

Pursuant to Article 18, Paragraph 1, Indent 8, and Article 20, Paragraph 1, Indent 11,¹ of the Law on Audio and Audiovisual Media Services ("Official Gazette of the Republic of Macedonia," nos. 184/13, 13/14, 44/14, 101/14, 132/14, 142/16, 132/17, 168/18, 248/18 and 27/19, and "Official Gazette of the Republic of North Macedonia," Nos 42/20, 77/21, 154/23 and 55/24), in conjunction with Article 55 of the same Law, in accordance with Article 15, Paragraph 1, Indent 7, and Article 39, Paragraph 1, Indent 11 of the Rules of Procedure of the Agency for Audio and Audiovisual Media Services (Consolidated Text), No. 01-3732/1 dated 29.07.2019, and Conclusion No. 02-2697/2, dated 13.06.2024, a consolidated text has been prepared of the Guide on Implementing Product Placement Rules.

The consolidated text of the Guide on Implementing Product Placement Rules incorporates the following: Guide on Implementing Product Placement Rules Ref. No. 01-6700/1 dated 30.12.2014, and Guide Amending and Supplementing the Guide on Implementing Product Placement Rules Ref. No. 01-2751/1, dated 13.06.2024.

GUIDE ON IMPLEMENTING PRODUCT PLACEMENT RULES

(Consolidated Text)

I. GENERAL PROVISIONS

Subject

1. This Guide shall regulate in more detail the manner of implementing product placement rules.

Objectives

2. The objective of this Guide is to provide audiovisual media service providers (broadcasters and on-demand services), as well as the providers of video-sharing platform services, with more detailed guidelines on implementing product placement rules, in particular:
 - to clarify the terms, language and categories used in the Law;
 - to clarify the method of identifying product placement in programmes or user-generated videos;
 - to make transparent the way in which the Agency evaluates compliance with product placement rules in various types of programmes or user-generated videos;
 - to encourage audio or audiovisual media service providers, as well as video-sharing platform service providers, to implement product placement rules in the best way possible, while protecting the audience's interests.

Glossary of terms

¹ Indents 8 and 9 have been deleted; see: Article 8 of the Law Amending and Supplementing the Law on Audio and Audiovisual Media Services ("Official Gazette of the Republic of Macedonia" No. 248/18).

For the purposes of this Guide, the terms below shall mean as follows:

3. **News** are programme units that summarize the most important global, regional and/or domestic social current developments and events, mainly using the journalistic genres of news and report. News include both TV and radio newscasts.
4. **Programmes devoted to current issues and topics** are types of programmes with an informative function that refer to global, regional and/or domestic events of political, economic or social interest and significance, to current or reraised issues and topics. Of the programmes with an informative function, listed in the Guidelines on the Method of Classifying the Types of Audiovisual and Audio Programmes (“Official Gazette of the Republic of Macedonia”, No.171/14), product placement is prohibited in the following types of programmes: current-affairs informative programme, current-affairs informative programme with a documentary approach, current-affairs informative talk show, broadcasts or footages of sessions of government bodies, broadcasts or footages of social and political events.
5. **Programmes dedicated to consumer-related issues** are programmes that offer advice to consumers and/or include scores regarding the purchase of products and services.
6. **Religious programmes** are programme items with the primary purpose – based on their content and their approach – to represent aspects of a religious worldview, either through an individual sermon, or through direct broadcasts and footages of religious services and/or sermons, as well as programmes with informative and educational function covering religious themes.
7. **Programmes for children** are the types of programmes with informative, educational, and entertainment functions. Their plot includes participation of children and/or is intended for children up to 12 years of age.

Editorial responsibility and integrity of the programmes/videos

8. Product placement must not influence the responsibility and editorial independence or the integrity of the programmes and videos created by the audio or audiovisual media service providers. The demands of the advertisers the products of which are placed in the programmes or videos must not influence the script, content, structure, production or scheduling of the programmes or videos concerned.
9. The credibility and truthfulness of the claims and data presented as part of the product placement shall be the responsibility of the contracting party, whereas their legal compliance – of the natural person or the sole trader providing audio or audiovisual media services or the person responsible for the programme in the legal entity.

