

The logo for The Authority for Television On Demand (ATVOD) features the letters 'ATVOD' in a bold, white, sans-serif font, centered within a solid black rectangular background.

ATVOD

THE AUTHORITY FOR TELEVISION **ON DEMAND**

European Works Plan

2012 -2015

Published: 6th November 2012

Introduction

This document sets out ATVOD's detailed plan as to how it will fulfil its duties under Paragraph 5(vi) and Paragraph 7(xxi) of the Ofcom Designation, for the period 2012 to 2015.

ATVOD's duty under the Ofcom Designation is "*to ensure that Service Providers promote, where practicable and by appropriate means, production of and access to European works (within the meaning given in Article 1 (n) of the [Directive]*" ('the European Works duty').

ATVOD notes that, just as on-demand services are at a nascent stage in their development, so the regulation of on-demand programme services remains in its infancy as compared to the detailed regulations imposed on linear broadcast services.

Although many on-demand programme services comprise content that is also included in linear broadcast services, and may therefore be expected to benefit from the existing requirements as to the proportion of programming of European origin, the range of on-demand programme services falling within ATVOD's jurisdiction is much wider and of a less uniform format than linear services, with content provided from a variety of sources.

Furthermore, it is the view of ATVOD that the Communications Act 2003 ("the Act") does not give the appropriate regulatory authority powers to require service providers to operate a quota system with regard to European works.

ATVOD's strategy is based on encouragement, collection of data and provision of information.

Encouragement

ATVOD will write to each provider of an On Demand Programme Service annually to encourage them to promote, where practicable and by appropriate means, production of and access to European works.

Data collection

Article 13 of the Audiovisual Media Services Directive ("the Directive") requires that Member States shall report to the European Commission ("the Commission") no later than 19 December 2011 and every 4 years thereafter on the implementation of the requirements relating to European Works

The Commission shall, on the basis of the information provided by Member States and on the basis of an independent study, report to the European Parliament and to the Council on the application of the European works duty, taking into account the market and technological developments and the objective of cultural diversity.

In order to enable UK Government to meet its reporting obligations under Article 13, in 2011 ATVOD collected data from service providers on the extent to which On Demand Programme Services included European works during the period 1 April 2010 to 31 March 2011 and submitted a report on the data received to UK Government via Ofcom.

The deadline for the next report UK Government is required to submit is 19 December 2015. In order to ensure that UK Government can meet its obligations, and assuming the data sets

requested by the Commission do not change in the interim, ATVOD will collect the following data from service providers:

- Type of service (i.e. 'catch up' or 'archive' or 'mixed')
- Nature of access (i.e. 'free to view' or 'conditional on user payment' or 'mixed')
- Nature of funding (i.e. 'subscription' or 'pay per view' or 'advertising' or 'public grant' or 'mixed')
- Geo-restriction ('yes' or 'no')
- Hours of 'European works' made available
- Percentage of total hours of programming comprising 'European works'

In order to provide reliable information on trends, this data will be collected every two years, as set out below.

2013 Data Collection

In 2013, ATVOD will use its powers under section 368O(3) of the Act to collect data relating to the period 1 January 2012 to 31 December 2012. The timetable for this process is set out below and will allow service providers to time their data provision process to coincide with any similar request from Ofcom regarding television broadcast services or to take place a significant period after any such request from Ofcom:

- By 31 January 2013, ATVOD will inform service providers of its intention to issue a demand for information in relation to European works . In accordance with section 368O(4) of the Act, service providers will have an opportunity to make representations to ATVOD about the matters appearing to them to provide grounds for making the request
- By 31 July 2013, subject to any representations that may have been received, ATVOD will issue to each service provider a demand for information under section 368O(3) of the Act
- By 30 September 2013, service providers will be expected to have provided the required data
- By 31 October 2013, ATVOD will submit to Ofcom a report on the data received

2015 Data Collection

In 2015, ATVOD will use its powers under section 368O(3) of the Act to collect data relating to the period 1 January 2014 to 31 December 2014. The timetable for this process is set out below and will allow service providers to time their data provision process to coincide with any similar request from Ofcom regarding television broadcast services or to take place a significant period after any such request from Ofcom:

- By 31 January 2015, ATVOD will inform service providers of its intention to issue a demand for information in relation to European works . In accordance with section 368O(4) of the Act, service providers will have an opportunity to make

representations to ATVOD about the matters appearing to them to provide grounds for making the request

- By 31 July 2015, subject to any representations that may have been received, ATVOD will issue to each service provider a demand for information under section 368O(3) of the Act
- By 30 September 2015, service providers will be expected to have provided the required data
- By 31 October 2015, ATVOD will submit to Ofcom a report on the data received

Provision of information

In addition to collecting data about the provision of European works in On Demand Programme Services, ATVOD will publish on its website the following information:

- An encouragement to providers of On Demand Programme Services to promote, where practicable and by appropriate means, production of and access to European works
- Guidance on the definition of a European work (as approved by Ofcom)
- A report on any European Works data collected from service providers

Annual review

ATVOD will also review annually its strategy for encouraging providers of On Demand Programme Services to promote, where practicable and by appropriate means, production of and access to European works.

Following such reviews, any proposed changes to ATVOD's European Works Plan will be developed in consultation with the ATVOD Industry Forum.