

AVMS: Consultation Document

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

August 2019



A VOICE FOR COMMERCIAL BROADCASTERS IN THE UK

Introduction

1. The Commercial Broadcasters Association (COBA) is the UK 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 arguably the fastest growing part of the UK television industry, and are increasing their investment in jobs, UK content and infrastructure. They make this investment without public support, direct or indirect.
 - 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 £1.1 billion per annum, up nearly 75% on 2011 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 2019 Content Report, Oliver & Ohlbaum Associates for COBA

Questions on implementation

Protection of minors

1. Do you agree with our proposed approach to amend s368E of the Communications Act 2003 to align the protection of minor requirements for linear and on-demand?

a. Yes

b. No

c. If No, please give details.

This is a complex area and requires a careful, proportionate approach in order not to prevent legitimate, non-controversial, promotional activities to children conducted by broadcasters. For example, the AVMSD (Art 6a) requires that personal data of minors is not used for commercial purposes. However, channels on a day to day basis directly market and promote their broadcast channels and VoD services to children by holding on-air and off-air competitions/promotional events (Blue Peter type drawing competitions are a classic example); or competitions to attend channel premiere screenings, or to meet talent; or conducting public talent/star searches for children to appear in programmes. These direct marketing events/promotions involve collection and processing of children's data.

If conducted in line with GDPR (i.e. with parental consent), then such marketing activity should be out of scope of the Article's intended reach.

We also note the proposals raised by the ICO for age-appropriate design, which seem to directly cut across the implementation of the AVMSD. The ICO proposals would have a grossly disproportionate impact on audiovisual services and COBA, and many other industry organisations, have asked the ICO to re-think them.

2. Noting that Recital 19 envisages that a system of that viewers should be provided with sufficient information regarding the nature of the content, should be equally applicable to both video-on-demand and linear services. Do you consider that Ofcom updating the relevant sections of the Broadcasting Code would be enough to sufficiently meet this requirement?

a. Yes

b. No

c. If no, please give details

Yes. However, in the interests of viewer choice, providers should be able to use guidance and ratings that are tailored to their services and the expectations of their specific audiences. This can be provided for as part of the Ofcom Code, ensuring reasonable consistency across all notified services while permitting an appropriate level of flexibility. We do not support an overly prescriptive, one-size-fits-all approach in this area. While one model may work for certain services, it may not be appropriate for all.

3. If no, what would be your preferred way of introducing a new requirement for ensuring that viewers have sufficient information about the nature of content on video-on-demand catalogues? Could you indicate from the following:

- a. Using acoustic warning**
- b. Content descriptors**
- c. Visual symbols**
- d. Age-ratings**
- e. Other means (please specify)**

All may be appropriate for different services. Please see our response to previous question.

4. Should the measures above use standardised system of content descriptors or age-ratings used for broadcast and/or video-on-demand?

Please see response to question 3.

5. What would the benefits/obstacles be for introducing a standardised system to such content?

Please see response to question 3.

6. Should the government consider a self or co-regulatory model for provision of sufficient information to protect minors?

n/a.

Advertising

7. The government invites views on how best to implement the requirement to ensure that VSPs comply with the relevant advertising provisions, noting that the Directive encourages the use of co-regulation by Member States to meet its aims, and that there already exists a co-regulatory framework for advertising on linear broadcast and VoD in the UK.

While the current system based around the BCAP and CAP Codes generally works well, we note that there remains a significant disparity in how linear and online services are treated. Firstly, as ASA intervention for online services is largely ex poste and based on complaints, rather than pre-vetting as occurs in linear, there is considerable scope for minors to be exposed to potentially harmful advertising. This remains a challenging area, given the sheer volume of online advertising, and we welcome Ofcom's recent work, which suggests that oversight of online services be based on average exposure rates for individual services. ASA and CAP practice might develop along these lines or, in the case that Ofcom is given powers in this area, then it might adopt this approach.

We also note that, under the co-regulatory system, a high proportion of funding for the ASA comes from broadcasters, despite the fact that an increasing part of its workload is in overseeing online services.

