



THE AUTHORITY FOR TELEVISION **ON DEMAND**

Annual Report 2014-15

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Contents

Chair's foreword	Page 3
Chief Executive's report	Page 7
Introduction	Page 10
Principal activities and business review.....	Page 11
Governance report	Page 28
Comprehensive income statement	Page 30
Statement of financial position	Page 31
Sources of Income	Page 32
Overheads	Page 33
Operating Surplus / Deficit	Page 37
Debtors	Page 38
Creditors	Page 39

Annex 1: Financial Statements 31 March 2015

Annex 2: Service providers and programmes subject to complaints

Annex 3: KPIs relating to correspondence

Annex 4: Stakeholder satisfaction questionnaire results

Chair's foreword

This report covers ATVOD's fifth year as the co-regulator for the editorial content of on-demand programme services ("ODPS") and I am delighted to report on the progress we have made, especially with regard to protecting children. As in previous years, during 2014-15 ATVOD concentrated on:

- Providing consumers – and especially children - with the protections the law requires; and
- Working to reduce the barriers to provision of access services (such as subtitles and audio description) which enable those with disabilities relating to sight and hearing to enjoy on-demand programmes.

In light of new regulations introduced by government during the year, we also prioritised:

- Preparing for and enforcing the new statutory prohibition on video on demand ("VOD") material which would be refused a classification for DVD release.

That work is fully documented in the rest of the report and demonstrates how well the co-regulatory arrangements have functioned over the past year. The co-regulatory model has enabled us to tap into a wealth of industry expertise in a wide range of areas. It has also helped to ensure that consumers enjoy the protections provided for in law without the imposition of unnecessary burdens on service providers. This cooperative work has been carried out in partnership with the ATVOD Industry Forum and its working parties and I would like to thank all those stakeholders who have participated, especially the outgoing Industry Forum Chair, Kerry Kent (formerly of Discovery Communications Europe Ltd), and her Deputy, Martin Stott (of Channel 5 Broadcasting Ltd), who has been elected to succeed her.

Key achievements during 2014-15

Each year ATVOD handles complaints, receives notifications, encourages accessibility and deals with numerous queries from industry and the public. Alongside this routine core work, during 2014-15 we:

- Acted to bring to an end breaches relating to 12 UK based adult services – operating across 137 websites – which had allowed children to access hardcore pornography;
- Worked with DCMS, Ofcom and the BBFC to ensure that new statutory requirements for VOD services introduced by the Audiovisual Media Services Regulations 2014 are enforced in an effective and consistent manner;
- Provided – with the BBFC - a free seminar for service providers on the implications of the new statutory requirements;
- Developed, consulted on and published new Rules & Guidance reflecting the new statutory requirements;
- Engaged with disability advocacy groups, independent technical experts, video on demand service providers and platform operators through a technical task force to identify barriers to the provision of access services (subtitling, audio description, signing) and agree common technical stands - a move designed to drive down costs and thereby increase provision; and

- Organised a series of seminars for the VOD industry to consider the future regulation of the sector, especially in light of the review of the Audiovisual Media Services Directive currently underway.

The benefits of co-regulation

Ofcom have recently embarked on a comprehensive review of how each of their statutory functions is discharged, with proposals expected in the autumn of this year. This review will, among other things, consider whether the current co-regulatory arrangements for the regulation of UK VOD services remain appropriate. There will be many such debates about the efficiency and effectiveness of different regulatory models as media convergence continues over the coming years. It is therefore worth remembering the benefits of co-regulation, which in the case of ATVOD have been delivered successfully across our functions over the past five years. Our experience demonstrates that co-regulation:

- Provides direct and immediate access to industry expertise at little or no cost;
- Ensures invaluable insight into the various sectors of the regulated industry and awareness of how the regulated entities operate in practice;
- Encourages the development of regulatory processes and procedures, and regulatory decisions, which reflect and respond to the practical realities of the regulated sector;
- Minimises the regulatory burdens on industry without compromising the protections afforded to consumers;
- Encourages the development of mechanisms designed to facilitate effective two-way communication between regulator and regulated;
- Creates opportunities for the industry to understand and discuss how best to ensure compliance with the relevant regulations;
- Encourages “buy-in” by industry which in turn is likely to encourage voluntary compliance with the regulatory rules, which is of benefit to the consumer;
- Ensures that regulation is conducted in a transparent and accountable manner; and
- Provides a mechanism through which additional voluntary protections for consumers might be developed and coordinated in a collective manner by service providers.

ATVOD delivers these benefits in a variety of ways, including by:

- Appropriately balancing consumer and industry interests in the make-up of its Board - although always in a minority, four non-independent Board positions are reserved for persons employed by a regulated service provider who can provide important insight and expertise without compromising ATVOD’s independence and commitment to consumer protection;
- Engaging fully with the ATVOD Industry Forum, whose creation we facilitated, enabling issues of concern to be aired, discussed and resolved in a timely and effective manner;
- Working with Industry Forum working parties to develop policies, plans and procedures which can deliver the required consumer protections without imposing unnecessary burdens on the regulated industry. Examples include the development of best practice guidance on access services as well as reviews of notification requirements, scope guidance and fee arrangements (including the development of a group fee cap, the abolition of compulsory ‘additional service’ fees and the simplification of the notification process);

- Involving the Industry Forum in the selection of ATVOD Board members according to a published recruitment procedure;
- Bringing together service providers, independent experts, platform operators and advocates of those with hearing and/or sight disabilities to consider the technical issues involved in the provision of access services and to recommend common technical standards as a means of reducing the cost of access service provision across the VOD industry;
- Evaluating and accepting (in principle) innovative but robust new methods of age verification in relation to 'specially restricted material' on UK based VOD services, thereby allowing children to be protected at lower cost to service providers;
- Highlighting the fact that the most popular services offering 'specially restricted material' are based outside the UK and lack any significant form of age verification, leaving children unprotected and creating a far from level playing field for UK based services;
- Engaging with online child safety issues with energy and enthusiasm, and bringing forward practical proposals for better protecting children from potentially harmful material online;
- Facilitating open and informed discussion between VOD providers on developments in the industry and on likely regulatory developments at a European and national level, including the review of the Audiovisual Media Services Directive;
- Providing free seminars and advice to service providers on how to ensure that that services are compliant with the relevant legislation;
- Conducting consultations and publishing related statements in a clear, concise and timely manner;
- Ensuring that its procedures allow for regulatory decisions to be taken in a timely manner and with appropriate oversight;
- Keeping firm control over its costs – ATVOD has underspent its budget in each of the past four years;
- Publishing each year a full and transparent account of its activities and expenditure; and
- Consulting each year on the structure and amount of the regulatory fees it charges.

Our ability to deliver effective regulation at low cost depends on the commitment, professionalism and collective expertise of the people who serve ATVOD as employees or directors. I would like to take this opportunity to thank the dedicated ATVOD Board it is my privilege to Chair and also the staff, led by Pete Johnson, who have worked so hard throughout the year. In particular, I would like to thank Daniel Austin who served as a Non-Independent Director until September 2014 and Gidon Freeman who served as a Non-Independent Director until December 2014, who both did so much to help ATVOD mature as an effective co-regulatory body. I would also like to welcome new Board members Robin Foster, James Tatam and Nicola Phillips (who is covering the Board position vacated by Sophie Jones – currently on maternity leave) who all have a wealth of relevant experience.

Finally, on a personal note, next year I will be standing down as Chair after more than six years. ATVOD has seen significant change and consolidation since it was given statutory powers in 2010 and has matured into an effective, low cost, widely respected co-regulatory

body. We owe this result to the commitment and energy of ATVOD's Chief Executive, Pete Johnson, and his amazing team, and to our engaged, focussed Board which has made my role of chairing ATVOD a source of pride and joy. I hope that my successor will have the opportunity to build on these successes, and take ATVOD forward as developments in convergence and media regulation bring about a new set of challenges.

