

Communications Consumer Panel and ACOD response to Ofcom's consultation on the accessibility of on demand programme services

The Communications Consumer Panel (the Panel) and the Advisory Committee for Older and Disabled People (ACOD) welcome the opportunity to respond to Ofcom's consultation on the accessibility of on demand programme services.

The Panel works to protect and promote people's interests in the communications sector, including the postal sector. We are an independent statutory body set up under the Communications Act 2003. The Panel carries out research, provides advice and encourages Ofcom, governments, the EU, industry and others to look at issues through the eyes of consumers, citizens and microbusinesses.

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 with the Panel, the Panel is more alert than ever to the interests of older and disabled consumers and citizens.

Response

We strongly support the aims of the consultation; consumers whose hearing and/or sight is impaired, to any degree of severity, should be as able to enjoy on demand programmes as those without sensory impairments. Failing to provide equivalent services that keep up with the demands of consumers as a whole means that consumers who rely on those services are left behind.

We believe that broadcasting and on demand accessibility should be seen as equally important - and this has not been the case so far. We believe that Ofcom's duty to encourage greater accessibility is not just increasingly important, but increasingly urgent.

Changing consumer habits

Provision of accessibility services has mostly failed to match viewers' rapidly changing habits. Traditional linear viewing is decreasing as people make more use of catch up services, or view on something other than a TV screen - according to Ofcom's Communications Market Report 2016¹, 32% of adults used the BBC iPlayer in the 12 months to the end of 2015 (up by two percentage points since 2014); video on demand from Sky

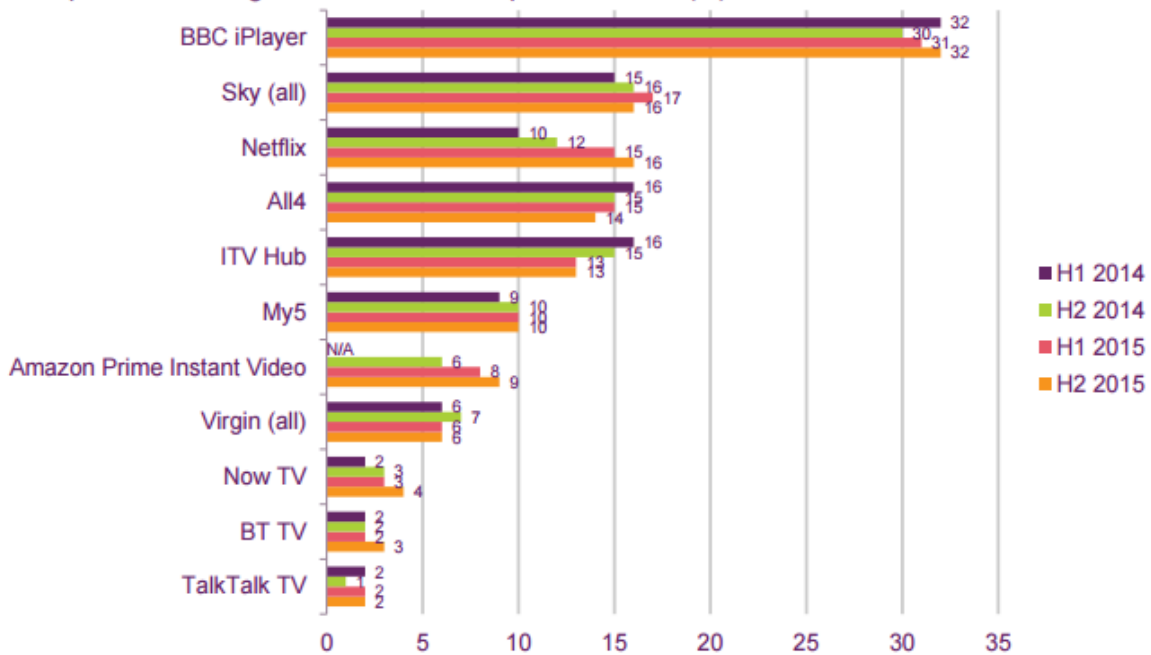
¹ https://www.ofcom.org.uk/__data/assets/pdf_file/0024/26826/cmr_uk_2016.pdf



was used by 16% of adults (unchanged from 2014) and Netflix was also used 16% of adults (in the second half of 2015) - and this appears to have increased further in the first half of 2016, with 23% of diary participants in Ofcom’s Digital Day research claiming to have watched Netflix in their diary week.

