

UTV TELEVISION'S RESPONSE TO THE OFCOM CONSULTATION : BROADCASTING CODE REVIEW

UTV Television welcomes the opportunity to submit our response to the Ofcom Broadcasting Code Review.

Sexual Material Rules (Code Section One)

Questions 1 - 6.

UTV does not intend to respond in detail to these questions. UTV produces no regional output that these changes would affect. However we welcome the further clarity and safeguards these proposed amendments offer the audience.

Competitions and Voting Rules (Code Section Two)

Question 7

a) Do you consider that the introduction of new rules in relation to competitions and voting is appropriate?

b) Do you agree with our proposed new rules in relation to competitions and voting (proposed Rules 2.11 to 2.13 to replace Rule 2.11)?

c) If you do not agree with our proposed new rules, please explain why and suggest alternative wording where appropriate.

UTV regularly broadcasts competitions as part of our programme offering for our audience. These programmes and programme strands prove to be popular in terms of volume of audience and level of interaction with the output. We believe the success of this programming is down to the significant efforts placed upon compliance by UTV and the third parties we contract to provide services.

Following Ofcom's review of PRS recently and the amendment to our Channel 3 licence conditions we believe there is already a regulatory framework in place to ensure fair competitions and voting outside the Code. However, for the sake of clarity and a uniform approach, UTV agrees with the proposed amendments to the Code.

Question 8

a) Do you consider that the introduction of new meanings in relation to competitions and voting are appropriate?

b) Do you agree with our proposed new meanings in relation to competitions and voting?

c) If you do not agree with our proposed new meanings, please explain why and suggest alternative wording where appropriate.

UTV believes the proposals are appropriate. In relation to Ofcom's proposed new meaning for broadcast "competition", as UTV runs competitions in presentation time we believe that this meaning should be expanded to be inclusive of short form programming.

We suggest the definition of “competition” should be:

“competition” - a competition featured in a programme or promotional time in which viewers are invited to enter for the opportunity to win a prize.

Question 9

a) Do you wish to suggest an alternative approach to the proposed set of rules in relation to competitions and voting? If so, please outline your proposals, which should comply with relevant legislation (including the Communications Act 2003, the Audiovisual Media Services Directive, the AVMS Directive (Implementation) Regulations 2009 and Article 10 of the European Convention on Human Rights.

No UTV response.

Commercial References in Television Programming Rules (Code Section Nine)

Question 10

- a) Do you consider that the rules on commercial television would benefit from being separated from those for radio?*
- b) Do you agree with the introduction of the proposed new Section Nine on commercial references in television programming?*
- c) If you do not agree with the proposed new Section Nine, please explain why and suggest alternative wording where appropriate.*

UTV television recognises the differences in legislation pertaining to television and radio and especially the requirements of the AVMS Directive. It is therefore sensible to separate radio and television rules.

Question 11

- a) Do you consider that it is appropriate for Ofcom to include the enforceable provisions relating to product and prop placement, replicated from the AVMS Directive (Implementation) Regulations, as rules in the revised Code?*
- b) If you do not consider this to be appropriate, please explain why.*

UTV agrees with the position that has been publicly stated regularly by ITV plc in relation to product placement. We understand the current position of the UK Government in this matter. However for the benefit of the commercial television sector and UK originated production we believe the guidelines should be closely aligned to the position of the AVMS Directive.

Question 12

- a) Would you consider that it appropriate for Ofcom to introduce rules that would allow Public Information Programming (as described above)? If so please explain why. If not, please explain why not.*
- b) If Ofcom were to introduce rules in relation to Public Information Programming:*
- i. Are there any potential programmes that you believe could comply with the potential rules but that you consider would be undesirable or arguably not in the public interest? If so, please give details.*
- ii. What impact (e.g. social, economic, equality) do you think the potential rules would have on viewers, the television industry and any other parties?*

- iii. Do you consider that the potential rules would maintain the editorial independence of the broadcaster and provide adequate consumer protection? If not, please explain why.*
- iv. Do you consider that additional or alternative safeguards to those included in the draft potential rules are necessary? If so, please provide details.*
- v. Specifically, should there be any restriction on the type of non-commercial, not-for-profit entities permitted to fund Public Information Programming, and if so, what restrictions?*
- vi. Do you consider it would be appropriate for Ofcom to review these rules two years after their introduction? If not, please explain why.*

UTV would welcome the introduction of rules which would permit Public Information Programming. We believe the rules proposed by Ofcom would deliver a funding model for additional programming. They would also provide the audience with the assurance as to the editorial independence of the content and the commercial nature of the association.

