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INDEPENDENT MEDIA SUPPORT LIMITED

Response to the DCMS Broadcasting Policy Division Consultation Paper on a Review of the statutory requirements for the provision of Subtitling, Sign Language and Audio Description Services on Digital Terrestrial Television (July 2000)

Introduction

1. IMS is the leading independent supplier of media access services to the UK film and television broadcast industries. It was founded in 1989 by Sylvia Sheridan (now Executive Chairman) and amongst its services are subtitling (English for the deaf & hard of hearing and foreign-language translation), signing, audio description, embedding, dubbing and tape transfer. IMS has offices in Central London, Newcastle, Dublin/Galway and Cardiff, and a wholly-owned subsidiary (Trosol), also in Wales. IMS's clients include BSkyB, Channel Five (from 2002), Disney, BBC Wales, S4C, TG4, Pathe, Turner Broadcasting and GSkyB.
2. Sylvia Sheridan, who is also a member of the Board of Trustees of the RNID, has long been a proponent of comprehensive media access for all sections of the community as a matter of principle and, from both her personal and IMS commercial standpoints, delivery of the highest-possible quality of service.
3. It should be stated therefore, as a declaration of interest, that IMS as a media access service provider potentially stands to gain if statutory targets for deaf & hard of hearing subtitling, signing and audio description are increased and/or brought forward. Nevertheless, the comments and suggestions contained herein are based upon our practical experience of providing these media access services to the media industry.

A. Comments – General Principles and the Law

1. It is, or should be, a fundamental moral principle of the human condition that all sections of the community are treated equally and, wherever possible, “included”. In particular this should apply to all means of mass communication because they play such an important role in modern society (e.g. films, television, radio, the internet and home video in all its formats).
2. The principle of inclusion is already enshrined in law for disabled persons – see ss.19 to 21 of the Disability Discrimination Act 1995 – although the extent to which this applies to broadcasters has yet to be tested in legal proceedings. It is arguable that it is also reinforced by the Human Rights Act 1998, about to come into full effect, insofar as it relates to the European Convention of Human Rights, Article 14 (prohibition of discrimination) – and possibly to Article 2 of The First Protocol (right to education).
3. Over time the existing UK legislation (Broadcasting Acts 1990 and 1996) has proved flawed and in some areas ambiguous. To some extent this was inevitable given the speed at which the broadcast world evolves. However the ITC, by its guidelines, decisions and indications in interpreting the legislation, has also created precedents which have occasionally detracted from the spirit (if not the letter) of the law.
4. The current position is unsatisfactory because it leaves the key players (regulators, broadcasters, programme makers and service providers) confused about what is required under the law as now interpreted. What the UK needs is a clear and straightforward legislative framework that reduces the need for interpretation and is backed by effective sanctions against those who fail to meet their obligations.
5. Without denying the difficulties and challenges involved, in our view the primary cause of the lack of technological progress on audio description and closed signing has been the lack of priority given to it by the regulators and broadcasters.
6. With honourable exceptions, and for obvious reasons, broadcasters wish to spend as little as possible providing media access to the sensory impaired sections of their audience. In support of this position they continually cite the costs of providing these services and plainly have no incentive to promote technological progress (*see 5. above*). Nevertheless – as history has proved - they will always meet their minimum legal targets. This alone is an argument in favour of raising the targets as high as possible if not to the maximum of 100% (*but see our comments under paragraph 3 – Choice of Programmes for Media Access – under D. of ADDITIONAL COMMENTS on page 6*). Presumably all prudent existing (or would-be) broadcasters already provide for the cost of providing media access in their business models. Surely it is reasonable to assume that, if the law was changed to require comprehensive (100%) media access, broadcasters would simply accommodate the additional costs in their budgets. In our view, as a matter of principle, those unwilling or unable to provide comprehensive media access to their programmes should forfeit their right to broadcast in any event.

