

**EXPLANATORY MEMORANDUM TO**  
**THE AUDIOVISUAL MEDIA SERVICES (PRODUCT PLACEMENT)**  
**REGULATIONS**

**2010 No. 831**

**1.** This explanatory memorandum has been prepared by the Department for Culture, Media and Sport and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 The instrument inserts into the Communications Act 2003 provisions permitting and regulating the practice of product placement in television programmes provided by television service providers under the jurisdiction of the United Kingdom for the purposes of the EU Audiovisual Media Services (“AVMS”) Directive (2007/65/EC).

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

**4. Legislative Context**

4.1 The AVMS Directive established an EU-wide legal framework within which Member States can, if they wish, permit product placement in programmes shown in television and on-demand services. The Directive proceeds from a general prohibition to create a derogation allowing product placement subject to a range of restrictions and requirements. Member States can decide for themselves whether, and to what extent, to adopt the derogation.

4.2 The final text of the AVMS Directive was cleared from scrutiny by the House of Commons European Scrutiny Committee on 9 May 2007 and by the House of Lords Select Committee on the European Union on 22 May 2007 following the conclusion of its inquiry into the Directive. The Directive was formally adopted by the Council of Ministers and the European Parliament in December 2007.

4.3 Previously, EU law was generally understood to prohibit product placement in television programmes, although not all EU Member States interpreted the law in the same way and at least two permitted practices resembling paid product placement. In the United Kingdom, a prohibition on product placement in UK-made television programmes has been implemented through Ofcom’s Broadcasting Code. However, product placement, where there is no payment to the television service provider or programme-maker, has always been permitted, provided it is editorially justified and not unduly prominent. Product placement in imported programming and in films originally made for the cinema is also permitted, provided it is not unduly prominent. The current position in the UK is consistent with the requirements of the AVMS Directive.

4.4 As part of its implementation of the AVMS Directive, the Government considered whether product placement should be permitted in UK-made television programmes. The Government's initial conclusion, following consultation in 2008, was that it should continue to be prohibited. However, in the light of the continuing financial difficulties being experienced by commercial broadcasters, and the decisions by most other EU Member States to permit product placement, the Government decided to look again at the issue and hold a further consultation. Product placement in television services was therefore omitted from legislation enacted in 2009 to implement the AVMS Directive in the UK (the Audiovisual Media Services Regulations 2009, SI 2009 No.2979).

4.5 Product placement in programmes included in on-demand audiovisual media services was not previously regulated by EU law and was not prohibited in UK law. Following the 2008 consultation, the Government decided to continue to permit product placement in on-demand services, subject to the restrictions and requirements of the AVMS Directive. Provisions to this effect were included in the Audiovisual Media Services Regulations 2009.

## **5. Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom.

## **6. European Convention on Human Rights**

The Secretary of State for Culture, Media and Sport has made the following statement regarding Human Rights:

“In my view the provisions of the Audiovisual Media Services (Product Placement) Regulations 2010 are compatible with the Convention rights”.

## **7. Policy background**

- *What is being done and why*

7.1 The AVMS Directive has established a legal framework within which product placement in television programmes may be permitted subject to certain restrictions and requirements.

7.2 The Directive begins with a general prohibition of product placement, but then creates a derogation within which Member States may, if they wish, permit product placement in programmes comprising films originally made for the cinema, films and series made for television and on-demand audiovisual media services, sports programmes and light entertainment programmes. Product placement is expressly prohibited in children's programmes.

7.3 For programmes where product placement is permitted, the Directive sets out specific requirements relating to the protection of editorial independence, prohibition of direct encouragement to buy or rent a product or service, prohibition of 'undue prominence' and a requirement to notify viewers of the presence of product placement in a programme. This signalling requirement can be waived if a programme

containing product placement was neither produced nor commissioned by the provider of the service on which it is shown or by a person connected to that provider. The Directive also explicitly prohibits product placement of cigarettes, tobacco products and other products from businesses whose main undertaking is the manufacture or sale of cigarettes or other tobacco products, and of medicinal products available only on prescription. Furthermore it requires that product placement of alcoholic drinks must not be aimed specifically at people under the age of 18 or encourage immoderate consumption of alcohol. As product placement is defined in the Directive as a form of “audiovisual commercial communication”, the minimum content standards applicable generally to audiovisual commercial communications also apply to product placement.

