

G-Regs™

Belgium – Brussels-Capital AVMS Act



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| Title | <p>Act of 5 May 2017 regarding audiovisual media services in the bilingual Brussels-Capital Region</p> <p><i>Loi relative aux services de médias audiovisuels en région bilingue de Bruxelles-Capitale / Wet betreffende de audiovisuele mediadiensten in het tweetalig gebied Brussel-Hoofdstad</i></p> |
| Title of relevant sections | <ul style="list-style-type: none"> - CHAPTER 1: General Provisions and Definitions (Arts 1-3) - CHAPTER 2: Audiovisual Media Services <ul style="list-style-type: none"> • Section 1: Provisions applicable to all providers of audiovisual media services (Arts 4 – 16) • Section 2: Specific provisions for (TV) broadcasters (Arts 17 - 26) • Section 3: Specific provisions for audiovisual media service providers on demand (Arts. 27 – 29) |
| Chapter 1 | General Provisions and Definitions |
| Article 3 | <p>In this Act, the following terms shall apply:</p> <ol style="list-style-type: none"> 5. 'audiovisual media service': a service under the editorial responsibility of an audiovisual media service provider whose principal purpose is the provision of programmes via electronic communications networks, in order to inform, entertain and educate the general public or for the purpose of providing audiovisual commercial communications; 6. 'on-demand audiovisual media service provider': an audiovisual media service provided by a media service provider for the viewing of programmes at the moment chosen by the user and at his individual request on the basis of a catalogue of programmes selected by the media service provider; 8. 'audiovisual media service provider': 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; 9. 'broadcaster': an audiovisual media service provider of television broadcasts; 10. 'television broadcasting' or 'television broadcast': an audiovisual media service provided by a media service provider for simultaneous viewing of programmes on the basis of a programme schedule; 12. 'audiovisual commercial communication': 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: television advertising, sponsorship, teleshopping and product placement; 13. 'surreptitious audiovisual commercial communication': 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; |

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14. 'sponsorship': any contribution made by public or private undertakings or natural persons not engaged in providing audiovisual media services or in the production of audiovisual works, to the financing of audiovisual media services or programmes with a view to promoting their name, trade mark, image, activities or products;
 15. 'product placement': 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 a programme, in return for payment or for similar consideration;
 17. 'television advertising': any form of announcement inserted in an audiovisual media service whether in return for payment or for similar consideration by a public or private undertaking or natural person in connection with a trade, business, craft or profession in order to promote the supply of goods or services, including immovable property, rights and obligations, in return for payment;
 18. 'teleshopping': 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;
 19. 'isolated spot': a television advertising or teleshopping spot that is neither preceded nor followed by any other television advertising or teleshopping spot.
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Chapter 2

Audiovisual Media Services

Section 1

Provisions applicable to all providers of audiovisual media services

Article 14

§1. Audiovisual Commercial Communications:

1. must be readily/ easily recognisable as such;
2. must not use subliminal techniques;
3. must not offend human dignity;
4. must not include or promote any discrimination based on sex, racial or ethnic origin, nationality, religion or belief, age or sexual orientation;
5. must not encourage conduct/ behaviour detrimental/ harmful to health and safety;
6. must not encourage behaviour seriously harmful to the protection of the environment;
7. must not cause physical or moral detriment/ harm to minors.

The following constitutes harm within the meaning of point 7:

- a) direct exhortation to buy or hire a product or service by exploiting the inexperience or credulity of the minor;
- b) the incentive to buy or hire a product or service by persuading the parents of the minor or third parties;
- c) exploiting the special trust minors place in parents, teachers or other persons;
- d) unreasonable depiction of minors in dangerous situations.

§2. The following audiovisual commercial communications are prohibited:

1. surreptitious advertising;
 2. for cigarettes and other tobacco products;
 3. for medicinal products and medical treatments available only on prescription in Belgium;
 4. for alcoholic beverages aimed specifically at minors or encouraging their immoderate consumption.
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Article 15

§1. Audiovisual media services or programmes that are sponsored must meet the following requirements:

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1. their content and their scheduling shall in no circumstances be influenced in such a way as to affect the responsibility and editorial independence of the audiovisual media service provider;
 2. they shall not directly encourage the purchase or rental of goods or services, in particular by making special promotional references to those goods or services;
 3. viewers shall be clearly informed of the existence of a sponsorship agreement. Sponsored programmes shall be clearly identified as such by the name, logo and/or any other symbol of the sponsor, for example by means of a distinctive sign, in an appropriate way at the beginning, during and/or at the end of the programme.

