

The General Advertising Code Consultation Response Form

This form allows you to respond to the questions raised in the consultation document. The form should be downloaded to your computer, completed and emailed to codes@bci.ie.

Please note that the deadline for submissions is Friday 21st April 2006.

The Commission recommends that you first read the consultation document prior to submitting your response to any or all of the questions asked.

The Commission invites you to respond to all of the questions raised in the consultation document. However, if you are only interested in submitting a response to specific questions, questions under each section of the document can be accessed by clicking on the links below.

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Would you like to be kept updated on the development of the code?

Yes,
please

SPECIFIC RULES REGARDING PARTICULAR PRODUCTS AND SERVICES

SECTION 3. APPLICATION OF REGULATORY PRINCIPLES

1 Are you satisfied with the manner in which the Commission is applying its regulatory principles to the development of the General Advertising Code?

While broadly welcoming the manner in which the Commission is applying its regulatory principles, the Family and Media Association (FMA) would like to make the following points:

1. (section 3.1.1) In spite of the ever increasing range of products being advertised to persons and families, FMA believes that, as far as possible, some attempt should be made to address and anticipate the products and services that could arise in the future. The provision of key principles without also being specific about the products and services to which they refer may not be effective in ensuring that those principles are successfully applied to commercial communications.
2. (section 3.1.2) No mandate has been given to facilitate broadcasting. There is no harm in preempting new advertising techniques until such time as *their* potential harm can be assessed.
3. (section 3.1.3) While welcoming the efforts of the BCI in this regard, the process for developing the code has so far not facilitated dialogue and participation to the extent that it has not maximised public awareness. The overlapping of the development of a Code of Programme Standards with the development of a General Advertising Code may also be confusing, given their similarity, and could overextend people's capacity to assess both adequately.
4. (section 3.1.4) A transparent process although vital is, in practical terms, opaque in the absence of greater public awareness.

SECTION 4. PROPOSED OBJECTIVES AND STRUCTURE OF THE CODE

2 Are these key objectives appropriate in the context of the development of the General Advertising Code? Please provide a rationale for your response.

While these key objectives are close to excellent, the first of these, we believe, should be amended to read: 'To ensure that the citizen and consumer can be confident that commercial communication (i.e. advertising, sponsorship and teleshopping) is legal, honest, truthful, decent and neither offensive nor harmful.' The individual should be able to expect to be protected from anything that is harmful. Whatever is dishonest, untruthful and indecent is also harmful but the reverse is not necessarily true. We endorse fully the other objectives. If a commercial communication impinges on the editorial integrity of broadcasts it endangers the broadcaster's effort to tell the truth without distortion and exploitation. Clear guidance to broadcasters on standards which must be adhered to makes the ignoring of these standards less likely and easier to address successfully, should they occur. Guidance to the public increases confidence and the ability to protect one's self, one's community and one's family from commercial communications which could exploit them.

3 Are there other objectives which should be taken into account? Please provide a rationale for your views. These objectives seem sufficient provided the first is amended as per our response to question 1, and also provided the terms (e.g. advertising, decent, harmful and offensive) are clearly defined and understood.

4 What are your views on the proposed structure of the General Advertising Code?

The structure seems to be consistent with the objectives. FMA would welcome the inclusion of appendices insofar as they could give the necessary detail to effectively apply the code.

5 What are your views on the use of the term commercial communications in this General Advertising Code as a general term to include advertising, sponsorship and teleshopping?

This appears to be a very good idea insofar as it may help the code to be more clearly applied to new and possibly unanticipated techniques. It would also appear to be useful in avoiding any repetition which would be unnecessary.

