# BCAP Consultation on Sound Levels of Television Advertisements

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#### **Executive summary**

- 1.1 Rule 6.9 of the Broadcast Committee of Advertising Practice (BCAP) Television Advertising Standards Code ("the Code") covers permissible sound levels of television advertisements. Television channels that are licensed by the Office of Communications (Ofcom) are required, by the terms of their Ofcom licence, to comply with that rule and the entirety of the Code.
- 1.2 This consultation document sets out BCAP's proposed revision of rule 6.9. Both the existing rule and BCAP's proposed rule aim to minimise the annoyance that can be caused to audiences by television advertisements either exceeding an upper sound limit or being generally perceived as too loud. BCAP's proposed rule is intended to provide clearer technical guidance to broadcasters to help them achieve the rule's twin objectives and, thereby, offer better protection to audiences from unduly loud advertisements.
- 1.3 Given the innately technical nature of this consultation, BCAP would particularly welcome responses from television broadcasters and audio and video post-production houses. Nevertheless, responses from other stakeholders are welcome. Information on how to respond to this consultation can be found in Annex 1. This consultation closes on 3 August 2007.

### Introduction to BCAP and the ASA

The Broadcast Committee of Advertising Practice (BCAP)

- 2.1 BCAP is the regulatory body with responsibility for writing and maintaining the Television and Radio Advertising Codes under a contracting-out agreement with Ofcom. Ofcom entrusted BCAP and the Advertising Standards Authority (ASA) with the regulation of broadcast advertising in 2004, in recognition of the Committee of Advertising Practice's (CAP's) and the ASA's successful regulation of non-broadcast advertising for over 40 years and in line with better regulation principles.
- 2.2 The BCAP Codes regulate all advertisements on radio stations and television channels licensed by Ofcom, including teleshopping channels and other television services (including teletext services). They are enforced against broadcasters, who are Ofcom licensees. BCAP members include broadcasters and trade associations representing advertisers and agencies.
- 2.3 BCAP must seek advice on significant changes it proposes to the broadcast Codes from an expert consumer body, the Advertising Advisory Committee (AAC), <u>www.cap.org.uk/cap/Advertising+Advisory+Committee</u>, and seek feedback on those changes via a public consultation. BCAP tries to ensure that its rule-making is transparent, accountable, proportionate, consistent and targeted only "at cases in which action is needed", in accordance with the Communications Act 2003. Ofcom must approve Code changes before BCAP implements them in its Codes.
- 2.4 Information about BCAP, including copies of the BCAP Advertising Codes, can be accessed at <u>www.cap.org.uk</u>.

The Advertising Standards Authority

- 2.5 The ASA is the independent body responsible for administering the CAP and BCAP Codes so that all advertisements, broadcast and non-broadcast, wherever they appear, are legal, decent, honest and truthful.
- 2.6 The ASA receives and investigates complaints about advertisements from the public and industry. Decisions on investigated complaints are taken by the independent ASA Council; they are published on the ASA's website, <u>www.asa.org.uk</u>, and made available to the media. An Independent Review Procedure exists for interested parties. If the ASA Council upholds a complaint, the advertisement must be withdrawn or amended.
- 2.7 CAP and BCAP conduct compliance, monitoring and research to enforce ASA Council's decisions across the advertising and broadcasting industry. In the event of serious or repeated breaches of the CAP Code or BCAP Codes, the ASA may refer the non-broadcast advertiser or the broadcast licensee

concerned to the ASA's statutory backstop regulator (the Office of Fair Trading for non-broadcast advertisements and Ofcom for broadcast advertisements), who can invoke sanctions, but that is rarely necessary.

2.8 The ASA's work in regulating advertising is funded by a levy on advertising space, administered by separate and independent bodies, ASBOF and BASBOF (The Advertising Standards Board of Finance, <u>www.asbof.co.uk</u>, and The Broadcast Advertising Standards Board of Finance, <u>www.basbof.co.uk</u>). That means funding does not affect the ASA's decision-making.

