



Regulating the quantity of advertising on television

Statement

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Section 1

Executive Summary

The regulation of television advertising

- 1.1 There are currently restrictions on the amount of advertising that any UK television broadcaster is allowed to show on its channels. These restrictions have been put in place to ensure that viewers are not exposed to excessive amounts of advertising, and that the quality of the viewing experience is maintained.
- 1.2 The framework that determines the amount of advertising permitted on television is set at a European level by the Audiovisual Media Services (AVMS) Directive. This sets a limit for all channels of 12 minutes on the amount of advertising which may be shown in one hour. The specific rules which apply in the UK are set out in Ofcom's Code on the Scheduling and Amount of Advertising (COSTA).
- 1.3 The rules which apply in the UK set limits for the commercial public service broadcasters (PSBs) – Channel 3, Channel 4, S4C and Channel 5 - and all other commercial broadcasters. For example, there is a limit on the average number of minutes per hour of advertising across the day of 7 minutes an hour (off peak) for PSBs and 9 minutes an hour for all other broadcasters¹.
- 1.4 There have been significant changes in how television is distributed and consumed since these rules were first put in place, including the growth of multi-channel TV and the take-up of digital video recorders (DVRs). Ofcom has, therefore, been considering whether there is an ongoing need for UK-specific restrictions on the amount of advertising on television, and whether the current rules are fit for purpose.
- 1.5 Even if the UK-specific restrictions currently contained within COSTA were to be removed, the amount of advertising would still be restricted by the hourly limit set out in the AVMS Directive.
- 1.6 Any changes to advertising minutage regulation could have a significant impact on broadcasters, advertisers and viewers. There have been very different views expressed by different stakeholders on the need for, and nature of, any changes.
- 1.7 In 2007, in light of the above, Ofcom initiated the first of a number of consultations on advertising regulation. As part of this work we looked at the possible economic impact of different options for advertising minutage regulation and commissioned econometric research to inform the modelling of the impact of any changes.
- 1.8 It is important that, when looking at the advertising minutage rules, we consider how best to balance our various duties in this area. We have, therefore, conducted additional work on the principles underlying the regulation of advertising to consider whether there is a case for moving away from the status quo. This document sets out our position on the regulation of advertising minutage in light of this analysis.

¹ For details of the UK-specific rules see Figure 1 in Section 2.

Ofcom's approach is shaped by European legislation and its own statutory duties

- 1.9 The rules that frame the amount of advertising permitted on television are set at a European level by the AVMS Directive. Ofcom also has a number of statutory duties which are relevant to television advertising. Taking these into account, the key factors which we need to consider are as follows:
 - 1.9.1 The AVMS Directive establishes the need to **protect the interests of consumers as television viewers**, particularly by ensuring they are not exposed to excessive amounts of advertising which is also detrimental to the viewing experience. This is the primary reason why TV advertising is regulated.
 - 1.9.2 Ofcom's principal duty under the Communications Act 2003 is to further the interests of citizens in relation to communication matters and further the interests of consumers in relevant markets, where appropriate by promoting competition.
 - 1.9.3 Ofcom has several specific duties which flow from this principal duty. They are not the primary goals of TV advertising regulation, but they are likely to be relevant to any consideration of such regulation. They include duties to **secure a wide range of high quality television and radio services** calculated to appeal to a variety of tastes and interests **and to maintain a sufficient plurality of providers of different television and radio services**.
 - 1.9.4 Ofcom must also have regard, where relevant, to the desirability of promoting the **fulfilment of the purposes of public services broadcasting** in the United Kingdom and to apply a regulatory regime that seeks to secure the delivery of programming that fulfils these purposes. Television advertising is critical for financing TV content for many broadcasters, including the commercial PSBs.
 - 1.9.5 Ofcom must also have regard to the **desirability of promoting competition** in relevant markets, in this case the TV advertising market.
 - 1.9.6 In carrying out our duties, **we must have regard to the likely impact** of regulation on stakeholders such as consumers, citizens, broadcasters and advertisers and, where appropriate, on others likely to be affected by regulation.
- 1.10 These interests can potentially act in tension, for example, if we were only focused on protecting viewers from excessive advertising one approach might be to prohibit advertising within programme breaks and only allow advertising between programmes. However, restricting the amount of advertising to extremely low levels is likely to reduce the level of advertising revenue available to produce content, which in turn would be likely to reduce the range and or quality of programming available to viewers.
- 1.11 Our starting point has been to consider whether there is a need for regulation that goes further than the maximum limits set by the AVMS Directive, as UK regulation currently does.

UK-specific regulation delivers benefits

- 1.12 As would be expected, audience research demonstrates that viewers frequently see advertising as disruptive to their viewing. However, when prompted, they also recognise its role in funding television content and that it can therefore have a value to them. A small majority of viewers seem to accept current levels of advertising as acceptable, but would not want to see a significant increase. Attitudes do not appear to be substantially changing over time despite growth in the overall amount of advertising.
- 1.13 Removing any UK-specific restrictions would be likely to lead to an increase in the overall volume of television advertising on all broadcasters, as competition within the market would encourage broadcasters to increase the amount of minutage to increase the share of commercial impacts, and thus the share of advertising revenue.
- 1.14 Analysis which takes into account the econometric data available to us suggests that significant increases in minutage may actually lead to a decline in the total amount of television advertising revenue. If the supply of advertising was increased then prices would be likely to reduce and our analysis suggests that the overall effect would be a reduction in total advertising revenues. This would reduce the amount of funding available for the production of content.
- 1.15 We therefore conclude that removing UK specific regulation, and moving to the maximum permitted under the AVMS Directive, would not be in the interests of viewers, since it would be likely to increase viewers' exposure to advertising whilst at the same time reducing the range and quality of content.
- 1.16 The only stakeholders who might be expected to benefit from such a move are advertisers, who would potentially experience lower prices. However, advertisers appear to recognise that the current restrictions have the benefit of funding programming that is attractive to viewers, thereby maintaining the value of television as an advertising medium.
- 1.17 The evidence therefore suggests that there remains a strong case to continue UK specific restrictions on the volume of advertising.

Under the existing legal framework the current rules are fit for purpose

- 1.18 The second question we have considered is whether the current rules, which distinguish between the levels of advertising that can be shown by PSBs and non-PSBs, are delivering against the interests of consumers, and whether it would be appropriate to amend the rules to better deliver against these interests.
- 1.19 Some broadcasters have argued that there is a strong case for harmonisation of the rules between PSBs and non-PSBs, as the distinction is no longer as valid as we approach digital switchover. This could take the form of, for example, 'levelling up' to the current restrictions on non-PSBs, or 'levelling down' to the levels of PSBs.
- 1.20 Levelling up, whilst representing a less significant change to the rules, would have similar consequences to setting the rules at the AVMS limits. It would be likely to lead to an increase in the overall levels of advertising which is not in the interests of viewers. For similar reasons to those set out above, we do not believe there is a strong case for levelling up.