7.4 The Directive also requires that prop placement which is of “significant value” should be regarded as product placement.

7.5 Following consultation, and in the light of the continuing financial pressures on commercial broadcasters and programme-makers, the Government has decided to permit product placement in UK-made television programmes, subject to the restrictions and requirements of the Directive. This will create a new source of potential revenue for television service providers and programme-makers. It will help to ensure that they remain competitive with their counterparts in Europe and elsewhere, where product placement is already, or will shortly be, permitted. This instrument therefore transposes the requirements of the Directive into UK law and applies them to all programmes shown on UK-based television services.

7.6 However, in view of the concerns about the potential impact on children and on public health, the Government has decided to prohibit in UK-made television programmes the product placement of foods which are high in fat, salt or sugar, products associated with smoking (such as cigarette lighters and papers), medicinal products, alcoholic drinks, infant and follow-on formulae and gambling services. Product placement will also be expressly prohibited in UK-made religious, current affairs and consumer affairs programmes, as some of these types of programmes could otherwise be construed as falling within the scope of the genres in which product placement will be permitted; for instance if they were part of a series. The Government considers that news programmes and bulletins clearly fall outside the permitted genres.

7.7 Product placement will only be permitted in UK-made television programmes where production of the programme begins after 19 December 2009.

7.8 The BBC will not be allowed to include product placement in its own programmes when they are made to be shown on its public service channels, but it may show cinema films and programmes acquired from other broadcasters, including the BBC’s commercial enterprises such as BBC Worldwide, which include product placement.

7.9 There has been considerable public interest in this issue, as evidenced by the number of responses to the consultation (see paragraph 8.6 below) and the number of articles and other references in the media.

- *Consolidation*

7.10 This instrument does not amend any other instrument.

## **8. Consultation outcome**

8.1 The Government held a public consultation during 2008 on proposals for the implementation of the AVMS Directive, including the product placement provisions. There were 59 responses to the consultation, mostly from the broadcasting, new media and advertising industries and from civil society organisations.

8.2 Most industry respondents were in favour of permitting product placement in television programmes on the grounds that it would add realism to programmes and provide a new source of potential revenue for broadcasters and programme-makers. Most civil society respondents opposed product placement, citing concerns about loss of integrity and quality in UK television programming and the potential impact on children and on public health as a result of inappropriate product placement and product placement of alcoholic drinks and unhealthy foods. The Government concluded that the arguments for and against product placement were finely balanced, but overall did not justify a change in policy to permit product placement.

8.3 The consultation document, the responses and a summary of the responses are available on the Department's website at:  
[www.culture.gov.uk/reference\\_library/consultations/5309.aspx](http://www.culture.gov.uk/reference_library/consultations/5309.aspx)

8.4 The Government held a second public consultation specifically on product placement during autumn/winter 2009-10. There were 1486 responses to the consultation from the broadcasting and advertising industries, from civil society organisations and from individual members of the public and MPs. As before, the broadcasting and advertising industries generally supported product placement and most industry respondents argued that any restrictions should not go beyond those required by the Directive. Civil society organisations and the individual responses were overwhelmingly hostile to product placement, with particular concerns about the potential impact on children and on public health.

8.5 In the light of this consultation, the Government has decided to permit product placement in UK-made television programmes within the framework established by the AVMS Directive but to continue to prohibit product placement of certain products and services, in order to protect children and public health, and in religious, current affairs and consumer affairs programmes, as outlined in paragraph 7.6 above.

