

19/06/2009

Family planning centres

Question 62

i) Given BCAP's policy consideration, do you agree that it is necessary to maintain a rule specific to post-conception advice services and to regulate advertisements for preconception

advice services through the general rules only?

We strongly oppose advertisement of pre-conception and post-conception advice services

on TV and radio. Instead, we recommend listing such advertising in section 10 of the proposed

BCAP code as prohibited categories. The prohibition for TV and Radio should refer to all preconception

and post-conception services, including abortion and the morning after pill. The prohibition should also reverse current law by banning the advertising of condoms.

%

The context, medium and impact of TV are highly different to that of radio. The radio code

is restricted in rule 3.6 (c) to family planning centres approved by the Local Health Authority, the

Central Office or other approved NHS body. Adverts on abortion should be prohibited on both

radio and TV at any time, whether commercial or not. Pre-conception and post-conception

services should be accessed by medical referral only.

%

The vulnerability of the young audience, and the recognised potential for mental disorders

following abortion, argue strongly against the appropriateness of advertising for such services—

especially in short commercial TV adverts.

%

Short commercial adverts cannot adequately address the serious mental health implications

of abortion. In the UK, profits derived from commercial pandering should never come at the

expense of a woman's health.

%

Mounting concern exists over the number of repeat abortions amongst teenagers.

The

proposed adverts add to these concerns.

%

<http://www.dailymail.co.uk/health/article-1127083/Repeat-abortion-teenage-girls-risen-70.html>

<http://www.dailymail.co.uk/health/article-1131543/Teenage-girls-having-repeat-abortion-rise-experts-warn.html>

<http://www.sundaymercury.net/news/midlands-news/2009/03/08/wolverhampton-and-solihull-teens-having-highest-repeat-abortion-66331-23090333/>

2

Profit-motivated advertising, even more than GP abortion advice, properly alarms parents and guardians. This is an especially serious issue for those parents and children who live by sincerely held religious tenets. So much so that allowing such abhorrent adverts will likely lead such families to cease watching TV.

%

Commercial pandering of abortion services presents abortion in a trivial demeaning way, treating the disposal of life as another consumer product.

%

Nearly 200,000 abortions occur each year in the UK. A nation purporting to support good governance principles ought not specifically intend to increase that number through Advertising

Standards Authority's sanctioned abortion advertising.

%

Only the abortion industry possesses the financial resources to advance their profitmotivated political agenda through Advertising Standards Authority's sanctioned advertising. Pro-life

women's groups and other organisations supporting life in vitro are thus unfairly excluded from this forum of the political process. The abortion industry wants to change the law and extend abortion to Northern Ireland where it is illegal. Advertising abortion in the rest of the UK will help them achieve this.

%

The proposal breaches the BCAP rules in the current code as well as section 7 of the proposed code on the advertising of political and controversial matters (given the broad definition of "political," in those places).

%

The Prime Minister recently responded to a petition on not extending abortion to Northern Ireland saying that such matters are best dealt with by the Northern Ireland Assembly.

Advertising of abortion services there is, therefore, inappropriate.

%

Pages 90 to 91 of the BCAP consultation, to which this question refers, argues a need

exists to balance the protection afforded by those restrictions and the right of all categories of family planning centres to advertise their services. The balance in this case should be clearly on the side of protecting human life.

%

Abortion advertisements also discriminate against those holding sincerely held religious views on abortion. Such advertisements deeply offend pro-life women, parents, and others with pro-life opinions, (whether or not these opinions are informed by sacred tenets).

I am writing on behalf of parishioners of St Ambrose's Parish Kidderminster, in particular members of the Union of Catholic Mothers.

We are strongly opposed to the proposed advertising of abortions and condoms, particularly if this is to take place before the 9 pm watershed. Such a move, contrary to improving the problem of underage sex and pregnancy, is only likely to encourage it, as it will appear to be condoned by the establishment. Naturally, we are totally opposed to this on moral and religious grounds, but also as it will be counterproductive.

I enclose a petition signed by a number of our parishioners which I hope will be duly considered during this consultation period.

Advertising Code Consultation

Responses from Union of Catholic Mothers, Rushden St Peter's Foundation, on the questions which particularly concern the Union of Catholic Mothers:

Question 54

Our response is as follows:

- i) **No** -on the grounds that pornography is degrading to women and encourages them to be seen as commodities, leading to increases in trafficking of women and children into prostitution.
- ii) **No**
- iii) **No** -on the grounds that pornography per se is not conducive to family life whether R18 material or what is referred to as "soft core".

