

**Codes of standards, practice and prohibitions in advertising, sponsorship,  
and other forms of commercial promotion in broadcasting service.**

*Drawn up by the Minister for Arts, Culture and the Gaeltacht in the exercise of his  
powers under Section 4(1) of the Broadcasting Act, 1990.*

*11 May, 1995*

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## Introduction

**1.1** Section 4 (1) of the Broadcasting Act, 1990, provides that:

"The Minister shall draw up and may amend, from time to time as he thinks proper, codes governing standards, practice and prohibitions in advertising, sponsorship or other forms of commercial promotion in broadcasting services and the Authority, every sound broadcasting contractor and the television programmes service contractor shall comply with every such code in relation to its broadcasting services."

**1.2** In accordance with Section 4(3) of the Broadcasting Act, 1990, the Minister has consulted with the RTÉ Authority and the Independent Radio and Television Commission in drawing up these codes.

**1.3** The codes contained herein are applicable to both radio and television advertising where practically appropriate.

**1.4** On 7th October 1999, the Minister amended the codes drawn up on 11<sup>th</sup> May 1995 in order to give effect to certain provisions of Directive 96/36/EC of the European Parliament and Council of 30 June 1997 and these revisions have been incorporated into this document.

## **PART I**

### **Codes Of Standards, Practice And Prohibitions In Advertising And Other Forms Of Commercial Promotion in Broadcasting Services.**

#### **2. Definition Of An Advertisement**

**2.1** The nature and format of advertising on broadcasting services can vary greatly and can change over time. It is desirable therefore that in defining the word "advertisement" it would be done in an organic and dynamic way to allow for future developments and should seek to embrace those forms of publicity which one seeks to bring within the code while identifying, as far as possible, those forms which one may wish to exclude from the intended understanding of the concept.

**2.2** In the context of these codes the word "advertisement" shall be construed as:

(i) any form of announcement broadcast whether in return for payment or for similar consideration or broadcast for self-promotion purposes by a public or private undertaking in connection with a trade, business, craft or profession in order to promote the supply of goods or services, including immovable property, rights and obligations, in return for payment.

(ii) including references to advertising matter in sponsored programmes, i.e., programmes supplied for advertising, commercial or promotional purposes by or on behalf of an advertiser or programmes financed, in whole or in part, by advertisers for advertising, commercial or promotional purposes, subject to the exception at 2.3 (vii) below.

The air time given to the advertisements referred to above (and not excluded under Section 2.3) shall be taken into account by the Broadcaster for the purpose of calculation of the advertising time limits then in force.

#### **2.3 Exclusions**

(i) Advertising shall not denote informational announcements about upcoming programmes on the services on which the announcement is made or informational announcements about upcoming programmes on related or unrelated services. In this context information shall mean the date and time of transmission of the named programme/programmes including "trailer" excerpts and a brief description of the programmes' contents.

(ii) Advertising shall not include appeals given air-time free of charge to any Registered Charity.

(iii) Advertising shall not denote public service information announcements including warnings about public safety and health.

(iv) Advertising shall not denote information announcements of forthcoming concerts, recitals or performances whether intended for broadcasting or not given by the National Symphony Orchestra, the R.T.É. Concert Orchestra, and other R.T.É. performing groups or of any other comparable groups which are employed by or under contract to R.T.É. or by or under contract to a sound broadcasting contractor or television programme service contractor established under the Independent Radio and Television Act, 1988.

(v) Advertising shall not denote announcements of forthcoming concerts, recitals or performances organised by R.T.É., sound broadcasting contractors or a television programme service contractor, whether intended for broadcasting or not, to which the public are allowed entry free of charge.

(vi) Advertising shall not denote announcements of outside broadcasting events or of non-broadcast events organised in whole or in part by the broadcaster. Names of the concerns (shopping centres, commercial or retail outlets, supermarkets, etc.) providing facilities for outside broadcasts may be credited at the beginning and/or end of the programme and at prudent intervals during the programme on an informational basis. Promotional references to the concerns during the programme shall be considered advertising. In the case of non-broadcast events jointly sponsored by the broadcaster and one or more commercial concerns, informational accreditation of the joint sponsor(s) may be given in broadcast announcements without it constituting advertising.

(vii) Accreditation of a sponsor under the conditions prescribed under the Codes of Standards, Practices, and Prohibitions relating to Sponsorship in Broadcasting Services (PART II of this document) shall not constitute advertising.

