



Satellite & Cable
Broadcasters' Group

Response from the Satellite and Cable Broadcasters Group to Ofcom's consultation on issues related to product placement

The Satellite and Cable Broadcasters' Group (SCBG) is the trade association for satellite and cable programme providers. Its members are responsible for over 100 channels in the UK and in addition broadcast many more services from the UK to continental Europe and beyond. SCBG channels remain highly targeted, with audience shares ranging from less than 0.01% to 2% of digital viewers, but with a combined share approaching 20% of all UK television viewing. They provide a range of entertainment channels, specialist factual and educational services for viewers interested in history, music, nature, art or science, as well as broadcasting to cultural and ethnic minorities in their own languages. They are also developing innovative enhanced and interactive services and increasingly attracting audiences migrating away from traditional channels.

Satellite and cable broadcasters operate in an extremely competitive and volatile environment, without privileged access to scarce Government-controlled spectrum or to the must-carry status afforded to terrestrial networks. They are therefore unable to attract mass advertising revenues, and do not benefit from public funding. Instead, satellite and cable broadcasters depend entirely on their own programming investments and marketing initiatives to attract and keep audiences across a range of different broadcasting platforms. Their viability depends on an ability to adapt to technological developments, respond directly to audience preferences and quickly absorb commercial pressures.

Satellite and cable broadcasting is the fastest growing sector in the UK television industry, employing over 6,000 people in the UK with revenues of nearly £5 billion. This sector produces more originated programming than the terrestrial channels combined, accounting for more than half the UK's total spend. Satellite and cable channels are also providing a huge boost to public service output, broadcasting 14,000 hours of public service programmes in a typical month.

SUMMARY

The SCBG welcomes Ofcom's invitation to respond to the consultation on issues related to product placement. Of all respondents, SCBG will speak for the largest proportion of the 376 television services currently broadcasting in the UK¹.

SCBG supports moves towards a relaxation of the rules prohibiting product placement. The level of competition within the broadcasting sector acts as a strong self-limiting mechanism on product placement.

It recognises the need for a regulatory approach based on programme genres, but raises certain concerns relating to this. The genres are not as simply identified as the consultation document implies.

It accepts the need for transparency, but suggests that identification of product placement in end credits would be sufficient, and consistent with requirements on sponsorship.

It believes the retention of the concept of undue prominence is both possible and advisable. It sees some potential editorial problems with using the advertising standards code to cover product placement.

Product placement can only work if editorial concerns are paramount. Here, the concerns of viewers, broadcasters, programme makers and sponsors are precisely aligned.

¹ Ofcom's report on the 2005 Communications Market, figure 4.71, p248

1 PERMITTING PRODUCT PLACEMENT

The SCBG has already contributed to the debate surrounding the review of the 'Television Without Frontiers' EC Directive and will continue to do so. With regard to product placement, its recent response to the European Commission Issues Papers for the Liverpool Audiovisual Conference² stated its position briefly: SCBG supports the authorisation of product placement as a new source of programme funding [Q1], and believes that it is best regulated at the national level.

Here the SCBG re-states that position. It would like Ofcom to convey to the EC debate a desire on the part of the UK broadcasting industry to have regulated product placement made available as a potential revenue stream.

It is the SCBG's view that the level of competition within the broadcasting sector is now such that broadcasters will face strong self-limiting mechanisms on product placement. They are extremely unlikely to risk the alienation of their viewers through the inclusion of intrusive and annoying forms of product placement.

SCBG supplies more detail below on the questions raised in the consultation document about how product placement might be regulated, focusing particularly on those that affect its members.

2 GENRES AND PRODUCT PLACEMENT

There is now a great diversity of broadcasting content available in the UK, to which SCBG members' many channels contribute. A one-size-fits-all approach to introducing product placement would not be appropriate or, as the consultation document notes, popular.

Regulating product placement according to programme genre is probably the only manageable way to recognise this diversity. However, while some genres, such as news, current affairs, sport, and films are easily identifiable others, in particular the factual and children's genres, are less easily defined. The consultation document fails to acknowledge that much programming may span a number of different genres, and is unclear as to how product placement rules may be applied in these instances.

Two particular examples relevant to our members will highlight the sort of difficulty we envisage, but we do not consider this difficulty to be limited to these two cases.

² September 2005, available at http://www.scbg.org.uk/downloads/scbg_issue_papers_response.pdf

2.1 Factual and drama

'Factual programmes' – a genre identified by the consultation document – can be seen as encompassing a wide range of different programmes. It may, for example, include consumer watchdog programmes, in which SCBG would agree there are good reasons to avoid product placement, whether by regulation or by the self-limiting mechanisms of editorial credibility.

On the other hand, the factual genre also includes 'factual leisure' or 'factual entertainment' programmes such as a DIY or fishing series, or reality soaps. It is not obvious that the presenter of a fishing series should be barred from using a named brand of rods; nor that an entertainment-orientated reality documentary series (e.g. *The Osbornes* on MTV, or *American Chopper* on Discovery Channel) from depicting certain brands.

