Consultation response form

Your response

Question 1: Do you agree with our assessment of the key issues involved to inform regulations in this area?	Yes, we agree.
Question 2: Are there other 'access services' which you believe should be specified in any regulations?	Any regulation should be limited to the access services requirements specified in the Digital Economy Act 2017: subtitling, audio-description and signing.
Question 3: Do you have views on the relative importance of sign-presented programming and sign-interpreted programming?	Unlike subtitles or audio description, which can be imbedded into/hidden within an existing VoD asset, for UKTV to offer sign interpreted content via our ODPS, we would need to create an additional version of each programme. This would result in a duplication of time, resource and costs and could impact negatively on our service.

UKTV's channels currently meet their signing obligations through an annual contribution to the BSLBT. While we are still financially contributing towards the BSLBT, we would argue to maintain a similar approach to on-demand content.

Through broadcaster's contributions, the BSLBT's dedicated website offers on-demand, bespoke sign presented content to the deaf community. Their research has demonstrated that users prefer sign presented bespoke content, rather than sign interpreted. Therefore, it makes sense for UKTV to continue to contribute to the BSLBT's successful provision of sign presented content. |

Question 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?	UKTV agrees with Ofcom's assessment that the usability features on an on-demand programme service are important to ensure that the content is more easily accessible. A] Re: provision of information on accessibility to consumers: We do agree that it should be mandatory to ensure that content is clearly labelled as being accessible to consumers who need it. However, where ODPS is made available on a direct to consumer [DTC] website or App, each provider should be free to find different, innovative ways to make their content identifiable to the relevant viewers. B] Re: accessibility of ODPS catalogues: Guidance regarding the accessibility of ODPS catalogues would be welcomed, but we don't believe it should form part of the regulations. As with point A above, each provider has greater control over their DTC sites and apps, however they won't have the same control over the catalogues provided by third party platforms. C] Re: the selection and scheduling of programmes: We do not believe selection of programmes should be stipulated in the regulations as each ODPS will have different priorities depending on the content they show. UKTV currently selects and schedules content for Access Services [AS] in line with Ofcom's guidelines on the provision of television access services. However, for reasons of practicality and cost, there is content that we do not subtitle for premiere broadcast, such as those titles delivered too close to transmission. Further, UKTV does not provide live subtitles for the small number of live/as-live broadcasts on our network, so would not expect to have to provide AS for this content once it is made available on demand, as the initial catch up spike will have passed before AS could be created and uploaded. However, we would welcome guidance from Ofcom regarding what programmes are more in demand from consumers.

Question 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)?	Yes, we agree that these are appropriate grounds.
	However, UKTV would like to stress that while there is an obvious audience benefit to providing AS on a third-party platform, the cost and technical challenges of doing so may prove prohibitive to some providers.
	Equally, even for DTC offerings, a separate AS file would be needed to enable consumers to view on the variety of devices that an app is available on.
	An ODPS provider should also be free to decide which platforms and devices to prioritise based on the likely uptake and, just as importantly, the ultimate user experience.
	Due to technical challenges and likely costs, as well as the perceived audience benefit, UKTV would support subtitles being prioritised over audio description and sign-interpreted content.
Question 6: Should the regulations impose more stringent requirements on public services broadcasters' ODPS than on ODPS provided by others?	Public service broadcasters remain at the heart of the British television viewing experience and they have a statutory duty to make their content widely available. According to Ofcom's 2017 Annual Research Report the BBC's iPlayer is one of the biggest players in the VOD market, so it would seem fair to impose more stringent, yet proportionate, requirements on any on-demand services that are considered statutory public services.

Question 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?	Confidential? – N Applying more stringent requirements on programmes previously broadcast with AS will unfairly target broadcasters. UKTV chooses to over-provide against our linear AS quotas, so while we have AS files available for much of our content, that doesn't translate to those files being immediately compatible with our on-demand services. Further, limiting accessibility requirements in this manner would not apply to smaller ODPS providers who do not have a broadcast linear service, nor would it apply to broadcasters whose limited audience share exempts them from providing linear AS. UKTV's view is that whether content has been previously broadcast with AS is largely irrelevant and that regulation should not look to impose greater, or less stringent requirements on these programmes. This is because, while broadcasters have existing AS files for content, we do not know if those files will be supported by the varying platforms on which our ODPS appears. The technical challenges involved with making content accessible on VOD have not been resolved and, currently, it is not as simple as attaching an existing subtitle/AD file to an asset that is being uploaded for VOD. See response to Q9.
Question 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?	Confidential? – N No, we don't believe that ODPS services should be excluded on the grounds of audience size. While audience size is perhaps a valid means of determining *quotas*, it should not be used to exclude providers completely. While BARB's Project Dovetail will allow broadcasters to better capture VOD audience data, it will not offer comprehensive on demand measurement on all platforms. Further, *Non-broadcaster* ODPS will not be picked up until BARB introduces new technology in the form of router meters, but these are not expected to be in place until late 2019/2020. So, in the long-term BARB offers the possibility of a solution, but in the medium term there is no reliable way to independently measure non-broadcaster VOD.