We would ask Ofcom to look again at rule 9.30. Credits for Public Information Programming should be dealt with in the same way as general sponsorship credits. To introduce difference credit styles for different programming could lead to confusion among the audience and be counterproductive.

Question 13

- a) Do you consider that the proposed new Section Nine would benefit from the introduction of new meanings?*
- b) Do you agree with our proposed new meanings for Section Nine?*
- c) If you do not agree with our proposed new meanings, please explain why and suggest alternative wording where appropriate.*

UTV believes that the simplification or clarity of definition is important. However the suggested new meanings are perhaps too simple in their definition.

For example cross-promotions are by their nature promotional of broadcasting related services, and therefore cannot be fully reconciled with the general rules on commercial references. Sponsorship credits also do not fit comfortably into the “programming” definition.

UTV would suggest that any meaning provided for “television programming” should make clear that for the purposes of this section “programming” is taken to include programmes and trailers but not cross promotions and sponsorship credits.

Question 14

- a) Do you consider that the introduction of new Principles in relation to Section Nine is appropriate?*
- b) Do you agree with the proposed new Principles for Section Nine?*
- c) If you do not agree with our proposed new Principles, please explain why and suggest alternative wording where appropriate.*

UTV believes the new Principles are appropriate. We do however believe that the Risk of Financial Harm principle would sit more easily in Section 2 of the Code.

Question 15

- a) Do you consider that the proposed Rules 9.1 to 9.5 are broadly the same, in terms of both scope and intent, of current Rules 10.1, 10.2, 10.3, 10.4 and 10.12?*

- b) If you do not consider the proposed rules are broadly the same as the current rules in this area, please explain why and suggest alternative wording where appropriate.*
- c) Do you agree with the introduction of the proposed new Rule 9.6?*
- d) If you do not agree with the proposed new Rule 9.6, please explain why and suggest alternative wording where appropriate.*

UTV broadly agrees that the proposed new rules cover the current scope and intent of the existing rules.

UTV still has concern about rules on commercial references in programming. Commercial references are part of everyday life. Undue prominence can occur accidentally for example as a result of the brand of clothing being worn by a guest or guests on a programme. While a broadcaster can make efforts to reduce these references, it is impossible to exclude commercial references in a significant proportion of output especially where the general public are directly involved in programme making such as news or current affairs content.

Question 16

- a) Do you consider it appropriate to introduce the proposed new Rule 9.9?*
- b) If you do not consider it appropriate to introduce the proposed new Rule 9.9, please explain why and suggest alternative wording where appropriate.*

UTV assumes that there is a style error in 9.9 and that “listeners” will be replaced by “viewers” in the final document. UTV is fully supportive of rules that protect the audience and provide clarity as to service levels. In addition this rule now reflects our licence requirement following the Ofcom PRS review.

Question 17

- a) Do you consider that the introduction of a new competition and voting section is appropriate?*
- b) Do you agree with the proposed new competition and voting section for Section Nine?*
- c) If you do not agree with our proposed new competition and voting section, please explain why and suggest alternative wording where appropriate.*
- d) Do you agree that it is appropriate to apply these rules to BBC services funded by the licence fee?*
- e) If you do not agree that it is appropriate to apply these rules to BBC services funded by the licence fee, please explain why.*

UTV believes the introduction of this section is appropriate, it is also appropriate to apply these rules to the BBC.

Question 18

- a) Do you consider that the rules in relation to programme-related material would benefit from clarification?*
- b) Do you agree with the introduction of the proposed programme-related material section for Section Nine?*
- c) If you do not agree with the proposed programme-related material section, please explain why and suggest alternative wording where appropriate.*

UTV believes the introduction of this section is appropriate. However we believe 9.12 is too restrictive. Programme related material should be able to be promoted in or around the relevant programming.

