



THE AUTHORITY FOR TELEVISION **ON DEMAND**

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**Minutes** of a meeting of the Board of the Authority for Television On Demand Limited (“**ATVOD**”) held at the offices of the BBFC, Tuesday 29 January 2013, 2.30pm

**Present:**

ATVOD Board:

Ruth Evans – Chair (Items 4-  
Daniel Austin  
Julia Hornle  
Sophie Jones  
Ian McBride  
Chris Ratcliff  
Nigel Walmsley (Chair items 1-3)  
Paul Whiteing

In attendance:

Pete Johnson – Chief Executive  
Nicola Ebdon – Company Secretary (mins)

1. **Apologies**
- 1.1 Apologies were received from Gidon Freeman.
2. **Declaration of members’ interests**
- 2.1 There were no additional interests declared for inclusion in the published register of interests.
3. **Minutes of the 12 December 2012, matters arising and updated actions**
- 3.1 The Board **APPROVED** the draft minutes of the meeting held on 12 December 2012.
- 3.2 The Directors **NOTED** that the majority of actions had been completed. It was **AGREED** that the Executive would contact Ofcom to follow up an agreement to share tracker research information.

**4. Chief Executive's update**

- 4.1** The Board **NOTED** the update on new and withdrawn notifications as provided in the paper.
- 4.2** The Board **NOTED** progress made with scope investigations as provided in the paper.
- 4.3** The Board **NOTED** the update on appeals as provided in the paper. Directors **CONSIDERED** whether appeal decisions recently published by Ofcom justified or required a shift in ATVOD's approach to scope determinations. It was **AGREED** to include appropriate flexibility in the scope guidance being developed to enable decisions to reflect Ofcom precedent as set over time. Directors **AGREED** to continue making scope decisions following established processes, but to ensure that decisions and language were consistent with the precedents being set by Ofcom.
- 4.4** Directors **NOTED** an update in relation to enforcement action. It was **NOTED** that the Executive would meet with Ofcom to consider whether processes could be streamlined in relation to both determinations and sanctions.
- 4.5** The Board **NOTED** the update on complaints as provided in the paper, including the financial penalties imposed by Ofcom in relation to breaches of Rule 11. Due to an expectation of a rise in the workload of the Complaints Committee, it was **AGREED** that Paul Whiteing and Daniel Austin, together with Ian McBride would constitute a Complaints Committee for six months ensure swift decision making.
- 4.6** The Board **NOTED** the update on Access Services as provided in the paper. Directors **NOTED** that the CEO had made a presentation to the Industry Forum with regard to the limited response to the Access Services Survey and the growing calls from disability advocacy groups for access services quotas. The Industry Forum had been asked to consider whether ATVOD might make responses to future surveys compulsory by using a demand for information under s368O of the Communications Act. The Industry Forum was also asked to consider whether ATVOD should seek further opportunities to highlight best practice, in order to encourage other service providers to improve their performance. It was **NOTED** that the Industry Forum had been keen to demonstrate the level of access services provided and felt that ATVOD should do all it could to highlight best practice.
- 4.7** Directors **CONSIDERED** ATVOD's role in relation to access services and **AGREED** that it should continue to drive forward technical standardisation and identify other alternatives for access services provision. ATVOD would continue to act as a facilitator with industry, DCMS and disability advocacy groups to ensure that should access services quotas be imposed they are proportionate, with appropriate thresholds and lead in time prior to implementation.
- 4.8** The Board **NOTED** the update on European works as provided in the paper. It was **NOTED** that in accordance with the European Works plan, before the end of January all service providers will be informed of ATVOD's intention to issue in July a demand for information on the provision of European Works on ODPS during 2012. Directors **NOTED**

the outcome of initial discussions with Ofcom and DCMS in relation to ATVOD's plan and ATVODs proposal in relation to the European Commission's call for Euro works data provided by service providers to be audited/validated. Directors **AGREED** the approach to be taken by the Executive as outlined in the paper.

- 4.9 The Board **NOTED** the update on the Scope Working Party as provided in the paper.
- 4.10 Directors **NOTED** that a Communications White Paper was expected in the next few months.
- 4.11 The Board **NOTED** the update on ParentPort as provided in the paper.
- 4.12 Directors **NOTED** the update in relation to recruitment.
- 4.13 The Board **NOTED** the update on the Industry Forum as provided in the paper and an oral update from the meeting held earlier in the day
- 4.14 The Board **NOTED** the update on public relations as provided in the paper and **DISCUSSED** some of the meetings further.

## 5. Draft Business Plan

- 5.1 The Board **CONSIDERED** a draft business plan for 2013/14 which had been developed based on work to be continued into 2013/14 from ATVOD's current business plan and new work expected to be required such as potential changes to notification requirements.
- 5.2 The Directors **AGREED** that where elements of the business plan were dependent on available resources they would be prioritised. It was **AGREED** that explicit reference would be made to engagement with Parliament and with the Communications White Paper.