Question 55

Our response is as follows:

Yes: We agree wholeheartedly with this proposal.

Question 62

Our response is as follows:

- i) Yes –but reluctantly given that we are opposed to any advertising of pre or post conception services in broadcast media on the grounds that any pro-abortion advice is harmful.
- ii) No – on the grounds that it implies an intrinsic bias towards services which do refer women directly for abortion. Those that are not following this route are being singled out by rule 11.11 by being asked to declare themselves in a way that the others are not.

Question 147

Our response is as follows:

No – on the grounds that it is difficult to know when exactly children will or will not be watching- this is not something that can be policed and some parents are either relaxed, or negligent, about what their children watch. Therefore the caveat could not possibly be guaranteed to be observed. We feel that children should not be subjected to this degree of sexual awareness at a young age.

I am writing on behalf of the Union of Catholic Mothers Wales, our members are mothers, grandmothers, married and single women who share a common Christian faith.

We are deeply concerned about Government proposals to begin consultation on targeting children with T.V. adverts about contraception and sexual advice before the 9pm watershed.

The Government policies of relaxing rules on advertising condoms, giving easy access to the Morning After Pill (available on some school premises) has not reduced the number of teenage pregnancies or increase in cases of sexually transmitted diseases. Some young people are using the Morning After Pill – a cocktail of drugs - as a regular form of contraception.

Abortion, more readily available as a choice or solution to pregnancy has also failed to solve this problem.

There needs to be a greater emphasis on sex education in the context of mature responsible relationships imitated by parents supported in their role by schools.

The sex education children of secondary school age receive, should emphasise value of self respect, respect for others and restraint.

Great harm is done to young people brought up in an irresponsible culture that separates sex from relationships, responsibility and the consequences of sex.

Many young people are pressurised by their peers into a sexual encounter because it is the done thing, never mind that they are legally underage.

We do not want to see our children and grandchildren bombarded with adverts for condoms and Abortion Services on Prime Time Television.

Thank you for the opportunity to comment on BCAP's proposals to revise the rules governing broadcasting advertisements.

I am writing on behalf of UTV Radio, which operates Commercial Radio licences in England, Wales, Scotland and Northern Ireland, and which is part of UTV Media PLC, with television, internet and publishing interests across the UK and Ireland.

UTV's broad range of UK radio interests enables us to speak from the perspective of small local radio stations (such as Central Radio in Preston), larger local stations (such as Signal 1 in Staffordshire), and also national stations (talkSPORT is the UK's most listened to commercial station amongst 15-44 year olds and the UK's leading commercial speech broadcaster).

Serving our listeners is at the heart of what we do as a commercial radio broadcaster. We firmly share advertising regulation's objectives of seeking to avoid misleadingness, harm or offence. We also recognise that BCAP's primary objective is to tidy up and bring together the television and radio codes in order to create a unified broadcast advertising code, rather than to make radical changes to current policy.

UTV Radio therefore supports the vast majority of BCAP's recommendations, and echoes the detailed points raised in the response submitted by RadioCentre on behalf of our sector.

Nevertheless, we do have certain points to raise which particularly reflect our status as speech radio broadcasters.

The characteristics of speech radio

Speech radio is distinct to other broadcast output covered by the BCAP Code. In particular, it consists of extended programming rather than individual programmes, and relies extensively on phone-ins and personality-led presentation.

These characteristics have a number of effects on advertising and sponsorship and promotions (S&P) activity on speech radio:

- Many of the tools available to television or music radio broadcasters in achieving a distinction between advertising and editorial material are not available to speech radio broadcasters. The absence of music or visual separators on a station like talkSPORT leads listeners to understand and expect that commercial output will literally sit closer to editorial output on speech radio.
- The talk-led nature of speech programming means that ads which are read by presenters have a heightened appeal and attractiveness to listeners, provided that the advertising objectives of the presenter-read ad are transparent.

- Commercial speech stations place a disproportionately high emphasis on obtaining revenue from sponsorship and promotions (S&P) activity. S&P campaigns include a number of different elements in their on-air execution – such as promos, sponsor credits and presenter-read ads – all of which may be subject to the BCAP Code, depending upon their contents.

