



**Review of television
advertising and teleshopping
regulation – Stage Two**
Rules on the amount and frequency of advertising

Consultation

Publication date: 7 October 2008

Closing Date for Responses: 11 December 2008

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Section 1

Summary

Ofcom's review

- 1.1 Following changes to the European framework of advertising regulation as set out in the Audio Visual Media Services (AVMS) Directive (see Annex 2), Ofcom decided to carry out a comprehensive review of its Rules on the Amount and Distribution of Advertising (RADA). In general, these changes widen the discretion available to Ofcom in setting rules that apply to channels licensed in the United Kingdom. Broadly speaking, the framework allows Ofcom to impose the same or stricter rules to channels licensed in the UK. However, Ofcom's rules may not be any more permissive than is allowed by the regulatory framework.

Stage One

- 1.2 We published Stage One of the review in March 2008¹, and invited comments on proposals for simplified and liberalised rules on the scheduling (or 'distribution') of television advertisements. In a statement published in July 2008², we set out our conclusions, and announced that the new Code on the Scheduling of Television Advertising (COSTA) would replace RADA with effect from 1 September 2008.
- 1.3 Alongside Stage One of the review, we summarised the issues to be tackled in Stage Two of the review³, including whether there should be changes to the rules on the amount of advertising, on the number and length of advertising breaks, and on the amount of teleshopping. The purpose of this was to ask interested parties if we had identified the appropriate range of options to include within the Stage Two consultation, and whether the suggested approach to assessing the impact of these options was reasonable.

Stage Two

- 1.4 We have taken the views of respondents (Annex 4) into account in framing the Stage Two consultation, and in refining our assessment of the impact of different options. We have also had regard to the outcome of deliberative research that we commissioned into the attitudes of viewers towards possible changes to regulation⁴. Clearly, there are many possible permutations of the options open to Ofcom. We have identified several main options that are set out in sections 3, 4 and 5. Ofcom will consider any other variations suggested in response to this consultation.

Amount of advertising

- 1.5 In section 3, we set out a broad range of regulatory options for:

¹ *Review of advertising and teleshopping regulation*, March 2008, Ofcom (<http://www.ofcom.org.uk/consult/condocs/rada/rada.pdf>) ('March 2008 document')

² *Code on the Scheduling of Television Advertising - Revised rules on the scheduling of advertisements*, July 2008, Ofcom (<http://www.ofcom.org.uk/consult/condocs/rada/statement/>) ('July 2008 statement').

³ Section 7 of *Review of advertising and teleshopping regulation*.

⁴ *UK viewers' attitudes towards potential changes to advertising regulation* ['deliberative research'](Holden Pearmain / Ofcom), October 2008 (<http://www.ofcom.org.uk/consult/condocs/rada08/research.pdf>)

- a) overall limits on the amount of advertising on both PSB (public service broadcasting) and non-PSB channels, ranging from a reduction of advertising on non-PSB channels, to an increase in advertising on all channels to the maximum minutage permitted by the European regulatory framework; and
 - b) rules on the amount of advertising during peak hours on PSB channels, ranging from the status quo to an increase.
- 1.6 So far, almost all stakeholder groups who responded, including most viewers, broadcasters, advertising agencies and advertisers, have expressed opposition to the idea of more advertising on television. As explained in section 3, our preference is to maintain the status quo on the overall amount of advertising on television, although we shall consider all representations and relevant factors before reaching a decision. We have not expressed a preference as regards rules on the amount of advertising during peak hours on PSB channels.
- 1.7 Section 3 also sets out proposals to end the designation of the 7am to 9am period as 'peak-time' on PSB channels, and to apply the same rules to this period as to other non-peak periods.

Number and length of advertising breaks

- 1.8 Section 4 discusses options for rules on the number of advertising breaks within programmes, ranging from the status quo, to an increase in the number of breaks in programmes of 60 minutes or more. We also seek views on whether more breaks should be allowed in programmes of autonomous parts (e.g. magazine-type programmes, where the content of one section is not linked to that of another). However, we are not including the option of no regulation. We consulted in the March 2008 document on whether there should be limits on the number of breaks, and in our July 2008 statement, we concluded that there should be.
- 1.9 We also set out options for rules on the length of internal advertising breaks on PSB channels, ranging from a reduction in the permitted duration of breaks, through the status quo, to no rules at all. We have not expressed a preference for any particular option.

Teleshopping

- 1.10 In section 5, we set out options for rules on the amount of teleshopping permitted on both PSB and non-PSB channels, ranging from the status quo (a maximum allowance of 3 hours a day on non-PSB channels, but no allowance for PSB channels), through partial deregulation, to full deregulation, under which channels would be allowed to schedule as much or as little teleshopping as they wished.
- 1.11 We also draw attention to the implications of:
- a) changes in the interpretation of European law, which may mean that quiz TV, adult chat services and psychic services (currently regarded as editorial content) are more appropriately treated as teleshopping; and
 - b) changes to the law in Great Britain (but not Northern Ireland), which may mean that transactional gambling services (including gaming and betting) are more appropriately considered to be teleshopping, and which will mean that, within the next few months, existing transactional gambling content (whether individual programmes or channels) will be required to be operated as teleshopping.

- 1.12 We explain in section 5 that we have a preference for removing the rules applying to non-PSB channels, and allowing PSB channels to have a teleshopping allowance, limited to times when audiences are relatively small.

Next steps

- 1.13 We would welcome views from any interested stakeholders, including viewers, broadcasters and advertisers before the consultation closes on **11 December 2008**. More details of how to respond and the specific questions we are asking are set out in Annex 1, as well as in sections 3, 4, 5 and Annex 5.
- 1.14 We shall consider the responses and other relevant considerations before deciding on the appropriate way forward. This may include an option or options that differ in some respects from those set out in this document. The statement we intend to publish in the first quarter of 2009 will set out our reasoning.
- 1.15 As indicated in the March 2008 document, Ofcom expects that any changes to the overall amount of television advertising would be implemented with effect from 1 January 2010, to allow time for the repercussions to be taken into account in the annual negotiations between broadcasters and media buyers. This would include any changes to rules on peak time minutage on PSB channels that might increase significantly the volume of commercial impacts, and hence have similar repercussions.
- 1.16 However, as none of the options for changes to the distribution of peak time minutage, to the number and length of advertising breaks or the amount of teleshopping would oblige broadcasters to change their existing arrangements, nor result in a change in the overall amount of advertising minutage permitted on television channels, we see no reason to delay implementation of any changes in these areas. Accordingly, if we decide that changes in these areas are warranted, we intend that they should come into effect shortly after publication of the final statement.
- 1.17 A copy of this document in a format suitable for use by screen readers has been posted on Ofcom's website. Ofcom can also provide documents to individuals in alternative formats (e.g. Braille, audiotape or large print) on request. We may also provide translations of documents into languages other than English. To request non-standard versions of documents, please contact the Ofcom Contact Centre at contact@ofcom.org.uk, by phone at 0845 456 3000 or 020 7981 3040, or by textphone at 0845 456 3003. Please note that the time needed to produce an alternative format document will depend on the length of the document.

Section 2

Background

Review of advertising regulation

- 2.1 Following changes to the European framework of advertising regulation as set out in the Audio Visual Media Services (AVMS) Directive, Ofcom decided to carry out a comprehensive review of its Rules on the Amount and Distribution of Advertising (RADA).

Stage One

- 2.2 We published Stage One of the review in the March 2008 document, and invited comments on proposals for simplified and liberalised rules on the placing (or 'distribution') of television advertisements. We published conclusions in relation to Stage One of the review in the July 2008 statement. In brief, this explained that we had decided that RADA should be replaced by a shorter and simpler Code which came into force on 1 September 2008 (Annex 3). The changes remove outdated or unnecessary rules that have little or no beneficial impact, either on viewers or broadcasters, and in some cases, are unhelpful, both to viewers and broadcasters. Examples include rules that force broadcasters to adopt a pattern of advertising breaks that is unpopular with viewers, the outdated rules that prohibit advertising after an epilogue (these are rarely, if ever, broadcast), and unnecessarily detailed guidance on what constitutes a natural break.
- 2.3 The changes also seek to create a more level playing field, by removing or liberalising rules that prevented broadcasters from taking as many breaks in documentaries, religious programmes or films as in other kinds of programmes. In the case of films, this means that one break will be allowed every 30 minutes, instead of once every 45 minutes. These changes will remove or reduce the disincentives to showing such programmes.

Stage Two

- 2.4 Alongside Stage One of the review, we set out a range of possible scenarios for Stage Two⁵. The purpose of this was to ask interested parties if we had identified the appropriate range of options to include within the Stage Two consultation, and whether the suggested approach to assessing the impact of these options was reasonable. The views expressed by respondents helped Ofcom in framing the Stage Two consultation, and in refining our assessment of the impact of different options.
- 2.5 Stage Two of the review deals with possible changes to the rules on the amount of advertising and teleshopping on television, and on the number and length of advertising breaks. Sections 3 to 5 of this document set out options for the regulation of these issues.

Legal considerations

- 2.6 As part of its duties in relation to broadcasting under the Communications Act 2003 ('the Act'), Ofcom is responsible for regulating advertising on television. This section explains the statutory duties and other relevant considerations that Ofcom must take

⁵ Section 7 of *Review of advertising and teleshopping regulation*.

into account in carrying out that regulatory function. It includes those considerations set out in the Act, other UK legislation, and European legislation.

- 2.7 Ofcom must balance all these considerations when deciding to carry out its advertising regulation functions. The section concludes with our proposals for balancing these considerations in a statement of regulatory objectives, and invites comments on these.

Communications Act 2003

Ofcom's duties

- 2.8 Section 3(1) of the Act says that Ofcom's principal duty in carrying out its functions shall be to further the interests of:
- a) citizens in relation to communications matters, and
 - b) consumers in relevant markets, where appropriate by promoting competition.
- 2.9 Section 3(2) specifies matters which Ofcom must secure in carrying out its functions:
- a) the availability throughout the UK of a wide range of television and radio services which (taken as a whole) are both of high quality and designed to appeal to a variety of tastes and interests; and
 - b) the maintenance of a sufficient plurality of providers of different television and radio services.
- 2.10 Section 3(3) and section 3(4) say that in performing the duties set out in section 3(1), Ofcom must have regard to a variety of other factors, including:
- a) the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed;
 - b) any other principles appearing to Ofcom to represent best practice;
 - c) the desirability of promoting the fulfilment of the purposes of public service television broadcasting in the United Kingdom;
 - d) the desirability of promoting competition in relevant markets;
 - e) the opinions of consumers in relevant markets, and of members of the public generally; and
 - f) the different interests of persons living in the different parts of the United Kingdom.
- 2.11 In connection with the requirement to have regard to the desirability of promoting the fulfilment of the purposes of public service television broadcasting, section 264(6) describes, amongst other things, the way in which this is done by ensuring these as securing that the relevant television services, taken together:
- a) deal with a wide range of subject matters;

- b) satisfy the interests of as many different audiences as possible, so far as their nature and subject matter and the days on which they are shown are concerned; and
 - c) maintain high general standards, in particular as regards the content and quality of the programmes, and the professional skill and integrity applied to making them.
- 2.12 For these purposes, the relevant television services are the BBC's channels, S4C1, ITV1 and GMTV, Channel 4, and Five (section 264(11)).
- 2.13 Where it appears to Ofcom that any of its general duties conflict with one another, it must secure that the conflict is resolved in the manner it thinks best in the circumstances (section 3(7)).
- 2.14 In performing the duties under section 3(1)(b) to further the interests of consumers, Ofcom must also have regard to the interests of those consumers in respect of choice, price, quality of service and value for money. Ofcom must also have regard, amongst other things, to the needs of persons on low incomes (section 3(4)(i)). Both of these considerations are relevant to the range of free-to-air advertising-funded television services available.
- 2.15 Ofcom has both a general responsibility with respect to advertisements and forms and methods of advertising and sponsorship, as well as a related power to include conditions in any licence granted by Ofcom that go beyond the provisions of its standards code (section 321(4)).
- 2.16 Ofcom also has duties that relate to how to carry out our work, including requirements:
- a) to carry out an assessment of the impact of a change in the way Ofcom carries out its activities where this would have a significant impact on persons carrying on businesses in markets regulated by Ofcom (section 7); and
 - b) to secure that regulation by Ofcom does not involve the imposition of burdens that are unnecessary, or the maintenance of burdens which have become unnecessary (section 6(1)).
- 2.17 Related to this is the duty to have regard to the extent to which matters which Ofcom are required to further or secure under section 3 (see above) are already furthered or secured, or are likely to be furthered or secured by effective self-regulation, and in the light of that, to consider to what extent it would be appropriate to remove or reduce regulatory burdens imposed by Ofcom (section 6(2)).

Best practice

- 2.18 In the light of the requirements on Ofcom under section 3(3) (see paragraph 3.5(a) and (b) above), Ofcom has published a set of regulatory principles by which it seeks to abide⁶. Those of particular relevance to the advertising regulation issues discussed in this document are as follows:
- a) Ofcom will operate with a bias against intervention, but with a willingness to intervene firmly, promptly and effectively where required;

⁶ Ofcom's regulatory principles (<http://www.ofcom.org.uk/about/sdrp/>).

- b) Ofcom will strive to ensure its interventions will be evidence-based, proportionate, consistent, accountable and transparent in both deliberation and outcome;
- c) Ofcom will always seek the least intrusive regulatory mechanisms to achieve its policy objectives;
- d) Ofcom will research markets constantly and will aim to remain at the forefront of technological understanding; and
- e) Ofcom will consult widely with all relevant stakeholders and assess the impact of regulatory action before imposing regulation upon a market.

Human Rights Act 1998

- 2.19 Under section 6 of the Human Rights Act 1998, there is a duty on Ofcom (as a public authority) to ensure that it does not act in a way which is incompatible with the European Convention of Human Rights (“the Convention”).
- 2.20 Article 10 of the Convention provides for the right to freedom of expression. It encompasses the broadcaster’s right to “impart information and ideas” and also the audience’s “right to receive information and ideas without interference by public authority”. Such rights may only be restricted if the restrictions are “*prescribed in law and necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health and morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence or for maintaining the authority and impartiality of the judiciary*” (Article 10(2) of the Convention).
- 2.21 Ofcom must exercise its duty in light of these rights and not interfere with the exercise of these rights in broadcast services unless it is satisfied that the restrictions it seeks to apply are required by law and necessary to achieve a legitimate aim.

European legislation

- 2.22 The Television without Frontiers Directive (‘the TWF Directive’) was adopted by the then European Economic Community in 1989⁷, and entered into force in the UK through the Broadcasting Act 1990 and the ITC’s Rules on Advertising Breaks (January 1991). The purpose of the Directive was to require Member States to adopt minimum common standards of advertising regulation in order to facilitate a single market in broadcasting services in accordance with the Treaty of Rome. The Directive was amended in 1997⁸, and remains in force in the UK, pending transposition of amendments made in December 2007 (see paragraph 3.23 below).
- 2.23 Recital 26 to the TWF Directive noted that ‘in order that the interests of consumers as television viewers are fully and properly protected, it is essential for television advertising to be subject to a certain number of minimum rules and standards and that the Member States must maintain the right to set more detailed or stricter rules ... for television broadcasters within their jurisdiction’. Recital 27 said that this could

⁷ Council Directive (89/552/EEC) of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (known as the Television without Frontiers Directive).

⁸ Directive 97/36/EEC of the European Parliament and of the Council of 19 June 1997 amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities.

include ‘different conditions for insertion of advertising and different limits for the volume of advertising’.

2.24 The TWF Directive requires, amongst other things:

- a) that the amount of TV advertising spots and teleshopping spots be limited to a maximum of 20% (12 minutes) in any one clock hour, and that the total duration of advertising spots should not exceed a daily average of 15% (9 minutes) an hour (Article 18). In addition, no more than 8 teleshopping windows of not less than 15 minutes each are permitted on channels not exclusively devoted to teleshopping (Article 18a);
- b) TV advertising should be readily recognisable as such (Article 10), and should be inserted between programmes, or in natural breaks within programmes (Article 11(1)). A period of at least 20 minutes should elapse between advertising breaks (Article 11(4)), except in the case of programmes with autonomous parts such as sports events (Article 11(2)), films (where Article 11(3) limited breaks to once in every period of 45 minutes), news and current affairs programmes, documentaries, religious and children’s programmes, where no break is allowed in any programme of less than 30 minutes.

2.25 The TWF Directive permits Member States to lay down different rules for television broadcasts intended solely for the national territory which cannot be received, directly or indirectly by the public, in one or more other Member States. The exceptions to this are the conditions laid down in Articles 11(2) and 18 (Article 20).

2.26 On 18 December 2007, the European Union adopted amendments to the Directive, which became the Audiovisual Media Services Directive (‘the AVMS Directive’). The UK has two years from this date to implement the Directive. The amendments provide, amongst other things, that:

- a) the amount of TV advertising spots and teleshopping spots continues to be limited to a maximum of 20% (12 minutes) in any one clock hour, but the lower daily average of 15% per clock hour has been abolished (Article 18). The limit on the number of teleshopping windows has been removed, but the minimum window duration of 15 minutes remains (Article 18a);
- b) the requirement for a period of 20 minutes to elapse between advertising breaks is abolished, and one advertising break is permitted in every scheduled period of 30 minutes in the case of films and news programmes, and in every children’s programme greater than 30 minutes (Article 11). The amendments abolish rules on breaks in news and current affairs programmes, documentaries, and religious programmes, although breaks in programmes of religious services remain prohibited.

2.27 It should be noted that:

- a) these amendments may be implemented by changes to Ofcom’s rules, and in the case of the changes listed in paragraph 2.26(b), were reflected in the new Code on the Scheduling of Television Advertising published in Ofcom’s July 2008 statement;
- b) they do not preclude Ofcom from imposing or maintaining stricter requirements on television advertising than are set out in the AVMS Directive. However, the restrictions may not be less strict than those set out in the Directive – for

example, Ofcom could not allow broadcasters to air more than 12 minutes of advertising an hour.

- 2.28 One of the purposes of this document is to enable decisions to be taken on how the amendments should be reflected in changes to the Rules on the Amount and Distribution of Advertising.
- 2.29 Article 49 of the EC Treaty requires that any restrictions on the free movement of services must be justified and proportionate.

Regulatory objectives

- 2.30 Section 3 of the March 2008 document explained how Ofcom proposed to balance these and other relevant considerations in regulatory objectives. We asked whether the objectives struck an appropriate balance between these duties and other considerations that Ofcom should take into account in reviewing advertising regulation. In the July 2008 statement, we said that we had considered comments from consultees, and decided that the proposed regulatory objectives were appropriate.
- 2.31 The first regulatory objective is that we should seek to further the interests of citizens and consumers, in particular, in relation to:
- a) the range, quality and appeal of television services available throughout the UK and in different parts of the UK and, in particular, public service channels;
 - b) the importance of securing a sufficient degree of plurality of providers of television services; and
 - c) such other matters as appear, having regard to the opinions expressed by consumers, important to them.
- 2.32 Further to this, Ofcom considers that any changes to current regulation should, in furthering the interests of citizens and consumers, so far as possible:
- a) be evidence-based, transparent, proportionate, consistent and limited to the measures needed to achieve the first objective;
 - b) avoid the imposition or maintenance of regulation that is unnecessary; and
 - c) take account of the desirability of promoting competition, and the nature and interests of different consumers, in relevant markets.

Structure of this document

- 2.33 Section 3 examines options for the regulation of the amount of advertising on television channels, and related issues, such as the rules governing advertising on peak-time advertising on PSB channels. Section 4 sets out options for rules on the number of advertising breaks on both PSB and other channels, as well as related issues such as current limit on the length of advertising breaks on PSB channels. Section 5 deals with options for the amount of teleshopping on both PSB and other channels.

Section 3

Amount of advertising

Background

- 3.1 There have been rules on the amount of advertising permitted on commercial television since it first began in the middle of the last century. A detailed summary of how regulation evolved is set out in section 5 of the March 2008 document.
- 3.2 The Independent Television Authority (ITA) initially sought to limit advertising to six minutes an hour averaged over the number of hours of broadcasting in each day. Within a few years, the amount of advertising in peak hours had crept up, causing concern to the ITA. By 1966, the ITA's rules limited the total amount of advertising to an average of six minutes an hour averaged over a day's programming, but restricted advertising in any one clock hour to a total of seven minutes. This rule was maintained by the Independent Broadcasting Authority (IBA) in the 1983 and 1985 *Advertising Rules and Practice (Television)*. In 1987, the IBA increased the average daily minutage to seven minutes an hour, but retained the maximum of seven minutes in any one clock hour.

Non-PSB channels

- 3.3 In 1991, the Independent Television Commission (ITC) issued an amended code which took account of the (then) new Television Without Frontiers (TWF) Directive and of the emergence of non-PSB channels. The ITC argued that it had no remit to secure the quality of non-PSB channels, and that they should be allowed the maximum flexibility permitted by the TWF Directive. Accordingly, non-PSB channels were permitted to broadcast a daily average of 9 minutes per hour of advertisements, together with a further 3 minutes of teleshopping spot advertisements, subject to an overall limit in any one hour of 12 minutes. These rules remain in force.

PSB channels

- 3.4 By contrast, the ITC concluded that it did have an obligation to protect the quality of the viewing environment on PSB channels (then only ITV and Channel 4), and that this would be adversely affected by 'too frequent advertising'. In addition to the limits on the distribution and length of advertising breaks between programmes, PSB channels remained subject to a daily average of 7 minutes an hour. PSB channels were also expected to follow these averages 'fairly closely' in any clock hour. They were permitted to carry teleshopping spots or features, but were not allowed any extra time for these⁹.
- 3.5 Following the 1997 revision of the TWF Directive, the ITC published revised Rules on the Amount and Scheduling of Advertising, in 1998. The guidance to PSBs on following the daily averages in any one clock hour was replaced by a rule specifying a peak-time average of 7½ minutes an hour between 7am and 9am, and between 6pm and 11pm. In October 2000, the peak-time average was increased to 8 minutes an hour. These rules remain in force and are set out in paragraph 4 of the COSTA (Annex 3).

⁹ *Rules on the Scheduling and Amount of Advertising*, ITC, 1991

Changes to the European regulatory framework

- 3.6 The AVMS Directive (see relevant extracts in Annex 2) modifies the European regulatory framework by raising the permitted allowance of time for advertising spots from an average of 9 minutes an hour for every hour of transmission, to a maximum in any one hour of 12 minutes. This amount is also to include any teleshopping spots, (though there is no limit on the number of teleshopping windows of at least 15 minutes' duration). The European regulatory framework allows Ofcom to impose the same or stricter rules to channels licensed in the UK. However, Ofcom's rules may not be any more permissive than is allowed by the regulatory framework.
- 3.7 In the light of this, we set out below options for regulating overall advertising minutage on all channels, and our initial preference, where we have one. In response to suggestions from some stakeholders, we are also inviting views on options for regulating peak-time minutage on PSB channels. Clearly, there are many possible permutations of these options. Ofcom will consider any other variations suggested by stakeholders in response to this consultation.
- 3.8 After a description of each option, we set out our assessment of the likely impact of each on the main stakeholder groups – viewers, broadcasters and advertisers. The Impact Assessment at Annex 5 elaborates on this assessment. Where we have feedback from some or all of these groups, we also summarise it below.

Options for regulating the overall amount of advertising on TV channels

Option 1: the status quo

- 3.9 One option would be to retain the existing rules, under which:
- a) non-PSB channels have an allowance of 9 minutes an hour for every hour of transmission, and may use up to 12 minutes of this in any one hour; and
 - b) PSB channels have an allowance of 7 minutes an hour for every hour of transmission, and may use up to 12 minutes of this in any one hour.

Likely impact on stakeholders

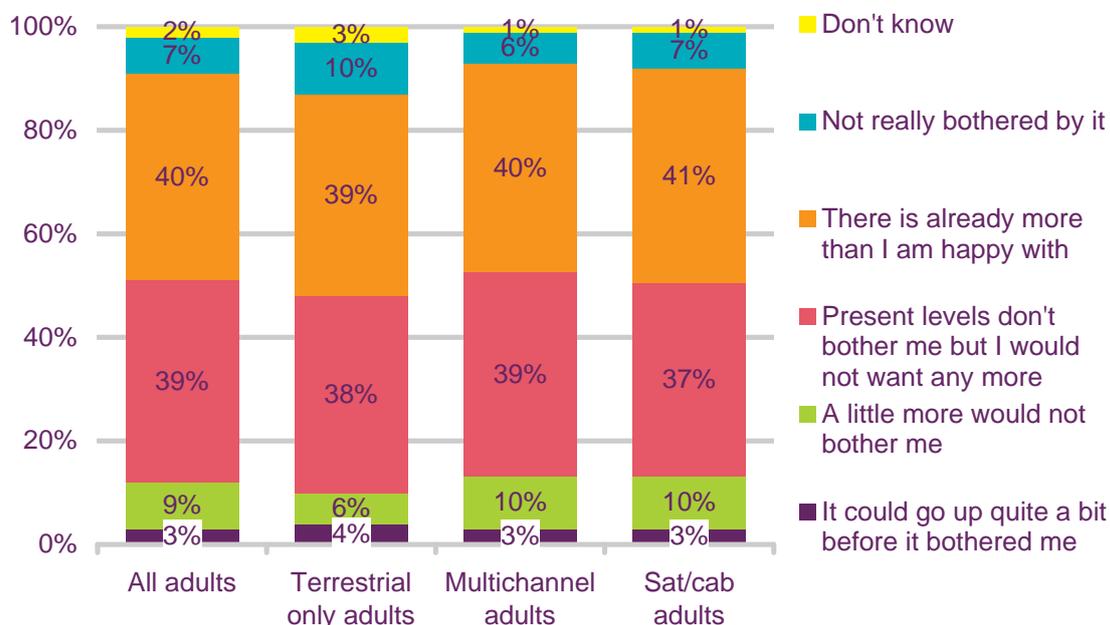
- 3.10 In the March 2008 document, we suggested that this option would mean little or no change for consumers. Peak-time audiences are largest between 7pm and 10pm, when most PSB channels are showing around 10 minutes an hour of advertising (see Annex 6). There is less advertising between 6pm to 7pm, and between 10pm to 11pm, when audiences are somewhat lower. If current patterns of advertising continued, this would enable the amount of time devoted to public service content (e.g. national and regional news) to be maintained.
- 3.11 Neither broadcasters nor advertisers would be directly affected by this option, though other variables might affect both the amount and distribution of advertising revenues, such as changes in audience share or advertising strategies, and increases or decreases in the number of television channels competing for advertising revenue.

Initial feedback from stakeholders

- 3.12 The deliberative research commissioned by Ofcom suggests that viewers are generally tolerant of the current levels of advertising, with many accepting that it is a

trade-off for receiving free commercial television¹⁰. Data from Ofcom's Tracker Survey (see Figure 1 below) suggests that just over half of viewers would be content with the status quo (i.e. they are content with existing levels of advertising or would be prepared to see more).

Figure 1: Attitudes to amount of advertising on PSB channels



Source: Ofcom Tracker Surveys, May & November 2007

3.13 In response to the March 2008 document, broadcasters and advertisers indicated that, on balance, they would prefer the status quo. Broadcasters are concerned that increasing the supply of advertising minutage would simply result in a reduction in its price, and that broadcasting revenues would, at best, remain static. Both advertisers and broadcasters were concerned that the attractiveness of the television viewing environment would decrease; advertisers worried that this would reduce the effectiveness of television advertising.

Option 2: levelling up

3.14 One option would be to eliminate or reduce the differences between the rules applying to PSB channels, and those applying to other channels. This could be done by simply allowing PSB channels to broadcast the same amount of advertising as other channels (i.e. an average of 9 minutes an hour), or by allowing all channels to broadcast up to the maximum permitted by the AVMS Directive (i.e. 12 minutes an hour).

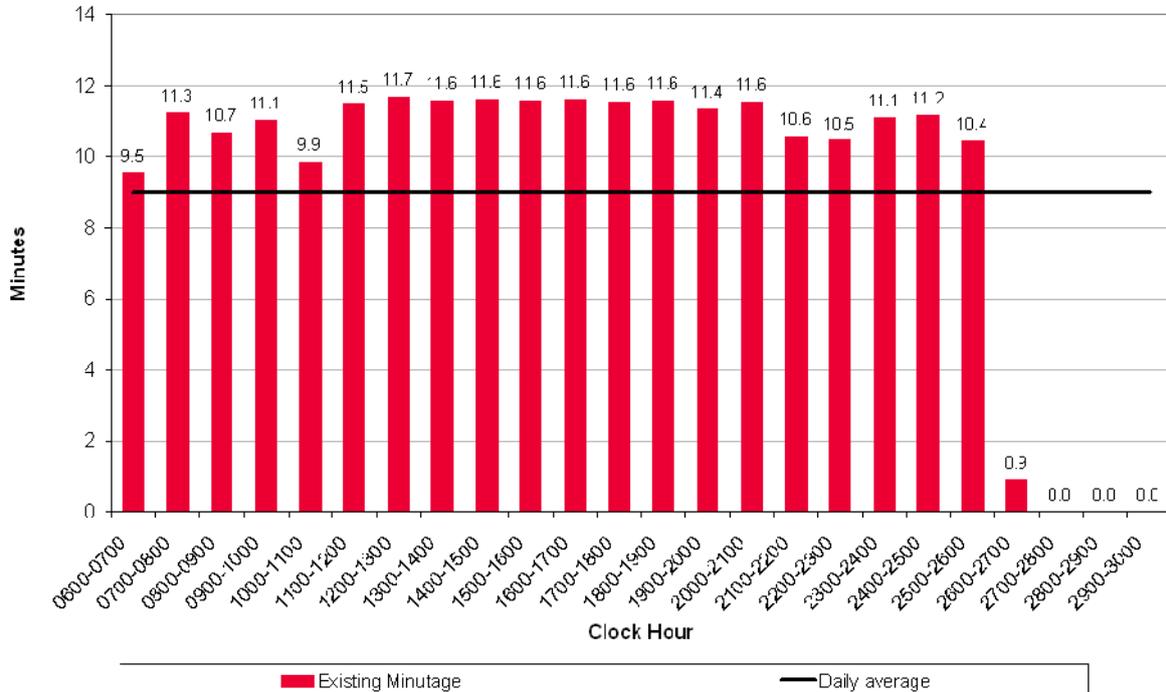
Likely impact on stakeholders

3.15 Though viewers are instinctively opposed to more advertising on television, the direct impacts of this option (or variations on it) would be more limited than most might think. The reason for this is that most non-PSB channels already schedule close to the permitted maximum of 12 minutes an hour at the most popular viewing times, so would have little or no scope to add more advertising in these periods. For example,

¹⁰ See section 6 of the deliberative research

as Figure 2 shows, UKTV Gold already schedules close to 12 minutes an hour between 7am in the morning and 1am the next morning.

Figure 2: Distribution of advertising minutage on UKTV Gold



Notes:

1. TWF/AVMS rules impose maximum of 12 minutes advertising in any clock hour
2. Ofcom rules limit non-PSB channels to an average of 9 minutes an hour.

Source: Nielsen Media, Jan to Dec 2007

3.16 The changes would be more noticeable on PSB channels, though still relatively limited. In the absence of changes to the PSB peak-time rules, there would be more advertising late at night and in daytime on PSB channels, but relatively few viewers would be affected. Annex 6 shows those times when there would be scope to add additional minutage without breaching the cap of 12 minutes an hour.

3.17 The financial impact on broadcasters could also have indirect impacts on viewers. Levelling up to average minutage of 9 minutes an hour would still result in a substantial increase in PSBs’ share of commercial impacts. The effect could be a significant transfer of revenue from non-PSB channels to PSB channels. Central estimates are that this could result in a net increase in advertising revenue for the PSBs of around £69 million, falling to around £44m when PSB portfolio channels are included. Non-PSB channels would see a revenue loss of around £46 million. So far as the viewer was concerned:

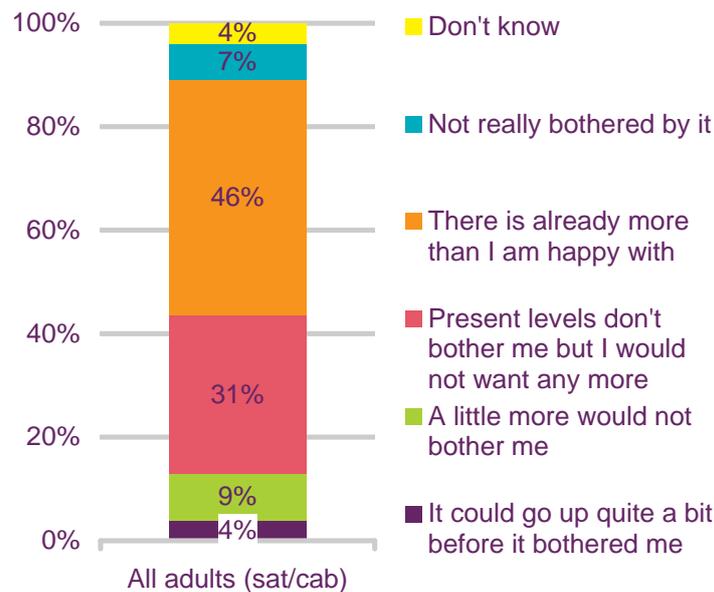
- a) additional funding for PSB channels would allow them to invest more in programming; and
- b) reduced funding for non-PSB channels might result in cheaper programming (e.g. more repeats, more imported programmes, or lower quality programmes) or even the closure of some niche channels.

- 3.18 The effects of full liberalisation (i.e. increasing average minutage to 12 minutes an hour) are difficult to quantify. For the reasons explained in paragraphs A5.94 to A5.95 of the impact assessment, we are not confident that the modelling approach adopted for other options would produce useful estimates of the revenue impacts. However, our expectation is that there would be an increase in PSBs' share of commercial impacts at the expense of the share of non-PSB channels, and that this would result in a transfer of revenue from non-PSB channels to PSB channels. So far as viewers are concerned, the type of effects would be similar to those described in paragraphs 3.15 to 3.17.
- 3.19 More detail on both these scenarios is set out in the impact assessment at Annex 5. In either case, advertisers would probably benefit from lower prices if the volume of permitted advertising was increased, but might find that television became a less effective advertising medium if viewers responded by watching less television, or finding ways to avoid advertising.

Initial feedback from stakeholders

- 3.20 Responses to the March 2008 document indicated a broad coalition of stakeholders opposed to any increase in permitted advertising on either public service or other channels. It is clear both from research (see Figure 3 below) and feedback to Ofcom that viewers would prefer not to see more advertising on television.
- 3.21 Broadcasters (with the exception of two UK-based operators of overseas channels) and most advertisers have indicated that they would be opposed to full liberalisation. The PSBs argued that demand for television advertising is inelastic, so that an increase in minutage would simply reduce the price of advertising and cut industry revenue. Meanwhile, virtually all multi-channel broadcasters believed that any increase in advertising minutage would not increase net advertising revenue significantly, but would redistribute revenues from multi-channels to PSBs.
- 3.22 An advertising trade association said that there was 'no doubt that any increase in the supply of airtime would lead to a decrease in its aggregate price'. While this might stimulate some further demand for television advertising, the association said that many advertisers were concerned that the extra clutter might reduce the impact of advertising on viewers. Most felt that the status quo represented a satisfactory, and perhaps even optimal, balance.

