

**Response by AETN UK to Ofcom's consultation on
*Procedures for handling content standards and licensing
investigations and sanctions.***

March 2017

A+E Networks® UK is a joint venture between A+E Networks® and Sky. Its portfolio of quality factual and entertainment channels includes HISTORY®, Lifetime®, Crime + Investigation®, H2® and new free-to-air channel BLAZE™.

A+E Networks UK launched in November 1995 and now operates 20 channels, broadcasting into 64 million homes across 90 countries in the UK, Scandinavia, Benelux, Central & Eastern Europe, Africa and the Middle East.

The venture has offices in London, Warsaw, Copenhagen, Amsterdam and Johannesburg.



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1 Queen Caroline Street, London, W6 9YN

In these comments AETN UK, has for the most part, chosen to focus on issues that are common to the proposed changes to the procedures for the:

- consideration and investigation of breaches of content standards for television and radio; and,
- consideration and adjudication of Fairness and Privacy complaints.

Broadcaster's Own Complaints Procedure and BBC First (content standards only)

Paragraphs A4.12 (proposed procedures for content standards) and A5.9 (proposed procedures for Fairness and Privacy) encourage complainants to follow a broadcaster's own complaints procedure before complaining to Ofcom. Complainants who choose this route can then complaint to Ofcom if they are unhappy with the broadcaster's response.

Paragraph 1.17 of *the A consultation on the new procedure for handling content standards complaints, investigations and sanctions for BBC programmes*, however introduces the BBC Agreement requirement of "BBC First".

In our view the requirement that the BBC should get an initial opportunity to deal with complaints, other than Fairness and Privacy complaints, should be extended and enhanced to the status of a presumption that all licence holders that can demonstrate they have a competent compliance and complaints framework in place, should have an initial opportunity to resolve a complaint directly.

In other words a "Broadcaster First" complaints procedure. Any complaint made initially to Ofcom that did not raise issues of serious and/or ongoing harm should be passed by Ofcom to the broadcaster to deal with first. This would, we think, encourage greater engagement and understanding between viewers and broadcasters and, hopefully, reduce the number of complaints Ofcom has to investigate.

The Role of Ofcom's Content Board

Paragraphs A4.30 (content standards) and A5.27 (Fairness and Privacy) clarify the respective roles of the Ofcom Content Board and the appropriate Board-delegated Ofcom executive. The former being able to express an advisory opinion on Preliminary Views, the later able to make decisions.

A footnote to both paragraphs states:

"The Content Board is a committee of the main Ofcom Board established by the Communications Act 2003. It includes members with extensive broadcasting experience."

While we welcome this clarification, we would be interested to understand in what circumstances an Ofcom executive would decide not to act upon the advice of a Content Board member with "extensive broadcasting experience".

Oral Representations (content standards)

AETN UK welcomes Ofcom's proposals in paragraphs A4.33 to allow broadcasters to make written requests to Ofcom to make representations in an oral hearing. For investigations into breaches that are serious, or will have serious consequences for the broadcaster, the complainant or in a wider context, or where the issues raised are complex, we would argue that there should be a presumption in favour of granting a broadcaster an oral hearing.

Not Previous Involved

AETN UK welcomes the clarification in paragraphs A4.35 (content standards) and A5.33 (Fairness and Privacy) that advice from the Content Board members and decisions from senior Board-delegated Ofcom executives, will be provided at the Final Decision stage by parties not previously involved.

Publication of Decision

AETN UK questions why in paragraphs A4.36 and A5.34 the pre-publication notice period Ofcom gives to a broadcaster has been reduced from 48 hours to "one day", and the text "for the purposes of correcting factual inaccuracies" has been replaced with "for information only".

We do not think the "one day" provides sufficient time to process such an important document, and are concerned that this introduces the possibility of serious errors of fact and judgment be published in *the Bulletin* that could then only be rectified after long and expensive administrative action.

To the extent that the representations above are relevant, please also consider them in relation to the consultations on breaches of broadcast licences, sanctions and on-demand procedures.

Ends.