Figure 2.6 Reach of selected VoD services over the past 12 months

Proportion watching VoD services in the past 12 month (%)



Source: Kantar Media – TGI

Base: GB adults aged 15+. H1 2010 n=12226, H1 2013 n=11853, H1 2014 n=11657 H2 2014 n=12849, H1 2015 n= 11972, H2 2015 n=12310

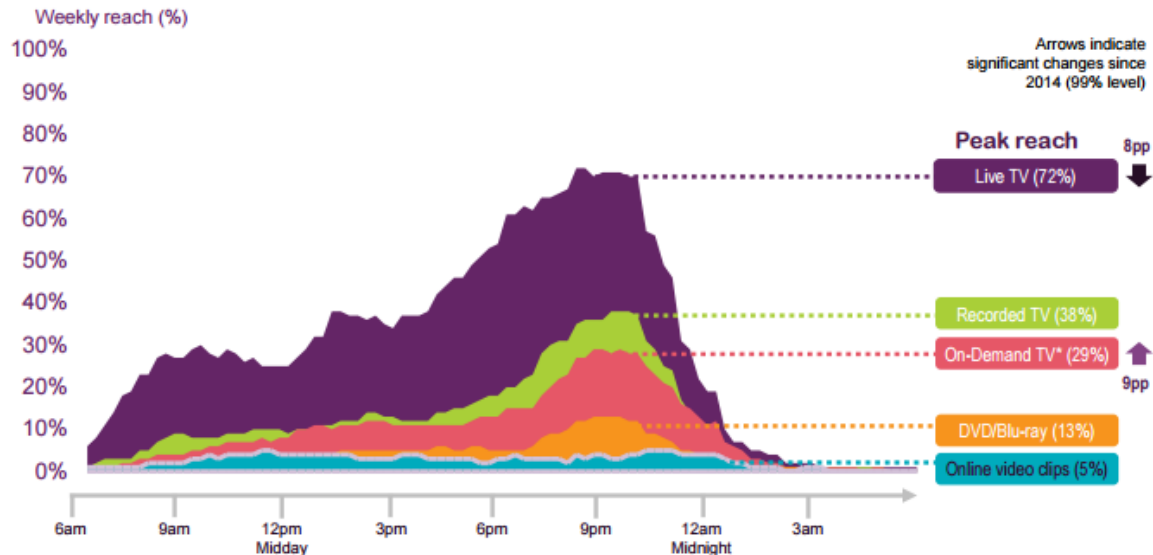
Note: LoveFilm was rebranded as Amazon Prime Instant Video February 2014. 4OD was rebranded as All4 in March 2015.

In Ofcom’s Digital Day 2016², on-demand TV-watching overall (during peak times) increased by nine percentage points and there was a drop in live TV-watching by eight percentage points:

² https://www.ofcom.org.uk/__data/assets/pdf_file/0026/17495/uk_tv.pdf



Figure 2.3 Weekly reach of watching activities, by time of day



Source: Ofcom Digital Day 2016. Base: Adults aged 16+ (1512)
 Adult diary: Chart shows the proportion of adults who recorded each watching activity (D) at each time slot across a week.
 *On-demand TV includes paid and free on-demand

With increased consumer usage of on demand services, we are disappointed that there have been no agreed plans by government to bring access service obligations on VOD providers in line with linear broadcasting.

We have welcomed the proposed amendment to the Digital Economy Bill³. We would like to see DCMS at least set out an obligation on traditional TV broadcasters who are already obliged to make their programmes accessible to ensure the same programmes are still accessible when accessed on demand or via another platform or device, notwithstanding any technical issues that are outside of the broadcasters' control when the platform is not their own.

Given the apparent lack of significant progress to date, it is even more necessary that Ofcom tackles this issue. We were pleased to note Ofcom's comments in the oral evidence session of the Digital Economy Bill⁴ highlighting the need for Code powers to help Ofcom to have equal enforcement power with regard to accessibility across linear and on demand programming. Such powers are in our view essential if progress is to be made.

³<http://www.publications.parliament.uk/pa/cm201617/cmpublic/digitaleconomy/memo/DEB07.htm>

⁴[https://hansard.parliament.uk/commons/2016-10-13/debates/203a90d5-ff7f-412e-9ae7-23450e8b0a8c/DigitalEconomyBill\(ThirdSitting\)](https://hansard.parliament.uk/commons/2016-10-13/debates/203a90d5-ff7f-412e-9ae7-23450e8b0a8c/DigitalEconomyBill(ThirdSitting)) (clause 108)

Reporting

We strongly support the requirement to report by platform; we believe there is also an argument to be made for reporting by device - the same varied accessibility that can be seen between platforms can also be found if viewing on different devices (for example, a tablet as opposed to a laptop).

