

Introduction

The first Advertising and Sponsorship Code of Practice for Broadcasters was passed in 2000. It has contained the minimum requirements necessary in order to regulate advertising and sponsorship and so far it has only been through minimum of changes.

In the meantime, BiH has ratified the CoE Convention on Transfrontier Television, which has brought about the need to harmonise the national regulation with the provisions of the Convention.

This document has been drafted primarily on the basis of the Convention, however, other Sources have been used, such as OFCOM Broadcasting Code of Practice and AGCOM Advertising Code, but also relies on the relevant legal provisions of the advertising and sponsorship laws of Croatia and Serbia and Montenegro.

Additional obligation before BiH in this respect has been put by the recent start of the stabilisation and accession negotiations. Article 101 of the Stabilisation and Accession Agreement stipulated that BiH shall harmonise its legislation with the relevant provisions of the EU law with regard to Transfrontier Television.

New Advertising and Sponsorship Code of Practice for Broadcasters

Changed and Amended Text

Article 1 Subject

This Code sets out the basic principles of advertising, teleshopping and sponsorship for radio and television programmes in Bosnia and Herzegovina.

This Code does not deal with the issues related to political advertising, which are regulated by the relevant provisions of the Election Law of BiH, as well as by the rules passed by the Election Commission.

Article 2 Definitions

For the purpose of the correct interpretation of this Code, the following definitions shall apply:

- 1) "Advertisement" is any public communication aimed to promote vending, purchase or renting the products or services, or promotion of a thing or an idea, or achieving another effect wanted by the advertiser, for which the advertiser has been allocated time for broadcasting in return for payment or other valuable consideration.
- 2) 'Advertiser' is a legal or physical entity that orders the publication of an advert in broadcast media with the purpose of promoting its products, services, real estate, rights or obligations, and enhance their legal traffic, or with the purpose of promoting its name, personality, ideas and activities, and by that to gain business partners or enhance its reputation or good name.
- 3) "Teleshopping" is direct offer broadcast to the public having in mind acquisition of products or services, including real estate, rights and obligations, in return for money
- 4) "Sponsorship" is participation of a legal or physical entity who is not involved in broadcasting activity or production of audiovisual services, in direct or indirect financing of the programme with the purpose to promote the name, brand or recognisability of that entity.
- 5) "Sponsor" is any person mentioned in item 4 of this article.
- 6) Sponsored programme is any programme for which any part of the production or broadcasting expenses are covered by the advertiser whose aim is to promote their own or somebody else's name, brand, image, activities, products or other direct or indirect commercial interests.
- 7) For the purpose of this Code, persons under the age of 14 are considered children.
- 8) "Watershed" is the period between 24.00 hours and 7.00 hours.
- 9) Current affairs programmes are programmes containing explanations and analysis of the current affairs and issues including programmes dealing with political or economic controversies, or issues of current public policy affairs and/or issues.
- 10) "Product or service placement for the purpose of advertising" is inclusion of or a reference to a product or service within a programme in return for payment or other valuable consideration. For the purpose of this rule, the product or service placement shall not be considered as such if it is editorially justified and is done without a payment or at a lesser price, or if it is contained in the programmes

acquired outside Bosnia and Herzegovina, provided that no broadcaster regulated by the RAK has taken part in creation of such programmes or has had any financial benefit.

- 11) "Advertisement aimed at children" is a communication recommending the product or service which is by nature, form, quality or other considerations, aimed for usage by children regardless of whether they could use it on their own or with the assistance of parents
- 12) "Public broadcasters" are broadcasters defined as such in relation to the Rule 01/1999 Definition and Obligations of Public Broadcasting
- 13) "Special Public Broadcasters" are Public Broadcasting Service of BiH, RTV Federation BiH and RTV of the Republic of Srpska
- 14) "Immediately" (before and after) for the purpose of this Code, encompasses the period of 30 minutes (before and after).

Article 3

General Principles of Advertising, Teleshopping and Sponsorship

- 1) Advertising, teleshopping and sponsorship must be legal, decent, true and fair.
- 2) Advertising, teleshopping and sponsorship must not be deceiving or harm the consumers' interests.
- 3) Advertising, teleshopping and sponsorship aimed at children or using children must avoid anything that might harm the interests of the children and have consideration for their particular sensitivity and i susceptibility.
- 4) Teleshopping must not incite children to vending or lease of products or services.
- 5) Advertiser or sponsor must not have any editorial influence to the content or concept of the programme.
- 6) Advertising, teleshopping and sponsorship must be clearly distinguishable as such and be visibly separated from other forms of programmes by optical or acoustic means. In principle, the advertisements and teleshopping shall be broadcast in blocks.
- 7) No technique of influencing the subconsciousness may be used in advertising, teleshopping or sponsorship.
- 8) Deceitful advertising and teleshopping are prohibited.
- 9) Advertisements or teleshopping shall not normally feature, visually or orally, persons regularly presenting news and current affairs programmes.
- 10) Editorial control of the advertisement or teleshopping must be performed by the licensee.
- 11) All advertisements and teleshopping must respect generally accepted principles of fair competition. The licensee shall not unreasonably discriminate or favors any particular advertiser.
- 12) All advertisements, sponsored programmes or teleshopping that promote the products or services that can be obtained by dialling certain phone numbers, must contain clearly visible price of such a phone call, regardless of whether it is a normal or premium rate number

Article 4

Decency and Civility

Advertisements shall not offend generally accepted decency and civility standards or be offensive for public sentiment. Particular attention shall be paid to avoiding insult related to race, nationality, ethnic origin, language, religion, sex, social background or disability.

