



THE AUTHORITY FOR TELEVISION **ON DEMAND**

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**Minutes of the ATVOD Industry Forum  
held on 28 January 2014, 11am - 1pm  
at ASA, Mid-City Place, 71 High Holborn, London WC1V 6QT**

**Attendees and apologies:**

Please refer to lists attached at back of minutes. Martin Stott chaired the meeting in Kerry Kent's absence until item 6.

**1. Minutes of Meeting held on 24 September 2013 and matters arising**

The minutes were confirmed as approved and had been published on the ATVOD website. There were no matters arising from the minutes that were not the subject of agenda items at the meeting.

It was clarified that in respect of the item on confidentiality of consultation responses, additional consideration would take in to account the provisions of the Communications Act.

**2. ATVOD Update**

ATVOD's Chief Executive welcomed Alexander Kann as a non independent member of the ATVOD Board. Julia Hornle will leave the Board when her term of office expires at the end of March 2014 and a new Independent member will be recruited.

ATVOD's Chief Executive gave a presentation on progress with ATVOD's work since the last Industry Forum meeting.

**Notifications** – 11 responses had been received on ATVOD's Scope Guidance consultation. ATVOD intended to publish a Statement early in February 2014. Responses had been published on ATVOD's website.

**Appeals** – Since September 2013 one appeal had been upheld; the decision had been based on evidence that had not been made available to ATVOD. No new appeals had been lodged and two appeals were outstanding.

**Complaints** – 584 complaints had been received in 2013. The number of breaches had been steadily increasing since 2010 from 14 in that first year to 31 in 2011, 37 in 2012 and 57 in 2013. In 2012, none of the breaches related to a complaint whereas in 2013, 45 out of 57 related to a complaint.

**Enforcement** – One notice had been issued by ATVOD to a service which had since been closed. In addition, Ofcom had issued a direction suspending the right of one provider to provide a VOD service.

**Public policy initiatives** – ATVOD's response to the EU Green Paper on convergence had taken account of Industry Forum members' comments.

The nature and timing of any statutory provisions relating to R18 and R18 plus material as proposed in the DCMS Strategy Paper: Connectivity, Content and Consumers had yet to be determined.

In relation to a separate proposal that the payments industry should decline to process payments to non-UK services which allowed children to view hardcore porn, it was noted that the payments industry had indicated that new statutory underpinning would be required. One option could be to use the model used for remote gambling services which involved issuing a licence from the UK. It was clarified that, if ATVOD was involved in any such process, the work would require a new funding model and would not be funded by ODPS fees.

The Forum noted the success of ATVOD's December 2013 conference 'For Adults only? Protecting Adults from online porn'.

### **3. ATVOD research options**

ATVOD has made a modest budgetary provision of £5k for research activity in 2014-15 and two areas have been identified for this expenditure: (i) research strategies could be explored to address the difficulty of identifying and locating 'hidden' service providers, (ii) research into levels of access to adult services outside the UK.

It was clarified that the results of research on the first proposal would not be published. Industry Forum members endorsed both the proposals for web analytical research noting that research into the adult sector outside the UK's jurisdiction will reflect ATVOD's commitment to engage in the debate relating to protection of children.

### **4. ATVOD Corporate Plan 2014-15**

The Corporate Plan for 2014-15 followed the format of the Corporate Plan for 2013-14 and did not signal a dramatic shift in proposed activity. It recognised that ATVOD needed succession plans for key staff and reflected the introduction of a new complaints process

and Determinations Committee. ATVOD's intention was to publish the Corporate Plan at the same time as the Fees consultation. No comments were received on the Plan.

## **5. 2014-15 Fees proposal**

The consultation document was being prepared to be launched in early February 2014. It was explained that ATVOD expected to have a smaller in-year deficit than had been assumed at the beginning of the year and this would allow an accumulated surplus from previous years to be carried forward in 2014-15 and used to allow fees to be maintained with the fee structure and rates remaining unchanged for the coming year.

A request was made by one provider that ATVOD consider introducing an additional tariff band between the small scale and B rate bands. The uncertainties and knock-on effects related to such a proposal were discussed. The proposal would be considered by the Board at the meeting in the afternoon of 28 January.

Stakeholders would have six weeks to comment on the proposals set out in the consultation document.

## **6. Access Services Plan**

The report presented included the collated responses to the 2013 questionnaire. The response rate in 2013 had been 50% higher than in previous years. Technical difficulties were discussed by the Access Services Working Group in relation to subtitling and audio-description and the problems with providing access on different incompatible platforms.

Action on Hearing Loss and RNIB have been asked to carry out research to identify the areas where improvements would have the greatest positive impact to those with hearing and visual impairment.

Comments from Industry Forum members endorsed the suggestion that the completion of the annual survey should be made compulsory under s368O of the Communications Act in order that a full picture of provision could be obtained. In response to a question, ATVOD confirmed that in the case of non-compliance with a s368O request, ATVOD could issue an Enforcement Notice and a sanction could be imposed by Ofcom. It was ATVOD's hope that information will be provided without the need for enforcement action.

The DCMS Strategy Paper: Connectivity, Content and Consumers published in July 2013 had stated that if no significant improvement in access services was demonstrated over a three year period, the introduction of legislation would be considered.

