



**Oliver & Ohlbaum**

# **Ofcom's consultation on ODPS access services requirements**

**A report for COBA**

**by Oliver & Ohlbaum**

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## Ofcom has opened a consultation on accessibility services for ODPS

In 2018 Ofcom made recommendations to Government regarding access services requirements for ODPS. It has now provided more details, and opened a consultation on its proposed methodologies for determining exemptions

- Ofcom has recommended to Government that ODPS (regulated video platforms) be required to meet access service requirements over a four-year period. These are: **80 per cent** of programming to include subtitles, **10 per cent** audio description, and **5 per cent** signing
- Ofcom has outlined three exemption criteria, and has opened these up for consultation:

1

**Audience:**

Services with <200k unique visitors per month

2

**Technical difficulty:**

Services which have made “reasonable endeavours” to implement changes, but it is impractical to do so

3

**Affordability:**

Services qualifying as “Small Companies” under the Companies Act 2006, or if the cost of implementing services >1 per cent of total revenue

- COBA believes that Ofcom’s affordability exemption criteria (i.e. if the cost of implementing services is greater than 1 per cent of total turnover) will mean that certain platforms will have to comply even if they make little or no profit from their online video services
- COBA commissioned O&O to suggest a means of estimating “relevant turnover”, which could be used instead of “total turnover”
- We developed two potential approaches and shared these with COBA members for comments on their suitability and practicality. Following conversations we COBA members these were refined and are presented in this report

## A code already exists relating to linear access service requirements

**Ofcom's Code on Television Access Services applies to: licensed public channel services, digital TV programme services, TV licensable content services, and restricted TV services; it excludes EPGs and teleshopping**

### Ofcom's Code on Television Access Services

#### Requirements

- Over a ten-year time period providers must meet targets set out by Ofcom\*
- Targets for domestic channels with large audience share: 80 per cent subtitling, 10 per cent audio description, 5 per cent signing (targets differ depending on audience share and whether channel targets domestic or non-domestic audiences)
- Same for channels with smaller audience shares, except only 75 mins per month of sign-presented programming

#### Exemptions

- **Audience share:** domestic channels exempt from providing access services if audience share of all UK households over 12 months is <0.05 per cent, and exempt from providing signing if <1 per cent
- **Technical difficulties:** e.g. music and news programming with little space for audio description, subtitling not supported on commercially available STBs, and broadcasts with multiple language feeds
- **Affordability:** is based on costs relating to three levels of provision:
  - 100 per cent (of the requirements set out above)
  - 100 per cent signing and AD plus 66 per cent of subtitling, and
  - 100 per cent signing and AD plus 33 per cent signing

Providers required to achieve the highest level they can afford equating to no more than 1 per cent of their **"relevant turnover"**\*\*

Providers unable to provide meet the third level of costs threshold are exempt

Note: \*Ofcom is required to draw up these targets under the Communications Act, and targets apply on the anniversary of the service's relevant date/notice date.

