

BY BEN YATES



Dispatch From the U.K.

Is It Time to Choose a Side?

More Heavy-Handed Restrictions Likely as ATVOD Looks to Extend Power

You may have heard of an authority tasked with the regulation of video-on-demand content across the whole of the Internet. It is ATVOD, and it is from its basement offices in Windsor that the team of four permanent employees work to police video content on the web and enforce their regulations where they find breaches and violations. They are not just tasked with the regulation of adult video but all kinds of content from hobbyist YouTube channels to mainstream corporations such as Channel 4 and ITV.

All of the big players in the U.K. industry rolled over and notified as an on-demand service provider and put up no resistance to the bullish nature by which ATVOD stormed into the industry and demanded that businesses that had existed for years pay its fees.

If they were the mafia, their fees would be termed protection money and their business model would be extortion. At the time the fees were fixed and a one-fee-fits-all approach was adopted, but some industry pressure forced ATVOD into establishing a tariff-based fee structure that was fairer to smaller providers with lower revenues than the big corporates ATVOD had managed to bend over the proverbial barrel. That was 2009.

Throughout the following years ATVOD began more heavily enforcing their strict rules against video content providers online. During that time there have been a depressing total of three appeals in response to ATVOD's initial determination against their service from adult industry professionals. It is a shocking indictment of the U.K. industry as a whole.

Once a determination was issued, services have typically closed or made changes that have allowed them to pay up and notify as an on-demand program service (ODPS) for potential, future enforcement or to remove them from ATVOD's regulatory



remit all together, for example by removing video content all together.

I have to admit that I do hold a certain amount of contempt and resentment for those big services that were notified almost immediately, almost if they saw it as a badge to wear that they expected to use to garner a wider audience because they could finally declare they were "compliant," "responsible," or insert here any buzz word that makes officials positively spunk their pants.

The professionals that tend to head up these organizations are not pornographers, they are not producers and do not come from a background of creating content. They are businessmen, mostly working as part of company that has bought up many smaller media businesses and have inherited the adult titles as a result or they are investors who fancied having a go at working in the adult industry and the street cred that can bring.

They are embedded in organizations whose core motivation and expected result is their bottom line.

My contempt is further compounded by their hypocrisy; on one hand they claim they are committed to complying with ATVOD, which holds a strong principle of protecting children from adult content, and working with the organization to help establish a level playing field so that all serv-

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ice providers can benefit from a fairer, more responsible and less free industry.

It is true that these providers have secured their websites in a way that ATVOD deems acceptable and that makes it harder, though not impossible, for children to access if they wanted to (and I still have to see evidence that proves children pay for adult content), yet they share hardcore images and links to video on a daily basis via Twitter and other social networks.

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Ben Yates, founder of Pervlens Media, is an award-winning U.K.-based adult content producer and digital communications designer who has taken an active interest in defending the consumption and production of pornography, especially in the U.K.

Yates

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ATVOD's remit doesn't cover the use of social media services such as Twitter, but this is at clear odds with the regulators guidance to service providers regarding the use of services such as AdultWork.com or Clips4Sale.com, on which they advise producers not to use a service that doesn't give them the control over the payment processing and access control systems.

In fact when I spoke the ATVOD compliance team back in 2011 they still hadn't been able to familiarize themselves with common industry distributing practices or terminology.

I had to explain to them how I, and others, use Twitter to drive traffic to my website. During the explanation I mentioned how I may include a link to a hosted gallery that was part of my affiliate program. The ATVOD employee interrupted me and asked me point blank, "Affiliate program ... what is that?"

It was then that the penny dropped for me.

ATVOD is not about making adult content providers more responsible and ensuring they help to protect children surfing the Internet; it is about providing an instrument to Ofcom and the government through which greater censorship and control of the Internet can be seized.

If the principle of protecting children was at the forefront of Internet control there would be a lot more controls aimed at social networks and teen sites that encourage interaction with potentially anyone else in the world and which exposes them to very real danger such as grooming and cyber bullying.

Currently, mainstream services that stream video content online are regulated by ATVOD and are obliged to notify as an ODPS with the organization, and they face the same penalties for any breach they may make. However, there are virtually no restrictions placed upon their content as they do not distribute R18 content — but the services still provide content that in my view could more seriously affect them and perhaps even help them to justify a future crime.

In addition to mainstream services having an easier ride, international sites such as the tube site Pornhub.com escape too.