Meantime, I look forward to working with Ofcom, the VOD industry and representatives of the consumer interest to deliver the protections to which the public are entitled while taking full account of the needs of a vibrant, diverse and increasingly successful UK VOD industry.

Ruth Evans

Chair

Chief Executive's report

This report provides an account of ATVOD's activities, income and expenditure over the previous financial year. In discharging our designated functions we seek to ensure that users of ODPS enjoy the protections afforded to them by law, while having regard to the impact of our regulatory activities on a nascent but rapidly maturing industry.

In this section I once again take the opportunity to highlight the action we have taken with regard to UK based video on demand services which include material which might seriously impair the physical, mental or moral development of under 18s. We have always taken the view that this includes hardcore pornographic material equivalent to that classified R18 by the BBFC. The regulations we enforce require that such material is provided in a manner which ensures that it is kept out of reach of under 18s. That statutory requirement is reflected in ATVOD's Rule 11. Regulated video on demand services offering hardcore pornographic material – or other material carrying a risk of serious harm to children - must therefore have in place effective age verification processes and access control mechanisms which ensure that the content could not normally be seen by under 18s. ATVOD's view that hardcore pornography might seriously impair under 18s was not universally shared and we had called for further statutory clarity on this point in order to ensure that we could continue to protect children. In December 2014, Government legislated to put our longstanding interpretation beyond any doubt.

ATVOD action in relation to UK 'adult' services

ATVOD's regulatory activity in 2014-15 continued to send a clear message to the UK adult industry that UK providers of on demand programme services containing hard-core pornography must take effective steps to ensure that such material is not accessible to under-18s. Asking visitors to a website to click an 'I am 18' button or enter a date of birth or use a debit card is not sufficient – if they are going to offer explicit sex material they must know that their customers are 18, just as they would in the 'offline' world.

In 2014-15, 12 services operating across 137 websites were found to be in breach of the relevant statutory rule (Rule 11). The breaches all involved commercial services offering free to view hardcore pornographic material to any visitor to the website and/or offering subscription or pay per view access to such content to customers whose age was not known to be at least 18. The number of UK websites involved in these 'Rule 11' breach rulings was up sharply from 27 in the previous year.

Of the 12 services, six made appropriate changes and continued to operate as on demand programme services, two closed, two remain non-compliant and are currently referred to Ofcom for consideration of a sanction, and two were transferred to the control of companies based outside the UK and therefore beyond the reach of the ATVOD Rules. We have consistently highlighted over recent years the statutory lacuna which allows websites operated from abroad to provide hardcore pornographic material which is accessible in the UK without any form of control to prevent access by UK children. We note with interest the commitment in the Conservative manifesto to require age verification for all websites containing pornographic material and look forward to seeing the policy developed.

Prohibited material

The new legislation which put beyond doubt the need for UK video-on-demand services to keep hardcore pornographic material out of reach of children also banned on regulated VOD services any material which would be refused a classification by the BBFC for distribution on a DVD. This brought UK VOD providers into line with UK DVD retailers from 1 December 2014. ATVOD strives to encourage pro-active compliance and in advance of the legislation coming into force, ATVOD worked with the BBFC to arrange a seminar for UK VOD providers explaining the new rules and how they would be applied. New guidance reflecting the changes and incorporating the new prohibition into the ATVOD rulebook as 'Rule 14' was published following a public consultation.

Although much of the material likely be prohibited under Rule 14 was already likely to be unlawful to distribute under the Obscene Publications Act, the legislation prompted a lively and widely reported demonstration in Parliament Square in which protesters wearing fetish gear simulated activities they considered – often inaccurately - would be prohibited under the new rules. ATVOD's first rulings that breaches of Rule 14 had occurred were published post year end and involved the provision of pornographic material which included videos of heavy whipping likely to cause lasting physical harm, the infliction of pain on a person who appears unable to withdraw consent, and repeated strong kicks to the genitals which appear to draw blood. Other videos featuring explicit images of real sex and BDSM¹ material could also be accessed by children on the internet services, in breach of Rule 11.

Access services

As Ruth Evans noted in the Chair's foreword, we also prioritised in 2014-15 our duty to encourage the provision of on demand programmes with subtitles, audio description and/or signing in order to improve accessibility for those with disabilities relating to sight and/or hearing. We discharge that duty in accordance with a plan developed with key stakeholders, including those who represent the interests of people with the relevant disabilities, such as Action on Hearing Loss (AOHL), RNIB, Sense and the National Deaf Children's Society. The plan reflects the fact that, in contrast with the regulatory regime for television broadcast services, ATVOD has no powers to enforce quotas or otherwise compel VOD providers to make their services more accessible.

ATVOD expects providers of large scale services, whose services can have the greatest impact on audiences, to take a lead in demonstrating best practice in the area and we focus our efforts accordingly. In particular we look to catch-up television and movie-on-demand services where content has previously carried access services on linear broadcast or cinema/DVD release to take a lead. In doing so we note the important role played by pay-tv platform operators through which many VOD services are provided to consumers, and during 2014-15 I personally held individual meetings with senior personnel from service providers and platform operators identified as key targets to press the case for improvement. In addition, we continued to support the Working Group on Access Services ("WGAS") – an ATVOD stakeholder group bring together under an independent chair technical experts from disability advocacy groups (AOHL, RNIB, Sense, NDCS) with technical specialists, VOD providers and

¹ Bondage, domination and sado-masochism

pay-tv platform operators to consider how best to overcome the technical issues which hold back the provision of access services.

Our Access Services Plan picks up on a number of issues identified in ATVOD's annual survey of all providers of notified ODPS, which was made compulsory for the first time in 2014. This revealed that:

- Public service broadcasters ("PSBs") like ITV, Channel 4 and Channel 5 again appear to be making the most significant progress in providing subtitled VOD services.
- These accessible services are still most commonly available via a computer on own-brand websites (the 4oD website, for example). Provision of subtitles via such websites is steadily increasing.
- In 2014 we also started to see accessible services provided via other platforms, such as mobile apps. 'Demand 5' and the 'STV Player' are good examples of services available with subtitles this way.

While we welcomed the progress that has been made – especially by the PSBs - we also called on the major pay-tv platforms – Sky, Virgin and YouView – to ensure that their platform can process any subtitles supplied by their content providers. We have made clear to the VOD industry that improving the accessibility of VOD services will remain a priority for ATVOD in the coming year as we move towards the scheduled DCMS review of access services provision in 2016.

Finally, I would like to offer my personal thanks to the staff and Board members – past and present – who have worked with such enthusiasm and diligence to carry out the designated functions throughout the year. They deal with a complex regulatory framework and very challenging material with extraordinary professionalism, delivering high quality regulation, and helpful advice and guidance to stakeholders, day after day.

Pete Johnson

Chief Executive

Introduction

ATVOD regulates the editorial content of On Demand Programme Services (“ODPS”), and makes determinations in relation to the scope of the statutory regulations, in accordance with its Designation by Ofcom. The statutory regulations themselves are set out in section 368 of the Communications Act 2003 (“the Act”) and are incorporated into the ATVOD Rules². In this report, we provide an account of ATVOD’s activities, income and expenditure over the 12 month period 1 April 2014 to 31 March 2015 (“the Relevant Period”). Our statutory Financial Statements to 31 March 2015 are included in this report as Annex 1.

