

**Title:**

Mr

**Forename:**

Gary

**Surname:**

Cottier-Jansen

**Representing:**

Organisation

**Organisation (if applicable):**

Triple Media Communications Ltd

**Email:**

**What do you want Ofcom to keep confidential?:**

Keep nothing confidential

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

**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?:**

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

**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?:**

**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?:**

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

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

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

**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? :**

**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?:**

**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?**

**:**

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

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

**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?:**

**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?:**

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

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

Triple Media believe that reduction (option 2) or removal of restriction (option 4) for non-psb is the best option for the market, particular in light of the (proposed) drastically increased definition of teleshopping material.

Put simply, increasing the range of content classified as teleshopping under the Gaming Services consultation and PTV2 will reduce monetized airtime by 50% and put small niche broadcasters at risk of closure unless the teleshopping allowance is increased to balance the changes.

Many small channels are only viable with the revenue from the existing 3 hour teleshopping window and 3/4 hours of gaming or PTV. Such sub letting is an integral part of modern broadcast economics..

Proposed changes to classification of content will half the revenue opportunity available to broadcasters; impact on cost to advertises & editorial airtime markets;.

The Economics:

- A typical niche channel in a mainstream Sky EPG (106-299) will sell 3 hours at £100 ph & 3 hours of PTV or gaming content for £150. Bringing revenue of £273,750
- covering 100% or more its basic distribution, EPG and TX costs.
- More successful channels with appealing editorial content would expect to generate £550,000+ with the same airtime sales.

In addition to the fatal blow to interactive content providers caused by the compound effect of the PTV regulations, the wider content market supported by the smaller channels will be most affected.

Many niche content providers (sub-channels) that have been priced off or blocked from entry to DSat by the Sky launch restrictions rely on open market for airtime from smaller channels. This market will be impacted by the inevitable closure of small channels

This would reduce the choice available to viewers, advertises and those content providers who buy airtime to run ?sub channels? of specialized content [eg: the Polish Programming on Red TV; Hype TV & The Local Government Channel on Information TV etc] .

Better Regulation:

There is considerable risk of regulatory failure if the compound impact of regulatory activity was not specifically analysed and explained - should Ofcom choose to broaden the programming caught under teleshopping guidelines but does not allow a balancing change to the allowance.

Market economics, plus the EPG classification rules operated by all TV platforms would ensure that channels showing valuable editorial content would continue to do so to maintain spot advertising revenue and the channels EPG locations. Viewers would not loose editorial of value by liberalizing the teleshopping allowance.

Should option for reduction (3) or the status quo (1) be proposed we would look for a clear evidence base and a full impact assessment that takes into account the compound effect of regulatory activity on content classification. The current impact assessment does not adequately cover these issues.

Triple Media Communications will be happy to provide more detailed submissions and market data either in the full consultation or at any other point

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

**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.:**

**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.:**

**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.:**

**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?:**

**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.:**

**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?:**

**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?:**

**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.:**

No.

**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.:**

**Additional comments:**

Triple Media Communications works on the development of channels and formats for niche broadcasters and consult on the full range of channel operations for a number of UK & European broadcasters. We also consult on the buying and selling of airtime for both teleshopping and editorial content.

This response is focussed on the teleshopping element as we believe this to be of most concern to small broadcasters and content producers; particularly in light of the likely changes to the classification of other revenue generating models.