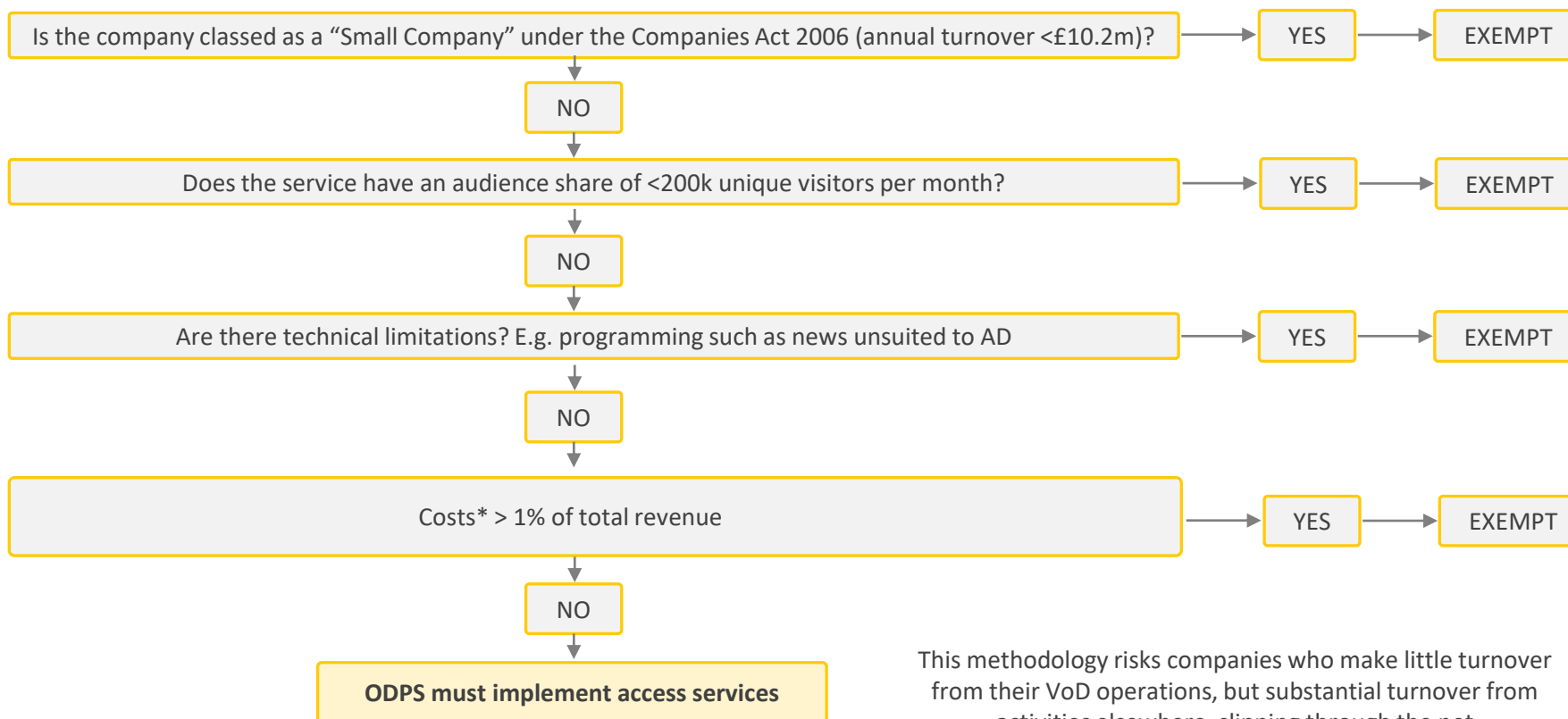
\*\*Defined in Ofcom's Statement of Charging Principles to include advertising, sponsorship, and subscription (via platforms) revenue

Source: Ofcom's Code on Television Access Services (latest update November 2020), Oliver & Ohlbaum analysis

# Ofcom provisionally defined affordability criteria for ODPS based on total revenue

Ofcom has noted that likely costs as a proportion of profit is not a suitable metric, as it risks excluding companies such as Netflix, who make little or no profit in the UK, but would be able to meet investment requirements. It therefore believes that total revenue is a better indication of ability to fund access services

