

BIRD & BIRD

**THE EVOLUTION OF NEW ADVERTISING  
TECHNIQUES**

**LIECHTENSTEIN**

**This report has been drafted by Bird & Bird Brussels**

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# TELEVISION

## I. Advertising

### A. General regulation

#### 1. General law on consumer protection containing rules on advertising applicable to all media

Advertising is regulated in Liechtenstein in the Act against Unfair Competition. Art 3 lit. a, b, c, e, f, bans all kinds of incorrect, unnecessary and misleading trade practices which also includes advertising practices. According to Art. 3 lit. h of the Act against Unfair Competition advertising must not be aggressive and should avoid influence on individuals in their decisions to buy products or services. Art. 3 lit. e of this Act mentions the requirements and conditions for comparative advertising.

#### 2. Specific audio-visual regulation

Since Liechtenstein has no own TV broadcasters submitted to TV regulation of Liechtenstein, this report gives an overview of Swiss Tv advertising regulation.

The regulatory matters regarding television are contained in the **Swiss "Bundesgesetz über Radio und Fernsehen, 21 June 1991 and Radio-und Fernsehverordnung, 6 October 1997"** (hereafter referred to as TV and Radio Act). The **Swiss "Bundesamt für kommunikation" (BAKOM)** is competent for advertising and sponsoring matters and controls the observation of the applicable rules by radio and Tv-stations under its jurisdiction.

#### Identification and content of advertising

Advertising must at least be identified by an acoustical or optical warning and must be clearly separated from programmes. Well known Tv presenters must not appear in TV advertising. Advertising breaks lasting longer than 60 seconds should be labelled as advertising during the whole break.

Art. 15 of the Decree of Television and Radio contain the requirements regarding the content of advertising in general and in lit. e) the protection of minors in particular:

According to this regulation is prohibited :

- a) religious or political advertising
- b) advertising for alcohol or tobacco (advertising for alcohol free beer is permitted)
- c) advertising for medicines only available on prescription and for medical treatments
- d) incorrect, misleading or unfair advertising
- e) advertising taking advantage of the credulity or inexperience of children or abusing their special trust.
- f) subliminal advertising.

Moreover surreptitious advertising is also prohibited.

### **Duration of advertising and interruption of programmes**

The competent authority can include in the licence of a broadcaster specific conditions on the placing of advertising in programmes or decide that advertising cannot be inserted during certain programmes.

In principle advertising has to be inserted between programmes.

Programmes can be interrupted by advertising only once and on the condition their duration is longer than 90 minutes. In programmes containing intervals, advertising can be inserted during the intervals.

For the public broadcaster (SRG) a maximum of 8% advertising of the daily transmission time is permitted. For other broadcasters a maximum of 15% of the daily transmission time is permitted. If advertising contains also tele-shopping spots the amount can be increased to 20%, however a maximum of 1 hour tele-shopping per day is permitted.

The maximum amount of advertising in 1 hour is 12 minutes.

Advertising for official institutes or welfare organisations is not included in the maximum amount.

## **II. Tele-shopping**

Tele-shopping is defined as messages containing direct offers for sale of goods or services. The maximum allowed amount is 1 hour a day (private and public broadcasters). A distinction is made between "Verkaufssendungen" (tele-shopping spots) and "Verkaufsprogramme" (tele-shopping windows).

These messages are subject to the rules applicable for advertising. It is expressly stated that tele-shopping for medicines and medical treatments is prohibited. Also,

encouragement of minors to contract for the sale or rental of goods and services is prohibited.

### **III. Sponsorship**

The definition of sponsoring is identical to the definition provided in the Directive TVWF. It is expressly mentioned that the TV broadcaster has full responsibility over the content and form of the sponsored programme.

Sponsored programmes must be identified as such at the beginning and at the end of the programme. During the programme it is prohibited to mention products or services of the sponsor in a view of promoting them.

News programmes and political programmes must not be sponsored.

Sponsors involved in the sale or exploitation of goods/services for which advertising is prohibited are not permitted. (ex. tobacco, alcohol) Other prohibited sponsors are: political parties and religious organisations.

To help broadcasters in the interpretation of applicable sponsoring regulation BAKOM (Swiss TV and radio authority) issued a set of guidelines in June 1999.

Amongst the most important rules can be mentioned the following:

Only an entire programme can be sponsored. Sponsoring of a part of a programme is not permitted.

When a sponsor had a certain influence on the content of the programme, such must be indicated clearly for reasons of transparency to viewers.

Mentioning of sponsors in trailers or during a programme (inserts) is permitted if it cannot be mistaken with advertising.

The following elements can be mentioned in the identification of the sponsor: company name, company logo, trademark or product. Acoustic signs are also permitted on the condition such does not result in an advertising effect. When such is necessary for the identification of a sponsor, the message can also refer in a neutral way to his field of activity.

A sponsor or his product can be the subject of the sponsored programme. Also, the name of the sponsor can appear in the title of the programme.

The same programme can be sponsored by more than 1 sponsor.

Advertising for the sponsor can be broadcast immediately before or after the programme. Advertising slogans in the sponsor message however are prohibited. Also the mentioning of a telephone number, Internet site and similar information is prohibited.

Mentioning of products of the sponsor in the sponsor message is prohibited when such is not necessary to identify the sponsor.

#### **IV. Self-promotion**

"Eigenwerbung" or advertising for own products/services is made subject to the rules on advertising.

Self-promotion messages have to be clearly separated from TV-programmes and are taken into account for the maximum amount of advertising.

#### **V. Product Placement**

The presence of products or services in programmes is only permitted if justified for editorial reasons. Special focus on certain products or promotion of the products during a TV programme is not permitted and can be qualified as prohibited surreptitious advertising.

#### **VI. New advertising techniques**

There is no specific regulation applicable for new advertising techniques.

#### **VII. Project for revision of the TV and radio regulation**

On 19/01/2000 the Bundesrat issued a paper containing the basic principles and grounds for revision and modification of the actual radio and TV regulation. A consultation round followed and political parties, media companies, consumer organisations and other professional associations communicated their remarks on a first proposal of new TV and radio regulation (Bundesgesetz über radio und Fernsehen, Entwurf). A summary of the reactions was published in a paper in November 2001.

Amongst other issues the project of law proposes a prohibition on sponsoring of children's programmes and a prohibition on the interruption by advertising of children's programmes. Also a ban on sponsoring on the public broadcast, as well as a ban on advertising on public radio is foreseen.

From the consultation round it appeared that opinions differ substantially on several subjects. Private commercial broadcasters claimed the application of the European minimum rules and the abrogation of the ban on alcohol advertising. They also attacked the prohibition of the presence of Tv presenters in advertising and argued that self promotion spots should be excluded from the calculation of the maximum allowed amount of advertising. Also more liberal and flexible rules for the interruption of programmes were demanded.

In January 2002 the proposal was adapted following the consultation round. For example it is now accepted that advertising for beer and wine will be permitted on private commercial channels (advertising for strong alcoholic beverages remains prohibited).

It is foreseen that the new law will enter into force in 2004.



## **CINEMA, INTERNET, MOBILE TELEPHONY**

There is no specific regulation on advertising distributed by these media. As a consequence general regulation on advertising applies (see television, general regulation), as well as rules on privacy and data protection.

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