## **2.4 1999 Amendments**

**2.4.1** Subject to the exclusions provided for in paragraph 2.3 above, self-promotional advertisements on television by a broadcaster, including the promotion of a broadcaster's ancillary commercial activities and ventures and cross media promotion of a broadcaster's other or related broadcasting or non-broadcasting activities, where such activities or ventures involve the supply of

goods or services in return for payment or other remuneration, shall be subject to these codes.

**2.4.2** Insofar as they relate to television advertising, the exclusions provided in paragraph 2.3 (iv) and (vi) of the 1995 codes shall apply only where the public are allowed entry free of charge as the case may be to the said concerts, recitals, performances or events.

### **3. Legal Requirements**

**3.1** All advertising must comply with the following legislation:-

(i) In case of the services of the R.T.É. Authority:-

- (a) Section 20 of the Broadcasting Authority Act, 1960 (as amended);
- (b) Codes drawn up and amended from time to time by the Minister for Arts, Culture and the Gaeltacht under Section 4 of the Broadcasting Act, 1990;
- (c) The provisions of Articles 10 to 16, inclusive, and Article 18 (3) of EC Directive 89/552/EC; and
- (d) Additional restrictions imposed by statute on various types of advertising. It shall be the duty of the Authority to ensure that advertising accepted complies with the law in all its forms.

(ii) In the case of a sound broadcasting service or television programme service contracted under the Radio and Television Act, 1988:-

- (a) Section 10 of the Radio and Television Act, 1988;
- (b) Codes drawn up and amended, from time to time by the Minister for Arts, Culture and the Gaeltacht under Section 4 of the Broadcasting Act, 1990;
- (c) The provisions of Articles 10 to 16, inclusive, and Article 18 (3) of EC Directive 89/552/EC; and
- (d) Additional restrictions imposed by statute on various types of advertising. It shall be the duty of the broadcaster to ensure that advertising accepted complies with the law in all its forms.

References to Directive 89/552/EEC in this Section shall be construed as references to Directive 89/552/EEC as amended by Directive 97/36/EC of the European Parliament and Council of 30 June 1997.

## **4. General**

**4.1** The general principle which governs all broadcast advertising is that it should be legal, honest, decent and truthful. Broadcasting, and particularly television broadcasting, because of its constant presence in the home, raises problems which do not necessarily occur in other media and it is therefore essential to maintain a consistently high quality in broadcast advertising.

**4.2** These codes are intended to be applied in the spirit as well as in the letter.

## **5. General Standards**

**5.1** Advertising shall not -

- (i) prejudice respect for human dignity,
- (ii) include any discrimination on grounds of race, sex or nationality,
- (iii) be offensive to religious or political beliefs, or
- (iv) encourage behaviour prejudicial to the protection of the environment.

## **6. False Or Misleading Advertisements**

**6.1** Advertisements shall not be misleading or shall not prejudice the interest of consumers.

**6.2** No advertisement shall contain any element of spoken or visual presentation which is calculated to mislead either directly or by implication, with regard to the merits of the product or service advertised or its suitability for the purpose recommended.

## **7. Programme Separation**

Advertisers shall not exercise any editorial influence over the content of programmes. No advertisement may include anything that states, suggests or implies, or could reasonably be taken to suggest or imply, that any part of any programme broadcast by a service has been supplied or suggested by an advertiser. For application of this principle to sponsored programmes please see the Codes of Standards, Practices and Prohibitions relating to Sponsorship in Broadcasting Services (PART II of this document).

## **8. Identification Of Advertisements**

**8.1** Advertisements shall be clearly distinguishable as such and recognisably separate from the other items of the programme service by optical and/or acoustic means. In principle, they shall be transmitted in blocks and isolated advertising spots shall remain the exception.

**8.2** Surreptitious advertising, meaning the representation in words or pictures of goods, services, the name, the trade mark or the activities of a producer of goods or a provider of services in programmes when such representation is intended by the broadcaster to serve advertising purposes and might mislead the public as to its nature, shall be prohibited. Such representation is considered to be intentional in particular if it is done in return for payment or for similar consideration.

**8.3** Advertisements shall not feature, visually or orally, persons regularly presenting news and current affairs programmes, and the expression "News Flash" must not be used as an introduction to an advertisement, even if preceded by an advertiser's name.

**8.4** Situations and performances reminiscent of broadcast programmes must not be used in such a way as to blur the distinction between programmes and advertisement. References to programmes are unacceptable in advertisements.

NOTE: These rules do not prohibit the inclusion of an advertisement by reason only of the fact that it is related in subject matter to an adjacent programme e.g. advertisements for farm products and fertilizers in intervals around a farming programme.