# The difficulty that television broadcasters face in complying with the existing rule on sound levels of television advertisements

#### 3.1 Rule 6.9 presently states:

#### 6.9 Sound levels in advertisements

Advertisements must not be excessively noisy or strident. Studio transmission power must not be increased from normal levels during advertising.

#### Note:

The peak level of sound at the studio output should not exceed +8dBm. To ensure that the subjective volume is consistent with adjacent programming, whilst also preventing excessive loudness changes, highly compressed commercials should be limited to a Normal Peak of 4 and a Full Range of 2–4 (measured on a PPM Type IIa, specified in BS6840: Part 10, Programme Level Meters). A fairly constant average level of sound energy should be maintained in transitions from programmes to advertising breaks and vice versa so that listeners do not need to adjust the volume. A perceived loudness meter may be useful where sound levels might cause problems.

- 3.2 Between 1 September 2005 and 1 December 2006, the ASA received 245 complaints about the perceived high sound levels of television advertisements. Complainants supplied transmission details (the channel, time and date of the broadcast) in 43 of those cases and, of those, 11 breached the rule. At the time this consultation document was drafted, 5 investigations were in progress.
- 3.3 Breaches of rule 6.9 are not confined to one television broadcaster or the same few television broadcasters. Broadcasters with otherwise good compliance records have breached rule 6.9. BCAP considered whether and to what degree those breaches occurred because the existing rule is unclear. It consulted broadcasters and took expert advice from engineers at Ofcom in evaluating the rule and the note, which offers guidance on how to comply with the rule.
- 3.4 For highly compressed advertisements, the note to the existing rule ("the note") sets a maximum sound level of PPM 4 / +0dBm. That level is lower than the maximum level for (non-compressed) advertisements, PPM 6 / +8dBm, because compressed sound is perceived to be louder by the audience than natural, non-compressed sound. But the note does not explain what constitutes a "highly compressed" advertisement. It implicitly allows broadcasters to transmit compressed advertisements, or those with a limited

dynamic range<sup>1</sup> (as opposed to "highly compressed" advertisements), between PPM 4 / +0dBm and PPM 6 / +8dBm. Because the rule does not define "highly compressed commercials" it is left to broadcasters to determine where, between those two levels, a suitable peak level lies for advertisements that naturally exhibit a limited dynamic range or have some degree of compression applied to their soundtracks. BCAP considers that that does not provide sufficiently clear guidance to assist broadcasters in complying with the rule.

- 3.5 Moreover, even if a broadcaster ensures that any advertisement that has had some level of compression applied to it is always transmitted at or below PPM 4 / +0dBm, the broadcaster could still breach the rule if the advertisement is generally perceived to be "excessively noisy or strident". That could happen, for example, if the loudness profile of the channel is particularly quiet and the advertisement seems, by contrast, particularly loud. The loudness profile of a channel refers to the average sound levels of all the material broadcast on that channel; for example, a channel showing mostly old films would likely have a quieter loudness profile than a music video channel or sports channel.
- 3.6 An audience's perception of loud advertisements is affected by various other factors, including:
  - Peak levels: the loudest part, or parts, of an advertisement's soundtrack;
  - How long those levels are maintained: for example, if an advertisement's sound levels are sustained at, or close to, its peak level;
  - Frequencies (pitch) of the sound: the ear does not hear all frequencies equally well;
  - The loudness and 'mood' of the preceding programme material.
- 3.7 For example, an advertisement is likely to seem unduly loud if the programme segment that immediately precedes it is quiet or subdued. The note urges broadcasters to guard against that contrast in sound levels by requiring them to maintain a fairly constant average level of sound energy in transitions from programmes to advertising breaks and vice versa so that listeners do not need to adjust the volume. But even when broadcasters have striven to do so, audiences may, because of the number of factors that affect their perception of loudness levels, sometimes feel it necessary to lower the volume. BCAP considers that it is unrealistic for a rule to address every factor that may affect the audience's perception of advertisement loudness levels and, as a consequence, an element of subjective interpretation will always form some element of a rule that seeks to prevent the audience from feeling the need to adjust the volume. But BCAP considers that the present rule relies too heavily on the audience's perception of loudness.

