

**Channel Four Television Corporation**

**Channel 4 response to the Ofcom consultation  
on signing on television**

**27 July 2007**

## Introduction

Channel 4 welcomes the opportunity to respond to Ofcom's consultation on signing. Access services play a vital role in helping to ensure that as many people as possible have the opportunity to enjoy our programmes, and we are committed to meeting (and frequently over-deliver on) our statutory obligations on signing, subtitling and audio description. We are also keen to ensure that our support for access services provides the greatest impact, and we have actively supported the recent initiative to develop a proposal for a sign zone on the Community Channel.

Channel 4 also has a fantastic track record of promoting disability equality, both on- and off-screen. Award-winning programmes like **The Boy Whose Skin Fell Off** and **Truly Madly Deeply**, and disability inclusion in mainstream shows such as **Big Brother**, **Location Location Location** and **The F Word**, have had a powerful and positive impact on the public perception of people living with disabilities. Our half-hour documentary series **New Shoots** (which was on air between April and June this year) gave 12 disabled directors a chance to get their first major broadcast credit, and we are in the second year of our disabled researcher training programme, the third year of our ITN/Channel 4 News traineeship, and the second year of supporting a trainee story editor working on feature films at Warp X. Our Disability Equality Scheme, which has been prepared in accordance with the Disability Discrimination Act requirements, details how we aim to continue to be at the forefront of best practice.

## Overarching comments

Channel 4 supports the principles behind Ofcom's desire to consider more effective ways of delivering signing. We also believe that a scheme such as the proposed Community Channel sign zone has the potential to be more effective than the current approach.

However, we have two important and significant concerns about Ofcom's specific proposals:

- First, many important details on the implementation and governance of the Community Channel sign zone proposal have yet to be worked out, and it is not yet clear how such a scheme would operate, and indeed if it will ever come to pass. Given this uncertainty, it is important for Ofcom to set out the criteria for "acceptable alternative arrangements" under which it would allow broadcasters to join a scheme such as the Community Channel sign zone
- And second, there is not a sufficiently strong evidence base to support Ofcom's claim that there is a strong preference for sign-presented programming, which underpins their policy objective to increase the amount of sign-presented programming on television.

### *Proposed sign zone on the Community Channel*

The proposal for a sign zone on the Community Channel represents a model that could potentially deliver signed programming in a more impactful way than before, by enabling a range of signed programmes (both sign-presented and sign-interpreted) to be made available in a more convenient manner (in a dedicated zone) and which empowers the deaf community by giving them a greater degree of control over the production and scheduling of programming. The proposal would potentially

cost broadcasters no more than they currently pay to fulfil their existing signing obligations, and it would avoid the distraction that signing causes to some hearing viewers given that current technologies do not allow signing to be switched on or off, as is the case with other access services. Such a proposal thus has the advantages of being cost-effective, targeted, impactful and proportionate.

However, it must be acknowledged that the proposals for a sign zone are at a very preliminary stage, and there is no guarantee that – even with the support and goodwill of all potential participants – it will ever come to fruition, as many complex logistical details would need to be agreed, on fundamental issues such as governance, accountability, the development of a viable business plan, access to rights for programmes that are to be sign-interpreted, and so on.

To add to the uncertainty, there is also no guarantee that Ofcom would accept such a scheme even if a workable proposal were developed by the relevant industry players. We appreciate that the legislative framework prevents Ofcom from directly mandating such a scheme, and that the most that Ofcom can legally do is consider alternative arrangements proposed by broadcasters. However, given the uncertainty inherent under such a framework, we believe that it is incumbent upon Ofcom to provide criteria under which it would evaluate proposals such as the Community Channel sign zone. We are concerned that Ofcom has not provided any information in its consultation document as to what such criteria might be, as this would need to form a critical part of the proposed new regulatory framework. It should be possible for Ofcom to define such criteria in a way that provides sufficient flexibility for the potential participants in the scheme to devise the optimal working model.

In the absence of such criteria, and given the uncertainty as to whether a workable sign zone proposal can ever be achieved, we have to assume that the default position under Ofcom's new proposals is the new requirement for broadcasters to provide sign-presented programmes on their own channels. We discuss this next.

#### *Obligation to provide sign-presented programming*

As part of its policy objectives (paras 3.4-3.6), Ofcom states a desire to introduce "alternative arrangements" for low audience channels. It goes on to argue that these alternative arrangements "should aim to increase the amount of sign-presented programming on television", in the light of the "clear preference of sign language users for sign-presented programming".

