

Title:

Forename:

Surname:

Representing:

Self

Organisation (if applicable):

Email:

What do you want Ofcom to keep confidential?:

Keep name confidential, Keep part of the response confidential

If you want part of your response kept confidential, which parts?:

My email address must not be released outside of OFCOM.

Ofcom may publish a response summary:

Yes

I confirm that I have read the declaration:

Yes

Ofcom should only publish this response after the consultation has ended:

You may publish my response on receipt

Question 1: Do you agree that these proposed regulatory objectives strike an appropriate balance between the duties and other considerations that Ofcom must take account in reviewing advertising regulation? If not, please explain why, and what objectives you would consider more appropriate?:

There is no section or subsection entitled "Proposed Regulatory Objectives", which makes this question extremely difficult to answer.

I am guessing that sections 3.25 through 3.34 are the relevant portions of the

document, and these appear reasonable but it is difficult to tell if these are the complete section.

Question 2: Do stakeholders agree that the new Code should discontinue detailed genre-specific rules on natural breaks?:

I disagree with this proposal in its entirety.

Without such genre-specific rules, it would become possible (indeed likely) that advert breaks would be inserted at random, or at precise intervals during the day without regard for the interrupted content.

This would seriously degrade the viewing experience.

I believe that the genre-specific rules on natural breaks actually assist broadcasters in determining advert timing, and also provide for a generally consistent break pattern.

Furthermore, in section 6.6, OFCOM states "With few exceptions, those complaints that have been made have tended to concern unfamiliar but compliant break patterns adopted in a few programmes."

Therefore, removal of the existing rules is likely to result in more complaints being made to OFCOM.

Question 3: Do stakeholders agree that the new Code should allow advertising and teleshopping breaks to be signalled in sound or vision or by spatial means, and should drop the requirement for teleshopping segments to be distinguished from programmes by both sound and vision?:

It is important to remember that television viewers may be deaf. Therefore it should be required that breaks (both of advertising and teleshopping) are always signalled in a visual means to avoid excluding such viewers.

Thus split-screen advertising could be acceptable in special cases, but there must be clear guidelines made for the screen area(s) that can be utilised in such a manner, and this must only be used for such programmes where there are no 'natural breaks' - such as certain live sporting events.

It is NOT acceptable for such split-screen advertising to be used in any form of pre-recorded programming as all pre-recorded programming has suitable natural breaks, even those events which were 'recorded live'.

If split-screen is permitted at any stage, then the screen areas used for advertising must be clearly denoted to ensure that viewers do not believe that the advert is part of the programme.

Question 4: Do stakeholders agree that the new Code should discontinue the requirement for a buffer between advertising and coverage of a religious service or Royal occasion?:

This is acceptable.

Question 5: Do stakeholders agree that the rule requiring a 20-minute interval between advertising breaks should be scrapped?:

I agree that scrapping the 20-minute rule could be acceptable, but only if the total number of advert breaks within programmes is not increased.

Question 6: Do stakeholders agree that there should be limits on the number of advertising breaks within programmes of a given scheduled duration?:

Yes, I agree completely.

The number of breaks in a given programme has more effect on a viewer than the absolute length of the breaks.

The current rules effectively limit the number of breaks, and therefore any change must not permit the number of breaks to increase.

Question 7: Has Ofcom identified the right options for break frequencies? What issues should Ofcom take into account in formulating proposals for consultation?:

I do not understand why you are asking this question and not "Which option appears best, or what other choice could be made"

Options 1 is the only acceptable choice.

Question 8: Do stakeholders agree that the restrictions on advertising in films, documentaries and religious programmes and children's programming should be relaxed to the extent permitted by the AVMS Directive? :

I completely disagree.

I completely reject section 6.48 of the document "The current restrictions impose an economic penalty on broadcasters who schedule films, documentary and religious programmes, by preventing them from scheduling as many of the more valuable breaks within programmes as they could within other types of programming."

The reasoning for this is simple - reducing the number of breaks within such programmes makes them more valuable, and therefore broadcasters can charge advertisers more for them.

Many films are already broadcast on PSBs, and there is no requirement for them to choose to do so.

Therefore broadcasters clearly feel that the limitation on advertisement numbers is more than made up for their increased value.

Relaxing these rules would make such advert slots much less valuable, and therefore is likely to reduce revenue, not increase it.

Question 9: Do stakeholders agree that changes to the rules on advertising breaks in news and children's programmes that must be made to secure compliance with the AVMS Directive should be deferred until December 2009?:

Yes. All changes must be deferred a considerable length of time to ensure that all parties involved have time to determine their impact and take appropriate measures.

