

Response to DCMS Consultation on Product Placement on Television

Background to RadioCentre

1. RadioCentre is the industry body for Commercial Radio. Its members consist of the overwhelming majority of UK Commercial Radio stations, who fund the organisation.
2. The role of RadioCentre is to maintain and build a strong and successful Commercial Radio industry - in terms of both listening hours and revenues. As such, RadioCentre operates in a number of areas including working with advertisers and their agencies, representing Commercial Radio companies to Government, Ofcom, copyright societies and other organisations concerned with radio, and working with stations themselves. RadioCentre also provides a forum for industry discussion, is a source of advice to members on all aspects of radio, jointly owns Radio Joint Audience Research Ltd (RAJAR) with the BBC, and includes copy clearance services for the industry through the Radio Advertising Clearance Centre.

RadioCentre's position on Product Placement on TV

3. RadioCentre recognises that all forms of commercial media, in addition to Commercial Radio, are struggling due to a combination of structural and cyclical economic pressures. We therefore support any deregulatory effort that will allow for the development of alternative means of revenue generation, including the allowance of product placement in television programming made by or for UK broadcasters.
4. We recognise that product placement, should it be permitted in UK television programming, will be subject to certain safeguards, as specified by the EU Audio Visual Media Services Directive. As the AVMS Directive does not apply to radio, we have limited comment to make on these restrictions; we believe that TV broadcasters, producers and advertisers will be better placed to comment.
5. Critically, if product placement is to be allowed in UK television programming, the regulatory framework that governs the use of commercial references in radio programming must also be radically revised to ensure regulatory parity between radio and television. In addition, there is a clear and pressing need to reform and update this regulation, to reflect rapidly changing consumer and commercial expectations.

The need to amend the regulation of commercial references in radio programming

6. Pressure to reform the regulatory framework for the use of commercial references in radio programming comes from three sources: the industry, advertisers and listeners.

Industry perspective

7. Commercial Radio's current revenue model is under considerable strain. Economic modeling, conducted by Value Partners, has shown that the last five years have seen very significant declines in Commercial Radio's profitability, from £110m to £48m (largely due to radio's loss of share of total UK advertising spend, from 3.9% to 3.3%). Value Partners predict that, over the next two financial years, Commercial Radio revenues will fall by 13%, having already fallen by 13% in 2008/09. Profits are expected to follow a similar pattern, with losses being registered for two successive years in 2009/10 and 2010/11.

8. Commercial Radio therefore needs to find new revenue streams to engage with advertisers who are increasingly able to find creative and interactive means of reaching consumers via other media. A rapidly growing portion of Commercial Radio's revenue is derived from sponsorship and promotions (S&P); representing 19.8% of industry revenue today (equating to an annual figure of £104.8m) compared to 10% in 2000¹.
9. Whereas the current Code impedes stations' ability to develop new S&P formats, discussions within the industry allow us to estimate that regulatory relaxation could allow for a further 20-50% uplift in S&P revenue above that which would occur organically, dependent on market conditions.

Advertiser benefits

10. There is clear demand amongst advertisers (and their agencies) to expand communication with listeners beyond traditional display advertising. Ofcom-commissioned commercial research, conducted by Change Agency, found that radio advertisers are increasingly favouring S&P activity, and would value the opportunity to become more involved in programming².
11. Greater relaxation of regulation around commercial references in radio programming will provide advertisers with a real opportunity to engage creatively with their target audiences, and reinvigorate advertiser confidence in Commercial Radio.

Listener benefits

12. There are two potential sources of benefits to listeners which would result from a more flexible regulatory framework for commercial references within radio programming:
 - A stronger Commercial Radio sector with more revenue will be better able to invest in quality programming.
 - Advertiser involvement in programming has the potential to increase the appeal and quality of content.
13. With revenues under increasing strain, content budgets are likely to continue to suffer. A reinvigorated revenue model would, however, have the potential to transform this, thereby contributing to better choice and quality for listeners. Ofcom-commissioned consumer research also identified a "*clear appetite for some relaxation of Ofcom's rules*" surrounding commercial references in radio programming, recognising that creative S&P activity could enhance the listening experience³.
14. The same research found that Commercial Radio is a medium through which most listeners expect to be 'sold to', or receive commercial messages, whether by spot ads or within programming.
15. We therefore believe that the regulatory balancing act between protecting consumers and allowing for commercial freedom is now too skewed towards consideration of consumer protection, with insufficient consideration of the benefits to industry, advertisers and listeners that would accrue from a different approach.

¹ RAB

² Please refer to <http://www.ofcom.org.uk/consult/condocs/radio/annex7.pdf>

³ Please refer to <http://www.ofcom.org.uk/consult/condocs/bcode09/radioresearch.pdf>

The principles required for the regulation of commercial references in radio programming

16. Whilst Commercial Radio requires regulatory relief as much, if not more so, than commercial television, this does not mean that the regulatory framework for product placement, as enshrined in the AVMS Directive, should automatically be translated to the regulation of commercial references in radio programming.
17. Whilst it might appear appropriate for Ofcom to apply the same restrictions that will govern the use of product placement on television to the regulation of Commercial Radio, this would in fact be highly inappropriate. The restrictions enshrined in the AVMS Directive were drafted with audio-visual media in mind, and are consequentially not applicable to radio. Most critically, were these restrictions to be imposed, they would go against the interests of the UK radio industry, advertisers and listeners.
18. Ofcom-commissioned consumer research found that participants were comfortable with promotional messages within radio programming, and in some circumstances even desired this relaxation, as long as the promotional material did not impede programming, was editorially justified and transparently presented. Therefore, as set out in RadioCentre's response to Ofcom's recent review of the Broadcasting Code⁴, we believe that only two principles need apply to the regulation of commercial references in radio programming: all radio programming must be executed with **editorial integrity**, and any commercial influence over editorial must be made **transparent** to listeners.
19. These two principles would deliver the full benefits of deregulation to Commercial Radio's advertisers and listeners, in addition to the industry itself, whilst ensuring sufficient consumer protection and protecting the integrity and enhancing the quality of the listening experience.
20. These two principles of **editorial integrity** and **transparency** would replace the current regulatory principles of editorial independence, separation of advertising and programming, and the undue prominence rule: principles which we believe are now out of step with commercial and consumer reality and contemporary levels of media literacy. It is therefore critical to recognise that the AVMS Directive does not, and should not, apply to the regulation of commercial references in radio programming.

Conclusion

21. Revision to Sections 9 and 10 of the current version of the Broadcasting Code, which regulate the use of commercial references in radio programming, has been delayed until the completion of DCMS consultation on product placement. We understand the reason for this, but urge DCMS and Ofcom to act quickly and appropriately to provide Commercial Radio with the regulatory relief that it urgently requires.
22. **We therefore request that the Government, when publishing its final decision on product placement, states explicitly which sectors of the media industry the AVMS Directive (and its regulatory principles) does not apply to, in addition to which areas it does encompass.**
23. **In addition, we urge the Government to explicitly support reform of the regulatory framework for commercial references in radio programming.**

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⁴ RadioCentre's response to the recent Ofcom Broadcasting Code Review can be viewed here: http://www.ofcom.org.uk/consult/condocs/bcode09/responses/Radio_Centre.pdf