Figure 3: Attitudes to amount of advertising on non-PSB channels



Source: Ofcom Tracker Surveys, May 7 November 2007

Option 3: levelling down

3.23 Under this option, non-PSB channels would be limited to the same advertising minutage as PSBs (an average of 7 minutes an hour). This would reduce the supply of advertising impacts overall. However, channels would still be able to schedule up to 12 minutes an hour of advertising an hour during peak viewing hours.

Likely impact on stakeholders

3.24 It is unlikely that viewers would notice much change to the amount of advertising they saw, as most of their viewing is on PSB channels (where the rules would remain unchanged) or during peak-time on non-PSB channels. In order to maximise their revenue, it is likely that non-PSB broadcasters would continue to schedule as much advertising in peak hours as they could, by cutting down on the amount of advertising at times when relatively few people were watching television. As a result, audiences for daytime and late night programmes on all channels would be likely to see less advertising.

3.25 The amount of advertising on PSB channels would not change, but their share of commercial impacts would increase, as advertising on non-PSB channels was reduced. However, the revenues of public service broadcasters (taking account of their non-PSB channels) would increase, while those of other broadcasters would decline. Central estimates suggest that, collectively, public service broadcasters (including their non-PSB channels) would gain about £33 million, and other channels would lose about £34 million. Further detail on this is set out in the impact assessment in Annex 5.

3.26 The possible impacts on advertisers are difficult to gauge; as many viewers have indicated a preference for less advertising on non-PSB channels, it is possible that the effectiveness of advertising on these channels would increase if the amount declined. However, as indicated above, it is likely that these channels would continue

to maximise the amount of advertising around times of peak viewing, in order to support their share of commercial impacts.

Initial feedback from stakeholders

- 3.27 The limited feedback from individual viewers, together with responses to Ofcom's Tracker Survey, suggests that a significant number of viewers would welcome a reduction in advertising. As Figure 3 above shows, 46% of viewers felt that there was more advertising on non-PSB channels than they were happy with, as compared with 40% of viewers who were dissatisfied with the amount of advertising on PSB channels (Figure 1).
- 3.28 A PSB channel suggested that this option merited further consideration, on the grounds that it would reduce the overall amount of airtime, thereby reversing the fall in the price of advertising, and helping to stabilise the sector as a whole. It suggested that it would also underpin the financial position of public service broadcasters, so assisting their ability to invest in public service content. Another public service broadcaster also expressed interest in this option.
- 3.29 By contrast, non-PSB channels said that the levelling-down option would be highly detrimental to non-PSB channels; some argued that it would jeopardise the continued existence of some channels, particularly thematic channels, thereby reducing the choice available to consumers.

Ofcom's initial view

- 3.30 Ofcom has considered which of the options for regulating the overall amount of advertising minutage (including the status quo) are likely to contribute more to the regulatory objectives set out in paragraphs 2.30 to 2.31. Our initial view, subject to considering the views of consultees, is that the status quo may strike the best balance between maintaining a wide range of high quality television services, and the opinions of consumers, who appear not to favour an increase in the amount of advertising.

Implementation

- 3.31 Subject to the outcome of the consultation, Ofcom proposes that any rule changes that might result in a significant change in the number in commercial impacts would not come into force before 1 January 2010. This would include changes that would level the regulatory playing field as between PSB and non-PSB channels, either by increasing the amount of advertising that PSB channels could carry, or reducing the amount of advertising that non PSB channels could carry.

Table 1: summary of options for regulating overall amount of advertising minutage

Options	Hourly average across transmission time (subject to a cap of 12 minutes in any one hour)		Estimated (cost) / benefit to broadcasters	
	Public service broadcasters (including their non-PSB channels)	Other channels	Public service broadcasters (including their non-PSB channels)	Other channels
Option 1: status quo	7 minutes	9 minutes	No change	No change
Option 2: levelling up	9 minutes	9 minutes	£44 million	(-£46 million)
Option 3: levelling down	7 minutes	7 minutes	£33 million	(-£34 million)

Q1. Which option (or variation of an option) for regulating the overall amount of advertising permitted on television channels do you prefer, and why? Do you agree that any rule changes that might result in a significant change to the number of commercial impacts should not come into force before 1 January 2010?

Options for regulating peak-time minutage on PSB channels

Option 4: status quo

3.32 At present, peak-time restrictions limit the average amount of advertising that may be shown on PSB channels to 8 minutes per hour during the morning and evening peaks (7am to 9am, and 6pm to 11pm).

Likely impact on stakeholders

3.33 Under this option, it is likely that broadcasters would continue to schedule as much advertising in peak hours as they are currently allowed (e.g. 40 minutes between 6pm and 11pm), by cutting down on the amount of advertising at times when relatively few people were watching television. The impact on viewers, broadcasters and advertisers would be neutral.

Initial feedback from stakeholders

3.34 Responses from individual viewers to the March 2008 document generally favoured the status quo, as did those of broadcasters¹¹ and many advertisers.

¹¹ However, ITV has suggested that each PSB channel be allowed to aggregate its daily allowances to create a weekly allowance of 280 minutes, which could be scheduled at its discretion, subject to a maximum limit of 12 minutes in any one hour. This option is set out separately.

Option 5: relaxing peak-time restrictions

- 3.35 A further option would be to relax the peak-time restrictions on PSB channels, bringing them closer to the regime applying to other channels. For example, it would be possible to allow PSB channels an average of 9 minutes an hour between 6pm and 11pm instead of the present 8 minutes an hour.

Likely impact on stakeholders

- 3.36 While the viewing environment on non-PSB channels would be unchanged, peak-time viewers of PSB channels would be likely to see more advertising in all peak-time hours. The amount of extra advertising would vary, with the biggest increases occurring between 6pm and 7pm, and 10pm to 11pm, where there is less advertising at the moment (see Annex 6). An increase in peak-time advertising could (for example) encroach on the time available for coverage of regional and national news stories; on the other hand, it would provide additional revenue that PSB channels could invest in better programming. However, given the scope to schedule more advertising, the opportunity costs of scheduling lower-rating programming to meet PSB obligations would grow. For example, if there was more minutage available between 6pm and 7pm, there would be commercial pressures to schedule higher rating programming than the current local and national news programmes, in order to generate more advertising revenue. Other effects on consumers could include those outlined in paragraph 3.17 above.
- 3.37 Collectively, PSB channels would be likely to increase their share of commercial impacts significantly. The scale of the increase in share would depend on the degree to which peak-time restrictions were relaxed. For instance, if the peak-time restrictions were to be relaxed to allow 9 minutes per hour across the peak period without any change in the overall limit, then the effect could be a net increase in advertising revenue for PSBs of around £30 million, and a collective reduction for other non-PSB channels of about £30 million. Those PSB channels with the largest audiences in peak time (ITV1 in particular) would benefit most.
- 3.38 Viewers could expect to see more advertising during peak-time hours (6pm to 11pm). As PSB channels are already scheduling close to the maximum 12 minutes an hour of advertising between 7pm and 10pm, much of the additional advertising would appear between 6pm and 7pm, and between 10pm and 11pm. There could also be other effects on consumers. The scope to schedule more advertising at times when most people are watching would increase the opportunity costs of scheduling lower-rating programming to meet PSB obligations at those times. There would be pressure to schedule public service programming in less popular slots. On the other hand, this option would provide additional revenue that PSB channels could use to fund public service programming.
- 3.39 Advertisers could benefit from the ability to schedule more advertising at times when large numbers of viewers are watching. Some might be concerned that an increase in the amount of television advertising would reduce its effectiveness.

Initial feedback from stakeholders

- 3.40 There was no support for this idea from broadcasters (including both PSBs and non-PSBs) or viewers. An advertising trade association indicated that, on balance, most advertisers were also opposed, though some indicated that they would welcome the opportunity for more advertising in prime time slots.

Option 6: weekly averaging of peak-time restrictions

- 3.41 During the peak viewing period from 6pm and 11pm, public service channels may broadcast no more than an average of 8 minutes per hour of advertising, amounting to a daily peak-time allowance of 40 minutes. This rule does not apply to non-public service channels, which may show up to 12 minutes an hour during the same period, and often do. ITV has proposed that, rather than increasing peak-time minutage allowances overall, public service channels be allowed to aggregate the existing daily peak time allowances to create a weekly allowance of 280 minutes, which could be scheduled at their discretion, subject to a maximum limit of 12 minutes in any one hour.
- 3.42 If this option was implemented, Ofcom would expect public service channels to use the flexibility to schedule up to 12 minutes of advertising an hour at times when they could maximise their advertising revenue, i.e. at times when most people are watching or when audiences most sought after by advertisers were watching, such as those in socio-economic groups ABC1. This might result in more advertising being scheduled in days of the week when audiences were higher (e.g. weekends on some channels), and in the late evening peak (e.g. 10pm to 11pm), when audiences tend to be skewed towards ABC1s. As a corollary, less advertising would be scheduled at times when there was less scope to generate advertising revenue; this could be reflected in lower programme budgets.

Likely impact on stakeholders

- 3.43 While the viewing environment on non-PSB channels would be unchanged, peaktime viewers of PSB channels would be likely to see more advertising in peak on those days of the week that attracted the largest audiences (up to 60 minutes between 6pm and 11pm, instead of 40 minutes at present), and less advertising at other times.
- 3.44 The net benefit to PSB groups (including both their PSB and non-PSB channels) would be an increase in their share of commercial impacts of between 6 to 10%; other non-PSB channels might see a collective reduction of around 1.5%. Central estimates suggest a potential increase in the net advertising revenue of PSB groups of some £39 million, with most of the benefit going to those PSBs with larger audiences. For non-PSBs, central estimates suggest a potential reduction in net advertising revenue of some £37 million.
- 3.45 As with Option 5, advertisers could benefit from the ability to schedule more advertising at times when large numbers of viewers are watching. Some might be concerned that an increase in the amount of television advertising would reduce its effectiveness.

Initial feedback from stakeholders

- 3.46 As ITV suggested this option towards the end of the consultation period, there was limited opportunity for other stakeholders to provide feedback. However, some broadcasters (including a PSB channel and a multi-channel operator) expressed concern that the net effect of this proposal would be to increase ITV's share of commercial impacts considerably, at the expense of other broadcasters.

Implementation

- 3.47 Subject to the outcome of the consultation, Ofcom proposes that any rule changes that might result in a significant change in the number in commercial impacts would

not come into force before 1 January 2010. This would include changes that would allow PSB channels to show more advertising in peak, or allow them to schedule their peak time minutage in ways that would optimise their share of commercial impacts.

Table 2: summary of options for regulating peak-time minutage on PSB channels

Options	Hourly average across peak-time (subject to a cap of 12 minutes in any one hour)	Estimated (cost) / benefit to broadcasters	
		Public service broadcasters (including non-PSB channels)	Other channels
Option 4: status quo	8 minutes	No change	No change
Option 5: relaxing restrictions	9 minutes	£30 million	(-£30 million)
Option 6: weekly averaging	8 minutes an hour in peak time across the week, up to a maximum of 12 minutes an hour in peak on any one day	£40 million	(-£37 million)

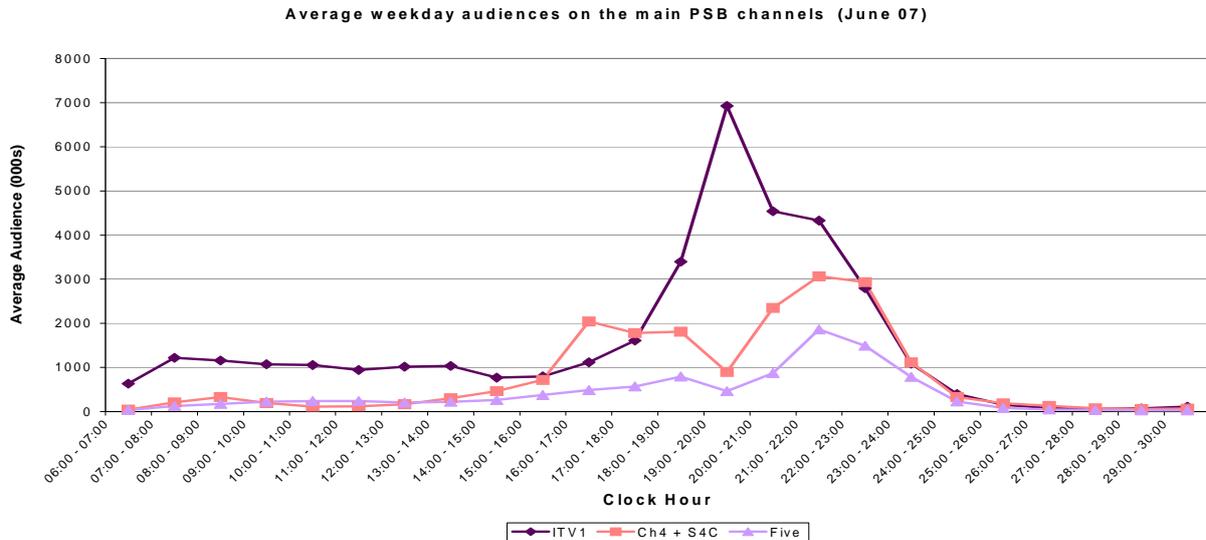
Q2. Which option (or variation of an option) for regulating peak-time minutage on public service channels do you favour, and why? Do you agree that any rule changes that might result in a significant change to the number of commercial impacts should not come into force before 1 January 2010?

Other issues

Advertising in breakfast time slots

- 3.48 GMTV1 broadcasts from 6am to 9.25am on ITV1, and, in common with other public service broadcasters, has an advertising allowance of 7 minutes for every hour of transmission. This brief slot limits GMTV's ability to optimise advertising allowance across the day. For this reason, Ofcom allowed GMTV to optimise its allowance over the week, while ensuring that it did not exceed an average of 7 minutes an hour over each week, and a daily average of 9 minutes an hour (outside the peak-time slot between 7am and 9am). These arrangements enable GMTV to schedule more advertising during the adult programmes it shows during the week, by reducing advertising during children's programming at weekends.
- 3.49 GMTV's ability to earn advertising revenue is also constrained by the designation of the period from 7am to 9am as peak, which limits its advertising allowance for this period to 7 minutes an hour (the same as evening peak). As Figure 4 shows, there is relatively little variation in viewing figures between 7am to 9am, and audiences are not substantially higher than daytime audiences. We therefore propose that advertising in this slot be regulated in the same way as advertising at other non-peak times of the day. As now, GMTV would continue to earn 7 minutes of advertising for every hour it transmits programmes, but would be allowed to schedule up to 12 minutes an hour in any one hour.

Figure 4: average weekday audiences for public service channels in 2007 (BARB/TNS)



Likely impact on stakeholders

- 3.50 If this proposal is adopted, Ofcom believes that GMTV is likely to schedule more advertising during times when its programmes attract most viewing, that is between about 6.30am to 8am during weekdays. It would schedule correspondingly less advertising during periods when fewer people were watching, for example on weekend mornings.
- 3.51 This change would have a small impact on a relatively small number of stakeholders. As breakfast-time television tends to be watched for relatively short periods, a viewer might expect to see an additional minute or two of advertising during a viewing session. We do not think that there would be a significant impact on PSB channels other than GMTV, or on non-PSB channels.

Initial views of stakeholders

- 3.52 With the exception of PSB channels, stakeholders have not had an opportunity to comment on this option. PSB channels have indicated that they do not object to these proposed changes.

Implementation

- 3.53 If Ofcom concludes that the rule change should be made, then it is proposed that it should come into force shortly after Ofcom publishes its conclusions, on the grounds that it will not have a significant effect on the number of commercial impacts supplied to the market.

Q3. Do you agree that the 7am to 9am period should cease to be treated as a peak viewing period on public service channels? If so, do you agree that this change should come into effect shortly after Ofcom publishes its conclusions?

Section 4

Number and length of advertising breaks

Introduction

- 4.1 Both the number and length of advertising breaks within programmes (internal breaks) on PSB channels have been regulated since commercial television began in the middle of the last century. A description of how regulation evolved up to the present day is set out in section 5 of the March 2008 document. In brief, the effect was to allow PSB channels:
- a) to take more of their advertising allowance in advertising breaks within programmes rather than between programmes; and
 - b) to increase the number of advertising breaks within programmes.
- 4.2 As regards non-PSB channels, the length of internal breaks has never been regulated. The 20-minute rule had the effect of limiting the number of internal breaks that could be shown within a programme of given duration.

Number of breaks - background

Principle of regulation

- 4.3 In paragraphs 6.27 to 6.35 of the March 2008 document, we invited views on whether, in principle, the number of advertising breaks should be regulated. We explained why we believed that it would further the interests of consumers to retain effective limits on the number of advertising breaks within programmes of a given scheduled duration. We noted that more than one UK broadcaster had acknowledged that if some broadcasters sought to increase their share of commercial impacts by scheduling more internal breaks, they would have to follow suit. Taken together with the US experience, this suggested that, if regulation of the incidence of advertising breaks was scrapped completely, commercial pressures would push broadcasters towards scheduling shorter and more frequent breaks within programmes, even though the extra 'clutter' may not be welcomed by viewers.
- 4.4 In paragraphs 3.29 – 3.40 of the July 2008 statement, we said that, having considered representations from stakeholders, we remained of the view that there should be limits on the number of advertising breaks. However, we deferred decisions on what the limits should be, and whether different rules should continue to apply to PSB channels until Stage Two of the review.

Deliberative research

- 4.5 The reason for this was that the limited evidence then available to Ofcom suggested that viewers may perceive changes to the number and pattern of breaks as changes to the overall amount of advertising, even where in fact, the overall amount of advertising is unchanged. Ofcom said that further evidence was required on viewers' likely attitudes to changes in both the volume and pattern of advertising, and that it would commission independent deliberative research with a representative group of adult television viewers drawn from across the United Kingdom to ascertain the likely attitude of viewers to different scenarios.

Interim arrangements

- 4.6 Pending the outcome of Stage Two of the review, Ofcom decided to maintain the effect of current restrictions on the number of breaks. We retained the existing rules for PSB channels. We also introduced interim rules for non-PSB channels that limit the number of breaks on non-PSB channels to the number that would otherwise have been possible with the 20-minute rule. These are set out in the tables following paragraph 14 of COSTA (Annex 3).

Possible scenarios

- 4.7 In the March 2008 document, we invited the views of stakeholders on the range of options for regulating the number of internal advertising breaks. This included:
- a) adopting rules that would maintain the current limits on breaks within programmes – that is, allowing up to two breaks per half-hour programme on non-PSB channels, and one break per half-hour programme on PSB channels;
 - b) adopting rules that would limit the number of breaks on both PSB and non-PSB channels in a half-hour programme to two, and in a 60-minute programme to three;
 - c) adopting rules that would limit non-PSB channels the same number of breaks as PSB channels;
 - d) adopting rules that would limit PSB channels to the same number of advertising breaks as now, but allow non-PSB channels to decide for themselves how many breaks to schedule; and
 - e) allowing both PSB and non-PSB channels to decide for themselves how many breaks to schedule, rather than regulating this.
- 4.8 Stakeholders' responses are summarised in Annex 4. Some respondents agreed that Ofcom had identified the right options for consideration. Others said that, in addition to considering the status quo and complete deregulation, Ofcom should look at variations on the present rules that stop short of complete liberalisation, such as allowing four rather than three breaks within an hour-long programme, and allowing more breaks in programmes of a magazine nature. One public service broadcaster argued for a level playing field between PSB and non-PSB channels, preferably on the basis of no regulation at all. A multi-channel broadcaster said that, if Ofcom did maintain restrictions, it should allow more frequent breaks in short-form content channels; it argued that the overall limit of 12 minutes of advertising an hour would prevent the emergence of a US-style television environment.
- 4.9 We have taken these views into account in formulating the set of options below. Some respondents appeared to want Ofcom to limit its consideration to the options that they favoured. We do not believe that it would be appropriate to foreclose particular options (other than the option of no regulation on which we have already consulted) at this stage, as this would tend to disenfranchise those stakeholders whose preferred options were not included.

Options for consultation

- 4.10 The European regulatory framework does not constrain the way Ofcom may regulate break frequencies. In other words, Ofcom may devise whatever arrangements it

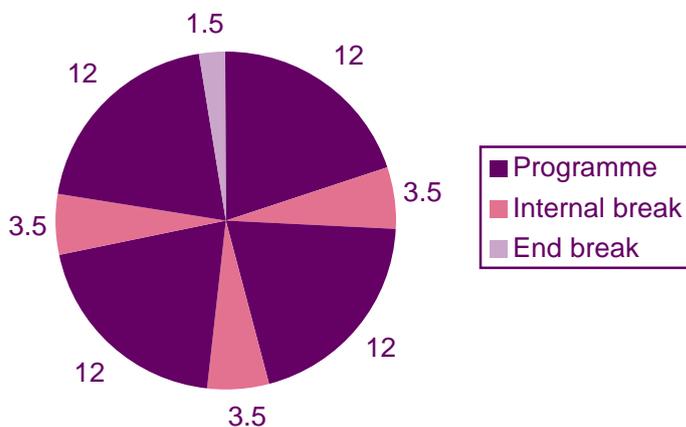
considers appropriate in the light of its duties. However, as explained in paragraph 4.4 above, we have already decided that there should be limits on the number of advertising breaks. Accordingly, we are not considering the possibility of no regulation.

- 4.11 In the light of stakeholders’ views and the deliberative research we commissioned (Annex 6), we have set out three basic options for consideration, as we believe that they effectively represent the main choices that stakeholders would like to see. Clearly, within these options, there are a number of different possible permutations, and we are happy to consider views on whether particular variations should be adopted.
- 4.12 The three central options discussed below are the status quo (Option 1), more breaks in programmes of 60 minutes or more (Option 2), and as a variant on one of either Option 1 or 2, rules allowing breaks between autonomous parts of a programme (Option 3). Table 3 below illustrates how Options 1 and 2 would affect the number of breaks on both PSB and non-PSB channels in programmes shown in slots of 30, 60, 90 and 120 minutes.

Option 1 – the status quo

- 4.13 The current rules are set out in the tables following paragraph 14 of COSTA in Annex 3. The effect of these rules is summarised in Table 3 below, and a possible break pattern in shown in Figure 5. The current rules allow PSB channels to take one break in a half-hour programme, three in an hour-long programme, and five in a two-hour programme. Non-PSB channels are allowed two breaks in a half-hour programme, three in an hour-long programme, and six in a two-hour programme.

Figure 5: Example of break frequency pattern under Option 1 (60-minute programme)



Likely impact on stakeholders

4.14 This option would mean the experience for viewers would remain the same, since there would be no change to the regime operated by broadcasters. It is likely that PSB channels would continue to schedule breaks close to the maximum permitted duration (3'50", including no more than 3½ minutes of advertising) during those peak time hours with the largest audiences (7pm to 10pm). Likewise, the opportunities for advertisers would remain much the same.

Initial feedback from stakeholders

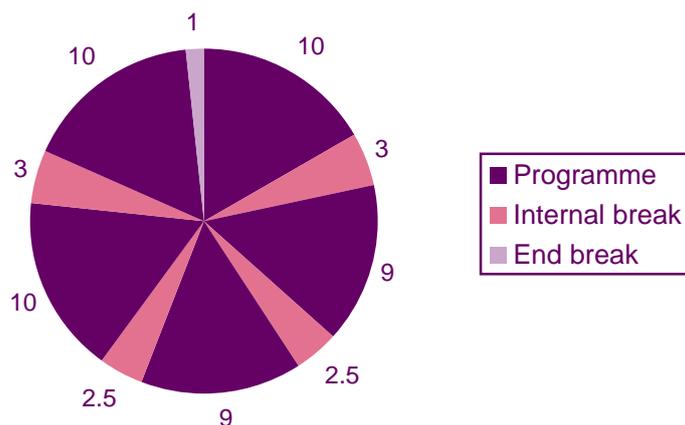
4.15 Most individual respondents to the March 2008 document supported the status quo and were opposed to any increase in the number of advertising breaks. The deliberative research suggests that most viewers would find the status quo 'logical and acceptable', though some research participants were surprised that different rules applied to PSB and non-PSB channels, and felt that there should be a level playing-field.

4.16 Most broadcasters argued against any limits on the number of breaks, on the grounds that the combination of viewer irritation and the hourly minutage restriction would prevent an excessive number of breaks.

Option 2 – more breaks in longer programmes

4.17 The effect of this option would be to allow two breaks for every half-hour of programming in programmes of 60 minutes or more. As now, PSB channels would be allowed to take one break in a half-hour programme, and non-PSB channels would be allowed two. The number of breaks in programmes longer than 60 minutes is shown in Table 3 below; a possible break pattern is shown in Figure 6.

Figure 6: Example of break frequency pattern under Option 2 (60-minute programme)¹²



¹² For illustrative purposes, the examples in Figures 5 and 6 assume that channels do not show programme trailers or sponsorship bumpers during internal breaks. Such material would normally account for 2½ to 3 minutes of non-programme and non-advertising material in the course of an hour-long programme, with corresponding reductions in programme duration.

Likely impact on stakeholders

- 4.18 If broadcasters were allowed to schedule four internal breaks per hour, it is likely that viewers would see more advertising scheduled within programmes, rather than before and after programmes. Broadcasters would be incentivised to do this in order to maximise viewing of the advertisements, hence their share of commercial impacts. The current limit on PSB channels of no more than 3½ minutes of advertising in a break would not pose a constraint, as four such breaks would exceed the maximum permitted hourly amount of 12 minutes. If current practices continued, each such break would be accompanied by programme trailers, and in some cases, sponsorship bumpers at the beginning and end of each break.
- 4.19 As regards broadcasters, Ofcom believes that competition to increase and / or maintain their share of commercial impacts would lead them to schedule more frequent breaks in longer programmes if they were permitted to do so. The analysis we have done (of two leading PSB channels and one leading non-PSB channel) suggests that the financial benefits to broadcasters would amount to less than 1% of their NAR (see paragraph A5.193 of the impact assessment at Annex 5). Advertisers would benefit from the opportunity to schedule adverts during shorter breaks, during which viewing figures tend to be higher than during longer breaks.

Initial feedback from stakeholders

- 4.20 Responses to the March 2008 document suggest that the immediate response of viewers to the prospect of more frequent breaks would be negative; some drew an unfavourable analogy with the US television market. The deliberative research enabled the opinions of viewers to be tested before and after they were exposed to four breaks in a 60-minute programme. Before seeing the programme, participants generally considered that more frequent break patterns were likely to be too disruptive and to spoil the viewing experience. They equated this with American style advertising which, as previously noted, was universally disliked. If any increases were to take place, the spontaneous judgement was towards longer advertising breaks. Viewers felt that they would not notice 'the odd extra 30 seconds of advertising'.
- 4.21 However, when potential new break patterns were viewed via the use of test reels, shorter, more frequent breaks were considered acceptable for some genres (quizzes, makeover shows, reality programmes) and day parts (magazine style shows in the day, i.e. 'This Morning'). However, there were limits to acceptability in the number of internal breaks - four breaks in a 60 minute programme was considered to be acceptable, but five was not. Views were divided on whether two internal breaks within a 30 minute programme would be acceptable.
- 4.22 Pre-consultation with broadcasters and advertisers suggests that both would prefer the flexibility for channels to schedule more frequent and shorter advertising breaks. However, three public service broadcasters said that, in addition to considering the status quo and complete liberalisation, Ofcom should look at variations on the present rules that stop short of complete liberalisation, such as allowing four rather than three breaks within an hour-long programme, and allowing more breaks in programmes of a magazine nature.

Table 3: break frequencies: illustration of effects of different possible options

Possible options	Scheduled length of programmes (minutes)	Number of breaks within programmes		Estimated (cost) / benefit to broadcasters	
		Public service channels	Other channels	Public service channels	Other channels
Option 1 (same number of breaks as now)	30 / 60 / 90 / 120	1 / 3 / 4 / 5	2 / 3 / 5 / 6	No change	No change
Option 2 (more breaks in programmes of 60 minutes or more)	30 / 60 / 90 / 120	1 / 4 / 5 / 6 or 1 / 4 / 6 / 8	2 / 4 / 6 / 8	< 1% of net advertising revenue	< 1% of net advertising revenue

Implementation

- 4.23 As any changes to rules on the number of breaks would not have a significant effect on the number of commercial impacts supplied to the market, we propose that changes, if any, should be implemented shortly after the publication of Ofcom’s conclusions.

Q4. Which option (or variation of an option) for regulating the number of advertising breaks do you favour, and why? Do you agree that any changes should come into effect shortly after Ofcom publishes its conclusions?

Option 3 – breaks between autonomous parts

- 4.24 An additional option applicable only to programmes comprised of autonomous or separate parts (the contents of which could stand alone from other parts) would allow channels to schedule as many breaks between each or some of these parts as they wanted. For example, this would allow more frequent breaks to be taken in magazine-type programmes featuring unconnected stories, or in programmes of individual music videos. However, it would not allow more breaks in programmes featuring a competition of several rounds, or a drama featuring different scenes, or the performance of a piece of music with different movements.

Likely impact on stakeholders

- 4.25 This option would not allow broadcasters to schedule more advertising than they are currently allowed to show, but it would allow more frequent breaks in a limited number of programmes. For several years, GMTV has been allowed to schedule breaks more frequently than the 20 minute rule (now abolished) would otherwise have allowed, and this did not elicit any adverse reaction from viewers. Part of the reason for this may be that viewers tend not to watch TV for very long at that time of day.

- 4.26 Music channels have argued strongly for the ability to schedule shorter, more frequent breaks in programmes of music videos. Ofcom doubts that viewers to these programmes would find such break patterns intrusive, unless broadcasters opted to maintain current patterns of programme trailers and sponsorship bumpers in each break. The deliberative research we commissioned suggested that viewers might find more frequent breaks acceptable in certain genres (e.g. quiz shows and makeover shows), but there is frequent, repetitive evidence from the research that viewers would find it irritating to see more sponsorship bumpers¹³.
- 4.27 It is possible that, in the medium term, other channels would take the opportunity to configure programming in autonomous parts, in order to take advantage of the option for more frequent breaks. If such channels were successful in growing their share of commercial impacts, competing channels would be likely to follow suit. There is limited evidence from the deliberative research that viewers might find slightly more breaks acceptable in daytime television¹⁴. However, it is likely that many would be concerned about the development of a US-style television environment¹⁵.
- 4.28 The effect on broadcasting revenues is unclear. There might be modest benefits to individual channels if they were able to improve their share of commercial impacts at the expense of competitors. However, it does not seem likely that this option would, of itself, lead to an increase in total advertising revenues. If the new rules incentivised widespread adoption of programming with autonomous parts, those channels that did not follow suit could see a small reduction in their share of commercial impacts, and hence their revenue.

Initial feedback from stakeholders

- 4.29 Feedback from individual viewers generally opposed the idea of more frequent breaks. The deliberative research tended to support this view, although younger viewers were more tolerant of shorter, more frequent breaks in programmes¹⁶.
- 4.30 Most broadcasters indicated that they would welcome the opportunity to schedule more frequent breaks. However, as the possibility of more frequent breaks in programmes of autonomous parts was not raised in the March 2008 document, it is not clear how they would respond to an approach that would benefit some channels more than others.

Implementation

- 4.31 If Ofcom concludes that any rules changes should be made, then we would propose to implement these shortly after the publication of Ofcom's statement, as any changes to rules on the frequency of breaks in programmes of autonomous parts would be unlikely to have a significant effect on the number of commercial impacts supplied to the market.

Q5. Do you support or oppose the idea of allowing more frequent breaks in programmes of autonomous parts? Please explain your reasons. Do you agree that any changes should come into effect shortly after Ofcom publishes its conclusions?

¹³ See, for example, sections 9.2 (page 28), 9.5 (page 33), 9.6 (pages 35 - 36) of the deliberative research.

¹⁴ See section 9.1 (pages 24 to 26) and 9.2 (page 29).

¹⁵ See, for example, sections 7.2 (page 17), 7.5 (page 19), 8.2 (page 21), and 9.1 (page 25).

¹⁶ See section 9.2 (page 28).

Length of advertising breaks on PSB channels

- 4.32 At present, the maximum duration of any internal break on a PSB channel is 3'50", of which no more than 3½ minutes may be advertising. This would allow a PSB channel to schedule 10½ minutes of advertising during the breaks, within a 60-minute programme.
- 4.33 In the March 2008 document, we consulted on a proposal to abolish this rule. We argued that that, given the economic incentives on broadcasters to schedule shorter and more breaks, detailed rules on the length of breaks on PSB channels were not necessary to further the interests of citizens and consumers.
- 4.34 In our July 2008 statement, we said that we agreed with suggestions that this issue should be deferred until Stage Two of the review of advertising regulation. The reason is that the impact of a decision to abolish the current rule could be affected by decisions on whether to increase the permitted amount of advertising, or to increase the permitted number of internal breaks, or both.
- 4.35 Broadly speaking, we could maintain the current rule or scrap it. As PSB channels can already schedule 10½ minutes of advertising within internal breaks in a 60-minute programme, the practical effect of extending permitted break lengths would be very limited.

Option 1 – retaining existing rules on length of breaks

- 4.36 One option would be to retain the existing rules, which are summarised in paragraph 4.32 above.

Likely impact on stakeholders

- 4.37 The effects of retaining the existing rule would depend on whether changes were made to the number of breaks allowed within programmes and the amount of advertising permitted during peak time.
- 4.38 If no change was made to either of these, it is likely that PSB channels would continue to schedule breaks with close to the maximum permitted duration during those peak time hours with the largest audiences (7pm to 10pm).
- 4.39 If the amount of advertising permitted in peak time was increased, it is likely that PSB channels would schedule breaks with close to the maximum permitted duration during all or most of the peak time period (6pm to 11pm).
- 4.40 If PSB channels were allowed more internal breaks, it is likely that break lengths would become slightly shorter. For example, if four breaks were to be permitted in a 60-minute programme, a broadcaster would be able to schedule all 12 minutes in internal breaks within the programme, without breaching the current rules. Assuming that existing patterns of programme trailers continued, this would mean advertising breaks of around 3'20", excluding sponsorship bumpers, as against the maximum break length of 3'50" currently permitted.
- 4.41 The impact of these options on different stakeholders is difficult to assess. However, on the basis of Ofcom's research into viewer attitudes towards the amount of advertising (see Figures 1 and 3 in section 3), it seems likely that viewers are likely to prefer options that maintain or reduce the amount of advertising that can be taken within programmes. It also seems likely that viewers would prefer options that

maintain or reduce limits on the length of internal breaks, as would advertisers, given their concerns that viewers would tend to avoid long advertising breaks.

