

Full title of law or regulation

General Law 13/2022 of July 7 on Audiovisual Communications which, in the context of this database, sets out the rules for advertising spots, product placement, teleshopping and sponsorship, covering TV and Radio and some forms of VOD and, most recently, video sharing services. This significantly amended law, repealing the General Law 7/2010, is in part a result of amends to the 2010/13/EU Directive by Directive 2018/1808.

This is a non-binding, unofficial GRS translation of the key clauses relating to commercial communications.

<https://www.boe.es/eli/es/l/2022/07/07/13>

Relevant sections

Title VI, Chapter IV. Audiovisual commercial communications. (Only those clauses directed at advertisers and related to the content and placement of commercial communications.)

Title V. The provision of the video sharing service via a platform; article 91

Article 122. Complete prohibition of certain audiovisual commercial communications

1. Any commercial communication that undermines human dignity or fosters discrimination against a group of people or a member of a group based on age, sex, disability, sexual orientation, gender identity, gender expression, race, colour, ethnic or social origin, sexual or genetic characteristics, language, religion or beliefs, political or other opinions, nationality, heritage or birth, or that encourages behaviour prejudicial to safety or encourages practices that are grossly prejudicial to the environment is prohibited.
2. Any commercial communication that uses a degrading or discriminatory image of women is prohibited.
3. Surreptitious audiovisual commercial communication that, through the direct or indirect verbal or visual presentation of goods, services, names, brands or activities, is intended to serve as advertising and may mislead the public as to its nature is prohibited.
4. Audiovisual commercial communication that, by means of production techniques using stimuli of borderline intensity or similar that engage the edges of the senses, can affect the targeted consumer without being consciously perceived, is prohibited.

Article 123. Audiovisual commercial communications that encourage behaviours harmful to health.

1. Audiovisual commercial communication of cigarettes and other tobacco products, including electronic cigarettes and their refill containers, and of herbal smoking products, as well as that of the companies that produce them, is prohibited
2. Audiovisual commercial communication of medicinal products and healthcare products that transgresses the regulations governing advertising and health-related activities and, in any event, audiovisual commercial communication of products, materials, substances, energies or methods that have intended health purposes that do not respect the provisions of Royal Decree 1907/1996, of August 2, on advertising and commercial promotion of products, activities or services with intended health purposes is prohibited.
3. Audiovisual commercial communication of alcoholic beverages that meets any of the following requirements is prohibited
 - a) Is specifically directed at minors, or presents minors consuming said beverages.
 - b) Associates consumption with improved physical performance or with driving.
 - c) Gives the impression that its consumption contributes to social or sexual success, or associates, links or relates it with ideas or behaviours that express personal, family, social, sports or professional success.
 - d) Suggests that alcoholic beverages have therapeutic properties, or a stimulating or sedative effect, or that they constitute a means of resolving conflicts, or that they have health benefits.
 - e) Promotes immoderate consumption or offers a negative image of abstinence or

sobriety.

- f) Underlines alcohol content as a positive quality of the drinks.
 - g) Does not include a message of moderate consumption and of low risk.
4. Audiovisual commercial communication of alcoholic beverages with a level higher than twenty degrees is prohibited, except when it is broadcast between 1:00 and 5:00.
 5. Audiovisual commercial communication of alcoholic beverages with a level equal to or less than twenty degrees is prohibited, except when it is broadcast between 8:30 p.m. and 5:00 a.m. and outside these hours when said audiovisual commercial communications form an indivisible part of the acquisition of rights and the production of the broadcast signal.
 6. Audiovisual commercial communication related to esotericism and parascience may only be broadcast between 1:00 a.m. and 5:00 a.m.
 7. Audiovisual commercial communication related to games of chance and betting may only be broadcast between 1:00 a.m. and 5:00 a.m., without prejudice to the provisions of section 8 and with respect for the principles of protection of minors, social responsibility and responsible or safe gambling under the terms set out in the sector regulations governing commercial communications for this type of gambling. Audiovisual commercial communication related to games of chance and betting may only be carried out by those entities that have a license to carry out this type of activity in Spain.
In any event, audiovisual commercial communication related to games of chance and betting is prohibited when it is broadcast with programmes aimed at a potential child audience.
 8. Audiovisual commercial communication related to games of chance and betting may be broadcast by exception outside the hours established in the previous section, provided that this is established in the sectoral regulations governing advertising on this type of game, in the following cases:
 - a) Commercial communications related to lottery games.
 - b) Commercial communications of those types of gambling that, due to their structural characteristics, are less likely to influence the risks of gambling activity.
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Article 124. Protection of minors against audiovisual commercial communications.

