

Submission by the Writers' Guild of Great Britain (WGGB) to the DCMS Consultation on Product Placement on Television (January 2010)

[The Writers' Guild of Great Britain](#) is the trade union representing writers in TV, radio, theatre, books, poetry, film, online and video games. We campaign and lobby on behalf of all writers working the UK. In TV, film, radio and theatre, the WGGB is the recognised body for negotiating [minimum terms and practice agreements](#) for writers.

Introduction

In an ideal world, the Writers' Guild of Great Britain would retain the ban on product placement (PP). However, the Guild recognises that income from traditional advertising revenue and programme sponsorship is in a state of flux. Scripted drama and comedy is being squeezed from the schedules by reality television formats, including shows like the X Factor, which is in practice an advertorial for artists on a particular record label. Viewers are already exposed to PP in shows imported from the United States, in feature films (including British-made films) and in numerous boxed and online videogames. PP is also permitted on online drama: this anomaly will become more apparent as online and digital content platforms converge.

British television is hugely important, not just as a commercial enterprise, but as a vibrant and vital part of British life and culture.

We do not foresee any circumstances where PP aimed at children would be acceptable and we welcome the decision to retain the ban on PP in children's television.

But television production in this country is facing an unprecedented funding crisis; writers, producers and writer-producers are forced to compete on an unlevel playing field with overseas and online competitors. In this climate, the option of product placement in programmes for adults needs to be considered pragmatically. To quote Gail Renard, former chair of the WGGB and a BAFTA-winning screenwriter: "I'm not against product placement under carefully considered and controlled circumstances... but it can neither be a knee-jerk reaction nor miracle cure for poor network management and/or programming."

In principle, the WGGB remains cautious about the advisability and workability of PP. In practice, we hope that clear guidelines and robust regulation will ensure that the benefits of PP outweigh the disadvantages.

Responses to Selected Questions

1. What, if any, viewer and other safeguards there should be additional to those

required by the AVMS Directive?

PP is permitted in non-linear, on-demand services. The rules governing PP in linear and non-linear services need to be streamlined, defined, policed and enforced in the same way. A two-tier system will create confusion among producers, marketers and viewers alike. PP in imported shows – from the United States for example – should be subject to the same rules as home produced content. Similarly, the rules governing PP in games should not be materially different from the rules governing television drama, comedy or entertainment. Convergence between linear and nonlinear platforms is likely to accelerate in the next decade and the rules for PP need to take full account of this.

2. How should those additional safeguards be imposed - by law, or by means of the Ofcom Code?

Industry self-regulation is neither appropriate nor workable. Producers and marketers will understandably be focused on commercial sensitivity, but the public interest is best served by complete transparency and accountability regarding PP. While Ofcom may have a role to play in enforcing regulation, the Ofcom Code in its current form seems inadequate.

The government should pass robust legislation to define, police and limit PP. Non-compliance with the rules of PP (such as product integration, or failing to notify viewers of PP) should result in swift censure, heavy fines and other, appropriate punitive measures.

Wherever PP takes place, there must be a clear and un-ambivalent acknowledgement of the fact. The need for openness, transparency and accountability must take precedence over commercial confidentiality. If a company is involved in product placement, the viewer must be made fully aware of this at all times.

3. Is the range of figures for the potential financial benefit of introducing television

product placement set out in Part 3 of this document (between £25m and £140m p.a.) still broadly applicable?

We are not in a position to make such an assessment. We note with interest that the response from advertisers to PP has been lukewarm. However, we recognise that television production in the UK has been severely hit by the fall

in advertising revenues as well as other factors, including Internet piracy. The income from PP is unlikely to fill the funding void completely: in the United States, PP makes up just 3.3% of advertising revenue.

Programme genres

7. If product placement is allowed in programmes made by or for UK television,

should any of the programme genres permitted by the AVMS Directive be excluded?

See our response to questions 14 and 15.

8. Should UK controls on product placement be more specific as to what is meant by 'films and series' in which product placement can appear?