- 1.21 From the perspective of viewers, levelling down would certainly mean a reduction in exposure to advertising.
- 1.22 If the current rules act as a restriction on broadcasters then it is likely that they have the effect of raising prices above what might otherwise be the competitive level which would in turn mean that some broadcasters benefit from increased revenue, increasing the total revenue available to produce content. The same analysis suggests that additional restrictions on the supply of advertising could further raise prices, and lead to an increase in the revenue that would be available to broadcasters to invest in content, including programming that meets the purposes of PSB. This could also be positive for viewers who continue to value highly PSB programming.
- 1.23 However under the current regulatory framework, and taking into account the econometric research available to us, it is difficult to predict with any certainty what the effect of levelling down would be. There is not only uncertainty as to how much additional revenue might be generated, but also how it would be distributed between different broadcasters. There is also uncertainty as to how much of that revenue broadcasters would invest in content and in what type of content. While we would expect some additional investment in content, the current regulatory regime – particularly with regard to the current licence obligations on the PSBs - provides no guarantees as to the use of any additional revenues received.
- 1.24 Finally, a further restriction on supply would represent a further regulatory intervention in the market for TV advertising. This is likely to have an adverse impact on purchasers of advertising and non-PSBs have also expressed concerns that levelling down would negatively impact on their revenues.
- 1.25 Since levelling down would be a significant further intervention in the market we would need to be persuaded that there was sufficient evidence to justify such a change. It is possible that levelling down could potentially lead to increased investment in content and in particular to content invested by the PSBs. However we do not believe that the outcomes of this further intervention are clear enough to justify consulting on amending the rules at the current time.

We do not, therefore, plan to consult on changes to the rules

- 1.26 In conclusion, given our existing legislative duties, the purpose of regulation in this area and the evidence gathered as part of this work, we believe that there continues to be a strong case for UK-specific restrictions on advertising minutage, over and above the hourly limit set out at a European level in the AVMS Directive.
- 1.27 We believe that the interests of consumers are delivered effectively through the rules as currently set out. We have not found or been presented with evidence that suggests a change to the existing rules would necessarily better deliver against these interests and the overall goals of regulation in this area. We therefore do not propose to consult on changes to the rules at the current time.
- 1.28 This decision is based on our current duties and the existing evidence. It does not preclude Ofcom from reconsidering this issue in the future if, for example, there are changes to the regulatory framework that change the balance between our duties, or we are presented with new evidence that provides greater certainty about the outcome of any changes in the rules.

1.29 In addition, in the context of a new Communications Bill, Government has indicated that it will consider how best to drive the growth of UK content production across all platforms². It is possible that the regulation of advertising minutage could be potentially used as a lever to help incentivise investment in UK content, both generally, and by the public service broadcasters in particular. This is a policy issue for Government to consider as part of its review, but should this lead to changes to the legislative framework for broadcasting in the UK, or to Ofcom's duties in this area, we would then need to consider the issue further.

² http://www.culture.gov.uk/images/publications/commsreview-open-letter_160511.pdf

Section 2

Introduction and the relevant legal framework

Introduction

- 2.1 The quantity and scheduling of advertising on television in the UK has always been subject to regulation, with rules being put in place for the launch of commercial TV broadcasting in the 1950s. The amount of advertising UK television broadcasters are allowed to show is determined by regulation at a European level through the AVMS Directive which is implemented in the UK by Ofcom's Code on the Scheduling and Amount of Advertising (COSTA).
- 2.2 In 2007, in light of changes to the European framework and wider market developments, Ofcom initiated the first of a number of consultations on advertising regulation. As part of this work we considered the economic impact of different options for advertising minutage regulation and commissioned econometric research. A summary of this previous work is set out in Section 3.
- 2.3 Any changes to advertising minutage regulation could have a significant impact on broadcasters, advertisers and viewers, and during these consultations stakeholders expressed very different views on the need for, and nature of, any changes.
- 2.4 Ofcom needs to determine how best to balance our relevant duties when considering the appropriate goals and level of regulation in this area. Therefore, to help Ofcom decide how best to balance the duties we have conducted additional work to consider, in principle, whether there is a case for moving away from the status quo. In this statement we:
- set out the relevant legal framework;
 - consider wider market developments;
 - summarise previous work that Ofcom has done in this area; and
 - consider whether there is a need to consult on changes to the status quo given the effectiveness of the current approach and the potential impact of changes to the rules on the interests we have a duty to serve.
- 2.5 In the rest of this section we set out the current rules and consider how the relevant European and UK legislation has evolved

The current rules

- 2.6 The current source of European regulation on the amount of advertising which may be shown on TV is the AVMS Directive which limits the total amount of advertising which may be shown in one clock hour to 12 minutes. The Directive allows for Member States to set stricter rules and COSTA goes beyond the minimum requirements of the AVMS Directive in several places. The Code rules also differ between PSBs and non-PSBs. In effect this means that viewers watching a PSB in peak time will see no more than an average of 8 minutes of adverts per hour.

2.7 The existing rules are set out below in Figure 1.

Figure 1: Summary of current COSTA rules

	PSB	Non-PSB
Maximum average number of minutes of advertising per hour for hours broadcast	7 min/hour	9 min/hour
Maximum number of minutes of adverts in any single hour	12 min/hour	12 min/hour
Maximum average number minutes per hour in peak (6pm – 11pm)	8 min/hour	Rule does not apply
Teleshopping allowance	Included in advertising allowance and only allowed midnight – 6am	3 min/hour addition to advertising Can be any time of the day

Note. Full details of the rules can be found at <http://stakeholders.ofcom.org.uk/binaries/broadcast/other-codes/tacode.pdf>

Our framework for considering minutage regulation is grounded in our duties to viewers

The evolution of European Legislation

2.8 In considering advertising minutage regulation it is useful to look at how it has evolved over time and how this has helped to determine some of the characteristics of today's regulation.

The Television Without Frontiers Directive

2.9 The precursor to the AVMS Directive was the Television without Frontiers Directive³ ("the TWF Directive") which was adopted in 1989. The purpose of the Directive was to require Member States to adopt minimum common standards of advertising regulation in order to facilitate a single market in broadcasting services in accordance with the Treaty of Rome. The Directive was amended in 1997⁴.

2.10 The TWF Directive also established the need to protect consumers as television viewers. This remains a primary goal of the current European legislation.

2.11 Recital 26 to the TWF Directive stated that:

2.11.1 "in order that the interests of consumers as television viewers are fully and properly protected, it is essential for television advertising to be subject to a certain number of minimum rules and standards and that the Member States must maintain the right to set more detailed or stricter rules and in

³ Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities

⁴ Directive 97/36/EEC of the European Parliament and of the Council of 19 June 1997 amending Council Directive 89/552/EEC.

certain circumstances to lay down different conditions for television broadcasters within their jurisdiction”.

- 2.12 The TWF Directive set the same limits on the maximum amount of advertising minutage allowed per clock hour as the AVMS Directive does today. It required, amongst other things that the amount of TV advertising spots and teleshopping spots be limited to a maximum of 20% (12 minutes) in any one clock hour, and also provided that the total duration of advertising spots should not exceed a daily average of 15% (9 minutes) an hour (Article 18).

The Audiovisual Media Services Directive

- 2.13 On 18 December 2007, the European Union adopted amendments to the TWF Directive, which became AVMS.
- 2.14 The AVMS Directive offers slightly more flexibility to Member States and broadcasters in the amount of advertising permitted. Whilst it retains the maximum amount of 12 minutes of advertising in any one hour (Article 23), it has removed the limits on the daily average imposed under the TWF Directive.
- 2.15 The Directive has retained the right for Member States to set more detailed or stricter rules and lay down different conditions for television broadcasters under their jurisdiction (Article 4). In relation to services intended solely for the national territory which may not be received, directly or indirectly, in one or more Member States, it retained the power for member states to lay down different conditions for the insertion of advertising and set different limits for the volume of advertising in order to facilitate these particular broadcasts (Article 26).