Our year in numbers

5% increase

in total complaints

137

UK websites found in breach of rule protecting under 18s from hardcore porn (up from 27 in the previous year)

29% increase

in within-remit complaints

23

new video on demand services notified

29% increase

in number of services subject to complaint

4.7% decrease

in ATVOD’s year on year costs

99.8%

Of straightforward complaints cases closed within 30 working days

6

the total number of ATVOD staff³, of whom three work part-time

² See <http://www.atvod.co.uk/rules-and-guidance>

³ Excluding Non-Executive Directors

Principal activities and business review

The principal activity of the company is to regulate the editorial content of UK video on demand services that fall within the statutory definition of On Demand Programme Services (“ODPS”) set out in the Act. The company is limited by guarantee and has no share capital.

The powers and duties designated to ATVOD by the Office of Communications (Ofcom) include:

- preparing and publishing procedures for receiving notifications, receiving notifications from providers of ODPS, and requiring service providers to pay a fee;
- determining whether Service Providers have complied with their obligation to notify;
- taking such steps as appear to them best calculated to secure that the relevant requirements of the Act are complied with by Service Providers, including issuing, and enforcing compliance with, enforcement notifications in relation to breaches of the Act;
- preparing and publishing Rules and accompanying guidance for the purpose of securing that Service Providers comply with the relevant requirements of the Act;
- having in place and publishing appropriate and robust complaints handling processes, and determining, following a complaint or otherwise, whether a Service Provider is contravening or has contravened any of the relevant requirements of the Act;
- encouraging Service Providers to ensure that their services are progressively made more accessible to people with disabilities affecting their sight or hearing or both; and
- ensuring that Service Providers promote, where practicable and by appropriate means, production of and access to European works.

In discharging these duties ATVOD is required to have regard to, among other things, the desirability of promoting competition in relevant markets and the desirability of encouraging investment and innovation in relevant markets.

As an independent co-regulator, ATVOD always puts the public interest first. We seek to do that in a manner which is sensitive to the impact of our actions on those we regulate. We aim to help video on demand services provide the protections consumers are entitled to, and to ensure that unnecessary burdens are not imposed in the process.

This year’s business review is set out in four parts: (a) stakeholder comments; (b) notifications & investigations; (c) access services; and (d) other regulatory activities.

A. Stakeholder comments

In a departure from previous reports, we begin this year's business review with some comments from people who have interacted with ATVOD during 2014-15. Provided as part of our regular, annual 'stakeholder survey' exercise – the results of which are set out in full in Annex 4, we think they give a useful insight into how ATVOD is perceived and experienced by its stakeholders, and how we can continue to improve over the coming year.

What we do well:

"The ATVOD website is well organised and easy to navigate. ATVOD emails are simple and encourage recipients to look at the information provided and invite immediate review."

Regulatory counsel - regulated VOD service

"I'm always impressed by ATVOD staff who are willing and able to help (not always the case with other regulators!). ATVOD guidance is clear, concise and helpful."

Independent lawyer

"ATVOD gives a good overview of priorities, is transparent and discusses issues openly."

Compliance Manager - regulated VOD Service

"The interaction with stakeholders is excellent and ATVOD staff are always really helpful, spend time to help to resolve problems and provide an excellent service. The information that ATVOD provides is just right and saves stakeholders from having to source changes to regulations themselves. I am far more likely to act on and disseminate the information to my organisation quickly as a result and I engage with ATVOD more than with any other regulator as a result."

Business Affairs Manager - regulated VOD service

"ATVOD appears to listen to stakeholders and seems to take service providers' actions and approach into account when dealing with individual services. A recent Rule breach was dealt with effectively and swiftly by ATVOD, without any unnecessary fuss."

Provider of regulated adult VOD service

"As a member of the Access services working group it is very helpful to get everyone together to identify what needs to be addressed and done. It is good to discuss things openly and find ways to overcome difficulties".

Director of Engineering – regulated VOD service

What we could do better

"When there's a Determination against a service it would be good to know what the breach is, by sending email to alert people to any decision published on ATVOD's website."

Compliance manager – regulated VOD service

"I'd like to be informed about whatever the Working Group on Access Services has produced, especially technical reports"

Regulatory counsel - regulated VOD

"ATVOD could be more small business friendly. He has to read a lot of information and it would be helpful to have it in condensed form to make guidance more accessible to small scale providers."

Provider of regulated adult VOD service

We will aim to continue to improve our communications with our stakeholders while maintaining the high service standards they have come to expect.

B. Notifications & Investigations

Notifications

At the end of the year 120 services were notified to ATVOD, of which six were yet to be launched and three were subject to withdrawal requests on grounds of closure or relocation of the provider outside the UK. Setting aside those services, the figure was 111, which is the same as at the beginning of the year, although this masks a considerable amount of churn. 23 new services were notified during the course of the year, including eight adult services and six from holders of local TV broadcast licenses. Of the 20 services withdrawn from the directory of notified services during 2014-15, 13 were adult services which had either closed or transferred to a provider outside the UK. ATVOD considers that the closures and transfers of adult services are in no small part due to the fact that while UK providers offering hardcore pornographic material must have in place robust age verification mechanisms, those based off shore – but accessible in the UK – have no such obligations.

In addition to receiving new notifications and assessing withdrawal requests, ATVOD also manages updates to ongoing services, including the addition of new outlets and rebranding changes (e.g. 4OD becoming All4), to ensure that its directory is up to date. Since April 2014, service providers have been able to notify services and advise of changes and closures via a dedicated extranet service

Breach Investigations

ATVOD investigates breaches of the Rules applying to the editorial content of ODPS and deals with complaints from users of such services. It also investigates services which may be ODPS, but which have not been the subject of a notification. Such 'scope' investigations are normally targeted at cases where (a) the service had been the subject of a complaint to ATVOD, or (b) the service was providing adult content (because the content offered by these services is more likely to raise consumer protection issues), or (c) a service provider requests a determination.

ATVOD investigates potential breaches in accordance with a set of published procedures⁴.

Scope investigations

Including the 88 carried over from the previous year, a total of 149 scope investigations were dealt with in 2014-15:

- 127 scope investigations were closed during the period
- 22 scope investigations remained open at the end of the period

The number of scope investigations remaining open at the end of each year has fallen significantly year on year (see Figure 1, below).

Scope investigations are closed when ATVOD concludes that an ODPS is not being provided, when there is insufficient evidence that the service is within UK jurisdiction, or when ATVOD receives a notification. Scope investigations range in depth from brief initial assessments to more substantive inquiries involving a detailed analysis of the service and correspondence

⁴ See http://www.atvod.co.uk/uploads/files/ATVOD_Breach_Determination_Process_Jan_2014.pdf

with the service provider. In the most complex cases, the identity and/or location of the service provider may not be evident from the service itself. The duration of a scope investigation can therefore vary from a matter of days to months. If an investigation involves a service which has clear similarities to a service which is the subject of an outstanding appeal to Ofcom, the investigation may be put on hold until the appeal is decided, for example one of the investigations which remained open at the end of 2014-15 was on hold pending the outcome of an appeal by the provider of the Vice (Video) service.