Responsibility of the video-sharing platform providers

10. Video-sharing platform service providers shall be obliged as follows:
 - when placing, selling or editing audiovisual commercial communications themselves, to comply with the general rules for audiovisual commercial communications as laid down in Article 53 of the Law on Audio and Audiovisual

- Media Services, which also apply to product placement as an audiovisual commercial communication;
- to specify in their terms of use of the service that the audiovisual commercial communications included in the audiovisual media service providers' programmes or in the user-generated videos transmitted using their platform, must follow the general rules for audiovisual commercial communications under Article 53 and the specific product placement rules under Article 55 of the Law on Audio and Audiovisual Media Services, as well as the provisions contained in other laws and regulations relating to advertising, and
 - to provide an application for the users uploading videos which they shall use to inform the audience that the video contains audiovisual commercial communications.
11. Video-sharing platform service providers shall be obliged to inform the users expressly in case an audiovisual media service provider's programmes and the user-generated videos contain audiovisual commercial communications, provided that the respective provider is aware of the existence of the audiovisual commercial communications.

II. PRODUCT PLACEMENT RULES

General rules

12. Product placement must be immediately identifiable as such.
13. Surreptitious product placement is not permitted.
14. Product placement must not use subliminal techniques.
15. Product placement must not:
- prejudice respect for human dignity;
 - jeopardize national security, advocate violent overthrow of the constitutional order of the Republic of North Macedonia, call to military aggression or armed conflict or spread illegal activities, including public incitement to commit terrorist acts, acts linked with child pornography and acts related to racism and xenophobia;
 - incite or spread discrimination, intolerance, violence or hatred based on race, skin colour, origin, national or ethnic belonging, sex, gender, sexual orientation, gender identity, affiliation to a marginalized group, language, citizenship, social background, religion or religious beliefs, political beliefs, other beliefs, disability, age, family or marital status, property status, health condition, personal traits and social status, or any other grounds;
 - encourage behavior that is harmful to health or safety;
 - encourage behavior that seriously endangers the environment.
16. Product placement that falsely represents the nature, characteristics, quality or geographic indication of the products, services or commercial activities, is prohibited.

17. Product placement should be:

- in compliance with the legal provisions in force concerning fair competition;
- truthful and honest, should not mislead the public or be against the consumers' interests.

Products and services the placement of which is prohibited

18. In the programmes and user-generated videos it is not permitted to place the following products and services:

- cigarettes and tobacco products;
- electronic cigarettes and their refills;
- prescription-only medicinal products and medical treatments;
- drugs;
- alcohol and alcoholic beverages, with the exception of wine and beer;
- weapons, firearms and pyrotechnical items;
- products and services by legal or natural persons whose main economic activity is the production or sale of products and services the placement of which is prohibited.

Wine and beer placement rules

19. The placement of wine and beer must not:

- be aimed specifically at minors or, in particular, depict minors consuming wine or beer;
- associate their consumption with enhanced physical fitness or driving;
- create an impression that their consumption contributes towards social or sexual success;
- claim that wine and beer have therapeutic properties, or that they are stimulants, sedatives, or means to resolving personal conflicts;
- encourage immoderate consumption thereof or present abstinence or moderation in a negative light, or
- emphasize high alcoholic content as wine or beer's positive quality.

Medicinal products and treatments not subject to medical prescription

20. The placement of medicinal products and medical treatments available without medical prescription must not stimulate unreasonable use of the same, i.e. it should present them objectively, without exaggerating their properties, in accord with the instructions for their use.

Prohibition of direct incitement or undue prominence


21. The programmes and user-generated videos containing product placement must not directly incite consumers, through special promotional recommendation or promotion, to buy or lease certain products or services. The products or services placed in the programmes and user-generated videos must not be assigned excessive importance, by way of highlighting or referencing them.


22. A certain product, brand, name or trademark may be shown in a programme/video, yet their display or referencing must not be done in an aberrant, exaggerated or intrusive manner that visibly promotes the product, service or brand.
23. The hosts/presenters of programmes/videos containing product or service placement should avoid praising the quality, price or availability of the respective products or services, or give any positive assessments and recommendations that incite the consumers to buy or lease the products or services being placed.
24. The evaluation of whether there is direct incitement or undue prominence of a product or service in a certain programme/video is done for each case individually, on the basis of any of the following criteria:
 - placement features, e.g.: the space allocated on-screen or in the studio;
 - duration and frequency of the reference or the exposure;
 - expediency and justification of the reference or exposure viewed from the aspect of the editorial concept of the programme/video concerned;
 - the language used in the reference or the visual means of representation.

Labelling product placement

25. In order to avoid confusing the viewers and listeners, programmes and user-generated videos containing product placement should be clearly labelled at the beginning and at their end, as well as after each commercial break.
26. Audiovisual programmes and user-generated videos containing product placement should be labelled by displaying a logo and a text on the screen, as follows:
 - the logo should be displayed anywhere on the screen so as to be easily noticeable to the viewers, but must not cover any substantial parts of the action, such as, for instance, the characters or the subtitles, or in any other way impair the integrity of the programme or the user-generated video, and must not cover the logo of the audiovisual media service provider, the programme category label, the split-screen advertising or other labels that should provide the viewer with information about the nature and/or the characteristics of the programme/video;
 - any appearance of the logo must be accompanied by text, and must last at least 10 seconds.

