

The Future of Television Advertising: an NUJ response to Ofcom's consultation on its Review of Television Advertising and Teleshopping Regulation

The National Union of Journalists welcomes Ofcom's consultation over its review of television advertising and teleshopping regulations. The NUJ believes that a successful future for commercial Public Service Broadcasters can partly be ensured by the correct application of the relevant rules surrounding advertising of commercial television¹.

Advertising and Public Service Broadcasters

The NUJ believes there is a future for commercial PSBs, and that Ofcom needs to use all available measures to protect and preserve plurality. In areas of programming where plurality is vital - like regional news coverage - competition helps set a worldwide benchmark for quality television. Having the relevant rules and regulations in place for advertising is a key part of this objective.

The NUJ recognises that the environment within which the commercial PSBs are currently operating is more competitive than it was 15 or 20 years ago. We believe it is necessary for regulation to continue, however Ofcom should use this opportunity to adjust the rules in return for commitments from the commercial PSBs.

The NUJ believes that the current rules that are in place for advertising on non-PSB channels (average minutage of 9 minutes an hour for non-PSBs) should remain unchanged. There is a plethora of non-PSB channels available to viewers, which demonstrates that the current system is working. Like any other business non-PSB channels are free to deliver a service they believe people want. If people do not want their service, like any other business, they have to re-adjust what they are providing, or cease providing it altogether.

The NUJ believes that the rules surrounding PSB channels should be relaxed in return for commitments on PSB content. Channels should be allowed the maximum amount of minutage under the AVMS directive (up to 12 minutes an hour) allowing the generation of more income than is possible at present. In return for this dispensation PSB channels should fund and fulfil their PSB remits and carry programming that is required by their PSB status (for example regional news). For the same reasons the NUJ would like the peak-time restrictions on PSBs relaxed to bring them closer to the regime applying to other commercial channels (thus moving the PSBs from an average of 8 minutes an hour to 9 minutes per hour).

The NUJ notes Ofcom's concern (para 7.21) that extra advertising could encroach on the time available for coverage of the PSB requirements like regional and national news stories, whilst at the same time providing additional revenue to fund public

¹ Alongside other measures suggested by the NUJ in its responses to other consultations carried out by Ofcom, including the Future of DTT and the review of Public Service Broadcasting that is currently being undertaken.

service programming (para 7.21) but does not believe advertising minutes should replace PSB minutes but rather be used to support these. The NUJ also welcomes Ofcom's statement (again para 7.21) that given the scope to schedule more advertising, the opportunity costs of scheduling lower-rating programming to meet PSB obligations would grow. To safeguard against the potential erosion by the scheduling demands that extra advertising brings, the NUJ would suggest strict guarantees on PSB programming types and quantities. The NUJ is happy to engage in discussions over what form this would take.

The NUJ would support Ofcom's Option 2 relating to the number of advertising breaks on PSB channels, to bring them into line with non-PSB channels (2 breaks in a half hour programme, 3 breaks in a 60 minute programme and 5 breaks in a 90 minute programme), again in return for commitments on PSB content.

Teleshopping

Again if there is an opportunity here for Ofcom to enforce PSB commitments from PSB broadcasters in return for a relaxation of rules on teleshopping, then this should be considered. Any relaxation should protect the interests of citizens by safeguarding the broadcasting of PSB content in terms of quantity and timing.

The NUJ is against proposals to sponsor news or current affairs programmes and religious programmes. The NUJ believes that this could have the potential to adversely affect the editorial independence of such programmes. The NUJ would support proposals to relax the current scheduling restrictions that apply to advertising breaks within certain types of programming, including current affairs and news programmes, but within the terms set out above.

Future Proofing Commercial PSB

The NUJ believes the measures outlined so far, combined with other regulatory measures (see below) will help to secure the future of commercial PSBs and safeguard plurality. The NUJ believes that the commercial PSBs form the bedrock (alongside the BBC) of the broadcasting landscape and generate television's world-wide reputation for quality and distinctiveness.

Other mechanisms that could be used alongside this approach to ensure the future of PSB are gifting spectrum to the PSBs on the basis that they will use that gifted spectrum solely for High Definition broadcasting on DTT. A digital version of the PSB compact could be created. In the same way that the analogue PSB compact relied on the terrestrial broadcasters providing certain desirable PSB goals in return for access to the analogue spectrum, this could be reaffirmed on DTT with the same or similar PSB goals, in return for space in the spectrum for HD (and SD) broadcasting.

This could also be used as one lever to at least maintain, or even strengthen PSB programming, and in particular the provision of regional, national and international news coverage. Other levers could also be used (some may require primary legislation) like tax exemptions or reductions concerning licence fees (or any other type of fee or levy that is subsequently introduced).

The NUJ notes and has campaigned against the relaxation over recent years of ITV PSB commitments. At present for ITV, the key component of its PSB offering remains its regional, national and international news. The NUJ also notes a suggestion by Ofcom that national and international news would continue even if there were no regulation on ITV1. However, the NUJ does not accept this view. It is imperative that ITV remains committed to providing a quality news service. Although the economics of such programming remain favourable, and the current leadership of ITV appear committed to national and international news, this cannot be taken for granted. Owners change, as do the economics of broadcasting. Therefore Ofcom needs to ‘future-proof’ the delivery of this public good by ensuring that effective regulation is in place.

In analogue terrestrial television, the Government has enshrined certain ‘listed’ events (e.g. sporting) in legislation. These must be available to the public free-to-air. In the digital age broadcasters holding PSB status could be given certain commercial advantages in bidding for these specified ‘listed’ events. As above, in return, broadcasters would commit to providing free-to-air content, including providing specific PSB characteristics such as regional, national and international news.

Conclusion

The NUJ welcomes Ofcom’s Review of Television Advertising and Teleshopping Regulation and we will fully participate in the continuing debate about all broadcasting-related issues. Our response to this review document should be considered in the context of our continued participation in this wider debate. We will continue to explore the ideas contained within this submission and look forward to Ofcom’s comments on them. We would be happy to expand on our comments made in this document as part of this continuing process.

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