



Minutes of a meeting of the Board of the Authority for Television On Demand Limited (“**ATVOD**”) held at the offices of Ofcom, Wednesday 23 May 2012, 2.30pm

Present:

ATVOD Board:

Ruth Evans – Chair (items 1-6)

Gidon Freeman (items 8-11)

Julia Hornle

Sophie Jones

Ian McBride

Sara Nathan

Chris Ratcliff

Nigel Walmsley (Chair items 7-11)

In attendance:

Pete Johnson – Chief Executive

Nicola Ebdon – Company Secretary (mins)

1. **Apologies**
 - 1.1 Apologies were received from Daniel Austin.
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 24 March 2012 meeting, matters arising and updated actions**
 - 3.1 The Board **APPROVED** the draft minutes of the meeting held on 24 March 2012, subject to a small change to minute 6.7.
 - 3.2 The Directors **NOTED** that the majority of actions had been completed.

4. **Risk Register**

4.1 The Board **CONSIDERED** the risk register and **AGREED** to move two risks into the historical register which had been brought under appropriate control.

5. **Corporate Governance Issues**

5.1 The Board **NOTED** the Gifts and Hospitality Register and the requirement for Directors to inform the Company Secretary of any activity which requires inclusion on the register, in accordance with the Code of Conduct. It was **AGREED** that the rules contained in the Code of Conduct required revision to ensure appropriateness.

5.2 Directors **CONSIDERED** the recommended appraisal process and draft appraisal forms and **AGREED** the process and appraisal forms as modified by the Chair, subject to one addition. It was **AGREED** that the process would be used for the forthcoming Director appraisals.

6. **Chief Executive's update**

6.1 The Board **NOTED** the update on new and withdrawn notifications as provided in the paper.

6.2 The Board **NOTED** progress made with scope investigations as provided in the paper. Directors **CONSIDERED** how the Executive prioritised investigations and how long on average it took the Executive to complete investigations. It was **AGREED** that the CEO would identify how best to provide such information in future updates.

6.3 The Board **NOTED** that the Scope Committee would meet on 25 May 2012.

6.4 The Board **NOTED** the update on appeals as provided in the paper and that Ofcom had put a number of appeals on hold pending the outcome of research into the definition of "TV like" programmes.

6.5 The Board **NOTED** the update on complaints as provided in the paper and an oral update in relation to investigations into breaches of Rule 11 considered by the Complaints Committee.

6.6 The Board **NOTED** the update on European works as provided in the paper. It was **NOTED** that a new European Work plan would be presented to the July 2012 Industry Forum for consideration and the July 2012 Board for approval.

6.7 The Board **NOTED** the update on Access Services as provided in the paper. It was **NOTED** that the draft Access Services Best Practice Guidelines had been circulated to the Industry Forum for comment by 6 June 2012 ahead of approval and publication. Directors **NOTED** that the Executive were setting up a round table meeting to look at

technical barriers to utilising for VOD services access services originally created for linear television services .

- 6.8 The Board **NOTED** the update on the Fees Working Party as provided in the paper. It was **NOTED** that the working party had considered a range of issues and had concluded that in order to undertake further investigation into the viability of an audience based metric ATVOD would need to issue a data request to service providers. The conclusions of the working party had been considered by the Industry Forum and agreement reached that such a data request was undesirable. In taking such a view the Forum explicitly acknowledged that it was in effect proposing to keep the current fee structure for at least one more year. The Forum had noted that further developments would be likely to be delayed until industry had developed a consensus around audience based measurement. It was **NOTED** that the working party would continue to meet bi-annually in order to assess relevant industry developments and identify when a consensus had been reached.
- 6.9 The Board **NOTED** the update on the Multiple services/'Substantially the same' Working Party as provided in the paper. It was **NOTED** that the central idea of the working party, that a service should be considered to comprise all the VOD content provided by a service provider across all distribution outlets, had been considered by the Industry Forum. The Forum had given its support to investigating this idea further. Directors **AGREED** that ATVOD should obtain legal advice as to the viability of the definition within legislation. It was **NOTED** that any decision to change the definition would be subject to consultation prior to implementation.
- 6.10 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. Directors **NOTED** that Martin Stott had become Deputy Chair of the Forum. It was **NOTED** that the ASA had agreed to consider hosting some Industry Forum meetings.
- 6.11 The Board **NOTED** the update on meetings with Ofcom on scope issues as provided in the paper. It was **NOTED** that a common understanding had been gained with Ofcom on a number of scope issues. It was **NOTED** that the Industry Forum had agreed to broaden the Multiple services/'Substantially the same' working party to consider other changes to the scope guidelines, provided that consideration of the 'Substantially the same' issue was kept separate and consulted on separately.
- 6.12 The Board **NOTED** an update on the Corporate Plan as provided in the paper. It was **NOTED** that the draft Corporate Plan had been circulated to the Industry Forum for comment by 6 June 2012 ahead of approval and publication.
- 6.13 The Board **NOTED** the update on Rules and Guidance as provided in the paper.
- 6.14 The Board **NOTED** the update on the Communications Green paper as provided in the paper.
- 6.15 The Board **NOTED** the update on public relations as provided in the paper and

DISCUSSED some of the meetings further.

7. Financial report

7.1 Directors **CONSIDERED** the Management Accounts for February and March 2012. It was **NOTED** that the end of year surplus was likely to be higher than projected in the Fees Statement published at the end of March 2012 primarily due to a number of late notifications.

7.2 Directors **CONSIDERED** three issues in relation to enforcement of outstanding debts and **AGREED** action to be taken in each case.

7.3 Directors **NOTED** an update on the Audit and Finance Committee meeting held on 18 May 2012 which had considered ATVOD's bad debts, discussed ATVOD's ability to build a reserve and agreed that the format of the 2010/11 annual report and accounts would be used as a template for the 2011/12 report. It was **NOTED** that the Annual Report and Accounts would come to the July ATVOD Board for approval.

8. Designation Review

8.1 Directors **NOTED** progress made with ATVOD's submission to Ofcom's designation review and **DELEGATED** final approval of the submission to the Chair and Deputy Chair. Directors **NOTED** the outcome of the Industry Forum discussion on the designation review at the meeting earlier in the day.

8.2 Directors **CONSIDERED** the summary of changes to designated terms which ATVOD were proposing to request as part of the review and **AGREED** the summary subject to change as agreed at the meeting.

9. UK Adult Industry

9.1 The Board **CONSIDERED** a presentation on the UK adult industry online which included a discussion on; market trends, copyright issues, the differences between businesses regulated and not regulated by ATVOD, age verification controls, network blocking and access to adult content via different online devices. Directors **NOTED** that they had received an open letter from Adult Industry Trade Association (AITA) which had been considered at the Industry Forum earlier in the day.

10. Online Child Protection

10.1 Directors **CONSIDERED** the report of the Independent Parliamentary Inquiry into Online Child Protection which had been published in April 2012.

10.2 Directors **AGREED** that a R18 sub group meeting would be held to consider the issues raised under items 9 and 10 and further develop ATVOD's public policy position in this area.

11. **Any other business**

11.1 It was **NOTED** that the additional Board meeting in June was no longer required.

11.2 Directors **CONSIDERED** and **AGREED** a proposed memorandum of understanding between ATVOD and the Internet Watch Foundation (IWF).