



**Comparative study concerning the impact of control
measures on the televisual advertising markets in the EU
Member States and certain other countries**

LITHUANIA

LEGAL REPORT

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Introduction

The provisions laid down in Chapter IV of Council Directive 89/552/EEC of 3 October 1989, amended by Directive 97/36EC of the European Parliament and of the Council of 30 June 1997 "On the co-ordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities" (hereinafter referred to as "The Directive"), are implemented in several national legal acts:

- The Republic of Lithuania Statute on Provision of Information to the Public¹ (hereinafter referred to as "The Information Act") (*Lietuvos Respublikos visuomenės informavimo įstatymas*);
- The Republic of Lithuania Statute on Advertising² (hereinafter referred to as "The Advertising Act") (*Lietuvos Respublikos Reklamos įstatymas*);
- The Statute on Programme Monitoring³ (hereinafter referred to as "The Statute") (*Programų stebėsenos (monitoringo) taisyklės*);
- Other laws governing individual areas of economic activity.

The Advertising Act sets general rules for advertising in any media whereas the Information Act provides requirements specifically for television advertising. Based on the general principle of law *Lex specialis derogat legi generali* which requires the prevalence of the rules of special law over those of general law, the Advertising Act is applicable exclusively in cases where the Information Act does not apply. The Statute on Programme Monitoring prescribes a mechanism for the implementation of certain articles of The Information Act.

Lithuania has also ratified the European Convention of 5 May 1989 regarding television without frontiers (Ratified by Law No. VIII-1546 of the Republic of Lithuania of 17 February 2000). The subject-matter of this document will not be analysed herein.

The Self-governance Act, i.e. Code of Advertising (hereinafter referred to as "The Code"), prescribing advertising business standards for relevant entities that have voluntarily undertaken to abide thereby, is also applicable in Lithuania.

¹ The Republic of Lithuania Statute on Provision of Information to the Public No. I-1418, July 2, 1996 (as amended by Act No. VIII-1905, August 29, 2000; Law No. IX-1853, November 25, 2003) (hereinafter referred to as "The Information Act").

² The Republic of Lithuania Statute on Advertising No. VIII-1871, July 18, 2000 (amended by Statute No. IX-1212, December 3, 2002) (hereinafter referred to as "The Advertising Act").

³ The Statute on Programme Monitoring, approved by Decision No. 44 of The Radio and Television Commission of Lithuania of 9 April 2003 (hereinafter referred to as "The Statute").

. Definitions (Article 1 Directive TVWF)

- Television broadcasting

There is no definition of “television broadcasting” in the Lithuanian legislation. However, the Information Act provides a definition of “broadcasting” which covers television broadcasting as well. The Information Act states that “**broadcasting**” means the production of programs and primary transmission thereof to the public through telecommunications networks.⁴ “**Telecommunications Network**” is defined as a system of transmission of information and/or commutation and other equipment, intended for signal transmission by wire, radio, optic or other electromagnetic systems, including cable television, microwave multi-channel television (MMTV) and general television reception networks.⁵

- Broadcaster

The Information Act defines “**Broadcaster**” as a person who:⁶

- () possesses a broadcasting and/or rebroadcasting license⁷ (such a license is required in all cases with the exception of those directly determined by law); and
- () assumes editorial responsibility for broadcast programs, produces and broadcasts them himself, or permits another person to rebroadcast or transmit them unaltered.

The Information Act indicates three categories of broadcasters:

A national range broadcaster - a broadcaster whose broadcast programs may be received within a territory inhabited by more than 50% of Lithuania’s population;

A regional scope broadcaster - a broadcaster whose broadcast programs can be received within a territory inhabited by the population of more than one district or city;

A local broadcaster - a broadcaster whose broadcast programs, transmitted by means of one broadcasting transmitter, are intended only for local audiences and/or listeners, and are not part of the national network.

⁴ Article 2(33) of the Information Act.

⁵ Article 2(30) of the Information Act.

⁶ Article 2(35) of the Information Act.

⁷ Broadcasting and rebroadcasting license is a written document issued by the Lithuanian Radio and Television Commission, granting its holder the right to engage in program broadcasting and/or rebroadcasting activity in stipulated areas with a right to use a channel (radio frequency), stipulated in the license by the Communications Regulation Service, or to use a transmission service supplied by a third party for this party, using a frequency assigned by the Communications Service and setting the conditions of such broadcasting and/or rebroadcasting.

