

VLV's Response to Ofcom's Broadcasting Code Review

Voice of the Listener & Viewer (VLV) is an independent, non-profit-making association, free from political, commercial and sectarian affiliations, working for quality and diversity in British broadcasting and new media. VLV represents the interests of listeners and viewers as citizens and consumers across the full range of broadcasting issues. VLV is concerned with the structures, regulation, funding and institutions that underpin the British Broadcasting system.

Sexual Material Rules (Code Section One)

Question 1: a) Do you consider that the rule in relation to 'adult-sex' material needs to be clarified?

Yes

b) Do you agree with our proposed amendments to the rule on 'adult-sex' material (Proposed Rule 1.18 to replace Rule 1.24)? **Yes**

c) If you do not agree with our proposed amendments, please explain why and suggest alternative wording where appropriate. **Not applicable**

Question 2: a) Do you consider that the introduction of a new rule in relation to material of a strong sexual nature is appropriate? **Yes**

b) Do you agree with our proposed rule on material of a strong sexual nature (proposed Rule 1.19)?

Yes

c) If you do not agree with our proposed new rule, please explain why and suggest alternative wording where appropriate. **Not applicable**

Question 3: a) Do you consider that the rule in relation to material equivalent to the BBFC R-18 rating needs to be separated from the rule in relation to R-18 rated works? **Yes**

b) Do you agree with our proposed rule on material equivalent to the BBFC R-18 rating (proposed Rule 1.17)? **Yes**

c) If you do not agree with our proposed new rule, please explain why and suggest alternative wording where appropriate. **Not applicable**

Question 4: a) Do you consider that the rule in relation to pre-watershed material needs to be clarified? **Yes**

b) Do you agree with our proposed amendments to the rule on pre-watershed material (proposed Rule 1.20 to replace Rule 1.17)? **Yes**

c) If you do not agree with our proposed amendments, please explain why and suggest alternative wording where appropriate. **Not applicable**

Question 5: a) Do you consider that the associated revisions are appropriate following the other rule revisions outlined above? **Yes**

b) Do you agree with our proposed associated revisions in Section One? **Yes**

c) If you do not agree with our proposed revisions, please explain why and suggest alternative wording where appropriate. **Not applicable**

Question 6: a) Do you wish to suggest an alternative approach to the proposed set of rules in relation to sexual material? **No proposals**

If so, please outline your proposals, which should comply with relevant legislation (including the Communications Act 2003 and the European Convention on Human Rights). **Not applicable**

Competitions and Voting Rules (Code Section Two)

Question 7: a) Do you consider that the introduction of new rules in relation to competitions and voting is appropriate? **Yes**

b) Do you agree with our proposed new rules in relation to competitions and voting (proposed Rules 2.11 to 2.13 to replace Rule 2.11)? **Yes**

c) If you do not agree with our proposed new rules, please explain why and suggest alternative wording where appropriate. **Not applicable**

Question 8: a) Do you consider that the introduction of new meanings in relation to competitions and voting are appropriate? **Yes**

b) Do you agree with our proposed new meanings in relation to competitions and voting? **Not entirely**

c) If you do not agree with our proposed new meanings, please explain why and suggest alternative wording where appropriate. **A broadcasting competition could be put in place without a prize and still be clearly a competition. The rules applying should still be as stringent. VLV recommend that 'with a prize' be deleted.**

Question 9: a) Do you wish to suggest an alternative approach to the proposed set of rules in relation to competitions and voting? **No**

If so, please outline your proposals, which should comply with relevant legislation (including the Communications Act 2003, the Audiovisual Media Services Directive, the AVMS Directive (Implementation) Regulations 2009 and Article 10 of the European Convention on Human Rights.

