# [IT] Italian Communication Authority Issues Interpretative Communication on Television Advertising Rules

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In its Deliberation of 24 September 2008, the Italian *Autorità per la Garanzia nelle Comunicazioni* (Communications Authority - AGCOM), issued an Interpretative communication concerning several aspects of television advertising rules aimed at clarifying the criteria it follows in the application of certain rules concerning television advertising, in the context of its monitoring and enforcement powers. From the preamble to the Deliberation, it becomes apparent that it is intended, inter alia, to align the rules with the European Commission's interpretation of some provisions of the Television Without Frontiers Directive, as set out in the latter's interpretative communication of 2004, as well as in its letters of formal notice of 12 December 2007 and 16 March 2007 (see IRIS 2007-7: 14 and IRIS 2008-5: 14).

Article 1 of the *Comunicazione interpretativa* deals with the notion of self-promotion, defined so as to encompass two types of announcements: those concerning programmes and those referring to ancillary products directly derived from those programmes. Whilst these announcements must, in both cases, fall within the editorial responsibility of their broadcaster or content provider, the channel on which they are broadcast is irrelevant. This proviso has a certain importance in the Italian market, where the two main television broadcasters each have editorial responsibility for more than one channel.

Article 2 defines the notions of "programmes consisting of autonomous parts" and of "autonomous part" for the purpose of the application of the rules on the insertion of advertising breaks. The latter is defined as a programme portion with "congruous duration", whose contents can be appreciated by the viewer even if he or she has not watched the other programme parts. With a view to facilitating the perception by the viewer of the gap existing between autonomous parts, broadcasters are requested to insert appropriate visual or audio elements such as jingles.

Article 3 is designed to cope with the controversial issue of the number of advertising breaks allowed during the broadcast of audiovisual works such as feature films and films made for television. Indeed, the application of the rule according to which those works may be interrupted once every 45 minutes has

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proven difficult in Italy, as certain commercial broadcasters transmit films in two independent parts, so that the advertising inserted between them does not count as one advertising break under the said 45-minute rule. In its letter of formal notice of 12 December 2007, the Commission held that such a practice does not come within the mischief of advertising rules, insofar as the two parts of the work are also regarded as independent for the purposes of the calculation of the programme's duration. Following these guidelines, the *Comunicazione interpretativa* provides that films can be broadcast in two or more parts - so that advertising between those parts does not count as one interruption within the meaning of the 45-minute rule - provided that the duration of each part cannot be joined to that of the other parts with a view to reaching the 45-minute threshold.

Article 4 covers the insertion of short advertising breaks, the so-called «minispots», in the course of sports programmes. This provision stipulates that advertising can only be inserted in game breaks which, according to the official rules of the sport, either require the referee to make an allowance for time lost or, if this is left to the referee's discretion, which are likely to result in such an allowance. As to the former, the *Comunicazione interpretativa* lists three events: player substitutions, the occurrence of an injury and the transportation of injured players off the playing field. As to the latter, in turn, a reference is made to the guidelines issued by the Italian Referee Association.

Finally, Article 5 addresses the innovative advertising technique known as «animated overlay» or «in-logo», consisting of the superimposition onto the main broadcast of graphic elements. In view of the similarities between this type of advertising and that known as «split-screen», which is dealt with in the Commission's Interpretative communication of 2004, the Italian Communications Authority resolved to subject the former to the rules applying to the latter. Therefore, animated overlays are allowed, but are required to comply with the rules concerning the recognisability of advertising, hourly and daily time limits and the time-gap from other advertising instances. Under Italian law in particular, such a gap should be «as a rule» at least 20 minutes long, but the *Comunicazione interpretativa* expressly states that, with reference to animated overlays, this rule is to be applied with a certain degree of flexibility and on the basis of a case-by-case assessment.

### ***Delibera n. 211/08/CSP - Comunicazione interpretativa relativa a taluni aspetti della disciplina della pubblicità televisiva***

http://www.agcom.it/provv/d_211_08_CSP/d_211_08_CSP.htm

*Deliberation no. 211/08/CSP - Interpretative communication concerning several aspects of television advertising rules*

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