The evolution of UK Regulation

- 2.16 The PSBs and non-PSBs have been subject to different advertising minutage rules since 1991 when Ofcom’s predecessor the Independent Television Commission (ITC) published the ITC Rules on Advertising Breaks, in part to give effect to the TWF Directive.
- 2.17 For the first time, the rules drew a distinction between PSB channels and non-PSB channels. At that stage the non-PSB channels were a relatively new market development. The ITC argued that it had no remit to secure the quality of non-PSB channels and they should be allowed the maximum flexibility permitted by the TWF Directive. By contrast, the ITC concluded that it did have an obligation to protect the quality of the viewing environment on PSB channels and the PSB channels remained subject to a daily average of 7 minutes an hour. As the ITC stated:

“In the case of ITV, TV AM, and Channel 4, the ITC’s remit does extend to the value and enjoyment these services provide to viewers and it believes that in some cases more demanding standards than those required by the European Directive remain justified.”⁵

- 2.18 Subsequently, these differences have been eroded, but not eliminated. For example, in Autumn 1998, the ITC changed the 7½ minute hourly limit to an average of 8 minutes across peak (i.e. 40 minutes in total across the 5 hours of peak-time),

⁵ ITC Rules on Advertising Breaks, ITC, Autumn 1991

allowing PSBs to show up to 12 minutes an hour during the most popular viewing times (7pm to 10pm)⁶.

The Communications Act 2003

- 2.19 As set out above, the rules that frame the amount of advertising permitted on television are set at a European level by the AVMS Directive. Ofcom also has a number of statutory duties which are relevant to television advertising. These are set out in the Communications Act 2003 (“the Act”).
- 2.20 Section 3(1) of the Act provides that Ofcom’s principal duty in carrying out its functions shall be to further the interests of:
- a) citizens in relation to communications matters, and
 - b) consumers in relevant markets, where appropriate by promoting competition.
- 2.21 Section 3(2) specifies matters which Ofcom must secure in carrying out its functions, including:
- a) the availability throughout the UK of a wide range of television and radio services which (taken as a whole) are both of high quality and designed to appeal to a variety of tastes and interests; and
 - b) the maintenance of a sufficient plurality of providers of different television and radio services.
- 2.22 Where it appears to Ofcom that any of its general duties conflict with one another, it must secure that the conflict is resolved in the manner it thinks best in the circumstances (section 3(7)).
- 2.23 In performing the duties under section 3(1)(b) to further the interests of consumers, Ofcom must also have regard to the interests of those consumers in respect of choice, price, quality of service and value for money. Section 3(3) and section 3(4) provide that in performing the duties set out in section 3(1), Ofcom must have regard in all cases to:
- i) the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed; and
 - ii) any other principles appearing to Ofcom to represent best practice.
- 2.24 Ofcom must also have regard, where Ofcom considers it relevant, to a variety of other factors including:
- i) the desirability of promoting the fulfilment of the purposes of public service television broadcasting in the United Kingdom;
 - ii) the desirability of promoting competition in relevant markets;

⁶ ITC Rules on the Amount and Scheduling of Advertising, ITC, Autumn 1998

- iii) the needs of persons with disabilities, of the elderly and of those on low incomes; the opinions of consumers in relevant markets, and of members of the public generally; and
 - iv) the different interests of persons living in the different parts of the United Kingdom of the different ethnic communities within the UK and of persons living in rural and urban areas.
- 2.25 Under section 6 of the Act Ofcom must keep the carrying out of its functions under review with a view to securing that regulation does not involve:
- a) the imposition of burdens which are unnecessary; or
 - b) the maintenance of burdens which have become unnecessary.
- 2.26 Ofcom has both a general responsibility with respect to advertisements and forms and methods of advertising, sponsorship and product placement, as well as a related power to include conditions in any licence granted by Ofcom that go beyond the provisions of its standards code (section 321(4)).
- 2.27 Section 322(1) states that the regulatory regime for every television programme service includes a condition requiring the person providing the service to comply with every direction given to him by Ofcom with respect to the matters mentioned in subsection (2).
- 2.28 Under Section 322(2) those matters are:
- a) the maximum amount of time to be given to advertisements in any hour or other period;
 - b) the minimum interval which must elapse between any two periods given over to advertisements;
 - c) the number of such periods to be allowed in any programme or in any hour or day; and
 - d) the exclusion of advertisements from a specified part of a licensed service.
- 2.29 Ofcom licences contain a condition requiring the licensee to comply with all directions, whether general or specific and/or qualified or unqualified, given to them by Ofcom with respect to the matters noted above.
- 2.30 COSTA⁷ (and previously the Rules on the Amount and Distribution of Advertising “RADA”) sets out the rules with which television broadcasters licensed by Ofcom must comply on the amount, scheduling and presentation of advertising.

Removal of the Advertising Sales Rules

- 2.31 Until 2010 the Advertising Sales Rules (ASRs) required the PSBs to sell all of their available advertising minutage. The PSBs could not sell less advertising than the maximum limits set by COSTA , so the maximum limits set out in COSTA effectively

⁷ <http://stakeholders.ofcom.org.uk/binaries/broadcast/other-codes/tacode.pdf>

became a required level of advertising. In 2010, after consultation, these rules were removed⁸.

Human Rights Act 1998

- 2.32 Under section 6 of the Human Rights Act 1998, there is a duty on Ofcom (as a public authority) to ensure that it does not act in a way which is incompatible with the European Convention of Human Rights (“the Convention”).
- 2.33 Article 10 of the Convention provides for the right to freedom of expression. It encompasses the broadcaster’s right to “impart information and ideas” and also the audience’s “right to receive information and ideas without interference by public authority”. Such rights may only be restricted if the restrictions are “prescribed in law and necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health and morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence or for maintaining the authority and impartiality of the judiciary” (Article 10(2) of the Convention).
- 2.34 Ofcom must exercise its duty in light of these rights and not interfere with the exercise of these rights in broadcast services unless it is satisfied that the restrictions it seeks to apply are required by law and necessary to achieve a legitimate aim.

⁸ <http://stakeholders.ofcom.org.uk/binaries/consultations/asr/statement/statement.pdf>

Section 3

Summary of Ofcom's work on advertising minutage

Introduction

- 3.1 In this section we summarise the work that Ofcom has already conducted on the regulation of advertising minutage. We also set out a summary of stakeholders' positions on the levels of advertising on television.

Ofcom has previously conducted work looking at the quantity and distribution of advertising on TV channels

We started a review of the regulation on the quantity of advertising on TV services licensed by Ofcom after changes to European law in this area

- 3.2 In 2007 we decided to commence a review of advertising, following changes to the European framework and in light of wider market developments. We conducted the review in several stages and deregulated where this was considered to be in the interests of citizens and consumers.

Stage One 2007-2008

- 3.3 The first stage of the review of advertising and teleshopping regulation (published in March 2008⁹) consulted on changes to the scheduling of TV advertisements, and indicated we would be looking at rules surrounding the quantity of advertising in a further stage. The stage one statement (published in July 2008¹⁰) concluded by removing / liberalising rules governing advertising breaks within some types of programmes and setting up a further stage of work (Stage Two), looking at potential changes to the rules on advertising minutage.

