

DCMS CONSULTATION PAPER  
ON  
THE REVIEW OF THE STATUTORY REQUIREMENTS FOR THE  
PROVISION OF SUBTITLING, SIGN LANGUAGE AND AUDIO  
DESCRIPTION SERVICES ON DTT

BSKYB RESPONSE  
OCTOBER 2000

BSkyB welcomes the opportunity to comment on the Government's consultation paper on the provision of subtitling, sign language and audio description services. It should be noted that the company has already submitted views on many of the questions posed by the consultation through the response of the Satellite and Cable Broadcasters' Group.

**1 REVIEW OF THE STATUTORY TARGETS FOR DTT**

**Q: Should the targets be changed or are they about right?**

**Q: Should there be a further review?**

BSkyB opposes any increases in the current subtitling, signing and audio-description requirements for DTT channels. Any increase in these requirements would represent an additional regulatory burden on DTT broadcasters at a time when the DTT platform is still at an early stage of development.

While there is a legitimate argument for some public service obligations to be applied to the digital terrestrial platform, on the basis that DTT frequencies are a scarce UK resource controlled by the Government and made available to a few privileged broadcasters, the DTT platform is (like other digital platforms) still only in its early build-out phase. To increase regulatory requirements at such an early stage of development would be unfair and untimely for those broadcasters available on the platform.

Subtitling, signing and audio-description are also expensive services to produce, and the Government should be aware of the cost implications of introducing more stringent targets for any of these services. Unlike traditional free-to-air analogue public service broadcasting, multichannel pay-television operates without licence fee money or guaranteed advertising revenues from UK-wide frequencies, and channels generally operate on more limited budgets. The cost of subtitling a 12-hour channel, for example, would (assuming no live programming and 50% pre-subtitled repeats) amount to £500,000 annually which is, for many channels, a very significant amount that could have an adverse effect on profitability.

BSkyB has also already spent considerable amounts of time and money on the introduction of the necessary levels of planning, staff and infrastructure to ensure that current targets can be met, and the introduction of new higher targets would significantly increase the financial and operational burden on the company. The additional requirements have already led to the establishment of a new department responsible for the supply of these services, and also resulted in a large increase in Studio and Audio Dubbing hours along with the associated costs of time and extra staff to facilitate the operational areas involved. Any increase in targets would have a significant impact on costs for all these resources.

### Subtitling

BSkyB has always recognised the importance of subtitles to its viewers and, as a result, has an extremely creditable record on the provision of subtitled programming which extends to well before the introduction of the 1996 Broadcasting Act requirements. For the first six months of 2000, the average percentage of subtitled programming on Sky's DTT channels was as follows:

Sky One:	37%
Sky Premier:	47%
Sky Moviemax:	20%
Sky Sports 1:	12%
Sky Sports 2:	12%
Sky Sports 3:	12%

BSkyB recognises the commercial value of providing subtitling where practicable and appropriate, and does not believe that an increase in the requirements would be justified when its most popular channels have already made significant strides towards delivering the Government's objectives early and on a voluntary basis.

It is also important to see these high levels of subtitling provision on Sky's DTT channels in the context of the audience share that they attract compared to the free-to-air terrestrial channels. Sky One subtitles 37% of its programmes yet has a total TV audience share of just 1.7% compared, for example, to ITV which commands over 30%. Sky Premier attracts a 0.7% audience share, yet subtitles almost half of all its programmes.

### Signing

There should be no increase in the 5% in ten years target for signed programmes on DTT channels for two reasons.

First, DTT set-top box technology does not currently allow signing to be broadcast in a closed format. This means that all signed programmes must be broadcast on DTT in an open format which, with one sixth of the screen covered by the signer, is of considerable inconvenience to viewers who do not benefit from the signed programming. Further signing requirements will mean more open signing, with a commensurate increase in viewer inconvenience which could, in turn, damage the economic prospects of channels as well as the DTT platform itself. No increase in signing provision should be contemplated while the DTT set-top box is unable to support a closed signing format.

Second, signing is expensive to produce, and there is little evidence to show that sufficient numbers of viewers are currently using the service to justify the expense incurred, and certainly not any additional expenditure as a result of increased requirements. BskyB understands that 50,000 viewers in the UK have BSL as their preferred language and that, with approximately 60 million people in the UK, this amounts to 0.083% of the UK population.

