

Response to House of Commons Culture, Media and Sport Select Committee

Call for evidence for pre-legislative scrutiny of the Draft Media Bill

May 2023

1. About ISBA

- 1.1. ISBA is the only body in the UK that enables advertisers to understand their industry and shape its future, because it brings together a powerful network of marketers with common interests, empowers decision-making with knowledge and insight, and gives single voice to advocacy for the improvement of the industry.
- 1.2. ISBA is a member of the Advertising Association and represents advertisers on the Committee of Advertising Practice and the Broadcast Committee of Advertising Practice, sister organisations of the Advertising Standards Association, which are responsible for writing the Advertising Codes. We are also members of the World Federation of Advertisers. We are able to use our leadership role in such bodies to set and promote high industry standards as well as a robust self-regulatory regime.

2. Summary

- 2.1. Advertisers rely on a trusted, high quality and pluralist Public Service Broadcaster (PSB) ecosystem, which includes that BBC, and is characterised by funding from different sources. The overall effect of this is to create a trusted and safe media environment in which to advertise. We welcome the approach of seeking to update the regulatory landscape to keep pace with changes and updates in new media formats and gaps in regulation. However, we do see that there is an omission of podcast content which we feel would be worthy of the Committee's consideration.
- 2.2. Brand advertisers need new streaming platforms to be aligned with UK market practices for regulation of content and advertising. Therefore, we welcome the stated objective of the Draft Media Bill in updating Ofcom's remit to regulate Tier 1 services to include, 'non-UK on-demand programme services'.
- 2.3. In addition, we welcome that the Draft Media Bill sets out the requirements for Ofcom to develop a new accessibility code for Tier 1 services, to ensure that these on-demand services are accessible to those with disabilities.
- 2.4. However, the priority we have heard from both advertisers and broadcasters is the need for a consensus, to avoid a political delay once the Bill is brought to Parliament. PSBs need the reforms outlined in the Bill to create a level and competitive playing field in the UK market. Advertisers rely on the trusted, high quality and pluralist PSB ecosystem as a trusted and safe environment in which to advertise.
- 2.5. In addition, the reforms to Channel 4's business model, which we expect to be included in the Bill, are needed to give the broadcaster and advertisers long-term security and stability.
- 2.6. Given the proximity to the expected date of the next General Election, we would urge the Government and Parliament to build a consensus around the Media Bill to ensure

it is passed into law to provide certainty to the broadcasters, advertisers and UK creative industries.

3. Public Service Broadcasting

- 3.1. With regards to levelling the playing field between Public Service Broadcaster (PSB) and video-on-demand (VOD) services, from a brand perspective advertisers need to be able to trust the platforms they advertise on to create trusted, safe and high-quality environments for audiences.
- 3.2. Advertisers rely on a trusted, high quality and pluralist PSB ecosystem to deliver a trusted and safe environment in which to advertise. It is widely understood that brands can be damaged by advertising in a poor-quality context and can similarly be elevated by high-quality context. Additionally, advertising revenue is a significant part of broadcaster's business models. Therefore, advertisers have a strong interest in the PSB environment which they fund.
- 3.3. The development and long-term sustainability of trusted environments in which to advertise is a priority issue for brand advertisers. ISBA has been at the forefront of the challenge of driving up trust in the advertising and marketing sector. As a leading stakeholder in the Advertising Association, we have helped to lead joint work to understand the drivers of [public trust in advertising](#), and to improve industry standards and practices to help address historically low levels of that trust. This has taken the form of several actions, including seeking to reduce advertising bombardment; by reducing excessive frequency and re-targeting – in particular through Origin, our world-leading programme to deliver accountable cross-media audience measurement; ensuring that the ASA is a 'best in class' regulator (particularly supporting its *More Impact Online* five-year strategy); ensuring that data privacy matters (as, for instance, ISBA members do through our Data & Ethics Working Group); and showing that advertising can drive social change (as through our industry initiatives focused on climate change and sustainability, including Ad Net Zero).
- 3.4. Credos' 2021 report, [Rebuilding Trust in UK Advertising](#), highlights that the public responds best to high-quality advertising that entertains and engages, and that quality is the most important positive driver of public trust. The report also highlighted increased concerns about the boundaries of advertising in our lives, with bombardment still seen as the most important factor in public distrust. The significance of misleading and invasive advertising techniques – including a growing experience of scams or fraudulent communications – as a driver of distrust increased more than any other drive between 2018 and 2021, mostly driven by younger consumers.
- 3.5. Brands need transparency from broadcasters – from linear PSBs, to new streaming platforms – in terms of viewing data, audience measurement and ad mintage. From a commercial and competitive view, brands need to be able to align these measurement metrics and data with comparable media.
- 3.6. ISBA welcomed the announcement of the Government's decision not to sell off Channel 4. Advertisers overwhelmingly opposed the sale because they value Channel 4's diverse audience and because of competition concerns which could arise from broadcaster consolidation. However, given the proximity to the expected date of the next General Election, we would urge the Government and Parliament to build a consensus around the Draft Media Bill to ensure it is passed into law to provide certainty to the broadcasting sector and UK creative industries.