Commercial References in Television Programming Rules (Code Section Nine)

Question 10: a) Do you consider that the rules on commercial television would benefit from being separated from those for radio? **Yes**

b) Do you agree with the introduction of the proposed new Section Nine on commercial references in television programming? **Yes**

c) If you do not agree with the proposed new Section Nine, please explain why and suggest alternative wording where appropriate. **Not applicable**

Question 11: a) Do you consider that it is appropriate for Ofcom to include the enforceable provisions relating to product and prop placement, replicated from the AVMS Directive (Implementation) Regulations, as rules in the revised Code? **It is clearly appropriate for Ofcom to include the enforceable provisions relating to prop and product placement within the code. This will be especially important for two reasons. First, for aggrieved viewers to be able to find all the relevant rules for UK-licensed broadcasters in one place; and second, to provide clear instructions, both for television broadcasters, and for the implementation of any co-regulatory arrangements by means of which the video-on-demand industry takes responsibility for ensuring content standards in video-on-demand programmes.**

It is important to note that the scope of the AVMS Directive is narrow and covers only mass media services whose principal purpose is to provide television-like programming to users. Moreover, according to the written Ministerial statement of 11 March 2009, those providers whose role is only to provide access to other providers' video-on-demand services will not be responsible for the content of those services. Furthermore, the Government also said, in its Ministerial statement, that it "expects that access providers will want to ensure, as far as possible, that all video-on-demand services to which they provide access meet the minimum standards required for UK video-on-demand services." Viewers, including non-UK viewers, of UK-licensed TV services will therefore need to know whether or not any individual video-on-demand service has been licensed by Ofcom, and whether it meets the minimum standards set down in the Ofcom code.

Article 3a of the AVMS Directive sets down a set of information requirements which must be easily, directly and permanently accessible to recipients of a television or video-on-demand service, and VLV currently assumes that these will all be included in the UK's AVMS Implementation Regulations. But in addition, and VLV has emphasized this point to DCMS, article 1(g) of the Directive defines an on-demand audiovisual media service as a service which is provided for "viewing of programmes at the moment chosen by the user and at his individual request on the basis of a catalogue of programmes selected by the media service provider." Thus the requirement in the AVMS Directive, for a provider of a video-on-demand service to provide the user with a catalogue, is an important source of information for potential viewers.

VLV therefore submits that the Ofcom Code must also require an Ofcom-licensed video-on-demand service to inform the viewer, both within the set of information requirements which must be easily, directly and permanently accessible to recipients of a service, and at the head of the catalogue of programmes selected by the media service provider, that the video-on-demand service meets the minimum standards established by the putative co-regulatory body.

With specific regard to the issues of prop placement and product placement, VLV welcomes the provisions banning product placement and the UK government's endorsement which should be adopted as rules in the Code.

In adopting the AVMS Declaration Ofcom should also accept its responsibility to make clear in the Code that the ban and exceptions proposed by the UK government include the following:

- i) the ban on product placement is total in all television programmes made by or for UK broadcasters

and, additionally,

- ii) in all instances where imported television programmes include product placement the viewer should be protected by being made aware of the presence of such material
- iii) In the case of 'video-on-demand' programming there should be a total ban on inclusion of product placement in news and current affairs programming (see 11b) below
- iv) The viewer should also be made aware of the presence of product placement within content in 'video-on-demand' programmes.

In addition, VLV submits that the Ofcom code must require the provider of a video-on-demand service to notify within its catalogue, before the point at which payment is required, whether a given film or programme contains product placement.

b) If you do not consider this to be appropriate, please explain why.

Video-on-Demand – VLV has made ongoing representations to the DCMS relative to product and prop placement in 'video-on-demand' services which continue to remain unresolved. Specifically VLV believes that the AVMS Directive leaves room for the UK to exclude product placement from current affairs and news programmes at minimum..

Under the provisions of article 3(1) of the Directive, the UK "shall remain free to require media service providers to comply with more detailed or stricter rules, provided that such rules are in compliance with Community Law." In VLV's view, therefore, the UK still has the right, should it so wish, to prohibit product placement in news and current affairs programmes. VLV does not accept that it is appropriate to adopt the Directive in the Statutory Instrument without clarification of that issue.