8. The government's preferred approach is not to make legislative change with regard to the change of advertising minutes. Do you agree with this approach?

a. Yes

b. No

c. If no, please explain why

We strongly agree. Changes to advertising minutes could have a profoundly destabilising impact on the industry as a whole at a time when it needs greater certainty, and it is extremely difficult to predict outcomes with any reasonable degree of clarity. Increasing impacts is in our view unlikely to stimulate the market, instead increasing the frequency of advertising for audiences without generating additional revenues overall. In addition, changes that allow PSBs to show more advertising, such as granting them more minutes in peaktime, are likely to harm advertising revenues for non PSB broadcasters. If the Government wishes to develop ways to help PSBs compete with on-demand services, this should not be at the expense of other linear broadcasters who are themselves competing with on-demand services, are already heavily regulated and are investing significant amounts in UK content (which is wholly dependent on their ability to generate commercial returns through advertising and/or subscription).

Ofcom examined this area extensively in 2011, looking at a number of potential changes. The regulator concluded that lifting the maximum amount of advertising minutes permitted overall was unlikely to increase total television advertising revenues, and could actually lead to a decrease. The regulator stated that this could well result in less investment in UK content creation:

“Analysis which takes into account the econometric data available to us suggests that significant increases in minutage may actually lead to a decline in the total amount of television advertising revenue. If the supply of advertising was increased then prices would be likely to reduce and our analysis suggests that the overall effect would be a reduction in total advertising revenues. This would reduce the amount of funding available for the production of content.”⁴

Ofcom also looked at “levelling up”, i.e. permitting PSBs to show the same amount of advertising as non PSB channels. The regulator came to the same conclusions as it did in the previous scenario, stating:

“Levelling up, whilst representing a less significant change to the rules, would have similar consequences to setting the rules at the AVMS limits. It would be likely to lead to an increase in the overall levels of advertising which is not in the interests of viewers. For similar reasons to those set out above, we do not believe there is a strong case for levelling up.”⁵

In addition, Ofcom looked at “levelling down,” i.e. reducing the amount of minutes permitted to non PSBs. The regulator stated that the outcome was unclear and that, in the event it led to more revenues for PSBs, there was no guarantee that this would be used for PSB content, or any content at all. Ofcom stated:

“[I]t is difficult to predict with any certainty what the effect of levelling down would be. There is not only uncertainty as to how much additional revenue might be generated, but also how it would be distributed between different broadcasters. There is also uncertainty as to how much of that revenue broadcasters would invest in content and in what type of content. While we would expect some additional investment in content, the current regulatory regime – particularly with regard to the current licence obligations on the PSBs - provides no guarantees as to the use of any additional revenues received.”⁶

We would expect both the levelling up and levelling down scenarios to have a hugely damaging impact on non PSB broadcasters, with the result that their own investment in UK content (either their own commissions or co-funding with PSBs) would be

⁴ https://www.ofcom.org.uk/_data/assets/pdf_file/0021/19083/advertising_minutage.pdf. Section 1.14

⁵ Ibid. Section 1.20

⁶ Ibid. Section 1.23

challenged. Previous estimates have put this negative impact on non PSB channels at between £46m and £80m a year. This would lead to reduced competition for commissions from UK producers and damage choice for UK audiences. We stress that non PSB broadcasters are already heavily regulated under statute, and already face challenges in competing with on-demand services. The existing advertising rules were known and accepted by commercial PSBs when they agreed to renew their PSB licences, and reflect in part the significant advantages that come with that licence.

9. Do you consider that a review of the advertising minutes in the UK market should take place in relation to the liberalisation of scheduling of minutes set out in paragraphs 46-48?

a. Yes

b. No

c. Please provide evidence that supports your view.

No. Please see our response to question 9 for explanation.

Accessibility

10. The government's preferred approach is to consider the recommendations set out in Ofcom's report on accessibility for on-demand regarding the design and implementation of accessibility for on-demand; in the event that time-scales do not align with the implementation deadline of 19 September 2020 that copy-out is used to update the wording s368BC for video-on-demand of the Communications Act 2003. Do you agree with this approach?

a. Yes

b. No

c. If no, please explain why

Yes, but we believe that the proposals from Ofcom are highly disproportionate in terms of the timeframe set out. The Ofcom proposals require full compatibility with access services targets within four years for on-demand, compared to ten for linear. It is disproportionate to require often nascent on-demand services to meet targets that are comparable to linear services in less than half the time given for those linear services. This remains the case even with exceptions, the detail of which is as yet unspecified, and risks damaging innovation, choice and competition.

