

Dutch Media Authority Regulations establishing policies concerning the sponsoring of commercial media organisations (Policies sponsoring commercial media organisations 2012)

July 10, 2012

The Dutch Media Authority,

With regard to articles 7.11 and 7.12 of the Media Act 2008,

with regard to article 4:81 of the General Administrative Law,

concludes that:

Article 1 Applicability of the Regulations

The policy stipulations established in these regulations apply to the legal requirements as defined in the annex to this regulation.

Article 2 Definitions

Whenever used in these regulations the following terms have the meanings indicated:

- a. the law: Media Act 2008;
- b. the decree: Media Decree 2008;
- c. leader: the introductory component of a programme;
- d. event sponsor: a natural person or enterprise that has made a financial or other contribution in order to accomplish the realisation of an event.

Article 3 Definition Programme

1. «*Clearly distinguished*», as specified in the definition of «*programme*» in article 1.1, paragraph one, of the law is defined as clearly distinguished from the preceding and the subsequent programme in the programme broadcasts.
2. «*Recognisable*» as specified in the definition of «*programme*» in article 1.1, paragraph one, of the law, is defined as:
 - a. recognisable as a programme by the average viewer, and
 - b. distinct in both nature and content from the preceding and subsequent programme.
3. Everywhere where this ruling, with respect to sponsoring, refers to a programme, this must be considered to include a «*a component of the media broadcast corresponding to a programme*».

Article 4 Programme Broadcast Comprised of News, Current Affairs or Political Information

1. «*Programme broadcast comprised of news or current affairs*» as specified in article 3.15, paragraph two, of the law, is defined as: a programme broadcast that is transmitted frequently, at least once a week, and reports on events no older than seven days.
2. «*Programme broadcast comprised of political information*» as specified in article 3.15, paragraph two, of the law is defined as: a programme broadcast that reports on politicians, (standpoints of) political parties and the political decision-making process.
3. «*Programme broadcast comprised of political information*» as specified in article 3.15, paragraph two, of the law, is not defined as:
 - a. a programme broadcast consisting of a weather report;
 - b. a programme broadcast consisting of traffic reports.

Article 5 Definition of Neutral Reference, Name, Logo, Brand and other Distinctive Sponsor Symbol

1. «*Neutral reference to or depiction of the name, logo or brand*» as specified in article 3.16, paragraph two, under a, of the law, is defined as: a reference or depiction exclusively consisting of the name, the logo or the brand of the sponsor and the rendition in a still frame.
2. In article 3.16, paragraph two, under b, of the law, the following are defined:

- a. name: the legal or trade name of the sponsor, respectively the event sponsor as recorded in the trade register;
- b. brand: a fixed identifying symbol in the form of a word or a combination of letters, numbers or symbols, either designed or not designed in a specific manner, under which the sponsor, respectively the event sponsor, markets his products or services, that distinguish them from similar products or services supplied by others;
- c. logo: a fixed identifying symbol in the form of a shape, image or combination of letters, numbers or symbols that are designed in an original or characteristic manner, that distinguish the products, services or the enterprise of the sponsor, respectively the event sponsor;
- d. another distinctive symbol of the sponsor: another fixed identifying symbol, other than a name or logo in the form of a shape, image or combination of letters, numbers or symbols that distinguish the products, services or the enterprise of the sponsor, respectively the event sponsor.

Article 6 Event Not Intended for Broadcast as a Programme

An event, as specified in article 3.19, paragraph one, of the law, is deemed to not be primarily intended for broadcast as a programme if it would also have taken place if it were not (to be) broadcast as a programme.

Article 7 Negligible Contributions

1. «*Sponsoring of a programme broadcast*» as specified in article 1.1, paragraph one, of the law is not defined as the issue of a non-financial contribution that is not, or not identifiably depicted or referred to in the programme and,
 - a. which was given on loan by a third party; or,
 - b. of which the value is negligible in relation to the overall costs of the production or purchase of the programme, and in no case exceeds € 1000.- per contribution for television and € 200.- per contribution for radio.
2. The reference to or depiction of, at the beginning or at the end of a programme, the name of the party that has provided a contribution, as defined in paragraph one, may exclusively take place when:
 - a. the reference is made in the title credits or, in the event of radio, during the closing of the programme; and,
 - b. the reference consists of no more than the words «*thanks to*» followed by the single (trade) name of the party that has provided the contribution.

