

## Response to Ofcom's Future of on-demand programme services

### 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. A+E Networks® UK provides content to some 38 ODPS platforms across Europe on Ofcom notified services.

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.

Since we 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.

### *Response to consultation:*

*Question 1: Do you agree with Ofcom's proposal substantively to align procedures for investigating breaches of rules for ODPS with established procedures for linear television broadcasting, and do you have any specific comments on any aspect of the draft Procedures at Annex 5?*

*1.1 As an operator whose business is predominately in the arena linear broadcasting, we do not regard the proposed alignment of ODPS rules with linear procedures as problematic. We do however, recognise that this proposal, to the extent that it removes the right of a provider to appeal to a higher regulator, does potentially put smaller businesses, which might not have the resources to mount a judicial review, at a substantial disadvantage. As such this alignment may represent a barrier to justice for smaller operators and a disincentive to investment and innovation in the on-demand market.*

*Question 2: Do you agree with Ofcom's proposal not to charge fees under section 368NA of the Act, and specifically to cover the small incremental cost involved in becoming sole regulator (rather than co-regulator) of ODPS within the existing fees structure for television broadcasting licensees? If not, which alternative option do you consider would provide a proportionate, fair and pragmatic basis for apportioning these costs?*

---

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

**2.1** *A+E Networks UK recognises that Ofcom's proposal not to charge fees for 2016/17 under section 368NA of the Act is the most practical short term option. However, we have the following concerns:*

- *This option puts the full financial burden of regulating on-demand content upon linear channels, while allowing some sizable on-demand only players a free ride;*
- *As the on-demand market grows this will represent an increasingly unfair and uncompetitive burden;*
- *This option does not place the financial burden proportionately or fairly on the section of the on-demand sector that is likely to generate the most regulatory work for Ofcom.*

*For these reasons A+E Networks UK asks that Ofcom sets a fixed timeframe for consulting on, and arriving at, a more equitable fees regime that takes in account the considerable relevant revenues of some of our on-demand only competitors, and also the sections of the market that are likely to generate the most regulatory work for Ofcom.*

