

G-Regs™

Spain – Royal Decree 1624/2011



**Full title:** Royal Decree 1624/2011 of 14 November, approving the Regulation implementing General Act 7/2010 of 31 March, on Audiovisual Communication, in relation to television advertising ("BOE" Num. 294, of 07/12/2011). Entry into force: 07/01/2012.

*(Real Decreto 1624/2011, de 14 de noviembre, por el que se aprueba el Reglamento de desarrollo de la Ley 7/2010, de 31 de marzo, General de la Comunicación Audiovisual, en lo relativo a la comunicación comercial televisiva)*

**Relevant Amendments:** Royal Decree 21/2014 of 17 January 2014, amending the Regulation implementing General Act 7/2010 of 31 March, on Audiovisual Communication in relation to television advertising, approved by Royal Decree 1624/2011 of 14 November. Inserts new article (Art. 14) in Chapter V and creates new Chapter VI, in addition to re-numbering of associated articles.

**Title of relevant sections:** Chapter I: General Provisions (Articles 1-3)  
Chapter IV: Sponsorship (Articles 12 and 13)  
Chapter V: Product Placement (Article 14)  
Chapter VI: Marcoms during the broadcasting of sporting events (Arts 15-17)

## Chapter I GENERAL PROVISIONS

### Article 1 The Scope and sphere of application of the Regulation

1. The purpose of this Regulation represents the development of the General Law 7/2010 of 31 March, on Audiovisual Communication, in relation to the activities of televised audiovisual media service providers when carrying out self-promotions or various forms of commercial communications such as TV promotions and sponsorships, or when they broadcast them during the transmission of sports events.

2. Service providers from state television audiovisual media coverage are subject to the provisions of this Regulation, as provided for in Article 2.3 of the General Law 7/2010 of 31 March, on Audiovisual Communication, without impacting on lower level territorial jurisdictions.

### Article 2 Time restrictions dedicated to the television broadcasting of self-promotions and commercial communications

1. In accordance with the provisions of Article 13.2 of the General Law 7/2010 of 31 March, on Audiovisual Communications, audiovisual media service providers have the right to broadcast programmes that provide information on their programming or announcements of their own programmes and the ancillary products directly derived from those programmes.

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2. These programmes and announcements are not considered commercial communication for the purposes of this Act, however, for television audiovisual communication, the time devoted to advertising on their own programmes and products may not exceed 5 minutes per clock hour and its contents will be subject to the obligations and prohibitions established generally for commercial advertising.

3. Similarly, Article 14.1 of the Act states that audiovisual media service providers, whether television, radio, or interactive, are entitled to broadcast advertising spots.

4. Television audiovisual media service providers may exercise this right by broadcasting 12 minutes of advertising spots every clock hour. Radio, related and interactive services are entitled to broadcast advertising spots freely. Only advertising and teleshopping spots shall be taken to account for the calculation of those 12 minutes, with the exclusion of sponsorship and product placement. Telepromotion shall also be excluded where the individual telepromotion spot has duration clearly greater than that of an advertising spot and the telepromotions do not exceed 36 minutes per day in total, nor do they exceed 3 minutes per clock hour.

5. For the purposes of the time restrictions for the broadcasting of self-promotions and advertising messages laid down in Articles 13 and 14 of General Law 7/2010 of 31 March, on Audiovisual Communications, the expression "Clock hour" shall mean every full hour into which the day is divided up.

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### Article 3

#### Programme Interruptions

In accordance with Article 14.4 of the General Law 7/2010 of 31 March, on Audiovisual Communications, for the purpose of the number of permitted interruptions, which may not exceed one (interruption) for each scheduled period of 30 minutes, it will be understood that the expected duration in the case of television movies, feature films and television news programmes, as well as children's programmes, is the length of the total duration of these programmes, excluding the duration of the existing advertising spaces and self-promotions within them.

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## CHAPTER IV: SPONSORSHIP

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### Article 12

#### Conditions and requirements for sponsorship which do not count as advertising messages in the limit of 12 minutes per clock hour as intended for advertising and teleshopping messages.

1. In order for sponsorship to be excluded from the calculation of maximum time of 12 minutes devoted to standard commercial communications, it is necessary to comply with the following conditions:

a) There is a contract or sponsorship arrangement between the producer of the sponsored programme or the audiovisual media service provider, or where appropriate the holder, transferor, or licensor of the broadcasting rights for the event, where this sponsorship is indivisibly linked to the broadcasting rights and the sponsor of the programme. The competent audiovisual media authority<sup>1</sup> can request from the audiovisual media service provider the accreditation/ certification of the said contract or sponsorship arrangement.

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<sup>1</sup> Comisión Nacional de los Mercados y la Competencia, CNMC (National Markets and Competition Commission)

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b) Sponsorship must be related to a programme, understood in accordance with the definition of television programme as contained in Article 2.6a<sup>2</sup> of the General Law 7/2010 of 31 March, on Audiovisual Communication, which therefore is included independently in the Electronic Programme Guide (EPG), becoming known at least three days in advance as per Art 6.2<sup>3</sup> of the aforementioned Law.

