

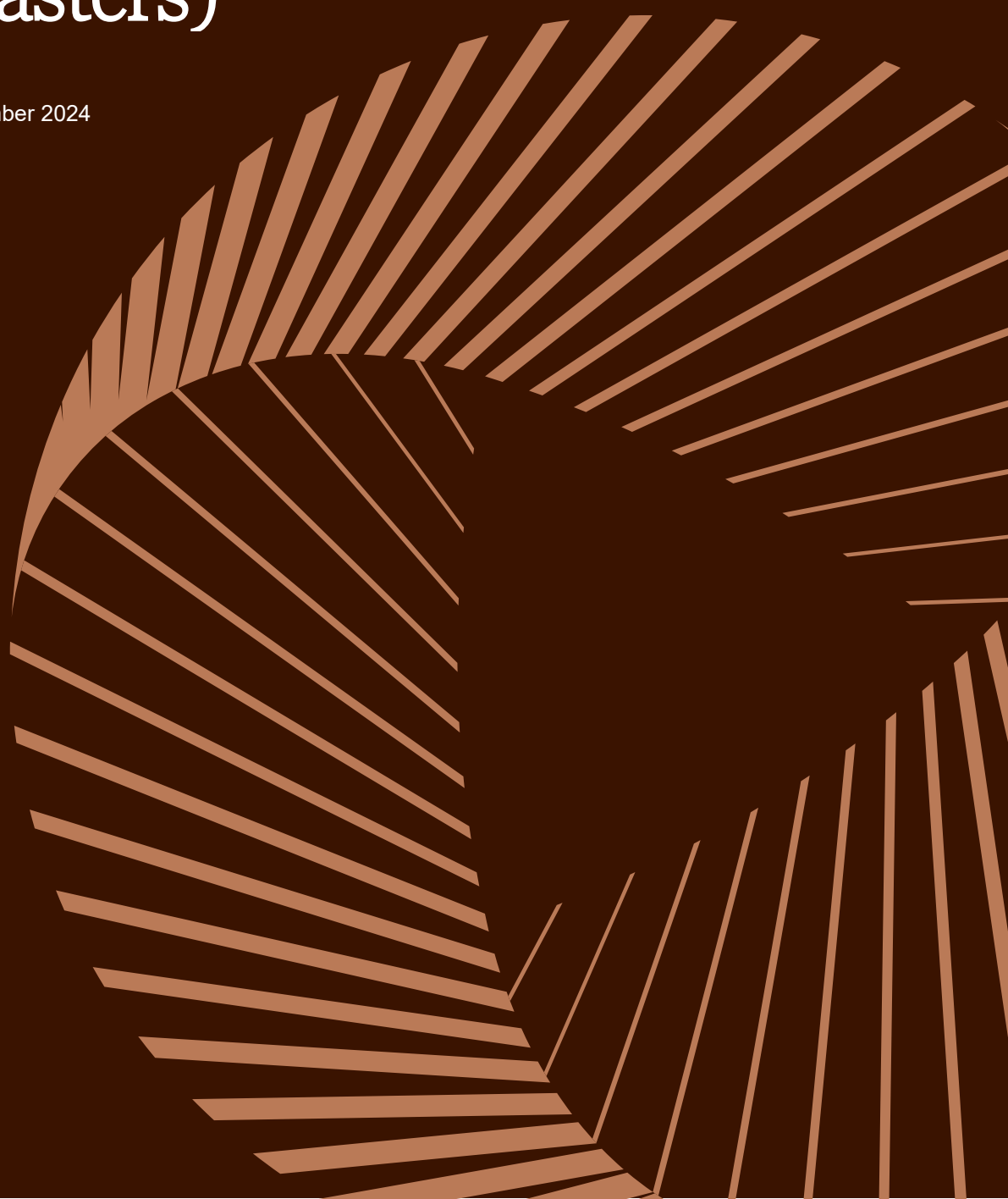


Coimisiún  
na Meán

# Media Service Code

# General Commercial Communications Code (Radio and Television Broadcasters)

Publication date: November 2024



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# 1. Introduction

- 1.1 Pursuant to Section 46N(1) of the Broadcasting Act 2009, as amended by the Online Safety and Media Regulation Act 2022, (the “**Act**”) Coimisiún na Meán (the “**Commission**”) may make codes (“**media service codes**”) governing the standards and practices of broadcasters.
- 1.2 Pursuant to Sections 46N(2) and 46N(7) of the Act, the Commission may make media service codes providing for standards and practices to ensure, among other things, that commercial communications protect the interests of the audience.
- 1.3 Pursuant to Section 46N(5) of the Act, the Commission shall make media service codes providing for the matters required to be provided for by Articles 5, 6(1), 6a(1) to (3), 7b, 8, 9, 10, 11, 15, Chapter VI, and Chapter VII (other than Article 26) of Directive (EU) 2010/13 (as amended by Directive (EU) 2018/1808) (the “**Audiovisual Media Services Directive**”) (except in so far as provision is made by media service rules).
- 1.4 In accordance with its statutory duties and obligations set out above, the Commission has prepared this media service code (the “**Code**”).
- 1.5 Pursuant to Section 46N(11)(a) of the Act, the BAI General Commercial Communications Code dated 1 June 2017 was continued in force with the establishment of the Commission.
- 1.6 In accordance with its statutory duties and obligations set out above, the Commission has prepared this Code. The Code replaces the 2017 BAI General Commercial Communications Code, which will be revoked as of 5 November 2024, being the date this Code takes effect.

# 2. Scope and Jurisdiction

- 2.1 The Code gives effect to Articles 6(1), 6a (1) to (3), 9, 10, 11 and 22 of the Audiovisual Media Services Directive in Ireland, in so far as it relates to broadcasters.
- 2.2 The Code applies only to broadcasters under the jurisdiction of the State within the meaning of Section 2A of the Act.

# 3. Purpose and Application of the Code

## Purpose

- 3.1 The purpose of the Code is to ensure that broadcasters that are under the jurisdiction of the State comply with the requirements of Articles 6(1), 6a (1) to (3), 9, 10, 11 and 22 of the Audiovisual Media Services Directive and the duties set out under the Act (including those under Sections 46J and 46M) relating to the broadcasting of commercial communications on their services.



## **Preparation of the Code**

- 3.2 Pursuant to Section 46N(6) of the Act, the Commission has had regard to the following matters when preparing the Code: -
- the degree of harm or offence likely to be caused by the inclusion of a particular matter in programme material.
  - the likely size and composition of the potential audience for programme material.
  - the likely expectation of the audience as to the nature of programme material, and the extent to which the nature of the programme material can be brought to the attention of potential members of the audience.
  - the likelihood of persons who are unaware of the nature of programme material being unintentionally exposed to it by their own actions.
  - the desirability of securing that a broadcaster informs the Commission of any change affecting the nature of the service and, in particular, of any change relevant to the application of media service codes.
  - the desirability of maintaining the independence of editorial control over programmes.
- 3.3 The Code has been prepared in accordance with the procedures provided for by Section 46Q of the Act.

## **4. Regulatory Principles Relevant to the Code**

- 4.1 In its interpretation, application and enforcement of the Code, the Commission must, in accordance with its public law duties, act lawfully, rationally and fairly.
- 4.2 More particularly, the Commission must act in accordance with:
- its general statutory objectives and functions under the Act.
  - the rights conferred by the Constitution, the Charter of Fundamental Rights of the European Union, the European Convention on Human Rights insofar as applicable under the European Convention on Human Rights Act 2003 and the EU Treaties.
- 4.3 Section 7(2) of the Act provides that, in performing its functions, the Commission shall endeavour to ensure that the democratic values enshrined in the Constitution, especially those relating to rightful liberty of expression, are upheld, and that the interests of the public, including the interests of children, are protected, with particular commitment to the safety of children. The Commission shall also endeavour to ensure the Commission's policies in relation to broadcasters best serve the needs of the people of the island of Ireland.



