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Product placement in the UK
CBI response to DCMS consultation

Marta Costas | Policy Advisor on the Knowledge Economy | CBI
Email: marta.costas@cbi.org.uk

The UK is currently a world leader in TV programming. To retain this competitiveness, investment in high quality content and constant innovation are paramount. Advertising liberalisation can help provide the funding necessary to support this investment.

Introduction

The CBI welcomes this second consultation on product placement from the DCMS.

The creative industries contribute more than 2million jobs and £60bn to the UK economy. Currently, the UK is a world leader in the production of TV content, but other countries are gaining ground. To sustain our world-leading position we must ensure that the regulatory framework does not place an undue burden on business or prevent further innovation in UK content.

In this submission, we argue that:

- The creative industries are a fundamental pillar of the UK economy and of our future growth.
- Product placement is potential new revenue stream for those investing in original content and could therefore enhance the growth of these industries. This is particularly valuable at a time when structural change in the media sector is challenging traditional sources of advertising revenue.
- UK regulation should be aligned with that of other EU member states, to prevent placing UK broadcasters and producers at competitive disadvantage within the single market. The AVMS Directive should not be gold plated.
- Providing editorial independence is maintained through appropriate safeguards, guidelines or codes of practice managed by Ofcom, DCMS' proposals could provide a robust regulatory framework which is flexible and able to adapt to the rapid changes in TV productions as well as consumer demand.

Creative industries drive the UK economy forward

Creativity is a key pillar of the future global economy, and one in which the UK is particularly successful. The creative industries represent a dynamic and fast-growing sector, that contributes in more than 2million jobs and £60bn to the UK economy. Internationally, Britain features at the forefront of several rankings for design and the quality of media content. This has helped the UK to become a top-tier location for foreign investment in this sector.[1] Within the UK

[1] Britain has become a hub for design, with an increasing number of multinationals outsourcing their design centres to the UK- http://www.ukinvest.gov.uk/InvestmentReport/4046337/en-GB.pdf and http://www.mad.co.uk/Main/News/Articlex/241f492197e944e

creative industries, British television programming is particularly successful and generates nearly £1bn in exports.[2]

Advertising is a key pillar of this growth. UK advertising is extremely competitive worldwide and provides funding which is essential for other creative industries. Advertising money underpins the funding of innovative content in commercial television, radio and publishing. It is also important to sustain innovation in the internet and the wider knowledge economy. Many online applications and innovative services are provided free for consumers, relying entirely on the revenues generated via advertising.

Product placement is a valuable source of revenue to fund new programmes

The CBI believes that product placement could provide a valuable additional source of revenue for programme makers and investors, helping to provide top quality and diverse programming. Current estimates of potential total revenue from product placement vary widely (from £25m to £140m per year) but the figures are not static. As businesses seek new ways to reach out to consumers, innovative advertising will become more attractive.

In a similar way to the liberalisation of broadcast sponsorship rules which resulted in slow but progressive increase in revenue over more than two decades, the value of product placement could become similarly important over time. It is unlikely that any impact assessment, however thorough, will be able to provide a clear picture of the contribution of product placement to the UK creative industries in years to come given the dynamic nature of the industry.

The CBI believes that a review of the existing regulation is timely due to the cyclical and structural challenges facing the industry. Any extra funding generated by product placement will be extremely valuable in the current economic circumstances. But more fundamentally, structural changes are diversifying advertising revenue from traditional sources (press and broadcasting) to range of platforms available particularly online. In the five years to 2008 the share of online advertising in the UK grew at an average rate of 48% pa[3]. In the first six months of 2009 internet advertising in the UK reached £1.75bn, overtaking TV advertising revenue for the first time.[4] At the same time, the continued growth of television sponsorship (that reached £190m in 2006, an 8.5% increase over the year before) suggests that interest in TV advertising is being diversified from traditional spot adverts.

In this highly competitive environment, commercial broadcasters and smaller independent producers are facing a high level of risk and becoming increasingly reliant on gap financing to fund new content. Recent studies show that company directors, distributors and banks are becoming the main sources for financing independent productions (33, 23 and 20 per cent, respectively). In contrast, public support, such as tax credits, represents only 1%.[5] These developments create pressure on producers and broadcasters to seek new streams of revenue in order to sustain their finances and to continue to generate new content.

Product placement could be a particularly valuable way of preserving innovation in TV programming as the revenue goes directly to the programme makers and investors. This enables producers to fund the production costs of existing programmes and invest in the creation of new ones. This helps maintain and increase the quality of UK television.

Product placement may not be suitable for every type of programme, but allowing businesses the option to use product placement where it is appropriate for their brand, programme or TV station, will provide valuable opportunities for UK businesses. It is becoming apparent that brands are seeking new ways to reach out to consumers. Currently, books, movies and CDs are being promoted through interviews on entertainment programmes, a form of promotion that bears significant resemblance to product placement.

UK viewers are already accustomed to product placement in foreign programmes and cinematographic works and prop placement is common in UK productions. Research from PACT and Ofcom indicates that consumers do not object to brands being inserted in TV programmes, provided that the placement is not too intrusive and the programme is of high

48b935b5645248de3/UK-ranks-fourth-in-international-design-scoreboard.html

[2] Revenue from export sales of UK TV programming reached £980 million in 2008, a 25% increase from the year before: http://www.guardian.co.uk/media/2009/nov/27/tv-exports-rise-to-980m.

