

Rules on the insertion of advertising breaks

Article 11 of the proposal for a directive on audiovisual media services – COM (2005) 0646

Insertion rules govern the planning of advertising breaks during programmes. Article 11 of the European Commission's proposal establishes both general principles and detailed rules:

- advertising or teleshopping must be inserted in a way that the integrity of the programmes and the rights of rights holders are not prejudiced (*paragraph 1*)
- restrictive insertion rules depending on the type of programmes (*paragraph 2*)

Egta member sales houses fully support the principles established in paragraph 1 however they have serious concerns over rules defined in paragraph 2. **These provisions have disruptive effects** in three major areas.

- **Financing of new programmes:** Insertion rules directly limit broadcasters' returns on investmentⁱ and as a result broadcasters may turn away from these programmes towards more profitable "genres". This could seriously impair investments in new and attractive European contentⁱⁱ.
- **Viewing comfort:** advertising breaks are slotted according to detailed regulatory considerations rather than natural breaks in programmes, to the detriment of the viewing experience. To a certain extent it can be said that these rules damage the principles laid down in paragraph 1.
- **Creativity in advertising formats:** Advertising format, above content, is the key driver of creativeness in commercial communications. However, insertion rules lock advertising in unattractive formats and long cluttered tunnels that are more intrusive than shorter breaks.

To meet advertisers' expectations, to maintain the sustainable financing of free-to-air broadcasters and to offer viewers an enhanced experience of television, a relaxation of insertion rules comprised in article 11, paragraph 2 is essential. **Egta would like the following regulatory options to be considered:**

- ⇒ Egta believes the **provision on cinematographic works, especially TV filmsⁱⁱⁱ**, should be lifted since both the retransmission and the financing of these programmes are adversely affected by this rule.
- ⇒ Egta understands the political motivation to maintain restrictions on news programmes and programmes for children, however it believes **the existing rule should not be strengthened**, unlike the Commission's proposal: *one interruption for each period of 35 minutes, instead of 20 minutes (subject to 30-minute programme duration) in today's legislation.* Not only the need for such change has not been demonstrated but a 35 minute limitation would create countless disruptions in terms of programming^{iv}, in addition to substantial impacts on revenues^v and the financing of new content.

If one wishes to streamline the regulatory framework on advertising, further progress should be made on insertion rules, whose effects are the most damaging ones. In that case, increased flexibility for broadcasters would mean better regulation for viewers. Unlike any other media, television relies on highly sophisticated real-time audience measurement systems so broadcasters know better than anyone else that viewers must not be disturbed by intrusive advertising insertions, or else the sanction is immediate.

A modernisation of insertion rules means placing viewers' satisfaction above all and ensuring continued investment in European programming.

ⁱ Advertisers show a growing disaffection for traditional 30-second spots inserted in advertising tunnels. If sales houses cannot offer them attractive advertising space, investments on television could stagnate or decrease while broadcasters must face rocketing costs of new television programmes.

ⁱⁱ According to a study conducted by egta in 2002, 94% of advertising revenues from children's TV advertising are used to purchase rights of new children's programmes and 66.5% of these revenues are directly invested in the production of European content for children.

ⁱⁱⁱ As opposed to cinematographic works, TV films do not drive income from the box office so broadcasters must generate greater shares of advertising revenues to finance these programmes.

^{iv} In Europe, television programme grids are built on 30 or 60 minute blocks to match with the typical length of most programmes. It would be extremely complex for broadcasters to entirely reshuffle their daily schedules according to 35 or 110 minute blocks.

^v According to a 2005 egta study conducted towards 30 member sales houses in 20 countries, sales houses currently inserting advertising in the course of news and/or children programmes, could lose substantial revenues since nearly all news and children's programmes are shorter than 35 minute long. For these sales houses, revenues generated by insertion on each of these types of programmes represent in average 5% of their revenues.