

Proposals for the regulation of video on demand services

About Arqiva

Arqiva has its headquarters in Hampshire, with other major UK offices in Warwick, London, Buckinghamshire and Yorkshire. It now has 9 international satellite teleports, over 70 other manned locations, and around 9000 shared radio sites throughout the UK and Ireland including masts, towers and rooftops from under 30 to over 300 metres tall.

Arqiva has over 50 years' experience in delivering universal coverage broadcasting services with the highest levels of service 24/7, 365 days per year; in the communications sector the company supports cellular, wireless broadband, video, voice and data solutions for the mobile phone, public safety, public sector, public space and transport markets.

Major customers also include the BBC, ITV, Channel 4, Five, BSkyB, Classic FM, all 5 UK mobile operators, Viacom and Turner Broadcasting.

Arqiva is supported in all of the above by its extensive Spectrum Planning Group and a national field force, key assets underpinning Arqiva's rôle managing all of the technical aspects of the Digital Switch Over (DSO) from analogue television to digital (i.e. Freeview, of which Arqiva is a founder member) - the largest public policy infrastructure project other than the 2012 Olympics.

Arqiva is also the licensed operator of 2 of the UK's 6 Digital Terrestrial Television (DTT) multiplexes and has exploited its technical expertise to enhance the efficiency with which our multiplexes use their spectrum, increasing the number of video streams that can be delivered. Arqiva is also the licensed operator of the national commercial DAB multiplex, Digital One.

For broadcasters, media companies and corporate enterprises Arqiva has end-to-end capability ranging from -

- outside broadcasts (10 trucks including HD, used for such popular programmes as Antiques Roadshow, Question Time, Proms in the Park, and a wide range of sporting events);
- satellite newsgathering (30 international broadcast SNG trucks);
- 10 studios;
- playout (capacity to play out over 70 channels including HD);
- satellite distribution (over 1200 services delivered); to
- terrestrial transmission, the latter including DSO and mobile TV development.

Following the Competition Commission's decision earlier this year, Arqiva acquired the assets of *Project Kangaroo* from its backers, BBC Worldwide, ITV and Channel 4.

It is Arqiva's intention that Project Kangaroo/SeeSaw, which we hope to launch in the coming months, will offer UK consumers the best UK content in a single portal as a distinct competitor to US-owned VOD services such as MSN Video Player and Hulu, and thus help to widen the consumer appeal of VOD services further.

Introduction

Arqiva believes that the existing self-regulatory structure has provided the necessary comfort to a nascent market and agrees that, going forwards, a co-regulatory approach is the optimal solution.

Arqiva agrees with the Government that the scope of UK regulation should be limited to the narrow range of VOD services falling within the scope of the AVMS Directive.

Responses to questions

Question 1

a) Is the draft Scope Guidance set out above appropriate?

b) If you do not agree that the draft Scope Guidance is appropriate, please explain why and suggest alternative wording where appropriate.

While there will undoubtedly be services launched which challenge the Scope Guidance, this Guidance should be sufficient to provide the necessary certainty to most providers (and users) of existing VOD services.

However over the longer term it is unlikely that references to “programmes” which are “television-like” or otherwise are deemed to be in competition with television will remain viable as criteria for determining the scope of regulation.

Question 2

a) Is the proposed allocation of functions relating to set out in paragraphs 4.87 to 4.91 appropriate?

b) If you do not agree that the proposed allocation of functions relating to notification is appropriate, please explain why and suggest an alternative, where appropriate.

Yes, the proposed allocation of functions is appropriate.

Question 3

Do you wish to suggest alternative approaches to either of both:

a) the Scope Guidance; and/or

b) the proposed allocation of functions relating to notification?

No.

Question 4

a) Do stakeholders agree with Ofcom's proposal that, subject to the necessary progress being made over the consultation period, it would be appropriate for Ofcom to designate co-regulatory functions to ATVOD on 19 December 2009, or thereafter, when all relevant aspects of the ATVOD Proposal have been agreed, in relation to the regulation of VOD editorial content?

b) If you do not agree that it would be appropriate for Ofcom to designate ATVOD as the co-regulator for VOD editorial content, please explain why?

Arqiva agrees that it would be appropriate for Ofcom to designate ATVOD as the co-regulator for VOD editorial content.

Question 5

Do you wish to suggest alternative approaches to Ofcom's proposal to designate ATVOD as the co-regulatory body for VOD editorial content, and if so what are these?

No.

Question 6

a) Do stakeholders agree with Ofcom's proposal that it would be appropriate for Ofcom to designate co-regulatory functions to the ASA on 19 December 2009, in relation to the regulation of VOD advertising?

b) If you do not agree that it would be appropriate for Ofcom to designate the ASA as the co-regulator for VOD advertising, please explain why?

Arqiva agrees that it would be appropriate for Ofcom to designate the ASA as the co-regulator for VOD advertising.

Question 7

Do you wish to suggest alternative approaches to Ofcom's proposal to designate the ASA as the co-regulatory body for VOD advertising, and if so what are these?

No.

Question 8

a) Do our proposals, as outlined in Sections 4, 5 and 6 concerning: draft Scope Guidance; delegation of functions relating to notification; and the implementation of a new co-regulatory regime for VOD editorial content and VOD advertising have any likely impacts in relation to matters of equality, specifically to gender, disability or ethnicity?

b) Do you agree with our proposal to retain the Access Duty in relation to VOD?

c) Are there any other possible equality impacts that we have not considered?

Arqiva believes that the Access Duty will become increasingly important as VOD services become more mainstream, and certainly when they are easily accessible from linear television set top boxes or directly from television displays.

Arqiva agrees that Ofcom has expertise and a proven track record in this area, although this should not preclude the co-regulator for VOD editorial content playing a role in support of this Duty at some point.