

NOTE: Article 9 of the AVMS Directive re commercial communications, as amended by Directive 2018/1808. Taken from:

<https://eur-lex.europa.eu/eli/dir/2018/1808/oj>

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## Article 9

1. Member States shall ensure that audiovisual commercial communications provided by media service providers under their jurisdiction comply with the following requirements:

- (a) Audiovisual commercial communications shall be readily recognisable as such. Surreptitious audiovisual commercial communication shall be prohibited;
- (b) Audiovisual commercial communications shall not use subliminal techniques;
- (c) Audiovisual commercial communications shall not:
  - i. Prejudice respect for human dignity;
  - ii. Include or promote any discrimination based on sex, racial or ethnic origin, nationality, religion or belief, disability, age or sexual orientation;
  - iii. Encourage behaviour prejudicial to health or safety;
  - iv. Encourage behaviour grossly prejudicial to the protection of the environment;
- (d) All forms of audiovisual commercial communications for cigarettes and other tobacco products **as well as for electronic cigarettes and refill containers** shall be prohibited;
- (e) Audiovisual commercial communications for alcoholic beverages shall not be aimed specifically at minors and shall not encourage immoderate consumption of such beverages;
- (f) Audiovisual commercial communication for medicinal products and medical treatment available only on prescription in the Member State within whose jurisdiction the media service provider falls shall be prohibited;
- (g) Audiovisual commercial communications shall not cause physical or moral detriment to minors. Therefore they shall not directly exhort minors to buy or hire a product or service by exploiting their inexperience or credulity, directly encourage them to persuade their parents or others to purchase the goods or services being advertised, exploit the special trust minors place in parents, teachers or other persons, or unreasonably show minors in dangerous situations.

2. **Audiovisual commercial communications for alcoholic beverages in on-demand audiovisual media services, with the exception of sponsorship and product placement, shall comply with the criteria set out in Article 22. (see below)**

3. **Member States shall encourage the use of co-regulation and the fostering of self-regulation through codes of conduct as provided for in Article 4a (1) regarding inappropriate audiovisual commercial communications for alcoholic beverages. Those codes shall aim to effectively reduce the exposure of minors to audiovisual commercial communications for alcoholic beverages.**

4 **Member States ~~and the Commission shall encourage media service providers to develop codes of conduct~~ shall encourage the use of co-regulation and the fostering of self-regulation through codes of conduct as provided for in Article 4a (1) regarding inappropriate audiovisual commercial communications, accompanying or included in children's programmes, for foods and beverages containing nutrients and substances with a nutritional or physiological effect, in particular ~~those such as~~ fat, trans-fatty acids, salt ~~or~~ sodium and sugars, of which excessive intakes ~~of which~~ in the overall diet are not recommended.**

**Those codes shall aim to effectively reduce the exposure of children to audiovisual commercial communications for such foods and beverages. They shall aim to provide that such audiovisual commercial communications do not emphasise the positive quality of the nutritional aspects of such foods and beverages.**

5. **Member States and the Commission may foster self-regulation, for the purposes of this Article, through Union codes of conduct as referred to in Article 4a (2).;**

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Article 22

Television advertising and teleshopping for alcoholic beverages shall comply with the following criteria:

- (a) it may not be aimed specifically at minors or, in particular, depict minors consuming these beverages;
- (b) it shall not link the consumption of alcohol to enhanced physical performance or to driving;
- (c) it shall not create the impression that the consumption of alcohol contributes towards social or sexual success;
- (d) it shall not claim that alcohol has therapeutic qualities or that it is a stimulant, a sedative or a means of resolving personal conflicts;
- (e) it shall not encourage immoderate consumption of alcohol or present abstinence or moderation in a negative light;
- (f) it shall not place emphasis on high alcoholic content as being a positive quality of the beverages.