[3] Ofcom Communications Market Report, 2009: http://www.ofcom.org.uk/research/cm/cmr09/cmr09.pdf, p.36

[4] According to a report by the Internet Advertising Bureau and Pricewaterhouse Coopers, UK advertisers spent £1.75bn on internet advertising in the first half of 2009: http://www.guardian.co.uk/media/2009/sep/30/internet-biggest-uk-advertising-sector

[5] PACT policy survey and financial census 2009

quality and may view them as a way of addng realism to programmes.[6]

UK rules should be aligned with EU legislation

UK broadcasters and producers must not be placed at a competitive disadvantage within the single market. Many countries in the EU have understood the potential value of product placement and either moved, or are moving, towards greater openness in the regulation of this form of advertising.

In this environment, the government's previous decision to gold-plate EU legislation by not allowing product placement would have placed UK producers and broadcasters at competitive disadvantage. It would also not offer any greater protection to UK consumers as they would still view programmes containing product placement on UK TV but ones made in other countries such as the US.

Moreover, global brands may spend advertising budgets in countries where product placement is allowed (including the US, which is the main competitor to UK programming both domestically and in the exports market). This would deprive UK television programme producers of this source of revenue if product placement is not allowed.

Failing to liberalise may therefore result in less UK-originated content and a greater reliance on imported programming containing unregulated, or less tightly regulated, product placement. This may in turn lead to a progressive loss of regulatory control.

There is no need for DCMS to go further than the restrictions set out in the AVMS Directive.

As stated above, allowing product placement would provide a valuable additional choice of avenue for brand owners, programme makers and broadcasters in the UK. However, this should not be confused with a call for total deregulation of product placement.

The AVMS Directive sets out a general prohibition of product placement, except in a number of explicitly listed genres (cinematographic works, films and series made for audiovisual media services, sports programmes and light entertainment programmes). Therefore where product placement is allowed it can best be described as a relaxation of a prohibition rather than a deregulated activity. The Directive also provides clear limitations on product placement in permitted genres including in 'children's programmes' and mandates that the editorial independence of programming must be maintained - we believe that this is appropriate. **There is no need for DCMS to go further than the restrictions set out in the Directive.**

In addition current Ofcom rules ensure that commercial references must always be editorially justified. Broadcasters and producers have a genuine interest in preserving the quality and integrity of their content in order to build trust with their audience. It is likely that programmes full of product placement will be unappealing to viewers and will therefore have a direct impact on the demand for their content. Even in the US, where product placement is fully liberalised, paid placements only represent one third of all embedded brands (the rest are unpaid placements).[7] The CBI understands the need to safeguard the integrity of editorial content. We believe that a market-led approach within the overall confines of the AVMS Directive will provide robust incentives for broadcasters to maintain the trust of their audiences.

It is appropriate that safeguards are agreed at EU level to ensure consistency throughout the single market. UK regulation should be aligned with the regulation of product placement contained within the AVMS Directive, to avoid placing UK industries at competitive disadvantage vis-à-vis their European counterparts. **Further specification in domestic primary legislation would be too rigid to adapt to the fast-paced innovation in TV programmes and advertising.**

Interpretations of the Directive, safeguards or codes of practice for advertisers should be managed by the broadcasting regulator. Ofcom's Broadcasting Code provides a high degree of flexibility, enabling regulation to adapt to the reality of programme production and delivery, as well as the increasingly sophisticated viewing public.

In this regard, the CBI is concerned by some of DCMS' proposals such as those to restrict product placement in 'programmes that appeal to a young audience'. As stated above the AVMS Directive already contains a prohibition against product placement in children's programmes. The DCMS proposal seeks to go further than this to cover any programmes not originally intended for children but that appeal to a young audience in practice. **Preventing product placement in programmes that appeal to a**

[6] Ipsos Mori reports that two thirds of viewers are 'not at all concerned' or 'not very concerned' about product placement on TV. Television Opinion Monitor, 2009

[7] PQ Media Global Product Placement Forecast, 2006-10: http://www.pqmedia.com/global-product-placement-2006-read.html

young audience would be impractical and hard to implement because it can be difficult to predict the future audience of a programme at the time that it is made. The broadcast schedule is defined separately at a later date from the creative of the original programme when product placement would be included. Index-based models can only be applied after a programme has been broadcasted, but producers cannot alter retrospectively the contracts they have signed with advertisers, or the content generated.

We also believe that the requirement of signalling product placement set out in the AVMS Directive is sufficient. The Directive sets out that a programme which contains product placement 'shall be appropriately identified at the start and the end of the programme, and when the programme resumes after an advertising break, in order to avoid any confusion on the part of the viewer'. This is sufficient to ensure that product placement is clearly signalled without causing irritation or annoyance to viewers.

UK industry has been working to devise an industry-wide agreed mechanism to signal product placement. One option under consideration is the introduction of a standard logo at the beginning and end of each programme to signal product placement. To best inform audiences, the logo could be used by all UK broadcasters and accompanied by an awareness campaign. Other mechanisms being considered include messages in the final credits, a standard practice in the US.

Conclusion

Creative industries are a fundamental pillar of the UK economy, and will become more important in years to come. In an increasingly converged market, product placement may become an important source of revenue to ensure that UK television programming remains internationally competitive. We therefore support a move towards greater openness in product placement rules, in line with EU regulation in the AVMS Directive.

For further information or a copy
in large text format, contact:

Marta Costas
Policy Advisor
T: +44 (0)20 7395 8121
E: marta.costas@cbi.org.uk

CBI

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