

Commercial Communications post AVMS

Old Issues, New Problems

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1. Implementing the AVMS in the UK
2. Audiovisual Commercial Communications
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Implementing AVMS - The process

- 11 March policy statement from Minister
- Legislative Order published late July
- Ofcom consultations
 - Broadcasting Code in June
 - Co-regulatory arrangements in September
- Legislation comes into force on 19 December

Implementing AVMS – The policy approach for VOD

- **Narrow definition of VOD services**
 - Focus on content editors
 - Exclusion of “aggregators”
- **Co-regulatory system for VOD Content**
 - Industry-led
 - Responsible for content regulation (incl. product placement and sponsorship)
 - Guidance on scope criteria
- **Co-regulatory system for VOD Advertising:**
 - Advertising Standards Association
- **Ofcom to retain backstop powers**

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ACC - Amount of advertising on television

Current rules stricter than TVWF:

- Non-PSBs: 9m an hour average
- PSBs: 7m an hour average but no more than 8m an hour average between 6pm - 11pm

Following AVMS:

- **New insertion rules:**
 - 20m rule removed
 - Considering relaxing limits on teleshopping
- **Consulting on new minutage rules:**
 - Maintain status quo
 - More advertising:
 - allowing PSBs same amount as non-PSBs
 - allowing PSBs to schedule more advertising between 6pm and 11pm
 - Less advertising: cutting non-PSB minutage to the level of PSB minutage

ACC – Product placement

- Currently prohibited

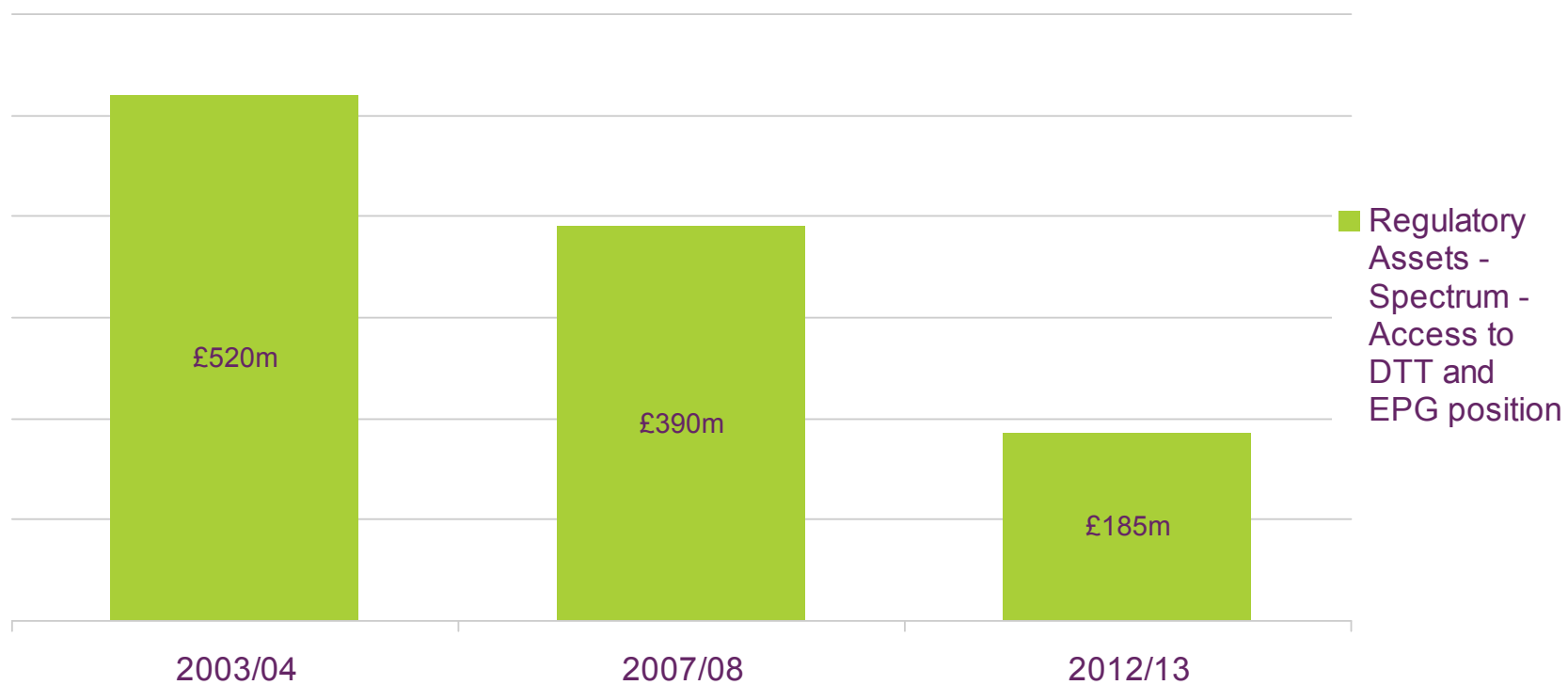
After AVMS:

