

Belgium – CSA French Media Decree



Full title: French Media Decree on Audiovisual Media Services (co-ordinated by Conseil Supérieur de l'Audiovisuel ¹(CSA) - the media regulator for French-speaking Belgium).

The original decree: Decree of 27th February 2003 on broadcasting. A coordinated text was then established²: Decree of 26 March 2009 of the Government of the French Community coordinating the decree on audiovisual media services (which accounted for the transposition of the AVMS Directive)

Title of relevant section:

- Title I: General Provisions: reference to:
 - Chapter I – Definitions; Art. 1;
 - Chapter II – Scope; Art. 2
- Title II: Programmes: references to:
 - Chapter I – Scope; Article 8
 - Chapter 3 – Commercial Communication
 - Section I – General Rules for linear and non-linear (Arts 10-17)
 - Section II - Specific rules for linear and non-linear television services (Arts 18-21)
 - Section III – Special rules for linear and non-linear audio services (Arts 22-23)
 - Section IV - Rules of sponsorship in the linear and non-linear services (Arts 24-27)
 - Section V - Rules relating to new forms of commercial communication in linear and nonlinear services (Arts 28-30)
 - Section VI – Specific rules for teleshopping in linear or non-linear services programs (Arts 31-32)

Chapter I Definitions

Article 1:

7°: Commercial communication: any form of message inserted into an audiovisual media service which is designed to promote or sell, directly or indirectly, the goods, services or image of a natural or legal person who carries out an economic activity. These messages are inserted into an audiovisual media service for payment or for similar consideration or for self-promotional purposes. Commercial communication includes interactive commercial communication, commercial communication by split screen, advertising, virtual advertising, sponsorship, teleshopping and self-promotion and product placement

8°: Interactive commercial communication: a commercial communication inserted into an audiovisual media service which facilitates via a return path (definition in link) a new promotional or commercial advertising environment.

9°: Commercial communication by split-screen: any commercial communication

¹ Higher Audiovisual Council

² on the basis of Art. 163 of the Decree of 5th Feb 2009 modifying the decree of February 27th, 2003 on broadcasting...(Refer to Decree of 26 March 2009 – which references Art. 163 from Decree of 5th Feb 2009: [FR](#))

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	<p>broadcast in parallel to (or alongside) the broadcast of a television programme by spatial division of the screen;</p> <p>38°: Virtual Advertising: advertising embedded in an image or replacing current advertising at the place of an event (i.e. Sports matches) by means of an electronic imaging system modifying the broadcast signal. (<i>i.e. it is the use of digital technology to insert virtual advertising images into a live or pre-recorded television show, often in Sports events</i>)</p> <p>48°: Audiovisual media service: a service under the editorial responsibility of a broadcaster, whose main purpose is communication to the public of television or audio programmes by electronic communications networks, in order to inform, entertain and educate or in order to ensure commercial communication. Apart from the services corresponding to this definition, teletext is also considered an audiovisual media service being subject only to Articles 9 to 15, 31, 32 and 41.</p> <p>49°: Linear service: an audiovisual media service provided where programmes are to be received simultaneously by all of the public or a section of it at the time decided by the audiovisual media service provider on the basis of a programme schedule developed by him (<i>includes conventional television programmes, the Internet and mobile telephony</i>)</p> <p>50°: Non-linear service: means an audiovisual media service whose programmes are to be received at the application and at the time chosen by the user on the basis of a range of programmes prepared by the audiovisual media services provider (<i>i.e. VOD - pull content</i>)</p>
Chapter II	SCOPE
Article 2	§ 1. Without prejudice to specific provisions applicable to the RTBF, this Decree shall apply to any activity on audiovisual media services
TITLE II	PROGRAMMES
Chapter I	SCOPE
Article 8	Subject to the provisions of this Title are all audiovisual media services broadcast by the RTBF and any audiovisual media service from a broadcaster within the competence of the French Community.
Chapter III	COMMERCIAL COMMUNICATION
Section I	General rules for linear and non-linear services
Article 10	The commercial communication must not run contrary to the laws, decrees, ordinances, or regulations of the advisory committee of the Audiovisual Council (CSA) referred to in Article 135, § 1(5) ³ and approved by the Government, which regulate advertising in general or advertising for certain products or services.
Article 11	The commercial communication must not: <ol style="list-style-type: none"> 1. undermine respect for human dignity and respect for equality between women

