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Julia Richards
BCR: Commercial Communications in RADIO programming
Ofcom
Content and Standards
Riverside House
2A Southwark Bridge Road
London
SE1 9HA

17th September 2010

Dear Ms Richards,

Broadcasting Code Review: Commercial Communications in Radio Programming

We welcome the debate and proposals to enable commercial communications within radio programming. We believe that this represents a significant commercial and creative opportunity for the commercial radio industry, providing advertisers with a real opportunity to creatively engage with their target audiences, and reinvigorate advertiser confidence in commercial radio.

For Fun Kids, we believe that the proposals present a real opportunity to finance improvements to the level and range of our educational speech content, as well as to help underpin our overall financial position.

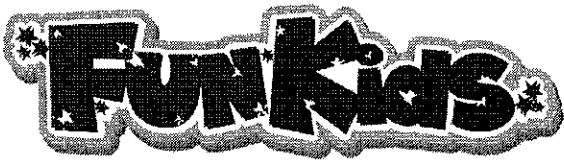
We do **not**, though, believe that Ofcom's proposal to prohibit the use of integrated commercial references in programming primarily aimed at children is necessary or beneficial. Significant regulation is already provided through the existing Broadcasting and BCAP Codes. In addition, we operate a voluntary code not to carry commercial messages that promote unhealthy lifestyles, for example, HFSS foods.

The proposals will restrict the ability of Fun Kids to create and broadcast speech features that promote children to learn more about the world around them, how to be better citizens and lead safer lives, to discover wildlife, eat healthier and lead more active lives. Rather than ensuring that children do not hear messages promoting unhealthy lives and attitudes, Ofcom's proposals will prevent children hearing messages that will promote interests and inspire better lifestyles.

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foldermedia



The existing rules surrounding commercial messages to children and families are strict and complex. Our experience is that they already actively discourage potential advertisers (many of whom would be permitted to advertise within the existing rules) from Fun Kids because of perceived issues, deeming the rules overly complicated and therefore much easier to advertise through contemporary chart hit services where children form a significant part of the audience. Ofcom's proposed prohibition on programming primarily aimed at children will only add to radio's perceived complexity and will undoubtedly result in even fewer advertisers seeking to use stations such as Fun Kids.

However, we recognise and understand the concerns that some groups have regarding advertising to children, and the issue of children (and parents) not understanding and being able to react to messages. We therefore propose that instead of a blanket prohibition, Ofcom adopts a more targeted prohibition on commercial communications, as follows:

- A prohibition on commercial messages on HFSS goods, alcohol, gambling, and communications promoting unhealthy lifestyle (a position we currently undertake).
- Commercial placements should only appear within a sponsored feature, either presenter read or pre-produced, and never randomly in general programming.
- There should always be a station ident and a commercial message at the start and end of each feature to identify it as being separate to general programming and that it is commercial in nature.

We estimate that the commercial benefit to Fun Kids of operating within these targeted prohibitions would create additional commercial opportunities potentially in the order of £250,000 over the next 3 years. Such additional revenue would enable us to produce additional educational features which would be for the benefit of children, their families and commercial radio overall.

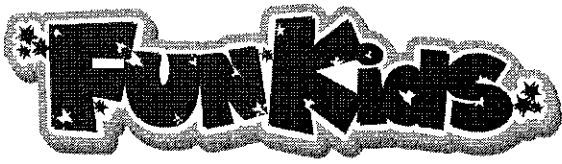
In our attached response, we detail the background to Fun Kids, its programme style and commercial model. We provide examples of sponsorship campaigns that we have run and also examples of two commercial placement campaigns that would promote healthy lifestyles and activities for children and their families, but which under a blanket prohibition would not be allowed on Fun Kids but would be on every other commercial radio station.

If you would like any further information or example audio, or would like to meet to discuss our response, we would be happy to provide and attend.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Gregory Watson', written in a cursive style.

