

Pursuant to Article 18, Para 1, Indent 8; Article 20, Para 1, Indent 11, and Article 98, Para 2 of the Law on Audio and Audiovisual Media Services (*Official Gazette of the Republic of Macedonia*, nos. 184/2013, 13/2014, 44/2014, 101/2014 and 132/2014), in conjunction with Article 15, Para 1, Indent 7, and Article 39, Para 1, Indent 11 of the Rules of Procedure of the Agency for Audio and Audiovisual Media Services, No. 01-4351/1 dated 29.08.2014, and in accordance with Conclusion No. 02-2692/5 of the Agency's Council, dated 06.04.2015, the Council of the Agency for Audio and Audiovisual Media Services adopted, at its 15th session held on 06.04.2015, the following

RULEBOOK

On New Advertising Techniques

I. GENERAL PROVISIONS

Article 1

Subject of the Rulebook

This Rulebook shall prescribe the rules concerning the use of new advertising techniques on the part of the providers of audiovisual media services (television broadcasters and providers of on-demand audiovisual media services).

Article 2

Objective of the Rulebook

The objective of this Rulebook is:

- To ensure the continued protection of the viewers from excessive exposure to advertising and unfair commercial practices;
- Not to impede the use of new advertising techniques.

Article 3

Definitions

For the purpose of this Rulebook, the terms below shall have the following meaning:

- *Audiovisual commercial communications* are audio contents or images with or without sound, intended to:
 - directly or indirectly promote products, services or the image of physical or legal entities pursuing an economic activity, or
 - popularize an idea or activity, or achieve some other effect.

They accompany or are included in the programme in return for financial or another sort of compensation or for the procurer's self-promotional purposes. The forms of audiovisual

commercial communications include, among other things: advertising, teleshopping, sponsorship and product placement.

- *New advertising techniques* are audiovisual commercial communications that are innovative at the technical level. Their specific characteristics are not always explicitly addressed in national media law, but they are generally allowed to develop as long as they apply and respect the basic principles applicable to commercial communication. The new advertising techniques include, but are not limited to, split-screen advertising, interactive advertising and virtual advertising.
- *Audiovisual programme* is a set of moving images with or without sound constituting an individual item within the chronological order of programmes (programme schedule) or a catalogue of programmes set up by an on-demand audiovisual media service provider. The audiovisual programmes are thought-out contents of entertaining, educational or informative nature.
- *Split screen advertising* is any form of audiovisual commercial communication that includes simultaneous broadcasting of an audiovisual programme and advertising, where each of these contents occupies a certain part of the same screen. When lawful, this advertising technique minimizes the disruption of the viewing experience and allows the viewers to continue following the audiovisual programme during the broadcast of advertisements. Split-screen advertising usually uses short advertising spots, but may also employ ticker or telop advertisements.
- *Interactive advertising* is any form of audiovisual commercial communication that, by means of utilizing on-line or off-line interactive techniques and media, provides communication feedback which the consumers may use to enter, through the programme, an interactive environment and obtain additional information regarding a certain product or service. Interactive advertising can be found in various forms, depending on the performances of the technology owned by the consumer: a remote control of a smart TV, a mobile phone, tablet, etc.
- *Virtual advertising* is any form of audiovisual commercial communication that uses digital technology to directly modify the signal so as to insert virtual 3D advertisements, images, animations or other advertising spots within live or pre-recorded programming (for instance, to replace products/services the advertising of which is banned in the country of broadcast). This new advertising technique is most often used when broadcasting sports matches, where the ads displayed at the sports venues are replaced by others, intended for the local market.
- *Sponsorship* is any contribution from a legal or physical entity that is not engaged in providing audio and audiovisual media services or in the production of audio and

audiovisual works, for the purpose of financing audiovisual media services or programmes with the aim of promoting the entity's name, trademark, image, activities or products.

- *Product placement* is any form of audiovisual commercial communication that consists of inclusion of or reference to a product, service or trademark in a programme, in a way that it is embedded within its action, for financial or another kind of compensation.

II. GENERAL RULES

Article 4

Clear Separation of Programming and Advertising

Commercial communication have traditionally been clearly spatially and temporal separated from programmes. Advertising is inserted between or during programmes and kept quite separate from these programmes by optical and/or acoustic means. Some new advertising techniques, cannot, by their very nature, abide by the strict temporal separation. In such cases, a clear and obvious spatial separation must be ensured, to make sure that the viewer's clearly separate and recognize advertising from editorial content.