³ The advisory committee is responsible for: preparing (establishment) and maintaining regulations on commercial communication, respect of human dignity, protection of minors, the accessibility of programmes for people with sensory disabilities, dissemination brief extracts from public events and information policy in election periods. These regulations are submitted to the Government for approval in order to be legally binding.

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and men⁴;

2. include or promote any discrimination on the grounds of presumed race, ethnic origin, sex, sexual orientation, nationality, disability or age;
3. be offensive to religious, philosophical or political beliefs;
4. encourage behaviour prejudicial to health or safety, particularly by enhancing violent behavior;
5. encourage behaviour grossly prejudicial to the protection of the environment;
6. contravene the rules on literary, artistic, and industrial property and the right of personal portrayal (image of a person).
7. contain references to a person or a specific institution, of statements or declarations from them, without their permission or that of their dependents

Article 12

§ 1. The commercial communication must not be about joining a religious or philosophical belief.

§ 2. Commercial communication cannot relate to goods or services that the Government designates by law, except under the conditions established by it, nor be contrary to the laws, decrees and European directives on the advertising of certain goods or services.

Article 13

The commercial communication must not cause physical or moral detriment to minors and must therefore meet the following criteria for their protection:

1. it must not directly encourage minors to buy or hire a product or service by exploiting their inexperience or credulity
2. it must not directly encourage them to persuade their parents or others to purchase the goods or services being advertised
3. it must not exploit the special trust minors place in parents, teachers or other persons
4. it must not unreasonably show minors in dangerous situations.

Article 14

§ 1. The commercial communication must be readily recognizable as such. It must be clearly separated from other programmes or programme sequences, clearly identifiable by optical or acoustic means.

§ 2. The commercial communication must not use subliminal techniques.

§ 3. The volume of commercial communication spots, as well as the announcements that precede and follow them, must not intentionally fluctuate, by whatever means, with respect to the rest of the programmes.

§ 4. Any direct or indirect reference in the commercial communication of the programme or programme sequence likely to create confusion as to the commercial nature of the communication is prohibited.

§ 5. The second sentence of § 1 is not applicable to sponsorship, virtual advertising and product placement. § 4 is not applicable to sponsorship and self-promotion

§ 6. Surreptitious commercial communications are prohibited.

Article 15

Except with regard to sponsorship, product placement and self-promotion, broadcasters may restrict the commercial communication to goods or services of one business or financial group or grant exclusivity for advertising of a specific product or a specific service.

⁴ Added by the decree of 2 June 2016 amending the coordinated decree of 26 March 2009 on Audiovisual Media Services with a view to reinforcing the attention to equality between women and men.

