

BCAP rule on the sound levels of TV advertisements – consultation response document

Introduction

BCAP's *Consultation on the Sound Levels of Television Advertisements*, which set out BCAP's proposed changes to rule 6.9 of the Television Advertising Standards Code, closed on 17 August; we received 38 responses.

BCAP made changes to its proposed rule in light of consultation responses. The revised sound levels rule is included in Annex A. The significant responses and BCAP's evaluation of those are included in Annex B.

BCAP worked closely with Ofcom's Broadcast Technical Policy division to ensure that the rule would address the technical difficulties broadcasters face when they try to ensure that the ads they broadcast are not excessively noisy or strident.

Evaluation of responses – general observations

In summary, most respondents agreed with BCAP that the note to the existing sound levels rule does not give broadcasters adequate technical guidance to ensure compliance with the rule and agreed that the consultation was targeted where regulatory action was needed. Opinion was divided, however, on whether the proposed rule included adequate technical guidance to help broadcasters satisfy the intent of the rule that ads should not be excessively noisy or strident. Four "big themes" emerged from the significant consultation responses:

1. Research into the International Telecommunications Union's (ITU's) standard is necessary before reference to it should be made in the Code.

Most respondents who made that point considered that research was necessary to ascertain the effectiveness of subjective loudness meters that conform to ITU standards in marrying the loudness levels of programmes with the loudness levels of advertisements.

BCAP understood that, in developing the ITU-R BS.1770 recommendation (*Algorithms to measure audio programme loudness and true-peak audio level*), the ITU's Radiocommunications bureau (ITU-R) carried out various formal subjective listening tests to establish the effectiveness of the algorithm in measuring perceived loudness. A full account of the tests and their methodology is included in Appendix 1 to Annex 1 of ITU-R BS.1770.

BCAP understood that the ITU is an agency of the United Nations. Among its other responsibilities in frequency management and telecoms, it develops recommendations for broadcasters' operational practices. The ITU's website explains that the ITU-R recommendations constitute a set of international technical standards developed by the Radiocommunication Section of the ITU; they are the result of studies undertaken by

Radiocommunication Study Groups. Recommendations are approved by ITU member states. Their implementation is not mandatory but, because they are developed by experts from administrations, operators, the industry and other organisations that deal with radiocommunication matters from across the world, BCAP understood their recommendations enjoy a high reputation and are implemented worldwide.

BCAP considered the proposed rule stated that measurement and balancing of subjective loudness levels may, preferably, be carried out using a loudness-level meter conforming to ITU recommendations; the rule states that broadcasters can alternatively use a peak-programme meter (PPM). Broadcasters who choose not to adopt the new technology could, therefore, continue to use PPMs or subjective loudness meters conforming to standards other than ITU-R BS.1770. Given the considerable extent of testing, the established expertise of the ITU and the option for broadcasters to use traditional PPMs, BCAP considered it suitable to recommend, but not require, the use of loudness-level meters conforming to ITU recommendations. To make that clearer to broadcasters, BCAP made a minor change to the proposed rule:

Measurement and balancing of subjective loudness levels should preferably be carried out using a loudness-level meter, ideally conforming to ITU recommendations.

2. It should be for Ofcom – and not for BCAP – to write a rule that seeks to regulate broadcaster behaviour.

Because they are enforced against the broadcaster and not the advertiser, the BCAP Codes regulate broadcasters' behaviour by setting standards for the ads they broadcast. BCAP considered that, as the Broadcast Advertising Code-owning body, it is responsible for the setting of standards for sound levels in TV ads. It is committed to do so under the Memorandum of Understanding between Ofcom and BCAP, which mandates the day-to-day regulation of broadcast advertising to BCAP; BCAP is therefore required to secure the relevant standards objective under the Communications Act "that the inclusion of advertising which may be misleading, *harmful or offensive* in TV and radio is prevented" (s.319(2)(h)).

