MADIGAN CLUFF
EVALUATING BRAND PRESENCE

Submission on AVMS Product Placement Consultation

The government's welcome decision to review the regulations covering product placement raises a series of significant issues. We are pleased to see that the majority of these have been covered in the DCMS consultation paper.

We have chosen to submit our thoughts on certain key questions.

The overall objective we set ourselves in developing this submission was to create the best outcome not only for UK businesses, but also for the UK viewer. We do believe that the overall interests of viewer and business are likely to be congruent. For the following reasons:

- The years of ever-rising advertising revenues funding TV programmes are long gone. If viewers are going to continue to have access to high cost programme genres such as drama, new sources of funding have to be generated.
- Funding of programmes with a relatively small home market (compared to the US) means that creative businesses need as many opportunities as possible to maximise potential sources of revenue from projects.
- In order to maximise exports and employment in programme making, UK programmes need to be well made and properly funded. Branded content is by no means purely a US phenomenon; it is now widely accepted in virtually all markets worldwide. For the UK to continue to prohibit placement would mean that producers would be forced to compete in an international market with one hand tied behind their backs.
- Export sales help subsidise the opportunity for UK residents to view more, and higher quality British made programming. Exports spread the cost of programmes across a wider audience base.
- Exported programming is a potent marketing tool, which promotes both the UK, and also British brands.
- Programmes that succeed nowadays are almost always *high engagement*: audiences are drawn in by authenticity and credibility. Intelligent, strategic placement can contribute to this enormously; conversely, poor and or intrusive usage of placement makes programmes unattractive to viewers, and therefore difficult to re-sell.

Overall - there definitely exists the opportunity for a 'win-win' where effective use of placement promotes British programmes at home and abroad, generates sales and creates investment and jobs in the UK production business. This can only happen if regulation creates a simple framework to ensure viewer enjoyment is not impacted – but does not seek to over-regulate in a way that would block the kind of creativity that can serve advertisers, producers and viewers well.

We have addressed each of these issues below. We are clear that the overall outcome should combine not only what is beneficial for UK programme making and employment, but also what is acceptable, engaging and enjoyable to British viewers.

Commercial Advantages

The key to ensuring that placement adds to the total value of UK television production is to increase incremental revenue and avoid just transferring TV advertising funds to a new outlet. Most of the values we have seen for placement seem very low.

As a reference point, the value of sponsorship to UK sport was recently calculated by Mintel at £487 million per annum. The bulk of this income is net income to the UK economy and the majority of it is created by the visibility of brands through the transmission of the sports events on TV. A Premier League football match is seen on average by 35,592 fans at the stadium, but will be seen on TV by one million for a typical live match within the UK, and a further 3 million will view the highlights in the UK. Cumulatively the worldwide audience across a season is claimed to be 4.77billion.

Yet sport is only 8-12% of total TV viewing time depending on the sports events in a particular year. This compares to the categories of programming under consideration which make up about 60% of audience viewing time.

So what are the potential additional income sources? It strikes us that there are several sources of income which will come from different client budgets and therefore do not risk fragmenting the UK TV advertising cake to fund placement.

- Advertising changes each time a programme is transmitted. When a programme is repeated it will carry different commercials within and around it. When it is sold and then transmitted by a station overseas that station will sell a fresh set of advertising to appear around the programme. However products placed in a programme will be seen whenever and wherever the programme is transmitted. Part of the potential benefit for a placement is the overall audience for the programme – not just its UK audience. Overleaf we have taken a sample of major UK programmes; we downloaded from our database the actual transmissions in a selection of major overseas markets and calculated the split of audience value the show achieves between the UK and overseas.

Programme	% of Audience Value from UK transmissions	% of Audience Value from transmissions outside UK
Midsomer Murders	59%	41%
Coronation Street	98%	2%
Grand Designs	75%	25%
Primeval	47%	53%
Come Dine with Me	15%	85%

Source ETS/ Madigan Cluff. Based on real money value generated by one minutes advertising in all actual transmissions of the shows between July 2008 and June 2009 in Australia, Belgium, Czech Rep, Denmark, Finland, Germany, Hong Kong, Ireland, Italy, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Russia, Spain, Sweden, Switzerland and UK. Data for Come Dine with Me covers all locally produced versions of the show generated under the format license; all other shows are the original UK produced programme only

The audience outside the UK for some drama shows is bigger than the audience inside the UK.