- 4.4 In addition, the Commission must endeavour to ensure that its regulatory arrangements (i) address programme material and other content which are harmful or illegal; (ii) take account of technological and societal change; and (iii) operate proportionately, consistently and fairly.
- 4.5 Section 7(3) of the Act provides that, in addition, the Commission shall, inter alia:
- promote and encourage environmental sustainability in the policies and practices of broadcasters.
  - stimulate the provision of high quality, diverse, and innovative programmes by providers of broadcasting services and audiovisual on-demand media services.
  - engage in evidence-based decision-making in the exercise of its functions, and promote evidence-based decision-making by those with which it consults.
  - encourage compliance with the provisions of the Act, and the provisions of any code, rule or other statutory instrument made under it, in any manner the Commission considers appropriate, including by the publication of guidance as to how those provisions may be complied with.
- 4.6 Pursuant to Section 7(4) of the Act, in performing its functions, the Commission shall have regard to: the safety of children, and published policies of the Minister for Children, Equality, Disability, Integration and Youth in respect of that matter; the regulation of gambling, and published policies of the Minister for Justice in respect of that matter; climate change and environmental sustainability, and published policies of the Minister for the Environment, Climate and Communications in respect of that matter; and published policies of the Government in respect of any of those matters.

## 5. Severability

- 5.1 If any provision of the Code is found to be unlawful, invalid, prohibited, unenforceable or inapplicable (either generally or with respect to a particular broadcaster) in any respect, on the basis of any law (including the Constitution and European law), such finding shall not affect the lawfulness, validity, enforceability or applicability of any other provision of the Code or part thereof, unless the finding is declared to be applicable to such other provision or part thereof, or the same is the subject of the relief granted by a court.
- 5.2 Without prejudice to the foregoing, all of the other provisions and/or parts of the Code shall remain fully effective, applicable and enforceable. To the extent necessary any provision or part of the Code found to be unlawful, invalid, prohibited, unenforceable or inapplicable shall be severed from the Code.



## 6. Waiver

- 6.1 The fact that the Commission does not respond to or comment upon any submission, assessment, proposal, report, compatibility statement or any analogous document submitted to it by a broadcaster shall not be deemed to be an acceptance or approval of the contents of any part of the same and shall not imply that the broadcaster has complied with its obligations under the Act and/or the Code.
- 6.2 Without prejudice to the foregoing, the fact that the Commission does not respond or comment on any such document shall not create an estoppel against, or constitute a waiver by, the Commission of any of its powers or rights pursuant to the Act and/or the Code.

## 7. Compliance and Enforcement

- 7.1 Pursuant to Section 46N(10) of the Act, a failure by a broadcaster to comply with the Code shall be a contravention for the purposes of Part 8B of the Act.
- 7.2 A broadcaster shall ensure that it has systems and controls in place to demonstrate compliance with the obligations contained in this Code.
- 7.3 Pursuant to Section 47(3) of the Act, broadcasters are required to prepare and implement a code of practice for the handling of complaints relating to the failure of the broadcaster to comply with a media service code.

## 8. Complaints

- 8.1 A person may make a complaint if they believe a broadcaster has not complied with this Code. Coimisiún na Meán advises complainants to make their complaint to the broadcaster in the first instance as this is the quickest way to have a complaint considered and responded to.
- 8.2 Information on the complaints handling process, including Coimisiún na Meán's process, is available on our website ([www.cnam.ie](http://www.cnam.ie)) or you can contact Coimisiún na Meán on + 353 1 963 7755 or at [usersupport@cnam.ie](mailto:usersupport@cnam.ie).<sup>1</sup>

## 9. Guidance

- 9.1 The Commission may provide general non-binding guidance regarding the provisions of the Code on request or as and when it is deemed necessary. The Commission reserves the right to publish and amend guidance from time to time as it sees fit.

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<sup>1</sup> In the case of commercial communications, a non-statutory complaints process is operated by the Advertising Standards Authority (ASA). The ASA assesses complaints against its Code of Standards for Advertising and Marketing Communications in Ireland – see <https://adstandards.ie> for more information.



- 9.2 Requests for guidance must include the relevant material linked to the request for guidance. The request should clearly state the section(s) of the Code, which the requestor believes are relevant, and set out the specific question about which the requestor would like a view.
- 9.3 The Commission accepts no liability for any decision (or consequences arising therefrom) made following receipt of non-binding general guidance from the Commission.

## 10. General Definitions

Terms not defined in this Code have the meanings given by the Act.<sup>2</sup>

**“advertising”** means any form of announcement broadcast whether in return for payment or for similar consideration or broadcast for self-promotional purposes by a public or private undertaking or natural person in connection with a trade, business, craft or profession in order to promote the supply of goods or services, including immovable property, rights and obligations, in return for payment.

**“broadcaster”** means a provider of sound broadcasts or television broadcasts.

**“broadcasting service”** means a service which comprises a compilation of programme material of any description and which is transmitted, relayed or distributed by means of an electronic communications network, directly or indirectly for simultaneous or near-simultaneous reception by the general public, whether that material is actually received or not, and where the programmes are provided in a pre-scheduled and linear order, but does not include:

- (a) a service provided in a non-linear manner where each user of the service chooses a programme from a catalogue of programmes, or
- (b) any other services provided by way of the internet, if the service does not provide audiovisual programmes.

**“call to purchase”** means an instruction or direction to the audience to make a transaction in relation to a product or service. It will often involve the use of an imperative such as buy, purchase, lease, acquire, sign up, or book, or other verbs which describe acquiring or purchasing goods or services.

**“child”** or **“children”** means a person or persons under the age of 18 years.

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<sup>2</sup> Definitions in relation to specific products and services are set out in **Appendix One**.





**“children’s programmes”** means programmes that are commonly referred to as such and/or have an audience profile of which over 50% are under 18 years of age. Where audience composition data is not available the name, content, characteristics, target audience, and scheduling of the programme and any promotion of the programme, including any platform used for promotion, will be used to determine whether the programmes are intended for children.

**“commercial communication”** includes audio and audiovisual commercial communications, and means images (with or without sound) or sound only—

(a) designed to promote, directly or indirectly, the goods, services or image of a person pursuing an economic activity, and

(b) included in or accompanying a programme or user-generated content in return for payment or for similar consideration or for self-promotional purposes.

Forms of commercial communication include, inter alia, advertising, sponsorship, teleshopping and product placement.

**“comparative commercial communications”** means commercial communications that contain explicit or implicit identification of a competitor or of products or services offered by a competitor.

**“cross-promotions”** means announcements made in connection with programmes and ancillary products directly derived from these programmes, aired without payment or similar consideration on a broadcasting service other than the one airing the programmes, and where the broadcasting services are owned and controlled by the same broadcaster. The term ‘ancillary’ refers to products intended specifically to allow the viewing public to benefit fully from, or to interact with, these programmes and does not include commercial activities of the broadcaster unrelated to programmes or ancillary products.

**“interactive technique”** refers to an advertising technique which allows the viewer/listener to interact with the television or radio broadcast by actively choosing the advertising content to which s/he wishes to be exposed to for as long as s/he wants. Interactive advertising allows the viewer/listener to provide information directly to the broadcaster or advertiser by means of a return path, and/or participate in an interactive environment which is separate to the broadcast content.

**“misleading commercial communications”** means commercial communications that contain any element of spoken or visual presentation which misleads or is likely to mislead, either directly or by implication, by act or omission, with regard to the merits of the product or service promoted or its suitability for the purpose recommended and which, by reason of its misleading nature, is likely to prejudice the interests of any person.

**“party political programme”** means a programme broadcast by or on behalf of a political party for the purpose of promoting the political party.



