



THE AUTHORITY FOR TELEVISION **ON DEMAND**

**Minutes of the ATVOD Industry Forum
held on 24 September 2013, 11am - 1pm
at Riverside House, 2a Southwark Bridge Road, London SE1 9HA**

Attendees and apologies:

Please refer to lists attached as annexes 1 & 2. Martin Stott, Deputy Chair of the Industry Forum, chaired the meeting in Kerry Kent's absence as Chair.

1. Minutes of Meeting held on 15 May 2013 and matters arising

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

2. ATVOD Update

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

Notifications – Members noted that the number of notifications had reduced from 206 to 108 as the majority of providers took advantage of new notification requirements. This was in line with expectations.

Appeals – Members noted that the Everton TV appeal had been upheld and notification withdrawn. Two new appeals were reported to have been lodged with Ofcom bringing to four the number of outstanding appeals.

Complaints – Members noted that there have been 411 complaints in 2013 to date. Of these 15 were unable to identify service, 196 were dealt with by the service provider and 200 were referred to ATVOD. There were 49 breaches involving 21 services: 17 services were found in breach of Rule 1 and Rule 4, 13 services were found in breach of Rule 11 and one service was found in breach of Rule 6 and Rule 7. Two other scope determinations were reported: one service determined to remain an ODPS after changes and one service provider determined to remain the provider of an ODPS.

Enforcement – Members noted that three enforcement notifications had been issued since the Industry Forum meeting in May 2013. One has resulted in compliance and two have been referred to Ofcom for consideration of a sanction. There has been one Statutory Demand issued for non-payment of 2012-13 fees.

European Works - Members noted that ATVOD was required to seek European works information from providers. The deadline for provision of this information was 30 September 2013 and Industry Forum members were strongly urged to respond to the request even if no access services were provided.

2013/14 Fees and New notification requirements – Members noted that the online notification and data submission facility was to be developed and the previous tariff bands retained. The fee within each band varied according to whether the service was provided through a single outlet or multiple outlets and the group cap of £25,000 had been retained. Because of better than expected financial outcome for 2012-13 there had been a 5% average cut in fees.

Public Policy initiatives – Members noted the planned event on 10 October 2013, being held to enable financial institutions to consider the blocking of payments to non-UK services which appear to be operating in breach of the Obscene Publications Act. Members noted a planned conference in December 2013 in conjunction with Queen Mary University: “For Adults Only? Protecting children from online porn”.

Scope guidance – Members noted that the deadline for responses to the consultation was 17 December 2013 and the statement was planned for publication in January 2014.

3. ATVOD Board membership

The Chair of ATVOD explained that Chris Ratcliff’s term of office as an ATVOD Board member expired on 27 September 2013 and she thanked him for all he had contributed to ATVOD as a Board member. Chris Ratcliff had achieved a great deal to raise the positive role of ATVOD with the adult industry and had given ATVOD a valuable insight into the adult industry.

It was ATVOD’s intention to continue to involve Chris Ratcliff in ATVOD’s work when he steps down from the Board and he will remain a member of the Industry Forum. ATVOD would promote its intention to continue to work with the adult industry.

ATVOD encouraged representatives from small providers to apply for the Board member vacancy to provide a new perspective on the Board. Candidates representing a small-scale adult provider would be considered along with those from other small-scale providers.

The intention was for a new non independent Board member to be appointed by the end of December 2013 and to join ATVOD’s Board in January 2014.

4. Confidentiality of consultation responses

ATVOD confirmed that it considered that the openness and accountability of its decision making would be enhanced if (other than in exceptional circumstances) all submissions to consultations were published along with the identity of the stakeholder in whose name the comments were being made. It was considered reasonable to exclude content relating to individual names or commercially sensitive information from publication.

The Industry Forum **AGREED** that the policy that submissions to ATVOD consultations would be published except in exceptional circumstances (to protect the name of the individual or where the information provided was commercially sensitive) was in principle to be welcomed. ATVOD would consider in detail whether there were any legal impediments to adopting such a policy before reaching a final decision.

5. Complaints process

ATVOD's Chief Executive explained that the intention in revising ATVOD's complaints process was to enhance the openness and transparency of its process, ensure that all determinations are made by ATVOD's Board or a Board committee, speed up the process and ensure the most efficient use of resources. The proposed revisions were intended to provide an efficient, clear and comprehensive process which covered both complaints and pro-active investigation. The proposed changes also made clear that an enforcement notification was likely to be issued at the same time as a determination in certain circumstances.

The Industry Forum **NOTED** the proposals. Any additional comments were welcomed before 31 October 2013. The meeting noted the timetable to adopt ATVOD's new complaints process by end of December 2013.