Question 10: Do stakeholders agree that:

- a. the Code should make clear that advertisements are permitted between schools programmes?
- b. the requirement for a buffer between coverage of a religious service or Royal occasion and advertising should be discontinued?
- c. the rule prohibiting advertising after an epilogue should be discontinued? and
- d. the rule allowing Ofcom to exclude adverts from specified programmes should be discontinued?

:

a) Yes, as long as such advertising is suitable for the ages that the schools programming before and after the break is aimed at.

b) You have already asked this question. My previous answer hasn't changed.

c) This is acceptable, but fairly pointless as many channels don't close, and those that do close at times when nobody is watching.

d) It is important for it to remain possible for OFCOM to exclude adverts from specific programmes, even if such powers are not used.

If this power is lost, then it cannot be brought back.

It is not difficult to conceive of general-release programmes that must not contain advert breaks, such as emergency broadcasts and Government advisories.

Question 11: Do stakeholders agree that the rules limiting the length of individual advertisements on PSB channels should be discontinued?:

I disagree completely.

Just because nobody has broken a rule does not mean the rule should be removed.

Question 12: Do stakeholders agree that the new Code should discontinue rules on the length of breaks on PSB channels?:

I disagree completely.

Just because nobody has broken a rule does not mean the rule should be removed.

Question 13: Do stakeholders agree that the draft Code should establish the principle that the distinction between advertising and editorial content must be readily recognisable, and set out the means for doing this, but avoid more prescriptive rules?:

Prescriptive rules are necessary to ensure consistent advertising.

Without these rules, different broadcasters could each use different means of indication, and those means are likely to diverge over time.

This could result in viewers who are familiar with one channel or group of channels becoming confused when viewing a channel they do not often watch.

It will also add a layer of confusion to the advertisement market, as advertisers will have to compare means of identification on top of the existing methods for choosing broadcasters and slots.

Question 14: Do stakeholders agree that the current arrangements for transferring unused minutage should remain in place, and be applied to Channel 4 in place of the special arrangements in respect of schools programmes?:

Yes.

Question 15: What views do stakeholders have on the possible approaches to advertising minutage regulation outlined above?:

7.13 (c) is a fallacious assumption.

In 7.15 "The data in Figure 9 above suggests that just over half of viewers would be content with this (i.e. they are content with existing levels of advertising or would be prepared to see more), and that less than half of viewers would be dissatisfied with the level of TV advertising."

This statement is correct (51%) but completely misleading. Figures 9 and 10 indicate that 79% (PSB) and 77% (non-PSB) of all adults feel that there is currently either "More adverts than they are happy with" or "they do not wish to see more".

Therefore any increase in advertisement would go against the wishes of just under 80% of adults.

I suggest that you find someone who can read graphs for significant results rather than trying to squeeze the answer you want out of the statistics.

This clearly indicates that the status quo is the only acceptable outcome, with no need for further research.

Question 16: What views to stakeholders have on the teleshopping options and preliminary assessment outlined above in relation to non-PSB channels?:

Option 1 is the only acceptable choice.

Question 17: What views do stakeholders have on the teleshopping options and preliminary assessment outlined above in relation to PSB channels?:

Again, the status quo is the only acceptable option, as otherwise it seriously limits the viewing of shift workers.

Question IA1: Do you agree with this overview of the impact of the current rules? Do you agree with our starting hypothesis in respect of the extent to which the current rules are likely to impose a constraint on different broadcasters i.e. PSBs and non-PSBs? If not, please set out your reasoning.:

It appears reasonable.

Question IA2: Do you agree with the broad assessment of the impact on different stakeholders of changes to the rules on the distribution of TV advertising set out in Part 2? If not, please set out your reasoning.:

I do not agree with most of the OFCOM impact assessment for the reasons given in my answers to questions 2, 3, 8, 10, 13, 15.

Question IA3: Do you consider that our optimisation approach is a reasonable approximation as to how additional advertising minutage would be used by broadcasters in practice? If not, please set out how you would approach this modelling issue and what assumptions you would adopt.:

The target of the model is incorrect, as a daily average does not describe how viewers feel about advertisement impact.

Viewers do not generally consider the 'mean' impact - they remember maximal and minimal daily impacts.

Therefore the model should be aimed at predicting the maximum impact, or "worst day", not the mean across the year.