To purchase one minute's advertising in one prime time episode of Midsomer Murders would on average cost £77000 in the UK. So for a brand to create the equivalent communication impact through placement they should be prepared to pay up to £77000. However unlike advertising the placement will appear wherever the programme is broadcast – so the additional value of the overseas transmissions will be £54000 taking the total potential value from the placement to £131000. Placements often run across multiple episodes and programmes can potentially create a very large sum of money.

- Placement can be a communication channel for many brands that are currently not advertising on TV. There is a major difference between the way conventional media and new media are sold. The massive growth of Google has been based on a bid process which makes highly demanded/ popular search terms high cost, but low demand search terms very cheap. You can become an advertiser on Google for £5. Against this television and other traditional media have a very flat pricing structure, which means that there is a high minimum price for effective exposure. This gives new media not just a much wider base of funding but also a huge advantage in the flexibility of price. The opportunity exists for TV placement to be a low cost but relevant entry point for hundreds of targeted brands that could not afford full-blown national TV advertising. For instance, a cookery show has the opportunity to have placement in it from retailers, food brands, white goods, kitchen utensils, and furniture.

- Well organised placement should be able to allow broadcasters to create a rarity value on types of programming. There is no reason why a broadcaster should not do a deal which ensures that only cars from one manufacturer are significantly featured in key programmes which they produce. This has the opportunity to create a bidding war.

- The key to brand placement is the emotional interconnection that can be created between programmes, characters, brands – and audiences. Real brands, rather than mythical brands are a more realistic and credible fit as the background to modern drama and film. It is interesting that historical drama productions often go the extra mile to create authentic backdrops. The same need arises in a brand dominated 21st century. So sensitive and subtle brand placement can deliver real authentification to modern productions. They can define a character within a fictional setting and in reverse the character can be used to support the brand in promotion and other forms of communication outside the broadcast arena. (A very simple example of how brands can send out a "signal" in a drama – does character A use a PC or a Mac?!)

It is difficult to place an exact revenue figure on placement. Partly there is a chicken and egg argument – obviously the more regulated the environment the more limited is the opportunity to create revenue. However the rationale above makes us believe that the potential value is very substantially above the 'lowball' estimates which are in general circulation.

Issues on controlling exposure of placements within programmes

It strikes us that there are certain key restrictions on where placements should happen.

Categories of programming which are not eligible for placement are already defined within the AMVS directive but these categories need technical definition.

A limited selection of brands (alcohol, high fat foods, gambling) will need specific additional regulations to be allowed brand placement.

Below is our analysis of where restrictions are required

Programmes for which placement should be excluded

There are obviously programmes in which it would be inappropriate for brands to pay to appear as this could be seen as influence in the editorial. The key categories here are news, investigative current affairs and consumer programmes which review products, or which are positioned as working in the consumer interest.

In addition, all programmes which have children as their primary target audience.

Public debate about child viewing of placement appears to become easily muddled. There clearly is an issue about ensuring that children do not have significant exposure to the promotion of alcohol, high fats foods or gambling. This is already accepted within rules on advertising and these rules should extend to placement. However the vast bulk of brands are not harmful to children and should not be affected by the need to protect a minority. It cannot be a rational argument to block placement by all brands in programmes because of child viewing of a limited set of brands.

We believe that these categories need to be clearly defined as non-negotiable no-go areas for placement; beyond them, all other programmes should be available for placement, within a clear regulatory framework.

