



ATVOD

THE AUTHORITY FOR TELEVISION **ON DEMAND**

The Scope of VOD Regulation in the AVMS Directive

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Director of ATVOD

Co-regulation in the UK

- Co-regulatory model (Ofcom, ATVOD, Industry)
- ATVOD designated by Ofcom
- Notification requirement
- Rules & Guidance
- Fee
- Just under 200 notified services (189 as of 15. May 2012)



Scope Determination

- Principal purpose of [the service] is the provision of [TV-like] programmes
- Art 1 (1) (a) (i) AVMS Directive as implemented in s.368A (1) (a) Communications Act 2003
- Form and content of the programme are comparable to the form and content of TV broadcasting
- Art 1 (1) (b) AVMS Directive as implemented in s.368A (1) (a) Communications Act 2003
- Editorial responsibility: effective control of selection of programmes and their organisation in a catalogue
- Art 1 (1) (c) AVMS Directive as implemented in ss.368A (c) and (4)



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Principal Purpose

- Example 1: SUN NEWSPAPER
- Ofcom Appeal

<http://www.thesun.co.uk/sol/homepage/>

<http://www.thesun.co.uk/sol/homepage/video/>



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The Sun | The Best for News, Sport, Showbiz, Celebrities | The Sun - Windows Internet Explorer

http://www.thesun.co.uk/sol/homepage/

File Edit View Favorites Tools Help

Convert Select

bing The Sun Video

Favorites Suggested Sites Web Slice Gallery CCLS Remote Desktop We...

The Sun | The Best for News, Sport, Showbiz, Cele...

Home Video News

Politics

Hold Ye Front Page

Captain Crunch

Sun City

SPORT

Football

Dream Team

Cricket

F1 & Motorsport

SHOWBIZ

Bizarre

Film

Music

Biz Sessions

TV

Britain's Got Talent

TOP STORY

TWO SUSPECTS HELD AFTER FIRE KILLS 5 KIDS

Dad of 17 in desperate bid to save children

TORTOISE STOLEN AFTER 63YRS WITH FAMILY

TWO SUSPECTS HELD AFTER FIRE KILLS 5 KIDS

CAMERON: MY BUTT'S BETTER AT 40 THAN 20

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Latest Celeb News

Nude Beckinsale's Kate escape is out of this Underworld

STAR wriggles around in the buff in scene from new DVD

3 comments

Mark's having a Wright laugh in LA

FIRST glimpse of Hollywood Nights show - and Mark's already hitting on the girls

9 comments

TV's My-lean Klass looks just peachy

MUM-of-two shows off her super trim body in tight blue jeans and tiny top

26 comments

Kim Bra-dashian flashes in sheer top

REALITY star looks a bit

Internet | Protected Mode: On

21:56 11/05/2012

The Sun | The Best for News, Sport, Showbiz, Celebrities | The Sun - Windows Internet Explorer

http://www.thesun.co.uk/sol/homepage/video/

File Edit View Favorites Tools Help

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Favorites Suggested Sites Web Slice Gallery CCLS Remote Desktop We...

The Sun | The Best for News, Sport, Showbiz, Cele...

SUN GIFTS Personalised

Showbiz »




Exclusive video of Rita Ora

Behind-the-scenes with the Brit RIP singer in her dressing room and gig

11/05/2012 | 04:10min

[Sun Exclusive](#)




Jon Hamm is Agony Uncle

MAD MEN'S Don Draper dishes out sensible advice to teenage girls

10/05/2012 | 04:00min

[Read full article](#)
[Celebs Exposed](#)




Gangster Squad - Official trailer

SEAN Penn, Ryan Gosling, Josh Brolin and Emma Stone tear up Los Angeles

10/05/2012 | 02:25min

[Film Trailers](#)

TV Biz »




Jon Hamm is Agony Uncle

MAD MEN'S Don Draper dishes out sensible advice to teenage girls

10/05/2012 | 04:00min

[Read full article](#)
[Celebs Exposed](#)