8.6 The consultation document, the responses and a summary of the responses are available on the Department's website at:  
[http://www.culture.gov.uk/reference\\_library/consultations/6421.aspx](http://www.culture.gov.uk/reference_library/consultations/6421.aspx)

## **9. Guidance**

9.1 No formal or statutory guidance is being issued. Ofcom will need to hold a further consultation on product placement before revising its Broadcasting Code to

include the new statutory requirements and to provide further advice and guidance for broadcasters.

## **10. Impact**

10.1 The impact on business is that companies making television programmes to be broadcast on UK-based television broadcasting services will be able to include branded products and services in programmes in return for payment to the producer or service provider.

10.2 The impact on the public sector is that Ofcom will have to monitor and enforce the application of the rules and restrictions relating to product placement in television programmes. However, the costs of this will be met from the fees which television broadcasters established in the UK pay to Ofcom for their broadcasting licences.

10.3 An Impact Assessment is attached to this memorandum.

## **11. Regulating small business**

11.1 The legislation applies to small business. Small businesses which make television programmes to be broadcast on television broadcasting services in the UK will benefit from being able to include branded products and services in programmes in return for payment from the producer or service provider.

## **12. Monitoring & review**

12.1 The Government will review the implementation of the Directive in 2012.

## **13. Contact**

Chris Bone at the Department for Culture, Media and Sport, Tel: 020 7211 6444 or email: [chris.bone@culture.gsi.gov.uk](mailto:chris.bone@culture.gsi.gov.uk) can answer any queries regarding the instrument.

## Summary: Intervention & Options

<b>Department /Agency:</b> DCMS	<b>Title:</b> Impact Assessment of legislation to implement the EU Audiovisual Media Services Directive: Product Placement on Television	
<b>Stage:</b> Implementation	<b>Version:</b> 2.0	<b>Date:</b> March 2010
<b>Related Publications:</b> Impact assessment of legislative options for implementing the EU AVMS Directive – product placement.		

### Available to view or download at:

<http://www.culture.gov.uk>

**Contact for enquiries:** Chris Bone

**Telephone:** 020 7211 6444

### What is the problem under consideration? Why is government intervention necessary?

The EU Audiovisual Media Services (AVMS) Directive has changed EU law on product placement in television programming. As a result Member States may now allow it in certain types of programmes, subject to safeguards. They must however prohibit it in other types of programme. Ofcom's Broadcasting Code has prohibited television product placement in UK-made television programmes until now, in line with EU law as it was before the AVMS Directive. The Directive offers an opportunity to revise our rules so as to allow television companies and programme makers to take advantage of product placement while providing robust safeguards for viewers.

### What are the policy objectives and the intended effects?

There are three policy objectives

- to comply with the terms of the AVMS Directive
- to allow television companies and programme makers to take advantage of product placement; and
- to provide robust safeguards for viewers.

### What policy options have been considered? Please justify any preferred option.

The Government has considered three options. These are 1) continued prohibition without legislation; 2) legislate to prohibit product placement in all programme categories; 3) legislate to allow product placement in all the programme categories permitted by the Directive but prohibit it in all other cases. The Government has a preference for option 3 but with some additional safeguards to protect viewers, particularly children. This will allow UK broadcasters and programme-makers to benefit from product placement while ensuring proper protection for viewers.

### When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

2012

### **Ministerial Sign-off** For implementation stage Impact Assessments:

*I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.*

Signed by the responsible Minister:

Ben Bradshaw, Secretary of State for Culture, Media and Sport

**Date:** 16th March 2010

## Summary: Analysis & Evidence

**Policy Option: 3**

**Description: Allow product placement in the programme categories permitted by the AVMS Directive**

<b>COSTS</b>	<b>ANNUAL COSTS</b>		Description and scale of <b>key monetised costs</b> by 'main affected groups' There will be some costs to broadcasters and programme makers in complying with the regulatory safeguards on television product placement. These have not been quantified, but are likely to be small in relation to the total financial benefits. Costs to the regulator (Ofcom) will be minimal.
	<b>One-off</b> (Transition)	<b>Yrs</b>	
	£		
	<b>Average Annual Cost</b> (excluding one-off)		
	£		<b>Total Cost (PV)</b> £
Other <b>key non-monetised costs</b> by 'main affected groups' Possible risks to programme quality from loss of the traditional separation of editorial and advertising content. Possible risks to public health and welfare from commercial impact of product placement generally and/or placement of certain types of products. These would affect viewers and consumers in general.			

