

[GB] Regulator issues new guidance on commercial references in programming and product placement

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Ofcom, the UK communications regulator, has issued new guidance on commercial references and programming on 2 June 2014. This supplements existing provisions in the Ofcom Broadcasting Code (section 9) which aim to secure editorial independence in programming, to ensure that there is a distinction between editorial content and advertising, to prevent surreptitious advertising, to protect consumers and to prevent unsuitable sponsorship.

The new guidance advises that a programme about a product or service, such as a holiday destination or a high-street retailer, is likely to test the distinction between advertising and editorial material if it is funded by the organisation whose specific interests are featured. Although the product placement rules permit paid for references to products, services and trade marks in programmes, they do not allow commercial entities to fund programmes about their specific interests. Broadcasters are required to maintain a distinction between advertising and programming and must think carefully as to whether commercial and contractual arrangements that engage product placement rules blur the boundaries between advertising and programming.

Programmes that are about the creation or transformation of people, places or things, such as makeover or cookery shows, should avoid the impression that success is dependent on the use of a placed product. If such shows focus on the positive attributes of placed products, they are likely to conflict with the provisions of the Broadcasting Code. Broadcasters must consider very carefully whether references to placed products, services or trademarks in makeover or cookery programmes primarily serve an editorial or promotional purpose.

Placed products that do not carry discernable branding, such as clothing or furniture, may only be identified during editorial material if the identification is integrated into the programme's narrative. Broadcasters should exercise particular caution when identifying generic and unbranded product placement within programmes. Where a reference cannot be included editorially, they should consider identifying generic and unbranded products during end credits.

Overall, it is a primary tenet of the regulatory framework that editorial content must remain distinct from advertising.

Ofcom, 'Guidance on Section Nine of the Broadcasting Code', Ofcom Broadcast Bulletin 255, 2 June 2014, p. 8-12

<http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb2541/obb255.pdf>

