
CONTEXT

This new version of a key ARPP code, formerly the 'Recommandation Communication Publicitaire Digitale (the new version is changed to the French 'Numérique') was announced in December 2021 and is in force 1st January, 2022. A number of changes have been made versus the V4 version; these are explained [here](#) in the ARPP Press Release, an English translation of which is [here](#).

NOTES

This is an unofficial and non-binding GRS translation. Where the clauses from V4 remain, which is many of them, we have used the existing ARPP translation, albeit in some cases we have 'nuanced' some expressions. Where there are any uncertainties, from any source, we show the original text. The applicable provisions are anyway those in the original French, as is normally the case.

PREAMBLE

Digital advertising communication must respect ethical rules based on the principles of the International Chamber of Commerce (ICC). *

The purpose of the self-regulatory rules set out below is to help to create a digital environment in which consumers can have full confidence and enjoy the new opportunities offered by digital networks.

*In particular in the ICC Code of Advertising and Marketing Communications, especially Chapter C on Direct Marketing and Digital Marketing Communications

SCOPE

All advertising and marketing communication delivered electronically other than those broadcast on radio and television services (as defined in the September 30, 1986 law on freedom of communication) *

This includes advertising communications meeting this definition, whatever the format, including those published on advertisers' websites.

This type of communication is covered by positive law (GRS note: law that requires an action), all of the ARPP Recommendations and professional rules for members of the ARPP and professional organisations of which the ARPP is a member. The purpose of this Code is to bring together specific and general rules for digital advertising and marketing communications (due, for example, to its interactive nature).

* By way of example, without claiming to be exhaustive, this definition encompasses: "display" advertising on the Internet or on mobile devices, but also sponsored links, advertising emails, advertising videos, viral advertising, SMS / MMS advertising, paid blogs, advergames, in-game advertising, advertising on social networks, on-demand audiovisual media services (SMAd), advertising widgets, augmented reality, advertising on connected objects (the internet of things) including within apps dedicated to them, native advertising, gamification, etc.

1. IDENTIFICATION

1.1 The identification of advertising.

Advertising must be able to be clearly identified as such, regardless of the form in which it is presented.

This identification can be done by any clearly perceptible means making it possible to immediately make the advertising nature of the message unambiguous for the public.

Two cases may be recognised:

a / **case where the advertising character of the message is obvious**, whether by the use of an advertising format normally used by the profession, or by the content of the message. In that event there is no requirement to provide additional identification elements.

b / **case where the advertising character of the message does not manifest itself clearly:**

b1 - It is therefore recommended to add an explicit statement that identifies the advertising as such. When the message is disseminated in the midst of news or editorial articles, it should be presented in such a way that its advertising character appears immediately. This statement must be legible or audible, and intelligible.

b2 - When the means of communication is by its nature incompatible with the immediate identification of advertising, such identification will be implemented in accordance with the recommendations set out in the list of applications in the appendix.

Advertising presentations that are such as to create confusion with the consumer as to the nature of the message are to be avoided (e.g. by imitating the graphics of non-advertising messages from computer software).

1.2 The identification of the advertiser.

The identity of any advertiser issuing a digital advertising campaign must be straightforwardly apparent. Identification must be clearly perceptible and easily accessible.

Identification can be made by the advertiser's brand(s), or any other distinctive sign unambiguously connected to the advertiser.

In any case, an advertising message cannot mislead the public as to the identity and nature of its source.

This provision does not apply to communications whose sole purpose is to draw attention to subsequent commercial communications (see "teasing" application).

2. COMPLIANCE WITH FAIR, TRUTHFUL AND HONEST ADVERTISING

All digital advertising communications must comply with the law and be fair, honest and truthful.

They must be made and broadcast with a strong sense of social responsibility and must comply with principles of fair competition as generally accepted in business relations.

No advertising message should be of such as to undermine the confidence that the public should be able to place in advertising.