- Television advertising

No Lithuanian legislative act contains a special definition of “television advertising”, but the Advertising Act as well as the Information Act provide a general definition of advertising:

Under the Advertising Act, “**Advertising**” means the making of a representation in any form 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.⁸

The Information Act defines “**Advertising**” as any information, disseminated by producers and/or distributors of public information which a person linked with commercial, economic or professional activity requests of them, for the purpose of self-advertisement, or seeking to promote the sale of goods or use of services, including the acquisition of real property, and transfer of property rights and obligations, in return for payment or other similar compensation.⁹ Here a producer of public information should be understood as a publishing house, broadcaster, movie, sound or video studio, information agency, editorial office or other person engaged in the production of public information. A distributor of public information is defined as a person who broadcasts, rebroadcasts, sells or disseminates by other means, public information to the public.¹⁰

The Information Act also indicates what kind of information is not covered by the definition of advertisement and stipulates that advertisement shall not include announcements made by the broadcaster in connection with his own programmes or ancillary products directly derived from those programmes, public service announcements, charity appeals or other information broadcast free of charge.¹¹

Though the definition of advertising given in the Advertising Act is broader than that given in the Information Act, both definitions cover television advertising. Each of the definitions is given for the purposes of the respective statute and should only be applied in the context of that statute.

- Surreptitious advertising

“**Surreptitious advertising**” is also defined in the Advertising Act as well as in the Information Act. The Advertising Act defines it as information distributed in any form and by any means, about the producer or service provider, his name or activities, mark of goods or service, service mark, presented in such a way which may confuse consumers as to the actual purpose of the presentation of this information. Such presentation of information is considered as surreptitious advertising in all instances when it is paid or otherwise compensated for.¹²

⁸ Article 2(7) of The Advertising Act.

⁹ Article 2(26) of the Information Act.

¹⁰ Article 2(35)(36) of the Information Act.

¹¹ Article 39(10) 1) of the Information Act.

¹² Article 2(6) of the Advertising Act.

The Information Act indicates that a “**surreptitious advertisement**” means information about the producer or service provider, his name or activities, mark of goods or services, which the public information producer and/or disseminator has intentionally presented in such a fashion, that consumers may not perceive it as an advertisement.¹³

- Sponsorship

The Information Act defines “**Sponsorship**” as any financial or other material assistance, that a person who is not a participant in the activity of the sponsored public information producer and/or disseminator, gives to the producer and/or disseminator of public information, in order to advertise his own name, trademark, image, communications activity or products thereof.¹⁴

- Teleshopping

“**Teleshopping**” is defined in the Information Act as a form of advertising whereby a broadcaster, in return for some form of payment, broadcasts, an advertisement or a client’s direct offer to the consumer to purchase goods or make use of services, including the acquisition of real property, and property rights and obligations.¹⁵ The Information Act also presents a definition of “**Teleshopping window**” which means an uninterrupted television broadcast, of at least 15 minutes, dedicated to the broadcasting of teleshopping advertisements broadcast through television channels that are not exclusively dedicated to teleshopping.

- Other relevant legal definitions

The Statute introduces some other relevant legal definitions:

Newsflash line – text form information provided on the screen of the television in conjunction with a broadcast programme that is not interrupted by special inserts.

Commercial break – one and/or several commercial audio/video clips, separated by audio and (or) video means.

Split screen advertising – visual advertising, by dividing up the screen into parts during the broadcast of the main programme.

Self-advertising – adverts designated to promote the broadcaster/operator.

Conclusions

¹³ Article 2(26) of the Information Act.

¹⁴ Article 2(28) of the Information Act.

¹⁵ Article 2(31) of the Information Act.

No Lithuanian legislative act contains a special definition of “television broadcasting” or “television advertising”, but statutes provide a general definition of advertising and broadcasting. These definitions are broader than those presented in the Directive and cover television advertising and television broadcasting.

The definition of “Broadcaster” in Lithuanian law is more detailed and as well as providing a general definition of a broadcaster, it also defines 3 distinct types of broadcasters: a national range broadcaster, a regional scope broadcaster and a local broadcaster.

The Advertising Act and Information Act provide slightly different definitions of surreptitious advertising. The definition provided in the Advertising Act is stricter and almost identical to the definition provided by the Directive. The definition presented in the Information Act requires the demonstration of the “intention” of the public information producer or broadcaster to mislead consumers before the information can be regarded as surreptitious advertising.

The definition provided in the Advertising Act includes the presumption of surreptitious advertising in cases where payment has been obtained in return for the insertion of commercial information. The definition presented in the Information Act requires showing “intention” of the public information producer or broadcaster to mislead the consumers in order to consider the information as surreptitious advertising.

Though the language of other definitions in Lithuanian legislation is not identical to the language of the Directive, the content of definitions provided in Lithuanian law does not significantly differ from that of definitions presented in the Directive.