SECTION 5. CONTENT OF THE CODE

6 A number of exclusions to the definition of advertising have been identified. What are your views on these exclusions?

We are concerned that in being excluded from the definition of advertising, certain communications perceived by the public as advertising (see the inclusive definition of advertising used by the Independent Television Committee (UK) and the rationale for this in General Advertising Codes – a review of national and international practice, section 2.2.1) will also be excluded from the very positive requirements of the Code. One such set of requirements would be that they *“must not cause harm or serious or widespread offence. They shall not (i) prejudice respect for human dignity; (ii) include any discrimination on ground of race, sex or nationality; (iii) be offensive to religious or political beliefs, or encourage behaviour prejudicial to the protection of the environment or to health or safety.”* (5.2.2). We would propose therefore that such exclusions not apply to section 5.2.2.

7 Are there any other exclusions you believe should be permitted? Please provide a reason for your response.

Announcements regarding Religious events or explaining the position of a religious grouping with respect to actions or events associated with that grouping. This exclusion should prevent the exploitation of such actions or events for sectarian purposes, contributing in turn to inter-cultural and inter-religious harmony.

8 What are your views on these principles? Please make sure to specify to which principle(s) your response refers and provide a rationale for your views.

We note that although care has been taken with some definitions, no definitions are proposed for 'human dignity', 'harm' and 'serious or widespread offence' (5.2.2). The lack of such definitions would probably make this principle impossible to apply successfully. While we are sympathetic with the idea that it is sometimes difficult to express an idea of importance for fear of someone saying 'I am offended', we do not think it is wise to replace the term 'offence' with 'serious and widespread offence' as this term would be meaningless unless it were *very* well defined. However we broadly welcome the principles in general (including 5.2.2 which states that '(commercial communications) shall not be offensive to religious ... beliefs'). These *principles* seem to us both comprehensive and necessary. However, while welcoming the principles, we are very concerned about the *rule* that is apparently meant to give effect to one of those principles, namely the aforementioned principle 5.2.2. Although the word 'specifically' does not precede rule number 1 for principle 5.2.2, it does for principle 5.2.1. The word 'specifically' seems to be qualifying and interpreting the statement that precedes it. If this word were added to section 5.2.2, it could have the effect of rendering utterly ineffective what was said immediately before. This is because the application of rule 1 in section 5.2.2 is not capable by itself, of bringing about the requirement that '*(commercial communications) shall not (i) prejudice respect for human dignity;(ii) include any discrimination on ground of race, sex or nationality; (iii) be offensive to religious or political beliefs, or encourage behaviour prejudicial to the protection of the environment or to health or safety*'.

In this regard, we would propose adding some further rules. For example, a second rule, rule 2, could say 'Commercial Communications shall not contain any scriptural quotations or allusions to religious ideas or events, particularly where their meaning is altered in order to promote a product, or such that they may have the perceived effect of undermining a moral or religious belief system'.

9 Are there additional principles you believe should be contained in this section of the General Advertising Code?

No, provided the appropriate definitions are provided for 5.2.2

SECTION 6. SPECIFIC RULES REGARDING PARTICULAR TYPES OF COMMERCIAL COMMUNICATION

10 What are your views on these rules? Please indicate to which rule your response refers and provide a rationale for your response.

We broadly welcome these rules as they would appear on paper, at least, to go some way towards respecting the dignity of the person.

11 Are there additional rules you believe should be incorporated? Please provide a rationale for your response.

Not at this stage provided those proposed are interpreted correctly and operate successfully.

12 What are your views on split screen advertising generally?

We believe it should not be allowed because it gives the impression that viewers are merely objects to be used for monetary gain whereas the main purpose of television should be to educate and entertain. Split screen advertising is already negatively perceived on the Internet, in email sites, for example.

13 Do you believe that the key principles and advertising rules are sufficient to regulate split screen advertising? Please provide a rationale for your response.

No for the reasons given in the response to question 12.

14 If not, what additional rules, if any, do you believe should be attached to split screen advertising? Please provide a rationale for your response.

Please see our response to question 12.

15 What are your views on interactive advertising generally?

In practice, we believe it would be impossible to protect minors from entering into a harmful situation through the availability of interactive advertising. We therefore believe that it should not be allowed.

16 Should it be permitted in all types of programming? Please provide a rationale for your response.

Please see our response to question 15.