Question IA4: Do you consider dividing non-PSB channels into the three categories of "sold out", "nearly sold out" and "unsold inventory" reflects the realities of the TV advertising market for non-PSB channels. If not, how would you suggest we approach this issue in modelling terms?:

These appear reasonable categories.

Question IA5: Do you agree that the assumptions of no drop-off effect is a reasonable assumption to make for the purposes of this modelling exercise? If you disagree, please explain your reasoning and provide data to support any alternative assumptions that you would use.:

This assumption is completely fallacious for the following reasons:

79% of All Adults do not want more advertising on PBS channels, with 76% for non-PSB.

40% believe that there is already too much on PSB, with 46% for non-PSB. (OFCOM Track Survey, May, November 2007)

Viewers already utilise technological means to avoid advertisements, such as Sky+ and other Personal Video Recorders (PVRs).

Therefore an increase in advertisements will lead to a significant drop-off in viewing of advertisements, as viewers who believe the current level is OK move into the 'Too Much' camp, and many of those already in the 'Too Much' camp will decide to take action.

This may not lead to a decrease in viewing figures for actual programmes if the action is to purchase a PVR, but it will greatly devalue the advertisement slots themselves as fewer viewers will see the adverts, and advertisers will lose confidence.

Therefore drop-off is extremely likely.

The magnitude of the drop-off is difficult to determine, but if only 25% of the viewers who consider the existing levels too high were to leave this would be a reduction of 10% in viewing figures for PSB, and 11.5% for non-PSB.

Question IA6: Do you consider that this range of scenarios is appropriate? Are there any other types of scenarios that you believe we should explore as part of our modelling work?:

Personal Video Recorders such as Sky+ are likely to devalue advert breaks in the medium term.

The more breaks there are, the greater this risk as viewers decide that they have seen so many advertisements that the investment in such a unit are worthwhile.

Question IA7: Is the modelling of the changes in the volume of commercial impacts/share of commercial impacts for these different scenarios broadly in line with any modelling work you have carried out? If not, we would be interested to understand what results you have obtained in modelling these scenarios.:

Question IA8: To what extent do you think that is reasonable to assume a constant price premium in light of changes to minutage restrictions? If you think that this could be unreasonable, please set out what you think might happen and how that could be modelled.:

Question IA9: To what extent do you think that this approach would be a reasonable modelling approach to adopt?:

Question IA10: To what extent do you think that is reasonable to make use of the elasticity estimates derived from the PwC study? Are they in line with your own views as to the operation of the TV advertising market? If not, please explain your reasoning.:

Question IA11: To what extent is there evidence to support the argument that an increase in advertising minutage could reduce overall advertising expenditure on TV, i.e. that the advertising market is inelastic?:

The advertising companies believe this to be true, and they have done far more research into their market than OFCOM could reasonably undertake.

Question IA12: To what extent do you consider that these estimates of the financial impact of changes to the rules on the amount of advertising minutage provide an indication of the potential overall scale of any changes as well as the distribution of the impact between PSBs and non-PSBs? Are they in line with your own views as to how the TV advertising market would adjust to such changes? If not, please explain your reasoning.:

Question IA13: The discussion of the modelling approach set out above has focused on the potential impact on different types of broadcasters. To what extent could there be an impact on other stakeholders, particularly media buying agencies and their clients, the advertisers? What is the attitude of these stakeholders to changes in the volume of advertising minutage?:

Question IA14: Do stakeholders agree with the analysis of the impact of these options on non-PSB channels? If not, please set out your reasons, providing evidence to support your analysis wherever possible.:

These appear reasonable.

Question IA15: Do stakeholders agree with our analysis of the impact on PSB channels of these three options? If not, please explain your reasons, providing evidence to support your analysis wherever possible.:

The premise that some viewers don't have digital television and thus could benefit from teleshopping on the PSBs should not be considered, as the analogue services will be terminated in the near future, pushing 100% of viewers onto the digital services that do provide such non-PSB channels.

Therefore any change to existing PSB teleshopping rules would be disadvantageous to the majority of parties.

Additional comments:

All of the question in this consultation questionnaire are incredibly confusing and many appear almost deliberately vague.

It could be argued that this consultation document has been worded such as to preclude significant responses from stakeholders, and for OFCOM to undertake such changes as it wishes without any real form of public consultation.

There are also errors in some of the questions: Q16: "What views to stakeholders..."
How hard is it to copy/paste from the consultation PDF?

I suggest that OFCOM consults with the Campaign for Clear English or similar organisation when writing future public consultation questions.