

Peter Bourton
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Content and Standards
Ofcom
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28th January, 2011

Dear Peter,

Further to the Ofcom statement published on the 20th December 2010, UKTV are writing in relation to the request for further information in relation to the single dramas reinterpretation and the potential waiver of the COSTA guidelines for PSB services for a trial period.

In the first instance, we would wish to better understand what criteria are to be used for measuring the success or failure of any such trial? Is this to be consumer-led, mitigation of revenue lost or some other measure?

Further, we would like to re-examine the basis for establishing such a trial and better understand why Ofcom consider it necessary to re-regulate single dramas.

Principle

If EU legislation does not recognise single dramas, and yet this has been a practice acceptable within UK regulation, why is there a need to change this practice?

The EU legislation for product placement, whilst not recognising single dramas, does not exclude single dramas. There is no explicit reference to this genre, which may be an anomaly with UK interpretation. Is Ofcom now suggesting that their licensees have been in breach of EU legislation?

The court ruling that Ofcom directed us to review in relation to the basis for re-examining break patterns was, in fact, to do with a German broadcaster who had attempted to qualify a series of unrelated movies as a drama series. I am sure you would agree that the issue in hand does not bear any correlation to this event. Therefore, if Ofcom were to hold firm in their original interpretation and application of the AVMS and TWF Directives, there would not be any need to deviate from previous acceptable practices.

To us, this does appear to be in contradiction with the deregulatory agenda championed by both Ofcom and Government, and we would urge Ofcom to reconsider this recommendation.



from uktv

COSTA waiver

If the above is not something that Ofcom wish to reopen, then we would not be in favour of a waiver. We have a number of concerns with this approach, namely:

- 1) if the rules are as Ofcom has now determined, then we can see no reason to extend this re-regulatory point. If Ofcom has determined that they wish to reclassify single dramas as films, then we should all have to adjust to this. There should be no attempt to cushion for any broadcaster;
- 2) the view that non-PSB services would be able to mitigate loss through increasing the duration of breaks is not a logical assumption to make. As a broadcaster, we make a determination on our break patterns based upon a number of factors, but fundamentally to maximise our share of commercial impacts. To suggest that we could simply increase the break durations is to disregard the viewer experience and choice. Research has already established that, whilst viewers believe that break durations are acceptable on multi-channel services, they would not wish to see an increase. Therefore, it would not be in either the broadcasters' or the consumer's interest to extend break durations; and
- 3) the cost of reversioning single dramas and the loss of promotional airtime have not adequately been considered and incorporated.

Conclusion

We appreciate that the intention behind this waiver is an attempt to continue investment into single dramas. Ofcom will be aware that this type of programming is currently under-invested due to the existing high production costs. We understand that the suggestion has been in this spirit; however, we would not support the suggestion on the basis of the above considerations.

The most straightforward route through this would be for Ofcom to continue to recognise single dramas as a genre in their own right, and to retain the level of commercial breaks as afforded by AVMS. We do not believe that the reclassification is necessary and can see no reason why product placement within single dramas should have to be treated differently.

Yours sincerely,



Raymond G A Blaney



from UKTV