17 Do you believe that the key principles and advertising rules are sufficient to regulate interactive advertising? Please provide a rationale for your response.

No. Please see our response to question 15.

18 If not, what additional rules, if any, do you believe should be attached to interactive advertising? Please provide a rationale for your response.

Please see our response to question 15.

19 What are your views on virtual advertising generally?

We are opposed to the idea of virtual advertising for the same reasons given in our response to question 12 and because it subtly blurs the distinction between what is real and what is not, merely for monetary gain. We also believe special note should be taken of the implications for children who have not yet developed the cognitive capacities of adults which are needed to make distinctions between what is real and what is not real. Similarly, people who live with schizophrenia may also find this and similar technologies challenging.

20 Do you believe that the key principles, advertising rules and the rules outlined in the Interpretative Communication are sufficient to regulate virtual advertising? Please provide a rationale for your response.
No. Please see our response to question 19.

21 If not, what additional rules, if any, do you believe should be attached to virtual advertising? Please provide a rationale for your response.

Please see our response to question 19.

22 What are your views on these rules? Please make specific reference as to which rule your response refers and provide a rationale for your response.

These rules appear to be prudent, in our opinion.

23 (i) With regard to Rule 4, what are your views generally on the means by which the Commission should distinguish between sponsorship and advertising?

We fully endorse the way the Commission distinguishes between sponsorship and advertising

(ii) Do you believe the Commission should permit sponsorship announcements to include reference to the specific products or services of the sponsor? Please provide a rationale for your response.

No. It would have an 'invasive' effect on the listener/viewer and on the programme being sponsored. Neither would it be consistent with acknowledging the integrity of the programme and the dignity of the viewer.

(iii) Do you believe that the Commission should permit programmes to be sponsored by specific products rather than an overall brand or outlet? E.g. Sponsored by Ford Focus as opposed to sponsored by Johnson's Ford Cars. Please provide a rationale for your response.

No. There is something dehumanizing about a product sponsoring something. A product, in reality, cannot *decide* to do anything, let alone sponsor a programme. It would be demeaning, in this way, either to give it human status or to reduce viewers, by implication to the status of things.

(iv) If you believe that sponsorship announcements should be permitted to include reference to specific products or that programmes should be permitted to be sponsored by specific products or services, what then should be the basis by which the Commission distinguishes between a sponsorship announcement and an advert?

We do not as per our responses to (ii) and (iii)

24 Are there additional rules you believe should be included? Please provide a rationale for your response.

Not at this stage provided, provided these rules operate in the way envisaged.

25 Are there additional rules you believe should apply to teleshopping? Please provide a rationale for your response.

The TWF directives may be adequate.

SECTION 7. SPECIFIC RULES REGARDING PARTICULAR PRODUCTS AND SERVICES

26 What are your views as to whether these products and services should continue to be prohibited from being advertised? Please be specific as to which product or service your response refers and provide a rationale for your response.

We believe that all of the named products and services should continue to be prohibited from being advertised. Advertising them would constitute an unethical preying on the emotions of people in relation to where they are most vulnerable.

27 Are there any additional products that you believe should be prohibited? Please provide a rationale for your response.

We believe that advertisements for sex shops, stripograms, dating services, telephone sex lines, chat lines and the like should also be prohibited as their acceptance would be in conflict with principle 5.2.2 where it is stated that commercial communications 'shall not prejudice respect for human dignity'. Research has also shown pornography to be harmful, a similar criterion for rejection. Also and very importantly we believe there should be an outright ban on the advertising of alcohol. We are not convinced by the argument made by Nelson and Young (General Advertising Codes – a review of national and international standards (GAC), section 3.3.2.2) when they say that removing alcohol advertising could result in an increase in alcohol consumption. No evidence seems to be offered for that assertion. On the contrary more recent research than that quoted in GAC, dating from January of this year, has suggested that the advertising of alcohol does in fact increase the amount of alcohol taken by children (Snyder et al, 2006). We include an appendix (appendix 1.1) outlining some of these more up to date findings.

