

## The EU Audiovisual Media Services Directive and its transposition into national law – a comparative study of the 27 Member States

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### Member State: Luxembourg

#### Regulation on Advertising, Sponsoring, teleshopping and self-promotion

##### Important Notice

This text is an unofficial translation conducted at the University of Luxembourg in the framework of a research project on the transposition of the “**Audiovisual Media Services Directive**” in the Member States of the European Union.

The original legal acts which Member States notified to the European Commission as national execution measures were retrieved from official national databases. In order to focus on the core of the research project, several national legal acts have been shortened to include only those provisions of relevance for the study. Subsequently, the modified acts were translated by a translation agency external to the university.

The translations only serve the purpose of being an information source; there is no guarantee whatsoever that the translations correctly correspond to the original versions of the laws. Therefore, evidently, the texts have no legal value. The original, as well as the translated version of the legal acts, are available at: [www.medialaw.lu](http://www.medialaw.lu), where additional information on the comparative study may be found.

## Member State: Luxembourg

### Grand ducal regulation of 17 December 2010 amending the grand ducal regulation of 5 April 2001 setting the rules on advertising, sponsorship, teleshopping and self-promotion in television programmes

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We order

**Article 1.** In the heading of the grand ducal regulation as amended of 5 April 2001 setting the rules on advertising, sponsorship, teleshopping and self-promotion in television programmes, "on advertising, sponsorship, teleshopping and self-promotion in television programmes" is replaced by "commercial communications in audiovisual media services".

**Article 2.** The enacting provision of article 1 of the above grand ducal regulation of 5 April 2001 is replaced as follows:

"The present grand ducal regulation applies to the audiovisual media services referred to in article 26 of the law as amended of 27 July 1991 on the electronic media."

**Article 3.** 1 - In the heading of article 2 of the above grand ducal regulation of 5 April 2001, "television" is added before "advertising", while "in the television services" is added.

2 - In the first paragraph of the same article, "of the broadcasts" is replaced by "of the programmes".

In paragraph two of the same article, "of the programme element" is replaced by "of the programme".

**Article 4.** Article 3 of the above grand ducal regulation of 5 April 2001 is repealed.

**Article 5.** 1 - "in the television services " is added to the heading of article 4 of the grand ducal regulation of 5 April 2001.

2 - Paragraph (1) of the same article is repealed.

3 - In paragraph (2) of the same article, "Council Directive 65/65/EEC of 26 January 1965 on the approximation of provisions laid down by law, regulation or administrative action relating to proprietary medicinal products" is replaced by "Directive 2001/83/EC of the European

Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use".

**Article 6.** 1 - "Sponsored television programmes" is replaced by "Sponsored audiovisual media services or audiovisual programmes" at the start of paragraph (1) of article 5 of the above grand ducal regulation of 5 April 2001.

2 - At the start of a) in the same paragraph, "the content and programming of sponsored broadcasts" is replaced by "their content and, in the case of television services, their programming", while at the end "of the broadcaster for broadcasts " is replaced by "of the audiovisual media service provider".

3 - In the second sentence in c) of the same paragraph, "Programme elements " is replaced by "Programmes", while "in the programme element" is replaced by "in the programme"..

4 - At the start of paragraph (2) of the same article, "Television programmes" is replaced by "Audiovisual media services or audiovisual programmes".

5 - In paragraph (3) of the same article, "of television programmes" is replaced by "of audiovisual media services or audiovisual programmes", while at the end of the paragraph, "in the television broadcaster's country of jurisdiction" is deleted.

In paragraph (4) of the same article, "broadcasts" is replaced by "programmes".

**Article 7.** A new article *5bis* is added after article 5 of the grand ducal regulation of 5 April 2001 as follows:

"Article *5bis*. Product placement

(1) Derogating from the prohibition provided in article *26ter* (7) of the law as amended of 27 July 1991 on the electronic media, product placement is permitted in audiovisual media services: a) in cinema works, films and series made for audiovisual media services and in sports and entertainment programmes; or b) if no payment is involved but only the supply free of charge of particular goods or services, such as production accessories and samples, for inclusion in a programme.

The derogation in a) above does not apply to children's programmes.

(2) Programmes with product placement shall comply with at least all the following requirements:

a) their content and, in the case of television services, their programming shall under no circumstances be subject to any influence that might prejudice the editorial responsibility and/or independence of the audiovisual media service provider;

b) they shall not directly encourage the purchase or rental of goods or services by, especially, specifically promoting those products or services;

c) they shall not unjustifiably highlight the product in question;

d) viewers shall be clearly informed of any product placement. Programmes with product placement shall be suitably identified at the start and end of their broadcast and when the programme resumes after a publicity break, to avoid confusing the viewer in any way.

Point d) shall not apply unless the programme concerned was produced or commissioned by the audiovisual media service provider itself or by an associate.

(3) Under no circumstances may programmes include product placement: for tobacco products or cigarettes, for products produced by undertakings whose main business in the manufacture or sale of cigarettes and/or other tobacco products, or for medicinal products or medical treatments available only on prescription."

**Article 8.** 1 - "television" is added before "advertising" to the heading of article 6 of the grand ducal regulation of 5 April 2001 and "in the television services" is also added.

2° In paragraph (2) of the same article, "the television broadcaster" is replaced by "the television service provider".

**Article 9.** "Dedicated channels" is replaced by "Dedicated television services" in the heading of article 7 of the above grand ducal regulation of 5 April 2001.

2 - "channels" is replaced by "services" in the first sentence of the enacting provision of article 7. In the second sentence of the same paragraph, "paragraph (1) " is replaced by "paragraphs (1) and (2)".

**Article 10.** 1 - "Dedicated channels" is replaced by "Dedicated television services" in the heading of article 8 of the grand ducal regulation of 5 April 2001.

2 - In the first sentence of the enacting provision of the same article, "channels " is replaced by "services". In the second sentence, "advertising" is replaced by "commercial communications". In the third paragraph, "paragraph (1)" is replaced by "paragraphs (1) and (2)".

**Article 11.** Our Minister of Communications and Media is ordered to implement this regulation, which shall be published in the Mémorial.