Stage Two (2008-2009)

- 3.4 In the second stage of the review (published in October 2008¹¹) we consulted on a range of options regarding the regulation of advertising. In respect of the rules on the amount of minutage we examined the impact of a range of options including: maintaining the status quo; allowing all channels to show an average of 9 or 12 minutes of advertising an hour ("levelling up"); or reducing the advertising which may be shown on non-PSB channels to an average of 7 minutes/hour ("levelling down"), but without expressing a preference.
- 3.5 In the May 2009 statement¹² we gave broadcasters greater flexibility surrounding the scheduling of advertising within programmes, and removed the 'peak-time' designation for the period from 7am to 9am on PSB channels. We also set out that we planned to do further work on the question of whether to harmonise the rules between PSBs and non-PSBs.

⁹ <http://stakeholders.ofcom.org.uk/binaries/consultations/rada/summary/rada.pdf>

¹⁰ <http://stakeholders.ofcom.org.uk/consultations/rada/statement/>

¹¹ <http://stakeholders.ofcom.org.uk/consultations/rada08/?a=0>

¹² <http://media.ofcom.org.uk/2009/05/26/no-changes-to-the-rules-on-the-amount-of-advertising-on-tv/>

Work on TV advertising minutage since our 2009 statement

Assessment of Economic Impact

- 3.6 In 2004 Ofcom commissioned an econometric model of the television advertising market from PwC¹³. That model was then used in the forecasting of TV net advertising revenue (“NAR”) for traditional and multichannel channels in the context of Ofcom’s first PSB review. However, the model also contained high level estimates of the price elasticity of demand for TV advertising which provided a starting point for the analysis of the impact of changes to the amount of advertising minutage. However, several stakeholders expressed concern about the suitability of the PwC econometric model for a review of advertising minutage. They queried the use of the PwC model to assess price changes, given it had originally been designed for a different purpose i.e. as a forecast model for the UK TV advertising market. Stakeholders also noted that the time series data used in the PwC study only went as far as 2002 there was limited granularity on a channel basis, and there was no viewer side component.
- 3.7 In response to these comments, in late 2009 we commissioned Analysys Mason and Brand Science (assisted by Professor Greg Crawford) to carry out a new econometric study of advertising in the UK. We published their report in May 2010¹⁴. This analysis was intended to provide estimates of the responsiveness of prices to changes in the volume of commercial impacts delivered by different broadcasters, which could then be used to inform the modelling of potential changes in the rules affecting the amount of advertising. The econometric study also explicitly included analysis of the viewer side of the market, considering the response of viewers to changes in the amount of advertising.
- 3.8 In high level terms, the results of this updated econometric modelling suggested that:
- The responsiveness of the price of advertising to changes in the amount of advertising did vary across the different commercial PSBs.
 - Cross-price effects i.e. how the price of advertising on one channel would be affected by changes in the amount of advertising on another channel were likely to be important and would mean that different channels would be affected in different ways by changes in the amount of advertising minutage.
 - Viewers were not particularly responsive to changes in the amount of advertising minutage.
- 3.9 Following feedback from stakeholders concerning the conceptual approach to this econometric study we commissioned further work from Analysys Mason and Brand Science to address these comments. The supplementary report, which was published in September 2011¹⁵, made it clear that:
- the econometric framework used by the consultants to analyse changes in the rules on the conceptual approach was valid; and,

¹³ *Economic Analysis of the TV Advertising Market*. Ofcom (2004)

<http://stakeholders.ofcom.org.uk/binaries/research/tv-research/tvadvmarket.pdf>

¹⁴ <http://stakeholders.ofcom.org.uk/market-data-research/tv-research/arr/>

¹⁵ <http://stakeholders.ofcom.org.uk/market-data-research/tv-research/econometric-analysis/>

- the additional testing set out in the supplementary report supported the assumptions used in the original modelling analysis.
- 3.10 Taking these issues into account, we continue to believe that econometric research can have a role to play in terms of informing the economic modelling of the impact of any changes in the amount of advertising. At the same time, however, we recognise in this context that economic factors are not determinative in their own right and there needs to be a consideration of other factors and other available evidence.

Stakeholders view potential changes to the rules from a variety of perspectives

- 3.11 When analysing the regulation of advertising minutage and whether there is a case for consulting further on the rules, we have taken in to account stakeholders' responses to previous consultations in this area and the representations of many stakeholders in giving evidence to the House of Lords Select Committee on Communications report into the regulation of television advertising¹⁶. Much of the discussion has been around specific options initially set out in the second stage of the review, and a summary of these positions is set out below.
- 3.12 All broadcasters have expressed concerns about changes to regulation which could lead to an increase in overall minutage and have a deflationary effect on the whole market. The PSBs have also questioned the ongoing rationale for differences in their treatment compared to non-PSB channels.
- 3.13 Some PSBs have expressed concern that changes to regulation which lead to increases in overall minutage could also impact the distribution of revenues between the PSBs. We note that the PSBs have in some instances carried out their own work and analysis of the financial impact of various potential changes to minutage.
- 3.14 The PSBs have also argued that if the rules were to be harmonised then it would be preferable to level non-PSB channels down to PSB limits rather than relax the rules for PSBs, arguing that this would be in the viewer interest as they would be exposed to less advertising.
- 3.15 Non-PSBs have argued that changes should not be made to minutage regulation that benefit the PSBs at their expense. Stakeholders in this group have stated that non-PSBs would not benefit from harmonising down to PSB levels, as a price increase would be unlikely to offset the loss of impacts and their relative share. They have also suggested that differences in advertising minutage between PSB and non-PSBs form part of the overall regime which treats PSB and non-PSB broadcasters differently.
- 3.16 Advertisers have not expressed concern about the current regulation. They would not want to see changes to regulation that lead to a fall in the number of impacts as this could lead to higher prices for advertising. However, advertisers have noted that high-quality content is necessary to deliver high-quality audiences. It is possible that changes that reduce advertising prices might reduce the ability of broadcasters to invest in programming, which could potentially reduce the attractiveness of TV as an advertising medium.

¹⁶ <http://www.publications.parliament.uk/pa/ld201011/ldselect/ldcomuni/99/9902.htm>

Earlier this year we announced that we would conduct further work to look at the case for moving away from the current advertising minutage rules

- 3.17 There is a wide range of views as to the appropriate level of advertising minutage and changes to advertising minutage regulation could have a significant impact on broadcasters, advertisers and viewers.
- 3.18 From the previous work that we have conducted it became increasingly clear that an analysis based solely on economic factors would not be sufficient to determine the appropriate approach to these rules. Ofcom needs to consider how best to determine the balance between its relevant duties in considering the appropriate goals and level of regulation in this area. Therefore, in March 2011 we announced that we would be carrying out further internal work to consider whether there was a case for moving away from the status quo in advertising minutage regulation.
- 3.19 We have examined the underlying principles of advertising regulation, whether the existing rules are fit for purpose and whether there is a sufficient case for consulting on changes to the rules.
- 3.20 In the next section we set out a summary of the relevant market developments that we have taken into account in considering the advertising minutage rules.