Article 5

Protection against Excessive Disruption

In order to protect the viewers against excessive advertising, the new advertising technique may not be excessively used in order not to disrupt the viewer's following of a programme, nor jeopardize the integrity of the audiovisual work during which it is broadcast.

Article 6

Editorial Independence and Integrity of the Programmes

The use of new advertising techniques in programming must not influence the editorial independence or the integrity of the programmes of the audiovisual media service providers.

The new advertising techniques must not influence the specifics of the script, content, structure, production, time of broadcast (programme schedule) or order in the programme catalogue of a given programme service.

The content of a programme that utilizes any of the new advertising techniques must not turn into a means for promoting the advertisers, sponsors, or their interests.

When inserting commercial communications using new advertising techniques, the providers of audiovisual media services must make careful considerations of the programme's nature and context and the potentially sensitive aspect of the content of the program in which they make the insertion in order not to disrupt its integrity.

By inserting commercial communications using new advertising techniques, the providers of audiovisual media services must not jeopardize the rights of title holders.

Article 7

Responsibility

The compliance of the insertion of commercial communications by way of new advertising techniques with the law is the responsibility of the editor of the audiovisual media service provider.

The credibility and accuracy of the claims and data presented in the commercial communications conveyed through the new advertising techniques are the procurer's responsibility.

The use of new advertising techniques must be in compliance with the existing legal regulations concerning fair competition.

Article 8

Restrictions on the use of new advertising techniques

Use of new advertising techniques is not permitted in the following types of programmes and other segments, as defined by the Guidelines on the Manner of Classifying the Types of Audiovisual and Audio Programmes¹:

- Children's programmes regardless of their length;
- Informative programmes: the news and newscasts, and any kind of informative programme on religious/theological topics;
- Educational programmes: documentaries on religious topics;
- Other segments: religious programmes, religious services and sermons.

Article 9

New Advertising Techniques and Product Placement

The new advertising techniques may be used to announce the trademark, name, products or services of a legal or physical entity during any audiovisual programme as a result of a special commercial agreement with the audiovisual media service provider, which refers to product placement.

¹ The *Guidelines on the Manner of Classifying the Types of Audiovisual and Audio Programmes* are published in the *Official Gazette of the Republic of Macedonia* No. 171/14.

Such cases are subject to both the regulations of the Guidance on Implementing Product Placement Rules² and the rules of this Rulebook.

Article 10

Broadcasting Language

In the new advertising techniques it is compulsory to use the Macedonian language, a Macedonian translation or dubbing, or the language of the ethnic community for which the audiovisual media service is intended.

Article 11

Consumers' Protection

The new advertising techniques must be immediately identifiable as commercial communications.

The new advertising techniques must be accurate and trustworthy, must not mislead the public and must not be against the consumers' interests.

The advertiser whose products, services, image, ideas, activity, etc., are being promoted via the new advertising techniques must be clearly identified.

The new advertising techniques must not:

- be used as/for surreptitious commercial communications;
- employ subliminal techniques;
- disrespect human dignity;
- include or promote any discrimination based on gender, race, ethnicity, nationality, faith or belief, disability, age or sexual orientation;
- incite behaviour detrimental to health or safety;
- incite behaviour that significantly endangers the environment;
- falsely represent the nature, characteristics, quality or geographical origin of the products, services or commercial activities.

Article 12

Prohibitions on Advertising

The new advertising techniques must not be used for promoting:

- cigarettes, tobacco products or their manufacturers;
- weapons, firearms, pyrotechnical items or the firms that sell these;
- drugs and prescription-only medicinal products and medical treatments;
- alcohol and alcoholic beverages, with the exception of wine and beer.

² The *Guidance on Implementing Product Placement Rules* is published in the *Official Gazette of the Republic of Macedonia* No. 201/14.

The new techniques for advertising wine and beer must not:

- be aimed specifically at minors and must not, in particular, depict minors consuming wine or beer;
- link their consumption to enhanced physical fitness or to driving;
- create the impression that their consumption contributes towards social or sexual success;
- claim that wine and beer have therapeutic qualities, or that they are stimulants, sedatives, or means to resolving personal conflicts;
- encourage immoderate consumption of alcohol or represent abstinence or moderation in a negative light, or
- emphasize high alcoholic content as a positive quality of wine or beer.

The new techniques for advertising medicinal products and medical treatments available without medical prescription must not stimulate unreasonable use of the same, but must present these objectively, without exaggerating their attributes, in tune with the instructions for their use.

Article 13

New advertising techniques and the minors

The use of new advertising techniques must not cause physical or moral harm to the minors.