## 6. Financial report

- 6.1 Directors **CONSIDERED** the Management Accounts for October and November 2012 and **NOTED** a number of arising issues.
- 6.2 Directors **CONSIDERED** trade debtors and planned debt recovery activity. Action outlined in the paper with regard to the issue of an enforcement notification if prompt payment was not received from one provider was **APPROVED**.
- 6.3 Directors **NOTED** that the CEO was attempting to obtain clarification from Ofcom with regard to whether ONS was considering whether ATVOD should be reclassified as a public body.

## 7. Notification Requirements ("Multiple Services") Consultation

- 7.1 Directors **CONSIDERED** a paper which updated the Board on progress made with finalising the consultation statement for publication. It was **NOTED** that the Ofcom had

raised a number of late comments which had been answered prior to publication, supported by ATVOD's previous legal advice. It was **NOTED** that the published Statement addressed concerns expressed in the consultation and postponed a final decision on whether to adopt the guidance until after the conclusion of the Fees consultation. It was hoped that this postponement would give stakeholders an opportunity to express a view informed by the likely impact of the proposal on fees.

**8. 2013-14 Fees Consultation**

**8.1** Directors **NOTED** that the finalisation of the Consultation on Fees for 2013-14 had been delayed by the late publication of the Notification Requirements Consultation. It was expected that the Consultation would be published early in February.

**8.2** Directors **CONSIDERED** the two main options to be included in the consultation. One would apply if the new notification requirements were adopted. The other would apply if the current notification requirements were maintained.

**8.3** The Board **NOTED** that if the changes to notification requirements were agreed some amendments would be required to the ATVOD website which would incur a cost and this was reflected in the fee tariff set out under the relevant option.

**8.4** Directors **CONSIDERED** the qualification criteria for consideration as a group for the purposes of benefiting from the group cap and **AGREED** that the Consultation would seek views on whether to pursue a suggestion that the criteria should be further relaxed. It was **AGREED** that the consultation would include an account of ATVOD's planned use of resources on enforcement activity.

**8.5** The Board **DELEGATED APPROVAL** of the Consultation document to the Chair and Deputy Chair.

**9. Governance Update**

**9.1** Directors **CONSIDERED** recommended changes to ATVOD's Code of Conduct to reflect current Bribery legislation. It was **NOTED** that the Board had agreed a number of changes to the Code of Conduct in relation to gifts and hospitality in September 2012.

**9.2** Changes to the Code were **APPROVED** as drafted and Directors considered that the gifts and hospitality policy in the Code, together with other procedures in relation to company expenditure, accounting and commercial or agent contracts were likely to be sufficient to prevent bribery. Directors **CONSIDERED** whether they required any training in relation to their bribery responsibilities and **AGREED** to notify the Executive if any training requirements arose. It was **NOTED** that the staff handbook would be updated to include a policy on bribery and consideration given to whether any changes were required to procedures for staff and associated persons and whether staff required any training on bribery.

**9.3** Directors **CONSIDERED** an updated Register of Interests due to the resignation and

appointment of an Independent Director as at 1 January 2013. Directors **CONSIDERED** the interests disclosed by Paul Whiteing and **AUTHORISED** any interests which could be seen to give rise to a conflict of interests.

**10. Only Connect = TV in the On Demand Media Age**

**10.1** Directors **CONSIDERED** two presentations which were made by Oliver & Ohlbaum Associates at the Lincoln Centre on 4 December 2012 in order to inform the Board's understanding of the context within which ATVOD regulates. A number of trends were **NOTED**, including: an increase in the number of people watching television on other devices and a large and fast increase in the use of tablets and e-readers.

**11. Any other business**

**11.1** It was **AGREED** that the following external guests would be invited to future Board meetings:

- a representative from DCMS to discuss the White Paper when appropriate;
- Claudio Pollack from Ofcom to discuss regulatory relationships and sharing of research in March;
- Ofcom research team to present an update on the tracker information in September;
- a representative from the EU to discuss connected television; and
- European Regulators when in London and convenient;

It was **AGREED** that Directors would advise the Executive of any other suggestions for external guests.

**11.2** Directors **CONSIDERED** feedback from the Industry Forum in respect to ATVOD's outlined approach to 'harmful' services outside ATVOD's reach. It was **NOTED** that there had been general consensus that ATVOD had developed the right approach in this area and Forum members were in favour of the debate being progressed with related parties. It was **NOTED** that Chris Ratcliff, in his capacity as an adult service provider, had hosted an adult industry round table meeting in January 2013 and that the adult industry were keen to be able to make an informed contribution to the debate.

**11.3** Directors **CONSIDERED** the approach to be taken by the Chair and CEO in the presentation of ATVODs policy position to the Lords Communications Review and **AGREED** a number of arising actions.