



Republika e Kosovës
Republika Kosova - Republic of Kosovo



KOMISIONI I PAVARUR PËR MEDIA
NEZAVISNA KOMISIJA ZA MEDIJE - INDEPENDENT MEDIA COMMISSION

REGULATION CIMC 2009/04

ON AUDIOVISUAL COMMERCIAL COMMUNICATIONS

This Regulation sets out the basic principles of advertising, teleshopping, sponsorship and product placement for radio and television programs.

This Regulation does not deal with the issues related to political advertising, which are regulated by relevant laws and regulations.

Political commercial communication is allowed only during electoral campaigns, in accordance with relevant applicable law and regulations.

This regulation regulates advertising content and ethics on the public service broadcaster and private media service providers. This regulation regulates the advertising allowances on the public service and private service providers, including teleshopping.

1. OBJECTIVES

- 1.1 To ensure that the public can be confident that commercial communications are legal, honest, truthful and decent.
- 1.2 To ensure that commercial communications do not impinge on the editorial integrity of broadcasts.
- 1.3 To provide clear guidance to media service providers as to the standards to which commercial communications shall adhere to.
- 1.4 To provide guidance to the general public on the standards they can expect from commercial communications on broadcasting services.
- 1.5 To provide media service providers with a simple, flexible and comprehensive regulation that does not impede in an unwarranted manner their right to communicate commercial messages.

2. DEFINITIONS

- 2.1 **‘Media service provider’** means the natural or legal person who has editorial responsibility for the choice of the audiovisual content of the audiovisual media service and determines the manner in which it is organized.
- 2.2 **‘Audiovisual commercial communication’** means images with or without sound which are designed to promote, directly or indirectly, the goods, services or image of a natural or legal entity pursuing an economic activity. Such images accompany or are included in a programme in return for payment or for similar consideration or for self-promotional purposes. Forms of audiovisual commercial communication include, *inter alia*, television advertising, sponsorship, teleshopping and product placement;
- 2.3 **‘Television broadcasting’** means an audiovisual media service provided by a media service provider for simultaneous viewing of programmes on the basis of a programme schedule;
- 2.4 **‘Surreptitious audiovisual commercial communication’** means the representation in words or pictures of goods, services, the name, the trade mark or the activities of a producer of goods or a provider of services in programmes when such representation is intended by the media service provider to serve as advertising and might mislead the public as to its nature. Such representation shall, in particular, be considered as intentional if it is done in return for payment or for similar consideration;
- 2.5 **‘Sponsorship’**- means any contribution by a legal or natural person not being engaged to the broadcasting activities or to the production of audio-visual works, to the direct or indirect financing of any program, but intending the promotion of name, trade mark, image or other activities of the person;
- 2.6 **‘Teleshopping’** – means direct offers broadcast to the public with a view to the supply of goods or services, including immovable property, rights and obligations, in return for payment;
- 2.7 **‘Misleading advertising’** means advertising which contains any element of spoken or visual presentation which misleads or is likely to mislead, either directly or by implication, by act or omission, with regard to the merits of the product or service advertised or its suitability for the purpose recommended and which, by reason of its misleading nature, is likely to prejudice the interests of individuals or a competitor;
- 2.8 **Subliminal advertising** – means advertising that includes any technical device, which, by using images of very brief duration or by any other means, exploits the possibility of conveying a message to, or otherwise influencing the minds of, members of an audience without their being aware or fully aware of what has been done;
- 2.9 **‘Product placement’** - means any form of audiovisual commercial communication consisting of the inclusion of or reference to a product, a service

or the trade mark thereof so that it is featured within audiovisual media services, normally in return for payment or for similar consideration;

- 2.10 **‘Split-screen advertising’** – means an advertising technique which allows the simultaneous presentation of editorial content and commercial information on the same screen, divided into two or more parts.
- 2.11 **‘Child/Children’** - for the purpose of this Regulation, the terms ‘Child’ and ‘Children’ refer to any person under 14 years of age;
- 2.12 **‘Minor’** – for the purpose of this Regulation, the term ‘minor’ refers to any person between 14 and 18 years;
- 2.13 **‘Parapsychology’:** - means the study of the evidence for psychological phenomena, such as telepathy, clairvoyance, and psycho kinesis, that are inexplicable by science;
- 2.14 **‘Occultism’** – means the study of the supernatural and belief in occult powers and the possibility of bringing them under human control;
- 2.15 **Exorcism** – is the practice of evicting demons or other evil spiritual entities from a person or place which they are believed to have possessed.

