

Title:

Forename:

Surname:

Representing:

Self

Organisation (if applicable):

Email:

What do you want Ofcom to keep confidential?:

Keep name confidential

If you want part of your response kept confidential, which parts?:

Ofcom may publish a response summary:

Yes

I confirm that I have read the declaration:

Yes

Ofcom should only publish this response after the consultation has ended:

You may publish my response on receipt

Additional comments:

Question 1: a) Do you consider that the rule in relation to ?adult-sex? material needs to be clarified? b) Do you agree with our proposed amendments to the rule on ?adult-sex? material (Proposed Rule 1.18 to replace Rule 1.24)? c) If you do not agree with our proposed amendments, please explain why and suggest alternative wording where appropriate.:

a) Yes, clarification is needed, but the clarification should prohibit both material of a ?strong? sexual nature and ?adult-sex? material regardless of its purpose.

The clarification suggested here would weaken the rules by drawing the distinction between ?strong sexual material? and ?adult-sex material? according to its primary purpose, the distinction being that sexual arousal is the primary purpose for adult-sex material. This is a distinction without a difference, because sexual arousal may occur as a result of strong sexual

material and the borderline between the two is very subjective. The suggested changes would not therefore achieve their purpose. Clarification is achieved by having clear-cut rules that prohibit both 'strong sexual material' and 'adult-sex material' from being broadcast. It is stated in point 4.5 of this Consultation that in relation to strong sexual material: Ofcom has previously investigated and adjudicated on much of this material under Section Two of the Code, most notably Rule 2.3 which states that 'In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context?'. Rule 2.3 can be, and has been, applied to material of a sexual nature that is considered to be strong (but not broadcast for the primary purpose of sexual arousal). The effect of point 4.35 and 4.36 of this Consultation is simply to add the proviso that strong sexual material after the watershed requires 'strong contextual justification' even though it states that rule 2.3 still applies. This will actually allow such broadcasting where it may have been disallowed previously, by stating in point 4.36 that the new rule is created 'to clarify the circumstances in which sexual material of this kind can be transmitted?'. This will effectively weaken rule 2.3 and give the industry permission to broadcast material many would find offensive and that is likely to harm any children that view it. The significant number of breaches of the rules to date demonstrates the need for improved protection for minors. This case study illustrates how the proposed changes will make it easier for the industry to escape sanctions. Such liberalism is not in the best interests of protecting minors, whom Ofcom are under a statutory duty to protect, as stated in the Communications Act 2003.

b) No, I do not agree.

c) I do not agree, as I believe that the answer to the problem of clarity is to describe both 'adult-sex material' and 'strong sexual material' and to state clearly that both are prohibited for general broadcasting and can only be made available on mandatorily restricted access channels, as both may cause harm to children, whatever their supposed purpose.

Question 2: a) Do you consider that the introduction of a new rule in relation to material of a strong sexual nature is appropriate? b) Do you agree with our proposed rule on material of a strong sexual nature (proposed Rule 1.19)? c) If you do not agree with our proposed new rule, please explain why and suggest alternative wording where appropriate.:

a) Yes.

b) No.

c)

Question 3: a) Do you consider that the rule in relation to material equivalent to the BBFC R-18 rating needs to be separated from the rule in relation to R-18 rated works? b) Do you agree with our proposed rule on material equivalent to the BBFC R-18 rating (proposed Rule 1.17)? c) If you do not agree with our proposed new rule, please explain why and suggest alternative wording where appropriate.:

a) No.

b) No.

Question 4: a) Do you consider that the rule in relation to pre-watershed material needs to be clarified? b) Do you agree with our proposed

amendments to the rule on pre-watershed material (proposed Rule 1.20 to replace Rule 1.17)? c) If you do not agree with our proposed amendments, please explain why and suggest alternative wording where appropriate.:

a) Yes.

b) No.