**“product placement”** means any form of audiovisual commercial communication consisting of the inclusion of, or reference to, a product, a service or the trade mark thereof so that it is featured within a programme or a user-generated video in return for payment or for similar consideration.

**“programme”** means (a) a set of moving images with or without sound, or (b) audio material, in each case constituting an individual item, irrespective of its length, within a schedule or a catalogue established by a broadcaster, including feature-length films, video clips, sports events, situation comedies, documentaries, children's programmes and original drama.

**“sound broadcasting service”** or **“sound broadcast”** means a service, within the meaning of Articles 56 and 57 of the Treaty on the Functioning of the European Union, where—

- (a) the principal purpose of the service is devoted to providing sound programmes, by electronic communications networks, to the general public, under the editorial responsibility of the provider of the service, in order to inform, entertain or educate, and
- (b) the service is provided for simultaneous or near-simultaneous listening to sound programmes on the basis of a programme schedule

**“split-screen technique”** refers to a technique which allows the simultaneous presentation of editorial content and commercial information on the same screen, divided into two or more parts.

**“sponsorship”** means any contribution made by public or private undertakings or natural persons not engaged in providing audiovisual media services or video-sharing platform services or in producing audiovisual works to the financing of broadcasting services, video-sharing platform services, user-generated videos or programmes with a view to promoting their name, trade mark, image, activities or products.

**“subliminal techniques”** means any technical device, which, by using images of very brief duration or by any other means, exploits the possibility of conveying a message to, or otherwise influencing the minds of, members of an audience without their being aware or fully aware of what has been done.

**“surreptitious commercial communications”** means the representation in words or pictures of goods, services, the name, the trade mark or the activities of a producer of goods or a provider of services in programmes when such representation is intended by the broadcaster to serve as advertising and might mislead the public as to its nature. Such representation shall, in particular, be considered as intentional if it is done in return for payment or for similar consideration.

**“television broadcasting”** or **“television broadcast”** (i.e. a linear audiovisual media service) means an audiovisual media service provided by a broadcaster for simultaneous viewing of programmes on the basis of a programme schedule.

**“trailer”** means a compilation of extracts from a forthcoming programme or programmes.



“**virtual techniques**” means advertising techniques which allow broadcasters to electronically insert virtual commercial messages into broadcasts by altering the broadcast signal itself, for example, by replacing existing advertising boards on a field or by superimposing new (e.g. three-dimensional) images.

## 11. Exclusions

11.1 The following exclusions are not forms of commercial communication and are not required to comply with this Code. They shall, however, comply with the Commission’s Code of Programme Standards.

- a) ‘Trailers’ are considered programmes and not commercial communications once they relate to programmes carried on the same broadcasting service. Trailers for programmes on another broadcasting service aired without payment or similar consideration are considered cross-promotions when the broadcasting services are owned and controlled by the same broadcaster.
- b) Public service announcements and charity appeals broadcast free of charge.

## 12. Code Objectives

12.1 The objectives of the Code are: -

- a) to ensure that the public can be confident that commercial communications are legal, honest, truthful, decent and protect the interests of the audience.
- b) to ensure that commercial communications do not impinge on the editorial integrity of broadcasters.
- c) to provide guidance to the general public on the standards they can expect from commercial communications on broadcasting services.
- d) to provide clear guidance to broadcasters as to the standards to which commercial communications shall adhere.
- e) to provide broadcasters with a simple, flexible and comprehensive code that does not impede in an unwarranted manner their right to communicate commercial messages.



## 13. Prohibited Commercial Communications<sup>3</sup>

- 13.1 A broadcaster shall take appropriate measures to ensure all commercial communications comply with relevant Irish and European legislation and with the rules, regulations and codes of practice issued from time to time by any relevant competent authority.
- 13.2 A broadcaster shall ensure that it does not broadcast commercial communications that:
- a) are surreptitious.
  - b) use subliminal techniques.
  - c) prejudice respect for human dignity.
  - d) include or promote any discrimination based on sex, racial or ethnic origin, nationality, religion or belief, disability, age or sexual orientation.
  - e) encourage behaviour prejudicial to health or safety.
  - f) encourage behaviour grossly prejudicial to the protection of the environment.
  - g) are for cigarettes and other tobacco products, as well as for electronic cigarettes and refill containers.
  - h) are for alcoholic beverages and are aimed specifically at children or that encourage immoderate consumption of such beverages.
  - i) are for medicinal products and medical treatment available only on prescription in Ireland.
  - j) are for infant formula for use by infants during the first 6 months of life.
  - k) are directed towards a political end or that have any relation to an industrial dispute as prohibited by Section 46M(2)(a) of the Act. This prohibition:
    - i. shall not prevent a broadcaster from broadcasting a party political programme as defined in the Act and this Code provided that an unfair preference is not given to any political party by a broadcaster, in the allocation of time for such programmes; and
    - ii. does not apply to commercial communications broadcast on behalf of An Coimisiún Toghcháin (The Electoral Commission) in relation to a matter referred to in Section 32 of the Electoral Reform Act 2022 concerning a referendum.

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<sup>3</sup> Broadcasters should be aware that other classes of commercial communication are prohibited, limited or otherwise restricted by legislative or regulatory provisions than those set out in this section of the Code.



- l) address the issue of the merits or otherwise of adhering to any religious faith or belief, or of becoming a member of any religion or religious organisation, as prohibited by Section 46M(2)(b) of the Act.
- m) contain anything which may reasonably be regarded as likely to incite to violence or hatred directed against a group of persons, or a member of a group, based on any of the grounds referred to in Article 21 of the Charter of Fundamental Rights of the European Union,<sup>4</sup> namely sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, or sexual orientation. Nationality constitutes such a ground without prejudice to the special provisions of the Treaty establishing the European Community and of the Treaty on European Union.
- n) include anything which may reasonably be regarded as conduct falling within the concept of public provocation to commit a terrorist offence as set out in Article 5 of Directive (EU) 2017/541.
- o) include content which constitutes an offence relating to child pornography within the meaning given to the term in Article 5(4) of Directive 2011/93/EU,
- p) include content which constitutes an offence relating to racism and xenophobia as set out in Article 1 of Council Framework Decision 2008/913/JHA.
- q) include anything which may reasonably be regarded as causing harm or undue offence, or material that may be reasonably regarded as tending to undermine the authority of the State.

## **14. Provisions applying to all Commercial Communications**

- 14.1 Broadcasters shall ensure that pertinent details of an offer contained in a commercial communication are stated in a clear and understandable manner and are not contained solely in footnoted text on a screen or taglines at the end of a commercial communication on radio.
- 14.2 Broadcasters shall ensure, in respect of the presentation of information in commercial communications:
  - a) disclaimers and asterisked or footnoted information shall not contradict more prominent aspects of the message and shall be located and presented in such a manner as to be clearly visible and/or audible.

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<sup>4</sup> This includes but is not limited to members of the Traveller Community and Roma Communities.