- Not permitted in programmes made by/for UK broadcasters
- Permitted in VOD and in UK broadcast of acquired programmes
- No undue prominence
- Prop placement permitted, subject to ‘significant value’ test

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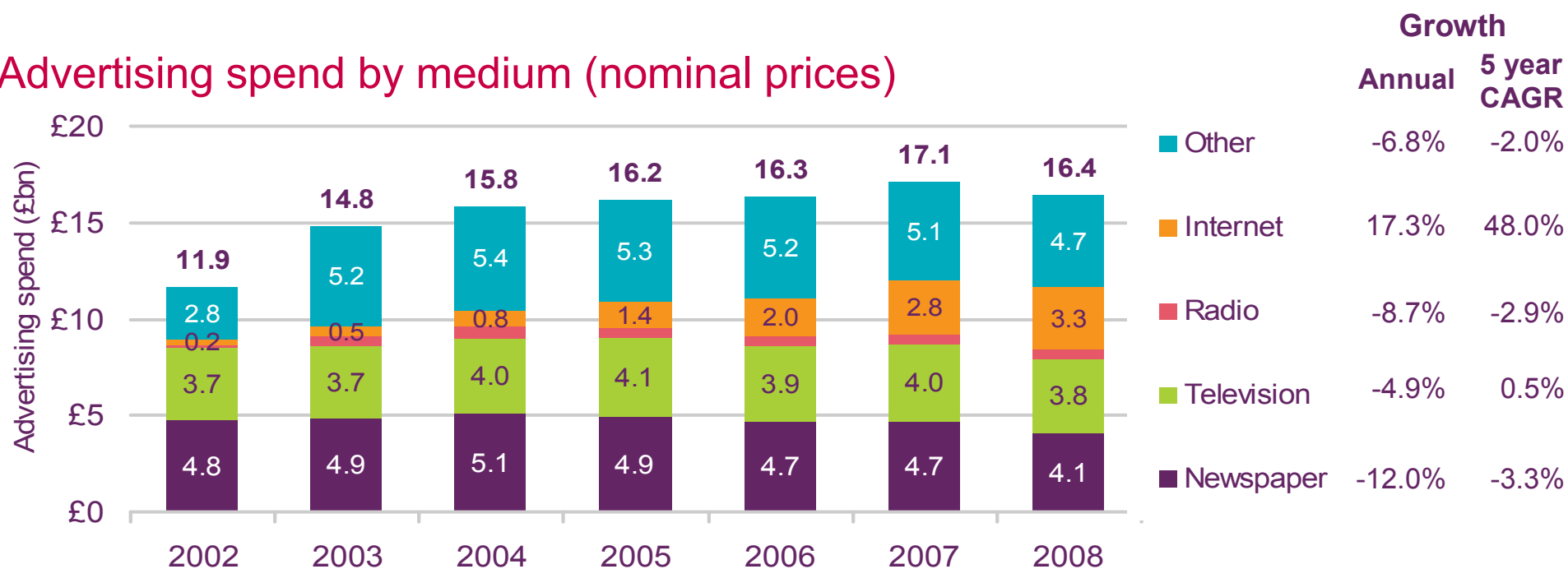
Value of being a PSB is in decline



Source: Ofcom estimates

The internet is taking a growing share of the shrinking advertising pie...