<b>BENEFITS</b>	<b>ANNUAL BENEFITS</b>		Description and scale of <b>key monetised benefits</b> by 'main affected groups' Removing the current prohibition of product placement will allow television broadcasters and programme makers to develop a new revenue stream. There is no clear consensus on the potential size of this revenue stream - figures upwards of £25m per annum are commonly quoted.
	<b>One-off</b>	<b>Yrs</b>	
	£		
	<b>Average Annual Benefit</b> (excluding one-off)		
	£ £25m+		<b>Total Benefit (PV)</b> £ £215m+
Other <b>key non-monetised benefits</b> by 'main affected groups' The availability of additional revenue through product placement should help television broadcasters and programme-makers to maintain the quality and diversity of programming which viewers expect.			

### Key Assumptions/Sensitivities/Risks

Price Base Year 2010	Time Period Years 10	<b>Net Benefit Range (NPV)</b> £ N/A	<b>NET BENEFIT (NPV Best estimate)</b> £ 215m+
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What is the geographic coverage of the policy/option?		UK	
On what date will the policy be implemented?		Autumn 2010	
Which organisation(s) will enforce the policy?		Ofcom	
What is the total annual cost of enforcement for these organisations?		(absorbed within existing cost of regulating television)	
Does enforcement comply with Hampton principles?		Yes	
Will implementation go beyond minimum EU requirements?		Yes	
What is the value of the proposed offsetting measure per year?		£ 0	
What is the value of changes in greenhouse gas emissions?		£ 0	
Will the proposal have a significant impact on competition?		No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium      Large
Are any of these organisations exempt?	No	No	N/A      N/A

<b>Impact on Admin Burdens Baseline</b> (2005 Prices)		(Increase - Decrease)	
Increase of    £	Decrease of    £	<b>Net Impact</b>	£ Not quantified

Key:

Annual costs and benefits: Constant Prices

(Net) Present Value

## Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

### **Background**

The principle of separation of advertising and editorial content has been present since the advent of commercial television in the UK in 1955. It was most recently reiterated in Ofcom's Broadcasting Code of May 2005, which in turn reflected the requirements of EU law in this respect (in the Television Without Frontiers (TVWF) Directive). The TVWF was interpreted in the UK and most other EU Member States as imposing a de facto prohibition on product placement (but not on prop placement, when there is no payment to the programme-maker for including a product or service in a programme).

However, commercial television revenues do not rely solely on "spot" advertising. Other legitimate sources of revenue in the UK include sponsorship and interactive services, and programme costs may also be mitigated through the controlled use of prop placement. In a competitive environment, with a large number of providers of commercial television broadcasting services, and increasing competition from on-demand services, these revenues are widely spread. Commercial broadcasters are engaged in a constant struggle to maintain their revenues and develop new sources of revenue.

### **The Audiovisual Media Services (AVMS) Directive**

The AVMS Directive makes specific provisions allowing and regulating television product placement. Member States are required to introduce a formal prohibition of product placement on television, but may then, if they wish, derogate from that, so as to permit product placement in any or all of the programme genres of 'cinematographic works', 'films and series made for (television) services', 'sports programmes' and 'light entertainment programmes'. Member States may not however permit product placement in children's programmes.