As a result, the sponsoring of sections of programmes cannot be considered as such, neither previews of future programmes or any audiovisual communication that provides information about programmes or ancillary products directly derived from these (programmes), nor audiovisual commercial communications.

Sponsorship of sub-programmes that constitute a programme-related unity in themselves and are independently included in the Electronic Programme Guide is allowed.

Furthermore, the sponsorship of the preview of future programmes are also allowed, only in those cases where the sponsorship forms an indivisible part of the acquisition of rights and the production of the signal broadcast.

c) In general, the duration of sponsorship must not exceed 10 seconds.

In the case of the existence (concurrence) of several sponsors whose presence is imposed by the holder, transferor of broadcasting rights being an indivisible part of the acquisition of rights and the production of the signal broadcast, and whose image is to be shown independently, its maximum duration will be 30 seconds with the maximum limit of 10 seconds for each sponsorship space.

d) Sponsorship should be placed immediately before or immediately after the sponsored programme or at the beginning of each resumption following a break, without prejudice to Article 9(2)(3)<sup>4</sup> concerning the placement of the telepromotions in sponsored works of fiction (dramas/ feature films). The broadcast of sponsorships during the course of programmes is not permitted.

In the event there are several sponsors of the same programme, their presence must be grouped together in the same sponsorship space at times that can be inserted, as referred to above, with the exception established in the last paragraph of Art 12(1c), in which several sponsorship spaces with a maximum duration of 30 seconds are permitted under the specified conditions.

e) The sponsorship message must identify the sponsor by the name, logo, symbol, product or service thereof, which must be reflected, given that the public should be clearly

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<sup>2</sup> Art 2.6 a: a) Television programme: Set of moving images with or without sound constituting an individual item within a channel's programme schedule or a catalogue of programmes. The following are television programmes: feature-length films, sports events, series, documentaries, children's programmes and original drama, as well as the live transmission of events, cultural and other.

<sup>3</sup> All persons are entitled to be informed of the television programming with sufficient prior warning, never less than three days in advance. In the case of television programming, the programming shall also be made known through an electronic programmes guide, whose basic free content shall be available on an online programming information service through a machine-processable file in downloadable format, whose structure shall be made publicly known, and located on a web page whose availability shall be the responsibility of the audiovisual media service provider. The programming may only be changed by events beyond the control of the audiovisual media service provider or by newsworthy events or in live programming. The online programming information service should have warning mechanisms to inform the public of last minute changes in the programme.

<sup>4</sup> In the event that the work of fiction is sponsored, (the telepromotion) will be placed immediately after the sponsorship message, and just before the start of the work of fiction or its resumption after advertising breaks and, where appropriate, just after the end of the work of fiction and before the sponsorship message.

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informed of its existence. The identification of sponsorship can be done verbally or visually or by both forms. However, in order to exclude it from counting (as an advertising message), no type of verbal or visual message which directly encourages the purchase or rental of products, goods or services, in particular by making special promotional references to these (products, goods) is permitted.

Advertising or teleshopping messages, or extracts of advertising or teleshopping, or those whose characteristics and presentation are similar to advertising or teleshopping messages will not be accepted as sponsorships. Verbal or visual references to the possible virtues, merits, or other characteristics of the sponsor or their products or services, in particular by making specific promotional references to these (products or services) will not be permitted.

2. All those cases in which the above conditions are not respected (complied with), will determine that the sponsorship applies (computes) within the maximum limit of 12 minutes per clock hour, intended for commercial communications referred to in Article 14.1 of the General Law 7/2010 of 31<sup>st</sup> March on Audiovisual Communications.

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**Article 13****Programmes in which sponsorship is not allowed**

In accordance with Article 16.1 of the General Law 7/2010 of 31 March, on Audiovisual Communications, sponsorship is not permitted in current events/affairs programmes. A Current events/ affairs programme is the equivalent to a TV newscast or a news bulletin, including research programmes or reports on the political and economic news of the day.

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**CHAPTER V: PRODUCT PLACEMENT**

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**Article 14****Conditions and requirements of product placement**

1. In accordance with the provisions of the first paragraph of Article 17 of General Law 7/2010 of 31 March, on Audiovisual Communications, Audiovisual media service providers are entitled to include product placement in the broadcast of feature-length films, short films, documentaries, films and series for television, sports programmes and entertainment programmes. For the purposes of the definition of Article 2(31) of the Act, product placement warrants such consideration when performed in exchange for payment or for similar consideration.

2. Product placement will also be admissible in cases 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 where those goods and services have a significant value. For these purposes, they will be considered to have significant value when the sum total of those goods and services included in the programme is greater than ten per cent of the standard rate established for an advertising message corresponding to the time slot of the broadcast programme featuring product placement.

