



**Consumer  
Focus**  
Campaigning for a fair deal

# **Consumer Focus response to DCMS consultation on product placement on UK television**

**January 2010**

# About Consumer Focus

Consumer Focus is the independent champion for consumers in England, Wales, Scotland, and for postal consumers in Northern Ireland. We are the voice of the consumer and work to secure a fair deal on their behalf. We were created through the merger of energywatch, Postwatch and the National Consumer Council (including the Welsh and Scottish Consumer Councils). The new approach allows for more coherent consumer advocacy, with a single organisation speaking with a powerful voice and able to more readily bring cross-sector expertise to issues of concern.

[www.consumerfocus.org.uk](http://www.consumerfocus.org.uk)

# Introduction

---

Consumer Focus welcomes the opportunity to respond to the Department of Culture, Media and Sport (DCMS) consultation on product placement. The wellbeing of children and the potential impact of advertising and marketing is a notable policy area for our organisation. Consumer Focus was invited to comment on the findings of 'The Impact of the Commercial World on Children's Wellbeing' commissioned by DCSF and DCMS. One of our legacy organisations, National Consumer Council (NCC) responded to Ofcom's consultation on product placement in 2007. It urged Ofcom not to permit product placement, citing the lack of evidence that product placement would be commercially viable for advertisers or generate significant new funds for broadcasters. More importantly it argued that product placement would blur legally enshrined distinctions between advertising and programming. This still holds true.

As a member of BEUC<sup>1</sup>, Consumer Focus is in agreement with BEUC's position on product placement that it is surreptitious advertising and there should be separation between advertising and editorial content of TV programming.

In March 2009, the then culture secretary, Andy Burnham made a statement on how product placement would continue to be prohibited in television programmes made by and for UK television broadcasters.

The Secretary of State said, 'On balance, and mindful of the need to maintain public trust in television broadcasters and British television's reputation for high standards, the Government has concluded that no conclusive evidence has been put forward that the economic benefit of introducing product placement is sufficient to outweigh the detrimental impact it would have on the quality and standards of British television and viewers' trust in it. Therefore, the Government has decided to maintain the status quo so that product placement will continue to be prohibited in television programmes made by and for UK television broadcasters.'

Culture Secretary Ben Bradshaw in his speech to the Royal Television Society in September 2009 stated that the Government was considering reversing that policy and permitting product placement. This had come about 'because the climate has changed within the TV industry' and that the Government would be launching a public consultation on product placement.

Consumer Focus was disappointed that this issue is being consulted upon again given the lack of any new evidence on the financial benefits to advertisers and the absence of a Regulatory Impact Assessment detailing a cost benefit analysis of product placement. Consulting on product placement on UK television appears to have been opened up by the AVMS Directive giving the powers of decision to Member states. It has come at a time of an economic downturn and where revenues for commercial TV are on the decline.

Consumer Focus voiced this disappointment by signing a letter to Culture Secretary Ben Bradshaw, as part of the Children's Food Campaign coalition, in November 2009.

---

<sup>1</sup> BEUC, the European Consumers Organisation, is the representative organisation of 40 independent consumer organisations from almost 30 European countries. BEUC is acting on behalf of consumers.

# Answers to specific questions

---

## 1. What, if any, viewer and other safeguards there should be additional to those required by the Audio Visual Media Services (AVMS) Directive?

The AVMS Directive places a general prohibition on product placement but then allows Member States to decide whether to permit product placement in:

- Cinematographic works
- Films and series made for audiovisual media services
- Sports programmes
- Light entertainment programmes

Product placement is not permitted in any programmes which are made for children. News and current affairs are not listed in the permitted genres.

Consumer Focus is not in favour of reversing the decision of prohibiting product placement on UK television, nor are we in favour of permitting product placement in the above genres. We would also want to see a complete prohibition on all food and drink products as imposed for cigarettes and tobacco products and prescriptive medicines.

The AVMS Directive offers safeguards for children while watching programmes made for them. However, if product placement is permitted, we are concerned that many children could be exposed to products during TV programmes that children watch in large numbers but that are not necessarily made for a children's audience. Only considering children's programmes does not account for large numbers of children watching family viewing such as X-Factor, Harry Hill's TV Burp or Britain's Got Talent.

If product placement is allowed, Consumer Focus want there to be an absolute prohibition on all food and drink products. We also believe that a ban on high fat, sugar and salt (HFSS) foods would be insufficient and result in increasing children's exposure to HFSS foods in a context that may promote them as healthy.

## 2. How should those additional safeguards be imposed – by law, or by means of the Ofcom code?

Product placement is currently banned in the UK under Ofcom's Broadcasting Code. If product placement was to be allowed, additional safeguards on not permitting product placement of all food and drink should be immediately implemented and subsequently monitored through the Ofcom code, followed by changes in legislation.

## Commercial advantages

- 3. Is the range of figures for the potential benefit of introducing television product placement set out at Part 3 of this document (between £25m and £140m p.a.) still broadly applicable?**
- 6. Has any new evidence emerged about the possible benefits since the earlier consultation?**

The range of figures for the potential financial benefit of introducing television product placement (between £25m and £140m) appears to be a very broad range and not a wholly representative figure.

Ofcom's estimate that income generated from product placement might be worth £25 - £30m per annum after five years was thought to be about right. However, there were others who thought this figure had been over-estimated. These figures had been taken into account when the Government decided 'that the economic benefit of introducing product placement is sufficient to outweigh the detrimental impact it would have on the quality and standards of British television and viewers' trust in it.

Consumer Focus would want to see further independent research carried out to calculate the precise financial benefit of introducing product placement and for it to be measured robustly. We also want to see a thorough assessment detailing the economic impact that product placement is likely to have.