If a Member State allows television product placement, it must ensure that

- the content and scheduling of the programmes which contain product placement are not affected in such a way as to affect the responsibility and editorial independence of the broadcaster;
- programmes which contain product placement do not directly encourage purchase or rental of goods or services which have been 'placed', in particular by making special promotional references to them;
- programmes which contain product placement do not give undue prominence to the product; and
- viewers are clearly informed of the existence of product placement - programmes which contain product placement must be 'appropriately identified' at the start and at the end, and after any advertising breaks.

### **Implementation and enforcement**

The rules on television product placement will be enforced in the UK by Ofcom as part of its normal regulatory responsibilities in relation to television broadcasting services. Ofcom will need to hold a further consultation and amend its Broadcasting Code before broadcasters and programme-makers are able to include product placement in UK-made television programmes. This is likely to mean that product placement does not start to appear in UK-made television programmes until autumn 2010. The additional cost of enforcing the product placement rules is not expected to be significant and will be covered by the licensing fees which television broadcasters are required to pay to Ofcom.



## **Consultation outcome**

The Government conducted a consultation between 9 November 2009 and 8 January 2010 on proposals to permit television product placement. This exercise followed an earlier consultation in 2008 on implementing the AVMS Directive, which had also sought views on product placement. There is some information about the 2008 consultation below.

The 2009/10 consultation was carried out on the basis that the Government was minded to reach a different conclusion from that which had been reached following the 2008 consultation and allow product placement on television, subject to safeguards. However, the 2009/10 consultation document made clear that the Government had not made any final decision as to how to proceed, and wished to seek further views and evidence first.

The 2009/10 consultation received a total of 1,486 responses. Of these 1,308 took the form of emails and letters sent in by MPs and members of the public in response to one or other of four campaigns which were expressing concern about a possible decision to permit television product placement. There were 178 individual responses. These came from a wide variety of interested groups including health and welfare groups and charities, broadcasters, advertisers and programme makers. The 178 also included 66 individual responses from members of the public.

Broadcasters, advertisers and programme makers were generally in favour of relaxing the rules on television product placement, though some were agnostic and one advertising voice, ISBA, opposed it. Most of the responses from the public and MPs, whether in response to campaigns or otherwise, were against product placement, though this was mostly because of specific concerns that were expressed about its possible effects on health and welfare through the placement of products such as foods high in fat, salt or sugar (HFSS foods), alcohol, and gambling.

Some consumer and viewer respondents went further and said that allowing product placement in television programmes would bring about a blurring of the distinction between advertising and editorial content, undermining the trust viewers have in the integrity of UK-made programming. It was also argued that allowing product placement would risk undermining the creative integrity of writers.

Programme makers, commercial broadcasters and advertisers argued that product placement would give broadcasters a new source of revenue. Responses provided a range of assessments of the value of this revenue. Ofcom's assessment in December 2005 of the revenue of product placement in the UK market was that most observers thought it might be worth around £25-£35m after five years. This was at the lower end of the assessments provided in response to this consultation. Respondents believed that the expected revenue would help to maintain investment to ensure quality and diversity of programmes on British television. They also argued that rules ensuring that products are not unduly prominent in programmes would make sure that product placement did not detract from viewers' enjoyment.

The responses demonstrated a lack of clear information and agreement about the extent of the commercial benefits which allowing product placement on television might have. Estimates put forward by industry ranged widely from £25m-£30m to as high as £140m. Other respondents doubted whether product placement would have any significant economic impact. It was also not clear to what extent any revenue from product placement would be displacing revenues from other streams such as spot advertising and sponsorship.

## **Previous consultations**

Government consultation 2008

The Government conducted a three month consultation on the implementation of the AVMS Directive between July and October 2008. The AVMS Directive amended EU law so as to permit television product placement, subject to various safeguards, and the 2008 consultation sought views about allowing it in the UK.

A total of 59 responses were received. Of these, 43 responded to the questions on product placement, the highest level of interest generated by any part of the consultation. The arguments which respondents put were essentially the same as those which were received again later in response to the 2009/10 consultation discussed above. Most of the replies came from television broadcasters, on-demand service providers and advertising organisations, who were mostly in favour, on commercial grounds, of allowing product placement.