## Exemptions process and affordability assessment for ODPS



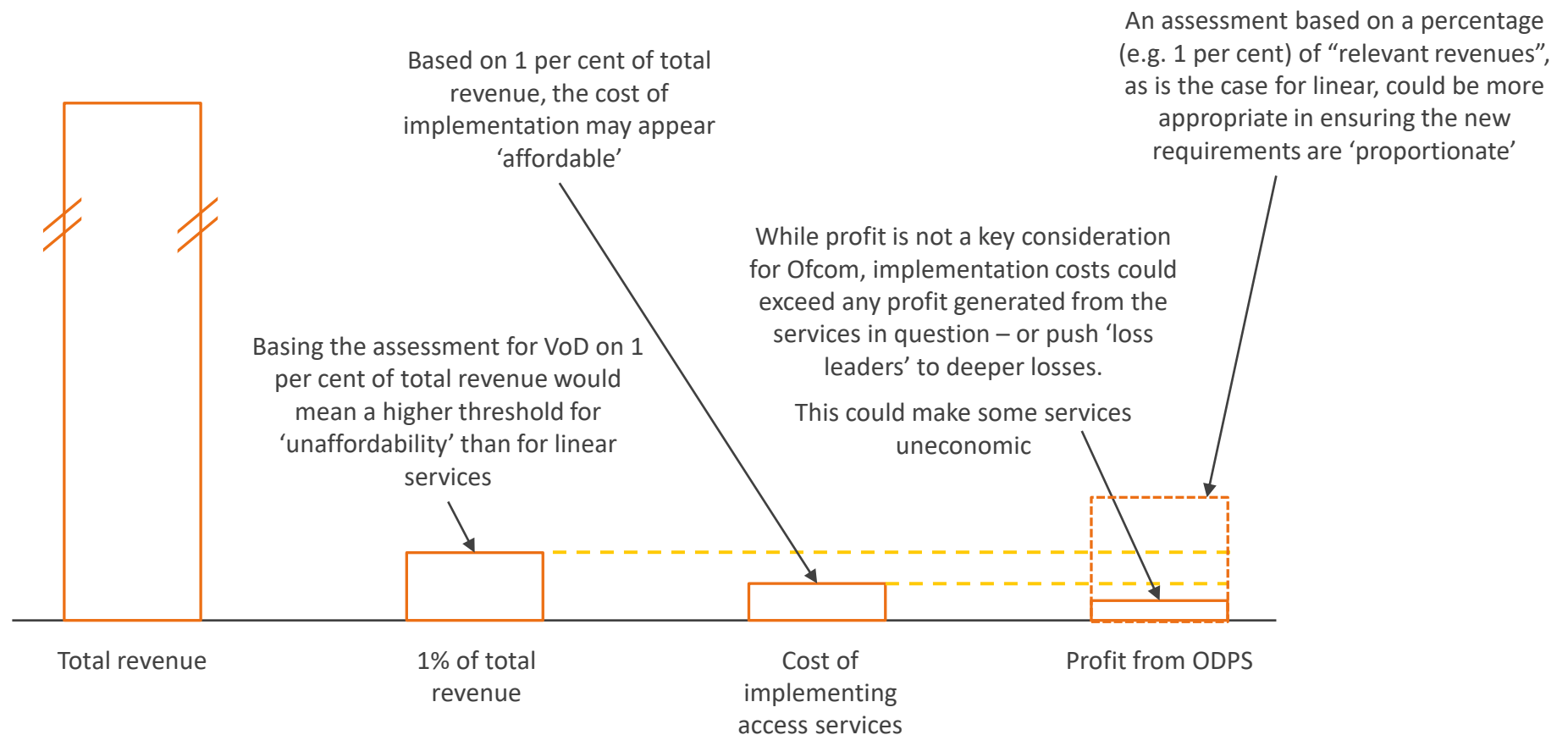
This methodology risks companies who make little turnover from their VoD operations, but substantial turnover from activities elsewhere, slipping through the net

Note: \*Access services running costs plus development costs, estimated by Ofcom to be £200k amortized over five years  
 Source: Ofcom "Making on-demand services accessible" (July 2020), Oliver & Ohlbaum analysis

# A percentage of total revenue is not indicative of the return from ODPS

The proposed approach risks making some ODPS uneconomic. Basing the affordability test on a percentage of ODPS revenues – “relevant revenues”, as for linear broadcasts – could be more appropriate