Yes. The rules need to be completely clear and unambiguous.

9. Are there definable types of 'films and series' in which product placement either should or should not be permitted?

14. Should there be a specific prohibition of product placement in

- religious programmes*
- news programmes;*
- current affairs programmes;*
- consumer programmes; or*
- any other specific type of television programme?*

As stated in our response to question 15, programmes aimed at a family audience are designed to appeal to both adults and children. PP of junk food or alcohol should be prohibited in pre-watershed family viewing. A product aimed at an adult audience, such as a particular brand of car, for instance, would be less problematic. (We cover this point in more detail in question 15.)

Films or series with a strong PSB ethos – news, current affairs, consumer or educational programmes for example, should not be eligible for PP, as this would fatally undermine the bond of trust between viewer and producer.

Factual television has a strong PSB remit and this should not be compromised.

Programmes funded by the licence fee and broadcast on the BBC network should not solicit or receive funding from PP, regardless of whether they are produced in-house by the BBC, or by an independent producer for the BBC. If the rules governing PSB change in the future, PSB programmes should be free from PP.

Children

15. Should any or all product placement be restricted or prohibited in programmes with a disproportionately high child audience?

The AVMSD allows Member States to allow product placement, subject to restrictions, in a variety of programme genres. But programme genres can be hard to define: many entertainment shows and drama programmes are aimed at a family audience and have a strong appeal for both children and adults. Think of the BBC's Doctor Who, for example, or ITV's Primeval and X Factor. To quote EURALVA:

Consider, for instance, a... show which was designed to be watched by both adults and children. One Member State might consider it to be "a programme for children", and therefore forbid product placement, whereas another might consider it to be "a programme for adults", and therefore allow it.

Many popular dramas fall into this grey area: the aforementioned, Dr Who and Primeval for example, along with series such as Robin Hood and Merlin. These are widely considered to be children's shows by viewers, toy manufacturers and advertisers, but due to a technicality, broadcasters are not obliged to treat them as such. This is because they are commissioned by a broadcaster's drama department, rather than the children's department. The rules governing PP should take account of this.

Children and adults alike live in a world where convenience foods are a part of everyday life, and shows aimed at a family audience should be allowed to reflect this: producers and writers must remain free to show the world as it is, not as we would wish it to be. However the rules for PP on shows aimed at a family audience should ban PP on branded products already subject to an advertising ban on children's television.

Editorial independence; undue prominence

20. How could 'undue prominence' be avoided, given the commercial imperative

for audiences to recognize the products and services that have been placed?

The Writers' Guild of America (WGA) has years of experience in working with PP. The WGA draws a distinction between product placement, where a specific branded product appears on screen, with a contractually agreed number of "pack shots", and product integration, where, for instance, characters in a sitcom wax lyrical about how much they love Brand X Cola or the new Brand Y convertible, or their use of Brand X or Y becomes part of the storyline itself. In product placement, the featured product is part of the scenery, in product integration; it is part of the fabric of the show. The former is acceptable, with safeguards; the latter is most definitely "undue prominence".

21. At what point should the Government, or Ofcom, draw the line between legitimate paid placement of goods or services and illegitimate 'direct encouragement' to purchase or hire them?

When the featured goods and services receive more than a passing mention in the dialogue (in both scripted programmes and on entertainment and reality shows); when the on-screen action is interrupted for an advertorial; when the featured goods and services are clearly part of the storyline, rather than being used as props and when the viewer is encouraged to buy the goods or services, either overtly or covertly, by an on-screen actor or entertainment-show/ game-show host.

Tobacco, alcohol, HFSS foods, gambling

23. Should television placement of smoking accessories such as cigarette papers

and pipes be prohibited?

Yes.

24. Should television placement of alcohol, HFSS foods or gambling be subject to an outright prohibition; or, if not prohibited, should it be subject to restrictions of some kind?

