

Title:

Ms

Forename:

Katie

Surname:

Wookey

Representing:

Organisation

Organisation (if applicable):

British Heart Foundation

Email:

What do you want Ofcom to keep confidential?

Keep nothing confidential

If you want part of your response kept confidential, which parts?

Ofcom may publish a response summary.

Yes

I confirm that I have read the declaration

Yes

Ofcom should only publish this response after the consultation has ended

You may publish my response on receipt

Additional comments

The British Heart Foundation (BHF) is the UK's leading heart charity. We are fighting against heart and circulatory disease which is the UK's biggest killer and caused 53,000 premature deaths in 2006. Our vision is of a world where no-one dies prematurely of heart disease.

The BHF is committed to improving the cardiovascular health of the nation, and preventing

and tackling obesity is an important aspect of this. Helping children to develop healthy habits that they can continue into adulthood is a priority for the Foundation. We are raising awareness of the benefits of a healthy lifestyle, and advocating for the right environment to make the healthy choice the easy choice.

We welcome the restrictions prohibiting product placement of foods and drinks high in fat, salt or sugar, and the clarification that these products will be defined by the nutrient profiling scheme which was devised by the Food Standards Agency. However, we are concerned that only extending the regulations to UK made programmes will leave a loop-hole in the regulations for imported programmes.

This is a wide ranging consultation, and therefore we have focussed our response on those areas most relevant to our work of preventing and fighting heart disease.

Question 1.1: Do you agree that it is appropriate to apply product placement rules to paid-for references in programmes that are not included for a commercial purpose? If not, please explain why.

Question 1.2: Please identify any potential impacts of Ofcom's proposal that you consider should be taken into account, and provide evidence, wherever possible.

Question 1.3: Please identify any areas of this proposal which, if it is accepted, you consider Ofcom should issue guidance on.

Question 2.1: Are there any impacts we have not identified above that you think would result from our proposal to clarify that single dramas are a form of film made for television? (See proposed Rule 9.8). If so, please provide evidence wherever possible.

Question 2.2: Please identify any areas of this clarification which you consider Ofcom should issue guidance on.

Question 3.1: Please identify any potential impacts of the rule prohibiting product placement in news, and provide evidence, wherever possible. (See proposed Rule 9.9(a)).

Question 3.2: Please identify any areas of this rule which you consider Ofcom should issue guidance on.

Question 4.1: Do you agree that clarification that thematic placement is prohibited is appropriate? (See proposed Rule 9.10). If not, please explain why.

Question 4.2: Do you agree with Ofcom's proposed description of thematic placement? (See proposed Rule 9.10). If not, please explain why, and suggest drafting changes, if appropriate.

Question 4.3: Please identify any potential impacts of Ofcom’s proposal that you consider should be taken into account, and provide evidence, wherever possible.

Question 4.4: Please identify any areas of this proposal which, if it is accepted, you consider Ofcom should issue guidance on.

Question 5.1: Do you consider that it is appropriate to prohibit product placement in specialist factual programmes produced under UK jurisdiction? If not, please explain why.

Question 5.2: Do you agree with the meaning for “specialist factual programmes”? (See proposed Rule 9.14). If not, please explain why, and suggest drafting changes, if appropriate.

Question 5.3: Please identify any potential impacts of either permitting or prohibiting product placement in specialist factual programmes that you consider should be taken into account, and provide evidence, wherever possible.

Question 5.4: Please identify any areas of this proposal which, if it is accepted, you consider Ofcom should issue guidance on.

Question 6.1: Do you agree that it is appropriate to prohibit the placement of those products and services that are not allowed to be advertised on television? (See proposed Rule 9.15). If not, please explain why.

Yes

Question 6.2: Do you consider that the wording of proposed Rule 9.15(f) is appropriate? If not, please explain why, and suggest drafting changes, where appropriate.

Yes

Question 6.3: Do you agree that it is unnecessary to apply advertising scheduling restrictions to product placement? If not, please explain why.