11. Do you agree with the government's preferred approach to ensure that the accessibility of emergency communications is made through existing provisions in Section 336 of the Communications Act?

a. Yes

b. No

c. If no, please explain why

n/a

European Works

12. We propose that government amends the Communications Act 2003 to ensure that Ofcom produces a report every two years on the European Works quotas and prominence obligations, via copy-out. Do you agree?

a. Yes

b. No

c. If no, please explain why

Yes

13. We propose that government amends the Communications Act 2003 to ensure that Ofcom has to produce guidance on prominence of European Works in video-on-demand catalogues. Do you agree?

a. Yes

b. No

c. If no, please explain why

Yes. We support Ofcom being given responsibility for developing guidance based on consultation with the industry.

14. Are there core framework elements that should be included in this requirement to produce guidance?

We are opposed to imposing restrictions or requirements on algorithms that support search terms. This could result in harming viewer choice and producing results that are not transparent. We propose that guidance should provide maximum flexibility so that the best approach can be employed according to the nature of the service. The guidance can offer the examples of compliant approaches set out in recital 35 of the Directive. These examples should be illustrative rather than definitive and prescriptive.

15. Noting that prominence in on-line catalogues could encompass a wide range of practices (e.g. separate section, dedicated search, information on home page), please indicate which would consider would be appropriate:

- a. Separate section**
- b. Dedicated search**
- c. Information on home page**
- d. Other (please specify)**

Please see our response to question 15.

16. What would be your preferred way of introducing a new prominence requirement for European works content on video-on-demand catalogues?

Please see our response to question 15.

17. Noting that the Commission is due to publish guidance in relation to low turnover and low audience, do you agree with the proposed approach that we allow for exemptions for quota and prominence obligations by amendment to section 368C(3) and 368Q (3) for the Welsh Authority of the Communications Act 2003?

- a. Yes**
- b. No**
- c. If no, please explain why**

Yes.

Defining low turnover: In terms of defining low turnover, we support the position set out by the Association of Commercial Television in Europe (ACT), which states that group level revenues should not be taken into account. We support an approach based on the size of individual channels or on-demand services, rather than the overall corporate group of which they are part. It is not appropriate to include turnover for completely unrelated parts of a business as the current EU guidelines for SMEs do. Nor is it appropriate to include revenues from other markets for different services, which may well not have any direct relationship and may not be cross-subsidising each other. Failure to do so could disincentive new and small players.

To support smaller channels and on-demand services, and foster the development and growth of new ones, it is crucial to understand the degree to which individual services must stand on their own even within a larger media group. Channels and services may form distinct corporate divisions or operate as separate companies, such as in the case of joint ventures. They may do their own commercial deals and be responsible for delivering their own services. Some companies may negotiate pan-territory ad sales deals, for example, but many do not, particularly smaller ones. Channels and services, particularly smaller ones, often still have to pay for the individual programme and music licences that are used in that country, as well as for

the technical infrastructure and language services for each and every piece of content they use.

In VoD, the costs of delivery for content providers are significant: every platform has different delivery requirements in every market.

Ultimately, in linear and on-demand, an individual service is absolutely assessed as a standalone business case. The delivery, language reversioning, tech spec, accompanying materials (e.g. images, paperwork) are different for every service, and that must be added up and compared to the projected revenue before a company can launch a new service in any territory.

The ACT proposal is to use direct employment and turnover for individual services as a proxy for low turnover, based on current EU guidelines for defining SME companies. For linear channels, these would be directly employing less than 250 people or having a turnover of under Euros 50m (as a channel rather than as a group). Where appropriate, policymakers may need to take a flexible approach to this for on-demand services, both subscription and free at point of use, and lower the threshold to reflect the fact that the on-demand market is smaller.

We stress that this is a fast moving sector and guidance should allow Member States to be flexible and evolve their approaches.

Defining low audiences: In terms of defining low audiences, we also support the approach suggested by ACT, which sets out a 20%/80% model based on the Pareto Principle. Under this system, 20% of channels account for 80% of audience share. The long tail of channels that falls outside the top 20% would be excluded.

In the UK, this would equate in practice to channels with an audience share of under 0.5% being excluded. This would be in line with the threshold adopted by Ofcom for determining which channels should be exempted from reporting on originations in the last PSB Review due to their size, and also consistent with Ofcom's approach for access services.

This should be calculated on an annual basis and regulators should take into account performance over a number of years, so as to avoid creating unnecessary uncertainty for channels that might vary in audience share from year to year. We also note that on-demand services may be reliant on audience data being provided by platforms.

Defining thematic services: Finally, we agree largely with the ACT definition that thematic services should be those that are "dedicated to a specific genre or topic and intended for a specific target audience." However, we strongly believe that this should not be limited to films, series or documentaries, but rather should also include news, sports, music or other genres such as shopping that meet this

definition. This would apply to linear and on-demand, both subscription and free at point of use.

