



## **Satellite and Cable Broadcasters' Group**

### **Response to the Consultation on the review of procedures for handling broadcasting complaints, cases and sanctions**

#### **General Comments**

The SCBG welcomes Ofcom's move to make all three sets of guidance more consistent and considers the revision to be a much clearer guide to procedure in this area. Whilst we have some concerns about certain aspects of the changes we feel that these could be addressed with minor amendments to the text Ofcom puts forward.

#### **The Consultation**

SCBG members are concerned that some of the issues addressed in the re-write of the guidance have not been discussed as fully with those who will be affected as might be expected. Specifically, representation from 3<sup>rd</sup> parties and the publication of findings prior to any request for a review could have a major impact on the result of any Ofcom decision on a complaint. We do not feel that in the context of this consultation there has been sufficient open dialogue on the possible implications of these proposed changes for broadcasters. In the interest of ensuring the consultation is thorough, the SCBG requests that some additional time be given to the consideration of these new elements of the code.

#### **Directly Affected 3<sup>rd</sup> Parties**

We are particularly concerned by the move to solicit representation from directly affected 3<sup>rd</sup> parties in the event of a complaint. It is unclear what criteria would be used to identify who those 3<sup>rd</sup> parties might be. SCBG members believe this could make the investigation process more complicated and cumbersome than is currently the case.

#### **Review Requests**

Whilst we welcome the right to request a review for both sides of a complaint and the clarification of who can make that request, we are concerned that this could mean that investigations are unnecessarily extended or adjudications changed due to repeated or aggressive review requests. This could result in more judicial review challenges to Ofcom decisions. A balance needs to be struck between the right to request a review and ensuring a fair and swift outcome to an investigation.

#### **Interim Publication of Adjudications**

Given the right for both sides to request a review will be part of the new guidance, we would suggest that an adjudication not be published immediately until it is clear whether there will be

any request for a review from either party in the complaint. There could possibly be a time limit on when review requests can be made in order that the adjudication be published as soon as possible. Our main concern is that the result of any successful review may be overshadowed by the publication of a negative interim finding and the attendant negative press coverage that may bring.

### **Notification of a Sanctions Decision**

The SCBG considers the 24 hour notice of a sanctions adjudication before it is released into the public domain to be too short. As many SCBG members are multi-national companies, this is often not long enough to ensure that all of the people who need to be have been briefed. We believe 48 hours is a more realistic proposition in this case. Given that there is a confidentiality agreement in place relating to investigations we cannot see any negative effect of extending the time between releasing a sanctions decision to the affected parties and its publication.

### **Collecting Evidence**

SCBG members are concerned that 5 working days to track down a recording in the event of a complaint is not always a realistic proposition. A slight extension of this deadline in order that compliance teams can be sure of providing the correct evidence would be helpful.

### **Additional Comments**

Whilst SCBG members agree with the setting of realistic timelines for investigation and adjudication, we would not want this to affect the vigour of investigation in more complicated cases. We are aware that the new guidance offers these targets as a best practice initiative and accepts that sometimes more time will be needed but we think it is important to ensure that precedence is given to a thorough investigation of the complaint and any evidence submitted over the attainment of targets set for completion.

Finally, it would be useful to know what the composition of the new committees will be as soon as possible.