- b) where practicable, plain language which is easily understood by listeners and viewers shall be used.
  - c) where information is spoken, it must be at an appropriate speed so that the content of any additional information provided can be clearly understood.
  - d) when using on-screen messages, broadcasters shall be mindful of the varying abilities of the public in terms of their physical and educational ability to read on-screen text. Broadcasters shall also take into consideration the time required to read the specific text and its readability, including the contrast between the text and the background picture onto which it is placed.
- 14.3 Broadcasters shall ensure that presenters and other on-air or on-screen personnel do not advertise or endorse products or services during editorial content. This does not limit legitimate editorial comment where products or services may be reviewed and about which opinions may be given, for example, in consumer affairs programmes or reviews of cultural matters.
- 14.4 Broadcasters shall ensure that comparative commercial communications containing direct or implied comparisons with other products or services, including those relating to the environment or sustainability, objectively compare products or services, including as to any claims about those products or services meeting the same needs or intended for the same purpose.
- 14.5 Broadcasters shall ensure that points of comparison or top seller claims (e.g. claims a brand or product is number one) shall be based on facts that can be substantiated. The subject matter of a comparison shall not be chosen in such a way as to confer an artificial or unfair advantage to a provider of a product or service.
- 14.6 Given the potential for sound effects in commercial communications to distract and/or alarm viewers and listeners, broadcasters shall take particular care when including sound effects such as sirens, horns, ringing phones and screeching tyres. They shall not be included at the beginning of a commercial communication. This requirement applies regardless of the placement of the commercial communication in an advertising break i.e. whether at the beginning, middle or end of an advertising break.
- 14.7 Broadcasters shall consider the following factors in relation to the appropriate scheduling of commercial communications: the time of broadcast; the type of programme; the type of broadcaster; the likely expectations of the audience of a programme or broadcaster; the nature of the product or service being promoted; and the likely size and composition of the audience.
- 14.8 Broadcasters shall ensure that individual living persons are not portrayed or referred to in commercial communications without their permission. Any reference to such an individual, taking the form of a caricature or an impersonation which has not been approved by the person in question, is not permitted. However, references to living persons may be made in commercial communications for books, films, radio or television programmes, newspapers, magazines etc., which feature the persons referred to in the communication, provided they are not offensive or inaccurate.



- 14.9 Broadcasters shall ensure that commercial communications are not calculated to induce unwarranted fear on the part of the viewer or listener. Any appeal to fear in a commercial communication must be justified in the context of the product, service or activity promoted in the communication. Broadcasters shall give special consideration to the appropriateness and scheduling of such communications.
- 14.10 Broadcasters shall ensure that commercial communications, with the exception of those promoting appeals by registered charities or public service campaigns for safety, health, education, etc., do not feature persons regularly presenting news programmes (e.g. top-of-the-hour news bulletins and extended news bulletins).
- 14.11 Broadcasters shall ensure that commercial communications that make use of testimonials are genuine, relevant, contemporary and relate to the person giving the testimonial. It must be made clear to audiences when a genuine testimonial is presented by an actor. The broadcaster shall retain documentary evidence of testimonials.
- 14.12 Broadcasters shall ensure that the language used in relation to guarantees, warranties and free goods and services is clear and unambiguous and does not prejudice legal rights of consumers. No commercial communication shall contain a direct or implied reference which purports to take away or diminish the legal rights of a purchaser.
- 14.13 Broadcasters shall ensure that commercial communications do not describe products or services as 'free' unless the products or services are supplied at no cost or at no extra cost (other than actual postage or carriage) to the recipient. A trial may be described as 'free' even if the customer has to pay for the costs of returning the goods, provided this is made clear in the communication.
- 14.14 Broadcasters shall take all reasonable measures to ensure that advertisements do not sound louder than adjacent programming. Broadcasters shall establish clear limits on the use of compression, limiting and equalisation as these apply to advertisements, in accordance with best practice.

## **Children**

- 14.15 Broadcasters shall take appropriate measures to ensure that material contained in commercial communications that would be likely to impair the physical, mental or moral development of children is only made available in a way that children will not normally hear or see it.
- 14.16 Broadcasters shall ensure that commercial communications do not directly exhort children to buy or hire a product or service by exploiting their inexperience or credulity, directly encourage them to persuade their parents or others to purchase the goods or services being advertised, exploit the special trust children place in parents, teachers or other persons, or unreasonably show children in dangerous situations.



- 14.17 Broadcasters shall ensure that any personal data of children collected or otherwise generated by any measures taken under clauses 14.15 shall not be processed for commercial purposes, such as direct marketing, profiling and behaviourally targeted advertising.

## **15. Split-screen, Interactive and Virtual Advertising Techniques – Television Broadcasters**

- 15.1 The following requirements apply to television broadcasters in respect of any use of split-screen, interactive or virtual advertising techniques: -
- a) split-screen techniques in advertising are permitted during natural breaks and during end credits. Split-screen advertising may also be inserted during long-form sports programmes which do not have a natural break e.g. Formula 1 Racing.
  - b) split-screen techniques in advertising shall not exceed 50% of screen space and only one split-screen advertisement shall appear at any given time.
  - c) split-screen and virtual techniques in advertising are not permitted in news or current affairs programmes, cinematographic works, television films, or broadcasts of religious services.
  - d) interactive techniques in advertising shall not bring the audience immediately/directly to products or services that are advertised. Audiences shall be warned by appropriate means that they are about to enter a commercial interactive environment not governed by this Code. This shall be done via a two-step process whereby the viewer/listener shall be able to access the interactive content only after the second step.

## **16. Sponsorship, including competitions**

- 16.1 Broadcasting services or programmes that are sponsored shall comply with the following requirements: -
- a) their content or scheduling shall in no circumstances be influenced in such a way as to affect the responsibility and editorial independence of the broadcaster.
  - b) they shall not directly encourage the purchase or rental of goods or services, in particular by making special promotional references to those goods or services as part of the sponsorship arrangement.





- c) sponsored programmes shall be clearly identified as such at the beginning, during and/or at the end of programmes. Identification can be via acoustic or visual means including references to the sponsor's name, its product(s) or service(s) or a distinctive sign thereof, for example via a logo and/or any other symbol of the sponsor.
- 16.2 Broadcasters shall ensure that there is a clear separation between sponsorship and advertising for the audience. Broadcasters shall ensure sufficient separation between formal programme sponsorship announcements scheduled before or at the end of advertisement breaks and advertising for the products or services of the sponsor carried in a separate advertisement break.
- 16.3 Broadcasters shall ensure that programmes are not sponsored by undertakings whose principal activity is the manufacture or sale of cigarettes and other tobacco products, as well as electronic cigarettes and refill containers.
- 16.4 Broadcasters shall ensure that sponsorship arrangements do not promote specific medicinal products or medical treatments available only on prescription in the State. However, sponsorship arrangements by undertakings whose activities include the manufacture or sale of medicinal products and medical treatment may promote the name or the image of the undertaking.
- 16.5 Broadcasters shall ensure that news programmes that they provide are not sponsored.
- 16.6 Broadcasters shall ensure that sponsorship arrangements do not constitute advertising, as defined in this Code. In particular, a sponsorship arrangement shall not:
- a) make special promotional references to a product or service e.g., specific references to quantifiable sales and discounts such as 25% off, 2 for 1 offers etc., and references to the urgency or immediacy of the promotion.
  - b) include advertising copy, prices, endorsements or a call to purchase.
  - c) afford undue prominence to a product or service of the sponsor, though reference to more than one product or service is permitted.
- 16.7 Broadcasters shall ensure that sponsored audience competitions within programmes do not constitute advertising, as defined in this Code. Competition questions, entry mechanisms and prizes shall not give undue prominence to the sponsor, in particular its facilities, products or services.
- 16.8 Broadcasters shall ensure that participants in competitions have a fair chance of winning a sponsored competition and broadcasters shall make available to the audience pertinent information in relation to it, including, but not limited to:
- a) how to enter the competition.
  - b) closing times and dates.



- c) the means by which a winner is selected.
- d) key terms and conditions that would void entry or prohibit a winner from taking up the prize.
- e) how to access the full set of terms and conditions in relation to the competition.
- f) any changes to the competition terms and conditions and/or processes and/or prize.

16.9 Broadcasters shall ensure that sponsorship arrangements are limited to announcements declaring the sponsorship arrangement (e.g. “sponsored by”, “brought to you by”, etc.) and announcements for sponsored competitions. In the case of television, references to products or services or a trademark, including the display of logos or branding, built into the action of the programme, may also meet the definition of product placement.

### **Television Only**

16.10 Television broadcasters shall ensure that news and current affairs programmes are not sponsored.

16.11 Television broadcasters shall ensure that a sponsorship logo is not shown during documentaries or religious programmes they provide.