Article 8 Contribution by Government Institutions, Media Organisations or (Co-)Producers

1. «*Sponsoring*», as specified in article 1.1, paragraph one, of the law does not refer to the provision of a contribution toward the production or purchase of a programme broadcast by:
 - a. government institutions and other institutions that do not operate as enterprises;
 - b. the media organisation that provides the programme broadcast for which the contribution is given;
 - c. the (co)producer whose regular practice it is to produce audiovisual productions for the programme broadcast for which the contribution is given.
2. Any reference at the beginning or the end of the programme broadcast, of an institution as defined in paragraph one, sub a, is not considered surreptitious advertising.

Article 9 Placement of the Reference to a Programme or Event Sponsor

1. In article 3.16, paragraph three, of the law «*at the beginning or the end*» may be deemed to mean: at the beginning *and* at the end.
2. Reference to or depiction of the sponsor or event sponsor in another place than specified in article 3.16, paragraph three, of the law, is considered surreptitious advertising.

3. A reference to or depiction of a name, logo, brand or other distinguishing symbol of a sponsor in the title or leader or a (part of a) sponsored programme is not considered a sponsor reference as specified in article 3.16, paragraph three, of the law.
4. The reference to or depiction of a name, logo or brand of an event sponsor in the title or leader of a programme, comprised of the report or representation of an event, is deemed not to be meant as surreptitious advertising as specified in article 1.1, paragraph one, of the law, in so far as the reference and the depiction of the title in the programme are not dominant.

Article 10 Sponsor Reference for Public Information Purposes

The public audience shall always be deemed informed, as specified in article 3.16, paragraph one, of the law, if prior to the reference to or depiction of the name, logo, brand or in the cases specified in article 3.16, paragraph two, sub b, of the law, another identifying symbol of the sponsor, the following announcement is made clearly legible or audible:

- a. *«this programme is brought to you by/ with the help of»*; or,
- b. *«this programme is sponsored by»*.

Article 11 Sponsor Name, Logo, Brand or Other Identifying Symbol

1. A reference to the sponsors, as specified in article 3.16, paragraphs two and three, of the law, may include the simultaneous or combined depiction of or reference to the name, logo, brand, or in the instances specified in article 3.16, paragraph two, sub b, any other distinguishing symbol of the sponsor, as specified in article 5 of these regulations.
2. In such references, no more than one name, one logo, one brand or other distinguishing symbol may be used per sponsor.
3. The stipulations of paragraphs one and two is equally applicable to the reference specified in article 3.19, paragraph one, of the law.

Article 12 Prohibited Sponsor Reference

A reference, as specified in articles 3.16, paragraphs two and three, en 3.19, paragraph one, of the law, will yield surreptitious i.e. prohibited advertising where:

- a. qualifications are attributed to a name or a logo or brand;
- b. a payoff is referred to or depicted, promoting the purchase of the sponsor's products or services, particularly through the specific promotion of such products or services;
- c. a recognisable melody is audible, either in full or in part; or,
- d. an address, telephone number or fax number is referred to or depicted.

Article 13 Products or Services in Sponsored Programmes

The public audience may be deemed to have been encouraged by means of specific promotions or otherwise to purchase or rent the products or secure the services as specified in article 3.17, paragraph two, of the law if these products are placed in a promotional context.

Article 14 Final Stipulations

1. These regulations shall come into force on September 1, 2012.
2. The Dutch Media Authority Regulations of August 1, 2005 concerning policies on the sponsoring of commercial broadcasting organisations (Policies Sponsoring Commercial Broadcasting Organisations) will simultaneously be revoked.
3. These regulations will be cited as the Policy on Sponsoring Commercial Media Organisations 2012.
4. These regulations shall be made public by means of publication in the Staatscourant (Dutch Government Gazette) and on the Dutch Media Authority website (www.cvdm.nl).