- 3.7. Ensuring that key set piece listed events are widely accessible for consumers and advertisers has been highlighted by brands. The [Listed Events: Digital Rights Review](#), carried out by the Department for Culture, Media and Sport, is due to report its conclusions. To provide long-term sustainability, clarity and direction for both the broadcast and advertising industries, we would encourage the Committee to consider whether the results from the Review should be included in the Media Bill when brought to Parliament.

4. Video on-demand

- 4.1. The marketplace is changing, and audience attention is moving from linear TV to VOD, a gradual change being led by the younger generation. The latest research from Ofcom indicates that traditional 'linear' TV viewing – where viewers watch programmes broadcast at a scheduled time usually via terrestrial or satellite – is down more than 25 per cent since 2011, and 68 per cent among 16-24s. Younger adults watch almost seven times less broadcast TV than those aged 65 and over. Nine out of ten 18–24-year-old adults bypass TV channels and head straight to streaming services. Ofcom notes that one in five UK households, or 5.2 million homes, are signed up to three of the most popular streaming platforms.
- 4.2. However, most VOD services are not covered by Ofcom. There is currently an inconsistency that VOD streaming services are currently governed by the Committee on Advertising Practice (CAP) regulatory codes for advertising their products and services, but not the Broadcasting Committee on Advertising Practice (BCAP) codes which sets the content standards for harmful, offensive and accurate material found on television.
- 4.3. Brand advertisers need the new streaming platforms – based overseas and being viewed by UK-based audiences – to be aligned with UK market practices both in terms of the regulation of content and advertising. Therefore, we welcome the stated objective of the Draft Media Bill in updating Ofcom's remit to regulate Tier 1 services to include 'non-UK on-demand programme services'.
- 4.4. We welcome that the draft Bill sets out the requirements for Ofcom to develop a new accessibility code for Tier 1 services, to ensure that these on-demand services are accessible to those with disabilities. Twenty percent of the UK are either hard of hearing or sight impaired. ISBA is working with brand advertisers to be able to deliver audio described and subtitled advertising. This is a priority for ISBA's Inclusion Network, working with Clearcast and the broadcasters to enable brands to reach this audience.
- 4.5. ISBA, with its members, has met with streaming platforms to inform them of what is required by UK advertisers:

Regulation and Measurement

- 4.5.1. Brands want a robust third-party measurement which is aligned with advertisers' need for cross media measurement.
- 4.5.2. ISBA is leading, on behalf of brand owners, the project to deliver Origin, a platform that accurately measures cross-media reach (how many people saw an ad campaign) and frequency (how many times they saw it) of advertising campaigns across all forms of media – from TV and digital-video to digital-display with the ability to incorporate all media channels e.g. radio and out-of-

home. Origin will deliver all data in a privacy-safe manner that respects consumer privacy and with no risk of re-identification. The Origin platform is funded by the industry with major brand owners, major media-owners and the advertising agency community as funding stakeholders.

