

SUMMARY OF THE LEGAL OBLIGATIONS¹ APPLICABLE TO AUDIOVISUAL MEDIA SERVICES IN THE BRUSSELS-CAPITAL REGION²

1. Provisions applicable to all audiovisual media service providers

1.1. Prior declaration to the BIPT (Art. 7)

Declaration to be filed for each audiovisual media service the provision of which is envisaged.

1.2. Independence (Art. 7/1)

Any audiovisual media service provider whose audiovisual media service is provided via a closed distribution platform shall be independent from any political party or organisation representing employers or workers.

1.3. Transparency (Art. 8)

Any audiovisual media service provider shall make information available to users (name, address, contact details) and mention that it falls within the competence of Belgium and the BIPT. The access to information shall be easy, fast and permanent.

1.4. Creation of news and current affairs programmes in collaboration with professional journalists (art. 10)

1.5. Accessibility for people with a visual or hearing disability (Art. 12)

Audiovisual media services shall be continuously and gradually made more accessible to persons with a visual or hearing disability. Emergency information shall be provided in a manner that is accessible to persons with a visual or hearing disability.

Audiovisual media service providers shall send an action plan to the BIPT on the improvement of the accessibility of their services for persons with a visual or hearing disability. Every three years, they shall send a report of the adopted measures to the BIPT.

1.6. Commercial communications (Art. 14)

Audiovisual commercial communications

- shall be readily recognisable as such;
- shall not use subliminal techniques;
- shall not prejudice respect for human dignity;
- shall not include or promote any discrimination based on sex, racial or ethnic origin, nationality, religion or belief, disability, age or sexual orientation;
- shall not encourage behaviour prejudicial to health or safety;
- shall not encourage behaviour grossly prejudicial to the protection of the environment;
- shall not cause physical, mental or moral detriment to minors. Thus, the provider shall not directly exhort minors to rent or buy a product or a service by exploiting their inexperience or credulity, shall not directly encourage minors to persuade their parents or others to purchase the goods or services being advertised, shall not exploit the special trust minors place in parents, teachers or other persons, and shall not unreasonably show minors in dangerous situations.

¹ [Act of 5 May 2017](#) regarding audiovisual media services in the bilingual Brussels-Capital Region

² This document is for information purposes only and should not be considered as a binding position or an official interpretation of the Act by the BIPT.

Audiovisual commercial communications shall be prohibited for:

- surreptitious commercial;
- cigarettes and other tobacco products, as well as for electronic cigarettes and refill containers;
- medicinal products and medical treatment available only on prescription in Belgium;
- alcoholic beverages specifically aimed at minors or encouraging immoderate consumption of such beverages.

1.7. Sponsored programmes (Art. 15)

Audiovisual media services or programmes that are sponsored shall meet the following requirements:

- their content and their scheduling shall in no circumstances be influenced in such a way as to affect the responsibility and editorial independence of the audiovisual media service provider;
- they shall not directly encourage the purchase or rental of goods or services, in particular by making special promotional references to those goods or services;
- viewers shall be clearly informed of the existence of a sponsorship agreement.

Sponsored programmes shall be clearly identified as such by the name, logo or any other symbol of the sponsor such as a reference to its product(s) or service(s) or a distinctive sign thereof in an appropriate way at the beginning, during or at the end of the programme.

Sponsorship shall be forbidden for:

- news, current affairs and children's programmes;
- programmes by undertakings whose principal activity is the manufacture or sale of cigarettes and other tobacco products, as well as electronic cigarettes and refill containers;
- programmes by undertakings whose principal activity is the manufacture or sale of medicinal products and medical treatment available only on prescription in Belgium.

1.8. Product placement (Art. 16)

Product placement shall be allowed in all audiovisual media services, besides in news and current affairs programmes, consumer affairs programmes, religious programmes and children's programmes.

Product placement shall be forbidden for:

- cigarettes and other tobacco products, as well as electronic cigarettes and refill containers;
- products by undertakings whose principal activity is the manufacture or sale of cigarettes and other tobacco products, as well as electronic cigarettes and refill containers;
- specific medicinal products and medical treatment available only on prescription in Belgium.
- Programmes that contain product placement shall meet the following minimum requirements:
- their content and their scheduling shall in no circumstances be influenced in such a way as to affect the responsibility and editorial independence of the audiovisual media service provider;
- they shall not directly encourage the purchase or rental of goods or services;
- they shall not give undue prominence to the product in question;
- viewers shall be clearly informed of the existence of product placement.

1.9. Violence, hatred, discrimination, terrorism (Art. 17)

It is forbidden to broadcast programmes that include:

- incitement to violence or hatred directed against a group or a member of a group on the grounds of nationality, sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation, or contrary to the Act of 30 July 1981 on the punishment of certain acts motivated by racism or xenophobia, the Act of 10 May 2007 combatting certain forms of discrimination, the Act of 10 May 2007 combatting discrimination between women and men, or the Act of 22 May 2014 combatting sexism in public spaces;
- public provocation to commit a terrorist offence as set out in Article 137 of the Penal Code.

