



## Submission by the Campaign for Press and Broadcasting Freedom (CPBF) to the DCMS Consultation on Product Placement on Television (November 2009)

### Introduction

The Campaign for Press and Broadcasting Freedom is an independent organisation that works for a more democratic, accountable and plural media. Since 1979 the CPBF has campaigned in favour of media freedom, for public service broadcasting and for greater equality of representation in, and accountability of, the mass media. The CPBF brings together members of the public and people working within the industry in an ongoing dialogue about the media and its role in society.

### Summary

Product placement is an advertising technique whereby advertisers pay to have their products included and promoted in television programmes. Editorial staff, scriptwriters and producers amend scripts and plots so as to feature and promote certain products. Words are put into the mouths of TV characters to advertise brands. Currently, in the UK, only unpaid 'prop' supply is permitted and commercial references are subject to Ofcom rules against 'undue prominence'

The CPBF, together with viewers' organisations and consumer bodies, opposes the introduction of paid placement. Product placement would allow programme agendas to be distorted for commercial purposes and would give advertisers unhealthy control over decisions about what content is made, shown and commissioned.

### Consultation process and context

On March 11 2009, Culture Secretary Andy Burnham announced that the Government would maintain the rules preventing product placement in programmes made for British television. Despite relentless lobbying by ITV and a range of advertising and media industry groups, the Government decided 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'. Endorsing arguments we had long put forward, the Minister acknowledged 'very serious concerns about blurring the boundaries between advertising and editorial'.

We concur with the Church of England in their statement that 'In the absence of any significant independent research on public attitudes, or economic impact assessment, we see no reason why the government is proposing to change its mind on the ban on product placement when its consultation exercise of less than nine months ago concluded that no such change was warranted'. However, the 'reason' may be found in government willingness to accede to the wishes of a powerful lobby of

advertising and media interests in the UK and pressures from the European Commission and elsewhere for the UK to liberalise.

In September the current Culture Secretary signalled his willingness to review the ban on product placement as an example of removing ‘regulation for regulation’s sake’. Whatever else, the long list of concerns set out in the Consultation stand in stark contrast to that initial verdict. Nevertheless, the terms of the current consultation are clear. The Government has indicated that it is now ‘minded’ to accept product placement. The principle argument put forward for this change from March is an economic one, namely that it is even more vital that UK broadcasters and programme-makers have the revenues to make programmes. Ben Bradshaw told the House of Commons (Oral Answers to Questions — Culture, Media and Sport, House of Commons debates, 9 November 2009):

However, the reason why we are having a consultation is because there are at the same time important safeguard issues, and important health issues around the protection of children and so forth. We want to make sure that we get this right so that we maximise income for producers and for commercial television, which is going through a very hard time at present, while at the same time ensuring that we have the correct safeguards in place.

We oppose the introduction of product placement in any form. However, we also believe that framing the issue in terms of ‘safeguards’ were PP to be introduced seriously underestimates how profoundly the existing arrangements governing media content and advertising would be affected. The focus on safeguards masks the extent to which permitting PP creates significant new problems because it radically revises some of the core aspects of media regulation and practice, namely i) Rules governing advertising (marketing communications); ii) Rules governing media content including protection of freedom of expression

## Advertising rules and product placement

Permitting PP would fatally undermine broadcast advertising rules. All the efforts in the advertising code to prevent brand associations which may be damaging in various ways (cars and speed, alcohol or cigarette and sexual allure, ‘junk’ food promotion to children) are much less enforceable in programme content. In fact, promoters would have incentives to evade advertising restrictions, broadcasters and producers would have incentives to attract pp, and advertising rules would be inconsistently applied and so undermined. As Ofcom acknowledged, in a dry understatement its 2006 Consultation on product placement, ‘anomalies... could arise were consistency with the advertising code principles to be insisted upon’ (6.34).

Liberalising PP would allow marketers to evade the detailed rules governing advertising including those recently introduced to combat junk food promotion to children. Recent research by the US Institute of Medicine, for instance, found that companies promoting unhealthy food and drink were increasingly targeting children through product placement, as well as other means.