In this respect:

- The digital advertising communication must not mislead consumers about the offer really proposed and / or the company proposing it, nor exploit fear.
- Advertising that includes conspiratorial content based on a supposed intent of the State, or of a professional body, or of the media, to wish to conceal a situation, is to be avoided (for example, messages of the type "*the solution that the doctors try to conceal*", "*the investment that the State is hiding from you ...*").
- It is forbidden to represent a person, nor refer to him/ her, without his/ her prior authorisation, including by means of 'video d'infox' (deepfake), whether in private or public space, in particular in order to endorse a point or an advertising communication.
- The conditions to which the offers within the digital advertising communication are subject must be clearly set out and easily accessible.

Consequently, regarding legal notes and overlays, the following rules apply:

- The notes must be immediately visible or directly accessible;
- They must be legible or audible, and intelligible, without prejudice to compulsory provisions applicable to some sectors;
- They must be easily identified and not immersed under other information.

It is recommended not to advertise about techniques allowing the substitution of ads by other ads.

General rules from the [Recommendations, Mentions and References](#) and [Advertising of prices](#) of the ARPP must be taken into account. (GRS note: links are to the codes in French; translations are available on the ARPP website).

Professionals are recommended not to use advertising messages promoting the use of techniques allowing the substitution of one message for another.

3. RESPECT OF GOOD SOCIETAL PRACTICES

All of the ARPP recommendations apply to digital advertising communications, including the following rules, specifically recalled:

Protection of children and teenagers

The ease of access to information, the interactivity of the media used in digital communication and their widespread use by children and teenagers must require issuers (FR émetteurs), platforms, all other intermediaries and distributors of advertising to be particularly vigilant towards them.

In order to promote the trust that the public should be able to place in advertising, it is recommended to use information about targeting (such as age or date of birth, etc.) and about the delivery context in order to confine to an adult audience the exposure of advertising content that is likely to harm children and teenagers.

The ARPP [Children Recommendation](#) applies in full.

Portrayal and respect of people

Digital advertising communication must comply with the requirements of decency and respect for the dignity of the human being.

The [Portrayal and Respect of People Recommendation](#) applies in full.

Sustainable development

Digital advertising communication must integrate this aspect from its conception and comply with the rules of the [Sustainable Development Recommendation](#).

Eating behaviours

Digital advertising communication must respect the principles of food behaviour set out in the [Food Behaviour Recommendation](#).

(GRS note: links are to the codes in French; translations are available on the ARPP website).

4. USER GENERATED CONTENT

In general, when content created by a user is co-opted by a brand (e.g. reprise of user content by a brand on their social network spaces and thus endorsing it), the principles of this recommendation must be observed.

5. COMFORT OF USE

Digital advertising communication must respect the user's stress-free experience on digital media, in particular by paying attention to the characteristics of advertising messages such as their weight, size, use of sound and the duration of exposure.

The following provision is added: "the sound of videos in autoplay (playing without a positive action from the user) must not be enabled by default (for example for videos triggered within a standard 'display' banner on a web page, state *display video in-banner*)".

FR: La disposition selon laquelle « le son des vidéos en autoplay (lecture automatique sans action positive de l'utilisateur) ne doit pas être activé par défaut (par exemple pour les créations vidéo déclenchées au sein d'une bannière display standard sur une page Web, dites *display video in-banner*) » est ajoutée.

In addition to these general provisions, any professional engaged with the production and / or distribution of digital commercial communications may refer, if necessary, to the following list of practical applications associated with the Recommendation. These aim to specify the concrete and specific rules applicable to the different formats or techniques.

LIST OF PRACTICAL APPLICATIONS

1. Applications (Apps)
 2. Digital audio
 3. Communication from influencers and brands
 4. Brand content
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5. Email (Email / SMS / MMS)
 6. Advertising in video games (or "In-game Advertising")
 7. Sponsored links
 8. Native advertising
 9. Behavioural advertising and retargeting
 10. Teasing
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1. APPS

Definition

Application software intended for installation on a terminal (example: mobile applications, video games, utilities, etc.).

