

CCP-ACOD response to Ofcom's consultation on on-demand programme services

The Communications Consumer Panel, established by the Communications Act 2003, is a group of independent experts with direct sectoral experience. We ensure the citizen and consumer voice is represented in communications policy development.

The Panel's job is to ensure that the sector works for consumers, citizens and micro businesses - and in particular people who may be in a more vulnerable position in society. We carry out research, provide advice and encourage Ofcom, governments, the EU, industry and others to look at issues through the eyes of consumers, citizens and micro businesses.

The Panel pays particular attention to the needs of older people and people with disabilities, the needs of people in rural areas and people on low incomes, and the needs of micro businesses, which have many of the same problems as individual consumers.

Four members of the Panel also represent the interests of consumers in England, Northern Ireland, Scotland and Wales respectively. They liaise with the key stakeholders in the Nations to understand the perspectives of consumers in all parts of the UK and input these perspectives to the Panel's consideration of issues. Following the alignment of ACOD (the Advisory Committee for Older and Disabled people) with the Panel, the Panel is more alert than ever to the interests of older and disabled consumers and citizens.

Background

We welcome the opportunity to respond to Ofcom's further consultation on making on-demand services accessible. The Panel champions inclusive communications and implementing inclusive design at the development stage of communications services and processes. We are committed to driving this agenda forward - we have previously responded to a variety of Ofcom consultations on accessibility in broadcast and on-demand services - and have commissioned independent research¹ on this topic, which was well-received by charities campaigning on these matters -. Our aim is to ensure that the opportunities offered by existing and emerging communications services are inclusive and fair, so that the market succeeds in meeting the needs of us all.²

Ofcom's recently published research on Adults' Media Use and Attitudes demonstrated that two-thirds of UK adults access content on demand³. Ofcom's Online Nation report⁴ showed that UK adults are spending more time using the internet each day than ever before. This increasing trend in consumers accessing on-demand services highlights the importance of ensuring access services are universally, easily available, so that audience

¹ <https://www.communicationsconsumerpanel.org.uk/access-to-broadcast-and-on-demand-content-time-to-catch-up/access-to-broadcast-and-on-demand-content-time-to-catch-up>

² <https://www.communicationsconsumerpanel.org.uk/downloads/communications-consumer-panel-and-acod-strategic-plan-2020-21.pdf>

³ https://www.ofcom.org.uk/data/assets/pdf_file/0031/196375/adults-media-use-and-attitudes-2020-report.pdf

⁴ <https://www.ofcom.org.uk/research-and-data/internet-and-on-demand-research/online-nation>

members who rely on them are not excluded from important information and socially valuable day-to-day interactions with friends and family. As a matter of fairness, consumers who pay equivalent costs for communications services should receive an equivalent experience. We believe that Ofcom should treat broadcast and on-demand services users as customers who deserve fair and equal treatment, in line with their 'Fairness to Customers' campaign across the broadband and mobile sectors.

Taking into account the impacts of the Covid-19 crisis

The Covid-19 crisis has highlighted the need for access - across all services and platforms - to all 'access services' (subtitles, audio description and signing). The possibility of people feeling isolated and being out of step with the latest information on how to protect themselves was made clear to the Panel during one of our regular stakeholder meetings; we received insights from charities on gaps in the provision of signing across the UK, which we fed back to Ofcom. With this in mind, and looking beyond the pandemic, we believe that improving the accessibility of on-demand services would benefit people who are deaf, blind, or have an audio/visual sensory loss and rely on providers to step up and provide access services for them.

Throughout the crisis, TV consumption has increased⁵ and digital engagement with friends and family has become integral to everyday life. Where physical distancing or shielding has been a necessity, digital connection has become increasingly more important. Consumers who face additional barriers accessing on-demand content and rely on access services will inevitably have been at a disadvantage throughout the crisis period, not accessing the same content as others. As we have highlighted previously, access services should foster inclusion, but a lack of access services can result in people feeling marginalised by providers and, in turn, marginalised in their personal life.

People who use access services span all age ranges, but a significant proportion of users are older people, as the incidence of hearing and sight loss increases with age.⁶ Since the Covid-19 crisis, older people have been required to shield and as such, more likely to be cut off from the physical world. Subtitles can also provide a useful addition to audio for people who do not use English as their main language. The crisis has amplified the need to remove barriers to engagement and foster an inclusive environment for all consumers. At the other end of the age scale, and in terms of both media literacy and general literacy skills, school children, whose education has been impacted by the pandemic - may benefit from using subtitles⁷.

