



## OFCOM CONSULTATION RESPONSE

### HOW SHOULD ON-DEMAND PROGRAMME SERVICES BE MADE ACCESSIBLE?

#### Introduction

As an industry we recognise that viewing habits are changing and the popularity of on-demand programmes is increasing. We are all in agreement that providing access services (subtitles, signing, audio-description) on on-demand programmes is the right thing to do for consumers so that viewers who have a hearing/sight impairment or additional access needs are not left behind. There are of course financial and technical challenges, however these should not be seen as a deterrent.

Over the recent years, BT has made steady progress on the BT TV platform and through BT Sport in providing accessible content to consumers, without a mandated requirement to do so. Some of the advancements BT has made in this area will be included in this response in the hope that it will draw out some of the issues around providing access services on on-demand programmes, and help inform Ofcom when devising a Code and Guidance in this area.

Currently the EE platform does not have the capability for the provision for access services. Work-streams are underway into developing the capability. For the purposes of responding to this consultation, this response will refer predominantly to BT TV and BT Sport's experience.

There has been lots of debate around whether responsibility for creating subtitles and audio-description should reside with the platform or the content provider, or if responsibility should be shared. As both a platform (BT TV) and content provider (BT Sport) we are very aware of the issues from all sides from the technical implications to financial and most importantly audience benefit.

As a platform, we see it as our responsibility to build the capability to **surface** access services. This means we are able to take the metadata<sup>1</sup> files for access services, process them and enable them for customers to switch on/off at their discretion.

As a content provider, we also see that we have a responsibility to **create** subtitles and audio-description for our own BT Sport content. We are therefore of the opinion that all platform providers should create the capability to surface access serviced assets to customers and content providers should be responsible for providing the metadata on their content. This is mostly to avoid duplication across platforms creating subtitles and audio-description for the same asset.

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<sup>1</sup> 'Metadata' being the data attached to an asset signifying specific coding required in order to deliver subtitling, audio-description or signing on a programme to the end-user

## Consultation questions

1. *Do you agree with our assessment of the key issues involved to inform regulations in this area?*

We are of the view that future regulation should not be restrictive on the ODPS (on-demand programme service) providers so as to limit viewers' enjoyment of on-demand programmes and/or drive some services to operate outside UK or worse cease operating.

In setting out future regulations we agree that assessing the type of content, the type of accessibility features, the audience benefit and the technical capability of a service are a sensible approach to any future regulation. The ODPS market is made up of differing platform providers, content providers, devices, apps, websites, varying over-the-top (OTT) offerings all of which should be taken into consideration.

2. *Are there other 'access services' which you believe should be specified in any regulations?*

We agree that subtitles, audio-description and sign-language (British Sign Language (BSL)) should all be specified in the regulations. We do not have any research to support the need for other access services.

We are of the view that future regulation should not be prescriptive in the way in which these access services are presented to the end-user due to the varying technical differences and challenges from platforms, devices, apps etc.

3. *Do you have views on the relative importance of sign-presented programming and sign-interpreted programming?*

It is recognised that there is slower progress regarding sign-presented and sign-interpreted (BSL) programming in the linear world in relation to subtitling and audio-description. Similarly, progress has been just as limited with on-demand content. This could be attributable to subtitles being an alternative means by which viewers with a hearing impairment can consume content.

Further research would be required to assess viewer demand and audience benefit for sign-presented and sign-interpreted on-demand content. Research and development will also be required regarding the technicalities, practicalities and costs for providing such content on ODPS services.

The Ofcom requirement for the provision of sign-presented and sign-interpreted content for linear broadcasters sets specific targets based on audience share<sup>[2]</sup>. We are of the view that future regulation of sign-presented and sign-interpreted content for on-demand content could be applied relative to whether an ODPS provider is subject to the requirements in the linear world. We recognise that determining an applicable threshold for on-demand content, however is much more complicated due to there currently not being a consistent industry approach for measuring audience share of ODPS programmes/services. Therefore future regulation should not be based on audience size until such time as accurate/universal measurement tools are available. In lieu of a threshold based on audience size, this could be based on other determining factors possibly based on percentage of catalogue size (see response in Q10).

