

APPENDIX 2 ADVERTISING RULES FOR ON-DEMAND SERVICES REGULATED BY STATUTE



Principle

The rules in Appendix 2 reflect the legal requirements in the Communications Act 2003 (as amended) with which media service providers must ensure they comply. Failure to ensure that advertising included in a regulated on-demand service complies with these rules may result in the matter being referred to Ofcom. If Ofcom concludes that the media service provider has contravened the relevant requirements of the Act, this may lead to Ofcom considering imposing a statutory sanction against the provider.

Definition

Some video-on-demand services are subject to regulation under the Communications Act 2003 (as amended). ('the Act'). In this section, "regulated on-demand services" refers to those services that are subject to statutory regulation and "media service providers" means providers of regulated on-demand services.

The rules in this section apply only to advertising "included" in a regulated on-demand service, which is advertising that can be viewed by a user of the service as a result of the user selecting a programme to view.

Advertisements on regulated on-demand services are also separately subject to the CAP Code. The marketer, not the media service provider, bears the primary responsibility for ensuring compliance with the CAP Code.

Rules

- 30.1 Advertising must be readily recognisable as such.
- 30.2 Advertising must not use techniques which exploit the possibility of conveying a message subliminally or surreptitiously.
- 30.3 Advertising must not prejudice respect for human dignity.

- 30.4.1 Advertising must not contain any material likely to incite violence or hatred against a group of persons or a member of a group of persons based on any of the grounds referred to in Article 21 of the Charter of Fundamental Rights of the European Union of 7 December 2000, as adopted at Strasbourg on 12 December 2007.
- 30.4.2 Advertising must not contain any prohibited material, as defined in section 368E(3) of the Communications Act 2003.
- 30.5 Advertising must not include or promote any discrimination based on sex, racial or ethnic origin, nationality, religion or belief, disability, age or sexual orientation.
- 30.6 Advertising must not encourage behaviour prejudicial to health or safety.
- 30.7 Advertising must not encourage behaviour grossly prejudicial to the protection of the environment.
- 30.8 Advertising of the following products is prohibited:
 - 30.8.1 cigarettes or other tobacco products
 - 30.8.2 any prescription-only medicine.
 - 30.8.3 electronic cigarettes or electronic cigarette refill containers (as defined in the section 368R of the Act)
- 30.9 Advertising of alcoholic drinks is only permitted in on-demand programme services if
 - 30.9.1 it is not aimed specifically at persons under the age of eighteen, nor does it, in particular, depict such persons consuming alcoholic drinks;
 - 30.9.2 it does not link the consumption of alcohol to enhanced physical performance or to driving;
 - 30.9.3 it does not create the impression that the consumption of alcohol contributes towards social or sexual success;
 - 30.9.4 it does not claim that alcohol has therapeutic qualities or that it is a stimulant, a sedative or a means of resolving personal conflicts;

- 30.9.5 it does not encourage immoderate consumption of alcohol or present abstinence or moderation in a negative light; and
- 30.9.6 it does not place emphasis on high alcoholic content as being a positive quality of alcoholic drinks.
- 30.10 Advertising must not cause physical or moral detriment to persons under the age of eighteen.
- 30.11 If advertising contains material which might seriously impair the physical, mental or moral development of persons under the age of eighteen, the material must be made available in a manner which secures that such persons will not normally see or hear it.
- 30.12 Advertising must not directly exhort persons under the age of eighteen to purchase or rent goods or services in a manner which exploits their inexperience or credulity.
- 30.13 Advertising must not directly encourage persons under the age of eighteen to persuade their parents or others to purchase or rent goods or services.
- 30.14 Advertising must not exploit the trust of persons under eighteen in parents, teachers or others.
- 30.15 Advertising must not unreasonably show persons under eighteen in dangerous situations.