The Panel's response to Ofcom's further consultation

We consider that regulatory consultation exercises can only be truly inclusive if the regulator actively seeks input from diverse audiences, particularly audience groups who are likely to be directly affected by the changes being consulted upon. While there is a statutory requirement that Ofcom consults 'representatives of people with disabilities

⁵ https://www.ofcom.org.uk/data/assets/pdf_file/0028/197731/effects-of-covid-19-on-tv-viewing.pdf

⁶ https://www.ofcom.org.uk/data/assets/pdf_file/0020/97040/ccess-service-code-Jan-2017.pdf

⁷ <https://turnonthesubtitles.org/>

affecting their sight or hearing or both’, we are pleased that Ofcom has sought the advice of charities representing sign language users in a way that works well for those consulted and that it welcomes recorded submissions, which we trust can also be made by post. Using feedback channels beyond online submissions will facilitate a more representative consultation exercise and provide a better quality response to UK Government.

Exemptions

We have considered the exemptions outlined in the consultation document and believe that the exemptions assessment process will need to be managed effectively to ensure that providers who can and should provide access services, do.

We support Ofcom’s view that programmes should not be exempt from access services, beyond audio description on news and music programmes. Audience benefit is difficult to quantify and, on that basis, the default position should be that consumers with sensory impairments should not be restricted from enjoying the content available to other audience members. Additionally, our research found that children’s programmes featuring sign interpretation were regarded positively and helped to reduce barriers for children with sensory loss.

Signing

The Panel welcomes Ofcom’s transparency regarding its lack of knowledge about the needs of BSL users. BSL has been recognised as an ‘official’ UK language since 2003 and we strongly support Ofcom’s planned survey of BSL users on their preferences for signing on television and on-demand services as a way of gaining the knowledge needed to support this audience group.

We are pleased that the survey results will feed into an update to Ofcom’s best practice guidelines on signing on television access services and which will include guidance for ODPS providers. We are pleased that the guidelines can be modified as access services evolve, enabling Ofcom to keep pace with changing demands. We hope to see the 5% BSL target across providers rise in future.

We encourage increased access services across all providers but exempting sign targets in favour of more subtitling/audio description due to burden of cost could cause detriment to BSL users who rely on BSL interpretation and presentation. Although subtitles and audio description will have further consumer reach, BSL is - for many consumers who have a hearing impairment - their first language, and English is second or third, as found in the Census 2011 where 65% of BSL users could speak English either ‘not at all’ or ‘not very well’⁸.

⁸ <https://www.dotsignlanguage.co.uk/about-us/about-british-sign-language/#:~:text=The%20UK%20Census%20tells%20us,by%20the%20age%20of%20seventy.>

There are also linguistic and legal differences across the UK that we would highlight for consideration⁹. We believe that where programmes are broadcast in Welsh, for example, there should be appropriate signing and subtitling services in the Welsh language.

Targets

The Panel supports Ofcom's prescriptive approach to access services - that access services should be distributed equally among all non-excluded platforms. Many consumers use different platforms and have different preferences - no one platform suits all and as a matter of fairness, consumers should have the option to choose how they access services. We have heard that the availability of access services varies widely across different channels, platforms and service providers meaning content is difficult to find, posing a particular problem for people who are less confident technically and a barrier to engagement.¹⁰ Distributing access services across all platforms will help to drive availability upwards and meet consumer demand, long-term. The Panel encourages both broadcasters and on-demand providers to improve access services across all platforms ahead of the statutory regulations coming into force and to learn and share best practice.

The Panel encourages Ofcom to undertake work on ensuring that providers' platforms are accessible and usable by people alongside provision of access services. The Covid-19 crisis has moved many consumers online for a host of different purposes and platform accessibility must, at the very least, keep pace with improvements in the availability of access services. The Panel recently commissioned an accessibility and usability audit of telecoms providers' apps and we are in the process of feeding results back to providers' technical teams. We have previously urged Ofcom to tackle Electronic Programme Guide accessibility and have welcomed progress in this area - we strongly support Ofcom's endeavour to introduce guidance for third-party platforms/device manufacturers to improve platform usability and share best practice across industry.

⁹ British Deaf Association web site <https://bda.org.uk/project/sign-language-legal-status>:

"BSL was recognised as an "official" language by the UK Government on 18th March 2003 but it does not yet have any legal status unlike the Welsh, Gaelic and Cornish languages which do have legal protection. In January 2004, BSL was recognised by the Welsh Assembly Government as a language in its own right. BSL and Irish Sign Language (ISL) were officially recognised as minority languages in Northern Ireland in March 2004 by the Secretary of State for Northern Ireland, Paul Murphy, MP".

¹⁰ <https://www.communicationsconsumerpanel.org.uk/downloads/19-oct-access-servicescover-reporttime-to-catch-up.pdf>