



Agreement on case handling principles between the Advertising Standards Authority (“the ASA”) and The Authority for Television On Demand (“ATVOD”)

This document provides a framework for cooperation between the ASA and ATVOD. Both are committed to:

- Promoting mutual support and a common understanding of each other’s responsibilities, working procedures, legal powers and constraints;
- An agreed procedure for handling complaints;
- Facilitating the effective exchange of information to assist each organisation in achieving its objectives; and
- Ensuring appropriate consultation on matters of mutual interest.

The parties do not intend this document to be legally binding and it shall not create any legally enforceable duties or obligations between them.

The role and function of the ASA

The ASA’s role is to ensure ads are legal, decent, honest and truthful by applying the Advertising Codes in order to protect consumers and create a level playing field for advertisers.

In 2010, the ASA assumed responsibility for the regulation of advertising on video-on-demand services in line with the Communications Act 2003 (as amended) (“the Act”). Appendix 2 of the CAP Code sets out the statutory requirements.

Ofcom designated the ASA to regulate the advertising on video-on-demand services that is subject to statutory regulation in a [co-regulatory partnership](#).

In addition, the ASA regulates all advertising on video-on-demand services under the CAP Code, on a self-regulatory basis.

The role and function of ATVOD

The Authority for Television On Demand (“ATVOD”) is the independent co-regulator for the editorial content of UK video on demand services that fall within the statutory definition of On-Demand Programme Services.

Its duties and powers derive from the Communications Act 2003, as amended by the [Audiovisual Media Services Regulations 2009](#) and the [Audiovisual Media Services Regulations 2010](#). The Act confers functions on Ofcom for the regulation of On-Demand Programme Services (“ODPS”), and gives Ofcom power to delegate certain functions to an appropriate regulatory authority.

Following a public consultation, on 18 March 2010 Ofcom delegated certain of its functions and powers in relation to the regulation of ODPS to ATVOD by means of a formal [designation](#). ATVOD’s role includes ensuring that ODPS providers comply with their obligations relating to notification, provision of information to consumers, and the editorial content of the service. These obligations include:

- Notifying ATVOD before the service begins
- Ensuring that the service does not contain any editorial material likely to incite hatred based on race, sex, religion or nationality
- Ensuring that if the service contains editorial material which might seriously impair the development of persons under the age of 18, such material is only made available in a manner which secures that such persons will not normally see or hear it
- Complying with conditions relating to sponsorship of the service or sponsorship of a programme
- Complying with conditions relating to product placement in programmes

Full details of the requirements that ATVOD enforces are set out in its [Rules & Guidance](#)

Mutual Support

Both parties agree to provide relevant and appropriate support to each other in discharging their regulatory responsibilities in areas where they have mutual interests, usually in relation to On Demand Programme Services. There is a regulatory benefit in minimising duplication of effort (and associated cost to industry); avoiding unnecessary delays in dealing with complaints; providing regulated parties and other stakeholders (including the public, Parliament and the media) with a clear idea as to which regulator will deal with which kind of issues; ensuring consistency of adjudication (and especially avoiding conflicting or contradictory adjudications on the same subject); and building trust in self- and co-regulation generally.

Both parties agree to link to the website of the other party in appropriate places on their own websites.

Complaints handling

The principle which underlies complaints handling is that a complaint should be dealt with by the most appropriate organisation, primarily as determined by the duties and powers set out the respective designations. Complaints which relate to matters not covered by the respective designations should be dealt with by the organisation best equipped to handle the complaint. This should be determined having regard to the nature of the service, the nature of the complaint and the remedies available.

In general, all complaints about advertising on video on demand services should be handled by the ASA, and all complaints about editorial content should be handled by ATVOD.

Complaints should be handled as follows:

- Complaints to the ASA that a service meets the statutory definition of an On-Demand Programme Service and has not been notified will be referred to ATVOD and the complainant will be advised of this fact.
- Complaints to the ASA which are clearly about the editorial content of video on demand services will be referred to ATVOD and the complainant will be advised of this fact.
- Complaints to the ASA about sponsorship credits or product placement will be referred to ATVOD and the complainant will be advised of this fact.
- Complaints to the ASA about promotional material for programmes provided by the service provider will be referred to ATVOD and the complainant will be advised of this fact.
- Complaints to ATVOD which are clearly about advertising will be referred to the ASA and the complainant will be advised of this fact.
- Complaints to ATVOD about teleshopping on video on demand services will be referred to the ASA and the complainant will be advised of this fact
- Complaints to either the ASA or ATVOD which raise any doubt about which is the most appropriate regulatory authority will be discussed with the other organisation at the earliest opportunity with a view to agreeing the best approach under the circumstances.

Effective communications and information sharing

Both parties agree to share relevant information with each other where they can do so lawfully in order to assist each other in discharging their regulatory responsibilities. Such information may include (but will not be limited to):

- Sharing information regarding complaints where the complaint raises an issue of mutual concern
- Sharing in advance of publication information about adjudications or policy changes or any other documents deemed to be relevant and which could impact significantly on the other party
- The ASA consulting ATVOD to determine whether a particular service has notified ATVOD that it falls within the statutory definition of an On-Demand Programme Service. If more information is needed than is provided in ATVOD's publically-available list of notified providers, ATVOD will respond promptly to ASA requests for information.

Review

The ASA and ATVOD aim to create and maintain positive and effective communications. To that end, we commit to review the effective operation of this agreement on an annual basis.

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