DUTCH MEDIA AUTHORITY,

Prof. Tineke Bahlmann
Chairman

Prof. Madeleine de Cock Buning
Commissioner

APPENDIX POLICY ON SPONSORING COMMERCIAL MEDIA ORGANISATIONS 2012

Article 1.1, paragraph one, of the Media Act 2008

In this law and the pursuant provisions the following definitions apply:

event: a sports or cultural event that is organised and accessible to the general public;

surreptitious advertising: all instances other than those under the provisions of the law where names, brands, logos, products, services or activities are mentioned or displayed with a presumed primary or secondary advertising objective, with the explicit provision that this objective is deemed present where any such presentation or mention takes place against a financial or similar compensation;

programme: electronic product with video or audio content that is clearly delimited and is identifiably transmitted as such under a specific title;

sponsoring: any contribution made by a public or private undertaking or natural person not engaged in providing audiovisual media services or in the production of audiovisual works, to the financing of audiovisual media services or programmes with a view to realising the production or purchase of media broadcasting, in order to promote or make possible the distribution thereof to the general public or a part thereof;

sports competition: a competition or the preparation for a competition, organised by or under the auspices of an NOC*NSF recognised national sports association and its sectors, or by comparable international associations with or without umbrella organisations or another competition or the preparation for a competition for a sport that has been recognised as such by the NOC*NSF;

Article 3.15 of the Media Act 2008

1. Programme broadcasts are sponsored only in the event that the editorial statutes, as specified in article 3.5, paragraph two, incorporates guarantees for editorial independence of the employees responsible for the creation and compilation of the programme broadcast with respect to the sponsors.
2. Programme broadcasts comprised of news, current affairs or political information shall not be sponsored.

Article 3.16 of the Media Act 2008

1. Viewers shall be clearly informed of the existence of a sponsorship agreement in the event of a sponsored programme broadcast and shall be informed of the identity of the sponsor.
2. This reference shall be made so that:
 - a. between the clock hours of 06.00 AM and 9.00 PM, reference to or depiction of the name or logo or brand of sponsors active in the manufacture or sale of alcoholic beverages shall be neutral; and
 - b. in other cases than specified in sub a, the reference will take place by means of the reference to or depiction of the name, logo or brand or other distinguishing symbol, and the general audience shall not be encouraged to purchase or rent the goods or services of the sponsors.
 - c. For a sponsored programme, the reference will take place at the beginning or end of the programme, and the reference may also take place at the beginning or end of any advertising announcement(s) inserted into that programme.

Article 3.17 of the Media Act 2008

1. A sponsored programme broadcast may:
 - a. refer to or depict products or services provided by sponsors, without prejudice to article 3.2.3A; and
 - b. refer to or depict the name, logo, or brand, products or services of sponsors in the title.
2. References and depictions as specified in paragraph one may not directly encourage the purchase or rental of products or services of the sponsors.
3. The Authority may define further rules for depictions and references in the title, and such rules are subject to the approval by Our Minister.

Article 3.18 of the Media Act 2008

1. In the event that a sponsored programme broadcast was purchased abroad, in which country it was distributed to the general audience, articles 3.15 through 3.17 apply where sponsor contributions are issued for the purchase of the programme.
2. Article 3.16, paragraphs one through three, is of equal applicability in the event that another organisation than specified in the definitions of terms of sponsoring in article 1.1 has made a contribution for the production or purchase of a programme broadcast, in order to promote or facilitate its distribution.

Article 3.19 of the Media Act 2008

1. For a programme broadcast that is comprised of the report or the representation of an event not primarily intended as a program broadcast, the names, logos and brands of those individuals, enterprises or organisations that have provided a financial or other contribution to the realisation of the event may be depicted.
2. Article 3.16, paragraphs two and three, apply equally.
3. Paragraphs one and two do not apply to those situations that are subject to the prohibition of sponsoring pursuant to article 5 of the Tobacco Act.

Article 3.29d of the Media Act 2008

For commercial media services on demand, articles 3.5, 3.5a, 3.6, 3.7, paragraph two, introduction and under a, 3.15 through 3.19c and 3.26 apply equally with the exception of articles 3.16, sub four, and 3.19b, paragraph three, sub b.

ANNOTATION

General

1. With the enforcement of the Media Act 2008 on January 1, 2009 and the implementation of the Audiovisual Media Services Directive (hereafter: AVMS Directive) in the Media Act 2008 as of December 19, 2009, important changes have been made with respect to sponsorship options. The stipulations concerning sponsoring have furthermore been declared almost fully applicable (article 3.29d of the law) to commercial media services on demand.
2. The modified legislation incited the definition of the new Policy on Sponsoring Commercial Media Organisations 2012, to replace the Policy on Sponsoring Commercial Broadcasters 2005 (BSCO), in order to offer insight into the practical application of the modified legislation by the Authority.
3. This Policy on Sponsoring Commercial Media Organisations 2012 will replace the BSCO of August 1, 2005 completely, and the latter will simultaneously expire.

Media Services On Demand

4. With the implementation of the AVMS Directive media services on demand have been brought within the scope of the Media Act 2008. This policy regulates programme broadcasts and comparable media broadcasts. According to the Media Act system, the term 'programme' and in turn, 'programme broadcast' is reserved for broadcast services, i.e. linear media broadcasts. For non-linear media broadcasts, i.e. media broadcasts by media services on demand, the term 'programme' does not apply, but similar components of the media broadcast instead. Therefore, this policy also applies to media broadcasts on demand via channels such as internet. In practice, these media broadcasts will generally be comprised of video: an electronic product with moving image content that is a single entity and is recognisably transmitted as such under a separate title via a media service on demand.

Explanatory Notes per Article

Article 2 (Definitions)

5. De terms used in these regulations are based on the law, in which a number are defined under article 1 of the law. If these regulations use terms that are not defined in the law, these are defined in the terms under article 2 of these regulations.

Article 3 (Definition Programme)

6. Various stipulations from the law and the decree regarding sponsoring use the term programme. Article 1.1, paragraph one, of the law defines programme as: a clearly delimited and identifiable as such electronic product with video or audio content. The two criteria, «*clearly delimited*» and «*identifiable as such*», mean that the programme is clearly distinguished at the beginning and the end from the rest of the programme broadcast, irrelevant of the allowed advertising interruptions stipulated in articles 3.10 and 3.11 of the law.
7. With respect to the interruption of coverage of an event or theatre show, this also follows from article 3.13 of the law.

The criterion «*identifiable as such*» refers to the content and design of the programme. For example, the design of the programme and the manner in which it is presented.

8. In terms of the broadcast of sports events, the pre-game reports, game coverage and post-game reports are considered separate programmes.

Article 4 (Programme Broadcast Comprised of News, Current Affairs or Political Information)

9. Pursuant to article 3.15, paragraph two, of the law, a programme broadcast by a commercial media organisation which consists of news, current affairs or political information may not be sponsored. This article aims to prevent any risk of commercial influence of such programme broadcasts. Programme broadcasts by commercial media organisations that consist of financial news may also not be sponsored, now that it has become clear that financial news is capable of influencing the financial market and the stock market in particular.
10. Weather reports and traffic reports are not subject to commercial influence. Therefore, weather and traffic reports may be sponsored, on the condition that it is brought as a separate programme and not as an item within a news or current affairs programme. Commercial influence is also highly unlikely in terms of sports and cultural news coverage. Programmes that exclusively report on these topics may also be sponsored.

Article 5 (Definition of Neutral Reference, Name, Logo, Brand and Other Identifying Symbols of the Sponsor)

11. According to the Explanatory Notes, sponsor references regarding alcoholic beverages may not be placed in a promotional context between the clock hours of 06.00 AM and 9.00 PM. During this timeframe, sponsor references must be neutral in tone. The Authority considers still frame sponsor references that consist of only the name, the logo or the brand of the sponsor as neutral.
12. Upon the amendment of the Media Act (old) on October 30, 2003 the Dutch phrasing of 'name, trademark, logo or brand' was replaced with 'name, logo or brand'. According to the Explanatory Notes this is only a technical modification. (Parliamentary Papers II 2001/02, 28 476, nr. 3, p. 8 and 11. This modification was not meant as a reference to/ adoption of the Benelux Treaty on intellectual property, but only as a clarification of concerning the applicability of terms.

Article 6 (Event Not Intended to be Broadcast as a Programme)

13. Article 3.19, paragraph one, of the law exclusively applies to an event *«that is not primarily intended to be broadcast as a programme»*. The Authority considers this requirement fulfilled when it can be proven that the event would also have taken place if it was not or will not be broadcast as a programme. In the previous policy regulation, there was also a requirement for the presence of an audience if the event were not to be broadcast. In practice, it has proven difficult to ascertain whether there would also have been an audience present if the event had not been or would not be broadcast. By definition, events are public. Therefore, this requirement has been revoked. This article does not aim to either moderate nor alter the previous regulation. The main issue is that the event is accessible for the general public.
14. Increasingly, events that are broadcast as media broadcasts incorporate elements of interactivity with the user of the media broadcast, such as text, internet or telephone games or voting for participants of the event. If the objective or the course of the event depends on this interactivity, the broadcast is often deemed a linear (live) media broadcast.

