



THE AUTHORITY FOR TELEVISION **ON DEMAND**

**Minutes of the ATVOD Industry Forum
held on 15 May 2013 between 11am and 1pm
at Tenter House**

Present and in attendance:

Please refer to attached list – Annex 1

1. Confirmation of re-appointment of Industry Forum Chair and Deputy Chair

In accordance with the ATVOD Terms of Reference, Kerry Kent and Martin Stott have been appointed to serve for a further year as Chair and Deputy Chair, respectively, until 23 May 2014.

2. Minutes of Meeting held on 29 January and matters arising

The minutes were approved and would be published as approved on the ATVOD website. There were no matters arising from the minutes.

3. Representative for CAP Board

The Chair had received the same two nominations for this post and for the adult working group, and is discussing which representative will fill which post.

4. ATVOD Update

ATVOD's Chief Executive gave a presentation on progress with ATVOD's work since the last Forum meeting – see annex 2. Throughout the update questions were taken and the following points were noted from the discussion:

Notifications – Members noted that notifications continue the pattern of the last year, with a significant number of adult sites notified.

Appeals – Members noted that there have been no new appeal decisions or appeals lodged since the last Forum meeting.

Complaints – Members noted that there have been 217 complaints in 2013 so far. Of the 125 referred to ATVOD, 5 have been found in breach of Rules 1 and 4, and 7 have been subject to the Preliminary View that breaches of Rules 1, 4 and 11 have occurred.

Enforcement – Members noted that ATVOD continues to conduct proactive investigations relating to Rule 11. Of 3 services found to be in breach since the January Forum, all responded rapidly after receiving ATVOD’s Preliminary View, to either close or become compliant. Where services do not take urgent action to comply, and a breach is Determined to be ongoing, ATVOD takes appropriate action such as issuing an enforcement notification and referring the matter to Ofcom for consideration of a sanction. To date, ATVOD has not referred a case to Ofcom where there has been rapid action to comply on a first time breach.

European Works - Members noted that formal demands for information on European works will be issued in July.

5. Statement on 2013-14 Fees and Notification Requirements

Members noted that ATVOD hopes to publish the fees statement shortly. Members noted that the consultation revealed clear support for both the proposed new notification requirements and new data submission facility. With a better financial outcome than predicted for the previous year, it may be possible to cut average fees by up to 5%. Service providers will be invited to apply for the appropriate banding once the tariff is confirmed (and will otherwise be assumed to be eligible for the Super A rate). Members noted that if the new requirements are adopted, ATVOD will contact service providers requiring them to provide relevant details within 21 days. In such a circumstance, Members were urged to respond quickly so that ATVOD could proceed with amending notifications. ATVOD confirmed that, if adopted, the new notification requirements would allow providers with multiple services to apply for them to be considered as one service. The Chair thanked those who had participated in the fees and multiple services working parties.

6. Scope guidance review

Members noted that the draft brought to the meeting is not that of ATVOD but of the Forum working party which developed out of the multiple services working party. Members discussed section 4.2 e) and potential confusion over the distinction on video sharing sites between self-generated content and that with an ‘economic purpose’. It was noted that this section may be redrafted for clarification. Section 3.15 will be rephrased to remove the word ‘caught’. Members were given until 31 May for submission of further comments, after which the ATVOD Board will consider the draft and whether to take it forward to public consultation. Ofcom will be consulted both before any such public consultation and afterwards, prior to any final adoption and publication of new scope guidance. The Chair thanked those on the Scope Guidance Review working party.

7. Guidance on commercial references

Members noted that ATVOD has drafted a guide to the differences between the rules governing commercial references in VOD and broadcast television. An ATVOD Board member commented on the use of the word ‘content’ to describe commercial references, and recommended an alternative phrasing. Members made no further comments on the draft.

8. Overview for adult providers

Members noted that ATVOD has drafted a guide for providers of adult services, as this is an area where ATVOD receives many questions on the regulatory framework. It was suggested that the guide also refers to scope and complaint determinations, and appeal decisions, which rehearse many relevant arguments.

9. European Commission Green Paper: 'Preparing for a Fully Converged Audiovisual World: Growth, Creation and Values'

Members heard that the Commission had set a deadline of 31 August to respond to this paper, and ATVOD very interested in hearing the views of Forum members before formulating its response as there are a number of areas which have significant bearing on the future of VOD regulation, for example protection of minors, access services and the relationship between the regulation of linear and non-linear services. The Chair suggested that Discovery could host a workshop to discuss ideas on this area, in advance of a potential conference in the first week of July, suggested by BSAC (with the support of DCMS), for the UK industry to attempt to identify points of agreement and disagreement.

10. Ofcom Questions and Answers

The Forum welcomed Sarah Andrew from the Ofcom VOD team to the meeting. The following points were noted from the discussion:

Fees and notification requirements – Ofcom confirmed that its approval of ATVOD's fees statement should be a matter of days rather than weeks.

Ofcom website – it was suggested that Ofcom's archive of information, including appeals decisions, is not easy to search. Ofcom commented that the website is being updated to include a separate section on VOD where all relevant information, including on sanctions and appeals, will be brought together.

Media Tracker – Members noted that Ofcom has provided a marketing budget for development of a separate new 'tracker' to show trends in consumption and attitude relating specifically to VOD and online services. Ofcom will keep industry members updated and at a later stage will garner industry views on the value of the tracker and useful questions to include in it. The ATVOD Board Chair welcomed this development.

11. Any other business

The Forum welcomed Catherine Thomas of the ASA to the meeting. Members noted that the ASA is currently looking at interactive advertising on VOD services and the extent of a media service provider's responsibility for advertising outside the immediate on demand service. The ASA is looking for input from service providers on types of technique used or planned. Those with input can contact Catherine Thomas directly or through the new Forum CAP Board representative when they are in place.

Annex 1 – List of Members and Attendees at the ATVOD Industry Forum on 15 May 2013

<i>Name of Service Provider</i>	<i>Name</i>
BBCW	Adrian Dicker
British Telecommunications PLC t/a BT Vision	Stephen Dean
Channel 4 Television	Matt
Channel 4 Television	Peter Wildash
Channel 5 Broadcasting Ltd	Janet Maclay
Discovery Communications Europe Ltd	Kerry Kent
MTV Networks Europe	David Holmans
Nickelodeon	Emma Way
BSkyB	Katie Stamp
BSkyB	Catherine Rogers
STV Central Ltd	Helen Alexander
TalkTalk	Rickard Granberg
UKTV	Sam Terry
Vevo	Eric MacKay
VIASAT Broadcasting UK Ltd	Tom Wheaton
VIASAT Broadcasting UK Ltd	Joe Groves
<i>Name of Associate Member/ATVOD representative</i>	<i>Name</i>
ATVOD	Peter Johnson
ATVOD	Cathy Taylor
ATVOD	Daniel Austin
ATVOD	Nigel Walmsley
ATVOD	Ruth Evans
ATVOD	Julia Homle

ATVOD	Ian McBride
ATVOD	Chris Ratcliff
ATVOD	Paul Whiteing
ASA	Catherine Thomas
COBA	Adam Minns
Ofcom	Sarah Andrew
Ofcom	Silvia Fukuoka
BSAC	Fiona Clarke-Hackston

Annex 2 – List of apologies received for the ATVOD Industry Forum on 15 May 2013

<i>Name of Service Provider</i>	<i>Name</i>
Filmflex Movies	Paula Holmes
ITV	Simon Abrahams
Chellozone	Ruth O'Farrell
PACT	John McVay
U.TV	Colin Pascoe
Channel 5	Martin Stott
Channel 4	Sophie Jones