



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

SLOVAK REPUBLIC

LEGAL REPORT

**Drafted by DEDAK & Partners
(Mr Tomas KAMENEC)**

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Introduction

In the Slovak Republic, the area of television advertising is covered by the Act No. 308/2000 Coll. (zákon o vysielaní a retransmisii) amended as Acts No. 147/2001 Coll. and No. 206/2002 Coll. (hereinafter the "Act") implementing the provisions of the Council Directive 89/552/EEC as amended by the Directive of the Parliament and the Council 97/36/EC (hereinafter the "TVWF Directive"). According to a reasoning report concerning this enactment, the Act is fully compatible with the abovementioned Directive.

Legal regulation of broadcasting of advertising, as covered by Chapter IV of the TVWF Directive, was amended by regulation of the Act No. 147/2001 Coll. on Advertising (zákon o reklame) which brought to the Slovak legal system directive No. 84/ 450/ EEC amended in the Directive of the Parliament and the Council 97/55/EC.

In the Slovak Republic, the broadcasters operate on the basis of an act or on the basis of a granted licence.

The public Slovak television is broadcast pursuant to the Act No. 16/2004 Coll. on the Slovak Television (effective from 01 February 2004 replacing the Act No. 254/1991 Coll. on the Slovak Television). It is broadcast on two channels (Jednotka – market share ca. 18 %, Dvojka – market share ca. 4 %).

There are no licensed private broadcasters who have the licence for national broadcasting. The audiovisual media landscape consists of two major players with a licence for multiregional full format broadcasting. It is MAC TV spol. s r.o. having the licence valid until 28 July 2007 for the channel named TV JOJ (market share ca. 14 %), and MARKÍZA – SLOVAKIA, spol. s r.o., broadcasting under the licence for TV MARKIZA (market share ca. 38 %) valid until 14 September 2007.

There are other five multiregional broadcasting licence holders, but they provide only monothematic program. It is a news channel (TA3 – market share ca. 0,8 %)), two music channels (MUSIC BOX and MUSIC CHANNEL), one tele-shopping channel (TV A) and one information channel for a retransmission provider. Another four broadcasters have the licence for regional broadcasting, and also there are 72 licence holders for local broadcasting.

The very interesting phenomena's in the Slovak audiovisual media landscape is the relative strong role of Czech TV stations on the market. Czech TV station TV NOVA has about 5 % market share on a Slovak market.

I. Definitions

For the purpose of the Act:

- Broadcasting: § 3 a)

“Broadcasting is the spreading of original encoded or unencoded radio programme services or television programme services as well as other sound, visual or audio-visual information including teletext via public telecommunication networks or telecommunication equipment intended for reception by the public; broadcasting does not include communication services intended for provision of information or other communications on basis of individual demand or broadcasting via Internet” (// art. 1 a. TVWF Directive) ;

The Act does not explicitly define television broadcasting. In this Act television broadcasting is terminologically distinguished from radio broadcasting mostly by the use of notions such as “broadcasting of television programme service” and “broadcasting of radio programme service”.

- Broadcaster: § 3 b)

"the broadcaster is a natural or legal person who has editorial responsibility for the composition and content of a programme service which he broadcasts or has it broadcasted in a complete and unchanged form by a third party”(// art. 1 b. TVWF Directive)

- Programme: § 3 f)

“the programme is an audio or audio-visual communication which, in its content and form and function, forms a closed unit; it is the basic unit of the broadcasted programme service and may not be interrupted unless this law states otherwise”

- Programme service: § 3 e)

“the programme service is a purposed time-arrangement of programmes and other elements of this service which form a closed unit provided to the public by the broadcaster”

- Advertising: § 32 1)

“advertising means any public announcement broadcast in return for payment or any similar counterpart including self publicity with the aim of supporting the sale, purchase or lease of goods, services, including real estates, rights and obligations or to reach other effect pursued by the ordering party of the advertisement or by the broadcaster.”(// art. 1 c. TVWF Directive);

The Act does not explicitly define "television advertising". Provisions of a special advertising legislation (Act No. 147/2001 Coll. on advertising) only apply in cases where this Act does not state otherwise.