Article 7 (Negligible Contributions)

15. Legal history shows that the intention of the legislature was to not include non-financial contributions of negligible significance, without which the programme broadcast would also have been realised and broadcast, in the legal definition of sponsor contributions (see also Parliamentary Papers II 1994/95, 23 752, nr. 5, blz. 5).
16. Therefore, the Authority does not consider non-identifiable contributions that, relative to the total costs of the programme or series of programmes, are of negligible significance and loaned items as sponsor contributions. Non-identifiable contributions are contributions that are not depicted or referred to in the programme, or are depicted and referred to in such a manner that the provider of the contribution may not be derived.
17. Examples of contributions specified in paragraph one of this article are the loaning of clothing, catering, floral arrangements and other minor set dressings/ props. In this respect, the contributions are of low economic value. Negligibility has been further determined in the article as allowing for a maximum value of € 1000 per contribution per programme. For radio programmes, one-fifth of this value has been adopted, i.e. € 200 per contribution per programme. To illustrate: it is prohibited to provide a contribution valued at € 5000 at once for a television series with five episodes. The value of the contribution to a television programme may never exceed €1000. For a series, there is therefore a maximum of €1000 per episode. Without prejudice to the possibility for a(n equal) editorial partnership between a broadcaster and a third party, the free of charge supply of one or more editorial staff members by a third party is considered programme sponsoring, because such a contribution is not negligible. Without this contribution, the programme could not have been realised (in the same manner).
18. Financial contributions, regardless of their size, are never negligible.

19. Reference to the individual who has provided a contribution that is not denoted as a sponsorship contribution, is not allowed in programmes by a commercial media organisation and is considered (surreptitious) advertising by the Authority.
20. Therefore, a company or enterprise that has provided a contribution that is not denoted as a sponsor contribution may only be referred to on the title credits or at the closing of the programme, and only by name (so not a company or enterprise logo or brand) of the company or enterprise. If the individual who has provided the contribution must be identified further, for instance because the sponsorship contribution is provided by a local office of a large enterprise with multiple offices (Hema in Hilversum for example), the name of the principal activity or the place of establishment of the provider of the contribution may be added.
21. Paragraph two prescribes that the reference must be preceded by the announcement «*thanks to*». This aims to improve the information provision to the public (see also explanatory notes to article 12 of this policy). The public must be able to distinguish companies and enterprises that have provided a contribution as specified in paragraph one from sponsors, and must therefore be referred to in a different manner.

Article 8 (Contribution by Government Institutions, Media Organisations or (Co-)Producers)

22. This article basically confirms that a government institution is not considered a sponsor in terms of the law as it is not a government business. For instance, institutes that do not operate a business or enterprise are institutes as specified in article 1.1, paragraph two, of the law. The term «*enterprise*» in article 1.1, paragraph one, of the law is attributed a wide definition and comprises, among others, non-profit organisations, in so far as they participate in any way in the economic marketplace through the supply of goods or services (Parliamentary Papers II 1994/95, 23 752, nr. 5, pg. 6). In this regard, a non-profit organisation that only provides propaganda materials with regard to the organisation or its idealistic activities (e.g. T-shirts and caps that state the name of the organisation) are not considered to participate in the economic marketplace and are therefore not considered to be enterprises in legal terms.
23. The Authority also maintains the premise that organisation in the following categories are not enterprises in the sense of the definition of sponsoring as specified in article 1.1, paragraph one, of the law:
 - Independent administrative bodies (according to civil law)
 - Charitable foundations/funds (with CBF Label, CBF Certificate or CBF Non-Objection Statement);
 - Charitable foundations/funds (without CBF Label, CBF Certificate or CBF Non-Objection Statement), if the statutes show that it is a foundation that is independent of commercial third parties, with independent decision-making processes, defined in regulations, particularly with respect to the attribution of contributions;
 - The permanent national charitable lottery, including the 'sporttotalisator', that have licenses based on the Gambling and Lottery Act;
 - Further non-commercial foundations where the contribution to the programme is funded by government subsidies or other governmental budgets, for a socially relevant, non-commercial objective.