Section 4

Market context

Introduction

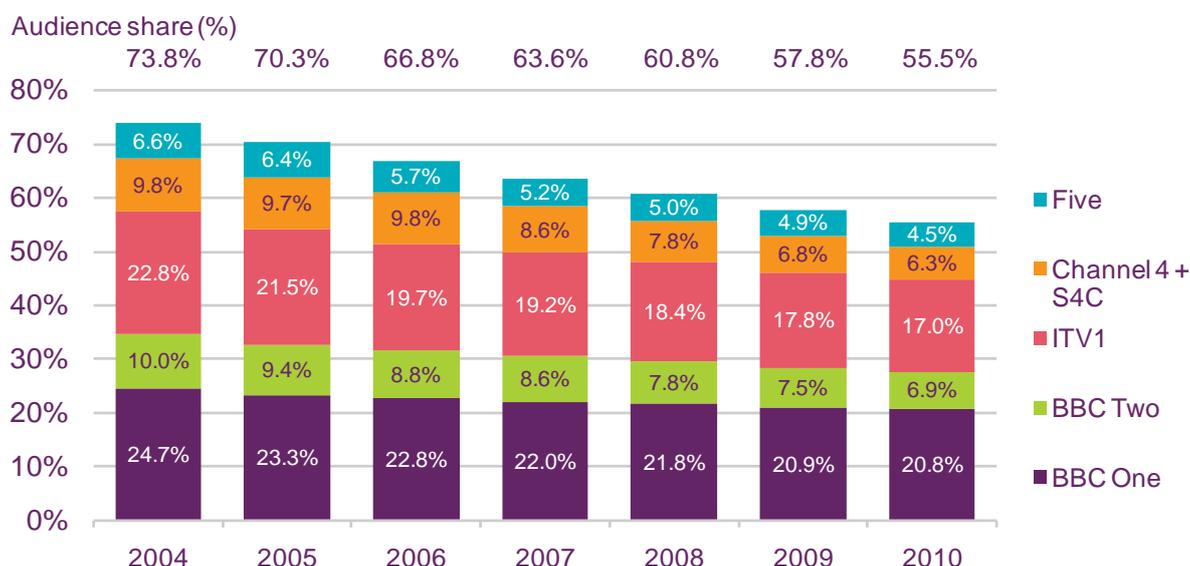
4.1 In this section we consider in general terms how the market is developing and the impact of these developments on the viewers' perspective of advertising.

Viewing patterns have changed over time

4.2 The most significant change in the UK television market over the last decade has been growth in the number of TV services available to viewers. The completion of digital switch-over means that all TV homes will have access to additional digital channels from next year. Furthermore, the availability of devices such as DVRs and catch-up TV services gives viewers more choice as to how, when and where they consume TV programme content.

4.3 A consequence of this growth has been audience fragmentation. The share of viewing accounted for by the main PSBs¹⁷ has fallen over time, accounting for 73.8% in 2004, but 55.5% in 2010, as digital penetration has led to increased viewing of channels other than the main PSBs.

Figure 2: Five main PSB channel's audience share, all homes



Source: BARB. Notes: (i) Due to a new BARB measurement panel from 2010 onwards, comparisons between 2010 data and previous years should be made with caution. (ii) In 2010 C4 and S4C became two separate channels following digital switchover in Wales. For the purposes of this report the two channels remain labelled together in relevant charts. S4C 2010 channel share = 0.1%.

4.4 The commercial non-PSB channels are permitted to broadcast up to an average of 9 minutes of advertising an hour over the broadcast day, compared to an average of 7 minutes an hour for the commercial PSBs (Channel 3, Channel 4 / S4C and Five). The PSBs are also only permitted to broadcast up to an average of 8 minutes of advertising per hour in peak.

¹⁷ BBC1, BBC2, ITV1, C4, S4C, Five

More adverts are being watched by viewers overall

- 4.5 The amount of advertising being watched by UK viewers has increased over time. Between 2006 and 2010 the number of different adverts seen by a viewer rose by 20.9%¹⁸. This reflects both the shift in viewing towards channels which are able to broadcast greater amounts of advertising (from commercial PSBs who are able to show less advertising and the BBC that shows none) together with a general increase in the overall level of TV viewing¹⁹.
- 4.6 It is important to note that for the most popular programming in peak-time, broadcasters have the flexibility to schedule close to the maximum of 12 minutes as long as they remain within the relevant advertising caps.

Figure 3: Total number of impacts by channel group (all individuals)



Source: Nielsen Media / BARB

Viewers have more opportunities to skip advertising but live television viewing remains popular

- 4.7 Take-up of DVRs in UK households has increased – rising from 3.0 million homes in 2005 to 9.6 million homes (46% UK population) in Q1 2011. In those households with DVRs, live viewing remains the main means of watching TV output – accounting for 86% of viewing in these households in 2010. This has remained consistent for several years, suggesting that the propensity of those with DVRs to time-shift their viewing, in order for example to avoid advertising, has not increased over time.

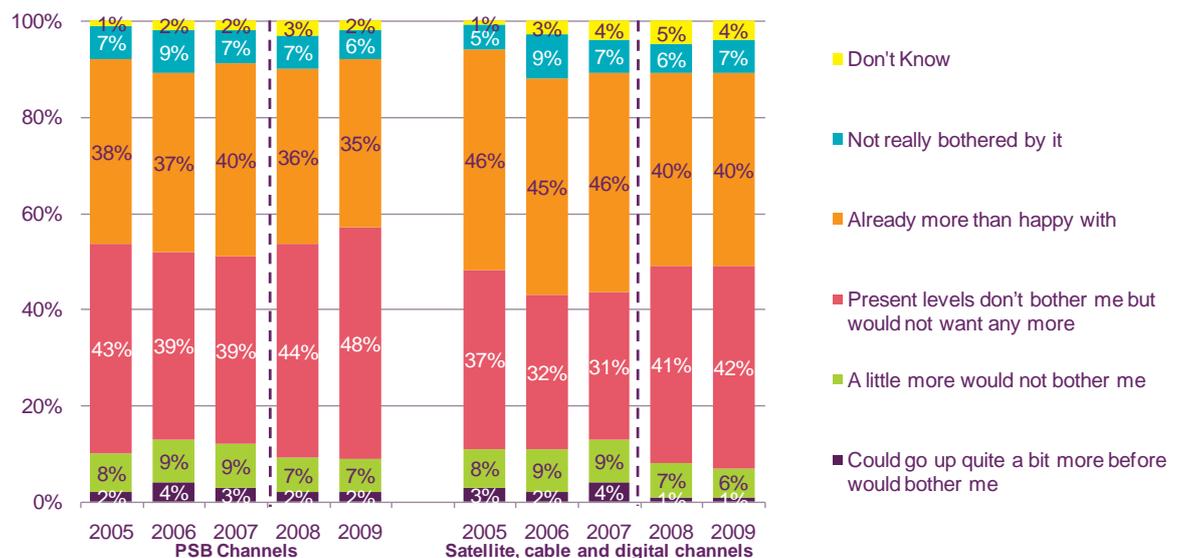
¹⁸ An impact is a viewer watching an advert once. As the length of TV adverts differs, the rate-card weighted (RW) impact measure normalises these equivalent 30" adverts to enable comparisons to be made

¹⁹ <http://stakeholders.ofcom.org.uk/market-data-research/market-data/communications-market-reports/cmr11/>

Viewers' attitudes towards advertising have not changed significantly over time

- 4.8 Our previous deliberative research has found that, unsurprisingly, a majority of viewers sometimes or often see adverts on TV as “interfering” with their enjoyment of programmes, but they also see them as “informative” and “clever”²⁰.
- 4.9 The attitude of viewers to advertising is finely balanced (see Figure 4 below). A small majority of respondents state that present levels of advertising do not bother them. However, a significant minority state that there is already more advertising than they are happy with and most people say they would not want more advertising
- 4.10 In 2010, adjustments were made to the questionnaire to provide greater granularity of respondents' attitudes towards the amounts of advertising on TV²¹. As a result of these question changes, 2010 survey data is not directly comparable to data from previous years (i.e. as charted). Data across these periods does however suggest that audience views are fairly stable over time. This is despite the fact that viewers are now being exposed to higher levels of advertising than was previously the case. This indicates that in practice they may be more tolerant of increases in adverts than the data would suggest.

