Ofcom broadcasting codes: proposed amendments to the Broadcasting Code and the Code on the Scheduling of Television Advertising

Response from COBA to Ofcom

December 2020

COBA THE ASSOCIATION FOR COMMERCIAL BROADCASTERS AND ON-DEMAND SERVICES

Introduction

1. COBA is the industry body for commercial broadcasters and on-demand services. COBA members provide a wide range of content on different types of platform, including pay, free-to-air, broadcast and online. Their content and services encompass news, factual, children's, music, arts, entertainment, sports and comedy. Members include household name brands and niche services, as well as domestic and multinational companies.

2. COBA members are one of the fastest growing part of the UK television industry, and are increasing their investment in jobs, UK content and infrastructure. They make this investment without public support, direct or indirect.

    - Scale: In the last decade, the sector has increased its turnover by 30% to more than £5 billion a year. This is rapidly approaching half of the UK broadcasting sector's total annual turnover, and has helped establish the UK as a leading global television hub.[1]

    - Employment: As part of this growth, the multichannel sector has doubled direct employment over the last decade.[2]

    - UK production: In addition, the sector has increased investment in UK television content to a record £1 billion m per annum, up nearly 50% on 2009 levels.[3]

    - UK audience share: COBA members have a 30% share of linear viewing, achieved without benefits such as EPG prominence.

3. For further information please contact Adam Minns, COBA's Executive Director, at adam@coba.org.uk or 0203 327 4101.

[1] Ofcom International Broadcasting Market Report 2013
[2] Skillset, Television Sector – Labour Market Intelligence Profile
[3] COBA 2019 Content Report, Oliver & Ohlbaum Associates for COBA

Response

1. The proposed changes will cause significant disruption to licence holders using the ECTT for international channels. They will mean reconfiguring weeks of content to align with new insertion rules, potentially re-negotiating commercial contracts for sponsorship arrangements, and, in one case at least, having to apply for new licences from a new regulator in a different country.

2. As this consultation does not close until the 23rd Dec, and licence holders will then have to await confirmation of the new rules, it will be practically impossible to implement some changes prior to the 1st Jan. Not only are these changes expected to be made during the Christmas period, but they come at a period of great disruption for broadcasters, due to Covid-19 and the UK's exit from the EU.

3. For these reasons, we ask Ofcom to allow an implementation period of six months for channels using licences under the ECTT. Ofcom is already implementing a six-month transition period for channels coming into the UK from the EU, so we believe this is precedented and reasonable.

4. We stress that during this implementation period such channels will still be operating under their existing ECTT licences, providing long established protections that audiences are aware of and understand. We are only requesting this extension for channels using the ECTT.

5. We outline the main areas of disruption created by the proposals regarding the ECTT below:

   Insertion of ad breaks

6. We are deeply concerned about the amount of disruption to schedules that this change could result in. Schedules including internal part breaks are produced several months in advance and the re-segmenting of programmes to align with Part B of the proposed Costa Code will affect many programmes with inserted advertising, causing changes across a 24 hour schedule throughout the months ahead.

7. Many shows will be scripted to have a natural break allowing for insertion of the ad. Few shows with a centre break will currently have that insertion point at 20 minutes, meaning broadcasters would now have to ignore the natural break in those cases and instead insert an ad break after 20 minutes,

regardless of the impact on the flow of the programme. We have considered whether an hour-long slot could retain three internal breaks, but believe this would mean having a break almost three minutes into the programme, which is not practical.

8. In addition, programmes are segmented shortly after a broadcaster receives the material, meaning it takes considerable time to go through the affected inventories and re-segment the programmes.

Sponsorship

9. In some cases, sponsorship arrangements may have been arranged on the basis of how many times the sponsoring brand or segment can be played around a programme. If fewer internal breaks are available this also will need to be factored in, potentially involving the renegotiations of commercial contracts.

New licences

10. At least one broadcaster expects to have to re-licence their service in a different country as a result of these proposals. Using Ofcom licences, some broadcasters currently have pan territory feeds which go into both AVMS" and ECTT territories, i.e. countries that are not signatories to the AVMSD. Given that these are single feeds, it is hard to see how they could be operated with differing ad break regimes. Nor is it possible to resolve the operational complexities here, given the timelines involved.