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Decision 220 of 24 February 2011 on the Code of regulation for the audiovisual content

10.05.2012



Replaced Decision 187/2006

National Audiovisual Council Decision no. 220, dated February 24th, 2011 regarding the Regulatory Code of the Audiovisual Content

Text in force since July 28th 2011 The present text has been updated by Lex Expert in keeping with the legal provisions for the modifications of the text, published by the Official Gazette of Romania, PART I, till July 28th 2011

Whereas the National Audiovisual Council (NAC) holds the role of warrant of the public interest, as well as that of unique regulatory authority in the field of audiovisual programmes;

Persuaded that freedom of speech and the ensurance of unrestricted access

to all information of public interest are the essential basis of a democratic society, providing for a high protection level of general interest objectives, particularly of those for minors' protection and for the protection of human dignity,

Having regard to the fact that the exertion of the right to free speech encumbers duties and responsibilities, Persuaded that freedom of speech is the essential basis of a democratic society and consequently the audiovisual press must benefit of special protection,

Persuaded that freedom of speech cannot prejudice the dignity, honour, private life of the person and the right to one's own image,

Taking into account the National Audiovisual Council's obligations to establish regulations on the protection of children, the defence of human dignity, the exertion of the right to reply, the ensurance of correct information and of pluralism, the cultural responsibilities of audiovisual media services providers, as well as those regarding audiovisual commercial and non-commercial communications,

Taking into account the National Audiovisual Council responsibilities established by the law to provide for, the protection of the physical, intellectual and moral development of children, audiovisual commercial communications included, in the audiovisual programmes

Convinced that all minors' protection measures adopted must be correlated with the fundamental right to the freedom of expression as established in the EU Fundamental Rights Charter and that the purpose of such protection measures, such as parental control systems or program labelling provide for an adequate level of children's protection regarding their physical, intellectual and moral development,

Specially interested in the upbringing and the education in the spirit of the democratic values and ideals, as proclaimed by the United Nations Convention on children's rights and the European Convention of Human Rights, convinced that audiovisual media services providers under Romania's jurisdiction comply with the ban of disseminating pornography,

Taking into account the National Audiovisual Council obligations and those of the audiovisual media services providers to protect the fundamental human rights and liberties in general, and the fact that the non-observance of these rights may be prejudicial to public interest,

Taking into account the necessity to observe the principles of free competition, of protection of the life, health, security and economic interests of consumers, as well as of the environment,

Taking into account the obligations of the audiovisual media services providers to inform the public by correct and impartial presentation of facts and events as well as the National Audiovisual Council obligations to ensure the observance of pluralist expression of opinions and ideas and the pluralism of the sources of information for the public,

Taking into account the fact that audiovisual media services must be

provided for the persons with disabilities, for the elderly by means of sign language, subtitling, audio-description and other technical facilities provided by digital technology,

Having in view the minimum requirements within the EU member states regarding the European audiovisual productions, considered a means for promoting European Works and independent productions,

Taking into account the development of new advertising techniques in the European television sector, compatible with the provisions of **DIRECTIVE 2010/13/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL** of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive),

Taking also in account the fact that the evolution in the commercial and in the technological fields provide the public with wider choice opportunities in using audiovisual media services,

Considering the necessity to regulate audiovisual commercial communication for medicinal products, medical treatments and food supplements,

Considering the legal ban of any audiovisual commercial communication for medicinal products and medicinal treatments available only upon medical prescription as well as the need to establish stricter conditions and effective control of advertising for alcoholic products,

Taking into account the negative effects of drug and alcohol consumption, on minors as well as society in general, and the fact that this is an issue of public interest,

In keeping with the provisions of art 17, par (1) letter d), of the Audiovisual Law no. 504/2002 with all further alterations and completions,

the members of the National Audiovisual Council adopt the following:

Title I

General provisions

ART. 1

Within the meaning of the present Regulation Code, further mentioned as the Code, the following terms and phrases hold the following significance:

- a) broadcasting – the public offer of audiovisual programmes within a radio, TV or on demand media service; broadcasting also includes communication of signs, signals, texts, sounds, information, messages of any nature, within an audiovisual media service.
- b) minor – a person under the age of 18;
- c) obscene audiovisual work – images, sounds, speech, immoral or indecent gestures or behavior, licentious, sexually explicit or induced behavior, that

by their meaning offend common sense as well as any other form of indecent manifestation.

d) audiovisual fiction – audiovisual artistic works that fit into cinematographic, radio and TV category, cartoons, dramatic works and musical-dramatic works, choreographic and pantomime works or musical clips.

(2) Definitions as per Art. 1, para (1) in the Audiovisual Law no 504/2002, with further modifications, is also applicable. Law no 504/2002 shall be mentioned here forth as the Audiovisual Law.

(3) If the content of the prevision does not otherwise specify, the provisions of the present Code are applicable to programmes broadcast by TV and radio services, as well as to those provided by an on demand media service, also called video on demand.

Title II

Protection of minors

Chapter 1

Respect of minors' rights in audiovisual programmes

ART. 2

Audiovisual media service providers shall respect the principle of superior interest of the minor.

ART. 3

(1) The minor has the right to the protection of his public image, his intimate, private and family life.

(2) The terms under which the minor can participate in an audiovisual program shall take into account the age specific sensibility, vulnerability in general and the minor's personality, in particular.

(3) The right of the minor to his private life and private image prevails over the need for information, especially in the case of a minor in a difficult position.

(4) The minor can not be used or exposed in the audiovisual productions by his/her parents, relatives, legal representatives, lawyers or other persons responsible for the growth and care of in order to obtain any kind of advantages or with a view to influencing the decisions of public authorities.

ART. 4

(1) Broadcasting of any clues that might lead to the identification of a minor aged under 14 years, when he/she has been a victim of sexual abuse or is accused of committing offences or was witness to perpetrating of offences, is prohibited.

(2) Broadcasting of images or declarations of the minor aged under 14, when he/she has been victim of offences other than the situations as per

para (1) or was subject of psychological or physical abuse, is possible only with the consent of the minor and the written consent of parents, or as the case may be, of the legal representative of the minor.

(3) In the case where the minor under 14 years was submitted by its parents or by the legal representatives to psychological or physical abuse, broadcasting of images or declarations is possible only with the written agreement of the minor as well as of the parent who is not the author of the abuse, of the person in whose care the minor is or, by case, of the authority responsible with the minor's protection.

ART. 5

(1) Broadcasts of programmes featuring minors aged less than 14 to reenact offences, abuses or dramatic events, shall be prohibited.

(2) Audiovisual media service providers shall not broadcast interviews, declarations taken to a minor under 14 in connection with dramatic events in the community or family he/she witnessed.

ART. 6

(1) The minor aged between 14 and 16 years who is accused of committing offences, or who is victim of an offence or is physically, psychologically or sexually abused, may be shown in news programs, debates or TV reports only if the following cumulative conditions are met:

- a) his/her written consent;
- b) his/her parents or legal representatives previous consent in writing ;
- c) in case of criminal investigation or arrest, during the transmission or recording, if assisted by a parent or by a legal representative, respectively by the lawyer.

(2) In case of a minor aged between 16 and 18 years, accused of committing offences, his/her written agreement and his/her assistance by lawyers is needed, when the minor is under criminal investigation, arrested or imprisoned.

(3) In case the minor aged between 16 and 18 years is victim or witness to offences or has been physically, psychologically or sexually abused, the following are necessary: a) his/her explicit agreement; b) upon the minor's, the parents' or the legal representative's request, elimination of any element that may lead to his/her identification.

ART. 7

(1) The minor, the parents or the legal representative shall be informed about their rights before being filmed or recorded.

(2) Participation of a minor less than 14 old in audiovisual programmes, other than cultural events and sports competitions, is possible only with the consent of the latter, the parents' consent or, by case, the consent of other legal representative.

ART. 8

(1) Within news, debates or reporting programmes it is prohibited to broadcast images or photos of the body of a deceased minor.

ART. 9

(1) The broadcast of programmes aiming mainly at exploiting the physical aspect of the minor or exposing him/her in hypostasis unsuitable to his/her age is prohibited.

