Extending Obligations to EU Programming From the UK

Many SCBG members provide programming to other EU Member States under Ofcom licences. We appreciate that the pan-EU law is changing and that an increasing number of EU broadcast authorities are calling for the provision of access services on channels which are broadcast into their borders from other EU Member States. However, there are a number of issues which make this provision costly or technically difficult. These should be considered before any decision is reached on what action should be taken in this area.

Furthermore, given that many of the measures currently under consideration in other EU Member States seem likely to be directed mainly at terrestrial broadcasters and will require a lower level of commitment, the effect on the competitiveness of UK broadcasters who may find themselves with a greater regulatory burden should be considered.

It is the SCBG's belief that it would be more appropriate to wait until all of the relevant Member States have implemented their access services rules and then evaluate what next steps should be, taking into account issues of competitiveness. If it is decided at this point that there should be access service provision on broadcasts from the UK to other EU Member States, UK non-PSB broadcasters should not be obliged to provide a greater level of access service provision than the local non-PSBs in the country of reception, where this is lower than the thresholds already in place in the UK. In any event, we believe that there should be no requirement beyond those currently applied in the UK i.e. that only channels with an audience share of more than 0.05% should be liable and any costs in the provision of a service should not exceed 1% of turnover. Furthermore, there should be gradual implementation over a number of years, as there has been in the UK.

SCBG members have been investigating the feasibility of applying the same access services regime to overseas feeds and have encountered the following issues:

- The purchase of additional satellite facilities to accommodate the provision of access services, as well as the increased number of staff needed to provide those services could cost substantially more than 1% of turnover in the relevant markets. We believe that technical implementation costs should be included in any calculations, as these are likely to be significant. Furthermore, in certain territories it seems likely that additional capacity will simply not be available for purchase on the satellite currently used for distribution. Implementing access services in such territories would require the channel signal to be migrated to a new distribution satellite - and extensive negotiations would be required for broadcasters to end current satellite contract commitments;
- Lack of consistency in technical standards across the EU could also result in broadcasters having to pay to provide multiple language tracks to service individual platforms, even in the same Member State;
- It is SCBG members' experience that channels can have capacity limits imposed on them by platforms in some Member States. Where there is no local requirement to provide access services it is less likely that the platform will have allotted sufficient capacity to pass these services on. SCBG members are concerned that they could find themselves paying to provide a service which does not actually reach the end consumers;
- Multiple language feeds often make it impossible to measure audience share for the individual markets they are being sent to. Audience measurement technology is often less advanced in some EU Member States than others, making it difficult to apply consistent measurement criteria;
- It is unclear from the consultation document how Ofcom would expect to approach this situation. For example, on a multiple language feed how would viewer shares in individual markets be identified? Would an estimate be made on the basis of the overall number of viewers reached by the feed? If this were the case, broadcasters could be obliged to provide access services in markets where they are unlikely to have reached the 0.05% share of audience threshold but it is technically impossible to prove otherwise. The SCBG believes it is necessary to be able to take the threshold revenue for each country on a multiple language feed to assess the cost of provision of services in that language. Any other approach could lead to the imposition of disproportionate costs on broadcasters;
- In some markets it is difficult to find vendors who can supply access services such as signing and audio description. This tends to be the case in markets where dubbing dominates. It has also proved challenging to find Hard of Hearing subtitlers in some EU markets. In markets where these technologies are nascent SCBG members are finding that the price of acquiring those services is considerably more expensive than in regions where the systems are already well-established. Also, sign language differs from country to country and on a multiple language feed it is not technically possible to provide signing for more than one language;
- In multiple language feeds, transmission can only support up to 8 audio tracks per channel and if these are already in use for additional language provision, it is not technically possible to add audio description to them;
- In countries where a broadcaster's distribution is primarily by means of analogue cable, it will simply not be possible to provide access service tracks as an

additional service to viewers - unless the audio or subtitling content were permanently imprinted into channel output at playout.

The Ofcom code on access services states that: "Television access services need not be provided if Ofcom is satisfied that this would be impracticable on grounds of technical difficulty, including: provision of subtitling or signing, where a service is broadcast with several different language feeds, making the choice of language for subtitling or signing problematic."

The SCBG believes that at the moment the provision of access services across the EU is impracticable under the terms of the current code. It should also be borne in mind that in order to stay competitive in an EU-wide broadcast market, broadcasters need to know that they will not be subject to costs their competitors in other markets do not have. The SCBG believes that a truly integrated market for broadcast would not put one set of competitors at a disadvantage against another. Imposing UK access services rules on broadcasts to the EU may well have this effect. At the very least, more research on relevant audience sizes across the EU and the measures other Member States intend to take will be necessary before Ofcom takes any further action.

Conclusion

The SCBG believes that the industry has made a lot of progress in recent years to ensure that access services are provided to those with visual or hearing difficulties. A significant increase in subtitling for the hard of hearing and the founding of the BSLBT to provide programming for the signing community are positive developments, as is Ofcom's work to promote the uptake of audio description.

We are aware of the fact that there is a need to maintain momentum in this area but are concerned that this should not result in broadcasters being overburdened by access quotas which are technically difficult to implement or excessively costly to set up and maintain.

For this reason we agree with Ofcom's conclusion that the current thresholds for the provision of access services should remain in place. We also support any activity which focuses on the use of PSBs, which have larger audience shares and a public service obligation, to provide audio description services. On the issue of provision of access services to other EU Member States, there are a number of technical and cost-related issues which need to be clarified before any further action be taken in this area. We would welcome more research and are happy to share the information we have to date with Ofcom.