## **9. Insertion Of Advertisements**

**9.1** Advertisements shall be inserted between programmes. Provided the conditions contained in paragraphs 9.2 to 9.5 are fulfilled, advertisements may also be inserted during programmes in such a way that the integrity and value of the programme taking into account natural breaks in and the duration and nature of the programme and the rights of the rights holders are not prejudiced.

**9.2** 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.

**9.3** The transmission of audio-visual works such as feature films and films made for television (excluding series, serials, light entertainment programmes and documentaries), provided their scheduled 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 scheduled duration is at least twenty minutes longer than two or more complete periods of forty-five minutes.

**9.4** Where programmes, other than those covered by paragraph 9.2 are interrupted by advertisements, a period of at least twenty minutes should elapse between each successive advertising break within the programme.

**9.5** 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 their scheduled duration is less than thirty minutes shall not be interrupted by advertisements. If their scheduled duration is for thirty minutes or longer, the provisions of the previous paragraphs shall apply.

## **10. Subliminal Advertising**

No television advertisement may include any technical device which, by using images of very brief duration or by any other means, exploits the possibility of conveying a message to, or otherwise influencing the minds of, members of an audience without their being aware or fully aware, of what has been done.

## **11. Health And Safety**

Advertisements should not encourage behaviour prejudicial to health or safety. Advertisements should not without justifiable reason depict or describe situations which show dangerous practices or a disregard for safety. Special care should be taken in advertisements directed towards or depicting children.

## **12. Time Limits On Certain Forms Of Advertising**

Forms of advertisements such as direct offers to the public for the sale, purchase or rental of products or for the provision of services shall not exceed one hour per day on any broadcasting service.

## **13. Cigarettes And Tobacco**

All forms of advertising for cigarettes, cigars and other tobacco products shall be prohibited.

N.B. An advertiser who markets more than one product may not use advertising copy devoted to an acceptable product for purposes of publishing the brand name or other identification of an unacceptable product.

## **14. Advertising And Children's Programmes**

**14.1** Advertisers must exercise the utmost care and discrimination with regard to the content and presentation of advertisements transmitted during breaks within or near or adjacent to programmes designed for children.

**14.2** Advertisements shall not exhort children to buy a product or service by exploiting their inexperience or credulity.

**14.3** Advertising shall not exploit the special trust minors place in parents, teachers or other persons.

**14.4** Advertisements shall not directly encourage minors to persuade their parents or others to purchase or make enquiries about the goods or services being advertised.

**14.5** Advertisements shall not unreasonably show children in dangerous situations.

## **15. Alcoholic Drink**

The advertising of alcoholic drink may be accepted by broadcasters provided it complies fully with the following criteria:-

(a) Alcoholic drink advertising must not encourage young people or other non-drinkers to begin drinking - it must be cast towards brand selling and identification only.

(b) This code recognises a voluntary code whereby spirit based alcoholic drinks (i.e. whiskey, gin, vodka, brandy, etc.) are not advertised on radio or television. The code is framed on the assumption that this situation will continue.

(c) This code will apply to all other alcoholic drinks, i.e., beers, wines, sherries, fortified wines, vermouths, liqueurs, etc.

(d) Where soft drinks are promoted as mixers this code will apply in full. When promoted as refreshments in their own right soft drinks are not subject to this code, but due care should be exercised if bar or similar locations are used.

(e) Broadcasters will ensure that alcoholic drink advertisements are not transmitted in or around programmes primarily intended for young viewers or listeners; advertisers are required to take account of the age profile of the viewers and listeners so that advertisements are communicated, so far as it is possible, to adults.

(f) Advertising shall not encourage immoderate consumption of alcohol or present abstinence or moderation in a negative light.

(g) Advertisements shall not claim that alcohol has therapeutic qualities or that it is a stimulant, a sedative, tranquilizer or a means of resolving personal conflicts.

(h) Advertising shall not place emphasis on high alcoholic content as being a positive quality of the beverages.

(i) Advertisements for alcoholic drink may not be aimed specifically at minors or, in particular, depict minors consuming these beverages.

(j) The advertising of alcoholic drinks should not create the impression that consumption of such beverages contributes towards sexual attraction and success, or social success.

(k) Advertisements shall not link the consumption of alcohol to enhanced physical performance or to driving.

## **16. Protection Of Privacy And Exploitation Of The Individual**

Individual living persons should not normally be portrayed or referred to in advertisements without their permission. However, reference to living persons may normally be made in advertisements for books, films, radio or television programmes, newspapers, magazines, etc., which feature the persons referred to in the advertisement provided it is not offensive or defamatory.

## **17. Politics, Religion And Industrial Relations**

In this regard, the provisions of Section 20 (4) of the Broadcasting Authority Acts, 1960-1993, in the case of broadcasting services operated by the R.T.É. Authority, and Section 10 (3) of the Radio and Television Act, 1988, in the case of services established under that Act, and any amendments thereof, shall apply.