Layout of the logo and the text that should be displayed on the screen:

VERSION USED AGAINST DARK BACKGROUND	Programme containing product placement!
	

VERSION USED AGAINST LIGHT BACKGROUND	
	Programme containing product placement!

26-a. The radio programmes containing product placement shall be labelled as follows:

- at the beginning and at the end of the programme, as well as upon every continuation following a commercial break, the host/presenter should verbally clearly state that it is a programme containing product placement, by saying the following text: "This content contains product placement."

The provisions of this point also apply to the audio versions of user-generated videos, audio blogs and similar audio content.

27. If audio or audiovisual media service providers and users generating videos wish to state the entire list of products, services or brands being placed in the respective programme/video, they may do so only at the end, as part of the end credits and/or within a separate section of their website referring to the content concerned. In this, the information must be presented in a neutral and non-promotional manner.
28. Product placement labelling provisions do not apply if the audio or audiovisual programme containing product placement has not been produced or commissioned by the media service provider or by a company associated with the media service provider.
29. If the audiovisual media service provider broadcasts a programme made by others containing a pre-embedded Product Placement logo/voice information, it is not necessary to cover it.

Programmes in which product and prop placement are prohibited

30. Product placement is prohibited in newscasts, programmes devoted to current-affairs issues and topics, programmes dedicated to consumer issues, religious programmes and children's programmes, defined in points 3, 4, 5, 6 and 7 of the Glossary of Terms included in this Guide.
31. Prop placement, which implies the use of products and services (such as production props or prizes) in a programme/video in a way that they are embedded in the action without having to pay a monetary or any other type of consideration, is prohibited in all types of programmes/videos in which product placement is prohibited.

Product placement and sponsorship

32. Product placement differs from sponsorship in that the mention of the sponsor's name or the display of their trademark is always embedded in the script or scenography of the programme/video. In contrast, with sponsorship, identifying the sponsor must be distinctly separated from the programme/video's content.
33. Programmes/videos that contain product placement and are being sponsored at the same time, are subject to both product placement rules and the rules on sponsorship.

Product placement and surreptitious audio and audiovisual commercial communications

34. Surreptitious audio or audiovisual commercial communications are prohibited in all programmes and user-generated videos, unlike product placement which is permitted in most types of programmes/videos.
35. If product placement is not clearly labelled, it shall be considered a form of surreptitious audio or audiovisual commercial communication.

Prizes as props

36. The prizes given out to the participants in a programme/video or the viewers shall be considered as prop placement. As such, they should be identified verbally or visually in accordance with the same rules that apply to product placement.

(Article 13 of the Guide Amending and Supplementing the Guide on Implementing Product Placement Rules, Ref. No. 01-2751/1, dated 13.06.2024)

- 36-a. An Appendix No. 1 – "Relevant definitions derived from the Law on Audio and Audiovisual Media Services" – is added to the Guide on Implementing Product Placement Rules ("Official Gazette of the Republic of Macedonia" No. 201/14), as an integral part thereof.

III. CONCLUDING PROVISIONS

(Point 37 of the Guide on Implementing Product Placement Rules, "Official Gazette of the Republic of Macedonia", 201/14)

37. This Guide shall enter into force the day after that of its publication in the "Official Gazette of the Republic of Macedonia".

(Article 14 of the Guide Amending and Supplementing the Guide on Implementing Product Placement Rules, Ref. No. 01-2751/1, dated 13.06.2024)

38. This Guide Amending and Supplementing the Guide on Implementing Product Placement Rules (“Official Gazette of the Republic of Macedonia”, No. 201/14), shall enter into force the day after that of its publication in the “Official Gazette of the Republic of North Macedonia” and the same shall be published on the website of the Agency for Audio and Audiovisual Media Services.

Agency for Audio and Audiovisual Media Services

President
Lazo Petrushevski
(handwritten signature)

APPENDIX NO. 1

Relevant definitions derived from the Law on Audio and Audiovisual Media Services

- ✓ **Audio or audiovisual media service** shall mean:
 - a) a service under the editorial responsibility of a media service provider, where the principal purpose of the service or a dissociable section thereof is devoted to providing programmes to the general public, in order to inform, entertain or educate, by means of electronic communications networks within the meaning of the definitions of the law regulating electronic communications. In this, such a service may be either a linear audio or audiovisual media service (radio or television programme), an on-demand audiovisual media service, or
 - b) an audio or audiovisual commercial communication.