Figure 4: Opinion on level of advertising on PSB and satellite, cable and digital channels: Which of these statements best describes how you feel about the amount of advertising on...



Source: Ofcom Residential / Media tracker. Base PSB channels: All those with TV. Note – significant methodological change 2007-2008. Survey fieldwork changed in terms of dates and technique used. Base satellite, cable and digital channels : 2005-2007 – All those with cable/satellite. 2008 & 2009 – All those with multichannel TV (see dotted line). No 2010 data available NB: From 2008 interviewees prompted that advertising revenues fund TV channels and may be used to pay for new programmes

²⁰ Table H 20 <http://stakeholders.ofcom.org.uk/binaries/broadcast/reviews-investigations/psb-review/psb2010/Perceptions.pdf>

²¹ p.10 *Opinion on 'frequency' and 'length' of TV ad breaks*, Annex F 2011 PSB Annual Report available from <http://stakeholders.ofcom.org.uk/binaries/broadcast/reviews-investigations/psb-review/psb2011/Perceptions-F.pdf>

International case study

- 4.11 To help illustrate how UK broadcasters might adapt to changes in advertising minutage regulation we have looked at a case study of a deregulated market. The US is an example of such a market in which, in general, broadcasters have full flexibility to determine their own minutage policies²². It is important to exercise caution in drawing conclusions from such international case studies, given the wide range of factors at play, but it is nevertheless of interest.
- 4.12 The two main findings from the US market are:
- Overall, the volume of advertising on US network TV increased after self-regulation of advertising minutage was scrapped in 1982. Since then advertising time has been steadily increasing. It rose from slightly over five minutes of advertising per hour in prime time (8-11pm) programming in 1986 to over 12 minutes in 2001²³.
 - The number of 30 second advertising slots available on channels varies both within genres and between genres suggesting there is not a single, optimal level of advertising for different broadcasters.
- 4.13 This suggests that if television advertising regulation in the UK was relaxed then the volume of advertising would be likely to increase but that TV channels may take a variety of approaches reflecting differences in their target audiences.
- 4.14 In the next section we set out our thinking on:
- the principles of advertising regulation;
 - whether the existing rules are fit for purpose; or
 - whether there is a need to consult on changes to the existing rules.

²² Under the Children's Television Act there is a limit of 10.5/12 min per hour (weekend/weekday) around programming aimed at children 12 or under.

²³ See: Lowrey, T.M., Shrum, L. J. and McCarty, J.A. The Future of Television Advertising.
<http://faculty.business.utsa.edu/ljshrum/KimmelChapter.PageProofs.pdf>

Section 5

The rules and delivering the interests of consumers

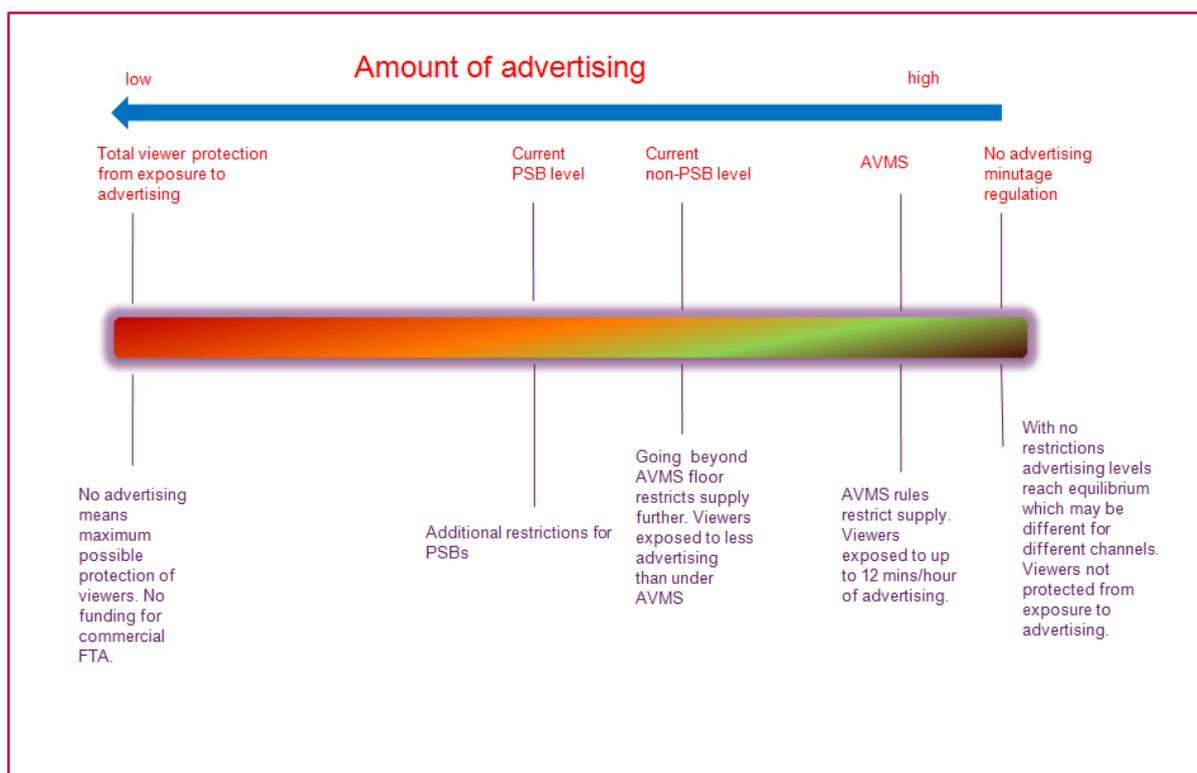
What are the interests that advertising minutage regulation is meant to serve?

- 5.1 This section considers:
- the interests that the regulation of advertising minutage is designed to serve based on Ofcom's duties;
 - how the application of the existing rules is delivering against these interests; and
 - whether there is a case for consulting on changes to these rules.
- 5.2 The historic rationale for advertising minutage regulation was to protect the viewing experience and to safeguard the quality and value to viewers of programmes from excessive advertising.
- 5.3 At the same time restrictions on the level of TV advertising minutage can have an impact on the price at which advertising is sold and thus the potential advertising revenue that broadcasters can achieve. That in turn has the potential to affect investment in the range of TV services, and the amount of quality content.
- 5.4 Taking into account the provisions of the AVMS Directive and our statutory duties set out in the Communications Act 2003 (the "Act"), the principle goals of this regulation are as follows:
- 5.4.1 The AVMS Directive establishes the need to **protect the interests of consumers as television viewers**, particularly by ensuring they are not exposed to excessive amounts of advertising which is detrimental to the viewing experience. This is the primary reason why TV advertising is regulated.
- 5.4.2 Ofcom's principal duty under the Communications Act 2003 is to further the interests of citizens and consumers in relation to communications matters and further the interests of consumers in relevant markets, where appropriate by promoting competition.
- 5.4.3 Ofcom has several specific duties which flow from this principal duty. They are not the primary goals of TV advertising regulation, but they are likely to be relevant to any consideration of such regulation. They include duties to **secure a wide range of high quality television and radio services** calculated to appeal to a variety of tastes and interests **and to maintain a sufficient plurality of providers of different television and radio services**.
- 5.4.4 Ofcom must also have regard, where relevant, to the desirability of promoting the **fulfilment of the purposes of public services broadcasting** in the United Kingdom and to apply a regulatory regime that

seeks to secure the delivery of programming that fulfils these purposes. Television advertising is critical for financing TV content for many broadcasters, including the commercial PSBs.

