
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations relate to the implementation of Directive [2007/65/EC](#) of the European Parliament and of the Council amending Council Directive [89/552/EEC](#) on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities⁽¹⁾. These Regulations insert new provisions into the Broadcasting Act 1990 (“the 1990 Act”) and into the Communications Act 2003 (“the 2003 Act”).

Regulation 2 inserts paragraph (fa) into section 319(2) of the 2003 Act. That paragraph includes product placement requirements in the standards objectives mentioned in that section.

Regulation 3 inserts provisions into section 321 of the 2003 Act to add product placement to the general provision OFCOM must include in the standards set by them to secure the objectives in section 319(2)(fa). The regulation also inserts provision requiring OFCOM to consult the Secretary of State about the forms and methods of product placement that should not be employed in a television programme service. The Secretary of State is able to give OFCOM a direction in respect of those matters.

Regulation 4 amends section 324 of the 2003 Act so that OFCOM’s duty under that section to consult on the draft code required by that section extends to proposed standards for product placement.

Regulation 5 amends section 325 of the 2003 Act so that the conditions of a licence granted by OFCOM for a television programme service must secure compliance with the requirements of their standards code, or which go beyond that code, so far as it relates to product placement.

Regulation 6 inserts a definition of product placement into the 2003 Act.

Regulation 7 inserts a definition into section 368H of the 2003 Act to make clear that, in that section, “programme” does not include an advertisement.

Regulation 8 substitutes for the definition of “children’s programme” in section 368R of the 2003 Act a definition identical to that contained in paragraph 3 of Schedule 11A to the 2003 Act.

Regulation 9 inserts Schedule 11A into the 2003 Act which contains detailed provision about product placement. Paragraph 1 of that Schedule defines the meaning of “product placement” and “product placement”. Paragraphs 3 to 6 contain prohibitions which apply to all product placement while paragraph 7 sets out particular conditions. Paragraph 8 imposes signalling requirements for product placement if that paragraph applies. Paragraph 9 sets out minor definitions.

Regulation 10 inserts provisions relating to product placement and the Welsh Authority into the 1990 Act and the 2003 Act.

An impact assessment of the effect that this instrument will have on the costs to business and the voluntary sector is available from the website of the Department for Culture, Media and Sport (www.culture.gov.uk). It is also annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website.

(1) Directive 2007/65 EC OJ No L 332, 18.12.2007, p.27 amending Directive [89/552/EEC](#) OJ No L 298, 17.10.1989, p.23 as amended by Directive [97/36/EC](#) OJ No L 202, 30.7.1997, p.60.