. Advertising recognition and advertising/programme separation

d. Regulations

- Recognition of advertising and teleshopping spots

The Advertising Act, setting general rules of advertising carried out by any means of transmission, stipulates that advertising must be clearly identifiable according to its form of presentation. Should there exist the likelihood that due to its form of presentation, the consumers of advertising may not recognise the advertisement as such, it must be marked with the word “Advertisement.”¹⁶

The Information Act, providing requirements for advertising in television programmes, states that advertising must be readily recognisable as such (// art. 10 §1 TVWF Directive) and kept quite separate from other parts of the programme by optical and/or acoustical means.¹⁷

Since teleshopping is defined as a form of advertising, the rules relating to recognition of advertising fully apply to teleshopping spots as well.

The Code briefly indicates that advertising must be readily recognisable.

- Examination of the rules relating to the separation between the commercial content and the programme

The Information Act providing requirements for advertising in television programmes, states that the advertising must be kept quite separate from other parts of the programme by optical and/or audio means (// art. 10 §1 TVWF Directive).¹⁸

The Statute also indicates that at the beginning and end of a commercial break, visual and/or audio means that single out the particular commercial/advertisement must be provided. The Statutes also provides the use of opening and closing screens as an example.

The Statute briefly indicates that advertising must be clearly separate from other information.

- Isolated advertising and teleshopping spots

Neither the Advertising Act nor the Information Act sets any rules relating to isolated advertising. However the Statute lays down the requirement that advertisements should be broadcasted in blocks, made up of two or more separate audio/visual clips.

¹⁶ Article 8 of the Advertising Act.

¹⁷ Article 39(10) p. 1 of the Advertising Act.

¹⁸ Article 39(10) p. 1 of the Advertising Act.

Individual commercial inserts are allowed in cases where¹⁹:

- One audio and/or visual clip-commercial is long; or
- Time available for advertising is very short (e.g., between boxing or wrestling rounds); or
- Broadcasters do not have sufficient orders for advertising to group the advertisements, as well as in other cases.

Under Lithuanian legislation, isolated advertising (and teleshopping) are allowed only in exceptional situations (// art. 10 §2 TVWF Directive) indicated in the Statute.

However it should be mentioned that the Statute is a secondary legislative act and it should not impose more restrictions on undertakings than already foreseen in law. Accordingly, the provisions related to isolated advertising spots laid down in the Directive have not been strictly implemented and can be interpreted as a recommendation rather than a compulsory rule of law.

- Prohibition of subliminal techniques

The Advertising Act prohibits the use of subliminal techniques and measures in all types of advertising²⁰ while the Information Act specifies that subliminal techniques are prohibited in television advertising and teleshopping (// art. 10 §3 TVWF Directive)²¹. There are no secondary legislative acts or relevant decisions in which the exact meaning of “subliminal techniques” is further specified.

- Prohibition of surreptitious advertising and teleshopping

Both the Advertising Act and the Information Act provide that surreptitious advertising shall be prohibited (// art. 10 §4 TVWF Directive).²²

However, as described in section I, the Acts provide somewhat different definitions of surreptitious advertising. The definition provided in the Advertising Law is stricter and includes the automatic presumption of surreptitious advertising in cases where payment has been obtained in return for the insertion of commercial information. The definition presented in the Information Act requires showing the public information producer or broadcaster’s “intent” to mislead consumers

d. Conclusion

Lithuanian legislation contains rules relating to the recognition of advertising and teleshopping spots, which are identical to the rules laid down in the Directive.

It also provides more specifically that at the beginning and end of a commercial break there must be audio identification and it provides an example of such identification i.e.

¹⁹ Point 5.6.1. of the Statute.

²⁰ Article 4(2) p. 8 of the Advertising Act.

²¹ Article 39(6) of the Information Act.

²² Article 39(5) of the Information Act; Article 8 of the Advertising Act.

opening and closing screens. If there is any risk of confusion as to the nature of commercial content, such content must be marked with the word “Advertisement.”

As is the case in the Directive, Lithuanian legislation provides that isolated advertising and teleshopping is allowed only in exceptional situations such as: when one audio and/or visual clip - commercial is long and the time available for the commercial is very short or when the broadcasters do not have sufficient orders to group the commercials, as well as in certain other cases.

The use of subliminal techniques is banned under the Lithuanian legislation; the formulation of the prohibiting rule is identical to the one in the Directive.

Lithuanian law also bans surreptitious advertising. However, the Acts provide slightly different definitions of surreptitious advertising. The definition provided in the Advertising Act is almost identical to the definition provided by the Directive. The definition presented in the Information Act requires showing the “intention” of the public information producer or broadcaster to mislead consumers, in order to regard the information as surreptitious advertising,

III. Rules relating to the insertion of advertising and teleshopping spots between and within programmes

a. Regulations

- Examination of the rules relating to the insertion of advertising and teleshopping spots between programmes

Although the regulations applicable to advertising do not directly provide for the above, conclusions can be drawn that, as a general rule, advertising spots should be inserted between programmes (= art. 11 §1 TVWF Directive).