There appears to be no new evidence emerging since the last consultation on the potential economic benefit of allowing product placement and whether this would be sufficient to outweigh the detrimental impact it might have. Scepticism has been voiced by both Channel 4 and ISBA, the Voice of British Advertisers, who are both against paid for product placement. Channel 4 does not support product placement citing destroying viewer's trust by blurring the boundaries between editorial and commercial content on TV as one of their concerns. ISBA reports that product placement may lead to a double disadvantage of higher costs for broadcasters and an increase in complaints.

Consumer Focus would want to see new robust and convincing evidence on estimated financial benefits of product placement before consideration is given to reverse the existing legislation.

## 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?**

We would want product placement during televised series to be prohibited; in particular where large numbers of children are watching programmes that are not specifically made for them and fall outside of designated children's airtime. There needs to be measures put in place to exclude the repetitive nature of product placement as it appears. In the research conducted by Auty and Lewis<sup>2</sup>, it is the reminder effect which can be particularly influential on children's choices.

---

<sup>2</sup> 'Exploring children's choice: the reminder effect in product placement,' Susan Auty and Charlie Lewis, *Psychology and Marketing* 21 (9) 2004.

**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?**

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

Yes, we know that large numbers of children are watching programmes outside of children's programming time, a recent study by Ofcom found that 71 per cent of children's viewing takes place outside of dedicated children's airtime<sup>3</sup>. Many of these programmes could be considered 'light entertainment'. It is also unclear what programmes would be considered 'light entertainment' as the genre evolves and grows beyond just soaps and reality entertainment shows.

The term 'light entertainment' also needs to be defined in terms of its audience, as by their very nature, large numbers of children will be watching these types of programmes. This term as it stands is too vague and we would question how this restriction would be monitored.

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

- **News programmes**
- **Current affairs programmes**
- **Consumer programmes or**
- **Any other specific type of television programme?**

The programmes listed above by their very nature contain factual information and should be broadcast with a fair and accurate approach when reporting those facts. If product placement is permitted this could undermine trust in those programmes and agitate viewers. The National Union of Journalists code of conduct (No.11)<sup>4</sup> stipulates the impartial nature of journalism that in no way should any commercial product or service be endorsed by the reporter for that particular programme.

Consumer Focus would want the balanced approach of the above programmes and other factually reported programmes to remain and for product placement not to be permitted in the above programmes and other factually based programmes.

## **Children**

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

Defining a 'disproportionately high child audience' is problematic as it refers to the proportion of the audience who are children rather than the number of children watching the programme. Many children watch programmes that are not necessarily made for them and outside of designated children's airtime. Product placement should not be permitted in all programmes watched by children. The priority should be protecting children from unnecessary and insidious advertising.

---

<sup>3</sup> Ofcom (2004) Childhood obesity – food advertising in context. London.

<sup>4</sup> The NUJ code of conduct (no 11) says a journalist, 'Does not by way of statement, voice or appearance endorse by advertisement any commercial product or service save for the promotion of her/his own work or of the medium by which she/he is employed'

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

Programme makers can estimate when large numbers of children are likely to be watching certain programmes and work out where product placement should not be permitted.

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

The absolute numbers of children watching TV programmes outside children’s airtime needs to be recorded. The BARB audience index used by Ofcom to identify ‘programmes of particular interest to children’ relies on defining the proportion of audience figures, ie children may only make up 20 per cent of the total audience but still the actual numbers watching could be in the millions. Consumer Focus considers defining numbers in absolute terms of when children are watching television would be more realistic and meaningful.

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

The most effective way of protecting children is to maintain the present prohibition on product placement. If product placement were to be permitted, Consumer Focus is in agreement with the Children’s Food Campaign that all food and drink products should be prohibited alongside cigarettes and tobacco products and prescriptive medicines.

**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?**

The introduction of product placement would be a deviation from the long-held ‘separation principle’ which exists between editorial content and spot advertising at the moment. This separation provides consumers with protection that commercial activity and programme content have boundaries which are adhered to. For these reasons, Consumer Focus is concerned that by permitting product placement the Government would be undermining fundamental broadcasting principles for an advertising mechanism that remains unproven to any significant benefits for viewers, broadcasters or advertisers. For that reason the restrictions for these products should be greater than for spot advertising.

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

It is not clear how 'undue prominence' of products could be avoided. The best safeguard for editorial integrity is not to permit product placement and therefore maintain the separation between commercial activity and editorial content and the trust of the viewing audience.

If product placement is allowed, there would need to be transparency about what brand is being placed and the reasons for placing it in such a programme. It should be clear to the viewer that product placement is part of a programme at the offset.

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

- 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?**

Consumer Focus believe that it would be more effective to prohibit product placement of all foods and drinks rather than only those considered to be HFSS for the reasons stated above.

## **Consumer Focus response to DCMS consultation on product placement on UK television**

Written by: Jillian Pitt, Senior Policy Advocate, Consumer Focus

[www.consumerfocus.org.uk](http://www.consumerfocus.org.uk)

Copyright: Consumer Focus

Published: January 2010

If you require this publication in Braille, large print or on audio CD please contact us.

For the deaf, hard of hearing or speech impaired,  
contact Consumer Focus via Text Relay:

From a textphone, call 18001 020 7799 7900

From a telephone, call 18002 020 7799 7900

### **Consumer Focus**

4th Floor  
Artillery House  
Artillery Row  
London SW1P 1RT

Tel: 020 7799 7900

Fax: 020 7799 7901

Media Team: 020 7799 8004 / 8005 / 8006