When this issue is resolved the purpose of the code must then be to clarify any uncertainties in the legislation. This could also include the further possibility to interpret the legislation to accommodate specific national and local conditions or requirements.

Question 12: a) Would you consider that it appropriate for Ofcom to introduce rules that would allow Public Information Programming (as described above)? **No**

If so please explain why. If not, please explain why not.

12(a) VLV does not consider that it would be appropriate for Ofcom to introduce rules that would allow Public Information programming as outlined. Our reasons for this are:

i) There is as yet no clear definition of how PIP will be constituted. Until the proposal is more defined it is premature to consider adopting a code. As presented in the document this proposal could be in breach of the AVMS Directive but it is unclear because the proposals do not specify the nature of the contractual relations between those making the PIP and the broadcaster or provider of an audio visual service.

ii) The proposal as it stands risks overloading public service broadcasting with state-aided sponsored programming. It is unsurprising that the COI is interested but the prohibition on covering 'matters of political, industrial or public controversy' removes exactly that choice from the citizen that is part of Ofcom's primary regulatory duty 'to further the interests of citizens in communication matters'.

iii) The PIP service should be the subject of a completely separate debate in order to resolve the many contradictions of risks to editorial independence, state-aided sponsored programming, sponsorship relative to the AVMS, EU public subsidy rules, balanced and objective reporting etc. This project introduces new circumstances to public service broadcasting. To ensure that the stated intent to protect citizens and consumers from potential manipulation can be fully realized VLV would recommend a separate consultation on the whole project.

iv) As it is now stated that code revisions will be made on a running basis it would be premature and unnecessary to include codes for such a tentative project.

v) Whilst VLV will strongly support the interest of citizens in improvements in dissemination of public information VLV considers there is far too little detail available of this service at this stage for a code to be implemented. As presented the proposal even appears extremely dangerous and VLV believes that this Codes consultation is not the place to back-in a completely new programme approach. VLV strongly believes that no reference to the PIP should appear in this revision of the Broadcasting Codes. Instead a complete proposal for the service should be developed and consulted upon before any before codes for the new service are approved and introduced.

b) If Ofcom were to introduce rules in relation to Public Information Programming:

i. Are there any potential programmes that you believe could comply with the potential rules but that you consider would be undesirable or arguably not in the public interest? If so, please give details.

See a) above

ii. What impact (e.g. social, economic, equality) do you think the potential rules would have on viewers, the television industry and any other parties? See a) above

iii. Do you consider that the potential rules would maintain the editorial independence of the broadcaster and provide adequate consumer protection? If not, please explain why. No - see a) above.

iv. Do you consider that additional or alternative safeguards to those included in the draft potential rules are necessary? If so, please provide details. Yes - see a) above

v. Specifically, should there be any restriction on the type of non-commercial, not-for-profit entities permitted to fund Public Information Programming, and if so, what restrictions? See a) above

vi. Do you consider it would be appropriate for Ofcom to review these rules two years after their introduction? If not, please explain why. No - See a) above

Question 13: a) Do you consider that the proposed new Section Nine would benefit from the introduction of new meanings? Yes,

b) Do you agree with our proposed new meanings for Section Nine? Yes

c) If you do not agree with our proposed new meanings, please explain why and suggest alternative wording where appropriate. Not applicable..

Question 14: a) Do you consider that the introduction of new Principles in relation to Section Nine is appropriate? Yes

b) Do you agree with the proposed new Principles for Section Nine? Yes

c) If you do not agree with our proposed new Principles, please explain why and suggest alternative wording where appropriate. Not applicable

Question 15: a) Do you consider that the proposed Rules 9.1 to 9.5 are broadly the same, in terms of both scope and intent, of current Rules 10.1, 10.2, 10.3, 10.4 and 10.12? Yes

b) If you do not consider the proposed rules are broadly the same as the current rules in this area, please explain why and suggest alternative wording where appropriate. Not applicable

c) Do you agree with the introduction of the proposed new Rule 9.6? Yes

d) If you do not agree with the proposed new Rule 9.6, please explain why and suggest alternative wording where appropriate. **Not applicable**

