



Minutes of a meeting of the Board of the Authority for Television On Demand Limited (ATVOD) on **25 March 2014** held at BBFC, 3 Soho Square, London W1D 3HD at 2.30pm.

Present:

ATVOD Board:

Ruth Evans – Chair
Daniel Austin
Sophie Jones
Alexander Kann
Ian McBride
Nigel Walmsley
Paul Whiteing

In attendance:

Pete Johnson – Chief Executive
Jan Quirke – Company Secretary

1. Welcomes and Apologies

Apologies were received from Gidon Freeman and Julia Hornle.

Paul Whiteing was congratulated on his new job as Lead Ombudsman for the Financial Services Ombudsman; there was no conflict of interest with Paul remaining on the ATVOD Board. Daniel Austin has resigned from the ATVOD Board with effect from September 2014.

2. Declarations of interests

There were no declarations of interest to be reported in relation to items presented for discussion at the meeting nor for inclusion in the register of interests.

3. Minutes

3.1 Board meeting on 28 January 2014

The minutes were **AGREED** as an accurate record of the meeting. There were no outstanding actions or matters arising to report.

3.2 Industry Forum meeting on 28 January 2014

The Board noted the minutes which had been published on the ATVOD website.

4. Board member recruitment update

The Chair reported on the shortlisting teleconference held by the Recruitment Panel on 24 March. 57 applications had been received and a long-list of potential candidates had been produced; a further sift will reduce this to a short-list of candidates for interview.

5. Chief Executive's report

Notifications

- 5.1 The Board **NOTED** the information presented and new notifications from GRM Daily, Planet Knowledge, Sunday Sport XXXTRA, Sainsbury's Entertainment and CBS Chellozone EMEA VOD. No notifications had been withdrawn in January and February 2014. ATVOD had been notified of the intended withdrawal of a service in March 2014 by a Super A-rated provider.

Enforcement action

- 5.2 The Board **NOTED** the analysis of Rule 1 (failure to notify) and Rule 4 (failure to pay fee) investigations.
- 5.3 The Determinations Committee decisions on Scope and Complaints and Content breaches were **NOTED**. The Board **NOTED** three outstanding appeals.
- 5.4 In September 2014 the Board would receive a presentation on material to differentiate between tv-like and non tv-like content and to demonstrate R18 material. **ACTION: PJ**
- 5.5 In future, the cases presented to the Board in relation to decisions made by the Determinations Committee would be presented in a slightly different form in CE reports.

The Board considered requests for reviews of two decisions of the Determinations Committee without the Determinations Committee members present. Paul Whiteing, Ian McBride and Daniel Austin left the meeting for the following items (5.6 - 5.9); the Board remained quorate with an independent majority.

- 5.6 In relation to the first request, which was from a service provider, the Board **APPROVED** the proposal that the request received for a review of a Determination be declined on the grounds that no material grounds for review were disclosed and **AGREED** that civil action should be taken in pursuit of payment, subject to the required consultation with Ofcom.
- 5.7 In relation to the second request, which was from a complainant, the Board **AGREED** the proposal to review the decision and **DISCUSSED** the definition of tv-like content and the appropriate tests to apply, recognising that tv-like is a dynamic concept requiring comparison with broadcast material in the same genre. The Board **APPROVED** the proposal that the Determination be upheld and **AGREED** that further details of the reasoning to support this position will be provided to the complainant.
- 5.8 The Board considered a proposal to delegate to the Determinations Committee authority to issue an Enforcement Notification if it was determined that a breach of Rule 10 or Rule 11 had occurred, was ongoing and required swift remedial action. The Board noted that the power to issue an Enforcement Notification was among ATVOD's greatest powers. The Board **DELEGATED** authority to the Determinations Committee

subject to the approval of the Chair in each instance and, as a result, the Chair of the Board should be asked to approve Determination Committees decisions under these powers.

- 5.9 The terms of reference for the Determinations Committee would be revised to reflect the Board's decision. **ACTION: JQ/PJ**

5.10 European works

The Board **NOTED** that information was outstanding from one provider to date and that this provider had been given a further opportunity to submit the information required given the apparent misunderstanding over the parameters of the request.

DCMS Strategy Paper

- 5.11 The Board **NOTED** that DCMS had confirmed the intention to legislate in relation to UK services through secondary legislation. The details will be discussed with ATVOD on 3 April 2014.

- 5.12 The Board **NOTED** the action taken by DCMS and Ofcom with media regulators to create a common framework for media standards.

Restricting payments to non-UK websites

- 5.13 The Board **NOTED** the report of the third summit meeting on 6 February with representatives of the payments industry. The decisions reached at a further meeting on 25 March were reported; the preferred mechanism for the payments industry would be a licensing regime for providers of websites, similar to that to be used for the gambling industry.

Access Services

- 5.14 The Board **NOTED** the approach agreed with DCMS that ATVOD would write to the Minister informing him of the Access Services plan and the actions flowing from it.

Board members were asked to consider whether they wanted to become involved as a lead for access services and European works, on Daniel Austin's departure from the Board in September. **ACTION: ALL**

Obscene Material

- 5.15 It was noted that the IWF had published a report recommending that it give up its work in relation to adult obscene content. It was possible that ATVOD might be approached in relation any such move. It was **AGREED** that ATVOD would take no action until and unless an approach was made.

Press and public relations

- 5.16 The Board **NOTED** ATVOD's activity in February and March and received oral reports of recent meetings with MPs.

6. Finance Report

- 6.1 The Finance report was presented and **NOTED** by the Board.

- 6.2 The Board **AGREED** one proposed civil action in relation to a debtor to issue a Statutory Demand subject to the required consultation with Ofcom.

- 6.3 In relation to the other two cases highlighted in the report for Board decision; one payment had been received and one provider was winding up.
- 6.4 Nigel Walmsley presented the Management Accounts for the period to 31 January 2014 to the Board commenting that there were no issues of concern.
- 6.5 One case was reported which related to payment of fees and a ruling on whether a service was an ODPS.
- 6.6 The debtors report to the end of February was noted and there were no cases causing undue concern.

7. Fees Consultation update

The Board noted the extension to the deadline for responses to the consultation to 22 April 2014.

8. Research on underage access to adult websites

The Board considered the confidential report, together with a recent letter to DCMS, and welcomed the considerable preparatory work undertaken by Ian McBride, Ruth Evans and Nigel Walmsley. The process for publication and anticipated coverage post-publication were discussed.

9. ATVOD's website

Peter Johnson presented the improved and updated ATVOD website.

10. Other business

As Julia Hornle was leaving the Board at the end of March 2014, in her absence, the Chair recorded ATVOD's thanks for all that Julia had contributed since joining the Board in 2010 which had helped to establish the Authority since its designation.

11. Date of next meeting – Thursday 15 May 2014