(2) After 22.00 hrs broadcasters licensed in Romania are forbidden to broadcast live shows in which minors under 14 participate, except for cultural and sports events.

(3) Broadcasters are compelled to broadcast, in the main news programme, in prime time, within 24 hours, the data of missing or kidnapped minors that are received from police departments.

(4) In the case of the national alert/kidnap/disappearance of a minor, the broadcasters with a general or news remit shall broadcast by request and under the terms agreed with the authorities in charge., information on the disappeared or kidnapped minors.

ART. 10

Audiovisual media service providers shall not air interviews and declarations of the minor on intimate or family problems or he is asked to comment on issues beyond his/her judgment capacity.

ART.11

It is prohibited to make any pejorative mention to or to discriminate regarding the ethnic origin, nationality, race or religion of the minor as well as a possible handicap.

Chapter 2 Programme classification in view of the protection of minors**ART. 12**

(1) Audiovisual programmes that may seriously impair the physical, mental or moral development of minors, shall be aired only if a conditional access system restricts its viewing.

(2) If appropriate conditional access device is lacking, the programmes mentioned at para (1) is only allowed in the time span that allows it according to its classification, depending on its content.

ART. 14

In the case of media services available by request, the programmes that may impair the physical, mental or moral development of minors may be provided only if adequate parental control systems are in place that restrict minors' access to normally viewing or hearing the respective programming.

ART. 15

(1) Before the broadcast of a programme that falls in the category provided under Art. 13 broadcasters are bound to inform the public on the type of programme, its characteristics and reasons to restrict its viewing.

(2) Broadcasters are bound to request that radio and TV programmes are published with appropriate marking as provided in the present Code.

(3) The obligation to inform as per para (1) is valid also for EPG of on demand media service providers.

ART. 16

(1) It is prohibited to broadcast, audiovisual programmes that encourage drug consumption.

(2) In news and report programmes it is prohibited to show drug consumption details.

(3) cinematographic works containing drug consumption scenes, shall be broadcast only after 22.00 hrs.

ART.17

1) Between 6.00-22.00 hours programmes other than fiction containing details or reenactment of murder/suicide or self/mutilation, or criminal techniques, or demonstrations or important details on occult practices shall not be broadcast.

2) In dramatic situations, broadcasters shall not show images taken at the place where the tragedy occurred or images that show suffering of family members or of persons close to the victim and the family.

ART. 18

Shall not be broadcast between 6.00-23.00 hours works featuring:

- a) physical, psychic or language violence repeatedly;
- b) sex scenes or, obscene language or behavior;
- c) persons in a degrading position;
- d) wrestling unregulated by national or international sports federations.

ART. 19

(1) The criteria of classification of programmes broadcast are meant to ensure the minors' protection and to inform the public on their content.

(2) The broadcasters and on demand media service providers hold the responsibility for classifying audiovisual productions, according to the following criteria:

- a) the number and the nature of violent scenes, as well as their gratuitous or indispensable character, in connection with the genre and the subject of the audiovisual production;
- b) the use and role of violence for solving problems;
- c) the manner in which images depict violent scenes, the shooting plan, the realism of the presentation, the role of the sound track in generating fear or anguish;

- d) the context in which drugs and alcohol consumption is presented;
- e) the number and the nature of nude scenes, the representation of sexual intercourse;
- f) the characters' psychology and the moral milestones that are offered to minors and teenagers;
- g) the heroes' typology, the aim of their actions, the degree of resorting to violence;
- h) the presence and the role of minors in scenes of violence;
- i) presentation of women in degrading hypostasis;
- j) the number and the intensity of domestic violence scenes;
- k) the quality and typology of language;
- l) the genre or theme of the programme.

ART. 20

For the classification of audiovisual fiction works, the audiovisual media service providers shall be also guided by the classification established by the producer, or as the case may be, by the classification under which the film was broadcast in other countries, while avoiding the less restrictive and singular marking.

ART. 21

The categories into which the audiovisual productions are classified according to criteria in Art. 19, para (2) are the following:

- a) programmes accessible to all categories of audience, without any restrictions or warning signs,
- b) programmes that may be viewed by minors aged under 12 only with the parents' permission or together with the family, further on named 'AP';
- c) programmes prohibited to minors under 12, further on named "12";
- d) programmes prohibited to minors under 15, further on named "15";
- e) programmes prohibited to minors under 18, other than pornographic audiovisual productions, that are prohibited to the public under 18 in the USA and in the European Union states are prohibited to public under 18, further on named "18": horror or erotic movies, extremely violent movies, programmes sponsored by the producers of alcoholic drinks;
- f) programmes prohibited to minors, pornographic films or programmes whose main aim is to present in detail sexual intercourse or the means to satisfy sexual needs, or programmes presenting real-life sexual activity, irrespective of the shooting manner, shall be further on named "18+" programmes.

ART. 22

(1) Programmes "AP" shall be broadcast marked with a warning sign consisting of a white circle within which AP (Parental agreement) stands written in white letters on a transparent background.

(2) The warning sign shall measure at least 30 pixels in SD format,

respectively 60 in HD format.

ART. 23

(1) Programmes "12" shall be broadcast only after 20:00 hrs accompanied by a warning sign consisting of a white circle within which stands the digit 12 written in white letters on a transparent background.

(2) The warning sign shall measure 30 pixels in standard format, respectively 60 in HD standard.

ART. 24

(1) Programmes "15" shall be broadcast only between 22.00 – 6.00 hours and shall be permanently accompanied by a warning sign representing a white circle with a white number 15 inside on a transparent background.

(2) The warning sign shall measure 30 pixels in standard format, respectively 60 in HD format.

ART. 25

(1) The programmes "18" shall be broadcast only between 24.00 – 6.00 hours and shall be permanently accompanied by a warning sign representing a white circle having inside a white number 18 on a transparent background.

(2) The warning sign shall measure 30 pixels in standard format, respectively 60 in high definition standard.

ART. 26

The corresponding warning sign shall be exposed for the entire duration of the programme.

ART. 27

(1) The programmes "18+" shall not be broadcast or retransmitted by media service providers under the jurisdiction of Romania.

(2) The on demand audiovisual media service providers may retransmit "18+" only between 1, 00 -5,00 in the following cases:

a) encoded within optional packages dedicated to adults, in analogical system;

b) restricted by parental control system, in digital system.

(3) The programme services 18+ may be provided only by request, in packages containing such programming and without conditionality to buy other service packages.

(4) The service packages containing 18+ programmes shall not be sold under more advantageous financial terms than the other service packages.

(5) The parental control system provided under para (2), letter b) shall satisfy the following minimal requirements;

a) It shall allow access to programmes and programme services restricted to minors only on the basis of a personal code composed of 4 digits; the digits shall not be visible on the screen while introducing them;

- b) the parental control system shall be perfectly synchronized with the programmes in this category, shall be active for the whole period when these categories of programmes are provided and access must be blocked again in any situation in which the viewing context is modified (the schedule is modified, the reception system switches to sleeping mode, the decoder or the access card changes, the system is switched on again);
- c) in the usage instructions the service provider must explain, simply and clearly, the functioning of the parental control system, the necessity of the personal access code and of the preservation of its confidentiality;
- d) when starting the receiving system, the service provider must establish, together with the subscriber, the personal access code for each of the programmes forbidden to minors; it is recommended to avoid the code <<1234>> or a code formed with the same repeated number.

ART. 28

Broadcasting of promotional announcements for AP, 12, 15 and 18 category programmes shall be made by using the appropriate warning sign.

ART. 29.

- (1) News and current affairs programmes shall observe the requirements for minors' protection and for family viewing
- (2) In case of broadcasting violent scenes or with possible negative emotional impact it is compulsory to verbally inform the public; broadcasters shall avoid repeated presentation of violent scenes within the same audiovisual production.
- (3) Sequences presenting people being executed, killed or volunteering to die, irrespective of their motivation, shall be broadcast only in well-justified cases.

Title III

Respect of human dignity and the right to one's own image

ART. 30

Audiovisual media service providers are compelled to respect the fundamental human rights and freedoms, the private life, to honor and reputation, and the right to a person's own image.

