

Product Placement

Article 3h of the proposal for a directive on audiovisual media services – COM (2005) 0646

Paid visibility and/or reference to products, services or trade-mark within television programmes are practices currently under a grey zone of Community regulation. In fact, product placement is neither forbidden nor explicitly allowed in the Television Without Frontiers directiveⁱ, which has led to a situation that egta considers unsatisfactory in many aspects:

- **Lack of European harmonisation:** whereas Austria and Spain allow product placement on television programmes, many Member States consider it as surreptitious advertising and thus illegal. In other countries, regulatory black holes lead to the development of a wide variety of related practices.
- **No broadcaster's control on product placement already present on European screens:** Many films and programmes coming from outside the EU contain product placement. However, broadcasters are neither informed nor remunerated and have no control over it.
- **Lack of information and safeguards for viewers:** Without consistent regulatory frameworks, viewers are not informed of product placement and no minimum qualitative standards are consequently applicable.
- **Discriminatory nature of the current situation:** European television productions cannot compete on a level playing field against US productions that recourse to product placement. As well, it is unclear why product placement is allowed on cinematographic works whereas banned on television programmes.

In this context, the Commission's proposal seems to offer a constructive way forward in providing product placement with a clear legal basis, under certain conditions:

- Appropriate identification
- Application of minimum qualitative rules including a ban on tobacco products
- Products or services should not be given undue prominence.
- Ban in news, current affairs, children's programmes and documentaries.

Egta welcomes this realistic approach that both acknowledges the legal compatibility of product placement and provides clarifications that it should not undermine broadcasters' editorial independence and responsibility.

On these principles, as well as on conditions for product placement, egta is willing to work with European decision-makers to address their concerns and make sure **a genuine and workable regulatory framework is agreed.**

Egta also wishes to highlight that this form of commercial communication could provide the marginal share of revenueⁱⁱ particularly needed at a time when broadcasters face the immense challenges of convergence and digital switchover. With the combination of EPG and PVR that compromises the exploitation of the traditional advertising spotⁱⁱⁱ, it is indeed important for sales houses to have the possibility to include product placement within their commercial offer to advertisers. This would in turn enable broadcasters to be better equipped to face increasing competition from other media service providers.

The legalisation of product placement is an important tool to foster television advertising revenues and thus contribute to the financing of a vibrant European audiovisual content industry.

ⁱ Directive 1989/552/EEC of the European Parliament and of the Council on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities – 1989.

ⁱⁱ According to the PQ media study on product placement in the USA, revenues generated by TV product placement amounted 1878 million dollars, thus representing 2% of the TV advertising market. *Impact assessment, Proposal for a directive on audiovisual media services – 2005.* Nielsen figures confirm this relatively small share represented by TV product placement (2.5% expected for 2006/2007). Carat, Koan – *Comparative study on the impact of regulation measures on televised advertising markets – 2006.*

ⁱⁱⁱ The combination of Personal Video Recorders (PVR) and Electronic Programme Guides (EPG) would soon allow viewers to skip all advertising breaks between programmes without any efforts.