Ofcom

Competition issues in the UK TV advertising trading mechanism

A response from the IPA's Media Futures Group to questions raised by the Ofcom Consultation Paper

July 2011

This responds to the paper published by Ofcom as part of its consultation on whether or not to refer the UK market for TV advertising to the Competition Commission for market investigation.

A About the IPA

The Ofcom Consultation Team will be acquainted with the Institute of Practitioners in Advertising and its role as the trade body and professional institute for the UK advertising agency business.

Our 250 corporate members, based throughout the country, handle over 80% of the UK's display advertising with an estimated value of £16.8 billion in 2010.

B Nature of this response

Media policy for the IPA rests with its Media Futures Group comprising senior representatives from 12 of the IPA's main media agency members.

This group is charged with responding to external media issues on behalf of the ad agency industry – and, in general, its views will coincide with those of the majority of IPA media agencies.

In this instance, however, we are aware that the attitudes to the TV advertising trading mechanism expressed below may vary across our membership and therefore this response has been made under the Media Futures Group name, rather than the IPA overall.

C Specific detail

Q1. *Do you think we have captured all the relevant market developments, which might have had an impact on competition in the sector?*

Yes. In overall terms, we believe that the consultation document provides a thorough and well presented analysis of the principal elements likely to have impacted on the sector.

Having said this, our members have drawn attention to the following additional factors which Ofcom may wish to take into consideration in its deliberations:

- That TV buyers do not differentiate between PSB and non-PSB television channels when making investment decisions;

- That the penetration of high-speed broadband is now reaching significant levels and, while it will probably require greater penetration of "connected" television sets fully to take off, this could have a profound influence on future consumption patterns via increased levels of online viewing. (GroupM has noted that VOD now accounts for 6% of all video viewing in broadband households.)

- That Google's entrenchment as a dominant player in paid-for Search could provide a powerful springboard for future development elsewhere.

Q2. *Are there standard measurement systems being developed for tracking the effectiveness of internet display advertising? If so, are they likely to affect widespread take up of internet display advertising (and over what timescale)?*

As Ofcom will be aware, while internet display advertising (including pop-ups, banners etc) accounted for 23%* of online advertising in 2010, internet *branding* campaigns (ie audio-visual activity) currently accounts for only 5% - with the result that specific research systems in this area remain in their infancy.

Of course, as with any online activity, it is possible to gather a wealth of statistics from meta-data which will approximate to usage levels (e.g. click-through, dwell time etc) and, increasingly, from behavioural targeting. Likewise, direct response advertisers, selling their goods online, will be able to measure instantly the impact of their activity.

However, to date, specific systems for measuring awareness shifts which might approximate to effectiveness have not been justified by levels of expenditure, although individual agencies may have their own private proprietary tools.

As with any comparatively new sector, gaining general acceptance of standard research methods of measurement for this category will take time.

Agencies and advertisers had to mount considerable and on-going pressure, for example, to persuade ISPs and online publishers of the need for independent online audience data which all other traditional media supply. The latter's reluctance/financial inability to underwrite a joint industry initiative has resulted in the creation of UKOM which is a MOC (Media Owner Contract) commissioned by the AOP and IAB and undertaken in partnership with Nielsen. However, while this may have aimed to become an industry standard , another major research player, comScore, is still operating in the sector, publishing its data in parallel and in competition with the UKOM database – and giving rise to the risk of confusion which inevitably results from the consequent two currencies.

Having said this, we have no doubt that significant growth in display advertising in the sector would act as a spur for development of both audience and effectiveness research going forward. This will be driven by the need to relate and measure online display as part of a campaign's media mix with other channels.

In terms of VOD audience measurement - this is, we believe, most likely to come from an extension of BARB rather than online measurement systems, but this will depend on the willingness, from 2012 onwards, of all the parties to accept the fairly significant cost premium required for the additional data collection involved.

(Source : IAB)*

Q3. *Do you agree with our conclusion that, at present, internet advertising does not constitute a sufficiently strong competitive constraint on TV advertising? Is this likely to change in the foreseeable future?*

At this stage, we believe that internet advertising plays a complementary role to off-line advertising and, as such, cannot be viewed as a substitute likely to constrain TV.

In terms of the future, while better quality content distributed via online portals could challenge this situation, we are inclined to feel that the disparate nature of viewing on the web will preserve traditional television's unique ability to deliver rapid, mass coverage, and thus its strength.

In these circumstances, we believe there would need to be a very major change in the market before internet advertising would act as a competitive constraint on television advertising.

Q4. *Do you agree with our market definition? Have we considered the appropriate market developments in forming our view?*

We agree with Ofcom's conclusion that TV advertising in the UK is the relevant market for this consultation – and with its analysis of developments and trends leading up to this definition.