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Article 16	Broadcasters who disseminate advertising of medicines and medical treatments or advertising for alcoholic beverages must make freely available to the Government on terms agreed after consultation with the broadcasters concerned, advertising space for the distribution of educational campaigns for health, equal to those devoted to advertising of such products or services.
Article 17	For programmes and programme sequences with games and competitions which give out prizes in the form of products or services to participants or viewers, these products or services may appear on the screen or be quoted in the relevant programme, provided their presentation is accompanied by neither an argument or development designed to encourage the consumption or direct purchase of such products or services.
Section II	Specific rules for linear and non-linear television services
Article 18	<p>§ 1. Without prejudice to the conditions laid down in § 2 and § 3, advertising, teleshopping and self-promotion can be inserted into programmes on the condition that they do not undermine the integrity and value of these programmes taking into account their natural breaks as well as their duration and their nature, and so that it is not prejudicial to the rights of the right holders.</p> <p>§ 2. The broadcasting of cinematographic works of fiction, TV fiction (excluding series and serials – i.e. soap operas), of news programmes (cultural affairs), documentaries, religious programmes and programmes of non-denominational (non-sectarian) ethics, may be interrupted by advertising, teleshopping and self-promotion once for each period of at least thirty minutes.</p> <p>However, in the services provided by the RTBF and local television stations, advertising and self-promotion cannot interrupt cinematographic works of fiction, nor a work of which the author wants to preserve the integrity, or a sequence of a programme.</p> <p>By way of derogation from the preceding subparagraph, until 31 December 2014, advertising and self-promotion can interrupt the cinematographic works of fiction broadcast in the services produced/provided by the RTBF⁵</p> <p>However, in the services provided by the RTBF and local television stations, advertising and self-promotion cannot interrupt a work of which the author wants to preserve the integrity, nor a sequence of a programme. This prohibition also extends to cinematographic works of fiction broadcast by local TV stations⁶.</p> <p>§ 3. Advertising, teleshopping and self-promotion cannot be inserted into TV news, in programmes for children, in broadcasts of religious and secular ceremonies.</p>
Article 19	Isolated advertising spots and self-promotion shall remain the exception, except during the broadcast of sports events. Isolated spots of teleshopping are prohibited.
Article 20	<p>§ 1. For linear television services, the maximum time of advertising and teleshopping spots within a given clock hour period is set by the Government.</p> <p>It cannot exceed 20% of this period.</p>

⁵ Please note – in Art. 73(d) RTBF management contract (as amended) 2013-2017, the Government has voiced its intention to abolish the ban on inserting a commercial break with a cinematographic work of fiction by submitting a draft decree before 31st Dec 2014. This has not been carried out as yet. The intention as stated in Art. 73(d) was to take out the words “cinematographic works of fiction” from Art. 18(2), para 2 and repeal para. 3. **UPDATE:** This has been carried out via Art. 10 Decree of 29 Jan 2015 [FR](#).

⁶ Amended by Art. 10 of Decree of 29 Jan 2015 [FR](#)

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	<p>§ 2. For non-linear television services, the maximum time of advertising and teleshopping spots inserted in a programme is set by the Government.</p> <p>It cannot exceed 20% of the duration of this programme.</p> <p>§ 3. Virtual advertising and product placement are not covered by §1 and §2.</p>
Article 21	<p>§ 1. Product placement is prohibited.</p> <p>§ 2. By derogation from §1, product placement is permissible:</p> <p>1 ° in the cinematographic works of fiction and television fiction as well as in sports and entertainment programmes, or</p> <p>2 ° when there is no payment but only the provision, free of charge, of certain assets or services such as production props and prizes, with a view to their inclusion in a programme.</p> <p>These exemptions do not apply to children's programmes or news programmes.</p> <p>Programmes that contain product placement must meet all of the following conditions:</p> <p>1 ° Their content, and, in the case of linear services, their programming/ scheduling shall in no case be influenced so as to affect the responsibility and editorial independence of the broadcaster;</p> <p>2 ° They do not directly encourage the purchase or rental of goods or services, including by making specific promotional references to those goods or services;</p> <p>3 ° They don't place undue prominence on the product in question;</p> <p>4 ° They are clearly identified as containing product placement by visual means and acoustic means at the beginning and at the end of their dissemination, as well as when they resume after a commercial break, so as to avoid any confusion on the part of the viewer. This latter requirement/condition applies only to programmes that have been produced or commissioned by the television service or by a company which is directly or indirectly its shareholder or in which he is directly or indirectly a shareholder.</p> <p>§ 3. The provisions of § 1 and § 2 apply to programmes produced after 19 December 2009.</p>
Section III	Special rules for linear and non-linear audio services
Article 22	<p>§ 1. For the linear audio services, the maximum advertising time and teleshopping to the Interior of a given clock hour period is set by the Government.</p> <p>It cannot exceed 20% of this period.</p> <p>§ 2. For non-linear audio services, the maximum advertising and teleshopping time inserted into a programme is set by the Government.</p> <p>It cannot exceed 20% of the duration of this programme.</p>
Article 23	<p>Advertising, teleshopping and self-promotion cannot interrupt the lyrical or dramatic art programmes (opera), except during natural breaks.</p> <p>Advertising, teleshopping and self-promotion cannot be inserted in news broadcasts, in programmes for children, in broadcasts of religious and secular ceremonies.</p>
Section IV	Rules of sponsorship in the linear and non-linear services
Article 24	Natural or legal persons and companies may sponsor programmes and sequences of the

