

**COVER SHEET FOR RESPONSE TO CONSULTATION: BASIC DETAILS**

Consultation title: Broadcasting Code Review

To (Ofcom contact): *Sara Winter*

Name of respondent: *Sarah E Rodgers*

Representing (self or organisation/s): *self*

Address (if not received by email):

**CONFIDENTIALITY**

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing

Name

Contact details

Job title

Organisation

Whole response

Part of the response

If there is no separate annex, which parts?

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

**DECLARATION**

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

*S. E. RODGERS*

Signed (if hard copy)

*S. E. Rodgers*

# Consultation questions

## 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.

**YES**  
✓

**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 providing 4.12 is adhered**

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

✓

**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.

✓

**Question 4**

a) Do you consider that the rule in relation to pre-watershed material needs to be clarified? **NO**

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.

**NO** Proposed Rule 1.20 is clear ✓  
I read above & agree with it. SER.

**Question 5**

a) Do you consider that the associated revisions are appropriate following the other rule revisions outlined above? **YES**

**YES**

- b) Do you agree with our proposed associated revisions in Section One?
- c) If you do not agree with our proposed revisions, please explain why and suggest alternative wording where appropriate.

On the whole YES - providing 4.12 really means what it says, 4.15 - what is explicit to one person is not always explicit to another.

**Question 6**

- a) Do you wish to suggest an alternative approach to the proposed set of rules in relation to sexual material? If so, please outline your proposals, which should comply with relevant legislation (including the Communications Act 2003 and the European Convention on Human Rights).

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

Yes - fairness openness is needed. YES ✓

**Question 8**

- a) Do you consider that the introduction of new meanings in relation to competitions and voting are appropriate?
- b) Do you agree with our proposed new meanings in relation to competitions and voting?
- c) If you do not agree with our proposed new meanings, please explain why and suggest alternative wording where appropriate.

YES ✓  
YES ✓

**Question 9**

- a) Do you wish to suggest an alternative approach to the proposed set of rules in relation to competitions and voting? 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?
- b) Do you agree with the introduction of the proposed new Section Nine on commercial references in television programming?

YES ✓  
YES ✓

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

**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? YES ✓
- b) If you do not consider this to be appropriate, please explain why.

**Questions 12**

- a) Would you consider that it appropriate for Ofcom to introduce rules that would allow Public Information Programming (as described above)? If so please explain why. If not, please explain why not. Depends on the information going out
- 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 comment
  - 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? ✓
  - 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. ✓
  - 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
  - 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? YES - only legitimate non commercial + not for profit
  - vi. Do you consider it would be appropriate for Ofcom to review these rules two years after their introduction? If not, please explain why. YES - someone will find a loophole & exploit it

**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.

**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.

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. ✓
- 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.

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.

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.
- 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.

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.

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. ✓

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.

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.

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.

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? 9.29 !!!  
YES
- c) If you do not agree with the proposals, please explain why and suggest alternative wording where appropriate.

Question 24

- a) Do you consider that the proposed rule revisions are appropriate and would remain consistent with current rule requirements?
- b) If not, please explain why and suggest alternative wording where appropriate.

YES ✓

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?
- 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).

NO ✓

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?
- b) Do you agree with the introduction of the proposed new Section Ten on commercial references in radio programming?
- c) If you do not agree with the proposed new Section Ten, please explain why and suggest alternative wording where appropriate.

YES

YES ✓

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.
- b) If not, please explain why.
- c) Do you agree with our assessment of the impact of the proposed rules on listeners, the radio industry and any other parties? 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?
- e) If not, please explain why, suggesting drafting changes where appropriate.

YES for fairness & balance & monitoring also offensiveness

Question 28

- a) Do you consider that it is appropriate for Ofcom to introduce the proposed rules concerning outside broadcasts sponsored by the venue? If so, please explain why.
- b) If not, please explain why.

- c) Do you agree with our assessment of the impact of the proposed rules on listeners, the radio industry and any other parties? Please provide any evidence or data you have to support your answer.
- d) Do you consider that the proposed rules would provide adequate consumer protection, subject to the maintenance of full transparency concerning sponsorship arrangements?
- e) If not, please explain why, suggesting drafting changes where appropriate.

**Question 29**

- a) Do you consider that it is appropriate for Ofcom to introduce the proposed rules concerning sponsored listener competition features? If so, please explain why.
- b) If not, please explain why.
- c) Do you agree with our assessment of the impact of the proposed rules on listeners, the radio industry and any other parties? 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?
- 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)? 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.
  - 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.
  - 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.
  - iv. Do you consider that additional or alternative safeguards to those included in the draft proposed rules are necessary? If so, please provide details.
  - 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?

*Even with Rules this is a ~~unhelpful~~ minefield*



- 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.

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.

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.

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? 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.
- 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? YES ✓
- b) If not please explain why, suggesting drafting changes where appropriate.

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.

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?

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

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

**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
- 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.*

**Question 40**

- a) *Do you consider that introduction of rules in relation to Service Level Agreements is appropriate?* YES
- b) *Do you agree with Ofcom's proposed rules on Service Level Agreements?* YES
- 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?
- b) Do you agree with the introduction of the proposed Rule 10.55 and the section on appeals for funds for programming or services?
- c) If you do not agree with the proposals, please explain why and suggest alternative wording where appropriate.

YES

YES

Question 42

- a) Do you consider that the proposed rule revisions are appropriate and would remain consistent with current rule requirements?
- b) If you not, please explain why and suggest alternative wording where appropriate.

YES

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?
- 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).

NO

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.
- 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

Answered purely as a Viewer or Listener.  
The new Rules seem fair & well  
balanced.

## Annex 5

# Current Broadcasting Code Section One (Rule 1.17 onwards)

## Section One: Protecting the Under-Eighteens

Relevant legislation includes, in particular, sections 3(4)(h) and 319(2)(a) and (f) of the Communications Act 2003, Article 22 of the Television Without Frontiers Directive, Article 10 of the European Convention on Human Rights.)

This section must be read in conjunction with Section Two: Harm and Offence.

### Principle

To ensure that people under eighteen are protected.

~~The current Rules 1.1 to 1.16 will remain unchanged.~~

### Sex

- 1.17 Representations of sexual intercourse must not occur before the watershed, or when children are particularly likely to be listening, unless there is a serious educational purpose. Any discussion on, or portrayal of, sexual behaviour must be editorially justified if included before the watershed, or when children are particularly likely to be listening, and must be appropriately limited and inexplicit.

### Nudity

- 1.18 Nudity before the watershed must be justified by the context.

### Exorcism, the occult and the paranormal

- 1.19 Demonstrations of exorcisms, occult practices and the paranormal (which purport to be real), must not be shown before the watershed or when children are particularly likely to be listening. Paranormal practices which are for entertainment purposes must not be broadcast when significant numbers of children may be expected to be watching, or are particularly likely to be listening. (This rule does not apply to drama, film or comedy.) (See Rules 2.6 to 2.8 in Section Two: Harm and Offence and Rule 4.7 in Section Four: Religion.)

### Films, premium subscription film services, pay per view services, adult-sex material on premium subscription services

- 1.20 No film refused classification by the British Board of Film Classification (BBFC) may be broadcast unless it has subsequently been classified or the BBFC has confirmed that it would not be rejected according to the standards currently operating. Also, no film cut as a condition of classification by the BBFC may be transmitted in a version which includes the cut material unless: