



The Electronic Retailing Association (Europe)

The Electronic Retailing Association (Europe) is the only organisation representing the interests of all Television, Radio, Internet Retailers and associated service providers in the European Market. The members of ERA Europe are companies established in Europe – the 25 EU member states and other European countries.

ERA UK is the UK chapter and affiliate of ERA Europe in Great Britain.

ERA Europe is dedicated to the promotion of the highest quality standards and consumer confidence, through and industry self-regulation programme and wishes to create an environment where Direct Response Electronic Retailing can grow throughout the European Union. The program guidelines and its provisions can be accessed on our institutional web site: (www.eraeurope.org).

Introduction

The ERA UK welcomes this consultation by Ofcom on the Review of Television Advertising and Teleshopping Regulation Part 2.

We only intend to answer Qu1 and Qu7, as these are the most relevant to the ERA.

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?

The ERA UK believes the present arrangements for the amount of spot advertising should remain in place. At present on non-PSB channels there is an allowance of 9 minutes of spot advertising every hour with a further 3 minutes of teleshopping spots. Though broadcasters can increase the amount of spot advertising to 12 minutes in an hour over the whole broadcasting day it has to average out at 9 minutes.

The concern of the ERA UK, which represents most teleshopping broadcasters, is if there was a change of the rules, as allowed under AVMS, then non-PSB broadcasters could simply have 12 minutes an hour of spot advertising and the separate teleshopping spots would no longer exist. These 3 minutes per hour, specified for teleshopping, have been a considerable help to the teleshopping industry which is rarely able to compete on price for standard spot advertising. It is likely that if the rules were changed to allow 12 minutes of spot advertising per hour on non-PSB channels then teleshopping companies could be largely squeezed out of the market place.

We would therefore support the status quo option (option 1), though we would want it clearly stated that the 3 minutes of teleshopping spots remained as this is not clear from Table 1.

Question 7: 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?

We fully support Ofcom's reasoning behind their preference for Option 3 for non-PSBs and Option 4 for PSBs.

There has already been one significant change to the Ofcom licensing and ASA advertising rules which has and will increase the pressure on the time available for teleshopping windows on non-PSB channels. This is the classification of betting and gaming as a teleshopping service rather than one that can be run in editorial time. Furthermore we believe that Ofcom will shortly rule, following the Part 2 Consultation on Participation Services, that Quiz, Babe and Psychic TV will be re-classified as teleshopping.

The proliferation of these services will substantially increase the demand for teleshopping windows. If the 3 hour limit was to remain then it is likely that betting/gaming, psychic and quiz TV will consume the majority of airtime available, especially in the night time hours when traditionally 'home shopping' has bought time on teleshopping windows.

Furthermore in the difficult financial times all broadcasters and advertisers are facing it is likely that without new sources of revenue an increasing number of broadcasters will go out of

business. This could particularly affect niche channels many of whom sit in the lifestyle and documentary sections of the EPG.

It is our view that the decision as to how many hours of teleshopping a non-psb programming channel can show should be left up to them. Most will only use downtime, which tends to be post-midnight. It will not be in their interests to alienate their audiences, however niche they may be, by reducing their programming time by replacing it with teleshopping. Furthermore it is likely that both for satellite and cable, the platform operators will set their own limits for specific areas of the EPG as to how much teleshopping they will allow.

It is also clear that the PSB's are suffering from the severe downturn in the market and therefore it would make sense for new sources of advertising revenue to be made available to them. Most of the PSB channels, up till recently, ran quiz style programming which was a valuable source of revenue for them. Since the ECJ decision on the nature of quiz call TV, and the regulatory intervention following various scandals on the use of premium rate numbers this source of revenue is now largely not available to the PSB broadcasters. A great deal of it was run in downtime and did not affect their programme obligations as PSB broadcasters.

Therefore the ERA UK supports the Ofcom recommendation that PSBs should be allowed up to 6 hours of teleshopping windows a day, as long as it is specified in the rules that it can only run from 12.00am to 6.00am on each broadcasting day. This should also give an opportunity for the 'home' shopping advertisers to bid for airtime on the 3 available PSB channels, which has largely been unavailable to them in the past.

Finally, we believe these changes should be implemented as soon as the results of the consultation are published. They will not impact on the delicate balance between the value of spot airtime on PSB and non PSB channels – rather they could have a beneficial benefit for both without affecting their main stream spot advertising revenues.

Hugh Geach (Secretary of ERA UK)