Q5. *Do you agree with our overview of the way TV advertising is traded? Are there any other characteristics of trading that we should consider?*

We agree with Ofcom's broad overview of TV trading.

For details of alternative trading arrangements see Page 10 of this paper : “SAP, SOB and umbrella deals are neither universally practised nor mandatory"

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Q6. *Do we understand correctly that the market has essentially operated in the same way since the early 1990s? Does our analysis of why the market evolved from a slot traded ratecard model accurately reflect reality?*

While it is true that the TV market has operated broadly in the same way since the 1990s, this does not mean either that participants have been prevented in the past from adopting and operating alternative trading methods, should they have so wished - or that approaches will not change in the future.

As has been indicated in our various meetings with Ofcom, the current method of trading evolved organically as a pragmatic and cost-effective answer to the pressures of a more complex TV market and the need for efficiency.

Having said this, our members have pointed out that there is no brake on innovation in the current approach to trading and the impact of new technology, distribution platforms, and data capture and measurement will almost certainly lead to change in the future.

Q7. *Are there any other benefits associated with the current system of trading which we have not factored into our analysis?*

Our members have identified three key benefits associated with the current system of trading:

- Certainty
- Clarity
- Efficiency

Taking each of these in turn, the following has been noted:

Certainty: That SOB compensates for uncertainty in both clients' volume of spend from media buyers and delivery of impacts from broadcasters - while offering clients the flexibility to adjust their budgets across the year;

Clarity: That while it may seem complex from the outside, all parties involved in the market have a clear understanding of how the model works, and the commitments involved. Additionally, advertisers have the further reassurance from third-party media auditors that their money is being spent wisely and cost effectively.

Efficiency: That the system is efficient and affordable for all parties - with agencies stating: (i) that a slot-based trading system would have become financially untenable with the growth in impacts over the last decade and (ii) that the current approach - which has shaped the present structure of both media agencies and broadcaster sales operations - has evolved through the need to trade effectively and efficiently. (See also our answer to Q11 below.)

Q8. *Can we draw any conclusions from features of TV advertising trading models in other countries about whether features in the UK market prevent, restrict or distort competition?*

Individual markets evolve to meet their own circumstances.

As such, comparisons with overseas trading models are difficult and we do not believe there are any examples in continental Europe, which offer the same degree of clarity, flexibility or efficiency to participants as the UK. Certainly, the line-by-line approach adopted in Germany offers no greater benefits, with advertisers having no more awareness of the price they pay for airtime than in the UK, while being significantly more restricted in terms of their short-term flexibility.

Likewise, the US approach of "upfronts" - while having similarities with the UK's handling of "specials" - would be potentially competitively distorted as a result of the dominance of ITV in mass -audience delivery.

Q9. *How transparent is the pricing of TV airtime? Does it enable advertisers and media buyers to make informed decisions about the purchasing of TV advertising on different broadcasters?*

While outside observers may find the absence of a fixed price for airtime a source for concern, in reality, the current system offers a high degree of pricing transparency on which advertisers and buyers are able to base their decisions.

As Ofcom itself has concluded in the consultation document, "media buyers will tend to be negotiating simultaneously with sales houses, and so should have a good idea of what offers are available from different broadcasters/sales houses."

Likewise, the Station Average Price mechanism will enable media buyers to react to changes in supply and demand, with visibility of relative price performance across channels and across seasons.

While, finally, outcomes will be vetted by experienced media auditors on behalf of advertisers to ensure the latter are getting value for their money.

Media agencies are only too aware of the need to obtain the best possible terms for their clients, and that failure to deliver on these will be quickly identified by both auditors and advertisers. That this identification takes place and is acted on is borne out by the large number of pitches which take place annually in the market, principally driven by pressures from client procurement departments to obtain better terms (i.e. pricing guarantees) for their accounts.

Q10. *To what extent do advertisers switch between media buyers? What factors influence the decision and how easy is it to switch media buyers?*