- Examination of the rules related to the insertion of advertising and teleshopping spots within programmes

The Information Act indicates that advertising spots must not violate the integrity or value of the programme, (taking into account natural breaks in and the duration and nature of the programme), and the terms and conditions of the contracts between the transmission rights holders and broadcasters may not be prejudiced (// art. 11 §1 TVWF Directive).²³

Advertising spots can be inserted within a programme if the following conditions, identified by the Information Act, are satisfied:²⁴

- (i) in programmes consisting of autonomous parts, or in sport programmes and similarly structured events and performances containing intervals, advertising and teleshopping spots shall only be inserted between the parts or in the intervals (// art. 11 §2 TVWF Directive);
- (ii) if the transmission of audiovisual works such as feature films and films made for television (excluding series, serials, light entertainment programmes and documentaries) has a scheduled duration of more than 45 minutes, it may be interrupted by an advertisement, once for each period of 45 minutes. A further interruption shall be allowed if their scheduled duration is at least 20 minutes longer than two or more complete periods of 45 minutes (// art. 11 §3 TVWF Directive);
- (iii) where programmes, other than those covered by paragraph (i), are interrupted by advertising, a period of at least 20 minutes should elapse between each successive advertising break within the programme (// art. 11 §4 TVWF Directive). However, this restriction does not apply to the local broadcasters' broadcasts intended for the Republic of Lithuania alone, nor to those broadcasts which cannot be received directly or indirectly by the public of other EU Member States (note: 'local broadcasters' broadcasts is to be

²³ Article 39(10) p. 1 of the Information Act.

²⁴ Article 39(10) p. 7-9 of the Information Act.

understood as broadcasts which are only distributed in certain regions of the country and do not have national coverage).

The Information Act also provides special rules regarding the insertion of advertising for cable television and microwave multi-channel television (MMTV) operators and indicates that cable television and MMTV operators may insert advertisements only into programmes they have produced themselves, broadcast through a separate channel, upon receiving from The Radio and Television Commission of Lithuania²⁵ (hereinafter - The Commission) a license including the right to broadcast programmes they themselves produced. It is prohibited to insert an advertisement into programmes that are being rebroadcast.²⁶

The Statute, however, lays down more stringent restrictions related to the insertion of advertisements into programmes and stipulates that all operators may insert advertisements only into their own programmes being broadcasting via a separate channel, upon receipt of a license to rebroadcast programmes, inclusive of the right to broadcast programmes they themselves have prepared²⁷.

- Prohibition of insertion within certain types of programmes

According to Lithuanian legislation, advertising and/or teleshopping shall not be inserted:

- () in any broadcast of religious services;
- () rebroadcasted programmes;
- () during the following programmes if their duration is less than 30 minutes:
 - news
 - religious broadcasts
 - current affairs programmes
 - documentaries
 - programmes intended for children (// art. 11 §5 TVWF Directive).

e. Conclusion

Lithuanian legislation contains rules related to the insertion of advertising between and within programmes, which are identical to the rules laid down in the Directive.

Some prohibitions do not apply to local broadcasters only intended for reception in the Republic of Lithuania.

There are also additional restrictions for the insertion of advertising for cable television and microwave multi-channel television (MMTV) operators indicating that cable television and MMTV operators may insert advertisements only into programmes they themselves produced, broadcast through a separate channel, and upon receiving from The Commission a rebroadcasting license with the right to

²⁵ The Radio and Television Commission of Lithuania is a state institution accountable to the Parliament (Seimas), which regulates and supervises the activities of commercial radio and television broadcasters.

²⁶ Article 33(3) of the Information Act.

²⁷ Point 5.6.4. of the Statute.

broadcast a programme produced by themselves. It is prohibited to insert advertising into programmes that are being rebroadcast.

Secondary legislation includes more stringent restrictions related to the insertion of advertisements into programmes and stipulates that all operators may insert advertisements only into the programmes they have created themselves and are broadcast via a separate channel, upon receipt of a license to rebroadcast programmes, inclusive of the right to broadcast programmes they have produced in-house.

Advertising shall not be inserted in rebroadcasted programmes. However, those rules with a restrictive effect are implemented only in secondary legislation and consequently can be interpreted as a recommendation rather than as a compulsory regulation.

. **Quantitative restrictions**

e. **Regulations**

- Examination of the legal maximum percentage of daily transmission time devoted to teleshopping and advertising spots and to other forms of advertising (20% in the TVWF Directive)

The Information Act stipulates that the transmission time for advertising may be increased up to a maximum 20% of the daily transmission time if it includes teleshopping spots (// art. 18 §1 TVWF Directive).²⁸

However, this restriction does not apply to the local broadcasters' broadcasts intended for the Republic of Lithuania alone, nor to those broadcasts which directly or indirectly can not be received by the public of other EU Member States.