## **17. Product Placement – Television Only**

17.1 Product placement shall be allowed in broadcasting services save for the exceptions set out in this section.<sup>5</sup>

17.2 Broadcasters shall ensure that product placement is not included in news and current affairs programmes, consumer affairs programmes, religious programmes and children’s programmes.

17.3 Broadcasters shall ensure that programmes that contain product placement meet the following requirements: -

- (a) the content of the programmes and organisation within a schedule shall under no circumstances be influenced in such a way as to affect the responsibility and editorial independence of the broadcaster.
- (b) they shall not directly encourage the purchase or rental of goods or services, in particular by making special promotional references to those goods or services.

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<sup>5</sup> For the avoidance of doubt, the concept of ‘prop placement’ (whereby third parties provide products / services for inclusion within a television programme free of charge) has been removed from the Code. All such instances are now considered as ‘product placement’ under this section.



- (c) they shall not give undue prominence to the product in question.
  - (d) viewers shall be clearly informed of the existence of product placement by an appropriate identification at the start and at the end of the programme, and when a programme resumes after an advertising break, in order to avoid any confusion on the part of the viewer.
- 17.4 The closing credits of a programme containing product placement shall include the name of the providers and the products, services etc. provided. Broadcasters shall keep a record of the programmes in which product placement occurs, the placement in each programme and the value of each individual placement. This information must be available to the Commission upon request in the context of compliance monitoring or in instances where a complaint is investigated. This information must also be available in respect of any independent programmes commissioned by the broadcaster.
- 17.5 Broadcasters shall ensure that product placement identification complies with any requirements published and prescribed by the Commission from time to time with respect to the form of the identification of product placement in a programme, including the text, logo, size, colour, font type and audio message.
- 17.6 Broadcasters shall ensure that the placement of products in programme content is editorially justified. Product integration, where programme content, including storylines, is tailored around a product, service or facility provided through a product placement arrangement is not permitted. Thematic placement, where programme content, including storylines, is tailored around a specific theme, e.g. the beliefs, policies, aims and objectives of the product or service provider, is also not permitted.
- 17.7 Sections 17.3(d), 17.4, 17.5 and 17.6 of this Code shall only apply to programmes that have been produced or commissioned by the broadcaster or a company affiliated to them.
- 17.8 Broadcasters shall ensure that programmes do not contain product placement of:
- a) tobacco products or cigarettes, as well as electronic cigarettes and refill containers or product placement from undertakings whose principal activity is the manufacture or sale of such products.
  - b) specific medicinal products or medical treatments available only on prescription in the State.
  - c) a product or service that is not permitted to be promoted under this Code.
- 17.9 The provisions in this section shall apply only to programmes produced after 19 December 2009.



# Provisions pertaining to specific products and services

## 18. Alcohol

**Note: The Public Health (Alcohol) Act 2018 contains requirements in relation to broadcasting and advertising in respect of alcohol. Certain of these requirements are yet to enter into force. On 10 January 2025, Section 19 of the Public Health Act will commence and Section 18(7)(c) of this Code will no longer apply. <sup>6</sup>**

- 18.1 Broadcasters shall take appropriate measures to ensure that commercial communications for alcoholic beverages comply with all relevant Irish and European legislation, including the Public Health Alcohol Act 2018 and with rules, regulations and codes of practice issued from time to time by a relevant competent authority.
- 18.2 Broadcasters shall ensure that commercial communications for alcoholic beverages are cast towards brand selling and identification and shall not:
- a) be aimed specifically at children or, in particular, depict children consuming these beverages;
  - b) link the consumption of alcohol to enhanced physical performance or to driving;
  - c) create the impression that the consumption of alcohol contributes towards social or sexual success;
  - d) claim that alcohol has therapeutic qualities or that it is a stimulant, a sedative or a means of resolving personal conflicts;
  - e) encourage immoderate consumption of alcohol or present abstinence or moderation in a negative light;
  - f) place emphasis on high alcoholic content as being a positive quality of the beverages;
  - g) bear health claims or nutrition claims for beverages containing more than 1.2% AbV, other than those which refer to a reduction in the alcohol or energy content.

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<sup>6</sup> Thereafter, commercial communications for alcohol will be prohibited on television programme services between 03.00 am and 9.00 pm and commercial communications for alcohol will be prohibited on sound broadcasting services on weekdays between (a) midnight and 10.00 am, and (b) 3.00 pm and midnight. For completeness, commercial communications for alcohol broadcast outside of the forthcoming watershed period will be required to comply with the rules under this section.



- 18.3 Broadcasters shall not broadcast commercial communications for the following:
- (a) beverages containing alcohol content of 25% AbV and above e.g. vodka, whiskey, tequila, rum, gin, brandy, etc.; or
  - (b) alco-pops, pre-mixed spirit drinks and products of a similar nature.
- This rule does not prohibit commercial communications for liqueurs containing alcohol content of less than 25% AbV.
- 18.4 Broadcasters are permitted to have commercial communications promoting events or activities that have alcohol sponsorship. The sponsor of the event or activity and the sponsor's product(s) may be referenced in the commercial communication but shall not be more prominent than the event or activity being promoted.
- 18.5 Broadcasters shall ensure that sports programmes and sports bulletins made or commissioned by the broadcaster, including competitions within sports programmes produced or commissioned by the broadcaster, do not directly promote alcohol brands.
- 18.6 Broadcasters shall ensure that solus/whistle breaks advertising spots during sports programmes do not promote alcohol brands. Solus/whistle spots are understood as isolated or individual advertising spots before the normal advertising breaks at half-time or full-time in programme coverage of a sports event.
- 18.7 Broadcasters shall ensure that, in addition to the requirements set out above, commercial communications for alcoholic beverages meet the following requirements:
- a) they shall not be broadcast in or around children's programmes.
  - b) they shall be broadcast only in or around programmes with an adult audience profile of 75% or greater.
  - c) they shall not be broadcast, between 6am and 10am.
- 18.8 Broadcasters shall ensure that, where alcohol advertising is permissible, it is limited to a maximum of 25% of sold advertising time and only one in four advertisements for alcoholic beverages is permissible across the broadcast day. No more than two advertisements for alcoholic beverages can appear in any one advertising break.
- 18.9 Broadcasters shall identify the programmes that carry commercial communications for alcoholic beverages and shall publish this list on a website maintained by the broadcaster.
- 18.10 Broadcasters shall enforce a Code of Conduct for their presenters ensuring that speech content that glamorises or encourages over-consumption or misuse of alcohol is prevented. Each broadcaster will publish this Code on a website it maintains and make a copy of the Code generally available.



## 19. Health Products, Treatments and Services

"Health products, treatments and services" includes the following terms, definitions for which can be found in **Appendix One** of this Code:

- medicinal product
- medical device
- medical treatments and services
- cosmetic treatments and services

19.1 Broadcasters shall not broadcast commercial communications for health products, treatments or services intended to treat any serious complaint, condition, symptom or disease, which should receive the attention of a registered medical practitioner. To avoid doubt, this does not prohibit commercial communications for vaccination campaigns that have been approved by the Minister for Health, or disease awareness campaigns containing no reference to medicinal products.

19.2 Broadcasters shall ensure that commercial communications for health products, treatments and services do not contain material which is directed exclusively or principally at children.

19.3 Broadcasters shall ensure that commercial communications for health products, treatments and services do not contain material which:

- a) is calculated to induce fear on the part of the audience that they may, without treatment, suffer, or suffer more severely, from any serious complaint, condition, symptom, or disease.
- b) uses, in improper, alarming or misleading terms, pictorial representations of changes in the human body caused by disease or injury, or of the action of a health product, treatment or service on the human body or parts thereof.
- c) refers, in improper, alarming or misleading terms, to claims of recovery.
- d) encourages unnecessary, indiscriminate, irrational and/or excessive use of a health product, treatment or service.
- e) gives the impression that a medical consultation or surgical procedure is unnecessary, in particular, by offering a diagnosis or by suggesting treatment by mail (including post, telephone, e-mail and other electronic means of communication).
- f) might, by a description or detailed representation of a case history, lead to erroneous self-diagnosis.