3. EXCLUSIONS:

The following announcements shall not constitute advertising:

- a) Informational announcements about upcoming programs on broadcast services, including the date and time of transmission of the named programme(s), and including ‘trailer’ excerpts and/or a brief description of programme content, once such announcements do not contain advertising content.
- b) Public service announcements, including warnings about public safety and health, that are not broadcast in return for payment or for similar consideration.

4. GENERAL RULES OF CONDUCT IN AUDIOVISUAL COMMERCIAL COMMUNICATIONS

Protecting the Individual and Society

- 4.1 All commercial communications shall be prepared with a sense of responsibility both to the individual and to society and shall not prejudice the interests of either. All commercial communications shall be legal, honest, decent and truthful.
- 4.2 All commercial communications shall comply with applicable Republic of Kosovo legislations.
- 4.3 Commercial communications shall not contain any element of spoken or visual presentation which misleads or is likely to mislead, either directly or by implication,

by act or omission, with regard to the merits of the product or service being promoted or its suitability for the purpose recommended.

4.4 Commercial communications shall not omit relevant information in a manner that, in the result, is misleading or is likely to mislead. This means that all pertinent details of an offer shall be stated in a clear and understandable manner.

4.5 Commercial communications and advertising shall be truthful, avoid distorting facts and misleading the public by means of implications by false statements, as to:

- a) the character of the merchandise, i.e. its utility, materials, ingredients, origin etc.
- b) the price of the merchandise, its value, its suitability or terms of purchase.
- c) the services accompanying purchase, including delivery, exchange, return, repair, upkeep. etc.
- d) personal recommendations of the article or service.
- e) the quality or the value of competing goods or trustworthiness of statement made by others.

5. OFFENCE, HARM AND RESPECT OF HUMAN DIGNITY

5.1 Commercial communications shall not prejudice human dignity, cause harm or serious or widespread offence.

5.2 Commercial communications shall not support or condone discrimination against any person or section of the community, in particular on the basis of age, gender, marital status, ethnic origin, nationality, sexual orientation, disability, race or religion.

5.3 Commercial communications shall not be offensive to religious or political beliefs, or encourage behavior prejudicial to the protection of the environment or to health or safety.

5.4 Commercial communications must comply with all relevant aspects of European legislation and the European Convention on Human Rights, relating to discrimination.

5.5 Individual living persons shall not normally be portrayed or referred to in commercial communications without their permission. However, references to living persons may normally be made in commercial communications for books, films, radio or television programs, newspapers, magazines etc., which feature the persons referred to in the communication, provided they are not offensive or inaccurate and compliant with applicable law on defamation and insult.

5.6 Commercial communications shall not be calculated to induce unwarranted fear on the part of the viewers or listeners.

5.7 Commercial communications shall not provoke actions to children which may cause psychological or physical detriment to children.

5.8 Audiovisual commercial communications shall comply with the following criteria for children's protection:

- a) They shall not directly exhort children to buy a product or a service by exploiting their inexperience or credulity;
- b) They shall not directly encourage children to persuade their parents or others to purchase the goods or services being advertised;
- c) They shall not exploit the special trust children place in parents, teachers or other persons;
- d) They shall not unreasonably show children in dangerous situations;
- e) they shall not induce consumption of foods and beverages containing nutrients and substances with a nutritional or physiological effect, in particular those such as fat, trans-fatty acids, salt/sodium and sugars, excessive intakes of which in the overall diet are not recommended.

5.9 Audiovisual commercial communications addressed for children or with children should avoid anything that can impair the children's interests.

6. PORNOGRAPHY

6.1 Commercial communications shall not feature products or services, including magazines, coming within the recognized character of, or specifically concerned with, pornography.

7. TRANSPARENCY

7.1 Commercial communications shall operate on a principle of transparency. Any commercial arrangement within programming shall be identifiable as such and the listener/viewer shall be made aware of such an arrangement.

7.2 Commercial communications shall be clearly separated from programme content.

7.3 Advertisers or sponsors shall not exercise any editorial influence over the content of programs.

8. PRICE CLAIMS AND COMPARISONS

8.1 Actual and comparative prices must be accurate at the time of broadcast and must not mislead by undue emphasis or distortion. Claims of "lowest prices", "unbeatable prices" or "you can't buy cheaper", or the like, must be supported by evidence from the retailer that his prices are indeed lower than his competitors.