- Surreptitious advertising: § 32 13)

“Surreptitious advertising and teleshopping for the purpose of the Act means verbal or optical information about goods, service, commercial name, trade mark or about a goods producer's or service provider's activities in a programme, if the broadcaster intentionally uses this information in the frame of a programme for advertising purposes by which he can mislead the public as to the nature of this information. This information is considered purposely mainly if it is done in return for payment or for similar counterpart.”(// art. 1 d. TVWF Directive);

- Sponsorship: § 38 1)

“Sponsorship means any contribution made by a legal person or natural person except for broadcasters or producers of audiovisual works to direct or indirect financing of programmes with a view to promoting the name, trade mark, image or activities of this person.”(// art. 1 e. TVWF Directive);

- Teleshopping: § 32 2)

“Teleshopping for the purpose of the Act means a direct offer broadcast to the public with the aim of supplying goods or services, including real estates, rights and obligations in return for payment (//art. 1 d. TVWF Directive). Teleshopping can be in the form of:

- a) a teleshopping spot, with duration of maximum 15 minutes,
- b) a teleshopping programme,
- c) a programme service exclusively concentrated on teleshopping.”(more precise than the TVWF Directive)

Other relevant definition:

- Political advertising: § 32 11)

“Political advertising for the purpose of the Act means public announcement determined for:

- a) a support of a political party, political movement, member of a party, or member of a movement, or candidate, or in their favour during an election campaign or referendum campaign,
- b) popularisation of name, mark, or slogans of a political party, political movement or a candidate;

- Self-promotion: § 36 5)

“self-promotion for the purpose of this law means any broadcaster's activity appropriated for gaining and keeping the attention of the public to his own broadcasting, programmes, goods or services directly or indirectly connected to broadcasting and programmes; a broadcaster's information for the public about his own programme is not considered to be self-promotion”;

- Charity appeal: § 36 6)

“Charity appeal for the purpose of this law means an appeal broadcast by a broadcaster free of charge or without any counterpart which includes an appeal for help to a person, group of persons, social and charitable institutions or charitable foundations established to support those aims”;

- Public interest announcement: § 36 6)

“public interest announcement for the purpose of this Act means a short announcement transmitted by a non-political subject aimed to propagate edification in the area of improving legal consciousness, safety on the roads, health protection, nature protection, environment protection, protection of consumer, etc”;

- Current affairs programme: § 39 6)

“current affairs programme for the purpose of this law means a programme usually thematically connected with news, containing in particular commentary referring to the news and events, analysis of development, political views regarding events and opinions of politicians regarding individual topics”;

- Complementary broadcasting: § 39 8)

“Complementary broadcasting for the purpose of this law means videotext, time information, time signal, announcement of programmes, information of the broadcaster about his own programme, advertising, teleshopping, appeal and announcement”.

Conclusion

In this respect, Slovak legislation is in absolute harmony with the Directive However, the Slovak legislation contains other definitions non existent in the Directive such as “current affairs programme”, “public interest announcement”, “charity appeal”, etc.

II. Advertising recognition and advertising/ programme separation (Article 10 TVWF Directive)

a. Regulation

- Examination of the rules related to advertising and teleshopping spots recognition (acoustic and optic means)

In accordance with the provisions in § 34 1) of the Act, advertising and teleshopping broadcasting shall be recognizable and clearly separated from other parts of the programme service in a way that they are not interchangeable with other parts of the programme service; (...) in broadcasting of television programme service sound-visual means shall be used for separation. (// art. 10 §1 TVWF Directive)

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

Pursuant to provisions in § 34 2), in broadcasting of television programme service advertising and teleshopping are transmitted in blocks and separated from other parts of this programme service. (// art. 10 §1 TVWF Directive)

- Examination of the rules related to the isolated advertising and teleshopping spots (allowed/ prohibited; specific conditions, etc.)

According to the provisions of §34 1) of the Act, broadcasting of isolated advertising and teleshopping spots is permitted exceptionally (// art. 10 §2 TVWF Directive).

- Prohibition of the use of "subliminal techniques" and of surreptitious advertising and teleshopping

The Act is explicit in prohibiting in its provision § 32 14) the advertising which makes use of subliminal perception of men. Equally, pursuant to provisions in § 32 12), surreptitious advertising or surreptitious teleshopping is prohibited (// art. 10 §3 and 10 §4 TVWF Directive)

b. Conclusion

Considering the provisions herein, the Act is in absolute harmony with the Directive. A sole visible difference is that a form of separation of advertising and teleshopping from other elements of television programme service is defined in the provision of § 34 1).