## **18. Miscellaneous**

**18.1** The R.T.É. Authority and the Independent Radio and Television Commission shall draw up and implement procedures in accordance with the General Guidelines in this code relating to the advertising and promotion of the following goods and services:-

- Homework Schemes,
- Instructional Courses,
- Mail Order Advertising,
- Direct Sale Advertising,
- Hire Purchase,
- Books, Magazines, Periodicals, etc.,
- Medicines and medical treatments,
- Financial products and services.

and in relation to the use of the following in advertising:-

Testimonials,  
Comparative Advertising,  
Guarantees  
Use of the word "free".

Details on the above goods and services are contained in Appendix 1.

**18.2** The procedures drawn up by the R.T.É. Authority and the Independent Radio and Television Commission shall also set out a framework in relation to products or services deemed unacceptable for broadcast advertising.

**18.3** Advertising for medicinal products and medical treatments which are available only on prescription is prohibited.

**18.4** Teleshopping material is a form of commercial promotion in broadcasting services which when transmitted constitutes direct offers to the public of goods and other property (whether real or personal) or services.

**18.5** The provisions of chapters 3, 4, 5, 6, 8, 9, 10, 11, 13, 14, 15, 16 and 17 and 18.3 of the 1995 codes, as amended in 1999, shall apply to teleshopping material.

**18.6** Teleshopping material shall not exhort minors to contract for the sale or rental of goods and services.

**18.7** Teleshopping material for medicinal products, which are subject to a marketing authorisation within the meaning of Council Directive 65/65/EEC as amended by Directive 93/39/EEC, shall be prohibited.

**18.8** Sponsorship

For the purposes of chapters 20.2, 21.2, 21.3 and 22.3 of the 1995 codes, advertising shall include the provision of teleshopping material.

## **PART II**

### **Codes Of Standards, Practice And Prohibitions Relating To Sponsorship In Broadcasting Services.**

#### **19. INTRODUCTION**

Editorial integrity is an essential basis for a broadcaster's output. Equally, the sponsorship of certain programmes is an attractive commercial proposition for many organisations, particularly corporate advertisers. It should be seen as a legitimate part of a broadcaster's revenue and a means of enhancing existing programmes or of making programmes which otherwise could not be included in the schedules.

Broadcasters should ensure that the programming responsibilities imposed by Sections 18(1), 18(2), 18(1B), and Section 17 of the Broadcasting Authority Act, 1960 (inserted by Section 13 of the Broadcasting Authority (Amendment) Act, 1976) in the case of R.T.É. and Sections 9 and 18 of the Radio and Television Act, 1988, in the case of the Independent Broadcasting Contractors operating under the auspices of the Independent Radio and Television Commission, must not be prejudiced by sponsorship.

#### **20. THE CODES - DEFINITIONS**

**20.1** Sponsorship shall be construed for the time being as any contribution made directly or indirectly by a public or private undertaking not engaged in television and/or radio broadcasting activities or in the production of audio-visual works, to the financing of television or radio programmes with a view to promoting its name, its trade mark, its image, its activities or its product.

#### **BROADCASTER'S RESPONSIBILITY**

**20.2** It is the responsibility of broadcasters to ensure that editorial integrity is not influenced by the presence of sponsorship. A sponsor:-

(i) must not be involved in the manufacture, supply or provision of a product or service which is listed as unacceptable in the Code of Standards, Practice and Prohibitions in Advertising and other forms of Commercial promotion in Broadcasting Services (Part I of this document).

(ii) must not be associated with a programme which addresses an audience to which its commercials are not permitted to appeal (e.g. alcoholic drink sponsorship of youth programmes is not permitted) or during which it would not be permitted to advertise.

(iii) should not have an involvement in the editorial content of the programme or appear to do so.

Note: This is not intended to inhibit normal communication between a sponsor and a broadcaster.

## **21. GENERAL STANDARDS**

**21.1** Sponsored programmes shall meet the following requirements in addition to the more specific requirements for each programme category:

(i) 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;

(ii) they must be clearly identified as such by the name and/or logo of the sponsor at the beginning and/or end of the programmes;

(In view of this identification requirement, logos would be acceptable as "bumper" credits around advertising breaks during the programme).

(iii) they must not encourage the 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 other than in advertisements in commercial breaks.

**21.2** 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 the Code of Standards, Practice and Prohibitions in Advertising and other forms of Commercial Promotion in Broadcasting (Part I of this document).

