



Response from GMG Radio

Introduction:

This response is honed to specifically address the questions raised in relation to our preferred procedural option from those raised in the Ofcom consultation document. This is based after due consideration on an overall belief that Options A and B, through maintaining listed principles of transparency, separation and editorial independence will not fully achieve the desired overall objective of rule relaxation in order to alleviate some of the unnecessary regulatory burdens placed on the commercial radio industry.

We do not believe the measures relating to an adoption of Option D is wholly fit for purpose at the present time and agree with Ofcom's observation that although affording most flexibility for stakeholders, there will be a risk of negative impact on listeners. A further review on implementing Option D would be welcome in due course but Option C is our preferred route forward as we consider it would have the most positive impact in terms of overall understanding and application as well as affording the best practical platform to create more interesting output for listeners whilst at the same time providing new opportunities and increased value for commercial partners.

As such our views within this response will, in the main, be targeted towards the questions raised on the proposed Option C and new Section Ten code rules and guidelines.

Consultation questions

Proposed revisions to the Broadcast Code in relation to commercial communications in programming

Option C: Allows the integration of commercial communications and programming (except in relation to spot ads)

a) Do you consider that Option C should be adopted by Ofcom?

This would be our preferred overall Option with some proposed suggestions to follow which we hope may be positively considered in order to assist in overall interpretation and further enhance the objective and benefits of complete transparency for radio operators, commercial partners and listeners.

- b) Do you agree with our approach to the issue of additional prohibitions or restrictions? Do you agree with our approach to a proposed review period? In particular do you wish to comment on the criteria which could govern a future review?

In its most simplest of terms we feel Option C positively allows for the promotion of products and services in programming and apart from specific transparency requirements and understandable exemptions, the proposals appear in the main to be clear and concise. This is extremely welcome to broadcasters as it removes much if not all of the ambiguity connected to the previous Sections 9 and 10 of the Broadcast Code.

That said, we do believe Option C as it currently stands does still retain some degree of ambiguity and elements of less than necessary regulatory intrusion which we feel are worthy of further debate:

Editorial

We do understand why news output is excluded from commercial arrangements and that editorially its content and presentation must and should always be impartial and continue to be regulated with specific reference to the Broadcast Code. However our view is that there may be an opportunity for some further relaxation. Being able to offer an acceptable form of association would no doubt be prestigious and attractive to suitable commercial partners or sponsors and at the same time provide additional revenue generating opportunities to the industry.

This is an area of output where operators have always retained full editorial control and independence and we are not suggesting any change to this principle. However rather than completely dismiss the opportunity of sponsorship attached to news output we would wish Ofcom to have further consideration to the potential viability and exploration of possible commercial opportunities raised by partnerships purely on the basis of not compromising editorial content.

If that is to be taken in to consideration, then we suggest that it may now perhaps be an appropriate time to consider adding an additional though simple rule within Section 10 which could be introduced purely for bulletins and news desk originated output:

10. xx 'Broadcasters must maintain the independence of editorial control over news and news desk originated content'.

Our view is that responsible broadcasters fully understand the requirement for editorial integrity and would always wish to ensure any third party commercial arrangement could under no circumstances influence output. Some relaxation however could feasibly create an editorially controlled commercial opportunity whilst remaining under strict regulatory control where commercial references may only be placed around and not within news output or presentation.

Programming

As highlighted in the consultation document (6.16), Ofcom receives few complaints concerning the content of sponsorship credits though with liberalisation under Option C it

perhaps anticipates some increase because of the content and numbers of commercial references within programmes.

Our view is that provided the Code is unambiguous and completely clear in terms of interpretation then Ofcom should have some comfort in the commercial radio industry's ability and desire to provide more creative programming designed to add to listeners enjoyment whilst at the same time deliver increased value to third party commercial partners.

The programming departments should remain responsible for all appropriate presentation output located within editorial and as such will inherit the challenge of remaining true to what listeners expect of the station whilst at the same time managing the undoubted higher expectation of station commercial teams and clients. Therefore the clarity of the final statement, the published Section 10 and the accompanying guidelines from Ofcom will be absolutely crucial to how successfully Option C can be implemented.

Commercial references

We would also seek some further clarity on this term as our interpretation is that any suitable paid for material apart from separated spot advertising may be implemented in to the stations output. The caveat within 6.14 of the consultation indicates this material should be 'associated with material intended to entertain and/or provide added value' to the listening experience'.

We would therefore welcome within the guidelines further clarity on how material can be integrated seamlessly within programming and what specific regulatory framework will be offered to ensure the material remains compliant. The main reasoning for seeking this clarity is to ensure programming output retains appropriate creativity and is not severely interrupted by unnecessary regulatory burdens which clearly prohibit what should be the natural presentation of information about a paying sponsor or product which has been signalled properly.

6.22 of the document states that research indicates listeners dislike promotional references that serve no editorial purpose but that under Option C it would be for broadcasters to decide how they retain listener trust, loyalty and interest in programming as a whole. We are extremely comfortable with this as a clear statement of Ofcom's future intent towards regulatory intervention but wish to ensure there are no misunderstandings or contradictions in how this is interpreted within the new code.

Review Criteria

The proposed liberalisation though welcome will be a refreshing challenge which at the same time will perhaps expose areas of doubt, greater compliance risks and possibly further questions as implementation within output progresses, listener reaction/feedback commences as a result and eventual regulatory control takes effect. We also appreciate Ofcom will be taking this in to consideration and we therefore welcome the flexibility of a Code review following a reasonable period of implementation perhaps after two full years.