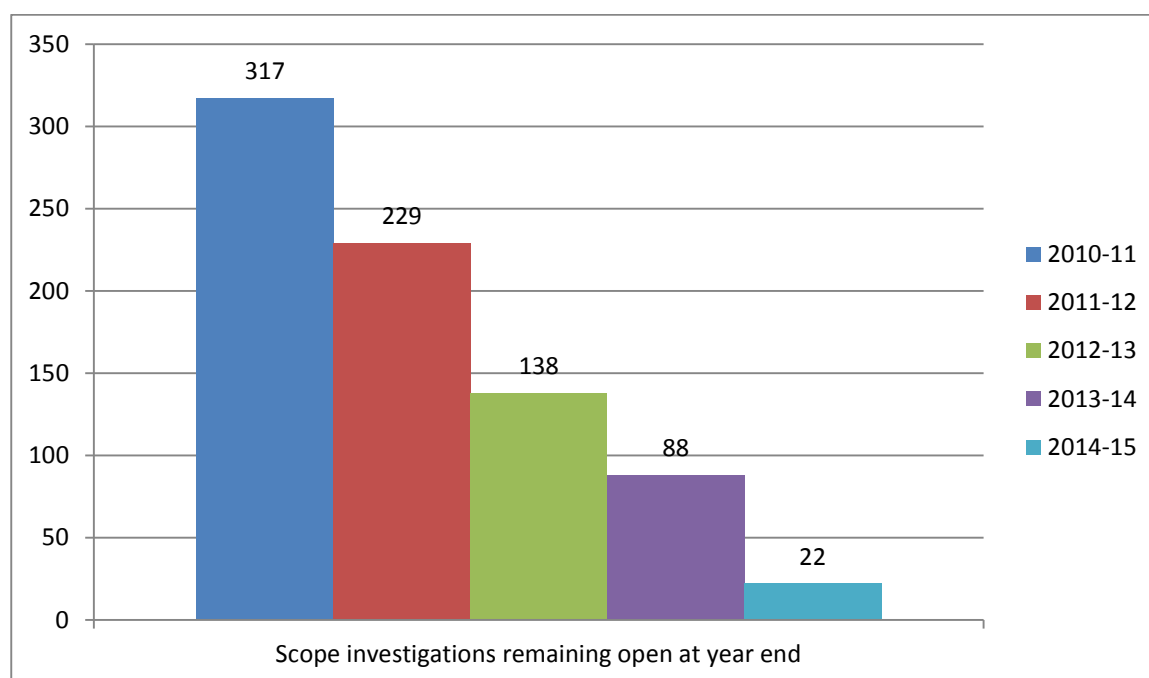


Figure 1

In some cases, investigations led to notifications without the need for a formal Determination that a breach had occurred. However, Determinations that a provider of an un-notified service was providing an ODPS, and was therefore in breach of Rule 1 (requirement to notify) were made in 16 cases during 2014-15. Of these:

- 7 resulted in new notifications
- 6 related to services which ceased operating or ceased to be ODPS following the determination or immediately prior to the determination⁵
- 3 were the subject of appeals which had not concluded at year end

Details of each Determination, and of any subsequent appeals or notifications or withdrawals, were published on the ATVOD website.⁶

In order to assist stakeholders in assessing whether a particular service was or might be an on-demand programme service, ATVOD publishes clear guidance on the relevant statutory

⁵ In a number of cases the service ceased to be an ODPS because editorial responsibility passed to an entity which was not established within the UK.

⁶ See <http://www.atvod.co.uk/complaints/determinations>

criteria. This guidance⁷ was developed with the assistance of a working party comprising members of the ATVOD Industry Forum.

Complaint handling

ATVOD is responsible for investigating complaints about potential breaches of the statutory requirements that apply to the editorial content of an ODPS. During 2014-15, these requirements were amended by the Audiovisual Media Services Regulations 2014. The new regulations banned on regulated VOD services any material which would be refused a classification by the BBFC for distribution on a DVD. They also provided further support for ATVOD's long standing view that providers of ODPS were required to keep material out of reach of under 18s if it would be classified R18 (for sale only in licensed sex shops) by the BBFC for DVD release.

Since 1st December 2014, matters covered by the statutory requirements, as reflected in the ATVOD Rules, have therefore comprised:

- material likely to incite hatred based on race, sex, religion or nationality (Rule 10);
- content which would be classified R18 by the BBFC or other material which might seriously impair the physical, mental or moral development of under 18s (Rule 11);
- sponsorship (Rule 12);
- product placement (Rule 13); and
- material which has been or would be refused a classification by the BBFC (Rule 14)

If an ODPS contains material which would be classified R18 by the BBFC or other material which might seriously impair the physical, mental or moral development of children, the material must be made available in a manner which secures that children will not normally see or hear it. An ODPS must not contain any material likely to incite hatred based on race, sex, religion or nationality, or which has been or would be refused a classification by the BBFC. An ODPS must also comply with requirements relating to sponsorship and product placement, as well as a number of administrative requirements.

In the period 1 April 2014 to 31 March 2015, ATVOD received 588 complaints submitted by 585 individuals⁸ and by two organisations ("Children's Charities' Coalition on Internet Safety" and a provider of a notified adult service). This compares with 560 complaints during the previous year, an increase of 5%. However, a significant number of complaints submitted to ATVOD each year concern issues – such as billing and technical problems – which are not covered by the statutory rules we enforce. The number of complaints which were potentially within remit rose by 29% during 2014-15. This follows a 12.5% increase in 'within remit' complaints during 2013-14.

⁷ See http://www.atvod.co.uk/uploads/files/Guidance_on_who_needs_to_notify_Ed_4.0_Feb_2014.pdf

⁸ One complainant submitted two separate complaints

The complaints related to services provided by 16 providers of notified services (down from 18 in the previous year) and to 47 services which were not notified to ATVOD at the time of the complaint (up from 31 in the previous year). Overall, the number of services about which complaints were received was up by 29% compared with the previous year, with ATVOD's workload once again mainly driven by services not notified to the regulator. Details of the ODPS providers and programmes to which the complaints related are included as Annex 2. This annex also details the services not notified to ATVOD which were the subject of complaints (some of which may be determined to be ODPS in due course).

All complaints are subject to an initial assessment. ATVOD is required to refer a complaint to Ofcom immediately if the contravention may be such as to justify the need for Ofcom to take urgent action under section 368L of the Act (suspension or restriction of service for inciting crime or disorder). No complaints which might justify such a need were received during the year. Following an initial assessment, the case may be closed (on the grounds that the complaint does not raise an issue which might constitute a breach of the ATVOD Rules), referred to the service provider to see if the issue can be resolved informally, or taken forward for a full investigation.

Of the 588 complaints received during 2014-15:

- 2 were undergoing initial assessment at year end
- 499 were closed after an initial assessment (no breach)
- 32 were referred to the service provider
- 55 were subject to a full investigation

Of the 55 complaints subject to a full investigation during the year:

- 10 complaint investigations were ongoing at year end
- 10 complaints were upheld and resulted in a breach finding by year end
- 35 complaint investigations resulted in a 'no breach' finding by year end

In relation to speed of complaint handling, during 2014-15 ATVOD assessed its performance by reference to the following Key Performance Indicators ("KPIs"), as agreed with Ofcom:

- Straightforward cases: 80% closed within 30 working days
- Complex cases: 80% closed within 60 working days
- Highly complex cases: 80% closed within 150 working days

ATVOD defines a complex case as one in which:

- there is a lack of clarity over the service to which the complaint refers which requires further information from the complainant
- there is a lack of clarity over whether the service is within the scope of the regulatory requirements which requires ATVOD to first investigate whether it is an ODPS
- the complainant has requested a review of ATVOD's determination

ATVOD defines a highly complex case as one in which:

- the identity or location of the service provider is disputed or not readily identifiable.

In 2014-15, ATVOD's performance against its KPI's was as follows:

- Straightforward cases: 99.8% were closed within 30 working days
- Complex cases: 80% were closed within 60 working days
- Highly complex cases: 62.5% were closed within 150 working days

In light of its increased workload, ATVOD recruited an additional case officer during the second half of the year and expects performance against the highly complex KPI to improve in 2015-16 as a result.

Breaches recorded as a result of complaints are detailed below along with breaches resulting from pro-active ATVOD investigations.

