



THE AUTHORITY FOR TELEVISION **ON DEMAND**

**Consultation on regulatory fees
for on-demand programme
services for the period
1 April 2015 to 31 March 2016**

ANNEX 4

The Proposed 2015-16 Fee Tariff (current rate shown in brackets)

	Single outlet service	Multiple outlet service	Group cap
Standard rates			
Super A Rate (Provider revenue > £25.9m)	£10,893 (£9,480)	£14,135 (£12,302)	£28,725 (£25,000)
A Rate (Provider revenue > £6.5m)	£5,010 (£4,740)	£6,502 (£6,151)	£28,725 (£25,000)
B Rate (Provider revenue £6.5m or less)	£774 (£732)	£815 (£771)	£28,725 (£25,000)
Concessionary rates			
Non-commercial (charities, community interest companies, not for profit companies acting in the public interest)	£96* (£91)	£101* (£96)	N/A**
Commercial micro-scale (Provider revenue < £50,000)	£145* (£137)	£153* (£145)	N/A**
Commercial small-scale (Provider revenue < £100,000)	£193* (£183)	£204* (£193)	N/A**

* no fee will be levied if a new service would qualify for a concessionary rate, closes within the first three months of operation and no breaches of the Rules are found to have occurred. This temporary waiver will apply only if the service provider has, prior to launching the service, received from ATVOD confirmation of its qualification for a concessionary rate, has submitted to ATVOD a completed notification form for the new service and has requested a three month waiver.

** given the lack of evidence suggesting that very large numbers of services are being provided by individual service providers who would qualify for a concessionary rate, we have not set a maximum fee per provider at this time. However, we reserve the right to introduce such a cap at a later date should circumstances require it.

For those qualifying for a concessionary rate or Rate B, ATVOD will accept payment in four instalments. **A service provider will be liable for the relevant Super A Rate unless they establish to the satisfaction of ATVOD that they have a turnover or status which qualifies for a lower rate as follows (NB. the qualification criteria are the same in all material requests as those that applied in 2013-14 and 2014-15):**

Qualification for Rate A

Qualification for Rate A will be established if the service provider can demonstrate to ATVOD's satisfaction that the **service provider** had an annual turnover of not more than £25.9 million in the last accounting year for which figures are available.

Qualification for Rate B

Qualification for Rate B will be established if the service provider:

- a) can demonstrate to ATVOD's satisfaction that the **service provider** had an annual turnover of not more than £6.5 million in the last accounting year for which figures are available; or
- b) was in its first year of trading on 1 April 2015, or has commenced trading only after that date.

Qualification for the Non-Commercial Concessionary Rate

Qualification for the Non-Commercial Concessionary Rate will apply if the service provider can demonstrate to ATVOD's satisfaction that it:

- a) is a registered charity; or
- b) is a community interest company; or
- c) is a not-for-profit company operating in the public interest (as demonstrated, for example, in the articles of association of the service provider); or
- d) is The Welsh Authority.

Qualification for the Commercial Micro-scale Concessionary Rate

Qualification for the Commercial Micro-scale Concessionary Rate will apply if the **service provider** can demonstrate to ATVOD's satisfaction that it:

- a) has no affiliation to a larger company¹; and
- b) satisfies one of the two conditions below:
 - (i) had a turnover of less than £50,000 in the last accounting year for which figures are available; or
 - (ii) is in the first year of trading and expects to have a turnover of less than £50,000 in that first year.

Qualification for the Commercial Small-scale Concessionary Rate

Qualification for the Commercial Small-scale Concessionary Rate will apply if the **service provider** can demonstrate to ATVOD's satisfaction that it:

- a) has no affiliation to a larger company²; and
- b) satisfies one of the two conditions below:

¹ A service provider will be regarded as having an affiliation to a larger company if (a) a larger company has a 10% or greater stake in the service provider (in terms of ownership or voting rights), or (b) the Board of the service provider includes a representative of a larger company with an interest in the video on demand sector.

² See footnote above

- (i) had a turnover of less than £100,000 in the last accounting year for which figures are available; or
- (ii) is in the first year of trading and expects to have a turnover of less than £100,000 in that first year.

Evidence required in order for ATVOD to consider whether the service provider has demonstrated to ATVOD's satisfaction that it falls within the relevant category:

Registered charities, community interest companies or not-for-profit companies operating in the public interest should provide documentary evidence of their status. For not-for-profit companies operating in the public interest, documentary evidence will include, but may not be limited to, the Articles of Association.

Other service providers registered with Companies House who wish to establish qualification for a lower rate should provide to ATVOD a copy of their filed accounts for the last year for which figures are available, or evidence that they were in their first year of trading on 1 April 2015 or have begun trading since 1 April 2015.

Service providers who are not registered at Companies House (e.g. non-UK companies, sole traders and unincorporated bodies) and who wish to establish qualification for a lower rate should provide equivalent evidence (e.g. the audited accounts of an unincorporated provider).

Evidence of qualification for a lower rate must be provided within 21 days of the date of the statement confirming the 2015-16 fee tariff or the date of notification, whichever is later. Failure to provide such evidence within the deadline will render the service provider liable to pay at the Super A Rate.

Within each tariff band the fee charged will depend on whether the service is provided through a single outlet or through multiple outlets.

For these purposes, a service will be regarded as being provided through a single outlet if it is provided through a single website, app, portal, smart TV or set top box platform. For example:

Example 1

The service is only available through a single website. The 'single outlet' rate applies.

Example 2

The service is only available through a single app or portal. The 'single outlet' rate applies.

Example 3

The service is only available through a single Smart TV or set top box platform³. The 'single outlet' rate applies.

³ For these purposes a 'set top box platform' includes a cable, satellite or IPTV platform (such as Virgin Media, Sky, or YouView), or a platform requiring use of a games console or other device specifically designed to be connected to a TV to facilitate on-demand viewing.

A service will be regarded as being provided through multiple outlets if it is provided through more than one website, app, portal, smart TV or set top box platform; or if it is provided through any combination of such outlets. For example:

Example 4

The service is made available through two set top box platforms. The 'multiple outlet' rate applies

Example 5

The service is available through a single website and through a single set top box platform. The 'multiple outlet' rate applies.

Example 6

The service is available through a single website and through a single app. The 'multiple outlet' rate applies

The number of outlets through which a service is deemed to be distributed will be determined by ATVOD, having regard to any information supplied by the service provider or which has otherwise come to the attention of ATVOD.

Opting for consideration as a group

Individual service providers may nominate themselves to be considered at group level for both banding and capping purpose. In such circumstances qualification for a tariff band will be established by reference to the annual turnover of the parent company and the total amount of fees paid by providers belonging to the same group will not exceed £28,725.

For the purposes of establishing the group cap, service providers will only be considered to be part of the same group if they are entities which are wholly owned by the same parent company. A service provider will also be considered to be wholly owned by a parent company if it is wholly owned by a subsidiary which is itself wholly owned by the parent company. For the avoidance of doubt, each individual service provider will be liable to pay in full the relevant 'single outlet' or 'multiple outlet' fee, unless the aggregate amount of fees paid by the group would otherwise exceed £28,725.