Article 5
Pornography and Violence

- 1) Advertising and teleshopping shall not present products or services, including magazines, that are regarded as or are directly related to pornography.
- 2) Advertisements the content of which is not pornographic, but which directly or indirectly refer to pornography (hot-lines, advertisements for porn magazines or films) as well as advertisements of erotic nature can be broadcast only within watershed.
- 3) Advertisements that show violence or threat of violence without editorial justification shall not be broadcast.

Article 6
Discrimination

- 1) Advertisements must be in line with all relevant aspects of European and national legislation, as well as the provisions of the European Convention on Human Rights and Fundamental Freedoms related to discrimination.
- 2) Advertisements shall not discriminate women or men with regard to possibilities of employment, education or training.
- 3) Advertisements shall not discriminate ethnic groups or include any material that could, by anybody's reasonable judgment, be regarded as offensive and distasteful by ethnic groups.

Article 7
Price Statements and Comparisons

- 1) Real and compared prices shall be correct at the time of broadcast and shall not wrongly indicate by over-emphasising or twisting. Statements on the "lowest prices", "the most acceptable prices" or "you cannot buy anything cheaper" or similar, shall be supported by the vendor with evidence that their prices are indeed lower than those of the competition.
- 2) Advertisements containing comparisons with other advertisers, products or services are allowed in the interest of a healthy competition and public information, provided that the principle of fair competition is respected and that the such comparison shall not mislead the audience.
- 3) Advertisements shall not discredit and/or belittle the competition, their product or service, neither shall they represent the competition's products as a bad imitation or reproduction.

Article 8
Advertising and Teleshopping of Certain Products

- 1) Advertising and tele-shopping for tobacco products shall not be allowed.
- 2) Advertising and tele-shopping for alcoholic beverages of all varieties shall comply with the following rules:
 - a) they shall not be addressed particularly to minors and no one associated with the consumption of alcoholic beverages in advertising or tele-shopping should seem to be a minor;
 - b) they shall not claim that alcohol has medical effects, that it is a stimulus, tranquilizer or means for resolving personal problems,

- c) they shall not encourage uncontrolled consumption or show abstinence or moderation in a negative sense,
- d) they shall not overly emphasise the alcoholic content of the beverages.

Article 9
Advertising Medicines, Medical Treatments and Health

- 1) Advertisements for medicines and medical treatment which are only available on medical prescription shall not be allowed.
- 2) Advertisements for all other medicines and medical treatment shall be clearly distinguishable as such, honest, truthful and subject to verification and shall comply with the requirement of protection of the individual from harm.
- 3) Teleshopping for medicines or medical treatments shall not be allowed.

Article 10
Advertising with Religious Content

- 1) Any licensee who does not wish to advertise any religious content of any kind has no such obligation. However, should a licensee decide to do such advertising it shall not unfairly discriminate or favour any particular advertiser or religious organisation.
- 2) All advertisements shall clearly identify the advertiser or religious organisation/community on whose behalf the advertisements are broadcast..

Article 11
Paranormal abilities, exorcism, occultism and similar Activities

All advertisements that in any way promote paranormal abilities, exorcism, occultism or similar activities, as well as all services that can allegedly offered by the above activities, can be broadcast only within watershed.

Article 12
Superstition and Fear

Advertisements shall not misuse the superstition or misuse the fear in order to mislead the audience.

Article 13
Advertising and Children

- 1) Advertisement aimed at children shall not contain false information on the advertised product or service, particularly in relation to the actual size, value, nature, durability, speed, colour and other characteristics.
- 2) If the advertisement shows a result of a drawing, making ??, ????, the ability to achieve such result must be adequate to the average ability of the targeted children and it shall contain the age of the children which the product is targeted to.
- 3) Advertisement aimed at children shall not contain a value judgement on the price, particularly the wording like "only", "next to nothing", "very good price" and similar.
- 4) Advertisement aimed at children shall not recommend product or service that is not intended for children.

- 5) Advertisement aimed at children shall not recommend medicines, medical products including vitamins, medical institutions, weight control treatments or products, religious messages, inflammables and other similar dangerous.
- 6) Advertisements that incite behaviour that might endanger lives, physical or moral development of children shall be prohibited. Advertisements aimed at children shall not contain scenes of a child in a dangerous situation such as climbing to unsecured facilities, entry into unknown areas, conversation with unknown people, usage of matches, lighters, gasoline, medicines and electrical gadgets in a household or similar, unless such an advertisement is aimed to convey the warning on a hazard for health and safety of a child or his integrity.
- 7) Advertisement aimed at children shall not contain information that might lead a child to a behaviour which is dangerous for its physical, emotional or any other kind of integrity.
- 8) Advertisement aimed at children shall not contain scenes of violence, including violence among cartoon figures, dolls and alike..
- 9) Advertisement aimed at children shall not contain messages suggesting that usage of certain products or services will gain them physical, intellectual or any other social advantage compared to the children who do not use such products or services..