Breaches of the ATVOD Rules

As noted above, in addition to investigating complaints, in 2014-15 ATVOD carried out a number of targeted investigations. Together, complaints-driven and pro-active investigations resulted in 16 cases in which breaches of the Rules were determined. Notably, all the breaches in 2014-15 involved services not notified to ATVOD at the beginning of the investigation, whereas in 2012-13, all but two had involved notified services. Investigations involving services which are not notified are significantly more complex than those concerning notified services. In addition, during 2014-15 a significant number of the breaches involved services which operated across multiple websites (one service alone operated across 73 linked websites, another across 33 linked websites). This meant that the number of websites or other outlets involved in such breaches rose by 120% compared with the previous year and by 309% compared with 2012-13 (see figure 2 below).

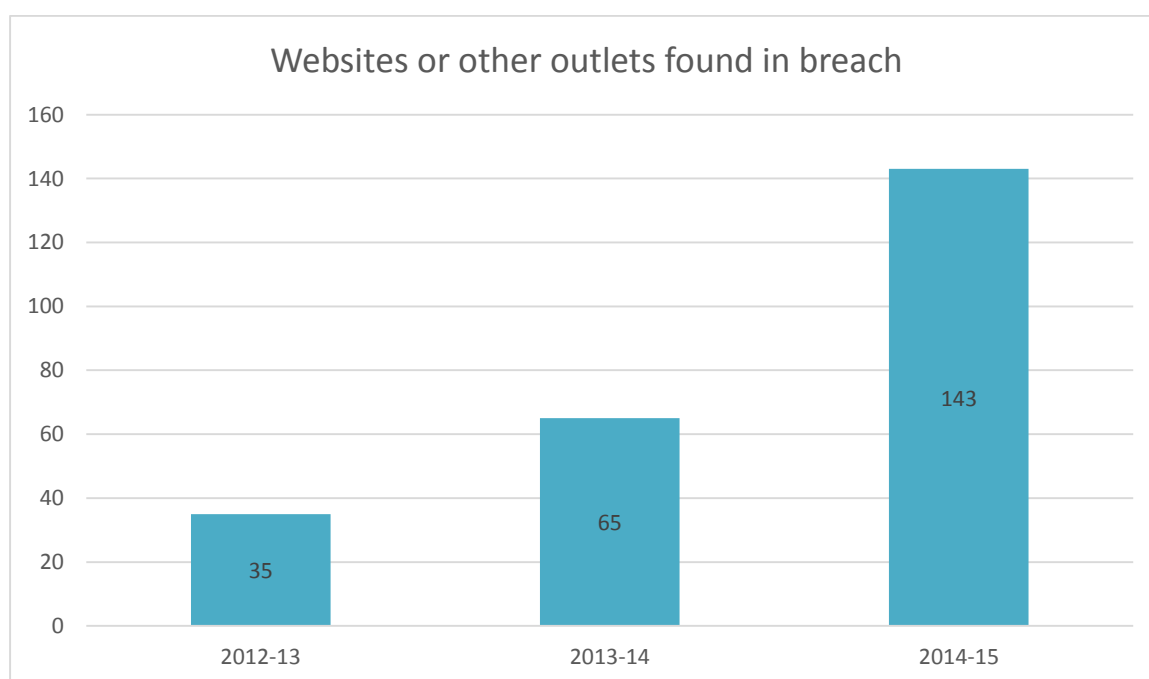


Figure 2

Such investigations and breaches primarily involved services providing 'adult' content. Most – but not all - cases involved services making available 'hardcore' pornographic material without having adequate safeguards in place to ensure that such material cannot normally be seen by under 18s. Doing so is in breach of ATVOD Rule 11 which requires that ODPS providing hardcore pornographic material, or other material which might seriously impair the physical, mental or moral development of under 18s, must have in place robust age verification and access control mechanisms. During the year, Rule 11 breaches were determined in relation to 12 services operating across 137 websites (compared with 16 breaches across 27 websites in 2013-14). In the cases involving adult services, breaches of Rule 11 occurred alongside breaches of Rule 1 (requirement to notify ATVOD) and Rule 4 (requirement to pay a fee).

Cases in which breaches were found to have occurred in 2014-15 are detailed below:

Adult services found in breach:

Rule 1 – failure to notify & Rule 4 - failure to pay fee

- Woman Worship – Mr Lee t/a WW Publications

Rule 1 – failure to notify & Rule 4 - failure to pay fee & Rule 11 – protection of children

- Extreme Movie Pass – Exxxtreme Entertainment Ltd
- Candy Girl Productions – Ms Jenkins⁹
- Daisy Rock UK – Brightonrock Communications Ltd¹⁰
- Panties Pulled Down – Frank Hollins¹¹
- Monty's POV – Floyd Mathias
- Shebang TV – Digital One Media Ltd
- Hardglam – James Farey
- One Stop Porno Shop – Elite Web Media Ltd
- Scott XXX – Mr Hosford
- UK Sirens – Baron Media Ltd
- Face Sitting Mistress – Jessica Wood
- Lads Next Door – Grasshopper Media Ltd

Non-adult services found in breach:

Rule 1 – failure to notify & Rule 4 - failure to pay fee

- Globe Player – Shakespeare's Globe Productions Limited
- Studio Talk - Markettiers 4DC Ltd

⁹ The service provider lodged with Ofcom an appeal against the determination that she was the provider of an ODPS subject to the ATVOD Rules. The appeal was outstanding at year end.

¹⁰ The service provider lodged with Ofcom an appeal against the determination that it was the provider of an ODPS subject to the ATVOD Rules. The appeal was outstanding at year end.

¹¹ The service provider lodged with Ofcom an appeal against the determination that he was the provider of an ODPS subject to the ATVOD Rules. The appeal was outstanding at year end.

- UK Column – Mike Robinson

In some cases the breaches were brought to an end without the need for ATVOD to take further action, indeed in four cases the breaches were rectified during the investigation process and in advance of the Determination being issued. However, in 10 cases the service provider did not take sufficiently quick action to bring the service into compliance and ATVOD therefore issued an Enforcement Notification under section 368I of the Act. Enforcement Notifications require that the service provider address specific issues within a given time period.

If a service fails to comply with an Enforcement Notification, ATVOD can take instigate civil proceedings or refer the matter to Ofcom for consideration of a statutory sanction. Nine service providers found to be in breach during 2014-15 were referred to Ofcom for consideration of a statutory sanction after they failed to comply with the terms of an Enforcement Notification within the deadline set. Seven subsequently became compliant and two cases were ongoing at year end. In the case of the service 'Hardglam', Ofcom considered the breach to be "*serious, repeated and reckless*" and imposed a financial penalty of £1,500.

As in previous years, a number of adult services found to be in breach of Rule 11 (which requires hardcore pornographic material to be kept out of reach of under 18s) indicated that they had, or intended to, transfer editorial responsibility for the service to an entity established outside the UK or move outside the UK, and therefore outside the scope of the ATVOD Rules. Although ATVOD requires evidence that any such transfer of editorial responsibility is genuine, it is clear that moving is an option for services which seek to avoid the obligations placed on UK providers.

Given the response of a minority of providers of adult services to enforcement of Rule 11, ATVOD continued to brief policymakers during the year on how children might better be protected from hardcore pornography online, and especially from such material on websites operated from outside UK jurisdiction.

Appeals

The regulatory scheme under which ATVOD operates allows for appeals to Ofcom against a Determination that a person is providing an ODPS or that a particular programme is, or is not, a programme included in an ODPS.

