Your response

<table>
<tr><td colspan="2">Introductory Comments:

The Advisory Committee for Scotland (ACS) is one of a number of committees and advisory bodies, established under the Communications Act (2003) to inform the work of the Ofcom Board and Executive.

The ACS is one of four committees representing each of the UK's nations, specifically to <i>'advise Ofcom about the interests and opinions, in relation to communications matters, of persons living in Scotland.'</i>

Therefore, in addition to the responses below, comments have been added at the end of the consultation responses to highlight some specific considerations particular to Scotland.

This submission draws on the knowledge and expertise of ACS members and is informed by our individual experience and through discussion at our meetings. It does not represent the views of Ofcom or its staff.</td></tr>
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Question	Your response
Question 1: Do you agree with our suggested approach to assessing exemptions for affordability, i.e. using overall turnover?	Yes, this seems reasonable and we agree that profit cannot be used as an exemption for affordability measures for the reasons outlined. Given overall turnover is already used for regulatory fees and is readily available we also feel this supports the desire for a simple approach to this assessment. It is of course a concern that providers who only have a small part of their business on demand may be disadvantaged and so we welcome the acknowledgement that these providers would be protected by audience size metrics, or excluded as a 'small company'.
Question 2: Do you agree with our suggestion that 'small companies' should be exempted from the requirements?	Yes, we feel it would be prohibitive for 'small companies' to be included.
Question 3: Do you agree that a threshold level of 1% for the remaining ODPS providers is proportionate?	Yes, this seems reasonable based on the analyses provided.
Question 4: If you are an ODPS provider, can you provide any information on the costs of providing access services,	N/A

including in relation to the various platforms by which services are delivered?	
Question 5: If you are an ODPS provider, can you provide any information on the proportion of your ODPS catalogue which is replaced over a given month/ year (rather than archived)?	N/A
Question 6: If you are an ODPS provider and have a broadcast television service, can you provide any information on the proportion of your ODPS catalogue which is repurposed from broadcast television over a given month/ year?	N/A
Question 7: If you are an ODPS provider with more than one ODPS, can you provide any information on the hours of unique content provided across all your ODPS over a given year?	N/A
Question 8: If you are an ODPS provider, can you provide any information on how much advertising/ subscription revenue you would expect to gain from providing access services on your content?	N/A
Question 9: If you have provided answers for any of Question 4-8 above, would you be happy for Ofcom to share this information with Government on a confidential basis, for the purpose of their impact assessment to inform the drafting of regulations?	N/A
Question 10: Do you agree with our suggested approach to making exemptions on the basis of audience size?	Yes, the suggested approach balances the complexities of obtaining and monitoring this data in a robust way with the desire to not adversely affect smaller or niche ODPS providers or programming.
Question 11: Do you agree with our suggested threshold for assessing audience size?	Given the rationale provided, this seems a reasonable approach.

Question 12: If you are an ODPS provider, do you have information on unique visitors to your service, including by the platforms through which your service is delivered? Would you be prepared to share estimated audience metrics with Ofcom on a confidential basis, for use in our impact analysis? (Please provide if so)	N/A
Question 13: Do you agree with our suggested approach to assessing exemptions on the grounds of technical difficulty?	We feel there are some additional considerations here. Whilst we are in agreement that the platforms which do not support access services should be excluded, we note that feedback from ODPS providers is that technical difficulties seem to link strongly to third party platforms ability to support. In this regard, should the exemption regarding technical difficulties therefore be split more overtly to consider the ODPS providers own platform versus using a third party platform and should some targets also be set for third party platform providers to ensure they have the correct technological interfaces to support. We note the suggested approach re target setting goes some way to encourage this. Providing evidence of 'reasonable endeavours' is welcomed, however we are interested in the scope Ofcom has to extend requirements directly onto third party platform providers to prevent overuse of this exemption. There is also some consideration to be given here to the quality of the delivery of the accessible service. Exclusion on the grounds of technical difficulty suggests an all or nothing approach and we are concerned that where an exclusion on the grounds of technical difficulties in not sought, the quality of the service being delivered may still be hindered by technical difficulties. Some examples where an accessible service is delivered, but the quality may compromise usage are as follows: • How easy is it to access the accessibility menu;

