



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 the BBFC, Wednesday 23rd March 2011, 2.30pm

Present:

ATVOD Board:

Ruth Evans (RE) – Chair
Daniel Austin (DA)
Julia Hornle (JH)
Simon Hunt (SH)
Chris Loweth (CL)
Ian McBride (IM)
Sara Nathan (SN)
Nigel Walmsley (NW) – Deputy Chair

In attendance:

Pete Johnson (PJ) – Chief Executive
Nicola Ebdon (NE) – Company Secretary (mins)

1. Apologies

1.1 Apologies were received from Simon Milner (SM).

2. Declaration of members’ interests

2.1 The Board **NOTED** that SH declared an interest in item 6 (4Fb) a final determination scope decision involving Virgin Media. SH left the meeting while this item was discussed.

2.2 The Directors **NOTED** that CL declared a tangential social contact with a director of Media Squad Ltd, which had put in an application for a concessionary rate, to be discussed under item 6 (4B). The Chair ruled that it did not constitute a conflict of interest.

3. Minutes of the 1 February 2011 meeting, matters arising and updated actions

3.1 The Board **APPROVED** the draft minutes of the meeting held on 1st February 2011 subject to some minor amendments.

3.2 There were no other matters arising, other than those covered in the Updated Actions list.

- 3.3 The Directors **NOTED** that the majority of actions had been completed.
- 3.4 In relation to action point 22 the Deputy Chair and Chief Executive had considered a number of recommended companies to act as legal representatives to ATVOD. The Directors **AGREED** that the Deputy Chair and Chief Executive should compare business rates before reaching a final recommendation. The Directors **REQUESTED** that the companies be asked whether they could produce periodic briefings on relevant legislation for Directors as part of the brief.
4. **Market Developments**
- 4.1 The Board **NOTED** the content of a presentation which outlined global trends in the on demand market. Of particular note was that demand for catch-up tv was the biggest driver for a migration from short form to long form content viewing. The Directors **NOTED** trends in relation to advertising and the funding mechanism and the relative success of subscription services versus pay for view online. The Directors **CONSIDERED** the implications of these developments in relation to industry innovation and the financial implications for service providers.
5. **Ofcom – Chris Woolard**
- 5.1 The Board welcomed Chris Woolard to the meeting and introductions were made.
- 5.2 The Directors **NOTED** an update on Ofcom’s organisational changes and Chris Woolard’s new role as Group Director, Content, International and Regulatory at Ofcom. Chris updated the Board with progress being made with ATVOD appeals and stated that in future Ofcom would have more streamlined processes and KPI’s for dealing with appeals. The Directors **NOTED** that Ofcom were confident that its new processes would enable it to complete the work it had been entrusted with on time, and that only exceptional special cases would take longer than agreed KPIs.
- 5.3 Chris Woolard gave his thoughts to the Directors on a wide range of regulatory issues. Ofcom felt that a new Communications Bill would be shaped having regard to citizen and technology issues. The Board urged Ofcom to engage with consumers on all the relevant issues, including the regulation of on demand content, before forming its views on the future of content regulation. It was **NOTED** that Ofcom had some research planned on this area and that its media literacy trackers would continue.
- 5.4 It was **NOTED** that Ofcom engaged regularly with other European communications regulators and actively engaged in activity to peruse harmonisation of content regulation within the EU. Ofcom **AGREED** to involve ATVOD in this engagement when on demand content is being discussed. After a discussion of the variations in on demand content regulation within Europe, Ofcom and ATVOD undertook to share information and knowledge on this topic.
- 5.5 The Board **THANKED** Chris for attending the meeting and invited him to attend the December ATVOD Board meeting.
- 5.6 Once Chris had left the meeting, the Board **AGREED** to send a letter to Chris Woolard to

follow-up on the issues raised at the meeting.

