



Participation TV Part 2: keeping advertising separate from editorial

Response from Box TV

Box TV operates 7 music and entertainment channels. They are:

The Hits (Freeview, Cable & Satellite)

Box (Cable & Satellite)

Magic (Cable & Satellite)

Kiss (Cable & Satellite)

Kerrang! (Cable & Satellite)

Q (Cable & Satellite)

Smash Hits (Cable & Satellite)

These services are based on music output and take the form of rolling music videos, music countdowns, themed strands and specific longform programmes.

We understand Ofcom's desire to regulate Call Quiz TV following the European Court of Justice ("ECJ") judgment, but we feel the unintended impact on legitimate PRS activities on music channels which up to now are well-established and contribute to viewer enjoyment and participation, is not in our view what Ofcom originally intended this revision to its rules and guidance to capture.

Q1. Do you have any comments on the drafting of the proposed amendments to the Broadcasting Code set out in Section 4?

Whilst we broadly agree with the new rules proposed under section 4 of the consultation, we feel greater clarity is required for different types of broadcasts and competitions.

Whilst Box channels are mostly music video based they therefore may not be described as 'programmes' in the traditional sense, so we believe the new rules should provide a greater clarity in the definition of 'programme'. At present Box channels broadcast stand alone competitions, using premium rate services, which allow viewers to win music-based prizes. These typically include; tickets to concerts, MP3 players and albums and music equipment (guitars, drum-kits, amplifiers etc). It is our understanding that the proposed new rules, at least on strict interpretation, would not allow this activity to continue in its current form as, whilst related to music, they may not relate to the specific music video shown before the competition is run, or "directly derived from a particular programme" as required under section 10.10 of the proposed rules.

Under the new definitions of "programme-related material" and premium rate numbers in sections 10.7 to 10.12 these viewer competitions would be unacceptable, which is why we request greater clarity as to the definition of 'programme' under the Ofcom Broadcasting Code ("the Code"). We accept commercial broadcasters running a competition based on a programme to win tickets to a live event connected with that same programme, would be permitted to be run after that programme. However, the inherent nature of music TV channels would not make this possible as it does not derive directly from a particular programme and would therefore deprive viewers from generally interacting with services which they have grown to expect and enjoy.

Participate directly in or contribute directly to the editorial content of the programme.

As stated above, Box believe the ECJ ruling is intend to specifically apply to Quiz TV, together with Chat and Psychic channels detailed in sections 4.23 to 4.26 and not channels where the content is music based videos. As Ofcom is well aware, the manner in which music TV is consumed is different to other broadcasters which would include text to screen



games being part of the editorial content of the 'programmes'.

Box channels have broadcast 'text to screen games' which allow viewers to interact with the channels whilst watching the music content broadcast. These games can be related to the style of music videos played at the time, e.g. a 'love match' game displayed whilst love songs are being played. Box believes the audiences of music TV channels associate these games with the programming of the channels and derive enjoyment from participating. Additionally, those who do not text still enjoy reading the games results and comments at the bottom of the screen. These games are seen by our viewers as providing additional entertainment to our viewers, not just those who text to play, but to those who do not play but enjoy reading the messages on screen.

Box TV in principle agrees with the proposed rules under section 10.10, however we would reiterate our request for greater clarity, as mentioned above, on the definition of 'programme' in relation to music TV channels. As explained above, the games we have played add to the editorial content of the programmes but are not, as defined by the new proposals, "directly derived" from them. Therefore Box seeks clarification from Ofcom that what we have stated would satisfy the 'directly contributing to editorial content' requirement under the proposed Code as the term in our view is too limiting in the proposed form.

Q2. Do you have any comments on the draft explanatory guidance set out in Section 4? Please provide drafting suggestions where appropriate.

We generally agree with the guidance notes attached with the consultation, subject to clarifications suggested in our response to Question 1 above.

If Ofcom considers that Box is able to satisfy the editorial content requirement we would request guidance and clarification from Ofcom as to what you would consider to be an acceptable minimum of displayed messages during each execution to ensure responsible broadcasters do not breach the undue prominence rule in section 10.11.

In addition to ensure this content does not raise concerns in the future, Ofcom should offer guidance as to the amount of screen space taken up with such mechanics and also the amount of time the 'call to action' should remain on screen to ensure compliance with section 10.11.

Q3. Do you agree that the proposed rules should apply to radio as well as television?

We agree that applying the proposed rules to radio would ensure consumer protection across all broadcast platforms. However, as the consultations have related specifically to Participation TV we suggest further consultation is undertaken with radio broadcasters. We feel it may be necessary to publish separate guidance notes for TV and Radio broadcasters similar to sections 9.8 to 9.14 of the broadcast code.

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