- Examination of the maximum daily transmission time devoted to advertising messages (15% in the TVWF Directive)

The transmission time for advertising spots shall not exceed 15% of the daily transmission time (// art. 18 §1 TVWF Directive).

However, this restriction does not apply to the local broadcasters' broadcasts intended for the Republic of Lithuania alone, nor to those broadcasts which directly or indirectly can not be received by the public of other EU Member States.

- Maximum daily transmission time within a given clock hour

The Information Act indicates that the total of the advertising spots and teleshopping spots within a given broadcast hour shall not exceed 12 minutes, or in other words, shall not exceed 20 % (// art. 18 §2 TVWF Directive).²⁹ Local broadcasters' broadcasts intended for the Republic of Lithuania alone, as well as those broadcasts which directly or indirectly can not be received by the public of other EU Member States are exempt from this requirement.

- Calculation of advertising time

The rules stipulate which factors are to be taken into account and which are not when calculating the advertising time. This secondary legislative act indicates that, in exercising control over of the legal requirements concerning advertising, the

²⁸ Article 39(10) p. 4 of the Information Act.

²⁹ Article 39(10) p. 5 of the Information Act.

Monitoring and Investigation Division of the Radio and Television applies the following rules for the calculation of advertising time:³⁰

The following are not considered as advertising and are not taken into account for the calculation of advertising time:

- (vi) The broadcaster's/operator's announcement of its programmes (future programmes, films, broadcasting of sport, etc, events, name of the station, schedule of broadcasting, etc.) or auxiliary products directly related thereto;
- (vii) Self-promotion (// art. 18 §3 TVWF Directive);
- (viii) sponsoring messages;
- (ix) Announcement of events (opening of the season) held by the broadcaster, and directly related to the broadcaster's activity;
- (x) Broadcasting/transmission time of screens, attributes and other means whereby the advertisement is separated from the rest of the programme;
- (xi) Public announcements, charity appeals and free transmission/broadcasting of other information which cannot be qualified as an advertisement (\pm // art. 18 §3 TVWF Directive);
- (xii) Cultural news and/or presentation of events during an informative or other analytical programme (e.g., programmes about literature or cinema);
- (xiii) Presentation of new products and/or services, and/or new features thereof for the purposes of information or in cases where they must be presented by reason of the nature of the programme (in programmes such as TV games, lotteries, in which prizes are awarded by the sponsors thereof, movie announcements in programmes about cinema, announcement of works of literature in programmes about literature);
- (xiv) Showing of bill-boards, stands in stadiums, showing of logos and equipment, etc. during sport programmes and other programmes when the broadcaster cannot avoid this during the transmission/broadcasting of the programme;
- (xv) Announcement of cultural, artistic, educational events sponsored, "presented", "recommended" by the broadcasters.

The Statute also explicitly indicates which type of information qualifies as an advertisement for the purpose of calculating advertising time:

- (i) Audio/video clip - commercials;
- (ii) Announcements which have the appearance of an advertisement : a newsflash-line, an advertisement inviting to purchase goods or to use services advertised

³⁰ Point 5.7 of the Statute.

during a programme (to be calculated in accordance with certain criteria described below);

- () The presentation of trademarks (logos), with the exception of trademark (logo) announcements in a sponsoring message;
- () Teleshopping spots.

Announcements by way of a “newsflash-line” having the appearance of an advertisement, an insert inviting to purchase goods or to make use of services advertised during a programme (for example by way of a logo in the corner of the screen), are calculated by applying coefficient 0,25 to the aggregate time of the broadcasting of the “newsflash-line”, commercial insert in the programme. The time of the broadcasting of a particular split-screen advertisement is calculated by applying coefficient 0,25 to the aggregate time of the broadcasting of the split-screen advertisement.

d. Conclusion

Lithuanian legislation contains identical quantitative restrictions in relation to the maximum daily transmission time of advertising and maximum transmission time of advertising within a given clock hour as foreseen in the TVWF Directive.

However local broadcasters’ broadcasts intended for the Republic of Lithuania alone, as well as those broadcasts which can not be received either directly or indirectly by the public of other EU Member States are exempted from those requirements.

Criteria that should be taken into account to calculate the advertising time are provided in more detail than in the Directive.

V. Quantitative restrictions relating to teleshopping programmes

d. Regulations

The Information Act includes quantitative restrictions in relation to teleshopping³¹.

- Examination of the minimum duration of windows devoted to teleshopping programmes (15 minutes in the TVWF Directive)

Windows devoted to teleshopping broadcast by a channel not exclusively devoted to teleshopping shall be of a minimum uninterrupted duration of 15 minutes (// art. 18a §1 TVWF Directive).

- Examination of the maximum number of windows (8 in the TVWF Directive)

The maximum number of windows per day shall be eight (// art. 18a §2 TVWF Directive).