Gregory Watson



Fun Kids

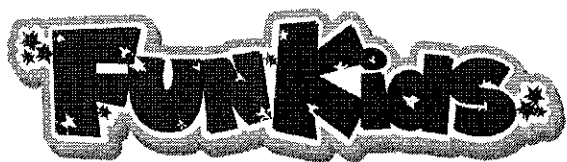
Fun Kids, which is owned and operated by Children's Radio UK Ltd - a subsidiary of Folder Media, is the UK's only radio station dedicated to children aged under 10 and their families and carers.

The ethos of Fun Kids, which has been broadcasting on digital radio since May 2005 and in our ownership since 2008, is to provide a radio environment for children which is unique to them, which they can call their own and which is safe. It is an environment that entertains and educates by encouraging children to listen, use their imagination and develop interactive skills, as well as help make them more aware of their wider environment. But Fun Kids is not just a station for children – it is very much a family listen.

Whilst Fun Kids is a music based station, playing a wide range of music of interest to our child audience, around 25% of our programming is speech content, comprising both educational features on topics such as the human body, healthy exercise, cultures from around the world, architecture, wildlife, the sources of food, cooking and gardening, as well as more entertainment based features, such as stories, family activities and serialisations of children's books. Sponsorship around these features forms a considerable proportion of our revenue, without which such educational features would not be produced and the station would not be sustained. At the end of this submission, we provide additional information on our programme schedule and speech features.

Fun Kids is available through DAB digital radio in London, wi-fi radio and online at funkidslive.com. Currently, over 182,000 children (aged 4 to 14) and parents listen to the station each week, and over 300,000 listen each month. Note: RAJAR no longer measures children and in recent years the sample of children interviews has fluctuated significantly. We believe that our audience levels are much higher than quoted by RAJAR and we are currently investigating alternative measures to quantify our audience among children.

Our uniqueness and contribution to the radio spectrum has been recognised by the radio industry. We have been 'Digital Station of the Year' for the last two years (Sony Radio Academy in 2009 and Arqiva Commercial Radio in 2010), being described as "unique in targeting parents who want their children to listen to radio for fun, games and learning".



Our commercial approach

Fun Kids is a commercially funded radio station, and like most digital only services, has yet to generate a profit. Rather than a traditional reliance on spot advertising (which we believe can be a switch off for both children and parents, as mentioned above), the majority of our revenue is generated through promotions and sponsorship of programmes and bespoke speech features.

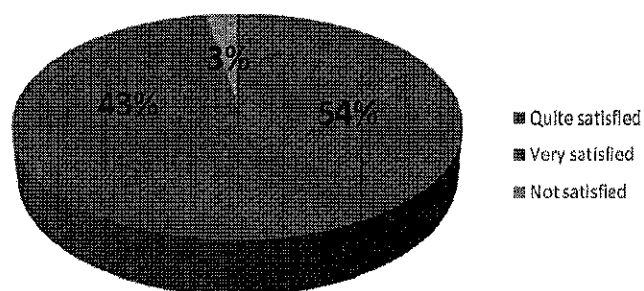
Parents agree with the commercial approach that Fun Kids has adopted. In a recent survey with our parent database, 97% were quite or very satisfied with the way in which Fun Kids handles exposure to household brand names, products and services.

And when asked what commercial approach parents preferred, comparing standard spot advertising to sponsorship, subscriptions or none of the above, 84% were happy with a combined sponsorship and spot adverts approach (albeit with a sponsorship bias – our current approach).

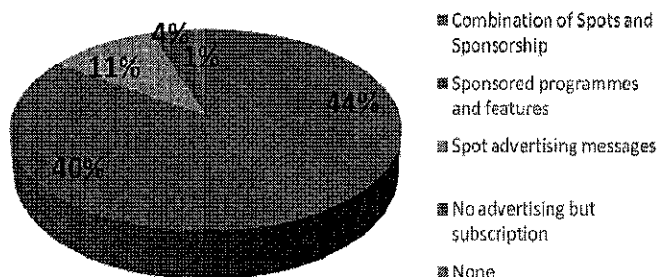
We have adopted a highly responsible attitude towards the use of commercial communications:

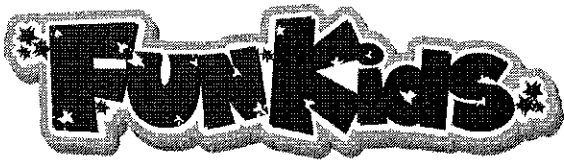
- Our overarching principle is for commercial messages carried on the station to be pertinent to parents and carers, not children.
- We do not carry commercial messages for fast food, carbonated drinks or sweets, nor messages that would promote unhealthy lifestyles. These policies will continue indefinitely.
- We script all of our own promotions and programme features, therefore securing complete control over output.
- We abide by the Ofcom and BCAP Codes.

How satisfied are you with the way Fun Kids handles exposure to household brand names, products and services?



Given that Fun Kids is a commercial enterprise, which of the following would be your preferred option:





The existing rules surrounding commercial messages to children and families are strict and complex and are already a deterrent to some potential advertisers, many of whom would be permitted to advertise within the rules, but who do not use stations such as Fun Kids because of perceived issues, deeming the rules overly complicated and therefore much easier to advertise through contemporary chart hit services. The new proposals will only add to this deterrence.

Using personalities as presenters

As with adult focused stations, we use personalities as presenters. However, rather than pop and TV celebrities such as Jamie Theakston, Emma Bunton and Jason Donovan, to name but a few, our celebrities are characters that children readily associate with, e.g. Horrid Henry, Angelina Ballerina, Dennis & Gnasher and Barney. It should be noted that these are editorial characters in their own right, and not brand-created characters.

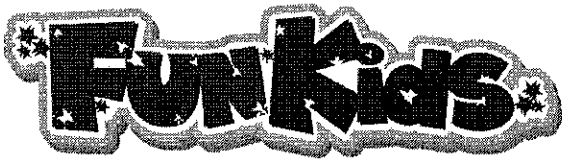
We use such personalities as presenters on the station - introducing music, telling stories and providing listener information. They do not promote themselves as brands or seek to sell products directly or indirectly. All on air requests for contact are via their Fun Kids email addresses and their personal pages on the Fun Kids websites. There is never a direct connection to any client.

Sponsored programming

Over the last 12 months, Fun Kids has established a practise of working with a wide range of clients to deliver entertaining, informative and inspiring speech content, and this is a significant growth area. Past and current clients, and projects currently in production, include:

- Book publishers around story serialisation
- The Royal Horticultural Society around gardens and garden activities
- on a series of features about the human body
- The Indian Government on a series of features about India and the XIX Commonwealth games
- A fitness club on sports and activities to do at home
- A firm of estate agents on architectural styles
- A supermarket chain on the farm, food production and recipes

Our ability to develop and broadcast such content has arisen through building a strong audience base. And as the station grows, we have plans to develop and deliver an increasing level of speech features that will entertain and inspire both children and their families.



The following are examples of promotions and sponsorship campaigns that have been undertaken over the last 12 months. All of these campaigns are compliant with the current Code Sections 9 and 10, i.e. they constitute sponsored programming and contain no promotional references to the sponsor. Example audio for each is provided.

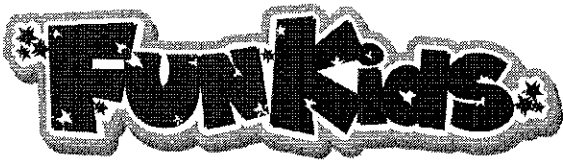
- **Nehru Centre – the XIX Commonwealth Games in Delhi**
 - *The Nehru Centre, the cultural arm of the Indian High Commission, commissioned Fun Kids to create a series of features about India, Delhi and the XIX Commonwealth Games*
 - *The features introduce children to India and its cultures, and also to the Commonwealth Games.*
 - *Whilst of less high profile than the Olympics, the Commonwealth games reflect an important element of our society and these features helped teach inclusion and involvement - important aspects of key Stages 1 and 2.*