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<sup>[2]</sup> The Ofcom threshold for sign-presented and sign interpreted programming for linear broadcasters is currently set at 1% of the average audience share. For subtitling or audio-description the average audience share threshold is set at 0.05% (source: [https://www.ofcom.org.uk/data/assets/pdf\\_file/0020/97040/Access-service-code-Jan-2017.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0020/97040/Access-service-code-Jan-2017.pdf), see p7)

Where an ODPS provider is not a linear broadcaster, a similar approach to determining a threshold should also be applied (again as per the consideration above regarding the introduction of a consistent industry measurement tool).

Technical and financial implications should also be considered to allow for exemptions in the requirements (in the case of smaller charity/community ODPS services) where this could present considerable constraints.

4. *To what extent can or should regulations require usability features including (but not necessarily limited to): provision of information; accessible catalogues; and best practice relating to the creation, selection, scheduling and presentation of accessible programming? If you do not believe that these features should be required by the regulations, should the regulations require Ofcom's resulting code to give guidance on these issues?*

We are of the view that platforms should provide the capability for the provision of access services. This should not be limited to the capability but also facilitate a good viewer experience that is easy and practical to use.

The BT TV set-top box currently has the following accessible features to help customers enjoy the service overall, including being able to find on-demand content more easily:

- High contrast colour scheme - a user can change the settings so that the menu is displayed as white text on black background
- Removal of channel logos from TV guide - makes the guide easier to read
- Removal of transparency of the TV guide - creates a solid background rather than being transparent which makes it easier to read
- Audio feedback – when users press certain buttons on the remote a tone is played, users can adjust the volume
- Zoom - users can zoom in when using the main menu or TV Guide, enlarging the text
- Grid 2 - users can control the YouView box without the need for keyboard or remote
- Use a keyboard instead of a remote - users can use a UK USB keyboard to interact with their box instead of using the remote
- Presence of Subtitles and/or Audio Description is indicated in the programme information using the [AD] and/or [S] icons
- Capture existing access services on recorded programmes which can be turned on or off when replaying the content
- Facility for switching signing on or off (not currently used due to lack of signed content)

It would be beneficial if the future regulations were to issue Guidance on best practice of usability of features such as (but not limited to) those listed above. However it is important to note that this Guidance should not mandate how the usability features are presented back to the consumer, as mentioned earlier in Q2. Should this be mandated, this would stifle innovation in the market.

We believe that content providers have a responsibility to ensure that they supply the appropriate metadata in order for ODPS to provide a valuable service to consumers with a hearing/sight impairment. This calls for some form of technical standardisation across industry which we appreciate will take time, resources and will have financial implications across the board. It would therefore be beneficial for Guidance to be issued on technical standards.

5. *Do you agree that audience benefit, cost, and practicability are appropriate grounds for differentiating services/content for the purposes of regulations? Are there other grounds on which you believe ODPS programmes/services should be differentiated (prioritised, excluded, or subject to different requirements)?*

We agree that audience benefit, cost and practicability are appropriate grounds for differentiating services/content for the purposes of regulations. Audience benefit should be the catalyst for regulation, followed by practicability. For example, in the case of some music videos it would not be practical to provide audio description or on sports events with commentary (e.g. football match which tend to be self-describing).

Additionally, where a programme has a relatively short shelf-life this should be factored into the cost and again the practicability as this will have an impact on the commercial viability of providing access services on ODPS. For example, some sports rights only allow content to be live on ODPS platforms up to 3-5 days after an event. The window of opportunity for most viewers wanting to view catch-up/highlights is time-sensitive, normally within the first 48hours after an event. This means by the time access services has been added (24-48 hours) to the asset, firstly most customers would have already viewed it and secondly the time window for other customers who haven't yet viewed is tiny.