ART. 31

In the sense of the present code, any problems, facts or events which influence a community or society, are considered of justified public interest in particular on:

- a) the prevention or probation of committing a fact with criminal incidence;
- b) the protection of health or public safety;
- c) reporting false allegations or cases of incompetence that may concern the public.

ART. 32

(1) No right conferred by law can be exercised in an excessive and unreasonable manner, contrary to good faith in order to harm or defraud another person or taking advantage of the ignorance or good faith of the people.

(2) The interest of the public should not be satisfied at any cost; the mere reference to the right to information cannot justify the violation of private life.

(3) The right to one's own image should not hinder finding the truth in issues of justified public interest.

ART. 33

(1) Any person has the right to the respect of his/her private and family life, of his/her residence or correspondence.

(2) Information regarding the address of a person or of their family as well as their phone numbers cannot be disclosed without their permission; the use of personal data is allowed under the terms of special law.

(3) Broadcasting of news, debates, audiovisual inquiries or coverage that constitutes a break in the private and family life of a person without his/her consent is prohibited.

(4) The situations that meet the following cumulative conditions are excepted from the provisions of para (3):

- a) the existence of a justified public interest;
- b) the existence of a significant and clear connection between the person's private and family life and a justified public interest.

ART. 34

(1) Everyone is entitled to their own image.

(2) Broadcasting the image or voice of a person situated in a private area without his/her written consent is prohibited.

(3) Broadcasting of interior images of a private space without the written consent of the person who lawfully occupies it is prohibited.

(4) The situations in which the images broadcast catch facts that present a justified public interest are excepted from the provisions of para (2) and (3).

ART. 35

Broadcasting of calls or images recorded by hidden microphones or cameras is prohibited. Except the case where recordings thus obtained could not be made under normal circumstances and the content may hold a justified public interest.

ART. 36

(1) Audio and/or video recordings made for entertainment programmes, including the "candid camera" type, can be broadcast only with the

cumulative observance of the following conditions: a) the persons subject to filming or recording give their written consent for broadcasting; b) shall not generate irritation or pain or put the person in risky or degrading situations.

ART. 37

The images recorded by hidden cameras are broadcast while permanently accompanied by a graphic sign symbolizing a camera, according to the model as per annex 1 of the present Code.

ART. 38

Broadcast of telephone conversations recordings or showing the mail obtained from confidential sources or that are not sufficiently verified as credible, is allowed only if it presents a justified public interest and is accompanied by the point of view of the person concerned.

ART. 39

In case of situations foreseen in art. 33 para (4), art. 34 para (4), art. 35, art. 38 and whenever a justified public interest to broadcast audiovisual works that may affect the rights and fundamental freedoms of a person is invoked, the broadcast should be accompanied by a point of view of the person in question; in case the person refuses to present a point of view, the broadcasters are required to specify this.

ART. 40

(1) Based on the right to their own image, in case accusations are inflicted upon a person through audiovisual programmes regarding illegal or immoral facts or behaviors, proof should be brought and the accused persons have the right to intervene to express their point of view; if the accusations are brought by the media service provider, the principle "audiatur et altera pars" must be observed; in the situation when the person concerned refuses to present a point of view, this fact should be stated.

(2) The moderators of the programs have the obligation to strongly request the speakers to bring proofs to accusations or, at least, to indicate the proofs that support the accusations, in order to allow the public to assess how justified are the charges.

(3) The moderators of the programs have the obligation not to use and not to allow the guests to use insulting language or to instigate to violence.

(4) The use in bad faith of the name, image, voice or likeness to another person is prohibited in audiovisual programs.

(5) In the audiovisual programmes, any pejorative references to elderly or disabled persons or placing them in ridiculous or humiliating situations are prohibited.

ART. 41

- (1) The audiovisual media service providers shall not broadcast:
- a) images of persons as a victim without the latter consent;
 - b) images of deceased persons or persons lacking discernment without the family consent;
 - c) images that exploit or underline a person's traumas or traumatisms. Are excepted humanitarian cases, but their broadcast is subject to consent of the person concerned or his/her family.
- (2) In case of witnesses to a crime, upon their request, the broadcast of the images shall ensure full protection of their identity.

ART. 42

- (1) It is prohibited to broadcast images or recordings of persons in pretrial detention, criminal investigation, arrested or imprisoned, without their written consent, considering that any person accused or investigated for a crime is presumed innocent as long as he/she has not been convicted by a final criminal decision.
- (2) Within audiovisual programmes shall not be offered rewards directly or indirectly, shall not be made promises of getting a reward to persons that might be witnesses in law courts.

ART. 43

- (1) Broadcasters shall avoid to prejudice the right to a fair trial or the legitimate interest of any of the parties in causes that are being judged or under investigation, by making commentaries or viewpoints of their own or from guests, including the respective parties' lawyers.
- (2) Broadcasters shall not air shows produced or moderated by persons accused or convicted where legal issues related to personal cases that are under investigation or brought to the court of justice, are being debated.
- (3) Broadcasters shall not air shows produced or moderated by active members of the lawyers' bar where cases that are under investigation or brought to the court of justice, are being debated.

ART. 44

- (1) Recordings made and provided to audiovisual media service providers by police or judicial authorities shall not be broadcast, irrespective of their medium, without prior consent of the victims of crimes, without consent of their family or, where applicable, without the consent of the person's legal representatives.
- (2) The identity of persons that are victims of offences linked to the sexual life shall not be disclosed in any way; are excepted the cases where the victims gave their written consent, in terms of compliance with the identification limits set by the respective agreement.

ART. 45

- (1) Any person has the right to respect of his/her privacy in trying

moments, such as an irretrievable loss or a misfortune.

(2) In the cases of human suffering, of natural disasters, accidents or acts of violence, audiovisual media service providers are compelled to respect the image and dignity of persons in such situations.

ART. 46

(1) Broadcast of audiovisual information and / or images of persons under treatment in healthcare centers as well as of personal data regarding the state of health is allowed only with the consent of the person or in case the person has no discernment or is deceased, the consent of the family members or persons legally in charge of the person.

(2) Audiovisual media service providers are compelled to respect the dignity and the anonymity of persons with psychological issues.

(3) Are excepted from the provisions of para (1) and (2) cases of justified public interest.

ART. 47

(1) It is prohibited to broadcast within audiovisual programmes any anti-Semitic or xenophobic manifestation.

(2) It is prohibited to discriminate in any way on the basis of race, religion, nationality, sex, sexual orientation or ethnicity.

ART. 48

Apologetic presentation of crime and abuse by nazi and communist totalitarian regimes, of authors of crimes and abuses of these regimes, as well as denigration of their victims is prohibited in audiovisual programmes.

Title IV

The right of reply and of rectification

Chapter I

The procedure for the exercise of the right of reply and of rectification

ART. 49

Any natural or legal person, whose legitimate rights or interests were damaged by an assertion of incorrect facts in an audiovisual programme, benefits by a right of reply.

ART. 50

(1) A right of reply cannot be requested in the following situations:

- a) when opinions and judgments of value were made, or for expressing opinions and value judgments;
- b) when broadcasters did abide by the principle "audiatur et altera pars";
- c) when a reply to a reply is requested;
- d) when the broadcaster answers to accusations made by a person, on condition that the rights or the legitimate interests of a third party are not

prejudiced.

(2) Abiding by the principle "audiatur et altera pars" involves undiscriminating conditions of expression, within the same programme.

ART. 51

(1) Any natural or legal person, whose rights or legitimate interests were damaged by inaccurate information in an audiovisual programme, benefits by a right to rectification

(2) The rectification cannot be formulated in case the inaccuracy of the information is not obvious and significant.

ART. 52

(1) The person who considers himself or herself damaged by an assertion of untrue facts or incorrect information in an audiovisual programme, further named applicant, can ask the broadcaster the re-viewing or re-listening of the programme in cause within at the most 15 days from its broadcast.

(2) The broadcaster has the obligation to ensure the access to re-viewing or re-listening the audiovisual programme within 24 hours from receiving a written request either directly, inside the head office of the broadcaster, or indirectly, by providing a video or audio copy, as the case may be.

(3) In case the applicant is a minor under the age of 14, the request for re-viewing or re-listening the audiovisual programme shall be signed by her/his parents or legal representative; for the minor aged between 14 and 18 years, the request shall be signed by her/him and parents or legal representative.