24. Characteristic of these organisation categories is that they pursue socially relevant, non-commercial objectives. In a number of cases they also fulfil government-commissioned or stimulated tasks, as is evident from subsidies or specified budgets. Article 8 also confirms that contributions that are offered at market rate prices to the media organisation that provides the programme or by the (co-)producer that is fully or partially responsible for the production of the programme, may not be considered sponsoring (Parliamentary Papers II 1993/94, 23 752, nr. 3, pg. 8). Reference to the media organisation or the (co-)producer on the title credits or the ending of the programme due to their contribution is therefore unlikely. It is common practice that both are mentioned in their roles as provider and (co-)producer of the programme respectively.
25. The provision of a contribution by a broadcasting organisation that does *not* provide the programme and a (co-)producer that is *not* fully or partially responsible for the production of the programme, can be considered sponsoring. In the event that there is an overlap between media service and (co-)producer, then the rules for sponsoring do not apply because the (co-)producer cannot be considered a sponsor in terms of the law.
26. «*Sponsors of a programme*» also includes the provision of a contribution by a (co-)producer that does *not* normally undertake broadcasting activities or the production of audiovisual productions (Parliamentary Papers II 1993/94, 23 752, nr. 3, pg. 8). This (co-)producer must be named as a sponsor.
27. For the sake of clarity, the rules with respect to sponsor reference in the cases specified under numbers 25 and 26 also apply to these institutions.
28. Without prejudice to the prohibition of surreptitious advertising, institutions specified in article 8 are allowed to refer to the manner in which they supported a charitable cause during the programme. However, this must not be excessive or disproportionate.
29. With respect to article 8, paragraph two, the 'reference at the beginning or the end' is also meant to mean 'at the beginning *and* at the end' and 'immediately preceding or after a programme-interrupting advertising block'.

Article 9 (Placement of the Reference to a Programme or Event Sponsor)

30. Based on the prohibition on surreptitious advertising in article 3.5a, paragraph three, of the law, the programme broadcast of a commercial media organisation may not refer to or depict names, logos or brands if that broadcast institute may be reasonably assumed to intend or partially intend to do so for advertising purposes.
31. Considering the text of article 3.16, paragraph three, in correlation with article 3.19, paragraph two, of the law it is possible to refer to the programme or event sponsor in another place than the beginning or the end of the programme, i.e. at the beginning or the end of the block for the advertising announcement(s) in the programme.
32. It is important that sponsor references do not impede on the strict distinction between editorial and commercial content. If the reference to a programme sponsor is made immediately before or after a programme interrupting advertising block, this strict distinction is deemed in tact. The sponsor reference itself may not serve as a framework for the advertising block.

33. Sponsor references to programme sponsors or event sponsors during the programme that do not meet the requirements as specified in article 13 of this policy, in whatever form, will be considered by the Authority to have been made for (surreptitious) advertising purposes, and are therefore prohibited. This includes announcements such as «*this prize is offered to you by ...*» (see also the notes to article 13 of this policy).
34. The reference to or depiction of the name, logo or brand of a sponsor or event sponsor in the title or leader of a programme is not considered a (sponsor) reference as specified in article 3.16 of the law. The sponsor reference must be made separately and in the appropriate place.
35. With regard to the reference to or depiction of the name, logo, brand, products or services of the sponsor in the title, the Authority has defined further rules based on article 3.17, paragraph three, of the law.
36. Sponsoring and title sponsoring of a portion of the programme is not permitted. A portion of a programme includes, for example, feature items.

The name of a sponsored event often incorporates the name, logo or the brand of the event sponsor. In the event of event coverage, the name of the event may be used in the title of the programme. The Authority has taken the position that the media organisation uses the name, logo or brand of the event sponsor without having the intent to advertise for the event sponsor, where the name, logo or brand of the event sponsor is not overbearing in the title of the programme.

