

DCMS' Consultation on Product Placement on Television dated November 2009

Response of FremantleMedia Ltd

talkbackThames is the UK production division of FremantleMedia and one of the UK's largest production companies producing over 500 hours a year, from entertainment programmes such as *The X Factor*, *Britain's Got Talent* and *The Apprentice*, to factual programming such as *Grand Designs* and *Escape to the Country*, scripted programmes such as *The Bill* and *The IT Crowd*, and comedy entertainment such as *Never Mind the Buzzcocks* and *QI*.

FremantleMedia is a global leader in entertainment. With production operations in 22 countries worldwide FremantleMedia delivers nearly 10,000 hours of original programming to broadcasters each year. FremantleMedia has over 320 titles in production at any one time and directly distributes and licenses over 20,000 hours of entertainment to over 150 countries.

We welcome the DCMS Consultation on Product Placement and believe that product placement should be permitted in the UK for the following reasons:-

1. Due to audience fragmentation and declining advertising revenue, broadcasters are reducing the price they pay for original content, even for successful programmes.
2. The uptake of PVR devices and increasing availability of free online content means that advertisers are looking for new ways of reaching their target audiences.
3. Product Placement is already permitted in many of the major international territories (e.g. USA and Australia) and will soon be permitted outside the UK in other EU Member States. The UK content production sector needs the additional investment which Product Placement would provide, in order to compete on a global basis.

We set out below our response to Section 6 of the Consultation.

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

We believe the safeguards recommended by the AVMS Directive are sufficient.

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

N/A

Commercial Advantages

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

In more developed markets such as Australia and USA, the total value of product placement is estimated at between 2.5 to 5% of the value of the total value of television advertising revenue in that market¹. In 2008, the total value of TV advertising in the UK was £3.5bn². That would suggest the potential annual value of product placement in the UK would initially be £90m and rising to £175m in a more mature market.

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

See above.

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

We believe that there are grounds for thinking that the potential benefits of product placement in UK television programmes have increased since last year for the following reasons:

- 1) Structural trends are accelerating, increasing the need for brands to be integrated into TV programme
 - a. PVR and ad-skipping
Over a third of UK households have a personal video recorder and use it for time-shifted viewing when they can skip the advertisements.³
 - b. Advertising spend is leaking from TV to online.⁴
The UK is the first country where the total advertising spend online is superior to television advertising spend. However, online platforms do not generally invest in creative content.
 - c. TV viewing is increasing
Television is still a mass medium and television advertising is still the most effective way of reaching a large audience, particularly for popular entertainment programmes.⁵

¹ PQ Media, Nielsen PwC

² OFCOM

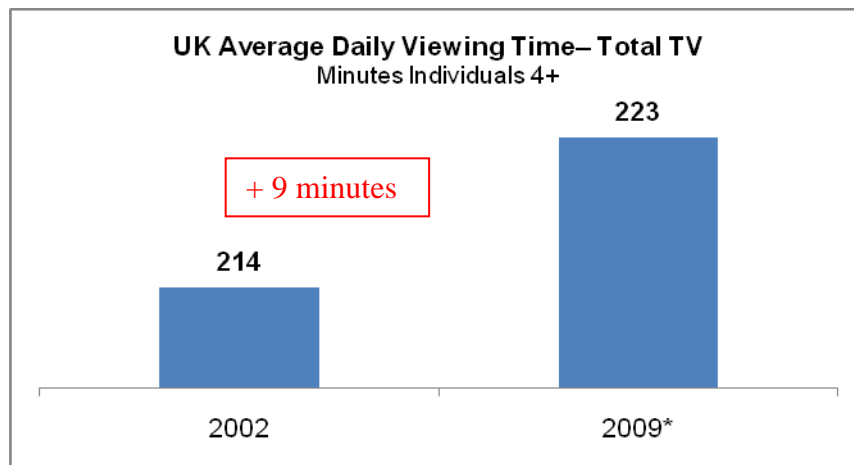
³ Ofcom report 6th August 2009:

http://www.ofcom.org.uk/media/news/2009/8/nr_20090806

⁴ In Q1 2009, Online advertising spend made up 23.5% of total UK advertising spend, overtaking television advertising spend (21.9%) for the first time. <http://paidcontent.co.uk/article/419-net-now-takes-more-ad-spend-than-tv-in-uk/>

⁵ It is estimated that X Factor will have earned ITV £102.5m in advertising revenue in 2009.

