



THE AUTHORITY FOR TELEVISION **ON DEMAND**

European Works Plan

Edition 1.1

Originally published 15 Sept 2010, re-published 21 March 2011

Note on this Edition: This Edition differs from Edition 1.0 in the following material respects only: all references to The Association for Television On Demand have been replaced by references to The Authority for Television On Demand.

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, as well as its proposals in respect of guidance to service providers.

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 is 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 does not give the appropriate regulatory authority powers to require service providers to operate a quota system with regard to European works.

Longer term plans

In the longer term, and should future resources allow, ATVOD aspires to be able to:

- a) survey service providers to ascertain the extent to which the production of and access to European works are promoted within on-demand programme services currently, the barriers to such promotion (if any), and what can be done to reduce them
- b) use the results of that survey to develop a coherent long term policy as to the action required in this area (if any)
- c) conduct a public consultation on potential strategies designed to ensure that service providers promote, where practicable and by appropriate means, production of and access to European works.

Shorter term plans

In the shorter term, and taking into account the resources available to ATVOD during its first year of operations, ATVOD considers that the most appropriate way in which it can fulfil its duty is by the publication of a brief guidance note to Service Providers, setting out the following information;

- i. ATVOD's duties in respect of the promotion of 'European Works'; and
- ii. the definition of what constitutes a 'European Work' for these purposes, with clarification where appropriate and modelled on Ofcom's own guidance in relation to its obligations in respect of linear services (available at <http://www.ofcom.org.uk/tv/ifi/guidance/epq.pdf>).

The guidance will be circulated with: a) a request from ATVOD for information from Service Providers as to the amount of 'European Works' their services contain (over a specific period and by hours/proportion/number/value; and b) a request from ATVOD asking Service Providers for their views as to the optimal manner in which ATVOD could promote production and access to European Works. The information will provide a basis for ATVOD's ongoing consideration of the European Works Duty and will be essential for ATVOD to provide relevant information to Ofcom for the purposes of the UK reporting to the European Commission on the implementation of Article 13(1) of the AVMS Directive. The first of such reports would be no later than 19 December 2011.

The guidance has been approved by Ofcom with a view to publication to service providers by 30 September 2010.

ATVOD will also consider the extent to which it should make provision in next year's budget for sufficient resources to carry out the longer term objectives set out in (a) to (c) above.

ATVOD, Sept 2010