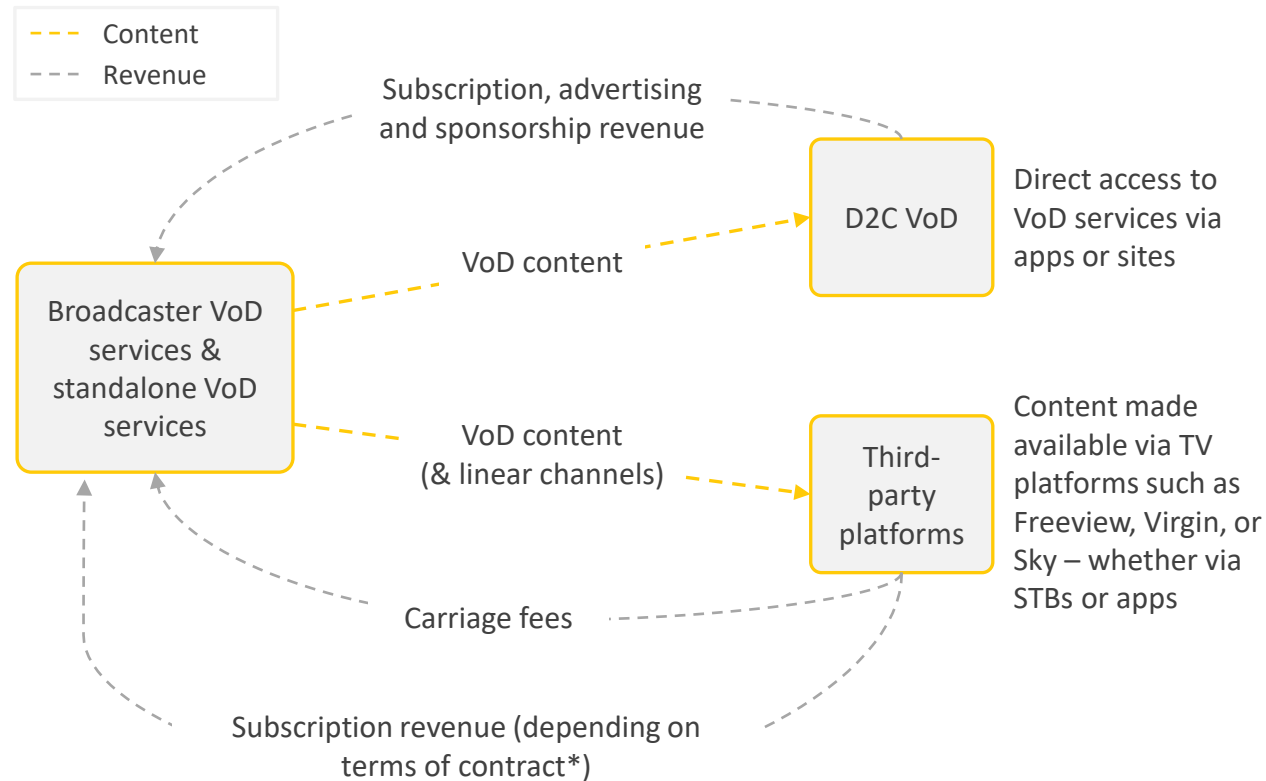
## Illustration of the problem with using total revenues as a reference point



## Defining ‘relevant revenue’ for ODPS is the first step

ODBS revenue comes from multiple sources; providers may distribute their content directly to viewers via their own linear and VoD channels or, through carriage agreements via third-party platforms

### Content distribution and revenue flows



### Suggested definition of relevant revenue for ODPS

‘Relevant revenue’ for linear includes:

- Advertising revenue
- Sponsorship revenue
- Subscription revenue (mainly via pay-TV platforms)

Relevant revenue for ODPS can follow this precedent and include:

- As above, whether from a D2C or third-party service
- Carriage fees (fixed fee and cost per sub), where platforms have paid to carry VoD services

Note: *\*It is possible, in theory, that advertising and sponsorship revenues collected by platforms are also shared with broadcasters – we understand that this is rarely the case and that ad sales on the ODPS are handled independently*

## The challenge is that relevant turnover can be difficult to determine

For some service providers, ODPS-specific revenues (“relevant revenues”) can be hard to separate from linear revenues or other revenue streams – and so a proxy-based approach will be required to estimate it

We understand that one of the reasons Ofcom has proposed the use of total revenue rather than ‘relevant’ revenue is due to the difficulties in quantifying relevant revenues for ODPS. This is the case for a number of reasons, including those set out below:

### Reasons why relevant revenue is difficult to determine

1

**Value of VoD carriage is unknown**

Sometimes VoD services are bundled as part of carriage deals, and contracts may not specify how much of the deal value is VoD

2

**VoD ad inventory may be sold as part of a linear deal**

Advertising inventory on VoD services is often used to top up linear campaigns – VoD inventory may be ‘given away’ as part of the sale of linear inventory

3

**Disparity in reporting**

Broadcasters and providers report revenues differently – making direct comparison between services difficult

Considering compliance costs as a proportion of *relevant* revenue is a better approach to assessing exemptions, as it is aligned with the approach for linear – and will reduce the risk of requirements being disproportionate.