(4) The minor shall be assisted, upon re-viewing or re-listening, by his parents or by the legal representative.

ART. 53

(1) Within at most 15 days from the broadcasting date of the programme during which the damaging was made, the applicant of a right of reply or rectification shall forward a written request to the head office of the broadcaster that transmitted the incriminated programme, containing, as the case may be, the following:

- a) his or her name and address, telephone number or any other means by which they can be rapidly and effectively contacted;
- b) the programme title and the date of broadcast;
- c) the incorrect facts for which the right of reply is requested or the incorrect information for which the rectification is requested;
- d) the motivation of the request;
- e) the text of the reply, which shall refer only to the contested incorrect facts.

(2) In case of a minor under 14 years, his/her parents or legal representative shall sign the request; for the minor aged between 14 and 18 years, he/she and the parents or legal representative shall sign the

request.

ART. 54

(1) The request of the right of reply/rectification shall be registered by the broadcaster with the precision of the date and time of the reception and the applicant shall be provided a written proof in this sense.

(2) In the case the broadcaster refuses to register the request, the applicant can address directly the National Audiovisual Council, further named the Council, within at most 30 days from the broadcasting date of the programme during which the damaging was made.

ART. 55

The broadcaster may deny the right of reply or to rectification in the following situations:

- a) the request was not sent within the term and conditions stipulated in Art.53;
- b) the broadcaster is in possession of evidence proving the truth of the presented facts, or, as the case may be, one of the conditions stipulated in Art. 50 and Art. 51 is fulfilled;
- c) the text of the reply is much longer than the right of reply necessitates and the damaged person refuses to shorten the text.

ART. 56

(1) Within 2 days from receiving the request, the broadcaster has the obligation to communicate in writing to the applicant both the day and hour of broadcasting the right of reply or rectification, or the motivation for the refusal.

(2) The motivated refusal shall bindingly specify the possibility of the applicant to address the Council within at most 30 days from broadcast of the programme that produced the damage.

ART. 57

(1) The right of reply shall be broadcast free of charge, without any comments of the broadcaster, within at most three days since the date of the approval of the request, in the same conditions in which the legitimate rights or interests of the person were damaged: during the same time span, during the same programme, with the same duration and shall specify the programme in which the damaging took place.

(2) If the next show of the programme in which the damaging took place is scheduled after more than seven days since the day of the approval of the request, the right of reply shall be broadcast in a term of at most three days, in the same time span and with the specification of the programme in which the damage was caused.

(3) The right of reply is exercised by the broadcast of a direct address by the damaged person or by the broadcast of a recording made by the

applicant or by the broadcaster; the recording made by the applicant must correspond to the technical standards used by the broadcaster.

(4) In case the applicant agrees, the right of reply can be broadcast also in the form of a written text.

ART. 58

(1) The right to rectification is exercised by the broadcast free of charge, within at most three days since the request has been approved, during the same time span, of a material by which the broadcaster corrects the incorrect information that caused the damage, while mentioning the programme during which the incorrect information was presented and the date of the broadcast.

(2) The form of the rectification shall be previously agreed with the damaged person.

Chapter II

Notifications addressed to the National Audiovisual Council

ART. 59

The applicant whom the broadcaster refused the right of reply or to rectification may address the National Audiovisual Council within at most 30 days since the broadcast of the programme which caused the damage.

ART. 60

The registry office of the Council shall register the notification, accompanied by the entire documentation concerning the request for the exercise of the right of reply or to rectification.

ART. 61

The Council shall pass a decision on the notification within 7 days since its registration.

ART. 62

In case the Council decides to approve the applicant's request, the broadcaster shall carry out the decision of the Council within 3 days since the date of the communication of the decision.

ART. 63

The granting of the right of reply or to rectification does not prevent the person whose legitimate rights or interests were damaged to address a court of law.

Title V

The insurance of pluralism and of the correct information of the public

ART. 64

(1) Under the public fundamental right to information, the audiovisual

media service providers are compelled to respect the following principles:

- a) providing a clear distinction between facts and opinions;
- b) the information regarding a fact or an event shall be correct, verified and presented unbiased and in good faith.

(2) If the information submitted is found to be significantly flawed, the audiovisual media service provider shall make the necessary adjustments in the shortest time and in similar broadcasting conditions.

(3) In case the information comes from confidential sources or its credibility is insufficiently verified, this fact shall be mentioned explicitly.

ART. 65

The broadcasters shall observe the following rules during current affairs and news programmes:

- a) rigor and precision in wording and presentation of news;
- b) that a real connection shall exist between the presented subject and the images accompanying the comment;
- c) The titles and texts displayed on the screen shall reflect the better essence of facts and data presented;
- d) in case of broadcasting reenactments, this fact shall be mentioned clearly
- e) in case of presenting records originating from external sources, this fact shall be specified/mentioned;
- f) when asserting hypothesis or relations of causality regarding the occurrence of potential catastrophes, the viewpoint of a public authority empowered shall be required;

ART. 66

(1) In news and debates programmes, the information regarding public interest issues, with political, economic, social and cultural character shall observe the following principles:

- a) to ensure fairness, equilibrium and to encourage free formation of opinions by presenting the main opposite viewpoints during the period of public debate over certain issues;
- b) to avoid any form of discrimination.

(2) The presentation of the main opposite viewpoints shall be ensured, as a rule, during the same programme, or exceptionally, in the following programmes; when those requested refuse to present their viewpoint, this fact shall be specifically mentioned; no viewpoint of one of the parties exonerates the producer/moderator of ensuring impartiality.

ART. 67

Presenters and moderators, in exercising their right to express opinions or views about topics of public interest, must ensure a clear separation of facts and opinions and should not take advantage of their constant appearance in programs in a way that would compromise the fairness

requirements.

ART. 68

Broadcasters are not allowed to broadcast current affairs programmes presented or moderated by politicians who hold public functions or dignity or spokesmen of the public institutions, as well as persons public nominated to candidate or who have public announced their intention to candidate for local, parliamentary or presidential.

ART. 69

(1) In news programmes the broadcasters must ensure a balanced presence of representatives of government and opposition, taking into account the weight of parliamentary parties, the importance of the issues under discussion and, where appropriate, the representation of local party.

(2) In the debate programs, the number of representatives of government and opposition participating to the debate programs shall be the same.

ART. 70

Within news programmes and debates on public interest matters on ethnic, religious or sexual minorities shall be presented their point of view.

ART. 71

(1) The public opinion polls which are presented shall be accompanied by the following information:

a) who requested the public opinion poll and the name of the organisation that made this public opinion poll;

b) the date or the lapse of time of the making of the poll and the methods used;

c) the sample size and the maximum sampling error.

(2) Irrespective of the manner in which the public is questioned, telepolls or their own surveys (such as vox pop), organized and presented by the media service provider, shall observe the following rules:

a) shall not offer rewards to the respondents;

b) shall not infringe the provisions of art. 30;

c) within the public invitation to participate in telepoll or survey, as well as to the presentation of results, the broadcasters shall broadcast the words "telepolls / survey is not representative for public opinion and does not have the value of a survey", legibly displayed for at least 5 seconds, according to art. 94.

(3) In case of invocation the responses from the public on a particular topic, the broadcasters will mention the total number of messages received by any means of communication used.

(4) The communication within a programme of the telephony services appeal numbers must comply with para (1) a) and c), para (2) and (3) and the provisions of art. 94.

ART. 72

The broadcasters shall specify the political position of the persons who express their viewpoints within issues of public interest.

ART. 73

It is prohibited to broadcast audiovisual works where serious illness is presumably healed by conventional or non-conventional treatment, if diagnosis and medical proof has not been certified by the Council of Medical Doctors in Romania or similar foreign institutions.

ART. 74

The information broadcast in kidnapping and hijack cases shall not prejudice the success of the efforts made for solving the problems and shall not endanger the lives of the people involved.

ART. 75

(1) Reporting disasters or collective tragedies shall be done with decency and discretion, without inducing panic.

(2) Broadcasters shall not unnecessarily repeat the presentations of shocking images.

