

Question 1: Do consultees agree that these are appropriate policy objectives for Ofcom in considering possible alternative arrangements for signing on television?:

Broadly yes, however, I wish to flag some specific concerns.

Sign presented programming is a rather broad term, and through its usage is liable to be misinterpreted to possibly include other signed provision such as Makaton, or even teaching BSL on television.

This becomes a more pressing point, if Ofcom's proposals go ahead, to encourage signed output on television. What is meant by signed output, and the way the policy objective is worded leaves this open for interpretation.

Currently, there is greater control in respect of the benefit delivered to BSL users, by the method in which this is delivered, i.e. restrictions through interpretation.

As a reminder, it was parliament's intention that this provision applies to Deaf people

The Communications Act 2003 expressly states this:

"..... (a) the extent to which the services to which this section applies should promote the understanding and enjoyment by-

(i) persons who are deaf or hard of hearing ,

.....

(b) the means by which such understanding and enjoyment should be promoted."

That Act, and in turn Ofcom's Code of Practice, should not be about hearing people learning or interested in BSL. It is accepted that indirect or secondary benefits could be incurred by hearing people, by virtue of them accessing such programmes.

It should be noted here, that it is accepted that programmes in other sign languages could be purchased, and aired to indeed fill up some of the quota, however there needs to be some guidance on this. The bulk of output should be delivered in indigenous languages of the UK, simply because it was parliament's intention to ensure that Deaf people gained access in their mother tongue.

What is meant by television under this section, and how would this be transmitted? I flag this question, as how many Deaf people will purchase a digital subscription if there is little access? It is suggested that a disproportionate number of Deaf people are users of the internet, and possibly spend their social time online. Would transmission include the internet as a base, to reach out to a BSL audience?

There are other policy points which I would like to address, but will do so under the questions below.

Question 2: Do consultees agree that Ofcom has identified appropriate options?:

Again broadly yes, however it lacks detail, to confidently say yes.

Further points are presented in the questions below.

Question 3: Do consultees agree with Ofcom's reasons for rejecting the ideas described in paragraph 3.18?:

Number of BSL users:

The numbers game detracts from parliament's intention, and the spirit of the legislation.

Ofcom is not in a position to overrule the intention of parliament, as supreme body. Such suggestions are frivolous in nature, and detract from parliamentary intention and the spirit of the legislation. Should people object to the provisions of the Communications Act 2003, then they need to take it up with their MP.

Public services channels:

These should not be exempt, and indeed would discourage or cause resentment amongst commercial broadcasters. From a Deaf perspective, it is imperative that analogue users can access signed content on television. Ofcom later goes on to suggest that there is little take up by Deaf BSL users of digital television, and this can be understood, from a lack of information perspective as in what exactly digital television is and how to actually get it. Secondly, perceptions around choice, BSL users think they don't have enough access choice to make their subscription worthwhile. Thirdly, economic constraints, language minorities are disproportionately more likely to be in a lower income bracket.

Signed only programmes:

Broadcasters from an economic perspective, or indeed an interest perspective, do have little interest to produce sign language programmes.

Question 4: Do consultees agree with the proposals outlined in paragraph 3.32?:

3.32 (a) - Yes.

3.32 (b) - For channels in respect of more than 1% of the audience share, this is not clear, discretion as to what? Full exemption, or contribute budgets to signed programmes? E.g. what would Ofcom suggest if a channel devoting to transmitting films (that had more than 1% of an audience share) suggest? Since Ofcom has already argued that films do not transmit well into BSL, would it require this broadcaster to set aside part of their budget towards the production of a film in BSL?

This section needs to be made clearer, in the interests of transparency.

3.32 (c) - Yes, however these need to be done in consultation with Deaf people and alternative output led by Deaf people in partnership, with training opportunities. Otherwise there will be output for output sake.

3.32 (d) - the 7am - 11pm time frame is too broad, and will start to produce inconvenient times. For example, the BBC has said it will move See Hear to lunchtime on a Wednesday, when a lot of its target audience will find it difficult to access its programme. The BBC has already received backlash in respect of this.

Furthermore, the response to the consultation by response to this consultation by the Satellite and Cable Broadcasters' Group, supports the suggestion that signed programmes should continue to be aired at inconvenient times:

"In delivering these obligations we must bear in mind the majority of our viewers that find signing intrusive and distracting. Knowing that a very low percentage of the disability community watch our channels, we naturally have to schedule sign programming at times when it is least disruptive." (page 3) and goes onto state, "these obligations are onerous on our channels".

Does that mean that all signed output will be shown at 7am, or some other out of the way time?

Signed television should be visible on television, and Ofcom under the Disability Equality Scheme's general duty, through the composition of its codes, to encourage broadcasters to exert considerable influence in the community at large, and be a major influence on the attitude of the general public. Giving broadcasters a wider window for transmission, whilst is preferable to programmes in the middle of the night, is still not narrow enough.

