

Making On-Demand Services Accessible

Response from the Association for Commercial Broadcasters and On-Demand Services to Ofcom

September 2020

Introduction

1. COBA is the Association for Commercial Broadcasters and On-Demand Services. It represents multichannel broadcasters in the digital, cable and satellite television sector and on-demand services.
2. COBA members operate a wide variety of services, offering news, factual, children's, drama, music, arts, entertainment, sports and comedy. Their content is available on free-to-air and pay-TV platforms, as well as on-demand.
3. COBA members are arguably the fastest growing part of the UK television industry, and are increasing their investment in jobs, UK content and infrastructure. They make this investment without public support, direct or indirect.
 - Scale: In the last decade, the sector has increased its turnover by 30% to more than £5 billion a year. This is rapidly approaching half of the UK broadcasting sector's total annual turnover, and has helped establish the UK as a leading global television hub.¹
 - Employment: As part of this growth, the multichannel sector has doubled direct employment over the last decade.²
 - UK production: In addition, the sector has increased investment in UK television content to a record £1.1 billion per annum, up nearly 75% on 2011 levels.³
4. For further information please contact Adam Minns, COBA's Executive Director, at adam@coba.org.uk or 0203 327 4101.

¹ Ofcom International Broadcasting Market Report 2013

² Skillset, Television Sector – Labour Market Intelligence Profile

³ COBA 2019 Content Report, Oliver & Ohlbaum Associates for COBA

Response

- 1) COBA members provide significant levels of access services on VoD services and are already subject to statutory requirements for their linear services. We recognise more progress must be made in the on-demand sector, and support transparent and constructive dialogue with policymakers to achieve this.
- 2) While we do not oppose statutory requirements for on-demand services, it is crucial they should be proportionate. This was the clear instruction from Government in DCMS's letter to Ofcom of November 2019, which stated:

‘Our aim is to ensure that any legislation introduced is proportionate on its demands on business while ensuring that content can be used and enjoyed by the widest possible audience, regardless of disability.’⁴
- 3) The majority of on-demand services remain niche, generating little if any income, and many are provided as ‘catch-up’ services to audiences of linear channels, rather than completely stand-alone operations. As Ofcom is aware, providing access services on on-demand services is complex and can be relatively costly, particularly when the margins of many on-demand services are taken into account. Even if access services are provided for content on a linear service, the content file must still be repurposed for an on-demand platforms. Often this will have to be done each and every time that that content is made available on a different platform.
- 4) At the same time, the sector has been hugely damaged by Covid-19, with revenues for the year from advertising expected to be down by £1 billion year on year. The timeframe set out by Ofcom, of achieving full provision in just four years, is hugely ambitious, and nearly half the time permitted for provision on linear services. This will be a challenging exercise for industry at a difficult time.
- 5) Our concern is that the proposal to include all revenues, including linear, in estimating the affordability of access services is not proportionate and therefore goes against the Government's stated aim. In most cases, linear revenues will greatly outweigh on-demand revenues, and will skew the results

⁴ https://www.ofcom.org.uk/__data/assets/pdf_file/0024/185802/letter-dcms-to-ofcom-vod-accessibility.pdf

accordingly. We note that the exemption for linear channels for providing access services is rightly based on relevant revenues, making the proposal by Ofcom to include linear revenues for VoD services all the more disproportionate.

- 6) With this in mind, COBA commissioned O&O Associates to develop models for estimating VoD revenues on a fairer basis. O&O have developed three proposals, and we attach them in a separate report. In summary they are:
- Using average market revenues (i.e. average split between linear and on-demand)
 - Using average market revenues but with a proxy based on audiences where needed
 - A tiered approach which combines different proxies including those based on combined data from other respondents.
- 7) All of these proposals will need further development and consultation with industry, but all would in our view be likely to produce a more proportionate result than simply including all linear revenues. Of these proposals, the first is relatively straightforward while the last is most complex, and we would favour the middle ground of using average market revenues but with proxies based on audiences where necessary.
- 8) We note that Ofcom's audience benefit proposal is aimed at providing a degree of proportionality – and is welcome – but it will only go so far. Using audiences is not necessarily a gauge of affordability and our favoured proposal would in our view be more reliable in its combination of revenues and audiences.
- 9) To be clear, Ofcom's main proposal would be accurate for VoD services that are stand alone without a linear operation – these are mostly larger subscription services - and we accept our proposals are more complex (although the first two at least are still relatively straightforward). We therefore suggest that O&O's proposals would form an optional safety net for VoD services, who may on a voluntary basis use this option instead of one that uses their linear revenues as well. This would in our view maximise proportionality and minimise the regulatory burden, all within a framework of robust statutory requirements.