§2. Sponsorship is prohibited for:

1. TV news, current affairs programmes, and children's programmes;
2. audiovisual media services or programmes by undertakings whose principal activity is the manufacture or sale of cigarettes and other tobacco products;
3. audiovisual media services or programmes by undertakings whose activities include the manufacture or sale of medicinal products and treatments when promoting specific medicinal products or medical treatments available only on prescription in Belgium.

Article 16

§1. Product placement is prohibited for:

1. tobacco and cigarettes;
2. products from undertakings whose principal activity is the manufacture or sale of cigarettes and other tobacco products;
3. specific medicinal products or medical treatments available only on prescription in Belgium.

§2. Without prejudice to para. 1, product placement is only permitted:

1. in cinematographic works, films and series made for audiovisual media services, sports programmes and light entertainment programmes;
2. where there is no payment but only the provision of certain goods or services free of charge, such as production props and prizes, with a view to their inclusion in a programme.

§3. Programmes that contain product placement shall meet at least all of the following requirements:

1. the content and the scheduling shall in no circumstances be influenced in such a way as to affect the responsibility and editorial independence of the audiovisual media service provider;
2. they shall not directly encourage the purchase or rental of goods or services, in particular by making special promotional references to those goods or services;
3. they shall not give undue prominence to the product in question;
4. viewers shall be clearly informed of the existence of product placement. Programmes containing product placement shall be identified at the start and the end of the programme, and when a programme resumes after an advertising break by the presence at the bottom of the screen of a round, grey-coloured pictogram containing a white "PP" imprint, lasting for 10 seconds, in order to avoid any confusion on the part of the viewer. This condition applies only to programmes produced or commissioned by the audiovisual media service provider.

§4. This section applies only to programmes produced after December 19, 2009.

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| Section 2 | Specific provisions for (TV) broadcasters (i.e. audiovisual media service providers of television broadcasts) |
| Article 22 | <p>§1. Television advertising shall be readily/ clearly identifiable/ recognisable and distinguished from editorial content by optical, acoustic or spatial means.</p> <p>§2. Teleshopping windows shall be clearly identified and distinguished from editorial content by optical and acoustic means. They shall have a minimum uninterrupted duration of 15 minutes.</p> <p>§3. The proportion of television advertising spots and teleshopping spots within a given clock hour shall not exceed 20%. Each TV advertising spot has a maximum duration of twelve minutes.</p> <p>§4. Para. 3 shall not apply to announcements made by the broadcaster in connection with its own programmes and ancillary products directly derived from those programmes, sponsorship announcements and product placements.</p> <p>§5. Isolated advertising and teleshopping spots, other than in transmissions of sports events, shall remain the exception.</p> <p>§6. Paragraph 3 and Articles 21 and 23 (3) shall not apply to television channels exclusively devoted to advertising and teleshopping as well as to television channels exclusively devoted to self-promotion.</p> |
| Article 23 | <p>§1. Where television advertising or teleshopping is inserted during programmes, the integrity of the programmes and the rights of the right holders shall not be prejudiced, taking into account natural breaks in and the duration and the nature of the programme concerned.</p> <p>§2. Television advertising or teleshopping shall not interrupt the transmission of children's programmes and religious services.</p> <p>§3. The transmission of films made for television (excluding series, serials and documentaries), cinematographic works and news programmes may be interrupted by television advertising or teleshopping once for each scheduled period of at least 30 minutes.</p> |
| Article 24 | Teleshopping for medical treatments or medicinal products which are subject to a marketing authorization is prohibited. |
| Article 25 | <p>Television advertising and teleshopping for alcoholic beverages:</p> <ol style="list-style-type: none">1. may not be aimed specifically at minors or, in particular, depict minors consuming these beverages;2. shall not link the consumption of alcohol to enhanced physical performance or to driving;3. shall not create the impression that the consumption of alcohol contributes towards social or sexual success;4. shall not claim that alcohol has therapeutic qualities or that it is a stimulant, a sedative or a means of resolving personal conflicts;5. shall not encourage immoderate consumption of alcohol or present abstinence or moderation in a negative light;6. shall not place emphasis on high alcoholic content as being a positive quality of the beverages. |