Lady Gaga in The Simpsons

POP superstar reveals 18 wacky outfits during her upcoming visit to

10/05/2012 | 00:20min

[TV Biz](#)




Christina boobs on The Voice

SINGER Aguilera bulges out of her dress performing The Prayer with Chris

09/05/2012 | 00:17min

[Read full article](#)
[TV Biz](#)

Page 3 »




Lucy is Professor Green's remedy

SEXY Page 3 babe stars in Professor Green's new music video, Remedy

01/05/2012 | 00:28min

[Page 3](#)




Pretty Pasty Page 3 Protest

SUN girl Rhian joins army of bakers at Downing Street demo against tax

28/04/2012 | 00:50min

[Read full article](#)
[News](#)




Page 3 Hollie's a water babe

NORTHERN stunner gets squeaky clean during a steamy photo shoot

11/04/2012 | 01:17min

[Page 3](#)

Babes »




Undie models predict Cup Final

TWO teams of underwear models play football to promote new range to predict FA result

05/05/2012 | 03:00min

[Read full article](#)
[Football](#)




Bar's nude underwear ad

SUPERMODEL Refaelli strips off to promote new range for Under.Me

04/05/2012 | 01:40min

[Read full article](#)
[Babes](#)



Take Kate Upton to work day

MODEL joins NBA stars Kevin Durant and James Harden for Skullcandy ad

04/05/2012 | 02:07min

[Babes](#)

Error on page.

Internet | Protected Mode: On

75%

21:52
11/05/2012

Principal Purpose



- How to define the relevant service?
- Domain, website or video-section???
- Looking at the whole of what is provided on the website (text, images, audio-visual) and considering whether there is a service whose principal purpose is the provision of TV-like programmes.
- There may be more than one service on the website

Principal Purpose



- How do they relate to each other?
- Is the video section ancillary to the newspaper and integrated with the newspaper?
- What other services does the website provide?
- Composite Test: not two separate stages

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Principal Purpose



- Recital 28 is not a blanket exclusion for newspapers
- Multi-factor test:
- ODPS own homepage? How prominent on the homepage?
- Not necessarily a homepage; separate point of entry styled as providing a service with its own independent identity
- Audio-visual material catalogued and accessed in separate section of the website?
- Styled, marketed, branded as TV channel?
- Duration
- Programme complete: can it be understood on its own?

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- Multi-factor test (...)
 - Mere extracts, clips without editorial integrity ('bleeding chunks')?
 - Access links between A-V material and other service, is the A-V content integrated or embedded?
 - Content links: is the A-V material merely an amplified or enhanced experience of the article (or is it the other way round)?
 - Does the A-V material need to be watched for the information to be conveyed to the user?
 - Is the A-V material the primary means of conveying the information?
 - How much A-V materials and
 - How prominent?

Principal Purpose

- Challenge: constantly evolving websites
- Users' expectation of regulatory protection and competition (Recital 24 AVMS Directive)
 - Given if principal purpose and TV-like
 - Dynamic nature of linear TV services
- Service- role of search engines, Youtube channels etc- how do users find services?
 - Far from clear yet