We also suggest exempting services when by their “nature” it would impracticable or unjustified to apply these requirements, notably when their purpose is promotional or they carry a limited number of hours of programming.

With the above in mind, we believe that a thematic exception should be established in the legislation to provide legislative support to Ofcom’s recognition of a thematic exception.

18. Do you consider that the current level of funding for European Works in the UK is sufficient? Please provide evidence.

Yes. There is more investment in the creation of UK television content than ever before. The PSB regime continues to be the cornerstone, spending around £2.6 billion a year on first-run UK content. But this investment is now greatly augmented by other sources. Taken together, non PSB sources including multichannel broadcasters, SVoDs, co-production and soft money are estimated to provide more than £1.5 billion annually for new UK television production.

Some have suggested that SVoDs are too dominant. Competition has no doubt increased, but figures relating to Netflix’s investment should be treated carefully. Netflix’s global content budget may reportedly be \$13 billion a year, but its entire annual European content budget is just \$1 billion and all SVoDs, including Amazon and YouTube as well, spent just £150m on commissions from independent UK producers in 2017.⁷ This £150m may well be conservative, but it represents a fraction of the PSBs’ content budgets, and half of the annual spend by the multichannel sector.

It has also been argued that co-productions with UK broadcasters will stop. On the contrary, according to independent analysis commissioned by COBA and provided separately, co-productions are increasing. The number of co-commissions (productions where PSBs and non PSB broadcasters or SVoDs partnered at an early stage) nearly doubled between 2014 and 2018. There is no sign of this trend slowing: co-commissions in the year 2019 so far are already almost at the total number for 2018. PSBs are at the heart of this trend, with the BBC consistently the most active co-commissioner of all players (PSB and non PSB) since 2014. Netflix peaked as a co-

⁷ Pact Financial Census 2018, Oliver & Ohlbaum Associates

commissioner in 2017 but remains active with four co-commissions this year so far. Beyond Netflix, numerous other broadcasters and SVoD services are active: 32 different companies have partnered with PSBs on co-commissions since 2014. Again, this trend shows no sign of slowing.

It is therefore clear that PSBs and other broadcasters are successfully navigating an increase in spend per hour with increased co-commissioning. As further evidence of this we refer the DCMS to the substantial increase in third party funding for PSB shows reported by Ofcom in its last market report. According to Ofcom, third party funding now providing at least £338m a year for PSB commissions (not including ITV, which we believe declined to provide figures) on top of the contribution from PSBs themselves.⁸ This is nearly double 2012 levels and has enabled PSBs to successfully mitigate any increase in production costs, as Ofcom concluded:

“UK PSBs are strongly mitigating these rising costs and tighter budgets; the PSBs do not have to meet the entire cost of programme making, instead trading off part-ownership of the associated rights.”⁹

The regulator added:

“In this climate, broadcasters and the wider UK production sector have been able to leverage the global nature of TV drama – especially that produced in the UK – to access new revenue streams and so continue to produce high quality drama.”¹⁰

Nor is drama the only genre to benefit. PSBs are partnering with third parties on comedies such as *Fleabag* (BBC/Amazon) and *Mae and George* (Channel 4/Netflix), as well as natural history (e.g. recent deals between BBC and Discovery and ZDF). Broader partnerships, such as the BBC deal with Discovery this month to create a “natural history Netflix”, are opening up revenues from fast growing international markets that PSBs can reinvest how they choose.

Some have also suggested that such third party funding will undermine the cultural specificity of UK content. The question of whether co-productions dilute cultural identity has been asked since the “Europuddings” of the 1980s. Of course this occurs, but it is an exception rather than the rule. Nearly any PSB drama broadcast since *Downton Abbey* – which was co-funded by NBCUniversal - has benefited from some

⁸ According to Ofcom’s 2018 Communications Market Report, the BBC, Channel 4 and Five reported that third party funding for first-run originations represented £338 million on top of their own production spend in 2017. ITV figures were not available but, as it is the biggest commercial PSB, COBA estimates that third party funding would amount to more than £400m if it were included.