- g) suggests that the health of the subject can be enhanced by using a health product, treatment or service.
  - h) suggests that the health of the subject could be affected by not using a health product, treatment or service (this does not apply to commercial communications for vaccination campaigns approved by the Minister for Health).
  - i) contains unwarranted and indiscriminate use of such words as "safe", "without risk", "harmless", or terms of similar meaning in connection with a health product, treatment or service.
  - j) suggests that the safety or efficacy of the health product, treatment or service is due to the fact that it is natural.
  - k) includes exaggerated claims, in particular, through the selection of testimonials or other evidence unrepresentative of the effectiveness of a health product, treatment or service.
  - l) refers to a recommendation by scientists, health professionals or persons who are neither of the foregoing but who, because of their celebrity status, could encourage the use of a health product, treatment or service.
  - m) gives the impression of professional advice or recommendation made by persons who appear in the commercial communication and who are presented, whether actually or by implication, as being qualified to give such advice or recommendation.
  - n) refers to a hospital, clinic, college, institute, laboratory or other similar body unless a bona fide establishment corresponding to the description used does in fact exist.
  - o) refers to doctors unless appropriate in the context of the commercial communication.
  - p) refers to a prize, competition or similar scheme or offers a health product, treatment or service as prizes in a competition.
- 19.4 Broadcasters shall ensure that commercial communications promoting sunbeds and tanning booths comply with any guidance, rules or regulations prescribed by the Minister for Health regarding permitted information and marketing practices for sunbeds.

### **Medicinal Products and Medical Devices**

- 19.5 Broadcasters shall take appropriate measures to ensure that commercial communications for medicinal products and medical devices comply with all relevant Irish and European legislation and with rules, regulations and codes of practice issued from time to time by a relevant competent authority, including the Health Products Regulatory Authority.



- 19.6 Broadcasters shall not broadcast commercial communications for prescription-only medicinal products, controlled drugs, or psychoactive substances.
- 19.7 Broadcasters shall not broadcast commercial communications for medicinal products or medical devices intended to treat any serious complaint, condition, symptom or disease which should rightly receive the attention of a registered medical practitioner. This rule does not apply to commercial communications for vaccination campaigns approved by the Minister for Health. This rule does not apply to human health or disease awareness campaigns provided there is no reference, even indirect, to medicinal products.
- 19.8 Broadcasters shall only broadcast commercial communications for all other medicinal products where such products have a marketing authorisation or certificate of traditional use registration or are registered/certified by a relevant competent authority.
- 19.9 Broadcasters shall ensure that commercial communications for medicinal products are not broadcast unless:
- a) all parts of such communications comply with the particulars set out in the summary of product characteristics for the product.
  - b) the rational use of medicinal products is encouraged by presenting them objectively and without exaggerating their properties.
  - c) they are not misleading.
- 19.10 Broadcasters shall ensure that commercial communications for medicinal products are clear that the message is an advertisement, and the products are clearly identified as medicinal products. At a minimum, the following information will be included:
- a) the name of the medicinal product.
  - b) if it contains only one active ingredient, the common name of the medicinal product.
  - c) the information necessary for the correct use of the medicinal product.
  - d) an express and legible invitation to read carefully the instructions on the leaflet contained within the package or on the label, as the case may be.
  - e) if it is a traditional herbal medicinal product, the following words “Traditional herbal medicinal product for use in” followed by a statement of one or more therapeutic indications for the product compatible with the terms of the certificate of traditional-use registration for that product, followed by the words “exclusively based upon long-standing use”.





- 19.11 Section 19.9 does not apply to a commercial communication for a medicinal product that is intended only as a reminder, if the commercial communication consists solely of the following: the name of the product or international non-proprietary name or trademark (or in the case of a homeopathic medicinal product that is the subject of a certificate of registration, the scientific name of the stock or stocks or its invented name); and, advice to read carefully the instructions on the leaflet contained within the package, or on the label of the medicinal product, as the case may be.

### **Health Products, Treatments and Services (other than Medicinal Products and Medical Devices)**

- 19.12 Broadcasters shall ensure that commercial communications for hypnosis, hypnotherapy, psychiatry, psychotherapy, cosmetic treatments, cosmetic services and similar services only contain the address of the service provider and factual descriptions of products, treatments and services available and shall not contain anything which could be deemed a direct encouragement to use the services.
- 19.13 Broadcasters shall not broadcast commercial communications for hypnosis, hypnotherapy, psychiatry, psychotherapy, cosmetic treatments, cosmetic services and similar services intended to treat any serious complaint, condition, symptom or disease, which should rightly receive the attention of a registered medical practitioner.

## **20. Cosmetic Products**

- 20.1 Broadcasters shall take appropriate measures to ensure that commercial communications for cosmetic products comply with all relevant Irish and European legislation and with rules, regulations and codes of practice issued from time to time by a relevant competent authority.
- 20.2 Commercial communications for cosmetic products shall not contain material such as text, names, trademarks, pictures, and figurative or other signs, to imply that these products have characteristics or functions which they do not possess.

## **21. Food, Nutrition and Health**

This section applies to the following, definitions for which can be found in **Appendix One** of this Code:

- food
- infant formula
- follow-on formula
- health claim
- HFSS foods
- nutrition claim



- 21.1 Broadcasters shall ensure that food information<sup>7</sup> in commercial communications is accurate, clear and easy to understand and shall not mislead as to the characteristics of the food or its effects or properties. Food information shall not attribute to any food the property of preventing, treating or curing a human disease, nor refer to such properties, subject to derogations provided for by European law applicable to natural mineral waters and foods for particular nutritional uses.

### **Health and Nutrition Claims**

- 21.2 Broadcasters shall ensure that commercial communications attributing medicinal properties to foods are only made available where such foods are legally recognised as a medicinal product. Those communications shall comply with Section 19 of this Code.
- 21.3 Broadcasters shall take appropriate measures to ensure that commercial communications containing nutrition and health claims made for foods comply with all relevant Irish and European legislation and with rules, regulations and codes of practice issued from time to time by a relevant competent authority.
- 21.4 Broadcasters shall ensure that nutrition and health claims in commercial communications are based on and substantiated by generally accepted scientific data, and are consistent with generally accepted nutrition and health principles.
- 21.5 Broadcasters shall ensure that nutrition and health claims in commercial communications are not made available where the average consumer could not reasonably be expected to understand the beneficial effects as expressed in the claim.
- 21.6 Broadcasters shall ensure that the use of nutrition and health claims in commercial communications do not:
- a) include false, ambiguous or misleading information.
  - b) give rise to doubt about the safety and/or the nutritional adequacy of other foods.
  - c) encourage or condone excess consumption of a food.
  - d) state, suggest or imply that a balanced and varied diet cannot provide appropriate quantities of nutrients in general, subject to derogations provided for by European law.
  - e) refer to changes in bodily functions which could give rise to or exploit fear in the consumer, either textually or through pictorial, audio, graphic or symbolic representations.

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<sup>7</sup> As set out in Regulation (EU) No 1169/2011, 'food information' means information concerning a food and made available to the final consumer by means of a label, other accompanying material, or any other means, including modern technology tools or verbal communication.