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same programme when the following conditions are met:

1 ° the content and, in the case of a linear service, the programming/ scheduling of a sponsored programme cannot be influenced by the sponsor so as to affect the responsibility and editorial independence of the broadcaster;

2 ° programmes and sponsored sequences must be clearly identified by an announcement including the name, brand, logo or any other symbol of the sponsor, for example by means of a reference to its products or services or a distinctive sign, in a manner appropriate to the programme, before the credits start or after the end credits of a programme, or at the beginning or at the end of a clearly identifiable sequence of the programme, including during the commercial break of TV and cinematographic works of fiction, as well as in the trailers that promote the programme;

3 ° sponsored programmes must not encourage the purchase or rental of the products or services of the sponsor or a third party, in particular by making specific promotional references to those goods or services;

4 ° The length of time of the sponsorship announcement may not exceed ten seconds with a maximum of six announcements per hour of a sponsored programme;

5 ° the programmes may not be sponsored by people of legal entities or companies whose principal activity is the manufacture or sale of products or the provision of services whose advertising is prohibited under articles 10 and 12 of this Decree and its implementing decrees.

6 ° Spoken and Televised News and current affairs programmes cannot be sponsored;

7 ° In respect of the RTBF and local television, children's programmes cannot be sponsored;

8 ° not having for all the programmes in one single day, one single sponsor i.e. *a single sponsor cannot sponsor all programmes broadcast during the course of a single day*

Article 25

In television services, during the live broadcast or recorded/pre-recorded transmission of sports events/ competitions, occasional references to sponsorship can occur even during the coverage and particularly during slow motion sequences and natural pauses/breaks, provided they do not interfere with the visibility of the sporting action.

The duration of each reference/ endorsement cannot exceed ten seconds with a maximum of six appearances per hour of the sponsored programme.

Article 26

In television services, mention of the name, the company name or reference to distinctive sounds and visuals signs associated with the service provider that deliver data processing and timekeeping in programmes, may appear on the screen or be cited during the programme, whenever such data are presented.

Article 27

The Government may establish additional rules, particularly concerning the duration of sponsorship contracts and sponsorship of game programmes.

Section V

Rules relating to new forms of commercial communication in linear and nonlinear services

Article 28

When television services use interactive commercial communication, the user must be notified of the transition to interactive advertising environment, promotional or commercial by appropriate acoustic or optical means to enable the user to act freely and knowingly.

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The Government may limit the number and duration of visibility of interactive commercial communication messages.

Article 29

Virtual advertising is prohibited except on the occasion of sports events/ competitions broadcast live or pre-recorded, subject to the following conditions:

1 ° Virtual advertising must not impair the quality of the programme, or transform or impede the perception of the site of sporting competition.

2 ° Virtual advertising may be inserted only on surfaces of the site which are usually used for advertising;

3 ° Virtual advertising may be inserted on the field of play / playing surface only outside playing times and only if there are no players/ competitors on the field of play.

4 ° No virtual advertising may appear on persons or on their equipment;

5 ° Virtual advertising must not be inserted in such a way that it obscures, even partially, the television audience's view of the action/ performance;

6 ° virtual advertising must comply with the general appearance of the site and should not be more prominent than the visible advertising on the site;

7 ° No virtual advertising may be specifically inserted in items for television news bulletins.