The BCAP TV code includes rules upholding the following principles (Section 2.1.) ‘The first is to ensure that viewers know at all times whether they are watching programming or advertising. The second relates to editorial independence and is to ensure that programmes are not distorted for commercial purposes; links between advertisers and programme properties are restricted for that purpose’.

## Media content

The rules on the separation of editorial and advertising protect consumers and citizens. But they also protect media speech. It is right that the freedom to advertise (to make advertising communications) is subject to rules. However restrictions on advertising (and other marketing communications) have not been applied to editorial content where to do so risks interfering unduly with creative expression or editorial independence. As the Committee on Advertising Practice put it<sup>1</sup>:

The ASA regulates advertising; it does not regulate editorial content. The boundary between the two is an important one: it ensures advertising remains legal, decent, honest and truthful and editorial freedom is preserved'

The ASA does not 'interfere' with editorial content. In contrast, the regulation of UK broadcasting has been established on the basis of dealing in an integrated way with all broadcast output. Ofcom has driven forward an agenda of disaggregating such regulation, with Ofcom regulating programme content and the ASA broadcast advertisements. However, product placement is one of many anomalies that this new system is ill equipped to address since it requires a coherent regulatory approach to promotional opportunities across broadcast output.

As stated, allowing advertising in editorial undermines the current regulations for advertising and editorial in profound ways. These include undermining the basis for claiming the privileges of editorial freedom. If marketers are allowed to influence content through product placement then the privileges granted to media speech over commercial speech are forfeited. The basis for imposing limits on the 'freedom' to advertise is also undermined an outcome sought by advertising lobbies but profoundly socially undesirable. Why should a marketer be prevented from associating alcohol with social and sexual success in advertising if they can pay for their brand to be featured positively in dramas such as *Hollyoaks* or *Skins*?

## Product placement and regulatory safeguards

Once paid placement is allowed, commercial pressures will make the 'undue prominence' rule unworkable. At present, the ban on product placement and the undue prominence rules work hand-in hand in making any breach visible. If PP is allowed, it will not be possible to maintain 'undue prominence' in anything like its current form. No doubt any UK rules will specify that PP must not interfere with 'editorial integrity'. How will this be identified and regulated in future if PP is permitted?

We don't believe that permitting PP would bring British TV swiftly to the levels of embedded advertising found on American network and cable TV. But we believe that removing the two rules that prevent PP would remove the only effective regulatory safeguards. From that point the same commercial pressures here would be most likely to lead to increasing product placement, towards the patterns established in the United States. There product placement has become more intensive and more intrusive. According to Nielsen Media Research, product placement occurrences on network TV prime time rose to 22,046 in the first three quarters of 2007. On cable TV, for the same period Nielsen found 136,078 occurrences. Product placements with a combined visual and audio reference on US network television went up by 17% in 2006 to

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<sup>1</sup> CAP 'Say it loud and say it proud: "I am an Advertisement"', 29 October 2009. Available at <http://cap.org.uk/Media-Centre/2009/Say-it-loud.aspx> (accessed 4 January 2010).

4,608, and by 13% to 5,190 in 2007. There were 118,000 individual product placements across 11 top US channels in first three months of 2008 alone.

According to David Young, Director of the Writers Guild of America *West*, ‘Product integration goes far beyond the long-standing practice of using real commercial products as props. It forces professional television writers to disguise commercials as story lines and destroys the line between advertising and editorial content’.<sup>2</sup> In the first quarter of 2008, TNS Media Intelligence found that brand appearances, in the form of product placement and integration, averaged 12 minutes and eight seconds per hour in primetime network television, all in addition to 14 minutes of regular commercial breaks. In 2007, *American Idol* featured 4,349 product placements, topping the list of network TV programmes with product integration. Coca-Cola’s deal with *American Idol* involved logo-ed cups in front of the three judges, the traditional green room renamed ‘Coca-Cola Red Room’, specially taped segments labelled ‘Coca-Cola Moments’, as well as plugs by the show’s hosts.<sup>3</sup> Fox’s talent show *American Idol* is produced by FreemantleMedia North America, a subsidiary of Freemantle Media Ltd UK responsible for more than 500 hours of programming in the UK last year. Ofcom has already stated that episodes of *American Idol* that aired on ITV 2 breached UK rules on undue prominence despite having been re-edited for transmission in the UK.