Child viewing of adult genre programmes which are viewed by children

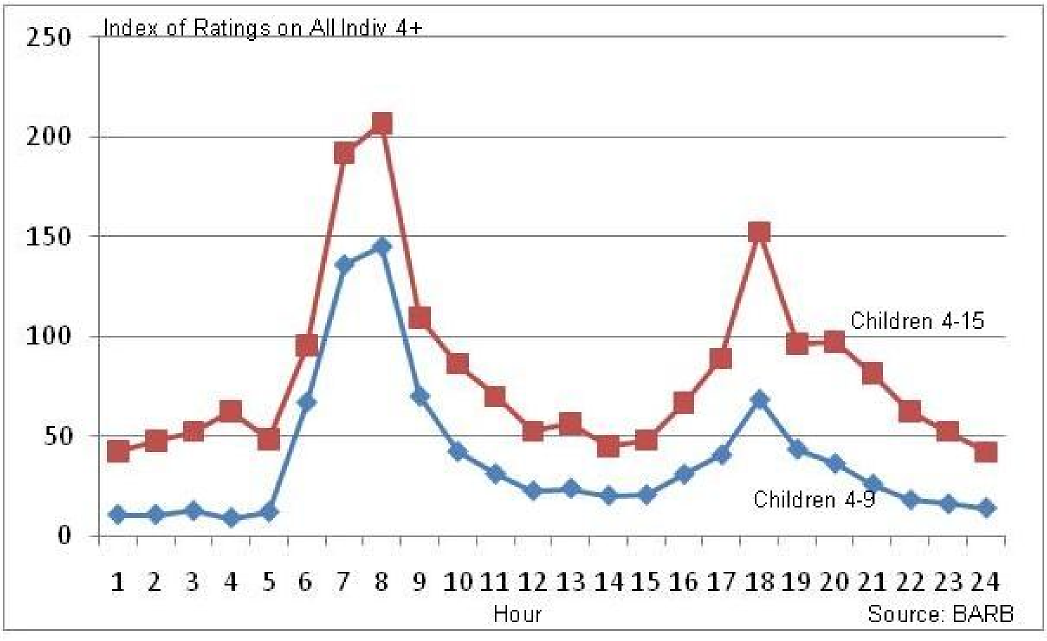
There is clearly concern that in categories such as alcohol, high fat foods and gambling brands, attempts may be made to deploy placement as a means of accessing children through adult programming with a large proportion of younger viewers.

There are already strict limits on the time of advertising transmission for some products and it strikes us that placement should inherit these restrictions.

In addition, on a European basis manufacturers of high fat foods have entered an agreement to avoid advertising in programmes where the audience contains a strong child element. The concern must be that if these rules extend into placement how enforceable are they when placement is created in advance of programme scheduling. We have therefore conducted some analysis which may assist rational understanding of this issue

Below is a chart which shows how the child audience varies across the hours of the day, indexing the children 4-16 on all individuals for ITV, Channel 4 and Channel 5 combined in January - June 2009. Overall, children are lighter viewers of television than adults – however the chart does demonstrate that there is significant child viewing to adult programmes.

