

1. **Introduction**

This response is submitted on behalf of S4C. We do not propose to respond to each question raised in the review. Where we have not responded to a question, this is either because the question is not relevant to S4C's services or S4C is in general agreement with Ofcom's proposal. We do however wish to offer responses to the questions identified below.

2. **Specific Responses**

Sexual Material Rules (Code Section One)

Question 2(b): Do you agree with our proposed rule on material of a strong sexual nature (proposed Rule 1.9)?

We welcome the proposed changes as they provide greater clarity than is currently the case. The proposed rule on material of a strong sexual nature may require a more detailed definition or guidance.

Competitions and Voting Rules (Code Section Two)

Question 7(a): Do you consider that the introduction of new rules in relation to competitions and voting is appropriate?

Yes. We would welcome additional guidance as mentioned in paragraph 5.22 of the Review.

Commercial References in Television Programming Rules (Code Section Nine)

Question 11(a): Do you consider that it is appropriate for Ofcom to include the enforceable provisions relating to product and prop placement, replicated from the AVMS Directive (Implementation) Regulations 2009, as rules in the revised Code?

We appreciate the restrictions that legislation will place on Ofcom in connection with the provisions relating to product and prop placement. However, replicating these Regulations verbatim in the Code will depend on the wording of the Regulations. It may be preferable for Ofcom to publish a simplified version of the Regulations together with guidance on their interpretation.

Question 12(a): Would you consider that it is appropriate for Ofcom to introduce rules that would allow Public Information Programming (as described above)? If so please explain why. If not, please explain why not.

S4C recognises the potential benefits of Public Information Programming (PIP). S4C, as a public service broadcaster which carries advertising, would need to balance (a) the public service benefits of broadcasting such programming; (b) the savings in production costs arising from the external funding of PIP; (c) the anticipated commercial impacts of advertising surrounding PIP; and (d) the relevance of PIP to S4C's Content Strategy, in deciding on the suitability of such programming.

Question 12(b)(i): Are there any potential programmes that you believe could comply with the potential rules but that you consider would be undesirable or arguably not in the public interest? If so, please give details.

We cannot identify any such potential programme.

Question 12(b)(vi): Do you consider it would be appropriate for Ofcom to review these rules two years after their introduction? If not, please explain why.

Yes.

Question 13(b): *Do you agree with our proposed new meanings for Section Nine?*

Please see our comments on Question 13(c) below.

Question 13(c): *If you do not agree with our proposed new meanings, please explain why and suggest alternative wording where appropriate.*

We are concerned about the wide definitions of ‘commercial references’ and ‘products or services’. ‘Commercial references’ mean any references to products or services. ‘Products or services’ include logos, images, etc, but are not limited to the examples listed in the definition. Taken literally, this could include a reference to any generic product or service. This could be problematic in the context of the prohibition on undue prominence in Rule 9.3. By way of illustration, a generic product may feature prominently in a storyline. Even if there were editorial justification for such prominence, it could still fall foul of the second limb of Rule 9.3, i.e. undue prominence resulting from the manner in which a product appears in programming. We believe that generic products or services which are not associated with any organisation, brand, etc should not fall within the definition of ‘products or services’.

Question 14(c): *If you do not agree with our proposed new Principles, please explain why and suggest alternative wording where appropriate.*

We would welcome guidance on the fair and consistent treatment of viewers’ communications, as mentioned in paragraph 6.22 of the Review. In particular, we would welcome clarification that the proposed Rule 9.6 refers to viewer communications solicited in connection with commercial references or the products or services to which they relate.

Question 16(a): *Do you consider it appropriate to introduce the proposed new Rule 9.9?*

Not in the form being proposed.

Question 16(b): *If you do not consider it appropriate to introduce the proposed new Rule 9.9, please explain why and suggest alternative wording where appropriate.*

In our response to Ofcom’s PRS Scope Review published in May 2009, we noted the difficulty of ascertaining accurately the cost to any individual caller of using a premium rate service other than from a BT landline, as the costs could vary greatly depending upon which network provider the caller uses. We await the outcome of the review.

Question 18(c): *If you do not agree with the proposed programme-related material section, please explain why and suggest alternative wording where appropriate.*

It is not clear from the proposed programme-related material (PRM) section what PRM would be permissible. For example, would a DVD of a series or a book supporting the series be deemed to be PRM? For a 3D programme, would special 3D glasses be required to enjoy the 3D effect be PRM?