A) ADVERTISING IN APPLICATIONS AND QUALITY OF USER EXPERIENCE

In-app advertising must ensure that the user experience is comfortable and in particular ensure that access to functions and commands (e.g. sound, duration, option to close) is not obstructed

For prestitial or interstitial formats, the option to close must be available as soon as the advertising appears and be easily identifiable.

B) ADVERTISING OF APPS

Respect of fair, truthful and honest advertising.

When an advertisement claims that an app is free, this must relate to all of the app's functionalities.

If not, and the app requires at one point or another a financial outlay, this information must appear in the advertising message.

2. DIGITAL AUDIO

A) Scope

The term "digital audio" refers to digital audio content accessible whatever the communication service to the online public. This includes especially podcasts, audio streaming platforms, connected speakers, audio books, "live" (direct).

Digital audio marketing refers to all of the practices that are intended to monetise audio content via the involvement of a brand.

B) Identification of the commercial relationship

Commercial communication must be identified as such.

1. Advertising

When advertising is obviously such (classic spots inserted at the start, middle or end of the stream *pre-roll*, *mid-roll*, *post-roll*, etc.), additional identification elements are not required, apart from the means usually deployed by the profession to distinguish spots from editorial content (sound break, jingle, etc.).

When the commercial nature is not clear, an explicit and immediate indication on the audio to identify it as such should be added.

2. Sponsorship

When independent editorial content is produced, and the brand provides financial or material support, the identification of the commercial relationship is stated in the audio, for example by wording such as "*With the support of x ...*"; "*x is sponsoring...*"; "*this episode was made possible thanks to...*".

C) Quality of listening experience

Audio commercial communication must respect the public's quality of listening experience by paying attention to the characteristics of the advertising messages such as their level of sound.

3. COMMUNICATION FROM INFLUENCERS AND BRANDS

There's a video embedded in this section; it can be seen [here](#) (English sub-titles).

Definition

An influencer (blogger, vlogger, creator, talent, etc.) is an individual who creates content, expressing a point of view or giving advice, in a specific area and with a style or treatment that is specific to him/ her and with which his/ her audience identifies.

An influencer can act in a purely editorial context or in collaboration with a brand for the publication of content (product placement, participation in the production of content, distribution of advertising content, etc.).

A) QUALIFICATION & APPLICATION

1. The influencer acts in collaboration with a brand

A commercial collaboration between an influencer and an advertiser with a view to the publication of content must in all cases be brought to the attention of the public by the influencer.

2. Some collaborations can qualify as advertising

Whether it is advertising is established when the following criteria are cumulatively met:

- When the content is produced in the context of reciprocal commitments; statements by the influencer subject to payment or any other consideration such as, for example, the delivery of products or services for the benefit of the influencer;
- When the advertiser or their representatives approve the content before its publication;
- When the content of the influencer messaging is aimed at promoting the product or service (promotional statements, verbal or visual presentation for promotional purposes, etc.).

Consequence: When the advertising nature of the influencer messaging is established, all the ethical provisions of the ARPP, in addition, should be applied by all stakeholders (brands, their representatives, influencers, etc.).

B) IDENTIFICATION

For the identification of influencer communications made in collaboration with a brand (unless the identification is obvious), it is recommended that an explicit statement is added that establishes identification of same, in a way that does that immediately.

This identification can be done by any means (in the audio, in the text connected with the content, by a statement in the video, etc.) as long as it is brought to the attention of the public whatever their means of access to the content.

4. BRAND CONTENT

Definition

Brand content refers to content from a brand that has the appearance of editorial*, produced directly by the brand or to their instructions by a third party (an agency, a medium ...).

The content may be issued by the brand itself or by third-party media that may or may not have been involved in its creation.

A) Transparency

The commercial nature of such content must be clear. Identification can be made by means of the brand or its distinctive elements.