- 4.42 However, it seems likely that those PSB channels with higher audience shares in particular would see commercial advantage in being able to schedule as much advertising within programmes as possible, and as many breaks as possible, since these flexibilities would help to enhance their share of commercial impacts. They may see the retention of the rule as an opportunity cost of PSB status. What is not clear is what the scale of this commercial advantage would be, and whether there would be a corresponding disadvantage to non-PSB channels, as their share of commercial impacts was reduced.
- 4.43 We would particularly welcome the views of broadcasters on this issue. Given Ofcom's regulatory objectives, and if Ofcom's assessment of viewers' likely opinions is correct, it would be difficult to justify a change to the current rule unless it could be demonstrated that the additional revenues that PSB channels might earn would deliver benefits to consumers which outweighed the perceived disbenefits of longer ad breaks and a shift of advertising from end breaks to internal breaks.

Initial response of stakeholders

- 4.44 Most individual viewers who commented on this issue in response to the March 2008 document expressed a preference for the status quo. The Centre for Press and Broadcasting Freedom also wanted the limit retained.
- 4.45 The views of public service broadcasters were mixed. One PSB said that such rules were unnecessary, as the broadcasters would exercise common sense, and their interests and those of consumers were broadly aligned. Two other PSBs disagreed. One warned that removing it would almost certainly lead to longer breaks within programmes, and correspondingly shorter breaks at the beginning and end of programmes. This would benefit channels with the most popular programmes, both because of higher audience figures generally, and because viewers would be inhibited from switching away from 'must-watch' programmes, such as serial dramas. The other suggested a modest increase in the limit, by adding promotional airtime, to 4 minutes.
- 4.46 An advertising trade association also wanted a limit retained. It said that neither advertisers nor broadcasters saw any value in a break longer than 3'50" (the current limit). While acknowledging that longer ad breaks might be unlikely and commercially counter-productive, it argued that retention of the rule provided a safeguard against the practice of lumping advertising allowances together in blocks, which it said happened in Germany.

Option 2 – deregulation

- 4.47 A further option would be to remove the rule, allowing PSB channels to determine for themselves how long breaks should be.
- 4.48 The effects of scrapping the existing rule would depend on whether changes were made to the number of breaks allowed within programmes and the amount of advertising permitted during peak time:
- a) if no change was made to either of these, it is likely that, for commercial reasons, PSB channels would schedule three internal breaks of around 4 minutes (as

some non-PSB channels already do). This would enable them to schedule all or most of the 12 minute hourly allowance within programmes;

- b) if the amount of advertising permitted in peak time was increased, it is likely that PSB channels would schedule breaks of equivalent length between 6pm and 11pm, to the extent that their peak time advertising allowance allowed; and
- c) if the number of permitted internal breaks was increased from the current three per hour to, say, four per hour, it is likely that PSB channels would schedule four breaks of up to 3 minutes (excluding trailers and sponsorship bumpers) in hour-long programmes at times when audiences were highest (7pm to 10pm). This would enable them to schedule all or most of the 12 minute hourly allowance within programmes.

4.49 In all these cases, it is likely to mean that more advertising would be included in breaks within programmes, rather than in breaks between programmes.

Likely impact on stakeholders

- 4.50 Individual respondents to the March 2008 document expressed opposition to longer breaks, which also reflects the opinions expressed by participants in the deliberative research. It seems likely that viewers would oppose any combination of rules that might lead to longer breaks, or the insertion of more advertising within programmes rather than between them. On the other hand, if the combination of rules allowed more breaks (say, four in a 60 minute programme instead of three), this would mean a maximum average break length (excluding trailers and sponsorship bumpers) of three minutes. The deliberative research suggests that viewers would not object to this break length.
- 4.51 The possible effects on advertisers are difficult to gauge. On the one hand, they generally prefer advertising to be scheduled during internal breaks, as many viewers switch off or to other channels at the end of a programme. On the other hand, advertisers are also concerned that viewers tend to switch away from channels during long advertising breaks. As indicated in paragraph 4.46, the balance of opinion among advertising interests who commented on the March 2008 document was in favour of retaining limits on break length.

Initial feedback from stakeholders

- 4.52 Individuals who responded to the March 2008 document were opposed to abolishing limits on the length of internal breaks on PSB channels as they did not wish to see longer breaks. The consensus view of advertisers was that the length of internal breaks on PSB channels should continue to be limited in order to maintain the effectiveness of advertising.
- 4.53 The views of PSBs were mixed; one supported deregulation, a second relaxation of the limit, and a third said that its views would depend on whether there were changes to regulations on the amount of advertising in peak and the permitted number of breaks.

Implementation

- 4.54 In the event that Ofcom decides to make any changes to the rules on the length of internal breaks on PSB channels, we would propose to implement them shortly after

the publication of Ofcom's conclusions, as any changes would not have a significant effect on the number of commercial impacts supplied to the market..

Q6. Do you think that the existing limit on the length of internal advertising breaks on PSB channels should be kept or scrapped? Please explain your reasons. Do you agree that any changes should come into effect shortly after Ofcom publishes its conclusions?

Section 5

Teleshopping

Background

5.1 'Teleshopping' means direct offers to the public with a view to the supply of goods or services, including immovable property, rights and obligations, in return for payment. It includes self-promotion channels, devoted to the promotion of the licensee's own goods or services. Teleshopping windows are extended teleshopping features with a minimum uninterrupted duration of 15 minutes. Shorter teleshopping spots may also in appear within conventional advertising breaks.

Evolution of regulation

5.2 The development of teleshopping regulation is summarised in section 5 of the March 2008 document. In brief, the earliest regulation (the ITA's *Advertising Rules and Practices*, 1957) did not count advertising features and magazines towards advertising minutage restrictions.

5.3 By the early 1990s, both dedicated teleshopping channels and teleshopping windows were beginning to emerge. For the first time, the ITC's *Rules on Advertising Breaks* (1991) included rules dedicated to 'extended advertising features, of the kind commonly known as home shopping or teleshopping'. This made clear that advertising rules other than the limits on spot advertising applied equally to teleshopping. No additional time was allowed for teleshopping on either ITV or Channel 4, but other channels were allowed to use up to 20% of their transmission time for teleshopping. This included the 15% of their transmission time they were already allowed to use for spot advertising; a further 5% could only be used for teleshopping. However, the amount of time allowed for teleshopping windows was limited to one hour a day.

5.4 In 1997, the TWF Directive (Annex 2) was amended to refer specifically to teleshopping, and to make clear that advertising rules other than those concerning the amount applied equally to teleshopping. The Directive also said that:

- a) teleshopping 'spots' could be included in broadcasts alongside conventional advertising spots, subject to the same hourly limit of 12 minutes; and
- b) in addition, on general channels, teleshopping 'windows' of no less than 15 minutes could be broadcast, up to a daily maximum of 3 hours; and
- c) on dedicated teleshopping channels, there was no limit to the time allowed for teleshopping.

5.5 The ITC's *Rules on the Amount and Scheduling of Advertising* (1998) reflected these changes in its rules, and took account of other developments, such as the advent of:

- a) self-promotional channels (e.g. those operated by or on behalf of car manufacturers). The rules provided that these should be treated in the same way as teleshopping services, but should promote the broadcasters' own goods or services;

- b) local channels that Member States were permitted under Article 20 of the TWF Directive to exempt from the advertising minutage and teleshopping provisions of the Directive. The ITC's rules allowed local channels to broadcast up to 3 hours a day of local advertising features. Unlike teleshopping windows, these did not have to include a direct offer to the public.

5.6 However, PSB channels were not allowed any additional time for teleshopping. These rules remain in force, and are set out in paragraph 5 of COSTA (Annex 3). There are over 40 teleshopping services available in the UK, mostly on satellite services, though some on digital terrestrial television. They include larger teleshopping services such as QVC and Virgin's Sit-up TV, which operates Price-drop TV and Bid TV.

Changes to the European framework

5.7 The AVMS Directive (see Article 8 in Annex 2) modifies the European regulatory framework by lifting the 3-hour daily maximum on teleshopping on channels that are not dedicated teleshopping channels. While teleshopping and advertising spots continue to be limited to no more than 20% (12 minutes) of a clock hour, the previous limit on how much of this time may be devoted to advertising spots has been removed. There are no changes to the rules allowing 24-hour dedicated teleshopping (including advertising) and self-promotional channels. Ofcom may impose the same or stricter rules to channels licensed in the UK. However, Ofcom's rules may not be any more permissive than is allowed by the regulatory framework.

Implications of legislative changes

- 5.8 A ruling of the European Court of Justice may mean that quiz TV, adult chat services and psychic services (currently regarded as editorial content) are more appropriately treated as teleshopping.
- 5.9 Changes to the law in Great Britain (but not Northern Ireland), may mean that transactional gambling services (including gaming and betting) are now considered to be teleshopping services. This could mean that, within the next few months, existing transactional gambling content (whether individual programmes or channels) will be treated as teleshopping.
- 5.10 With the important proviso that gaming content may not be shown in Northern Ireland (the law is different there than in Great Britain), this would simply mean that most channels can continue to show such programmes in the three hours of teleshopping they are currently allowed. However, PSB channels do not have a teleshopping allowance, and so would not in practice be able to air content which may fall to be regulated as teleshopping, even though some do broadcast quiz TV programmes. Clearly, if PSB channels were given a teleshopping allowance, they would be able to resume the scheduling of quiz TV programmes, or try out other formats, such as gaming.

Options

5.11 In the light of the views expressed by stakeholders (see Annex 4), we have identified four main options. These are set out below, together with our initial assessment of the impact of each on the main stakeholder groups – viewers, broadcasters and advertisers. Annex 5 elaborates on this assessment. Ofcom will consider any other variations suggested by stakeholders in response to this consultation.

Option 1: the status quo

- 5.12 The current rules allow dedicated teleshopping channels to show as much teleshopping content as they wish, but limit other non-PSB channels to 3 hours a day. While PSB channels are permitted to show teleshopping, they may only do so between midnight and 6am, and do not have a separate teleshopping allowance. This means that they must use their advertising minutage if they wish to show teleshopping. As this does not represent the most profitable use of their advertising allowance, PSB channels do not carry teleshopping.

Likely impact on stakeholders

- 5.13 As this option would maintain the current arrangements, it is unlikely that it would have a significant effect on viewers, broadcasters or advertisers in the short term. It is likely that non-PSB channels would continue to schedule editorial programming at times when most people are watching. In the longer term, this option would prevent PSB channels from generating more revenue, either through teleshopping or other transactional services (such as quiz programmes, if they are treated as teleshopping), and which could be used to fund other programming.

Initial feedback from stakeholders

- 5.14 The limited feedback from individuals to the March 2008 document suggested that they would prefer the status quo to any increase in the amount of teleshopping permitted. Non-PSB channels favoured the status quo for PSB channels, as did one PSB channel. Both groups suggested that the role of PSBs should be to provide public service content, not to supplement teleshopping choice. However, two PSBs rejected the status quo, and said that it would be short sighted to deny PSBs access to a legitimate source of revenue which they had been able to make use of in the past.

Option 2: deregulation for all channels

- 5.15 This option would allow both PSB and non-PSB channels to carry as much teleshopping content as they wished, at any time of the day or night.

Likely impact on stakeholders

- 5.16 So far as viewers are concerned, there is a risk that this option would lead to PSB channels substituting programmes with teleshopping at times when significant numbers of people are watching. While this could include transactional programmes with entertainment value, these programmes would not contribute directly to the public service remit. PSB channels might benefit from the extra revenue, though it is possible that the benefits would be skewed towards those with the higher audiences, in particular, ITV1.
- 5.17 If PSB channels decided to carry transactional programming with entertainment value, it has been argued that it could have an adverse effects on dedicated teleshopping channels, as they would face stiffer competition for late night viewers and their disposable income.
- 5.18 Given that a significant number of non-PSB channels choose not to make use of their teleshopping allowance, and those that do mostly show teleshopping at times when their audiences are very low (see Table 4), it seems unlikely that there is much pent-up demand for a significant increase in teleshopping. To the extent that channels that

currently offer teleshopping continue simply to simulcast the services of dedicated teleshopping channels, it does not seem likely that there would be a significant impact on competition between different types of teleshopping service. Indeed, the opportunities for more extensive simulcasting of their content on general entertainment channels could provide a cost-effective way to extend their reach.

Initial feedback from stakeholders

- 5.19 None of the non-PSB channels favoured allowing PSB channels more flexibility to carry teleshopping, though most thought that they should have it themselves. One PSB felt that teleshopping was incompatible with its public service remit, while two PSBs argued that total deregulation was appropriate. One of these said that the amount of teleshopping would be self-limiting, given the finite number of people wanting to transact with a shopping channel. It noted that non-PSB channels with larger audiences tended not to show much teleshopping, if any, because they could earn more by scheduling conventional programming (and spot advertising).

Option 3: liberalisation or deregulation for non-PSB channels

- 5.20 Under this option, non-PSB channels could be allowed to schedule either:
- a) more teleshopping than at present (say, 6 hours as compared with 3 hours now); as now, this would be permitted at any time of the day or night; or
 - b) as much teleshopping as they wished, at any time of the day or night.

Likely impact on stakeholders

- 5.21 Several of the larger non-PSB channels do not make full use of their 3 hour allowance; what teleshopping is shown is mostly broadcast very early in the morning (see Table 4 below). For these reasons, allowing 6 instead of 3 hours of conventional teleshopping is unlikely to make much difference to viewers, though there might be some loss of editorial content at some times of the day or night.
- 5.22 Some channels might choose to use their allowance to show transactional services such as quiz programming (if it is decided to treat it as teleshopping) in late night and early morning slots. Broadcasters that previously provided such content included ITV and Channel 4. Five still schedules a quiz TV programme between midnight and 4am, and Virgin's Challenge TV channel also includes some quiz TV programming.
- 5.23 The extra revenue that the larger non-PSB channels might generate from transactional services would be beneficial to them, but might erode the revenue earned by other non-PSB channels that simulcast teleshopping windows. On the other hand, given that both dedicated teleshopping services and suppliers of simulcast services exist to retail goods and services, they might benefit from the increased exposure to potential purchasers that simulcasting on larger non-PSB channels could provide. It is also possible that some non-PSBs could decide to develop their own teleshopping services, competing directly with existing providers.
- 5.24 PSBs, each of which operate non-PSB channels, could benefit from additional revenue. On the other hand, the extra flexibility accorded to non-PSB channels could have the effect of increasing the opportunity cost of PSB status for PSB channels.
- 5.25 This option is unlikely to have a significant effect on advertisers, as teleshopping serves a relatively specialised market of producers and on-air retailers wishing to

retail directly to consumers using television. Thus any increase in the supply of teleshopping time is unlikely to affect the market for spot advertising to any significant degree.

Table 4: use of teleshopping allowances by selected channels (August 2008)

Channel	Transmission hours	Teleshopping hours
ITV2	24	3 hours (02:40 – 05:40)
ITV3	24	2 hours (04:00 – 06:00)
ITV4	24	2 hours (04:00 – 06:00)
E4	24	0
More 4	18'50" (09:00 – 03:50)	0
Fiver	21 (06:00 – 03:00)	3 hours (00:00 – 03:00)
Five US	19 (09:00 – 04:00)	3 hours (09:00 – 12:00)
Virgin 1	24	0
Sky One	24	0
Sky Two	24	0
Sky Three	24	0
UKTV Gold	24	0
Hallmark	24	0

Source: Sky EPG

Initial feedback from stakeholders

- 5.26 Most broadcasters, including PSB channels that operate a number of non-PSB channels, are in favour of scrapping limits on the amount of teleshopping that can be carried, or in default of this, increasing teleshopping allowances.

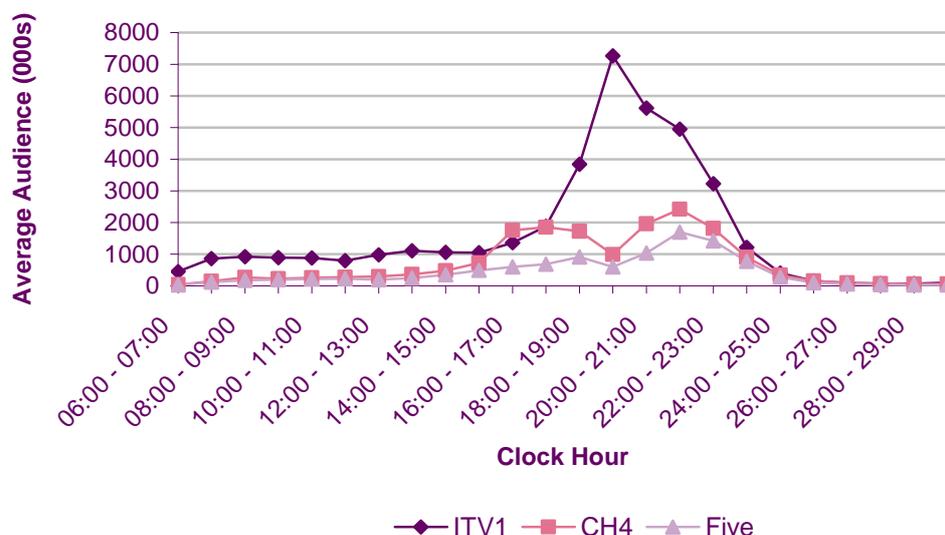
Option 4: liberalisation for PSB channels

- 5.27 Under this option, PSB channels would be permitted to show up to 6 hours of teleshopping during a defined period when audiences are relatively small, that is outside daytime or peak periods. This might be, for example, between midnight and 6am, or for six hours after the end of the evening peak (that is, from 11pm onwards).

Likely impact on stakeholders

- 5.28 As there are relatively few viewers between midnight and 6am, the impact on them of PSBs showing teleshopping during this period would be modest. Those who do watch television at night (e.g. shift workers) might face a reduction in choice, although many may make use of the various options for time-shifting programmes available on all digital platforms, including Freeview.

Figure 7: average audiences for main PSB channels by hour



Source: BARB/TNS Infosys (Monday to Sunday, 01/01/2007 to 31/12/2007). All individuals.

5.29 However, audiences for PSB channels at 11pm remain significant, so it is possible that some would object to the replacement of conventional editorial programming with teleshopping material, whether this comprised conventional teleshopping, gambling or quiz TV.

5.30 The impact on other broadcasters is less clear. It is possible that non-PSB channels showing teleshopping would lose audience share to PSB channels showing teleshopping, to the detriment of their teleshopping revenue. It is also possible that PSB broadcasters with non-PSB channels would choose to simulcast some of this content across their portfolio.

Initial feedback from stakeholders

5.31 One PSB felt that this would be a reasonable approach, as it would allow PSBs to generate additional revenue (possibly by scheduling quiz TV in teleshopping windows). It agreed that teleshopping should be confined to the midnight to 6am slot, as viewers would expect conventional programming at other times of the day. As indicated above, another PSB opposed any liberalisation for PSB channels. However, one advocated allowing both PSB and non-PSB channels 6 hours a day, for several reasons: because it would be illogical to make concessions only to non-PSB channels, given that PSB channels arguably contributed more to Ofcom's regulatory objectives and because PSBs might wish to schedule quiz TV (or other forms of content permitted within the teleshopping genre) to generate additional income. It argued that PSBs would be incentivised only to schedule content designed to appeal to viewers, and that some might wish to do so at times other than between midnight and 6am.

5.32 As indicated in paragraph 5.19 above, none of the non-PSB channels favoured allowing PSB channels more flexibility to carry teleshopping.

Table 4: summary of options for regulating teleshopping

Options	Daily permitted amount of teleshopping	
	Public service channels	Other channels
Option 1: status quo	No allowance	3 hours
Option 2: deregulation for all channels	Any amount	Any amount
Option 3: liberalisation or deregulation for non-PSB channels	N/A	6 hours / any amount
Option 4: liberalisation for PSB channels	6 hours	N/A

Ofcom's initial view

5.33 Having regard to the regulatory objectives set out in paragraphs 2.31 to 2.32, Ofcom's initial view is that:

- a) Option 1 would prevent PSB channels from developing teleshopping content (whether traditional or transactional-based programming such as quiz TV), and would also constrain the ability of non-PSB channels to strike a balance between teleshopping and editorial content that would enable them to improve the range and / or quality of their content. As such, Ofcom's initial view is that Option 1 tends to work against the objective of securing a wide range of high quality television services. Ofcom also doubts that regulation is necessary in the case of non-PSB channels, given that allowing more commercial freedom is likely to enable them to respond more readily to demand for particular types of content;
- b) Option 2 could result in a reduction in the choice and range of PSB programming outside peak hours, and might not therefore be in the interests of the viewers;
- c) Option 3 would make it easier for non-PSB channels to contribute to a wide range of high quality television services, but would do nothing to help PSBs do the same; in fact, it would widen the regulatory gap between PSB and non-PSB channels, and increase the opportunity cost of retaining PSB status; and
- d) Option 4 may strike the right balance between protecting viewers to PSB channels from a reduction in the choice and range of programming at times when relatively large numbers of people are watching, and allowing PSB channels to generate additional income from periods in the schedule when spot advertising is not commercially valuable.

- 5.34 For these reasons, our initial preference is for Option 3 in relation to non-PSB channels, and Option 4 in relation to PSB channels.

Implementation

- 5.35 As any changes to rules on the amount of teleshopping is unlikely to have a significant effect on the number of commercial impacts supplied to the market, we propose to implement such changes shortly after the publication of Ofcom's conclusions.

Q7. Which option or options for regulating teleshopping do you favour, and why? Do you agree that any changes should come into effect shortly after Ofcom publishes its conclusions?

Annex 1

Responding to this consultation

Introduction

- A1.1 This Annex sets out Ofcom's consultation principles and processes, and explains how to respond to this consultation. Ofcom invites written views and comments on the issues raised in this document, to be made **by 5pm on 11 December 2008**.

Consultation principles

- A1.2 Ofcom has published the following seven principles that it will follow for each public written consultation:

Before the consultation

- A1.3 Where possible, we will hold informal talks with people and organisations before announcing a big consultation to find out whether we are thinking in the right direction. If we do not have enough time to do this, we will hold an open meeting to explain our proposals shortly after announcing the consultation.

During the consultation

- A1.4 We will be clear about who we are consulting, why, on what questions and for how long.
- A1.5 We will make the consultation document as short and simple as possible with a summary of no more than two pages. We will try to make it as easy as possible to give us a written response. If the consultation is complicated, we may provide a shortened version for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.
- A1.6 We will normally allow ten weeks for responses to consultations on issues of general interest.
- A1.7 There will be a person within Ofcom who will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organizations interested in the outcome of our decisions. This individual (who we call the consultation champion) will also be the main person to contact with views on the way we run our consultations.
- A1.8 If we are not able to follow one of these principles, we will explain why. This may be because a particular issue is urgent. If we need to reduce the amount of time we have set aside for a consultation, we will let those concerned know beforehand that this is a 'red flag consultation' which needs their urgent attention.

After the consultation

- A1.9 We will look at each response carefully and with an open mind. We will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.

How to respond to this consultation

- A1.10 Ofcom invites written views and comments on the issues raised in this document, to be made **by 5pm on 11 December 2008**. If you want to discuss the issues and questions raised in this consultation, please contact Peter Bourton on 020 7981 3494.
- A1.11 Ofcom strongly prefers to receive responses using the online web form at <http://www.ofcom.org.uk/consult/condocs/rada08/howtorespond/form>, as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing the response cover sheet at the end of this Annex, to indicate whether or not there are confidentiality issues. This response coversheet is incorporated into the online web form questionnaire.
- A1.12 For larger consultation responses - particularly those with supporting charts, tables or other data - please email daniel.maher@ofcom.org.uk attaching your response in Microsoft Word format, together with a consultation response coversheet.
- A1.13 Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.

Daniel Maher
Floor 5
Content & Standards Group
Riverside House
2A Southwark Bridge Road
London SE1 9HA

Fax: 020 7981 3806

- A1.14 Note that we do not need a hard copy in addition to an electronic version. Ofcom will acknowledge receipt of responses if they are submitted using the online web form but not otherwise.
- A1.15 It would be helpful if your response could include direct answers to the questions asked in this document, which are listed below. It would also help if you can explain why you hold your views and how Ofcom's proposals would impact on you.

Confidentiality

- A1.16 We believe it is important for everyone interested in an issue to see the views expressed by consultation respondents. We will therefore usually publish all responses on our website, www.ofcom.org.uk, ideally on receipt. If you think your response should be kept confidential, can you please specify what part or whether all of your response should be kept confidential, and specify why. Please also place such parts in a separate annex.
- A1.17 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and will try to respect this. Please make it clear on the coversheet below if you would like all or part of your response kept confidential. Please also note that sometimes we may need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.18 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's approach on intellectual

property rights is explained further on its website at <http://www.ofcom.org.uk/about/accoun/disclaimer/>

Consultation questions

Main document

Q1. Which option (or variation of an option) for regulating the overall amount of advertising permitted on television channels do you prefer, and why? Do you agree that any rule changes that might result in a significant change to the number of commercial impacts should not come into force before 1 January 2010?

Q2. Which option (or variation of an option) for regulating peak-time minutage on public service channels do you favour, and why? Do you agree that any rule changes that might result in a significant change to the number of commercial impacts should not come into force before 1 January 2010?

Q3. Do you agree that the 7am to 9am period should cease to be treated as a peak viewing period on public service channels? If so, do you agree that this change should come into effect shortly after Ofcom publishes its conclusions?

Q4. Which option (or variation of an option) for regulating the number of advertising breaks do you favour, and why? Do you agree that any changes should come into effect shortly after Ofcom publishes its conclusions?

Q5. Do you support or oppose the idea of allowing more frequent breaks in programmes of autonomous parts? Please explain your reasons. Do you agree that any changes should come into effect shortly after Ofcom publishes its conclusions?

Q6. Do you think that the existing limit on the length of internal advertising breaks on PSB channels should be kept or scrapped? Please explain your reasons. Do you agree that any changes should come into effect shortly after Ofcom publishes its conclusions?

Q7. Which option or options for regulating teleshopping do you favour, and why? Do you agree that any changes should come into effect shortly after Ofcom publishes its conclusions?

Impact assessment

IA Q1: Given the options being considered in this consultation document is it reasonable to maintain the assumption that there will not be any “drop off” in audiences? If you disagree, please explain why.

IA Q2 Do respondents agree that it is reasonable to focus on the elasticity approach for translating changes in the volume of impacts into changes in industry revenues and to move away from using the constant price premium and uniform price premium approaches? If not, please provide an explanation.

IA Q3: Do you agree with our assessment of the impacts on stakeholder groups of this option and variants upon it? Please explain your reasoning, providing any evidence where relevant.

IA Q4: In the event that there were to be a reduction in the amount of airtime allowed for non-PSB channels, what would be the effect on the price of advertising on these

channels? Would there be any effect on the relative prices of advertising between PSB and non-PSB channels? If so, please explain.

IA Q5: Do respondents consider that our approach to considering changes in the frequency of advertising breaks is reasonable? If not, please suggest alternative approaches that you have used, together with any results that you have generated.

IA Q6: Do respondents agree with our assessment of the likely scale of the impact of Option 2 for broadcasters? If not, please explain why and provide any relevant evidence that you may have.

IA Q7: Do you agree with the indicative results of our assessment of the impact of Option 3? If not, please explain your reasoning. If you are able to quantify the impact of this option, please submit that evidence with your response.

IA Q8: Do consultees agree with our assessment of the likely impacts of the different options? If not, why not? Can you suggest any alternative approaches to assessing the impact of the different options?

IA9: What evidence is there of pent-up demand for teleshopping services? Do channel operators consider that they could offer longer teleshopping windows or develop their own teleshopping services if the current restrictions were relaxed?

IA Q10: What has been the impact on channels offering dedicated gaming services on the PSBs offering limited strands of similar programming? Please provide any data that you might have.

IA Q11: Do respondents agree with the above analysis in respect of the potential impact on PSBs and non-PSBs? If not, please explain why.

IA Q12: To what extent do respondents agree that the elasticity of demand for advertising could vary by time of day? Would this be applicable to all broadcasters or more relevant to some than others? Please provide any evidence that you might have to support your view.

IA Q13: To what extent do respondents consider that some of these approaches help to explain at least some of the differences between some industry perceptions of the elasticity of demand for advertising and the econometric data?

Next steps

- A1.19 Following the end of the consultation period, Ofcom expects to issue a statement setting out its decisions in the first quarter of 2009.
- A1.20 Please note that you can register to receive free mail updates alerting you to the publications of relevant Ofcom documents. For more details please see: http://www.ofcom.org.uk/static/subscribe/select_list.htm

Your views on Ofcom's consultation processes

- A1.21 Ofcom seeks to ensure that responding to a consultation is easy as possible. If you have any comments or suggestions on how Ofcom conducts its consultations, please call our consultation helpdesk on 020 7981 3003 or e-mail us at consult@ofcom.org.uk. We would particularly welcome thoughts on how Ofcom could more effectively seek the views of those groups or individuals, such as small

businesses or particular types of residential consumers, who are less likely to give their opinions through a formal consultation.

- A1.22 If you would like to discuss these issues or Ofcom's consultation processes more generally you can alternatively contact Vicki Nash, Director Scotland, who is Ofcom's consultation champion:

Vicki Nash
Ofcom
Sutherland House
149 St. Vincent Street
Glasgow G2 5NW

Tel: 0141 229 7401
Fax: 0141 229 7433

Email vicki.nash@ofcom.org.uk

Cover sheet for response to an Ofcom consultation

BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing	<input type="checkbox"/>	Name/contact details/job title	<input type="checkbox"/>
Whole response	<input type="checkbox"/>	Organisation	<input type="checkbox"/>
Part of the response	<input type="checkbox"/>	If there is no separate annex, which parts?	

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

Annex 2

European framework for advertising regulation

Extracts from Television without Frontiers Directive¹⁷

Article 1

(c) 'television advertising' means any form of announcement broadcast whether in return for payment or for similar consideration or broadcast for self-promotional purposes by a public or private undertaking in connection with a trade, business, craft or profession in order to promote the supply of goods or services, including immovable property, rights and obligations, in return for payment;

(f) 'teleshopping' means direct offers broadcast to the public with a view to the supply of goods or services, including immovable property, rights and obligations, in return for payment.

Article 10

1. Television advertising and teleshopping shall be readily recognizable as such and kept quite separate from other parts of the programme service by optical and / or acoustic means.
2. Isolated advertising and teleshopping spots shall remain the exception.
3. Advertising and teleshopping shall not use subliminal techniques.
4. Surreptitious advertising and teleshopping shall be prohibited.

Article 11

1. Advertising and teleshopping spots shall be inserted between programmes. Provided the conditions set out in paragraphs 2 to 5 are fulfilled, advertising and teleshopping spots may also be inserted during programmes in such a way that the integrity and value of the programme, taking into account natural breaks in and the duration and nature of the programme, and the rights of the rights holders are not prejudiced.
2. In programmes consisting of autonomous parts, or in sports programmes and similarly structured events and performances containing intervals, advertising and teleshopping spots shall only be inserted between the parts or in the intervals.
3. The transmission of audiovisual works such as feature films and films made for television (excluding series, serials, light entertainment programmes and documentaries), provided their scheduled duration is more than 45 minutes, may be interrupted once for each period of 45 minutes. A further interruption shall be allowed if their scheduled duration is at least 20 minutes longer than two or more complete periods of 45 minutes.

¹⁷ The consolidated text of the TWF Directive can be found at <http://eur-lex.europa.eu/LexUriServ/site/en/consleg/1989/L/01989L0552-19970730-en.pdf>.

4. Where programmes, other than those covered by paragraph 2, are interrupted by advertising or teleshopping spots, a period of at least 20 minutes should elapse between each successive advertising break within the programme.

5. Advertising and teleshopping shall not be inserted in any broadcast of a religious service. News and current affairs programmes, documentaries, religious programmes and children's programmes, when their scheduled duration is less than 30 minutes, shall not be interrupted by advertising or by teleshopping. If their scheduled duration is 30 minutes or longer, the provisions of the previous paragraphs shall apply.

Article 18

1. The proportion of transmission time devoted to teleshopping spots, advertising spots and other forms of advertising, with the exception of teleshopping windows within the meaning of Article 18a, shall not exceed 20 % of the daily transmission time. The transmission time for advertising spots shall not exceed 15 % of the daily transmission time.

2. The proportion of advertising spots and teleshopping spots within a given clock hour shall not exceed 20 %.

3. For the purposes of this Article, advertising does not include:
— announcements made by the broadcaster in connection with its own programmes and ancillary products directly derived from those programmes;
— public service announcements and charity appeals broadcast free of charge.

Article 18a

1. Windows devoted to teleshopping broadcast by a channel not exclusively devoted to teleshopping shall be of a minimum uninterrupted duration of 15 minutes.

2. The maximum number of windows per day shall be eight. Their overall duration shall not exceed three hours per day. They must be clearly identified as teleshopping windows by optical and acoustic means.

Article 19

Chapters I, II, IV, V, VI, VIa and VII shall apply mutatis mutandis to channels exclusively devoted to teleshopping. Advertising on such channels shall be allowed within the daily limits established by Article 18 (1). Article 18 (2) shall not apply.

Article 19a

Chapters I, II, IV, V, VI, VIa and VII shall apply mutatis mutandis to channels exclusively devoted to self-promotion. Other forms of advertising on such channels shall be allowed within the limits established by Article 18 (1) and (2). This provision in particular shall be subject to review in accordance with Article 26.

Article 20

Without prejudice to Article 3, Member States may, with due regard for Community law, lay down conditions other than those laid down in Article 11 (2) to (5) and Articles 18 and 18a in respect of broadcasts intended solely for the national territory which cannot be received, directly or indirectly by the public, in one or more other Member States.

Extracts from Audio Visual Media Services Directive¹⁸

Article 1

(i) “television advertising” means any form of announcement broadcast whether in return for payment or for similar consideration or broadcast for self-promotional purposes by a public or private undertaking or natural person in connection with a trade, business, craft or profession in order to promote the supply of goods or services, including immovable property, rights and obligations, in return for payment;

(l) “teleshopping” means direct offers broadcast to the public with a view to the supply of goods or services, including immovable property, rights and obligations, in return for payment;

Article 11

1. Member States shall ensure, where television advertising or teleshopping is inserted during programmes, that the integrity of the programmes, taking into account natural breaks in and the duration and the nature of the programme, and the rights of the right holders are not prejudiced.

2. The transmission of films made for television (excluding series, serials and documentaries), cinematographic works and news programmes may be interrupted by television advertising and/or teleshopping once for each scheduled period of at least thirty minutes. The transmission of children's programmes may be interrupted by television advertising and/or teleshopping once for each scheduled period of at least 30 minutes, provided that the scheduled duration of the programme is greater than 30 minutes. No television advertising or teleshopping shall be inserted during religious services.

Article 18

1. The proportion of television advertising spots and teleshopping spots within a given clock hour shall not exceed 20 %.

2. Paragraph 1 shall not apply to announcements made by the broadcaster in connection with its own programmes and ancillary products directly derived from those programmes, sponsorship announcements and product placements.