- 5.4.5 Ofcom must also have regard to the **desirability of promoting competition** in relevant markets, in this case the TV advertising market.
- 5.4.6 In carrying out our duties, **we must have regard to the likely impact** of regulation on stakeholders such as consumers, citizens, broadcasters and advertisers and, where appropriate, on others likely to be affected by regulation.
- 5.5 The quantity of advertising in programming is part of the price paid by viewers for accessing content. Changes to the quantity of advertising affect, therefore, both the price of air-time to advertisers and also - via the amount of advertising they are exposed to – the price to viewers.
- 5.6 When considering the impact of restricting advertising it is important to understand that the limits on advertising minutage set out in the AVMS Directive may potentially have the effect of raising prices above the level that would be established by competitive forces operating without any intervention. Any additional restrictions would be expected to raise prices further.
- 5.7 It is apparent that some of the interests Ofcom has a duty to serve are complementary, but there are also potential tensions between the interests. For example, between protecting the viewing experience and securing a wide range of television services.
- 5.8 The following chart illustrates the nature of the balance between the different interests and sets out how increases or decrease in the amount of advertising shown would be likely to affect each of the relevant interests.

Figure 5: Balancing the different interests



Approach

5.9 In light of the wider market developments set out in the previous section, and to examine whether there is a need to consult on changes to the rules we have considered three overarching questions:

- i) Is any regulatory intervention, beyond that required by the AVMS Directive, necessary to serve the interests of citizens and consumers?
- ii) Does the current level of regulatory intervention in the UK serve the interests effectively?
- iii) Would a change to the rules better serve the interests?

5.10 We set out our thinking on these questions in the rest of this section. In considering the issues we have drawn on a range of evidence including audience research and BARB data. Where appropriate we have also drawn on analysis based on the econometric research.

Is any regulatory intervention necessary to serve the interests of citizens and consumers?

5.11 When considering the appropriate level of regulation it is important to have regard to the aims of advertising minutage regulation as set out in AVMS Directive and the Act.

5.12 We have initially considered whether there is a need for intervention beyond the AVMS Directive, as is currently provided for in UK regulation. To do this we have

examined the likely outcomes if advertising regulation was set at the maximum minutage allowed for under the AVMS Directive.

Removing any UK-specific restrictions would be likely to lead to an increase in the overall volume of television advertising on all broadcasters

- 5.13 In fulfilling its duties, Ofcom seeks to operate with a bias against intervention and, where possible, to remove unnecessary regulatory burdens.
- 5.14 As set out in Section 4 there have been significant changes in the television market and the overall volume of TV advertising has risen year on year as a consequence of more viewing to commercial and in particular multichannel television. Given these developments we have looked at whether removing the maximum average hourly limit on advertising might be appropriate and if the interests would be served by allowing broadcasters to show up to 12 minutes an hour.
- 5.15 If advertising minutage regulation was set at the maximum allowed by the AVMS Directive we would expect the amount of advertising shown to be higher than it is today for three reasons.
- 5.15.1 Firstly, the nature of the TV advertising market and competition within the market would incentivise an individual broadcaster to increase volumes of minutage to maintain its share of commercial impacts and hence its TV advertising revenue.
- 5.15.2 Secondly, we think it is unlikely that, on its own, viewers' stated resistance to increased advertising would be a sufficient constraint as viewers have adapted to higher levels of advertising in the past in order to continue watching the content they want.
- 5.15.3 Finally, when regulation has been decreased or removed in other international markets advertising volumes have tended to rise.
- 5.16 As a result, viewers would be likely to be exposed to more advertising on both PSB and non-PSB channels particularly during the daytime.
- 5.17 Economic theory suggests that a significant increase in the supply of advertising would be likely to lead to lower prices than today. Analysis based on the econometric research suggests that the reduction in prices would be greater than the associated increase in volume, and so could lead to a decline in total TV advertising revenues. If this were the result, this would mean that overall there would be less funding available for content produced by any commercially funded broadcasters.
- 5.18 Advertisers would potentially benefit from reduced advertising prices but we would not expect them to want to see a significant increase in the amount of advertising if it affected the quality of programmes or led to increased clutter that could reduce the effectiveness of advertising. In practice advertisers have not argued for an increase in the amount of advertising.
- 5.19 Therefore, in Ofcom's view the relevant interests would not be as well served if the minutage rules were set at the AVMS ceiling. In summary:
- Viewers would be exposed to more advertising which they say they do not want.

- An increase in the supply of minutage could reduce the overall level of TV advertising revenue which could affect the supply of content.
- The stakeholders who we would expect to benefit most from an increase in supply are not arguing for this, and appear to recognise the risk that this may reduce effectiveness.

5.20 Given this, and in the light of our statutory duties, there appears to be sufficient justification to impose further restrictions than the AVMS Directive.

Does the current level of regulation deliver the aims effectively?

5.21 The second question that we have considered is whether the current regulation serves the interests effectively.

5.22 As noted above, if the current rules do act as a restriction on supply then it is likely that this has the effect of increasing prices above what might be the competitive level and higher than they would be under the AVMS Directive. However, advertisers have not raised competition concerns about this point and appear to recognise the benefits of funding high quality content.

5.23 From a consumer and viewer harm perspective, viewers say they are concerned about excessive levels of advertising, but the majority does appear to accept existing levels. When prompted, viewers also appear to understand the relationship between advertising and funding of content.

5.24 Audience research suggests that:

- A small majority is broadly content with current levels of advertising although a significant minority thinks there is already too much.
- Viewers would, therefore, not welcome increases in advertising. However, we note that levels of satisfaction with the amount of advertising have not changed significantly over time even though exposure to advertising has actually increased.

5.25 However, people are choosing to watch more of the channels that can (and do) carry more advertising. This suggests that, on balance, a desire to watch particular content can outweigh a dislike of advertising.

5.26 Looking at the status quo from a TV services perspective:

- A wide range of free-to-air and subscription-channels is available to UK viewers.
- There has been a decrease in the overall level of investment in UK content by the PSBs, although programme investment by non-PSBs has increased²⁴.
- Viewers continue to value public service programming and overall satisfaction with public service broadcasting remains high²⁵.

²⁴ http://stakeholders.ofcom.org.uk/binaries/research/cmr/cmr11/UK_CMV_2011_FINAL.pdf

²⁵ <http://stakeholders.ofcom.org.uk/binaries/broadcast/reviews-investigations/psb-review/psb2011/psb-audience-opinions-D.pdf>

5.27 Therefore, given the need to serve a variety of interests the current rules do seem to be fit for purpose and to be delivering the aims of regulation.

Would a change to the rules better meet the aims of regulation?

5.28 While the current rules do appear to be serving the interests we have also examined whether – given wider market developments – a change in the current rules would meet these interests more effectively. In considering this we have not looked at the pros and cons of specific changes to the rules but have considered, in principle, how the interests would be likely to be served if regulation was increased - restricting minutage further - or decreased to allow more advertising.

5.29 During the course of Ofcom's work on advertising minutage some broadcasters have argued that there is a strong case for harmonising the regulation as the distinction between PSBs and non-PSBs is less relevant as we approach digital switchover. We have considered this argument as part of our analysis.

Allowing more advertising for the commercial PSBs would not appear to be in the interests of either viewers or TV services

5.30 One approach could be to level up so that all broadcasters were subject to the same limits as non-PSBs are today. This is, in effect, similar to moving to the maximum in the AVMS Directive, although a less substantial change.