Question 19

- a) Do you consider that the proposed cross reference to the Cross-promotion Code would assist stakeholders?*
- b) If you do not consider that the proposed cross reference to the Cross-promotion Code would assist stakeholders, please explain why and suggest alternative wording where appropriate.*

UTV believes the cross-reference would be of benefit to stakeholders.

Question 20

- a) Do you consider that the meanings in relation to sponsorship of television would benefit from revision?*
- b) Do you agree that the revised meanings are consistent with those currently used, but more accurately reflect the definition of sponsorship as set out in the AVMS Directive?*
- c) If not please explain why, suggesting drafting changes where appropriate.*

UTV believes the definition of sponsorship should be revised. However the revised meaning proposed by Ofcom go further than the AVMS Directive and we would argue that the definitions should be as closely aligned to the Directive as possible.

In UTV's opinion there is an inaccuracy in the proposed new wording. It states that "the rules enable references to the sponsor within a sponsor credit, not within the sponsored content". We believe there is no rule against references to a sponsor and/or their products and services within a programme they sponsor under the current regulation or in the AVMS Directive.

Question 21

- a) Do you consider that the rules in relation to the content of sponsored output would benefit from clarification?*
- b) Do you agree with the introduction of the proposed new rules on the content of sponsored output in Section Nine?*
- c) If you do not agree with the proposed new rules on the content of sponsored output, please explain why and suggest alternative wording where appropriate.*

The current rules do need clarification, but the proposals put forward by Ofcom do not assist with clarification.

UTV believes the rules are too restrictive and go far further than legislation or the AVMS Directive require. Proposed rule 9.18 is even more restrictive than current rules. The current position of the reference of sponsors within sponsored programming not being a condition of the sponsorship deal is already understood and transparent.

Question 22

- a) Do you consider that the rules in relation to sponsorship credits would benefit from clarification?*
- b) Do you agree with the introduction of the proposed rule?*
- c) If you do not agree with the proposed rule, please explain why and suggest alternative wording where appropriate.*

UTV believes the current rules are clear and do not require clarification. Therefore we do not agree with the introduction of the proposed new rule and believe the existing 9.13 is fit for purpose.

We welcome Ofcom's intention to provide further guidance on sponsor credit contents and in particular what constitutes an advertising message.

Question 23

- a) Do you consider that the rules in relation to appeals for funds would benefit from clarification?*
- b) Do you agree with the introduction of the proposed Rule 9.29 and the section on appeals for funds for programming or services?*
- c) If you do not agree with the proposals, please explain why and suggest alternative wording where appropriate.*

UTV has no comments on this question.

Question 24

- a) Do you consider that the proposed rule revisions are appropriate and would remain consistent with current rule requirements?*
- b) If you not, please explain why and suggest alternative wording where appropriate.*

UTV has no comments on this question.

Question 25

- a) Do you wish to suggest an alternative approach to the proposed revisions in relation to the regulation of commercial references on television?*
- b) If so, please outline your proposals, which should comply with relevant legislation (including the Communications Act 2003, the Audiovisual Media Services Directive, the AVMS Directive (Implementation) Regulations 2009 and Article 10 of the European Convention on Human Rights).*

UTV has no further comments.

Commercial References in Radio Programming Rules (Code Section Ten)

Questions 26 – 43

UTV television has no comments on this section. UTV Radio (GB) will be submitting a confidential response.

Sections of the Code where no revisions are proposed

Question 44

- a) Do you agree with the proposed approach which only proposes changes to Section One of the Code in relation to material of a sexual nature; only proposes changes to Section Two in relation to Competitions and Voting; and proposes no changes to Sections Three to Eight.*
- b) If you do not agree with our approach, please explain which other sections of the Code you consider should be reviewed and why.*
- c) Do you agree with Ofcom's approach which will be to provide, and update, guidance to all sections on an on-going basis? If so, are there particular areas where you consider an updating of guidance would be helpful?*

UTV agrees that the Code should be reviewed on an on-going basis.

We would in particular welcome a uniform approach to the Code as it affects licensees and the BBC, especially in relation to the way the Code is interpreted and how investigations are summarised and made public.

UTV Television
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