Ofcom proposes to impose "a requirement on those [low audience] channels to make a smaller amount of sign-presented programmes". Under Ofcom's preferred Option 3, this requirement would replace the status quo and would become the default obligation for broadcasters of low audience channels, particularly given the absence of criteria governing the acceptability of a sign zone as a possible alternative (see above).

Channel 4 is very concerned about this proposal, and the rationale that underpins the policy objective that it seeks to address. First, this proposal was not discussed during the consultation on the Access Services Code in 2006 nor in subsequent dialogue with broadcasters. Moreover, it does not seem to be justified by the detailed evidence base presented by Ofcom as part of its consultation last year.

In its report "Television Access Services – Literature Review" (March 2006), Ofcom was unable to find any evidence to support any preference for particular kinds of signing:

"No specific information was identified from the literature reviewed with regard to target audience use of signing on television." (p19)

"No published research was identified in this review with regard to current levels of satisfaction with the availability and quality of signing on television." (p36)

The accompanying Ofcom report "Provision of Access Services" (March 2006) points to the low level of usage of signing and notes a strong preference for subtitles over signing for the large majority of deaf people:

"Awareness of signing services among the UK population is broadly in line with that of awareness of subtitling, though usage is far lower. Findings indicate that only 6% of the hearing impaired population have ever used signing to follow programmes more easily. This small take-up is a likely consequence of low levels of BSL knowledge among the hearing impaired community, as well as a broad preference for subtitles which is detailed in the case study section." (pp13-14, para 4.6)

BSkyB conducted research in July 2006, which found that 79% of respondents said they would watch more programmes if they were presented in Sign. However, this research was primarily focused on what people thought about launching a dedicated Sign Community Channel, so respondents were conditioned into thinking about what they would like to see on that Channel (75% thought it would be a good idea to launch a Sign Community Channel). It does not seem valid to extrapolate from this very specific survey a conclusion that there is a widespread desire among deaf people for more sign-presented programmes across mainstream channels. The feedback that Channel 4 receives is that it is more important that broadcasters make progress in their aim to increase deaf representation (contributors, actors, presenters) across mainstream programmes rather than commissioning new specialist deaf-presented shows.

It is also important to appreciate that the comments made by the working group that discussed the Community Channel proposal (Annex 6 in the current Ofcom consultation document) were motivated by the desire for deaf people to be able to control the programming that they see, both by their involvement in the production of sign-presented programmes, as well as helping to determine which programmes are sign-interpreted. While this desire would be met by the creation of a scheme such as the proposed sign zone on the Community Channel, it would not be met by the proposed requirement for small channels to produce sign-presented programmes. In the latter case, control would most likely remain in the hands of hearing commissioning editors and producers. So the reported demand amongst some parts of the deaf community for sign-presented programming must be considered in the context of their (understandable) desire to exert greater control, and that this is an important distinction between the alternative proposals that form part of Ofcom's preferred Option 3.

To conclude, in contrast to the detailed research conducted by Ofcom which, for example, highlights a strong preference for subtitling over signing amongst most deaf viewers, Ofcom has not presented any surveys that show just as clear a preference for sign-presented over sign-interpreted programming. And yet Ofcom's

new proposals are underpinned by the explicit policy objective of securing the provision of more sign-presented programmes. If Ofcom is to pursue such a policy objective, it must first provide concrete evidence to justify such a specific intervention.

## Response to individual questions

*Q1. Do consultees agree that these are appropriate policy objectives for Ofcom in considering possible alternative arrangements for signing on television?*

Channel 4 believes that it may be appropriate to consider alternative requirements for low-audience channels.

However, for the reasons set out above, we would challenge the view that underpins the policy objectives that there is a “clear preference” for more sign-presented programmes. Moreover, to the extent that a preference has been stated by some parts of the deaf community, this was bound up with their desire for control over the production and scheduling of signed programming – which the sign zone scheme would allow but which the proposed requirement for sign-presented programming on mainstream channels would not.

We believe that more detailed research focusing on this issue needs to be undertaken by Ofcom before it introduces these changes.

*Q2. Do consultees agree that Ofcom has identified appropriate options?*

In addition to the options set out in the consultation document, we believe that Ofcom should also consider an option to retain the present arrangements, with the possibility to apply statutory criteria to exclude low-audience broadcasters who make acceptable alternative arrangements.