- **London Architecture - London architecture**
 - *London Architecture commissioned Fun Kids to create a series of 10 features that introduced children (and their parents) to a selection of different architectural and house styles*
 - *The features help introduce and inform children about architectural styles, their local neighbourhoods and wider world. These are important aspects of key Stages 1 and 2.*

- **RHS – Garden event of the day**
 - *The RHS owns four gardens across the UK and over the summer holidays ran a number of events and activities. To promote these, a daily RHS event of the day feature was broadcast in Breakfast over the summer holiday period.*
 - *These features are popular with both children and parents, providing incentives for families to visit their local RHS garden, learn more about plants and wildlife and have an active day outside.*

- **JCB – Diggers**
 - *JCB commissioned a series of features that introduced children to the wide range and assortment of construction machinery*
 - *Boys of all ages (and many girls) are fascinated by machines and building areas. The series sought to reveal the wide range of machinery but also to inform that construction sites are not play areas and should be avoided, and not to treat machinery anywhere as a toy.*

- **Flik Flak time check**
 - *Fun Kids provides informative and education time checks on the hour at various stages of the day. Flik Flaks are Swatch watches range for children*
 - *The features help children learn how to tell the time.*



- DfT – Be Bright Be Seen
 - *The DfT wanted to create a series of features that conveyed crucial messages for children riding bicycles as evenings drew earlier and with the impending change to clocks*
 - *These features encouraged children to check their tyres and lights, and to wear bright clothing to be seen when on the road. They are important social messages to help reduce the number of children having accidents during dark evenings.*
 - *Under Ofcom’s proposals, the opportunity for important safety features such as these to be broadcast on Fun Kids is uncertain, which we do not believe is in the interests of either children or their parents.*

The Ofcom Consultation

In its consultation, Ofcom identifies four options of approaches to take:

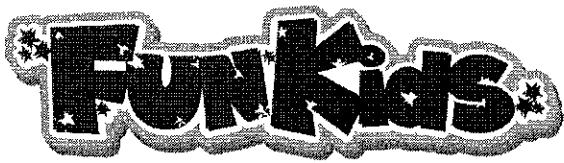
- A. Option A: ‘Do nothing’ and maintain the principle of separation
- B. Option B: Maintains the principle of separation but provides a defined set of exemptions Question 3
- C. Option C: Allows the integration of commercial communications and programming (except in relation to spot ads)
- D. Option D: Allows the integration of commercial communications and programming (including in relation to spot ads)

We support the RadioCentre’s response to this consultation, and as such do not provide any response in relation to Options A, B and D.

We agree with the RadioCentre that Option C represents a significant commercial and creative opportunity for the commercial radio, whilst continuing to provide listeners with sufficient protection. We believe that the relaxation will provide advertisers with a real opportunity to creatively engage with their target audiences, and reinvigorate advertiser confidence in commercial radio. We also believe that a reinvigorated radio advertising revenue model would have the potential to increase substantially commercial radio’s content budgets, thereby contributing to better choice and quality for listeners.

In relation to Fun Kids, this will enable us to fund and create additional educational speech features, as well as sustain the overall station.

An important additional benefit for listeners of permitting commercial references within programming is the potential for the sponsor’s involvement to enhance that particular element of the output, for example being able to talk about what children can do to enter the RSPB Action Awards rather than a generic reference to the RSPB Action Awards around an unrelated subject.



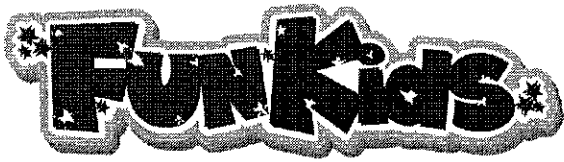
We welcome Ofcom's statement that *'Under Option C it would be for broadcasters to decide how they retain listener trust, loyalty and interest in programming'*. We have a good knowledge and understanding of our adult listeners (who ultimately will be the deciders of radio listening for their young children; see research above). Fun Kids would not survive if we did not retain their trust, loyalty and interest.