B. Responses to issues raised in DCMS Consultative Paper on a Review of statutory DDT targets

1. Should the targets be changed or are they about right?

They should be both changed (upwards) and brought forward. In the case of audio description, this question is in any event somewhat hypothetical. Since the start of DTT broadcasting, with all the still unresolved technical delays, only a handful of visually-impaired people are receiving the service and only on some of the channels. Audio description on satellite channels is being received by only five people in the entire UK, two of whom are ITC employees.

A second issue, but equally-important in relation to media access generally, is the way in which broadcasters are able to interpret their obligations.

For example, the legislation states that the target obligations apply to each “service”. ONrequest broadcasts five pay-per-view channels but has adopted the line, with ITC approval, that collectively these five channels constitute a single service in the context of the legislative targets. In our view this is contrary to the spirit and intention of the legislation. Where the target is 5%, it should be 5% of each individual channel. In our view ONrequest should have been achieving 5% of all five pay-per-view channels – however in practice, because of the interpretation adopted, overall they are doing only one-fifth of that.

We are aware of at least one UK broadcaster that subtitles a small number of films but meets its various legislative targets by repeating those films not on one but on several channels. This is a complicated issue because of course there are channels which by their very nature and choice regularly transmit repeat programming and we are not suggesting that broadcasters deliberately repeat programming for the sole purpose of meeting their media access targets.

By the same token, we are also aware of at least one broadcaster which currently meets its (five hour plus per week) audio description obligation by arranging for audio description of three 30 minute programmes and simply repeating them. Technically this does satisfy the legislation, but – taken to its logical conclusion – so would audio describing one 5 minute programme and repeating it sixty times.

2. If the targets remain unchanged should there be a further review and, if so, when?

If they remain unchanged there should be a further review at the earliest opportunity.

3. What are the costs of delivering and receiving the services?

For providing first class broadcast quality and transmission-ready services, we believe the current UK market rates range between:

£400 - £750 per hour (Subtitling)

£500 - £1000 per hour (Signing)

£600 - £1200 per hour (Audio Description)

We do not know the costs of receiving these services.

4. Would the quality of subtitling be affected if the targets were increased?

Generally, no. Current quality standards (as defined by the ITC Guidelines) could be delivered for increased targets provided the pro-rata rates for subtitling services were maintained. Service providers are constantly seeking ways of improving productivity and efficiency – for example, voice recognition and automatic timecoding are two areas currently being researched. Nevertheless if rates were driven down for any reason this might not remain the position.

Further, it also depends upon what is meant by “quality”. If the ITC Guidelines were revised – for example by raising the average reading speed to which subtitles are edited – productivity could be improved but that would also alter the current “quality” – whether for the better or worse might be a matter of opinion, even within different sections of the deaf community.

(See also paragraph 1. “Subtitling Standards (Quality)” under “ADDITIONAL COMMENTS” later on page 5).

C. Other Issues relating to the provision of Subtitling, Signing and Audio Description on Television

1. The possibility of different targets for different broadcasters

As a matter of principle, we disagree with the proposition that different broadcasters should have different targets. The broadcasters’ arguments on costs (i.e. *that they might inhibit the launch of new services, cause existing services with small audiences to cease and/or that aggregating targets across all their channels would enable them to direct their resources to their more popular programming*) are disingenuous.

2. Should there be different targets for different broadcasters perhaps based on audience share of channels?

No.

3. Should new channels be exempt from targets or have lower targets at first?

No.

4. Should broadcasters who broadcast several channels be able to bundle their subtitling output between channels in order to meet an overall target?

In general no (*but see comments under paragraph 3 -“Choice of Programmes for Media Access”, under “ADDITIONAL COMMENTS” later on page 6, which could also apply to subtitling*).

5. Which programmes or channels should be priority for subtitling, signing and audio description?

None. They should all be given equal priority. (*But see also paragraph 3 “Choice of Programmes for Media Access” under “ADDITIONAL COMMENTS” later on page 6*).