- 21.7 Broadcasters shall ensure that commercial communications involving health claims shall include all of the following information:
- a) a statement indicating the importance of a varied and balanced diet and a healthy lifestyle.
  - b) the quantity of the food and pattern of consumption required to obtain the claimed beneficial effect.
  - c) where appropriate, a statement addressed to persons who should avoid using the food.
  - d) an appropriate warning for products that are likely to present a health risk if consumed to excess.
- 21.8 Broadcasters shall ensure that the following health claims shall not be allowed in commercial communications:
- a) claims which suggest that health could be affected by not consuming the food.
  - b) claims which make reference to the rate or amount of weight loss.
  - c) claims which make reference to recommendations of individual doctors or health professionals and other associations not registered/certified by a relevant competent authority.
- 21.9 Broadcasters shall ensure that reduction of disease risk claims in commercial communications comply with European and Irish legislation and shall also bear a statement indicating that the disease to which the claim is referring has multiple risk factors and that altering one of these risk factors may or may not have a beneficial effect.

### **Follow-on Formula**

- 21.10 Broadcasters shall take appropriate measures to ensure that commercial communications for follow-on formula comply with all relevant Irish and European legislation and with rules, regulations and codes of practice issued from time to time by a relevant competent authority.
- 21.11 Commercial communications for follow-on formula shall comply with the following requirements:
- a) they shall provide the necessary information about the appropriate use of the products, so as not to discourage breastfeeding and shall not suggest, either directly or by implication, the superiority of this product to breastfeeding.
  - b) they shall clearly indicate the unsuitability of this product for infants under six months.
  - c) they shall not use the terms 'humanised', 'maternalised', 'adapted', or terms similar to them.



- d) they shall be designed in such a way that it avoids any risk of confusion between infant formula and follow-on formula and enables consumers to make a clear distinction between them, in particular as to the text, images and colours used.

### **High Fat Salt and Sugar (HFSS) Food and Beverages<sup>8</sup>**

- 21.12 Broadcasters shall ensure that a maximum of 25% of sold advertising time and only one in four advertisements for HFSS food and beverage products and/or services products are permissible across the broadcast day.
- 21.13 Broadcasters should aim to effectively reduce the exposure of children to commercial communications for HFSS food and beverage products and/or services. In this respect, commercial communications for such foods and beverages shall not be broadcast or made available in or around children's programmes.

## **22. Slimming Treatments, Products and Services**

- 22.1 Broadcasters shall ensure that commercial communications do not contain any offer of a treatment, product or service for slimming (i.e. weight reduction, limitation or control) which:
- a) is in itself likely to lead to harmful effects.
  - b) is not directly associated with the following of a properly designed diet.
  - c) does not clearly state the manner in which slimming will be achieved.
- 22.2 Broadcasters shall ensure that commercial communications for slimming treatment, products and services do not contain material which is directed exclusively or principally at children.
- 22.3 Broadcasters shall ensure that commercial communications for foods for use in energy restricted diets for weight reduction do not make reference to the rate or amount of weight loss which may result from their use.
- 22.4 Broadcasters shall ensure that, where slimming treatments, products and services could reasonably be categorised under the headings in Sections 19 and 21 of this Code, the commercial communications adhere to the provisions under the relevant section(s) in addition to provisions under this section.

## **23. Smoking Cessation Aids**

- 23.1 Broadcasters shall ensure that commercial communications for products or services purporting to assist people to quit smoking indicate clearly that the product or service is only effective in conjunction with the positive application of the consumer's willpower.

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<sup>8</sup> An overview of the Nutrient Profiling Model adopted by the Commission and how to apply it is provided in Appendix Two.



- 23.2 Broadcasters shall ensure that commercial communications purporting to assist people to quit smoking do not indicate that a cure will be brought about by the product or service but may focus on the potential role of the product or service in assisting people to quit smoking.
- 23.3 Broadcasters shall ensure that, where smoking cessation aids could reasonably be categorised under the headings in Sections 19 and 21 of this Code, the commercial communications for such smoking cessation aids adhere to the provisions under the relevant section(s) in addition to provisions under this section.
- 23.4 In light of the prohibition on commercial communications for e-cigarettes and refills, broadcasters shall ensure they are not promoted as smoking cessation aids.

## 24. Financial Services and Products

- 24.1 Broadcasters shall ensure that commercial communications for financial services and products are presented in terms which will not mislead, whether by exaggeration, omission or in any other way.
- 24.2 Broadcasters shall take appropriate measures to ensure that commercial communications for financial services and products comply with relevant Irish and European legislation and with the rules, regulations and codes of practice issued from time to time by the Central Bank of Ireland and any other relevant competent authority.
- 24.3 Broadcasters shall ensure that mandatory regulatory disclosure statements and warning statements in commercial communications for financial services and products comply with this Code.

Rule applying to **radio** only

- 24.4 Mandatory regulatory disclosure statements shall not count toward advertising minutage once it is clear to listeners that these statements are part of the overall commercial communication for a financial product or service and the statements themselves do not include any content that constitutes advertising.

## 25. Gambling

In this section, "gambling" has the meaning given to that term in Appendix One.

- 25.1 Broadcasters shall take appropriate measures to ensure that commercial communications in respect of gambling comply with all relevant provisions of the Gambling Regulation Act 2024, other relevant Irish and European legislation and with rules, regulations and codes of practice issued from time to time by a relevant competent authority.



- 25.2 Broadcasters shall take appropriate measures to ensure that commercial communications for the National Lottery comply with the Marketing Communications, Advertising, Promotions and PR Code of Practice approved by the Regulator of the National Lottery.
- 25.3 Broadcasters shall only broadcast commercial communications in respect of a duly licensed entity.
- 25.4 Broadcasters shall ensure that commercial communications do not contain anything which could be deemed to be a direct encouragement to gamble. This includes providing information detailing special offers, free bets as prizes in competitions, discounts, inducements to visit any gambling establishment (including on-line) or any promotional offer intended to encourage the use of services of this nature. To avoid doubt, the commercial communication may contain the address of the service provider and factual descriptions of services available.
- 25.5 Broadcasters shall ensure that portrayals of gambling in commercial communications do not:
- a) encourage behaviour that is socially irresponsible or could lead to financial, social, psychological or emotional harm.
  - b) suggest that gambling can be a solution to personal or professional problems or financial concerns.
  - c) suggest that gambling can enhance personal qualities or contribute toward sexual attraction and success or social success.
  - d) depict or feature children gambling.
- 25.6 Broadcasters shall ensure that commercial communications for gambling do not contain material which is directed exclusively or principally at children and shall not be broadcast in or around children's programmes.

## **26. Premium-rate Telecommunications Services**

- 26.1 Broadcasters shall take appropriate measures to ensure that commercial communications for premium-rate telecommunication services comply with all relevant Irish and European legislation and with rules, regulations and codes of practice issued from time to time by the Commission for Communications Regulation and any other relevant competent authority.
- 26.2 Broadcasters shall ensure that commercial communications for premium-rate telecommunication services clearly state all charges for accessing these services in terms which do not mislead, whether by exaggeration, omission or in any other way.



## **27. Fortune Tellers, Psychic Services, etc.**

- 27.1 Broadcasters shall ensure that commercial communications for fortune tellers, psychic services and similar services do not include any of the following:
- a) claims that future events may be predicted, other than as a matter of opinion.
  - b) claims to make contact with deceased persons.
  - c) claims pertaining to matters of health, cures, curing and/or healing.
- 27.2 Broadcasters shall ensure that commercial communications for fortune tellers, psychic services and similar services do not contain material which is directed exclusively or principally at children and shall not be broadcast in or around children's programmes.



# Appendix One:

## Definitions for Specific Products and Services

### **Cosmetic Product**

A cosmetic product is any substance or mixture intended to be placed in contact with the external parts of the human body (epidermis, hair system, nails, lips and external genital organs) or with the teeth and the mucous membranes of the oral cavity, with a view exclusively or mainly to cleaning them, perfuming them, changing their appearance, protecting them, keeping them in good condition or correcting body odours.

