[GB] Ofcom Issues Determinations in Two ODPS Appeals

IRIS 2013-10:1/26

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On 27 September 2013, Ofcom, the UK communications regulator, overturned two determinations by the Authority for Television On Demand (ATVOD) for editorial content.

Ofcom oversees providers of on demand programmes via the internet, On Demand Programme Service (ODPS) providers. Ofcom works in conjunction with two co-regulators: the ATVOD and the Advertising Standards Authority (ASA) for advertising content.

ATVOD makes determinations, appealable to OFCOM, regarding what constitutes an ODPS; whether or not a person is providing an ODPS; what constitutes a programme included in an ODPS; and whether someone providing an ODPS has contravened any of the regulatory requirements.

The appeal determinations in question were lodged by Playboy TVUK/Benelux in respect of Playboy TV and Demand Adult. Both Playboy TV UK/Benelux Ltd and Playboy Plus Entertainment are part of the Manwin Holding SARL group of companies.

Playboy TV UK/Benelux Ltd lodged representations with ATVOD that control of the services had passed to Canadian company, Playboy Plus Entertainment after ATVOD had found against PlayboyTV UK/Benelux for infringing ATVOD rules requiring UK-based “porn-on-demand websites to keep hardcore porn behind effective access controls which ensure that under 18s cannot normally see it. The UK company was later fined GBP 100,000 in relation to those breaches.”

In overturning the ATVOD determinations, OFCOM found that Playboy TV UK/Benelux Ltd “no longer exercised “general control” over the selection and organisation of the programmes comprising the relevant video on demand services, having furnished further evidence that key parts of their operations were now being run from Canada.” Thus, hard-core internet porn can continue to be provided to UK consumers “beyond the reach of British regulation.” The GBP 100,000 fine stands, as “the UK company was the provider of the relevant services at the time the breach occurred.”

Appeal by Playboy TV UK/Benelux limited against a Notice of Determination by ATVOD that it was the provider of the service “Playboy

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TV" (www.playboytv.co.uk) as at 14 september 2012 [Published 27/09/2013]

http://stakeholders.ofcom.org.uk/binaries/enforcement/vod-services/playboy-tv.pdf

Appeal by Playboy TV UK/Benelux Limited against a Notice of Determination by ATVOD that it was the provider of the service "Demand Adult" (www.demandadult.co.uk) as at 14 September 2012

http://stakeholders.ofcom.org.uk/binaries/enforcement/vod-services/demand-adult.pdf

Notice of Determination that Playboy TV UK/Benelux Limited is the provider of the service Demand Adult (www.demandadult.co.uk)

http://www.atvod.co.uk/complaints/determinations/2012-determinations/demand-adult-Oct-2012

Notice of Determination that Playboy TV UK/Benelux Limited is the provider of the service Playboytv.co.uk (www.playboytv.co.uk)

http://www.atvod.co.uk/complaints/determinations/2012-determinations/playboytv

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