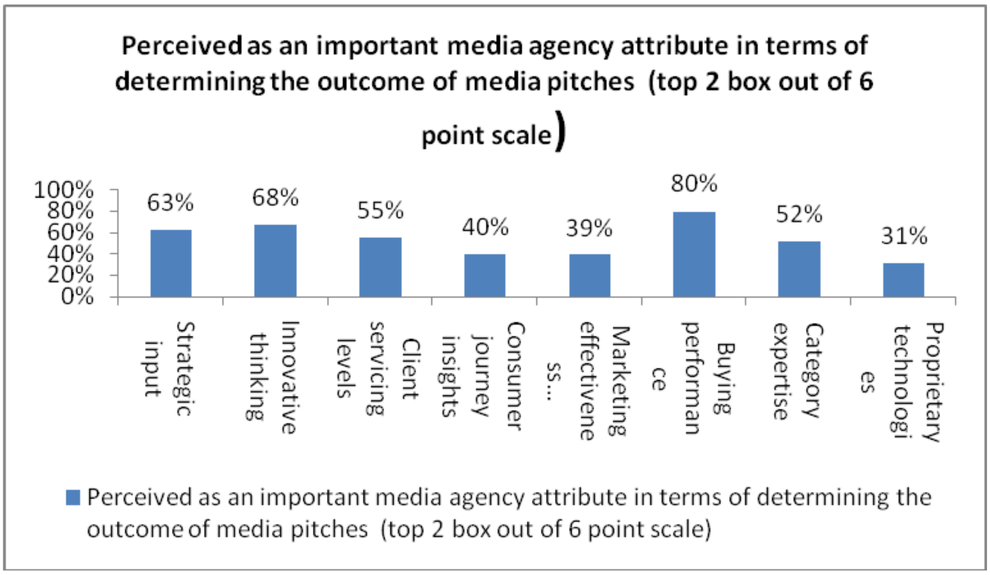
There has been a general increase in the last 10 years in the regularity with which advertisers will review their media buying arrangements, often leading to a switch between media buyers. The review of media buying arrangements is usually a considered and carefully managed process, involving the advertisers' marketing teams, procurement departments and some form of independent advisor such as a media auditor or pitch consultant. In the 12 months to June 2011 there were 143 media or media buying pitches reported according to the AAR, a group that specialises in advertiser and agency relationships, which indicates that a significant number of advertisers consider switching or actually switch media buyers each year.

It is relatively easy for advertisers to switch between media buyers. A typical advertiser would see a review of their media buying arrangements every 3 to 5 years as best practice, but would have the ability to give notice of just a few months on their media buyer, effectively allowing an advertiser to review at any time should they wish to. In addition a typical advertiser would have specific media buying objectives agreed as part of their media buyer contracts that are revised on an annual basis. If an agency fails to deliver on these objectives then an advertiser would normally be entitled to trigger a break clause and switch media buyer if they wished.

Advertisers will generally appoint a media agency to provide a number of services for them - strategy, planning, search, etc. – as well as media buying. So there are a great many factors that influence their decision when looking to review media buying arrangements or switch between media buyers. However, the price of media, and of TV in particular, is certainly one of the most important.

In 2010 Media Sense, a firm of media consultants, commissioned a survey that looked at, amongst other things, the key factors determining the outcomes of media pitches - the usual method adopted by an advertiser when choosing whether to switch media agency. The survey respondents ranked the following factors :

(See overleaf)



Online survey of 250+ responses comprising media agencies, media owners and clients

It is clear from the above, and our members' collective experience, that media prices are a key factor when advertisers choose to renew or switch media agencies. Within this, TV pricing is the most important element because of the high profile of the medium among advertisers, its importance to their marketing campaigns, and the near ubiquity of auditors involved with TV campaigns, giving visibility and context to TV pricing.

The ease with which business can move on the back of the above is made clear by the number of pitches for advertisers' media accounts, which take place each year.

Year	**Number of pitches**
2000	181
2001	208
2002	249
2003	175
2004	148
2005	133
2006	245
2007	246
2008	241
2009	184
2010	172
	Source : AAR

These reflect the growing influence of procurement departments, spiking across 2006- 2008, as the lead up to the economic recession resulted in massive across-the-board pressure to drive down supplier prices.

Q11. *To what extent do any benefits associated with these features of the market offset or even outweigh the potential detriment?*

As indicated above, here are considerable benefits, principally to advertisers, associated with these features of the market that would outweigh any potential detriment.

The key benefits of the current principal method of trading include:

- *Advertiser investment flexibility:* Through the combination of SOB commitments and umbrella deals advertisers gain significant flexibility. Committing to a share of expenditure rather than making a commitment based on volume affords an advertiser flexibility to adjust their TV investment plans up or down without penalty up until the point (approximately 2 months in advance) that the physical booking of TV campaigns takes place (generally known as the AB deadline). This gives advertisers flexibility both to manage and make adjustments to marketing plans, and gives advertisers greater control over a significant portion of their business expenditure. The adoption of volume as the common form of commitment would remove these benefits and lead to advertisers being forced to make and stick to longer term plans (e.g. 12 months) without the flexibility to react according to the changing needs of their businesses. Further, the interaction of SOB commitments and agency umbrella deals gives advertisers flexibility to move spend between TV stations or sales points as they wish. This requires of agencies the ability to accurately gauge the aggregated demand of their clients and to deliver a set of deals that meets that demand with the required flexibility.