⁹ Ofcom Communications Market Report, 2018

¹⁰ Ofcom Communications Market Report, 2018

level of overseas partnership, even a straightforward pre-sale to an overseas broadcaster. Sky's hugely acclaimed Chernobyl is a co-production with HBO, which also co-funded the BBC's Gentleman Jack, set in Yorkshire and written by the acclaimed Sally Wainwright, and Channel 4's Brexit: The Uncivil War, demonstrating that overseas funding does not preclude a very contemporary British subject. Amazon co-funded Fleabag, acclaimed for showcasing a unique British voice in Phoebe Waller-Bridge. Bafta changed the definition of a British show so that the BBC's The Night Manager could qualify as British despite the fact that it was majority funded by AMC Networks. There are many, many more examples.

Of course the UK must not become overly dependent on overseas investment, in case this dries up. This is an important issue and has in the past led to a cycle of boom and bust in the British film industry. However, today's UK television sector is very different to the relatively small, "cottage" industry of British film. At its heart are strong PSBs, supported by huge levels of public funding (the BBC remains the most well-funded public broadcaster in Europe) as well as other statutory advantages such as prominence. In contrast to the film sector, where overseas funding historically flowed through a relatively small number of Hollywood studios, the television sector is characterised by dozens of different investors. In total, 32 different companies have partnered with PSBs on co-commissions since 2017. These include companies from Europe as well as the US (e.g. the BBC's recent partnership with ZDF in Germany on natural history content), and they include a range of different business models, most notably broadcast and on-demand. It is important to have strong PSBs at the heart of this system, but the ecology is far more mixed than film has ever been, and as a result far less reliant on any one group of companies.

19. The government currently has no plans to introduce a levy, however, do you think a levy scheme to fund European Works could be an effective way to provide funding? Please explain why.

In response to the previous question we have outlined how high levels of investment in UK content are already flowing from non PSB broadcasters and SVoDs, and how there has never been more investment in UK television content. Imposing a levy will at best result in a zero sum game, reducing investors' ability to co-fund PSB shows and invest in UK production more widely, and at worst will diminish vital creative competition and audience choice. For example, multichannel broadcasters and many SVoDs commission specialist content aimed at appealing to the specific interests and tastes of niche audiences, something which mass-audience PSB channels can struggle to do. This results in high levels of arts programming on Sky Arts, or programmes with strong appeal to cultural minorities (Asian audiences spend 50% of their viewing time with non PSB channels, compared to a 30% average, for example). According to producers body Pact, non PSB services also commission relatively high

levels of content from smaller producers, compared to PSBs, as well as high levels of new shows, as opposed to returning series. This makes an important contribution to the health of the UK's programme supply sector which might not be replaced by any increase in investment from PSBs.

20. Are there alternative methods of funding European Works that you wish to provide views on?

Investment in UK content has never been higher. The real issue now is increasing the skills base and studio capacity to sustain further growth and continue this remarkable success story, which has been in part driven by the Government's welcome introduction of the tax reliefs for television production. The Government should now urgently look at a radical overhaul of the Apprenticeship system. We welcome the pilot scheme recently agreed with ScreenSkills, but urge the Government to go much further. We understand that around £15m a year is already being paid by audiovisual companies into the Apprenticeship scheme, but never used. This could be transformative if used to increase the skills base to encourage further investment in UK content creation. In the process it could be used to address other key issues such as diversity and representation from outside London.

Questions on business impact

Country of Origin

- 1. Will the additional references in jurisdiction criteria, relating to the location of staff making programme related decisions, or the reference to editorial decisions, relating to the day-to-day activity, affect you or your business?**

- a. Yes (please give details)**
- b. No**
- c. Don't know**

We do not anticipate any impact as a result of these changes. Obviously broadcasters are having to make significant changes to their European business models as a result of the UK leaving the EU, including taking alternative broadcast licences in remaining EU Member States for their non domestic services as a legal prerequisite.

- 2. Will the amended derogation procedures affect you or your business?**

- a. Yes (please give details)**
- b. No**
- c. Don't know**

We do not anticipate any impact.

Protection of Minors

- 3. Do you expect the new measure which restricts processing, collecting or otherwise generating personal data of minors for commercial purposes set out in Article 6a(2) to impact your audiovisual media service (or video sharing platform in the case of VSP providers)?**

- a. Yes (please give details)**
- b. No**
- c. Don't know**

Potentially, yes. An overly prescriptive or disproportionate approach could have serious consequences for business and for consumer choice.

- 4. Noting the government preferred approach to update S368 of the Communications Act 2003 to align the protection of minors requirements for video on demand with linear television, which would anticipate Ofcom to do a corresponding update to the Broadcasting Code. Do you expect the new measure on providing sufficient information to viewers about content which may impair the physical, mental or moral development of minors, by providing sufficient information to viewers about the nature of the content, as set out in Article 6a(3), to impact your audiovisual media service?**

Potentially, yes. An overly prescriptive or disproportionate approach could have serious consequences for business and for consumer choice.