I used to adopt the position that we can't negotiate or debate with ATVOD and therefore help shape and influence their policies without 'being at the table' but that position has drastically changed.

ATVOD can only operate within U.K. jurisdiction, which automatically excludes a whopping 99 percent of the world's adult content from their regulatory powers. It is for this reason that ATVOD wants the U.K. to adopt a license model for adult sites distributing content to individuals based in the U.K. This is all part of the censorship creep some of us have taken the time to campaign and fight against.

In December, the Telegraph published one proposal that would shoehorn the Adult Provider Network (APN), an industry group of adult content providers, into the equation.

The model would not be limited to U.K.-based sites as the APN or another body would maintain a whitelist of approved sites and a blacklist of non-approved and non-compliant sites, such as Pornhub as it stands in its current format.

Under this model sites would have to implement strict age-verification controls in order to secure a place on the whitelist.

In order to become a member of APN you need to be an ODPS notified and in compliance with ATVOD's rules and regulations. A benefit afforded to APN members is "pooled verification data" which any APN member can search against previously verified customers for free before paying for a lookup through the verification provider.

But the current solutions available in the U.K. to small or even medium-sized providers leave a lot to be desired as they are simply not fit for purpose. There are only two marketing their services to adult providers, and they are far from easy to integrate into existing third-party processing services such as CC-Bill or Epoch.

One of these solutions works by verifying a person's age based on whether they have activated adult content serv-

ices on their mobile device. They sell their service, just short of being ATVOD-approved (ATVOD will not recommend or approve solutions).

The proposed license model should be a big concern for other markets, particularly in the U.S. The U.K. may not be the largest producer of adult content but we statistics have shown our little island to be the second largest consumer of adult content online in the world.

To me what is clear from both the recent changes to the Audio Visual Media Services regulations that were revised in December 2014 and the revival of ATVOD's license-based model is that ATVOD is working towards trying to establish a legal framework that they and the government can use to leverage action from other agencies and bodies when they need to such as the Credit Card Association including Visa and Mastercard.

Pete Johnson, the CEO of ATVOD, announced during his Q&A at XBIZ EU in 2013 that the regulator planned to approach banks and payment processors in an attempt to hash out an enforcement strategy where the financial organizations could withhold payments if a service is determined to be non-compliant.

The payment companies have been approached and announced during 2014 that they would consider such a proposal but only if the illegality of non-compliant services was clear and certain.

The recent changes go some way to clear up ambiguity and clarify the "illegal" status of services distributing R18 video content on-demand without notifying and paying their ATVOD fee.

I used to adopt the position that we can't negotiate or debate with ATVOD and therefore help shape and influence their policies without "being at the table" but that position has drastically changed.

I don't believe there is any negotiation or policy shaping to be had and the only action we can expect from ATVOD in the future is further, more heavy-handed restrictions — especially as they continue to lobby the government for an increase in power.

It has now sadly become an issue of what side to choose, not from a business perspective but from a perspective of what kind of a world we want to live in and just how much control we want a non-transparent, semi-government body to have over something as crucial to life as the Internet is. ❧

Hardcore

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the government and handed to NameJet to sell in the open market.

"I will not bid or pay for the domain name," Hardcore told XBIZ. "I'm already a million miles down the road," he said. "I am Max Hardcore. I own my name, all my movies, and enforce all my trademarks and copyrights."

"I'm moving forward with a positive attitude, and making the most of every day."

MaxHardcore.com was released by the Justice Department a month ago after it was held at bay for seven years.

The MaxHardcore.com domain was seized after Hardcore was convicted on obscenity counts and spent 30 months of a 46-month federal prison sentence. Once released from prison, Hardcore continued in the porn production biz and started distributing content on MaxHardcore.com with new remastered "director's cuts" in high definition.

In December, Hardcore told XBIZ that he'd bid on the domain name. "I'm gonna take it back!" he exclaimed. But, apparently that didn't turn out to be the case. ❧

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quite possible that the new join page you just copied is part of a split test and it may be a page the company abandons two weeks later.

The safest way to come up with an overall site plan and a design and sales strategy is to look at a number of leading sites in your niche, say a dozen of them. Make notes on what they all have in common. For example, if we look at join pages of several top companies it's obvious that they all go with a similar method of condensing and simplifying, no giant headers, etc. That's often a safe starting point for optimizing a site and turning it into a sales machine. ❧