1.10. Protection of minors (art. 17/1)

It is forbidden to provide an audiovisual communication service the programmes (or sequences of programmes) of which are likely to seriously impair the physical, mental or moral development of minors, except where it is ensured:

- for television programmes that minors in the area of transmission will not normally hear or see that programme and as long as the programme is identified by the presence of visual symbols in the electronic programme guide when such a guide is available, and when there is no conditional access, the broadcasting of that programme is preceded by an acoustic warning or is identified by the presence of a visual symbol throughout its duration;
- for on-demand audiovisual media services that minors in the area of transmission will not normally hear or see that programme and as long as the programme is identified by the presence of visual symbols in the electronic programme guide.

It is forbidden to process for commercial purposes (direct marketing, profiling, behaviourally targeted advertising...) personal data of minors potentially collected or generated by on-demand audiovisual media service providers in the context of the application of the minor protection measures.

1.11. Broadcasting of European works (Art. 18)

Objectives and obligations

The broadcaster shall reserve where possible (excluding the time allotted to news, sports events, games, television advertising, teletext services and teleshopping):

- for European works a majority proportion of their transmission time;
- at least 10% of their transmission time for European works created by producers who are independent of broadcasters.

The on-demand audiovisual media service provider shall offer at least 30% of European works in its catalogues and give prominence to such works.

The audiovisual media service provider shall provide each year the BIPT with a report on the achievement of the objectives regarding the broadcasting of European works. The provider shall reason if need be the failure to achieve the objectives and outline the adopted or envisaged measures to achieve them.

Exceptions

These obligations and objectives are not applicable to:

- television programmes that are intended for local audiences and do not form part of a national network;
- television channels the programmes of which are entirely transmitted in a language other than those of the Member States of the European Union (if they also broadcast in a language of the European Union, the obligations shall only apply to the transmission time in that language);
- television channels exclusively devoted to television advertising, teleshopping or self-promotion;
- on-demand audiovisual media service provider with a low turnover or a low audience;
- on-demand audiovisual media services the nature or the theme of which makes the obligations or requirements impracticable or unjustified.

2. Specific provisions for broadcasters

2.1. Events of major importance for society (Art. 19)

It is forbidden for broadcasters to exercise exclusive rights on events of major importance for society such as it would prevent a substantial proportion of the public from following the events by live coverage via a free television service (or deferred coverage where necessary for objective reasons in the public interest).

Any broadcaster based in a Member State of the European Union has the right to access short extracts of events of major importance for society or any other event of high interest to the public subject to an exclusive transmission by a broadcaster. These short extracts shall be used solely for general news programmes and may be used in on-demand audiovisual media services only if the same programme is offered on a deferred basis by the same broadcaster. Short extracts shall be limited to a short news report of the event targeted in subparagraph 1 that should not exceed 90 seconds and can only be broadcast at least twenty minutes after the end of the event.

2.2. Television advertising and teleshopping (Art. 22 to 25)

Teleshopping windows (maximum duration of 20 minutes) and television advertising shall be clearly identified and distinguishable from editorial content by optical and/or acoustic and/or spatial means.

The proportion of television advertising spots and teleshopping spots within the period between 6.00 and 18.00, on the one hand, and the period between 18.00 and 24.00, on the other hand, shall not exceed 20% of that period.

Not applicable:

- for television channels exclusively devoted to advertising and teleshopping and those exclusively devoted to self-promotion;
- to announcements made by the broadcaster in connection with its own programmes;
- to sponsorship announcements;
- to product placement;
- to neutral frames between editorial content and television advertising or teleshopping spots, and between individual spots.

The following are prohibited:

- teleshopping for medical treatment or medicinal products which are subject to a marketing authorisation;
- the interruption, more than once for each scheduled period of at least 30 minutes, by teleshopping and/or television advertising, of films made for television (excluding series, serials and documentaries), cinematographic works and news programmes;
- the interruption, by teleshopping and/or television advertising, of religious services;
- the interruption of children's programmes by teleshopping.

Television advertising and teleshopping for alcoholic beverages:

- shall not be aimed specifically at minors and shall not depict minors consuming these beverages;
- shall not link the consumption of alcohol to enhanced physical performance or to driving;
- shall not create the impression that the consumption of alcohol contributes towards social or sexual success;
- shall not claim that alcohol has therapeutic qualities or that it is a stimulant, a sedative or a means of resolving personal conflicts;
- shall not encourage immoderate consumption of such beverages and shall not give a negative image;
- shall not place emphasis on high alcoholic content as being a positive quality of the beverages.

2.3. Obligation to keep a copy of programmes (Art. 26)

Broadcasters shall keep a full copy of their programmes for a period of three months from the date of their broadcasting and shall make the copy available to any authority that would request it pursuant to a legal or regulatory provision.