Principal Purpose

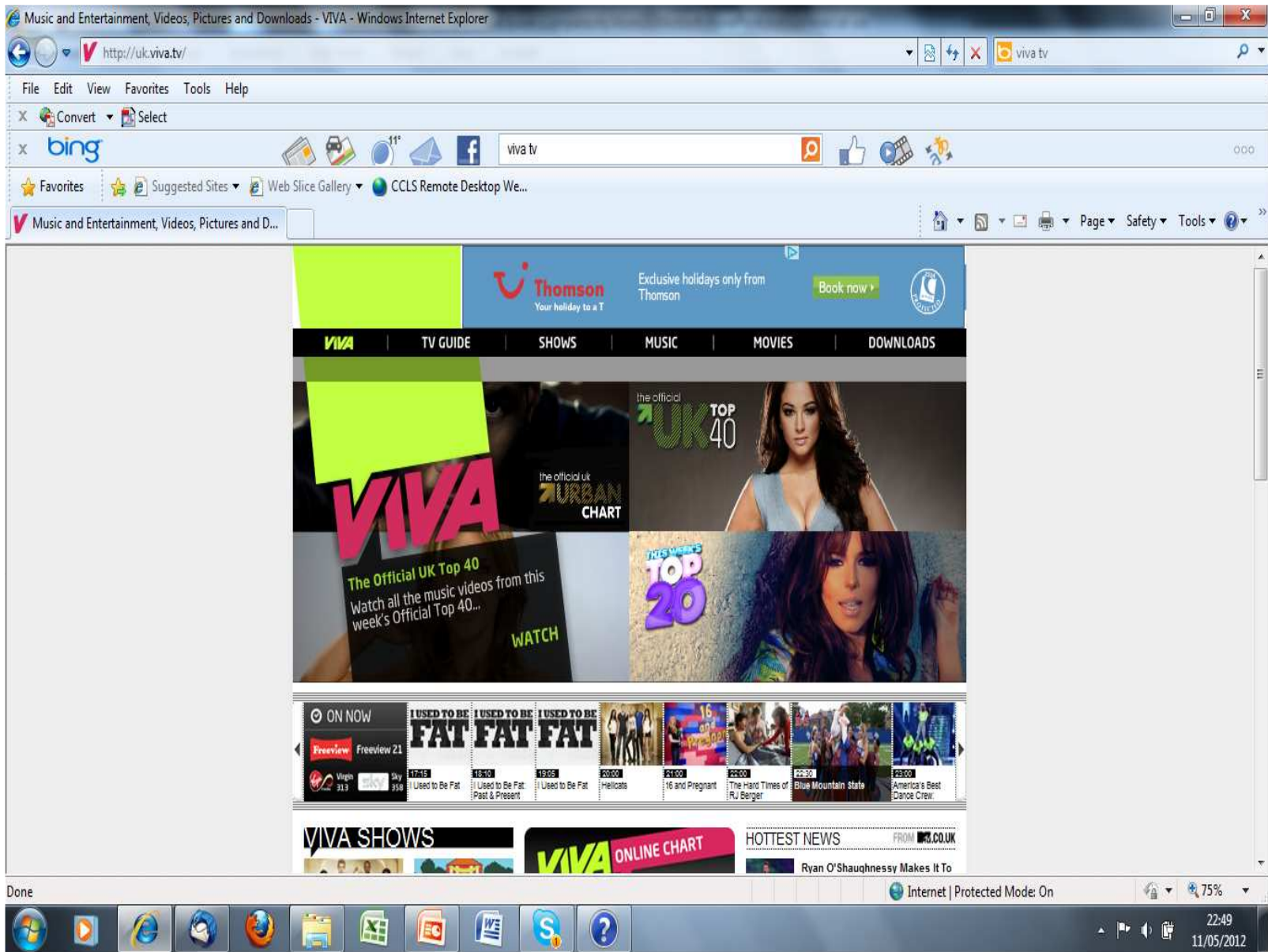
- Example 2: VIVA TV MUSIC (MTV Networks)
 - Ofcom Appeal

<http://uk.viva.tv/>

<http://uk.viva.tv/music/the-official-uk-singles-chart>



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Official UK Singles Chart - VIVA - Mozilla Firefox

File Edit View History Bookmarks Tools Help

Official UK Singles Chart - VIVA

uk.viva.tv/music/the-official-uk-singles-chart



Viva TV music

Most Visited Getting Started Latest Headlines Search engine liability ... ADR Research Nordic Walking Recipes Travel QMUL ATVOD ULIT Data Protection Reform London Aschamhomes

UK40


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THE OFFICIAL UK TOP 40 - 7TH MAY 2012



Young
Tulisa


- Call Me Maybe
Carly Rae Jepsen
- We Are Young
Fun Ft Janelle Monae
- Sparks
Cover Drive
- Too Close
Alex Clare
- Let's Go
Calvin Harris Ft Ne-Yo
- Drive By
Train
- Laserlight
Jessie J Ft David Guetta
- Starships
Nicki Minaj
- Somebody That I Used To Know
Gotye Ft Kimbra



TULISA

Tulisa Contostavlos (born Tula Paulinea Contostavlos on July 13, 1988), is a British singer songwriter, actress and television personality. She is best known for being half of award winning hip-hop group N-Dubz with her cousin Dime Contostavlos and best friend Richard...