<http://www.guardian.co.uk/media/2009/dec/03/x-factor-itv-simon-cowell>



Source: BARB/TNS, *2009 to 09.12.09

- 2) Furthermore, our conversations with brands show that:
- a. Branded content is developing online with positive reactions from the audience and more interactions between the brands and their consumers. In the last 12 months, FremantleMedia has worked successfully with a number of brands to create compelling online branded content around some of its most popular television shows. This provides interesting additional content for viewers and gives advertisers a new way of reaching their target audience. The content was generally well received and we received no complaints from either the audience or the advertisers. At the same time, we have increased our understanding of the advertisers' needs and how they can be integrated into the creative process. We expect more brands will want to benefit from similar integrations in the future.
 - b. Advertisers want to be associated in different ways with creative content and want to engage with audiences beyond the 30" ad spot.
 - c. Multi-platform content is growing and brands are developing branded content for online. We believe this trend will extend to TV in the UK if product placement on TV is authorised.

For the reasons outlined above, we believe that product placement could lead to greater interaction between online and television advertising, a more effective level of engagement for advertisers and an increase rather than cannibalisation of revenue for broadcasters and producers.

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

See above.

Children

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

We believe there should be no product placement in programmes which are produced specifically for and solely targeted at children. Product placement should also be prohibited for certain categories of product, such as HFSS foods and alcohol, in programmes where there is a disproportionately high child audience.

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

If there is any doubt, once a programme has been commissioned, whether a programme will be caught by the definition of 'disproportionately high child audience', a full description of the programme should be referred to an independent panel and assessed, having regard to the nature of the programme in question, the channel on which it is scheduled to appear and the time of broadcast.

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

The Ofcom Conversion indexing system could be used to identify those programmes where there is a disproportionately high child audience and certain types of product placement should be restricted, ie. where the proportion of children under 16 watching the programme is more than 20% above the proportion of the UK population watching the same programme.

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

See above

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?

Section 4.2 of the BCAP Code is a useful starting point in identifying those product categories which should be restricted for children e.g. alcohol and HFSS foods. However, these Codes govern the content and scheduling of advertisements, rather than of programmes and it would not in our view be appropriate to apply them in the context of product placement.

Editorial independence; undue prominence

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

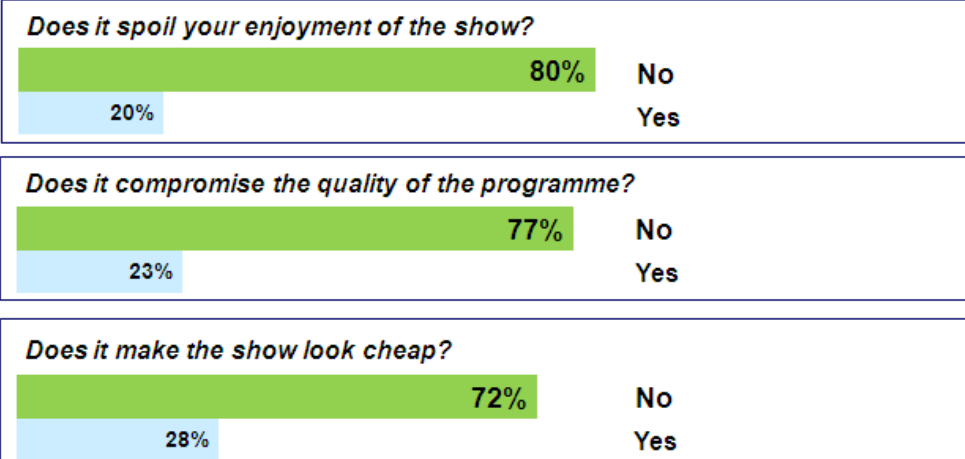
Clumsily executed placement detracts from the audience's enjoyment of the programme. We believe that audiences will not tolerate placements which affect the editorial content of the show. Given that the value of a programme is largely determined by the programme's audience ratings, it is in the interests of both the producer and broadcaster