(3) Broadcasters are required to present the position expressed by the empowered public authorities;

(4) Broadcasters shall not reveal the identity of victims until to its official communication.

ART. 76

(1) The information and official statement issued by public authorities regarding disasters, the state of emergency or of siege, shall be transmitted in full and with priority.

(2) The decree instating the state of siege or of emergency is broadcast on radio and television channels within two hours of its signing and repeatedly in the first 24 hours from the instating of the state of siege or of emergency.

(3) Information regarding the state of siege or emergency – excepting that related to disasters – is made public only with the approval of the military authorities.

(4) During states of siege or emergency the broadcasters are obliged to broadcast with priority the messages issued by military authorities, upon their request.

ART. 77

(1) The broadcasters that communicate data, information, warnings and weather prognosis to the public are compelled to specify the source of information.

(2) Radio and television public services shall repeatedly inform the public,

on warnings regarding dangerous meteorological phenomena.

ART. 78

(1) It is compulsory to present the logo of the television programme service during the entire duration of broadcasting, except for the time allocated to advertising.

(2) Any live broadcast shall be permanently accompanied by the "Live" logo.

(3) During replay, the words "Replay" shall be mentioned throughout its broadcast, except for cinematographic works.

(4) The broadcasting of archive images and / or sound recordings will be made by mentioning the date of the shooting or recording or by mentioning "Archives".

(5) The broadcast as live transmission of recorded programmes is not allowed.

(6) Broadcasters are required to inform the public if the music performance is play back.

ART. 79

Audiovisual media service providers shall ensure, gradually, before 1 January 2015, accessibility to the main TV news programme for people with hearing disability.

ART. 80

Audiovisual media service providers are compelled not to use in programmes audio and video subliminal electronic or digital impulses, that can influence the public.

ART. 81

Broadcasters shall respect the programme they announced; situation of force majeure are excepted.

ART. 82

In case of the broadcast of a sports competition, except for UEFA and FIFA competitions, audiovisual media service providers shall permanently show on screen the competitors, the score and the minute of the game.

Title V

Cultural responsibilities

ART. 83

Media audiovisual service providers have the obligation to ensure respect of the orthographic, ortoepic and morphologic rules of Romanian language, as established by the Romanian Academy.

ART. 84

Audiovisual media services must reflect the diversity of the Romanian and European culture.

ART. 85

Broadcasters under Romanian jurisdiction are obliged to ensure, for each television programme, compliance with the following requirements:

- a) to reserve for European works, as defined in Art. 1¹ of the Audiovisual Law, minimum 50% of the transmission time, except for the time allotted to news, sports events, games, advertising, as well as teletext and teleshopping services.
- b) to reserve at least 10% of the transmission time or at least 10% of their budget allotted to the programmes for the European works created by independent producers, except for the time allotted to news, sports events, games, advertising, as well as teletext and teleshopping services.
- c) respect of the programme structure, as approved by the Council.

ART. 86

Shall be excepted from the provisions of Art. 85 letter a) and b) the television service programmes that fulfill simultaneously the conditions stated below:

- a) cover a potential audience of up to 3% of the censused population of the country;
- b) do not broadcast feature films and TV series;
- c) the content of the programme service is of an exclusive local interest.

ART. 87

The provisions of Art. 23 of the Audiovisual Law regarding the promotion of European audiovisual works shall be adequately implemented in the on demand media services, according to their specific features.

ART. 88

Broadcasters under Romania's jurisdiction shall forward half-yearly a report to the Council, according to the model in annex 2, which is part of the present code.

Title VI

Interactive programs, gambling and gaming

ART. 89

(1) Gambling services may be broadcast in an audiovisual program or may be subject of an audiovisual commercial communication only if they have been authorized under the terms of the Law.

(2) It is forbidden to broadcast gaming programs that offer any kind of prizes by making use of telephone services or any other systems of telecommunication, television or radio, that set conditions with a view to gaining financial advantages as a consequence of the answers provided to

the questions addressed to the public, which imply a participation fee.

(3) Audiovisual programs providing gambling services shall comply with minors' protection conditions, stipulated in Chapter 2, "Audiovisual Program Rating for the Protection of Minors", Title II "Minors' Protection".

(4) Gambling cannot be inserted in programs addressed to children and it is not allowed to incite them to take part in such programs, either.

(5) Gambling programs shall comply with the rules of correct information of the public and the regulations for taking part in gambling games shall be clear and shall be brought to public attention adequately.

(6) At the beginning and during the program, the public shall be adequately informed by audio or visual means about the type of game, the participation and the tariff conditions, access conditions and prize award.

(7) Prior to scheduling game broadcasting programs, the audiovisual media services providers shall inform the Council regarding the main data in the license according to which the respective game is organized.

(8) It is forbidden to pressure the public by persistently asking the public to take part in the game.

ART. 90

(1) The following types of interactive programs cannot be broadcast:

a) those in which the public resorts to wizards and to fortune tellers or to other activities which are forbidden by the law;

b) those in which the prizes offered consist of products and services for which the audiovisual commercial communication is forbidden by the law.

(2) The presentation and the offer made to the public for medical advice and treatment, that have not been approved by the College of Physicians shall be forbidden.

(3) Interactive erotic programs shall be forbidden.

ART. 91

(1) Interactive competitions may be broadcast in audiovisual programs on condition that the following criteria are all being complied with:

a) their main purpose is to gain loyal listeners/viewers, to entertain, to educate the public;

b) they are broadcast only in entertainment or education programs or are broadcast as gaming programs;

c) they do not imply a direct or dissimulated participation fee, such as value added telephone services;

d) comply with the rules of correct information of the public;

e) the gains or the prizes are awarded in keeping with a set of rules which have brought to public knowledge.

(2) Except for the trade mark and the value of the products and services offered as prizes during an interactive gaming, description of their quality shall be forbidden.

(3) Cultural products and services shall be exempt from the provisions in

par(2).

(4) It is forbidden to offer money prizes and presents which are unsuitable to children during interactive gaming addressed to them.

ART. 92

(1) Communication of phone numbers during a program with a view to inviting the audience to take part in a gambling game or in an interactive gaming shall comply with the following requirements:

a) to provide the audience with clear information regarding the fee charged for each time unit, including value added tax and as the case may arise all other premium taxes;

b) to inform the public properly regarding the conditions and the means of getting the prize awarded, including possible supplementary costs;

c) in case the tariff is automatically charged since the moment the number is dialed (no answer call), this should be periodically mentioned to the audience both in a written and an oral form.

(2) During television program services, the tariff charged by the telephone company providing services shall be presented in a legible form during the entire period the phone number is on screen, by using identical size figures.

(3) During sound radiobroadcasting program services, the tariff charged by the telephone company providing services shall be presented immediately after the telephone number, so that it can be clearly heard by the listener.

(4) During prize gamings in which normally a phone call is longer than 3 minutes, the public shall be informed under similar conditions to those applied for phone tariff charged, stipulated in par. (2) and (3).

Title VIII

Audiovisual Commercial Communications

Chapter 1

General Provisions

ART. 93

(1) Audiovisual commercial communications, irrespective of type and duration, shall comply with the principles for minors' protection, those of the correct information of the public, of respect for human dignity, and those of providing for a fair competition among competitors;

ART. 94

For the purpose of correct information, any piece of information or warning in an audiovisual commercial communication shall be broadcast in such a way that it is clearly perceived by the public, particularly by providing for the following aspects:

a) it shall be in static, legible, and for a time lapse that allows the information to be broadcast like a videotext with minimum 17 pixels standard letter-size/32 pixels high definition format ;

b)the message shall be read at a normal reading speed.

ART. 95

For the purpose of the present title, the term reminder is used for the short version of an advertising clip that fulfills all the conditions below:

- a)it is a part, a sequence and/or completion of the same advertising campaign for a certain product or service produced within the frame of the same audiovisual media service;
- b)it reminds to the audience elements of the message presented in the main spot of the advertising campaign;
- c) its duration does not extend to more than 10 seconds.

ART. 96

(1)Commercial communication for erotical phone calls as well as for products and services with a sexual purpose shall be forbidden.

(2) Commercial communication for publications, movies or for erotical shows shall be broadcast under the same conditions as those stipulated for programs rated „18“.