The existing targets, set by the Broadcasting Acts, concern legal obligation and percentage – not a reflection of whether particular channels benefit more or less from these individual services.

6. (a) What would most encourage people with disabilities to take up digital services and (b) which services would be most valued?

(a) Comprehensive media access services being provided wherever possible; and (b) all equally. Further, it might be argued that asking the disabled community to place programming in some order of priority value is condescending and also misses the point – as a matter of principle, all broadcast media should be available to all.

D. Additional Comments

1. SUBTITLING STANDARDS (QUALITY)

Currently the ITC Guidelines specify that deaf and hard of hearing broadcast subtitling should be prepared to a standard reading speed of 140 words per minute. Inevitably this requires significant editing (speaking speeds can be up to 300 wpm) by the subtitler, especially if shot/scene changes are taken into account. Further, training new subtitlers to this level of skill is expensive and takes time. There is a significant deaf community lobby in favour of verbatim subtitling. This proposal has some practical complications (e.g. verbatim versions of dialogue-heavy shows such as “ER” might be difficult or impossible to follow and in any event it might be necessary to “stream” the subtitles or increase the number of lines on the screen at any one time) but it could potentially reduce the unit cost simply by reducing the amount of editing (and training) required. However the “quantity versus quality” issue would plainly have to be addressed at some point.

2. RECOMMENDATIONS FOR THE NEXT BROADCASTING BILL

- The next Broadcasting Bill should contain a series of clear, unambiguous targets and guidelines applying to each individual channel broadcasting in the UK, whether terrestrial, DTT, satellite and/or cable. These should be backed by suitable sanctions to ensure compliance and overseen by an authoritative regulator.

- The legislative target for all media access services, as a matter of principle, should be increased to 100% of output, wherever possible (to be achieved in the shortest possible period).
- The Government should require that the technological issues involved in audio description and closed signing should be given urgent priority. It should also consider the funding options to accelerate developments in this area.

3. CHOICE OF PROGRAMMES FOR MEDIA ACCESS

Unless and until 100% media access (wherever appropriate) for all sensory impaired people is delivered, consideration should be given to providing some regulatory supervision of the types of programme broadcasters choose for subtitling, audio description and/or signing in meeting their obligations. The current blanket percentage obligations are not flexible enough. The obligations do not need to be content-led or based upon quotas for peak-time or other viewing, but they should pay some regard to the type of programming serviced. For audio description, programmes such as dramas, films, nature documentaries and comedy series work well: talks shows, news, quizzes and some sports do not because – by its very nature – audio description cannot intervene over dialogue (*see ITC Guidelines – Preparation of an audio description, step 2, paragraph 4*).

It can also be argued that signing on programmes containing heavy dialogue, especially those covering issues that affect the deaf community, should be given priority (news, current affairs and documentaries). However it could be argued that visual shows with little dialogue, such as Mr Bean, should attract a lower priority.

Under the current legislation GranadaSkyB's second channel GRANADA BREEZE is required to provide 2% audio description but the bulk of its programming consists of talk shows – it could be argued that audio describing this channel is a waste of resources.

Perhaps consideration should be given to listing exemptions based on programme types for both audio description and signing. After all, there is little point in providing either of these services for aerobics programmes, or even for GranadaSkyB's "PLUS ON PLUS" (a 30 minute programme previewing the week's schedule), as currently happens, when none of the programmes previewed have these services attached.

Another suggestion might be to allow broadcasters to meet their overall obligations by concentrating on programmes best suited for these services – for example, exempting some channels in return for providing increased targets on others which are better suited.

4. MEDIA ACCESS GENERALLY

Whether in every case this can or should be a matter for broadcasting legislation, consideration should be given to the steps that might need to be taken to encourage or require full media access on all screen-based products, including websites, computer games, home video (including DVD) and mobile telephones.

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