<sup>&</sup>lt;sup>1</sup> Dynamic range is the difference between the quietest and loudest parts of a soundtrack. If a soundtrack has a limited dynamic range, its perceived loudness will not vary much.

- 3.8 In summary, BCAP considers that, because the note to the existing rule does not provide adequate technical guidance for broadcasters to ensure compliance with the rule, the rule itself relies too heavily on the audience's perception of loudness.
- Q1. Do you agree that the <u>note</u> 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 <u>rule</u> relies too heavily on the audience's perception of loudness?

### Policy background to the proposed rule

Introduction

4.1 BCAP rules must have regard to the general duties and standards objectives set out in s.3 and s.319(2) of the Communications Act 2003. Of relevance to this consultation, BCAP must ensure:

"regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed" (s.3(3)(a))

"generally accepted standards are applied to the contents of television... services so as to provide adequate protection for members of the public from the inclusion of offensive or harmful material" (s.319(2)(f))

"the inclusion of advertising which may be... harmful or offensive in television... services is prevented" (s.319(2)(h))

- 4.2 For the reasons set out in Section 3, BCAP considers the present rule is not supported by adequate technical guidance. That disadvantages broadcasters, who may fall foul of a rule that relies too heavily on the audience's perception of loudness; it also disadvantages the audience, who might, as a consequence, experience advertisements that seem unduly loud. By seeking to redress those concerns, BCAP considers this consultation is targeted at a case in which regulatory action is needed.
- Q2. Do you agree that this BCAP consultation is targeted at a case in which regulatory action is needed?

Addressing BCAP's concerns about the present rule's over-reliance on the audience's perception of advertisement loudness levels

- 4.3 BCAP considers it would not, by any reasonable measure, be possible to eradicate entirely the effect of advertisements seeming louder if, for example, they were aired during a programme with mostly quiet content (such as a period drama with extended sections of softly spoken dialogue). The proposed rule recognises that fact but continues to urge broadcasters to minimise the annoyance caused to audiences by the transition from a quiet section of a programme to an advertisement break.
- 4.4 BCAP, advised by engineers at Ofcom, considers that subjective loudness meters are more suitable apparatus for achieving greater harmonisation

between the sound levels of advertisements and programme material and, more generally, between the sound levels of advertisements and the average sound level of a particular channel. However, the proposed rule still provides for broadcasters who choose to continue to use PPMs.

- 4.5 Subjective loudness meters should significantly help broadcasters marry the loudness levels of advertisements relative to the loudness profile of their channels, thereby significantly reducing (but not eradicating) the difference in sound levels between advertisements and programmes and other junction material. That reduces the risk of the audience having to adjust the volume during advertisement breaks.
- 4.6 BCAP's proposed rule, therefore, encourages broadcasters to use subjective loudness meters, preferably those that conform to International Telecommunications Union (ITU) standards.
- Q3. 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?

Addressing BCAP's concerns about discrepancies between the sound levels of advertisements broadcast during a single commercial break

- 4.7 BCAP is aware that advertisers are occasionally concerned that their competitors' spot advertisements are louder than theirs and, therefore, they consider that their competitors could be given an unfair commercial advantage.
- 4.8 Any discrepancies in sound levels between the advertisements broadcast during a single commercial break, in addition to discrepancies between the sound levels of advertisements and programme material, have the potential to irritate an audience, who might feel the need to adjust their volume settings to account for inconsistent sound levels.
- 4.9 The proposed rule includes a provision that is intended to ensure a level playing field for all advertisements broadcast during the same commercial break; that requirement should mean that no advertisement is significantly louder than the one aired before or after it.
- 4.10 As outlined in Section 3 paragraph 3.4, the existing rule implicitly allows broadcasters to transmit compressed advertisements, as opposed to highly compressed advertisements, between PPM 4 / +0dBm and PPM 6 / +8dBm. But, because it does not define "highly compressed commercials", the note does not explain where, between those two limits, a suitable level lies for advertisements that naturally exhibit a limited dynamic range or have some

degree of compression applied to their soundtracks. BCAP considers that does not provide adequate certainty to broadcasters to help them comply with the rule. The proposed rule seeks to solve that by stating a single upper limit for all advertisements – PPM 4.5 / +2dBm – and, in doing so, provides a clear maximum sound level to help broadcasters comply with the rule.