9. RULES PERTAINING TO SPECIFIC PRODUCTS AND SERVICES

9.1 All forms of audiovisual commercial communications for cigarettes and other tobacco products shall not be allowed.

9.2 All audiovisual commercial communications for alcoholic beverages of all varieties shall comply with the following regulations:

- a) they shall not be addressed particularly to children and minors;
- b) no one associated with the consumption of alcoholic beverage in audiovisual commercial communications should be or seem to be a minor;
- c) they shall not link the consumption of alcohol to physical performance or driving;
- d) they shall not claim that alcohol has therapeutic qualities or that it is a stimulant, a sedative or a means of resolving personal problems;
- e) they shall not encourage immoderate consumption of alcohol;
- f) they shall not place undue emphasis on the alcoholic content of beverages.

9.3 Audiovisual commercial communications for medicines and medical treatment which are only available on medical prescription shall not be allowed.

9.4 Audiovisual commercial communications for all other medicines and medical treatment shall be clearly distinguishable as such, honest, truthful and subject to verification and shall comply with the requirement of protection of the individual from harm. The audiovisual commercial communications should contain an audio and visual warning and a call to contact a doctor or pharmacist.

9.5 Tele-shopping for medicines and medical treatment shall not be allowed.

10. AUDIOVISUAL COMMERCIAL COMMUNICATIONS WITH RELIGIOUS CONTENT

10.1 Any Media service providers who does not wish to carry religious audiovisual commercial communications advertising of any kind is entitled not to do so.

10.2 Media service providers must not unfairly discriminate against or in favour of any particular advertiser or religious organization.

10.3 All audiovisual commercial communications must clearly identify the advertiser or the religious organization/community on whose behalf the audiovisual commercial communications are being broadcast.

11. SUPERSTITION AND FEARS

11.1 Audiovisual commercial communications must not exploit superstitions or play upon fears to mislead the viewers/listeners.

12. PARANORMAL ABILITIES AND SIMILAR ACTIVITIES

12.1 Audiovisual commercial communication which in any way promotes paranormal abilities, such as exorcism, occultism or similar and all services which is thought to be offered by them are prohibited.

13. SCHEDULING OF AUDIOVISUAL COMMUNICATIONS

13.1 Television advertising and teleshopping shall be readily recognizable and distinguishable from editorial content. Without prejudice to the use of new advertising techniques, television advertising and teleshopping shall be kept quite distinct from other parts of the programme service by optical and/or acoustic and/or spatial means.

13.2 All commercial communications must respect the principles of fair competition generally accepted in business.

13.3 Indecent, vulgar, suggestive, repulsive or offensive themes or treatment shall be avoided in all advertisements.

13.4 Isolated advertising and teleshopping spots, other than in transmissions of sports events, shall remain the exception;

13.5 The transmission of films made for television (excluding series, serials and documentaries), cinematographic works and news programmes may be interrupted by advertising and/or teleshopping once for each scheduled period of at least 30 minutes.

13.6 The transmission of children's programmes may be interrupted by advertising and/or teleshopping once for each scheduled period of at least 30 minutes, provided the scheduled duration of the programme is greater than 30 minutes.

14. PROHIBITIONS TO AUDIOVISUAL COMMUNICATIONS

14.1 Any of the following of audiovisual commercial communications is prohibited:

- a) surreptitious audiovisual commercial communications;
- b) subliminal audiovisual commercial communications;
- c) misleading audiovisual commercial communications;

14.2 No advertising or teleshopping may be inserted during religious services.

14.3 No advertisement message shall in any way be presented as News.

14.4 Advertising shall not be inserted in any television broadcast of news and current affairs programmes, when their scheduled duration is less than 30 minutes.

14.5 No advertisement shall contain references, which are likely to lead the public to infer that the product advertised, or any of its ingredients, has some special or miraculous or super-natural property or quality, which is difficult of being proved.

14.6 Advertisements shall not contain disparaging or derogatory references to another product, service or person.

14.7 Advertisements shall not normally feature, visually or orally, persons regularly presenting news and current affairs programs.

15. ALLOWANCES FOR AUDIOVISUAL COMMERCIAL COMMUNICATIONS AND TEleshopping

15.1 The total allowance for audiovisual commercial communications spots on public service channels must not exceed a daily average of 6 minutes per hour for every hour of transmission time across the broadcasting day.

15.2 Advertising and teleshopping spots on Public Service channels can not be broadcasted between 7 AM to 9 AM and 6 PM to 11 PM.

15.3 The total allowance for audiovisual commercial communications spots on private channels must not exceed a daily average of 12 minutes an hour for every hour of transmission time across the broadcasting day.

16. RULES PERTAINING TO TEleshopping

16.1 The general principles and regulations applying to all commercial communications and, where relevant, the general regulations pertaining to advertising shall apply to teleshopping.