Question 16: a) Do you consider it appropriate to introduce the proposed new Rule 9.9? **Yes**

b) If you do not consider it appropriate to introduce the proposed new Rule 9.9, please explain why and suggest alternative wording where appropriate. **Not applicable**

Question 17: a) Do you consider that the introduction of a new competition and voting section is appropriate? **Yes**

b) Do you agree with the proposed new competition and voting section for Section Nine? **Yes**

c) If you do not agree with our proposed new competition and voting section, please explain why and suggest alternative wording where appropriate.. **Not applicable**

d) Do you agree that it is appropriate to apply these rules to BBC services funded by the licence fee? **Yes**

e) If you do not agree that it is appropriate to apply these rules to BBC services funded by the licence fee, please explain why. **Not applicable**

Question 18: a) Do you consider that the rules in relation to programme-related material would benefit from clarification? **Yes**

b) Do you agree with the introduction of the proposed programme-related material section for Section Nine? **Yes**

c) If you do not agree with the proposed programme-related material section, please explain why and suggest alternative wording where appropriate. **Not applicable**

Question 19:

a) Do you consider that the proposed cross reference to the Cross-promotion Code would assist stakeholders? **Yes**

b) If you do not consider that the proposed cross reference to the Cross-promotion Code would assist stakeholders, please explain why and suggest alternative wording where appropriate. **Not applicable**

Question 20: a) Do you consider that the meanings in relation to sponsorship of television would benefit from revision? **Yes**

b) Do you agree that the revised meanings are consistent with those currently used, but more accurately reflect the definition of sponsorship as set out in the AVMS Directive? **Yes**

c) If not please explain why, suggesting drafting changes where appropriate. **Not applicable**

Question 21: a) Do you consider that the rules in relation to the content of sponsored output would benefit from clarification? **Yes**

b) Do you agree with the introduction of the proposed new rules on the content of sponsored output in Section Nine? **Yes**

c) If you do not agree with the proposed new rules on the content of sponsored output, please explain why and suggest alternative wording where appropriate. **Not applicable**

Question 22: a) Do you consider that the rules in relation to sponsorship credits would benefit from clarification? **Yes**

b) Do you agree with the introduction of the proposed rule? **Yes**

c) If you do not agree with the proposed rule, please explain why and suggest alternative wording where appropriate. **Not applicable**

Question 23: a) Do you consider that the rules in relation to appeals for funds would benefit from clarification? **Yes**

b) Do you agree with the introduction of the proposed Rule 9.29 and the section on appeals for funds for programming or services? **Yes**

c) If you do not agree with the proposals, please explain why and suggest alternative wording where appropriate. **Not applicable**

Question 24: a) Do you consider that the proposed rule revisions are appropriate and would remain consistent with current rule requirements? **No**

b) If you not, please explain why and suggest alternative wording where appropriate - 9.20 says credits can be used at beginning and end of a sponsored programme implying 'only'. Either 9.20 should state 'only' at the beginning or end of the programme or be more explicit by stating when otherwise the credit may be used.

Question 25: a) Do you wish to suggest an alternative approach to the proposed. revisions in relation to the regulation of commercial references on television? **No**

b) If so, please outline your proposals, which should comply with relevant legislation (including the Communications Act 2003, the Audiovisual Media Services Directive, the AVMS Directive (Implementation) Regulations 2009 and Article 10 of the European Convention on Human Rights.