III. Rules related to insertion of advertising and teleshopping spots between and within the programmes (Article 11 TVWF Directive)

a. Regulation

Insertion of advertising and teleshopping spots into broadcasting is regulated in provisions of § 35 of the Act.

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

Advertising and teleshopping spots shall be inserted between individual programmes (// art. 11 §1 TVWF Directive).

- Examination of the rules related to insertion of advertising and teleshopping spots within the programmes (allowed or prohibited; specific rules regarding the type of programme)

Public service broadcaster of television programme service must not place an advertising or teleshopping during broadcasting of programmes.

Licensed broadcasters can insert advertising spots and teleshopping spots also during programme broadcasting provided that the integrity, value and character of the programme including its natural internal breaks are not disrupted while respecting the rights of owners of rights and under conditions stipulated in Articles 3 to 5. (// art 11 §1 TVWF Directive).

In programmes consisting of autonomous parts, or in sports 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).

During transmission of audiovisual works (excluding series, serials, entertainment programme and documentary), provided that their duration is more than 45 minutes, one interruption shall be allowed through inserting advertising or teleshopping for each period of 45 minutes. If the scheduled duration of an audiovisual work exceeds two or more complete periods of 45 minutes by at least 20 minutes, another interruption shall be allowed (// art.11§3 TVWF Directive). A period of at least 20 minutes should elapse between two consecutive breaks (// art. 11 §4 TVWF Directive).

- Eventual prohibitions of insertion of advertising and teleshopping spots within certain types of programme.

Pursuant to § 35 4) broadcasting of news, current affairs programme and religious programmes, programmes for minors and religious service may not be interrupted by the insertion of advertising or teleshopping and this regardless of their duration (≠TVWF Directive).

Broadcasting programmes other than those covered by paragraphs 3 and 4 with duration exceeding 30 minutes, one interruption by insertion of advertising or teleshopping for every 30 minute time period is permitted should at least 20 minutes elapsed between two consecutive breaks (// art. 11 §4 TVWF Directive).

b. Conclusion

Regulation of the Act's point thereto is more restrictive than the regulation of the Directive. Pursuant to provisions in § 35 4) interruption by advertising or teleshopping of certain types of programmes is absolutely out of question regardless of their duration.

Unlike the Directive, the Act makes a distinction between conditions concerning the insertion of advertising for the licensed broadcasters of television programme service and the public broadcasters of television programme service- the public Slovak Television broadcasting pursuant to the Act No. 16/2004 Coll. on the Slovak Television (effective from 01. 02. 2004 replacing the Act No. 254/1991 Coll. on the Slovak Television). The public broadcaster is not allowed to insert advertising or teleshopping during broadcasting of programmes.

IV. Quantitative restrictions (Article 18 TVWF Directive)

a. Regulation

Provisions in § 36 of the Act transpose, with certain variations concerning different types of broadcasters, regulation of the proportion of transmitted advertising and teleshopping within broadcasting of television programme service

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

The proportion of advertising and teleshopping transmitted in the broadcasting of a television programme service shall not exceed 20% of daily transmission time for a licensed broadcaster (// art. 18 §1 TVWF Directive) and 10 % for a public broadcaster.

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

The proportion of advertising transmitted in the broadcasting of a television programme service of a licensed broadcaster shall not exceed 15% of daily transmission time (// art. 18 §1 TVWF Directive). The proportion of advertising transmitted in the broadcasting of a television programme service of public service broadcaster must not exceed 3% of daily transmission time.

- Examination of the maximum daily transmission time devoted to advertising and teleshopping spots within a given clock hour (20 % in the TVWF Directive)

The transmission time reserved for advertising spots and teleshopping spots during a given clock hour shall not exceed 20% (12 minutes) (// art. 18 §2 TVWF Directive). Transmission time reserved for advertising between 7.00 p.m. and 10.00 p.m. must not exceed eight minutes during a given clock hour with public service broadcaster.

- Examination of the other possible quantitative restrictions

Not applicable

- Examination of the factors to take into account or not for the calculation of the advertising time

The transmission time reserved for advertising shall not include time dedicated to:

- a) self-promotion;
- b) information about broadcaster's own programme;
- c) public interest announcements or charity appeals broadcast free of charge (// art.18§3 TVWF Directive).

b. Conclusions

Again, unlike the Directive, the Act regulates the rights of public broadcasters of programme services which, compared to private broadcasters (broadcasters of television programme services upon license), are limited as to the extent of transmission of advertising and teleshopping. Restrictions on transmission of advertising by public television also specially apply to advertising transmission in the prime time.

