

1. Only in part. While the high-level policy objectives as stated in 1.10 and 1.11 are simple and clear, Section 3 contains some controversial statements.

In many respects, this aspect of Ofcom policy falls under PSB considerations, and should therefore surely be considered alongside its work on the future of PSB.

Ofcom appears to be in danger of focusing on OUTPUTS rather than on OUTCOMES. Ofcom's current policy objectives were framed before many of the current and coming developments in television and audio visual services. Even the definition of "television" is no longer clear; do we mean the 5 Analogue channels? Freeview? satellite? Broadband-delivered TV? IPTV?

What is "best" or "desirable" in a market where only 5 channels existed surely cannot be extrapolated to the situation where more than 500 are available. It is clear that hearing-impaired people have clear preferences for QUALITY of the aids provided for them over quantity.

Ofcom seeks to segment the "TV" environment at (an arbitrary?) 1% viewing audience share - but does not explain how it seeks to measure the 1%. BARB can certainly NOT be relied on.

2. Technology developments enabled by digital TV (and all variants in its delivery) open up many new possibilities for providing facilities for the hearing impaired. These need to be considered as to whether the desired outcomes of legislative and government policy might be much better achieved in other ways.

Again, Ofcom seems to have only considered options appropriate to the historical regime, extrapolating to the multi-channel and multiple-media world. It is surely as (indeed, more) logical to impose sign-presenting on the basis of viewing share at a PROGRAMME level, than to impose it at a CHANNEL level, where the obligation could be met by arbitrary application to programmes within a channel's output.

3. Yes.

4. a) Agree

b) Surely Ofcom should take account of the target audience's (hearing impaired) preferences, rather than rely on an arbitrary and largely un-measurable metric at the channel level? It is surely PROGRAMMES which hearing-impaired people want to be signed, not channels?

c) Disagree. This appears to be "back-door" imposition. "We'll let you off the obligation, but instead force you to pay someone else to do it for you."

d) Disagree. Again, this is an arbitrary imposition that ignores better options. It is explicit interference by the regulator in a broadcaster's schedule – akin to forcing the carriage of party political broadcasts.

e) We strongly disagree with Ofcom's apparent support for the BSkyB/Community Channel "alternative". This appears to be direct intervention in a manner which would distort competition in the market. Ofcom's suggestion is tantamount to a levy on some channels which is to be handed to a single channel – which has been selected without consultation or tender.

The Community Channel receives substantial financial and technical support, directly and indirectly, from several major broadcasters and from BSkyB (whether as a broadcaster or Digital TV platform provider). Though we have great respect for The Community Channel, it is a direct competitor to ourselves and to some other

channels. It has no formal PSB status, but (if this suggestion was to be adopted) Ofcom would have elevated it to full PSB status. This seems to us to be entirely unacceptable, and sets a dangerous precedent which could be just as easily (and dangerously) applied in other situations.

The organisations which support The Community Channel do so as part of their Corporate Social Responsibility strategies. They have collectively, however, created a well-funded organisation with growing ambitions. It could be utilised (accidentally or deliberately) as a means of preventing or stifling innovation.

There are other broadcasters and organisations (including ourselves and organisations like VeeSee) within whose remit “alternative schemes” such as that proposed by BSkyB and The Community Channel could be provided. The ongoing PSB consultation should surely embrace access services within PSB considerations.

5. No. As argued above, Ofcom should consider this area within the wider exercise of its PSB consultation, and only subsequently impose arrangements for this subset.

6. Ofcom’s assessment of costs of sign-interpreted programming may be reasonable for channels which commission relatively large amounts, and who are sufficiently organised to plan for and manage sign-interpretation. Smaller channels will however almost certainly pay considerably more per hour of content; and the content itself may not be in a form which is readily adaptable to include sign-interpretation. (Smaller channels may not themselves directly commission much material at all).

Ofcom’s assessment of costs to broadcasters seems to ignore the administrative costs which would arise from the management of multiple versions (sign-interpreted and non-sign-interpreted) programmes. Taken together with the costs of the programming itself, these costs could be a substantial portion of the broadcaster’s overheads.

We would also reiterate our comments above regarding the potential market distortion and barriers to innovation from Ofcom’s suggestion regarding The Community Channel, which we regard as an extremely serious issue.

7. The proposed revisions are fairly clear; we feel, however, for the reasons stated earlier, that some of them are misguided.

Comments:

We have until now regarded Ofcom as a “light touch” regulator, as indeed Ofcom has stated as one of its own objectives.

We do however feel that this consultation, albeit regarding a relatively minor matter, appears to mark a radical change in Ofcom’s regulatory approach, in that the regulator appears to be moving into areas of direct editorial control, and even more worryingly, into market intervention of a form which is arguably outside its own remit.

We recognise that the area of access services is an emotive one, and as with many other areas of Ofcom’s work, one which requires balance and sensitivity. We hope that Ofcom will perhaps, on reflection, recognise that its proposals here require reconsideration.