SCBG believes that Ofcom should allow product placement in factual programmes, an approach which would be consistent with that of allowing the sponsorship of factual programmes. SCBG believes that this approach runs a minimal risk to editorial integrity as broadcasters will not wish to alienate viewers by seeking to place products in 'non-commercial' forms of factual programmes, such as serious documentaries and consumer programmes.

If Ofcom does, however, intend to prohibit product placement in factual programming, then it must make clear that this prohibition applies only to non-commercial factual programmes, and not other forms of factual entertainment programming.

'Drama', like 'factual programmes', is also a broad and overlapping category. In editorial terms, some dramas would have the strongest case of all programming for including placed products, in order to convey realism.

2.2 Children's programming

SCBG agrees that children constitute some of the most vulnerable members of broadcasting audiences, whose protection requires special public policy measures. 'Children's programming' as a genre, however, is particularly difficult to specify. Unambiguous examples are easy to cite, but the problems lie at the boundaries. Teenagers are often more media-literate than adult audience members. There may be greater differences between two adults of the same age than between two young people falling on either side of the age boundary specified in regulation.

More fundamentally, children's programming is the only genre defined in terms of *intended* audiences. Nothing except parental control prevents children from watching other genres of programming in which product placement is permitted.

SCBG would not argue for a regulatory regime which made no special provision for younger, more vulnerable audience members [Q2], but the consultation question does not acknowledge the difficulties it has sketched here, and it would value a recognition of these difficulties in the debate surrounding product placement.

Consider a drama aimed at 15-year-olds that included some limited product placement. These 15-year-olds are likely to be at least as aware as their parents of the product placement, and would be no more influenced than when, an hour later, they watched product placement in *Coronation Street*.

Furthermore, under existing rules it is perfectly acceptable to market products spun-off from children's programming; indeed this is an established revenue stream (for example, for the BBC). This is effectively 'product placement in reverse' – the product is placed before it becomes a product; in later stages, a marketed product is clearly placed in programming – yet there are few objections.

3 AUDIENCE AWARENESS OF PRODUCT PLACEMENT

The SCBG has made clear³ that it recognises the need for identification of advertising, including product placement [Q5]. It suggests that identification could be at the end of a programme, in the credits along with other suppliers of goods and services, consistent with the TV Without Frontiers rule on identifying sponsorship.

Identifying product placement at the start of a programme would have the unavoidable consequence of promoting the product unduly: first by creating an additional, specific occasion when the product is mentioned, second by 'priming' the viewer's attention to make them more likely to notice the actual placement. It would also distract the audience.

4 CONTENT REGULATION AND PRODUCT PLACEMENT

The SCBG views the 'potential excesses of product placement' as self-limiting [Q6,7]. Strong commercial and editorial arguments are entwined here, proving powerful disincentives against a level of product placement that an audience finds unacceptable. The concept of undue prominence is not only consistent with a regulatory environment that permits product placement, but required as a *de facto* condition of any successful product placement, whether it is specified by regulation or not.

The circumvention of an advertising ban through product placement would be an unlikely scenario but an unacceptable one [Q9a], and SCBG supports

³ Response to the Liverpool conference, 2005, cited above.

Ofcom's view that products and services prohibited from advertising should also be prohibited from placement.

In the case of restricted products, though, it foresees a potential conflict between the advertising scheduling rules and editorial priorities. For example, alcohol advertising may be prohibited in the commercial breaks surrounding an episode of *Hollyoaks*, but the show's producers might want to feature a real brand of lager on sale during a bar scene: if this was a paid placement, then it doesn't consider that the Advertising Code would have been unacceptably undermined.

This conflict is even clearer in the way that products and services can be advertised. The example given in the consultation document, whereby a prop-placed car (with no fee for appearance) could be driven recklessly, but a product-placed car could not, highlights the absurdity of applying the Advertising Code editorial provisions outside advertisements. Advertisements and programming are clearly distinguished in terms of editorial control.

SCBG re-iterates that if product placement were not successful editorially, there would be no appetite for it on the part of audiences, broadcasters, and sponsors alike. We would therefore support a minimal application of the Advertising Code to product placement.

5 COMMERCIAL ASPECTS OF PRODUCT PLACEMENT

SCBG agrees that the market is best placed to determine the commercial parameters of product placement negotiations [Q13].

However, commercial considerations also have a bearing on the regulation of product placement. In particular, it foresees an unintended side effect of allowing product placement in some programmes but not others. To the extent that product placement is an additional revenue stream from advertisers to broadcasters, and a diversion of existing advertising budgets, there may be an exacerbation of funding difficulties faced by the types of programming in which product placement is not permitted.

The types of programming in which the consultation document suggests that product placement should not be permitted, broadly speaking, tend to be the types of programming that public service objectives would wish to see more of. These, then, may be worse funded, and public service broadcasting the poorer. This possibility should be considered by Ofcom.