Q4. 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?

#### Mini-consultation

4.11 The proposed revision to the BCAP television sound levels rule has already been the subject of a mini-consultation, during which BCAP Committee members and some broadcasters, playout centres and broadcast industry stakeholders were invited to comment on the revision. BCAP has taken into account comments raised during the mini-consultation in formulating its proposed rule.

# Proposed BCAP rule on sound levels in television advertisements

#### 6.9 Sound levels in advertisements

A consistent subjective loudness must be maintained between individual advertisements and between the advertisements and programme and other junction material. Measurement and balancing of subjective loudness levels should preferably be carried out using a loudness-level meter conforming to ITU recommendations<sup>1</sup>. If a peak-reading meter<sup>2</sup> is used instead, the maximum level of the advertisements must be limited to 6dB less than the maximum level of the programmes<sup>3</sup> to take account of the limited dynamic range exhibited by most advertisements.

For editorial reasons, commercial breaks sometimes occur during especially quiet parts of a programme, with the result that advertisements at 'normally acceptable' levels seem loud in comparison. Broadcasters must strive to minimise the annoyance that that perceived imbalance could cause the audience, with the aim that the audience need not adjust the volume of their television sets during programme breaks.

#### Notes:

(1) The relevant ITU recommendations are ITU-R BS1770 <u>Algorithms to measure</u> audio programme loudness and true-peak audio level and ITU-R BS1771 Requirements for loudness and true-peak indicating meters.

(2) Peak-reading meters should be a PPM Type IIa as specified in BS6840: Part 10, Programme Level Meters.

(3) Normal convention for analogue audio is that the peak sound level of programmes is set to be no higher than +8dBm, which corresponds to '6' on a peak-reading meter. The peak sound level of the advertisements should therefore be limited to +2dBm or '4.5' on a peak-reading meter. Note: +8dBm corresponds to a digital audio level of -10dB relative to digital clipping level. ITU-R BS.645 and EBU recommendation R68-2000 describe how analogue audio levels should be translated into digital levels.

Q5. 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?

## **Next steps**

5.1 After this consultation closes on 3 August 2007, BCAP will consider the responses it receives. BCAP is committed to making public its evaluation of those responses. The responses will inform BCAP's final proposal, which must be approved by Ofcom before BCAP may include it in its Television Advertising Standards Code, subject to a period of grace.

