



Review of television advertising and teleshopping regulation

Proposals on advertising
distribution, and options for the
amount of advertising and
teleshopping

Ofcom Consultation 2008

Response of
The Trading Standards Institute

May 2008



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28 May 2008

Dear Daniel

Thank you for the opportunity to submit our comments on the Ofcom review of television advertising and teleshopping regulation – proposals on advertising distribution, and options for the amount of advertising and teleshopping.

The Trading Standards Institute is the professional body for Trading Standards professionals working in the private and public sectors.

It is the national body responsible for representing, supporting, lobbying, and championing Trading Standards to a range of stakeholders including government, business, consumers, and the media.

We look to provide innovative solutions across the regulatory arena; to administer and award professional qualifications; to accredit and

certify training and ensure the ongoing competence of members; and to influence and lobby on behalf of the profession as a whole.

We aim, through our actions and our members' actions, to empower consumers and reputable business to contribute to a vibrant economy.

We strive to eliminate rogue traders and unfair trading practices from the marketplace, to promote environmental sustainability, and to make an effective contribution to the health and social wellbeing of citizens and communities.

In compiling this response, TSI has sought the view of our Lead Officers on Consumer Advice, Michele Shambrook and Pam Gregory. If you require clarification on any of the points raised in the response, please do not hesitate to contact Michele and Pam at the joint email address loadvice@tsi.org.uk or by telephone on 0845 608 9496 (Michele) / 9481 (Pam).

In conclusion, TSI does not consider this response to be confidential and is happy for it to be made publicly available.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'RG', with a large loop at the end.

Ron Gainsford
Chief Executive

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Ofcom consultation:–

**Review of television advertising and teleshopping regulation –
Proposals on advertising distribution, and options for the amount of
advertising and teleshopping**

Trading Standards Institute Response – May 2008

Main Document

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?

Largely yes; however please see comments below for further detail.

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

Yes, provided that the new rules applied ensure that advertising breaks do not harm the integrity of programmes and are distinguishable from the programme itself. In addition there should be sufficient resourcing to allow for appropriate enforcement of the new regulatory objectives.

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?

As 2 above.

Question 4: Do stakeholders agree that the new Code should discontinue the requirement for a buffer between advertising and co religious service or Royal occasion?

Greater regulation may be appropriate in relation to advertising between religious service, Royal occasion, or indeed children's programming.

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

As 2 above. It may be appropriate to apply a more flexible rule once again, ensuring that the integrity of the individual programme itself remains protected.

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

Yes; this will ensure that the integrity of individual programmes are protected and reduce the risk of dissatisfied viewers.

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

Largely yes; the options appear to strike a balance between the need to protect viewer satisfaction whilst considering the financial impact of reduced advertising on the quality of programmes.

Ofcom should take into account the following when formulating proposals:

- **Viewer feedback**
- **Financial implications**
- **Protecting the continuity of viewing**
- **Preventing the degradation of more complex or detailed programmes e.g films or documentaries.**

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?

As 2 above with the exception of religious programmes and children's programming where greater regulation may well be appropriate.

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?

TSI has no specific view on this.

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?

As 4 above.

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

As 2 above.

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

As 2 above.

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?

Yes.

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?

As 4 above. It may be appropriate to ensure that separate regulation remains for school programmes.

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

In general the approaches outlined are appropriate. The comments outlined in 2 and 4 above should be taken into account when recommending the most appropriate option.

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

No specific views

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

Teleshopping does not seem to be appropriate for PSB channels.

Impact Assessment

TSI feels that the questions in this section are really aimed at those stakeholders actually involved in the advertising business. We have, therefore, provided the briefest of responses.

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.

Yes.

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.

Yes.

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.

Yes.

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?

Generally yes.

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.

Not sure this is an accurate assessment as more consultation of viewers may be needed.

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?

Generally yes.

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.

No specific views.

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.

No specific views.

Question IA9: To what extent do you think that this approach would be a reasonable modelling approach to adopt?

No specific views.

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.

No specific views.

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?

No specific views.

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.

No specific views.

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?

No specific views.

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.

Yes.

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.

Yes.

Additional comments

The Trading Standards Institute has no additional comments to make.