6. *Should the regulations impose more stringent requirements on public services broadcasters' ODPS than on ODPS provided by others?*

PSBs currently have an obligation in the linear world to provide accessible content. For audience benefit, it is not unreasonable to expect that this same content be made available on-demand with access services provided. We therefore argue that future regulations should be extended to capture all PSB on-demand related services which albeit may be separate commercial ventures (e.g. ITV Hub, All4, My5). We are of the view that all ODPS that are Ofcom notified should be in scope and the rules should be fair, simple and applicable to all, unless where a threshold has been identified (if at all) and an ODPS does not meet this threshold.

7. *Should the regulations limit accessibility requirements to programmes/services which have previously been broadcast with access services, or impose more stringent requirements on these programmes/services?*

We do not agree that future regulations should be limiting. We do agree however, that programmes/services that have previously been broadcast with access services should be prioritised for access services on ODPS. For example a film that has previously appeared on linear, on DVD or in the cinema with access services should also be made accessible for viewers who are hearing/sight impaired where it appears in an on-demand catalogue. It must be recognised however that there are technical challenges and associated costs with providing access services on the various platforms/services (web, app, player, mobile etc.) as the technical processes are different across the industry. We therefore argue that content providers should supply the appropriate metadata for the various platforms/services in which the content is required to appear. This content may also appear on multiple ODPS services, in which case the same metadata should be used thereby eradicating duplication across the industry.

In addition to this, content that is originally 'VOD-first' or 'VOD-only' should also be captured in the future regulation, irrespective of any intention for such content to be broadcast on linear channels.

8. *Do you consider that ODPS programmes/services should be excluded from the full requirements on the grounds of audience size? If so, should there be different requirements for excluded programmes/services?*

There is currently no consistent approach to assessing audience size for ODPS programmes/services. This is mostly due to not being able to adequately track how many times an asset has been accessed and the number of unique views. Therefore there should be no regulation based on audience size until such time as accurate/universal measurement tools are available.

9. *Should the regulations impose different accessibility requirements on ODPS made available via certain platforms, and if so which?*

[&lt;]

10. *Do you have any views or information on appropriate and available means of measuring the audience impact of ODPS?*

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11. *Are there particular types/genres of programming which should be excluded from requirements, or subject to reduced requirements, on the grounds of limited audience benefit?*

In addition to 'adult' content, we believe live commentated sport, music videos and programmes targeted to babies/toddlers should be subject to reduced requirements or excluded on the grounds of limited audience benefit. Where content providers identify an audience benefit for a particular programme (on a case-by-case basis), for example with live sport, and where practically possible, they should make best endeavours to make this content accessible. However, this should not be mandated by regulation.

As a content aggregator, we source content from multiple providers to offer to our customers, many of these content providers are international and therefore we would expect them to be exempt from regulation and reported on accordingly. However, if this is made available to us, we accept that as a platform we should make reasonable endeavours to surface them.

12. *Do you consider that ODPS programmes/services should be excluded from the full requirements on the grounds of affordability? If so, should there be different requirements for excluded programmes/services?*

Where possible, all ODPS should try to provide access serviced content. However in the case of smaller charity/community ODPS services this may be a financial and technical challenge and therefore Ofcom could allow for some flexibility in the requirements. The threshold for determining this exemption could be based on affordability and audience benefit.

13. *Do you have any views or information on appropriate and available means of quantifying: ODPS-specific revenue; and costs associated with ODPS access services?*

[&lt;]

It is our view that content providers should provide the appropriate metadata in order for platforms to facilitate access serviced content to its consumers. This content may also appear on other ODPS services, in which case costs could be reduced/shared where the same content and metadata are being used.

We therefore strongly support the need for standardised file format to help minimise conversion costs and failure to deliver content to the end user.

14. *If you are an ODPS provider, do you have information on the likely costs involved in providing access services on your ODPS?*

[&lt;]

15. *Do you consider that ODPS programmes/services should be excluded from the full requirements on the grounds of technical difficulty? If so, should there be different requirements for excluded programmes/services?*

We accept that providing access services on ODPS is technically challenging, particularly in the case of content that has a short shelf-life (e.g. catch-up services, sports content etc.). This is further complicated by content providers having or not having the capability (as the case may be) to provide access serviced content to the differing platforms, devices etc. in a timely manner that is of benefit to the consumer. We therefore agree that there is scope for exemptions based on technical difficulty and audience benefit. As mentioned in Q11 this could be adult content, music videos, baby/toddler content and live commentated sport.