# Questions that people reading this consultation might have and BCAP's responses to those questions

- 6.1 The existing rule limits "highly compressed commercials" to 4 on a peak-reading meter but the proposed rule extends that limit to 4.5. Given that today almost all TV commercials are compressed to varying degrees, how does increasing the limit by PPM 0.5 minimise the annoyance to the audience?
- 6.2 The existing wording sets a maximum level of PPM 4 / +0dBm but that is only for "highly compressed commercials". BCAP considers that an unclear requirement, partly because the note to the rule does not determine the extent of audio compression needed to render an advertisement "highly compressed". The existing rule states that "the level of sound at the studio output should not exceed PPM 6 / +8dBm". Therefore, the existing rule could be leading to confusion among broadcasters because it is often unclear where a suitable upper sound level for "compressed" advertisements (or those that naturally have a limited dynamic range) lies between PPM 4 / +0dBm and PPM 6 / +8dBm.
- 6.3 The proposed new rule recognises that perceptions of loudness levels vary under different circumstances. Although that is inevitable, the revised wording encourages broadcasters to minimise the annoyance that that can cause to the audience. The revised wording encourages broadcasters to play out advertisements that reasonably closely match the normal subjective loudness level of their programmes, aided by the use of subjective loudness meters. To that end, the proposed rule mainly aims to make the sound levels of advertisements consistent with the sound levels of the programmes that are adjacent to them; it does not aim to lower the sound levels of advertisements below those of programmes. If, however, broadcasters continue to use PPMs, the level of all advertisements, not just the "highly compressed" ones, must be limited with the aim of matching the subjective loudness of advertisements to that of the surrounding programmes.
- 6.4 BCAP agreed with comments raised during the mini-consultation that it would be useful to refer to a single maximum level for all advertisements (PPM 4.5), bearing in mind that some degree of compression is applied to most advertisements. A single maximum level would serve to set a suitable upper parameter for most advertisements and would be especially useful to broadcasters who do not use subjective loudness-level meters. Having said that, the proposed rule encourages broadcasters to set sound levels for their advertisements by using subjective loudness-level meters conforming to ITU recommendations.
- 6.5 That means it would not be acceptable for broadcasters to have a blanket setting of PPM 4.5 regardless of the levels of compression applied to different

advertisements: they must take into account that some advertisements will seem subjectively louder than others and levels must be set accordingly.

6.6 BCAP considers that an upper limit of PPM 4.5 / +2dBm is a suitable level because it clarifies what is expected of broadcasters when matching the subjective loudness of advertising and programming that is broadcast at normal levels.

#### 6.7 Will the revised wording stop all advertisements seeming too loud?

6.8 BCAP considers that the new rule should greatly help broadcasters to marry the loudness levels of advertisements relative to the loudness profile of their channel, thereby significantly reducing (but not eradicating) the difference in sound levels between advertisements and programmes and other junction material. BCAP anticipates that that will reduce the risk of the audience having to adjust the volume in the advertisement breaks because they consider the advertisements to be too loud. However, a particular sound level can seem acceptable to one person but too loud to another and BCAP considers it is impractical to produce a rule that would provide a solution to the balancing of advertisement and programme loudness under all circumstances. But BCAP considers the proposed rule provides a suitable and proportionate balance between the genuine concerns of the audience and the legitimate interest of broadcasters and advertisers.

# 6.9 Will the revised rule apply to sponsorship credits that are scheduled immediately after the end of a programme segment?

- 6.10 The setting of standards and investigation of complaints in relation to programme sponsorship credits have not been contracted out to BCAP and the ASA and remain matters for Ofcom. The ASA refers complaints about programme sponsorship to Ofcom.
- 6.11 Nevertheless, rule 9.4 of the Ofcom Broadcasting Code states that television sponsorship credits must comply with both the advertising content rules and scheduling rules that apply to television. Therefore, complaints that Ofcom receives about sound levels of TV sponsorship credits would be assessed by Ofcom under rule 6.9 of the BCAP Television Advertising Standards Code.

# 6.12 What if a channel has a generally low-level sound output (for example a channel showing mostly old films): will its advertisement breaks have to be quieter than those of other channels?

- 6.13 Possibly. Under the revised rule, a broadcaster using a PPM will need to limit the peak level for advertisements to at least 6dB less than the peak level of its programming.
- 6.14 So, if a channel's normal peak level is PPM 5 / +4dBm, the peak level for advertisements should be no more than PPM 3.5 / -2dBm.

Annex 1

### **Consultation questions**

You are invited to comment on any aspect of this consultation document. You might find it helpful to follow the checklist of questions below, which cover the points on which we especially welcome responses.

Please:

- be as specific as possible in your responses;
- if you disagree with the BCAP proposal, explain why; and
- suggest an alternative proposal.

Questions on the proposed BCAP rule on sound levels in TV advertisements

- Q1. Do you agree that the <u>note</u> 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 <u>rule</u> relies too heavily on the audience's perception of loudness?
- Q2. Do you agree that this BCAP consultation is targeted at a case in which regulatory action is needed?
- Q3. 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?
- Q4. 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?
- Q5. 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?