- *Greater advertiser switching:* SOB commitments allow advertisers greater flexibility to choose to switch media buyers 'mid-year', rather than having to wait to switch only at 'year-end' or contract end. If an advertiser commits to a volume level across a year then it cannot switch media buyer mid-year, because it will still be liable for the volume commitment across the year and tied to the terms that go with it, removing any price benefit to the advertiser they might gain from switching. Through a commitment only to share they are free of such obligations and have more freedom to switch.

- *Greater market fluidity:* The SAP mechanism in particular allows greater fluidity to the TV market, allowing the market to rise and fall in near real time as supply and demand factors change. For advertisers, this means that a market is never in effect 'sold out' and advertisers wishing to enter the market late can ordinarily do so, as their entrance into the market will raise the SAP and free up inventory to accommodate the new advertiser. NB An advertiser entering the TV market late would generally pay a premium on its regular pricing, to compensate for the loss in optimisation a TV station can carry out on its inventory and as an incentive to book early/disincentive to book late.

- *Greater competition:* Both the practice of SOB commitments and the SAP mechanism promote greater competition in the area of TV pricing. Commitments based on share, rather than volume, provide a more level playing field for advertisers (and agencies) of varying sizes. Should volume be the prevalent form of commitment then this will significantly disadvantage medium and smaller sized advertisers – most very large advertisers already leverage their volume in their negotiations and have realised the advantages that could be gained by doing so. Furthermore, these mechanisms in combination guarantee access to 'everyone', in that they prevent any one party being able to buy up all of the available inventory, or all the available inventory on key channels or in key programmes. Such anti-competitive practices would be a concern under other trading mechanisms.

- *Planning and predictability*: The uncertainty as to the final price inherent with a SAP mechanic is more than offset by the certainty around levels of access to inventory. Most advertisers in the UK take a sophisticated approach to their advertising activities and have developed a good understanding of the types and weights of advertising, particular on TV, that are right for their business. The current trading mechanisms in combination do allow advertisers to predict pricing and plan and deliver the necessary weights of TV advertising with relative accuracy, helped in part because through the current mechanisms they are guaranteed a certain level of access to TV advertising inventory. By comparison other mechanisms, e.g. auctions, might give greater certainty around price at the time of booking but could lead to more extreme deviation from planned advertising weights.

- *Airtime sales regulations and the BBC:* The intricacies of SAP in part reflect the unique characteristics of television in the UK. A simpler trading mechanism would be more applicable to a far more liberalised and free market TV landscape, whereas in the UK we have significant regulations concerning the amount and scheduling of TV airtime and the impact of the BBC. The former prevents broadcasters from being able to reduce or increase its advertising inventory to meet demand, or to move inventory around to any great extent in order to respond to changes in demand patterns. Viewing to the BBC also has a significant impact on the amount of TV advertising inventory that is available to the market, and fluctuations in viewing to the BBC represent a significant challenge to broadcasters' optimisation systems. We are not trying here to argue for or against advertising sales rules or the existence of the BBC, but wish to make the point that they are relatively unique to TV in the UK and that SAP has an advantage over a fixed price system in allowing broadcasters to cope with their existence.

- *Lower transaction costs:* Advertisers, agencies and broadcasters all benefit from lower transaction costs through the current mechanism, without the costs incurred by having to negotiate for each client separately, each campaign separately, agree fixed pricing, etc.

- *SAP, SOB and umbrella deals are neither universally practiced nor mandatory:* Advertisers have a choice to deal direct with broadcasters and some do, particularly larger advertisers, and would trade outside of umbrella arrangements. Some larger advertisers, as we have previously mentioned, also trade on volume rather than share. Some agencies choose not to trade under umbrella deals, including, for example, IPA member, Walker Media, according to press reports, plus many smaller agencies. Some categories of advertisers have developed price mechanisms different to SAP that are more appropriate for their business, e.g. 'Direct Response' advertisers who, to put it simply, have a basic business model where advertising their products on TV is profitable if they can keep the cost or reaching a viewer at or below a certain price. For these types of advertisers price certainty is highly important and generally airtime quality is not. As a consequence, a system of selling lesser demanded daytime inventory at a fixed cost to 'Direct Response' advertisers has developed over the past decade, to the point where c. 10% of all expenditure on TV is traded in this way. Similarly, much of the advertising targeted at children on specialist children's channels is traded on a fixed price system. In summary, advertisers have the ability to seek out media buyers who can offer a variety of trading models and the market has shown itself able to evolve new ways of trading as the market evolves.

Q12. *How has the recent consolidation in the market altered the relative bargaining relationships between sales houses and media buyers?*

As Ofcom has noted, consolidation has taken place on both the media buying, and sales house sides.

