

Advertising Association response to DCMS Consultation on Advertising in Cinemas

Introduction

The Advertising Association

1. The Advertising Association (AA) is the only organisation that represents all sides of the advertising and promotion industry in the UK - advertisers, agencies and the media. In the UK, the advertising industry directly employs over 300,000 people. In 2011, advertising expenditure was £16.1 billion.
2. We promote and protect advertising. 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.
3. The Advertising Association has long supported the cinema sector in opposing the dual system of clearance for cinema advertisements. This is both costly for business and offers no additional consumer benefits or protection. We therefore welcome the opportunity to respond to this consultation and the Government's recognition of industry's concern regarding this double regulation.

Advertising in cinemas

4. Advertising is crucial to a competitive economy. It brings consumer benefits by fuelling brand competitiveness, thereby informing consumer choice. It also has an essential role in funding the media and creating a dynamic, competitive and pluralistic media marketplace. And it helps support local services, not least in cinema where advertising is a crucial part of the overall income stream for cinemas. The viability of many cinemas would be at stake should advertising revenue be reduced.
5. Cinema advertising spend is significant with well over £170 million pounds being spent by advertisers in cinemas each year, and its share across all markets being over 1% of total adspend. Therefore, we believe it to be fair and proportionate to say that cinema advertising should be required to be pre-cleared quickly, consistently and effectively by a single body so that this media sector suffers no unreasonable additional regulatory burdens. Details on cinema adspend over the last five years and cinema's role in overall UK adspend is set out in the table below:

Year	Total UK adspend £ (millions)	Total UK cinema adspend £ (millions)	Cinema adspend in UK as share of total adspend in (%)
2007	17080.8	169.7	1.0
2008	16589.1	171.1	1.0
2009	14503.5	179.5	1.2
2010	15683.8	184.3	1.2
2011	16102.4	172.1	1.1

Response to general questions

Q A.1: What is your view on the current system of regulating cinema advertising?

6. The current requirement for cinema advertisements to be cleared by the BBFC is an example of regulation that is unnecessarily expensive, bureaucratic and slow - acting as a major disincentive for advertisers and agencies who might want to use the medium of cinema for their campaigns. It is anti-competitive and damaging to SMEs, with many smaller brands and agencies not having the revenue or time to meet the current requirements, resulting in a less plural market in cinema advertising.
7. With the impending move to digital in the cinema sector, it is imperative that the opportunity to deregulate is taken and for the misnomer of dual clearance of cinema advertising undertaken by both the BBFC and CAA to be finally ended. We believe it is possible - and desirable - for government to cut this unnecessary bureaucracy and cost for brands, advertising agencies and cinemas while maintaining the highest levels of consumer protection. We hope government will recognise that this meets the intent of their better regulation agenda and that they cut this unnecessary redtape, which is stifling the innovation of advertisers, agencies and cinemas.

Q A.2: Do you consider that the current system which involves both the BBFC and CAA is placing an unnecessary dual burden on industry?

8. For the reasons stated above, we believe that this is an unnecessary dual burden on industry.

Q A.3: What is your assessment of any extra costs involved from this dual system?

9. The increased costs, not only from the certification fee but also the administrative burden derived from working with the BBFC, considerably reduces the advertising revenues flowing into the cinema industry. Every time an agency and brand create an advertisement which they wish to run in cinema, they have to pay £125 for the BBFC to certificate it. In 2010, this earned the BBFC around £90,000 - money taken directly from brands and agencies, with no additional benefit for consumers.
10. The BBFC certification system is also opaque in its timing, with clearance times inconsistent and often slow which is severely damaging to agencies and brands. Agencies occasionally have to chase the BBFC for news on when their advertisement is likely to be cleared. There is also no forum for the BBFC to advise on whether an advertisement is likely to be cleared or not - meaning that multiple resubmissions (at £125 a time) are common. The outcome of this uncertainty, cost and resource burden is that agencies and brands are more inclined to move to other media for their advertising.

Q A.4: Do you consider that the current system which involves both the BBFC and CAA is beneficial? Please provide your reasons?

11. The Advertising Association cannot see any benefit derived from the system involving both the BBFC and the CAA. The CAA is more than capable of undertaking this clearance process without BBFC in a way that is fair for businesses and ensures consumers are suitably protected.

Q A.5 Is there any evidence to suggest that removing the BBFC requirement to age rate adverts shown in cinemas will result in a reduction in consumer and child protection? Please provide details.

12. Removing the BBFC role in pre-clearing cinema advertisements will result in no reduction to consumer and child protection. Cinema advertising is already pre-cleared by the Cinema Advertising Association, who makes sure advertisements comply with the strict CAP codes,

enforced by the Advertising Standards Authority. These codes are stricter than the BBFC process and offer a superior level of consumer protection.

Response to question relating to Option 0 (No change)

Q A .6: What is your overall assessment of whether this option would: achieve the objectives of ensuring consumer and children protection; and work in practical terms

13. As is outlined above, the “do nothing” approach would not offer the consumer more protection than the “remove BBFC” approach. It would, however, mean that businesses continue to face the practical burdens created by double clearance which leads to increased costs and unfairly could make cinema a less attractive media to advertise in.

Response to questions relating to option 1 (remove the requirement for the BBFC to have a role in age rating cinema adverts)

Q A.14: What is your overall assessment of whether this option would: achieve the objectives of ensuring consumer and children protection; and work in practical terms?

14. In practical terms, the removal of the BBFC requirement to pre-clear will have no impact on business and there is no doubt that the change in the system would involve a seamless handover of responsibilities – not least because the CAA already holds these responsibilities. There would be no impact from the removal on the consumer, other than that the presence of the BBFC certificate would be removed from the reel. In any case, this certificate if anything misleads the public into believing that the BBFC is responsible for enforcing the advertising codes in cinemas.

Q A.15: What are the key disadvantages of this option in your view? Could this option be adapted to overcome any problems?

15. We cannot see any disadvantages to this option.

Q A.16: What are the key advantages to this option in your view?

16. The numerous advantages of removing unnecessary business burdens have been outlined throughout this response.

Q A.17: How do you think this option would work for the following key stakeholders?:

17. **consumers** - In contrast to the BBFC, the CAP Code regards a cinema advertisement as an entity designed to promote a product or service, so it addresses many additional factors and provides far greater protection to consumers. These can be legal issues surrounding the product or service itself, or the accuracy of claims made about them. The CAP code also addresses, among other things, unfair criticism of competitors, the necessary presence of warning texts, and specific rules for specific products, services, or target audiences e.g. children. Furthermore, it addresses offence with respect to an advertised product, as opposed to potentially offensive content. Making the CAP code the sole rulebook for cinema advertising pre-clearance would ensure that consumers continue to receive the highest level of protection regarding the advertising they see in cinemas.
18. **industry** - It is logical that pre-clearance for cinema commercials would be best done through the CAA Copy Panel alone imposing the CAP Code, the proper application of which is overseen by the Advertising Standards Authority as the regulatory body. These are codes that industry is used to adhering to in other media and so it makes sense for the same rules to apply in cinema, without the confusion of additional regulation by the BBFC.

19. **enforcement agencies** – The ASA support removing the double clearance anomaly.

Q A.18: Is there anything that would improve this option for any of the stakeholders?

20. We believe that this change is a simple move and thus there are no specific options needed to further improve it.

Q A.19: Is this option a proportionate way of regulating cinema adverts?

21. Yes.

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