- 5. Would a standardised system of content descriptors or age-ratings used for broadcast and/or video-on-demand to provide sufficient information to viewers about content impact on your audiovisual media service?**

It is highly likely that a prescriptive and inflexible approach would create significant increased costs.

Advertising

6. Would the further prohibitions on alcohol and e-cigarette advertising as referenced in paragraph 45 have an impact on your business?

- a. Yes (please give details)**
- b. No**
- c. Don't know**

No.

Accessibility

7. Would reporting obligations, set out in Article 7(2) of the 2018 Directive, occur any administrative costs to your business? If so, can you quantify them [answers must be provided as total cost in pounds sterling]?

As we have set out in response to the question on implementation, the proposed timeframe from Ofcom of four years is in our view disproportionate. This is less than half the equivalent timetable for linear channels and would create significant costs and operational challenges.

8. Would the development of accessibility action plans in respect of continuously and progressively making services more accessible to persons with disabilities, as set out in Article 7(3), occur any administrative costs to your business?

Not in themselves but, as we have noted, the proposed timeframe from Ofcom of four years is in our view disproportionate. This is less than half the equivalent timetable for linear channels and would create significant costs and operational challenges.

9. Would the new requirement on the accessibility of emergency communication have any impact on your business?

- a. Yes (please give details)**
- b. No**
- c. Don't know**

No.

European Works

10. For on-demand providers, how much of your catalogue currently consists of European works (based on minutage)?

n/a

11. For on-demand providers, how much of your catalogue currently consists of European works (based on titles)?

n/a

12. Will meeting the new 30% requirement of European works in on-demand catalogues financially impact your business?

- a. Yes (please give details)**
- b. No**
- c. Don't know**

It is important for innovation and audience choice that the UK recognises thematic services where it may not be appropriate to include European content, as well as exemptions for services with small audiences and/or low turnover. These measures should be prescribed in legislation.

13. Will making European Works prominent in you catalogues financially impact on your business?

- a. Yes (please give details)**
- b. No**
- c. Don't know**

This will depend on how prominence is implemented. As we have stated, it is vital that the UK takes a flexible approach that enables services to tailor implementation.

14. Noting that the European Commission is required by Article 13 to publish guidance on the definition of low audience and low turnover. Do you anticipate that your on-demand service to be exempt from the obligations on the basis of a low audience or low turnover definition?

- a. Yes (please give details on why you think this should apply to your service)**
- b. No**
- c. Don't know**

This will depend on the Guidance. Under the proposals that we have outlined in response to the consultation, we expect that at least some COBA members would be exempt as their on-demand services generate small amounts of revenue and have very low audiences.

15. Do you expect the new reporting obligations mentioned in paragraph 66 to generate any additional costs to your business?

- a. Yes (please give details)**
- b. No**
- c. Don't know**

Yes. The additional reporting burdens will inevitably involve an operational cost, including time and in some case new data systems.

16. How much revenue do you currently generate from EU countries if transmitting in the EU? Please give your answer to the nearest £1000.

n/a

17. Which European Union countries do you generate revenue from?

n/a

Signal Integrity

18. Do you expect the new provision, set out in Article 7b, will generate any impact on your media service?

a. Yes (please give details)

b. No

c. Don't know

n/a

Transparency of ownership of media service providers

19. Do you expect such a requirement would generate any impact on your media service?

a. Yes (please give details)

b. No

c. Don't know

n/a

Economic Impact

20. What economic impact would new/amended provisions made by the 2018 Directive have on your business? How would the provisions lead to such impact?

Our main concerns about a potential economic impact relate to how requirements around European content and data protection are implemented, as we have outlined in response to questions 1 and 17-19.

21. How would your business familiarise itself with the implications of these changes? Would you use in-house legal support, seek external legal advice or neither?

COBA members would use both in-house and external advice. COBA has in the past commissioned external advice.

22. How much time (in hours) would it take for you/your staff/trade mark owners to familiarise yourself with the legal implications of the changes required by the Directive? How much would the use of staff time for this purpose cost your business?

n/a

23. Are there any costs to you/your business beyond staff time? For example, preparation of guidance or amending existing licence agreements. Please outline what costs these are, and the financial cost to your business.

Other than time, potential costs include lost revenues and operational requirements, such as the creation of new IT systems.