A significant minority of responses came from organisations representing children's, consumer, health and viewers' interests. These were mostly opposed to product placement, either in general, because of concerns that it would damage the integrity of the television production process and viewers' trust in it, or in relation to the potential for placement of particular types of product or service, such as HFSS foods or alcohol.

As with the later 2009/10 consultation, the replies gave no clear indication of the likely extent of the commercial benefits of allowing product placement. Potential annual values of between £25m and £140m were ascribed to it. There was also no consensus as to how far product placement income would represent new revenue for television broadcasters and programme makers or be cannibalised from existing income streams.

#### Ofcom consultation 2005-6

Ofcom consulted on product placement in 2005/6. On balance Ofcom concluded that if the US experience were replicated in the UK, product placement revenues might reach £100 million per annum (at 2005 prices). However, following the experience with the gradual build up of sponsorship revenues, and assuming some continued regulation of the market, most observers believed that revenues from product placement would only reach £25 to £35 million after around five years. A recent paper by the European Parliament also concludes that product placement is likely to remain a modest source of income.<sup>1</sup>

The European Commission's own impact assessment for the AVMS Directive noted that product placement "could generate substantial additional resources for the audiovisual value chain, starting from linear providers", and that "such resources could amount to €500 million", although no geographical area or time period is given<sup>2</sup>.

Sponsorship was first allowed in the UK in 1988 and by 2004 sponsorship represented about 3% of total commercial television advertising and sponsorship revenues. Spot advertising revenues were around £3.5 billion of which commercial terrestrial television was responsible for £2.8 billion.

So while not insignificant, sponsorship revenues are clearly relatively small. However, as Ofcom noted in its 2005 consultation document, sponsorship (and potentially product placement) does offer additional flexibility to advertisers in attempting to communicate with viewers and so helps to retain advertising funding within the commercial television sector. If product placement does generate significant revenues it may encourage service provider to commission as it constitutes an additional source of revenue, this might imply an increase in production levels.

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<sup>1</sup> Advertising Rules and Their Effects under the New Audiovisual Media Services Directive, 04/2009, Directorate General For Internal Policies, European Parliament, 2009.

<sup>2</sup> Impact Assessment – Draft Audiovisual Media Services Directive, COM(2005)646 final, European Commission, December 2005

## **Video-on-demand**

This impact assessment does not concern product placement on video-on-demand services. Under the Audiovisual Media Services Regulations 2009, which implemented the AVMS Directive in the UK as regards the regulation of video-on-demand services, product placement will continue to be permitted in video-on-demand, subject to the restrictions and safeguards required by the Directive.

## **Films and acquired programmes**

Product placement will also continue to be permitted in films, and in television programmes acquired from outside the UK, subject to the restrictions and safeguards imposed by the Directive.

## **Prop Placement**

Prop placement will continue to be permitted in all television and video-on-demand programmes, subject to the requirements of the Directive and to guidance from Ofcom, and the new video-on-demand co-regulatory body that is being established.

Prop placement is a small industry in the UK – around 12 companies, represented by the recently-formed trade body, the Association of Entertainment Marketing Agencies - providing television and film props, either at no cost or at reduced rates, which introduce realism into productions and reduce costs for producers<sup>3</sup>. These companies might be adversely affected if product placement replaces prop placement to any significant extent and if those seeking to place their products strike deals directly with broadcasters and programme- and film-makers. However, not all products will be suitable for 'paid for' product placement deals. Moreover, given their experience and knowledge of the market, prop placement companies may be well-placed to act as brokers for product placement deals between producers and programme-makers.