Article 18a

Teleshopping windows shall be clearly identified as such by optical and acoustic means and shall be of a minimum uninterrupted duration of 15 minutes.

Article 19

The provisions of this Directive shall apply mutatis mutandis to television channels exclusively devoted to advertising and teleshopping as well as to television channels exclusively devoted to self-promotion. Chapter III as well as Article 11 and Article 18 shall not apply to these channels.

¹⁸ At the time of publication, an official consolidated version of the AVMS Directive was not available. However, an unofficial version published by the European Commission can be found at http://ec.europa.eu/avpolicy/docs/reg/avmsd/avmsd_cons_en.pdf.

Article 20

Without prejudice to Article 3, Member States may, with due regard for Community law, lay down conditions other than those laid down in Article 11(2) and Article 18 in respect of television broadcasts intended solely for the national territory which cannot be received directly or indirectly by the public in one or more other Member States.

Annex 3

Code on the Scheduling of Television Advertising

Introduction

1. This Code sets out the rules with which television broadcasters licensed by Ofcom¹⁹ (broadcasters) must comply when carrying advertising. These rules give effect to the provisions of the Audio Visual Media Services Directive and those policies determined by Ofcom following consultation. In accordance with Article 20 of the Directive, Ofcom may disapply some or all of the relevant rules to channels that are not receivable outside the United Kingdom²⁰.
2. Broadcasters must also comply with the Television Advertising Standards Code issued by the Broadcast Committee on Advertising Practice²¹.

Definitions

3. In this Code:
 - a) 'advertising' or 'television advertising' means any form of announcement broadcast whether in return for payment or for similar consideration or broadcast for self-promotional purposes by a public or private undertaking or natural person in connection with a trade, business, craft or profession in order to promote the supply of goods and services, including immovable property, rights and obligations, in return for payment;
 - b) the 'broadcasting day' for the purposes of this Code is deemed to start at 6am and run for the following 24 hours;
 - c) 'Parliamentary proceedings' includes proceedings on the floor of either House and Parliamentary Committees;
 - d) 'public service channels' means those television services designated in accordance with section 310 of the Communications Act 2003 other than the BBC services²²;
 - e) a 'formal Royal ceremony' means a formal ceremony or occasion of which the Sovereign or members of the British Royal Family enjoying the prefix 'Royal Highness' are the centre. It applies to occasions such as the State Opening of Parliament and Trooping the Colour;
 - f) 'self promotion' means advertising for the broadcaster's own products and services; and

¹⁹ For the purpose of this Code, this includes S4C, which is authorised by the Broadcasting Act 1990.

²⁰ See *Rules on the Amount and Distribution of Advertising*, (<http://www.ofcom.org.uk/tv/ifi/codes/advertising/>)

²¹ This Code replaced the Rules on Advertising and Distribution of Advertising (RADA) with effect from 1 September 2008.

²² Designated channels currently include any Channel 3 service, Channel 4, Channel 5, and S4C.

- g) 'teleshopping' means television advertising which includes direct offers to the public with a view to the supply of goods or services, including immovable property, rights and obligations, in return for payment. It includes self-promotion channels, devoted to the promotion of the broadcaster's own goods or services. Teleshopping windows are extended teleshopping features with a minimum uninterrupted duration of 15 minutes. Shorter teleshopping spots may also in appear within conventional advertising breaks.

Allowances for advertising and teleshopping

4. The total allowance for advertising and teleshopping spots²³:
- a) on any channel in any one hour must not exceed 12 minutes;
 - b) on public service channels must not exceed a daily average of 7 minutes per hour for every hour of transmission time across the broadcasting day, subject to a maximum average of 8 minutes an hour between 7am to 9am and 6pm to 11pm; and
 - c) on other channels must not exceed a daily average of 12 minutes an hour for every hour of transmission time across the broadcasting day. Within this, the maximum daily average for advertising spots is 9 minutes an hour across the broadcasting day.
5. Teleshopping windows must be at least 15 minutes long. On:
- a) public service channels, time used for teleshopping must be counted as part of the advertising spot allowance;
 - b) dedicated teleshopping and self-promotional channels, there are no restrictions on the amount of teleshopping, and such channels may also make use of the allowances for spot advertising described in paragraph 4; and
 - c) other channels, no more than 3 hours a day of teleshopping is permitted.
6. Channels licensed by Ofcom:
- a) which are available only in an area served by a Restricted Service Licence or distributed under a Television Licensable Content Service licence within contiguous areas served by a single cable headend; and
 - b) which are not receivable outside the United Kingdom,
- may use all or part of their teleshopping windows for local advertising features that do not include direct offers for sale, provided that a significant proportion of each feature refers specifically to the locality in which it appears.

Transfer of minutage

7. If broadcasters have been unable to use their full allowance for advertising and teleshopping spots for reasons of good programme presentation, or because of unforeseen technical or human errors, they may transfer the unused minutage to

²³ The Code makes no substantive change to the rules on the amount of advertising, as these are the subject of a separate consultation. Subject to the outcome of that consultation, Ofcom may make further changes to the provisions on the amount of advertising.

other parts of the schedule on the same or any other day within 7 days, provided that they comply with the rules in paragraph 4. If a proposed transfer would result in a breach of the rules in paragraph 4 (b) or (c), the broadcaster should seek Ofcom's prior permission²⁴. Transfers that would result in a breach of paragraph 4(a) are not permissible.

Identification of advertising and teleshopping breaks

8. Broadcasters must ensure that television advertising and teleshopping is readily recognisable and distinguishable from editorial content and kept distinct from other parts of the programme service. This shall be done by optical (including spatial) means; acoustic signals may also be used as well.

Advertising and teleshopping breaks during programmes

9. Where advertising or teleshopping is inserted during programmes, television broadcasters must ensure that the integrity of the programme is not prejudiced, having regard to the nature and duration of the programme, and where natural breaks occur.
10. To avoid excessive abruptness, transition between live coverage of Parliamentary proceedings and advertising should take place where natural breaks occur via a programme presenter in sound or vision. Programme directors / editors must have the discretion to reschedule or cancel breaks to avoid artificial interruptions in live proceedings. Breaks should be dropped altogether where this would be incompatible with editorial responsibility, for example in coverage of matters of great gravity or emotional sensitivity.
11. Breaks within programmes on public service channels may not exceed 3 minutes 50 seconds, of which advertisements may not exceed 3 minutes 30 seconds.

Scheduling restrictions

12. Isolated advertising and teleshopping spots, other than in the transmission of sports events, shall remain the exception.
13. Restrictions apply when inserting advertising breaks within the following programmes²⁵:
 - a) films and news programmes may only include one advertising or teleshopping break for each scheduled period of at least 30 minutes;
 - b) children's programmes (other than schools programmes) with a scheduled duration of 30 minutes or less may not include an advertising or teleshopping break. Such programmes with a scheduled duration of longer than 30 minutes may have one break for each scheduled period of at least 30 minutes. Breaks are not permitted within schools programmes, but may be scheduled between programmes;

²⁴ Until 31 December 2009, Channel 4 will be allowed to continue with the present arrangements for substituting advertising minutage which would otherwise be used between schools programmes with an amount equivalent to 60% elsewhere in the schedule, subject to complying with the rule in paragraph 4(a) and the peak-time restrictions in paragraph 4(b).

²⁵ In the case of news programmes, and programmes for children (excluding schools programmes), this restriction will come into force on 1 December 2009. Until then, sections 3.2(i) and 3.2(iii) of RADA will apply. RADA can be found at <http://www.ofcom.org.uk/tv/ifi/codes/advertising/rules/>.

- c) programmes including a religious service may not have an advertising or teleshopping breaks during the service;
- d) broadcasts of a formal Royal ceremony may not include advertising or teleshopping breaks during the ceremony;
- e) broadcasts of live Parliamentary proceedings may not include advertising and teleshopping breaks in programmes of a scheduled duration of 30 minutes or less; and
- f) live programme feeds from an overseas broadcaster may take the break pattern of the originating broadcaster. The broadcaster retransmitting the feed from the UK remains responsible for ensuring compliance with the Television Advertising Standards Code.

14 With the exceptions described in paragraph 13 above, the number of internal breaks permitted in programmes on public service channels is set out Table 1; the number permitted in programmes on other channels is set out in Table 2.

Table 1: Number of internal breaks permitted in programmes on public service channels

Scheduled duration of programme	Number of breaks
21 – 44 minutes	One
45 – 59 minutes	Two
60 – 89 minutes	Three
90 – 119 minutes	Four
120 – 149 minutes	Five

Table 2: Number of internal breaks permitted in programmes on other channels

Scheduled duration of programme	Number of breaks
< 26 minutes	One
26 – 45 minutes	Two
46 – 65 minutes	Three
66 – 85 minutes	Four
86 – 105 minutes	Five
106 – 125 minutes	Six

Annex 4

Responses on advertising minutage, frequency and teleshopping scenarios

Introduction

- A4.1 In section 7 of the issues document published in March 2008, Ofcom invited views on scenarios for the future regulation of advertising and teleshopping minutage, and of the number of advertising breaks. We asked whether these were the right scenarios to be considering in the consultation planned for autumn 2008, and whether the approach we set out for assessing the impact of those scenarios was appropriate.
- A4.2 A wide range of stakeholders responded to the invitation to comment. This included some 50 members of the public, as well as a wide range of broadcasters. These included ITV, Channel 4, S4C, and two other public service broadcasters (PSBs); five multi-channel broadcasters; and two UK-based operators of overseas channels. The Satellite and Cable Broadcasters' Group (SCBG) responded on behalf of its members, and individual responses were received from broadcasters QVC and Triple Media. Advertising-related interests included the Institute of Practitioners of Advertising (IPA) and an advertising trade association. Other respondents included the Association for Interactive Media and Entertainment (AIME), Buongiorno (which owns Quiz Call), the Campaign for Press and Broadcasting Freedom (CPBF), the Electronic Retailing Association (ERA), the Mobile Broadband Group (MBG), the National Union of Journalists (NUJ), and the Trading Standards Institute (TSI).

Advertising minutage

- A4.3 Very few individuals who responded favoured the possibility of more advertising. Most were prepared to accept the status quo as a necessary evil, but some wanted less advertising. Similar messages come out of Ofcom's Tracker Surveys²⁶, which suggest that 80% of adults do not want any more advertising; about half of these feel that 'there is already more than I am happy with'. However, the deliberative research²⁷ suggested that some viewers would be prepared to accept extra advertising in the shoulder peak periods (6pm to 7pm, and 10pm to 11pm) on public service channels, provided that extra advertising revenue was invested in better programming.
- A4.4 However, most respondents, including four PSBs, several multi-channel broadcasters and some individual respondents were opposed to any increase in permitted advertising on public service channels. The PSBs argued that demand for television advertising was inelastic so that an increase in minutage would simply reduce the price of advertising and reduce industry revenue. Meanwhile, virtually all multi-channel broadcasters believed that any increase in advertising minutage would not increase net advertising revenue significantly, but would redistribute revenues from multi-channels to PSBs.

²⁶ See pp 189-190, Annex 4 of *Public Service Broadcasting: Annual Report 2008*, Ofcom, April 2008 (http://www.ofcom.org.uk/tv/psb_review/annrep/psb08/psb08.pdf).

²⁷ See deliberative research report (published separately)

- A4.5 An advertising trade association said that there was ‘no doubt that any increase in the supply of airtime would lead to a decrease in its aggregate price’. While this might stimulate some further demand for television advertising, an advertising trade association said that many advertisers were concerned that the extra clutter might reduce the impact of advertising on viewers. Most felt that the status quo represented a satisfactory, and perhaps even optimal, balance. As some other members argued respectively for an upwards or downwards harmonisation of advertising rules as between PSBs and non-PSBs, it considered that the range of scenarios identified by Ofcom represented the widest practical parameters.
- A4.6 Though ITV did not seek a general increase in advertising minutage, it did argue that it should be allowed to combine its daily peak time average minutage allowances and deploy them across the week. It argued that this would enable it to maximise the efficiency of those minutes. In subsequent representations, some other broadcasters (including a PSB channel and two multi-channel broadcasters) expressed concern at this proposal, on the grounds that this would increase ITV’s share of commercial impacts at the expense of others.
- A4.7 A few respondents saw advantage in more advertising. The NUJ and a UK-based operator of overseas channels argued that higher minutage allowances would foster television advertising revenues, safeguarding the variety and quality of programmes that viewers expect; the NUJ said that this should be accompanied by stricter PSB obligations.

Number of advertising breaks

- A4.8 On the assumption that were limits on the number of advertising breaks within programmes of a given scheduled duration, we set out possible alternative scenarios, and asked whether Ofcom had identified the right options for break frequencies, and what factors Ofcom should take into account in formulating proposals for consultation.
- A4.9 Like advertisers, some broadcasters (a public service broadcaster and a UK-based operator of overseas channels) agreed that Ofcom had identified the right options for consideration. However, most broadcasters (three multi-channel operators, several non-PSB channels and a UK-based operator of overseas channels) simply took the opportunity to argue against any limits on the number of breaks, on the grounds that the combination of viewer irritation and the hourly minutage restriction would prevent an excessive number of breaks. However, three public service broadcasters said that, in addition to considering the status quo and complete liberalisation, Ofcom should look at variations on the present rules that stop short of complete liberalisation, such as allowing four rather than three breaks within an hour-long programme, and allowing more breaks in programmes of a magazine nature. One public service broadcaster argued for a level playing field between PSB and non-PSB channels, preferably on the basis of no regulation at all. A multi-channel broadcaster said that, if Ofcom did maintain restrictions, it should allow more frequent breaks in short-form content channels; it argued that the overall limit of 12 minutes of advertising an hour would prevent the emergence of a US-style television environment.
- A4.10 Most individual respondents were opposed to any increase in the number of advertising breaks; some drew an unfavourable analogy with the US television market; CPBF agreed, and opposed any relaxation in the rules.

Teleshopping

- A4.11 Ofcom invited views on scenarios for teleshopping on public service channels and on other channels. On public service channels, we identified three main options: the status quo (in which teleshopping is permitted, but no extra time is allowed for it), applying the same rules to PSBs as to non-PSB channels (up to 3 hours a day for channels not exclusively dedicated to teleshopping), and allowing PSB channels the same number of hours as non-PSB channels, provided that any teleshopping was broadcast between midnight and 6am. On other channels, Ofcom suggested four possible scenarios: the status quo (3 hours a day), a longer period, a shorter period, and a removal of all limits.
- A4.12 While one public service channel felt that the status quo was more consistent with their remit, another argued in favour of a level playing field for both PSB and non-PSB channels; it favoured a limit of 6 hours, to be used at any time. However, most respondents favoured the status quo. Non-PSB channels (including two multi-channel operators, several non-PSB channels and one UK-based operator of overseas channels) said that PSB channels should not be allowed any extra time for teleshopping, arguing that it would not sit well with their PSB obligations. A teleshopping operator said that a teleshopping allowance on PSBs was likely to be used for gambling services which would not be good for consumers, would take away revenue from the National Lottery (which would be bad for good causes), and that it would pose unfair competition for retail teleshopping services.
- A4.13 CPBF was also concerned that public service channels would use teleshopping time to carry gambling programmes; it did not object to other channels owned by public service channels carrying gambling programmes, but wanted strict rules on cross-promotion. In general, individual respondents also wanted the current limits retained; some thought that teleshopping was not appropriate on a public service channel. An advertising trade association said that advertisers were satisfied with the status quo, and did not recommend that either public service channels or other channels not wholly dedicated to teleshopping should be permitted any more teleshopping. It argued that there was plenty of teleshopping content available to who seek it.
- A4.14 Other broadcasters (including one teleshopping operator, one multi-channel operator and several non-PSB channels) wanted teleshopping restrictions on non-PSB channels lifted. Both non-PSB channels, dedicated teleshopping channels and some PSB channels favoured no limits at all; a teleshopping operator said that both market economics and the desire of non-PSB channels to avoid classification by EPG providers as a teleshopping channel would protect viewers from the loss of editorial content. In general, other broadcasters agreed, though as noted above, one public service channel wanted the same rules for both PSB and non-PSB channels.

Impact assessment

- A4.15 Respondents made a number of useful points in relation to Ofcom's modelling of the impact of changes in the amount of advertising. In particular, several respondents pointed out that the approach adopted in Ofcom's model was likely to overstate the increase in commercial impacts that would arise from a relaxation in minutage.
- A4.16 Firstly, there was a common concern amongst broadcasters that Ofcom's model did not take account of a number of practical considerations which constrain the

scheduling of TV advertising in reality. For instance, broadcasters pointed out that fixed programme lengths would prevent the scheduling of additional advertising at certain times. Some types of programming e.g. live football matches, would prevent scheduling the maximum of advertising permitted. In addition, some broadcasters might target specific demographics, rather than maximising the overall number of impacts (as assumed within Ofcom's modelling). One broadcaster also pointed out that Ofcom's method for allocating the additional minutage relied on perfect hindsight, i.e. it knew which clock hours ended up having the greatest impacts per minute of advertising rather than having to schedule advertising on the basis of imperfect audience predictions.

- A4.17 A number of respondents were also concerned with Ofcom's assumption that an increase in the amount of advertising would lead to no additional drop-off in audiences. Some respondents (including advertisers and non-PSB channels) felt that the assumption would be reasonable for relatively small changes in minutage but not for some of the more liberal scenarios considered in the modelling. Others (including two PSB channels and a multi-channel operator) disagreed with the assumption, and were concerned that any increase in the amount of advertising carried a significant risk of viewers 'switching off or switching over'. Consequently, these respondents felt that the model needs to take explicit account of audience drop-off, although there were limited suggestions on how to do so. One respondent that had commissioned their own modelling suggested that Ofcom may be overestimating the number of additional impacts by up to 10%.
- A4.18 The other key issue that arose in the IA was the apparent dichotomy between the results of econometric modelling (which suggests increases in advertising minutage would lead to an overall increase in revenue), and the industry-held view (which believes the opposite). In terms of translating the change in the volume of impacts into a change in advertising revenue, several respondents (including three PSBs and a multi-channel operator) critiqued the elasticity modelling used by Ofcom, arguing that Ofcom's IA was wrong to focus on the elasticity and constant premium approaches. These respondents maintained the industry viewpoint that the advertising market would be inelastic in the long-run, with the result that an increase in minutage would simply result in a reduction in the price of airtime and subsequently a fall in industry revenue.
- A4.19 Others (including some advertisers and non-PSB channels) agreed that elasticity estimates provided best estimates of the changes in revenue that would arise from increased minutage, but recommended that we exercise appropriate caution in their use and interpretation. For instance, it was suggested by one PSB and a multi-channel operator that we use a range of elasticity values rather than focussing on a single estimate. Overall however, none of the responses have definitively resolved the dichotomy although one respondent has suggested that it may be due to short-run/long-run differences in the market.
- A4.20 All of these contributions, along with several other technical comments on the IA, are now being used by us to help refine our modelling approach for the consultation on minutage which we will publish in the autumn.

Annex 5

Impact Assessment

Introduction

- A5.1 The analysis presented in this Annex – taken together with the rest of this document - represents an Impact Assessment (“IA”), as defined in section 7 of the Communications Act 2003 (the Act).
- A5.2 IAs provide a valuable way of assessing different options for regulation and showing why the preferred option was chosen. They form part of best practice policy-making. This is reflected in section 7 of the Act, which means that generally we have to carry out IAs where our proposals would be likely to have a significant effect on businesses or the general public, or when there is a major change in Ofcom’s activities. However, as a matter of policy Ofcom is committed to carrying out and publishing IAs in relation to the great majority of our policy decisions. Further information about our approach to impact assessments is set out in Ofcom guidelines²⁸.
- A5.3 This IA is divided into four sections. The first section briefly sets out responses to the Issues paper that Ofcom included as part of the IA to the March 2008 document. This section covers both comments about the overall approach which Ofcom has adopted to analysing the impact of changes in the amount of advertising and also more detailed comments about the modelling approach adopted by Ofcom. The section sets out how Ofcom is proposing to address the issues raised but it is also supplemented by an appendix which discusses the underlying economic framework in more detail.
- A5.4 The remaining three sections provide an assessment of the options that are being considered as part of the consultation on the rules relating to:
- the amount of advertising;
 - the frequency and length of advertising breaks;
 - the amount of teleshopping.
- A5.5 Where possible we have tried to identify the relevant stakeholders and to quantify the impact that the different options would have. Where it has not been possible to set out a quantitative analysis we have instead provided a qualitative assessment of the likely scope and magnitude of the impact of the different options. At various stages in the IA we have set out some specific questions where we would value stakeholder input.
- A5.6 You should send any comments on this IA to us by **11 December 2008**. We will consider all comments in relation to the impact assessment before taking decisions on the rules.

²⁸ *Better policy-making: Ofcom’s approach to Impact Assessments.*
(http://www.ofcom.org.uk/consult/policy_making/guidelines.pdf)

The citizen-consumer interest & regulatory objectives

A5.7 Ofcom considers that, as regards television advertising regulation, the interests of citizens and consumers concern:

- a) the availability of a wide range of television services that, taken as a whole, are both of high quality and calculated to appeal to a variety of tastes and interests;
- b) the maintenance of a sufficient plurality of providers of different television services;
- c) the fulfilment of the purposes of public service television broadcasting;
- d) such other matters as appear, having regard to the opinions expressed by consumers, important to them.

A5.8 In respect of (d) we are aware, both from issues raised by individual viewers, and by research that we have commissioned, that viewers are concerned both with the amount of advertising and the frequency of advertising breaks on television. While viewers also express opinions from time to time about the content of individual advertisements, these issues lie outside the current consultation, which deals only with issues related to the rules on the amount and distribution of advertising.

Ofcom's regulatory objectives

A5.9 As set out in Section 2 of the main consultation document, we have concluded that our first regulatory objective is that we should seek to further the interests of citizens and consumers, in particular, in relation to:

- a) the range, quality and appeal of television services available throughout the UK and in different parts of the UK and, in particular, public service channels;
- b) the importance of securing a sufficient degree of plurality of providers of television services; and
- c) such other matters as appear, having regard to the opinions expressed by consumers, important to them.

A5.10 Further to this, Ofcom considers that any changes to current regulation should, in furthering the interests of citizens and consumers, so far as possible:

- a) be evidence-based, transparent, proportionate, consistent and limited to the measures needed to achieve the first objective;
- b) avoid the imposition or maintenance of regulation that is unnecessary; and
- c) take account of the desirability of promoting competition, and the nature and interests of different consumers, in relevant markets.

A5.11 Given these objectives, and having regard to section 7 of the Communications Act 2003, Ofcom considers that the IA should assess the impact of different options for advertising regulation on:

- Viewers – e.g. whether the change is likely to adversely affect the viewer in terms of the viewing experience and the perceived quality of the programming;

- Broadcasters, in particular PSBs: e.g. whether the burden imposed on broadcasters by either existing or new rules is proportionate and/or the likely financial impact of any proposed change; and,
- Other stakeholders; for instance, the impact on the advertisers or media buying agencies or whether there is an impact on the use of television as an advertising medium.

A5.12 We have not carried out separate Equality Impact Assessments in relation to race or gender equality or equality schemes under the Northern Ireland and Disability Equality Schemes at this stage. This is because we are not aware that the proposals being considered here would have a differential impact in relation to people of different gender or ethnicity, on viewers in Northern Ireland or on disabled viewers compared to viewers in general. Similarly we have not made a distinction between viewers in different parts of the UK or between viewers on low incomes. Again, we believe that the proposals under consideration will not have a particular effect on one group of viewers over another. However, we would welcome input from respondents as to whether they perceive that our proposals could give rise to a differential impact on particular groups of viewers.

Section 1: Economic analysis of the operation of the TV advertising market

- A5.13 As suggested in the March 2008 document, the market for television advertising can be analysed using a two-sided market framework. A market is said to be two-sided when an intermediary facilitates the market interaction between two distinct groups of end-users. In the market for TV advertising, broadcasters facilitate the interaction between viewers on the one hand, and advertisers on the other. Specifically, broadcasters provide a platform whereby advertisers can reach valuable audiences, and viewers can gain access to programming which is funded by advertising revenue. Provided the market is functioning efficiently, participants on both sides of the market should benefit from the presence of each other²⁹. The analysis of two-sided markets can be complicated by the fact that there are complex interdependencies between participants on opposing sides of the market, which might not be captured by conventional economic analysis.
- A5.14 In the March 2008 document, we outlined a stylised economic framework for the market for TV advertising which focussed on the interaction between broadcasters and advertisers. In response to comments from stakeholders, we have updated this framework to take more explicit account of some of the two-sided features of the market. A more detailed discussion of the general economic framework we have used to analyse the TV advertising market is set out in the appendix to this Annex.
- A5.15 We have used this economic framework as the conceptual basis for modelling the different options for changes to the RADA rules on the amount and frequency of advertising that we are assessing in this consultation.

Modelling Refinements

- A5.16 In the March 2008 document, we outlined a quantitative approach that could be used to gain a deeper insight into the qualitative predictions of our conceptual framework of the market for TV advertising. In light of comments from stakeholders,

²⁹ More formally, a two-sided market exploits the positive externalities that arise between different sides of the market. In this context, a positive externality refers to a benefit that accrues to one party from the presence of parties on the other side of the market.

and the subsequent refinements to our conceptual framework, we have also made several refinements to our quantitative model. Although the Impact Assessment accompanying the March 2008 document acknowledged the two-sided nature of the market for TV advertising, the quantitative assessment focussed on the interaction between broadcasters and advertisers. The basic model structure we adopted was to first determine how changes in the minutage rules might affect the volume of commercial impacts delivered by commercial broadcasters. The model then looked to translate these changes in commercial impacts into changes in NAR for each channel being considered. For a detailed description of the quantitative model, we refer the reader to Part 3 of the Impact Assessment that accompanied the March consultation.

- A5.17 In the following section, we discuss responses made by stakeholders on our modelling approach and any subsequent refinements to the model that we have made as a result of those comments.

Translating changes in minutage into changes in impacts

Optimisation of additional minutage

- A5.18 A number of broadcasters were concerned that Ofcom's assumptions about how broadcasters would schedule (or optimise) any additional minutage could overstate the overall change in impacts that might arise from a relaxation to RADA. In particular, one broadcaster pointed out that Ofcom's optimisation of additional minutage relied on "perfect hindsight". That is, having collected data on the impacts actually *realised* in 2007, Ofcom was able to observe which clock hours resulted in the greatest impacts per minute, and then scheduled the additional minutage accordingly. In reality, broadcasters could only imperfectly predict which clock hours would generate the most impacts, and were therefore unable to optimise their minutage to the same degree of accuracy assumed by Ofcom.
- A5.19 More generally, several broadcasters argued that Ofcom's optimisation did not capture the subtleties specific to individual broadcasters. For example, some broadcasters pointed out that rather than maximising the overall volume of commercial impacts, it was common to target specific demographics at particular times of the day. Similarly, a number of stakeholders also argued that the optimisation procedure did not allow for various practical constraints on the scheduling of additional airtime. For example, it was argued that fixed programme lengths would not allow additional airtime to be scheduled in many clock hours. Similarly, channels showing a high proportion of films and/or live sports would not be able to optimise in the manner assumed by Ofcom. As a result, some broadcasters thought it would be more appropriate for Ofcom to take a much more detailed, 'bottom-up' approach to modelling the way in which individual channels will schedule additional minutage, and how this would subsequently translate into additional impacts.
- A5.20 While we accept that there may be several practical constraints which restrict the ability to schedule more advertising in very specific circumstances, it would not be feasible to model each channel individually. Therefore, we accept that abstracting from these operational issues (such as programme lengths, existing schedules, targeting particular demographics etc) may cause us to overestimate changes in impacts in the short-run. However, we consider that in the longer run some of these operational constraints would not necessarily constrain broadcasters to the same extent. They would be better placed, therefore, to take full advantage of any changes to RADA: e.g. by adjusting the length of programmes. However, we do

accept that our optimisation approach relies on “perfect hindsight”, and that this is likely to cause us to overestimate the change in impacts that will arise from any relaxation to RADA.

- A5.21 Those stakeholders who conducted their own examination of these issues, estimated that the extent of the overstatement of changes in the volume of impacts could be in the order of 5-10%. For instance, ITV plc estimated that we had overstated the *percentage* change in impacts by around 100%. We consider that this implies that we had overestimated the change in the *volume* of impacts by around 5 per cent in most cases.
- A5.22 Having conducted our own modelling of the perfect hindsight issue, we have concluded that this assumption causes us to overestimate the change in impacts by roughly 6-11%. Specifically, we looked at a limited subset of broadcasters and compared the *actual* volume of impacts generated by each of these broadcasters (under their own “imperfect” optimisation procedures), to the volume that they would have generated had they optimised their minutage using our model with “perfect hindsight”.
- A5.23 Given that our own analysis of the overstatement is broadly in line with that submitted by stakeholders, we have decided to scale down the changes in the volume of impacts generated by the model by a factor of 10%. We recognise that this factor is an approximation and is unlikely to be uniform across all channels³⁰.

Modelling of new options

- A5.24 In response to the March consultation, a PSB also put forward a proposal which would allow PSBs to pool their daily peak time allowances over the week. As discussed in the following paragraphs, this proposal involves redistributing advertising airtime over the week whereas our existing model averages over daily advertising schedules to optimise on a daily basis. In order to examine this option, we have had to develop a new modelling approach to quantify the impact of this specific option.
- A5.25 PSBs are currently limited to a peak-time average of 8 minutes an hour. To take the example of evening peak, this is equivalent to a 40 minute daily cap on the amount of advertising that can be shown in the five hours that constitute evening peak. Under the proposal to average peak time minutage over the week, this 40 minute *daily* cap would be substituted for an ‘equivalent’ *weekly* cap of 280 minutes (i.e. 7 x 40 minutes) which would give PSBs more flexibility in how they schedule their peak-time minutage across the week.
- A5.26 In practice, this gives PSBs the flexibility to remove advertising from relatively weaker peak-time slots and reallocate this minutage to the times most favoured by advertisers. In this way, broadcasters could exceed the current 40 minute cap on peak-time advertising in any one day, provided this was offset by an equivalent reduction in peak-time advertising on some other day in the week. In principle, PSBs would be able to schedule up to the maximum 12 minutes per hour for an entire evening; that is up to 60 minutes of advertising during evening peak on certain days.

³⁰ We have subjected this feature of the model to sensitivity testing. This involved varying the scaling factor within the range 0% to 20% to observe how this assumption permeated through the model. The outcome of these tests indicated that for a 0% to 20% range typically causing percentage changes in NAR to fluctuate within a range of one percentage point.

- A5.27 In order to model how PSBs would optimise under this proposal, we collected BARB data on minutage and impacts disaggregated by each clock-hour in each day of the week for the same period as that used in the “main model” (1st January – 31st December 2007). We then proceeded to optimise in a similar manner to the main model. That is, we ranked all of the 168 (i.e. 7 x 24) clock-hours in the week by impacts per minute of advertising; the implication being that clock-hours with the highest impacts per minute are the ‘best performing clock-hours (in that they generate the greatest number of impacts per minute of advertising) whilst the clock-hours with the fewest impacts per minute are the ‘worst performing’. The model would then look to reallocate peak-time minutes from the ‘worst-performing’ clock hours to the ‘best-performing clock hours’ so as to maximise the number of impacts generated in evening peak.
- A5.28 One point to note is that in order to ‘make room’ for additional minutes during evening peak, PSBs would also have to rebalance their off-peak schedules in order to continue to comply with the 7-minute rule. This is because we assume broadcasters’ off-peak schedules currently would be optimised according to the current rules such that they only leave 40 minutes per day for evening-peak. If a broadcaster wanted to make use of the extra flexibility afforded by this option, and reallocate some peak minutes from a different part of the week, it would also have to rebalance the volume of minutage in its off-peak schedule for the relevant days. Therefore, in order to accurately quantify the full flexibility afforded by this proposal, it was also necessary to “re-optimize” each of the PSBs’ off-peak schedules in the same manner as described above (i.e. by ranking clock hours and reallocating minutage accordingly).
- A5.29 Having optimised the minutage schedule for each of the PSBs under this proposal, we obtain estimates of the new volume of commercial impacts for each clock hour in the same way as that for the main model. That is, we take the existing average number of impacts per minute of advertising in any clock hour and multiply by the new minutage.
- A5.30 Clearly, this optimisation procedure is subject to the same comments regarding “perfect hindsight”, and practical scheduling constraints that were raised by stakeholders with regards to the main model. Therefore, we have maintained the 10% scaling factor for the assessment of this option. However, since this option only affords extra flexibility to PSBs, we assume that the volume of impacts generated by non-PSBs is unchanged.
- A5.31 To estimate how the changes in impacts from this proposal translate into revenue changes, we fed the estimated new impacts from the optimisation into the main model, in the same manner as for all other options.

Impact of increased advertising on audiences

- A5.32 Given our updated conceptual framework of the market for TV advertising, it is also important to acknowledge how changes in the amount of advertising will impact upon the broadcaster-viewer side of the market. In the March 2008 document, we abstracted from this side of the market, and assumed that audiences would not decline even if there is an increase in the volume of advertising.
- A5.33 Responses to the March 2008 document generally agreed that this assumption would be reasonable for relatively small changes in advertising minutage. However, some stakeholders expressed concern that some of the options set out in the March

2008 document could not be considered small changes in minutage, and would therefore be likely to induce a drop-off in audiences.

- A5.34 A number of responses to the March 2008 document referred to a recent empirical study of the US advertising market by Kenneth Wilbur to argue that an increase in advertising minutage could result in large falls in audiences.
- A5.35 We have looked at the Wilbur study, which used a two-sided market model to estimate the viewer demand for programmes on one side, and advertiser demand for audiences on the other³¹. For the purposes of our IA, the key conclusion is that viewers appear to be highly averse to advertising. In particular, Wilbur estimated that when a highly rated [US] network unilaterally increases its amount of advertising by 1%, the median audience loss is 2.5%. More formally, this implies that viewers' advertising elasticity of demand for a highly rated network is 2.5. Furthermore, Wilbur found that audiences for lower rated networks tended to be much more responsive to advertising, with the advertising elasticity being as high as 7.8 for the lowest rated network.
- A5.36 In the context of the options considered in this IA, if we were to level *one* of the PSBs up from 7 to 9 minutes per hour, this would constitute a 29% increase in the amount of advertising. Applying the advertising elasticity estimated by Wilbur (assuming that one of the main PSBs would count as a 'highly rated network') would then imply a 72.5% (i.e. 2.5 x 29) audience loss.
- A5.37 It is important to emphasise that this corresponds to the estimated audience loss that would result from a *unilateral* change in the amount of advertising: an increase in advertising minutage across a number of broadcasters simultaneously would be unlikely to result in such a response. It is also not clear to what extent these results can be applied to the UK market. Such large elasticities in the US might be explained by the fact that the amount of advertising is much higher in the US than in the UK. Therefore, viewers in the US may have been pushed to a point where they are much more sensitive to any further increases in advertising³². Alternatively, the preferences and attitudes of US viewers (which are also conditioned by differences in the range of television programming) may simply be different to those in the UK.
- A5.38 Due to the size of these implied audience changes and the fact that the study focused on unilateral changes, we are reluctant to use elasticity results of this order of magnitude from the US Study. In the absence of any specific UK-based data, we have decided to maintain the assumption that there is no drop-off in audiences for the time being. In light of consultation responses, we believe that this assumption is reasonable for most of the scenarios considered in this consultation. In particular, those options involving changes in the rules governing peak time restrictions do not involve any increase in the overall amount of daily advertising; viewers are already accustomed to 12 minutes of advertising an hour in some hours; and there is already an average of 9 minutes an hour over the day on non-PSB channels.
- A5.39 Nevertheless, we accept that this assumption is much less reasonable for the 'full liberalisation' scenario – which would involve a significant increase in the amount of

³¹ Wilbur (2008), A Two-Sided, Empirical Model of Television Advertising and Viewing Markets, *Marketing Science*, 27(3), pp. 356–378

³² As mentioned in the discussion in the appendix to this annex, point elasticities typically vary at different points along a demand curve. The argument which references this footnote is then equivalent to saying that the implicit price to viewers is so much higher in the US than in the UK, that viewers in the two countries are positioned at different points along the demand curve for television programming. Namely, US viewers are at a point which is much more elastic.

advertising, particularly on PSBs. We therefore urge that the results presented for this scenario should be regarded very much as upper estimates.

