

## **Carat Sponsorship's response to the DCMS Consultation on the AVMS Directive concerning Product Placement:**

### **Background to Carat Sponsorship**

Carat Sponsorship is the association marketing division of Carat, one of the largest media planning and buying agencies in the UK.

Carat Sponsorship's role is to advise advertisers on the how they create associations with content to help achieve their marketing and business objectives. We help clients develop their content and sponsorship strategies, identify suitable content to associate their brands with, negotiate and activate those rights and then evaluate the outcomes.

Should paid product placement be allowed in the UK, it will be our responsibility to advise our clients on how they might use product placement to help achieve their marketing objectives and to negotiate with the broadcasters and producers to secure those rights.

### **Executive Summary**

It is Carat Sponsorship's view that the Government should relax the rules on product placement as outlined in the AVMS Directive. This will enable brands to get closer to content in a way that we believe will be beneficial for all parties involved providing the process is managed appropriately and empathetically with the editorial environment it is in.

We expect that in order to maintain editorial integrity of the programme, there will be strict controls on the programme genres in which product placement is allowed, a restriction on certain product categories, a prohibition on undue prominence and a guarantee of editorial independence for producers. We believe it should be Ofcom who take responsibility for drafting the Code and policing it.

Product placement is commonplace in film and US TV programmes, UK viewers are used to it and we believe this is a legitimate way for brands to market their products to consumers. It will also makes TV programmes more "real" but we do believe that editorial integrity needs to remain sacrosanct.

We also expect the free prop supply market will continue to thrive as producers will continue to want props for programmes and many brands will be happy to continue with the status quo of spending small sums of money in return for some discrete branding.

In summary it is our view that the product placement market will be a mixed economy made up of a few well chosen brands entering content partnerships with programmes and activating those through the line, whilst the majority of brands continue to provide free prop supply.

### **Responses to specific consultation questions**

#### ***1. What, if any, viewer and other safeguards there should be additional to those required by the AVMS Directive?***

We believe there should be some additional safeguards which we have outlined in our answer to the questions below, largely surrounding specific programme genres and the protection of minors.

#### ***2. How should those additional safeguards be imposed - by law, or by means of the Ofcom Code?***

Ofcom should police paid product placement, it doesn't need to be law.

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### **Commercial advantages**

**3. Is the range of figures for the potential financial benefit of introducing television product placement set out a Part 3 of this document (between £25m and £140m p.a.) still broadly applicable?**

No, see our answer below.

**4. Is it possible to narrow this wide range of estimates?**

It is our view that this range is an unrealistic target and we'd expect to see this fall at the lower end of the spectrum as it's not a suitable communication vehicle for all brands nor for all programme productions. Taking into account the length of time it's taken to get TV sponsorship and advertiser funded programme revenues to c£180m pa in 20 years we believe the paid for placement market will initially in the range of £25m-£50m market, more likely at the lower end in the first two years as producers and advertisers find their way with new model.

**5. Are there grounds for thinking that the potential benefits have increased or decreased since last year?**

No, there's nothing in the economic, advertising or broadcast market to suggest this.

**6. Has any new evidence emerged about the possible benefits since the earlier consultation?**

We don't believe much has changed since the last consultation, it is our view that the potential benefits remain the same.

### **Programme genres**

**7. If product placement is allowed in programmes made by or for UK television, should any of the programme genres permitted by the AVMS Directive be excluded?**

No, however the classification used by AVMS are very broad so a refinement of these definitions could be appropriate for the UK, see answer to Question 8.

**8. Should UK controls on product placement be more specific as to what is meant by 'films and series' in which product placement can appear?**

All of the AVMS programme genres should be included, but certain categories, such as "films and series" are at present far too broad-ranging. The definition of series which requires more specific definitions as there are programmes such as current affairs programmes which could be described as series which would be unsuitable for paid placement. For guidance we would recommend that the Ofcom Sponsorship Code on programmes unsuitable for sponsorship should apply to product placement.

**9. Are there definable types of 'films and series' in which product placement either should or should not be permitted?**

As mentioned above is our view that serious documentary strands such as those identified in this document (ITV's Tonight or C4 Dispatches) should not be allowed to contain product placement. While these shows are not technically "news" the content tends to rely on the impartial, fact based presentation of events, therefore we believe the introduction of product placement would have a negative effect on the integrity of the programming.

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**10. Should UK controls on product placement be more specific as to what is meant by 'sports programmes' in which product placement can appear?**

Our view is that the wording on this is quite clear and requires no further explanation.