Given the absence of a strong evidence base on the relative preferences between sign-presented and sign-interpreted programming, it is not clear that Ofcom’s proposal to require small audience share channels to provide sign-presented programming would deliver greater benefits than the status quo.

Moreover, there would seem to be a substantial difference in terms of the costs imposed on broadcasters between the different options: the cost of participating in the Sign Zone would be in the region of £20k per annum, while the sign-presented programming quotas could cost several hundreds of thousand pounds per annum. With such a huge disparity, it is hard to see how both options could be presented as proportionate responses.

*Q3. Do consultees agree with Ofcom’s reasons for rejecting the ideas described in paragraph 3.18?*

Three proposals are discussed in paragraph 3.18. These are discussed in turn below.

On point (a), Ofcom rejects the suggestion that the current signing requirements on channels should be dropped without putting any alternative arrangements in place. Given Ofcom’s requirement to ensure the provision of appropriate access services, including signing, we understand Ofcom’s decision to reject this suggestion, provided sensible alternative arrangements are proposed.

On point (b), Ofcom rejects the proposal to exclude some or all of the public service channels from the current signing requirements. We accept Ofcom's point that in the short-term this would deprive analogue-only viewers of access to signed programmes. But as we reach digital switchover, this will no longer be an issue. We believe that in the medium-term, it would be appropriate to consider appropriate alternative arrangements for all channels, and not just those with a share of less than 1%. However, given the concerns expressed elsewhere in this letter, we would not want the new proposals made in this report to mandate sign-presented programming to be applied more widely.

On point (c), Ofcom refers to the proposal that broadcasters be encouraged to allocate the resources they currently allocate to sign-interpreted programmes to make sign-presented ones, and notes that there was "no appetite" for broadcasters to do this on a voluntary basis. In apparently acknowledging broadcasters' concerns about being required to provide sign-presented programming and rejecting this proposal here, it seems inconsistent for Ofcom to go on to propose exactly such a requirement for channels with small audience shares as part of its preferred Option 3 (see below).

*Q4. Do consultees agree with the proposals outlined in paragraph 3.32?*

Ofcom goes on to raise three options:

1. **Do nothing – ie continue with current arrangements.** Ofcom rejects this approach as not meeting its policy objectives
2. **Impose additional subtitling requirements.** Ofcom rejects this proposal, claiming it would not meet the needs of sign language users who cannot use subtitles. It adds that it might not provide much incremental benefit, as broadcasters frequently exceed their current subtitling obligations
3. **Impose alternative signing arrangements unless acceptable alternative arrangements are in place.** The alternative arrangements proposed by Ofcom are for channels with an audience share of less than 1% to be required to broadcast sign-presented programming in one or more regular slots at least once a month between 7am and 11pm. In terms of acceptable alternative arrangements, Ofcom states that "it is open to Ofcom to take into account any voluntary arrangements entered into by broadcasters that would also meet the needs of sign language users more effectively". Ofcom goes on to discuss the proposal for a sign zone on the Community Channel, and argues that it could provide a good basis for an acceptable alternative to imposing requirements, as it would provide a range of sign-presented and sign-interpreted programming at more convenient times, and would allow deaf groups to play a significant role in the decision-making. This is Ofcom's preferred option.

Channel 4 recognises Ofcom's desire to seek more appropriate approaches to signing than the status quo (Option 1) – however this also means that Ofcom should only introduce a new approach if it is demonstrably better than the existing arrangements and has the full support of the relevant participants.

Given the research presented by Ofcom that shows an overwhelming preference for subtitling over signing amongst deaf viewers, we believe that there is merit in considering Option 2 further, and are not convinced by Ofcom's reasons for rejecting this option. It is not clear that there is a significant constituency of sign language users who cannot use subtitles. Moreover, Ofcom seems to be penalising broadcasters for over-delivering on their subtitling commitments by using this as a reason to reject this proposal.

As a result of the legislative framework which prevents Ofcom from mandating a scheme such as the Community Channel sign zone, Option 3 is inevitably a complex proposal in its structure. We support Ofcom's in-principle support for a scheme such as the sign zone. But as we explained in the overarching comments, we have two important concerns about this proposal. First, it is important for Ofcom to set out clear criteria by which it would evaluate any such scheme. And second, we do not believe that there is a sufficiently strong evidence base to support Ofcom's proposal to require channels to provide sign-presented programming.