In addition, we would draw BCAP's attention to research findings highlighted in Ofcom's Broadcasting Code Review, which was published for consultation on Monday 15th June¹. This review discusses commercial references and sponsorship on radio more generally (covering both music and speech-led stations).

Ofcom's research highlights the increasing awareness which listeners have of the different commercial elements that make up commercial radio output. It also reveals that consumers have an increasing awareness of the role which advertisers and sponsors play in supporting the creation of commercial radio content, and a higher tolerance of commercial messages being included within editorial output than has hitherto been assumed. Based on these findings, Ofcom is now proposing to relax certain Broadcasting Code restrictions on the involvement of sponsors and inclusion of commercial references in commercial radio programming².

Question 3

- Given BCAP's policy consideration, do you agree that rule 2.1 should replace present TV rules 2.1.2 (b) and 2.2.2 (c), be applied to TV and radio and be included in the proposed BCAP Code? If your answer is no, please explain why.**
- Given BCAP's policy consideration, do you agree that rule 2.3 should replace present TV rule 2.2.2 (d), be applied to TV and radio and be included in the proposed BCAP Code? If your answer is no, please explain why.**

Yes – provided that BCAP drafts guidance in support of these rules, ensuring that they are applied to radio – and in particular to speech radio – in ways which reflect radio's material differences from television, as well the sophisticated way in which listeners understand and interpret commercial involvement in funding radio programming.

BCAP is proposing to introduce two rules – 2.1 and 2.3 – in place of existing rules in the television and radio advertising codes. These proposed rules state that:

2.1

¹ Essential Research, 'Commercial references within radio programming', June 2009, <http://www.ofcom.org.uk/consult/condocs/bcode09/radioresearch.pdf>

² Ofcom, 'Broadcasting Code Review', June 2009, <http://www.ofcom.org.uk/consult/condocs/bcode09/main.pdf>

Advertisements must be clearly distinguishable from editorial content, especially if they use a situation, performance or style reminiscent of editorial content, to prevent the audience being confused between the two. The audience should quickly recognise the message as an advertisement.

2.3

The use of a title, logo, set or music associated with a programme that is broadcast on that medium needs special care. The audience should quickly recognise the message as an advertisement.

These rules reflect legal requirements which exist for television (the Audio-Visual Media Services Directive). For radio, the basic legal requirement is a prohibition in the 2008 Consumer Protection from Unfair Trading Regulations against:

Using editorial content in the media to promote a product where a trader has paid for the promotion without making that clear in the content or by images or sounds clearly identifiable by the consumer (advertorial).

UTV supports BCAP's attempts to find a workable and user-friendly way of implementing what amounts to a legal requirement on all radio advertising.

However, use of the terms "clearly distinguishable", "quickly recognise" and "special care" in rules 2.1 and 2.3 highlights the need for subjective analysis to be employed in the way that each rule is interpreted and enforced. As currently drafted, the Code gives little assistance to those who will be responsible for making these subjective judgements, leading to a risk that the rules could be applied unfairly or disproportionately.

The danger of such an outcome is highlighted by a recent adjudication published by Advertising Standards Authority against another commercial radio station – London's LBC 97.3³. We believe that this adjudication may have failed to take appropriate account of the characteristics of speech radio outlined above. We also believe that it may not have properly acknowledged the understanding which consumers have of the role that advertisers play in funding free-to-air radio content, as well as underestimating their resulting ability to interpret advertising that appears in and around that content.

In particular, we are concerned that having taken account of the programme's overall content ("a continuous stream of editorial material interlaced with ads, news and jingles"), the ASA deemed that "the ad failed to signal its nature clearly enough and was insufficiently distinguishable from the editorial material surrounding it". Although we have not heard the advertisement in question, we anticipate that its tone and content are likely to have clearly achieved this effect amongst listeners.

Bearing all this in mind, we urge BCAP to publish guidance on rules 2.1 and 2.3 which:

- Acknowledges the unique characteristics of radio, and in particular of speech radio output.
- Acknowledges the findings of Ofcom's recent research highlighting the increasing sophistication of radio listeners in interpreting and distinguishing commercial messages from and within editorial content.

³ ASA, Experian Ltd t/a Credit Expert, 25 February 2009, http://www.asa.org.uk/asa/adjudications/Public/TF_ADJ_45826.htm

- Emphasises that advertising should be clear and transparent, rather than making unrealistic and disproportionate demands for a certain level of editorial separation and distinctiveness.
- Ensures that these rules cannot unfairly restrict accepted practices such as live-presenter read ads and on-air elements of S&P campaigns.

