

BOX Television response to Broadcasting Code Review: Commercial references in television programming

Box TV is a joint venture between Bauer Media and Channel 4 Television and operates 7 music television channels.

These are: 4Music, The Box, Kiss, Magic, Kerrang!, Smash Hits and Q. All channels are available via cable and satellite with 4Music available on the Freeview platform.

Box welcomes the opportunity to respond to the consultation and whilst generally in agreement with the proposals, there are issues that Box TV feels require greater clarification and guidance from Ofcom before the proposals are implemented into the Broadcasting Code.

**Proposal 1: Applying the rules to placement for a non-commercial purpose**

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.*

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

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

**Response:**

Box TV agrees with the proposal as this would allow not only commercial organisations, but COI campaigns that may have a direct interest amongst Music TV viewers.

**Proposal 2: Clarification that product placement is permitted in single dramas**

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.*

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

**Response:**

Whilst Box TV does not broadcast drama on its channels, we support Channel 4's representation that classifying single dramas as 'cinematic works' would reduce the number of internal breaks and therefore reduce the potential advertising revenue received during transmission of such content

**Proposal 3: Clarification of the prohibition of product placement in news**

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)).*

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

**Response:**

Box TV has no comment to make on this proposal

#### **Proposal 4: Thematic placement**

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

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.*

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

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

#### **Response:**

Whilst not applicable to Box TV content at present, Box feels that Ofcom should issue a clearer definition of 'thematic placement'.

#### **Proposal 5: Specialist factual programming**

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.*

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.*

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.*

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

#### **Response:**

Box TV does not transmit specialist factual programmes. However Box believes the above proposals go further than the original Government proposals and are too prescriptive. Box believes the decision as to whether a programme that could fall into this category should be left to the broadcaster based on their knowledge of the programme content / style.

#### **Proposal 6: Additional prohibited categories**

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.*

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.*

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

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

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

#### **Response:**

Box TV agrees with the above proposal

## **Proposal 7: Signalling**

*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.*

*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.*

*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.*

*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.*

### **Response:**

Box TV accepts that Product Placement should be signalled to viewers in a way that is easily understood by audiences. However, Box disagrees with some of Ofcom's proposals.

Box agrees with the introduction of a universally accepted neutral logo. However Box strongly disagrees with broadcasting a universal audio signal as we believe this would interfere with enjoyment of music television.

Whilst happy to work with other broadcasters and Ofcom to determine an acceptable neutral logo, Box suggests this logo should be no larger than a standard channel DOG.

Music TV viewers are used to seeing various information displayed across the screen during music videos / programmes and Box would welcome the flexibility of displaying the accepted logo in a corner of the screen that was clear of other information. This would ensure the signalling adequately without compromising existing on-screen information. Box believes this logo should be brief and secondary.

Box TV believes the information regarding display of the logo should be contained in guidance notes rather than the Code itself.

*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.*

### **Response:**

Box TV believes that lists of items that have been 'placed' in programmes may be of interest to viewers. Broadcasters should retain the flexibility to communicate this information to viewers in the most appropriate way.

Music TV will often contain 'zones' of music which are back to back music videos. These zones rarely have a title sequence and a requirement to place such information at the end of the programme would become intrusive to viewers.

Box believes broadcasters should have the discretion to decide whether to display such information on associated websites or programme end credits.

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.

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.

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.

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.

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

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

**Response:**

Box TV supports the proposed audience awareness campaign. Box also agrees with the proposal to include 'This programme contains product placement' alongside the visual logo for the first month a broadcaster transmits programmes including the logo.

Box wishes to seek clarification from Ofcom as to whether this proposal relates to each channel operated by a broadcaster or to just the first time a broadcaster uses Product Placement.

Box would be happy to work with Ofcom and other broadcasters to establish an industry-wide effective campaign

**Proposal 8: Sponsor references (product placement) within programmes**

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.

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

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

**Response:**

Box TV agrees that sponsors should be able to place products in programmes they are sponsoring.

Box would welcome further guidance from Ofcom to clarify whether a competition sponsored by the programme sponsor would be treated as Product Placement or part of the sponsorship arrangement. Box TV believes this could lead to an inconsistency between Product Placement and sponsorship. If so, a programme that is legitimately sponsored by an HFSS product would not therefore be able to contain a competition within that programme as HFSS products would be banned from Product Placement.