IA Q1: Given the options being considered in this consultation document is it reasonable to maintain the assumption that there will not be any “drop off” in audiences? If you disagree, please explain why.

Ability to Sell

- A5.40 There was only limited comment on this point in responses to the March 2008 document. Most respondents accepted that making a distinction between different non-PSBs was a reasonable approach to take. As a result we have maintained the approach we set out at the time. That is, we made a distinction between non-PSB channels that appeared to be able to sell all (or nearly all) of their existing advertising inventory and those that did not. Where we considered rule changes resulted in an increase in the volume of advertising minutage available to non-PSB channels, we did not apply the increase to those channels that currently did not sell out their airtime.
- A5.41 We have also maintained the assumption that PSB channels would be required to sell all their airtime.

Translating changes in impacts into changes in revenue

- A5.42 Another important issue in the quantitative modelling for the March 2008 document was how to translate the changes in impacts that arise from a relaxation in the advertising rules into changes in broadcasters’ revenues. In particular, the IA that accompanied the March consultation document considered three methods of translating changes in the volume of commercial impacts into changes in revenue:
- a constant price premium approach;
 - a unitary price premium approach; and
 - an economic price elasticity approach.
- A5.43 The first two approaches, focusing on the “price premium” achieved by broadcasters, were based on what we understood to be an important aspect of the way in which broadcasters and media buying agencies negotiated with each other. That is, the share of NAR a broadcaster might expect to achieve was driven by the broadcaster’s share of commercial impacts (SOI). The third approach relied instead on quantitative econometric estimates of how changes in commercial impacts would affect the price of advertising, and NAR. For a detailed description of how these three approaches were implemented, we refer the reader to paragraphs A4.138 to A4.157 of the March 2008 document.
- A5.44 There was only limited discussion about the application of the constant price premium and unitary price premium approaches in responses to the March consultation. In general, the discussion expressed scepticism about the application of these approaches to estimating the impact on TV advertising revenues. Respondents agreed with the concerns about the uniform price premium approach that Ofcom identified in the March 2008 document. Respondents also expressed concern that the constant price premium approach did not in fact model the mechanics of the TV advertising market: respondents did not believe it would be possible to maintain price premiums in light of an increase in minutage.

- A5.45 Most of the discussion instead focussed on the apparent inconsistencies between industry expectations as to the effect of an increase in the amount of advertising airtime and the results implied by the estimates for the price elasticity of the demand for advertising.
- A5.46 In discussions with broadcasters and media agencies both pre- and post-consultation, the majority of these stakeholders indicated that they expected that an increase in the volume of commercial impacts would lead to a reduction in price. Some respondents then argued that they expected that there would be only very limited, if any, additional demand for the extra commercial impacts as a result of this price reduction. In reaching this conclusion, stakeholders considered the response of both existing advertisers and potential new advertisers to an increase in the amount of advertising minutage. Depending on the respondent, some argued that overall there would be little change in industry revenue whereas others argued that revenue would actually fall.
- A5.47 Respondents argued that existing advertisers were aware of the levels of advertising needed to deliver a successful campaign, and that these levels were not necessarily responsive to the quantity or price of commercial impacts in the market. According to this view, advertisers would not value any additional impacts over and above the amount they consider necessary to deliver a successful campaign. Therefore, provided existing advertisers were already purchasing an amount of advertising which they consider to be “optimal”, an increase in the supply (or a reduction in the price) of commercial impacts would not encourage any additional demand. Instead, advertisers would take advantage of the price fall by recognising that they could achieve a given delivery of commercial message for a lower cost and simply choose to spend less.
- A5.48 In the case of potential new advertisers, respondents claimed that a reduction in the price of commercial impacts would only encourage a limited increase in demand. In particular, several broadcasters and agencies argued that the price of commercial impacts was not currently a barrier to advertisers choosing the medium. They argued that the range and variety of digital channels, as well as the availability of regional advertising, played an important role in providing cheap access to the medium. As a result, some respondents argued that the cost of purchasing airtime did not in itself currently prevent new advertisers from entering the market for TV advertising. Instead, some stakeholders argued that other costs associated with TV advertising e.g. media costs, creative agency and production costs constituted more of a barrier to entering the market. However, because these costs would not be affected by changes to RADA, the industry, at best, expected only a very limited increase in demand from new advertisers.
- A5.49 On the basis of these arguments, the industry expectation was that any relaxation in restrictions on the amount of advertising minutage would lead only to a very limited increase in the demand for commercial impacts. The implication of this was that the price of advertising would have to fall significantly in order to produce any increase in demand. Some respondents expressed the concern that the increase in impacts would lead to a more than proportionate fall in the price of advertising airtime, therefore causing industry NAR to fall.
- A5.50 From an economic perspective, this expectation amounts to the view that the demand for commercial impacts is at best unitary (i.e. equal to 1) or is even *price inelastic* (i.e. less than 1). That is, demand is not very responsive to changes in the price of advertising. If demand is inelastic, this would imply that a fall in the price of airtime from a relaxation to RADA would not encourage an offsetting increase in

demand, and so market NAR would fall. While this in itself is not an unreasonable proposition, it would appear to contradict the available empirical evidence on the price elasticity of the demand for commercial impacts.

- A5.51 The PwC³³ study commissioned by Ofcom in 2004 found that the overall demand for commercial impacts was *price elastic*. In other words, the study found that the demand for commercial impacts was more responsive to changes in price than has been suggested by industry stakeholders.
- A5.52 The PwC study developed a structural econometric model which generated separate price elasticity estimates for PSBs and non-PSBs. For both types of channels, the report found that the demand for commercial impacts was price elastic. In the case of PSBs, the PwC study found that the short run price elasticity of demand was 1.18 whilst the long-run price elasticity was higher at 1.44³⁴. That is, if a relaxation to RADA were to lead to a 1% fall in the price of commercial impacts, then that would encourage a 1.18% increase in the demand for PSB commercial impacts in the short run, and a 1.44% increase in the demand for commercial impacts in the long-run³⁵. The key point is that the proportionate increase in demand (1.18% and 1.44% respectively) was greater than the proportionate fall in price (1%) so that on balance, total NAR would be expected to increase as a result of the price change. Furthermore, the PwC study found that the demand for commercial impacts was more elastic for non-PSBs than for PSBs (the non-PSB elasticity was estimated to be 3.8 in the long-run).
- A5.53 In its response to the March consultation, one stakeholder pointed out that there have been other studies which yield different estimates of the price elasticity of demand for commercial impacts, and indeed different views as to whether the market is elastic or inelastic. However, given that many of these studies rely on datasets which (in some cases significantly) predate that used in the PwC study and relate to experiences in countries other than the UK, we believe that the PwC study provides the most accurate estimates of the price elasticity of demand of the UK TV advertising market for the purposes of this IA. We note that the only study to take account of the two-sided nature of the market concluded that demand for TV advertising (in the US) was price-elastic. This was the Wilbur (2008) study cited by stakeholders in relation to the audience response to increased advertising.
- A5.54 In terms of our modelling, we have therefore continued to use PwC's estimates of price elasticity of demand as the basis for the price-elasticity version of the modelling implemented in the March consultation. That is, we assumed that the demand for commercial impacts was price elastic for both PSBs and non-PSBs in this version of the modelling. However, in response to the March consultation, a number of stakeholders offered a number of critiques of the PwC model. These are discussed below.
- A5.55 A number of responses highlighted the fact that the PwC model relied on data up to 2003. These stakeholders expressed the concern that the market for TV advertising had changed significantly since then (e.g. with the continued growth of multi-

³³ PwC Report: Forecasting UK TV Advertising Revenue 2004-2014. (Ofcom 2004)

³⁴ Although, there was some uncertainty around the precision of these estimates (as is typical in any sample-based statistical study), PwC concluded with 92% certainty that the demand for PSB commercial impacts was elastic.

³⁵ The relative size of the short- and long-run elasticities conform to economic theory, as we would expect the response to be larger in the longer-run, once market participants have had more time to adjust to the price change. More formally, we usually expect demand to be more elastic in the long-run.

channel television, and the imposition of CRR), causing a *structural break* in the relationship between the price of airtime and quantity of impacts demanded. The implication is that the price elasticity estimates derived by PwC could no longer be applied to the current time period under consideration.

- A5.56 However, in response to the March consultation, one broadcaster re-commissioned PwC to update the analysis undertaken for Ofcom to take account of the most recently available data. Using data up until Q2 2007, this analysis concluded that there has been some change in the relationship between price and quantity. In contrast to the industry view however, this updated analysis concluded that the demand for commercial impacts was still elastic for both PSBs and non-PSBs in the long run. In fact, the results of this updated analysis indicated that the demand for PSB commercial impacts had actually become more price elastic (rising from 1.44 to 2.0), whilst the demand for non-PSB commercial impacts had become less elastic (falling from 3.8 to 2.8, but nevertheless still remaining elastic overall).
- A5.57 We are still concerned to try to reach some degree of common ground between the industry view about the elasticity of demand and the econometric evidence. Some approaches to reconciling the two positions are discussed in more detail in the appendix to this IA although we recognise that none provide a complete explanation.
- A5.58 Given that the focus of this debate since the March consultation has essentially been on the elasticity of demand for TV advertising, for the purposes of this consultation, we propose to move away from the use of the “price-premium” approaches and to concentrate on the price elasticity approach. We consider that using a range of estimates for price elasticity estimates will enable us to encapsulate most of the key features these arguments. In particular, we propose to continue to use a central estimate of 1.44 as the long-run price elasticity of demand for PSBs, but also present results for a “lower case” elasticity of 1.0, and an “upper-case” elasticity of 2.0.
- A5.59 Given that the updated version of the PwC study suggests that the elasticity of demand for advertising for PSBs may actually have increased we consider that keeping our central estimate at the level suggested by the original PwC study represents a conservative approach. We then use the sensitivity approach to try to bring in the different perspectives on elasticity of demand for advertising.
- A5.60 The use of the lower case estimate is consistent with a “no change in advertising revenue” point of view which has been expressed by some of the industry respondents. An elasticity of 1 for the PSBs implies that the percentage fall in price due to a relaxation of RADA is offset by an equi-proportionate increase in the demand for commercial impacts – leaving NAR for PSBs unchanged. However, we recognise that it does not fully address the concerns of those respondents who believe that demand for PSBs is inelastic i.e. that revenue for PSBs would fall – that would imply an elasticity of less than 1.
- A5.61 Conversely, the use of the upper-case estimate is in line with the results of the update to PwC’s econometric model as discussed above. Finally, the use of this range is also intended to accommodate the concerns echoed by some stakeholders over the degree of precision of PwC’s price elasticity estimates.
- A5.62 As will be seen later, the results of our analysis based on the central estimates for the “elasticity approach” are in fact broadly consistent with the view expressed by some in the industry that there would be little change in overall industry revenue.

IA Q2 Do respondents agree that it is reasonable to focus on the elasticity approach for translating changes in the volume of impacts into changes in industry revenues and to move away from using the constant price premium and uniform price premium approaches? If not, please provide an explanation.

- A5.63 Because the estimates of the elasticity of demand from the PwC study are “point estimates”, we recognise that there can be limitations to using these estimates of price elasticity for large changes in the volume of impacts. In particular, we would be concerned about applying our current estimates to changes in the volume of commercial impacts that are greater than 10-15%. In those situations we have not reported estimates of the impact on broadcasters revenues because we cannot be confident that the demand function estimated in the PwC study would still apply. In order to undertake such an analysis there would be the need to re-estimate the demand function and that is beyond the scope of this analysis.
- A5.64 Finally, as suggested in the March consultation, we have also been able to update the dataset to include channels’ 2007 revenue submissions; meaning that the revenue data is now fully consistent with the data on impacts and minutage.
- A5.65 We highlight the fact our quantitative model remains an analysis of the market for advertising at a particular point in time and under specific assumptions. That is, we are only considering a change in volume of commercial impacts and we are not attempting to factor in changes to other determinants of the demand for TV advertising such as changes to the macro-economy or a possible downturn in the market for advertising. These other factors give rise to a more general uncertainty about the future direction of the TV advertising market which needs to be borne in mind when considering the impact of the different proposals under consideration.

Section 2: Advertising Minutage

Scenarios in March 2008 document and stakeholder responses

- A5.66 The AVMS Directive allows Ofcom to permit up to 12 minutes of advertising (including teleshopping spots) per hour of transmission. Given these changes to the European regulatory framework, the March 2008 document set out a broad range of potential options for the regulation of overall advertising minutage including:
- a) maintaining the current set of rules;
 - b) a relaxation in either the amount of daily advertising permitted on PSB channels, or the amount of peak time advertising, or some combination of the two;
 - c) full liberalisation of the amount of advertising for all channels in line with the AVMS directive; and
 - d) a reduction in the amount of advertising permitted on non-PSB channels.
- A5.67 The IA that accompanied those options suggested that any relaxation targeted solely towards PSBs would increase their impact delivery and revenue at the expense of non-PSBs³⁶. The IA also identified that although all the PSBs would be expected to benefit from any relaxation of the restrictions, ITV1 was likely to benefit more, particularly to the extent that any changes were targeted at removing or

³⁶ Although, as described above, those respondents that argued that demand for TV advertising was inelastic did not accept even that PSBs would benefit from an increase in revenue.

relaxing peak-time restrictions. In contrast, the other PSBs would tend to benefit relatively more from increases in the overall daily allowances.

- A5.68 In the case of full liberalisation, the March IA anticipated a significant increase in the volume of commercial impacts for broadcasters in general. However, although both PSBs and non-PSBs were expected to benefit in terms of overall impact delivery, the benefit to PSBs would overwhelm that of the non-PSBs, causing the latter to forfeit SOCI and advertising revenue.
- A5.69 Finally, if advertising rules were to be tightened for non-PSBs, the impact would be qualitatively similar to a relaxation for PSBs. Namely, PSBs would gain SOCI at the expense of non-PSBs as the latter would suffer a loss of impacts.
- A5.70 The common feature that emerged from the analysis of these various options is that there appears to be a very clear trade-off between the benefits to PSBs and non-PSBs.
- A5.71 Although responses to the March 2008 document did not generally disagree with this characterisation, a number of respondents maintained the industry viewpoint that any increase in impacts would lead to a more than proportionate fall in the price of advertising, and a subsequent fall in revenue – even in some cases for PSBs. As a result, there was very little support amongst broadcasters and advertisers for more advertising.
- A5.72 However, one PSB suggested that all PSB channels should be permitted to average their evening peak-time minutage over a week, rather than over the daily five hour peak-time period. Another PSB suggested that the special rules applying to the morning peak period (7 to 9am) be abolished.

Consultation options

- A5.73 In light of responses to the March 2008 document, we are consulting on two broad sets of options for regulating:
- a) the overall amount of advertising on TV channels; and
 - b) peak-time minutage on PSB channels.
- A5.74 The discussion below focuses on the impact on broadcasters in terms of changes in the volume of commercial impacts and on advertising revenue. There will obviously be a flow through effect in terms of the impact on media buying agencies and advertisers. In terms of viewers we take as our starting point the views expressed in responses to the March 2008 document and through the deliberative research. That is, in general terms, most viewers would be opposed to any increase in the amount of advertising on PSBs or on other channels and would welcome a levelling down in the amount of advertising on non-PSB channels.

Overall amount of advertising on TV channels

- A5.75 We have identified the following main options:
- a) Option 1 - the status quo. Currently, PSBs are permitted a daily average of 7 minutes an hour of advertising whereas non-PSBs are permitted 9 minutes. Each may use up to 12 minutes in any one hour, though PSBs are subject to further restrictions in peak-time viewing;

- b) Option 2 – levelling up. This option – in its two permutations - would remove the differential between PSBs and non-PSBs and allow all channels to broadcast the same number of minutes of advertising per hour: either 9 minutes an hour (the current maximum allowed to non-PSB channels, or 12 minutes (the maximum permitted under the AVMS Directive); and
- c) Option 3 – levelling down. Under this option, non-PSB channels would be limited to a daily average of 7 minutes of advertising per hour, in line with PSBs (but there would not be any additional restrictions on advertising in peak).

Options for regulating peak-time minutage on PSB channels

A5.76 In addition to their daily minutage restrictions, PSBs must currently limit their advertising to an average of 8 minutes an hour during the morning and evening peak-time periods (7am to 9am, and 6pm to 11pm respectively)³⁷. In other words, PSBs can only show up to 16 minutes of advertising per day in morning peak, and 40 minutes of advertising per day in evening peak.

A5.77 In the light of responses to the March 2008 document, we have identified the following main options:

- a) Option 4 – the status quo i.e. no change to the current peak time restrictions.
- b) Option 5 – relaxing peak-time restrictions. This option would involve loosening the peak-time restrictions for PSBs from 8 minutes to 9 minutes per hour;
- c) Option 6 - weekly averaging of peak-time restrictions. As described above, PSBs are currently limited to a peak-time average of 8 minutes an hour. This is equivalent to a 40 minute daily cap on the amount of advertising that can be shown in the five hours that constitute evening peak³⁸. In response to the March consultation, a PSB put forward a proposal that PSBs should be allowed to substitute this daily cap of 40 minutes for an ‘equivalent’ weekly cap of 280 (7 x 40) minutes³⁹ i.e. there would be more flexibility in how they scheduled the minutage across the week.

A5.78 In the following section (‘Impact of options on share of commercial impacts’), we look first at how the status quo affects broadcasters, viewers and advertisers. We then consider how the different options would affect the share of commercial impacts for a range of different channels. The following section (‘Impact of options on net advertising revenues’) examines how this would affect net advertising revenues. In the latter section, we consider the impact of alternatives to the status quo on stakeholders – broadcasters, viewers and advertisers – of the different options.

Impact of options on share of commercial impacts

A5.79 In the following assessment, the ‘status quo’ provides the reference point for assessing the extent of change. The modelling procedure is as detailed in the

³⁷ Note that our modelling of these options has been based on the existing rules regarding the definition of peak time i.e. both a morning and an evening peak.

³⁸ Similarly, this restriction amounts to a 16 minute cap on the amount of advertising that can be shown in the two hours that constitute morning peak.

³⁹ If implemented, this option would grant PSBs extra flexibility to exceed the current 40 minute cap on peak-time advertising in any one day, provided this was offset by an equivalent reduction in peak-time advertising on some other day in the week.

Impact Assessment in the March 2008 document, subject to the refinements discussed above, e.g. the increase in the volume of impacts is scaled back by 10%.

Option 1 – Status Quo

A5.80 The status quo option is to retain the existing rules whereby PSBs are permitted a daily average of 7 minutes an hour of advertising whereas non-PSBs are permitted 9 minutes. Each may use up to 12 minutes in any one hour but PSBs are subject to additional restrictions in that they are not allowed more than an average of 8 minutes of advertising per hour in peak hours.

Impact on broadcasters

A5.81 As set out in the main document, we do not expect this option to have any particular impact on broadcasters. The current system has been in place since 2000: it is therefore well understood and broadcasters currently optimise their inventory against these constraints.

A5.82 In response to the March 2008 document, broadcasters indicated on balance that they would prefer the status quo because they were concerned that their advertising revenues would at best remain static. Broadcasters also expressed concern that advertisers could be put off by an increase in on-screen “clutter” i.e. there was a risk that an increase in the amount of advertising minutage would reduce the effectiveness of television as an advertising medium.

Impact on advertisers

A5.83 The economic framework we set out in the March 2008 document indicated that an effect of the current constraints could be that the price of advertising on PSBs was higher than might be the case if the current restrictions were not in place. Thus it was possible that the status quo would mean that advertisers were paying too much. However, advertisers have not chosen to argue that this was a particular concern of retaining the status quo. In fact the main concern expressed by advertisers was that changes to the current system could result in a devaluation of the effectiveness of television as an advertising medium.

A5.84 In response to the March 2008 document advertisers indicated on balance that they preferred the status quo.

Impact on viewers

A5.85 As indicated in the main document, we considered that the status quo would mean little or no change for viewers. Given that broadcasters aim to optimise the delivery of audiences against their schedule, it would be unlikely that broadcasters would change their current advertising patterns significantly if there were no change in the existing rules. Of course, there could be changes to advertising patterns in response to changing audience demographics but such changes tend to be gradual.

A5.86 Responses to the March 2008 document document and the deliberative research also indicated that viewers preferred the status quo.

A5.87 For the other options – for both the overall volume of advertising minutage and changes to peak time restrictions we start by considering the impact on the volume

of commercial impacts delivered before going on to consider the potential impact on advertising revenues.

Option 2 – levelling up

A5.88 Two variants are considered under this option, namely:

- a) raising the daily average for PSBs from 7 minutes to 9 minutes an hour (whilst holding non-PSBs at the present 9 minute average); and
- b) full liberalisation for all channels to 12 minutes an hour.

A5.89 While we note that none of our UK -focused stakeholders expressed any support for the full liberalisation option in the initial consultation, there was some support from broadcasters based in the UK who target other Member States.

Table 1: Estimated impact of levelling-up on the delivery of commercial impacts

Option 2	a) Raising the PSB daily average to 9 minutes			b) Full liberalisation to 12 minutes	
	Current SOCI	New SOCI	% change in impacts	New SOCI	% change in impacts
ITV1	31.7%	32.4%	8.0%	35.2%	37.1%
Channel 4	13.6%	14.5%	12.3%	14.7%	33.5%
Five	8.6%	9.0%	10.0%	9.1%	30.9%
GMTV	2.3%	2.7%	21.2%	2.8%	49.8%
S4C	0.2%	0.2%	17.6%	0.2%	48.7%
ITV Sales	38.8%	39.1%	6.6%	41.3%	31.6%
Channel 4 Sales	18.6%	19.2%	9.0%	19.1%	26.6%
Five Sales	10.2%	10.5%	8.4%	10.6%	28.0%
GMTV Sales	2.8%	3.1%	17.7%	3.2%	41.4%
Other non-PSBs	29.4%	27.9%	0.0%	25.7%	7.7%

A5.90 In scenario (a), there is no change in the minutage rules applying to the non-PSB channels, therefore the clear beneficiaries would be the PSBs. However, there are differences in the extent to which different PSBs might benefit from this type of change.

A5.91 Firstly, it is important to recognise that any scenario which relaxes the overall daily minutage, whilst maintaining the current peak-time restrictions, only affects the amount of advertising that can be shown off-peak. With this in mind, we note that ITV1’s audiences are heavily concentrated in evening peak: we estimate that only 34% of its current impact delivery takes place in off-peak hours although they account for 76% of its broadcast day⁴⁰. As a result raising the overall daily average to 9 minutes an hour represents a 29% increase in minutage for ITV1 but only results in an 8% increase in commercial impacts. This is because ITV1 would be restricted from scheduling the additional minutage in its most valuable clock hours.

A5.92 In contrast, Channel 4’s pattern of impact delivery is more evenly distributed between peak and off-peak, with around 50% of its impacts generated outside of evening peak. As a result, in comparison to ITV1, an increase in the overall daily

⁴⁰ Note that ITV typically only broadcasts for approximately 20.5 hours a day, with GMTV accounting for the remainder.

minutage to 9 minutes an hour results in a greater increase in the volume of impacts – estimated at just over 12%. Meanwhile, in terms of the distribution of impact delivery between peak and off-peak, Five sits somewhere between Channel 4 and ITV1. As a result, its volume of commercial impacts is estimated to increase by 10% under this option.

- A5.93 Given that there is no change in the rules applying to non-PSB channels, the effect of scenario (a) is to increase the PSBs' SOCI at the expense of the non-PSB channels. However, because non-PSB channels do not benefit under this option, there is an offsetting effect on the sales houses of the PSBs in that their respective portfolios of digital channels would be adversely affected. Therefore, although the main PSB channels would stand to increase their SOCI under these changes, there would be a reduction in SOCI for their non-PSB portfolio channels – reducing the overall impact on their respective sales houses. We estimate that the net effect of this option would be that the 'other non-PSBs'⁴¹ together would lose around 1.5 percentage points in SOCI to the PSBs and their portfolios of channels.
- A5.94 Scenario (b) – full liberalisation – has the potential to result in a significant increase in the number of commercial impacts for several channels. For PSBs especially, this option could represent a significant increase in the amount of minutage that can be dedicated to advertising, which could result in an increase in the volume of impacts of over 30% for all the PSBs – nearly 50% for GMTV and S4C. However, as set out in the March 2008 document, we recognise that such a significant increase in the amount of advertising airtime does call into question our modelling assumption that there would be no change in audience size. This is therefore very much an upper estimate and we are not sure how much weight can be attached to our modelling of this scenario.
- A5.95 We have considered using a sensitivity analysis to examine the impact of this change but there does not appear to be any relevant research in this area which might enable us to develop a reasonable range of sensitivities to consider. None of the responses to the March 2008 document addressed this specific point in any detail. We would welcome input from respondents on this issue.
- A5.96 Even though non-PSBs also benefit from a relaxation of the rules under this scenario, the modelling indicates that any increase in impacts would be dwarfed by the increase in impacts accruing to PSB channels. Overall we estimate that the non-PSB digital channels would experience a reduction in their SOCI of around 3.8%.
- A5.97 The overall percentage increase in the volume of impacts for "Other non-PSB channels" may seem particularly low compared to the increases projected for PSB broadcasters. However, this is because our data indicates that a large number of these channels do not currently use all their permitted airtime i.e. they appear to have unsold inventory. As set out in the March 2008 document, we have assumed that they would not be able to take advantage of increases in minutage.

IA Q3: Do you agree with our assessment of the impacts on stakeholder groups of this option and variants upon it? Please explain your reasoning, providing any evidence where relevant.

⁴¹ By the term 'other non-PSBs', we mean all non-PSBs except for the PSB spin-off channels owned by ITV, Channel 4 and Five.

Option 3 – levelling down

A5.98 In this scenario, the non-PSB daily average is harmonised downwards to the current PSB daily average of 7 minutes per hour. Note that this scenario does not apply the PSB peak-time restrictions to non-PSBs.

Table 2: Estimated impact of levelling-down on the delivery of commercial impacts

Option 3	Current SOCI	7 minutes per hour daily average for non-PSBs	
		New SOCI	% change in impacts
ITV1	31.7%	32.6%	0.0%
Channel 4	13.6%	14.0%	0.0%
Five	8.6%	8.9%	0.0%
GMTV	2.3%	2.4%	0.0%
S4C	0.2%	0.2%	0.0%
ITV Sales	38.8%	39.4%	-1.5%
Channel 4 Sales	18.6%	18.9%	-1.1%
Five Sales	10.2%	10.5%	-0.5%
GMTV Sales	2.8%	2.8%	-1.9%
Other non-PSBs	29.4%	28.2%	-6.9%

Impact on broadcasters

A5.99 Under this option, the rules governing PSBs do not change. This means that our modelling approach assumes that overall impact delivery is also unaffected. For non-PSBs however, a tightening of the rules to 7 minutes an hour – combined with an assumption of no change in audiences – results in a reduction in the amount of impacts that can be generated. In particular, our modelling indicates that a 22% reduction in minutage (as is implied by this option) could lead to a fall in the volume of impacts of just under 7% for non-PSBs.

A5.100 In terms of SOCI, the effect of tightening the daily minutage restrictions for non-PSBs is then similar to relaxing the daily minutage for PSBs (see above); i.e. the “Other non-PSBs’ would lose just over 1 percentage point in SOCI to the PSBs and their portfolios.

Option 5 – relaxing peak-time restrictions:

A5.101 This option involves loosening the peak-time restrictions for PSBs from 8 minutes to 9 minutes per hour, whilst maintaining the current rules for non-PSBs.

Table 3: Estimated impact of relaxing the cap on peak-time minutage on the delivery of commercial impacts

Option 5	Raising the peak time allowance for PSBs to 9 minutes per hour		
	Current SOCI	New SOCI	% change in impacts
ITV1	31.7%	32.7%	7.0%
Channel 4	13.6%	14.0%	6.4%
Five	8.6%	8.7%	5.3%
GMTV	2.3%	2.3%	3.2%
S4C	0.2%	0.2%	6.3%
ITV Sales	38.8%	39.6%	5.8%
Channel 4 Sales	18.6%	18.8%	4.6%
Five Sales	10.2%	10.3%	4.5%
GMTV Sales	2.8%	2.7%	2.7%
Other non-PSBs	29.4%	28.4%	0.0%

A5.102 It is important to point out that because we have assumed that PSBs must still adhere to a 7 minute daily average, this option does **not** constitute an overall increase in the amount of advertising that can be shown over the course of the day. Rather, it would allow PSBs the extra flexibility to *reallocate* up to 5 minutes of advertising from off-peak to evening-peak (and 2 minutes from off-peak to morning peak) in any given day.

A5.103 Our modelling indicates that ITV1 would stand to benefit more from this seemingly more limited change than from a relaxation in the overall daily average (see Table 1 above). Specifically, we estimate that this would generate a 7% increase in the volume of commercial impacts and result in an increase in SOCI of one percentage point. As referred to above, this is due to the fact that ITV1's impact delivery is heavily reliant on evening-peak, with these 5 hours generating 66% of the channel's impacts.

A5.104 In contrast, Channel 4 and Five benefit to a lesser degree than under an increase in overall daily minutage in terms of both the volume of impacts and SOCI. Meanwhile, the impact delivery of non-PSBs is once again unchanged in our modelling as they face the same rules as before. In terms of SOCI, we estimate that this will cause non-PSBs to lose 1 percentage point of SOCI to PSBs and their portfolio channels.

Option 6 – weekly averaging of peak-time restrictions

A5.105 Table 4 presents the estimated impact of allowing PSBs to aggregate their existing peak-time minutage over the week, giving them 280 evening peak minutes to allocate at any point in the week⁴² instead of the current restriction of up to 40 minutes per day⁴³.

⁴² Subject to the 12 minute cap in any given clock-hour.

⁴³ Note, this option also allows PSBs to average their morning peak minutes in the same manner.

Table 4: Estimated impact of allowing weekly averaging of peak-time minutage on the delivery of commercial impacts

Option 6	Allowing PSBs to average their peak-time minutage across the week		
	Current SOCI	New SOCI	% change in impacts
ITV1	31.7%	32.6%	7.3%
Channel 4	13.6%	14.5%	11.6%
Five	8.6%	8.8%	6.6%
GMTV	2.3%	2.2%	0.0%
S4C	0.2%	0.2%	0.0%
ITV Sales	38.8%	39.3%	6.0%
Channel 4 Sales	18.6%	19.3%	8.5%
Five Sales	10.2%	10.3%	5.6%
GMTV Sales	2.8%	2.7%	0.0%
Other non-PSBs	29.4%	28.2%	0.0%

- A5.106 As with the previous option, it is important to point out that because we have assumed that PSBs must still adhere to a 7 minute daily average, this option does not constitute an overall increase in the amount of advertising that can be shown over the course of the day⁴⁴. However, it does allow PSBs the extra flexibility to reallocate peak minutes *across the week* (this is a key difference with the previous option).
- A5.107 Under this proposal, PSBs might find it attractive to transfer some advertising minutage from early evening-peak during weekdays and reallocate these minutes to peak times at weekends. In doing so, they would be allowed to exceed the current 40 minute daily cap on advertising in evening peak on some days, provided this was offset by a corresponding reduction in advertising during evening-peak on other days in the week. In principle, PSBs would be able to schedule up to the maximum 12 minutes per hour for an entire evening: that is up to 60 minutes of advertising during evening peak on certain days. We anticipate that the biggest changes could be in the 6-7pm and 10-11pm slots in that at present, the PSBs already tend to schedule close to the 10-11 minutes per hour of advertising between 7-10pm.
- A5.108 As discussed above, modelling these factors required a much more detailed dataset, unfortunately for which data on S4C was not available. Therefore, the modelling of this option has so far assumed no change for S4C.
- A5.109 In addition, because GMTV does not broadcast in evening peak (and is in fact already permitted special dispensation with regards to the reallocation of its minutage across the week), we assume that they do not benefit from any additional flexibility under this option.
- A5.110 Our modelling indicates that ITV1 and Channel 4 would be the main beneficiaries under this proposal with them experiencing an increase in impacts of just over 7% and just under 12% respectively. We estimate that both channels would gain just under a percentage point in SOCI, although their respective non-PSB portfolio

⁴⁴ The original proposal by the PSB suggested that, in some cases, the overall daily average of 7 minutes an hour might be exceeded. However, the option we have explored maintains the overall daily average of no more than 7 minutes per hour.

channels will suffer a decrease in SOCI which would partially offsets this. We estimate that Five could see a 6.6% increase in impacts but that its share of SOCI would increase by 0.2 percentage points.

- A5.111 As a result of the extra flexibility afforded to PSBs, we estimate that ‘non-PSBs’ not owned by PSBs would lose just over a percentage point in SOCI.

Impact of options on net advertising revenues

A5.112 As mentioned above, we have decided not to continue with the constant price premium and unitary price premium approaches to measuring revenue changes. Instead, we have focused on the price elasticity approach. In doing so, we have attempted to take account of stakeholders’ responses by indicating the results for a range of price elasticities. In the following tables, we present our estimates of changes in NAR under each option using our central estimates of the price elasticity of demand and also for a range either side of this central estimate.

A5.113 As noted above, we have exercised considerable caution in applying this methodology to options which generate particularly large changes in volume of commercial impacts. We would also mention that the overall impact on broadcasters of any changes will be influenced by other factors that influence the overall demand for TV advertising market e.g. the macro-economy and the impact on corporate profitability. Against a backdrop of some uncertainty about the TV advertising market, we would suggest that our results need to be treated with a degree of caution.

A5.114 We have also only presented aggregate results rather than results for individual channels for reasons of commercial confidentiality.

