



THE AUTHORITY FOR TELEVISION **ON DEMAND**

Minutes of a meeting of the Board of the Authority for Television On Demand Limited (“**ATVOD**”) held at the offices of Ofcom, Wednesday 21 September 2011, 2.30pm

Present:

ATVOD Board:

Ruth Evans – Chair
Daniel Austin
Julia Hornle
Chris Loweth
Ian McBride
Simon Hunt
Simon Milner (Minutes 1-5)
Sara Nathan
Nigel Walmsley – Deputy Chair

In attendance:

Pete Johnson – Chief Executive
Cathy Taylor - Policy and Investigations Manager
Nicola Ebdon – Company Secretary (mins)

1. Ofcom Technology Demonstration

The Directors **RECEIVED** a demonstration of a range of on demand services including via PS3, Xbox, Samsung TV and Sony Blu-ray player and Sky’s Anytime+ on top of Talk Talk TV and BT Vision. It was **AGREED** that Directors would discuss whether the growing complexity of parental controls on different devices has any implications for ATVOD’s access control regime as part of its strategy day in November 2011.

2. Apologies

2.1 No apologies were received.

3. Declaration of members’ interests

3.1 There were no additional interests declared.

4. **Minutes of the 19 July 2011 meeting, matters arising and updated actions**

4.1 The Board **APPROVED** the draft minutes of the meeting held on 19 July 2011.

4.2 The Directors **NOTED** that the majority of actions had been completed.

4.3 In relation to minute 3.3 it was **NOTED** ATVOD had received a preliminary view from Ofcom with regard to the report on European Works.

5. **Chief Executive's update**

5.1 The Board **NOTED** the update on new and withdrawn notifications as provided in the paper and as updated orally at the meeting. The Directors **DISCUSSED** some related issues and **AGREED** action to take in relation to clarifying the definition of "substantially the same" with regard to subsets and multiple services with Ofcom, as Directors remained uncomfortable with Ofcom's ruling on this definition and will continue to press for it to be relaxed.

5.2 The Board **NOTED** progress made with scope investigations as provided in the paper and **DISCUSSED** a few issues related to current investigations.

5.3 Directors **NOTED** that the Scope Committee met on 13 September 2011 and made the following decisions:

- a Preliminary View that Country Channel on YouTube (<http://www.youtube.com/countrychanneltv>) is an ODPS;
- agreed that the site <http://muzu.ok.co.uk/> (OKTV!) remains a standalone ODPS, but not to take enforcement action if this site is removed in accordance with OK!TV's indicated intentions;
- agreed to consider the issue of service identification in relation to content on multiple Internet domains at a future meeting for which a detailed paper on the policy options would be drafted; and
- agreed to ask both Fox and Viacom for additional information on the practice of selecting programmes for the Sky Anytime platform before making a final determination on the issue of editorial responsibility.

5.4 The Board **NOTED** the update on appeals as provided in the paper.

5.5 The Board **NOTED** the update on complaints as provided in the paper.

5.6 The Board **NOTED** the update on Access Services as provided in the paper and **AGREED** with the planned further engagement with stakeholders. It was **AGREED** the new president of RNIB would be contacted to discuss access issues.