We would also raise a number of further specific concerns about Ofcom's proposals:

- First, Ofcom does not explain how its proposals would relate to channels that do not operate for 24 hours per day. It cannot be proportionate for the same quotas to apply to a channel that operates for just a few hours per day as to one that operates round the clock
- Second, Ofcom does not explain the basis by which it determined the duration (up to 60 minutes for channels that have been operating for seven years or more) and scheduling (between 7am and 11pm) of the sign-presented programmes that it wishes to require channels to broadcast. These rules seem somewhat arbitrary; and, as noted above, may be disproportionately onerous for channels that broadcast for just a few hours per day. We would argue, in particular, that the requirement to broadcast between 7am and 11pm should not form part of this proposal.

*Q5. Do consultees agree that the aim should be to put any new arrangements in place from the start of 2008?*

As it is typical for programme schedules to be agreed more than 6 months in advance, we believe that it is already too late to impose new rules at the beginning of 2008, especially given the significant changes proposed by Ofcom. We are not convinced that Ofcom's desire to accelerate this consultation exercise is justified.

While we can understand that there are reasons to avoid delaying until 2009, there is no reason why Ofcom could not consider interim deadlines, such as the middle of 2008. This would provide the necessary time for Ofcom to conduct the research needed to underpin its policy proposals, and for the issues raised to be debated by all parties more fully.

*Q6. 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.*

We would like to make a number of observations on specific components of the impact assessment.

- **Paragraph A5.21.** Ofcom is correct that producers of sign-presented programmes would benefit from its proposals – although it is worth pointing out that these producers are not necessarily themselves deaf or hard of hearing. Moreover, this benefit would be offset by the loss to the producers of the programmes that are displaced. And as Ofcom envisages that sign-presented programmes would be repeated several times, the net effect on total UK production could be negative
- **Paragraph A5.22.** Ofcom refers to the opportunity cost of sign-interpreted programming, but does not seem to consider that the opportunity cost of introducing sign-presented programming might be much greater, as the audience and related advertising revenues in the relevant slots are likely to be a tiny fraction of the slot average. While a certain proportion of hearing viewers might choose not to watch sign-interpreted programmes that they would have watched without the signing, the potential audience for sign-presented programming is by its very nature likely to be an order of magnitude smaller than that of other programmes that would air in the same slot
- **Paragraph A5.23.** Our evidence suggests that Ofcom has underestimated the costs of providing sign-presented programming. The last series of Vee TV commissioned by Channel 4 cost around £45,000 per episode, with additional funds provided to cover training and support.

*Q7. Do consultees consider that the proposed revisions to the Code are sufficiently clear?*

As noted above, Ofcom does not clarify the criteria that would make alternative arrangements acceptable under its preferred Option 3.

## **Conclusion**

Channel 4's view – based on the detailed research programme conducted by Ofcom in 2006 and our own ongoing dialogue with groups representing the deaf community – is that the greatest priority for deaf people is to be able to enjoy the same programmes that their friends and families like to watch, so that they can join in when programmes are discussed (see NDCS research 2005, quoted on p36 of the Consultation document).

We believe that the best way overall to achieve that, while also taking into account the viewing experience for the majority hearing population, is via extensive use of subtitles. We also support the principles behind the proposal for a Community Channel sign zone, which would enable a range of sign-presented and sign-interpreted programmes to be made available in a more convenient manner, while empowering the deaf community by giving them a greater degree of control over the process.

However, we believe that Ofcom's requirements to provide sign-presented programming on the existing channels as an alternative to this would not be appropriate or proportionate, and would actually be worse than the status quo. The burden on broadcasters is likely to be greater, while we do not believe there would be a corresponding increase in the benefit to sign users.

We therefore believe that Ofcom should retain the status quo as the default position, and set out clearer criteria for the acceptability of alternative schemes such as the Community Channel sign zone.

We also believe that Ofcom should delay the timetable for the consultation and implementation of the new proposals, to allow the issues to be debated properly and to enable Ofcom to carry out the necessary research needed to support their proposals.

Finally, we should note that the emergence over the next few years of on-demand services delivered by broadband should provide exciting new possibilities for the delivery of both sign-presented and sign-interpreted programming. This is a topic that Ofcom should consider as part of its upcoming PSB Review – perhaps as part of the remit of the proposed new media-focused public service publisher. In this context, it would be inappropriate for Ofcom to introduce a radical new approach to signing at this stage which does not fully meet the needs of audiences and broadcasters, when far more satisfactory arrangements can hopefully be made in the near future.