Share this with your community.



zotero

22:44
11/05/2012

Mixed Content Websites

- Newspaper websites
- Adult websites
- Sports websites
- Radio websites



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Comparability

- Comparability test should be applied to programmes not services as a whole
- Eg additional materials
- EXAMPLE 3: Playboy TV
- BBFC category R18 (unsimulated, explicit sex and strong fetish)
- Prohibited under Ofcom Broadcasting Code



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Comparability

- Comparable does not mean identical
- Adult sex material in Pay TV: sexual arousal- (22.00-05.30 plus access restrictions)
- Cross-references to Playboy TV Adult Channel (overlap)
- Evasion argument



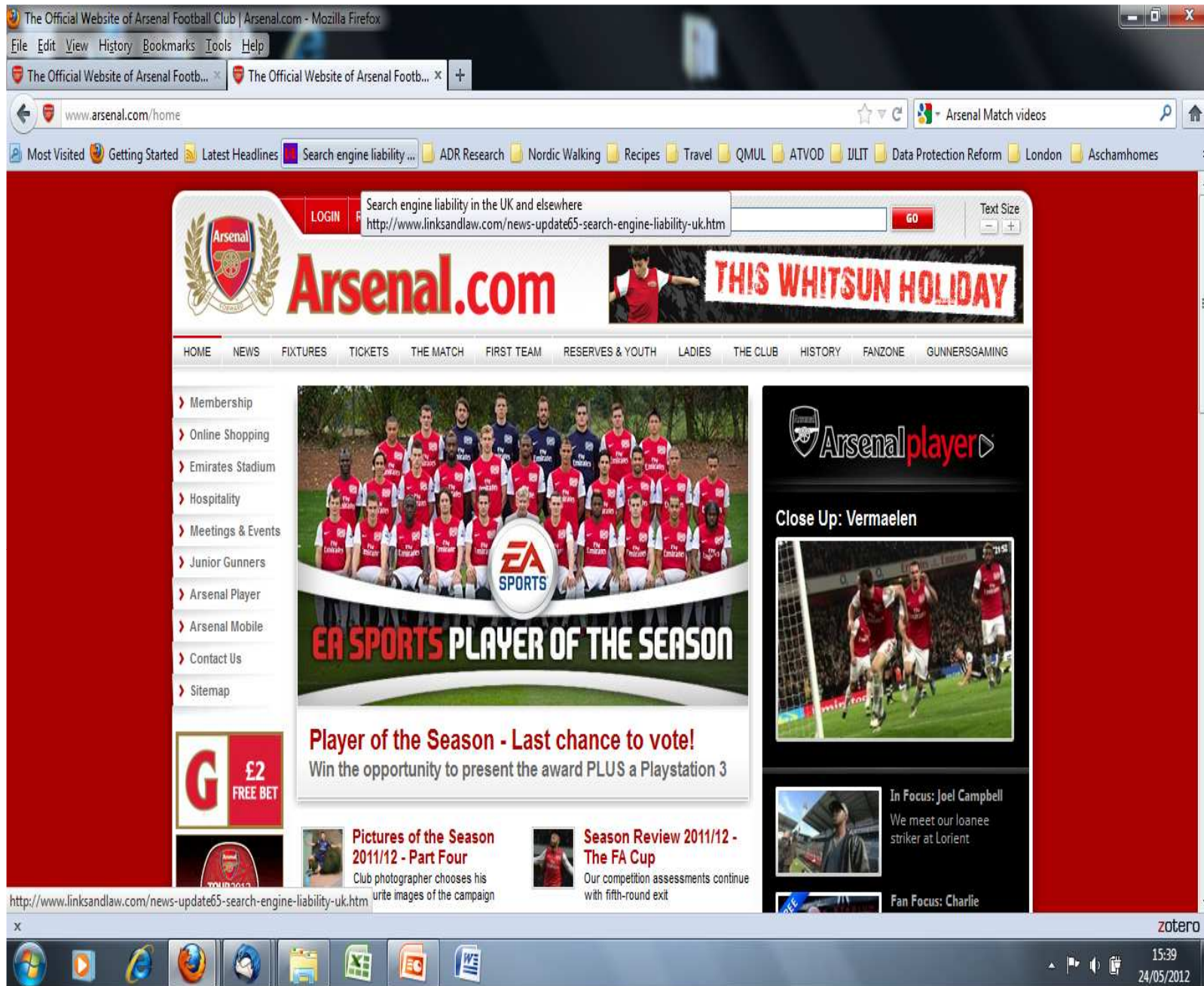
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Comparability