The free supply of those goods and services included in a program is not considered product placement if such goods or services have no significant value.

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**CHAPTER VI: COMMERCIAL COMMUNICATION DURING THE TRANSMISSION OF SPORTING EVENTS**

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**Article 15****Commercial Communication that interrupts the transmission of a sporting event**

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1. For the purposes of the provisions of Article 14.4 (3<sup>rd</sup> para<sup>5</sup>) of the General Law 7/2010 of 31 March, on Audiovisual Communications, a sporting event is deemed as being paused in accordance with the official rules that control every event.

In the absence of any provision within the rules controlling the sporting event in question, in those sports subject to time limits or to the pursuit of objectives linked to time, an event will not be considered paused whilst the time is being counted (i.e. running/ counting down) in either case. In other sports, the event will not be considered paused whilst it is unfolding/ taking place.

In any case, when the event is interrupted by the broadcast of isolated advertising messages in the cases specified, the service provider will have to ensure that the transmission is always resumed when the game or sport resumes, in such a way as to ensure to the viewers the possibility of monitoring/ tracking its development (*playing out/unfolding*).

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#### Article 16

#### **Insertion of a commercial communication that does not interrupt the broadcast of the sporting event**

1. From a general standpoint, and for the purposes of ensuring that the viewer can follow the development of the sporting event, as provided in the third paragraph of Art 14.4 of the General Law 7/2010 of 31 March, on Audiovisual Communications, advertising messages that will be carried out using transparencies, overprints or virtual advertising can be inserted freely provided that their size does not occupy more than one fifth of the screen.

2. In advertisements that are carried out by screen sharing or similar techniques, the audio commentary of the event can be disconnected as long as a window of at least 60% of the screen is maintained/kept open to allow the tracking/ following of the event. Where the audio commentary of the event is not turned off, the window for monitoring the event may be reduced to a minimum of 40 percent.

In all cases, the part of the screen taken up by the commentary of the event should remain exempt from all forms of advertising.

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#### Article 17

#### **Common Provisions**

1. In all cases of advertising messages or self-promotions broadcast during the transmission of sporting events, the maximum limits of time must be respected as established in Articles 14.1<sup>6</sup> and 13.2<sup>7</sup> respectively of the above mentioned General Law on Audiovisual Communication.

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<sup>5</sup> Art 14.4 (3<sup>rd</sup> para): The transmission of television sports events may only be interrupted by isolated advertising spots during a pause in the event. Advertising spots may be inserted into these transmissions, whether or not they are made up of autonomous parts, provided the course of the event may still be followed.

<sup>6</sup> Art 14.1: Audiovisual media service providers, whether television, radio, or related interactive, are entitled to broadcast advertising spots.

Television audiovisual media service providers may exercise this right by broadcasting 12 minutes of advertising spots every clock hour. Radio, related and interactive services are entitled to broadcast advertising spots freely.

Only advertising and teleshopping spots shall be taken to account for the calculation of those 12 minutes, with the exclusion of sponsorship and placement. Telepromotion shall also be excluded where the individual telepromotion spot has a duration clearly greater than that of an advertising spot and the telepromotions do not exceed 36 minutes per day in total, nor do they exceed 3 minutes per clock hour

<sup>7</sup> Art 13.2: Audiovisual media service providers are entitled to broadcast programmes which provide information on their programming or announcements of their own programmes and the ancillary products directly derived from those programmes.

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2. Where advertising is carried out under the arrangements of transparencies or virtual advertising, as well as voiceovers from the speaker or speakers, and also in instances of shared/split screen (advertising), the display: "publicidad" ("advertising") must be superimposed clearly and legibly throughout the duration of the advertisement, in order to avoid confusion over its advertising nature, in accordance with Article 14.3<sup>8</sup> of the Law 7/2010 of 31 March.

3. The replays or repeats of plays or moments during the transmission of an event form an integral part of the aforementioned transmission, consequently the insertions of advertisements during the replays are subject to the criteria set out above. Replays broadcast during breaks or after the end of the event are not deemed to fall within this provision.

4. The deferred broadcasting sporting events will be subject to the same conditions as those broadcast live, provided that firstly it is a free-to-air transmission and more than 24 hrs have elapsed since the end of the event. For other deferred broadcasts, general rules for broadcast advertising will apply.

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These programmes and announcements shall not be deemed commercial communication for the purposes of this Act. For television audiovisual media, however, the time dedicated to advertising spots on their own programmes and products shall not exceed 5 minutes per clock hour, and its content shall be subject to the general obligations and prohibitions set forth for commercial advertising.

<sup>8</sup> Art 14.3: The broadcast of infomercials, telepromotions and, in general, forms of advertising other than television spots which by virtue of their broadcasting characteristics might confuse the viewer about their nature as advertisements, must contain throughout and in a clearly legible form a transparency marked "advertisement".

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