Indeed, Ofcom suggested in its consultation, 3.13 that signing on television alienates the broader audiences served. Such attitudes need to be worked on, for BSL to become acceptable within mainstream society.

3.32 (e) - Yes, but see the point above re timing.

3.32 (f) - Yes, but further discussion needs to take place in respect of quality. Proposes in respect of quantity is not enough here.

3.32 (g) - Yes, but there needs to be better consultation and actually involve a wider range BSL users, including publication of consultation materials in BSL itself since this is the target audience.

Question 5: Do consultees agree that the aim should be to put any new arrangements in place from the start of 2008?:

See below my comments in respect of lack of BSL content for this consultation, and dissemination. By putting new arrangements in place for the start of 2008, Ofcom is working on the assumption that the consultation process was sufficient at this stage.

There is little point in rushing through proposals to 2008 for the sake of it, if mechanisms are not in place to meet this. That said, I am keen to see meaningful signed (BSL) output on television, and if this can be achieved then so be it.

However, should we be going down the route of independent production in BSL, then it is crucial that Deaf people take the lead in this. This is where (in part), interpreted programmes and even See Hear to a degree has failed (through a hearing executive, and producers that rotate too fast to understand the real community, no disrespect to its staff). A failure to understand what a Deaf audience want, and their needs cannot be the end product of these proposals.

To enable sufficient quality to be produced, and the involvement of Deaf people, it is imperative that a budget for training needs is put in place. There needs to be an understanding of the unique variables, and lack of training opportunities and representation on television to date.

In the meantime, if there is any gap between two Codes of Practice being implemented, it is imperative that BSL access on television is not dropped.

Question 6: Do consultees have any comments on the impact assessment? Where possible, it would be useful for arguments about the cost of different options to be supported by relevant data.:

My main concern here is around quality, and the need to control this, especially since there is a proposed significant drop in signed output on television from 440 hours per month to 12 hours. This information was not available in the plain English version, and I wonder how many people are happy with this?

Assuming they are, quality control and involvement is imperative, and this can only be achieved through real consultation and involvement, not of a token kind.

In addition, I have some additional points around impact to make which has been made through your document, which influences how the spirit of this document is read:

"1.7 "viewers have no option whether or not to receive signing".

Whilst in a literal sense this is true, in that any interpreter cannot be switched off, this statement is also misleading. Interpreted programmes tend to be limited to repeats, and thus a viewer does have the choice, by watching the programme the first time around.

1.9 "However, more significant is the evidence that many of those who claim to use and understand sign language actually prefer to use subtitling when watching television."

Whilst this might be true for some people, we are resorting to a numbers game here, which was not the intention of parliament, i.e. it knew low numbers used BSL. Secondly, it fails to understand the relationship between BSL and English, for bilingual people. Bilingualism is not equal, and whilst both subtitles and an interpreter might be used, it doesn't equate to an interpreter not needed.

1.10 "imposes costs on smaller broadcasters that do not give rise to any significant benefits".

Here we are looking at blanket policy, and not treating those in a minority as having significant needs, which is not helpful. Whilst I accept the motive behind this consultation, around best value for money in respect of signed (BSL) output on television of this consultation, this is the wrong approach, and has the effect of downplaying minority language user's needs.

2.11c - feedback small for signed programmes.

Nickelodeon - says it has had no feedback. However variables need to be looked at here, does it have mechanisms to receive BSL feedback, and see further points below, which should not be an indication of BSL use.

Signed Films, and low uptake of interpreted pay to view. I wasn't aware this was an option, and I wonder how many people are in the same position here? Secondly, users of a minority language are more likely to be at an economic disadvantage, in addition to information means.

Broadcasters and indeed Ofcom should not take to interpreting low use in respect of the above, to a low incidence of BSL users out there. Rather it should be engaging and indeed embracing in the fact that one size does not fit all, and different methods are needed to be employed to reach out to such groups. This consultation has gone some way in part to readdressing this balance.

3.7d - money spent, £1.5 million is disproportionate with "very limited benefits conferred on sign language users". Whilst the current set up might indicate this and I welcome review, I find this statement worrying. This ties into impact, and goes against parliamentary intention.

One has to understand that there is a significant proposed drop from 440 hours to just 12 hours of BSL on television (of specialist output). For those people who really do rely on BSL to access television, this is a significant change in output. This drop has to be met with quality.

Whether people use subtitles and BSL is to a degree immaterial, and ignores the possible interplay between languages. Whilst someone might use subtitles, just to get the word for word English that is being transmitted on the television, they are quite possibly using the BSL to get the meaning of what is being said. I've seen many people say this to me.