V. Quantitative restrictions related to teleshopping programmes (Article 18 bis TVWF Directive)

a. Regulation

Teleshopping windows must be clearly separated from other parts of programme service by optical and acoustic means and must be explicitly identified like that.

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

Licensed broadcaster is allowed to broadcast teleshopping programmes if their uninterrupted duration is at least of 15 minutes; restrictions pursuant to Articles 1, 3 and 4 do not apply (// art. 18bis §1 TVWF Directive).

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

The maximum number of teleshopping programmes per day is eight (// art. 18bis §2 TVWF Directive).

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

The overall duration of teleshopping programmes shall not exceed three hours per day (//art. 18bis §2 TVWF Directive).

b. Conclusion

In this respect, Slovak legislation is in absolute harmony with the Directive and there are no other restrictions whatsoever on transmission of teleshopping outside the Act.

VI. Sponsorship (Article 17 TVWF Directive)

a. Regulation

Sponsorship is regulated in provisions of § 38 of the Act and restrictions on sponsorship result from provisions in § 39 of the Act.

- Examination of the rules related to editorial independence of the broadcaster

Sponsor may not influence content and time of insertion of a sponsored programme in the manner likely to be considered as having an influence on the responsibility or the editorial independence of broadcaster in respect of programmes (// art. 17 §1 a. TVWF Directive).

It is the broadcaster's liability to ensure that the sponsored programme does not encourage in a direct way the purchase and rental of the products or services of the sponsor or a third party, in particular by making special promotion references to those products or services in its programmes (// art. 17 §1 c. TVWF Directive).

- Sponsor identification

If a programme or series of programmes, partially or as a whole is sponsored, then it must be clearly identified by the broadcaster by the name in the case of a legal person, by name and surname in the case of a natural person or by logo of its sponsor, at the beginning and the end of the programme (// art. 17 §1 b. TVWF Directive).

The Act does not regulate the exact form of sponsorship message but in practice no supporting element other than the logo, the commercial name or the trademark is admitted by the regulating body (Council for Broadcasting and Retransmission). Sponsors try to modify the practice by registering their most common claims as trademarks, which they try to use as sponsorship messages then.

- Examination of the rules related to the insertion of the sponsor's name or logo within the programme (beginning/end, break bumper, during all the programme)

Basically, the Act does not prohibit broadcasting of sponsorship message elsewhere than at the beginning and the end of programme. However, it is not allowed to interrupt programmes. Therefore, broadcasting of sponsorship messages comes largely at the beginning as well as the end of a programme interruption intended for transmission of advertising (// art. 17 §1 b. TVWF Directive). A technique often used is transmission of sponsorship message through a trailer (broadcaster's announcements concerning own programme) related to a programme to be broadcasted in the future.

- Identification of the programmes that cannot be sponsored

The sponsor of a programme must not be a legal person or a natural person whose main activity is the production, sale or lease of goods or provision of services advertising of which is forbidden according to this Act. Main activity for the purpose of this Act means that proportion of income from this activity represents more than 51% of the total income of the legal person or natural person; this activity is registered as its subject of undertaking in the Companies Register and, it is known to the public for this activity.

Pursuant to the Act, the rule of prohibition of sponsorship applied by the Directive solely on prohibition of sponsorship by undertakings who manufacture cigarettes or tobacco products (art. 17 §2 TVWF Directive) applies to e.g. prohibition of sponsorship by arms and ammunition producers or sponsorship by political parties or churches. It results from prohibition of advertising on these products according to the Act (goes further than the Directive).

Sponsorship of programmes by legal or natural person whose activities include manufacture or sale of medicinal products and medical treatment may promote the name or image of the undertaking but may not promote specific medicinal products or medical treatment available only on prescription and provision of medical treatment settled through health insurance (// art. 17 §3 TVWF Directive).

Sponsorship of newscasts, current affairs programmes (// art. 17 §4 TVWF Directive) and sport reports shall be prohibited (**≠ article 17,§4 TVWF Directive**). The independent news programmes, which contain exclusively information about the weather, traffic situation or sport, are an exception.