8 ° No virtual advertising may be inserted without the consent of the broadcasting rights holder of the television services.

Television services inform viewers of the use of virtual advertising, appropriately, at least at the beginning and end of the programme in which this advertisement is inserted.

The Government may limit the number and duration of visibility of virtual advertising.

Article 30

Commercial communication by split-screen is allowed subject to the following conditions:

1 ° The commercial communication by split-screen may only comprise/include advertising and self-promotion;

2 ° a split screen commercial communication shall be prohibited in the news, news programmes, broadcasts of religious and secular ceremonies, religious programmes and non-denominational ethics, and programmes for children;

3 ° Commercial communication split screen can only be inserted:

- During the end credits of programmes other than those referred to in 2 and especially during the end credits of audiovisual works;
- During the live or delayed sports competitions at the time of natural breaks of these competitions;
- During the entertainment programmes knowing that a period of 20 minutes at least must elapse between each insertion;

4 ° The commercial communication by split-screen cannot affect the integrity and value of the programme in which it is inserted, or prejudice the rights of the right holders;

5 ° The commercial communication by split screen must be easily identifiable as such by a clear spatial separation with the programme, courtesy of appropriate visual means;

6 ° The space allocated to the commercial communication by split-screen must remain reasonable and must allow the viewer to continue to monitor the programme;

The duration of advertising in split screens is fully recognised in time for advertising and teleshopping referred to in article 20, §1 or §2.

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	The Government may limit the number and duration of visibility of commercial communication via split-screen.
Section VI	Specific rules for teleshopping in linear or non-linear services programs
Article 31	<p>§ 1. Television production services, with the exception of local television and RTBF, may broadcast teleshopping programmes.</p> <p>Any editor/producer who is seeking to broadcast teleshopping programmes must make a prior declaration/statement to the "Collège d'autorisation et de contrôle", the licensing and Supervision board of the CSA of the French speaking community in Belgium.</p> <p>The statement includes the following elements:</p> <ol style="list-style-type: none">1. For linear services, the duration of the daily broadcasting of teleshopping by identifying what proportion is devoted to reruns;2. The type of products and services;3. The date provided for the launch of the broadcasting of teleshopping programmes. <p>Any modification of these elements must be notified in advance to the "Collège d'autorisation et de contrôle".</p> <p>§ 2. TV services ensure the full responsibility for the broadcast of tele-shopping programmes and compliance with the conditions laid down by this Decree and its implementation orders.</p> <p>§ 3. Tele-shopping programmes must be clearly announced as such by optical and acoustic means.</p> <p>They may not be interrupted by advertising or sponsorship. The minimum duration of a teleshopping programme is set at 15 minutes.</p> <p>§ 4. For linear services, the Government may prohibit the broadcasting of teleshopping programmes during certain hours and some days.</p> <p>§ 5. Each year, TV services which broadcast teleshopping programmes send to the College authorization and control an annual report on the activity of teleshopping which contains the information referred to in article 51, §4.</p> <p>§ 6. For linear services, the broadcast of tele-shopping time is fixed by the Government, with a maximum of three hours a day, including reruns.</p>
Article 32	<p>§ 1. Teleshopping shall be presented so as to avoid confusion with other programmes.</p> <p>§ 2. Teleshopping must not relate to goods or services whose advertising and/or sale are subject to a ban. Each offer must distinctly mention the cost, taxes, communication techniques used to obtain further information on it remotely and to pass command. This reference is optional when the cost corresponds to the basic cost applicable to the means of communication used remotely.</p> <p>§ 3. Teleshopping shall not encourage minors to contract for the sale or rental of goods and services.</p> <p>§ 4. Teleshopping programmes cannot refer directly or indirectly to an identified or identifiable point of sale.</p>