If there are 1 million DTT viewers by the end of 2000, it follows that there will only be around 830 DTT subscribers using BSL in the UK at that time, a disproportionately low figure compared to the hundreds of thousands of pounds a year currently spent on providing the service (which will rise in proportion to the incremental targets). BSkyB does not believe that the cost to benefit ratio justifies increasing the level of signing requirements on DTT broadcasters.

### Audio-description

As with signing, BSkyB does not believe that the amount of money it spends on delivering the levels of audio-description currently required under the ITC Code's incremental requirements is justified by the number of people who benefit from the service. Notwithstanding the currently limited penetration of the DTT platform throughout the UK, the non-availability of a set-top box with an in-built closed audio-description facility, and the consequent introduction of a separate add-on module available at a cost to those who need it, means that very few people are currently able to access the audio-described services provided. BSkyB understands that the add-on modules have yet to go on sale in the open market, and that as few as 30 may exist in the current trials, a shortage which has meant that BSkyB itself has been unable to procure the device to monitor its own audio-description services on-air. In such circumstances, there should be no consideration of increased targets.

#### **Q: What are the costs of delivering and receiving the services?**

BSkyB already spends more than £3 million annually delivering the current DTT subtitling, audio-description and signing incremental targets and, as these incremental targets rise, so will this expenditure in direct proportion to the increases.

#### **Q: Would the quality of subtitling be affected if targets were increased?**

As with all aspects of its business, BSkyB applies quality control requirements and would not wish to see these compromised. The key point here, however, is that quality signing, audio-description and subtitling services are expensive to produce, and additional requirements in this area, on top of the already onerous levels of provision, would be difficult to deliver and may, in some circumstances, lead to a drop in quality. Even if broadcasters were able to find the funds to deliver additional services these may have to be taken from other important areas of expenditure, such as increasing the amount of investment in original productions, or commitments to community affairs activities.

It should be noted that BSkyB has already indicated to the RNID its support for broadcasters and other interested parties to work together in an informal 'subtitling group' on issues of mutual interest, including the re-use and acquisition of subtitles. Any savings made through a co-ordinated approach on the sharing of subtitles would be spent on additional subtitling services.

#### **Q: Information requested about the rate of take-up of digital services by people with sensory disabilities and the potential demand.**

BSkyB does not have access to statistics which indicate the take-up of its service by those with sensory disabilities. Feedback from such customers will now be more readily available, however, since the recent introduction of a special needs help-line at our customer call centres.

## 2 OTHER ISSUES

**Q: Comments requested on any other aspects of the provision of subtitling, sign language and audio-description of television programme services (i.e. including cable, satellite and analogue terrestrial).**

BSkyB notes that representative groups have suggested that the statutory targets should be extended to require cable and satellite broadcasters to provide subtitling, signing and audio description services on their channels. Whilst a laudable objective, the suggestion fails to recognise that there are differences between different types of broadcasters which underpin the rationale for the asymmetry of regulation between them.

### The application of positive programming requirements

Requirements for subtitling, signing and audio description form part of the 'positive programme requirements' for terrestrial broadcasters. They are *obligations* which go hand-in-hand with the *unique privileges* granted to these broadcasters by the Government, most notably access to scarce, UK controlled spectrum. In the case of ITV, Channel 4 and Channel 5, the Government has granted rights to extremely scarce, valuable frequencies which provide near-universal access to all British homes (for Channel 5, approximately 80% access). These broadcasters' services are received automatically by the population without the need for any consumer payments or special equipment.

As noted above, in the case of DTT services universal access may not be obtained for many years but DTT frequencies are still a scarce UK resource, controlled by the Government and made available to a few privileged broadcasters. Furthermore, it is the Government's well-publicised aim to turn off the analogue system between 2006 and 2010 which, together with DTT's use of existing aerials and integrated television sets, offers the prospect of near-universal service for DTT. The current requirements imposed on DTT broadcasters for subtitling, signing and audio-description are a recognition of this privileged (yet fledgling) position in the digital broadcasting market.