(3) It is forbidden to broadcast any kind of commercial communication or promotional material for pornographic products.

Chapter 2

Sponsorship

ART. 97

(1) Whenever an audiovisual program is sponsored, this must be clearly identifiable to the audience as such.

(2) Sponsorship announcements, mentioning the sponsorship agreement shall be kept clearly separate from advertising. They shall present only the sponsor's name, trade mark, the image, the activity or products and shall not directly encourage purchase or hiring of the products or services, especially by promotional special references to the sponsor's products or services or to a third party.

(3)The sponsorship announcement may be made only by:

- a)verbal and/or written reference;
- b) graphical insert;
- c) split screen.

(4) The term graphical insert is used with the meaning of the representation, whether static or moving, with or without sound, of the trade mark, as this is defined by law, of the logo or of another symbol by means of which the sponsor or the image of a significant of the sponsor becomes identifiable.

(5) The graphical inserts or the split screen must not impair upon the editorial integrity of the program; the split screen shall mention the wording "Sponsor/Sponsors" during the entire time it is broadcast.

(6) The announcement regarding the sponsor broadcast inside the program shall not surpass 30 seconds during every 30 minute-period of scheduled program.

(7) Should representatives of the sponsor attend the sponsored program, references made to the sponsor shall not surpass the limit of 30 seconds for each sponsor.

(8) Should an audiovisual program be sponsored by several sponsors, the broadcaster has to mention all the sponsors at least at the end of program.

(9) The sponsor's announcement must not make any reference to the advertising or to the product placement broadcast in connection with the sponsor's products or services.

(10) In the case of self promotion of sponsored programs, the sponsors' trade names may be mentioned at the end of the self promo spot for max 5 seconds.

(11) The self promotion announcement made for a sponsored program that mentions the sponsors' trade names may be broadcast for maximum 5 times a day.

ART. 98

(1) News programs and programs on political debates shall not be sponsored.

(2) No audiovisual program may be sponsored by tobacco undertakings/manufacturers.

(3) Programs sponsored by companies having the name or trade mark identical with the name or trade mark of an alcoholic drink shall not be broadcast during the period 6 a.m.- 10 p.m.

(3) No audiovisual program may be sponsored natural or legal persons whose main activity is the manufacturing or trading of products or the providing of services whose advertising is forbidden.

ART. 99

(1) The name of a program must bear no connection with the name of name, trade mark or image of the sponsor.

(2) Children's programs cannot be sponsored by undertakings or natural persons unfolding activities in manufacturing or selling alcoholic drinks, medical products, medical treatments, food supplements or by companies organizing gamings and competitions that are forbidden for children.

Chapter 3

Product Placement

ART. 100

(1) 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 program, in

return for payment or for similar consideration.

(2) Programmes containing product placement shall be appropriately identified at the start and the end of the programme, and when a programme resumes after an advertising break, by the reference, "This program contains / has contained product placement" as well as by the 30 pixels symbol "PP" using white colour on a black background, in a legible way for minimum 5 seconds.

(3) The reference in par.(2) will be eliminated after a six-month period since the present code comes into force.

(4) Product placement does not exclude sponsorship and/or broadcasting advertisements for the same products or services during the same program if the provisions in art. 97 par. (9) and other conditions stipulated by the Audiovisual Law are complied with.

Chapter 4

Advertising and Teleshopping

Section no. 1

General Provisions

ART. 101

Any kind of promotion in favour of products or services suggesting or inciting the public to give up similar or identifiably similar products or services is forbidden.

ART. 102

(1) Advertising that does not comply with legal provisions shall be forbidden.

(2) Advertising for liberal professions shall comply with the ethical codes regulating the respective professions.

ART. 103

(1) It is forbidden to broadcast other programs than teleshopping programs in which separate products or services are identifiable to the public by trade mark, undertaker or by other means of trading.

(2) These restrictions do not refer to the name of the undertakings manufacturing goods or providing services, or to cultural products and services.

ART. 104

Advertising and teleshopping using misleading or aggressive techniques shall be forbidden.

ART. 105

(1) Advertising and teleshopping referring to a special offer shall mention, clearly and beyond any doubt, the period during which the respective offer is valid and during which the special price is valid, or any other specific

conditions, or as the case may arise, the fact that the offer refers only to goods and services available in stock.

(2) Should the advertising refer to promotional competitions, the period during which the competition takes place and the competition rules shall be made clear to the public.

ART. 106

(1) Television advertising shall be kept clearly distinct from other parts of the program by optical and/or acoustic means by neutral spacing.

(2) An advertising break may include only one self promotion set of announcements.

(3) For the purpose of the identification and separation conditions stipulated in par.(1), advertising spots and teleshopping shall be broadcast abiding by the following rules :

a) advertising breaks shall be kept clearly distinct from other parts of the program by optical and/or acoustic means by neutral spacing with the mentioned reference "Advertising" ;

b) telepromotion shall be clearly signalled by optical and/or acoustic means and shall be accompanied by the reference "Advertising" during its entire broadcasting time, shown legible using the 30 pixels standard definition format, 60 pixels high definition format for 5 seconds;

c) the written form of the wording in par. b) will be eliminated after a six-month period since the date the present decision comes into force and will be replaced by the symbol "P", shown on screen under the same legible conditions.

d) advertisements and teleshopping programs featuring persons presenting news and current affairs shall be forbidden.

Section no. 2 **The Split Screen**

ART.107

(1) Split screen advertising shall be broadcast in compliance with the following cumulated conditions:

a) to be clearly separated from the editorial content by splitting the screen and broadcasting advertising spots in a window which is distinct from the editorial one; in order not to alter the content of the main program, the window for broadcasting advertising shall not surpass the size of the editorial window;

b) to be readily recognizable by the reference, „Advertising" shown on screen during the entire time it is broadcasted;

(2) It is forbidden to broadcast advertising :

a) simultaneously on two or more split screens

b) on the crawl.

(3) Split screen advertising is prohibited in the following categories of

audiovisual programs:

a) children's programs;

b) news programs and those dedicated to political debates;

(4) Time allotted for split screen advertising shall comply with the provisions of the 12 minute rule.

Section no.3

Virtual Advertising

ART. 108

(1) Virtual advertising may be broadcast only during sports or cultural events or exhibitions/fairs in compliance with the following cumulated conditions:

a) organizer's approval and the approval of rights' holders;

b) it shall not impair upon the event integrity, value and/or the specificity;

c) viewers shall be informed in regard of the use of this advertising procedure, when starting to broadcast the event and after each break, by using the reference, "this programs includes virtual advertising", presented in a legible way during a period of time of at least 5 seconds;

(2) During sports events, virtual advertising shall be inserted on the playground while the game unfolds, during the breaks and after the end of the game. It may also be inserted on hoardings around the ground which the organizer provided for advertising purposes.

Section no.4

Exceptions – The Isolated Spots

ART. 109

(1) Radiobroadcasters may broadcast graphic inserts during sports events in compliance with the following cumulated conditions:

(a) if the graphic inserts is inserted only when is made the announcement for the replacement of a player or when the score is announced;

(b) an insert shall not be longer than 10 seconds, and the entire broadcasting time dedicated to inserts during a sports event shall not surpass two minutes;

c) the graphic inserts shall be placed above or below the area dedicated to broadcasting information stipulated in point a) without surpassing the size of this area;

(2) The size, transparency and area for inserting the graphic inserts shall be chosen so that they do not impair upon the integrity and the value of the sports event.

ART. 110

(1) Isolated advertising spots may be broadcast during television programs only if the available breaks adequate for inserting such spots between the

parts of a program, such as the breaks in a game of box or a tennis game, are very short.

(2) The isolated advertising spot shall be broadcast in compliance with the following cumulated conditions:

- a) it shall not surpass 30 seconds;
- b) it shall be marked during the entire time it is broadcast by the visible capital letter "P" sized 30 pixels standard format and 60 pixels high definition format and placed on the bottom right side of the screen;

ART. 111

Radiobroadcasters may broadcast minispots during sports events in compliance with the following cumulated conditions:

- a) the minispot shall not last longer than 10 seconds;
- b) maximum two minispots may be broadcast during each half;
- c) the minispots shall be broadcast during the natural breaks of the sports event;
- d) during the time the minispots are broadcast, the sign "P" sized 30 pixels, inserted in a circle on a transparent surface shall be visibly shown on the bottom right side of the screen.