The new advertising techniques must not:

- directly urge minors to purchase or lease a product or service by exploiting their inexperience or gullibility;
- directly encourage minors to seek from their parents or other persons to buy them the advertised products or services;
- take advantage of the special confidence that minors have in their parents, teachers or other persons, and
- depict minors in dangerous situations.

The new advertising techniques for commercial communications concerning food and beverages that contain nutrients and substances with nutritious or physiological effects, such as fats, saturated fatty acids, salt/sodium or sugars, the excessive intake of which in the overall diet is not recommended, must not:

- contain incorrect or misleading information about the nutritional value of a product;
- suggest that a certain food or beverage can replace fruits and/or vegetables, and
- encourage unhealthy eating and drinking habits such as immoderate, excessive or uncontrolled consumption.

III. NEW ADVERTISING TECHNIQUES AND LINEAR SERVICES

Article 14

Split Screen Advertising

In the programmes of television programme service providers, split screen advertisements must not be larger than $\frac{1}{2}$ of the visible part of the screen, only when the screen is equally divided between the advertising and the programming, i.e. on the remaining half of the visible part of the screen the programme is shown integrally.

If split screen advertisements are inserted over the content of the programme, then the split screen advertisement must not exceed $\frac{1}{4}$ of the visible part of the screen and must not cover crucial parts of the action, such as, for instance, the characters or the subtitles, or violate in any other way the integrity of the programme, and it must not cover the logo of the service provider, the logo signing product placement or other logos intended to give information concerning the nature and/or of programme.

If split screen advertising is used to indicate the sponsors of an audiovisual programme, the regulations of the Rulebook on Sponsorship apply.³

There must be a period of at least 15 minutes between two insertions of split screen advertising.

If the programme is shorter than 15 minutes, only one insertion of split screen advertising is allowed.

Article 15

Interactive advertising on television

When an icon appears on screen through which the viewer gains access to interactive commercial services, the same should flash and be inserted within an advertising spot (most often the last in an advertising slot) or in the electronic programme guide, where it should be clearly marked by the word 'advertisement'.

When the viewers click on the icon, it must not immediately lead them to the commercial contents, but an intermediate screen should open first, warning the viewers that, after a second click, they are about to leave the television programme service and enter a commercial interactive environment.

³ The *Rulebook on Sponsorship* will be published in the *Official Gazette of the Republic of Macedonia* following its adoption.

Interactive advertising for products/services unsuitable for minors (for example, because they might cause distress or because they refer explicitly to sexual matters) must not be directly accessible from advertisements that are aired into or are adjacent to programmes directed at minors.

There must be a period of at least 15 minutes between two insertions of Interactive advertising.

Article 14

Virtual advertising on television

Virtual advertising must not be embedded into the signal without the knowledge of the broadcaster. Its embedding requires previous permission from the organizers of the event or the rights holders.

Advertisements may be embedded by means of virtual advertising only over areas that are usually used for advertising (the fence of the sports venues, billboards already displaying advertisements, etc.)

Virtual advertising must not be embedded over faces, sports equipment or areas at the venue of the event that are not being used for advertising.

Moving advertisements may be embedded only over spaces where such advertisements already exist.

Virtual advertising may be embedded only in a manner that does not distract the viewers' attention and does not affect the quality of the programme.

The television programme service is obliged to inform the viewers at the beginning and the end of the programme that advertising messages different from those originally visible at the event have been embedded in the programme by means of virtual advertising.

If Virtual advertising is used to indicate the sponsors of an audiovisual programme, the regulations of the Rulebook on Sponsorship apply.

**IV. NEW ADVERTISING TECHNIQUES AND
ON-DEMAND AUDIOVISUAL MEDIA SERVICES**

Article 15

New advertising techniques of the on-demand audiovisual media services

If products, services, an image, ideas, an activity, etc., are being promoted in the catalogue or the programmes of the on-demand audiovisual media services by means of new advertising techniques, the general rules concerning new advertising techniques from this Rulebook must be observed.

The use of new advertising techniques in the catalogue or the programmes of on-demand audiovisual media services requires prior consent of the rights holder.

The consumers must be enabled to skip the advertisement inserted by means of new advertising techniques after its first five seconds.

V. CONCLUDING PROVISIONS

Article 16

This Rulebook shall enter into force one day after its publication in the *Official Gazette of the Republic of Macedonia*.

Agency for Audio and Audiovisual Media Services

President of the Council

Personal signature

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No. 01-2759/1

06.04.2015

Skopje