



BT Response to Ofcom's Consultation  
Participative TV part 2:  
keeping advertising separate from editorial

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**Question 1: Do you have any comments on the drafting of the proposed amendments to the Broadcasting Code set out in Section 4? Please provide drafting suggestions where appropriate.**

BT considers that whilst drafting of the broadcasting code in itself is important the future interpretation and industry guidance will provide industry with the insight required to assess the potential effects the rules may have on the innovation of future services. That said, BT offers the following comments:

Whilst this change is aimed at broadcasters BT (as would any Communications Provider) has some concerns about the impact the new rules may have on future interactive services. All Providers in the media market invest considerable resources into developing new technology to enhance interactive services for broadcasters. Similarly broadcasters themselves depend on their providers to offer innovative solutions in a growing market, such as enhancing the functionality of interactivity over converging participation media platforms such as broadcast TV and the internet.

According to the new rules PRS telephone services (or other telephony services based on similar revenue sharing arrangements) would be the only acceptable payment method for interactive media; in which case all other electronic payment services such as Paypal and Pay4it may be unacceptable. Whilst PRS telephone services are the primary method of interaction currently used with broadcast TV, other methods such as Paypal and Pay4it may be an appropriate method for consumers to interact with programmes which are broadcast via the internet as well as TV in the future.

BT understands that where a broadcaster invites viewers or listeners to take part in or otherwise interact with its programmes it may only promote the use of PRS telephony services as a charging mechanic for such participation or interaction. Could some thought be given and clarity provided to industry on whether broadcasters can use of alternative charging mechanisms (eg Paypal) for entry to the same service via a website where this alternative entry method is not promoted during the programme?

Similarly, for clarity, it is understood that a key element of premium rate telephony services is that they are chargeable communication methods. As such is it reasonable to assume that an online equivalent such as premium rate e-mail would be deemed as an acceptable form of premium rate payment method?

Ofcom has considered the impact on current services such as Adult, Psychic and Quiz TV but does not appear to have expressed any views on potential future services and how they might be managed. It would be beneficial for all parties if Ofcom retained an open mind going forward and would be willing to revisit the application of rules as and when a suitable market development arises. There is, without doubt, potential for Ofcom to work with industry to help determine whether future services are deemed as unacceptable or acceptable according the new rules, so that the regulatory aims are met whilst not unintentionally restricting the innovation of new services delivered on multiple communication and distribution channels.

We understand that it is difficult to draft guidelines that cover every eventuality but it would certainly be beneficial to all if the guidelines following Ofcom's final statement were crafted with a view to the implications of convergence.

**Question 2 Do you have any comments on the draft explanatory guidance set out in Section 4? Please provide drafting suggestions where appropriate.**

BT maintains that it would be useful if the guidelines included some examples of what would be acceptable and unacceptable practices. Within the current draft some clarity on the following would be welcome.

- The statement 'PRS calls are charged at the lower end of the range of PRS charges permitted', what is the rationale for that when all PRS rates themselves are legitimate. Currently, PRS on mobile has a large range from 10p to £10. In such a large range, further clarity on what is the 'lower end of the range' is required.
- The statement 'the programme is not primarily or wholly funded by revenues generated from PRS'. Further clarity is required as to what is considered as an acceptable level of funding from PRS. This issue is further clouded depending on whether a programme is run off peak or peak due to the differing level of revenue generated at each time of PRS compared to traditional advertising.

There are certain aspects where industry may benefit from some further clarification than is given in Section 4 of the consultation. An example being the classification of teleshopping. According to the consultation Quiz TV may be classified as teleshopping if it offers a 'real offer of services'. The factors that have been identified as relevant are:

- The purpose of the broadcast of which the games form part
- The significance of the game within the broadcast in terms of time
- The significance of anticipated economic effects in relation to those expected in respect of that broadcast as a whole
- The types of questions which candidates are asked

Valid questions here are:

- What is deemed as an acceptable level of significance of the game in terms of time? How much time per hour?
- What type of questions are considered as acceptable to be classified as teleshopping?

Another area which would benefit from further clarification involves the level of prominence of a premium rate service which would be considered as acceptable in a programme. A few examples of what is considered as compliant are provided in rule 10.11. However when one considers the statement 'References within the programme to the PRS are occasional only' it is difficult to understand what is deemed compliant as 'occasional' is somewhat subjective

There are also matters of regulatory consistency. An example here might be conflicting regulatory requirements over the high level of promotion of pricing information required by PhonepayPlus and the low level of PRS prominence deemed as permissible before being classified as advertising in Ofcom rules which apply to Broadcasters.

In addition to guidelines it would be useful if there was an ongoing process in which guidance is provided to broadcasters on how new services would be classified according to the new rules to ensure that new services remain compliant.

***Question 3 Do you agree that the proposed rules should apply to radio as well as to Television?***

BT agrees that the proposed rules should apply to radio as well as TV to be consistent and fair across industries. One set of consistent rules would be easier to manage and avoid confusion for industry and public alike

END.