During 2014-15 the following appeals were lodged with Ofcom:

- Candy Girl Productions
- Daisy Rock UK
- Panties Pulled Down

None of the appeals had been decided by Ofcom at year end. However, during 2014-15 two appeals against Determinations made in 2013-14 were decided:

- Urban Chick Supremacy Cell (*appeal upheld*)
- Frankie and Friends (*appeal not upheld*)

In order to fall within the scope of the regulations, a service must satisfy a number of statutory criteria. One of these is that the principal purpose of the service is the provision of programmes the form and content of which are comparable to the form and content of programmes normally included in television programme services. The provider of the “Frankie and Friends” service had argued that the principal purpose of the website was to provide access to still images and that the videos on the service were ancillary to that purpose. The Ofcom decision supported ATVOD’s original ruling that the principal purpose of the website was to provide ‘tv-like’ programmes.

Assessment of how “tv-like” an on-line adult services is also lay at the heart of Ofcom’s decision to uphold an appeal by the provider of the website “Urban Chick Supremacy Cell” - which included audiovisual content featuring bondage, domination and sado-masochism - against an ATVOD determination in January 2014 that it was an on-demand programme service and therefore subject to regulation by ATVOD.

Ofcom concluded that the form and content of audiovisual media material on the “Urban Chick Supremacy Cell” site was not comparable to the form and content of linear television programme services. Therefore, the website did not meet the statutory definition of an on-demand programme service and was outside of the remit of the statutory rules.

The two appeal decisions demonstrate that there is sometimes a fine line separating adult services which are subject to the statutory rules from those which are not. UK services which feature the most extreme material are not subject to the video on demand regulations – which protect children from material which might cause them serious harm - unless they are considered ‘tv-like’.

One appeal lodged in 2013-14 remained undecided by Ofcom at year end:

- Vice (Video)

C. Access Services

ATVOD has a duty to encourage providers of ODPS to ensure that their services are progressively made more accessible to people with disabilities affecting their sight or hearing or both – primarily through the provision of programmes with subtitles and/or audio description and/or signing (known as ‘access services’). We discharge that duty in accordance with a plan developed with key stakeholders, including those who represent the interests of people with the relevant disabilities, such as Action on Hearing Loss (AOHL), RNIB, Sense and the National Deaf Children’s Society. In contrast with the regulatory regime for television broadcast services, ATVOD has no powers to enforce quotas or otherwise compel VOD providers to make their services more accessible.

ATVOD’s Access Services Plan reflects the particular statutory framework for VOD services and sets out our priorities and plans for encouraging access service provision in the period to 2016. Taking into account benefits to audiences and costs to industry, and research conducted by Ofcom, ATVOD considers that VOD service providers and platforms would maximise the consumer benefit if they concentrated their efforts on the provision of subtitling for deaf people and those with partial hearing, and audio description for people who are blind or partially sighted. ATVOD also encourages service providers to provide signing services in line with best practice guidelines, and/or to contribute to the British Sign Language Broadcasting Trust’s (“BSLBT”) fund for the BSL Zone on Film 4 and the Community Channel, as all BSL Zone programmes are provided on demand via the BSL Zone Player.

The plan confirms that ATVOD considers it reasonable to expect providers of large scale services, whose services can have the greatest impact on audiences, to take a lead in demonstrating best practice in the area and will focus its efforts accordingly. In doing so, ATVOD focusses its efforts on catch-up television and movie-on-demand services where content has previously carried access services on linear broadcast or cinema/DVD release. In particular, ATVOD focusses its efforts on service providers who are already required by Ofcom to provide subtitles / audio description on related linear services, along with providers of large scale movie-on-demand services. ATVOD seeks to work with both service providers and the platform operators who deliver those services, though such platforms are not subject to regulation by ATVOD. These priorities do not prevent ATVOD from engaging with other providers, as appropriate, and encouraging them to provide access services.

As part of that process of encouragement, during 2014-15, the ATVOD Chief Executive held individual meetings with senior personnel from all service providers and platform operators identified as key targets. We also continued to support the Working Group on Access Services (“WGAS”) – an ATVOD stakeholder group bring together under an independent chair technical experts from disability advocacy groups (AOHL, RNIB, Sense, NDCS) with technical specialists, VOD providers and pay-TV platform operators to consider how best to overcome the technical issues which hold back the provision of access services. The first report¹² of this working group – published in July 2014 - recommended a technical standard for subtitles which we hope will help providers to get existing subtitles up and running on a variety of on demand platforms. The second WGAS report is expected to be published in the summer of 2015 and will make recommendations in relation to provision of Audio Description, as well as updating on technical issues with regard to subtitling. WGAS has also begun to review ATVOD’s ‘Best

¹² http://www.atvod.co.uk/uploads/files/ATVOD_WGAS_Report_2014.pdf

Practice Guidance' relating to provision of access services in light of developments since it was first published in 2012.

Our Access Services Plan picks up on a number of issues identified in ATVOD's annual surveys of all providers of notified ODPS, the results of which are published each year. The 2014 survey was the first to be made compulsory using our powers under section 368O of the Communications Act 2003. As a result, our 2014 report¹³ provides the most comprehensive account yet of both the current levels of provision of access services on services operated by respondents and respondents' future plans for increasing the provision of such services.

The report revealed that:

- Public service broadcasters ("PSBs") like ITV, Channel 4 and Channel 5 again appear to be making the most significant progress in providing subtitled VOD services.
- These accessible services are still most commonly available via a computer on own-brand websites (the 4oD website, for example). Provision of subtitles via such websites is steadily increasing.
- In 2014 we also started to see accessible services provided via other platforms, such as mobile apps. 'Demand 5' and the 'STV Player' are good examples of services available with subtitles this way.
- Providers continue to identify persistent barriers to the provision of subtitles and audio description. The biggest problem seems to be delivery of 'accessible' programmes to multiple platforms in multiple formats. A programme may have been broadcast with subtitles, but the VOD version of the programme can be available via a range of platforms (set top boxes, websites, apps, connected TVs, etc.) all requiring different technical formats for the subtitles to 'work'.
- Although barriers remain, the 2014 survey revealed many more conversations between content providers and platform operators, in attempts to overcome these barriers.

In response, ATVOD:

- Welcomed the continued improvement of PSBs in the scale of their subtitle provision and expressed hope that ITV and Channel 4 would follow Channel 5's lead in spreading provision across outlets, from own brand websites to mobile and other platforms.
- Welcomed the work of commercial broadcasters who have provided access services in the last year, and encouraged other commercial providers to put into action any plans for provision as soon as possible.
- Encouraged commercial providers with very limited access services provision to expand provision to their larger outlets.
- Encouraged the major set top box platforms – Sky, Virgin and YouView – to ensure that their platform can process any subtitles supplied by their content providers. More than this, we urged platform operators to make sure that their platform's capabilities in this regard are known and understood by all their content providers.
- Made clear to VOD service providers that there remains much to be done especially for those with disabilities relating to sight.

¹³ http://www.atvod.co.uk/uploads/files/Provision_of_Access_Services_2014_Report_FINAL.pdf

- Identified encouraging the provision of on demand programmes with audio description as a particular focus for ATVOD over the next year.

A further survey of ODPS providers will take place in summer 2015, with a view to publishing the fifth Access Services Report before the end of 2015. This is likely to be the last survey before the promised DCMS review of access provision on VOD services in 2016.