Option 2 – levelling up:

A5.115 Although we have looked at changes in the volume of impacts for two variants of this option, given the increase in the volume of impacts, we do have concerns that our estimates of price elasticity would not be valid in the case of the full liberalisation option. As indicated above, our estimates of the price elasticity of demand would be valid for increases in the volume of impacts of up to 10-15%. For a larger increase, the demand function on which our elasticity estimates are based may need to be re-specified. As a result, we do not feel that we can reliably quantify the effect of the full liberalisation option on broadcasters’ revenues. However, we refer the reader to our estimates of the changes in the volume of impacts implied by this option (see above) in order to get some sense of the scale of this option.

Impact on broadcasters

A5.116 In the following table we present our estimates of how a relaxation in the PSB daily average from 7 to 9 minutes is likely to affect broadcasters’ revenues.

Table 5: Estimated impact of levelling-up on net advertising revenues⁴⁵

Option 2	a) Raising the PSB daily average to 9 minutes					
	Change in NAR (£m)			Percentage change in NAR		
<i>PSB price elasticity</i>	1.00	1.44	2.00	1.00	1.44	2.00
PSBs	0.0	68.9	113.9	0.0%	2.9%	4.8%
PSB sales houses	-34.7	44.3	95.8	-1.3%	1.6%	3.5%
Other non-PSBs	-64.8	-45.9	-33.6	-9.0%	-6.4%	-4.7%

- A5.117 If we apply the central elasticity estimate, our modelling indicates that PSBs could increase their NAR by almost £70m, or around 3% of current PSB NAR. ITV1 and Channel 4 would be the main beneficiaries of this change in absolute terms, although all of the other PSBs experience a greater proportionate increase in own NAR.
- A5.118 However, when we consider the PSB sales houses as a whole, the net change in NAR for PSBs falls to roughly £44m. This is because we have assumed in our modelling that the increase in PSB commercial impacts drives down the price not only that PSBs can command for TV advertising but also – through an assumed stable price ratio – the price that non-PSBs can command for television advertising as well. Because non-PSBs do not benefit from any increase in minutage the modelling implies that they suffer a loss in revenue. On balance therefore, PSB sales houses only gain a 1.6% increase in NAR under our central estimate.
- A5.119 Our use of a stable price ratio between PSB and non-PSB channels means that the remaining non-PSBs also suffer a loss in NAR. We estimate that the other non-PSB channels suffer a revenue loss of just under £46m in the central case, which amounts to a 6.4% fall in total non-PSB NAR.
- A5.120 Overall, under our central price elasticity estimate, we note that our modelling implies a slight fall in overall industry revenue (around £1.5m). The main effect of this proposal is a re-distribution of revenue from non-PSB channels to PSB channels.
- A5.121 However, under our lower-case price elasticity estimate we can see that the change in PSB impacts does not generate any additional revenue for them. In this scenario, an increase in PSB impacts does not change the revenue to PSBs and simply leads to a reduction in the price faced by non-PSBs, and as a result a significant fall in the advertising revenues for non-PSBs.
- A5.122 In contrast, if the PSB elasticity were as high as 2, then the revenue gains to PSBs would increase to approximately £114m (or by 4.8%). This is driven by the fact that the greater is the PSB elasticity, the lower the proportionate fall in price in response to a given change in impacts – and therefore the greater the increment in revenue. Overall industry revenue would increase by some £62m under this scenario.
- A5.123 One might expect that the increase in revenue for PSB channels would allow them to increase (or at least maintain) the level of investment in PSB programming. On the other hand, the reduction in revenue for non-PSB channels could result in more imported programming; more repeats, lower quality programming or even in some cases the closure of some smaller channels.

⁴⁵ As mentioned above, all the revenue estimates are based on data for 2007.

Impact on advertisers

A5.124 An increase in the overall amount of advertising allowed for PSBs should benefit advertisers in that it would lead to a fall in the price of advertising on those channels. However, an increase in the volume of advertising on PSBs and/or an adverse impact on the quality of non-PSB channels could reduce the effectiveness of television as an advertising medium. This could constrain the ability of advertisers to target particular audiences/customer groups as effectively as before.

Impact on viewers

A5.125 We recognise that viewers have indicated that they are opposed to any increase in the overall amount of advertising. They would regard an increase in the amount of advertising as an increase in the “price” they pay for television. In terms of the redistribution of revenue from non-PSBs to PSBs the impact on viewers is mixed. On the one hand there could be more money to fund programming on the PSB channels. On the other there would be reduced funding for non-PSB channels which could mean more imported programming; more repeats, lower quality programming or even in some cases the closure of some smaller channels.

Option 3 – levelling down**Table 6: Estimated impact of levelling-down on net advertising revenues**

Option 3	Central elasticity estimate	
	Change in NAR (£m)	Percentage change in NAR
PSBs	50.4	2.1%
PSB sales houses	32.7	1.2%
Other non-PSBs	-34.2	-4.8%

Impact on broadcasters

A5.126 For this scenario we have only presented results for our central assumption. Our modelling approach is based on an assumption of a stable price ratio⁴⁶ between PSBs and non-PSB channels. In this scenario, the levelling down approach implies an increase in the price for advertising on non-PSB channels which – through our price ratio assumption - would also imply an increase in price for PSB channels. It should be noted that we are not convinced that the stable price ratio assumption would be valid in this hypothetical scenario. We are not, however, in a position to make a judgement as to whether the price ratio might increase or decrease. We would welcome industry input as to what be the impact on relative prices under this scenario might be.

IA Q4: In the event that there were to be a reduction in the amount of airtime allowed for non-PSB channels, what would be the effect on the price of advertising on these channels? Would there be any effect on the relative prices of advertising between PSB and non-PSB channels? If so, please explain.

⁴⁶ See discussion of this modelling assumption at para 4.154 of the March consultation document.

A5.127 As set out above, the impact of levelling down would appear to result in a loss of revenue to non-PSB channels and an increase in revenue to PSBs. As such the impact on broadcasters might be expected to be broadly similar to that for Option 2.

Impact on advertisers

A5.128 On the one hand viewers have indicated that they would prefer less advertising (see below) so that this option could result an improvement in the effectiveness of television as an advertising medium e.g. if viewers now paid more attention to advertising and this would be to the benefit of advertisers. However, it is likely that non-PSB channels would continue to show as much advertising as they could at times of peak-viewing, which might tend to negate these effects. Moreover, if the effect of the redistribution of revenue from non-PSBs to PSBs was to result in a worsening of programming on non-PSB channels then there could be an offsetting loss of audiences for these services while at the same time there would be no need for PSBs to change the amount of advertising that they offered.

Impact on viewers

A5.129 Although, as indicated in the main document, viewers would be likely to welcome a reduction in the amount of advertising, it is not in fact clear that Option 3 would have much impact on viewers. A significant proportion of viewing time remains on PSB channels – which would not be affected by this Option – and on non-PSB channels broadcasters would maintain the current levels of advertising at the times when most people are likely to be watching. It would only be around the fringes of the schedules of non-PSB channels e.g. late at night when viewers might notice a reduction in the amount of advertising.

Ofcom's initial views

A5.130 Ofcom has considered which of the options for regulating the overall amount of advertising minutage (including the status quo) are likely to contribute more to the regulatory objectives set out in paragraphs A5.9 to A5.10. Our initial view, subject to considering the views of consultees, is that the status quo may strike the best balance between maintaining a wide range of high quality television services, and the opinions of consumers, who appear not to favour an increase in advertising minutage.

A5.131 By contrast, the options of:

- a) levelling up the amount of advertising (Option 2) would clearly be unpopular with consumers. Moreover the redistribution of advertising revenue from non-PSB channels to PSB channels would be likely to be reflected in reduced programming budgets for non-PSB channels, and could conceivably lead to the closure of some channels. The outcome could be a reduced range or quality of television services for viewers; or
- b) levelling down the amount of advertising (Option 3), while likely to be popular with consumers, could have similar effects on the distribution of advertising revenue between PSB and non-PSB channels to those of Option 2.

A5.132 Given the difficulties inherent in estimating the likely impact of the various options, and the different estimates of some broadcasters, we are also mindful of the risk of placing too much reliance upon the comparative estimates of the impacts,

particularly at a time when television advertising revenues are contracting. For these reasons, Ofcom's initial preference is for maintaining the status quo.

Relaxing peak-time restrictions

Option 4 – status quo

Impact on broadcasters

A5.133 As set out in the main document, we do not expect this option to have any particular impact on broadcasters. The current system has been in place since 2000: it is therefore well understood and broadcasters currently optimise their inventory against these constraints.

A5.134 However, in responses to the March 2008 document, it is clear that at least one PSB considers that the specific rules on peak time minutage do restrict its flexibility i.e. continuing with the status quo imposes a "cost" on it.

Impact on advertisers

A5.135 Again, the implication of the economic framework we set out in the March document is that an effect of the current constraints could be that the price of advertising at peak times on PSBs was higher than might be the case if the current restrictions were not in place. Thus it was possible that the status quo would mean that advertisers were paying too much.

A5.136 In response to the March 2008 document advertisers indicated on balance that they preferred the status quo to any changes to the peak time rules on PSBs.

Impact on viewers

A5.137 As indicated in the main document, we considered that the status quo would mean little or no change for viewers. Given that broadcasters aim to optimise the delivery of audiences against their schedule, it would be unlikely that broadcasters would change their current advertising patterns significantly if there were no change in the existing rules. Of course, there could be changes to advertising patterns in response to changing audience demographics but such changes tend to be gradual.

A5.138 As indicated in the main document, responses to the March 2008 document indicated that viewers would prefer the status quo.

Option 5 – relaxing peak-time restrictions**Table 7: Estimated impact of relaxing the cap on PSB peak-time minutage on net advertising revenues**

Option 6	Raising the peak time allowance for PSBs to 9 minutes per hour					
	Change in NAR (£m)			Percentage change in NAR		
<i>PSB price elasticity</i>	1.00	1.44	2.00	1.00	1.44	2.00
PSBs	0.0	46.7	76.9	0.0%	2.0%	3.2%
PSB sales	-23.3	30.4	65.2	-0.8%	1.1%	2.4%
Other non-PSBs	-43.5	-30.3	-21.8	-6.1%	-4.2%	-3.0%

Impact on broadcasters

- A5.139 Although this Option raises the peak time allowance for PSBs from 8 minutes per hour to 9 minutes per hour (equating to a total of 45 minutes of advertising across the evening peak), in aggregate, the results of this option appear very similar to those for Option 2 i.e. relaxing the daily average. However, on closer inspection these two options have very different implications for the distribution of benefits between broadcasters.
- A5.140 Our central elasticity estimates suggest that PSBs would benefit from an increase in net advertising revenue of just under £47m. However, after taking into account the impact on their non-PSB digital channels, the net increase would be just over £30m. Our modelling suggests that the other non-PSB channels would lose around £30.3m in NAR. Again this would suggest that overall there would be little change in overall industry NAR – rather there would be a redistribution from non-PSB to PSBs.
- A5.141 In particular, ITV1 is expected to benefit more from increased peak-time minutage than from increases in the overall amount of daily minutage. In contrast, based on our estimates, all the other PSBs would have benefited more from an increase in daily minutage.
- A5.142 As mentioned earlier, this is indicative of the fact that additional flexibility during evening peak is particularly valuable to ITV1, given that it already generates 66% of its current impact delivery during these clock hours. Whilst Channel 4 and Five also generate a significant proportion of impacts during evening peak, their schedules are less skewed than ITV1's.
- A5.143 If we assume that elasticity of demand for PSBs is at the lower end of our estimates then the main effect of this proposal would be no net change in the position of the PSBs channels but there would be a loss in overall industry revenue. If the elasticity of demand for PSB channels is greater than the central estimate, then the effect could be a net increase in industry revenue of around £43m but non-PSB broadcasters would still suffer a loss (of just over £20m). Again, ITV1 would be the main beneficiary, both in proportionate and absolute terms, although all PSBs would benefit at the expense of non-PSBs.

Impact on advertisers

A5.144 This option could have benefits for advertisers. We would expect there to be some reduction in the price of advertising. At the same time it would increase the amount of advertising in parts of the schedule which are likely to be particularly attractive to advertisers i.e. mass audience programming. We do not anticipate a particular adverse reaction in terms of a reduction in audiences in that viewers already see close to 12 minutes an hour of advertising between 7-10pm on PSB channels so that the effectiveness of television as an advertising medium should not be affected.

Impact on viewers

A5.145 In the first instance, we would expect this option to be perceived as having a detrimental impact on viewers: there would be an increase in the effective price of watching television at peak times i.e. at times when large numbers of viewers are likely to want to watch. However, if there were to be a concomitant increase in the amount invested in programming by the PSBs resulting in better quality programming then that might offset the negative impact outlined above.

Option 6 – weekly averaging of peak-time restrictions

Table 8: Estimated impact of weekly averaging of PSB peak-time minutage on net advertising revenues

Option 6	Allowing PSBs to average their peak-time minutage across the week					
	Change in NAR (£m)			Percentage change in NAR		
<i>PSB price elasticity</i>	1.00	1.44	2.00	1.00	1.44	2.00
PSBs	0.0	58.7	96.8	0.0%	2.5%	4.1%
PSB sales houses	-28.3	39.1	82.9	-1.0%	1.4%	3.0%
Other non-PSBs	-52.8	-36.5	-25.8	-7.4%	-5.1%	-3.6%

Impact on broadcasters

A5.146 As set out above, this option allows PSBs to aggregate their existing peak-time minutage over the week, giving them 280 evening peak minutes to allocate at any point in the week⁴⁷ instead of the current restriction of up to 40 minutes per day.

A5.147 Under this option our central case suggests that PSBs might derive an increase in NAR of just under £60m with the main beneficiaries being ITV1 and C4. In the case of ITV1 the increase in NAR would be slightly higher than the previous option i.e. an increase in peak time minutage, but the increase for C4 under this option would also be more significant.

A5.148 Once we have taken into account the impact on the PSBs' digital channels and the other non-PSB channels, the net effect would be a very small increase in overall industry NAR but again the key effect would be a redistribution of revenue from non-PSB to PSB channels.

A5.149 As with previous scenarios, looking at the estimates of price elasticity either side of our central case, if price elasticity is lower for PSBs then the overall impact is a fall in overall industry NAR and no benefit to PSBs. If the elasticity of demand is greater

⁴⁷ Subject to the 12 minute cap in any given clock-hour.

than in the central assumption then there is a growth in overall industry NAR but there is still a negative effect on non-PSBs broadcasters of just under £26m.

Impact on advertisers

A5.150 The impact of this option on advertisers is perhaps less clear cut than that of Option 5. An increase in the amount of advertising could be expected around the mass audience programmes. At other times in the peak schedule there would be a reduction in the amount of advertising airtime and this might constrain some advertisers' ability to target particular demographics.

Impact on viewers

A5.151 The impact on viewers of this option could be more significant than that for Option 5. Although the overall amount of advertising in peak would not change across the week, it is possible that there could be a significant increase in the amount of advertising on certain days. Under this proposal, it would be possible in theory – on some days – for a broadcaster to schedule 60 minutes of advertising between 6-11pm. This would represent a 50% increase on the current 40 minutes that is permitted. Of course this would be offset by a reduction in advertising on other evenings during the week. However, given the potential scale of increase on certain evenings – when large numbers of viewers are watching – we would expect there to be a detrimental impact overall.

Ofcom's initial views

A5.152 Due in part to the fact that most stakeholders have not had a prior opportunity to comment on Option 6, Ofcom has not formed a view as to whether changes should be made to the current rules on peak-time advertising, and if so, what.

Advertising in breakfast time slots

A5.153 GMTV1 broadcasts from 6am to 9.25am on ITV1, and, in common with other public service broadcasters, has an advertising allowance of 7 minutes for every hour of transmission. This brief slot limits GMTV's ability to optimise advertising allowance across the day. For this reason, Ofcom allowed GMTV to optimise its allowance over the week, while ensuring that it did not exceed an average of 7 minutes an hour over each week, and a daily average of 9 minutes an hour (outside the peak-hour slot between 7am and 9am). These arrangements enable GMTV to schedule more advertising during the adult programmes it shows during the week, by reducing advertising from children's programming at weekends.

A5.154 GMTV's ability to earn advertising revenue is also constrained by the designation of the period from 7am to 9am as peak, which limits its advertising allowance for this period to 7 minutes an hour (the same as evening peak). There is relatively little variation in viewing figures between 7am to 9am, and audiences are not substantially higher than daytime audiences. We therefore propose that advertising in this slot be regulated in the same way as advertising at other non-peak times of the day. GMTV would continue to earn 7 minutes of advertising for every hour it transmitted programmes, but would be allowed to schedule up to 12 minutes an hour in any one hour.

A5.155 If this proposal is adopted, Ofcom believes that that GMTV is likely to schedule more advertising during times when its programmes attract most viewing, that is between about 6.30 am to 8am during weekdays. It would schedule

correspondingly less advertising during periods when fewer people were watching, for example on weekend mornings.

Impact on broadcasters

A5.156 We do not believe that there would be a significant impact on PSB channels other than GMTV, or on non-PSB channels. It is likely that GMTV will be able to increase its SOCI, but given the constraints it faces (notably the restricted hours of its schedule, and the limit of an average of 7 minutes an hour of advertising), we believe that the impact on any stakeholders will be very limited. There are likely to be small incremental benefits to GMTV, and these will help it to maintain the range and quality of its programming.

A5.157 With the exception of PSB channels, broadcasters have not had an opportunity to comment on this option. PSB channels have indicated that they do not object to these proposed changes.

Impact on viewers

A5.158 As breakfast-time television tends to be watched for relatively short periods, a viewer might expect to see an additional minute or two of advertising during a viewing session. Although the change may allow GMTV to earn more advertising revenue, the impacts are unlikely to be noticeable, when set against general fluctuations in advertising revenue.

Impact on advertisers

A5.159 The changes will mean that GMTV is able to schedule more of its advertising allowance at times when more people are watching. This will be a modest benefit to advertisers seeking to reach breakfast-time audiences.

Ofcom's initial views

A5.160 The current rules on advertising in breakfast-time are an exception to the general rules applying to advertising on public service channels. They were put in place in recognition of the likelihood that audiences might peak at breakfast-time. Since then, the television market has changed substantially; viewers have many other choices during this period, and audiences for this channel no longer peak between 7am and 9am.

A5.161 In the light of the regulatory objectives set out in paragraphs A5.9 to A5.10, Ofcom has considered whether continuing to designate this period as 'peak-time' is justifiable. The changes are not likely to have a significant impact one way or the other on the range, quality and appeal of television services available to viewers; it is possible that they will make it easier for GMTV to sustain the provision of high quality, varied content. Given that audiences no longer peak in this period, it does not appear to Ofcom that it would be consistent or proportionate to maintain the current rules. We therefore believe that regulating the amount of advertising during this period in the same way as other non-peak periods is appropriate.

Section 3: Assessment of Frequency Options

Number of internal advertising breaks

Summary of analysis in March 2008 document

- A5.162 In the March 2008 document, we set out the economic framework to be used as a starting point to assess the impact of different options for regulating the number of breaks within programmes ('internal breaks'). Essentially, this analysis assumed that the impact of any changes to the current regulation could be broken down into a demand response and a supply response.
- A5.163 On the demand side, Ofcom understands that a greater frequency of internal breaks (within a fixed amount of advertising airtime) would provide advertisers with a higher share of break, and also more first and last in break positions. The research available to Ofcom appears to suggest a clear benefit to advertisers from an increased share of break, both in terms of lower drop-off in ratings⁴⁸, and increased effectiveness in raising the degree of brand recall⁴⁹. Although there is no definitive evidence on the benefits of being first and last in break⁵⁰, in response to the March 2008 document some broadcasters indicated that these positions are valuable. The evidence also seems to suggest that shorter, more frequent breaks are likely to yield higher brand recall, and are therefore likely to be more highly valued by media buyers.
- A5.164 If 'shorter-sharper breaks' were to raise brand recall, or if viewers tend to be more receptive to advertisements that appear first and last in break, then changes to the rules on break frequency could have the effect of improving the overall effectiveness of TV as an advertising medium. In other words, a given volume of advertising would be more valuable to advertisers, and as a result we would expect advertisers to be willing to pay more for advertising. This can be represented by an increase in the *demand* for advertising.
- A5.165 By similar arguments, if shorter, more frequent internal breaks encourage less of a 'drop-off' in audiences then – even though the overall amount of advertising is unchanged – there would be an increase in the overall *supply* of commercial impacts.
- A5.166 The combination of an increase in the demand and an increase in the supply of commercial impacts would have the effect of increasing the overall size of the advertising market in terms of quantity of impacts traded. However, the effect on the price of advertising could be ambiguous as it would depend on the relative size of the demand and supply responses. Whereas the demand response would tend to have an inflationary effect on the price of advertising (as advertisers would be willing to pay more), the supply response would tend to have a deflationary effect as the supply of commercial impacts increased. This makes it difficult to be definitive about the impact of options concerning the number of advertising breaks.

⁴⁸ June-Young Song (2005)

⁴⁹ Billets Share of Break Study (1993)

⁵⁰ Tse & Lee (2001), Journal of Advertising Research found that the first two positions in an advertising break have the lowest recall and the last two positions in the break have the highest recall. Billets Share of Break study found that spots which are first and last in break have the highest recall whereas Carat Foretel found the opposite.

Consultation options

A5.167 As set out in the main document, we have considered three basic sets of options which we believe represent the balance of stakeholder interests i.e. taking into account broadcasters, advertisers and viewers. Clearly, within these options, there are a number of different possible permutations, and we are happy to consider views on whether particular variations should be adopted. The three central options we have outlined are:

- a) Option 1 – the status quo;
- b) Option 2 – more breaks in programmes of 60 minutes or longer; and
- c) Option 3 – allowing more breaks for programmes with autonomous parts.

A5.168 Table 4 in the main document (after paragraph 4.22) illustrates how Options 1 and 2 would affect the number of breaks on both PSB and non-PSB channels in programmes of 30, 60, 90 and 120 minutes in duration.

Modelling approach

A5.169 Our starting hypothesis was that an increase in the number of advertising breaks could deliver a benefit to both advertisers and broadcasters and that a limited increase might be acceptable to viewers. Thus we might expect advertisers to view shorter, more frequent breaks as improving the efficiency of television as an advertising medium by enhancing viewers' recall of products in those shorter breaks; and broadcasters would welcome both the ability to offer more "first in break"/"last in break" slots to meet their contractual obligations while reducing the opportunity for viewers to switch away to other channels. We assume that viewers might be prepared accept a limited increase in the number of advertising breaks provided they are scheduled sympathetically (and there is no overall increase in advertising minutage).

A5.170 However, in attempting to quantify the impact of these different options, we have only been able to focus on the supply response. That is, our main objective in the modelling has been to gain a sense of the increase in the supply of impacts that might arise from changes to the regulation of break frequency, and what this might mean in revenue terms for broadcasters. In particular, we have not been able to quantify the demand response due to a lack of information about the increased value that advertisers might attribute to an increase in the efficacy of TV advertising.

A5.171 In addition, we have not made a specific attempt to quantify Option 3, as we cannot predict how broadcasters might make use of the additional flexibility provided by this option. Rather, we intend to draw general insight about the value of increased breaks from our modelling of Option 2.

A5.172 In general terms, the modelling approach we developed to consider this issue can be broken down into three stages:

- a) first, we analysed the pattern of audience 'drop-off' in breaks of different length for a week's worth of data on a specific subset of channels;
- b) For each of these channels we then identified all the programmes that would be eligible to schedule more breaks under Option 2, and fitted a new break pattern of shorter, more frequent breaks based on the analysis in part (a). This enables

us to estimate the change in impacts that would have occurred if broadcasters had the flexibility provided by Option 2; and,

- c) finally, we translated these changes in impacts into revenue changes using a price elasticity approach similar to that used in the model for the amount of minutage.

A5.173 Before we go through our modelling in more detail, it is worth noting several points about our approach. Firstly, the assumptions of this model are not necessarily consistent with those used to assess the impact of changes in the amount of minutage. An important difference is that here we are explicitly trying to model the drop-off in audiences from different patterns of advertising, whereas in the minutage model, we effectively assumed that there would be no additional audience drop-off from more advertising in order to make the analysis tractable.

A5.174 Secondly, due to the size and intensity of the modelling task, we have restricted our analysis to a single week's worth of data for a specific subset of channels. In particular we obtained data from BARB on all the advertising spots shown in a given week by three channels: two PSBs and one non-PSB. This data recorded the time and duration of each spot, and the number of impacts it registered. In addition, because the PSBs run different regional broadcasts, we focussed the analysis on 'London' regions for the PSBs, whereas we were able to use entire network data for the non-PSB. We therefore recognise that our modelling may not be fully representative e.g. there may be a need to take into account seasonal factors. We would welcome input from respondents on alternative modelling approaches.

IA Q5: Do respondents consider that our approach to considering changes in the frequency of advertising breaks is reasonable? If not, please suggest alternative approaches that you have used, together with any results that you have generated.

Impact of Options

Option 1 – Status Quo

A5.175 As set out in the main document, this option would mean the experience for viewers would remain the same in the context where there is no change in the overall scheduling pattern operated by broadcasters. It is likely that PSB channels would continue to schedule breaks with close to the maximum permitted duration (3'50", including no more than 3½ minutes of advertising) during those peak time hours with the largest audiences (7pm to 10pm). Likewise, the opportunities for advertisers would remain much the same.

A5.176 Most individual respondents to the March 2008 document supported the status quo and were opposed to any increase in the number of advertising breaks. In addition the deliberative research suggested that most viewers would find the status quo 'logical and acceptable', though some research participants were surprised that different rules applied to PSB and non-PSB channels, and felt that there should be a level playing-field.

A5.177 Most broadcasters argued against any limits on the number of breaks, on the grounds that the combination of viewer irritation and the hourly minutage restriction would prevent an excessive number of breaks. Broadcasters therefore perceive that the status quo imposes a constraint on them but have not submitted any data which attempts to quantify the impact of the current rules.

Option 2: More frequent breaks in programmes of more than 60 minutes

A5.178 As set out in the main document, Option 2 is to allow two breaks for every half-hour of programming in programmes of 60 minutes or more. As now, PSB channels would still be allowed to take only one break in a half-hour programme, and non-PSB channels would be allowed two.

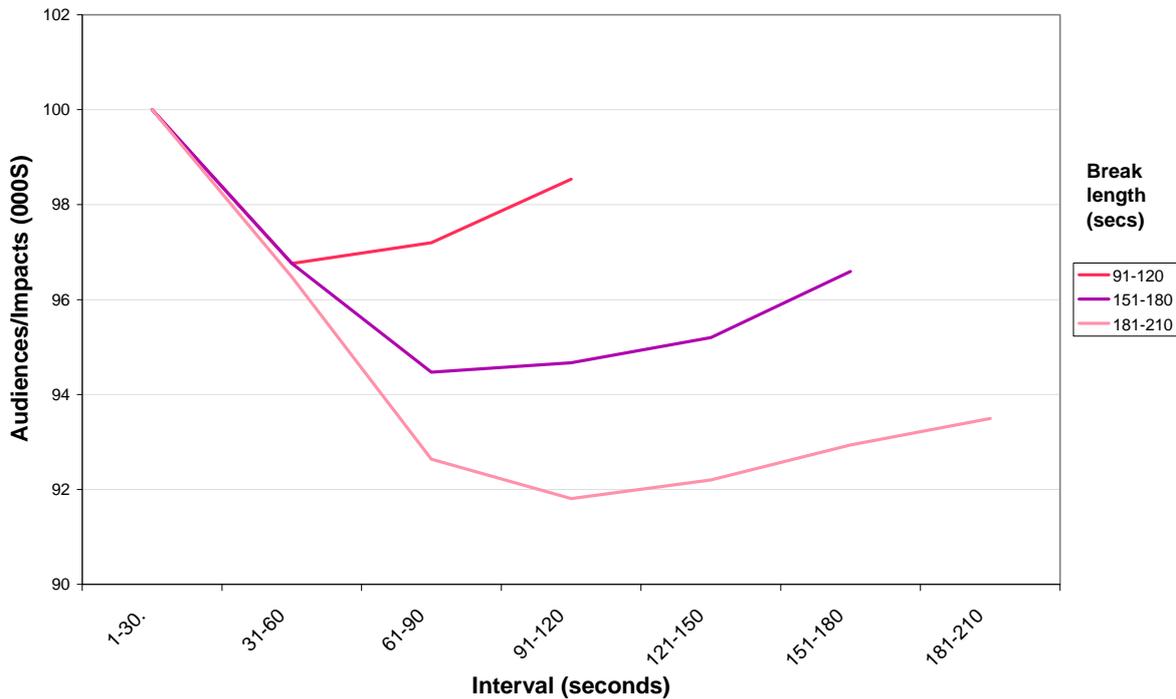
A5.179 The first part of the analysis examined the pattern of audience drop-off by taking a detailed look at how audiences change over the course of breaks with different durations.

Analysing the pattern of audience drop-off

A5.180 As mentioned above, this was performed by dividing the existing advertising breaks up into 30 second intervals and looking at the average audience over that interval – using impacts registered per spot as our relevant measure of audiences.

A5.181 Figure 1 illustrates the basic thrust of the results of this analysis for one of the PSBs for a stylised advertising break which starts with an audience of 100,000 viewers. The horizontal axis sets out the length of advertising breaks in 30-sec intervals and the vertical axis indicates the absolute size of the audience.

Figure 1: Audience drop-off in a hypothetical break of different durations for one of the PSBs



A5.182 As perhaps might be expected Figure 1 indicates that the drop-off in audiences is more pronounced the longer the advertising break.

A5.183 We use estimates of the drop-off effect to calculate the impact on the volume of commercial impacts of different break lengths. For example, using the above example, based on the above illustration, it is possible to calculate that if an hour long programme were to schedule three 150 second breaks and one 180 second

breaks (as would be allowed under Option 2), instead of three 210 second breaks (which is what is typically shown at present), it could achieve a 4.5% increase in commercial impacts.

A5.184 The result that the drop-off in audience was more pronounced the longer the advertising break also held across the other two channels (although the extent of drop-off varies). This therefore would tend to confirm our hypothesis that shorter, more frequent breaks result in less of a 'drop-off' in audiences. It would therefore seem that more frequent breaks could be more effective from the point of view of advertisers.

Calculating the overall change in impacts from Option 2

A5.185 Having generated estimates of the "drop-off" effect for different lengths of advertising breaks for each of the three channels, we then identified all the programmes that would be eligible to schedule more breaks under Option 2 in our week of data. We then proceeded to manually fit new break patterns to these programmes, using the audience drop-off data to estimate the increase in audiences from the new break patterns.

A5.186 When fitting these new break patterns, we did not change the overall amount of minutage allocated to any given programme. Therefore, if a broadcaster was scheduling (say) 630 seconds of advertising in a particular programme, we assumed that this amount remained the same, and simply divided the minutage up amongst shorter, more frequent breaks. This is a simplification as in principle there is nothing to constrain broadcasters from combining frequency decisions with minutage decisions.

A5.187 Furthermore, when dividing the existing minutage up amongst shorter, sharper breaks, clearly we are faced with the problem that there are many ways to divide 630 seconds (say) by 4 breaks, both in terms of the duration of each individual break, and the positioning of breaks. Therefore, fitting new break patterns required some discretion to be exercised by the modeller.

A5.188 In terms of the duration of each individual break, we have assumed as even a division of breaks as possible. With regards to the positioning of breaks, our assumption is that breaks are then scheduled evenly over the course of the programme. This assumption is implemented by assuming that the audience going into each 'new' break is the average of the audiences going into each break in the actual data for that programme.

A5.189 Due to the volume of data and intensity of the modelling task, we have in the first instance only edited programmes that occur in evening peak. If these results were extrapolated across the day as a whole, we might expect only a relatively modest impact on the results presented here, firstly because (certainly for the PSBs), upwards of 55% of impacts are generated in evening peak.

A5.190 The key result of the analysis we have carried out is that the extra flexibility to schedule more breaks afforded by Option 2 would lead to a relatively modest annual increase in overall impacts in the order of 0.3% to 1.5% (according to the channel).

Impact on broadcasters

- A5.191 We then proceeded to translate these impact changes into revenue changes for each of the three channels, using a similar price elasticity approach to that used in the modelling of minutage restrictions.
- A5.192 In the case of the PSBs, this involved the assumption that the change in impacts for their respective London regions (as used in this analysis) maps to the same change in impacts for the channel as a whole. We then applied the price elasticities for PSBs and non-PSBs to estimate how the increase in commercial impacts would reduce each channel's cost per thousand impacts (CPT), and subsequently, how this affects revenue. It is worth noting here that this stage is not identical to that performed in the main model as due to the size of the modelling task, we have not been able to estimate the change in impacts for all channels, but only a specific subset.
- A5.193 The results indicate that the changes would lead to annual changes in NAR for individual channels of less than 1% for the channels we looked at. There is a potential differential effect between PSB and non-PSB channels in that non-PSB channels could be allowed more breaks in longer duration programmes but in practice the practice the impact on broadcasters will likely to be driven more by the composition of the schedule than whether the broadcaster per se is a PSB or non-PSB.

IA Q6: Do respondents agree with our assessment of the likely scale of the impact of Option 2 for broadcasters? If not, please explain why and provide any relevant evidence that you may have.

Impact on advertisers

- A5.194 As set out above, we consider that this option could have certain benefits for advertisers compared to the status quo. It would help to reduce the level of audience drop off in advertising breaks and could improve the effectiveness of television as an advertising medium e.g. offering better recall, more first-in-break/last-in-break opportunities, more advertising time during programme time etc

Impact on viewers

- A5.195 The evidence from the deliberative research indicates that the impact on viewers could be relatively limited. That is, although the initial reaction to the concept of more frequent but shorter advertising breaks is negative, the practical experience from viewing longer programmes with more frequent breaks is that this change could be acceptable within certain parameters.

Option 3: more breaks in programmes with autonomous parts

- A5.196 The description "programme with autonomous parts" covers a range of types of programming and indeed types of broadcaster. For instance, the term could be applied to the "magazine" type programming that features on GMTV and for *This Morning* on ITV1 as well as to music video programming.
- A5.197 The option being considered is to allow broadcasters to insert as many breaks as they like between the autonomous parts of such programming although broadcasters would still have to comply with the relevant rules on the overall

amount of advertising: this would not amount to an increase in the volume of advertising.