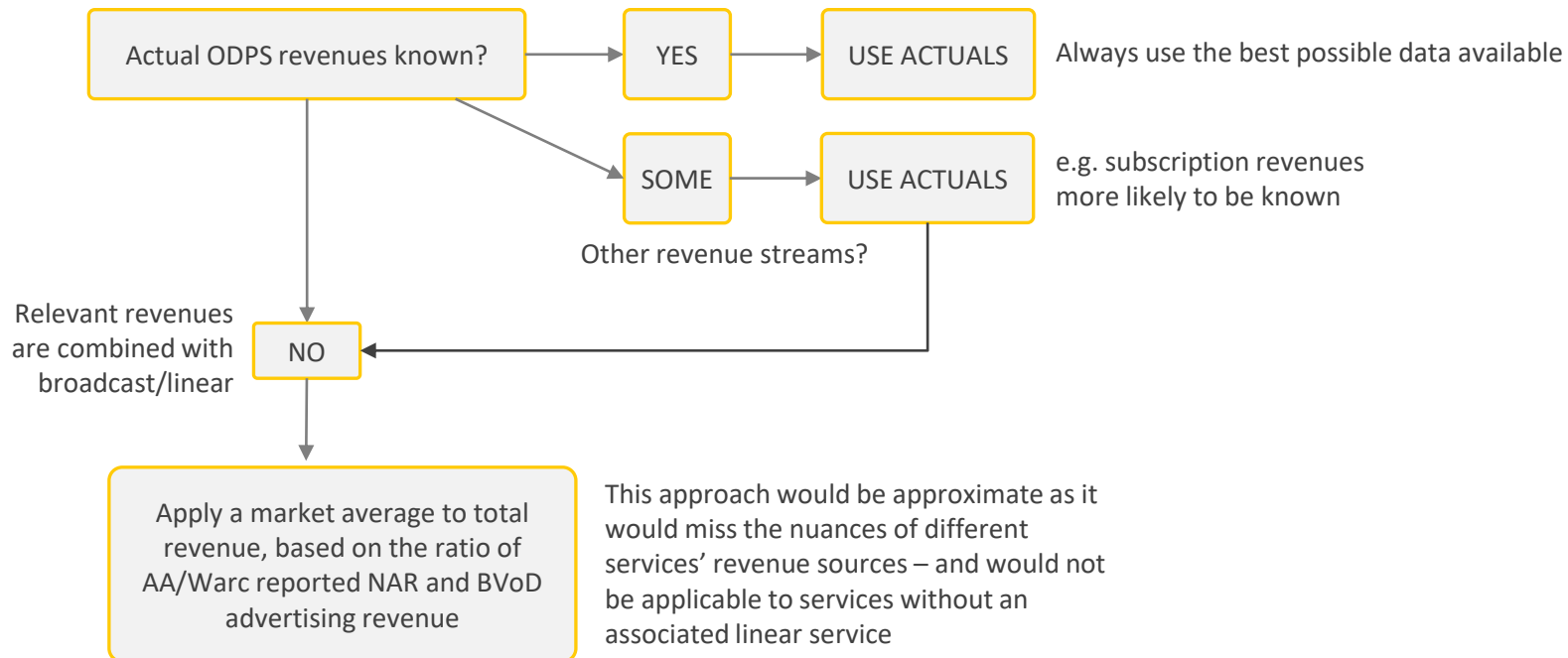
Where actual relevant revenues are unknown, it will be preferable to develop an estimation – based on market information or that which can be collected from service providers via Ofcom’s existing annual returns process.

On the next slides, we set out three potential approaches to estimating relevant turnover

## The simplest approach would involve applying a market average

An extremely simple approach to estimating relevant revenues may be to use actuals where known, then split the remaining revenues based on AA Warc's reported NAR and BVoD advertising revenues