D. Other Regulatory Activities

We provide below an update in relation to each of the objectives set out in the Corporate Plan not covered by the first three sections of this business review:

Statutory Functions

We aim to fulfil our statutory remit to the best of our ability as our resources allow

- We conducted a public consultation before introducing new guidance relating to the new statutory requirements introduced in December 2014 by the Audiovisual Media Services Regulations 2014 and ensured that investigatory staff were trained in the relevant standards.
- We agreed changes to our Designation to give us the powers to enforce the new statutory rules.
- We agreed a Memorandum of Understanding with Ofcom and the BBFC to ensure that consistent standards are applied in relation to material covered by the new statutory rules.
- We implemented our plan in relation to the European works duty.
- We submitted a report to Ofcom as required on the exercise of our designated functions for the year 1 April 2013- 31 March 2014.

Stakeholder Communication

We aim to engage with all our stakeholders to understand the issues and concerns of stakeholders and ensure an integrated approach to regulation

- We worked with Industry via the Industry Forum and its working groups to discuss concerns and propose solutions to issues including fees, access services, jurisdiction issues and the rules regarding commercial references.
- We presented to the Industry Forum on the new statutory requirements introduced in December 2014 and held a seminar for service providers in conjunction with the BBFC to ensure that regulated services were fully aware of the standards that would be applied.
- We engaged with those who represent the interests of consumers in order to understand the consumer experience of VOD and discuss concerns; including disability groups (e.g. Action on Hearing Loss, RNIB, Sense), consumer/child protection organisations (e.g. UKCCIS, Get Connected, Which?, Communications Consumer Panel) and others, including through conference presentations.
- We engaged with debates relating to the future of media regulation and other political developments, providing speakers at various public conferences and seminars, and providing briefings for policy makers on issues relating to children's access to hardcore pornography.
- We worked with other regulators to ensure an integrated and transparent approach to regulation of ODPS, especially through our continued support of the ParentPort website.
- We worked with other key stakeholders in order to share experiences and understand their key issues in relation to ODPS; including BBFC, IWF, UKCCIS and EPRA.

Policy Development and Research

We aim to undertake appropriate policy development to ensure best practice and relevance in the industry

- We worked with industry to develop a scheme to facilitate the provision of a determination confirming that a UK entity was the provider of an ODPS and was established within the jurisdiction of the UK for the purposes of the AVMS Directive.
- We put in place arrangements to seek feedback from complainants and service providers via an online survey before year end to ensure our procedures are operating effectively and develop our procedures accordingly.
- We continued to monitor the implementation of the AVMS Directive in other EU states, including through engagement with EPRA¹⁴ and the EU Commission and through published research.

Public Policy

We aim to engage in public policy debate to ensure that we are aware of current issues and able to actively participate to ensure the best outcome for consumers and industry

- We engaged with Government and Parliament on our regulation of ODPS, providing briefings for Parliamentarians and holding meetings with DCMS officials.
- We engaged in the internet child protection/R18 public policy debate through our engagement with Government, Parliament, the European Commission and child protection groups, and through participation as a speaker at relevant events. This included discussions with the UK payments industry over the possibility of preventing payments flowing from the UK to foreign websites which allow UK children to access to hardcore pornography.
- We have contributed to the wider public debate on content regulation, including working with our Industry Forum to set up a series of 'Future of VOD Regulation' seminars for service providers for the coming year.
- We have engaged with industry and other stakeholders on the development of new public policy positions, not least through discussion of proposed policy positions at Industry Forum meetings and through meetings with key stakeholders, including Ofcom.
- We have kept up-to-date with relevant market developments, including through presentations at Board meetings.

Internal Governance and Financial security

We aim to adopt principles of best regulatory practice to ensure good governance in all our decisions and to ensure our financial security

- We reviewed our governance policies to ensure appropriate best practice.
- We worked with service providers through the Fees Working Party to monitor developments which might affect the fee structure.
- We consulted on 2015-16 fees and thereby established fees at a level to meet the anticipated budget for that year.

¹⁴ The European Platform for Regulatory Authorities

- We ensured effective arrangements remain in place for Audit and Risk Control.
- We ensured continuing thorough oversight of finances through regular meetings of the Audit and Finance Committee.
- We published the 2014 Annual Report giving a full account of our 2013-14 activities and costs in July 2014.

Governance report

ATVOD is led by an independent Chair and has a Board comprising five independent and four non-independent members. Board decisions are not quorate unless independent board members are in a majority. Non-independent members are employed by a provider of a regulated service. Members are also Directors of the company.

The Directors who served the company during the period were:

Ruth Evans (Chair)

Nigel N Walmsley (Deputy Chair)

Daniel T Austin* (Resigned 23 September 2014)

Robin Foster (Appointed 8 May 2014)

Gidon Freeman* (Resigned 31 December 2014)

Sophie Jones* (Resigned 31 October 2014)

Alexander Kann*

Ian McBride

Nicola Phillips* (Appointed 3 November 2014)

James Tatam* (Appointed 1 January 2015)

Paul Whiteing

(* indicates non-independent member)

During 2014-15 we advertised for non-independent members to succeed Daniel Austin of Sky and Sophie Jones of Channel 4, who temporarily stood down during a period of maternity leave. The positions were advertised among all providers of notified service. Both recruitment campaigns involved oversight by a person of independence and distinction with no connection to either the industry or to ATVOD. James Tatam of Channel 5 succeeded Daniel Austin, and Nicola Phillips of ITV succeeded Sophie Jones.

Each year there are normally six Board meetings, two strategy meetings and numerous other committee and Board/Executive meetings. Minutes of Board meetings are published on our website once approved. All Board Members and Executive staff complete an annual appraisal and objective setting exercise to ensure that our goals and objectives are reflected throughout the company. The Board bi-annually undertakes an evaluation exercise to identify areas for improvement in its performance.

The Board has delegated some of its duties to Committees which meet as required:

- Determinations Committee: to discuss and agree borderline and disputed scope decisions and to consider complaints (and other potential breaches of rules relating to programmes) where an initial assessment has determined that the complaint does raise potential issues under the statutory requirements;

- Audit and Finance Committee: to consider in detail the financial affairs of ATVOD.

Our Executive normally comprises a full-time Chief Executive Officer, a part-time Company Secretary, a part-time Policy and Investigations Manager, two full-time Policy and Investigations Officers and a part-time Personal Assistant/Office Manager.

Like all similar organisations, we face a number of uncertainties which could impact our continued effectiveness as a co-regulator. We have developed a risk management plan and controls to protect and enhance our effectiveness. We regularly identify, analyse, respond to and control our risks, as documented on our risk register and will continue to monitor the uncertainties we face and develop responses as required.

During the year, ATVOD's accountants reviewed the conduct of the Executive in relation to the internal financial procedures and controls previously established and concluded that there were no issues of concern to be considered by the Board.

We have a Code of Conduct with which Board Members must comply. Members are required to disclose details of any public and charitable appointments, directorships, related employments, and relevant financial interests. All shareholdings of a material size in any regulated company (including those of partners and dependent children) are disclosed. These interests are recorded in the Register of Interests, which is published on our website.

Comprehensive Income Statement

Year ended 31 March 2015

	2015	2014
	£	£
REVENUE	457,659	507,378
Administrative expenses	(487,086)	(510,900)
Other income	100	598
OPERATING DEFICIT	(29,327)	(2,924)
Finance income	230	289
DEFICIT ON ORDINARY ACTIVITIES BEFORE TAXATION	(29,097)	(2,635)
Tax on deficit on ordinary activities	(46)	(58)
DEFICIT FOR THE YEAR AND TOTAL COMPREHENSIVE INCOME	(29,143)	(2,693)

Statement of Financial Position

31 March 2015

	31 Mar 15	31 Mar 14
	£	£
NON-CURRENT ASSETS		
Property, Plant and equipment	5,786	-
TOTAL NON-CURRENT ASSETS	5,786	
CURRENT ASSETS		
Trade and other receivables	3,494	15,944
Cash and cash equivalents	147,676	182,359
TOTAL CURRENT ASSETS	151,170	198,303
CURRENT LIABILITIES		
Trade and other payables	(44,479)	(56,671)
Current tax payable	(46)	(58)
NET CURRENT ASSETS	106,645	141,574
TOTAL ASSETS LESS CURRENT LIABILITIES	112,431	141,574
	112,431	141,574
RESERVES		
Retained earnings	112,431	141,574
MEMBERS' FUNDS	112,431	141,574

Sources of income

During the period, ATVOD received income from three sources: regulatory fees charged to ODPS, interest received on cash placed on short term deposits, and income from a data access request and from sale of assets ("other income").