No broadcaster or producer of audiovisual works can be a sponsor of programmes (// art. 1.e TVWF Directive).

The regulation on sponsorship also apply to programmes sponsored by producers of alcoholic beverages excluding beer (between 10 p.m. and 6.00 a.m.) or provider of erotic services, producers of erotic products or operators of erotic audio-text services (between 10 p.m. and 06.00 a.m.) : sponsoring for these products or services is allowed.

Unlike the Directive, sponsorship of complementary broadcasting, except for timekeeping, is prohibited.

In terms of Slovak legislation, it is necessary to differentiate between the sponsorship of event and the sponsorship of programmes. Even if a sponsored event is broadcasted on television regulation of the Act does not apply to it.

Product placing is prohibited by the Act on principle. However, if the broadcaster is not able to influence the product placing in the programme (sports transmission, product within an audio-visual work) it is not a case of violation of the Act.

Under the Act it is prohibited to use direct sales or rent support of goods or services of the sponsor or the third party. A direct support is considered as special propagation notices of product or goods in the program. Such propagation would be equivalent to advertising – in fact could be considered only as surreptitious advertising, because it wasn't identified and the advertising was included in a program. In case of a program where the prices are granted by a sponsor the practice in Slovak Republic allows to identify visually or verbally the product or service whereas it should not be presented as advertisement. The same applies to case of sponsor's name, trademark or logo.

The regulatory body decided in more cases about sanctions for TV broadcasters for the motives of surreptitious advertising in sponsored programmes. In cases of presentation of the products of sponsors in a programme with the intention of sales promotion, the regulatory body decided on Act violation. The cases especially concerned the motor magazines.

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

Non applicable

- Examination of the maximum duration of the mention and/or maximum daily/per hour volume

The Act does not contain restrictions whatsoever as to the extent of sponsored programmes or the number of programmes allowed to be sponsored.

- Examination of other rules eventually limiting the volume of sponsorship (ceiling for sponsorship profits, special tax, etc.)

As it has been said, there is no legal express limitation related to the volume of sponsored broadcasts. However, the fact that pursuant to corresponding tax legislation (Act No. 595/2003 Coll. on Income Tax) sponsorship contribution is not a recognized tax expense and it is paid out of sponsor's profit, constitutes a certain factual restriction of sponsorship.

b. Conclusion

The dispositions of the Directive have been correctly implemented in general.

The regulation contains however provisions regarding types of sponsors that are not allowed such as arms manufacturers, political parties... Moreover, the Slovak regulation forbids "sports reports" to be sponsored, which is stricter than the Directive.

VII. New advertising techniques

Slovak legal regulation does not have provisions concerning the so-called “new advertising techniques”.

However, it seems that advertising in the form of split screen, interactive advertising as well as virtual advertising is not allowed pursuant to the actual Slovak legal system.

If a broadcaster uses one of the above techniques in broadcasting, it would be probably a case of surreptitious advertising, which is not separated from the rest of transmitted programmes. Violation of provisions of the Act on Advertising Transmission can be penalised by a fine up to 5.000.000 SKK imposed by the Council to the broadcasters.

VIII. General rules related to advertising and teleshopping content (Article 12 TVWF Directive)

a. Regulation

The provision of § 32 (4) stipulates general rules related to broadcast advertising and teleshopping. Broadcast advertising and teleshopping must not:

- a) contravene the freedom and equality in dignity and rights of people and evoke in them emotions of fear (// art. 12 a. TVWF Directive);
- b) include any kind of discrimination on the grounds of sex, race, colour, language, national or social origin or nationality or membership of an ethnic group (// art. 12 b. TVWF Directive);
- c) be offensive to trust and religion, political or other views (// art. 12 c. TVWF Directive);
- d) encourage behaviour endangering or prejudicial to health (/: art. 12 d. TVWF Directive);
- e) encourage behaviour prejudicial to the environment (// art.. 12 e. TVWF Directive);

There are also some general regulation regarding any kind of advertising such as

- a) be honest and fair,
- b) not be prejudicial to the interests of consumers and do not misuse the trust of consumers,
- c) if intended for children or with participation of children, not contain anything prejudicial to their interests or regardless of their specific susceptibility.

b. Conclusion

Slovak legal regulation corresponds in full to the regulation of the Directive.