Kerry Kent attended the meeting from this item, and assumed the Chair.

## **7. Proposals for Industry Forum networks**

ATVOD's Chief Executive explained that ATVOD had addressed the challenges of co-regulation by encouraging the establishment of the Industry Forum and by having four board places for non independent members. However, despite all best efforts, not all sectors of the industry can be represented at all times. Consequently, it was proposed that formal networks could be established to represent specific sector interests within the Industry Forum structure. The proposal was welcomed in principle.

Chris Ratcliff outlined his specific proposal in relation to the adult industry, which could be replicated for other constituencies in future. Chris envisaged the adult provider network would be for all existing and new providers of notified ODPSs in the adult sector. The network would speak on behalf of regulated adult providers. The draft terms of reference reflected the Industry Forum structure.

The proposed approach for the adult provider network was discussed by the Industry Forum. No costs were envisaged and the terms of reference would need to be made explicit on this point and on how the Industry Forum would be kept abreast of developments. External observers could be invited to attend meetings on occasion. These provisions would be reflected in revised proposed Terms of Reference which will be circulated to Industry Forum members for comment.

**ACTION:CR**

## **8. Advertising on VOD Services**

Martin Stott introduced his report, explaining that the ODPS sector was regulated by ATVOD (for editorial content) and the ASA (for advertising). A decision made by the ASA in respect of Channel 5 raised a matter of principle which affected the VOD sector. The facts of the case were detailed and the implications for the sector were noted and discussed.

The Industry Forum agreed that it would be appropriate to refer this issue as an item of interest to the Industry Forum to the CAP (Committee on Advertising Practice) executive to consider. The Forum further agreed to recommend that the Industry Forum officers had a discussion with CAP about the ASA approach to regulating this area. Feedback will be circulated to the Forum in due course.

**ACTION: KK/MS**

## **9. Committee of Advertising Practice (CAP) update**

Kerry Kent introduced this item and Ricki Paraskevas (the VOD representative on CAP) outlined how the Board was structured and detailed the items discussed at a recent meeting of the CAP Board, and issues to be considered in future.

Kerry Kent suggested that this could be a regular agenda item for discussion at Industry Forum meetings.

Industry Forum members will be invited to a separate meeting on CAP advertising regulations, after the next Forum meeting on 15 May 2014.

**ACTION: KK/ALL**

## 10. Ofcom Questions and Answers

Sarah Andrew reported that Ofcom had published the first of three reports for DCMS on home networks using existing research on parental controls and the various mechanisms that parents use to control their children's internet access.

## 11. Other business

It was clarified that Guidance for ATVOD Adult Providers was in the process of consultation with Ofcom and will be revisited after the Scope guidance had been published.

**12. Date of next meeting:** 15 May 2014 at **10.00 – 12.00** (to be followed by CAP advertising regulations session to 13.00)

## ACTIONS ARISING:

ITEM	ACTION	WHO	PROGRESS
7.	The revised proposed terms of reference for the Adult Provider Network and minutes of a meeting held by adult providers will be circulated to the Industry Forum.	CR	
8.	Feedback will be circulated to the Forum in due course on discussions with CAP and the ASA in relation to regulating advertising on VOD services.	KK/MS	
11.	Industry Forum members will be invited to a separate meeting on CAP advertising regulations, after the next Forum meeting on 15 May 2014.	KK/JQ/ ALL	

**ATVOD Industry Forum meeting – 28 January 2014**  
(no final attendance list available)

**Industry Forum members who notified that they would attend the meeting:**

Sarah Andrew	Ofcom
Rowan Armstrong	Ofcom
Emma Beaumont	A+E Networks UK (bskyb)
Gary Beaumont	Dirty Doctor Daily
Ray Blaney	UKtv
David Cooke	Playboyplus
David Coughtrie	Turner
Matthew Cummins	Walt Disney
Georgina Cuppaidge	Sony Pictures Entertainment
Matt Edwards	Channel 4
Ian Ellis	UKtv
Joe Grove	Viasat
Kerry Kent	Discovery
Caitriona MacLoughlin	UKtv
Paul Matthews	Paul Raymond
James McCann	Studio 66 tv
Ruth O'Farrell	Chellozone
Colin Pascoe	Utv
Ricky Paraskevas	Discovery
Chris Ratcliff	Portland tv
Justin Ribeiro dos Santos	Joybear
Chris Roudette	Sony Pictures Television
Mike Sharp	Chellozone
Katie Stamp	Sky
Martin Stott	Channel 5
Emma Tom	Nickolodean
Tom Wheaton	Viasat
Peter Wildash	Channel 4
Kaytey Wright	Scripps network

**ATVOD attendees:**

Ruth Evans	ATVOD
Pete Johnson	ATVOD
Jan Quirke	ATVOD
Alexander Kann	ATVOD
Ian McBride	ATVOD
Nigel Walmsley	ATVOD

**Apologies received:**

John McVay	PACT
Gidon Freeman	ATVOD
Graeme Leversedge	NBC Universal
Antoni Poyiadzis	bskyb
Paul Whiteing	ATVOD
Fiona Clarke-Hackston	BSA Council
Daniel Austin	ATVOD
Julia Hornle	ATVOD
Sophie Jones	ATVOD