

7

POLITICAL AND CONTROVERSIAL MATTERS



Background

The Communications Act 2003 prohibits political advertising. The term "political" is used in the Code in a wider sense than "party political". The prohibition includes, for example, campaigning for the purposes of influencing legislation or executive action by local or national (including foreign) governments. The definitions of "political" for the purposes of an advertiser's status and for the content of advertisements are set out in section 321 of the Communications Act 2003 ("the Act"). The relevant parts of that section are reproduced below in Rule 7.2.

Responsibility for the application of the rules that prohibit "political" advertising and whether an advertiser and/or the content of an advertisement is caught by the prohibition has not been contracted out to BCAP or the ASA. This responsibility remains with Ofcom. The ASA therefore refers all such matters to Ofcom.

Rules

- 7.1 Radio Central Copy Clearance** - Radio broadcasters must seek central clearance for advertisements that might fall under this section on the grounds of either the advertiser's objectives or the content of the advertisement.
- 7.2** Advertising that contravenes the prohibition on political advertising set out below must not be included in television or radio services:
- 7.2.1** An advertisement contravenes the prohibition on political advertising if it is:
- a) an advertisement which is inserted by or on behalf of a body whose objects are wholly or mainly of a political nature;
 - b) an advertisement which is directed towards a political end; or
 - c) an advertisement which has a connection with an industrial dispute.
- 7.2.2** For the purposes of this section objects of a political nature and political ends include each of the following:
- a) influencing the outcome of elections or referendums, whether in the United Kingdom or elsewhere;
 - b) bringing about changes of the law in the whole or a part of the United Kingdom or elsewhere, or otherwise influencing the legislative process in any country or territory;
 - c) influencing the policies or decisions of local, regional or national governments, whether in the United Kingdom or elsewhere;

- d) influencing the policies or decisions of persons on whom public functions are conferred by or under the law of the United Kingdom or of a country or territory outside the United Kingdom;
- e) influencing the policies or decisions of persons on whom functions are conferred by or under international agreements;
- f) influencing public opinion on a matter which, in the United Kingdom, is a matter of public controversy;
- g) promoting the interests of a party or other group of persons organised, in the United Kingdom or elsewhere, for political ends.

7.2.3 Provision included by virtue of this section in standards set under section 319 [of the Act] is not to apply to, or to be construed as prohibiting the inclusion in a programme service of:

- a) an advertisement of a public service nature inserted by, or on behalf of, a government department; or
- b) a party political or referendum campaign broadcast the inclusion of which is required by a condition imposed under section 333 [of the Act] or by paragraph 18 of Schedule 12 to the Act.