

### **Additional comments:**

This replaces my submission of 4/1/2010 and inserts new point i in the response to Question 4b - it is clear that there have been occasions when Ofcom has been inundated with complaints as part of organised campaigns, yet very doubtful whether the majority of complainants have actually seen the material they are complaining about first hand, or are responding to newspaper campaigns, or even have deliberately sought out the material in order to be offended (Rossgate, Big Brother, Jerry Springer). The new point distinguishes between genuine and synthetic offense.

### **Question 1a: Do you agree with Ofcom's assessment of those stakeholders likely to be affected by changes to the regulatory framework for Adult Chat and Psychic PTV services?:**

Yes

### **Question 1b: Do you agree with our understanding of the industry and operators?:**

In broad terms Yes, funding is almost exclusively from calls or advertising from call service providers. The figures about call volumes and the proportion put through to on-screen operators seems dubious. It is clear that if PRS is stopped or limited to encrypted channels then these channels will die. If that happens the demand for sexual stimulation will inevitably be met by more mainstream channels, which may not be an outcome that the anti- lobby would welcome.

### **Question 2a: Do you agree with our analysis of the options available for regulation of the promotion of premium rate services of a sexual nature, and a) that on the basis of options, a change to the existing rules appears merited?:**

Ofcom states that Euro rules force it to either close the channels (block extensive PRS on "editorial" channels) or reclassify channels as "teleshopping". Only a lawyer with detailed knowledge of European law can answer this question. Classifying the channels as "teleshopping" is disingenuous and simply selecting Category B because Category A is not allowed, rather than because Category B is a good fit (it is not). Why not recognise the distinct nature of the PRS Sex and PRS Psychic channels and create special non-editorial categories? Unlike true teleshopping channels, the presenters are not selling mail-order goods. The vast majority of Adult PRS viewers value the visual aspect of the channels but do not make purchases, and would welcome alternative funding models that would spread the burden more equitably, free the presenters from the talking-one-to-one-on-a-mobile restrictive format, enable natural (uncensored) dialog, and provide more predictable funding. The current format (private paid phone calls) prevents presenters being audible to 99% of the audience most of the time, is dehumanising and objectifies them - allowing continuous dialog would help normalise relations. Options might include attracting general advertisers and sponsors. New format options might include quizzes and dances - currently unavailable because this means being off the phone for extended periods.

**Question 2b: of the options presented, Option 4 meets the regulatory duties and suggests least potential impact on stakeholders?:**

Of the options presented, an option that allows premium rate services of a sexual nature to be broadcast, in the evening, in the Adult section of the Electronic Programme Guide provided this is co-ordinated with a relaxation of the Advertising Code best meets regulatory duties and has least negative impact on stakeholders. This will however have the impact of ghettoising sexual and psychic content and slightly further a trend for mainstream broadcasting to be violent, vulgar, gory, blasphemous, irresponsible or confrontational without limit but sexless. Sex is a normal healthy human interest and hiding sexual content away deepens repression and the adverse effects associated with it including marital discord.

**Question 2c: that the scheduling restrictions of 9pm to 5.30am and requirements for labelling and EPG position under option 4 offer appropriate protection for viewers?:**

Children should be protected from exposure to sexual material. Controls should exist to prevent accidental exposure for adults who find sexual content unsettling, particularly elderly post-menopausal women who may no longer have any sex drive and feel insecure and physically inadequate. This can be achieved by having some sort of flag that indicates the content may be sexually orientated and receiving equipment that can automatically block ANY program with that flag set.

This could be achieved by limiting content to that Adult section on an Electronic Guide (option 4) or by creating a new BBFC-type marker "18-Sex" that could be applied to single shows outside the Adult section (say on Men & Motors, Bravo or Channel 5).

By limiting this to the Adult EPG section Ofcom are taking long-term commercial decisions about financially distressed broadcasters such as ITV. No doubt 10 years ago ITV would have argued that it would never need Teleshopping on a 2nd channel, now this is routine.

By default the Adult section of the EPG should be locked out on receiving equipment as shipped to prevent accidental exposure by adults and to improve child protection. Likewise shows flagged "18-Sex" if such a category is implemented.

Freesat should be encouraged by the regulator (Ofcom) to introduce an effective Adult EPG section on all future receiver sales (it is reasonable to assume it has some degree of design control) and work with manufacturers to introduce optional updates for receivers that have already been installed - there WILL be boundary creep even if a ban exists.

The scheduling restrictions are appropriate.

Of the options presented Option 4 seems to offer best all round protection.

**Question 3: Do you agree with our analysis of the options available for regulation of the promotion of live personal psychic services, and a) on the basis of the options, that a change to the existing rules appears merited?:**

Yes. Protection is needed for the young and impressionable who may take the content as undisputed fact, also people distressed by bereavement who may clutch at any lifeline and in some cases may spend excessive amounts of money on what is flagged as "entertainment".

It is significant that while most viewers of Adult PRS are male, most viewers of Psychic PRS are female - this suggests that for most viewers these fill equivalent social-functions despite the obvious differences, and neither category should be treated more harshly than the other simply because of a gender imbalance in acceptability.

**Question 3b: of the options presented, Option 4 meets the regulatory duties and suggests least potential impact on stakeholders?:**

Of the options presented for control of psychic services Option 4 is the best. Personally the psychic services make my skin crawl, but I accept that for most viewers they are harmless and should therefore be permitted, with controls.

**Question 3c: that the restriction of promotion to specific live personal psychic services and the requirements for labelling and EPG position provide appropriate protection for viewers?:**

Yes. The restrictions (banning satanism etc) are appropriate - current services do not do this but there is no telling what might happen in future. A small number of seriously mentally ill people will latch onto anything that seems to validate their own desires, and some boundaries are needed.

**Question 4a: Do you agree with the principles identified for changes to the Advertising Code rules on promotion of PRS of a sexual nature (rule 11.1.2) and psychic practices (rule 15.5)?:**

Yes

**Question 4b: Do you agree with the wording of the proposed rules? If not, please suggest alternative wording. :**

Yes with the following additions:

- i. Viewer complaints alleging offence will be taken less seriously if not submitted promptly and may be disregarded if submitted more than 48 hours after broadcast. Complaints that appear to be submitted as part of a media or organisational campaign will be disregarded except where it is clear that the individual complainant viewed the broadcast first hand and without prior expectation that they might find the content offensive.
- ii. The Adult section of an Electronic Programme Guide should be "locked out" by default in new equipment. Users should be able to permanently unlock this, but must do so deliberately.
- iii. A one-off change should be sent to all existing receivers to lock the Adult EPG section. Users should be able to permanently unlock this, but must do so deliberately.
- iv. An Adult section must be added to Freesat signals, all new receivers must enable this to be locked out, and upgrade options should be offered for old Freesat receivers.
- v. All other broadcasting platforms, including Virgin, BT and Tiscali, but including any new broadcasters, must implement Adult EPG sections that can be locked out as a block.
- vi. It should be possible to flag individual programs as having Adult-Sex content and receivers

should be able to block programs flagged this way.

vii. Adult-Sex shows should be permitted to use any form of advertising or revenue generation that is valid on other channels, including PRS, spot adverts and sponsorship, in combination with their sexually orientated content.