Question 7: Do consultees consider that the proposed revisions to the Code are sufficiently clear?..:

No, since this consultation has yet to be produced in BSL. Until a Code is produced in the language of the target audience to whom it is meant to affect, then it can never be sufficiently clear. Until that point, the consultation is unfairly weighted, and will come across via responses.

In addition to producing this in BSL, it needs to be ensured this is disseminated widely, including online. To date, I fear this has not been done effectively enough.

Additionally, the plain English version has left some key points out, e.g. the exact figures in respect of drop in output, as I covered in response to Question 6. Thus I hold some questions if people really understand the impact of this consultation.

Another point, subtitling and BSL should not be mixed up, and to do so is confusing.

For the purposes of legislative responsibilities, subtitling and BSL should be seen as two separate entities, and one should not be produced or compromised as the result of the other.

Whilst some people are bilingual (to varying degrees) and are able to access both, this is not a blanket consideration. I am not entirely sure why subtitling has been brought into this consultation? The consultation states:

3.27, "We not not consider that ... there would be any significant risk to the amount of subtitled programming".

There should be no risk to subtitling output, and not even sure why it has been included here since it is a separate legislative provision.

Comments:

I welcome this consultation, and the proposals by Ofcom, and one hopes this can be built on and improved. Since the proposals departs for express legislative criteria, and ventures into Ofcom's interpretation; it is strongly suggested that a periodic review is undertaken with its target audience, to check whether these measures are actually working, and not in place for the sake of being so. It is not enough just to have one review after a year, and this needs to be ongoing. Rome was not built in a day, neither can BSL programmes on television.

In respect of the proposed composition of the new Trust, membership should be made up of independent persons, bringing a good balance between Deaf representation that understands the media (and sign language users) with those with skills in other areas. Members of deaf organisations are not necessarily best placed to do this. It is imperative that membership of such a body is on an individual basis, to ensure impartiality. Furthermore, such a body should be held accountable, with a membership that rotates but still allows continuity and building on the skills and knowledge attained. This is even more crucial given its specialist nature.

At the heart of any Trust, should be a commitment to working towards output by Deaf people and for Deaf people who use sign language, achieving this through active partnerships where Deaf people are active participants not passive receivers.

This is important, as quantity for the sake of quantity's sake is unproductive, and these proposals need to follow parliament's intention of being FOR Deaf people. (Not hearing people learning BSL, etc).

I would like raise an additional point. There is a serious flaw in this consultation process and I would like this section to be treated as a formal complaint against Ofcom.

By Ofcom's own omission it states:

"some deaf people whose first language is signing can find it difficult to understand subtitles, and so use signing to understand television programmes."

If it acknowledges that, and that English is a barrier for access, then why has it published this consultation only in English?

How can Ofcom even pretend to be consulting with BSL users here, if the information is not available in BSL? It is not enough to say that responses are welcome in BSL, how does Ofcom propose that BSL accessed the consultation material in the first place?

As a public service provider, Ofcom had to publish a Disability Equality Scheme and theirs can be found:

<http://www.ofcom.org.uk/consult/condocs/des/statement/desstatement.pdf>

Your scheme states:

"9.23

In developing policy that may affect disabled people, Ofcom has a duty to engage and consult with this community."

And as part of your action plan, by 2007 Ofcom is supposed to:

"Review communications networks and services and assess the barriers to access and inclusion, which will include use of services by disabled customers."

This is how Ofcom has said that it will comply with the law, and the fact that it has failed to publish the consultation about and directly affecting BSL users, is a major shortcoming. It is not enough to consult with deaf organisations, who are unrepresentative of us: the Disability Equality Duty lays down an obligation to consult with Deaf (disabled) people themselves.

Within Ofcom's consultation document it states that there has been 'substantive discussions' with interested parties since the access review was published (3.33). Who are these people, and is it just London based? For BSL people to be involved with such consultation, as Ofcom relied on mobility here, and assumed that people can travel to London? It should be noted that London and indeed the SE, is not representative of the UK. Deaf people based in this region are more likely to enjoy higher participation both in society access to a social life and information. Those in other regions, are less likely to have such opportunities, and with it comes a higher incidence of reliance of accessing BSL on television. From personal observation, I have found this to be the case. And indeed do so myself, I'm more inclined to watch BSL on television (and do so every week), simply because of isolation factors, whereas in London this need diminished. Tying this into the point of BSL consultation, I don't think just by holding meetings in London is representative of the UK BSL population as a whole.

Ofcom needs to be seen to be leading by example, and if it is to get a message across to broadcasters and the general public relating to the importance and status of BSL, even in terms of its watchdog role, it is failing when it cannot practice what it preaches.

As stated above, please treat that as a formal complaint against Ofcom.