This position of analogue and (to a lesser degree) digital terrestrial broadcasters can be contrasted with that of cable and satellite channels. These have not been granted privileged access to scarce UK frequencies, along with the huge economies (e.g. in advertising revenues) that they bring. Nor do they enjoy automatic access to any UK home. Consumers must make a conscious decision to obtain satellite receiving equipment or a cable connection in order to receive their services, and then pay an on-going subscription fee for most channels. Even when they are successful in reaching households their services can be terminated by the consumer virtually at any time - and customers will 'churn' if they do not respond to their needs.

Positive programming requirements in the form of obligations to provide subtitling, signing and audio-description are a *quid pro quo* for the access to scarce resource granted by the Government. There cannot be any justification for imposing such requirements on cable and satellite broadcasters which are not in this privileged position.

BSkyB is also concerned that Government is considering the possibility of introducing additional regulatory requirements on cable and satellite channels at a time when these services are facing increasing competition from content delivered through newly emerging, unregulated digital delivery systems such as the internet. Positive programming requirements like subtitling that are imposed when there is no special access to scarce resource could offend against the principle of technological neutrality.

In addition, similar industries face no prospect of similar regulation. Compulsory signing,

subtitling and audio-description requirements are not, for example, under discussion for other forms of audio-visual entertainment such as video CDs DVDs and cinema. Nor are magazine, books or newspaper publishers and retailers required to provide a certain percentage of their titles in braille, audio-form or large print. All these industries have their responsibilities under the Disability Discrimination Act, as does BSkyB, and many provide services for those with sensory disability on a voluntary (and often commercial) basis – again, as does BSkyB – but none face the expensive and potentially destructive prospect of compulsory regulation in this area.

### Audience share

As noted above, the Government must also take into account the low audience shares commanded by cable and satellite channels. Imposing requirements to provide subtitling, etc. on these services is likely to constitute a very significant cost burden that would not be proportionate to the number of viewers who would actually benefit. It is too simplistic to argue (as, for example, the RNID has done) that increases in the total quantity of programming available through cable and satellite should automatically mean an increase in subtitling levels to maintain an overall percentage of provision. As in the newspaper and magazine market before, the advance of digital technology means the launch of numerous new niche services, all of which will add significantly to the total quantity of material available but which attract extremely small, sometimes negligible, audiences.

This point is well illustrated by the ITC's latest quarterly report on television audience viewing shares 2. Of the channels listed (i.e. those which attracted 0.1% or more of total UK audience share), the six free-to-air terrestrial services accounted for 84.7% while multichannel television (48 channels, not including the BBC's new digital services) accounted for just 12.7% - an average of just 0.26% of audience share for each channel.

There are also many dozens of other channels on cable and satellite which command less than 0.1% of viewing share and which, consequently, do not appear on the ITC's report. For example: Sky Travel, .TV, MUTV, Skysports.comTV, UK Gold 2, Granada Breeze, UK Drama, Tara TV, Hallmark, Bloomberg, CNBC, additional Discovery channels (Discovery +1 hour, Travel and Adventure, Civilisations, Sci-Trek, Animal Planet and Kids), two more National Geographic channels (+1 hour and A1), MTV Extra, MTV Base, M2 VH1 Classic, The Box, UK Play, Kiss, plus a huge range of even more specialist interest services such as The Medical Channel, foreign language and ethnic channels, and adult services.

The application of the subtitling, signing and audio-description requirements to cable and satellite could in the worst case prove fatal to such channels which operate on such small audience shares. In addition, the existence of an additional and expensive regulatory hurdle would be a disincentive to new channels to launch in the first place. The application of a cost:benefit test, which would be required before any new regulation is introduced, would therefore be very likely to show that the costs of providing such services would be completely disproportionate to the benefits.

### The voluntary approach

BSkyB's own record on subtitling underscores the efficacy of a voluntary approach towards the provision of this service. BSkyB has for some time recognised the benefit of providing subtitled services for satellite viewers, despite being under no obligation to do so, and a significant number of its satellite services, as well as those of other cable and satellite channels, already carry subtitling. As indicated above, Sky One and Sky Premier are 37% and 47% subtitled respectively, and all subtitling provided on these and other Sky DTT services is also available on the same services via cable and satellite.

