



THE AUTHORITY FOR TELEVISION ON DEMAND

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**Statement on regulatory fees for  
on-demand programme services  
for the period**

**1 April 2014 to 31 March 2015**

**ANNEX 1**

## Annex 1

# Legal framework relating to fees

A1.1 The relevant statutory provisions in relation to the setting of fees for ODPS are set out in Section 368NA of the Act:

### 368NA Fees

- (1) In this section “the authority” means each of these —
  - (a) the appropriate regulatory authority;
  - (b) (where they are not the appropriate regulatory authority) OFCOM.
- (2) The authority may require a provider of an on-demand programme service to pay them a fee.
- (3) The authority must be satisfied that the amount of any fee required under subsection (2) -
  - (a) represents the appropriate contribution of the provider towards meeting the likely costs described in subsection (5)(a), and
  - (b) is justifiable and proportionate having regard to the provider who will be required to pay it and the functions in respect of which it is imposed.
- (4) A different fee may be required in relation to different cases or circumstances.
- (5) The authority must, for each financial year —
  - (a) prepare such estimate as it is practicable for them to make of the likely costs of carrying out the relevant functions during that year;
  - (b) ensure that the aggregate amount of the fees that are required to be paid to them under subsection (2) during that year is sufficient to enable them to meet, but not exceed, the costs estimated under paragraph (a);
  - (c) consult in such manner as they consider appropriate the providers likely to be required to pay them a fee under subsection (2) during that year;
  - (d) publish in such manner as they consider appropriate the amount of the fees they will require providers to pay to them under subsection (2) during that year.
- (6) As soon as reasonably practicable after the end of the financial year, the authority must publish a statement setting out, for that year—
  - (a) the aggregate amount received by them during that year in respect of fees required to be paid under subsection (2);
  - (b) the aggregate amount outstanding and likely to be paid or recovered in respect of fees that were required to be so paid under subsection (2); and
  - (c) the costs to them of carrying out the relevant functions during that year.
- (7) Any deficit or surplus shown (after applying this subsection for all previous years) by a statement under subsection (6) is to be—

- (a) carried forward; and
  - (b) taken into account in determining what is required to satisfy the requirement imposed by virtue of subsection (5)(b) in relation to the following year.
- (8) The authority may repay to a person some or all of a fee paid to them by a person under subsection (2) if—
  - (a) that person has ceased to provide an on-demand programme service at some time during the period to which the fee relates;
  - (b) before ceasing to provide that service, that person gave the appropriate regulatory authority a notification under section 368BA(2); and
  - (c) that person did not cease to provide the service following a direction given by the appropriate regulatory authority under section 368K or 368L.
- (9) The authority may make arrangements with any body designated under section 368B for that body to provide the authority with assistance in connection with the collection or repayment of fees required by them under this section.
- (10) For the purposes of this section—
  - (a) the authority's costs of carrying out the relevant functions during a financial year include their costs of preparing to carry out the relevant functions incurred during that year; and
  - (b) the authority's costs of preparing to carry out the relevant functions incurred after 19 December 2009 but before the financial year in which those functions were first carried out by them are to be treated as if they were incurred during that year.
- (11) In this section "relevant functions" means—
  - (a) in relation to the appropriate regulatory authority, their functions as the appropriate regulatory authority;
  - (b) in relation to OFCOM (where they are not the appropriate regulatory authority), their other functions under this Part.
- (12) In this section "financial year" means a period of 12 months ending with 31 March.