However, we do not believe that Ofcom's proposal to prohibit the use of integrated commercial references in programming primarily aimed at children is necessary, for the following reasons:

- The BCAP Code already includes a rule making clear that adverts must avoid anything likely to condone or encourage poor nutritional habits or an unhealthy lifestyle, especially to children. As it is proposed that any commercial communication included in radio programming must comply with all the relevant requirements of the BCAP Code, we believe that this requirement will provide children with sufficient protection and complies with the requirement within the 2003 Communications Act *'that persons under the age of eighteen are protected'*.
- In 2007, when the advertising of HFSS foods and drinks around children's TV programming was prohibited, it was felt to be unnecessary to extend the same restriction to children's radio programming, given radio's audience profile and the nature of radio output and listening. The same factors behind this decision remain. As Ofcom states, the *'immediate nature of the signalling of commercial communications on radio provides additional protections for listeners'*. Commercial communications in radio programming exist in a very different manner to product placement on TV (which is more subtle and surreptitious, and therefore potentially more harmful), and should therefore not be considered comparable.

In addition, and as mentioned before, Fun Kids has adopted a highly responsible approach and attitude towards the use of commercial communications in our radio programming:

- 1) Our overarching principle is that commercial messages carried on the station are focused on parents and carers, not children
- 2) We do not carry commercial messages for HFSS foods, carbonated drinks or sweets - this policy will continue indefinitely
- 3) We script internally all promotions, therefore securing complete control over output.



Potential discrimination against Fun Kids

We believe that a prohibition on commercial communications within programming primarily aimed at children would unfairly impact just one commercial operator over all others (i.e. Fun Kids), thus creating an unlevel playing field within commercial radio, and threatening the commercial provision of children's radio programming, at a time when there is already limited provision from both the commercial sector and the BBC.

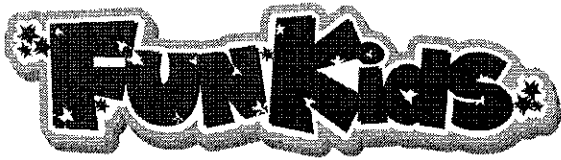
Fun Kids is the only BBC or commercial radio station that could be described as providing "programming primarily aimed at children", i.e. programming that 'is primarily listened to by persons under the age of sixteen' or 'actively solicits the participation of persons under the age of sixteen'. Whilst Fun Kids falls within these definitions, it should also be noted that programming is very much designed as a family listen – we expect and RAJAR confirms that parents are a core constituent of our audience. We do not programme "exclusively" for children, i.e. we do not programme believing that young children will switch on the radio by themselves and listen to the station in isolation. Parents form a key element of our audience, wishing to listen to Fun Kids alongside their children.

Ofcom's proposals do not reflect that over 70% of all children aged 4 to 14 listen to commercial radio each week, mostly to the major FM services of Global and Bauer. Under its proposals, Ofcom is content for children on these stations to hear commercial messages within programming, say features endorsing children to take part in Scout or Girl Guide activities, or RSPB Action Awards, whereas on Fun Kids, which has reach of just 0.1% currently, such features would be restricted.

We also believe that there is a significant difference between young children (i.e. under 10s) that Fun Kids serves, and tweens (i.e. 9 to 14 year olds) who will have their own radios and will select the choice of services directly. As parents with their children to Fun Kids, if required or asked by their children, they are able to explain and enhance information provided through our speech features.

We submit two examples of potential commercial placement messages which would be able to be heard by children and their parents on all commercial radio stations apart from Fun Kids (where we would only be allowed to broadcast a generic reference around an unrelated subject).

- The first is an example of a Sainsbury's advert encouraging children to make a simple recipe, and highlighting an offer to purchase recipes at Sainsbury's
- The second is an RSPB Action Awards charity call for action to promote children to find out more and take part in the award scheme to find out more about wildlife.



We do not believe that including such commercial placement would be to the detriment of either parents or children – it will enable us to promote activities which help build children’s understanding of wildlife, the world around them and also healthy activities.