Advertising spend by medium (nominal prices)

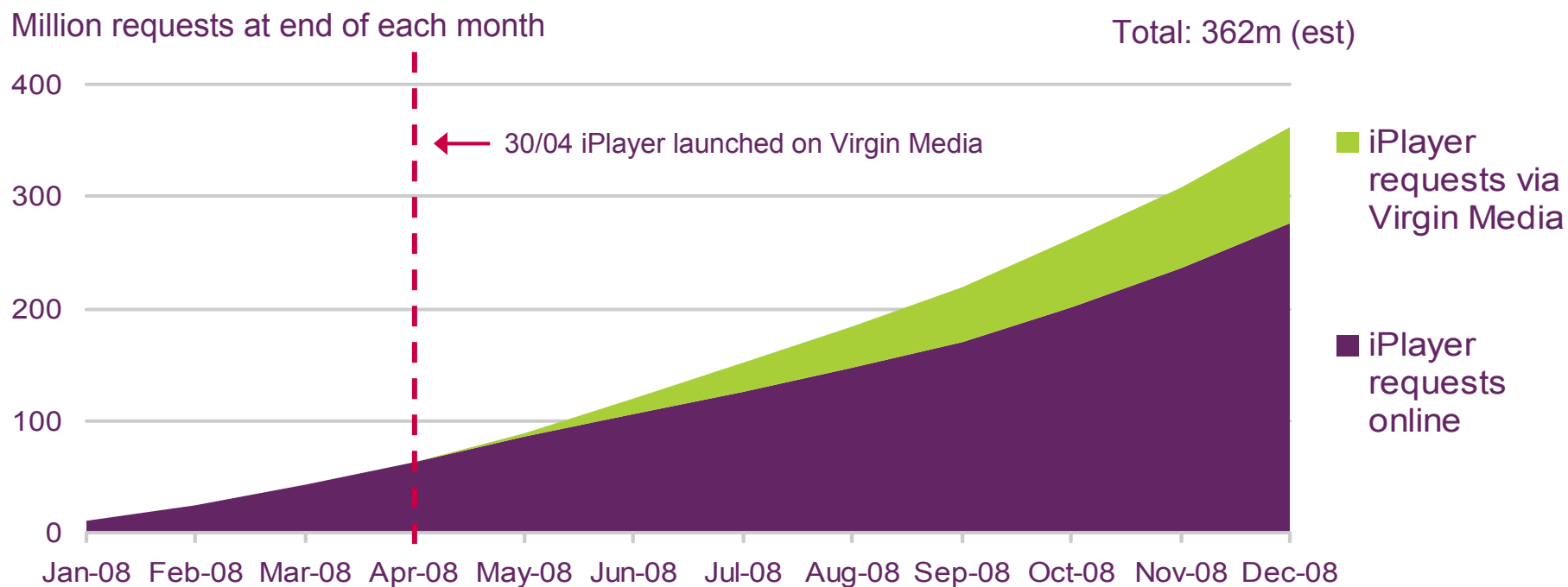


Source: Advertising Association statistics published by www.WARC.com

Note: CAGR = compound annual growth rate. All figures are nominal.

Viewing on new platforms is growing fast...

Over 1/3bn iPlayer programmes requests in 2008



Source: BBC/Virgin Media press releases/Ofcom

Notes: Virgin Media figures for November and December are estimates. Programme requests do not include radio shows, or requests made via games consoles or mobile devices.

Old Issues, New Problems – sponsorship credits

- Blurring of boundaries
- Pushing the boundaries
- One such example is sponsor credits:

QUESTION: When does a sponsor credit become an advertisement?

- **Ofcom rules:**
 - “sponsored programmes must be clearly identified as such by reference to the name/and or logo [...] at the beginning and/or end of the programme”
 - “Credits must be clearly separated from programmes and not contain advertising messages or calls to action. In particular, credits must not encourage the purchase or rental of products or services of the sponsor or third parties”.

Let's look at some examples...

1. Virgin Media sponsoring Channel 4 *Big Brother*



2. Nestle Cereals sponsoring GMTV *Weather*



3. Carphone Warehouse sponsoring ITV *The X Factor*



Old Issues, New Problems – sponsorship by non-commercial organisations

- AVMS Definition of sponsorship:

Any contribution made by a “public or private undertaking or natural person” who is funding a programme “with a view to promoting its name, its trade mark, its image, its activities or its products”

- Appears to include funding of programmes by **non-commercial organisations** (e.g. government departments, charities).
- AVMS rules (like TVWF) do not allow programmes to encourage **purchase or rental of the sponsors’ products/services** BUT do not specifically refer to the promotion of, “**name, trade mark, image and activities**” (as per definition).

QUESTION: Does this mean that sponsorship is about economic activity and the rules do not apply to non-commercial organisations?

Let's look at one example...

ITV Beat: Life on the Street



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Conclusions

- Broadcasters looking for new funding models
- Product Placement ban = restrict sponsor references in programmes
- Ofcom Broadcasting Code review – radio research
- More pressure on traditional broadcasters
- Growth of VoD with a more favourable regulatory regime
- Level playing regulatory field?