

Response to the BCAP Consultation on the draft Broadcast Advertising Standards Code

Background

1. RadioCentre is the industry body for Commercial Radio. Formed in July 2006 from the merger of the Radio Advertising Bureau (RAB) and the Commercial Radio Companies Association (CRCA), RadioCentre's membership comprises the overwhelming majority of UK Commercial Radio stations, who fund the organisation. RadioCentre is governed by a board of eight directors, representing a cross section of the industry and including all the major Commercial Radio groups.
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. 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. 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 (RACC).

Introduction

3. RadioCentre was part of the BCAP Code Review Working Group, sitting alongside colleagues from Global Radio and the RACC. RadioCentre also sits on the board of BCAP. RadioCentre would like to acknowledge the thorough and detailed work that has been undertaken by BCAP in preparing the new draft Code.
4. We support the broad objective of BCAP's code review to create a common approach to describing the advertising rules across TV and radio. We believe that the review process has demonstrated that this objective is broadly deliverable. However, we caution against extending this principle too far, and in particular would be concerned by any attempts further to harmonise the actual rules for the two media.
5. Amongst other media, radio has many unique characteristics; characteristics which have resulted in there being separate rules for radio, television, press etc, in many regulatory environments. In relation to advertising, radio's non-visual nature means that it faces particular challenges in seeking to relay detail (making it particularly important that complex warning messages are not required). But the medium also has advantages, including its high levels of trust with listeners and the resulting low complaints rate.
6. Radio is also characterised by a stream of programming, rather than a series of programmes, and therefore separation between advertising and editorial messages can be less obvious than for TV. Crucially, however, Ofcom's recently published consultation on revisions to the Broadcasting Code¹ highlights that any apparent lack of separation is not reflected in consumers' understanding of actual separation, with Ofcom noting that listeners are increasingly aware of the different types of commercial messages included within radio programming.
7. We therefore contend that, whilst consumers, broadcasters and advertisers should be able to understand in similar language where similar rules exist for TV and radio advertising, it must also be explicitly understood by all the relevant parties that, in many cases, there are clear reasons for each medium to have distinct rules.

¹ <http://www.ofcom.org.uk/consult/condocs/bcode09/main.pdf>

8. This submission should be read alongside those of individual RadioCentre members (who outline matters of particular relevance to their stations) and that of the RACC (whose response is helpfully more technical in nature).

Adverts which are reminiscent of editorial

9. We acknowledge that, in drafting new rules concerning adverts which are reminiscent of editorial, BCAP has sought to find a practical means of implementing the requirements of AVMS in a manner appropriate for TV and radio. However, we are concerned that, as presently drafted, and without detailed guidance as to the specific manner in which the rules (in particular rules 2.1 and 2.3) would be interpreted for radio, there is a danger of radio adverts or Sponsorship & Promotions treatments falling foul of them.
10. The specific nature of radio, where output is characterised as a continuous stream of live output, rather than clearly segmented programmes, means that editorial and advertising are naturally less distinct than on TV. We are therefore particularly concerned that these new rules could restrict the execution of presenter-read adverts and other Sponsorship & Promotions elements of programming, particularly in the context of possible relaxations to the Ofcom Broadcasting Code.
11. Our concerns regarding these rules are also prompted by a recent ASA judgement² against London's LBC 97.3 which we contend failed to take account of the characteristics of radio as outlined above. In order to minimise the risk of similar findings occurring, we recommend that BCAP publishes clear radio-specific guidance to accompany these new rules.
12. RadioCentre and RACC will also seek a meeting with the ASA to discuss this ruling and any precedent which it may set.

New rule on protection of the environment

13. We have two concerns about the proposed new rule: "*advertisements must not condone or encourage behaviour grossly prejudicial to the environment*".
14. The imposition of this rule on radio is the result of making rules consistent between TV and radio. We noted earlier that we do not accept as a point of principle that radio and TV should always have the same rules. Subject to acceptance of our concern about the provenance of this change, we are content that such a new rule should be required of radio.
15. However, we are concerned that there needs to be detailed guidance as to interpretation of the rule, since there will inevitably be a considerable amount of subjectivity in the assessment as to what constitutes "*grossly prejudicial*". We seek clarification as to this guidance and request that any adjudications should be backed up by "*the significant consensus of scientific opinion*".

Amended rules on distance selling/new rule for introduction and dating services

16. The new rules proposed in these areas represent a significant burden of responsibility on broadcasters, particularly in relation to checking the business practices of distance sellers and the safety advice provided by dating services.
17. We note that the rules on distance selling reflect legislation and stem from a television-led concern (Auctionworld), not a radio one. We are concerned about any increase in regulatory burden, especially for smaller stations, and have therefore

² http://www.asa.org.uk/asa/adjudications/public/tf_ADJ_45826.htm

asked the RACC to verify with BCAP and the ASA that its proposed safeguards (including amendments to its standard checklists) will be sufficient for compliance.

Motoring

18. We note and accept the new rules that: *"Motoring advertisements must not demonstrate power, acceleration or handling characteristics except in a clear context of safety. References to those characteristics must not suggest excitement, aggression or competitiveness"* and that *"Motoring advertisements must not refer to speed in any way that might condone or encourage dangerous, competitive, inconsiderate or irresponsible driving or motorcycling. Factual statements about a vehicle's speed or acceleration must not be presented as a reason for preferring the advertised vehicle. Speed or acceleration claims must not be the main selling message of an advertisement."*
19. However, we seek clarification that factual statements about acceleration performance will continue to be accepted, even if they are not accompanied by mention of safety features.

RadioCentre
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