We anticipate that the result of developing such guidance in support of rules 2.1 and 2.3 will be to allow radio stations to apply these rules in ways which are most appropriate to the relevant editorial context, thus ensuring that their effects are targeted and proportionate. We are also mindful that in regulating advertising, BCAP will wish to avoid inadvertently restricting the content of radio editorial which is compliant with Ofcom's Broadcasting Code but contains material which is deemed by the BCAP Code to be insufficiently distinguishable from advertising. Our proposed guidance should also ensure that this outcome is avoided

Question 157

In this question, BCAP requests additional comments about other issues not directly raised by a specific consultation question.

We would therefore like to use this opportunity to urge BCAP to have the differences between radio and television at the front of its thinking in shaping content-of-advertising regulations, and to reflect this in the guidance it drafts to accompany all of its code rules – not only rules 2.1 and 2.3. Just a few days before our submission of this response, Ofcom published proposals to separate the Broadcasting Code rules on commercial references and sponsorship into two separate sets of rules for television and radio, highlighting the distinct legal frameworks and material characteristics which differentiate each medium.

The BCAP Advertising Code Review is a tremendously thorough piece of work, which reflects the careful judgements of both the Executive and Board in each of its 156 proposals. However, uniting radio regulation with that of television presents particular risks for our medium, which we encourage BCAP to negate through its drafting of guidance and careful implementation of the finalised Code with ASA compliance executives.

Dear Sir/Madam

Vifor Pharma Potters is a major manufacturer of over the counter medicines and food supplements in the UK. The ability to effectively market our products is fundamental to our business. As members of PAGB we endorse the need to ensure that advertising is truthful, balanced, and responsible and does not mislead, offend or harm and are fully supportive of the current system of regulatory and self-regulatory controls through the various Advertising Codes of Practice. We welcome the review of the broadcast Advertising Standards Codes and are pleased to note the commitment to ensuring that provisions comply with the principles of better regulation, that they are transparent, accountable, proportionate, consistent and targeted.

Vifor Pharma Potters is broadly supportive of the proposed changes particularly the proposal for a single Code covering both TV and radio advertising broadcast media rather than having separate Codes as at present but given the nature of our business we are particularly interested in the proposed changes relating to medicines and food supplements.

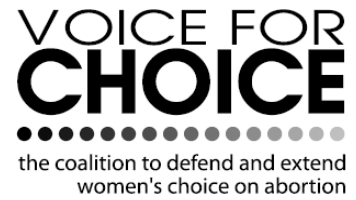
Medicines

We support the proposed amendment to allow sales promotions for medicines on radio.

Food supplements

We note that the Code has been updated to bring it into line with the Nutrition and Health Claims Regulation and we fully support the proposals to;

- extend list of target groups to whom vitamins and minerals can be advertised. The list is now much more closely aligned to current research and offers far more scope to enable companies to target supplements to those who are most likely to benefit.
- make it clear that the target groups only apply to claims which are relevant to people who would otherwise have a sub-optimal intake of that nutrient. This allows for the possibility of the European Commission approving claims relating to a higher intake of a particular nutrient for a particular function.
- permit claims that a food supplement can elevate mood or enhance normal performance if they are approved by the European Commission.



19 June 2009

Dear Colleagues,

Re: BCAP and CAP code review consultations

I write on behalf of the members of Voice for Choice, a coalition of pro-choice groups in the UK, listed below, to submit our response to the BCAP Code Review consultation.

We have a point to make pertinent to the CAP Code Review as well, so you will note the same response is submitted to both. Please do not hesitate to contact me should you require any clarification on our response.

Kind regards,

Marge Berer
Chair, Voice for Choice and Editor, Reproductive Health Matters

on behalf of Voice for Choice members:

- **Abortion Rights**
- **Alliance for Choice Northern Ireland**
- **Antenatal Results and Choices (ARC)**
- **BPAS (British Pregnancy Advisory Service)**
- **Brook**
- **Doctors for a Woman's Choice on Abortion**
- **Education for Choice**
- **fpa**
- **Irish Abortion Solidarity Campaign**
- **Marie Stopes International**
- **Pro-Choice Forum**
- **Reproductive Health Matters**