No, we do not agree. The rules on product placement apply only to UK made programmes, meaning that imported programmes will effectively be exempt from restrictions on product placement of HFSS foods and drinks. Many children in the UK watch imported programmes, often outside of children’s programming. American Idol, for example, which carries coca-cola product placement would fall outside of the scheduling restrictions. This is effectively a loop-hole which would undermine the ethos of the regulations which are aimed at protecting Britain’s young people from the product placement of unhealthy foods and drinks.

A restriction on product placement of all HFSS products in all programmes shown before 9pm would help tackle this gap in the regulations.

Question 6.4: Please identify any potential impacts of the proposals that you consider should be taken into account, and provide evidence, wherever possible.

Question 6.5: Please identify any areas of this proposal which, if it is accepted, you consider Ofcom should issue guidance on.

Ofcom needs to provide guidance on how the rules apply in instances where brand imagery could be used in place of the product. For example, in prohibited categories, how will the rules stop the use of brand-associated colour to communicate a brand/product, such as a purple patch on a shop counter (Cadbury), bright blue bottles in a bar (WKD) or red and white swash on a drinks vending machine (Coca-Cola)?

Question 7.1: Do you consider it is appropriate to require broadcasters to identify product placement by means of a universal neutral logo and universal audio signal? (See proposed Rule 9.16). If not, please explain why, suggesting alternative approaches where appropriate.

Question 7.2: Please provide comments on the proposed criteria for determining how any universal neutral logo looks, and any additional or alternative criteria which you consider should define the visual signal, including views on the nature, size and duration of the signal.

Question 7.3: Please provide comments on the proposed criteria for determining how any universal audio signal sounds, and any additional or alternative criteria which you consider should define the audio signal, including views on the nature and duration of the signal.

Question 7.4: Please provide comments on whether you consider that such criteria should be specified in the Code or in Ofcom's guidance. If you consider that the criteria should not be specified in either, please explain why.

Question 7.5: Do you consider it is appropriate to require broadcasters to provide the audience with a list of products/services that appear in a programme as a result of product placement arrangements, either in the end credits or on the broadcaster's website? (See Rule 9.17(a) and (b)). If not, please explain why.

Question 7.6: Do you consider that the wording of proposed Rule 9.17(a) and (b) is appropriate? If not, please explain why, and suggest drafting changes, if appropriate.

Question 7.7: Do you agree that broadcasters should include additional description text alongside the visual and audio signal for the first month that they are transmitted? If not, please explain why.

Question 7.8: Do you agree that broadcasters should transmit an audience awareness message if they show programmes that must be signalled during the first six months of the rules being in force? If not, please explain why.

Question 7.9: Please provide your comments on the proposals we have set out on the key messages, timing and duration of the audience awareness campaign.

Question 7.10: Please identify any potential impacts of Ofcom's proposals that you consider should be taken into account, and provide evidence, wherever possible.

Question 7.11: Please identify any areas of these proposals which, if they are accepted, you consider Ofcom should issue guidance on.

Question 8.1: Do you consider that it is appropriate to allow sponsors to product place in programmes they are sponsoring? If not, please explain why.

We assume that a sponsor which is an HFSS or alcohol brand (even though it may legally sponsor a particular UK-made programme) will not under the new rules on commercial references - be able to place its products or sponsorship messages within the sponsored programme. Clarification on this point would be helpful.

Question 8.2: Please identify any potential impacts of Ofcom's proposal that you consider should be taken into account, and provide evidence, wherever possible.

Question 8.3: Please identify any areas of this proposal which, if it is accepted, you consider Ofcom should issue guidance on.

Question 9.1: Do you consider it is appropriate to replace the rule requiring sponsorship arrangements to be transparent with a requirement that all sponsorship credits include a clear statement informing the audience of the sponsorship arrangement? (See proposed Rule 9.22). If not, please explain why.

Question 9.2: Do you consider it is appropriate to amend those rules requiring sponsorship credits to be separated from editorial and advertising, to rules requiring that credits must be distinct from editorial and advertising? (See proposed Rules 9.23 and 9.24). If not, please explain why.

Question 9.3: Do you consider the drafting of proposed Rules 9.22, 9.23 and 9.24 is appropriate? If not, please explain why, and suggest drafting changes were appropriate.

Question 9.4: Please identify any potential impacts of Ofcom's proposals that you consider should be taken into account, and provide evidence to support these, wherever possible.:

Question 9.5: Please identify any areas of these proposals which, if it is accepted, you consider Ofcom should issue guidance on.