Article 14 Schedule of Advertising

- 1) Advertisements shall be inserted between programmes. Provided the conditions contained in paragraphs 2 to 5 of this article are fulfilled, advertisements may also be inserted during programmes in such a way that the integrity and value of the programme and the rights of the rights holders are not prejudiced.
- 2) In programmes consisting of autonomous parts, or in sports programmes and similarly structured events and performances comprising intervals, advertisements shall only be inserted between the parts or in the intervals.
- 3) The transmission of audiovisual works such as feature films and films made for television (excluding series, serials, light entertainment programmes and documentaries), provided their duration is more than forty-five minutes, may be interrupted once for each complete period of forty-five minutes. A further interruption is allowed if their duration is at least twenty minutes longer than two or more complete periods of forty-five minutes.
- 4) Where programmes, other than those covered by paragraph 2, are interrupted by advertisements, a period of at least twenty minutes should elapse between each successive advertising break within the programme.
- 5) Advertisements shall not be inserted in any broadcast of a religious service. News and current affairs programmes, documentaries, religious programmes, and children's programmes, when they are less than thirty minutes of duration, shall not be interrupted by advertisements. If they last for thirty minutes or longer, the provisions of the previous paragraphs shall apply.
- 6) Advertisements or teleshopping shall not be broadcast immediately before or after the news of tragic nature, accidents and human violence, unless they are broadcast as breaking news that interrupt regular programme schedule

Article 15 Special Provisions Related to the Schedule of Advertising

Medicines, medical products including vitamins, medical institutions, weight control treatments or products, religious messages, inflammables and other similar dangerous

products shall not be advertised immediately before or after the children oriented programmes.

Article 16

Duration of Advertising and Teleshopping on private broadcasters

- 1) The proportion of tele-shopping spots, advertising spots and other forms of advertising, with the exception of tele-shopping windows within the meaning of paragraph 3, shall not exceed 20% of the daily transmission time. The transmission time for advertising spots shall not exceed 15% of the daily transmission time.
- 2) The proportion of advertising spots and tele-shopping spots within a given clock hour shall not exceed 20%.
- 3) Windows devoted to tele-shopping programmes broadcast within programme services which are not exclusively devoted to tele-shopping shall be of a minimum uninterrupted duration of 15 minutes. The maximum number of windows per day shall be eight. Their overall duration shall not exceed three hours per day. They must be clearly identified by optical and acoustic means.
- 4) For the purposes of this article, advertising shall not include:
 - a) announcements made by the broadcaster in connection with its own programmes and ancillary products directly derived from those programmes;
 - b) announcements in the public interest and charity appeals broadcast free of charge. Such announcements and appeals shall be broadcast free of charge unless it is necessary to pay for the production fees.

Article 17

Duration of Advertising and Teleshopping on Public Broadcasters

Duration of advertisements and other paid messages as well as commercially sponsored programmes on public broadcasters cannot exceed four (4) minutes per hour in the TV programmes and six (6) minutes in the radio programmes.

Article 18

Special Public Service Broadcasters

Duration of advertisements and other paid messages as well as commercially sponsored programmes in the programme of Public broadcasting Service of BiH, Radio Television of the Federation of BiH and Radio television of Republic of Srpska are determined by the separate laws and decisions of the Council of the CRA.

Article 19

General Principles on Sponsorship

- 1) When a programme or series of programmes is sponsored in whole or in part, it shall clearly be identified as such by appropriate credits at the beginning and/or end of the programme.
- 2) The content and scheduling of sponsored programmes may in no circumstances be influenced by the sponsor in such a way as to affect the responsibility and editorial independence of the broadcaster in respect of programmes.

- 3) Sponsored programmes shall not encourage the sale, purchase or rental of the products or services of the sponsor or a third party, in particular by making special promotional references to those products or services in such programmes.
- 4) Editorial control of the sponsored programmes shall be done by the licensee. Any sponsorship shall be declared as such so that the audience can know who pays/contributes and why

Article 20
Prohibited Sponsorship

- 1) Programmes may not be sponsored by natural or legal persons whose principal activity is the manufacture or sale of products, or the provision of services, the advertising of which is prohibited by virtue of this Code.
- 2) Companies that, inter alia, are involved in production or sale of medicines and medical treatments, may sponsor programmes promoting their names, trademarks, images or company activities, without mentioning medicines or special medical treatments, available only upon prescription.
- 3) Sponsorship of news and current affairs programmes shall not be allowed.

Article 21
Entry into Force

- 1) This text, that the Council of the Communications Regulatory Agency adopted on is a changed and amended text of the Code on Advertising and Sponsorship for broadcasters and it fully replaces the mentioned Code published in the BiH Official Gazette 32/04
- 2) This changed and amended text of the Advertising and Sponsorship Code enters force eight days after publication in the BiH Official Gazette and will be applied as of 1 January 2007.