The separation of advertising and content was a triumph of the 1954 Television Act. From 1960 when the Pilkington Committee rules against advertising magazine programmes on ITV, to the present, regulation has sustained the principle of separation and prohibited paid commercial references in programmes.

Maintaining the separation of advertising and content not only protects against stealth advertising, it protects editorial independence and the artistic and creative integrity of programmes. The ban on product placement does not just protect against how brands are featured in particular programmes – it protects how decisions are made across broadcasting as a whole, about how stories are told and even what stories are told.

### Ofcom and the Communications Act 2003

Ofcom has specific responsibilities and powers to act under sections 319, 321 and 322 of the Communications Act. As Ofcom acknowledged in its 2006 consultation on Product Placement its Broadcasting Code ‘pays due regard to the need to maintain independent editorial control of programme content, as required by Section 319(4) of the Communications Act 2003’. Product placement would contravene – 319 (2) (h) ‘that the inclusion of advertising which may be *misleading*, harmful or offensive in television and radio services is prevented’ (our emphasis). Product placement would also contravene 319 (2) (l) ‘that there is no use of techniques which exploit the possibility of conveying a message to viewers or listeners, or of otherwise influencing their minds, without their being aware, or fully aware, of what has occurred’. Although this maintains the longstanding ban on subliminal advertising, we would argue that much, if not all, product placement and brand integration activity would breach this section of the Act.

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<sup>2</sup> David Young, Executive Director Writers Guild of America, West, letter to CPBF, 22 October 2008.

<sup>3</sup> Friedman, W. and Halliday, J. (2002) ‘Product Integrators tackle learning curve’, *Advertising Age*, vol 73 (42): 18-20.

## The economic arguments

It is true that many businesses will make money if product placement is permitted but it is not clear that the net benefit will be higher investment in programmes. The money paid for product placement often ends up in third party hands, for example advertising agencies or producers. As Channel Four noted in its response to the DCMS Consultation on the AVMSD product placement could largely cannibalise existing sponsorship and spot advertising income. For example, sponsors may perceive a programme to have less value if it features product placement from other companies.

We agree with the Government's position, as stated in March 2009, 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'. The former culture secretary, Andy Burnham, also made an important economic case for rejecting product placement so as to maintain the standards and trust in British television both for domestic audiences and international sales. To our knowledge no such calculation has been made.

The argument is presented in terms of financing free-to-air broadcasters who are currently dependent on advertising revenue. But there do not appear to be studies of the implications of the various options on future finance and behaviour, let alone efforts to assess the wider impact of the policy. In particular, the benefits for viewers have not been demonstrated, and such assessment needs to be based on both economic and cultural criteria since what matters is the quality and range of programmes produced and financed. The social and cultural value of non-commercialism in British programmes needs to be 'costed' too.

We acknowledge the structural crisis facing commercial PSBs and other free-to-air advertising financed channels. However, as Burnham indicated and as we have argued in other submissions<sup>4</sup>, there are alternative means of financing that should be pursued before accepting marketers' payment for presence. Ofcom has already identified a number of regulatory options (spectrum charging, EPG position, advertising minutage, etc). There are also other options that could be explored to see how they could help fund the development of public service content. The IPPR has recently published a report which details a range of options open to the government for raising sums to fund content. <sup>5</sup> They include levies on recording equipment or blank media, on pay TV revenues and on mobile phone operators.

The economic case for PP does not outweigh the potential damage to the integrity and credibility of British television programmes resulting from allowing paid placement.

## Product placement, 'realism' and commercialism

We are told product placement will allow greater 'realism' but this misleads the public. What advertisers want, and will pay for, is marketing within programmes. Brands have not been banned, but what remains forbidden is paying for commercial

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<sup>4</sup> CPBF (2009) *Response to "Sustainable independent and impartial news: in the Nations, locally and in the regions"* (London, DCMS, June 2009).

