

Status: Point in time view as at 16/04/2010.

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SCHEDULES

[^{F1}SCHEDULE 11A

RESTRICTIONS ON PRODUCT PLACEMENT

Textual Amendments

- F1** Sch. 11A inserted (16.4.2010) by [The Audiovisual Media Services \(Product Placement\) Regulations 2010 \(S.I. 2010/831\)](#), regs. 1(1), **9**

Introductory

1. (1) In this Part “product placement”, in relation to a programme included in a television programme service, means the inclusion in the programme of, or of a reference to, a product, service or trade mark, where the inclusion—
 - (a) is for a commercial purpose;
 - (b) is in return for the making of any payment, or the giving of other valuable consideration, to any relevant provider or any person connected with a relevant provider; and
 - (c) is not prop placement.
- (2) “Prop placement”, in relation to such a programme, means the inclusion in the programme of, or of a reference to, a product, service or trade mark where—
 - (a) the provision of the product, service or trade mark has no significant value; and
 - (b) no relevant provider, or person connected with a relevant provider, has received any payment or other valuable consideration in relation to its inclusion in, or the reference to it in, the programme, disregarding the costs saved by including the product, service or trademark, or a reference to it, in the programme.
2. The product placement requirements are—
 - (a) that the product placement does not fall within any of paragraphs 3 to 6;
 - (b) that all of the conditions in paragraph 7 are met; and
 - (c) that, where paragraph 8 applies, the condition in that paragraph is also met.

Prohibitions of product placement

3. (1) Product placement falls within this paragraph if it is in a children’s programme.
(2) In sub-paragraph (1) “children’s programme” means a programme made—
 - (a) for a television programme service or for an on-demand programme service, and
 - (b) for viewing primarily by persons under the age of sixteen.
4. Product placement falls within this paragraph if it is—

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- (a) of cigarettes or other tobacco products;
 - (b) by or on behalf of an undertaking whose principal activity is the manufacture or sale of cigarettes or other tobacco products; or
 - (c) of prescription-only medicines.
5. Product placement of alcoholic drinks falls within this paragraph if—
- (a) it is aimed specifically at persons under the age of eighteen; or
 - (b) it encourages immoderate consumption of such drinks.
6. (1) Product placement falls within this paragraph if it is in a programme to which this paragraph applies and—
- (a) the programme is a religious, consumer affairs or current affairs programme;
 - (b) the product placement is of anything within sub-paragraph (2); or
 - (c) the product placement is otherwise unsuitable.
- (2) The following are within this sub-paragraph—
- (a) electronic or smokeless cigarettes, cigarette lighters, cigarette papers or pipes intended for smoking;
 - (b) medicinal products;
 - (c) alcoholic drinks;
 - (d) infant formulae or follow-on formulae;
 - (e) a food or drink high in fat, salt or sugar;
 - (f) gambling services.
- (3) This paragraph applies to—
- (a) a programme that has been produced or commissioned by the provider of the television programme service in which it is included, or by a person connected with that provider, and that is not a film made for cinema; and
 - (b) a programme that has been produced or commissioned by any other person with a view to its first showing taking place in a television programme service which is provided by a person under the jurisdiction of the United Kingdom for the purposes of the Audiovisual Media Services Directive.

Conditions applying to product placement

7. (1) These are the conditions referred to in paragraph 2(b).
- (2) Condition A is that the programme in which the product, service or trademark, or the reference to it, is included is—
- (a) a film made for cinema;
 - (b) a film or series made for a television programme service or for an on-demand programme service;
 - (c) a sports programme; or
 - (d) a light entertainment programme.
- (3) Condition B is that the product placement has not influenced the content or scheduling of the programme in a way that affects the editorial independence of the provider of the television programme service in which the programme is included.
- (4) Condition C is that the product placement does not directly encourage the purchase or rental of goods or services, whether by making promotional reference to those goods or services or otherwise.

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- (5) Condition D is that the programme does not give undue prominence to the products, services or trade marks concerned.
- (6) Condition E is that the product placement does not use techniques which exploit the possibility of conveying a message subliminally or surreptitiously.
- (7) Condition F is that the way in which the product, service or trade mark, or the reference to it, is included in the programme by way of product placement does not—
 - (a) prejudice respect for human dignity;
 - (b) promote discrimination based on sex, racial or ethnic origin, nationality, religion or belief, disability, age or sexual orientation;
 - (c) encourage behaviour prejudicial to health or safety;
 - (d) encourage behaviour grossly prejudicial to the protection of the environment;
 - (e) cause physical or moral detriment to persons under the age of eighteen;
 - (f) directly encourage such persons to persuade their parents or others to purchase or rent goods or services;
 - (g) exploit the trust of such persons in parents, teachers or others; or
 - (h) unreasonably show such persons in dangerous situations.
8. (1) This paragraph applies where the programme featuring the product placement has been produced or commissioned by the provider of the television programme service in which it is included or by a person connected with that provider.
- (2) The condition referred to in paragraph 2(c) is that the television programme service in which the programme is included signals appropriately the fact that product placement is contained in a programme no less frequently than—
 - (a) at the start and end of such a programme; and
 - (b) in the case of a television programme service which includes advertising breaks within it, at the recommencement of the programme after each such advertising break.

Minor definitions

9. In this Schedule—
 - “connected” has the same meaning as it has in the Broadcasting Act 1990 by virtue of section 202 of that Act;
 - “film made for cinema” means a film made with a view to its being shown to the general public first in a cinema;
 - “follow-on formulae” has the meaning given in Article 2 of Commission Directive 2006/141/EC on infant formulae and follow-on formulae and amending Directive 1999/21/EC;
 - “infant formulae” has the meaning given in Article 2 of Commission Directive 2006/141/EC on infant formulae and follow-on formulae and amending Directive 1999/21/EC;
 - “medicinal product” has the meaning given in section 130 of the Medicines Act 1968;
 - “prescription-only medicine” means a medicinal product of a description or falling within a class specified in an order made under section 58 of the Medicines Act 1968;

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“producer”, in relation to a programme, means the person by whom the arrangements necessary for the making of the programme are undertaken;

“programme” does not include an advertisement;

“relevant provider”, in relation to a programme, means—

(a) the provider of the television programme service in which the programme is included; and

(b) the producer of the programme;

“residual value” means any monetary or other economic value in the hands of the relevant provider other than the cost saving of including the product, service or trademark, or a reference to it, in a programme;

“significant value” means a residual value that is more than trivial;

“tobacco product” has the meaning given in section 1 of the Tobacco Advertising and Promotion Act 2002;

“trade mark”, in relation to a business, includes any image (such as a logo) or sound commonly associated with that business or its products or services.]

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