However, while advertisers looking for an agency still have a wide range of choice, these agencies have dramatically less freedom where to spend their TV monies in terms of available sales houses.

As a result of consolidation, more than 90% of TV spot advertising is now held by three sales houses (ITV: 45%; Ch4: 27%; and Sky: 18%), which account for 40%, 26% and 21% share of audience respectively *. If Five is added to the mix, the resulting four sales houses control 99% of all TV revenue.

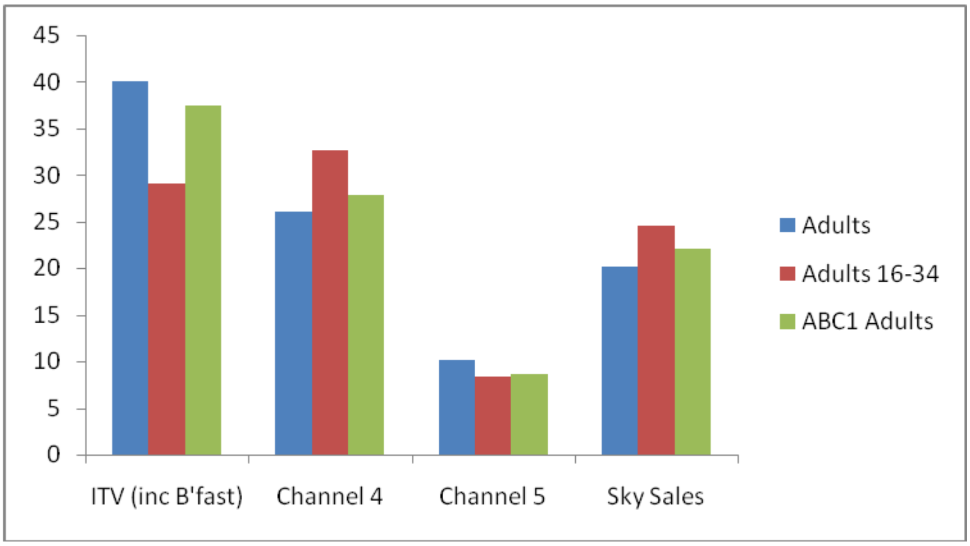
In effect, such a concentration of power makes it extremely difficult not to trade with any one sales point - as to do so would reduce advertisers' access to between 60% and 79% of the total available, with significant knock-on effects for campaign reach, frequency and effectiveness.

Furthermore, each sales house possesses distinct characteristics, as we will explore in answer to Question 13, and practices bundling and conditional selling, as we will explore in answer to Question 14, which combined with their concentrated market power gives them a significant advantage in their bargaining relationship with media buyers.

*(*All adult impacts, January to June 201. Source: BARB)*

***Q13.** To what extent has consolidation resulted in sales houses having a strong market position in relation to particular audience demographics?*

Consolidation has resulted in a flattening of the demographic profile of each sales house, as each of the three main sales houses now has a considerable share of the total audience, spread across a large number of channels – 36 channels in the case of Channel 4 and 126 in the case of Sky. Though not as pronounced as in previous years, some sales houses do still have areas of strength, for instance Channel 4 and younger demographics (see chart below)



Share of equivalent impacts, January to June 2011. Source: BARB.

Demographic profile is only one audience characteristic to consider, and each sales house has other unique characteristics that make it virtually impossible for an advertiser to substitute any one for another, with significant consequences for competition.

ITV clearly has a significant share of the total audience and almost all demographics, which in itself makes it difficult to switch from ITV to other sales houses. But as we have stated previously in response to other consultations concerning CRR and the ASRs, ITV's ability to deliver programmes with mass audiences is unrivalled, to the extent that any advertiser wishing to reach audiences of significant size quickly has very few alternatives to ITV. ITV also dominates a number of important programme categories, such as reality and ‘event’ tv, soaps and original British drama, largely owing to its programme budget size and the difficulty for other broadcasters or new entrants to make significant inroads into these programme categories. ITV, across all of its channels, does command a premium for its airtime against almost every demographic.

Channel 4 still has a very strong profile for younger demographics and, to a lesser extent, upmarket audiences. Channel 4 continues to have a high proportion of lighter viewers – those viewers that watch less television than the average viewer and so are harder to reach. This group of viewers is important to most advertisers in that reaching them is crucial for maximising the total reach of a campaign. Elements of Channel 4’s programming are unique in the UK, for instance its British comedy output and much of the diverse programming broadcast in keeping with its remit. Channel 4’s own research* suggests that this is recognised by television viewers, with 37% of survey respondents claiming that Channel 4 “covers ground other channels wouldn’t” (compared to 6% for ITV) and 34% claiming Channel 4 “takes a different approach to subjects” (compared to 7% for ITV). Through its 10 year sales agreement with UKTV, Channel 4 now controls access for advertisers to BBC archive content, with its distinctive properties, values and audience attractions. Finally, Channel 4’s expanded sales portfolio now extends to a considerable share of the multi-channel audience (28% of adult impacts**), and covers generally sold at discounts*** to the average price of TV. Thus gaining access to these channels is important to advertisers wishing to keep control of the overall cost of their TV advertising and there are many programming environments relatively unique to Channel 4 that would be highly important for many advertisers. This makes switching away from Channel 4 Sales for many advertisers extremely difficult.