- A5.198 In the case of considering changes to the rules on the amount of advertising in modelling terms it was relatively straight-forward, using industry standard reporting information, to make a simple distinction in any clock hour between advertising time and programming time even if the modelling exercise was being carried out across multiple channels: we did not need to analyse the broadcasters schedules in any greater detail. In order to carry out a similar modelling exercise in respect of this option we would first need to establish how prevalent such programming was for different broadcasters or types of broadcasters. That is why we would have to investigate each broadcasters actual schedule in order to work out what proportion of programming might be deemed to be made up of autonomous parts before we could even begin to examine the impact of changes to the existing rules.
- A5.199 As we indicated above, the modelling we carried out to investigate Option 2 was onerous and labour intensive and that only required us to identify different programme lengths: it did not require us to analyse the type of programming within a schedule. As such, we consider that to carry out such a modelling task for Option 3 would be extremely onerous and labour intensive and so we have considered other proxies that we might use in order to develop a qualitative assessment of the impact of the option under consideration.
- A5.200 In essence the option being considered would allow broadcasters to schedule more frequent but shorter breaks in programming. There is thus a parallel with the modelling that would be needed to assess the impact of this option and the modelling that we have already carried out in relation to the previous option where we considered a limited increase in the number of breaks without changing the overall amount of advertising allowed.
- A5.201 Our modelling for Option 2 seemed to confirm the hypothesis that allowing broadcasters more flexibility in the number of advertising breaks was likely to result in more frequent but shorter breaks in programmes because this would tend to counter the “audience drop-off” effect that seemed to be apparent with longer advertising breaks. If broadcasters were able to schedule more, shorter breaks then that could result in an increase in the volume of commercial impacts delivered and with that there could be some financial benefit to broadcasters. The actual scale of this was likely to be relatively small.

Impact on broadcasters

- A5.202 Applying the same reasoning to Option 3 we would anticipate that there would similarly be a small but positive impact under Option 3 for broadcasters who offer such programming. However, it is difficult to assess the overall magnitude of this Option more precisely because we cannot identify precisely which broadcasters might stand to benefit from the change. In addition, it would be difficult to anticipate whether broadcasters might change their programming in order to take advantage of this proposal. At this stage we can anticipate that some of the main broadcasters that already offer magazine format programmes could benefit from this option together with music video channels but it is difficult to be more precise than that.

Impact on advertisers

- A5.203 As with Option 2 above, we consider that this option could have certain benefits for advertisers compared to the status quo. Allowing more frequent breaks within

programmes with autonomous parts could help improve the effectiveness of television as an advertising medium.

Impact on viewers

A5.204 The potential impact on viewers may be limited provided that the scheduling of more frequent breaks is done sympathetically and complements the programme content. As set out in the main document – the audience for music video programmes would probably not find increased frequency of advertising breaks too intrusive. The deliberative research also suggests that viewers might find more frequent advertising breaks acceptable in certain genres e.g. quizzes, makeover shows, reality TV etc. At the same time – as is also noted in the deliberative research – there is a potential negative reaction to the increased exposure of sponsorship bumpers that could come with this.

IA Q7: Do you agree with the indicative results of our assessment of the impact of Option 3? If not, please explain your reasoning. If you are able to quantify the impact of this option, please submit that evidence with your response.

Ofcom's initial views

A5.205 Although Ofcom has ruled out the possibility of removing all restrictions on the number of breaks, we have not formed any preferences in relation to the options referred to above, including the option of maintaining the status quo. We should be interested in the views of stakeholders, particularly in any evidence which casts light on whether the additional revenues that channels might earn from more frequent breaks would deliver benefits to consumers that outweighed any perceived disbenefits of more breaks and more sponsorship bumpers.

Length of advertising breaks on PSB Channels

A5.206 Here the options under consideration are to retain the status quo or an option to scrap the existing rule which sets a cap on the maximum length of an advertising break on a PSB channels.

Option 1 – status quo

Impact on broadcasters

A5.207 As set out in the main document, the effects of retaining the existing rule would depend on whether changes were made to the number of breaks allowed within programmes and the amount of advertising permitted during peak time.

A5.208 If no change was made to either of these, it is likely that PSB channels would continue to schedule breaks with close to the maximum permitted duration during those peak time hours with the largest audiences (7pm to 10pm).

A5.209 If the amount of advertising permitted in peak time was increased, it is likely that PSB channels would schedule breaks with close to the maximum permitted duration during all or most of the peak time period (6pm to 11pm).

A5.210 If PSB channels were allowed more internal breaks, it is likely that break lengths would become slightly shorter. For example, if four breaks were to be permitted in a 60-minute programme, a broadcaster would be able to schedule all 12 minutes in internal breaks within the programme, without breaching the current rules.

Assuming that existing patterns of programme trailers continued, this would mean advertising breaks of around 3'20", excluding sponsorship bumpers, as against the maximum break length of 3'50" currently permitted.

A5.211 However, what is not clear is the financial benefit of these different effects. Again, as set out in the main document, we would welcome the views of broadcasters on this issue.

Impact on advertisers

A5.212 The impact on advertisers is difficult to assess because it depends on the options above. In general terms, however, we would expect them to have a preference for advertising airtime within programmes rather than between programmes on the grounds that there is greater viewer engagement.

Impact on viewers

A5.213 The impact on viewers is difficult to assess. However, it seems likely that viewers are likely to prefer options that maintain or reduce the amount of advertising that can be taken within programmes. It also seems likely that viewers would prefer options that maintain or reduce limits on the length of internal breaks, as would advertisers, given their concerns that viewers would tend to avoid long advertising breaks.

Option 2 - deregulation

Impact on broadcasters

A5.214 If no changes were made to the rules on the number of breaks or the overall amount of minutage permitted we anticipate that PSB channels could well seek to increase the length of breaks *within* programmes and reduce the lengths of breaks between programmes. We understand that it is generally accepted that breaks within a programme are perceived by agencies/advertisers as being relatively more valuable than breaks between programmes. In part this may be due to the perception that audiences hold up better across advertising breaks in programmes than between programmes.

A5.215 However, we would expect this freedom to be exercised carefully by PSBs - the modelling of Option 2 above in relation to the number of breaks indicates that the longer the break, the greater the "audience drop-off effect". It is also the case that responses to the March 2008 document indicated that viewers appeared to be opposed to longer breaks.

A5.216 If the number of permitted internal breaks was increased from the current three per hour to, say, four per hour, it is likely that PSB channels would prefer to schedule four breaks of up to 3 minutes (excluding trailers and sponsorship bumpers) in hour-long programmes at times when audiences were highest (7pm to 10pm). This would enable them to schedule all or most of the 12 minute hourly allowance *within* programmes.

A5.217 If the amount of advertising were to be increased as well as the cap on the length of advertising breaks then we might also expect to see some increase in the length of breaks within programmes.

A5.218 The net effect of these changes on broadcasters is likely to be an incentive to increase the amount of advertising within programmes.

Impact on advertisers

A5.219 The likely impact on advertisers is difficult to gauge. On the one hand, they generally prefer advertising to be scheduled during internal breaks, as many viewers switch off or to other channels at the end of a programme. On the other hand, advertisers are also concerned that viewers tend to switch away from channels during long advertising breaks. This clash of interests was evident in the comments of an advertising trade association. However, the consensus view was that the length of internal breaks on PSB channels should continue to be limited in order to maintain the effectiveness of advertising.

Impact on viewers

A5.220 Individual respondents to the March 2008 document expressed opposition to longer breaks, which also reflects opinions expressed by participants in the deliberative research. It seems likely that viewers would oppose any combination of rules that might lead to longer breaks, or the insertion of more advertising within programmes rather than between programmes. On the other hand, the deliberative research also suggests that if the combination of rules allowed more breaks (say four in a 60-minute programme instead of three), viewers would not object to deregulation if it did not have any practical effect (i.e. breaks were likely to be less than the current length).

IA Q8: Do consultees agree with our assessment of the likely impacts of the different options? If not, why not? Can you suggest any alternative approaches to assessing the impact of the different options?

Ofcom's initial views

A5.221 In the March 2008 document, Ofcom proposed that the rules on the length of internal breaks on PSB channels be abolished. However, in the light of arguments that the effects of this could not be assessed until options for the amount of advertising were clear, Ofcom decided to defer a decision until after Stage 2 of the review. In the light of the regulatory objectives, and the limited evidence currently available, Ofcom considers that the arguments for and against deregulation are finally balanced, and does not have a preference for either of the options. We shall consider the views of stakeholders carefully, together with any additional evidence that becomes available, before taking a decision.

Section 4: Teleshopping

Comments on options in March 2008 document

- A5.222 In the March 2008 document we set out two sets of potential options in relation to teleshopping: one set in relation to non-PSB channels and one set in relation to PSB channels.
- A5.223 In relation to non-PSB channels we indicated that there were four broad proposals that we wanted to consider:
- a) Option 1: maintaining the status quo;
 - b) Option 2: increasing the existing 3-hour limit;
 - c) Option 3: reducing the existing 3-hour limit; and
 - d) Option 4: removing the existing 3-hour limit completely
- A5.224 In relation to the PSB channels we indicated that there were three broad options that we wanted to consider:
- a) Option 1: maintaining the status quo;
 - b) Option 2: allowing PSBs to provide teleshopping under the same arrangements as non-PSB channels; and
 - c) Option 3: allowing PSB channels to operate under the same arrangements for teleshopping as non-PSB channels between midnight and 6am.
- A5.225 Responses from non-PSB channels indicated that there was a general consensus in favour of a relaxation of the current rules on non-PSBs i.e. Options 2 and 4, with a preference for full liberalisation (Option 4).
- A5.226 A number of broadcasters linked the need to relax the current restrictions on teleshopping to anticipated changes in relation to the definition of teleshopping. Respondents argued that relaxing the rules on teleshopping windows would enable non-PSB broadcasters to develop other sources of revenue – particularly if content such as quiz TV and gambling services were considered to be teleshopping.
- A5.227 One broadcaster even argued that there was a risk of “regulatory failure” if the definition of teleshopping were broadened without there being a corresponding increase in the size of teleshopping windows. Other broadcasters argued that there should be relaxation for the non-PSBs with the market being left to decide on the appropriate mix of editorial and teleshopping content.
- A5.228 In terms of the impact on viewers, some broadcasters argued that it would extend the choice available to viewers, pointing out that there was a demand for services such as quiz TV.
- A5.229 However, none of the responses from broadcasters quantified the benefit that they might expect to receive from a relaxation of the current restrictions. We have therefore had to consider how we might attempt to assess the impact of any relaxation and an important consideration is likely to be how much additional revenue might be available from services such as quiz TV and gambling.

- A5.230 In relation to the PSB channels, responses were mixed. Some non-PSB respondents were relatively relaxed about an option which allowed PSB channels to carry some teleshopping windows. They did not anticipate that they would be adversely affected if PSB channels were to have greater flexibility to offer teleshopping windows: they anticipated an increase in the volume of teleshopping revenue from the change in definitions and they felt that teleshopping would only be attractive for PSBs at the fringes of the schedule. Other non-PSB channels were opposed to any change arguing that carrying teleshopping windows would not be in line with their PSB remits.
- A5.231 One PSB did explicitly argue for the flexibility to offer teleshopping windows although it clear that the services they proposed to offer would tend to depend on any change in the range of content classified as teleshopping.
- A5.232 Taking into account the responses to the March 2008 document and Ofcom's policy objectives, the options that are now being formally considered as part of this consultation process are:
- a) Option 1: Status quo;
 - b) Option 2: Full deregulation;
 - c) Option 3: Full deregulation for non-PSBs/no change for PSBs; and
 - d) Option 4: Full deregulation for non-PSB/partial deregulation for PSBs with restrictions on the time periods in which they can offer teleshopping windows.

The teleshopping market

- A5.233 The current provision of teleshopping services in the UK can be divided into two categories: first, dedicated teleshopping channels (e.g. QVC, price-drop TV, JJB Sports, Gems.tv1 etc) and then other channels which offer teleshopping windows in their schedules (e.g. ITV2, ITV4, Paramount Comedy, Sci Fi Channel etc). Returns to Ofcom indicate that there could be some 60-70 channels which are either dedicated teleshopping channels or offer teleshopping windows.
- A5.234 Within the dedicated teleshopping channel category there are a range of "general" teleshopping services (e.g. QVC, Price-drop TV) which retail a wide range of products and other specialist channels which concentrate on particular product ranges) e.g. jewellery, sports equipment etc.
- A5.235 In the case of channels offering teleshopping windows, they tend to make use of teleshopping windows late at night/early in the morning to fill in what would otherwise be "downtime" in their schedule. In most cases they will simply offer a simulcast of one of the dedicated teleshopping channels. There are various financial models which could underpin such arrangements but we understand that a common model is for the "host" channel to receive a flat rate payment from the channel being simulcast, with the simulcast channel then retaining the teleshopping revenues generated⁵¹. We understand that the smaller channels that offer teleshopping windows can find these fixed payments useful in funding the fixed costs in providing their own service e.g. transmission and distribution costs. Equally, dedicated teleshopping channels benefit from such arrangements in terms of increased coverage, promotion and sales.

⁵¹ There may be a revenue sharing component to the arrangement as well.

A5.236 In terms of the composition of the teleshopping sector, based on returns to Ofcom and companies annual reports, we understand that there are three main “general” teleshopping channels (QVC, bid-up tv and price-drop tv) – which are owned by two groups – QVC and Sit-up Limited (now part of Virgin Media). We estimate that together they probably account for between 55-60% of total teleshopping revenue. There are then the group of 15-20 smaller dedicated teleshopping channels which account for perhaps a further third of revenues and then the remaining 40 or so services being channels that offer teleshopping windows.

Assessment of options

A5.237 In this section, we consider first the impacts of the status quo (Option 1), then the possible impacts of deregulating teleshopping on non-PSB channels (Option 3) before looking at the impacts of full deregulation (Option 2). Finally, we look at the possible impacts of full deregulation for non-PSB channels and partial deregulation for PSB channels (Option 4).

A5.238 In order to assess the possible impacts of different options for regulating teleshopping in quantitative terms, it would be necessary to make a significant number of assumptions. These include assumptions as to whether or not transactional services may be classified as teleshopping; if so, what types of transactional programming may be developed; if not, whether PSB channels might wish to schedule conventional teleshopping content or whether they would be concerned that the likely financial benefits would not justify the risk to their brands. Given this, Ofcom considers that any quantitative assessment that might be made could be misleading, and that it is more appropriate to describe the range of possible impacts. However, we are ready to consider appropriate alternative approaches that stakeholders may suggest.

Option 1: status quo

A5.239 At present PSB channels do not have a separate teleshopping allowance; any teleshopping windows they do show would have to be scheduled between midnight and 6am, using their allowance for spot advertising. This is not a commercially attractive option, so PSB channels do not air teleshopping windows. Non-PSB channels are allowed to show up to 3 hours of teleshopping a day, at any time of the day or night.

Impact on broadcasters

A5.240 If the current rules are maintained, PSB channels might be disadvantaged if (as is possible) certain kinds of transactional programming (e.g. quiz programming) previously categorised as editorial content are treated as teleshopping. The practical effects would be to prevent them showing this kind of programming on PSB channels (though not on allied non-PSB channels, such as ITV2, E4 or Fiver).

A5.241 As regards non-PSB channels, these might benefit from a change in the treatment of transactional programming, as they would be able to show, for example, quiz programmes, whereas PSB channels would not. However, the effects on PSB groups are less easy to determine; while their main channels might not be able to show such content, they all have relatively popular non-PSB channels that could do so.

Impact on advertisers

A5.242 It seems unlikely that the impacts on advertisers would change significantly if the current rules were maintained. Although it is possible that, in the event that transactional programming is to be treated as teleshopping, there will be fewer opportunities for scheduling teleshopping windows on third party channels, there are still a number of channels that do not make full or any use of their teleshopping allowances.

Impact on viewers

A5.243 If the current rules are maintained, the impacts of teleshopping on viewers are unlikely to change significantly over the short term. Over the longer term, if the real value of spot advertising revenue to each channel continues to decline, the quality and / or range of PSB programming may suffer as PSB channels are unable to develop teleshopping as an additional source of revenue. The possible impacts of changes to the rules on what types of content are treated as teleshopping will be dealt with in a separate Ofcom document.

Option 3: deregulation for non-PSBs / no change for PSBs

Impact on teleshopping channels, and those with teleshopping windows

A5.244 We do not know whether there is pent-up demand on the part of some non-PSB channels to extend their teleshopping windows. Given that a significant number of non-PSB channels choose not to make use of their teleshopping allowance, and those that do mostly show teleshopping at times of the day when their audiences are naturally very low, this seems unlikely (see Table 4 in section 5 of the main document).

A5.245 We do not consider that dedicated teleshopping channels would be directly affected by any deregulation: they are already able to operate 24 hours a day. The channels that would be directly affected are those that currently offer teleshopping windows. To the extent that channels that currently offer teleshopping windows continue simply to simulcast the services of dedicated teleshopping channels, we do not think that there would be any significant impact on competition between different types of teleshopping services.

A5.246 There could be some positive financial benefit to both dedicated teleshopping channels and the channels that simulcast their services. That is, making use of longer teleshopping windows on other channels could offer dedicated teleshopping channels a cost effective way to extend their reach and availability which could lead to an increase in revenue. Similarly, channels offering teleshopping windows might expect to benefit from a reduction in overall programming costs (because more time was now given over to the simulcast of teleshopping services) and potentially some additional payments from the simulcasting teleshopping channels.

A5.247 The key aspect of de-regulation for the non-PSBs would be that decisions about whether to extend teleshopping windows would come down to commercial negotiation e.g. whether the revenue that might be available to non-PSBs from offering longer teleshopping windows would be greater than the revenue generated from (say) conventional spot advertising.

A5.248 It is possible that de-regulation in the rules for non-PSBs could lead some channel operators – that had previously simply simulcast dedicated teleshopping services -

to develop their own teleshopping services. If so, that would represent an increase in the extent of competition in this sector. We do not anticipate that such a development would be a problem: we would anticipate that increased competition would be good for consumers.

A5.249 As set out above, in response to the March 2008 document, a number of respondents argued that if the definition of teleshopping was extended to include services which had either previously been classified as editorial services (e.g. quiz TV) or which had not previously been permitted (e.g. betting and gaming services) then there was an argument for increasing the length of teleshopping windows to accommodate such services. We understand that there could be scope for the simulcasting of existing gaming services in the same way as there is simulcasting of dedicated teleshopping services.

Impact on PSB channels and advertisers

A5.250 Teleshopping serves a fairly specialised market of producers and on-air retailers wishing to retail directly to consumers through the medium of television. Any increase in the 'supply' of teleshopping is unlikely to affect the market for spot advertising to any significant degree, due in part to the different nature of the advertising (for which teleshopping could not easily substitute) and to the fact that relatively few commercial impacts are delivered through late night / early morning teleshopping by comparison with peak-time spot advertising. Accordingly, the impact on advertisers using spot advertising is likely to be relatively small, as would be the impact on PSB channels. Those using teleshopping windows might find it cheaper to procure these, as the opportunities to provide them increased.

A5.251 However, there could be other, indirect, effects on PSB channels. For instance, if the rules for non-PSB channels are relaxed, but the teleshopping restrictions on PSB channels remain, the effect would be to increase the opportunity cost of retaining PSB status.

Impact on viewers

A5.252 As indicated above, a significant number of non-PSB channels choose not to make use of their teleshopping allowance, and those that do mostly show teleshopping at times of the day when their audiences are naturally very low. Accordingly, it seems likely that, in the event of deregulation, channels would continue to use teleshopping to fill parts of their schedules that attract few viewers. It follows that the effects of additional teleshopping on viewers are unlikely to be significant. There may be benefits to viewers if teleshopping allows otherwise marginal channels to provide a greater range of programming than would otherwise be available, or if existing channels are able to afford better quality programming.

IA9: What evidence is there of pent-up demand for teleshopping services? Do channel operators consider that they could offer longer teleshopping windows or develop their own teleshopping services if the current restrictions were relaxed?

Option 2: full deregulation for PSB and non-PSB channels

A5.253 Under this option, both PSB and non-PSB channels would be free to decide how much teleshopping to schedule, and when.

Impact on broadcasters

- A5.254 If PSBs were to take advantage of deregulation to offer conventional teleshopping windows – simulcasting dedicated teleshopping channels - then that could represent a significant increase in competition to other channels offering teleshopping windows. We would assume in the first instance that dedicated teleshopping channels would find the option of simulcasting on PSB channels more attractive than simulcasting on non-PSB channels in terms of offering increased audience size and greater potential to increase revenues. If that were the case and dedicated teleshopping channels moved away from teleshopping windows on other non-PSBs to teleshopping windows on PSBs, then the impact on the finances of the non-PSBs could be significant. As indicated above, we understand that the revenue generated from offering teleshopping windows can be important to smaller channels in terms of helping to cover their fixed costs etc. If PSBs were to develop their own branded teleshopping services then that could also represent a more immediate competitive threat to the dedicated teleshopping channels.
- A5.255 However, if transactional services such as quiz TV were categorised as teleshopping, some PSB channels might seek to produce entertainment-based transactional programmes, and schedule them in off-peak slots (e.g. daytime and late night) when audiences were modest, but rather more significant than those overnight.
- A5.256 In terms of the impact on existing gaming services, we note that ITV1 does already carry the *Bingo Night Live* service after 11pm on weekdays and Five operates a quiz show strand of programming. At the same time, there are also dedicated gaming channels, including Gala TV which offers a bingo service. This would tend to suggest that the impact of the ITV1 service has been limited, although a factor in that may be the time of night that it is on.
- A5.257 The experience with quiz TV services suggests that the reach and availability of PSBs are likely to be significant factors in the ability of channels to monetise new services. In the past, the PSBs experimented with both stand alone channels and also the broadcast of programming blocks on their core channels but most of the quiz TV revenue generated for them came from the programming blocks on their core channels. For instance, in a report to Ofcom⁵² as part of the work on Participation TV services, Mediatique estimated that less than 10% of total ITV Play revenues were generated by the standalone ITV Play channel – the overwhelming majority of revenue was generated through blocks of ITV Play programming broadcast late-night on ITV1 and ITV2.

Impact on advertisers

- A5.258 The impact of this option on advertisers other than those operating dedicated teleshopping channels or simulcast teleshopping windows is likely to be relatively limited, for the reasons discussed in paragraph A5.250 above.

Impact on viewers

- A5.259 Our assessment of the impact on viewers of deregulating teleshopping on non-PSB channels is set out in paragraph A5.252 above.

⁵² Mediatique. “*Participation TV: market overview*”. Final Report. March 2007.

A5.260 As regards PSB channels, teleshopping could generate additional revenue that would help to pay for PSB programming that is not profitable. However, if it could be shown at any time of the day or night, it is possible that, say, entertainment-based transactional programming would displace conventional editorial content, to the detriment of viewers who look to PSB channels for a wide range of high quality editorial content.

IA Q10: What has been the impact on channels offering dedicated gaming services on the PSBs offering limited strands of similar programming? Please provide any data that you might have.

Option 4: full deregulation for non-PSBs; partial deregulation for PSBs

A5.261 In this option, non-PSB channels would be able to offer as much teleshopping as they wanted, whenever they wanted, but PSB channels would be limited to, say, 6 hours a day overnight.

Impact on broadcasters

A5.262 In this scenario, the starting point for assessing the impact on non-PSB channels is the assessment for Option 3 (deregulation for non-PSBs). Although it is not possible at this stage to quantify the impact of full liberalisation for non-PSBs, the discussion above suggests that the risks or downside from such an approach are likely to be relatively limited if the extent of deregulation for PSBs is constrained i.e. there is not likely to be a detrimental impact on either dedicated teleshopping channels or those channels offering teleshopping windows. We would welcome input from respondents on this issue.

A5.263 In relation to a partial deregulation for PSBs, the above discussion suggested that there could be a detrimental impact on non-PSBs to the extent that PSBs chose to use the teleshopping windows to offer simulcasts of existing teleshopping windows. To the extent that PSBs made use of teleshopping windows to offer other services that were now considered to be teleshopping then such deregulation would tend to enable them to maintain/develop existing sources of funding and the impact on other teleshopping services would be reduced. We noted, for instance, that ITV is already able to offer quiz TV and programming based around Bingo game format.

Impact on advertisers

A5.264 The impact of this option on advertisers other than those operating dedicated teleshopping channels or simulcast teleshopping windows is likely to be relatively limited, for the reasons discussed in paragraph A5.250 above.

Impact on viewers

A5.265 A key concern here is the extent to which allowing PSBs to carry specific teleshopping windows might result in a detrimental impact on viewers. The more attractive it was to PSBs to schedule teleshopping windows at times of the day when relatively large numbers of viewers might be available the greater the risk of a detrimental impact on the delivery of editorial content.

Ofcom's initial views

A5.266 Having regard to the regulatory objectives set out in paragraphs A5.9 and A5.10, Ofcom's initial view is that:

- a) Option 1 would prevent PSB channels from developing teleshopping content (whether traditional or transactional-based programming such as quiz TV), and would also constrain the ability of non-PSB channels to strike a balance between teleshopping and editorial content that would enable them to improve the range and / or quality of their content. As such, Ofcom's initial view is that Option 1 tends to work against the objective of securing a wide range of high quality television services. Ofcom also doubts that regulation is necessary in the case of non-PSB channels, given that allowing more commercial freedom is likely to enable them to respond more readily to demand for particular types of content;
- b) Option 2 could result in a reduction in the choice and range of PSB programming outside peak hours, and might not therefore be in the interests of the viewers;
- c) Option 3 would make it easier for non-PSB channels to contribute to a wide range of high quality television services, but would do nothing to help PSBs do the same; in fact, it would widen the regulatory gap between PSB and non-PSB channels, and increase the opportunity cost of retaining PSB status; and
- d) Option 4 may strike the right balance between protecting viewers to PSB channels from a reduction in the choice and range of programming at times when relatively large numbers of people are watching, and allowing PSB channels to generate additional income from periods in the schedule when spot advertising is not commercially valuable.

IA Q11: Do respondents agree with the above analysis in respect of the potential impact on PSBs and non-PSBs? If not, please explain why.

Appendix I:

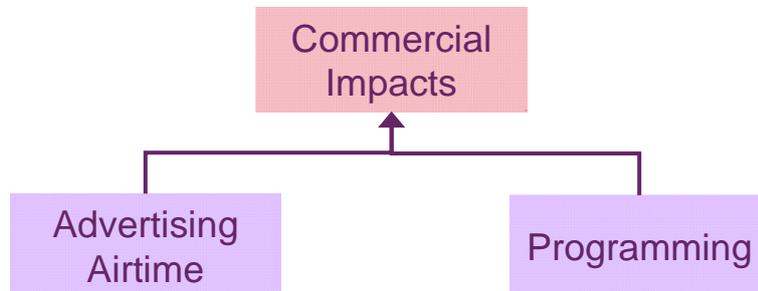
TV Advertising – The Economic Framework.

- A5.267 As set out in the March 2008 document, the market for television advertising can be analysed using a two-sided market framework.
- A5.268 A market is said to be two-sided when an intermediary facilitates the market interaction between two distinct groups of end-users. In the market for TV advertising, broadcasters facilitate the interaction between viewers on the one hand, and advertisers on the other. Specifically, broadcasters provide a platform whereby advertisers can reach valuable audiences, and viewers can gain access to programming which is funded by advertising revenue. Provided the market is functioning efficiently, participants on both sides of the market should benefit from the presence of each other⁵³.
- A5.269 The analysis of two-sided markets is complicated by the fact that there are often complex interdependencies between participants on opposing sides of the market, which might not be captured by conventional economic analysis.
- A5.270 We have updated our framework to take more explicit account of some of the two-sided features of the market. We begin by revisiting some of the assumptions underlying the March analysis.
- A5.271 If we consider the market for advertising airtime, we should note that advertising airtime itself is not the primary focus of the interaction between broadcasters and advertisers. In reality broadcasters and advertisers deal in the delivery of “commercial impacts”, for which advertising airtime is a key input. In other words, advertising airtime is merely a resource available to broadcasters which is then used to produce commercial impacts. In itself, advertising airtime is not valuable to advertisers, only impacts are valued. Therefore, the demand for advertising airtime is *derived* from advertisers’ demand for commercial impacts. As in the March 2008 document, we assume that the demand for commercial impacts can be represented in the form of a conventional downward sloping demand curve. That is, if the price of commercial impacts were to fall, we would – other things being equal – expect an increase in the demand for impacts. The responsiveness of demand to changes in price is termed the price elasticity of demand and diagrammatically, this is reflected in the slope of the demand curve.
- A5.272 On the supply side, broadcasters combine advertising with attractive programming in order to “convert” advertising airtime into commercial impacts, which are then supplied to advertisers. However, RADA restricts the amount of airtime that can be dedicated to advertising. In so doing, RADA effectively caps one of the key resources used to generate commercial impacts. If we take programming decisions (and therefore audience levels) as given, broadcasters can only generate a limited amount of commercial impacts from a limited amount of advertising airtime. In terms of the analysis in this Impact Assessment, we assume that – *all other things being equal* – there is a physical limit on the amount of commercial impacts that can be generated from a given amount of airtime. In other words, we assume that the supply of commercial impacts is restricted. This is represented diagrammatically by a vertical supply line, such as S_{CI} in the left hand panel of Figure 2. Whilst this line

⁵³ More formally, a two-sided market exploits the positive externalities that arise between different sides of the market. In this context, a positive externality refers to a benefit that accrues to one party from the presence of parties on the other side of the market.

reflects the fact that the number of impacts that can be generated from a given amount of advertising airtime is limited, any changes in programme offerings may shift this supply curve left or right. That is, the supply of commercial impacts may increase or decrease if the channel's audience is sensitive to the quality of the programming schedule.

Figure 2: The production of commercial impacts



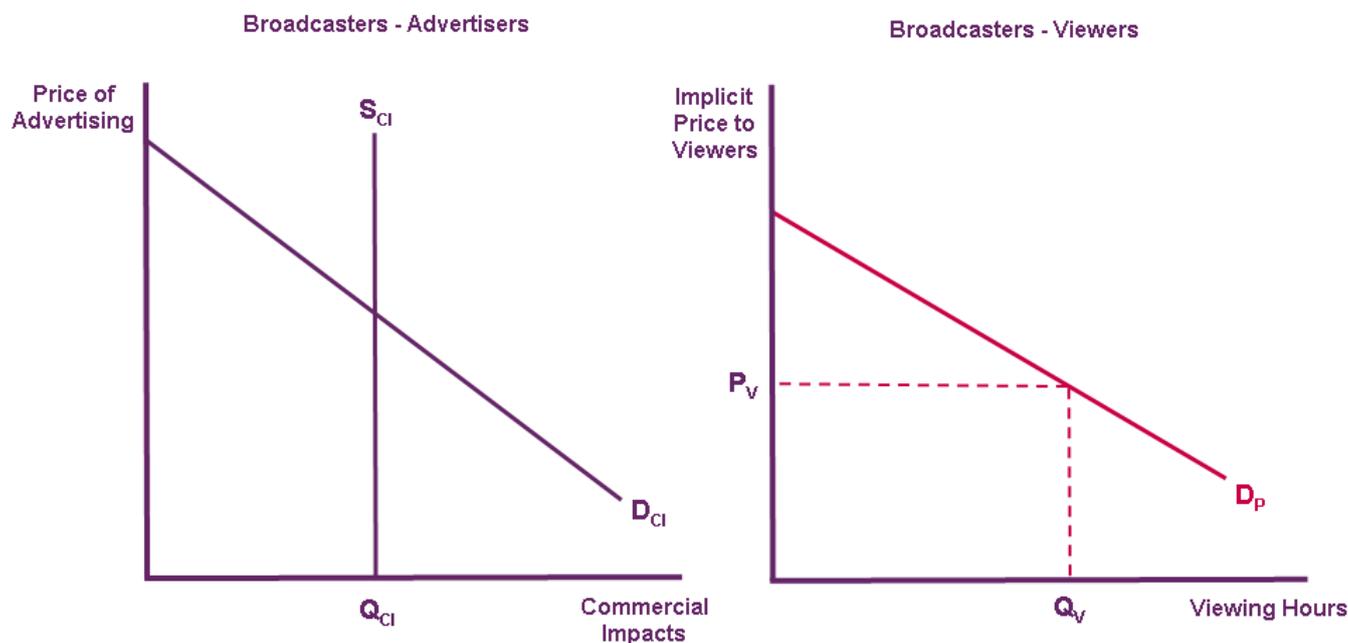
A5.273 In order to allow for the two-sided nature of the market, we also take account of the interaction between broadcasters and advertisers. Broadcasters provide programming on the supply-side of this market to match the wants of viewers on the demand side.

A5.274 However, in an advertising-funded broadcasting model, viewers do not pay a conventional price in return for programming. Instead, it is possible to regard the programme interruptions caused by advertising breaks as the implicit “price” paid by viewers for access to free-to-air television services⁵⁴. Therefore, if either the amount or frequency of advertising is perceived to be a source of irritation for viewers, then an increase in either of these can be considered to be an increase in the price paid by viewers. Under this approach, we assume that an increase in the price to viewers will result in a reduction in the demand for television services: i.e. we assume that consumer demand for television is downward sloping, where the price to viewers depends on both the amount and frequency of advertising⁵⁵. Combining the two sides of the market can be represented by Figure 3 below:

⁵⁴ More generally, in hybrid funding models, viewers pay a subscription fee as well as being exposed to advertising.

⁵⁵ More generally, consumer demand for programming does not necessarily have to be downward-sloping for our analysis to be valid. That is, viewers may watch more-or-less the same amount of television programming regardless of the amount and/or frequency of advertising but they may choose to engage in more ‘ad-avoidance’ strategies if either the amount or frequency of advertising increases. For example, viewers may resort to ‘making a cup of tea’ or ‘channel-surfing’, or else they may decide to record programmes and fast-forward through the advertisements (a strategy which is being made easier by the growth of digital video recorders (DVRs) . Because such strategies correspond to a temporary reduction in audiences during the commercial breaks, they will amount to a reduction in commercial impacts. Therefore the analysis in this section of the IA remains valid even when viewers’ demand for programming is not necessarily responsive to the amount and/or frequency of advertising.

Figure 3: Two-sided market framework



A5.275 In Figure 3 the interaction between broadcasters and advertisers is displayed in the left-hand panel, and the interaction between broadcasters and viewers in the right. On the left-hand side, advertisers' demand for commercial impacts is assumed to be downward sloping, as represented by the line D_{CI} , which can be read as "the Demand for Commercial Impacts". Meanwhile, we assume that "the Supply of Commercial Impacts", S_{CI} , cannot exceed Q_{CI} given the current restrictions on advertising airtime and current programming schedules.

A5.276 On the broadcaster-viewer side of the market (the right-hand panel of Figure 1), the amount and frequency of advertising which underlies S_{CI} translates into the implicit price that viewers must pay in order to access television programming. This is represented by P_V , which is read as "the price paid by viewers" – it is associated with the point where $S_{CI} = D_{CI}$. Given viewers' "Demand for Programming", D_P , which we assume is downward sloping, this price causes viewers to demand Q_V of programming hours.

A5.277 During the March 2008 document, our economic framework abstracted from the interaction between broadcasters and viewers, focussing only on the primary interaction between broadcasters and advertisers. This simplified economic framework yielded the conclusion that RADA may or may not constrain the volume of advertising that broadcasters can offer. Specifically, if a particular channel is very popular with advertisers (and viewers), the broadcaster's *profit-maximising* amount of advertising – that is, the amount of advertising that the broadcaster would wish to schedule were it not constrained by regulation – may be to the right of point Q_{CI} . In other words, a broadcaster which enjoys a high level of demand for its commercial impacts may wish to supply more impacts than is currently possible given the existing restrictions embodied by RADA.