CHILD RATINGS INDEXED ON ALL INDIVIDUALS RATINGS

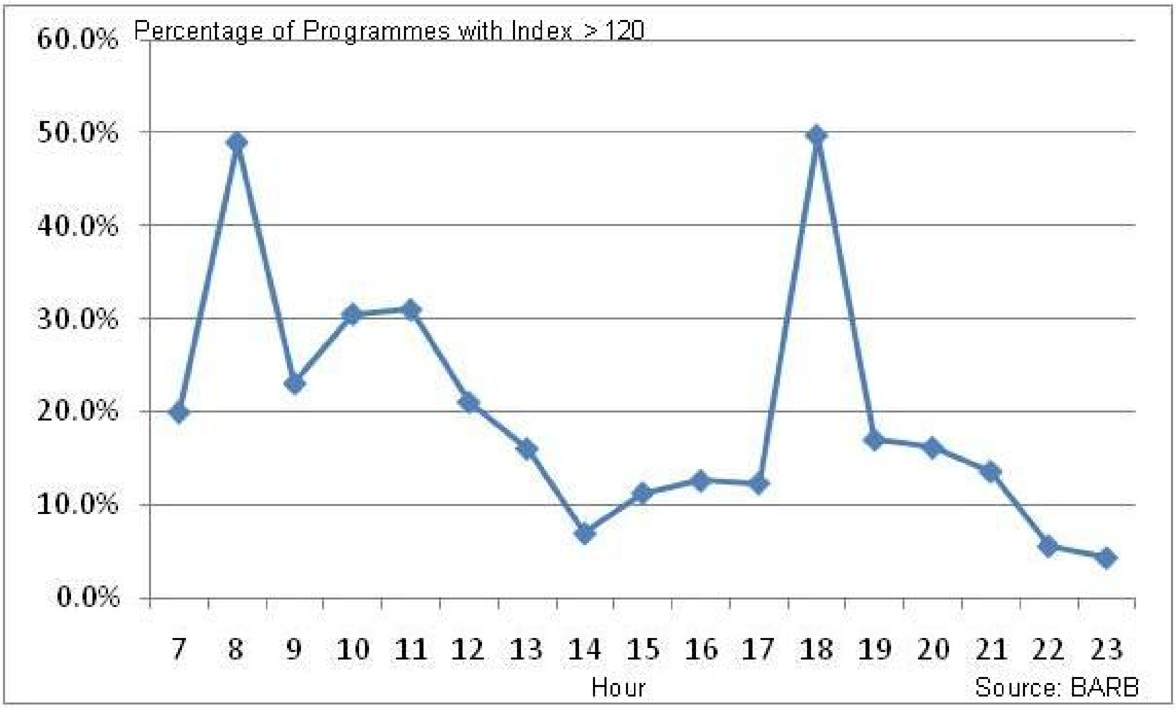


Analysis of ITV, Channel4 and Channel5 rating delivery : January-June 2009

Younger children are even lighter viewers of television and tend to view at earlier times of day. The UK has by European standards a higher definition in viewing data of the age at which a viewer is defined as a child. In most European markets the definition is between 13 and 15years old. Teen viewing will inevitably include significant levels of primetime – but viewing by younger viewers is never high in the early evening and reduces rapidly after 1800

The following chart does not show how many individual programmes had a high child audience. Using the definition that the children's audience must be 20% higher than the general child share of viewing shows the following percentage of programmes with a high index by clock hour.

PERCENTAGE OF PROGRAMMES WHERE CHILD VIEWING IS 20%+ HIGHER THAN ALL TIME AVERAGE



Analysis of ITV, Channel4 and Channel5 rating delivery : January-June 2009

This does show a significant proportion of programmes with major child audiences in prime time. We then analysed the programmes involved. In the first six months of 2009 there were 233 programmes in the 2000 and 2100 clock hours with high child audiences. The bulk of these played on weekend nights and were strongly grouped into a small number of titles. For instance 51 were episodes of Big Brother, 20 were Britain's Got Talent and 8 were the Channel 4 reality show Boys and Girls Alone.

We therefore believe it is relatively easy to set guidance rules and be able to predict which types of programmes and time bands are likely to have high child audiences. Any regulation is easily enforced by having a target limit of say 90% of programmes which a broadcaster needs to ensure do not carry restricted placements and which can be retrospectively measured and broadcasters warned and ultimately fined if they do not meet the set criteria.

Ensuring Editorial Integrity of what viewers see

Outside of the specific conditions which should hold for alcohol, high fat foods and gambling, we believe the key decision point should be how exposure benefits or detracts from the consumers' enjoyment of the programme they are viewing.

One surely has to start with the assumption that directors and producers are grown up individuals who will be very keen to protect the interest of making good programming; not least when in negotiation with the people who finance the programmes (they already do this in scripts and casting, etc.)

The key should be what the public will define as undue prominence. There needs to be a clear definition of undue prominence within any regulation. We think the definition should be that viewers' enjoyment of programmes is under threat of being damaged. We believe that the primary test should be a process which enables members of the public to complain about such prominence and for this to be investigated. This kind of process already works well in non TV advertising regulation – for instance the Advertising Standards Authority. This would allow guidelines to be created on what the public believe is right and not on the views of individual interest groups.

There clearly is a need to ensure that the end presentation onscreen provides the best viewing experience. This requires that the editorial and creativity remains undiminished.

Equally advertisers – especially UK marketers, who tend to be rather more sophisticated than some of their overseas counterparts - will wish to be assured that the integrity of their brands is not harmed by the way they are shown. This process appears to operate reasonably well within the current prop market, and we believe that trying to create artificial rules on how programmes are developed and at what stage brands can be introduced to the process is artificial.