5.31 It would lead to an increase of advertising and, if the price of advertising was reduced as suggested by the econometric research, it could reduce the overall level of TV NAR and so potentially reduce the amount available for investment in content. Such an outcome would not appear to be in the interests of either viewers or TV services because:

- Viewers would not welcome an increase in advertising.
- From the perspective of funding TV services, altering the rules to allow more advertising overall would potentially remove investment from content.

5.32 Furthermore, those stakeholders who we would expect to benefit most from an increase in supply, namely TV advertisers, are not arguing for this. They appear to recognise the risk that this may reduce the effectiveness of TV advertising.

Imposing further restrictions on advertising would not guarantee better outcomes for all the interests we have a duty to serve

5.33 In earlier consultations commercial PSBs argued that if harmonisation of the rules were to take place then it would be preferable to harmonise downwards making non-PSBs subject to the same restrictions that are currently placed on the PSBs.

5.34 Such a move would see an overall reduction in the level of advertising, which would appeal to viewers.

5.35 As noted above, if the current restrictions on supply are effective then they are likely to have the effect of increasing prices, and increasing the total revenue available to produce content. The same analysis suggests that additional restrictions on the supply of advertising could further raise prices, and lead to an increase in the revenue that would be available to broadcasters to invest in content. This would be expected to increase the range and quality of content available to TV viewers.

- 5.36 Furthermore, this may include programming that meets the purposes of PSB, which would be positive for viewers who continue to value highly PSB programming²⁶.
- 5.37 However under the current regulatory framework, and, taking into account the econometric research available to us, it is difficult to predict with any certainty what the effect of levelling down would be. There is not only uncertainty how much additional revenue might be generated, but also how it would be distributed between different broadcasters.
- 5.38 This has been a particular concern for some non-PSB channels, who have expressed the view that levelling advertising minutage down would disproportionately benefit the PSBs. Whilst analysis based on the econometric research has suggested that overall the non-PSBs would also benefit from levelling down, the results are uncertain, and we have not been able to analyse the impact on individual non-PSB broadcasters. Some non-PSBs have argued that they would lose revenue from such a change as any price increase would be unlikely to offset their loss of advertising impacts, and we cannot rule this out.
- 5.39 In the case of the PSBs, it is rather more certain that levelling down would increase revenues, and it is also likely that at least some of this increase would be invested in content. There is, however, uncertainty as to the level of that investment and the type of content that might be funded. In particular, there is no lever in the existing public service licences to ensure that a specific proportion of any additional revenue generated is invested in programming that fulfils PSB purposes.
- 5.40 Finally, a further restriction on supply would represent a further regulatory intervention in the market for TV advertising. This is likely to have an adverse impact on purchasers of advertising.
- 5.41 Since levelling down would be a further intervention in the market we would need to be persuaded that there was sufficient evidence to justify such a change. It is possible that levelling down could potentially lead to increased investment in content and, in particular, content investment by the PSBs. However imposing further restrictions on non-PSBs would be a significant intervention in the market and we do not believe that the outcomes of this further intervention are clear enough to justify consulting on amending the rules at the current time
- 5.42 In conclusion therefore, based on our existing legislative duties, the purpose of regulation in this area and the available evidence, we believe that:
- There continues to be a case for setting a limit on the average amount of advertising which may be shown in an hour (which is an additional restriction to the hourly limit in the AVMS Directive) to serve the interests of viewers and TV services in the UK.
 - The interests are being served by the existing rules on advertising minutage which appear currently to be fit for purpose.
 - A further restriction on the amount of advertising on non-PSBs could potentially benefit viewers and increase overall levels of advertising revenue. This could possibly lead to further investment in content and in particular greater investment by the public service broadcasters.

²⁶ <http://stakeholders.ofcom.org.uk/binaries/broadcast/reviews-investigations/psb-review/psb2011/psb-audience-opinions-D.pdf>

- However, this would represent a significant further regulatory intervention, and we have not to date found or been presented with sufficient evidence indicating that changing the rules would necessarily better deliver against these interests and the overall goals of regulation in this area.
- Given this analysis and the substantial uncertainties as to what the outcome of further intervention would be, we do not propose to consult on changes to the rules at the current time.

Section 6

Conclusion

Our duties give us a clear framework for considering the principles of advertising minutage regulation

- 6.1 Given the legislative framework set by the AVMS Directive and the Communications Act 2003 (the “Act”) it is clear that advertising regulation is designed to serve the following interests:
- The AVMS Directive establishes the need to **protect the interests of consumers as television viewers**, particularly by ensuring they are not exposed to excessive amounts of advertising which is detrimental to the viewing experience. This is the primary reason why TV advertising is regulated.
 - Ofcom’s principal duty under the Communications Act 2003 is to further the interests of citizens and consumers in relation to communications matters and further the interests of consumers in relevant markets, where appropriate by promoting competition.
 - Ofcom has several specific duties which flow from this principal duty. They are not the primary goals of TV advertising regulation, but they are likely to be relevant to any consideration of such regulation. They include duties to secure a **wide range of high quality television and radio services** calculated to **appeal to a variety of tastes and interests** and to maintain a sufficient **plurality of providers** of different television and radio services.
 - Ofcom must also have regard, where relevant, to the **desirability of promoting the fulfilment of the purposes of public services broadcasting** in the United Kingdom and to apply a regulatory regime that seeks to secure the delivery of programming that fulfils these purposes. Television advertising is critical for financing TV content for many broadcasters, including the commercial PSBs.
 - Ofcom must also have regard to the **desirability of promoting competition** in relevant markets, in this case the TV advertising market.
 - In carrying out our duties, we must have regard to the likely impact of regulation on stakeholders such as consumers, citizens, broadcasters and advertisers and, where appropriate, on others likely to be affected by regulation.

The market is evolving but the existing rules are fit for purpose and serving the interests

- 6.2 As we approach digital switchover there have been significant changes in the TV market. The overall amount of advertising seen by audiences has risen year on year as a consequence of more viewing to commercial and in particular multichannel television.
- 6.3 However, even in this changing environment the current rules do appear to be delivering against the interests. Viewers seem to broadly accept the current levels of advertising and, when prompted, understand the relationship between advertising

and content funding. There is also a wide range of television services available to UK viewers.

- 6.4 We have considered the likely impact on the interests of altering the rules by either increasing regulation (and decreasing advertising) or decreasing regulation allowing more advertising. The evidence we have considered does not provide sufficient confidence that altering the rules by allowing more or less advertising would better deliver against these interests at the current time.

We are therefore not proposing on consulting on changes to the rules at this time

- 6.5 Given this, we believe that the interests are delivered effectively through the rules as currently set out.
- 6.6 We are therefore not intending to consult on making any changes to the rules at the current time.
- 6.7 This decision is based on our current duties and the existing evidence. It does not preclude Ofcom from reconsidering this issue in the future if, for example, there are changes to the regulatory framework that offer greater certainty about the outcomes of changing the rules or we are presented with new evidence.
- 6.8 In addition, in the context of a new Communications Bill, Government has indicated that it will consider how best to drive the growth of UK content production across all platforms. It is possible that the regulation of advertising minutage could be potentially used as a lever to help incentivise investment in UK content, both generally, and by the public service broadcasters in particular. This is a policy issue for Government to consider as part of its review, but should this lead to changes to the legislative framework for broadcasting in the UK, or to Ofcom's duties in this area, we would then need to consider the issue further.