Furthermore, from July this year, all of the Sky Box Office pay-per-view services have (apart

from the adult services) been 100% subtitled, meaning literally thousands of hours of additional subtitled programming hours each week, and all of the 'multiplexed' versions of our film channels – Sky Premier 2, 3, 4 and Widescreen, and Moviemax 2, 3, 4 and 5 – also carry subtitles to the same levels as the original. *As a result, BSkyB features on its services by far the largest quantity of subtitled programming in the UK.*

**Q: Should there be different targets for different broadcasters, perhaps based on audience share of channels?**

**Q: Should new channels be exempt from targets or have lower targets at first?**

As detailed above, BSkyB in principle opposes the introduction of any targets for cable and satellite channels, regardless of the audience share of these channels. In any case, the audience share of almost all cable and satellite channels falls well below 1% of total UK audience share, with many below 0.1%, and any differential treatment in targets would be wholly disproportionate to the marginal differences in the overall audience share which each has. Furthermore, the complex and detailed provisions and weightings which such an approach would require would run wholly counter to the Government's objectives of reducing regulatory burden on industry.

It is also difficult to see the logic for imposing requirements on channels on the basis of the length of time that they have been operating in the marketplace. The nature of multi-channel television, in particular the ease and lower cost of entry, means that there is no direct correlation between the longevity, profitability and popularity of a channel. Some channels have been in existence for several years but still command low audience shares and make little if any profit, while others may enjoy more rapid success. Channels are also far more likely to face increasing competition from other new entrants into the market (e.g. new licence fee funded free-to-air services), which may have a dramatic impact on their audiences and profitability. For such services, the prospect of additional expenditure downstream to meet regulatory targets may well be the difference between continuing in business or closure.

The imposition of requirements on channels with an income over a certain threshold would also be unworkable. A channel's income may have no relation to the profitability of that channel, as this depends on a whole range of other costs including the cost of rights acquisition, programme production, investment in infrastructure and technology, and other administrative and management overheads. Furthermore, a channel's income (and profitability) is rarely constant, and can vary significantly in response to factors such as additional competition in the market, changes in programming & schedules, and shifts in consumer taste. It would be very difficult to devise a fair and manageable system of regulation which allowed for such potential fluctuations.

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

**Q: Which programmes or channels should be a priority for subtitling, signing and audio-description?**

BSkyB would in principle have no difficulty with the principle of bundling subtitling output, but only within the established limits for DTT.

It is difficult to be specific about which programming should be a priority for subtitling, signing and audio-description, but Sky One, for example, aims to subtitle those programmes which are broadcast as prime time viewing between 6pm and 11pm.

One difficulty with signing provision, as discussed above, is that the DTT box only provides for open signing, which may provide a disincentive to broadcasters to provide this service on their most popular services.

**Q: How should equipment costs to the consumer best be met?**

BSkyB is already offering a free digital set-top box and dish to viewers, with no requirement to subscribe to its own or any other subscription services. Viewers are required to pay for installation, which is £40 if they subscribe, or £100 if they don't, and to agree to keep their telephone line connected to the set-top box for a minimum of 12 months. Viewers who do not subscribe still benefit from the free equipment offer, and are able to receive many free-to-air services with subtitles through the system, including BBC, Channel Four and Channel 5.

BSkyB agrees with the point made in section 19 of the consultation paper that more expenditure in the area of equipment could mean less expenditure in other areas, including programming, particularly when one considers the hundreds of millions of pounds spent by the company on its free equipment offer.

**Q: Is there a need to train more subtitlers, signers and audio-describers? Will technological developments help combat the skill shortage?**

If the Government opts to impose additional requirements on broadcasters, DTT or otherwise, there will undoubtedly be a need for more trained professionals to deliver the increased demand, a cost which will be carried by the broadcasters themselves. There is also currently a shortage of trained stenographers for live subtitling, which is already causing some difficulty in meeting targets on, for example, sports channels where there is a large amount of live and near-live coverage.

<sup>1</sup> ITC press release, 26<sup>th</sup> July 2000, Television Audience Share Figures.

<sup>2</sup> See footnote 1.