Article 10 (Sponsor Reference for Public Information Purposes)

37. According to article 3.16, paragraph one, of the law, sponsor reference takes place in order to «*inform the public*».
38. Therefore, sponsor references must be assessed in terms of this intent of the law. Consequently, sponsor references may not be overbearing in the event of non-linear media broadcasts. To clarify the term overbearing: the duration of the sponsor reference must be in reasonable proportion to the duration of the requested media broadcast without causing detriment to the intent of the legislature, i.e. that sponsor references are exclusively meant to inform the public, and not meant as an advertising opportunity for the sponsor. The information concerning the identity of the sponsor must be clearly audible or legible for the user of the media broadcast at all times. The term overbearing in this instance does not therefore refer to the screen size of the sponsor reference.
39. For non-linear broadcasts, the sponsor reference must be clearly visible or audible at the beginning or the end of the requested programme broadcast or the audio broadcast. A general reference on a website to a link where video and audio can be used is not deemed sufficient in this respect.
40. In its Explanatory Notes, the legislature has therefore indicated for article 52h of the Media Decree (old) that the reference or depiction must consist of no more than an announcement such as «*this programme component was (partly) made possible by ...*» followed by the name or logo of the sponsor(s) (Stb. 1992, 334, pg. 25).

41. Announcements such as «*with thanks to*», «*with the help of*», «*this programme is offered to you by* », «*in collaboration with* » or «*programme participation*» do not sufficiently communicate the fact the programme is sponsored. These announcements do not unequivocally state that the programme is sponsored, and that the individual who has contributed is a sponsor. Therefore, such announcements are not permitted.

Article 11 (Sponsor Name, Logo, Brand or Other Identifying Symbol)

42. According to article 3.16, paragraph two, under b, of the law (sponsor) reference takes place by means of the depiction of the name, logo, brand or other identifying symbol. Where the regulation phrases use «*or*» this also includes the situation where more than one of the given instances are presented simultaneously (see Instructions for the application of the policy, Instruction 63). Name, logo, brand or other identifying symbols may be referred to or depicted together or in combination with one another, as long as this is not done in a promotional manner. This entails the reference to or depiction of no more than one name, logo, brand or other identifying symbol (or combination thereof) at once. Name, logo, brand or other identifying symbol also includes audio logos.

Article 12 (Prohibited Sponsor Reference)

43. Article 12 of this policy specifies in which cases a sponsor reference meets the legal definition of surreptitious advertising or advertising message. This list does not serve as limited. The reference to products or services of a sponsor on a billboard must also take place in compliance with article 3.16 of the law. This also extends to the reference to company buildings or means belonging to the sponsor, in addition to the design of the billboard. Reference to an internet address is permitted.

Article 13 (Products or Services in Sponsored Programmes)

44. Based on article 3.17, paragraph one, of the law a sponsored programme may depict or refer to products or services of a sponsor, where the public is not encouraged to purchase or rent those products or services by means of specific promotion. This article of the law is only applicable to products or services of a sponsor. Reference to or depiction of products or services of others than the sponsor will be directly assessed in terms of the prohibition of surreptitious advertising.
Depiction of the products or services of the sponsor must be «*neutral*», and may therefore, similarly to sponsor references, not be placed in a promotional context.
45. A promotional context includes:
1. *Providing sales information*,
This includes the depiction of or reference to:
 - prices of products /services;
 - sales points, etc.;
 2. *an appeal or an endorsement*,

3. *an overly emphasised or excessive reference or depiction*, this includes:
- overly emphasised broadcast references to/ depictions of products and services;
 - extensive or repeated broadcast descriptions and depictions of/references to products and services;
 - zooming in or out on a product or service;
 - full screen depiction of products or services;
 - insufficient distinction between the programme and (allowed) advertising messages;
 - the subjective attribution to the product or services of positive qualifications;
4. *the use of publicity materials of the sponsor*.
46. It is also not permitted to state or show in the programme who has provided the products or services (e.g. prizes). This includes announcements such as «*this prize is offered to you by ...*». The brand name of the provided prize may be mentioned in a neutral fashion during the awarding of that prize. In the event of the awarding of a service instead of a product as a prize, such as a trip, the name of the enterprise that has provided the service may be mentioned in a neutral fashion, e.g. «*you win a Philips television*».
47. Specific endorsements are not permitted. This does not include the neutral reference to the specific characteristics of a product or service. Therefore, it is possible to provide objective and factual information, as long as this is not linked to subjective positive qualifications.