We acknowledge that some children may find it difficult to distinguish between advertising and programming (although we believe that, in many cases, children are more media savvy than their parents). This is a role for enhancing Media Literacy. We believe a positive approach should be adopted to ensure that children (and parents) understand advertising, rather than hide them away from it. Media Smart is a non-profit media literacy programme for school children aged 6 to 11 years old, initially focused on advertising. It develops and provides, free of charge, educational materials to primary schools designed to teach children to think critically about advertising in the context of their daily lives and be able to make better informed choices, as part of key Stages 1 and 2. Fun Kids has had a number of meetings with Media Smart; we support their work and will work with them to promote literacy with children and parents on air and online.

Further negative impact on Fun Kids existing revenue streams

We believe that the additional commercial benefit to Fun Kids of being able to carry such commercial messages is in the order of **£250,000** over a 3 year period. As well as delivering additional revenue that will help underpin the overall business, this revenue will deliver additional fun but education speech content that will benefit children and parents.

In addition, Ofcom’s proposals will also prohibit sponsored listener competitions (when the competition mechanic is linked to the sponsor), outside broadcasts, public information broadcasting (for example road safety campaigns, healthy eating and anti-bullying, amongst others, where the COI has an influence over content). All of these commercial activities will be allowed on all other commercial radio stations, to which the majority of children currently listen, and we estimate have a commercial value in the order of **£120,000** over a 3 year period.

Further discrimination against radio

As radio is a very different medium to TV, press, online and cinema, i.e. it is audio and not a visual media, we believe that it is wrong for the rules created for TV (where the opportunity for subliminal images to be broadcast) to be imposed on radio (where such images cannot be broadcast).

Therefore, we believe that commercial communications within programming primarily at children should be allowed under Option C, as the proposed revised regulatory regime will contain sufficient safeguards to protect children, and the proposed prohibition would unnecessarily restrict the creative and commercial opportunities of children’s radio (and potentially other stations, depending on Ofcom’s definition).



Music Selection

Fun Kids operates a strict music policy in relation to the style and content of music played on the station. Our music comprises chart hits, music from films, shows and television, music written for children and classical music. We will never broadcast music that contains swearing or references to sex, drugs, bullying and racism, even if they were Top 10 hits. This is a voluntary policy which we introduced to ensure that parents are comfortable for their children to listen to Fun Kids in a 'safe' environment.

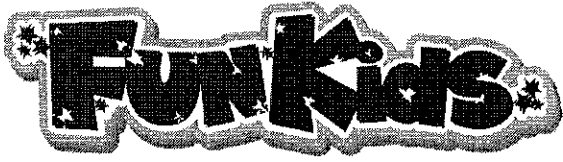
We welcome Ofcom's proposal that commercial arrangements might be introduced in relation to the selection and rotation of music for broadcast. We agree that this is a logical approach, reflecting the fact that Option C will also allow for commercial references to be integrated within speech programming.

We agree that, when a commercial arrangement has influenced the selection or rotation of music, this must be made transparent to listeners. However, we also agree that it is appropriate that these commercial arrangements should be subject to a lesser degree of transparency. We endorse Ofcom's suggested approach to securing this transparency, via broadcast messages and a station's public file.

We believe that the revised Code Section 10 should allow for commercial arrangements to influence the scheduling and rotation of music used on children's radio. The revised regulatory regime proposed by Ofcom will contain sufficient safeguards to protect children, and any additional prohibition would unnecessarily restrict the creative and commercial opportunities of children's radio.

An example of a commercial arrangement that could exist on Fun Kids is a music block of 3 tracks from a certain film (or series of films, e.g. High School Musical) or a certain production company (e.g. music from Disney's Little Princess's films). Under our voluntary policy, record companies will never be able to influence our choice to include music tracks that do not comply with our code. However, as we may currently play a triple play of Disney music, or have a themed hour of Harry Potter music to celebrate the release of a new film, we do not believe that to have that selection of music funded as a sponsored feature would affect the sound of the station or impact children and parents.

