[ES] Regulation on TV Advertising

IRIS 2012-1:1/24

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The Council of Ministers approved on 11 November 2011 a Royal Decree clearing the Regulation developing the Spanish General Law on Audiovisual Communications (see IRIS 2010-4/21) regarding television advertising and the provision of legal certainty to the sector.

The new Regulation develops some elements of the abovementioned Spanish Law on TV advertising that were not sufficiently clear in the General Law, such as those related to the calculation of the 12 minutes of permitted advertising per hour or the maximum number of advertising breaks per programme.

The new Regulation clearly defines the characteristics of the various formats of audiovisual commercial communication, such as self-promotion (for which a maximum of five minutes per hour is permitted), tele-promotion (to which a limit of 3 hours and 36 minutes per day is set) and sponsorship. None of the aforementioned formats are relevant for the 12-minute limit to advertising set by the Spanish General Law on Audiovisual Communications.

According to the text, sponsorship may not exceed 10 seconds per hour, must be linked to programmes or sub-programmes and may not encourage the viewer to purchase the sponsor’s product or service. If the sponsorship does not meet these requirements, it shall be deemed to constitute standard advertising and therefore will be included within the 12-minute limit.

Self-promotion (defined as videos advancing TV serials, films, documentaries or TV shows and on-screen overlays of the same broadcaster) may not exceed 5 minutes per hour and tele-promotions (defined as the advertising made by the programme host or hostess or by the main characters of a programme using the scenario and ambience of the same programme) shall have a minimum duration of 45 seconds.

Commercial messages broadcast during the retransmission of sport events are permitted by the Spanish General Law on Audiovisual Communications only when the game is paused or when the advertisements allow the further development of the event. In this case, advertising is allowed by overprints not occupying more than one fifth of the screen.

The above is relevant to a recent decision of the European Court of Justice on Spain’s infringement of Article 18(2) of Directive 89/552/EEC, as amended by the

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European Directive 97/36/EC, according to which the time assigned to all kinds of TV advertising shall not exceed 20% of the hour, i.e., 12 minutes per hour (see IRIS 2012-1/3).

Real Decreto 1624/2011, de 14 de noviembre, por el que se aprueba el Reglamento de desarrollo de la Ley 7/2010, de 31 de marzo, General de la Comunicación Audiovisual, en lo relativo a la comunicación comercial televisiva

http://www.derecho.com/l/boe/real-decreto-1624-2011-aprueba-reglamento-desarrollo-ley-7-2010-31-marzo-general-comunicacion-audiovisual-relativo-comunicacion-comercial-televisiva

Royal Decree 1624/2011 of 14 November, approving the Regulation implementing General Act 7/2010 of 31 March, on Audiovisual Communication, in relation to television advertising

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