	• How many clicks does it take to get to the subtitles or can they be set by speech; • How quickly are the subtitles updated during the programme. Consideration should therefore be given to standard accessible standards to support ease of use with specific recognition of the audience; there can be a gap in designers and users for this technology which does not always create an easy intuitive interface.
Question 14: If Ofcom is given discretion in this area, do you agree with our suggested approach to making exemptions for particular genres/ types of programmes?	Yes, in line with the examples given where there would be little benefit to adding accessible services.
Question 15: If Government wants to specify which types of programming should be exempt in the regulations, do you agree with our provisional view that the exemptions should only be for audio description on news and music programmes?	Yes, given this is in line with current broadcast regulations however we welcome the opportunity for discretion and flexibility in this area although would still expect to see robust scrutiny where technical difficulties are sought as justification for exemption.
Question 16: Do you have any views on our proposed approach to determining applicable signing requirements?	The proposed approach strikes a good balance between providing signing services and creating flexibility for ODPS providers to deliver good outcomes for consumers.
Question 17: Do you prefer Option A or Option B for determining the levels of each signing requirement?	Option A
Question 18: What alternative signing arrangements do you think should be in place for ODPS? Should this be an extension of the current arrangement with BSLBT?	An extension of the current arrangement with BSLBT seems the most prudent approach although with the lack of research in this area, the success of this is somewhat unknown and so we would encourage further analysis of this before alternative arrangements are agreed.
Question 19: Do you believe there should be an exemption for signing in cases where it allows ODPS providers to offer subtitling and AD?	Although an exemption seems sensible, it is noted in the consultation that subtitles are not a substitute for signing and are not used by the same population of consumers, so we urge this be used robustly and with caution.

Question 20: Do you have any information on the relative costs of providing sign-interpreted or sign-presented programming? If so, please indicate whether you would be happy for Ofcom to share this information with Government on a confidential basis, for the purpose of their impact assessment to inform the drafting of regulations.	N/A
Question 21: Do you agree with our suggested approach to setting targets across ODPS services and platforms?	Yes, we agree with the approach outlined in option 2. We feel it is important consumers are able to choose the platforms they wish to use based on programming content rather than availability of accessible services and so support a prescriptive approach to targets.
Question 22: Do you agree with our suggested approach to implementing the targets?	Broadly yes and the sequence of events and timings is simple and straight forward. We feel however consideration should also be given at the end of the year retrospectively in the case where the ODPS provider has reduced their overall offering; whilst we agree this seems unlikely we would not wish a ODPS provider held to a target set at the start of the year if in fact their business model had changed significantly. It may therefore be prudent to engage with providers at the start of the year when targets are set to understand any proposed changes in their business model. In this regard, it may also mean that in calculating targets at the start of the year some ODPS providers may have already achieved the required target so consideration should be given as to whether an end of year submission is still required from these providers.
Question 23: If you are an ODPS provider, would you be able to provide Ofcom with the information outlined in 5.18 to 5.21 on a regular basis (e.g. every two years)?	N/A
Question 24: Do you have any comments on the cost assumptions included in Annex 2?	No additional comments.

Question 25: Do you agree with our assessment of the impact of our proposals on the relevant equality groups? If not, please explain why you do not agree.	Yes, we agree the proposals are not likely to have a detrimental impact on the relevant equality groups.

Additional Comments:

It is clear that the discussion on accessibility is wider than ODPS providers, and so we encourage this consultation to be considered under a wider consumer banner; consumers with sight and hearing difficulties are impacted detrimentally through lack of accessible services expanding well beyond the scope of this consultation and so there should be a link to the Making Sense of Media work in particular to understand the full picture.

There are some key considerations with regards to Scotland:

1. Scottish demographic - The Scottish Government estimate that one in six of the population in Scotland live with hearing loss and of those, 70% are over 70. It is projected that this figure will increase by 50% in the next 20 years[1]. RNIB (2014) say one in five people over 75 in the UK are living with sight loss[2]. This highlights that, this is not just an issue about providing accessible services for those with hearing and sight impairment, but one of age accessibility as well.

Therefore:
- Target setting based on audience size should take into account recent increased uptake of subscription services by this older age group as well, as the projected increase in the size of this age group.
- The degree of digital literacy and how easy it is for these people to access the features they need as we know digital literacy declines when plotted against age, with the Online Nations report showing that a quarter of internet users across the UK aged 75 and over say they are not confident using the internet [3]. ACS would like to encourage increased emphasis from application and web developers on making usable apps or indeed versions of apps for the digitally challenged which are designed to be more accessible - for example making the app usable with bigger text font.

2. Media Nations report - The Media Nations report highlights the change in viewing habits of older viewers who previously only watched broadcast TV. Older viewers are now using on-demand services more. Any recommendations therefore need to take into account the increasing ageing populations of the individual nations.

3. Scottish programming - with the requirement for the Nations and Regions to be appropriately represented in programme types/genre, there may be a specific impact on Scottish viewers where due regard is not given to adding accessible services to these specific programmes because of audience size; this may be detrimental to consumers and at odds with the desire to appropriately represent the Scottish Nation.

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[1] https://www.gov.scot/publications/see-hear/pages/7/

[2] https://www.nes.scot.nhs.uk/media/10005/Basic%20SI%20Awareness%20resource.pdf

[3] https://www.ofcom.org.uk/__data/assets/pdf_file/0027/196407/online-nation-2020-report.pdf