Although it recognises that jumps in sound levels can occur between, for example, programmes and continuity announcements, BCAP considered that the incongruity between different loudness levels is most noticeable in the transitions from programmes to ads. BCAP considered that fluctuations in sound levels during a programme are of minor concern to an audience because they form part of the dramatic context of that programme. The complaints the ASA receives about sound levels typically refer only to ads and not to wider aspects of "broadcaster behaviour".

BCAP therefore considered that the need for regulatory action falls within BCAP's scope as the Code-owning body.

3. The proposed maximum peak level of 6dB less than programmes' peak levels (a normal peak of 4.5 on a PPM) for ads would lead to more heavily compressed ads being broadcast.

BCAP understood that most TV ads already either have compression applied to their soundtracks or exhibit naturally narrow dynamic ranges as a corollary of their short durations or creative styles.

BCAP, advised by Ofcom's Broadcast Technical Policy division, understood that a compressed ad would be likely to be broadcast at an acceptable loudness level if it were broadcast during a programme with a wide dynamic range and if its peak level were limited to a suitably lower level than the programme (which BCAP proposed to be at least 6dB less than the programme's peak level). On that basis, BCAP considered that the proposed rule would not result in a worsening of the problem.

4. The proposed rule does not take account of the fact that broadcasters and playout providers might be responsible for more than one channel.

BCAP considered that the intention of the proposed rule, as with the existing rule, is to encourage broadcasters to match the loudness levels of the ads they broadcast with the loudness levels of the programmes they broadcast. The proposed rule does not do away with the need for each channel, regardless of whether it is owned by a multi-channel operator or serviced by a multi-channel playout provider, to comply with BCAP's Code. BCAP considered the way in which the rule's objective of ensuring ads are broadcast at acceptable loudness levels is secured in a multi-channel environment is, as it currently is, a matter for broadcasters and playout providers.

Apart from those four "big themes", BCAP observed that respondents were confused about whether the proposed rule would require broadcasters to measure loudness levels of ads using subjective loudness meters **and** PPMs. For the sake of clarity, BCAP intended the proposed rule to give broadcasters **two** methods for monitoring their compliance: **either** to use subjective loudness meters, ideally those that conform to ITU standards, **or** to use PPMs to ensure that the ads they broadcast do not peak higher than 6dB less than programmes' peak levels.

Evaluation of responses – main points from significant responses to the consultation questions

Question 1: Do you agree that the note to the rule does not provide adequate technical guidance for broadcasters to ensure compliance with the present rule? Do you agree, because of that, the rule relies too heavily on the audience's perception of loudness?

Of the 17 responses to the question, 13 agreed.

- Of those who disagreed, some respondents considered the existing rule is clear because it provides maximum peak levels and suggests broadcasters can use perceived loudness meters (*see comments to 1.2.1 and 1.2.2 in Annex B*).

BCAP has decided to reintroduce the first sentence of the existing rule into the proposed rule to ensure that the over-arching principle is clear:

Advertisements must not be excessively noisy or strident.

Question 2: Do you agree that this BCAP consultation is targeted at a case in which regulatory action is needed?

Of the 16 responses to the question, 11 agreed that the consultation was targeted at a case in which regulatory action is needed.

The main objections were:

- Some respondents believed testing of the ITU recommendation should be carried out before including reference to it in the rule (*see comments to 2.1.2 in Annex B*).
- One respondent considered that it should be for Ofcom and not BCAP to implement a rule that seeks to regulate broadcaster behaviour and set standards for presentational and engineering compliance (*see comments to 2.2.1 in Annex B*).
- One respondent considered that the balancing of broadcast sound levels should be subject to an industry guideline, not formal regulation. He believed that the proposed rule does not account for broadcasters and playout providers who are responsible for more than one channel (*see comments to 2.5.1 in Annex B*).

Question 3: Do you agree that subjective loudness meters, preferably those that conform to International Telecommunications Union (ITU) standards, should significantly help broadcasters marry the loudness levels of advertisements relative to the loudness profile of their channels?