- General:
 - Self-contained items
 - Catalogue
 - Episodic, ongoing *
 - Sustained duration*
 - Introduced by music and title sequences
 - Credits to participants/producers
 - Dramatic/fictional conceits or plots



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The Official Website of Arsenal Football Club

Home | Arsenal Player

player.arsenal.com

Arsenal Match videos

Most Visited

Getting Started

Latest Headlines

Search engine liability...

ADR Research

Nordic Walking

Recipes

Travel

QMUL

ATVOD

ULIT

Data Protection Reform

London


Aschamhomes

New on Arsenal Player


Search engine liability in the UK and elsewhere


http://www.linksandlaw.com/news-update65-search-engine-liability-uk.htm

More great content on Arsenal Player this week




In Focus: Joel Campbell






Close Up: Vermaelen




Fan Focus: Charlie George

Close Up


Get up close and personal with the first-team squad




Close Up: Vermaelen



Close Up: Van Persie




Close Up: Walcott





Close Up: Jenkinson


A Day In Time

We re-live some memorable dates on the Arsenal calendar









Watch pre-season LIVE on Arsenal Player

We'll bring you all the best coverage of Arsenal's tour with daily bulletins and LIVE video from all the games

24TH JUL


Malaysia XI v Arsenal

27TH JUL

Manchester City v Arsenal

29TH JUL

Kitchee FC v Arsenal



COMING SOON...

MALAYSIA XI v ARSENAL

TUESDAY, JULY 24, 2012

ARSENAL v MANCHESTER CITY

FRIDAY, JULY 27, 2012

KITCHEE FC v ARSENAL

SUNDAY, JULY 29, 2012

ARSENAL IN NIGERIA

SUNDAY, AUGUST 5, 2012

Subscribe Now

http://www.linksandlaw.com/news-update65-search-engine-liability-uk.htm

zotero

15:38

24/05/2012

Stepping Back Exercise

- Whether the relevant audio-visual material is likely to compete for the same audience as linear TV broadcasts
- Whether the nature of the material and the means of access to it would lead users reasonable to expect regulatory protection
 - Dynamic interpretation
 - Access via the internet does not mean that user is not expecting regulatory protection (Playboy TV)
- Assumed if principal purpose and comparability
- Not a separate test in s.368 (1)



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Editorial Responsibility

- Selection & Organisation may be joint:
 - Avails list
 - Final selection eg space considerations
 - Branding
 - Metadata
 - Presentation on platform across EPG
- Starting point: agreement
 - Unless allocating responsibility where it plainly does not lie
 - Agreed conduct and practice



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Conclusions

- Convergence issue (newspapers, radio)
- Difficulty of defining the service and its principal purpose
- Dynamic nature of TV programming
- Regulatory expectations and convergence between linear and non-linear services
- Scope becoming more crystallized
- Editorial Responsibility



THE AUTHORITY FOR TELEVISION **ON DEMAND**

The logo consists of the text 'ATVOD' in a bold, white, sans-serif font, centered within a solid black rectangular background.

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