

THIRD SCHEDULE

Article 19(2)

*Substituted by:
L.N. 159 of 2000;
L.N. 245 of 2001.
Amended by:
L.N. 134 of 2002;
L.N. 174 of 2008.
Substituted by:
L.N. 321 of 2010.
Amended by:
VIII. 2011.19.*

CODE FOR ADVERTISEMENTS AND TEleshopping FOR RADIO AND TELEVISION BROADCASTS

Radio and television broadcasts shall comply with the following rules:

General standards

1. Advertising and teleshopping shall not, except as authorized under a scheme of political broadcasts approved by the Authority in terms of article 13(4) of this Act, and irrespective of whether they are broadcast in return for payment or for similar consideration or otherwise, be of a political nature.

2. No person who is authorised to broadcast commercial advertising or teleshopping shall confine such advertising and teleshopping to goods or services of a sole commercial or financial group or grant any exclusive right for the commercial advertising of a specific product or service.

3. In the acceptance of advertisements and teleshopping there shall be no unreasonable discrimination either against or in favour of any particular advertiser.

Forms and presentation

4. Advertising and teleshopping shall be readily recognisable and distinguishable from editorial content. Sponsorship of news and current affairs programmes on radio shall be prohibited.

5. Without prejudice to the use of new advertising techniques, television advertising and teleshopping shall be kept quite distinct from other parts of the programme by optical and, or acoustic and/or spatial means.

6. Isolated advertising and teleshopping spots, other than in transmissions of sports events, shall remain the exception.

7. Successive advertisements and teleshopping shall be recognisably separate in particular techniques such as those described in article 19 of this Act.

8. Advertisements and teleshopping shall not be arranged or presented in such a way that any separate advertisement appears to be part of a continuous feature.

9. Audible matter in advertisements and teleshopping shall not be excessively noisy or strident.

Insertion of advertisements and teleshopping

10. Advertising and teleshopping shall be inserted between programmes:

Provided the conditions contained in paragraph 11 are fulfilled, advertising and teleshopping may also be inserted during programmes in such a way that the integrity and value of the programme, taking into account natural breaks in, and the duration and nature of the programme, and the rights of the rights holders, are not prejudiced.

11. The transmission of films made for television (excluding series, serials and documentaries), cinematographic works and news programmes may be interrupted by television advertising and, or teleshopping once for each scheduled period of at least thirty minutes. The transmission of children's programmes may be interrupted by television advertising and, or teleshopping once for each scheduled period of at least 30 minutes, provided that the scheduled duration of the programme is greater than 30 minutes. No television advertising or teleshopping shall be inserted during religious services.

Advertising and teleshopping of particular products

12. Teleshopping for medicinal products and teleshopping for medical treatment, shall be prohibited.

13. Advertising and teleshopping for all other medicines and medical treatment shall be clearly distinguishable as such, honest, truthful and subject to verification, and shall comply with the requirements of protection of the individual from harm.

14. Advertising and teleshopping for alcoholic beverages shall comply with the following criteria:

- (a) it may not be aimed specifically at minors or, in particular, depict minors acquiring or consuming such beverage;
- (b) it shall not link the consumption of alcohol to enhanced physical performance or to driving;
- (c) it shall not create the impression that the consumption of alcohol contributes towards social or sexual success;
- (d) it shall not claim that alcohol has therapeutic qualities or that it is a stimulant, or sedative, or a means of resolving personal conflicts;
- (e) it shall not encourage immoderate consumption of alcohol or present abstinence therefrom or moderation therein in a negative light;
- (f) it shall not place emphasis on high alcoholic content as being a positive quality of the beverages.

Duration

15. The proportion of advertising spots and teleshopping spots within a given clock hour shall not exceed 20%.

16. Paragraph 15 shall not apply to announcements made by the broadcaster in connection with its own programmes and ancillary products directly derived from those programmes, sponsorship announcements and product placements.

17. The amount of time given to advertising on radio services shall not exceed twenty-five per centum within one hour period, provided that part of such advertising time may be aggregated to a continuous period not exceeding two hours in each twelve hour period. For the purposes of this Schedule, a twelve hour period shall be understood to mean between 06.00 and 17.59 hours and between 18.00 and 05.59 hours.