PP of alcohol should be prohibited: if likeable, sympathetic or attractive characters are consuming a particular brand of alcohol in a romantic comedy for example, then the drink will seem sexy and attractive by association, which

flouts the spirit and the letter of the law governing alcohol advertising.

25. If it is not practicable to apply the detail of the BCAP Code rules on alcohol

advertising to alcohol product placement, would the simple AVMS Directive rules that alcohol advertising must not be aimed specifically at minors and must not encourage immoderate consumption provide adequate safeguards?

No. If it is not practicable to apply the detail of the BCAP Code rules on alcohol, then PP of alcohol should be prohibited outright.

Monitoring

27. What methods of assessment and monitoring would be most effective in ensuring that there was accurate and reliable information about the actual effects of any introduction of product placement in these areas?

We are not in a position to comment on how the effects of PP should be monitored.

28. Would it be possible or desirable to levy a charge on product placements to

enable monitoring and/or research to take place?

Yes. If there are concerns about the detrimental effects of PP then the appropriate monitoring and research should be funded by a levy on PP and/or on the marketers involved in PP.

Signalling product placement to viewers

34. How should television product placement be notified to viewers?

Product placement should be flagged up for viewers in a clear and unambivalent manner. The 'neutral logo' that the AVMSD has advocated may be insufficient.

The United States has a longer experience of product placement on television, and the Writers' Guild of America has grave concerns about abuses of PP. The Federal Communications Commission (FCC) rules require a clear disclosure of all commercial messages. Both the spirit and the letter of this rule are flouted with alarming frequency: sponsors are named in fast moving

small type in the relevant show's end credits. Prominent, transparent on-air disclosure needs to be a cornerstone of PP in the UK, if it is introduced.

35. When should it be notified to viewers – should we go beyond the EU

requirement for notification before and after the programme and after any ad breaks?

PP should be signalled at the start of programmes, in the end credits and during commercial breaks. Legally binding guidelines on the duration and speed of the notifying announcement should be enforced and attempts to speed up or the notification or to allow the continuity announcer to talk over the notification should be prohibited. The rules on notification should be rigorously policed and enforced.

Thematic placement

38. Should the prohibition of 'thematic placement' extend to placements which

feature only generic products and services or types of product and service rather than branded ones?

Yes. Thematic placement should be prohibited consistently.

39. Should the prohibition of 'thematic placement' extend to the placement in a programme of references to the beliefs, policies, aims or objectives of the placer?

Yes. Editorial control must remain with the creators of a programme – the writers, producers and commissioning broadcasters. We would strongly oppose any change to the current editorial decision making process. It is imperative that PP remains just that – the opportunity to buy advertising space within a programme, just as advertisers buy space between the programmes at the moment.

At present, writers, commissioners, producers and broadcasters in the UK create a wide range of high quality television, reflecting the lives and lifestyles of the whole nation. Characters and stories are drawn from high-income, middle income and low-income groups. We need to ensure that product placement does not lead to an over-reliance on aspirational programming, or a reluctance to tell stories about marginalized, unpopular or lower-income groups. Natural realism has a long and honorable tradition in British film and television, from the "angry young men" of the 1950s, to *Shameless*, *Eastenders* and *Coronation Street* today. British television needs to engage with and reflect the lives of all our television viewers, regardless of income, age, disability, sexual orientation and racial or national identity. Product placement tends to favour shows with an aspirational dimension – where

characters enjoy a relatively high income and associated lifestyle. It is vital that programming about, and for, lower-income groups continues to be made.

Conclusion

While the WGGB remains cautious about the benefits of product placement, we recognise that we need a level playing field with film, with TV content from the United States and with online AV content. Maintaining the ban on a point of principle would stifle a source of much-needed funding for television production, which is why we urge a cautiously pragmatic approach. If the rules on PP on television are relaxed, the income needs to be ring-fenced for developing, producing and promoting British-made television. While PP is acceptable in some circumstances, product integration is not. The rules governing PP need to be enshrined in law and properly enforced and the interests of the viewer and of vulnerable groups must not be sacrificed for short-term commercial gain.