<sup>5</sup> IPPR (2009) *Minding the funding gap. The potential of industry levies for continued funding of public service broadcasting. An IPPR report for Bectu and the NUJ* (London: IPPR, March).

plugs and giving 'undue prominence' to specific goods and services in UK-produced TV. We do not oppose brands being features in programmes to provide 'realism' we oppose marketers paying for their brands to be features in specific ways. To call the latter 'realism' is misleading. We do not oppose unpaid product placement; accessories given for free are a common practice and acceptable provided products are not given 'undue prominence'. There is a distinction between such production aids and product placement of an advertising nature, paid by a third party, which should be banned.

## RESPONSES TO SELECTED QUESTIONS

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

The current ban on product placement in any genre of UK television should be maintained. Were the Government to permit PP then in addition to the restrictions set out in the AVMSD, there should be no PP in news, factual, consumer affairs. PP should also be prohibited in any programme that includes reviews or commentary on products or services regardless of the nature of the PP.

We recognise that the government has permitted PP in non-linear, on-demand services. However, we believe that PP should be restricted in all non-linear audiovisual services. Product placement should not be permitted in any VOD service. For acquired programmes that contain product placement there should be a mandatory notification given to viewers. In addition, there should be a prohibition on any product placement being added to acquired VOD. All VOD material, including acquired material should be subject to undue prominence rules.

We think that product placement in games need to be restricted and should only be permitted where there is no substantial risk of undermining regulations prohibiting product placement in television programmes and services covered by the Directive.

The Directive excludes from its scope electronic versions of newspapers and magazines. We think that this exclusion is increasingly anomalous and is serving to undermine rules for broadcasting regulation, in particular impartiality rules and rules on election coverage.

We do not believe that the expansion of new media services provides justification for weakening public service obligations and other content regulation for linear television services. On the contrary, we believe that both linear and non-linear AV services should be regulated to serve the needs of citizens and consumers.

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

We believe that Ofcom should be responsible for developing and maintaining a standards code, in accordance with key standards and requirements laid down by parliament. Ofcom should continue to be required to undertake public consultation on any revisions to the standards code.

We think that the Government should retain responsibility for interpreting the legislative definitions and determining which services are subject to the regulatory framework, subject to parliamentary oversight. Ofcom should work with the framework set by Government and should also be subject to parliamentary and public oversight. We do not consider there to be sufficient safeguards in leaving such matters to an industry co-regulator or to industry self-regulation alone.

*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?*

We are not in a position to make any such assessment ourselves. We recognise the changes in the broadcasting sector and allied media markets raise considerable uncertainties and challenges for future revenue models. However, the income to be derived from product placement is not sufficient to outweigh the irreversible damage to British broadcasting arising from the abandonment of the separation principle. Even in the United States revenues from product placement represent only around 3.3% of the total revenue from spot advertising. See comments on the economic case above.

*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?*

As stated, PP should not be permitted in any programme genres. The AVMSD allows Member States to opt out of the general prohibition and allow product placement, subject to restrictions, in a variety of programme genres. However, we do not consider that meaningful or adequate safeguards exist in drawing up such a list of permitted (and excluded) programme types as there are considerable, and growing, problems defining programmes by genre. We agree with the observation of EURALVA that:

‘[i]t is possible, even likely, that television companies may well develop hybrid programme genres which straddle those genres in which product placement is allowed and those in which it is not. Consider, for instance, a family game show which was designed to be watched by both adults and children. One Member State might consider it to be “a programme for children”, and therefore forbid product placement, whereas another might consider it to be “a programme for adults”, and therefore allow it. There would therefore be no EU-wide standard for a given programme format.