The subsidiary of a manufacturer or brand-seller of products, the advertising of which is prohibited, who uses a name or a trademark that differs completely from the manufacturers and whose activity is different from the production, distribution or provision of services in relation to such products may sponsor programmes.

**21.3** Sponsorship involvement in any programme must not constitute advertising as defined in the Codes of Standards, Practice and Prohibition in Advertising and other forms of Commercial Promotions in Broadcasting Services.

## **22. TYPES OF SPONSORSHIP**

Sponsorship occurs where any or all of the following are present:-

- (i) cash injection,
- (ii) investment in kind and supply of goods, services or knowledge.

**22.1** Cash injection is the provision of direct funding by a sponsor.

**22.2** Investment in kind is the acceptance of facilities or services from a sponsor.

**22.3** Supply of goods/prizes in radio and TV programmes.

Substantial prizes offered should be paid for at best competitive prices by the broadcaster and should be appropriate to the programme and in good taste.

In any reference to the prize, the use of advertising copy is strictly prohibited as this constitutes surreptitious advertising and contravenes the requirement on programme separation contained in the Codes of Standards, Practice and Prohibitions in Advertising in Broadcasting Services.

Broadcasters must ensure that public or private undertakings and natural or legal persons whose principal activity is the manufacture or sale of products or provision of services, the advertising of which is prohibited, are not using the mechanism of supplying prizes to circumvent this prohibition.

## **23. PROGRAMME CATEGORIES**

### **News and Current Affairs Programmes**

**23.1** Sponsorship of news, current affairs and religious programmes is prohibited. For the purposes of this section, magazine and information style programmes are not considered to be news/current affairs programmes.

**23.2** Reports and interviews for news and current affairs programmes must not be set in such a way as to give undue commercial prominence to any company.

### **Special Events**

**23.3** Special events coverage may involve the broadcaster in agreeing logistical and facilities support from commercial or Public Service bodies. In such circumstances credits and on-air acknowledgments of contributors may be permitted provided:-

(i) acknowledgments take the form of a statement of information and are not based on copy supplied to the programme makers.

(ii) credits are consistent with the programme style.

## **Sports Programmes**

**23.4** Sponsors must be clearly identified as such by the name and/or logo of the sponsor at the beginning and/or end of programmes. Product placement by the sponsor is forbidden as is the display of advertising material "in studio".

**23.5** Broadcasters must ensure that coverage of sporting events, in terms of the actual decision to cover and method of coverage is not in any way influenced by the presence of a sponsor or sponsorship.

## **24. INDEPENDENT PRODUCTIONS**

**24.1** The restrictions applicable to programmes produced by broadcasters shall apply also to programmes made by independent producers, i.e. non broadcasters. Responsibility for ensuring editorial integrity will rest with the broadcasters.

## **25. PRESENTERS AND INDIRECT ADVERTISING**

**25.1** Presenters and other "on-air" personnel must not make gratuitous reference to commercial products or services.

**25.2** Under no circumstances shall presenters and other "on-air" personnel advertise or promote during the course of a programme any products or events with which they are associated.

**25.3** Product endorsement by programme presenters during the course of a programme is prohibited irrespective of source or purchase arrangement.

## **26. THE USE OF BRAND NAMES OR BRANDED GOODS**

It is not always possible in the interests of authenticity to avoid references to the names of commercial products or services or their incidental portrayal in radio and television programmes, but the practice known as 'product placement' is strictly forbidden.

## **Part III**

### **COMPLAINTS PROCEDURE**

#### **27. Complaints Procedure**

Subject to the provision of Section 18(B) of The Broadcasting Authority Act, 1960, (as inserted by section 4 of the Broadcasting Authority (Amendment) Act, 1976) as amended by section 8(3) of the Broadcasting Act, 1990, the Broadcasting Complaints Commission may investigate and decide:-

a complaint that an advertisement so specified contravened a code drawn up governing standards and practice in broadcast advertising or prohibiting either certain methods of advertising in broadcasting or the broadcast in particular circumstances of advertising.

Reference to a code shall be construed as including a reference to a code governing standards, practice and prohibitions in advertising, sponsorship or other forms of commercial promotion in broadcasting services, in force under section 4 of the Broadcasting Act, 1990.

In the Radio and Television (Complaints by Members of the Public) Regulations, 1992 (S.I. No. 329 of 1992) the ambit of the Broadcasting Complaints Commission was extended to the effect that complaints made by the public in respect of a broadcasting service provided under the Radio and Television Act, 1988, should be investigated by the Broadcasting Complaints Commission.

The complaints procedure is set out in Section 18B of the Broadcasting Authority Acts, 1960 to 1993.