ART. 112

(1) Only as an exception, it is possible to broadcast an isolated spot on television programs during the time lapse from 8 p.m. to 6 a.m. in other situations than those stipulated by art. 110, the rules for inserting advertising in audiovisual programs having to be complied with.

(2) The isolated spot shall be broadcast during the time lapse from 11p.m. till 6 a.m. if the advertising is made for spirit drinks.

Section no. 5

Advertising for Spirit Drinks

ART. 113

(1) It is forbidden to broadcast any kind of a advertising for spirit drinks from 6 a.m. till 10 p.m.

(2) For the purpose of the present code, spirit drinks are those defined by the Regulation of the European Union in force.

ART. 114

The broadcast of advertising spots for alcoholic drinks featuring minors is prohibited.

ART. 115

It is prohibited to broadcast self promotional announcements or competitions that include references to the name or trademark of a distilled alcoholic beverage; it is also prohibited during competitions to offer prizes sponsored by companies manufacturing such beverages.

ART. 116

Advertising blocks that promote spirit drinks shall end with the following audio and visual warning "Excessive consumption of alcohol seriously impairs health ."

Section no. 6**Advertising for foods****Art. 117**

Advertising for food shall comply with the following requirements:

- a) it shall not encourage immoderate consumption of food;
- b) it shall not suggest the audience to give up eating fruit, vegetables or other kinds natural food;
- c) it shall comply with the provisions stipulated by Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods as well as with the national legislation provisions in force.

Art. 118

In case advertising for juices and refreshing drinks is illustrated with fruit/vegetables the amount of fruit/vegetables the product contains shall be clearly mentioned in percentages.

Art. 119

(1) In case for manufacturing food only flavors of fruit/vegetables are used, it is prohibited to illustrate the product characteristics by images representing fruit.

(2) In case only synthetic flavors are used, this shall be mentioned verbally and in written form in advertising spots by using the reference, "tasting like" or, as the case may arise, " with....flavouring... ."

ART. 120

(1) Under the prospect of derogations stipulated by community legislation and national legislation for natural mineral waters and foods for special nutrition purposes, information regarding foods shall neither assign them prophylactic, treatment and curative characteristics nor shall evoke such characteristics in connection with them.

(2) Food shall not be endowed with characteristics it does not have;

(3) Advertising for food addressed to minors shall not use celebrities, famous persons or physicians. Advertising for food addressed to minors is defined in keeping with the self regulations code of the Romanian Advertising Council, the treasurer of the EU Pledge of advertising for foods addressed to children.

(4) During advertising blocks promoting foods radiobroadcasters shall alternatively insert one of the following caution messages:

- a) „Enjoy a healthy life by eating fruit and vegetables daily.”
- b) „Enjoy a healthy life by having 30 minutes daily exercise.”
- c) „Enjoy a healthy life by drinking daily two 2 liters of drinks.”
- d) “Enjoy a healthy life by having the main meals of the day.”
- e) “Enjoy a healthy life by avoiding immoderate consumption of foods high in fat, sugar and salt.”

(5) All caution messages in par.(4) shall be broadcast alternatively during an entire, day, each such message being inserted at the end of an advertising block in every given hour broadcast from 6 a.m. till 10 p.m. During the periods in which broadcasters transmit a noncommercial spot recommended by the Council, radiobroadcasters may give up transmitting the messages mentioned in par. 4.

Section no. 7

Advertising for Medicinal Products, Nutriment and Foods with Special Nutrition Purpose

ART. 121

For the purpose of the present code, advertising for medicinal products means any type of promotion destined to stimulate distribution, consumption and sale of medicinal products and medicinal devices.

ART. 122

(1) Advertising and teleshopping for medicinal products and medical treatment available only on prescription shall be prohibited;

(2) Audiovisual commercial communications approved by the National Agency of Medicinal Products and Medicinal Devices may be broadcast in compliance with the provisions of Chapter 8, „Advertising” and Chapter 9 „Information of the Public” of the Law no. 95/2006 concerning reform in the field of health.

3) Audiovisual programs on health topics will not allow for recommendations for medicinal products identified by mark, trade name, for drugstores, medical treatment, consulting rooms providing medical care activities or dental care activities, irrespective of their form of organization.

ART. 123

Advertising and teleshopping for medicines containing narcotic or psychotropic substances shall be forbidden.

ART. 124

(1) Advertising for medicinal products in audiovisual media services will compulsorily provide the following information:

- a) the (trade) name of the product;
- b) the common name of the product in case it has a single active ingredient;

- c) the therapeutic purposes (which diseases may be cured by the respective medicinal product)
 - d) the following sonorous warning " This is a medicinal products. Read the prospectus carefully".
 - e) the written warning stipulated by art.800 in the Law no. 95/2006 with its further modifications and completion, concerning reform in the field of health.
- (2) By derogation of the provisions in par. 1, the reminder shall include at least the written warning mentioned in par.1, point d).
- (3) The warning message mentioned in par.1, point d) shall be broadcast under those conditions which may provide a clear understanding of the message, by means of a normal, unaccelerated pronunciation.
- (4) The warning message mentioned in par.1, point d) shall be broadcast under the conditions stipulated by art. 94.

ART. 125

It shall be forbidden to broadcast advertising and teleshopping for general use products that imply approval or medical recommendation; hygiene products shall be exempted.

ART. 126

- (1) It is forbidden to broadcast advertising and teleshopping for medicinal products and for medical treatment or for nutriments presented or recommended by well known personalities in the field of public life, culture, science, sports or by other persons who, due to their fame may encourage consumption of such products or use of such treatments.
- (2) It is forbidden to broadcast advertising and teleshopping for foods addressed to children, for nutriments, medical products and for treatments recommended or approved by doctors or chemists.
- (3) It is forbidden to broadcast advertising and teleshopping for medicinal products and medical treatment or for nutriments if the presentations include recommendations or approvals made by medical associations.

ART. 127

- (1) It is forbidden to broadcast advertising for medicinal products and treatments or nutriments during children's programs or during advertising breaks preceding or following such programs.
- (2) Undertakings manufacturing or distributing products and medical treatment or nutriments may not sponsor programs or broadcasts for children.
- (3) Advertising and teleshopping for products and treatments of a sexual nature or for breast growing cannot be broadcast during the time lapse from 10 p.m. – 6 a.m.

ART. 128

Therapeutic references regarding the following diseases in advertising and teleshopping is forbidden :

- a) tuberculosis ;
- b) sexually transmitted diseases ;
- c) other severe infectious diseases ;
- d) cancer and other tumorous diseases ;
- e) chronic insomnia ;
- f) diabetes and other metabolic diseases.

ART. 129

Advertising for medicinal products shall not make any reference which :

- a) gives the impression that medical advice or surgery are not necessary, especially by suggesting remote diagnosis or treatment.
- b) suggests the fact that healing by means of the respective medicinal product is guaranteed or that the effect is better or equivalent to that of another treatment or medicinal product or treatment;
- c) suggests the fact that the health condition may be improved by administration of the respective medicinal product;
- d) suggests that health condition may be altered without certain medicinal product administration; this does not apply to vaccination campaigns which comply with the provisions in art.799, par.4 of Law no. 95/2006 with its further modifications and completions;
- e) addresses exclusively or especially to minors;
- f) suggests that the medicinal product is a nutriment, a cosmetic product or any other general use product;
- g) suggests that the medicinal product safety and efficiency is due to the fact that it is a natural one;
- h) leads to wrong self assessed diagnosis based on a detailed description or presentation of a certain case;
- i) provides under inappropriate, alarming and misleading terms guarantees regarding curing effects;
- j) uses inappropriate, alarming and misleading terms, visual representations of human body changes caused by diseases or injuries or actions of other medicinal products against the human body or parts of it.

ART.130

(1) Shall be forbidden advertising and teleshopping for herbal products and treatments that, as the case may arise, are not accompanied by the sound or written warning:

- a) "Product medically not certified"
- b) "Method medically not certified"

(2) Advertising and teleshopping for homoeopathic products will compulsorily include the warning: "This is a homoeopathic product. Read carefully the prospectus / the information on the package."