Question 9: Should the regulations impose different accessibility requirements on ODPS made available via certain platforms, and if so which?	Confidential? – N The regulations drafted under the Digital Economy Act apply to ODPS providers and not to the platforms their services appear on, nor the manufacturers of devices on which the transmission of access services depends. This places the burden on ODPS, who rely heavily on those platforms - and devices - to make their services available to consumers. While ODPS have a responsibility to their viewers, the platform providers equally have a responsibility to their customers. Platform providers should be required to work with ODPS to address the issue of standardisation. While there are currently working groups discussing this, we don't believe ODPS should be required to provide AS on third-party platforms until there is an agreed industry-wide common standard of file type, delivery method and acceptance. There is a tremendous opportunity here for ODPS and platform providers to work together to address the issue of standardisation, and to ensure that our viewers and their customers enjoy access to as much AS on-demand content as possible. Until there is an agreed common standard for file formats and delivery mechanics, UKTV believes that providing subtitles on wholly-owned DTC platforms should be the priority requirement for ODPS providers, given they are fully within their control.
Question 10: Do you have any views or information on appropriate and available means of measuring the audience impact of ODPS?	Confidential? – N See response to Q8. BARB are currently focussed on measuring broadcaster VOD services, with the technology to capture non-broadcast stand-alone services not being in place until 2020.
Question 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?	Confidential? – N From a UKTV perspective, we don't believe we have any content that would fall outside of any requirements.

Question 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?	Confidential? – N UKTV's concern is that the potentially prohibitive costs associated with providing AS via third-party platforms could lead to ODPS providers removing their services from certain platforms/devices on grounds on affordability. See Q14 for more details.
Question 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?	Confidential? – N Unfortunately, it is not currently possible to ascribe specific revenue generated by different platforms, especially on our combined linear/VOD platforms such as Sky and Virgin Media.
Question 14: If you are an ODPS provider, do you have information on the likely costs involved in providing access services on your ODPS?	[✂]
Question 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?	Confidential? – N As discussed in Q9, Ofcom is aware that by far the biggest obstacle in this regard is that ODPS hosted on third party platforms and devices are at the mercy of those platforms in relation to the technical specs required to host access services. There is currently no industry standard file format for ODPS to send/attach subtitle files to programme content. There is also no standard delivery mechanism, which is just as much as of a barrier. For example, ideally UKTV would prefer subtitle file delivery to be completely independent of the VoD asset as it is with linear, rather than packaged with the video asset, as Sky is currently proposing. UKTV strongly believes that there is a shared responsibility between service providers and platforms to resolve this in a cost-effective and flexible manner. TODIF is currently attempting to address this issue with service providers and the platforms, but until this complex issue is resolved it would be unreasonable to impose regulations and/or quotas for ODPS services on third party platforms.

Question 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?	Confidential? – N UKTV agrees that there must be a means of measuring progress and availability, but would point out that this is difficult to do in relation to a catalogue which is constantly changing size. Quotas should be based on the annual number of assets made available on the service, as per the current requirement for ODPS providers to report to Ofcom. The linear subtitle quota is 80% for most of our channels, but we think it would be unrealistic to expect our on-demand quota to be that high. For example, subtitle files may not be available in time for VoD asset delivery since this can take up to 7 days for some platforms.
Question 17: Do you think that there should be a phased introduction of requirements? If so, please give details.	Confidential? – N UKTV agrees that there should be a phased introduction of requirements, allowing for a progressively more accessible introduction of AS rather than immediate hard quotas. Given that most ODPS providers have never provided AS on their on-demand services before, doing so is an unknown quantity. Therefore, it is impossible to foresee all obstacles and eventualities associated with making on-demand services immediately accessible. So, while a phased introduction would be desirable, this needs to be over a realistic timeframe to allow for testing and there should be an element of leeway to allow for unforeseen difficulties.
Question 18: Do you think that the introduction of requirements should prioritise particular types of ODPS programmes or services?	Confidential? – N We don't believe that broadcasters should be treated differently from other ODPS providers just because we have a linear quota to achieve. UKTV would support the priority of providing subtitles over audio described content and signed content.
Question 19: Should ODPS providers be able to propose alternative arrangements, and if so what type of arrangements?	Confidential? – N As stated in response to Q3: While broadcasters are still financially contributing towards BSLBT we would argue to maintain a similar approach to our on-demand content relating to sign interpreted programming.

Question 20: Do you have any other comments or information you wish to share in relation to the drafting of regulations on ODPS accessibility?	Confidential? – N UKTV would like to reiterate the point made in response to Q9 regarding standardisation of accepted file formats and delivery mechanisms. While there is no regulatory obligation on the platforms to help enable ODPS's to provide AS, we would welcome Ofcom's continued support in stressing the essential role they must play in making our content accessible.