Question 5: a) Do you consider that the associated revisions are appropriate following the other rule revisions outlined above? b) Do you agree with our proposed associated revisions in Section One? c) If you do not agree with our proposed revisions, please explain why and suggest alternative wording where appropriate.:

a) No.

b) No.

Question 6: a) Do you wish to suggest an alternative approach to the proposed set of rules in relation to sexual material? If so, please outline your proposals, which should comply with relevant legislation (including the Communications Act 2003 and the European Convention on Human Rights).:

Question 7: a) Do you consider that the introduction of new rules in relation to competitions and voting is appropriate? b) Do you agree with our proposed new rules in relation to competitions and voting (proposed Rules 2.11 to 2.13 to replace Rule 2.11)? c) If you do not agree with our proposed new rules, please explain why and suggest alternative wording where appropriate.:

Question 8: a) Do you consider that the introduction of new meanings in relation to competitions and voting are appropriate? b) Do you agree with our proposed new meanings in relation to competitions and voting? c) If you do not agree with our proposed new meanings, please explain why and suggest alternative wording where appropriate.:

Question 9: a) Do you wish to suggest an alternative approach to the proposed set of rules in relation to competitions and voting? If so, please outline your proposals, which should comply with relevant legislation (including the Communications Act 2003, the Audiovisual Media Services Directive, the AVMS Directive (Implementation) Regulations 2009 and Article 10 of the European Convention on Human Rights).:

Question 10: a) Do you consider that the rules on commercial television would benefit from being separated from those for radio? b) Do you agree with the introduction of the proposed new Section Nine on commercial references in television programming? c) If you do not agree with the proposed new Section Nine, please explain why and suggest alternative wording where appropriate.:

Question 11: a) Do you consider that it is appropriate for Ofcom to include the enforceable provisions relating to product and prop placement, replicated from the AVMS Directive (Implementation) Regulations, as rules in the revised Code? b) If you do not consider this to be appropriate, please explain why.:

Question 12: a) Would you consider that it appropriate for Ofcom to introduce rules that would allow Public Information Programming (as described above)? If so please explain why. If not, please explain why not. b) If Ofcom were to introduce rules in relation to Public Information Programming: i. Are there any potential programmes that you believe could comply with the potential rules but that you consider would be undesirable or arguably not in the public interest? If so, please give details. ii. What impact (e.g. social, economic, equality) do you think the potential rules would have on viewers, the television industry and any other parties? iii. Do you consider that the potential rules would maintain the editorial independence of the broadcaster and provide adequate consumer protection? If not, please explain why. iv. Do you consider that additional or alternative safeguards to those included in the draft potential rules are necessary? If so, please provide details.v. Specifically, should there be any restriction on the type of non-commercial, not-for-profit entities permitted to fund Public Information Programming, and if so, what restrictions? vi. Do you consider it would be appropriate for Ofcom to review these rules two years after their introduction? If not, please explain why.:

Question 13: a) Do you consider that the proposed new Section Nine would benefit from the introduction of new meanings? b) Do you agree with our proposed new meanings for Section Nine? c) If you do not agree with our proposed new meanings, please explain why and suggest alternative wording where appropriate.:

Question 14: a) Do you consider that the introduction of new Principles in relation to Section Nine is appropriate? b) Do you agree with the proposed new Principles for Section Nine? c) If you do not agree with our proposed new Principles, please explain why and suggest alternative wording where appropriate.:

Question 15: a) Do you consider that the proposed Rules 9.1 to 9.5 are broadly the same, in terms of both scope and intent, of current Rules 10.1, 10.2, 10.3, 10.4 and 10.12? b) If you do not consider the proposed rules are broadly the same as the current rules in this area, please explain why and suggest alternative wording where appropriate. c) Do you agree with the introduction of the proposed new Rule 9.6? d) If you do not agree with the proposed new Rule 9.6, please explain why and suggest alternative wording where appropriate.:

Question 16: a) Do you consider it appropriate to introduce the proposed new Rule 9.9? b) If you do not consider it appropriate to introduce the proposed new Rule 9.9, please explain why and suggest alternative wording where appropriate.:

Question 17: a) Do you consider that the introduction of a new competition and voting section is appropriate? b) Do you agree with the proposed new competition and voting section for Section Nine? c) If you do not agree with our proposed new competition and voting section, please explain why and suggest alternative wording where appropriate. d) Do you agree that it is appropriate to apply these rules to BBC services funded by the licence fee? e) If you do not agree that it is appropriate to apply these rules to BBC services funded by the licence fee, please explain why.:

Question 18: a) Do you consider that the rules in relation to programme-related material would benefit from clarification? b) Do you agree with the introduction of the proposed programme-related material section for Section Nine? c) If you do not agree with the proposed programme-related material section, please explain why and suggest alternative wording where appropriate.:

Question 19: a) Do you consider that the proposed cross reference to the Cross-promotion Code would assist stakeholders? b) If you do not consider that the proposed cross reference to the Cross-promotion Code would assist stakeholders, please explain why and suggest alternative wording where appropriate.:

Question 20: a) Do you consider that the meanings in relation to sponsorship of television would benefit from revision? b) Do you agree that the revised meanings are consistent with those currently used, but more accurately reflect the definition of sponsorship as set out in the AVMS Directive? c) If not please explain why, suggesting drafting changes where appropriate.:

Question 21: a) Do you consider that the rules in relation to the content of sponsored output would benefit from clarification? b) Do you agree with the introduction of the proposed new rules on the content of sponsored output in Section Nine? c) If you do not agree with the proposed new rules on the content of sponsored output, please explain why and suggest alternative wording where appropriate.:

Question 22: a) Do you consider that the rules in relation to sponsorship credits would benefit from clarification? b) Do you agree with the introduction of the proposed rule? c) If you do not agree with the proposed rule, please explain why and suggest alternative wording where appropriate.:

Question 23: a) Do you consider that the rules in relation to appeals for funds would benefit from clarification? b) Do you agree with the introduction of the proposed Rule 9.29 and the section on appeals for funds for programming or services? c) If you do not agree with the proposals, please explain why and suggest alternative wording where appropriate.:

Question 24: a) Do you consider that the proposed rule revisions are appropriate and would remain consistent with current rule requirements? b) If you not, please explain why and suggest alternative wording where appropriate.:

Question 25: a) Do you wish to suggest an alternative approach to the proposed revisions in relation to the regulation of commercial references on television? b) If so, please outline your proposals, which should comply with relevant legislation (including the Communications Act 2003, the Audiovisual Media Services Directive, the AVMS Directive (Implementation) Regulations 2009 and Article 10 of the European Convention on Human Rights.:

Question 26: a) Do you consider that the rules on commercial radio would benefit from being separated from those for television? b) Do you agree with the introduction of the proposed new Section Ten on commercial references in radio programming? c) If you do not agree with the proposed new Section Ten, please explain why and suggest alternative wording where appropriate.:

Question 27: a) Do you consider that it is appropriate for Ofcom to introduce the proposed rules concerning content-related promotions? If so, please explain why. b) If not, please explain why. c) Do you agree with our assessment of the impact of the proposed rules on listeners, the radio industry and any other parties? Please provide any evidence or data you have to support your answer. d) Do you consider that the proposed rules would maintain the editorial independence of the broadcaster and provide adequate consumer protection? e) If not, please explain why, suggesting drafting changes where appropriate.:

Question 28: a) Do you consider that it is appropriate for Ofcom to introduce the proposed rules concerning outside broadcasts sponsored by the venue? If so, please explain why. b) If not, please explain why. c) Do you agree with our assessment of the impact of the proposed rules on listeners, the radio industry and any other parties? Please provide any evidence or data you have to support your answer. d) Do you consider that the proposed rules would provide adequate consumer protection, subject to the maintenance of full transparency concerning sponsorship arrangements? e) If not, please explain why, suggesting drafting changes where appropriate.:

Question 29: a) Do you consider that it is appropriate for Ofcom to introduce the proposed rules concerning sponsored listener competition features? If so, please explain why. b) If not, please explain why. c) Do you agree with our assessment of the impact of the proposed rules on listeners, the radio industry and any other parties? Please provide any evidence or data you have to support your answer. d) Do you agree that the proposed rules would provide adequate consumer protection, subject to the maintenance of full transparency concerning sponsorship arrangements? e) If not, please explain why suggesting drafting changes where appropriate.:

Question 30: a) Would you consider that it is appropriate for Ofcom to introduce rules that would allow Public Information Programming (as described above)? If so, please explain why. If not, please explain why not. b) If Ofcom were to introduce rules in relation to Public Information Programming: i. Are there any potential programmes that you believe could comply with the potential rules but that you consider would be undesirable or arguably not in the public interest? If so, please give details. ii. What impact (e.g. social, economic, equality) do you think the potential rules would have on listeners, the radio industry and any other parties? Please provide any evidence or data to support your answer. iii. Do you consider that the potential rules would maintain the editorial independence of the broadcaster and provide adequate consumer protection? If not, please explain why. iv. Do you consider that additional or alternative safeguards to those included in the draft proposed rules are necessary? If so, please provide details. v. Specifically, should there be any restriction on the type of non-commercial, not-for-profit entities permitted to fund Public Information Programming, and if so, what restrictions? vi. Do you consider that it would be appropriate for Ofcom to review these rules two years after their introduction? If not, please explain why. :

Question 31: a) Do you consider that the proposed new Section Ten would benefit from the introduction of new meanings? b) Do you agree with our proposed new meanings for Section Ten? c) If you do not agree with our proposed new meanings, please explain why and suggest alternative wording where appropriate.:

Question 32: a) Do you consider that the introduction of new Principles in relation to Section Ten is appropriate? b) Do you agree with the proposed new Principles for Section Ten? c) If you do not agree with our proposed new Principles, please explain why and suggest alternative wording where appropriate.:

Question 33: a) Do you consider that the proposed Rules 10.1 to 10.5 are broadly the same, in terms of both scope and intent, as current Rules 10.1, 10.2, 10.3, 10.4, and 10.12? b) If you do not consider the proposed rules are

broadly the same as the current rules in this area, please explain why and suggest alternative wording where appropriate. c) Do you agree with the introduction of the proposed new Rule 10.6? d) If you do not agree with the proposed new Rule 10.6, please explain why and suggest alternative wording where appropriate.:

Question 34: a) Do you consider it appropriate to introduce the proposed new meaning of product placement, to reflect the definition required for television? b) If not please explain why, suggesting drafting changes where appropriate.:

Question 35: a) Do you consider it appropriate to introduce the proposed new Rule 10.10? b) If not please explain why, suggesting drafting changes where appropriate.:

Question 36: a) Do you consider that the introduction of a new competition and voting section is appropriate? b) Do you agree with the proposed new competition and voting section for Section Ten? c) If you do not agree with our proposed new competition and voting section, please explain why and suggest alternative wording where appropriate. d) Do you agree that it is appropriate to apply these rules to BBC services funded by the licence fee? e) If you do not agree that it is appropriate to apply these rules to BBC services funded by the licence fee, please explain why and suggest drafting changes where appropriate.:

Question 37: a) Do you consider that the rules in relation to programming-related material would benefit from clarification? b) Do you agree with the introduction of the proposed programming-related material section for Section Ten? c) If you do not agree with the proposed programming-related material section, please explain why and suggest alternative wording where appropriate.:

Question 38: a) Do you consider that the meanings in relation to sponsorship of radio would benefit from revision? b) Do you agree that it is appropriate for Ofcom to introduce the proposed meanings in relation to radio sponsorship? c) If not please explain why, suggesting drafting changes where appropriate.:

Question 39: a) Do you consider that the rules in relation to the content of sponsored output would benefit from clarification? b) Do you agree with the introduction of the proposed new rules on the content of sponsored output in Section Ten? c) If you do not agree with the proposed new rules on the content of sponsored output, please explain why and suggest alternative wording where appropriate.:

Question 40: a) Do you consider that introduction of rules in relation to Service Level Agreements is appropriate? b) Do you agree with Ofcom's proposed rules on Service Level Agreements? c) If not please explain why, suggesting drafting changes where appropriate.:

Question 41: a) Do you consider that the rule in relation to appeals for funds would benefit from clarification? b) Do you agree with the introduction of the proposed Rule 10.55 and the section on appeals for funds for programming or services? c) If you do not agree with the proposals, please explain why and suggest alternative wording where appropriate.:

Question 42: a) Do you consider that the proposed rule revisions are appropriate and would remain consistent with current rule requirements? b) If you not, please explain why and suggest alternative wording where appropriate.:

Question 43: a) Do you wish to suggest an alternative approach to the proposed revisions in relation to the regulation of commercial references on radio? b) If so please outline your proposals, which should comply with relevant legislation (including the Communications Act 2003, Article 10 of the European Convention on Human Rights, Schedule 1 of The Consumer Protection from Unfair Trading Regulations 2008 and The Community Radio Order 2004). :

Question 44: a) Do you agree with the proposed approach which only proposes changes to Section One of the Code in relation to material of a sexual nature, only proposes changes to Section Two in relation to Competitions and Voting, and proposes no changes to Sections Three to Eight. b) If you do not agree with our approach, please explain which other sections of the Code you consider should be reviewed and why. c) Do you agree with Ofcom's approach which will be to provide, and update, guidance to all sections on an on-going basis? If so, are there particular areas where you consider an updating of guidance would be helpful?:

a) No.

b) I consider that the sections on protecting the under 18s need to be improved to provide better protection with less vague wording providing that the clarification should be to improve standards not to weaken them. The same applies to the harm or offence section.

In addition I believe that a single research study by Opinion leader is not sufficient. The sample was only 169 and even the research admits to any opinion as being 'indicative' only and not representative of the population as a whole. In my view no conclusions can be drawn from such limited samples. I am concerned that when participants are placed in a group type of situation then group conformity is likely to stifle true opinions in order not to appear 'prudish?'. Attitudes given in relation to such exercises are often determined by how the scene is set.

The harm or offence section of the Code needs to be reviewed to improve standards.

For example this states that:

Methods of suicide and self-harm must not be included in programmes except where they are editorially justified and are also justified by the context. (See Rule 1.13 in Section One: Protecting the Under-Eighteens.)

To protect the vulnerable this should read instead:

Methods of suicide and self-harm must not be included in programmes. (See Rule 1.13 in Section One: Protecting the Under-Eighteens.)

2.6 Demonstrations of exorcism, the occult, the paranormal, divination, or practices related to any of these that purport to be real (as opposed to entertainment) must be treated with due objectivity. (See Rule 1.19 in Section One: Protecting the Under-Eighteens, concerning scheduling restrictions.)

To protect the vulnerable this should read instead:

2.6 Demonstrations of exorcism, the occult, the paranormal, divination, or practices related to any of these that purport to be real (as opposed to entertainment) must not be included in programmes.

Section 319(2) of the Communications Act 2003 states as follows:

that generally accepted standards are applied to the contents of television and radio services so as to provide adequate protection for members of the public from the inclusion in such services of offensive and harmful material.

It appears to be a weakening of that statute in the harm and offence section of the Current Code by suggesting that this application of generally acceptable standards should be justified by context. The statute says 'contents' which means what it contains not what context it is in. c) It would be better to ensure that the Code itself is amended with the objective of achieving higher standards to protect both the consumer and the under 18s. I am concerned that regular reviews may just result in a lowering rather than improving of standards. As demonstrated in the proposed changes here on sexual material. It is important for Ofcom not to be industry lead but maintain its own high standards for the protection of the consumer and the under 18s.