#### Annex 2

#### **Responding to this consultation**

How to respond

BCAP invites written comments on the proposals contained in this document, including supporting evidence, by **5pm on 3 August 2007**.

When responding, please state whether you are doing so as an individual or representing an organisation. Also, please make clear what your individual interest is or who your organisation represents. It will be helpful if you explain why you hold your opinion and how BCAP's proposals could affect you.

We strongly prefer to receive responses as e-mail attachments, in Microsoft Word format, because that helps us to process the responses. Please send your response to <u>consult@cap.org.uk</u>. If you are unable to reply by e-mail, you may submit your response by post or fax, marked with the title of the consultation, to:

Marie Almond Committee of Advertising Practice Mid City Place 71 High Holborn London WC1V 6QT Fax: +44 (0)20 7404 3404

Note that we do not need a hard copy in addition to an electronic version. Also note that BCAP will not routinely acknowledge receipt of responses. BCAP has sent written notification of this consultation to the organisations and individuals listed in Annex 3. We welcome suggestions of others you think should be informed.

#### More information

If you have any questions about this consultation or need advice on the form of response, please contact Marie Almond on +44 (0)20 7492 2104.

#### Confidentiality

BCAP may make consultation responses public. All comments will be treated as non-confidential unless you state that all or a specified part of your response is confidential and should not be disclosed. If you reply by e-mail or fax, unless you include a specific statement to the contrary in your response, the presumption of non-confidentiality will override any confidentiality disclaimer generated by your organisation's IT system or included as a general statement on your fax cover sheet.

If part of a response is confidential, please put that in a separate annex so that nonconfidential parts may be published with your identity. Confidential responses will be included in any statistical summary of numbers of comments received.

#### List of consultees invited to respond to this consultation

In order to obtain a variety of opinions, BCAP has formally invited the following individuals and organisations to respond to this consultation.

Please note that BCAP welcomes responses from all other interested parties.

750MPH Adstream Advertising Producers Association **Alchemy Studios Angell Sound Studios** Association of Professional Recording Services (APRS) Audio Post Production Group (APPS) The Audio Suite (UK) Ltd Argiva BACC BSkyB Breathe Post Production Broadcast Project Research Ltd **Canongate Studios** Carreg Ateb (Audio Post-Production Wales) Channel 4 China Blue Post Production **Clearcut Sound Studios Ltd** Cranc Cyf (Audio Post Production) De Lane Lea Department for Culture, Media and Sport The Digital Audio Company Directors Cut Films Ltd (Film TV Post Production) Dolbv Editz Design and Post-Production **Electric Sound Studios** FAB Sound Five Fleetwood Mobiles Ltd Flextech Gary Streeter, MP Gemini Audio Productions Grand Central Studios Hackenbacker Audio Post Production Hullabaloo Studios Ignyter Studios Independent Media Distribution plc The Institute of Broadcast Sound

Institute of Practitioners in Advertising Incorporated Society British of **Advertisers** ITV **Jungle Studios** The London Playout Centre Mere Mortals Post Production Music 4 Ofcom Ofcom TV licensees One Stop Digital Ltd Paramount Comedy **Picture Production Company Pinewood Studios** PK Studios Producers' Alliance for Cinema and Television **Rainbow Post Production** Red Bee Media Ltd Royal Association for Deaf People Royal National Institute for Deaf People Sain Audio & Video The Satellite and Cable Broadcasters Group Scramble Soho Ltd Side UK Soho Studios Ltd (Zoo Jungle & Marmalade Studios) The Soundhouse Ltd Soundtracks Studios Ltd Soundworks Audio Studios **Tamborine Productions** Trident Sound Studios **UK Post & Services** Universal Sound Foley Viacom / MTV Networks Europe Voice of the Listener and Viewer The Voiceover Gallery Wave Recording Studios Which? Wise Buddah Creative