We believe that the additional commercial benefit to Fun Kids from a relaxation to the commercial arrangements in relation to the selection and rotation of music is in the order of **£75,000** over a 3 year period.



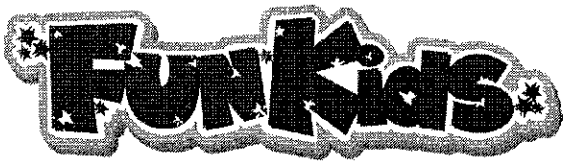
Our proposal

We do not believe that there is a need to have a blanket prohibition on integrated commercial references within 'programming primarily aimed at children' for the reasons already outlined. Such a blanket prohibition would hinder the opportunity to create engaging, educational and informative programming features that will help children (and their parents) lead more fulfilling, active and healthy lives

However, we recognise and understand the concerns that some groups have about advertising and the issue of children (and parents) not understanding and being able to react to messages, and propose that a more targeted prohibition on commercial communications should be applied to children's radio programming. We would be happy if Ofcom concluded to introduce a set of certain restrictions and parameters as follows:

- A prohibition on commercial messages on HFSS goods, alcohol, gambling, and communications promoting unhealthy lifestyle (a position we currently undertake).
- Commercial placements should always appear within a sponsored feature, either presenter read or pre-produced, and never randomly in general programming.
- There should always be a station ident and a commercial message at the start and end of each feature to separate it from general programming and to identify that it is commercial in nature.
- Editorial and production will always remain under the control of the licensee.
- The Public File will contain information on the policy of Commercial Placement and summarise such arrangement

In addition, Fun Kids will engage in a positive campaign to promote media literacy around commercial messages for children and parents, working with organisations such as Media Smart.



Annex

Fun Kids programme schedule

Recognising that our audience varies across the day, we daypart programming as follows:

- Broad family programming – weekdays 6am to 9am and 4pm to 7pm; weekends between 6am and 7pm
- Pre-schoolers and intermediaries – weekdays between 9am and 1pm ('Giggle'), 1pm to 2pm ('Nap Hour') and 2pm to 4pm ('Junior Club', including 'Animal Hour')
- Parents – daily 7pm to 6am

Our full programme schedule is currently:

Weekdays

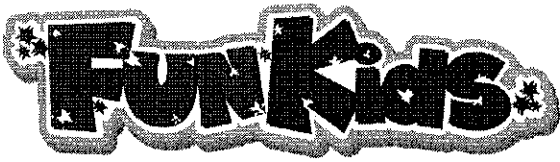
6am to 9am:	Breakfast with James and the Fun Kids Robot
9am to 1pm:	Giggle
1pm to 2pm:	Nap Hour
2pm to 4pm:	The Junior Club (including Animal Hour)
4pm to 7pm:	The Club with Sam
7pm to 9pm:	Bedtime
9pm to 6am:	Nights (for Mums and Dads)

Saturdays

6am to 10am:	Up!
10am to 11am:	Dennis and Gnasher
11am to Midday:	Stompathon!
Midday to 4pm:	Round at Matt's
4pm to 7pm:	The Weekend Club
7pm to 8pm:	Bedtime
8pm to 6am:	Nights (for Mums and Dads)

Sundays

6am to 10.30am:	Up!
10.30am to 11am:	Dotty and Duggy
11am to Midday:	Stompathon!
Midday to 4pm:	Round at Matt's
4pm to 7pm:	The Weekend Club
7pm to 8pm:	Bedtime
8pm to 6am:	Nights (for Mums and Dads)



Fun Kids speech features

Character led features and stories

- Angelina Ballerina
- Thomas and Friends
- Barney
- Sooty & Sweep Radio Show
- Dennis & Gnasher
- Chuck the Eco Duck
- The GO!GO!GO! Show
- Bedtime stories
- The Toyologist

Educational features

- A to Z of Healthy Lives
- A to Z of Wildlife
- Fun Kids Gardener
- Fun Cooking
- Professor Hallux's Human Body
- London Architecture
- A to Z of Good Health
- Road safety
- World Cultures