- ✓ **Audiovisual programme** shall mean a set of moving images with or without a sound constituting an individual item, irrespective of its length, within the chronological order of programmes (programme scheme) or a catalogue of programmes established by a provider of on-demand audiovisual media services, representing designed items of an entertaining, educational or informative function, such as feature-length films, video clips, sports events, situation comedies, documentaries, children's programmes, TV drama, etc.

- ✓ **Audio or radio programme** shall mean music and/or spoken content constituting a separate item within the chronological order of programmes (programme scheme). Audio programmes shall mean designed items of an entertaining, educational or informative kind.

- ✓ **On-demand audiovisual media service** shall mean a non-linear media service provided by a provider of an on-demand audiovisual media service, which ensures viewing of programmes at a time selected by the user, at their individual request based on a catalogue of programmes established by the on-demand media service provider.

- ✓ **Audiovisual commercial communications** shall mean images with or with no sound, which are designed:
 - to promote, directly or indirectly, the goods, services or image of a natural or legal persons pursuing an economic activity, or
 - to popularize an idea or activity or to achieve some other effect.

Audiovisual commercial communications accompany, or are included in, a programme or a user-generated video in return for payment or for similar consideration or for self-promotional purposes of the contracting party. The forms of audiovisual commercial communications include, *inter alia*, television advertising, teleshopping, sponsorship and product placement.

- ✓ **Audio commercial communication** shall mean content created:
 - to promote, directly or indirectly, the goods, services or image of a natural or legal persons pursuing an economic activity, or
 - to popularize an idea or activity or to achieve some other effect.

Audio commercial communications accompany, or are included in, a programme in return for payment or for similar consideration or for self-promotional purposes of the contracting party. The forms of audio commercial communications include, *inter alia*, radio ads, sponsorship and product placement.

- ✓ **Audio or audiovisual media service provider** shall mean any natural or legal person performing the economic activity of providing an audio or audiovisual media service and holding editorial responsibility for the selection of audio or audiovisual content, and deciding the manner in which these shall be organised. A provider of audio or audiovisual media service, within the meaning of this law, is a broadcaster or a provider of on-demand audiovisual media service. A person performing only transmission, i.e. distribution of audio and/or audiovisual programmes the editorial responsibility for which is borne by third parties, shall not be considered an audio or audiovisual media service provider.
- ✓ **Surreptitious audio or audiovisual commercial communications** shall mean representation by words, sounds or images of goods, services, name, trademark or activities of a producer of goods or a provider of services in the programmes, where such representation is intended, on the part of the audio or audiovisual media service provider, to serve as advertising and may mislead the public as to the nature thereof. Such representation shall be considered as intentional, in particular, if it is done in return for payment or for similar consideration.
- ✓ **Product placement** shall mean any form of audio or audiovisual commercial communication consisting of the inclusion of, or reference to, a product, a service or a trademark thereof into a programme or a user-generated video, so that it is featured within the action in return for payment or for similar consideration.
- ✓ **Sponsorship** shall mean any contribution made by a legal or natural person not engaged in providing audio or audiovisual media services or video-sharing platform services, or in producing audio or audiovisual works, for the purpose of financing audio or audiovisual media services, video-sharing platform services, user-generated videos or programmes with a view to promoting their name, trademark, image, activities or products.
- ✓ **Editorial responsibility** within an audio or audiovisual media service shall mean decision-making power over the selection of programmes and their organizing as part of the chronological schedule (programme scheme) in case of television or radio broadcasting (linear services), or within the catalogue of programmes in case of on-demand audiovisual media services (non-linear services).
- ✓ **Editorial decision** shall mean any decision that is taken on a regular basis for the purpose of exercising editorial responsibility and linked to the day-to-day operation of the audio or audiovisual media service.
- ✓ **Video-sharing platform service** shall mean an information society service that is intended for the general public and is made available through an electronic communications network, where the principal purpose of the service or of a dissociable section thereof or an essential functionality of the service is devoted to providing the public with access to programmes and/or user-generated videos that have an informative, educational or entertainment function, for the content of which the service provider does not have editorial responsibility, but only determines the way the service

is organized, including by automatic means or algorithms in particular by displaying, tagging or sequencing the content.

- ✓ **User-generated video** shall mean a set of moving images with or without sound constituting an individual item, irrespective of its length, that is created by a user and uploaded to a video-sharing platform by that user or any other user.
- ✓ **Video-sharing platform service provider** shall mean any natural or legal person providing the video-sharing platform service.