When there is a risk of confusion with purely editorial content, an explicit statement must be added (e.g. "*partner content*", "*content created by...*").

B) Compliance with ARPP Recommendations

When the brand validates the content before distribution and the public message is focused on the promotion of a product, a service, a brand or the image of the advertiser, the ARPP Recommendations apply.

For any co-creation with an individual content creator, refer to the practice "*Communication from influencers and brands*".

* For example: advergaming, web-series or mini-films, podcasts, playlists, blogs, reports, comic strips, augmented reality content **created by or for a brand**.

5. EMAILS (EMAIL / SMS / MMS)

A) IDENTIFICATION OF ADVERTISING

Any advertising communication by e-mail/SMS/MMS must be able to be clearly identified as such.

For emails, this identification must be possible on receipt, without having to open the email.

Two different kinds of emails can be identified:

- The case where the commercial nature is obvious (e.g. the advertiser name appears in the message subject). In this case, it would not be necessary to provide additional identification elements;
- The case where the commercial nature of the message is not immediately visible. In this case, it is recommended to state in the mail subject or within the sender's designation an explicit message enabling immediate identification of the commercial nature of the email.

With regard to SMS or MMS, the identification must be explicit at the beginning of the message. The identification can be satisfied by all means noted above (the advertiser's name appearing at the beginning of the message, for example). The identification must be clear enough to avoid any confusion with an electronic mail/SMS/MMS sent by a private contact.

B) FAIR, TRUTHFUL AND HONEST ADVERTISING

Offer and sales conditions must be clearly specified and easily accessible.

Consequently, legal notes and overlays must be accessible directly by any means, in particular:

- On a mobile website, for a clickable mobile message (sent in the context of a direct marketing campaign).
- Within a distinct SMS or MMS from the one conveying the advertising message (in particular by using the concatenation technique*).

The conditions must be legible or audible, and intelligible, without prejudice to the compulsory provisions applicable to specific sectors.

* Technique allowing attachment of several SMS in order not to be limited by the number of characters.

6. ADVERTISING IN VIDEO GAMES (OR "IN-GAME ADVERTISING")

Definition

Advertising integrated within video games, in order to promote a brand or its products and services.

A) IDENTIFICATION OF THE ADVERTISING

If the message appears in advertising as it would normally appear in "real" life, then its commercial nature is considered to be obvious. It is therefore not necessary to provide additional identification elements.

If the advertising nature is not clearly evident, it is then recommended to add an explicit statement that identifies the advertising as such.

B) PROTECTION OF CHILDREN AND TEENAGERS

Advertising inserted in video games aimed primarily at children and teenagers must not harm them in any way.

To this end, when the video game has an age classification, it must be taken into account.

C) COMFORT OF USE

Advertising in video games should in no way hinder playability, in particular by reducing access to the game's functionalities or controls, or by reducing the visibility of elements of the game.

7. SPONSORED LINKS

Definition

Paid-for links is advertising formed by the purchase of key words.

It is generally placed in an identified and separated space, on the right or on the top of the results sorted by the web search engine after a user request.

It can also be placed within the web page of a partner of web search engine and be linked to the editorial content. That type of communication is therefore called paid-for contextual links.

1. IDENTIFICATION OF ADVERTISING

The commercial nature of paid-for links must be immediately and clearly visible. An explicit and unambiguous distinction must be made between paid-for links and the non-commercial links and/ or the editorial content.

In the case of contextual paid-for links, (within an editorial content) the identification can be made by a simple 'hover' over the link in order not to hinder the reading of the text.

8. NATIVE ADVERTISING

Definition

Native advertising covers all advertising formats that adopt - or closely approximate - the design and usage features of the website on which they are placed and adapt themselves to the user experience.

IDENTIFICATION OF ADVERTISING

The commercial nature must be identified, unambiguously, in a clear and immediate way.