6. Chief Executive's update

- 6.1** The Board **NOTED** that three responses had been received so far to the Year Two Fees consultation, which would close on 1 April. A discussion on the consultation would be scheduled for the May Board meeting.
- 6.2** The Board **NOTED** the update on new and withdrawn notifications as provided in the paper.
- 6.3** The Board carefully **CONSIDERED** three applications for a concessionary rate and **AGREED** the following:
- Joining the Docs – no concessionary rate;
 - www.prowler.tv – no concessionary rate; and
 - Joybear Pictures – no concessionary rate.
- 6.4** The Board **NOTED** progress made with scope investigations as provided in the paper and **DISCUSSED** progress with regard to multiple services decisions, noting action taken by the Executive to minimise multiple services notifications, within the guidance set.
- 6.5** The Board **NOTED** the content of the scope report circulated prior to the meeting and **AGREED** to delegate responsibility for future borderline and disputed scope decisions to a Scope Committee (membership agreed for two months).
- 6.6** The Board **CONSIDERED** fully representations made by Telegraph TV and after careful discussion **AGREED** that the service was an ODPS.
- 6.7** The Board **CONSIDERED** fully representations made by ITV and **AGREED** to confirm its previous preliminary recommendation. (SH was absent from this discussion).
- 6.8** The Board **NOTED** the update on complaints as provided in the paper.
- 6.9** The Board **NOTED** the update on new and withdrawn notifications as provided in the paper.
- 6.10** The Chair gave an update on Industry Forum developments. The Directors **REQUESTED** that confirmed dates for future meetings be circulated once available.
- 6.11** The Board **NOTED** the update on Access Services as provided in the paper and **REQUESTED** that the survey results and proposed statement be circulated once available.
- 6.12** The Board **NOTED** the update on European works as provided in the paper.
- 6.13** The Board **NOTED** the update on stakeholder and public communication issues as provided in the paper. The meeting received an oral update from the Chair on the outcome of her meeting with Ed Vaizey, Minister for Culture, Communications and Creative Industries on 7 March 2011.

- 6.14 The Board **AGREED** to give the Executive delegated powers to submit a report on the performance of its delegated duties to Ofcom by 31 March 2011.
- 6.15 The Board **AGREED** a resolution to apply for the Business Debit Card service, as specified in the paper, for the Company Secretary, provided that the Chief Executive set a limit per transaction and a total limit in advance, to be reviewed periodically by the Board.
7. **Financial report and proposed 2011/12 budget**
- 7.1 The Board **NOTED** that the Chief Executive and Deputy Chair had carefully reviewed three recommended auditors and made a recommendation to the Board. The Directors **AGREED** to hold an EGM following the Board meeting at which it would consider a resolution to remove Soteriou Banerji as ATVOD's auditors and a resolution to appoint Mercer & Hole as ATVOD's auditors. The Directors **NOTED** that Soteriou Banerji had received the required notice of this proposed resolution.
- 7.2 The Board **NOTED** the content of the management accounts and **REQUESTED** that in future they be presented in a bi-monthly format. The Board **NOTED** a couple of pre-designation accounting points and **AGREED** relevant action to be taken.
- 7.3 The Board **AGREED** the budget for 2011/12 and **REQUESTED** a pro-forma budget be devised to allow for comparisons to be made year on year.
8. **Stakeholder Issues**
- 8.1 The Board **NOTED** the update as provided in the paper and **DISCUSSED** a number of arising issues. The Directors **AGREED** to consider how to address the question of the relative costs and benefits of how the different ways on demand regulation is regulated across Europe. The Directors **AGREED** to work with the Commercial Broadcasters' Association (CoBA), formerly the Satellite and Cable Broadcaster's Group (SCBG) to address their concerns where possible.
- 8.2 The Board **NOTED** that DCMS proposed to invite ATVOD, Ofcom and CoBA to a round table meeting. The Directors **AGREED** to continue to progress discussions on multiple services with Ofcom.
- 8.3 The Board **NOTED** that the Chair, Deputy Chair and Chief Executive were due to meet with the Chair and Deputy Chair of the Industry Forum. The Non Independent Board Directors wished to lend their support to establishing industry links and **AGREED** to contact the Chair and Deputy Chair of the Industry Forum to offer their help if required.
9. **Public Relations**
- 9.1 The Board **CONSIDERED** the content of a paper which updated it on work undertaken to prepare guidance for the Executive when responding to enquiries from press and other stakeholders. It was **AGREED** that in due course the guidance could be converted into a "Frequently Asked Questions" section for the website.

10. Risk Management Strategy

- 10.1** The Board **NOTED** the content of a paper circulated to the Board in order to initiate debate on ATVOD's risk management strategy. The Directors **AGREED** a sub-group would meet before the next Board meeting to discuss the draft workplan for 2011/12 and the risk management strategy, using the paper circulated as a working document.

11. ATVOD Workplan 2011/12

- 11.1** The Board **NOTED** the content of a paper circulated and **AGREED** to consider this issue once further input had been made by the Corporate Planning sub-group.

12. Governance issues

- 12.1** The Board **NOTED** an update in relation to progress made with reviewing ATVOD's draft Articles of Association. It was **AGREED** that further work would be undertaken and the suggested changes be reviewed by legal advisers. Draft Articles would then be presented at the May Board meeting for adoption.
- 12.2** The Directors **CONSIDERED** the content of a paper circulated to the Board in order to initiate debate on ATVOD's approach to openness and transparency. It was **AGREED** that Deputy Chair would work with the Company Secretary to develop some recommendations for the May Board meeting.

13. Any other business

- 13.1** The Board **NOTED** that the Chair had completed an objective setting exercise with all Directors and a list of objectives would be circulated.

The meeting closed at 5.55pm.