



Participation TV Part 2: keeping advertising separate from editorial.

The Electronic Retailing Association (Europe)

The Electronic Retailing Association (ERA) EUROPE is the only organization representing the interests of all Television, Radio, and Internet e-retailers and associated service providers in the European market. The members of ERA EUROPE are companies established in Europe – the 25 EU member states and other European countries.

ERA UK, previously the BTSA, is the UK chapter and affiliate of ERA EUROPE in Great Britain.

ERA EUROPE is dedicated to the promotion of the highest quality standards and consumer confidence, through an industry Self Regulation programme and wishes to create an environment where Direct Response Electronic Retailing can grow throughout the

European Union. The program guidelines and provisions can be accessed on our institutional web site: www.eraeurope.org

Introduction

The Electronic Retailing Association (ERA) welcomes this new consultation by Ofcom into Participation TV.

The ERA has had a direct interest in the outcome of the first consultation on Participation TV as one of the proposed options for dealing with broadcasters, whose business model was predicated on the use of PRS numbers, was to reclassify the channels as teleshopping.

Even though the ERA UK recognised that channels offering PRS services frequently represented the seedier part of the broadcasting world, the membership felt that the logic in declaring that these channels should be re-designated as teleshopping and therefore come under the advertising rules was overwhelming, especially as there is a need to protect the consumer and not mislead them which, in the ERA's view, could be done far better under the advertising rules than under the programme content rules. This is what the Association argued in its response to the first Ofcom consultation on Participation TV. We were pleased that our views were taken seriously and our comments well represented in the responses to the 2007 Consultation.

At the time we believed Ofcom was aiming for a hybrid model to allow many of the channels running PRS services to continue as editorial channels under the Ofcom content rules. Though we sympathised with this view, the ERA was absolutely clear that

channels whose business models are predicated by driving revenue through PRS services should be reclassified as teleshopping.

The recent European Court of Justice ruling has required a rethink by regulators across Europe as to the classification of broadcasting which uses PRS as a commercial driver within programmes. The new Ofcom consultation recognises that the ECJ judgement has a direct bearing on the outcome of any review of Participation TV and has given rise to three further questions, which takes into account this judgement.

The ERA response

Q1. 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.

We have no comments on the proposed amendments to the Broadcasting Code which we fully support, and we believe the drafting suggested by Ofcom needs no improvement.

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

Again we believe the draft explanatory guidance requires no comments, as in our view it is clear and reasonable.

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

Yes