28 What are your views on the rules contained in the Ministerial Codes? Please indicate to which rule your comments refer and provide a rationale for your response.

We welcome these rules but do not believe they go far enough. We believe that the advertising of alcohol should be prohibited in general for the reasons given in our response to question 27. (Please see appendix 1.1)

29 Are there additional rules you believe should be included in the General Advertising Code? Please provide a rationale for your response.

Please see our answers to questions 27 and 28

30 What are your views on the voluntary practice of not advertising spirit based alcoholic drinks?

Please see our response to question 27 and 28.

31 What are your views on the proposal that the General Advertising Code recognise the *Voluntary Codes of Practice*?

Please see our answers to questions 27 and 28

32 What are your views on the rules concerning the advertising of betting services? Please provide a rationale for your response.

We welcome these rules, but given the highly addictive nature of gambling for some people and given its extremely destructive effects for those same people and their families, we would prefer if betting services were not allowed to advertise at all, even with the proposed restrictions.

33 What are your views on the proposed recognition and application of the IFSRA Code to the advertising of financial products and services? Please provide a rationale for your response.

The IFSRA Code seems to be working at the moment but a 'blank cheque' should not be written which would automatically adopt, as part of the advertising Code, any changes the IFSRA might bring in the future.

34 What are your views on the rules contained under this heading? Please indicate to which rule your comments refer and provide a rationale for your response.

We agree with all the rules referred to here due, in general, to the vulnerability of susceptible viewers to emotional manipulation and also the potentially harmful effects of such manipulation. Research carried out by Karl Hovland in the 1940s, in particular, underlines to us the importance of not using those who appear as experts to advertise medical products etc.

35 Are there additional rules you believe should be included? Please provide a rationale for your response.

No

36 What are your views on the prohibition of advertising for medicines, products, advice or appliances for the treatment of the illnesses and conditions listed in appendix 4? Please provide a rationale for your response.

We agree with all of these prohibitions for the reasons given in our responses to questions 26 and 34.

37 Are there other products/services or events that you believe should have particular rules attached to them in the code? Please provide a rationale for your response.

Cosmetic surgery should not be advertised. It would both prejudice respect for human dignity and exploit the most vulnerable

38 If you do believe there are additional rules that should be included, please specify the product/service to which you refer and the nature of the rule you believe is appropriate.

Please see our response to question 37

39 Are there any other issues which you believe should be addressed in the General Advertising Code? Please provide a rationale for your response.

We believe these have been addressed in our responses to the previous questions.

SECTION 8. DRAFT REVISED DIRECTIVE

40 What are your views on the distinction between linear and non linear services?

This seems to be a useful distinction.

41 What are your views on the use of different levels of regulation for the two types of services?

It may be simplistic to talk about different 'levels'. Although the greater choice in non linear services implies less scope for manipulation and thus lower level controls, the access allowed to minors implies the need for higher level controls. We welcome in particular the requirement that commercial communications must not cause moral or physical detriment to minors.

42 What are your views on product placement generally as a form of commercial communication?

Product placement should continue to be prohibited as it blurs further the distinction between advertising and programming, thus giving the impression that the viewer is merely an object to be manipulated. Furthermore, it will probably decrease the likelihood of a broadcaster seeing programming as a service. This is in conflict with the proposed principles. Children in particular will find it difficult if not impossible to distinguish between programming and advertising content (in so far as such a distinction can actually exist)

43 Should product placement be permitted in all programmes?

Please see our response to question 42.

44 Are there particular categories or genres of programmes that should not be allowed to carry product placement? Please provide a rationale for your response.

Please see our response to question 42.

45 Should product placement be subject to any particular rules with regard to the times of broadcast or the audiences it can target e.g. children? Please provide a rationale for your response.

Please see our response to question 42.

46 How should the principle of transparency be given practical effect, i.e. how best should the audience be informed that product placement is featured in the programme? Please provide a rationale for your response.

Please see our response to question 42.