IX. Specific products and targets

a. Regulation

- Tobacco (Articles 13 and 17 TVWF Directive): § 33 (1) of the Act

All forms of television advertising and teleshopping for tobacco products shall be prohibited (// art. 13 TVWF Directive). Avoidance of this prohibition via using brand names, trademarks, emblems or other marked signs of these products during broadcasting time reserved for advertising and teleshopping is prohibited.

Pursuant to the Act, the rule of prohibition of sponsorship applied by the Directive solely on prohibition of sponsorship by undertakings who manufacture cigarettes or tobacco products (art. 17 §2 TVWF Directive) applies.

- Alcohol (Article 15 TVWF Directive): § 33 (2) and (3) of the Act

Television advertising and teleshopping for alcoholic beverages, excluding beer, shall be prohibited from 6.00 a.m. till 10.00 p.m.

Television advertising and teleshopping for alcoholic beverages must not:

- a) be aimed at minors and especially must not depict minors consuming these beverages (//art. 15 a. TVWF Directive);
- b) link consumption of alcoholic beverages to enhanced physical performance or to driving a motor vehicle (// art. 15 b. TVWF Directive);
- c) state that alcoholic beverages have therapeutic qualities or are a stimulant or sedative or help to resolve personal problems (// art 15 d. TVWF Directive);
- d) create the impression that consumption of alcohol contributes towards social and sexual success (// art. 15 c. TVWF Directive);
- e) encourage immoderate consumption of alcohol or present abstinence or sobriety as a negative (// art. 15 e. TVWF Directive);
- f) place emphasis on the beverage's alcoholic content as being an indicator of its quality (// art. 15 f. TVWF Directive).

Unlike the Directive, the Act makes distinction between beer and other alcoholic products. This distinction is reflected in the regulation of when it is possible to broadcast advertising for alcohol (from 10 p.m. till 06. a.m.) while the restriction does not apply to broadcasting of advertising for beer.

- Medicines (Article 14 TVWF Directive): § 33 (4) to (7) of the Act

Television advertising for medicinal products containing narcotics, psychotropic or other addictive substances and for medicinal products available only on prescription shall be prohibited (±// art. 14 TVWF Directive).

Television advertising for medical products excluding medications as within paragraph 4 must be discernible, impartial, truthful and verifiable and meet the requirement of protection of an individual from damage. Advertising shall contain:

- a) express and understandable recommendation for careful reading of instructions for correct application of medical products comprised in written information for users of medications, enclosed in medical products;
- b) recommendation to ask a person authorized to prescribe or to issue medications for advice about application of medical products.

Television advertising for medicinal products also must not:

- a) be aimed at minors;
- b) compare medications with food or cosmetic products;
- c) promote effect of medications by referring to results achieved with particular persons;
- d) contain recommendations of scientists, doctors or famous people popularity of who could encourage the use of medical products.

Broadcasting of teleshopping for medical products available on medical prescription and medical treatment available only on basis of health insurance and special regulations shall be prohibited.

- Minors (Article 16 TVWF Directive): § 32 (6) and (8) of the Act

The broadcaster shall provide that the broadcasted advertisement and teleshopping cannot endanger the physical, psychological or moral development of children or disturb their mental health or emotional condition. Broadcasted advertisement or teleshopping must not

- a) directly encourage minors to buy product or services by exploiting their inexperience and credulity (//art. 16 §1 a. TVWF Directive);
- b) directly exhort minors to persuade their parents or others on the need to buy offered goods or services (// art. 16 §1 b TVWF Directive);
- c) misuse the implicit trust of minors in their parents, teachers and others (// art. 16 c. TVWF Directive);
- d) groundlessly show minors in dangerous situations (// art. 16 d. TVWF Directive);
- e) exhort minors to buy goods that are prohibited to be sold to them.

It is broadcaster's responsibility to ensure that the teleshopping transmitted by him does not contain encouragements intended at minors concerning purchase or lease of products or services (// art. 16 §2 TVWF Directive)

- Erotics: § 32 (7) of the Act

Broadcasters shall ensure that television advertising and teleshopping for erotic services, erotic products and erotic audio text services are not transmitted between 6.00 a.m. and 10.00 p.m.

The Directive does not explicitly contain such restriction. It is possible to consider that it is a case of partial application of the provisions of Article 22 of the TVWF Directive on the area of advertising, whereas the state restricted a possibility to broadcasting advertising for certain types of product or service to exact hours. It is a case of very narrowly specified types of products or service. However, no practical issues have been raised in this field.