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

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

As we know from sponsorship and marketing activity, brands with dubious or uncertain health benefits seek out affiliations with sports events and activities. Allowing PP would be likely to lead to increased visual endorsement and verbal endorsement of products that seek an association with sports-health or seek to reach a sports audience (that often includes significant children). Permitting product

placement in sports would also encourage more intensive intra-firm media cross-promotion. It is not clear how PP would impact on sports dependent on sponsorship income. Advertisers who already have extensive brand presence would gain greater control if PP was allowed but we consider this a strong reason to restrict PP. Apart from the undetermined economic revenues that might flow to television, we cannot identify any reason to *permit* PP in sports programmes.

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

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

- religious programmes*
- news programmes;*
- current affairs programmes;*
- consumer programmes; or*
- any other specific type of television programme?*

Should the current ban be partially lifted, product placement should not be allowed in news programmes, factual and current affairs, consumer programmes, review or religious programmes. Editorial independence, integrity and impartiality must not be undermined or seen to be threatened in programmes in which viewers put a great deal of trust.

#### *Children*

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

Maintaining a ban on PP in children's programmes will not be sufficient to serve the intended purpose. According to an OFCOM report children spend 71% of their TV viewing time outside of children's airtime.<sup>6</sup> Were product placements to be allowed in popular family entertainment shows, such as *The X-Factor*, that are extremely popular amongst young viewers, the messages would reach a larger number of children than watch designated children's television. Such data is now well publicised and well understood. Therefore we are very concerned about the vague and confusing use of the term disproportionate in the consultation. The question that should be asked is in regard to programmes with a significantly high child audience. Children tend to make up a small share of the total audience for some programmes, such as *Emmerdale*, but a numerically large audience compared to children's programmes. The question, as phrased, seems designed to limit restrictions on PP and avoid the very real prospect of marketers (such as those for HFSS foods) targeting programmes that reach a large audience of children where they are permitted to do so. The central issues here are:

1. Marketers promoting brands that are deemed harmful or socially undesirable in programmes watched by a significant audience of children.
2. Marketers seeking to evade restrictions on marketing to children by marketing in programmes watched by significant numbers of children.

We agree that it would be wrong to curtail the range and content of programmes available to adults merely because of concerns for these be available for children to

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<sup>6</sup> Ofcom (2004) *Child Obesity: Food Advertising in Context*, July, London: Ofcom



view. However, the freedom of viewers to enjoy media culture should not be simply conflated with the freedom of marketers to promote brands. As stated above, we do not oppose the presence of brands in programmes; we oppose marketers paying for their brands to be presented in a way that allows programme agendas to be distorted for commercial purposes. We share the concerns of health and children's organization both about the marketing of specific products like HFSS foods as well as the promotion of commercialism and the commercialization of childhood. We do not believe that safeguards can be drawn up that would be sufficiently effective and responsive to audience patterns and marketers' strategies in the absence of a total ban on 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?

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 safeguard editorial integrity? If so, what should these be?

The only guarantee that editorial independence and integrity is maintained and undue prominence is not given to particular goods and services is to retain a total ban on product placement.

*Tobacco, alcohol, HFSS foods, gambling*

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

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?

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?

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

*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 think that monitoring and assessment should be established now in conjunction with maintaining the ban on PP. The policy process has been insufficiently informed by research addressing public attitudes and opinion. This should be conducted through a variety of means including public consultations, use of citizen's juries and deliberative polling, as well as surveys and focus groups.

Was PP to be introduced, there should be a range of research and monitoring undertaken. Detailed recording of all instances of PP would need to be carried out by

or on behalf of Ofcom. There would also need to be a system of compliance statements drawn up to ensure transparency, backed up by significant penalties for any arrangements made in contravention of the rules. Such compliance statements would also be required for prop-placement arrangements.

Research would be required on a range of issues including comparative research on the AV market, economics and practices across the EU and key international markets; research on consumer attitudes and on civil society opinions.

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

We favour levies on advertising finance to fund public service media. If PP was introduced then the monitoring and research required would be costly and so a levy would be a suitable way to fund this work. We note, however, that while such a levy would not be expected to deter marketers, it would diminish the advertiser funds available to broadcasters and programme-makers, undermining the stated objective of liberalization. If there were no levy placed on PP, then this would also have implications for the work on the Advertising Standards Authority and Committee on Advertising Practice, funded by a levy on advertisements. We believe the policy priority should be to sustain public service media services and media pluralism, including the use of levies on advertising finance to help fund media services, without permitting marketers to pay for presence within programmes.