The key is the resulting output and this should be the focus of strategic attention on the part of the brand-owner, and regulation/ control on the part of the authorities, as well as the interest that the programme maker has in making his/her transmitted programme as entertaining and engaging as it can be.

Split of contracting between producers and broadcasters

There will be times when the obvious candidate to contract placement is the producer, for instance when the programme is an international co-production. Equally, there will be times when it may be appropriate that contracting is between the advertiser and the broadcaster (if a deal covers programmes from different production houses) but are in the same genre and the broadcaster can charge more to sell the combination of opportunities.

Given that the UK has a very clear policy to ensure that major broadcasters use independent production companies, we believe that there should be transparency in any deal between producer and broadcaster as:-

- It is necessary if the broadcasters are to meet their regulatory obligations, they need to be clear on what products appeared and whether they are subject to paid or prop placement.
- The production companies need to understand the value gain the broadcaster is making from placement when commissioning the programme.

Public (and private) non thematic placement

There is clearly a role for thematic placement, although it needs to operate within guidelines that ensure that it does not become a commercial tool for sales.

There is a long-term history within UK broadcasting of using soaps and dramas to get over key public health issues. It is clearly appropriate that the Central Office of Information should be able to promote health and other societal issues through issue placement, which experience shows can be more effective than through advertising alone (through empathetic synergy with content or ‘personality’) – as could other public organisations. This will allow placement to have a potentially positive impact on health and other issues for society.

Change4Life is but one example.

The key issue here looks to be in the area of regulating to promote/sell for direct commercial gain. In our view promotion of an issue should be allowed as long as it does not pressure people into a financial decision.

Monitoring and assessment – information for consumers, regulators and the marketplace

We believe that consumers and interested organisations should be aware of the appearance and promotion of brands in programmes through paid placement. There is clearly a difficult dividing line between flagging appearance and further promoting the brands involved. We believe the best compromise in this area would be:-

- That there should be a clear flag at the start of a programme that says that there is paid product placement within the programme. This should refer to a page on the broadcasters’ website.
- The page on the broadcaster’s/programme’s website will detail brands which have paid placement, by episode.

- The page will also show a link to the regulatory authority with an explanation of how to flag any comments or complaints about the placement to the authority.

Incidentally we do not understand why imported programmes should not have the same duty of reporting – excepting where the programme was made before the change of regulations and it may be difficult to ascertain how the brand was placed within the programme.

Simulation of products

We think that simulation is already a part of the production industry and that simulation should be allowable as long as it obeys the overall regulations. Not allowing simulation can have detrimental effects for instance

- Can increase the cost of production.
- Could prevent a split deal where one product is promoted in the UK, but a different and more relevant product is promoted in countries to which the programme is exported.

Summary

- Funding of the UK TV programme production business is an important issue, if the UK wishes to continue to have a world leading creative programme industry with all the jobs that creates, then we have to accept going with the normal global business practice which today accepts placement as an integral part of the funding of programmes

- UK programmes are extensively exported and over-regulation may lead to UK companies being left at a competitive disadvantage

- Clearly placement should not be used as a way for owners of brands which are already restricted to avoid child viewing rules to find a way of dodging current regulations and communicating with children and young adults. There must be a strong argument to unify regulations across advertising, placement and programme sponsorship. The audience content of a programme is generally predictable from its time/day of transmission, and its content and stations should be able to control placement content for the vast majority of programmes. Control of categories of placement should not be significantly more complicated than control of advertising or sponsorship.

- The key target of regulation should be what the viewer sees – not the process by which the programme was created. Regulation of process would be hard to enforce; what appears on screen is clear, checkable and ultimately what matters.

- There needs to be a very clear definition of undue prominence and this should be very clearly related to public opinion on where programme enjoyment is jeopardised by brands. The simplest process to make this happen is to have a clear process for public opinion to be tested both via an accessible complaints procedure and by research which asks the public what they think.

- There should be a clear contracting process which allows both production companies and broadcasters to understand the value of the placement within a programme – whichever company contracts the placement.

- Consumers need to be aware of placement – but this should not be an intrusive part of a programmes transmission. We believe this would best be flagged by an onscreen statement which clearly refers the viewer to a website which lists details of the brands placed.