- Examination of the maximum daily duration (3 hours in the TVWF Directive)

The overall duration of teleshopping shall not exceed three hours per day (// art. 18a §3 TVWF Directive).

This restriction does not apply to the local broadcasters' broadcasts intended for the Republic of Lithuania alone or to those broadcasts which, directly or indirectly, cannot be received by the public of the other EU Member States.

d. Conclusion

Lithuanian law provides restrictions in relation to teleshopping programmes that are identical to those laid down in the Directive. However local broadcasters' broadcasts intended for the Republic of Lithuania alone, as well as for those broadcasts which can not be received directly or indirectly by the public of other EU Member States, are exempt from those requirements.

³¹ Article 39(10) p. 6 of the Information Act.

. **Sponsoring**

d. Regulations

Under the Lithuanian legislation, the following prohibitions and restrictions are applicable to sponsoring³²:

- Editorial independence of the broadcaster

The Information Act stipulates that sponsors must not exercise any influence regarding the duration of the programme, its subject-matter or programming (±// art. 17 §1 a. TVWF Directive).

- Sponsor identification

A sponsored programme (in part or in whole) must be identified as such at the beginning or at the end of the programme by indicating the sponsor's name or logo (// art. 17 §1 b. TVWF Directive).³³

The mentioning of trademarks (logos), along with the presentation (announcement) of sponsors, is allowed and is not considered as advertising. Announcements of trademarks (logos) in all other cases will be considered as an advertisement and will be taken into account for the calculation of the advertising time.

- Identification of programmes that cannot be sponsored

News and current affairs programmes may not be sponsored (// art. 17 §4 TVWF Directive).

- Examination of the rules relating to the content of the message (moving images, mention of the product, slogan, etc.)

Programmes may not be sponsored by undertakings whose principal activity is the manufacture and/or sale of tobacco products (// art. 17 §2 TVWF Directive).

Enterprises whose activities include the manufacture of medicines or treatment with medicines, may sponsor programmes, indicating their firm's name or logo, but may not promote specific medicines or treatment with medicines available only on prescription (// art. 17 §3 TVWF Directive).

³² Article 40 of the Information Act.

³³ Article 40 (1) of the Information Act, p. 6.1. of the Statute.

- Examination of other relevant rules relating to product placement, price mentioning during TV shows, sponsorship linked to schedule/points indication during sport broadcasts, etc.)

Product placement, presentation of a product or a brand along *with the presentation (announcement) of sponsors*, is allowed and is not considered as advertising. Product placement, presentation of a product or a brand *within a broadcasting program* will be considered as an advertisement and the rules applicable to advertisement will apply.

Sponsored programmes or broadcasts must not contain any encouragement to purchase or lease products or services of the sponsor or a third party, by including in the sponsored broadcasts, special references to those products or services (// art. 17 §1 c. TVWF Directive).

d. Conclusion

The rules on sponsoring of the TVWF Directive are included in the applicable regulation.

There are no additional restrictions in Lithuanian law regarding the volume or content of sponsorship messages.

. **New advertising techniques**

d. Regulations

There is no specific legislation regarding split screen advertising, virtual advertising, interactive advertising or other new advertising technique except the rule on the calculation of advertising time for split screen advertising (see above). The general rules applicable for advertising and sponsoring also apply to new advertising techniques. According to The Radio and Television Commission of Lithuania (regulator and supervisor of the activities of commercial radio and television broadcasters) Lithuanian television broadcasters do not use such advertising techniques.

. General rules relating to advertising and teleshopping content

d. Regulations

The Advertising Act, which sets general rules relating to advertising carried out by any means of transmission, stipulates that advertising must be banned if it:³⁴

- violates public or moral principles;
- degrades human honour and dignity (\pm // art. 12 a. TVWF Directive);
- incites national, racial, religious, gender-related or social hatred and discrimination or defames or includes wrong information (\pm // art. 12 b. TVWF Directive);
- promotes violence or aggression, gives rise to panic;
- promotes behaviour which presents a threat to health, security or the environment (// art. 12 d. and 12 e. TVWF Directive);
- abuses superstitions, people's trust, or their lack of experience or information;
- mentions the name and surname of a natural person without his permission, or mentions his opinion, contains information about his private or public life, or represents his property or his appearance without his authorisation;
- uses special subliminal techniques in advertising ;
- uses advertising material which violates authors' rights in literature, art, science and/or related rights.