Exemptions

18. Paragraphs 10, 11 and 15 shall not apply to radio services.

Teleshopping for both non-Teleshopping Television Stations and for Television Stations exclusively licensed for teleshopping

19. Teleshopping offers of any kind shall contain the direct offer for sale to the public within the teleshopping transmission itself. Where the offer for sale is only contained elsewhere (such as in a teletext service) the material may not be classed as teleshopping.

20. "Direct offer" means the form of advertising for the supply of any product or service offering detailed explanations and promotion of advantages. A teleshopping offer may solicit the purchase, sale or lease of products or services through contact with the commercial distributors or service provider either by telephone or by any electronic means.

21. Teleshopping shall not use the same scenography of other non-advertising programmes and shall not be presented by anchormen/women engaged in television news or current affairs features.

22. The use of encoded messages shall be forbidden during a teleshopping offer.

23. The price of the product or service offered shall be provided during a teleshopping offer and the address from where business is conducted shall not be broadcast either orally or graphically:

Provided that in the case of a distance contract concluded following a direct offer made through a teleshopping window, it shall be the duty of the broadcaster to provide the address of the trader only in cases of contracts requiring payment in advance.

24. The station which broadcasts a teleshopping window shall keep a record of the identity and the address of the trader who sells a product or a service during a teleshopping window, should a viewer who has purchased a product or service request such information.

25. During a teleshopping offer it shall be permissible:

- (a) to inform the viewer that the advertised product or service will be sent to the address of the person who responds to the teleshopping offer;
- (b) to describe the advertised product or service which will be provided and to announce its functions and its price.

26. All forms of teleshopping and competitions shall not be permitted during a

teleshopping offer.

27. A direct offer is always bound with the possibility of direct response, identified by a telephone number. In the case of a television broadcast, one or more telephone numbers which the buyer may call to purchase a particular product or service may be displayed on screen. The numbers may be of a call centre, a warehouse, the studio, the station itself or another place from where the consumer's needs may be met.

28. The expression "optical means" in paragraphs 5, 31 and 37 of this Schedule includes titles, written words, graphic and coloured images, logos, and abbreviations of the expression "teleshopping" and also includes a telephone number. The expression "acoustic means" in paragraphs 5, 31 and 37 includes spoken words, jingles or music parts.

29. Any regulations made under the provisions of article 7 of the Consumers Affairs Act, regulating distance selling, where applicable, shall also apply to teleshopping.

30. Teleshopping applies only to television services and not to radio services.

Teleshopping for Non-Teleshopping Television Stations

31. Windows devoted to teleshopping broadcast by a channel not exclusively devoted to teleshopping shall be clearly identified as such by optical and acoustic means and shall be of a minimum uninterrupted duration of 15 minutes.

32. As teleshopping is a form of distance selling, editorial material shall be kept separate from editorial or non-commercial elements.

33. No advertisements may be broadcast within teleshopping windows.

34. Without prejudice to the provisions of paragraph 29, respondents to teleshopping offers shall have the right to return the product within 15 days from the date of sale to the sales agent. During a teleshopping offer the presenter shall, at the beginning of the teleshopping, inform viewers of such right.

35. Teleshopping windows may not be broadcast immediately before or after a programme aimed at children.

Teleshopping for Television Stations exclusively licensed for Teleshopping

36. Stations that are exclusively devoted to teleshopping shall not transmit any other type of programme apart from teleshopping offers.

37. Teleshopping shall be identified by both optical and acoustic means. A specific announcement shall precede and end the teleshopping offers. As for the quality of the signals given, they shall be suited for drawing the audience's attention to the fact that a teleshopping offer is being broadcast.

38. The provisions of this Act, other than regulations made under article 37(2) of this Act, shall apply *mutatis mutandis* to channels exclusively devoted to advertising and teleshopping and television channel exclusively devoted to self-promotion.

39. The provisions of paragraphs, 10, 11, 15 and 16 of this Schedule and regulation 5 of the Broadcasting (Jurisdiction and European Co-operation Regulations (S.L. 350.04) shall not apply to the channels mentioned in paragraph 38 of this Schedule.

40. This Schedule is without prejudice to any law in force in Malta.