

VOD Fees Consultation 2017-18

**Response from the Commercial Broadcasters
Association to Ofcom**

March 2017



A VOICE FOR COMMERCIAL BROADCASTERS IN THE UK

Introduction

1. The Commercial Broadcasters Association (COBA) is the industry body for multichannel broadcasters in the digital, cable and satellite television sector, and their on-demand services. COBA members operate a wide variety of channels, including news, factual, children's, music, arts, entertainment, sports and comedy. Their content is available on free-to-air and pay-TV platforms, as well as on-demand.
2. COBA members are critical to the global success of the UK broadcasting sector and its “mixed ecology” of public and private investors. As arguably the fastest growing part of the UK television industry, they are increasing their investment in jobs, content and infrastructure:
 - 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 £725m per annum, up nearly 50% on 2009 levels.³
3. 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 2014 Census, Oliver & Ohlbaum Associates for COBA

Response to consultation

1. We welcome Ofcom's focus on reducing fees for providers and, in principle, its proposal under Option 4 to reduce annual fees by more than half compared to previous years. VoD remains a relatively marginal business even for larger media concerns, and the level of fees, as well as regulation in general, should reflect this.
2. We agree with many of Ofcom's arguments set out in the consultation paper. Only charging broadcast licence holders would unfairly exclude some larger VoD players, while capturing broadcasters with no VoD services. A flat fee would be unfair for smaller providers and collecting fees from micro services could be time consuming and therefore disproportionate.
3. That said, we are concerned that Ofcom's preferred choice of Option 4 risks placing a disproportionate amount of costs on larger VoD services, and risks unduly restricting Ofcom's ability to respond to developments. While we appreciate that Ofcom does not consider it proportionate to chase fees for the long tail of micro services, the threshold of £10m turnover below which services do not have to pay seems to us far too high. In the VoD sector, revenues of £10m represent a relatively significant player. This could be set at £5m and still exclude micro services.
4. Just as importantly, we are concerned that costs for Ofcom may well increase as regulation in this area increases. For example, the Digital Economy Bill is to introduce statutory oversight of access services for VoD services. Increasing fee levels without revisiting the size and type of services that are paying fees will only increase this imbalance.
5. Exacerbating this unfairness, much of Ofcom's work will inevitably be taken up by regulating adult services which may well fall under this threshold.
6. In summary, there seems to be no perfect solution, at least for the time being, and Option 4 represents in principle the best approach given this caveat. However, the £10m threshold should be revisited. Furthermore, wherever the regulator sets this threshold, Ofcom should make it clear that it reserves the right to review the level of the threshold, and indeed that it will do so for certain if fees rise in the future.