The rules laid down in Article 12 of the Directive are implemented in the Information Act, which provides that advertising must be truthful and honest. It shall not prejudice respect for human dignity, include any discrimination on grounds of race, sex or nationality, be offensive to religious or political beliefs or encourage behaviour prejudicial to health or to the protection of the environment (// art. 12 TVWF Directive).³⁵

Legal acts protecting consumer rights do not establish any additional requirements for television broadcasting activities or television advertising. The law on consumer protection provides consumer protection measures for cases where the rights of consumers are violated by television broadcasting activities or television advertising. For example the right to present claims to courts or The Consumer Protection Council and rights and obligations of the Consumer Protection Council to defend consumers.

General rules relating to the content of advertising and teleshopping are also described in the Code. The self-regulatory act prescribes advertising business standards for relevant entities that have voluntarily undertaken to abide by it. The Code *inter alia* prescribes the following requirements for advertising:

Decency

³⁴ Article 4 of the Advertising Act.

³⁵ Article 39 (1) of the Information Act.

Advertising should not be offensive to accepted norms and moral standards. No advertisement should be in breach of good taste, decency or respect for a person's dignity. An advertisement is not deemed to conflict with the Code solely because a number of people find it offensive. However, advertisers are recommended to avoid careless wording or scenes that might be offensive to large numbers of people.

Fear and panic

Advertising should not, without reason, cause fear or panic. In cases where an advertisement is designed to intentionally cause fear, e.g. by describing a dangerous behavior, the fear should be proportionate to the actual risk involved.

Violence and antisocial behavior

No advertisement should be tolerant of or encourage violence, cruelty or antisocial behavior.

Environment

No advertisement can encourage or tolerate a behavior that may result in damage to the environment.

Protection of privacy

People's private life is not to be shown in advertisements without the permission of the people concerned.

Security and health

No advertisement should encourage or condone dangerous behavior or an insecure activity.

No advertisement may encourage or be tolerant of dangerous or careless driving or violation of traffic rules.

Religion

Advertising may not offend philosophical or religious beliefs.

d. Conclusion

The law includes the rules of Article 12 of the TVWF Directive but contains more rules on the content of advertising which are not foreseen in the Directive.

Since teleshopping is defined in the law as one of the forms of advertising, the rules related to advertising fully apply to teleshopping spots as well.

. **Specific products and targets**

d. Regulations

- Tobacco products

A prohibition on advertising and sponsorship for tobacco products is included in the Tobacco Control Act³⁶. However, said Act shall be repealed from the day Lithuania joins the European Union (i.e. from May 1, 2004) and the new wording of the Act (hereinafter referred as the “Tobacco Control Act”), which has already been passed by Lithuanian Parliament, shall come into force.

The Tobacco Control Act defines the advertising of tobacco products as information about tobacco products, distributed in any form and by any means, through which the acquisition and/or consumption of tobacco products is directly or indirectly promoted.

The Act also includes a definition of surreptitious advertising of tobacco products. This will include information about tobacco products or manufacturers of tobacco products, information about importers or sellers (undertakings), the name (title) of their firm, product mark or activity, distributed by any means, in a way which may be misleading for the consumers as to its nature. This type of information shall be considered as surreptitious advertising, when it is paid for or otherwise compensated.

Advertising of tobacco products and surreptitious advertising of tobacco products are prohibited in the Republic of Lithuania³⁷. The Tobacco Control Act as well as the Information Act prohibits sponsoring of television programmes by organisations whose principal activity is the manufacture and/or sale of tobacco products³⁸ (// art. 13 TWF Directive).

The Tobacco Control Act provides certain exceptions, but none concerning television advertising.

Since teleshopping is defined in the law as a form of advertising, the rules prohibiting advertising of tobacco products fully apply to teleshopping as well.

- Medicines

The Information Act prohibits the advertising in the mass media, except in special publications or broadcasts, of medicines or medical treatments available only on prescription (// art. 14 §1 TVWF Directive). Advertising of other medicines or medical treatments must be readily recognisable and must warn the public about possible harmful effects through misuse.³⁹ However, the Pharmaceutical Activities Act that governs pharmaceutical activities in the Republic of Lithuania provides for a

³⁶ Tobacco Control Act of the Republic of Lithuania No. IX-1840, 20 of November, 2003.

³⁷ Article 17 (1) of the Tobacco Control Act.

³⁸ Article 18 (3) of the Tobacco Control Act, Article 40 (4) of the Information Act.