Sky, with the largest portfolio of channels, controls access to the majority of sports and film broadcasts, many American imported dramas, large chunks of music channels and much else. Its audience demographics are generally more attractive to advertisers, though with less scale than ITV or Channel 4. Sky controls 39% of all viewing to multi-channel stations** and the airtime on these is also generally traded at a significant discount to the average price of TV airtime, with an adults’ ‘Power Index’ of c. 79 according to UM estimates. Its Power Index for other demographics is usually lower still. Thus gaining access to these channels is important to advertisers wishing to keep control of the overall cost of their TV advertising and there are many programming environments relatively unique to Sky that would be highly important for many advertisers. This makes switching away from Sky Sales for many advertisers extremely difficult.

(*Channel 4 ‘Audience Tracker’ 2010, base All Adults)

(**January to June 11. Source: BARB)

(*** C4 digital’s ‘Power Index’ for an all adult audience is 72 in 2011. Source: UM estimate)

Q14. *What might be the implications of consolidation for competition e.g. in terms of media buyers switching between broadcasters?*

As outlined in response to Questions 12 and 13, the recent consolidation amongst sales houses has had major implications for consolidation. Media buyers are now far less able to switch between sales houses when of the three sales houses that account for more than 90% share, each has such a significant slice of the market. Furthermore, the different characteristics each has – from audience to airtime price – make it extremely rare that any one sales house would be a satisfactory substitute in total. This is particularly the case given the near ubiquitous bundling or conditional selling that occurs, and that we further explore in response to Question 15.

Q15. *To what extent does the bundling of commercial impacts across channel schedules and between channels constrain the ability of media buyers/advertisers to switch expenditure between broadcasters?*

The general practice is for sales houses to bundle their inventory across all day parts on each channel, and across all their TV channels, so that advertisers are required to buy inventory across all or very large parts of the TV stations a sales house has to sell. Sales houses generally adopt this practice because it gives them the strongest hand in negotiations and allows them to charge a higher average price across their entire inventory.

The practice of bundling airtime across day parts is well established and accepted in the UK. Most advertisers will still negotiate for a particular mix of advertising by day part that is right for their business and for most advertisers it makes economic sense to have a mixture of airtime in more highly demanded, and therefore expensive, day parts such as peak time, and less demanded, and therefore cheaper, day parts such as daytime.

It is the relatively more recent practice of bundling or conditional selling, by a sales house, across TV stations that is of real concern. With recent consolidation this has meant that advertisers are significantly less able to switch between individual stations. We have argued in previous consultations that ITV has repeatedly 'out-performed' CRR by conditional selling ITV1 and the ITV digital channels. This is evidenced by the very high Power Index the ITV digital channels have achieved since CRR was introduced – in 2010 they had a Power Index of 79, versus a Power Index for all Channel 5 stations (terrestrial and multi-channel) of 72.

As we put forward in response to Question 14 bundling and conditional selling of channels within a portfolio, in a market dominated by just three sales houses, is a significant factor preventing advertisers' from switching between sales houses.

This reduction in competition is slightly mitigated by the combination of umbrella deals and SOB commitments generally adopted by media buyers.

(Though it is worth stating here that there is significantly less consolidation and more competition between media buyers than between sales houses). The flexibility that the combination of umbrella deals and SOB commitments offers advertisers (and that we previously explored in response to Question 11) means that agencies can offer advertisers some flexibility to switch between individual stations within a sales house. But this flexibility is not total and does not fully counter the lack of effective competition between sales houses.