16. *Should regulations include quotas on percentages of programming available with access services? If so, what should the quotas be? If not, what other methods do you consider appropriate for the purpose of setting access service requirements for ODPS?*

Whilst introducing quotas is a seemingly logical approach, there is currently no recognised methodology for measuring the number of times an asset is viewed via ODPS. Platforms are able to measure the number of times an asset is selected, but are not able to track the number of unique views. For example if a film has been purchased, it is not possible to track the number of unique views of that particular film.

Secondly catalogue sizes vary when new content is introduced or goes out of licence. This has an impact on the volume of content in the catalogue at any given time. In addition to this there may be partial elements of a catalogue that may have access services, for example in the case of the back-catalogue of a box-set where series 1 and 2 do not have access services however subsequent series do, this will have an impact. The regulations should therefore allow for evidence to be provided to support any fluctuating changes in volume.

17. *Do you think that there should be a phased introduction of requirements? If so, please give details.*

We agree that a phased approach would be a sensible means of introducing requirements, using a similar incremental approach over ten years as is the requirement for access services for linear broadcasters. This approach should also include content from catch-up services and 'VOD-only' or 'VOD first' content.

If quotas are to be introduced, we think the quota should increase over the first few years in order to allow organisations to provide adequate resource. These quotas should then be reviewed by Ofcom at a suitable interval.

18. *Do you think that the introduction of requirements should prioritise particular types of ODPS programmes or services?*

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Following more extensive research from Ofcom amongst ODPS providers, lobby groups (e.g. RNIB, Sense and AoHL), this could provide a basis for prioritising the introduction of requirements driven by consumer need.

*19. Should ODPS providers be able to propose alternative arrangements, and if so what type of arrangements?*

BT does not currently provide signing on our own content, we do however contribute financially to the British Sign Language Broadcasting Trust (BSLBT), whilst also providing subtitles and audio-description on our own content. We support such arrangements, as organisations like BSLBT provide a valuable service to consumers. However by contributing financially to such organisations, we do not see this as grounds for an ODPS to be absolved from providing access services (notwithstanding those identified as being 'exempt', subject to the 'exemptions' being defined by Ofcom) and therefore should make best endeavours to make meaningful progress to provide access serviced content for consumers.

*20. Do you have any other comments or information you wish to share in relation to the drafting of regulations on ODPS accessibility?*

There has been lots of debate around whether responsibility for creating subtitles and audio-description should reside with the platform or the content provider, or if responsibility should be shared. As both a platform (BT TV) and content provider (BT Sport) we are very aware of the issues from all sides from the technical implications to financial and most importantly audience benefit.

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Associated with this view is the call for some form of standardisation of formats of file delivery and transcoding (similar to what is seen in the linear world with DPP packaging of linear assets). This would involve huge investments for both platforms and content providers to build infrastructure, workflows and innovation.

Currently BT TV supports the following from content providers:

Subtitles

- Subtitles language is English, of type 'for deaf and hard of hearing'
- Subtitles must be conformed against the timing of the associated audio/video content
- EBU-TT XML (preferred) files compliant with EBU Tech 3350 and Tech 3360
- EBU STL files compliant with EBU Tech 3264
- Other formats would need to be agreed by prior arrangement as we have a conversion tool (e.g. MediaMate by Screen System) which is able to reformat most other subtitle file formats

Audio Description

- Preferred: Receiver Mix presented as separate mono narration and pan/fade tones according to BBC WHP198
- Broadcaster Mix presented as premixed main plus description stereo track

Careful consideration is required when discussing standardisation as the aim is not to drive any ODPS or content provider to cease operation but to enhance viewers' experience with a variety of content available and continue to encourage innovation.