We also strongly support the collection of On Demand Programme Services (“ODPS”) data on a twice-yearly basis and aligning publication of this data with broadcast data. This should make it much more straightforward for viewers and organisations who campaign on their behalf to see gaps and disparities and make interventions and decisions accordingly; for that reason, we agree it must be compulsory. We agree that data should also be provided by branded service, across all platforms (and similarly, all devices).

We would also be in support of Ofcom developing a means of measuring ODPS audience share - not as a means to see which providers might be excused from providing either data or the access services themselves, but rather for its potential “name and shame” value. Providers should be urged to raise and maintain standards across the industry and should be held to account.

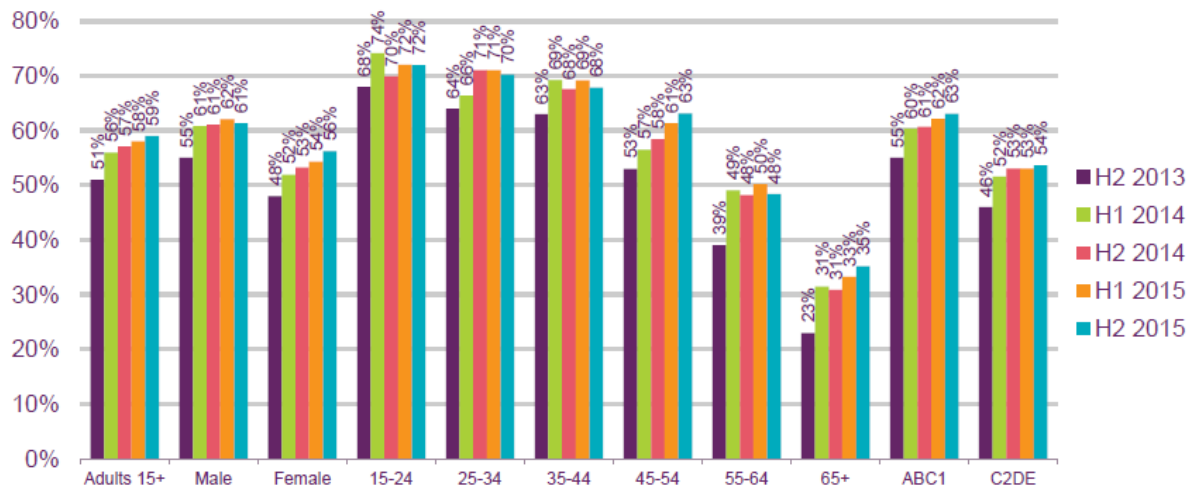
We would like to see some indication of how Ofcom is proposing to define both “high profile services” and “significant/popular platforms” and, just as importantly, how future entrants into those categories would be recognised and acted upon.

Finally, we would highlight the opportunity that encouraging greater accessibility presents; it could be seen by providers as a means of increasing audience numbers in certain demographics. Ofcom figures show VoD services are least used amongst the over-65s, arguably a group of consumers who would benefit the most from improved accessibility, due to age-related hearing and sight loss:



Figure 2.5 Reach of VoD services by age, gender and socio-economic group

Proportion watching VoD services in the past 12 months (%)



Source: Kantar Media – TGI

Base: GB adults aged 15+. H2 2013 n=12570, H1 2014 n=11657 H2 2014 n= 12849, H1 2015 n= 11972, H2 2015 n=12310

Note: For H1 2014, 'in scope' services comprise of Channel 4.com/4oD, BBC iPlayer, Blinkbox, BT TV, Demand 5, ITV.com/ITV Player, Netflix, Now TV, Sky, TalkTalk, Virgin, You View. Amazon Prime was added to the 'in scope' services in H2 2014.

Note: ITV Player was rebranded as ITV Hub in November 2015. 4oD was rebranded All4 in March 2015. BlinkBox was renamed TalkTalk TV in early 2016

Summary

- We believe action needs to be taken urgently by Ofcom to ensure that providers improve the accessibility of on demand services; and to place obligations on providers in line with linear services;
- We are in full support of Ofcom's proposals to require reporting on a twice-yearly basis, to emphasize the importance of the accessibility of on demand services; and to make the reporting clearer for consumers and their representatives by requiring reporting by device, brand and platform;
- We would encourage Ofcom to measure and report on ODPS audience share, to raise standards across the industry and hold providers to account;
- We would like Ofcom to publish a definition of "high profile services" and "significant/popular platforms" and to explain how future entrants into those categories would be recognised and acted upon;
- Alongside living up to their social responsibilities we would emphasise to providers the positive side, commercially, of increasing accessibility in on demand services: the potential to increase audience numbers.