6. DCMS Strategy Paper: Connectivity, Content and Consumers

Martin Stott introduced the item explaining that the paper was the result of an extended Government communications review and contained some significant sections. The Industry Forum debated the provisions as follows:

- **Access Services**

The Government proposed to monitor progress on access services through ATVOD's annual survey over three years, after which time it was hoped that improvements would be demonstrated. If there was insufficient progress, DCMS would consider introducing legislation. ATVOD was keen to move faster to improve access well before this timescale and to work with providers to find sensible solutions to enable providers to overcome barriers to the provision of access services.

- **Regulatory Framework**

DCMS wanted to introduce a common framework for the current range of standards across different media. The intention was to introduce the single framework through cooperation with different regulators and industry players through identification of areas of common ground. No unified regulator was being proposed.

Ofcom will provide Industry Forum members with recent research on protecting audiences in a converged world, and information on segmented data. **ACTION: SA/JQ**

The meeting noted that it will be challenging to achieve common standards in an increasingly converged world. The Forum debated how to control the environment; including age verification and internet access and issues relating to open competition in a global market and the impact on UK service providers.

It was recognised that this was part of a long and wide-ranging debate and industry was being invited to take the lead and work with regulators to identify what mechanisms could be applied and defined for consumers. Forum members suggested that a symbol or phrase could identify whether content was regulated or unregulated.

- **Adult Content**

ATVOD's position was clear on the provision of pornography in that it might seriously impair children and should therefore be provided behind access controls. However, ATVOD had called for the need to prevent children accessing such content on ODPSs to be put beyond doubt and the DCMS paper proposed to do this. The DCMS paper also made clear that hardcore material which goes beyond R18 which would not be available in licensed sex shops should not be available to adults on demand and will be treated as prohibited material. DCMS plans to legislate on both these issues as soon as possible.

The Forum agreed that, in addition to safeguarding minors from adult material, the Government needs to address TV-like services providing irresponsible content from outside UK.

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

The deadline for submissions to the consultation had been extended to 30 September 2013 and Industry Forum members were invited to comment on the latest version of ATVOD's response to the Green Paper. Those who had already commented on the earlier draft were thanked for their submissions and it was noted that all comments already received had been accommodated in ATVOD's response.

Forum members **AGREED** with the comments that the European Commission should not change the regulatory regime in the UK which was considered to be effective in the sector.

No additional points were raised for consideration by the ATVOD Board meeting to be held on the afternoon of 24 September.

8. Ofcom Questions and Answers

No questions had been sent to Sarah Andrew of Ofcom in advance of the meeting from Industry Forum members.

Sarah Andrew updated the meeting on Ofcom's current work in relation to ATVOD scope investigations and complimented ATVOD on the scope consultation document. A new tracker looking at audio visual material (not restricted to online material) to mirror the linear standards tracker was reported. An online survey will be carried out to capture feedback from relevant audiences.

9. Other business

Chris Ratcliff reported on the arrangements for a seminar for small businesses. The event would be held on 14 October 2013 at 11am at St James's Theatre. It was intended for existing providers as well as new ones and all small providers will be invited to attend. Details will be circulated to Industry Forum members. **ACTION: CR/JQ**

The Industry Forum noted that the ATVOD newsletter was being sent out regularly (at least quarterly) rather than monthly.

10. Future meeting dates in 2014:

Tuesday 28 January, Thursday 15 May and Tuesday 23 September 2014.

Annex 1 – List of Members and Attendees at the ATVOD Industry Forum meeting on 24 September 2013

Fiona Clarke-Hackston	BSA Council
Joan Darroch	STV
Matt Edwards	Channel 4
Paula Holmes	Filmflex Movies
James McCann	Studio 66 TV
Ruth O'Farrell	Chellozone
Colin Pascoe	utv
Nicholas Ridley-Wilson	Vubiquity Inc.
Martin Stott	Channel 5
Lucy Wedgwood	Sky
Peter Wildash	Channel 4

ATVOD attendees

Ruth Evans	ATVOD
Pete Johnson	ATVOD
Ian McBride	ATVOD
Jan Quirke	ATVOD
Chris Ratcliff	Portland TV & ATVOD
Nigel Walmsley	ATVOD
Paul Whiteing	ATVOD
Sarah Andrew	Ofcom
Silvia Fukuoka	Ofcom

Annex 2 – List of apologies for the ATVOD IF meeting on 24 September 2013

Simon Abrahams	ITV
Stephen Dean	BT
Anuj Desai	Blinkbox
Jaqui Devereux	Commedia
Adrian Dicker	BBC
Gidon Freeman	NBCiUniversal + ATVOD
Mark Hilton	Manchester United
Sophie Jones	Channel 4 & ATVOD
Alex Kann	Community Channel
Kerry Kent	Discovery
Graeme Leversedge	NBCUniversal International
Eric Mackay	Vevo
John McVay	PACT
Jane Miller	Discovery
Stephen Page	Cinematio/Lavish Fiction
Marcin Przasnyski	Kotai Entertainment
Mike Sharp	Chellozone
Miranda Smith	Miss Miranda
Emma Way	Nickelodeon