(3) The warning in par.(1) will take maximum 3 seconds and will be

broadcast at the end of the advertising spot; television stations shall broadcast the warning by using both acoustic and visual means.

(4) In the case of the reminder, the text in par.(2) will be presented under those conditions that provide for a clear understanding of the message, in keeping with provisions in art. 94.

ART. 131

(1) Advertising and teleshopping for food supplements will compulsorily include the following warning: „This is a food supplement. Read carefully the prospectus / the information on the package.”

(2) The warning in par.(1) will take maximum 3 seconds and will be broadcast at the end of the advertising spot; television stations shall broadcast the warning by using both acoustic and visual means.

(3) In the case of the reminder, the text in par.(1) will be presented under those conditions that provide for a clear understanding of the message, in keeping with provisions in art. 94.

ART. 132

(1) Advertising and teleshopping for foods with special nutrition purpose shall comply with the provisions in the Norms for food with special nutrition purpose.

(2) Advertising and teleshopping for foods used in diets with low calorie value for reducing weight shall not make any mention towards reducing weight, or appetite or increasing the state of being satiated resulting from eating such products, except for those satiety claims in the REGULATION (EC) No 1924/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 December 2006 on nutrition and health claims made on foods.

(3) In case low calories foods and drinks are presented as part of reducing weight diet, mention shall be made of the fact that weight loss is due only partly to a diet that keeps calory comsumtion under control.

(4) Products developed specifically for use in caloric restriction diets, which, according to manufacturer's instructions, replace in whole or in part daily food intake, should be promoted as the "complete diet substitute for weight loss" or "partially substitute food for losing weight".

ART. 133

(1) Advertising and teleshopping, or weight loss products and treatments to maintain body weight should include audio warning and written: "Ask your physician before following the diet.."

(2) The following shall be exempted from provisions of par. (1)

a) medicinal products;

b) foods carrying claims authorized under the provisions of art. 13 para.

(1). c) of Regulation (EC) no. 1924/2006 of 20 December 2006 on nutrition and health claims on foods.

ART. 134

(1) Advertising and teleshopping for products and treatments for reducing or maintaining weight shall meet the following criteria:

- a) to warn the public through a written and / or sound insert concerning the fact that the product is not aimed at children;
- b) to avoid broadcasting such audiovisual commercial communications and telehopping in programs for children or during the advertising breaks preceeding this kind of programs;
- c) to avoid direct addressing to obese people and not to include examples in which would be obese persons speak or appear in person before using the products or services being advertised.

(2) Shall be exempted from the provisions in par. (1) the claims regarding satiety permitted by Regulation (EC) no. 1924/2006 of 20 December 2006 on nutrition and health claims on foods.

Section no. 8
Teleshopping**ART. 135**

(1) Teleshopping programmes represent direct commercial offers broadcast to the public with a view to the supply of goods, including immovable and non-substantial property, rights and obligations, or services, available only by means of a remote contract, in return for payment. -(2) For the purpose of the present Code, by remote contract is meant a contract concluded between a trader and a consumer intended for the provision of products or services, within a trade system organized by the trader, that uses exclusively, before and upon conclusion of the abovementioned contract, one or more distance communication techniques.

(3) The offers broadcast shall comply with the provisions of the Government Ordinance no. 130/2000, concerning consumers' protection when signing and implementing remote contracts, republished with its further modifications and completions as well as with the Government Ordinance no. 85/2004 on consumers' protection for the conclusion and development of remote contracts on financial services, republished with its further modifications and completions.

(4) The wording „Teleshopping” shall be present on screen during the entire time dedicated to this kind of program.

ART. 136

It shall be prohibited for commercial offers to address children directly.

ART. 137

(1) Teleshopping programs shall be readily identifiable as such and clearly separated from other audiovisual programs by means of neutral optical and acoustic windows.

(2) The teleshopping program shall not contain and will not be interrupted by advertising spots.

(3) Teleshopping programs in which the audience is being offered services by wizards or by fortunetellers or any other activities that are forbidden by law shall not be broadcast.

ART. 138

The provisions of art. 137, par. (1) and (2) shall not apply to programme services exclusively dedicated to teleshopping.

Section no. 9

Political Advertising

ART. 139

Political advertising, whether positive or negative, in connection to political parties, politicians, political messages shall be forbidden, except during election campaigns.

ART. 140

(1) During the election campaign, audiovisual media services providers may insert political advertising only in separate and adequately marked blocks.

(2) Political advertising shall be explicitly assumed by means of presentation or content, by the candidates or the electoral competitors.

Section no. 10

Non-comercial campaigns

ART. 141

For the purpose of the present article, the following shall be non-comercial messages:

- a) public interest announcement assumed by a public institution or public authority during an alerting, warning and acknowledging action unfolded under special law provisions, not promoting the image of an institution;
- b) the social campaign unfolded by an association or legally established foundation during an exclusively social activity that addresses the society or the community;
- c) charity appeal under a humanitarian philanthropic activity in support of persons in difficulty; the charity appeal shall specify the person under whose responsibility the donated money and goods have been collected and used.

ART. 142

Non-commercial messages shall not be included in the time allotted to advertising and shall comply with the following cumulated conditions:

- a) messages shall be broadcast free of charge, without any equivalent direct or indirect pending obligation;

b) these messages shall be kept in a separate block from commercial advertising messages and shall be identified between neutral spacing with the reference "Public interest message/messages";

c) these messages shall make no commercial reference; sponsors' logos may be presented only in charity appeals at the end of the spot and must not surpass a cumulated 3 second duration.

ART. 143

(1) Telephone donation programs shall mention at the beginning and at the end the person/persons in charge of collecting and using donated funds as well as this person's contact details.

(2) With campaigns that imply collecting funds from the audience for a certain objective, audiovisual media services providers shall compulsorily inform the public regarding the precise results of such campaigns.

Title IX

Sanctions and Final Provisions

ART. 144

(1) Failure to comply with the provisions of art.16, par(1), art. 27, 47, art. 48, art. 90 par(1) and (3), art.96 as well as decline to implement provisions regarding the right to reply shall be sanctioned in keeping with the provisions of art.90, par.2 in the Audiovisual Law no. 504/2002 with its further modifications and completions.

(2) Failure to comply with the provisions of the other articles as well as the decline to comply with the provisions regarding the right to retort shall be sanctioned in keeping with the provisions of art.91 in the Audiovisual Law no. 504/2002 with its further modifications and completions.

(3) In deciding upon the sanction, the National Audiovisual Council shall take into account the following aspects:

- a) seriousness of the crime and its effects;
- b) previous sanctions received during a period that does not exceed one year and the ways in which the service provider has reported to them;
- c) day of the week and time when the program in question was broadcast;
- d) show duration;
- e) recorded audience;

ART. 145

At the time the present decision comes into force, the National Audiovisual Council Decision no.187/2006 regarding the Code for regulation of the audiovisual content, printed in the Official Gazette in Romania, Part 1, no.338, dated April 14th, 2006 with its further modifications shall be abrogated.

President of the National Audiovisual Council Răsvan Popescu

Bucharest, February 24th, 2011

Annex 1*) is provided in a facsimile form.

Candid camera symbol



Anex1

Picture no. 1 from Lex: Candid camera symbol

Annex 2

Report

Regarding the percentage dedicated to European works during the period.....

The broadcaster's name (holder of the audiovisual license):



Anex2

In the same section

Decision no. 320/2012

05.07.2012

concerning the provision of on demand audiovisual media services

more

The Audio-visual Law

05.07.2012

The Law no. 504 / July 11, 2002 - Law on Radio and Television

Broadcasting, with its further modifications and completions. Text in force as of November 22nd, (...)

more

Directive 2010/13/EU of the European Parliament and of the Council

10.05.2012

of 10 March 2010 - on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (...)

more

The Government of Romania Decision no. 47 dated January 16th, 2003
29.02.2008

regarding major importance events broadcast in television programs

more

Decision no. 113

14.10.2002

Concerning the procedure of granting, modification and withdrawal of
retransmission authorization (adopted on October 14, 2002)

more

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