

13 October 2015

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Dear Service Provider,

Review of ATVOD

I am writing to provide you with an important update about Ofcom's review of the Authority for Television on Demand (ATVOD).

As you may be aware, since Sharon White joined Ofcom in March, we have been conducting a strategic review, covering all areas of Ofcom's functions and operation. We are challenging ourselves to be even more effective than we are today at delivering on our regulatory remit for the benefit of consumers and citizens. Another area under consideration is value for money – ensuring that we are becoming more efficient and effective over time.

Importantly, this review is considering all our co-regulatory arrangements to determine whether they remain appropriate and effective. As part of this, we have been considering our co-regulatory arrangement with ATVOD, and taking account of the broader context of the current market position, including the increasing convergence of linear services and on-demand programme services, the Single Digital Market Review in the EU, and the need for a comprehensive solution to the future of content regulation.

As a result of that review, after careful consideration, Ofcom has decided not to continue with this co-regulatory model and instead to act as sole regulator in respect of on-demand programme services under Part 4A of the Communications Act 2003 (the "Act"). This is very much a strategic decision for Ofcom that having a separate organisation carrying out this aspect of Ofcom's work is no longer the most effective way of delivering this part of our remit.

The Advertising Standards Authority will continue to act as our co-regulator for advertising on on-demand services.

I would like to thank ATVOD, and in particular its Board and Chief Executive, Pete Johnson, for their contribution to the sector and work to date on the regulation of on demand programme services. ATVOD has played an important, effective role in regulating on-demand TV over the past five years. Like Ofcom, it is committed to protecting audiences from harmful content.

Next steps

Ofcom has issued ATVOD with formal notice of our intention to revoke the designation of functions in relation to the regulation of on-demand programme services under the Act. We will act as sole regulator for on-demand programme services from 1 January 2016.

I would like to assure you that the revocation does not result in a change in the substantive obligations on those in the regulated sector or the standards of audience protection service users can expect from regulated video on demand services in the UK. Therefore, on demand programme service providers should continue to apply with existing rules, which continue to apply after 31 December 2015, but all matters will be handled by Ofcom directly.

Under the Act, Ofcom is already able to act concurrently with, or in place of, any co-regulator, so this is not a change to the scope of our activities. Furthermore, both the Act and the Designation allow for Ofcom to revoke the appointment of ATVOD at any time. For these reasons there is no requirement for us to issue a consultation on this decision.

However, we do believe that these changes provide an opportunity to review how we approach the regulation of on-demand programme services. We would be particularly interested to hear your views on what changes, if any, would make regulation more effective for consumers and proportionate for stakeholders. We will therefore be consulting with relevant stakeholders, including notified services, in the first quarter of 2016 before we make any changes to the current approach. If you wish to submit any initial informal views or suggestions to us ahead of that consultation, please send them to the email address vodreviewteam@ofcom.org.uk.

In the period from 1 January 2016 and ahead of the conclusion of our consultation, Ofcom will of course ensure that the necessary regulatory protections for on demand programme services are in place. The rules that ATVOD currently take the lead in applying will continue to be applied with Ofcom taking the lead instead. For the avoidance of doubt, there will be no requirement for notified services to make any additional fee payment for 2015/2016; we appreciate fees have already been paid to ATVOD for this financial year.

The issue of whether any future fees will apply to Ofcom's regulation of on demand programme services, and if so at what level, will be covered by our consultation. Other issues to be covered include the continuation of 'service provider first' complaints handling, and whether industry stakeholders would like to continue to operate an industry forum on the regulation of on demand programme services, and if so, what form that should take.

In the meantime, I appreciate that stakeholders may have questions about the next steps and may welcome the opportunity to discuss these with us. I would therefore like to suggest that I attend a special meeting of the ATVOD Industry Forum before the end of 2015 to discuss our decision and the way forward.

We will be in touch in due course to update you further on the consultation, but if you have any immediate queries, please do not hesitate to contact us by emailing vodreviewteam@ofcom.org.uk.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Tony Close', with a large, stylized initial 'T' and a long horizontal stroke extending to the right.

Tony Close