## **Competition Assessment**

Allowing product placement might have implications for competition between broadcasters. Those using more UK productions would have greater access to a new source of revenue than those which are more reliant on imported programming. Ofcom noted that this would be likely to benefit the commercial PSB channels more, because they invest significantly more in UK-produced programming. However, even here, some would benefit more than others because they import less and produce more in-house. Broadcasters who are more reliant on bought-in programming might also suffer from any transfer of advertising revenues from traditional spot advertising to product placement. Those who produce less programming in the genres in which product placement is permitted might also benefit less. However, in view of the relatively small amounts of revenue at stake, any impact on competition is also likely to be small.

## **Small Firms Impact Assessment**

Smaller broadcasters and programme and film makers might benefit from the opportunity to develop a new revenue stream if product placement is allowed. However, the benefits might be limited if most product placement deals are with the major broadcasters, and for those smaller companies that use largely bought-in programming. Overall, though, the relatively modest amounts of revenue which product

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<sup>3</sup> Product Placement consultation document, Ofcom, December 2005

placement is expected to generate, at least in the first few years, suggests that any impact on small firms is itself likely to be very small.

As noted above, prop placement companies might be affected by a decision to permit product placement in UK-made programming. However, any loss of business as a result of a decline in the prop placement market might be offset by gains if they are able to use their experience and knowledge to move into the 'paid for' product placement market.

### **Health Impact Assessment**

The AVMS Directive explicitly prohibits product placement for

- tobacco products and cigarettes; and
- medicinal products and medical treatments which are available only on prescription.

In addition, as a form of audiovisual commercial communication, product placement must also comply with the requirement that alcoholic beverages shall not be aimed specifically at minors and shall not encourage immoderate consumption of such beverages.

By going beyond these requirements and prohibiting product placement for all foods high in fat, salt or sugar, products associated with smoking, such as cigarette lighters and filter papers, medicinal products, alcoholic drinks, infant and follow-on formulae and gambling services, the Government is providing additional protection for public health and, particularly, for children's health.

## Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

**Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.**

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	No	Yes
Sustainable Development	No	Yes
Carbon Assessment	No	Yes
Other Environment	No	Yes
Health Impact Assessment	Yes	No
Race Equality	No	Yes
Disability Equality	No	Yes
Gender Equality	No	Yes
Human Rights	No	Yes
Rural Proofing	No	Yes

# Annexes

## **Legal Aid**

There might be an impact on the legal aid budget if any individuals were to seek legal aid in order to challenge in the Courts either the implementation arrangements for product placement in the UK or, in due course, a decision of Ofcom in relation to product placement. However, no challenges are anticipated, and the Government expects that all sides will work together to resolve any problems or disagreements without the need for legal action.

## **Sustainable Development**

There will be no impact on sustainable development from the Government's plans for permitting and regulating product placement in UK television programmes.

## **Carbon Assessment**

There will be no impact on carbon emissions from the Government's plans for permitting and regulating product placement in UK television programmes.

## **Other Environment**

Product placement is defined in the AVMS Directive as a form of 'audiovisual commercial communication', i.e. advertising. As such it must comply with the content standards applicable to audiovisual commercial communications. These include the requirement that such communications shall not encourage behaviour grossly prejudicial to the protection of the environment.

## **Race / Disability / Gender Equality**

As a form of audiovisual commercial communication, product placement is required by the AVMS Directive not to:

- prejudice respect for human dignity; or
- include or promote any discrimination based on sex, racial or ethnic origin, nationality, religion or belief, disability, age or sexual orientation.

Product placement is also covered by the general requirement that audiovisual media services must not contain any incitement to hatred based on race, sex, religion or nationality.

Allowing UK broadcasters to continue to show programmes made outside the UK which contain product placement enables them to acquire and transmit programmes which appeal to particular ethnic and other minority communities and which contain product placement, e.g. programmes from Central and South America, Africa and South and East Asia.

## **Human Rights**

There will be no impact on human rights from the Government's plans for permitting and regulating product placement in UK television programmes.

## **Rural Proofing**

There will be no impact on rural issues from the Government's plans for permitting and regulating product placement in UK television programmes.