Commercial References in Radio Programming Rules (Code Section Ten)

Question 26: a) Do you consider that the rules on commercial radio would benefit from being separated from those for television? **Yes**

b) Do you agree with the introduction of the proposed new Section Ten on commercial references in radio programming? **Yes**

c) If you do not agree with the proposed new Section Ten, please explain why and suggest alternative wording where appropriate. **Not applicable**

Question 27: a) Do you consider that it is appropriate for Ofcom to introduce the proposed rules concerning content-related promotions? If so, please explain why. **No**

b) If not, please explain why. –

i) The content-related promotion is effectively just another form of advertising with tighter rules for insertion within a programme, making it effectively product placement. This proposal seeks to differentiate PIP from present advertising by permitting proximity to content whilst attempting to surround it with protection for the listener.

ii) Research (Annex 12) shows that the listener could welcome this type of additional service in some circumstances. However the same research also shows that the listener resents advertising as interrupting the listener experience whilst strongly valuing separation, transparency and editorial integrity.

iii) VLV accepts that there could well be consumer benefit in knowing the price and availability of a specific item but does not accept that the broader scope and protection provided by the relaxation of the codes is necessary. In terms of the example given, of a particular record, the protection is probably adequate but the provision is not limited to this example.

iv) On the broader scale proposed there is a high risk that the separation of content from commercial factors will be weakened, flying in the face of all past accepted broadcasting principles of separation. A promotional element is being introduced as though it were not advertising, but in fact it is either advertising or product placement. If advertising it should meet advertising rules of separation, if product placement it should not be permitted, the risks of elision of commercial factors into editorial integrity being too great.

v) The arguments in favour put forward by the industry for such a sweeping change are neither comprehensive nor convincing. It is very likely, in current straitened times in the advertising industry, that the broadcasters would merely swap high value advertising for low cost content-related promotion leaving them worse off. The economic and competitive circumstances are unclear, as the consultation concedes, and certainly, as presented, do not outweigh the risks to the valued principle of separation and editorial integrity.

vi) VLV submits that the existing radio advertising rules without content-related programming (and more generous than TV), maintaining strict separation from content, are adequate to meet the needs of the commercial broadcasters whilst providing proper protection for the listener..

c) Do you agree with our assessment of the impact of the proposed rules on listeners, the radio industry and any other parties? - **No, risks are not fully covered - see a) above**

Please provide any evidence or data you have to support your answer.

d) Do you consider that the proposed rules would maintain the editorial independence of the broadcaster and provide adequate consumer protection? **No**

e) If not, please explain why, suggesting drafting changes where appropriate. **Such activities should not be permitted but confined to existing advertising rules.**

Question 28: a) Do you consider that it is appropriate for Ofcom to introduce the proposed rules concerning outside broadcasts sponsored by the venue? **No**

VLV has no objection to Rule 10.31 for venue sponsorship but is concerned at the reference in Rule 10.32 to treating this sponsorship as subject to the same potential as content-related promotions.

If so, please explain why.

b) If not, please explain why – VLV has expressed reservations in answers to Question 27 which apply here. The potential for abuse in an OB situation appears even more likely as directorial control is by necessity more fluid.

c) Do you agree with our assessment of the impact of the proposed rules on listeners, the radio industry and any other parties? **No** –

Please provide any evidence or data you have to support your answer. The research (Annex 12) showed strong preferences for ‘factual references to the sponsor/venue and its products and services’ but not promotional references. VLV would support that research preference.

d) Do you consider that the proposed rules would provide adequate consumer protection, subject to the maintenance of full transparency concerning sponsorship arrangements? **No – not if content-related promotion rules applied**

If not, please explain why, suggesting drafting changes where appropriate. In Rule 10.32 delete ‘unless they are broadcast as content-related promotions’.

Question 29: a) Do you consider that it is appropriate for Ofcom to introduce the proposed rules concerning sponsored listener competition features? **No**

If so, please explain why.

b) If not, please explain why. The involvement of the sponsor permitted by the new rule seems almost the same as permitting a standard advertisement in the form of a programme. They should either be seen as full advertisements and treated as such under advertising rules giving clear separation, transparency and editorial integrity for the broadcaster or recast as competitions with spot advertising

c) Do you agree with our assessment of the impact of the proposed rules on listeners, the radio industry and any other parties? **No – the risks of confusion and misleading the listener are too great.** Please provide any evidence or data you have to support your answer.

d) Do you agree that the proposed rules would provide adequate consumer protection, subject to the maintenance of full transparency concerning sponsorship arrangements? **No** - see previous answers

e) If not, please explain why suggesting drafting changes where appropriate.