Question 10.1: Do you consider that it is appropriate for sponsorship credits to be broadcast during programmes? (See proposed Rule 9.25). If not, please explain why.

Question 10.2: Do you agree that sponsorship credits shown during programmes should not coincide with sponsor references (product placement) within the programme? (See proposed Rule 9.29). If not, please explain why.

Question 10.3: Do you consider the drafting of proposed Rules 9.25 and 9.29 is appropriate? If not, please explain why, and suggest drafting changes, where appropriate.

Question 10.4: Please identify any potential impacts of Ofcom's proposal that you consider should be taken into account, and provide evidence to support these, wherever possible.

Question 10.5: Please identify any areas of these proposals which, if they are accepted, you consider Ofcom should issue guidance on.

Question 11.1: Do you consider that it is appropriate to limit the content of sponsorship credits broadcast during programmes? (See proposed Rule 9.27). If not, please explain why.

Question 11.2: Do you agree that sponsorship credits broadcast during programmes should not conflict with product placement restrictions? (See proposed Rule 9.28). If not, please explain why.

Question 11.3: Do you consider the drafting of proposed Rules 9.27 and 9.28 is appropriate? If not, please explain why, and suggest drafting changes, where appropriate.

Question 11.4: Please identify any potential impacts of Ofcom's proposals that you consider should be taken into account, and provide evidence to support these, wherever possible.

Question 11.5: Please identify any areas of these proposals which, if they are accepted, you consider Ofcom should issue guidance on.

Question 12.1: Do you agree with the proposed revisions to the principles? If not, please explain why, and suggest drafting changes, where appropriate.

Question 12.2: Please identify any potential impacts of Ofcom's proposals that you consider should be taken into account, and provide evidence, wherever possible.

Question 13.1: Do you consider that the proposed Rule 9.2 requiring that there is distinction between editorial content and advertising is appropriate? If not, please explain why, and suggest drafting changes, where appropriate.

Question 13.2: Please identify any potential impacts of Ofcom's proposal that you consider should be taken into account, and provide evidence, wherever possible.

Question 13.3: Please identify any areas of this proposal which, if it is accepted, you consider Ofcom should issue guidance on.

Question 14.1: Do you consider it is appropriate to include a rule prohibiting surreptitious advertising? If not, please explain why.

Question 14.2: Do you consider that the wording of the proposed rule and meaning is appropriate? (see proposed Rule 9.3). If not, please explain why, and suggest drafting changes, where appropriate.

Question 14.3: Please identify any potential impacts of the proposed rule that you consider should be taken into account, and provide evidence, wherever possible.

Question 14.4: Please identify any areas of this proposal which, if it is accepted, you consider Ofcom should issue guidance on.

Question 15.1: Do you consider that it is appropriate to remove the virtual advertising rule? If not, please explain why.

Question 15.2: Please identify any potential impacts of the proposed removal of the virtual advertising rule that you consider should be taken into account, and provide evidence, wherever possible.

Question 16.1: Do you agree that the explicit requirements of the AVMS Directive and the Act are reflected appropriately in the proposed rules for product placement, as set out in Part 4? If not, please explain why and suggest drafting changes, if appropriate.

Question 16.2: Are there any other relevant matters you consider that Ofcom should take into account in this Review? If so, please provide details, with supporting evidence, wherever possible.

Question 16.3: Do you wish to suggest an alternative approach to the regulation of product placement, and its impact on sponsorship, and other rules in the revised Section Nine of the Code? If so please outline your proposals, which must comply with the Communications Act 2003 (as amended by The Audiovisual Media Services (Product Placement) Regulations 2010), the AVMS Directive, Article 10 of the European Convention on Human Rights and Schedule 1 of The Consumer Protection from Unfair Trading Regulations 2008.

Question 16.4: Do you agree that the revised Section Nine of the Code should come into force on the same date it is published by Ofcom? If not, please explain why.

Question 16.5: If you would prefer that the revised Section Nine of the Code does not come into force at the time it is published, to allow a period of preparation/ implementation, how long would you prefer this period to be? Please give reasoning.