**11. Is there any reason to restrict product placement in particular types of sports programming?**

We don't believe there is any reason to restrict product placement however we do believe it will be harder to integrate products into panel based sports shows without products being "unduly prominent" and overt. However, we believe situations such as this can be avoided by rules relating to undue prominence.

**12. Should UK controls on product placement be more specific as to what is meant by 'light entertainment' programmes in which product placement can appear?**

As this category is subject to constant change we would suggest that it may be easier to define where product placement should **not** appear in forms of light entertainment.

**13. Is there any reason to restrict product placement in particular types of 'light entertainment' programme?**

No, except in the case of light entertainment programmes made to exclusively appeal to children.

**14. Should there be a specific prohibition of product placement in**

We believe the Ofcom Sponsorship Code on programme genres that cannot be sponsored provides a good framework for what programmes should not have paid placement. They are;

- religious programmes
- news programmes;
- current affairs programmes;
- consumer advice programmes;

**Children**

**15. Should any or all product placement be restricted or prohibited in programmes with a disproportionately high child audience?**

Yes there should be some restrictions to the type of products placed within programmes that index highly towards a child audience.

**16. If so, how should that assessment be made in advance of a programme being broadcast?**

As per the current process in place for advertising categories with age restrictions such as HFSS and alcohol advertising/sponsorship around certain programmes, the advertiser and ultimately the broadcaster should make an informed assessment of the likely audience appeal of a show will have based on the programme synopsis, its scheduling, and its content compared to that of similar programme formats.

**17. How could a 'disproportionately high child audience' be defined?**

We believe it should be defined in the same way in which it is currently defined for products which are classed as HFSS advertising/sponsorship i.e. programmes that have a child TVR that indexes at 120 versus the all individuals TVR should not contain types of product placement which would not allowed to

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advertise in those programmes.

**18. Should there be restrictions on placing certain types of products (e.g. HFSS foods or alcohol) in programmes with a disproportionately high child audience?; and if so**

**19. Should those restrictions be the same as or greater than those which are currently in place for the scheduling of spot advertising of those products?**

Yes, we believe there should certainly be a restriction on certain products in such programming but it is our belief that the restrictions applied to spot advertising act as an appropriate guide and there is no need for this to be any stricter for product placement.

#### **Editorial independence; undue prominence**

**20. How could 'undue prominence' be avoided, given the commercial imperative for audiences to recognise the products and services that have been placed?**

It is our view that editorial independence and integrity must come first and foremost. Production agencies will of course need to be aware that advertisers who pay for placements will expect to have their brands be at the very least recognisable, however the inclusion of these brands should not have an influence on the content or context of what they are creating.

Ultimately this will have to be self-regulating and it will fall to the production company, and subsequently the broadcaster responsible for commissioning the show, to ensure brands are not unduly prominent.

**21. At what point should the Government, or Ofcom, draw the line between legitimate paid placement of goods or services and illegitimate 'direct encouragement' to purchase or hire them?**

Again we think the current Ofcom sponsorship code is helpful in this regard as it makes clear that sponsorship should not make direct exhortations to purchase and nor should a paid placement. The Sponsorship Code is self regulated and the broadcasters do a good job of this. If the basic premise that the product placed needs to be relevant editorially and not unduly prominent, that should be enough to ensure it doesn't step into "direct encouragement" to purchase.

**22. Are rules – in addition to those that prevent 'undue prominence' and the promotion of placed products – needed to safeguard editorial integrity? If so, what should these be?**

No, it will fall to the producers to decide.

#### **Tobacco, alcohol, HFSS foods, gambling**

**23. Should television placement of smoking accessories such as cigarette papers and pipes be prohibited?**

Yes, restrictions on advertising smoking materials are well established and product placement should not be allowed as an alternative means for these advertisers to market their products.

**24. Should television placement of alcohol, HFSS foods or gambling be subject to an outright prohibition; or, if not prohibited, should it be subject to restrictions of some kind?**

Outright prohibition would be unnecessary; however some restrictions need to be in place. These restrictions should be the same as those for advertising and sponsorship, regarding programme genre, time of day, etc.

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**25. If it is not practicable to apply the detail of the BCAP Code rules on alcohol advertising to alcohol product placement, would the simple AVMS Directive rules that alcohol advertising must not be aimed specifically at minors and must not encourage immoderate consumption provide adequate safeguards?**

We believe the AVMS rules on alcohol advertising not being aimed at minors or encourage moderate drinking would be adequate as the voluntary codes of practice adopted by the alcohol industry such as the Portman Group and the manufacturers own marketing codes of practice go way beyond the statutory minimum in ensuring their products are marketed responsibly.

