

R N I B

See differently

RN I:D

Matt Warman MP
Parliamentary Under Secretary of State for Digital Infrastructure
Department for Digital, Culture, Media and Sport

09 July 2021

Dear Minister,

Re: Implementation of Clause 93, Digital Economy Act 2017, On-demand programme services: accessibility for people with disabilities

Our organisations have campaigned together for a number of years to improve accessibility of on-demand TV services for people with sensory loss across the UK. We were pleased to work with ministers and their officials during the passage of the 2017 Digital Economy Act and we publicly welcomed the inclusion of the amendment which now forms Clause 93 of the Act. Nobody captured the need for an improvement in the provision of access services on on-demand TV better than the then Minister, Matt Hancock MP, who said it is ‘simply not right that people with hearing or sight disabilities have to put up with a 2nd-class service for watching TV & films On-demand’.¹

When the clause was debated during the passage of the Bill, the Government’s spokesperson in the House of Lords at the time, Lord Ashton of Hyde, outlined his hope that the Government would be able to regulate to increase the provision of access services in a short timeframe, saying in

¹ [Matt Hancock, Twitter, 23 January 2017](#)

Chairman: John Morgan Chief Executive Officer: Mark Atkinson

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February 2017 that ‘the aim is for statutory instruments to be put in place later this year’.²

We understand this is a complex area of public policy and that there have been substantive demands on the Government’s capacity in the intervening years. However, we are sure you can understand the frustration that our communities feel that four years after the passage of the Act they are still treated as mere second class citizens when watching on-demand TV.

We have no doubt that you are aware that Ofcom have now published the findings of their second consultation Further Statement: Making on-demand services accessible Informing requirements to make On-Demand Programme Services more accessible to disabled people³. This means that you now have a clear and definitive basis on which to pass the statutory instrument required to bring the regulation to life.

The threat of future obligations has not delivered accessibility for on-demand content. This has been shown by a survey by RNIB which found that 42 per cent of people with sight loss feel not enough has changed on the accessibility of platforms.⁴ Moreover, a smaller proportion of providers offered audio description in 2020 compared to 2019 (16.7 per cent down from 17.4 per cent)⁵. In relation to subtitling, the latest Ofcom statistics have also shown that only 36 per cent of services achieved the 80 per cent target for subtitling in 2020 and furthermore provision of subtitling varies depending on the platform that was used.⁶ With ITV Hub varying from 88.7 per cent subtitling on their own site to 0 per cent on platforms such as

² [Lord Ashton of Hyde, then The Parliamentary Under-Secretary of State, Department for Culture, Media and Sport, HL Deb, 08/02/2017, c.1775](#)

³ [Statement: Making on-demand services accessible - Ofcom](#)

⁴ RNIB Perceptions of Audio Description Survey, June 2021 (available on request)

⁵ [Television and on-demand programme services: Access services report for January to December 2020, May 2021](#)

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Amazon Prime Video and YouView.⁷ As Ofcom themselves noted in the Further Statement, ‘in the absence of regulations requiring on-demand accessibility, we have seen at best modest improvements over the last four years’. This shows that without full regulation it is unlikely that accessibility will be prioritised by on-demand services and platforms.

In the past you have been happy to reiterate the Government’s commitment to enacting the secondary legislation necessary to regulate for minimum levels of access services – including setting out broad support for the quotas set out in Ofcom’s statement as a response to the first consultation.⁸ Can we ask you to clarify to us that both you and the Government remain determined to bring forward secondary legislation?

We would urge the Government to bring forward the statutory instrument as soon as possible. It has been four years since the primary law was created and even once the secondary legislation has been passed it will be at least another four years before our community gain from the full benefits of the proposed regulation.

We therefore want to ask if you are able to set out a timescale for the passage of the secondary legislation? We would also appreciate reassurance that the Government will do whatever it can to expedite the process and prioritise the needs of our communities.

Our organisations welcomed the chance to work constructively with your department during the passage of the Digital Economy Act and in the interim period we have provided Ofcom with as much support and information as we can. If we can be of any assistance to you or your officials then please do not hesitate to get in contact. If you would like to meet to discuss this further or if there is anything else we can do to help

⁷ [Television and on-demand programme services: Access services report for January to December 2020 May 2021](#)

⁸ [Ofcom, Statement: Making on-demand services accessible, December 2018](#)

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then please do not hesitate to contact Rob Geaney, Head of Campaigns and Public Affairs at RNID.

I am sure that in the four years since the Digital Economy Act was passed you have had countless conversations with friends, families and colleagues about on-demand TV; arguing which couple should have won Love Island, analysing who should sit upon the Iron Throne, sharing love life advice for Fleabag and considering how a female Doctor Who would be different. We urge you to do all you can to limit how much longer those who are blind, partially sighted or deaf are excluded from these conversations.

We look forward to your response.

Yours sincerely



Mark Atkinson, Chief Executive, RNID



Matt Stringer, Chief Executive, RNIB

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