

*Championing
excellence and diversity
in broadcasting*



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VLV RESPONSE TO OFCOM PROPOSALS FOR REMOVING REGULATION ON THE QUANTITY AND SCHEDULING OF TELEVISION ADVERTISING ON PUBLIC SERVICE CHANNELS

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INFORMATION ABOUT THE VLV

1. The Voice of the Listener & Viewer (VLV) is an independent, not for profit membership-based charity, free from political and sectarian affiliations. VLV supports high quality broadcasting which maintains the democratic and cultural traditions of the UK. We support the independence and integrity of the BBC and encourage work which demonstrates commitment to the principles of Public Service Broadcasting (PSB). VLV is a charitable company limited by guarantee (registered in England and Wales No 4407712 - Charity No 1152136).

INTRODUCTION

2. VLV's primary concern in making this submission is to represent the interests of citizens and encourage policies which ensure citizens have access to high quality public service content. We do not wish the audience experience of viewing PSB to be diminished by a significant increase in advertising on the commercial PSB channels.
3. Having said that, VLV is keenly aware of the financial pressure the PSBs are under in an ever more competitive marketplace¹, so we recognise that regulation should take into account its impact on the financial sustainability of the PSBs.
4. VLV's submission to the earlier consultation on this subject in October 2022 supported a revision to the COSTA rules because we believe it is important to ensure the sustainability of the commercial PSBs. We consider that the current regulatory system provides an unfair advantage to the non-PSB channels. However, VLV recommended that Ofcom should keep the number of commercial impacts constant, which it hasn't chosen to do.
5. At the time of our earlier submission Ofcom's research into audience attitudes to advertising had yet to be published. Now that it has been published, VLV is not convinced that the evidence is strong enough to justify Ofcom's proposed approach. There is no strong evidence that the changes will lead to a financial benefit for the commercial PSBs and the qualitative research shows that audiences do not welcome the idea of more adverts on TV.
6. Ofcom acknowledges that it is very difficult to model with any degree of certainty the impact these changes will have, however it seems likely that the price of linear advertising will decrease because of the increase in the number of commercial impacts. Additionally Ofcom acknowledges that these changes are likely to harm the wider market which could reduce the range of content available.
7. VLV is concerned that Ofcom dismisses audience opposition to an increase in adverts on PSB channels too easily. The recent Ofcom research is consistent with previous research which shows that audiences generally prefer to not

¹ *Recommendations to Government on the future of Public Service Media*, Ofcom, 15 July 2021, para 1.3

have their viewing interrupted by adverts². Ofcom concludes that audiences oppose having more adverts *in principle* but not *in practice* because the volume of adverts in peak time doesn't appear to deter viewers. Perhaps they are undeterred because they have no choice but to endure the adverts if they want to watch a programme?

8. VLV is aware of concerns that these proposals could result in damaging consequences for other commercial broadcasters. They could undermine smaller, niche commercial channels which serve cultural minorities which could lead to a reduction in audience choice.
9. When audiences were asked whether they would support these changes if broadcasters then reinvested the additional income into content, they were largely positive. However, VLV notes the Ofcom will not be able to compel this outcome and any benefit for audiences is based on an assumption that broadcasters might invest more in PSB content if advertising income increases. We also note that Ofcom did not ask in its survey whether audiences would support these changes if they led to a detrimental outcome for other broadcasters, which could also be the case.
10. There are concerns, acknowledged by Ofcom, that these changes could lead to a reduction in the volume of news on the commercial PSBs if they were to show the maximum allowable minutes/hour of advertising in their news hours. VLV considers that this would be detrimental for citizens and society as a whole and should be guarded against.
11. While VLV understands that these proposed changes might benefit ITV, it is very unclear how beneficial they will be for Channel 4 or Channel Five. VLV recognises and values ITV's contribution to public service media in the UK and therefore we encourage Ofcom and the government to do all they can to ensure that ITV remains sustainable as a Public Service Broadcaster, however we are not convinced that these proposals will be beneficial for audiences while ensuring the sustainability of the commercial PSBs.

PSB Legislation

12. VLV considers there is no guarantee that allowing the commercial PSBs to show more adverts will of itself ensure their financial sustainability. Alongside potential reforms to the COSTA rules, it is essential that provisions in the Media Bill are implemented as soon as possible to ensure PSB prominence and fair carriage terms on platforms and hardware.

Online advertising

13. As stated in our earlier submission, VLV considers one of the key challenges for broadcasters is that online advertising is less strictly regulated than broadcast advertising. VLV considers it essential that advertising regulation takes a platform neutral approach now that convergence of media platforms is advanced. VLV notes that Ofcom highlighted this issue in its *Recommendations to Government on the future of Public Service Media*³. This impacts all UK broadcasters including the commercial PSBs. While VLV

² *Regulating the quantity of advertising on television*, Ofcom, 15 December 2011, Figure 4.

³ *Recommendations to Government on the future of Public Service Media*, Ofcom, 15 July 2021, para 10.15

understands the government is considering changes through its online advertising programme, we are concerned that there is no obvious legislative vehicle available for these reforms. VLV considers that this reform should be brought forward as a matter of priority.

Consultation question 1: Do you agree with our provisional view that the retention of the stricter rules that apply only to PSB channels is not justified? If not, please explain why.

14. As stated in our previous submission, VLV does not believe that retention of stricter rules for the PSB is justified. However, VLV disagrees with the proposals in this consultation which will lead to an increase in the volume of advertising on TV and are likely therefore to reduce the cost per spot for advertising. VLV considers this could mean commercial PSB income does not increase overall, despite audiences being exposed to a greater volume of ads. This is why VLV originally proposed that the the number of commercial impacts should be kept constant if the 'playing field' were to be 'levelled' between the PSBs and the non-PSBs.
15. While levelling up, which is the approach Ofcom favours, could shift investment from the non-PSBs to the PSBs, this would only be beneficial for audiences if the PSBs increase their investment in PSB content. This outcome is far from guaranteed.
16. Instead, it is likely that there will be an increase in the volume of advertising around news which will lead to a reduction in the volume of news for audiences which will be detrimental.
17. VLV would support the removal of the stricter rules for advertising on the PSBs if the commercial impacts are kept constant and the volume of news made available on the commercial PSB TV channels, especially during weekdays, is maintained at its current level.

Consultation question 2: Do you have a preference between the proposals under Option 1 and Option 2? If you do not agree with the proposals under either option, please explain why.

18. VLV would support Option 2, however we believe that the limits of the volume of advertising allowed on all channels should be reduced so that the number of commercial impacts is kept constant. VLV considers that one rule should apply to both non-PSB and PSB channels; this would mean that the limit of the average minutes of advertising permitted will take a 'middle road' between the existing limits for non-PSBs and PSBs.
19. We agree that Rule 16 should not be amended in light of Ofcom audience research which shows that audiences prefer less frequent ad breaks.

Consultation question 3: In the event that we proceed with Option 1 or 2, we suggest a one-year period before implementation. Do you agree? If not, please explain why.

20. VLV considers that the timetable for implementation is a matter for Ofcom to decide in consultation with the commercial broadcasters as a whole.

Consultation question 4: Is there any further information you wish to provide regarding changing the stricter rules in COSTA?

21.No further comments.