A5.278 One implication of this analysis is that whilst RADA holds down the price paid by viewers (by restricting the amount and frequency of advertising), it increases the price paid by advertisers. This is because if these broadcasters were not

constrained by regulation, they would dedicate more airtime to advertising to increase the supply of commercial impacts. This would have a deflationary effect on the price of advertising as the availability of more commercial impacts would depress the price of existing impacts.

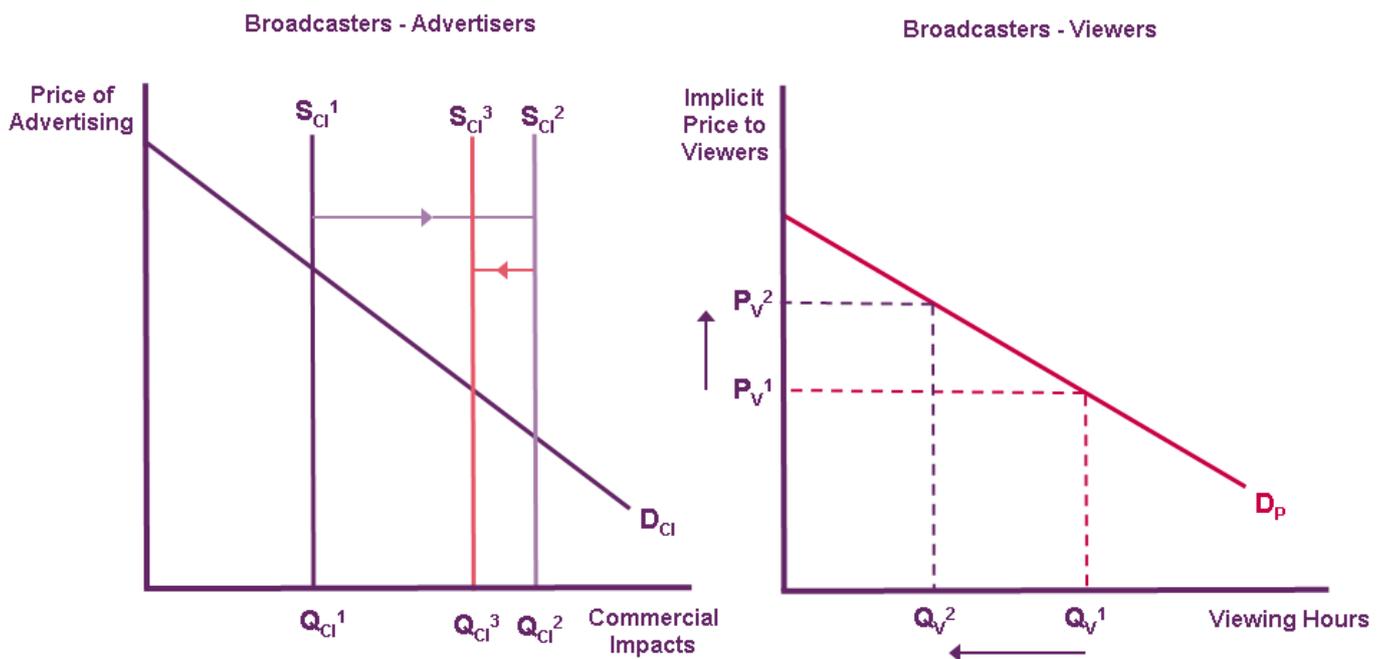
A5.279 If, however, a particular channel faces a relatively low demand for its commercial impacts, then the broadcaster's profit-maximising level of commercial impacts may fall below the amount Q_{CI} . That is, some broadcasters may not fully utilise their current advertising allowances as there would be insufficient demand from advertisers to warrant a full advertising schedule. This is perfectly acceptable in the case of non-PSBs as these channels are not required to sell all their airtime. However, in the case of the PSBs (ITV1, C4, five, GMTV and S4C), the Airtime Sales Rules stipulate that these channels must sell all their airtime up to the maximum level permitted under RADA. Therefore, non-PSB channels have greater flexibility than PSBs under RADA, including the ability to supply less impacts than the level represented by Q_{CI} if they wish.

A5.280 These conclusions regarding the extent to which RADA currently constrains different types of broadcasters are equally applicable in the updated framework presented in this IA. In terms of responses to the March Issues Paper, none of the respondents argued that the economic framework we had presented was fundamentally flawed or proposed an alternative economic approach. As a result we have focused on updating the framework.

Analysing the qualitative impact of increases in the overall amount of advertising

A5.281 The framework outlined above can be used to consider the effects of an overall increase in the amount of advertising on participants on either side of the market. For the moment we withhold the distinction between PSBs and non-PSBs and consider the impact on a generic channel.

Figure 4: Analysis of an increase in the overall amount of minutage



- A5.282 In Figure 4, a relaxation in the overall amount of advertising permitted on a particular channel means that – given the channel’s current audience base – it now has a greater amount of airtime with which it can generate commercial impacts. If the broadcaster chooses to take advantage of this extra minutage⁵⁶, this amounts to a rightward shift in its supply of commercial impacts to S_{CI}^2 in the left-hand panel of Figure 4. However, an increase in the amount of advertising also constitutes an increase in the perceived price paid by viewers. This is represented by an upwards movement in price from P_V^1 to P_V^2 in the broadcaster-viewer side of the market (right-hand panel of Figure 4).
- A5.283 As a result of this increase in price, viewers respond by reducing their demand for programming from Q_V^1 to Q_V^2 . However, this corresponds to a reduction in the channel’s audiences, which in turn causes a reduction in the amount of impacts that can be generated with the new advertising schedule. Therefore, the “drop-off” in viewers from increased levels of advertising causes a *secondary*, leftward shift in the supply of commercial impacts from S_{CI}^2 to S_{CI}^3 . This secondary shift acts to (at least) partially offset the initial increase in the volume of commercial impacts so that ultimately, the supply of commercial impacts only increases from Q_{CI}^1 to Q_{CI}^3 . The extent of this shift depends upon the responsiveness of viewers to an increase in advertising, or more formally, viewers’ *advertising elasticity of demand*⁵⁷. As indicated in the main document, we are not aware of any studies which have attempted to calculate viewers’ advertising elasticity of demand for the UK.

Rationale for Economic Intervention

- A5.284 In the March 2008 document we also outlined our concerns about the possibility of market failure in this area and thus the rationale for intervention.
- A5.285 The fact that there are both positive and negative aspects to TV advertising, suggests that there is likely to be some optimal level (in terms of the amount and frequency) of advertising in terms of the trade off between viewers and advertisers. The optimal level could also vary by broadcaster. Given that there is likely to be this optimal level, the key issue from a regulatory point of view is then whether the market for television advertising will function in a way which is likely to deliver the socially optimal level of advertising in terms of balancing the interests of viewer and advertiser.
- A5.286 In a market that is working effectively one might expect viewer irritation with the level and/or frequency of advertising to provide an important self-disciplining constraint on broadcasters. For instance, if a broadcaster showed too many adverts on a channel, then – other things being equal – one might expect viewers to switch away from that channel. In effect the price to the viewer of watching that channel has gone up and viewers could respond by switching away. A decrease in audiences to that channel would reduce the commercial impacts delivered by that channel which in turn would make it less attractive to advertisers, leading them to switch their advertising budgets to other channels. As a result the broadcaster would end up suffering a reduction in income.

⁵⁶ Non-PSBs can choose not to utilise this extra minutage, in which case we effectively assume the status quo. Note however that because of the Airtime Sales Rules, PSB channels must use this additional airtime.

⁵⁷ That is, the percentage change in viewing hours demanded in response to a percentage change in advertising minutage. Given our assumption of a downward sloping demand curve, we expect this to be negative – so that an increase in advertising induces a reduction in viewing hours.

- A5.287 In addition, the presence of the BBC might have a role as a disciplining device on advertising funded broadcasters. If viewers object to the volume of advertising on these channels, then they would have an option of switching over to the BBC to watch programming that was not interrupted by advert breaks. It should be pointed out that it is not clear how strong this disciplining function may be or indeed whether it works on a consistent basis. It is the case that for some specific events, e.g. live sporting events which are shown on both ITV1 and BBC - such as the FA Cup final - the BBC tends to enjoy significantly higher viewing figures. This would tend to suggest that – at least where there is identical programming available on the BBC and ITV1 - viewers have a preference for viewing without adverts. However, for more general programming, it is not clear that programming on BBC channels would automatically be a direct substitute for programming on commercial broadcasters e.g. for *Coronation Street* on ITV1.
- A5.288 However, there are a number of factors which could prevent the market from adjusting in this way i.e. leading to a market failure. For instance, if there were market power in respect of the provision of television airtime this could limit the ability of advertisers to switch advertising expenditure away from a particular broadcaster in response to falling audiences. For instance, audience fragmentation makes the delivery of consistently large audiences more challenging. Channels that are able to deliver large audiences relative to other channels allow advertisers to build unique coverage quickly and effectively and are likely to remain valuable to advertisers.
- A5.289 Alternatively, there could be other features of the market which act as a barrier to the market self-correcting. As was noted in the March 2008 document, the annual sales contracts that are negotiated between broadcasters and media-buying agencies tend to focus on “share of broadcast” deals i.e. the proportion of its total expenditure on TV advertising across all its clients that an agency will commit to a particular broadcaster. This in turn incentivises broadcasters to protect their SOCI position. If a single broadcaster were to increase the volume of advertising (and if there was no dramatic drop off in audiences), that broadcaster would see an increase in their SOCI. The nature of the contractual negotiations between broadcasters/sales houses and media-buying agencies means that the broadcaster could then use this increase in SOCI to get agencies to increase the proportion of their TV advertising expenditure that they place with that channel going forward. Although this analysis might hold for a single channel, given the dynamic with respect to the importance of SOCI, if one broadcaster were to increase the amount of advertising then there would be an incentive on all other broadcasters to follow suit and to increase the volume of advertising in order to preserve their respective SOCI positions. This feature of the market would therefore tend to undermine the market’s ability to self-correct.
- A5.290 The market power issue referred to above would tend to be an issue which was relevant to particular market circumstances and to particular broadcasters. The issues around the incentive to safeguard SOCI would appear to be relevant to all broadcasters/sales houses and could dominate concerns about viewer irritation.
- A5.291 Historically intervention in the UK TV advertising market has been aimed at limiting the amount and distribution of advertising. The underlying concern has been that the incentive to safeguard SOCI would tend to dominate concerns about viewer irritation i.e. the market would not necessarily self-correct and the amount of

advertising would be above the optimal⁵⁸ level. The focus of intervention from an economic point of view has therefore been on limiting the amount of TV advertising with an implicit presumption that without intervention the amount and frequency of TV advertising actually delivered could be in excess of the optimal level.

Reconciling Industry View with Elasticity Approach

- A5.292 As set out in the main IA, there is apparently a difference of opinion between the views of some in the industry as to the responsiveness of the demand for advertising in response to price changes and the results of the PwC econometric study that has been used in our modelling.
- A5.293 There are two versions of the industry view. The first is that there would be little change in the overall amount of TV advertising revenue i.e. in general terms the price elasticity of demand is 1. The second is that there would actually be a reduction in the volume of advertising revenue as a result of the options we are considering i.e. the demand for advertising is inelastic (or less than 1).
- A5.294 In the March 2008 document we suggested that this might in part be about a distinction between short-run and long-run decision making. For instance, we would accept that once a particular campaign has been planned and booked or indeed is underway, it would be unlikely that an advertiser would adjust its campaign parameters in response to a change in price. However, we might expect some adjustment in expectations in the longer-run e.g. when it came to planning subsequent advertising campaigns an advertiser/agency would factor in changes in the anticipated price of advertising. Thus we would accept that in the short-run elasticity of demand is likely to be lower than in the long-run. We would re-iterate that in our modelling we are focusing on the long-run elasticity of demand rather than the short-run.
- A5.295 We have also considered a number of other approaches that might explain the apparent difference in opinion about the responsiveness of the demand for advertising. These are discussed below

Income and Substitution Effects

- A5.296 One approach that might be used to reconcile these two views is to try first of all to frame the industry view in terms of economic theory. In particular, industry stakeholders have argued that a fall in the price of advertising would not lead to any increase in the demand for commercial impacts from existing advertisers. If this is correct, it would suggest that the demand for commercial impacts is unusual from an economic perspective.
- A5.297 According to well established economic theory, a fall in price for any good or service generates two effects; an income effect and a substitution effect. The substitution effect always dictates that because the price of commercial impacts has fallen (whilst all else has remained the same), advertising becomes relatively more attractive from advertisers' point of view. Therefore, the demand for advertising cannot decrease as a result of the substitution effect of a price fall.
- A5.298 However, the income effect can work in one of two directions. Specifically, a fall in the price of advertising is equivalent to an increase in the purchasing power of the

⁵⁸ As in the March consultation document, we are using "optimal" in this instance to take into account both sides of the market i.e. taking into account broadcaster, advertiser and viewer.

advertisers: because advertising is cheaper, advertisers now have more revenues which can be spent on any good or service. Therefore, the increase in purchasing power that arises from the income effect may induce advertisers to increase their demand for advertising. However, the income effect may also persuade advertisers simply to purchase the same number of impacts at a lower cost – as they might prefer to spend this “windfall” on other expenditures. This last case is effectively what is being described by proponents of the industry view. In particular, as discussed in the main IA, many industry stakeholders have told us that advertisers would simply take advantage of any price fall by recognising that they could achieve a given delivery of commercial message for a lower cost and simply choose to spend less on advertising.

- A5.299 It is entirely plausible that the net outcome of these two effects involves the income effect offsetting the substitution effect such that a fall in the price of advertising does not generate any extra demand – as described by industry. However, this would require that the demand for advertising falls with increases in purchasing power/income⁵⁹. This contradicts the conventional perception of advertising as a *normal good*, for which demand increases when income is high. In particular, PwC noted in their original report to Ofcom⁶⁰ that “A strong empirical link between advertising expenditure and corporate profits has also been observed, possibly reflecting the tendency for companies to be more willing to undertake discretionary spending of any sort when profits are strong”.
- A5.300 Therefore, whilst the industry view is not irreconcilable with economic theory, it does appear to challenge the conventional perception of advertising. Furthermore, although these arguments help us to frame the industry view in terms of economic theory, we are still left with the fact that this view appears to be inconsistent with the available econometric evidence.

Elasticity by Time of Day

- A5.301 Another approach that may be used to reconcile apparent inconsistency between the industry perspective and the econometric evidence is to argue that the price elasticity of demand for commercial impacts may vary according to time of day. In particular, it may be the case that the demand for commercial impacts is relatively *elastic* during peak, but relatively *inelastic* in off-peak. In other words, the demand for commercial impacts is responsive to changes in the price of advertising at peak times – when audiences are high – so that any fall in the price of peak-time impacts encourages a relatively large increase in demand. Specifically, any fall in the price of advertising due to a relaxation of RADA will lead to a more than proportionate increase in the demand for commercial impacts *in peak-time*, so that overall advertising revenues derived from peak-time advertising increase.
- A5.302 In contrast, the demand for commercial impacts may be inelastic during off-peak hours; meaning that any fall in the price of off-peak commercial impacts would encourage very little, if any extra demand from advertisers. More accurately, a fall in the price of off-peak impacts (due to a relaxation of RADA) would lead to a less than proportionate increase in the demand for commercial impacts, causing off-peak NAR to decrease.
- A5.303 Unfortunately, there is no way to deduce whether the price elasticity differs according to time of day from the analysis undertaken by PwC. All we know is that

⁵⁹ Or more formally, the demand for advertising is an *inferior good*.

⁶⁰ PwC Report: Forecasting UK TV Advertising Revenue 2004-2014. (Ofcom 2004), p.14.

the evidence suggests that the demand for commercial impacts is elastic overall. However, this argument that the elasticity of demand for commercial impacts varies according to time of day would appear to explain the motivation behind one of the PSB's proposal for extra peak time flexibility.

- A5.304 In response to the March 2008 document, a PSB proposed that PSBs should be allowed greater flexibility to pool their daily peak time allowances over the week. To take the example of evening peak, this would mean that rather than adhering to a *daily* cap of 40 minutes of advertising, PSBs would face a *weekly* cap of 280 (i.e. 7 x 40) minutes of advertising. This would allow PSBs to exceed the current 40 minute cap on some days, providing this was appropriately offset by a reduction in advertising on other days in the week. From an economic perspective, this would allow PSBs to increase the amount of advertising at times when the demand for commercial impacts is *relatively* elastic, and reduce advertising at times when demand is *relatively* less elastic. The fact that the PSB attached value to this proposal implied that the demand for its commercial impacts is certainly relatively more elastic at certain times of the day/week than others.

IA Q12: To what extent do respondents agree that the elasticity of demand for advertising could vary by time of day? Would this be applicable to all broadcasters or more relevant to some than others? Please provide any evidence that you might have to support your view.

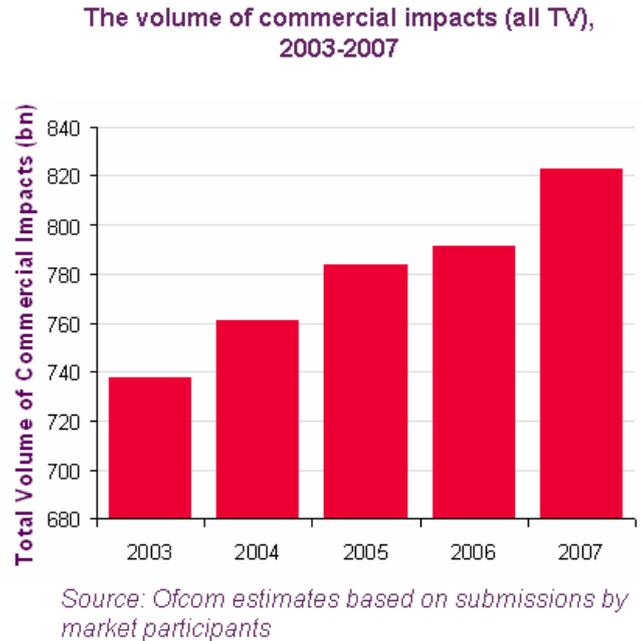
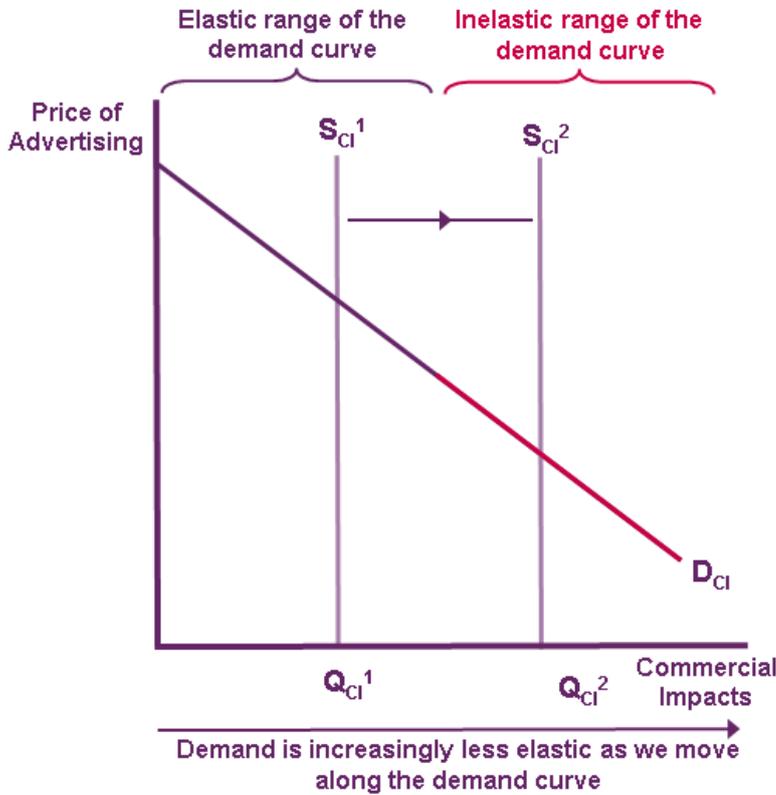
Recent Changes in Demand for Elasticity

- A5.305 Yet another approach to reconciling the industry view with the econometric evidence might be to argue that although the demand for commercial impacts was previously elastic, very recent changes to the market have caused it to become inelastic. Such changes might include the continued growth of multi-channel television, which has already resulted in the significant growth in the supply of commercial impacts and a fall in their price, recent changes in the macro-economy, and/or a possible downturn in the market for advertising.
- A5.306 In order to rationalise this argument in terms of economic theory, we first highlight the fact the elasticity of demand does typically vary along a given demand curve. In particular, demand typically starts off elastic at very low levels of demand, and becomes less and less elastic; and eventually inelastic as we progress downwards along the demand curve⁶¹.
- A5.307 Therefore, although – as the econometric evidence suggests – the market for commercial impacts may have been operating at an *elastic* point on the demand curve, changes in this market can shift the situation to an *inelastic* point on the demand curve. In particular, there are two possible means by which we can move from an elastic point to an inelastic point, as demonstrated in Figure 5 and Figure 6 below:
- A5.308 Firstly, as demonstrated in the left-hand panel of Figure 5, continued expansion of the supply of commercial impacts from S_{CI}^1 to S_{CI}^2 can move us *along* the existing demand curve from a point which is initially elastic to a point which is ultimately inelastic. The right-hand panel of Figure 5 indicates that the overall volume of commercial impacts does appear to have increased in recent years, lending some support to this argument. Despite the fact the amount of advertising airtime shown on any given channel is restricted by RADA, such an increase in the supply of

⁶¹ Although the opposite is theoretically possible, it is generally considered unlikely.

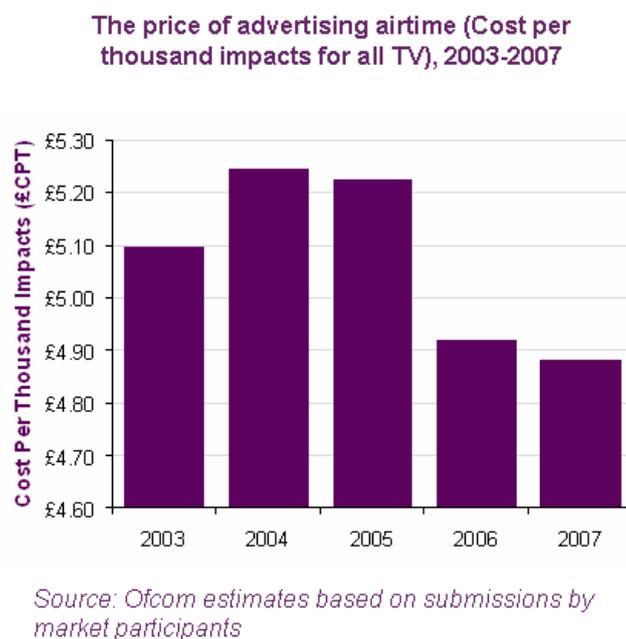
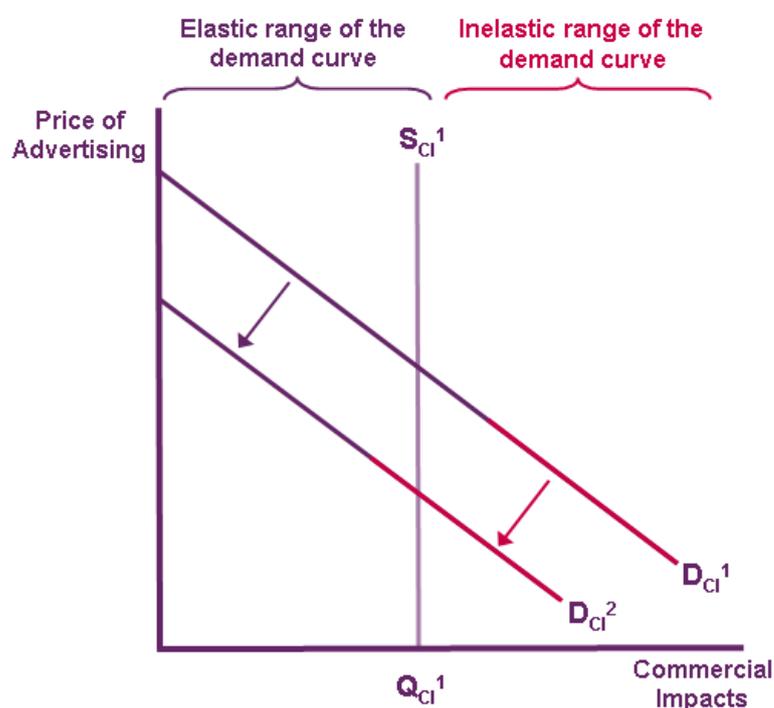
commercial impacts might arise from an increase in audiences, or an increase in the amount of channels.

Figure 5: An increase in the volume of commercial impacts



A5.309 Alternatively, *shifts* in the demand for commercial impacts may also cause the market to move from a point which is elastic to one which is inelastic – as demonstrated on the left-hand side of Figure 6. Such a shift could be caused by a downturn in the market for television advertising, which causes advertisers to demand less commercial impacts. Diagrammatically, this is represented by a leftward shift in the demand for commercial impacts (D_{Ci}^1 to D_{Ci}^2), so that at each and every price, advertisers now demand fewer impacts than previously. If the demand for commercial impacts were to fall far enough, the new equilibrium might lie on an inelastic point of the new demand curve.

Figure 6: A fall in the demand for commercial impacts



A5.310 Although the data presented in the right-hand panels of Figures 5 and 6 appears to lend weight to the view that the demand for commercial impacts may have become *less elastic*, it does not confirm that demand is now *inelastic*. As mentioned in main IA, the latest available econometric evidence (which uses data up to and including Q2 2007) indicates that the demand for commercial impacts is still elastic for both PSBs and non-PSBs. Whilst the demand for non-PSBs has become less elastic, the demand for PSBs may have actually become *more elastic*.

A5.311 Therefore, using the analysis outlined in Figures 4 and 5 to rationalise the econometric evidence, we might conclude that recent shifts in the demand and/or supply of commercial impacts have (in general) moved non-PSBs to a *less elastic* point on their respective demand curves. In the case of the PSBs however, it would appear that the opposite has occurred: shifts in demand/supply have caused demand to become more elastic. In both cases however, it appears that the demand for commercial impacts is still elastic.

Preliminary Conclusions

A5.312 The above discussion sets out to explore a number of ways that we might attempt to reconcile the views of some industry participants with the econometric evidence that we have used in our modelling.

A5.313 To some extent we think it may be possible to reconcile the different points of view e.g. if the industry view is focusing more on a short-term income effect than on longer-run substitution effects or if the elasticity of demand varies by time of day. However, we are less convinced about the validity of the last option: it appears to be at odds with evidence provided by one PSB that attempted to update the original PwC study.

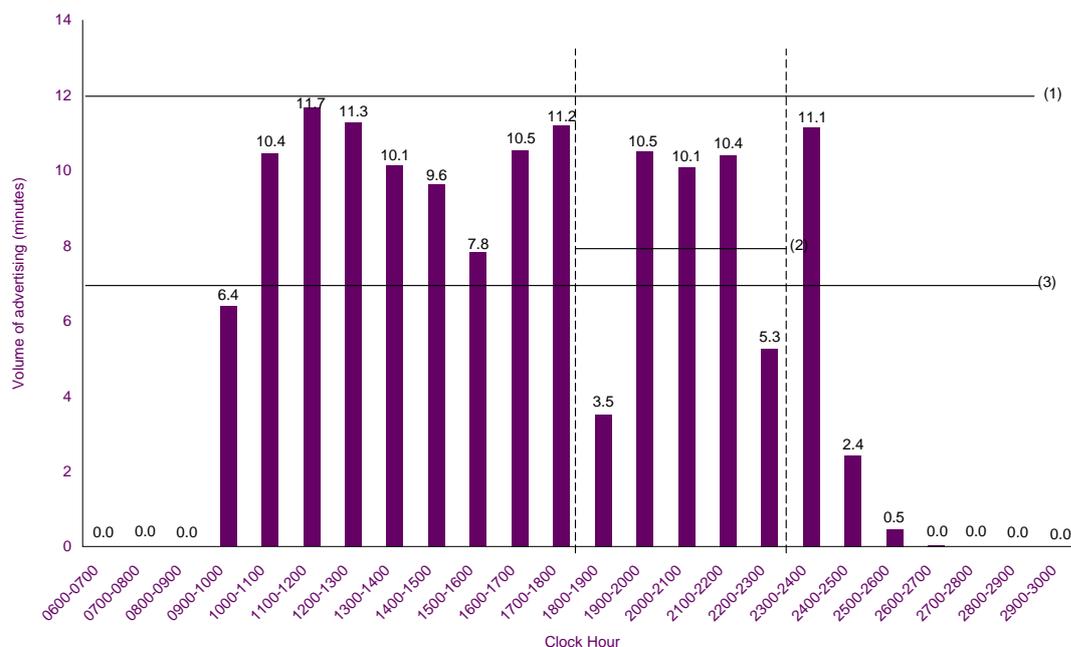
A5.314 We are aware that none of these necessarily explains away all of the difference and we would welcome any further dialogue with the industry on these issues.

IA Q13: To what extent do respondents consider that some of these approaches help to explain at least some of the differences between some industry perceptions of the elasticity of demand for advertising and the econometric data?

Annex 6

Distribution of minutage on the main commercial PSB channels

Figure 1: Distribution of advertising minutage on ITV1

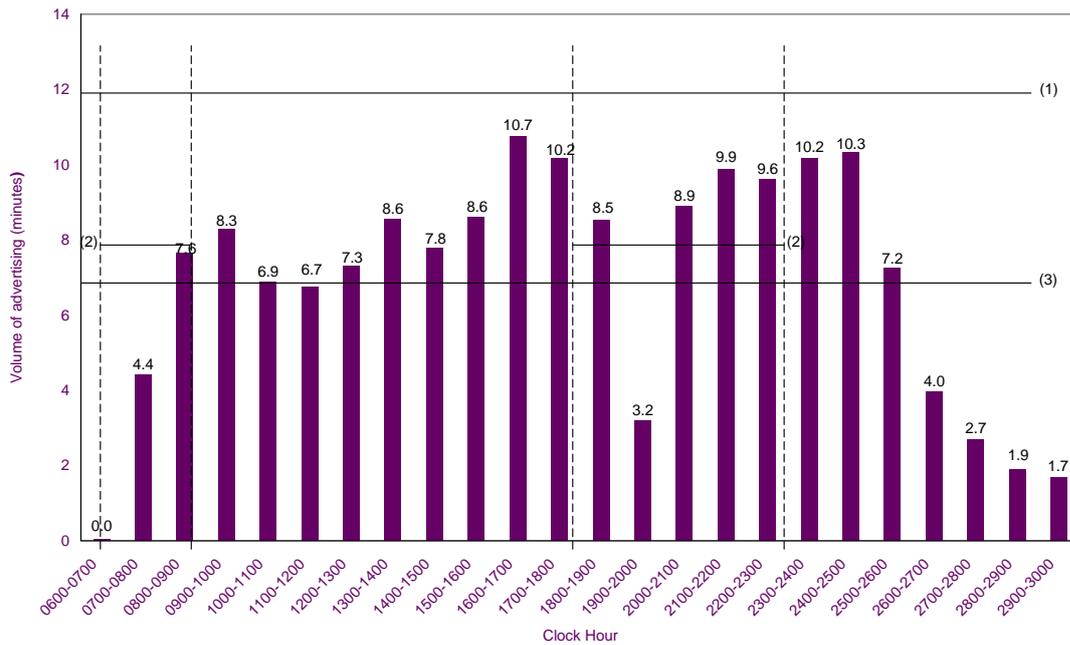


Notes:

1. TWF/AVMS rule of maximum of 12 minutes scheduled in any clock hour
2. RADA limit of 8 minutes average in peak for PSB channels
3. RADA limit of 7 minutes average over broadcast hours for PSB channels.
4. ITV1 does not broadcast between 6am and 9.25am as the licence for this period is held by GMTV.

Source: Nielsen Media, Jan to Dec 2007

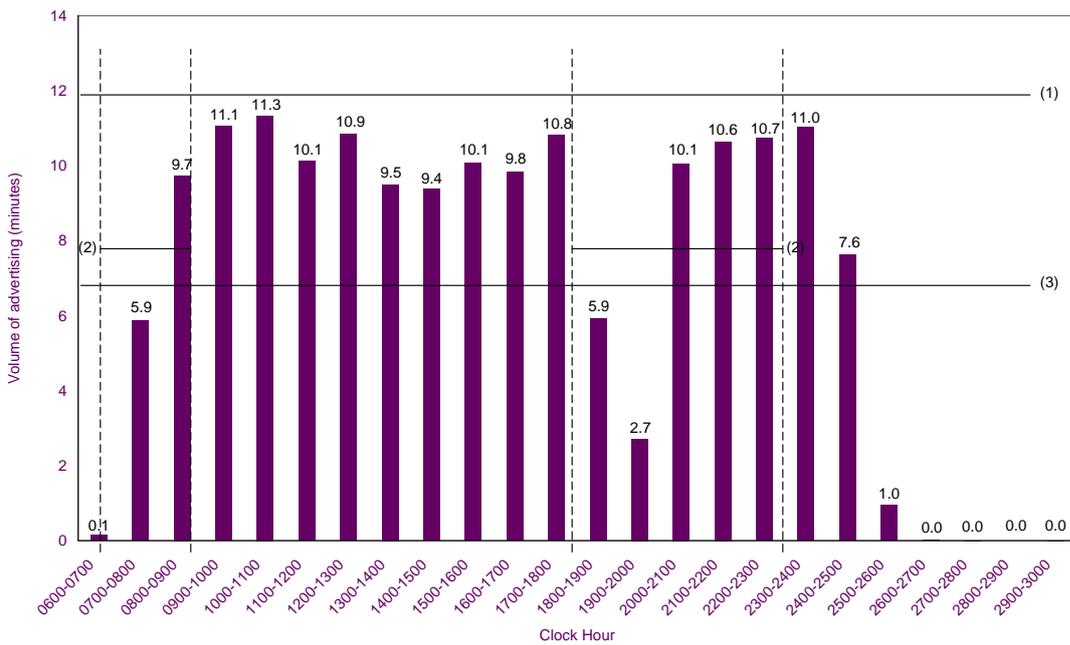
Figure 2: Distribution of advertising minutage on Channel 4



Notes:

1. TWF/AVMS rule of maximum of 12 minutes scheduled in any clock hour
 2. RADA limit of 8 minutes average in peak for PSB channels
 3. RADA limit of 7 minutes average over broadcast hours for PSB channels.
- Source: Nielsen Media, Jan to Dec 2007

Figure 3: Distribution of advertising minutage on Five



Notes:

1. TWF/AVMS rule of maximum of 12 minutes scheduled in any clock hour