[FR] Rules applicable to commercial communications provided by video-sharing platforms

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Video-sharing platforms, which are now covered by Article 2 of the Law of 30 September 1986, are subject to certain obligations set out in Articles 59 to 61 of the Law. Decree no. 2021-1922 of 30 December 2021 explains these obligations in respect of commercial communications that are marketed, sold or organised by these platforms. Commercial communications (in particular advertising, sponsorship, teleshopping and product placement) are “images, with or without sound, designed to directly or indirectly promote products, services or the image of a natural or legal person who exercises an economic activity. These images accompany or are inserted into a programme or a video created by a user in return for payment or other consideration, for the purpose of self-promotion”. They “are easily recognisable as such”, explains the decree (Art. 3), which prohibits surreptitious advertising (Art. 4) and the use of subliminal techniques (Art. 5) in the same way that the decree of 27 March 1992 does in the field of television advertising.

In accordance with Article 9(1)(c) of the Audiovisual Media Services Directive, commercial communications provided on video-sharing platforms must comply with certain principles: they must not violate human dignity, they must respect the female image and they must not promote discrimination or encourage behaviour that is “prejudicial” to health or safety or “grossly prejudicial” to the protection of the environment. Article 7 of the decree explains that commercial communications must not be harmful to minors.

Video-sharing platform services are encouraged to draw up “codes of good conduct” under the supervision of the *Autorité de régulation de la communication audiovisuelle et numérique* (Regulatory Authority for Audiovisual and Digital Communication – ARCOM), which is responsible for publishing an annual report on their implementation. ARCOM “may also be asked to deal with any dispute between a user and a video-sharing platform provider relating to the application of Article 60” (concerning the regulation of commercial communications).

The decree also amends Article 17 of decree no. 92-280 of 27 March 1992, adding video-sharing platforms to the list of companies that are prohibited from participating in sponsorship. The ban on television programmes being sponsored by companies that manufacture or sell alcoholic beverages or tobacco products is extended to include companies that manufacture or sell vaping products. The

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decree also extends by eight months, until 6 October 2022, the experimental authorisation of television advertising for cinema films, which was introduced on a trial basis under the decree of 5 August 2020.

Décret n° 2021-1922 du 30 décembre 2021 pris pour l'application de l'article 60 de la loi n° 86-1067 du 30 septembre 1986 relative à la liberté de communication et fixant les principes généraux applicables aux communications commerciales audiovisuelles fournies sur les plateformes de partage de vidéos

https://www.legifrance.gouv.fr/download/pdf?id=tuJ-YzZKSB-nAqvlqBHix7j5DMywCLR-G4WSSjvX7Oo=

Decree no. 2021-1922 of 30 December 2021 applying Article 60 of Law no. 86-1067 of 30 September 1986 on freedom of communication and laying down general principles applicable to audiovisual commercial communications provided on video-sharing platforms

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