It is recommended to highlight the commercial nature of the content with a clear statement such as "advertising", "sponsored by" or "in partnership with..."

That statement must be legible or audible and intelligible in such a way as the commercial nature is immediately understood.

9. BEHAVIOURAL ADVERTISING AND BEHAVIOURAL RETARGETING

The ethical rules below apply independently of the legal and regulatory texts applicable to behavioural advertising (see appendix "*Principal national and European texts regulating digital advertising*"). They are likely to change soon following the adoption of industry rules at a European level.

Definitions

This form of targeted advertising involves determining the interests of Internet users from their browsing, so that specifically tailored advertising, presumed to interest them more than other advertising, can be shown to them.

The implementation of this type of advertising depends, on the one hand, on the technologies deployed and the operators who implement them, and on the other hand, on the availability or otherwise of a form of tracer ("cookie" file, for example) or any other means or technique that facilitates an advertising message based on users' interests and the ability or otherwise to share information with third parties.

Retargeting (or behavioural retargeting) is a targeting technique that consists of sending an advertising message to consumer profiles who have visited the advertiser's site at least once.

1. IDENTIFICATION OF THE COMMERCIAL NATURE OF DIGITAL ADVERTISING COMMUNICATION

The commercial nature must be easily understood.

Therefore, the use of a visible specific symbol, distinguishable from the message content and entirely legible, can help the consumer know about the behavioural nature of the digital advertising.

It is further recommended to give the consumer access via a simple click on the aforementioned symbol to a dedicated space where the consumer can find out about the special features inherent in this type of advertising (nature of the data collected, terms of use for behavioural targeting purposes...).

This dedicated space must also offer the consumer clear information on the various options to refuse or accept the showing of behavioural advertising, in particular the terms:

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- One-off or permanent acceptance of the placement of cookies or other tracking means (browser settings)
 - Deletion of browser cookies
 - Objection to behavioural advertising providers to the showing of any behavioral advertising

2. PROTECTION OF CHILDREN AND TEENAGERS

Professionals must not create specific targeting categories (interest segments) related to interests of children of 13 or under.

10. TEASING

Definition

Teasing is an advertising process made up of an initial phase in the form of cryptic, challenging advertising intended to engage the consumer's attention (called " *teaser advertising* ") and a revelation phase.

A) IDENTIFICATION OF THE ADVERTISING CHARACTER OF THE MESSAGE AND OF THE ADVERTISER

Such identification will be made at the level of the advertising campaign, understood in its totality.

The organisation of the campaign must take into account this requirement for identification (e.g. disclosure within a reasonable timeframe; disclosure on the advertiser's website, etc.).

In the event of deployment of a viral technique in order to ensure the seeding of the content that constitutes the teaser, the identification of the advertising character of the message and of the advertiser will be made consistent with the rules referenced hereafter for the seeding of the viral campaign.

B) PROTECTION OF CHILDREN AND TEENAGERS

If the teasing is based on a viral technique, a feature should be provided to flag content that may be harmful to children and adolescents.

In any case, if the viral content is likely to harm children and adolescents, this should be explicitly stated

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ANNEX (in force 01/12/21)

Principal national and European texts regulating digital advertising

National texts:

Legislative provisions

- Law No. 2004-575 of June 21, 2004 for confidence in the digital economy (LCEN) (art 7- art 16 - art 20)
- Law No. 2020-1266 of October 19, 2020 to regulate the commercial exploitation of the image of children under the age of sixteen on online platforms.

Regulatory provisions

- Decree No. 2010-1379 of 12 November 2010 relating to on-demand audiovisual media services / AMENDED

AAI

- CNIL "Cookies and other tracers" guidelines

European texts:

Directives

- DIRECTIVE 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications)
 - DIRECTIVE 2005/29/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No. 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices
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Directive)

- DIRECTIVE (EU) 2018/1808 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive), in view of changing market realities

Regulations

- Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 2016, on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).
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