

## Ofcom

### Annual Plan Team 2016/17

29 February 2016

#### Response to Ofcom's 2016/7 Annual Plan Consultation.

##### Introduction

A+E Networks® UK<sup>1</sup> broadcasts in the UK on four Ofcom licensed channels, *History*, *Crime & Investigation*, *Lifetime* and *H2*, and is a joint-venture between the UK broadcaster and platform Sky, and A+E Television Networks in the USA. A+E Networks® UK also broadcasts from the UK to Poland, Romania, the Netherlands, Scandinavia, and on a number of pan-European feeds, using Ofcom licences<sup>2</sup>.

A+E Networks® UK launched in November 1995 and now has 109 million subscriptions to its channels, which are available in 19 languages, in 90 countries, across the UK, Scandinavia, Benelux, Central & Eastern Europe, Sub-Saharan Africa and the Middle East. The UK portfolio of channels has grown more than 30% in audience share across 2012 - 2015.

While our US joint-venture partner, A+E Television Networks, has notable joint-ventures in other European member states, London's vibrant production and broadcast sector, including skilled labour, technical expertise, and legal and fiscal certainty, makes it a uniquely desirable place to invest in, and expand from.

Since A+E Networks® UK launched *The History Channel* in the UK in 1995 with 20 staff, our portfolio has grown to include 13 Ofcom licensed UK and European channels, and some 200 staff.

*With reference to specific projects outlined in your Proposed Annual Plan 2016/17, A+E Networks® UK would like to make the following points:*

##### The Audiovisual Media Services Directive ("AVMSD"):

From the brief outline of our UK and European activities above it will be clear how important the Country of Origin principle, which underpins the AVMSD, is to A+E Networks® UK, and in particular to our ability to make our content available across Europe from the UK. While some European markets, such as France and Germany for example, may be big enough to justify direct inward investment in the form of joint-ventures with local players or even stand-alone start-ups in the respective member state, smaller and newer markets such as Poland or Romania can require a more cautious approach. The Country of Origin principle enables A+E Networks® UK to broadcast localised content to these markets from the UK, without the upfront establishment and re-versioning costs that would be required if it were necessary to be licensed in each territory. As a consequence of this A+E Networks® UK is able to make content available in markets that might not otherwise be available, while simultaneously encouraging investment in the UK. By way of another example, A+E Networks® UK's pan-European *History* feed includes Estonia, Croatia and Bulgaria in its footprint: territories in, or to, which it might prove difficult to justify bespoke feeds in revenue terms.

A+E Networks® UK welcomes Ofcom's commitment to include the European Commission's ongoing review of the Audiovisual Media Services (AVMS) Directive as part of its Annual Plan 2016/17, and asks Ofcom defend the Country of Origin principle, which as we understand it, is under pressure in number of different ways from various Member States.

##### Promoting diversity and equality of opportunity in broadcasting:

Diversity and equality are key values for A+E Networks® UK, with 23% of our London-based workforce self-defining as being from an ethnic minority, while 53% of our senior team are women.

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<sup>1</sup> A+E Networks® UK's Ofcom television channels are licensed with Ofcom under the company name AETN UK.

<sup>2</sup> A+E Networks® UK also provides content to some 38 ODPS platforms across Europe on Ofcom notified services.

A+E Networks® UK is keen to participate in any consultations or working groups Ofcom may be conducting or facilitating on best practice in this area.

Reviewing how we approach the regulation of editorial content for on-demand programme services:

A+E Networks® UK welcomes Ofcom's adoption of on-demand regulation, but would encourage Ofcom to make note of, and where possible and appropriate, to adopt the best practices demonstrated by its predecessor, ATVOD. In particular A+E Networks® UK would point to the degree to which ATVOD engaged with, and responded to, its notified services and other stakeholders as an example of best practice. Further, A+E Networks® UK would be interested to hear if Ofcom was prepared, in time, to consider adopting a greater degree of stakeholder engagement in other areas of its work, such as the regulation of linear channels.

In line with its approach to linear content, A+E Networks® UK believes in applying the highest editorial standards to its on-demand content, and is a signatory to COBA's Statement of Practice for Video-on-Demand (VoD) Services.

It is notable however, that despite a generalised debate among stakeholders, regulators, legislators and commentators about a potential "levelling out" of regulation across converged linear and on-demand media delivery platforms and services, in practice the direction of travel appears to one of "levelling up" of on-demand regulations to meet the requirements of linear regulation.

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While A+E Networks® UK is not a Public Service Broadcaster, in common with many of our commercial competitors, we commission and broadcast a considerable amount of content that meets the criteria of being innovative, experimental, creative and diverse. With this in mind, A+E Networks® UK asks whether it would be appropriate for the contribution made by commercial broadcasters to this type of programme content to be reflected in Ofcom's 2016 PSB report?

Considering the watershed and other tools designed to protect children from inappropriate content:

A+E Networks® UK welcomes Ofcom's intention to review PIN protection on linear channels, other than pay-per-view and premium film channels. We think that for certain parts of our portfolio this would enable dedicated viewers to watch go-to programming at their convenience, while still providing an appropriate degree of child protection.

Following on from our comments above on on-demand regulation, we would like to raise the possibility of a wider ranging review of linear and on-demand regulation that would consider the overall appropriateness and competitiveness of content regulation in a converged world. Mindful of the possible outcomes of the current AVMSD REFIT exercise being conducted by the European Commission, this might be an approach that entertained the possibility of streamlining linear and on-demand regulation, rather than predominantly "levelling up" on-demand regulation, and might also considered a greater role for parental responsibility.

