

L.N. 245 of 2001

**BROADCASTING ACT
(CAP. 350)**

**Broadcasting Act (Substitution of Third Schedule)
(Code for Advertisements, Teleshopping and Sponsorships)
Regulations, 2001**

IN exercise of the powers conferred by paragraph (b) of subarticle (2) of article 19 of the Broadcasting Act, hereinafter referred to as "the Act", the Broadcasting Authority, in conjunction with the Minister of Education, has made the following regulations:-

1. The title of these regulations is the Broadcasting Act Citation.
(Substitution of Third Schedule) (Code for Advertisements,
Teleshopping and Sponsorships) Regulations, 2001.

2. For the Third Schedule to the Act there shall be substituted Substitutes the
Third Schedule to
the Act.
the following:-

"THIRD SCHEDULE

Article 19(2)

**CODE FOR ADVERTISEMENTS, TEleshopping AND
SPONSORSHIPS**

General standards

1. Advertising and teleshopping shall not:
 - (a) prejudice respect for human dignity;
 - (b) include any discrimination on grounds of race, sex or nationality;
 - (c) be offensive to religious or political beliefs;
 - (d) encourage behaviour prejudicial to health or to safety;
 - (e) encourage behaviour prejudicial to the protection of the environment;

(f) except as authorized under a scheme of political broadcasts approved by the Authority, and irrespective of whether they are broadcast in return for payment or for similar consideration or otherwise, be of a political nature;

(g) be inserted in any broadcast of a religious service.

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 distinguishable as such and kept quite separate from the other parts of the programme service by optical or acoustic means. Isolated advertising and teleshopping spots shall remain the exception.

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

6. 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.

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

8. Advertising and teleshopping shall not use subliminal techniques.

9. Surreptitious advertising shall be prohibited.

Insertion of advertisements and teleshopping

10. Advertising and teleshopping shall be inserted between programmes. Provided the conditions contained in paragraphs 11 to 14 of this Schedule 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. In programmes consisting of autonomous parts, or in sports programmes and similarly structured events and performances comprising intervals, advertising and teleshopping shall only be inserted between the parts or in the intervals.

12. The transmission of audiovisual works such as feature films and films made for television (excluding series, serials, light entertainment programmes and documentaries), provided their programmed duration is more than 45 minutes, may be interrupted once for each complete 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.

13. Where programmes, other than those covered by paragraph 11, are interrupted by advertising and teleshopping spots, a period of at least 20 minutes shall elapse between each successive advertising break within the programme.

14. News and current affairs programmes, documentaries, religious programmes, and children's programmes, when their programmed duration is less than 30 minutes, shall not be interrupted by advertising or by teleshopping. If the programmed duration of such programmes is of 30 minutes or longer, the provisions of the previous paragraphs shall apply.

Advertising and teleshopping of particular products

15. All forms of advertising and teleshopping for cigarettes and other tobacco products shall be prohibited.

16. Advertising for medicinal products and medical treatments available only on prescription shall be prohibited.

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

18. 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.

19. 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 beverages;

(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.

Sponsorship

20. Sponsored programmes shall meet the following requirements:

(a) the content and scheduling of sponsored programmes may in no circumstances be influenced by the sponsor in such a way as to affect the responsibility and editorial independence of the broadcaster in respect of programmes;

(b) they shall be clearly identified as such by the name or logo of the sponsor at the beginning or the end of the programmes;

(c) they shall not encourage the purchase or rental of the products or services of the sponsor or a third party, in particular by making special promotional references to those products or services.

Prohibited sponsorship

21. Programmes may not be sponsored by natural or legal persons whose principal activity is the manufacture or sale of cigarettes and other tobacco products.

22. Sponsorship of programmes by undertakings whose activities include the manufacture or sale of medicinal products and medical treatment may promote the name or the image of the undertaking but may not promote specific medicinal products or medical treatments available only on prescription.

23. News and current affairs programmes may not be sponsored.

Duration

24. The proportion of transmission time devoted to teleshopping spots, advertising spots and other forms of advertising, with the exception of teleshopping windows within the meaning of paragraphs 41 and 42, shall not exceed 20% of the daily transmission time. The transmission time for advertising spots shall not exceed 15% of the daily transmission time.

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

26. For the purposes of paragraphs 24 and 25, advertising does not include:

(a) announcements made by the broadcaster in connection with its own programmes and ancillary products directly derived from those programmes;

(b) public service announcements and charity appeals broadcast free of charge.

27. The provisions of these regulations shall apply *mutatis mutandis* to channels exclusively devoted to self-promotion. Other forms of advertising on such channels shall be allowed within the limits established by paragraphs 41 and 42.

28. The amount of time given to advertising and teleshopping on radio services shall not exceed 25% within a 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.

Exemptions

29. Paragraphs 10 to 14 and 24 to 28 shall not apply to radio services.

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

30. 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.

31. "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.

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

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

34. The price of the product/service offered and mail address of the supplier shall also be provided during a teleshopping offer.

35. 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.

36. Televoting shall not be permitted during a teleshopping offer.

37. 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.

38. The expression "optical means" in paragraphs 42 and 48 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 42 and 48 includes spoken words, jingles or music parts.

39. Any regulations made under the provisions of article 7 of the Consumers Affairs Act, Cap. 378, regulating distance selling, where applicable, shall also apply to teleshopping.

Teleshopping for Non-Teleshopping Television Stations

40. Windows devoted to teleshopping broadcast by a channel not exclusively devoted to teleshopping shall be of a minimum uninterrupted duration of 15 minutes.

41. The maximum number of teleshopping windows per day shall be eight. Their overall duration shall not exceed three hours per day. They shall be clearly identified as teleshopping windows by optical and acoustic means.

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

43. No advertisements which do not fall within the definition of teleshopping may be broadcast within teleshopping windows.

44. Without prejudice to the provisions of paragraph 39, 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.

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

Teleshopping for Television Stations exclusively licensed for Teleshopping

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

47. 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.

48. The provisions of this Act, other than regulations made under subarticle (2) of article 37 of this Act, shall apply *mutatis mutandis* to channels exclusively devoted to teleshopping. Advertising on such channels shall be allowed within the daily limits established by paragraph 24. Paragraph 25 shall not apply to such channels.

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