

Question 1: Do you have any comments on the drafting of the proposed amendments to the Broadcasting Code set out in Section 4? Please provide drafting suggestions where appropriate.:

We are concerned that the revised wording of rule 10.9 will restrict paid for participation solely to telephony based interaction. Whilst, at present this is the only method of interaction, the rapid rate of technological change means that new innovative ways for listeners and viewers to do so would be precluded under the proposed new rule.

Proposed restrictions in rule 10.11 include that the service must be directly derived from a particular programme and that the service is not given undue prominence within the programme. Radio broadcasts programming rather than programmes so we are unsure about either the meaning of those terms or how they will be interpreted in the context of radio programming. In our response to Q2 below, we suggest that Ofcom issues separate guidance for radio programming.

Question 2: Do you have any comments on the draft explanatory guidance set out in Section 4? Please provide drafting suggestions where appropriate.:

The guidance notes includes factors that Ofcom will take into account when considering if an item is compliant including the degree to which PRS is referred to within the programme. However, as mentioned above, both the rules and guidance notes overlook that radio has programming not programmes. We urge Ofcom to consider issuing separate guidance notes for radio that clarify Ofcom's interpretation of directly derived and undue prominence in a radio programming environment.

The final bullet point in the section that lists those circumstances that would suggest a breach of the rules states a breach may occur if the question or puzzle appears to be promoting a product or service. Many radio competitions are often for concert or film tickets and it is logical that these will be most appreciated by fans of a band/artist or film release. This guidance would appear to rule out such competitions which will deprive listeners of opportunities to win attractive prizes based around events and other items that will be of interest to the audience.

Question 3: Do you agree that the proposed rules should apply to radio as well as to television?:

In our response to the first consultation about Participation TV we broadly supported Ofcom's stance for greater consumer protection and agreed that Option 2 (PTV activity classed as editorial and subject to new rules). However, this consultation includes rules and guidance that goes beyond that originally proposed without sufficient consideration of the fundamental differences between radio programming and TV programmes. If introduced without further consultation or revision to take these issues into account, radio will be unduly restricted, and listeners deprived of entertaining participation features, because of unfortunate circumstances that were not of the industry's making nor evident in the sector.

Additional comments: