



3 June 2008



egta is the trade association of television and radio sales houses that commercialise the advertising space of both private and public TV/radio channels all over Europe.

- 70 TV members
- 33 Radio members
- 34 European countries including 22 EU Member States
- More than 70% of the European TV advertising market
- 50% of radio advertising market in countries represented by the egta members



Presentation of the egta practical guide on the EU directive on Audiovisual Media Services



egta practical guide on the AMS directive



Official Launch & Presentation

Prior distribution to
egta members during
the course of
December 2007

Release in June 2008

The purpose of the publication

- Empower advertising professionals with an understanding of the new EU directive on audiovisual media
- Develop a common interpretation of EU law across the European industry to ensure consistent implementation
- Foster innovative thinking among professionals to develop creative solutions within regulatory limits
- Promote responsibility in advertising thanks to a better understanding of issues and debates



3

Key drivers behind the practical guide



RELEVANCE

Advertising-related provisions only



ACCESSIBILITY

Simple terms – No legal vocabulary

CONSISTENCY

Interpretations that allow new possibilities & push back boundaries



4

The structure of the guide

- User's guide
- Three parts similar to the structure of the directive & identified by colour
- One chapter per provision
- Index to quickly access main advertising formats and legislative concepts
- Articles of the directive contained in the appendix

Table of content	
Foreword	3
Table of content	4
User's guide	8
PART I: GENERAL PRINCIPLES AND DEFINITIONS	
Television and beyond: the services affected by the new rules	7
Push or Pull content: two types of services	9
Commercial communication: the terminology	10
Two sets of rules on advertising: defining which ones to apply	12
PART II: BASIC SET OF RULES APPLICABLE TO ALL SERVICES	
Recognition and identification principle	15
Surrogate advertising and subliminal techniques	16
General qualitative standards	17
Restrictions on tobacco, alcoholic beverages and medicines	18
Protection of minors	19
Advertising to children of some foods and drinks	20
Sponsorship	21
Product Placement, Production Props - definitions	23
Product Placement, Production Props: the rules	25
PART III: TELEVISION BROADCASTS	
Distinction of advertising and non-forms of advertising	29
Isolated spots / single spots	31
Insertion of breaks in programmes	32
Teleshopping of medicines and medical treatments	34
Advertising and Teleshopping of alcoholic beverages	35
Limitation on the amount of advertising	36
Teleshopping windows and spots	38
Exemptions for specific television channels and broadcasts	39
Index	41
Articles of the new directive on + Authorised Media Services +	42

5

The content

- Commercial communications on on-demand platforms
- Product placement
- Sponsorship
- Advertising spots
- Insertion of breaks
- Hourly limit to advertising
- Isolated spots
- Teleshopping
- Advertising to children
- Public health limitations: tobacco, medicines, alcohol.
- Advertising of food products to children



Television broadcasts
Isolated spots / single spots

Under the provision of article 10 paragraph 2 of the new directive, isolated advertising and teleshopping spots should remain exceptional but can be used more widely in the transmission of sports events.

That being said, two essential elements must be clarified:

- This rule applies to spots both broadcast between and during programmes.
- Isolated advertising or teleshopping spots are not defined but are widely understood as a "single spot", what we would generally consider as a sequence of a length of 30" or less.

There is however a lack of clarity on what constitutes a "spot" and a conflict could arise from an interpretative guideline (see page 36).

On a practical basis, defining how often and under which circumstances these can be used will always be a matter of interpretation: e.g. is of the opinion that = single spots = should be acceptable when:

- there is one single but long - much longer than 10" - advertisement
- the sales house unexpectedly did not fill the entire break due to a lack of demand from clients
- the time available for the break is very short (e.g. the programmes like the transmission of a national event or the coverage of an election night, etc.)

Isolated spots can be used widely and without restriction in the transmission of sports programmes.

Isolated spots & split screens

The practice of using extremely short advertising spots (mini-spots) during an incident in football matches is a point raised by this new directive, since isolated spots become legal in sports transmission. It remains important however that mini-spots are clearly distinguishable (see page 29) and that they are inserted at a time of incidents, if there is no natural break in the programmes (see page 32).

With the legalisation of split screens (see page 29), isolated spots or mini-spots can become premium advertising or sponsorship offers.

IN SHORT

- No limitation on single/isolated advertising or teleshopping spots during the transmission of sports programmes
- In or around other programmes, isolated spots must be limited
- e.g. advice sales houses to be ready to present exceptional circumstances to justify - if requested by authorities - the broadcast of isolated spots.

6

Navigating the practical guide

Because many provisions apply to single advertising formats:

- Table of most common advertising formats
- Index
- Cross-references

A few elements of this definition deserve attention:

- ◇ Product placement is a form of audiovisual commercial communication (see page 10). As such, it covers placements both in television broadcasts and in on-demand services with identical rules applying.
- ◇ As opposed to sponsorship where products can only be shown by way of sponsorship reminders (see page 21), products, services or trade mark must appear (visual or verbal representation) within the programme as part of the plot or the story-line, so that such representation qualifies as product placement.
- ◇ The verbal or visual representation of the product within the programme has to be done against payment or similar consideration. This feature raises difficulties when it comes to product placement:
 - * The concept of "similar consideration" should be understood in the widest sense to cover any form of return (see page 10).
 - * It makes no difference with regards to the product placement qualification whether the payment comes from the advertiser, a media agency or a placement agency.

The table lists various advertising formats and their applicability to different provisions. The formats include: Identification articles, Surreptitious advertising, Qualitative standards, Tobacco (medicines excluded), Promotion of minors, Lotteries and games, Sponsorship, Product Placement, Promotional articles, Reservations on single seats, Limits on sports betting, Restrictions on medicines, Single seats on board, Hours limit to advertising, and Telemarketing services. The applicability is indicated by checkmarks in a grid.

Addressing industry-specific issues

Because EU law and industry realities do not necessarily match:

- Different terminology used
- EU directive cannot detail all advertising formats
- Practices vary a lot across Europe

→ Frames provide additional information and clarifications

The screenshot shows the 'Basic set of rules applicable to all services' section, specifically 'General qualitative standards'. It includes Article 3d paragraph 1 indent (c) which establishes a certain number of basic qualitative standards that must be respected in all audiovisual commercial communications. The standards are:

- (i) Audiovisual commercial communications shall not:
 - (a) constitute respect for human dignity;
 - (b) include any discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation;
 - (c) encourage behaviour prejudicial to health or safety;
 - (d) encourage behaviour grossly prejudicial to the protection of the environment.

 The text also notes that the first two standards clearly aim at safeguarding people's fundamental rights and that the only new additions to already existing restrictions are discriminations based on disability and sexual orientation.

Making things clear and concise

Because explanations and interpretations
sometimes necessitate legal reasoning



"IN SHORT" summaries at the end
of each chapter

9

General principles & definitions
Push or pull content: two types of services

One of the main features of the new "Audiovisual media services" directive is that it no longer covers television only but all audiovisual "television-like" services that developed on mobile, the internet, etc. (see pages 7 & 8). Considering the variety of services, the need to establish a distinction between those offering "push-content" and those offering "pull-content" arose. Due to their fundamental differences, these services cannot be regulated in the exact same way.

For the sake of defining which rules apply, all audiovisual media services subject to the new legislation must fall within one of the following categories.

TELEVISION BROADCASTS ("linear services")

This category covers "push-content". Essentially, this means that the broadcaster offers a service based on a fixed temporal programme schedule that gets watched simultaneously by one or more people. Therefore, traditional broadcast television, live streaming via the internet and mobile, re-broadcast or near-live on-demand fall within this category. Near-video-on-demand covers on-demand programmes that are made available to viewers on the basis of a schedule rather than a catalogue. These programmes are meant to be watched by viewers at a precise time.

ON-DEMAND SERVICES (also named "non-linear services")

This category comprises "pull-content". It covers services in which each consumer chooses for himself the programmes he wants to see and when he wants to see them from a catalogue of programmes. This catalogue is under the responsibility and control of a "media service provider". This covers any type of "on-demand" services, whether it is on digital television, mobile, the internet, etc.

Major implications for advertising!

Defining whether services must be considered as television broadcasts or as on-demand services has enormous implications for advertising rules. On-demand services are subject to much lighter rules than television broadcasts for two reasons. First, because viewers are in greater control and thus don't need to be "over-promoted" and second, because some rules applicable to television broadcasts are irrelevant in the case of on-demand services. In Part II of this guide, rules applicable to both on-demand services and television broadcasts are analysed while those described in Part III apply to television broadcasts only.

IN SHORT:

The categories of services are created so that different advertising rules apply:

1. Television broadcasts = push-content = services based on programme schedules that are meant to be watched by many people at the same time
2. On-demand services = pull-content = services based on catalogues of programmes in which each consumer decides what to watch and when to watch it.

The Publication in short

- A5 format - 50 pages
- Published by egta
All rights reserved
- Prior distribution to egta members
in December 2007
- Official release in June 2008
- French & Italian translations under
preparation

Contact egta for more information
info@egta.com +32 2 290 31 31

egta association of
television and radio
in Europe
www.egta.com
practical guide

The Audiovisual Media Services directive

A detailed and practical analysis of the advertising rules established in the new EU directive

The main changes and improvements compared with the "TV Without Frontiers" directive

The regulation of new audiovisual media services

The do's and don'ts of product placement in Europe

The grey areas of the new legislation