1. Audiovisual commercial communications must not cause physical, mental or moral harm to minors nor engage in the following conduct:
 - a) Directly encourage minors to buy or rent products or services taking advantage of their inexperience or credulity.
 - b) Directly encourage minors to persuade their parents or third parties to buy advertised goods or services.
 - c) Exploit the special relationship of trust that minors place in their parents, teachers, or other people, such as professionals from children's programmes or fictional characters.
 - d) Show, without justifiable reasons, minors in dangerous situations.
 - e) Encourage conduct that favours discrimination between men and women.
 - f) Encourage the adoption of violent behaviour towards minors, as well as of minors towards themselves or others, or promote stereotypes based on sex, race or ethnic origin, nationality, religion or belief, disability, age or sexual orientation.
 - g) Promote the cult of the body and self-rejection through audiovisual commercial communications of slimming products, surgical interventions or aesthetic treatments, which appeal to social rejection because of physical condition, or success because of weight or aesthetic factors.
 2. Audiovisual commercial communications about products particularly aimed at minors, such as toys, must not mislead about their characteristics, their safety, or the capacity and skills necessary for minors to use them without causing harm to themselves or third parties, nor will they present sexist stereotypes in accordance with the provisions of point a) of article 3 of the General Advertising Law 34/1988, of November 11.
 3. The competent audiovisual authority will promote the adoption of codes of conduct
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with regard to unacceptable audiovisual commercial communication, which accompanies children's programmes or is included in them, of foods and beverages that contain nutrients and substances with a nutritional or physiological effect, in particular those such as fats, trans fatty acids, salt or sodium and sugars, for which an excessive intake in the total diet is not recommended, in order effectively to reduce minors' exposure to audiovisual commercial communication of these products. In the event that codes of conduct have not been adopted for this purpose or that the competent audiovisual authority concludes that a code of conduct or parts thereof have proven not to be sufficiently effective, the Government will establish regulations regarding the content of the messages or their broadcast schedule applicable to such audiovisual commercial communications in order to ensure the protection of minors.

Article 128. Sponsorship.

1. Sponsorship is considered to be any contribution that a natural or legal person, public or private, not linked to the provision of the audiovisual communication service or the video sharing service via the platform, or to the production of audiovisual works, makes to the financing of the audiovisual communication service or the video sharing service via the platform or videos generated by users or programmes, in order to promote its name, brand, image, activity or product.
 2. All programming may be sponsored, except newscasts and current affairs programmes.
 3. The sponsorship will respect the following conditions:
 - a) Include the name, logo, or any other symbol, product or service of the sponsor at the beginning of the programme, at the beginning of each resumption after an interruption and at the end of the programme.
 - b) Not affect the content of the sponsored programme or audiovisual communication or its broadcast schedule or presence in the schedule in such a way that the editorial responsibility of the audiovisual communication service provider is affected.
 - c) Do not directly encourage the purchase or rental of goods or services, especially, via specific promotional references to them.
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Article 129. Product placement.

1. Product placement is considered to be any form of audiovisual commercial communication that includes, shows or refers to a product, service or trademark in a way that appears in a programme or in a video generated by users, in exchange for remuneration or similar consideration.
 2. Product placement may be carried out on a general basis in all programming except in newscasts and current affairs programmes, programmes related to consumer protection, religious programmes and children's programmes.
 3. The product placement shall meet the following conditions:
 - a) Not to influence the editorial content or the organisation of the programming schedule or the catalogue in a way that affects the responsibility and editorial independence of the provider of the audiovisual communication service.
 - b) Does not directly encourage the purchase or rental of goods or services or include specific promotional references to said goods or services.
 - c) Does not give undue prominence to the products in question.
 - d) Identifies that it is a product placement at the beginning of each programme, at the beginning of each resumption after an interruption and at the end of the programme when said programmes have been produced or commissioned by the provider of the audiovisual communication service or by one of its subsidiaries.
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TITLE V

The provision of the video sharing service through the platform

Article 91. Requirements regarding audiovisual commercial communications.

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1. Providers of the video sharing service via a platform will ensure that the audiovisual commercial communications that they market, sell or organise comply with the provisions of section 1 of chapter IV of title VI, except for the time limitation established in sections 4 and 5 of article 123, which will not apply to them. In any case, commercial communications that encourage harmful behaviour or that are damaging to minors will require age verification and access to users of legal age.
 2. The providers of the video sharing service via a platform will ensure that the audiovisual commercial communications that they do not market, sell or organise comply with the provisions of section 1 of chapter IV of title VI through the following measures:
 - a) Include and put into practice in the service conditions clauses the requirements established in section 1 of chapter IV of title VI for audiovisual commercial communications not marketed, sold or organised by said providers.
 - b) Have a functionality for users who upload videos to declare if they understand, or as far as they can reasonably be expected to understand, said videos contain audiovisual commercial communications.
 - c) In the case of audiovisual commercial communications related to games of chance and betting, they may only be disseminated when the accounts or channels from which such commercial communications are disseminated have as their main activity the offering of information or content on the defined gambling activities in Law 13/2011, of May 27, and also ensure the establishment of available access control mechanisms for minors on the platform, as well as the periodic dissemination of messages on safe or responsible gambling. In such cases, these commercial communications will not be required to comply with the time slot regime provided for in sections 7 and 8 of article 123.
 - d) In the event that it is declared or notified that the audiovisual content contains commercial communications on alcoholic beverages, the time limitations of sections 4 and 5 of article 123 will not apply.
 3. The providers of the video sharing service via a platform will clearly inform users when the programmes and videos generated by users contain audiovisual commercial communications, provided that the users who upload videos have declared that, in their understanding, or to the degree it is reasonably expected that their understanding extends, said videos contain audiovisual commercial communications, or whenever the provider is aware of that fact.
 4. Self-regulation will be encouraged, via the development of codes of conduct, so that providers of a video sharing service via a platform effectively reduce the exposure of minors to audiovisual commercial communications related to food and beverages that contain nutrients or substances with a nutritional or physiological effect, in particular fats, trans fatty acids, salt or sodium and sugars, of which an excessive intake in the general diet is discouraged and, in particular, prevent such audiovisual commercial communications from highlighting the positive qualities of their nutritional aspects.
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