It's understandable that involved stakeholders will learn and adapt as progress is made although if the detail and guidance is transparent and completely unambiguous at the

beginning then there is much less chance of major changes being necessary as a result of a review.

It might also be useful to understand in a little more detail from Ofcom how it interprets an inference in 6.35 and be more specific on what will be the 'potentially greater compliance risks' implied as a result of Option C implementation. We believe more information on this train of thought would be of great benefit so as to assist perhaps with the overall interpretation process.

Additional prohibitions or restrictions

We fully understand the issues referred to and believe it proper that they should remain in place in order to retain existing continuity and clarity.

- c) Do you agree with our approach to the issue of additional prohibitions or restrictions? Do you agree with our approach to a proposed review period? In particular do you wish to comment on the criteria which could govern a future review?

We have included our views with regards to consumer affairs and news programming under the Editorial sub-section heading above.

Programming primarily aimed at children

We understand the importance of protecting children from improper brands, products and services and specifically targeted advertising on radio and consider the AVMS directive banning product placement within children's programmes on television to be right and proper.

Caution is always advisable if elements of radio output are clearly scheduled for and directed to provide entertainment, which may well be sponsored, for children. However commercial radio in the UK does not usually have any particular remit to provide output specifically for young listeners and the integration of commercial communications within radio programming which may well be heard by children such as at breakfast and drive-times could be difficult to implement efficiently although we are comfortable that this can be managed effectively within the new Code requirements.

We agree with the principle of protecting children as identified by Rule 10.3 from commercial references integrated within programming on radio which is *specifically* identified and aimed at children under the age of sixteen although there may be areas of subjectivity involved within the process of deciding how strands of programming can be specifically classified.

- d) Do you agree with our approach to the issue of not-for-profit funders? In particular do you wish to comment on the range of safeguards which would be in place?

Commercial Radio in the UK is recognised as being a primary communication source for not for profit organisations and charities to convey messages designed to raise profile and awareness or seek funding for various projects.

Many radio stations will provide platforms in programming which are designed to raise awareness of monetary or aid appeals and we believe listeners welcome and enjoy interacting with this particular strand of output. Whilst programming output may be sponsored by a non-related third party it is only possible under current regulation for not for profit funders to buy spot advertising or sponsor non-related output.

Therefore safeguard conditions proposed in Option C are welcome and provide proper clarity and guidance and in particular with regards to the restrictions imposed on Charity Appeals in Rules 10.50 and 10.51.

e) [Do you agree with our approach to the issue of the selection or rotation of music?](#)

The proposed new commercial arrangements and agreed references on music output are a welcomed as a new opportunity for the industry to achieve additional revenue streams by opening up the unique link between listeners and programming output provided all arrangements are completely transparent.

We believe it correct for the station to adhere to a reasonable signalling of commercial arrangements, however within the current proposal we feel that the two separate signalling requirements – one for commercial arrangement and one for commercial references is unnecessary and over complicates the issue as opposed to achieving its objective of protecting and informing listeners.

Music accounts for the vast majority of commercial radio station output and the new rules and guidelines indicate to us that it is likely with the imposed restrictions to take some time if it ever does happen for music schedulers and providers and sponsors to interpret the newly proposed rules and guidance effectively. It is important that this is done properly but in its current form this is going to be difficult and perhaps create unnecessary pressure on compliance because of the complexities involving numerous signalling requirements, the distinction between commercial arrangements and commercial references and the additional time load requirement when performing these tasks alongside the need to place a lot of additional detail/material on to the websites and public files.

In our view there only needs to be a commercial arrangement signalling requirement and that placement of relevant information on how we select music on the website or public file should be sufficient to ensure overall transparency and maintain listener trust.

f) [Do you have any comments on the rule set for Option C? If so, please refer to any individual rules by reference to the proposed rule numbers set out above.](#)

The rules set within this option are clear enough and any areas requiring further clarity or debate are included within our comments to other questions elsewhere in the response.

g) [Do you have any comments on the discussion on guidance for Option C?](#)

In the main we believe this new approach by Ofcom to be very positive and the consultation certainly presents the industry with both new opportunities and a much greater degree of clarity than that of the existing Code. We also note that Ofcom states they will offer additional guidance on certain terminology and rules and this will be

helpful. There will no doubt be continuing challenges ahead in terms of clarification and interpretation but we believe a major element of potential ambiguity had now been removed in both Options C and D.

We feel the commercial radio industry should welcome this singular aspect alone as major progress and trust the continuation of non-ambiguous language within the final Code publication will continue as Ofcom seeks to offer complete clarity on the scope, definitions and spirit of the Code and its guidelines.

The new Section Ten as displayed in Option C will hopefully enable the industry to make sensible, creative and objective commercial decisions whilst at the same time remaining compliant to the Broadcast Code.

We also appreciate the fact that Ofcom has worked closely with the industry in order to provide a range of options and potential solutions and this is recognisable within the approach and presentation of the various options within the consultation. New proposals within Section Ten do address the need for suitable relaxation and recognises the benefits of the industry-proposed principles of editorial trust and transparency. The introduction of a far simpler regulatory approach also conforms in some way to that proposed by the RadioCentre and supported by the industry in the previous 2009 review consultation.

Ends