### The simplest approach to estimating VoD revenues

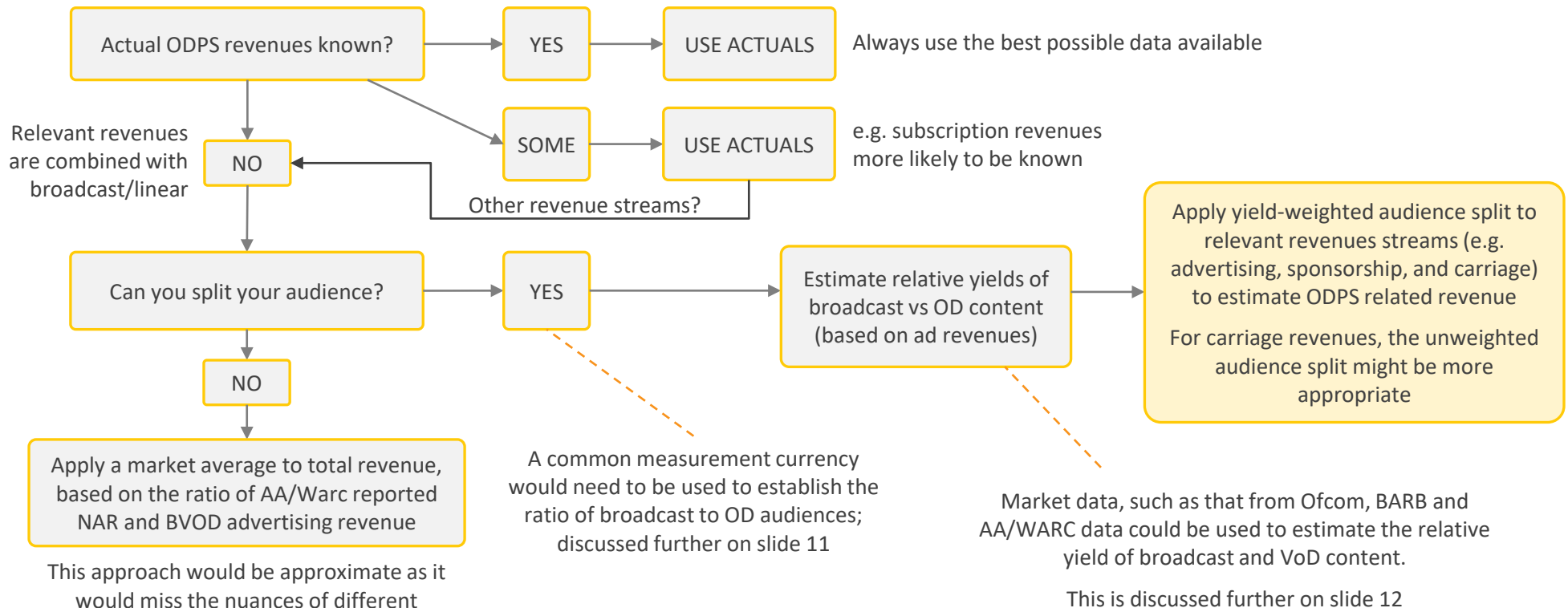




# A simple-proxy approach to estimation could work, but has limitations

Not all services will have access to necessary financial information. A proxy based on audience could offer a simple approach which could be applied to all services where actual revenue numbers are unknown. This could minimise data collection and be more accurate than the simplest approach, but still may not capture the nuances of different services

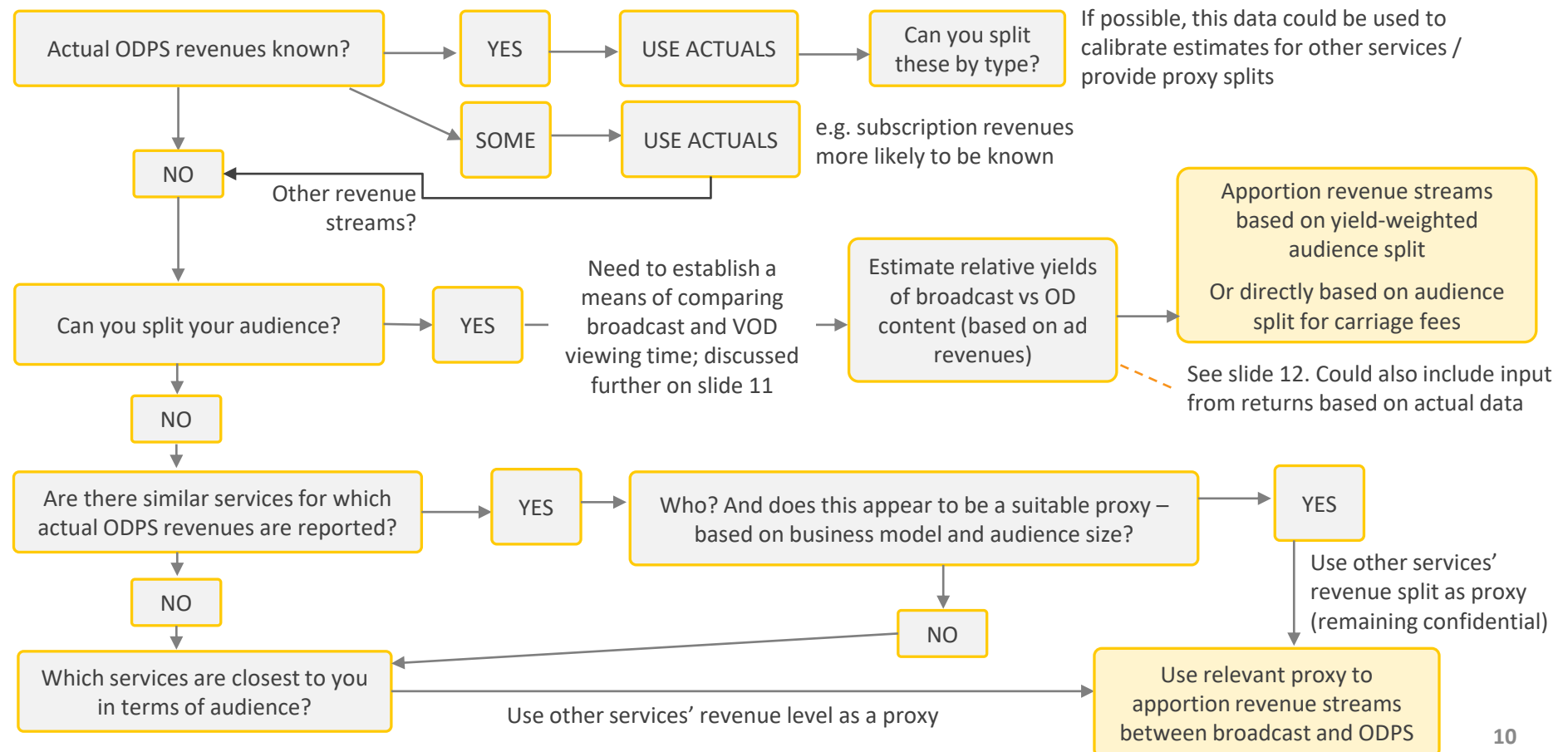
## A simple-proxy approach to estimating VoD revenues