### **Proposal 9: Identifying sponsorship arrangements (sponsorship credits)**

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.*

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.*

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.*

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.*

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

#### **Response:**

Box TV believes Ofcom's proposal to include a prescribed specific statement is overly restrictive to broadcasters. Sponsor credits are well established on TV and Box believes the existing rules regarding transparency are sufficient to ensure viewers understand that a programme is sponsored.

Box believes the above proposals would have a serious financial impact on ad funded programmes where the sponsor name is integrated into the programme title – e.g. 'Orange Rockcorps' or 'Transmission with T-Mobile'.

Box agrees with the wording change from 'clearly separated from programming by temporal or spatial means' to sponsorship credits being 'distinct' from editorial and advertising.

### **Proposal 10: Allowing sponsorship credits during programmes**

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.*

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.*

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.*

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.*

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

#### **Response:**

Box TV agrees with the proposals to allow sponsorship arrangements to be identified in programmes. Box also agrees that such credits should not coincide with Product Placement.

**Proposal 11: Content of sponsorship credits during programmes**

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.*

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.*

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.*

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.*

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

**Response:**

Box agrees with Ofcom's proposal to limit the content of sponsorship credits broadcast during programmes. However Box TV believes that anyone who is permitted to sponsor a programme should be allowed to have this sponsorship arrangement made clear to viewers during the programme. If, as anticipated, such reference would be just 'programme name' sponsored by 'product / company name' then this rule needs to be consistent with existing sponsorship rules, so not to disadvantage any sponsor.

Box TV would welcome further clarification on how such credits could be displayed. As mentioned previously, music TV viewers are used to seeing various information displayed across the screen during programmes. Box would suggest that such arrangements can be made clear by rotating the programme title DOG with one that contains the programme title and the sponsor arrangement. Any reference to the sponsorship arrangement within the programme should be brief and secondary.

**Proposal 12: Principles**

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

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

**Response:**

Box TV agrees with the above proposal.

**Proposal 13: Rule on distinction between editorial content and advertising**

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.*

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

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

**Response:**

Box TV agrees with the above proposal.

**Proposal 14: Rules prohibiting surreptitious advertising**

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

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.*

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

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

**Response:**

Box TV agrees with the above proposal

**Proposal 15: Removal of the virtual advertising rule**

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

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*

**Response:**

Box TV agrees with the above proposal.

**New Code rules in force**

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.*

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.*

**Response:**

Box TV welcomes the opportunity to include Product Placement in programmes and would like the rules coming into force at the earliest opportunity. However if, as Box understands them, the proposed sponsorship rules would come into effect at the same time then, as explained in answer to Proposal 9, sponsorship credits that do not contain the words ‘*sponsored by*’ or ‘*in association with*’ could immediately be in breach of the Broadcasting Code. This could be resolved by allowing a specific period of grace between publication of these changes and implementation of new sponsorship rules.

**Additional Questions from Box TV.**

Box TV would like to seek guidance on additional issues raised by the consultation and would welcome feedback on these issues from Ofcom.

As mentioned above, Music Zones are a regular feature on Music TV channels and will often feature a run of videos with no other content. The Audio Visual Media Services (AVMS) directive and subsequent amendments to the Act specify the rules only apply to programmes that are ‘produced under UK jurisdiction’. Box TV would seek to clarify whether Ofcom view the compilation of videos into a playlist, to which no other work is done, as a UK produced programme and therefore subject to the Product Placement rules.

Music Videos: Many music videos are produced in the US and as such would not be subject to UK Product Placement rules. However they are released in UK to at the time of UK release of a music track. Would Ofcom view these videos as EU or non-EU produced in terms of Product Placement? If seen as non-UK would a compliance edit made to such a video (e.g. to remove bad language, dangerous and imitable behaviour etc) would the video subsequently be seen as an EU production? Box believes that editing a music video to comply with the Broadcasting Code should not be seen as materially altering the work and therefore should not be subject to the rules for UK produced content.

Acquired Programmes: Do broadcasters that acquire programmes containing product placement, but receive no financial benefit, retain the right to remove such references and therefore not required to alert viewers of PP existence (Provided acquisition contract allows removal)? Box believes broadcasters should always retain the right to remove such placements in these circumstances

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