³⁹ Article 39 (9) of the Information Act.

stricter prohibition, i.e. it prohibits television advertising of prescription medicines but also prohibits any form of communication of information on prescription medicine (such as information within a programme).⁴⁰

Sponsorship of TV programmes by organisations whose activities include the manufacture or sale of medicinal products or medical treatments may promote the name or the image of the organisation but may not promote specific medicines or medical treatments available only on prescription (// Article 17.3 Directive)

- Alcoholic beverages

Restrictions on advertising for alcoholic beverages are established by the Alcohol Control Act⁴¹, which stipulates that advertising involving all types of alcoholic beverages is prohibited, if it⁴²:

- () is aimed at children or teenagers under the age of 18;
- () makes use of persons under the age of 18 (// art. 15 a. TVW fDirective);
- () makes use of sports personalities, physicians, politicians, art and science personalities or other well known public persons or their name, likeness, etc.;
- () relates the use of alcohol to the improvement of physical well-being;
- () relates alcohol use with driving (// art. 15 b. TVWF Directive);
- () relates the use of alcohol with the improvement of mental activity or the solution of personal problems (±// art. 15 d. TVWF Directive);
- () relates the use of alcohol to stimulation, sedation or other beneficial effects (±// art; 15 d. TVWF Directive);
- () relates the use of alcohol to social well-being or increased sexual energy (±// art ;15 c. TVWF Directive);
- () portrays immoderate use of alcoholic beverages in a positive way or presents abstinence and moderation as negative (// art. 15 e. TVW FDirective);
- () presents a high concentration of alcohol as an advantage in alcoholic beverages (// art. 15 f. TVWF Directive);
- () contains false or misleading information on alcoholic beverages.

Advertising for alcoholic beverages is prohibited in programmes broadcast or re-broadcast by radio, television, cable television, or cable radio stations, registered in the Republic of Lithuania (except for shows broadcast live and continuously from a foreign country), from 8 a.m. till 10.30. p.m. during weekends and during school holidays (except for the advertising of alcohol drinks with up to a maximum of 22% alcohol).

Since teleshopping is defined in the law as a form of advertising, the rules prohibiting advertising of alcohol fully apply to teleshopping also.

⁴⁰ Republic of Lithuania Pharmaceutical Activities Act No. I-1025, 31 of January, 1991.

⁴¹ Alcohol Control Act of the Republic of Lithuania No. I-857, 18 of April 1995 (with numerous amendments).

⁴² Article 30 (1) of the Alcohol Control Act.

- Minors

The Information Act stipulates that advertising aimed specifically at minors must not in any way detriment their interests. Such advertising must comply with the following requirements⁴³:

- () it shall not directly exhort minors to buy a product or a service by exploiting their inexperience or credulity (// art. 16 §1 a. TVWF Directive);
- () it shall not directly encourage minors to persuade their parents or others to purchase the goods or services being advertised (// art. 16 §1 b. TVWF Directive);
- () it shall not make them believe that the use of certain services and goods shall make them physically, psychologically or socially superior in comparison to others in their peer group;
- () it shall not unreasonably show minors in dangerous situations (// art. 16 §1 d. TVWF Directive);
- () it shall not exploit the special trust minors place in their parents, guardians teachers and other persons (// art. 16 §1 c. TVWF Directive).

There are no additional requirements for teleshopping; the rules for advertising aimed specifically at minors are also applicable to teleshopping.

The Code (self-regulation) also provides rules aiming to protect children and stipulates that:

- No advertisement should not cause psychological or moral damage to children, interfere with their mental or physical development, abuse their credulity or obedience;
- Children may be addressed directly and may be encouraged to buy products if such products may be of true interest to them and are not very expensive;
- No advertisement may encourage children to convince their parents or relatives to buy them the advertised product;
- No advertisement may persuade children that they will be inferior to others or unpopular amongst other children if they do not purchase the advertised product;
- No advertisement should mention that if children do not buy and do not encourage others to buy the advertised products, they are not obedient;
- An advertisement designed for children must not be complicated, so that the children can understand the true size of the product (best to compare it with an object they are well familiar with);
- In case the characteristics of a product are featured, the possible perception of the majority of children must be taken into account;

⁴³ Article 39(3) of the Information Act.

- If it is possible, an advertisement directed at children should indicate the price of the product advertised;

Careless children are not to be shown in advertisements, e.g. children in dangerous situations. Children should not be shown with dangerous products such as matches or petroleum,

- Advertisements should not encourage children to have contact with strangers, or to go to unfamiliar or dangerous places;
- Advertisements should not discredit the authority, responsibility, decisions or personal choice of parents.

d. Conclusions

Prohibitions provided in Lithuanian law regarding television advertising and sponsoring in relation to tobacco products are identical to the prohibitions included in the Directive.

- Lithuanian legislation includes a list of conditions television advertising for alcoholic beverages has to comply with, including the requirements listed in the Directive as well as other additional requirements

Lithuanian legislation also prohibits alcohol advertising (+22%) in weekends and during school holidays.

Since teleshopping is defined in law as a form of advertising, the rules prohibiting advertising of alcohol fully apply to teleshopping as well.

Lithuanian law contains the same rules on TV advertising for medicines as the Directive. There is no specific rule in relation to medicines and teleshopping.

The Lithuanian law includes rules on minors and advertising which are similar to those imposed by the Directive. However, some more detailed rules are foreseen in law and self-regulation.

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