### **Cosmetic Treatments and Services**

Cosmetic treatments and services are surgical and non-surgical procedures where the primary aim is the change, the restoration, normalisation or improvement of the appearance, the function and well-being at the request of the individual. These treatments are for aesthetic rather than medical reasons. A non-exhaustive list of surgical procedures includes: lipo-sculpture/liposuction; breast augmentation/uplift and reduction; penile enhancement; circumcision; ear correction surgery; fat removal; tummy tuck; lip, calf, cheek, buttock and chin implants. A non-exhaustive list of non-surgical procedures includes: semi-permanent make-up; laser skin rejuvenation; non-surgical uplift; microdermabrasion; tattoo removal; laser hair removal; Botox injections; dermal fillers.

### **Electronic Cigarette**

Electronic cigarette means a product that can be used for consumption of nicotine-containing vapour via a mouth-piece, or any component of that product, including a cartridge, a tank and the device without cartridge or tank. Electronic cigarettes can be disposable or refillable by means of a refill container and a take, or rechargeable with single use cartridges. Refill container means a receptacle that contains a nicotine-containing liquid, which can be used to refill an electronic cigarette.

### **Infant Formula**

Infant formula means foodstuffs intended for particular nutritional use by infants during the first months of life and satisfying by themselves the nutritional requirements of such infants until the introduction of appropriate complementary feeding.

### **Follow-on Formula**

Follow-on formula means foodstuffs intended for particular nutritional use by infants when appropriate complementary feeding is introduced and constituting the principal liquid element in a progressively diversified diet of such infants.

### **Food**

Food means any substance or product, whether processed, partially processed or unprocessed, intended to be, or reasonably expected to be ingested by humans. Food includes drink, chewing gum and any substance, including water, intentionally incorporated into the food during its manufacture, preparation or treatment. It includes water after the point of compliance as defined in Article 6 of Directive (EU) 2020/2984.





Food shall also not include:

- Feed.
- live animals unless they are prepared for placing on the market for human consumption.
- plants prior to harvesting.
- medicinal products within the meaning of Directive 2001/83/EC.
- cosmetics within the meaning of Regulation (EC) 1223/2009.
- tobacco and tobacco products within the meaning of Directive 2014/40/EU.
- narcotic or psychotropic substances within the meaning of the United Nations Single Convention on Narcotic Drugs, 1961, and the United Nations Convention on Psychotropic Substances, 1971.
- residues and contaminants.

### **Gambling**

Gambling means, whether in-person or by remote means, betting, gaming or participating in a lottery.

### **Health Claim**

A health claim means any claim that states, suggests or implies that a relationship exists between a food category, a food or one of its constituents and health (for example, “aids digestion”). Broadcasters should also note the definition of a reduction of disease risk claim included in EU regulation. This means any health claim that states, suggests or implies that the consumption of a food category, a food or one of its constituents significantly reduces a risk factor in the development of a human disease.

### **HFSS foods**

HFSS foods are those that are assessed as high in fat, salt or sugar in accordance with the Nutrient Profiling Model developed by the UK Food Standards Agency as adopted by the Commission. An overview of the Nutrient Profiling Model and how to apply it is provided in Appendix Two.

### **Medical Device**

A device used for a medical purpose and that act in a physical manner. They do not act through pharmacological, immunological or metabolic means. Medical devices help in the diagnosis, prevention, prediction, monitoring, prognosis or treatment of a disease, injury or disability.

### **Medical Treatment or Service**

A medical treatment or service is defined as a treatment or service intended to prevent, cure or alleviate a medical complaint, condition, symptom or disease. This includes, but is not limited to, psychiatry, psychotherapy and counselling.



### **Medicinal Product**

A medicinal product is any substance or combination of substances presented as having properties for treating or preventing disease in human beings or any substance or combination of substances which may be used in or administered to human beings either with a view to restoring, correcting or modifying physiological functions by exerting a pharmacological, immunological or metabolic action, or to making a medical diagnosis. This definition includes prescription-only medicines and medicinal products available from the pharmacy or shop counter that can be sold only once a Product Authorisation License has been granted by the relevant competent authority. It also includes medicinal products that are subject to any other licensing or certification requirements, including homeopathic and traditional herbal medicines. For completeness, it does not include health or nutritional claims that do not meet the definition of medicinal claims.

### **Nutrition Claim**

A 'nutrition claim' means any claim which states, suggests or implies that a food has particular beneficial nutritional properties due to:

- the energy (calorific value) it provides, provides at a reduced or increased rate, or does not provide;
- the nutrients or other substances it contains, contains in reduced or increased proportions, or does not contain.



## Appendix Two: Nutrient Profiling Model

For the purpose of this Code, the Nutrient Profiling Model developed by the UK Food Standards Agency should be used to assess whether a commercial communication is for a product or service that is high in fat, salt or sugar and therefore subject to restrictions and regulation. There are three steps to working out the overall score of a food or drink.

### 1. Work out total 'A' points

A maximum of ten points can be awarded for each nutrient.

Total 'A' points = (points for energy) + (points for saturated fat) + (points for sugars) + (points for sodium).  
The following table indicates the points scored, depending on the amount of each nutrient in 100g of the food or drink:

**Points Allocation 'A' Nutrients**

Points	Energy (kJ)	Sat Fat (g)	Total Sugar (g)	Sodium (mg)
0	≤ 335	≤ 1	≤ 4.5	≤90
1	>335	>1	>4.5	>90
2	>670	>2	>9	>180
3	>1005	>3	>13.5	>270
4	>1340	>4	>18	>360
5	>1675	>5	>22.5	>450
6	>2010	>6	>27	>540
7	>2345	>7	>31	>630
8	>2680	>8	>36	>720
9	>3015	>9	>40	>810
10	>3350	>10	>45	>900

If a food or drink scores 11 or more 'A' points then it cannot score points for protein unless it also scores 5 points for fruit, vegetables and nuts.

### 2. Work out total 'C' points

A maximum of five points can be awarded for each nutrient/food component.

Total 'C' points = (points for % fruit, vegetable & nut content) + (points for fibre [either NSP or AOAC]) + (points for protein)

The following table indicates the points scored, depending on the amount of each nutrient/food component in 100g of the food or drink:-



### Points Allocation 'C' Nutrients:

Points	Fruit, Veg and Nuts (%)	N&P Fibre (g)	Or AOAC Fibre <sup>9</sup> (g)	Protein (g)
0	≤40	≤0.7	≤0.9	≤1.6
1	>40	>0.7	>0.9	>1.6
2	>60	>1.4	>1.9	>3.2
3	-	>2.1	>2.8	>4.8
4	-	>2.8	>3.7	>6.4
5	>80	>3.5	>4.7	>8.0

### 3. Work out overall score

- If a food scores **less than 11 'A'** points then the overall score is calculated as follows:

Total 'A' points (energy + saturated fat + sugars + sodium) minus total 'C' points (fruit, veg and nuts + fibre + protein)

- If a food scores **11 or more 'A' points** but scores 5 points for fruit, vegetables and nuts then the overall score is calculated as follows:

Total 'A' points (energy + saturated fat + sugars + sodium) minus total 'C' points (fruit, veg and nuts + fibre + protein)

- If a food scores **11 or more 'A' points, and less than 5 points for fruit, vegetables and nuts,** then the overall score is calculated as follows:

Total 'A' points (energy + saturated fat + sugars + sodium) minus total points for fibre + points for fruit, vegetables and nuts (not allowed to score for protein)

A **food** is classified as 'less healthy' where it scores **4 points or more and is subject to the restrictions in the Code.**

A **drink** is classified as 'less healthy' where it scores **1 point or more and is subject to the restrictions in the Code.**

For further detail on the application of this model, please refer to separate guidance provided by the Commission and published on [www.cnam.ie](http://www.cnam.ie).

<sup>9</sup> One or other of the dietary fibre columns should be chosen to how the fibre content of the food or beverage was calculated by the manufacturer.