- Arms and ammunition: § 32 (8) of the Act

Broadcasting of advertising and teleshopping for arms and ammunition is prohibited.

It is a restriction which the Directive does not explicitly stipulate. Ammunition and arms are defined pursuant to the Act No. 246/1993 Coll. on Ammunition and Arms (dated January 01, 2004 replaced by the Act No. 190/2003 Coll. on Guns and Ammunition. From the legal definitions hereto a conclusion is drawn that the Act prohibits broadcasting of advertising for guns and not all arms as such.

- Political and religious advertising: § 32 (10) of the Act

Broadcasting of political advertising and advertising promoting religion or atheism shall be prohibited, if special regulation does not provide otherwise.

It is an extremely controversial and widely discussed provision of the Act especially as far as a general ban on political advertising is concerned. Considering this provision there is a concrete case of a possible conflict with the provision in Article 26 of the Constitution of the SR and Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. There are special laws which under certain circumstances allow political advertising. They are laws concerning various forms of elections to representative bodies in the Slovak Republic. The Slovak legislation is extremely comminuted on these subjects and no unified regulation exists.

Act No. 46/1999 Coll. on the Process of Presidential Elections (zákon o súôsove voľby prezidneta) allows under exactly defined conditions broadcasting of electoral campaign in broadcasting of public broadcasters as well as licensed broadcasters.

Act No. 80/1990 Coll. on Elections to the Slovak National Council (zákon o voľbách do Slovenskej národnej rady) admits television broadcasting of electoral campaign solely in the public Slovak Television (public broadcaster). In the years 1998 and 1999 the regulation explicitly prohibited campaign in private media (licensed broadcasters). But after the decision of the Constitutional Court of the SR PL. US 15/1998 such provision has been declared void as being unconstitutional. The Constitutional Court was of the opinion that “in a democratic society it is not inevitable that the State exclude realisation of dual broadcasting so that the public mass-media are the sole mediators of transmission of the information constituting the subject of an electoral campaign.” Only after this finding the Act, which replaced the Act No.

468/1991 Coll. (which did not cover the area), was adopted. The Act, therefore, makes an explicit reference to a different special Act which enables to spread political advertising

The Act No. 346/1990 Coll. on Elections to Self-Government of Municipalities (zákon o voľbách do orgánov samosprávny obcí) admits under stipulated conditions that electoral campaigns can be broadcasted by public broadcasters as well as licensed broadcasters.

The Act No. 303/2001 Coll. on the Elections to the Regional Self-Governments (zákon o voľbách do orgánov samosprávnych krajov) does not admit conduct of the electoral campaign in television broadcasting.

The Act No. 332/2003 Coll. on Elections to the European Parliament (zákon o voľbách do Európskeho parlamentu) admits under stipulated conditions that the electoral campaign are broadcasted by public broadcasters as well as licensed broadcasters.

The Act No. 564/1992 Coll. on Referendum (zákon o spôsobe vykonania referenda) admits the electoral campaign in television solely in the public Slovak Television (public broadcaster).

In the SR there is no Act which would enable broadcasting of religious advertising.

b. Conclusions

The Act as well as the Directive absolutely prohibits advertising on tobacco products whatsoever. The second sentence of the cited provision extends this prohibition to promotion of producers of tobacco products whatsoever or trademarks used for tobacco products.

Excepting the distinction between beer and other alcoholic beverage and the distinction regarding to the broadcasting time, the regulation of advertising for alcohol in the Act is in harmony with regulation of the TVWF Directive.

The Act here covers wider regulation concerning advertising for medicines as results from the Directive. The Act reacted to regulation concerning advertising for medicines resulting from the directive of the Council 92/28/EEC on advertising for humane medicines (currently the directive of the Parliament and the Council 2001/83/EC). Legal regulation is amended by the abovementioned Act on Advertising as well as the Act No. 140/1998 Coll. on medicines and medical equipment, which is fully compatible with the directives regulating advertising for medicines.

The provision of the Act is fully compatible with Art 16 of the Directive whereas introducing one more restriction on advertising under letter e). It is not clear what exactly the lawmaker meant by this provision because restrictions related to advertising for products which cannot be sold to minors are covered by other provisions. It is especially prohibition of advertising for alcohol oriented directly at minors or absolute prohibition of advertising for cigarettes and arms and ammunition.