5.7 The Board **NOTED** the update on European works as provided in the paper.

- 5.8 The Board **NOTED** the update on the Year 3 Fees Working Party as provided in the paper and as updated orally at the meeting. The Board **AGREED** with the working party's intention to ensure that it was more representative of the range of service providers. Directors **NOTED** that the timescales were tight for the working party to agree a new metric in order to be able to use it to set Year 3 fees.
- 5.9 The Board **AGREED** with the suggestion from the Forum that there should be a closer relationship between ATVOD's non-Independent Directors and the Forum. It was **AGREED** that at least two non-Independent Directors would be available to meet Forum members for 30 minutes prior to each meeting.
- 5.10 The Board **NOTED** that the Forum Chair had formally confirmed that Forum members were content with the revised Recruitment Policy. The Board **NOTED** that since the last Board meeting Simon Hunt had indicated his wish to resign from the Board once a replacement had been found. Directors **AGREED** to amend the Board recruitment person specification to reflect the two vacancies and **AGREED** to publish the revised recruitment policy on their website. It was **NOTED** that a virtual meeting of the recruitment panel would be held on 22 September 2011 to start the recruitment process.
- 5.11 The Board **NOTED** the update on staffing issues as provided in the paper.
- 5.12 The Board **DISCUSSED** the Monthly newsletter which the Executive had been sending out to stakeholders and **AGREED** that it would be modified to summarise some of the information of less relevance and provide more narrative on other areas.
- 5.13 The Board **NOTED** the update on R18 issues as provided in the paper.
- 5.14 The Board **NOTED** the update on public relations as provided in the paper and **DISCUSSED** the outcome of some of the meetings further. Directors **CONSIDERED** and **AGREED**, subject to some small amendment, the draft 'case handling' agreement with the ASA.
6. **Financial report**
- 6.1 The Board **NOTED** the content of the management accounts.
- 6.2 The Board **CONSIDERED** the annual report and statutory financial statements for the year ended 31 March 2011 as provided in the paper and as updated at the meeting. Directors **AGREED** that the financial statements had been presented in accordance with applicable law, International Financial Reporting Standards and regulations, and gave a true and fair view of the state of affairs of the company and of the surplus or deficit of the company for that period. The Directors **APPROVED** the annual financial statements of the company for the period 1 January 2010 to 31 March 2011 prepared by Mercer & Hole and authorised them for issue. It was **AGREED** that their approval would be evidenced by signature of the balance sheet by Nigel Walmsley.

- 6.3 The Directors **APPROVED** the director's report of the company for the period 1 January 2010 to 31 March 2011 and **AGREED** that their approval would be evidenced by signature of the report by Nicola Ebdon.
- 6.4 The Directors **AGREED** that the Annual Report presented to the meeting should be published subject to any revisions required by the Directors or the Auditor, any such amendments to be approved by Nigel Walmsley and the Chair.
7. **Parent Port: Working together for safer media**
- 7.1 The Board **RECEIVED** a demonstration of the website which had been created by a working group (ATVOD, Ofcom, ASA, BBC Trust, BBFC, DFE, PCC, VSC) in response to the Bailey Report on the commercialisation and sexualisation of childhood and **NOTED** further information on the website as provided in the paper and orally at the meeting.
- 7.2 The Board **CONSIDERED** the website and how it could assist with its promotion and **AGREED** to ask service providers to put a link to Parent port on their complaints pages and mention Parent Port at the next Industry Forum.
8. **Enforcement procedure**
- 8.1 The Board **CONSIDERED** an update on this issue as outlined in the paper and updated orally at the meeting and **AGREED** a number of actions to ensure that the issue moved to a conclusion as soon as possible.
9. **Revisions to Rules & Guidance**
- 9.1 The Board **DISCUSSED** the proposed revisions to Guidance to reflect Ofcom's new guidance on sponsorship and product placement and the DCMS's position on R18 content as provided in the paper. Directors **NOTED** an oral update on the comments made by Ofcom on the proposed revisions. The Directors **AGREED** that, once revisions agreed at the meeting had been made, the draft should be presented to the Industry Forum for comment.
10. **Review of Complaints Procedure**
- 10.1 The Board **NOTED** the outcome of the review of ATVOD's complaints procedure to consider whether it could be simplified or explained in more simple terms. Directors **AGREED** with the proposal to not make revisions to the Procedure itself, however to publish a simplified, user-friendly version of the ATVOD Complaints Procedure. Directors **CONSIDERED** the proposed "How to Complain" Guide and **AGREED** to publish it subject to revision as agreed at the meeting. It was **AGREED** that in the future consideration would be given to changing the online complaint form (depending on cost implications) and whether to use a user survey to investigate the usability of the online complaints form.
11. **Any other business**
- 11.1 There were no items of other business.