

**Response to Ofcom's Proposals for the Setting of Regulatory Fees for Video on Demand Services
for the Period up to 31st March 2011**

This response is provided by The Walt Disney Company with reference to the possible options for setting the 2010-2011 fees for video on demand services as set out in the proposals issued by Ofcom and ATVOD dated 26 March 2010.

We apologise for the lateness of our submission in response to the joint consultation undertaken by Ofcom and ATVOD. We appreciate that Ofcom and ATVOD are working to a tight timeframe and therefore have provided a brief outline of our opinions in response to the regulatory fee options.

Revenue Option

We do not consider that a revenue based option is appropriate at this stage. As you point out in your consultation document, in certain circumstances it will be difficult to attribute revenue to VOD services. Further, the VOD industry is still in the early stages of its development and many VOD services will be generating little, if any, revenue. Indeed, as you recognise in paragraph 3.35 of your consultation document, some VOD services are provided for free, with no revenue being generated either by the platform operator or by the service provider. We also concur with your conclusion that revenue is not necessarily a measure of the regulatory activity that a service will generate.

Flat-Rate Fee Option

We agree that the imposition of a flat-rate fee is the most appropriate option for the period up to 31st March 2011. Such an approach should be the most straight-forward, simple and cost-effective option to administer and would provide a degree of certainty to industry and ATVOD alike.

However, determining whether the proposed flat rate fee of £2,500 is fair and proportionate will depend on how the scope of the Regulations for VOD services is applied. Whilst we support the application of a fixed fee charging regime for the initial period, it is clearly vital that ATVOD takes a reasonable and balanced approach when identifying the services to which such a fee will attach. Where service providers are offering a VOD service to more than one platform, it is quite likely that minor differences in programme provision will arise – from platform to platform - in any particular time period. It is equally likely that, in conjunction with such variations in the precise programming offer, different language tracks or bonus material will be made available to different platforms from time to time. Such adjustments – which are a fundamental feature of emerging VOD services - should not lead ATVOD to the conclusion that multiple fees should be payable for what will, in essence, be the same VOD service.

We would be happy to discuss our views with you in more detail.

The Walt Disney Company Limited

3 June 2010