

Advertising Association response to DCMS open letter on “A Communications Review for the Digital Age”

1. The Advertising Association

The Advertising Association is the only organisation that represents all sides of the advertising and promotion industry in the UK - advertisers, agencies and the media. We promote and protect advertising. By “advertising”, we mean advertising in its broader sense, so not only traditional advertising but direct marketing, promotional marketing and digital advertising as well. We communicate its commercial and consumer benefits and we seek the optimal regulatory environment for our industry. Our goal is that advertising should enjoy responsibility from its practitioners, moderation from its regulators, and trust from its consumers.

2. The Advertising Industry

Advertising sits at the heart of the UK creative industries and is a key element of the “innovation ecosystem”. It will be an important component of a growth strategy in the digital age. Advertising contributes to the UK economy not only through its own commercial activity and growth but also through enabling growth in the content and other creative industries and through its catalytic effect on the wider economy.

Advertising is closely intertwined with new technologies and has advanced rapidly to take advantage of digital and other developments. Advertising both employs new digital and internet-based techniques leading to sector growth and development (the UK is a world-leader in online advertising spend), and also supports many new internet businesses.

3. Overview of Response

In this response we focus solely on the Communications Review in relation to the advertising industry. The advertising industry already benefits from a system which combines co- and self-regulation. This has enabled the industry to innovate and adapt successfully to meet challenges and benefit from opportunities.

The Communications Review will establish a framework for the regulation of advertising for at least the next decade. This is, therefore, a crucial first opportunity to identify and assess potential areas in which the current framework could be improved and to establish certain principles which should underpin the new framework. We agree that an approach that deals with new developments to the benefit of both consumers and citizens, and industry, is desirable.

We have two key arguments. The first is that a new Communications Act should establish a regulatory framework that is able to adapt to a media and communications landscape which is sure to undergo further convergence and rapid change in the next ten years.

The second, related, point is that this change will produce new challenges, and these need not automatically entail additional regulation of any kind. Where it does prove necessary, industry-led self-regulation is the most effective mechanism for meeting those challenges. The Review provides an opportunity to address whether the increasing convergence of the media space enables, perhaps necessitates, the consideration of an even greater role for advertising self-regulation. This would have potential benefits for the advertising industry and the wider UK economy and should therefore be further considered as the Communications Review moves forward.

The Advertising Association looks forward to working closely with the advertising industry it represents and Government to establish the optimum regulatory environment for an ever-evolving digital world. These two core points will act as the basis of our approach but we will provide Government with some more detailed proposals and positions following consultation with our membership.

So, this paper is intended to act as a starting point for a discussion about whether the current regime of advertising self- and co- regulation will be effective in the coming decades. As part of this discussion, it is integral that our views on three fundamental points are recognised:

1. The current system of advertising self- and co- regulation broadly works well for the current environment.
2. There is a crucial interdependence between the current co-regulatory system and the licensing of broadcasters by Ofcom.
3. The importance of safeguarding the existing independence of the ASA self-regulatory system for non-broadcast advertising.

4. Advertising as a Growth Industry

Advertising is a major contributor to the UK economy. The advertising industry employs nearly 300,000 people and, with indirect, induced and multiplier effects included, its economic contribution was estimated at £15.6 billion in 2008.

Advertising is also a growth industry: in 2008 it generated £7.8 billion in GVA to the UK economy. It has led the UK economy out of the recession, with industry data showing revenue growth of 5.9 per cent to £15.5 billion in 2010, with forecasts of 1.4 per cent growth in 2011 and over 5 per cent in 2012. A recent PwC report predicted that the size of the UK advertising industry would grow 4.8 per cent in the next four years to £17.7 billion.

Furthermore, advertising has a positive effect on the creative industries and wider economy. It funds creative content and the right regulatory environment – in which brands are encouraged to support creative content through advertising and sponsorship – will, therefore, support growth in creative industries including TV broadcasting, film, media production, music, entertainment and software. The independence of the UK's lively press, whatever the media delivering its journalism, is resourced from advertising. Advertising and marketing are fundamental to strong competition between businesses. Without advertising, the incentive to innovate, compete, design new products or establish new markets is significantly reduced.

5. Response to Specific Questions

Q1. What could a healthier communications market look like?

From the point of view of the advertising industry, the critical factor is an open, efficient market that allows business to compete responsibly, fairly and freely. Continued technological progress will doubtless pose new questions for advertising regulators. This Communications Review should establish a regulatory framework which will be sufficiently flexible to manage a vastly altered technological landscape. We believe that industry-led responses to these questions will more effectively encourage growth and therefore favour a communications market which is self-regulated.

Q2. What action can be taken to facilitate greater innovation and growth across the wider competition regime, and how can deregulation help achieve this?

Advertising is central to the UK's "innovation ecosystem" both through the considerable innovation that occurs within the industry and through its enabling of innovation in the wider economy through its promotion of choice, publicising of product information and support of new commercial ventures. An advertising industry which is able to responsibly and effectively take advantage of new opportunities without being overburdened by regulation will best facilitate greater innovation and growth.

Q3. Is regulatory convergence across different platforms desirable and, if so, what are the potential issues to implementation?

There are challenges - and opportunities - brought about by the increasingly converged media and regulatory environment. The experience of the last 50 years of advertising regulation in the UK has shown that industry is best-placed to respond to challenges when they arise, often through developing self-regulatory solutions. This is the most effective way to enable fair competition between businesses and platforms.

Q12. What barriers are there to innovation in new digital media sectors, including video games, telemedicine, local television and education?

Q13. Where has self- and co-regulation worked successfully and what can be learnt from specific approaches?

Critical barriers to innovation in new digital media sectors are funding and public awareness. Advertising financially underpins many internet and local media businesses that stimulate the UK economy through employment, the purchasing of goods and services from third-parties, and the provision of value and high-quality content to consumers. It also provides information to consumers, driving choice, competition, innovation and thereby growth.

Self-regulation has worked effectively in the advertising industry, and we were pleased that the ASA was able to extend its remit into market communications on companies' own websites and social media websites. The new Communications Bill should avoid creating burdensome regulations on advertising content or techniques that would restrict the potential for new digital media and local media to access the opportunities that advertising - including brand sponsorship - presents in terms of funding and increasing consumer awareness.

Industry-led solutions are most likely to ensure that advertising content regulation does not create barriers to growth but effectively harnesses the incentives that IP can provide to growth and innovation. The recent work the advertising industry has done on Online Behavioural Advertising demonstrates that industry-led solutions can be effective for consumers and businesses.

6. Conclusion

The Communications Review provides an excellent opportunity to ensure that the success of the UK creative industries is continued as we enter the "digital age", and a timely moment to re-evaluate the regulatory constraints we operate under. Advertising will have a key role to play in success as both a growing creative industry and a facilitator of growth in other creative industries. A new Communications Bill must avoid establishing a framework which could lead to unnecessary or more restrictive controls. If, where and when regulation is needed, voluntary, industry-led self regulation has the responsiveness and flexibility required for the digital age.