Of the 16 responses to the question, 10 agreed, 3 agreed with reservations and 2 disagreed.

The main objections were:

- Some respondents considered that subjective loudness meters could help balance individual ads against each other but would be unlikely to eliminate jumps in levels between programmes and ads (*see comments to 3.3.1 in Annex B*).
- Some respondents considered subjective loudness meters conforming to ITU standards could not take into account all factors that make a sound seem loud to the average human ear. They thought the proposed rule would restrict the variety of creative styles that advertisers should be free to use and that it would be impossible for broadcasters to ensure that all ads in the same break are broadcast at comparable levels. They considered the proposed rule implied broadcasters would need to adjust loudness levels of programme material and that would be neither technically practical nor editorially acceptable (*see comments to 3.2.1 in Annex B*).

For the sake of clarity, BCAP made a drafting change to the proposed rule:

The maximum subjective loudness of advertisements must be consistent and in line with the maximum loudness of programmes and junction material. ~~A consistent subjective loudness must be maintained between individual advertisements and between the advertisements and programme and other junction material.~~

Question 4: Do you agree that, because the proposed rule sets a clear maximum sound level and is explicit about the requirement to maintain a consistent subjective loudness level between advertisements, the proposed wording gives greater certainty to broadcasters to help them comply with the rule?

Of the 17 responses to the question, 8 agreed, 4 agreed in part and 5 disagreed.

The main objections were:

- Some respondents considered the proposed peak level for ads of 6dB less than the peak level of programmes (which equates to a maximum normal peak of PPM 4.5 for ads) would lead to more heavily compressed ads (*see comments to 1.2.2 in Annex B*).
- One respondent considered that the proposed rule could be misinterpreted because of the use of the word “limited” (*see comments to 4.1.2*).

To account for that, BCAP made a drafting change to the proposed rule:

If a peak-reading meter is used instead, the maximum level of the advertisements must be ~~limited to at least~~ 6dB less than the maximum level of the programmes to take account of the limited dynamic range exhibited by most advertisements.

- Some respondents considered the proposed rule does not provide clear technical guidance (*see comments to 4.2.2 in Annex B*).
- Some respondents considered that the rule was inconsistent in its approach because it stipulated a maximum peak level and recommended the use of subjective loudness meters. They commented that they believe some ads should be permitted to peak up to PPM 6 (*see comments to 4.2.3 in Annex B*).

Question 5: Do you agree that the proposed rule is preferable to the existing rule 6.9 (Sound levels in advertisements) by giving clearer guidance to broadcasters to help them comply with the rule and, as a consequence, better protect the audience from unduly loud advertisements? Should the proposed rule be included in the BCAP Television Advertising Standards Code?

Of the 17 responses to the question, 9 agreed, 1 agreed with reservations and 7 disagreed.

The main objections were:

- One respondent commented that the rule should reflect the fact that most broadcasters and playout providers are migrating to a file delivery of ads so the rule should have the support of, for example, IMD and Adstream (*see comments to 5.2.3 in Annex B*).
- One respondent stated that the proposed rule made insufficient allowances for the changing broadcast and mixing environment, emerging technologies and the need to measure ads in 5.1 Surround Sound (*see comments to 1.2.3 in Annex B*).

BCAP's Advertising Advisory Committee (AAC)

The AAC's role is to ensure that the concerns of viewers and listeners are taken into account whenever the Broadcast Advertising Standards Codes are revised or updated. The AAC advised on the drafting of the proposed new sound levels rule. It was satisfied that BCAP had fairly evaluated the views of the public, broadcasters, sound studios, playout centres, advertisers and industry bodies in finalising its proposed rule.

Ofcom

Ofcom is responsible for agreeing broadcast advertising rules proposed by BCAP. The Ofcom Content Board approved BCAP's revised TV ad sound levels rule at its 15 April meeting.

The new TV ad sound levels rule will come into force, after a grace period of two months, on 7 July 2008.