

Friday 28 January 2011



Peter Bourton
Head of Commercial Policy
Ofcom
Riverside House
2a Southwark Bridge Road
LONDON SE1 9HA

Dear Peter

I am writing in response to the invitation in the Ofcom regulatory statement on *commercial references in television programming* to comment on the proposal to waive the COSTA restriction on advertising break lengths for films shown on PSB channels for a trial period.

As you know, Channel 5 disputed Ofcom's view that single dramas needed to be classified as films under COSTA Rule 16 (a) if they were to be able to contain product placement. In our response to the Ofcom consultation, we estimated that the annual cost to Channel 5 of this change was likely to be of the order of £1.4 million. We have revisited this analysis in the light of changing market conditions, and now estimate that our annual loss is more likely to be of the order of £1.6 million this year.

Therefore, we are grateful that Ofcom is proposing a measure to allow us to recoup this lost revenue through a trial relaxation of COSTA Rule 14 for films. This relaxation would enable us to lengthen commercial minutage in centre breaks beyond the 3'30" that is currently allowed not only for those dramas that would need to be reclassified as films but also for feature films and other movies already classified as films for COSTA Rule 16 (a) purposes.

We have conducted a detailed analysis of the potential effects of such a change, not only on our schedule but on those of ITV1 and Channel 4. This suggests that a modest increase in commercial minutage in all film programming from three and a half minutes to four minutes (where possible) would be likely to compensate us for the revenue loss we will suffer from the reduction in the number of centre breaks in our single dramas.

Our analysis also suggests that the overall increase in impacts in the market would be marginal, even if ITV1, Channel 4 and Channel 5 all increased the potential commercial minutage in all film programming by half a minute. Therefore, we do not believe the change would result in any significant increase in the overall number of commercial impacts. You will recall that we have always been concerned to limit the total number of impacts in the market because of the deflationary effect of such an increase on the price of airtime.

Channel 5 Broadcasting Limited
The Northern & Shell Building
Number 10 Lower Thames Street
London EC3R 6EN

Switchboard: 020 8612 7000
General Fax: 020 8612 7687

www.five.tv

Channel 5 Broadcasting Limited
Registered in England No.3147640

I would like to make clear that although the effect of this rule change would enable the three PSB channels to increase commercial minutage not just by 30 seconds but by much more, we believe in practice all three channels will be cautious about increasing the length of commercial breaks. We will all be concerned about the potential irritation caused to viewers by longer breaks, the danger of viewers deciding to desert programmes (temporarily or permanently) if the commercial breaks are too long, and the effects on our reputations of becoming known for overlong breaks.

Therefore, although we expect all three channels would gain some benefit from the change being proposed by Ofcom, we do not believe it would be exploited excessively.

You also sought views on the timing of such a trial. I should point out that it will take some weeks from the date Ofcom announces its decision for us to benefit fully. This is because a lot of airtime is planned in quite a detailed way some weeks in advance, so although it might be possible to make some changes quite quickly, it would be a month or so before we could integrate fully the new rule on centre-break length into our planning.

We are also conscious that Ofcom is about to announce its long-awaited consultation on the harmonisation of the COSTA rules between PSB and non-PSB channels, which will include consideration of the rules on the length of centre breaks. We were told by Kate Stross in November that Ofcom still planned to conclude that consultation in time for new rules to be introduced in January 2012.

Therefore, we believe it would be sensible for the trial period to last until the end of the year or such time as changes to COSTA take effect as a result of the larger consultation. This would give enough time for Ofcom, the three broadcasters and other stakeholders to assess the effects of the change. A shorter trial period of just six months could lead to the slightly absurd position of the existing rule being reintroduced for a few months in the autumn, only for it to be abolished again in January under new COSTA rules (if they involve a relaxation of the PSB centre break rule).

Therefore, we would like Ofcom to introduce a relaxation of the PSB centre break rule along the lines proposed for a trial period lasting until the end of 2011 or such other time as changes to COSTA take effect.

Best Wishes

A handwritten signature in black ink, appearing to read 'Martin Stott'. The signature is written in a cursive, slightly stylized font.

Martin Stott
Head of Regulatory Affairs