Question 30: a) Would you consider that it is appropriate for Ofcom to introduce rules that would allow Public Information Programming (as described above)? **No – see answers provided above under Question 12.**

If so, please explain why. If not, please explain why not.

b) If Ofcom were to introduce rules in relation to Public Information Programming:

i. Are there any potential programmes that you believe could comply with the potential rules but that you consider would be undesirable or arguably not in the public interest? If so, please give details.

See above Q12

ii. What impact (e.g. social, economic, equality) do you think the potential rules would have on listeners, the radio industry and any other parties? Please provide any evidence or data to support your answer. **See above Q12**

iii. Do you consider that the potential rules would maintain the editorial independence of the broadcaster and provide adequate consumer protection? If not, please explain why. **See above Q12**

iv. Do you consider that additional or alternative safeguards to those included in the draft proposed rules are necessary? If so, please provide details. **See above Q12**

v. Specifically, should there be any restriction on the type of non-commercial, not-for-profit entities permitted to fund Public Information Programming, and if so, what restrictions? **See above Q12**

vi. Do you consider that it would be appropriate for Ofcom to review these rules two years after their introduction? If not, please explain why. **Not applicable**

Question 31: a) Do you consider that the proposed new Section Ten would benefit from the introduction of new meanings? **Yes**

b) Do you agree with our proposed new meanings for Section Ten? **Yes**

c) If you do not agree with our proposed new meanings, please explain why and suggest alternative wording where appropriate. **Not applicable**

Question 32: a) Do you consider that the introduction of new Principles in relation to Section Ten is appropriate? **Yes**

b) Do you agree with the proposed new Principles for Section Ten? **Yes**

c) If you do not agree with our proposed new Principles, please explain why and suggest alternative wording where appropriate. **Not applicable**

Question 33: a) Do you consider that the proposed Rules 10.1 to 10.5 are broadly the same, in terms of both scope and intent, as current Rules 10.1, 10.2, 10.3, 10.4, and 10.12? **No**

b) If you do not consider the proposed rules are broadly the same as the current rules in this area, please explain why and suggest alternative wording where appropriate.

Although programme related material is referred to in this section there is no reference to content-related programming to which VLV has objected in Question 27.

If it is intended that these rules also cover content-related programmes then it should be made totally clear that that is the case. In that event VLV objects to the inclusion of content-related promotions as outlined in their answer to Question 27. The old wording, with no reference to new rules, is therefore acceptable to VLV.

c) Do you agree with the introduction of the proposed new Rule 10.6? **Yes**

d) If you do not agree with the proposed new Rule 10.6, please explain why and suggest alternative wording where appropriate.

Question 34: a) Do you consider it appropriate to introduce the proposed new meaning of product placement, to reflect the definition required for television?

The definition is acceptable but any relationship to the AVMS Directive should end with that description as the Directive does not apply to Radio

b) If not please explain why, suggesting drafting changes where appropriate. **The definition should then relate only to the statement that for radio 'product placement is banned'.**

Question 35: a) Do you consider it appropriate to introduce the proposed new Rule 10.10? **Yes**

b) If not please explain why, suggesting drafting changes where appropriate. **Not applicable**

Question 36: a) Do you consider that the introduction of a new competition and voting section is appropriate? **Yes**

b) Do you agree with the proposed new competition and voting section for Section Ten? **Yes**

c) If you do not agree with our proposed new competition and voting section, please explain why and suggest alternative wording where appropriate. **Not applicable**

d) Do you agree that it is appropriate to apply these rules to BBC services funded by the licence fee? **Yes – implemented through the BBC Trust**

e) If you do not agree that it is appropriate to apply these rules to BBC services funded by the licence fee, please explain why and suggest drafting changes where appropriate. **Not applicable**

Question 37: a) Do you consider that the rules in relation to programming-related material would benefit from clarification? **Yes**

b) Do you agree with the introduction of the proposed programming-related material section for Section Ten? **Yes, except comment in c) below**

c) If you do not agree with the proposed programming-related material section, please explain why and suggest alternative wording where appropriate. **It seems unnecessary to state that there should be no announcement of a funder on air (10.16) when it is clearly stated in the introduction to the proposal that no funding by a third party should be involved. Delete 10.16.**

Question 38: a) Do you consider that the meanings in relation to sponsorship of radio would benefit from revision? **Yes**

b) Do you agree that it is appropriate for Ofcom to introduce the proposed meanings in relation to radio sponsorship? **Yes**

c) If not please explain why, suggesting drafting changes where appropriate.

Question 39: a) Do you consider that the rules in relation to the content of sponsored output would benefit from clarification? **Yes**
b) Do you agree with the introduction of the proposed new rules on the content of sponsored output in Section Ten? **Yes, subject to the reservations earlier expressed on Rules 10.17-24 and 10.31-4**
c) If you do not agree with the proposed new rules on the content of sponsored output, please explain why and suggest alternative wording where appropriate. **Not applicable**

Question 40: a) Do you consider that introduction of rules in relation to Service Level Agreements is appropriate? **This section all relates to Community Radio – it does not appear offensive but I suggest we leave it blank**
b) Do you agree with Ofcom's proposed rules on Service Level Agreements?
c) If not please explain why, suggesting drafting changes where appropriate.

Question 41: a) Do you consider that the rule in relation to appeals for funds would benefit from clarification? **Yes**
b) Do you agree with the introduction of the proposed Rule 10.55 and the section on appeals for funds for programming or services? **Yes**
c) If you do not agree with the proposals, please explain why and suggest alternative wording where appropriate. **Not applicable**

Question 42: a) Do you consider that the proposed rule revisions are appropriate and would remain consistent with current rule requirements? **Yes, with the exception of 10.7**
b) If you not, please explain why and suggest alternative wording where appropriate.
The provisions for content-related promotions and specific sponsorship arrangements for radio are now referred to as product placement. Previously that expression and definition has not been used in this context. VLV has objected to the contents of 10.17-24 and 10.31-4 and believes that product placement should continue to be banned completely on radio. Adoption of the AVMS and its product placement conditions are not required in EU legislation, as the consultation document clearly acknowledges in 7.1. VLV vigorously opposes a proposal which introduces product placement through indirect routes. 10.7 should remain 'Product placement is prohibited' as the old code 10.5

Question 43: a) Do you wish to suggest an alternative approach to the proposed revisions in relation to the regulation of commercial references on radio?
VLV accepts the overall approach to the revisions with the exception that it is extremely concerned that codes are being proposed for a new service (PIP) which has not previously been either defined or the subject of consultation. It is also a service which may well contravene EU regulations.
b) If so please outline your proposals, which should comply with relevant legislation (including the Communications Act 2003, Article 10 of the European Convention on Human Rights, Schedule 1 of The Consumer Protection from Unfair Trading Regulations 2008 and The Community Radio Order 2004).
Sections of the Code where no revisions proposed

Question 44: a) Do you agree with the proposed approach which only proposes changes to Section One of the Code in relation to material of a sexual nature, only proposes changes to Section Two in relation to Competitions and Voting, and proposes no changes to Sections Three to Eight.
Yes
b) If you do not agree with our approach, please explain which other sections of the Code you consider should be reviewed and why.
c) Do you agree with Ofcom's approach which will be to provide, and update, guidance to all sections on an on-going basis? If so, are there particular areas where you consider an updating of guidance would be helpful?
Yes – but an ongoing basis should always include prior consultation.
Any new services or commercial references should be closely evaluated for full conformity to due impartiality rules.

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