16.2 Teleshopping shall not exhort children to contract for the sale or rental of products and services.

16.3 Teleshopping windows shall be clearly identified as such by optical and acoustic means and shall be of a minimum uninterrupted duration of 15 minutes.

16.4 On public service channels and private media service providers, time used for teleshopping shall not be counted as part of the audiovisual commercial communications spot allowance.

16.5 On public service channels and private media service providers, time used for teleshopping shall not exceed 90 minutes of the daily broadcasting time.

16.6 Chapter 13, 14 as well as Article 16.3 of this regulation shall not apply to the channels exclusively devoted to advertising and teleshopping.

17. RULES PERTAINING TO SPONSORSHIP

17.1 The content and program scheduling shall in no circumstances be influenced by sponsors in such a way to affect the responsibility and editorial independence of the media service provider.

17.2 Sponsorship may occur through the provision of direct funding by the sponsor or through investment in kind through the provision of facilities or services from the sponsor (e.g. in outside broadcasts) or through the supply of products and services including prizes.

17.3 Audiovisual media services or programs that are sponsored shall not directly encourage the purchase or rental of goods or services, in particular by making special promotional references to those goods or services.

17.4 Sponsored programs shall be clearly identified as such by the name, logo and /or any other symbol of the sponsor such as a reference to its product(s) or service(s) or a distinctive sign thereof in an appropriate way for programs at the beginning, during and/or the end of the program(s).

17.5 Sponsorship shall not constitute commercial communication as defined in this Regulation. Sponsorship announcements shall not make promotional references to the products and/or services of the sponsor which contain advertising copy, product descriptions, endorsements, attributes or a call to action. Generic branding slogans are permitted.

17.6 Program material shall not be sponsored by a sponsor(s) involved in the manufacture, supply or provision of a product or service that is not permitted to be advertised under this Regulation.

17.7 The sponsorship of audiovisual media services or programs by undertakings whose activities include the manufacture or sale of medical products and medical treatment may promote the name or image of the undertaking, but shall not promote specific medical product or medical treatment available on prescription.

17.8 News, current affairs and religious programs shall not be sponsored on radio and television.

18. RULES PERTAINING TO SPECIFIC ADVERTISING TECHNIQUES

Split-Screen Advertising

18.1 The general principles and regulations applying to all commercial communications and, where relevant, the general regulations pertaining to all advertising shall apply to split-screen advertising.

18.2 Split-screen advertising is permitted during natural breaks and during end credits. Split-screen advertising may also be inserted during long-form sports programmes which do not have a natural break.

18.3 Split-screen advertising shall not exceed 50% of screen space and only one splitscreen advertisement shall appear at any given time.

18.4 Split-screen advertising is not permitted in news or current affairs programmes, feature films or broadcasts of religious services.

19. PRODUCT PLACEMENT

19.1 Product Placement shall be prohibited on public service channels.

19.2 Product placement shall be admissible on private channels in:

- a) cinematographic works, films and series made for audiovisual media
- b) light entertainment and sports programs; or
- c) in cases where no payment is made but certain goods or services are merely provided free of charge, such as production props and prizes, with the view to their inclusion in a program.

19.3 Product Placement is prohibited to apply on programs for children.

19.4 The programs that contain product placement shall meet all of the following requirements:

- (a) their content and, in the case of media service providers, their scheduling, shall in no circumstances be influenced in such a way as to affect the responsibility and editorial independence of media service provider;
- (b) they shall not directly encourage the purchase or rental of goods or services, in particular by making special promotional references to those good or services;
- (c) they shall not give undue prominence to the product in question; it is prohibited to refer to the product verbally (acoustically) and to show it visually as a separate product within the context of the program.
- (d) viewers shall be informed of the existence of product placement. Programs containing product placement shall be appropriately identified at the start and the end of the programme, and when a programme resumes after and advertising break, in order to avoid any confusion on the part of the viewer.

19.6 In any case programs must not contain product placement of:

- a) tobacco products or cigarettes or product placement from undertakings whose principal activity is the manufacture or sale of cigarettes and other tobacco products; or
- b) specific medicinal products or medical treatments available only on prescription

20. SANCTIONS

20.1 Non compliance with this regulation shall result with the application of sanctions as foreseen in the IMC Law.

21. ENTRY INTO FORCE

21.1 This regulation shall enter into force within three months from the day of its signature. This regulation invalidates Rule CIMC 2007/06.

Argentina Grazhdani
Chair of IMC Council