*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?*

We think the best approach here would be to set a threshold above which permission for prop placement must be sought from Ofcom- with all decisions, transactions and reasoning for the decision taken being made publicly available. For any company not willing to do this then prop placement would only be permitted up to a specific threshold. We think a suitable threshold would be £500.

*Signalling product placement to viewers*

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

We reject the view that notification provides an adequate safeguard for product placement/integration in programmes. This frames the issue far too narrowly in terms of viewer identification, and displaces a broader set of concerns about editorial integrity, artistic integrity and the risks of ongoing distortion of programme agendas and editorial content for commercial purposes. In addition, there are considerable difficulties in establishing a suitable system for signalling product placement to viewers that would be effective in notifying viewers, including those watching only parts of programmes, while not damaging the viewing experience, or serving as a promotional message itself.

We do not believe that the presence of a ‘neutral logo’ to alert viewers to product placement, as suggested in the AVMSD is an adequate or satisfactory means of identification. More importantly, we reject the assumption that this removes the surreptitious nature of the commercial communication. Announcing product placement in end credits or at the start of programmes will not work. Even for those watching ‘linear’ programming, zapping between channels is the norm, so it is likely that the information will not be seen. But the issue of product placement is only partly about disclosure. It is about the impact of integrating commercial messages and interests into the very fabric of programmes and programme decision-making. Even if a consumer watches the credits, the announcement certainly won’t reveal how the plot and dialogue of a TV programme have been adapted to fit marketers objectives.

Just as the UK and other EU governments are considering abandoning the principle of separation of editorial and advertising, growing disquiet in the United States is prompting efforts to move in the opposite direction. For television, the Federal Communications Commission (FCC) rules require that all commercial messages must be clearly disclosed to viewers. In practice, however, this means that corporate sponsors are mentioned in small type during fast moving end credits. FCC commissioner Jonathan Adelstein called for tighter rules and more prominent on-air disclosure while former FCC Chairman Kevin Martin acknowledged: ‘growing concern that our sponsorship identification rules fall short of their ultimate goal: to ensure that the public is able to identify both the commercial nature of the programming as well as its source. I believe it is important for consumers to know when someone is trying to sell them something’. The FCC is considering new rules that would strengthen requirements for broadcasters to disclose to viewers when products have been integrated into programming.

*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?*  
If PP was allowed then it should be signalled at the beginning of programmes as well as in end credits. It would be completely unacceptable for reference to be made only in end credits. All references would need to confirm to strict requirements so that size of type, duration and speed of credit, and nature of the information provided, was determined by clear rules.

#### *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?*

Yes.

*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. There should be restrictions on commercial speech (commercially bought or interested speech including PP and thematic placement) provided these do not restrict the freedom of expression of individuals or groups. Payment for ‘thematic placement’ should not be permitted. As the Consultation paper itself notes, “the AVMS Directive

prohibits product placement where it influences the content or scheduling of a programme in such a way as to affect the responsibility and editorial independence of the broadcaster and states that ‘this is the case with regard to thematic placement’... Placed storylines, subjects or themes are not compatible with the AVMS Directive”.

## Summary

We concur with BEUC, the European Consumers' Organisation, representing 40 independent national consumer organisations from across Europe, in calling for a total ban on product placement: ‘The principle of separation is one of the most important rules in media: the content of a show must be clearly separated from advertising. People must be able to know if they are watching information, entertainment, or if they are watching advertisement. Allowing product placement will make this principle meaningless, and will damage the integrity, credibility and quality of TV programmes’.<sup>7</sup>

So, we call for:

- No paid product placement
- Strict separation between programmes and advertising
- Maintenance of the undue prominence rules

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<sup>7</sup> BEUC (2006) *Review of the Television Without Frontiers Directive Questions & Answers*