Q16. *How important are the possible benefits to advertisers, media buyers and sales houses from the bundled sale of airtime across a schedule? Are there other benefits that we have not considered?*

There are many benefits to all parties, and some benefits realised primarily by sales houses. Economies of scale achieved through bundling are important, and realised by all parties. Operating without any bundling would significantly and unnecessarily raise costs for all parties and costs would ultimately be passed on to consumers and their effects seen by viewers. Bundling, particularly across day parts, helps maintain a balance of inventory and promotes competition and fair access for all advertisers. We raised the concern in response to Question 11 that given recent consolidation in the market, other trading mechanisms might allow or encourage advertisers or media buyers to block out the competition by buying up all the inventory in key programmes or day parts. Bundling across day parts does help to prevent this.
Bundling across day parts also prevents prices spiralling upwards (or downwards) for certain day parts and so potentially putting them beyond the reach of some advertisers. UK broadcasters also have to cope with a unique regulatory framework with particular rules for the amount and scheduling of advertising. If bundling did not occur then it is reasonable to assume demand for peak airtime would rise but currently broadcasters would not be able to increase their inventory in response. That would inevitably lead to demands from broadcasters and advertisers for an increase in the amount of advertising allowed in peak to the current EU 12 minutes per hour maximum, and possibly beyond.

Q17. *To what extent does the interaction of umbrella deals and annual SOB deals act to prevent, restrict or distort competition in the market for TV advertising?*

We do not believe that SOB and/or umbrella deals prevent, restrict or distort competition in the market for TV advertising.

As we have indicated in our response to Q11, neither arrangement is ubiquitous across the UK, and advertisers have the ability to choose media buyers who do not operate such approaches, should they so wish.

Moreover, the level of power granted by umbrella deals is limited. In practice, it is only by threatening to remove investment entirely that a buyer can exert leverage on a sales house. Within an umbrella deal, such a move would require agreement from all an agency's advertisers, which would only be possible in the most extreme circumstances.

Likewise concerns the media buyers may restrict the level of discount earned in umbrella deals to certain advertisers with the result that others may not be getting "the best terms they could" should not be exaggerated - delivery targets for clients will depend on hard-negotiated individual agency/client contracts, and an umbrella deal will almost certainly yield greater discount to the advertiser within that deal that could be won individually - as well as providing the flexibility benefits outlined earlier in this paper.

Q18. *To what extent does the ability of advertisers to switch between media buyers serve to impose an effective constraint on media buyers' behaviour?*

To approach this question in a more positive fashion, we would suggest that the ability of advertisers to switch between media buyers provides a massively powerful incentive for agencies to deliver against - and if possible exceed - agreed client/agency objectives.

The rise in the media auditing sector and of procurement specialists within advertising companies over the past decade has, along with the increase in available data and improvements by media agencies, led to a significant increase in media accountability.

Advertisers expect continually higher standards of performance from media agencies, not just in respect to price, but in terms of campaign planning and execution quality and strategic advice.

As we have previously stated, advertisers regularly review their media buying arrangements, often leading to a switching of media buyers, so providing an incentive as well as an effective constraint on media buyers' behaviour.

Q19. *To what extent does the way in which media buyers are remunerated help to align incentives between advertisers and media buyers? Does it have any adverse effects?*

Media buyers' remuneration is generally linked to their buying performance, ensuring that it is in their best interests to make certain that their clients' communications objectives are met and exceeded.

As has been indicated already, the vast majority of advertising expenditure is subject to scrutiny by a third-party media auditors, who will examine campaigns in the utmost detail.

Meeting an advertiser's objectives in terms of price and airtime quality is a major factor in keeping or losing that client's business.

To this extent, the remuneration of the media buyer and the interests of the advertiser are directly aligned.

Q20. *To what extent do the benefits of umbrella deals and annual SOB deals outweigh any concerns?*

As has been illustrated elsewhere in this paper (see Q 11), we believe the benefits of umbrella and annual SOB deals significantly outweigh any concerns.

Such arrangements provide:

- Greater efficiency versus a line-by-line / campaign-by-campaign approach;

- Benefits of scale through being included in a larger buying group;

- Flexibility within an environment where budgets and communication objectives can frequently vary;

- Certainty to advertisers through SOB arrangements in the face of fluctuating markets.

Q21. *Do respondents agree that CRR has had an effect on contract negotiations and/or innovation in the way airtime is traded?*

CRR was introduced to prevent ITV abusing its dominant market position and has been extremely effective.

Given that without it, we believe ITV would have exploited its strength unfairly to the detriment not only of advertisers, but also its competitors, it is inevitable that it has impacted on contract negotiations - if only in terms of competition for those monies coming out of ITV as a result of the ratchet mechanism.

Whether, however, this has ossified the market is another question - as indicated below, we believe the market to be adaptive and that it will evolve, irrespective of CRR, to meet new methods of distributing content.

