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Dear Peter

I am aware that the Ofcom consultation period on stage 2 of the Review of Television Advertising and Teleshopping expires this week, December 11<sup>th</sup>. I am also aware that you have had meetings with Brian Hughes of Selmedia who has been acting on GMTV's behalf as a consultant on this issue.

You will remember from Stage 1 of the review that GMTV had three main concerns on the newly drafted Code on the Scheduling of TV Advertising (COSTA), these being:

- 1 The ability to continue with what has become known as horizontal scheduling
- 2 The removal of the peak breakfast time cap of 16'00 of advertising between 0700-0900
- 3 The ability to retain our extra flexibility to take more frequent centre breaks than allowed in the code as breakfast time consists of short features which can be viewed as autonomous parts.

I know Brian has presented our case on these 3 points and it appears that Ofcom has taken our points on board. The following is an extract from the consultation document (pages 86 & 87) that deals directly with points 1 & 2 :

#### **EXTRACT FROM CONSULTATION DOCUMENT PAGES 86 & 87**

##### **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 peakhour 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.

#### **END OF EXTRACT FROM CONSULTATION DOCUMENT**

With regard to point 3 on extra centre breaks, a further extract from the consultation document (pages 93 & 94) recommends that GMTV should be able to take the extra centre breaks that we require.

#### **EXTRACT FROM CONSULTATION DOCUMENT PAGES 93 & 94**

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.

#### **END OF EXTRACT FROM CONSULTATION DOCUMENT**

So, to summarise, we feel reasonably confident that our 3 issues will be covered in the redraft of the updated COSTA assuming that there are no objectors to the proposals during the consultation period ending this week.

## **OTHER ISSUES**

#### **EXTRACT FROM CONSULTATION DOCUMENT PAGE 53**

##### **Scheduling restrictions in Children's Programmes**

13. Restrictions apply when inserting advertising breaks within the following programmes:

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;

<sup>25</sup> 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.

#### **END OF EXTRACT FROM CONSULTATION DOCUMENT**

GMTV, along with other children's broadcasters, will be restricted by this new rule but we understand that this is new legislation covering all European broadcasters and that Ofcom cannot be flexible on this issue. We have therefore a couple of work-around options involving scheduling shorter animations than the traditional commercial half-hour and by extending some of the scheduled half-hour periods to just over 30 minutes in order to accommodate a centre break.

## **TOTAL AMOUNT OF ADVERTISING (PAGES 10-16)**

There seem to be 3 options being considered in the consultation document:

- 1 Status quo – PSBs 7 minutes per hour, non PSBs 9 minutes per hour.
- 2 Levelling Up : Both PSBs and non-PSBs 9 minutes per hour.
- 3 Levelling down : Both PSBs and non-PSBs 7 minutes per hour.

GMTV's view is that the status quo is the favoured route taking on board views of the consumers, advertisers and broadcasters but any amendment will not come into effect before Jan 1 2010

### **SUMMARY**

To summarise, there are many other issues in the consultation document that do not directly affect GMTV but we have consulted with our major shareholder, ITV, and are in broad agreement with their response to the consultation document.

May I thank you for the time spent with Brian at Selmedia and if you have any questions then me please contact him on 07836 664351 or my office here at GMTV.

Yours sincerely

Clive Crouch  
Chief Operating Officer

Cc Brian Hughes - Selmedia