to ensure that placements are executed sensitively so as not to affect audience engagement. Poorly executed placements may also have a detrimental effect on the audience's impression of the featured product. Advertisers will also have an interest therefore in ensuring that placement is unobtrusive, yet effective.

Research into UK viewers' reactions to product placement suggests they are much more comfortable with it than current regulatory stance implies, as long as high levels of commercial involvement do not interrupt their emotional engagement with the show. What matters is not whether it is done, but how.

We asked our own 3,000-strong online research panel their opinion about product placement by showing clips of US programmes. The iCount research panel is run by FremantleMedia's research department in conjunction with leading research company, Ipsos MORI. Launched in March 2009, the panel is continually recruiting new members and currently consists of over 3,000 people from the UK who are regularly polled for their attitudes and opinions across a range of media and lifestyle topics. These were the results:-

About seeing products or brand names during programmes...



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?

We believe that direct encouragement to purchase/ hire should not be permitted in product placement.

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?

Please see the answer to Question 33 below.

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?

We expect that the Ofcom Broadcasting Code, in particular Section 9 relating to Sponsorship and Section 10 relating to Commercial References, will help to regulate the introduction of Product Placement.

Research and Audience surveys should also be conducted by disinterested parties on a regular basis to assess the impact of Product Placement.

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

No.

Terms of trade

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

As well as the revenue sharing arrangements, it is important to establish an agreed modus operandi between advertisers, broadcasters and producers.

We believe that in order to preserve editorial integrity and to ensure that commercial imperatives do not influence programme content, product placement deals should be done after the broadcaster has commissioned the programme. For the same reasons, the market for product placement on TV should be separate from that for spot advertising and sponsorship and therefore broadcasters should not be permitted unilaterally to bundle product placement within spot advertising or sponsorship deals.

Our experience in other markets such as the US, suggests it should be the producer who is responsible for identifying opportunities for product placement within the editorial content of the programme, thereby ensuring seamless integration. Producers and broadcasters would then collaborate to identify suitable advertisers and strike a deal. The execution of the placement would be carried out by the producer, but the producer and broadcaster would have a mutual right of veto, if either is uncomfortable about the integration. Advertisers should be made aware of the context in which the product is to be placed and manner and tone of the placement, but should not be permitted to change or amend the editorial content of programmes to fit their requirements. Revenue should be shared between the Producer and Broadcaster after deduction of any third party agency fees, with no other deductions. Any revenue derived from product placement in secondary sales would be split with the commissioning broadcaster in accordance with the current terms of trade.

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?

Yes.

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?

Provided the regulation of Product Placement is not too restrictive and a clear distinction is drawn for a prospective advertiser between prop placement and product placement, then we believe that the impact on the prop placement market will be negligible.

Signalling product placement to viewers

34. How should television product placement be notified to viewers?

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?

We think that a recognisable symbol should be visible to viewers on the screen at those times when notification is required by the AVMS directive.

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

We do not think that this is necessary. It will only serve to emphasise the placement and alienate viewers.

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

Alerting viewers with verbal references or script on the screen will appear clumsy and detract viewers' attention from the editorial content.

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?

We suggest that this is best dealt with under the Ofcom Broadcasting Code. Some protection will also be afforded if product placement deals are only negotiated after a programme has been commissioned and the script/ content has been broadly agreed with the broadcaster.

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?

Yes.