- 4.5.3. Brands want compliance with Ofcom's rules on the amount of distribution of advertising per-hour and within programming formats. Brands have welcomed the low advertising load of 4 minutes per-hour currently being set by Netflix, for example. On Netflix films, there is only a pre-roll (advertising before the start of the film) and on Netflix series there are pre-rolls and mid-rolls (ad within a show). Each section of ads has a maximum length of 75 seconds and most so far have been 30 or 60 seconds.
- 4.5.4. Brands need be able to trust the placement of any age-restricted products being advertised on new VOD streaming service and to be able to ensure these are placed against appropriate content and user profiles. For example, foods high in fat, sugar and salt, which are now under new regulations in the Health and Care Act 2022. It is widely known and accepted that VOD subscribers share accounts, therefore advertisers need age-assurance of users so that advertising content is not being inappropriately presented to users.

Brand Safety/Suitability

- 4.5.5. Brands need these new streaming services to operate to meet industry-agreed standards for brand safety. When considering the specifics of what constitutes safe or harmful online environments and content, the advertising industry has been convening internationally in an effort that unites marketers, media agencies, media platforms, and industry associations. The Global Alliance for Responsible Media (GARM) was established by the World Federation of Advertisers in 2019 and aims to safeguard the potential of digital media by reducing the availability and monetisation of harmful content online. ISBA is a member of the GARM Steering Committee, and we see this work as essential to creating a safer digital media environment that enriches society through content, communications, and commerce.
- 4.5.6. One of the first steps in safeguarding the positive potential for digital advertising is to provide platforms, agencies, and marketers with the framework with which to define safe and harmful content online. One cannot address the challenge of harmful online content it is not possible to describe it using consistent and understandable language.
- 4.5.7. GARM has developed and will adopt common definitions to ensure that the advertising industry is categorising harmful content in the same way across the board. Eleven key categories have been identified in consultation with experts from GARM's NGO Consultative Group. Establishing these standards is the essential foundation needed to stop harmful content from being monetised through advertising. Individual GARM members will adopt these shared principles in their operations, whether they are a marketer, agency, or media platform; and platforms including Facebook, YouTube and Twitter are among those who have committed to the framework for defining harmful content that is inappropriate for advertising. They have also agreed to collaborate with a view to monitoring industry efforts to improve in this area.

4.5.8. Historically, definitions of harmful content varied by platform. [GARM's Brand Safety Floor and Suitability Framework](#) offers common definitions to which participants have agreed to adhere. The Safety Floor lists content for which industry considers that it is not appropriate for there to be any advertising support. The Suitability Framework lists sensitive content which may be appropriate for advertising when that advertising is supported by proper controls.

4.5.9. While perhaps not directly transferrable, we hope that by highlighting this framework it is a useful point of comparison and inspiration for the definition of what counts as relevant harmful and restricted content, and for the nuances which can take place when it comes to the interpretation of the impact of restricted content's being consumed by a user.

4.6. While we are aware that the Online Safety Bill and the Online Advertising Programme are considering various aspects of online content and regulation, we would encourage the Committee, in its pre-legislative scrutiny, to take a holistic view of televisual-style content across all platforms in which it appears and is accessible.

5. Radio

5.1. We do see that with radio formats there is a blurring of definitions between content types and formats.

5.2. From our reading, the draft Bill omits the growing and significant podcast ecosystem through which audiences are discovering, consuming and enjoying radio-style programming. This radio-style format has achieved significant popularity through on-demand audio platforms, for example Spotify and Apple Podcasts.

5.3. Again, this content is indistinct to radio in its style, and not treated differently by viewers and consumers, but nevertheless sits in a grey area of definition and therefore regulation.

5.4. These distinctions, feel unbalanced and as a piece of forward-facing legislation, we feel this is more opportunity for balanced regulatory powers to be considered to level the playing field, and to avoid a growing mix of regulated and unregulated content.

5.5. Advertisers have a particular interest in the long-term future of a podcast ecosystem which is safe and appropriately regulated. The future of this media format is to find audiences through it a growing catalogue of regular podcasts to which audiences subscribe to, but don't pay for, because it is supported by advertising revenue.

5.6. While we are aware that the Online Safety Bill and the Online Advertising Programme are considering in various aspects online content and regulation, our understanding is that podcasts are out of scope of both areas of work. We would, therefore, encourage the Committee, in its pre-legislative scrutiny, to take a holistic view of audio and radio-style content.