	2015	2014
	£	£
Regulatory fees from ODPS	457,659	507,378
Bank interest received	230	289
Other Income	100	598
	<hr/>	<hr/>
	457,989	508,265
	<hr/>	<hr/>

In accordance with section 368NA(6)(a) and section 368NA(6)(b)¹⁵ of the Act, ATVOD hereby confirms that:

- (a) the aggregate amount received by them in the year ending 31 March 2015 in respect of fees required to be paid under subsection (2) for that year is £456,743¹⁶; and
- (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) for that year is £1,102.

Fee income was lower than that forecast of £506,722 due to the fact that the number of services qualifying for the highest fee rate and notified to ATVOD as being provided during the year ended 31 March 2015 fell short of the number estimated.

Following a public consultation conducted prior to the beginning of the year, the three rate banded fee structure based on the turnover of the service provider, with further concessionary rates for non-commercial providers and small-scale and micro-scale providers, was retained for 2014-15. Rates were frozen compared with 2013-14.

¹⁵ Section 3658NA(6) of the Act states: "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".

¹⁶ This figure differs from that of £457,659 set out above as 'Regulatory fees from ODPS' because the latter reflects adjustments made in relation to fees paid during 2014-15 for previous years.

Overheads

In the 2014-15 Fees Statement published on 13 June 2014, ATVOD estimated that the costs of performing the designated function during 2014-15 would be £562,372. In fact, in accordance with section 368NA(6)(c)¹⁷ of the Act, ATVOD hereby confirms that the costs of carrying out the relevant functions during the year ending 31 March 2015 were **£487,086**.

The main reasons for actual overheads falling short of those estimated in June 2014 are as follows:

- Staff and Board remuneration costs were lower than estimated, primarily due to one independent Board member position being unfilled for a short period and recruitment of a second case officer being delayed until shortly before the new AVMS Regulations 2014 came into force in December 2014;
- Professional fees were lower than estimated, especially in relation to legal advice;
- The budget included a contingency for bad debt and fee shortfall. Given the outcome in relation to bad debts, there was an underspend in this budget to set against the fee shortfall that has arisen during the year;
- The IT hardware and support costs were lower than expected, largely due to the adoption of a new three year capitalisation policy; and
- The research budget was left unspent in light of the shortfall in fee income that arose during the year.

Total expenditure of **£487,086** was broken down as follows:

	2015	2014
	£	£
Ofcom's recouped costs	21,996	20,883
Remuneration for staff & Independent Board Members	351,537	330,246
Rent	9,344	7,590
Other meeting space	4,681	5,025
Office running costs	10,685	12,393

¹⁷ Section 3658NA(6) of the Act states: "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".

Travel & other expenses (Executive & Board)	3,535	6,261
Professional fees	59,155	76,074
Insurance & bank charges	5,785	5,840
Complaints adjudicator	-	-
Recruitment fees	2,611	845
Staff training and additional support	2,211	3,269
IT & website support and development	14,959	50,364
Bad debt provision and write off	587	(7,890)
Total	<u>487,086</u>	<u>510,900</u>

Where appropriate, a further breakdown of ATVOD's costs is set out below:

Particulars of employees

The aggregate payroll costs were:

	2015	2014
	£	£
Wages and salaries	300,034	281,760
Social security costs	30,052	28,442
Other pension costs	21,451	20,044
	<u>351,537</u>	<u>330,246</u>

Included within payroll costs are the following amounts:

Chairman's salary	42,840	42,000
Deputy Chairman's salary	21,420	21,000
Other Independent Directors' salaries	31,067	31,500
Chief Executive's salary	107,161	105,060
Chief Executive's pension contributions	19,289	18,911
Other staff salaries	97,546	82,199
	<u>319,323</u>	<u>300,670</u>

The directors' aggregate remuneration (excluding national insurance) in respect of qualifying services were:

Directors' aggregate remuneration	95,327	94,500
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Office running costs

	2015	2014
	£	£
Telephone & internet	2,052	1,878
General expenses	8,633	10,515
	<u>10,685</u>	<u>12,393</u>

Professional fees

	2015	2014
	£	£
Legal fees	24,428	37,529
Accountancy, bookkeeping and payroll fees	29,446	29,585
Audit fees	5,280	4,600
Research	-	4,360
	<u>59,155</u>	<u>76,074</u>

The decrease in legal fees compared with the previous year was primarily the result of advice received with regard to the review of scope guidance conducted in 2013-14. No projects requiring similar levels of advice were undertaken in 2014-15.

Recruitment fees

	2015	2014
	£	£
Board members	1,811	565
Staff	800	280
	<u>2,611</u>	<u>845</u>

IT & Website Support and Development

	2015	2014
	£	£
IT hardware and hardware depreciation	1,487	1,344
IT support and website/database development	13,472	49,020
	<u>14,959</u>	<u>50,364</u>

IT development costs were significantly lower compared with the previous year because one-off costs associated with the development of a database and of an extranet facility for service providers in 2013-14 did not need to be repeated in 2014-15.

Operating Surplus / Deficit

The operating deficit for the period was £29,327 (2014: operating deficit £2,924).

This deficit is stated after charging:

	2015	2014
	£	£
Depreciation of owned assets	1,396	-
Auditor's fees	5,280	4,600

This deficit is significantly smaller than the deficit of £51,976 projected in the Statement on 2014-15 Fees published on 13 June 2014.

At year end, ATVOD had retained earnings of £112,431 (2014: £141,574). This comprised the accumulated surpluses generated over the period 2010 – 2015:

	31 Mar 15	31 Mar 14
	£	£
Dedicated Reserve	89,635	89,635
Operating Surplus	22,796	51,939
	<u>112,431</u>	<u>141,574</u>

ATVOD holds a dedicated reserve against the risk of unplanned costs in relation to (a) winding up the organisation (for example in response to changes in the legislative framework), or (b) a substantive legal challenge, such as a Judicial Review. As at 31 March 2015 £89,635 of the accumulated surplus was assigned to this reserve.

For 2015-16, the dedicated reserve has been reduced to £77,401. The remaining balance of retained earnings (£35,030) is to be set against the operating deficit that is considered likely to arise in 2015-16.

Debtors

	2015	2014
	£	£
Trade receivables (net)	1,102	330
Other receivables	1,150	1,150
Prepayments and accrued income	1,242	14,464
	<u>3,494</u>	<u>15,944</u>

Trade receivables balances represent the net amounts receivable from the providers of ODPS in respect of services notified and invoiced.

Accrued income relates to regulatory fees for services not yet invoiced at the balance sheet date. This figure was lower than in the previous year because in 2013-14 a service provider liable to pay a Super A fee of £12,302 had notified prior to year end, but had not yet been invoiced. No such event had occurred in 2014-15.

Creditors

Amounts falling due within one year

	2015	2014
	£	£
Trade payables	11,826	25,528
Other taxation and social security	11,402	10,478
Other payables	-	-
Accruals and deferred income	21,251	20,723
	<u>44,479</u>	<u>56,729</u>

The figure against other taxation and social security includes tax due on bank interest payments.

