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Ofcom Consultation

Review of television advertising and teleshopping regulation

AIME Submission

AIME (www.aimelink.org)

AIME is a UK based not for profit trade association that promotes excellence in the Interactive Media and Entertainment industry.

We uphold our Code of Ethics and create an environment of consumer trust and industry confidence within which our members' commerce can grow. We are committed to furthering the interests of Interactive Media and Entertainment through the regular exchange of information and communication throughout the value chain, effective engagement with regulators and legislators and the presentation of a successful industry image to media.

We are the only trade association with membership across all elements of the Interactive Media and Entertainment value chain.

AIME welcomes the opportunity to respond constructively to this review of the regulation of television advertising and teleshopping from the perspective of the UK Interactive Media and Entertainment Industry.

Ofcom will be aware that this Consultation covers similar ground to that considered in another, two part, Consultation "Participation TV: protecting viewers and consumers, and keeping advertising separate from editorial", although this Consultation clearly considers a wider remit. Due to resource limitations we will restrict our comments to those areas that we believe directly impact the interactive media and entertainment sector.

AIME promotes the philosophy that consumers who are accurately and openly informed of the nature, content and cost of participation in an interactive service experience are perfectly placed

to exercise their freedom of choice and thereby enjoy the most effective form of consumer protection.

Summary

- Importance of advertising

AIME's concerns are for information and entertainment content that may be regarded as part advertising in the sense that its presentation invites premium charged consumer participation in an interactive manner and is constructed in an editorial form. As in other media we would refer to this as "Advertorial". We have no comments to make on pure advertising with no charged interactive component other than we would expect reducing traditional TV advertising revenues to encourage broadcasters to explore other, alternative, business models, and charged interactive services will be a serious consideration for the future.

Broadcast content linked to interactive consumer response brings together the worlds of Television, Telephony and Internet. Consumer interaction with and participation in broadcast programming, including the option to pay using a variety of payment methods, is a major growth area for the innovative interactive media and entertainment industry. AIME believes the regulatory environment needs to recognise, facilitate and encourage this increasingly popular broadcast service sector for consumer information and entertainment. As Ofcom points out in a current and related Consultation, legislative and regulatory flexibility are critical in this converging and rapidly changing business sector.

We do support the need for a clear differential between broadcast advertising and editorial content, as required by the European TWF (Television Without Frontiers) Directive which is now the AVMS (Audiovisual Media Services Directive) and we have also addressed this in two other Ofcom Consultations on the subject:

- Participation TV Part 1: protecting viewers and consumers and keeping advertising separate from editorial, October 2007.
- Participation TV Part 2: keeping advertising separate from editorial, June 2008.

Copies of our responses are available on request.

- Current rules

In the interactive or participative space current rules are dictated by the European Audiovisual Media Services Directive (previously TWF) that broadly requires that consumers are not confused as to editorial or sales content of programmes. AIME entirely supports this sensible directive which essentially looks to ensure that consumers are properly informed as to the nature, content and cost of participation in such programmes. There are relatively simple ways to achieve this, the easiest and most effective being clear and unambiguous labelling of programmes and content under the banner of "Advertorial".

Regulatory pressure in the UK market to designate charged Advertorial services as Teleshopping, thus exposing them to unintended and unsuitable Code of Practice constraints, is of serious concern to AIME members since it is significantly damaging to current and future interactive services.

- Why consider change

AIME believes that Ofcom should take this opportunity to demonstrate a willingness to practice the "legislative and regulatory flexibility" that it claims to support. By supporting and encouraging industry to pursue clear services labelling we can avoid unnecessary

industry harm and anticipate significant investment in future popular services to the benefit of all.

Questions & Answers

Question 1

Do you agree that these proposed regulatory objectives strike an appropriate balance between the duties and other considerations that Ofcom must take account in reviewing advertising regulation? If not, please explain why, and what objectives you would consider more appropriate?

Answer 1

As stated earlier this response is concerned with interactive broadcast services that we would like to see categorised as Advertorial and we have no comments to make on pure advertising in the broadcast space.

AIME would wish Ofcom to consider the objective of creating an interactive broadcast service of Advertorial to meet the requirements of the TWF Directive and offer consumers clearly labelled service options which avoid any confusion between advertising and editorial content.

Question 13

Do stakeholders agree that the draft Code should establish the principle that the distinction between advertising and editorial content must be readily recognisable, and set out the means for doing this, but avoid prescriptive rules?

Answer 13

We certainly agree with this principle and this is in line with the requirements of TWF, now AVMS. There is no need for a regulator to define the how as this is inherently constraining to innovation and naturally leads to ever more prescriptive rules. The market will explore how advertising content is best separated from editorial while the regulator will ensure the Code objective is being met irrespective of the methods being used. AIME favours the clear labelling of content to remove any possibility of consumers being confused thus preserving their freedom of choice in a fully informed environment.

Question 16

What views do stakeholders have on the teleshopping options and preliminary assessment outlined above in relation to non-PSB channels?

Answer 16

The commercial nature of non-PSB channels would naturally lend themselves to more Advertorial exposure but we would recommend further discussion on the preferred distribution of programming.

Question 17

What views do stakeholders have on the teleshopping options and preliminary assessment outlined above in relation to PSB channels?

Answer 17

With the expansion of competitive digital channels there will be a requirement for PSB channels to derive revenues from sources other than traditional advertising.

Conclusions

The interactive or participative broadcast sector will continue to experience pressures applied by technology convergence and associated changing consumer expectations.

If the benefits of convergence are to be truly realised then the regulatory environment will need to encourage innovation and maintain a flexible, non prescriptive, approach to this exciting and popular sector.

The advertising sector, and its associated derivatives, is clearly an area with the potential for significant change and AIME would like to see the principle of clear content labelling applied in the broadcast arena thus permitting and encouraging investment in and development of innovative services.

Statement of Representation

AIME confirms that this response has been compiled following a process of distribution of the relevant Consultation documentation to all AIME members. A list of AIME members can be found at www.aimelink.org/currentmembers.aspx

The views expressed in this response are a fair representation of the views held by the responding AIME membership. Individual members are actively encouraged to submit their own independent views as they deem fit and at their sole discretion.

Close

We look forward to your response and assure you that, as ever, our comments are made constructively and with the intent of achieving an effective, fair and proportional regulatory regime for Premium Interactive Media and Entertainment services in the UK.

If any clarification to our response is required or if we can be of any further assistance please contact Zoe Patterson at 08445 828 828 or zoe@aimelink.org

Sincerely

Toby Padgham
General Secretary AIME