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Q22. *To what extent do the new methods of distributing and consuming content require the development of alternative trading arrangements? Can the market adapt and develop under the current trading mechanism? Is the current trading model likely to prevent other possible developments in the sector?*

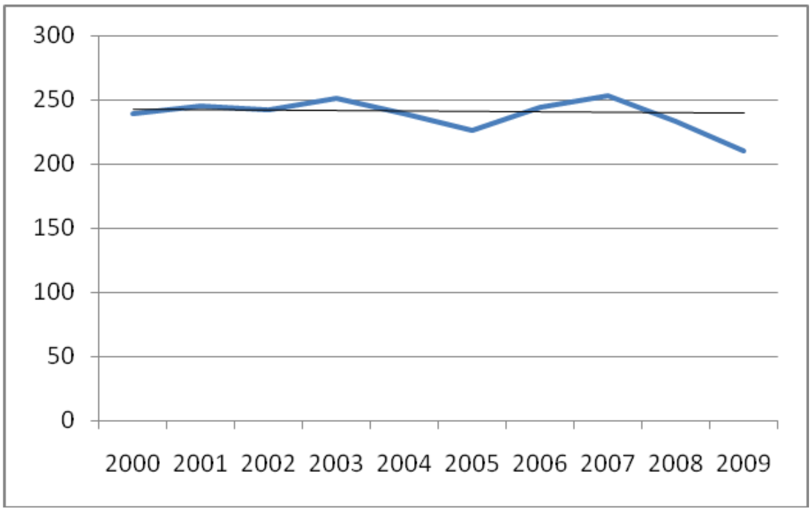
We believe that current methods of trading have already proved to be adaptive and that rather than requiring alternative arrangements, these will evolve naturally to accommodate new methods of distributing and consuming content.

Q23. *To what extent have broadcasters become more risk averse when considering acquiring or commissioning new programming? Is this the result of the operation of the current airtime trading mechanism?*

Although ITV may have suggested in the past that the airtime trading mechanism, and in particular CRR, have resulted in programme commissioners becoming more risk averse, we believe this is fundamentally a red herring.

Ofcom's own Communications Market Report 2010, illustrates a fairly constant level of newly originated material, with the downturn from 2008 more likely to be due to the recession acting on programming than any trading mechanism.

Chart 3 – Hours per week of originated content for commercial channels 2000 – 2009



In reality, the decision by the main mass-market broadcasters to concentrate on "winning formulae" probably owes more to the increased range of channel choices available to the public - providing ready alternatives if audiences believe the material they see is too radical or niche.

This is in contrast to the early days of ITV, when with the BBC as the only other broadcaster, viewers were restricted in where they could go and programmers could experiment with significantly less risk of losing their audience.

Having said this, viewers who do seek radical or niche programmes now have the opportunity of finding these via BBC Four and specialist satellite channels.

Q24. *To what extent have media buyers/advertisers been restricted or prevented from experimenting with new marketing approaches as a result of the current airtime trading mechanism?*

There is no evidence that the current airtime trading mechanism has restricted or prevented experimenting with new marketing approaches.

Media agencies will be continually pressing sales houses for more innovative approaches "beyond the spot" - from digital and off-screen activation to sponsorship.

While the launch of product placement may have failed to yield the ambitious revenues initially forecast, this has less to do with the trading mechanism than with advertisers still needing to come to terms with legislative restrictions constraining their ability to influence storylines to benefit "placed" products within the programming.

Q25. *Are there any offsetting benefits of the current trading mechanism for viewers?*

At a macro level, the current trading mechanism ensures:

- That commercial television remains sufficiently attractive in price terms for clients to want to use it (and thus fund the commercial medium as a whole);

- That resulting advertising encourages product development, choice and demand - and so helps stimulate the economy as a whole;

- That costs, filtering down to the consumer, for operating the system are kept to a minimum

Cont.

Q26. *In light of the OFT's guidance on factors to take into account in considering a market reference, what is your view about the proportionality of a reference?*

We do not believe that there is sufficient evidence of prevention, restriction or distortion of the market to merit a referral to the Competition Commission.

The current TV model functions well and will adapt and change to accommodate new demands, as it has done already to embrace areas like sponsorship, VOD and product placement.

While outside observers may consider it complex, the system has created a highly efficient marketplace, where buyers and sellers are content with the processes and levels of transparency, and activities are subject to regular and highly detailed scrutiny by third-party media auditors.

Q27. *What are your views of the availability of possible remedies to address concerns?*

While we are unable to offer any additional remedies to those put forward in Section 7 of the consultation paper, neither do we believe the suggested proposals would result in any improvement in service offering to advertisers or the public.

As recognised by Ofcom in its paper, rate-card trading would inevitably lead to a final price which was off rate-card and which, as a result of the negotiation process, could not meaningfully be compared with other "final" prices. It would also be significantly more expensive to operate for both agencies and media owners, which could eventually feed through to consumer prices in the high street.

With regard to line -by- line trading, this is already possible - however, extending this across the market to cover all transactions would be extremely costly and, for all but the most powerful advertisers, offer less flexibility to switch between sellers for clients currently benefiting from umbrella deals.

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