**26. Are there any alternative forms of safeguard that may be appropriate?**

No

#### **Monitoring**

**27. What methods of assessment and monitoring would be most effective in ensuring that there was accurate and reliable information about the actual effects of any introduction of product placement in these areas?**

Viewers are able to complain to Ofcom and already exercise this right, this will continue to be the most effective way of measuring any adverse effect of product placement on viewers enjoyment of a television programme.

**28. Would it be possible or desirable to levy a charge on product placements to enable monitoring and/or research to take place?**

Not in our opinion, no. The cost of monitoring programme output would be extremely high and for a market worth £50m per annum, at a push, not proportionate. Broadcast sponsorship is not monitored, it is self regulated and Ofcom will investigate complaints and this approach should be adopted for product placement.

#### **Other types of product**

**29. Are there any other product or service categories whose placement should be subject to prohibition or restriction?**

**30. If so, what, and why?**

No. There's no evidence that product placement is in any way more effective than advertising so there should not be greater constraints on where products are placed than where advertising is placed. In other words if you're allowed to advertise it on TV then you should be allowed to place the product in those same TV programmes. Therefore the same rules that apply to spot advertising should be carried over i.e. if a product can be advertised on TV then it can feature as paid for placement. The only exception would be in children's programmes where we believe product placement should not be allowed as children find it more difficult to distinguish between marketing and programming so a clear separation is required

#### **Terms of trade**

**31. If television product placement is allowed, what models might there be for revenue sharing between broadcaster and producer?**

**32. Does the industry anticipate that the commercial negotiation of product placement arrangements would form part of the terms of trade between broadcasters and producers?**

Commercial terms should be an agreement between the production company, the broadcasters and

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advertisers. We do not believe the nature of these terms to be relevant to this consultation and should product placement be introduced the onus will be on the aforementioned parties to work to an agreement within the constraints that are defined.

#### **Prop placement market**

**33. What impact would allowing television product placement have on the existing prop placement market, and on the ability of broadcasters to source props and services in this way?**

It would be optimistic to assume that every type of show genre and product sector will benefit from the introduction of product placement. Whilst the introduction of product placement will undoubtedly have an effect on the level of prop placement required, it is our belief that this area will still remain a relevant go-to source for all producers or broadcasters. In other words we believe paid placement can work alongside free prop supply

**35. When should it be notified to viewers – should we go beyond the EU requirement for notification before and after the programme and after any ad breaks?**

It is our view that the start and end of the programme plus flagging in commercial breaks is more than sufficient. Further signalling would be an annoyance to the viewer, draw attention to the placement, thus giving it “undue prominence” so should be avoided.

**36. Should notifications to viewers mention the product(s) which has or have been placed?**

No, we do not believe this to be necessary. It draws attention to the placement, giving it undue prominence and it also detracts from the programme sponsors communication which would be a retrograde step as it runs the real risk of devaluing broadcast sponsorship.

**37. Do you have any other views about alerting viewers to the presence of product placement in a television programme?**

No, our view is that alerting viewers actually draws attention to the paid for placements and is therefore contradictory to the general wish to avoid undue prominence.

#### **Thematic placement**

**38. Should the prohibition of ‘thematic placement’ extend to placements which feature only generic products and services or types of product and service rather than branded ones?**

**39. Should the prohibition of ‘thematic placement’ extend to the placement in a programme of references to the beliefs, policies, aims or objectives of the placer?**

This area requires more guidance and specifications than the current wording offered. Broadly speaking generic references should not be prohibited as many subjects will be editorially justifiable and relevant to most viewers. Social messaging, such as “don’t drink drive” or “fill in your census” should be allowed although it’s not a “product” placement although the usual rules apply about ensuring it’s editorially justifiable and not unduly prominent. However, religion specifically is an area that must be treated with caution as the paid for placement of a particular belief is more likely to offend/be viewed as a sensitive topic for some viewers.

#### **Negative and simulated placements**

**40. If television product placement is to be allowed, should there be rules which prevent negative**

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***placements?***

It is our understanding that the definition of negative placement as defined by the AVMS is a situation whereby product placement could be used by one company to create a negative, damaging perception of the products or services of a rival. With this definition in mind we would advise that negative placements should be prohibited in the same way that it's outlawed in conventional forms of advertising.

***41. Should the regulation of television product placement, if it is to be allowed, contain specific controls on the use of simulated products?***

Yes – the same rules and prohibition should apply to both simulated and real products.

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