# A tiered approach could be more accurate for individual service providers

Using multiple proxies, built on more detailed audience and yield information, could present a more accurate picture and could take into account the best available information for each service provider

## A tiered approach to estimating ODPS revenues



## These approaches rely on being able to compare broadcast and ODPS audiences

Our suggested approaches to estimating “relevant revenue” for ODPS services rely on a comparable audience metric across linear and ODPS. But often, providers do not have ODPS audience data for viewing on third-party platforms

### Challenges, limitations and proposed solutions to comparing audiences of broadcast and ODPSs

<b>Aim</b>	Produce comparable viewing data based on total viewing time, for linear and VoD content
<b>Challenge</b>	Total viewing time data often unavailable for ODPS, with only # streams known (duration unknown)

Where ODPS can provide information on the total viewing time for ODPS services, this can be compared to BARB measured viewing time to their broadcast services. Where only # streams is available, options are set out below:

	<b>Proposed solution</b>	<b>Feasibility</b>
<b>1</b>	If the services provider has viewing time data from their D2C offering, use the average stream duration to estimate viewing time on 3P platforms	This may be the optimal option as it best reflects users’ habits on the service in question
<b>2</b>	Compare audiences between broadcast and ODPS based on the number of streams, rather than total viewing time. The broadcast/linear equivalent of an ODPS stream (of unknown length) could be 30-second reach (including duplicates), i.e. the number of instances of viewing to a service of at least 30 seconds	This information is available from BARB and could provide a sensible comparison of viewing volume between broadcast and ODPS services. Like the decision to start a stream, the 30 second limit should avoid including those flicking past a channel on the EPG

## If using audience data as a proxy, relative value of linear / VoD should be reflected

Where we estimate ODPS revenues based on relative share of audience between broadcast and VoD services, it will be important to acknowledge that VoD impacts/yield is typically higher than broadcast – albeit not all inventory is sold

### Challenges, limitations and proposed solutions to calculating impact value

<b>Aim</b>	Develop a metric with which to convert our estimated audience split into a revenue split
<b>Challenge</b>	Limited industry information on the relative value of broadcast and VoD viewing

	<b>Proposed solution</b>	<b>Feasibility</b>
<b>1</b>	Develop a view of the relative value of broadcast and ODPS viewing based on information submitted by those services which are able to provide the necessary information – and apply the same ratio to other services	Depends on whether any services are able to provide actual data
<b>2</b>	<p>Estimate the relative value based on market data</p> $\frac{\text{Total TV spot revenues (Warc)}}{\text{Minutes per viewer per day live TV (Ofcom)}} \text{ vs } \frac{\text{Total BVoD revenues (Warc)}}{\text{Minutes per viewer per day BVoD (Ofcom)}}$	Ofcom's live TV mins pppd is based on BARB data which do not distinguish linear and live stream via main TV set but this advertising is typically part of the TV buy and so this should not undermine the estimate

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