



ÚDARÁS
CRAOLACHÁIN
NA hÉIREANN

BROADCASTING
AUTHORITY
OF IRELAND

BAI Draft General Commercial Communications Code
Consultation Document

About the Consultation

Introduction to the Consultation

This consultation document is about the Broadcasting Authority of Ireland's ("BAI") *General Commercial Communications Code*. This Code was first introduced in 2010 and it sets down binding rules that Irish radio and television broadcast services must comply with when broadcasting advertising, sponsorship, product placement and other forms of commercial communications. The BAI monitors and enforces compliance with the Code through regular checks on broadcast content and in handling complaints from the public where content appears to have contravened the principles and/or rules of the Code.

The requirement for the BAI to develop this Code is set out in the Broadcasting Act 2009 and this Act requires the BAI to review the effect of the Code every four years. It is for this reason that the BAI undertook and completed a review of the Code in 2015. On foot of this review, the BAI has updated our current Code and we are now seeking your views on the changes that we are proposing. The changes are detailed in the *Draft General Commercial Communications Code* ("the draft Code") which is included in this document.

Below is a brief overview of the development of the draft Code and a summary of its contents, including its principles and rules. The BAI invites you to provide your views on the content of the draft Code and we will use the information collected during this consultation to produce a final revised *General Commercial Communications Code*.

How the BAI developed the draft Code

In preparing this draft Code, the BAI undertook a review of the effect of the current General Commercial Communications Code. The review encompassed a number of strands of research including a legal and jurisdictional review of regulation in other countries and an operational review of the current Code. This review was undertaken in 2014 and 2015. As part of the BAI's obligations under the Broadcasting Act 2009, a report on the effect of the Code was submitted to the *Minister for Communications Energy and Natural Resources*. The Minister in turn laid a copy of the BAI's report before the Houses of the Oireachtas in October 2015.

The draft Code is informed by the conclusions of the review that the current Code is "*broadly effective and its principles respected and understood*", but certain areas require further consideration and modification, such as the rules on sponsorship and the degree to which the public engages with the Code. These issues are addressed in the draft Code in this document.

Content of the draft Code

The draft General Commercial Communications Code is divided into a number of sections, as follows:

1. Introduction

This sets out the legislative basis for this Code and what it aims to achieve for broadcasters, viewers, listeners and the wider public. This section also explains the applicability of the rules to Irish radio and television broadcast services and not to websites, online players or apps. The right of viewers and listeners to make complaints is asserted and guidance on formulating complaints is provided.

2. General Definitions and Exclusions

The terms commonly used in relation to advertising, sponsorship, product placement, teleshopping, etc are defined here. This section also clarifies the types of content that are not required to comply with the Code or be counted as advertising minutes. This is important because there are time limits on the amount advertising permitted per hour and per day.

3. Principles of the Code

There are four general principles that apply to all commercial communications whether they are advertising, sponsorship, product placement or other types of commercial communications. The principles deal with ensuring commercial communications are legal, decent, honest and truthful and protect the interest of children.

4. Rules for all Commercial Communications

These are specific rules that flow from the four principles of the Code and they apply to all commercial communications.

5. Advertising and Teleshopping

The rules under this heading deal specifically with advertising and teleshopping and derive, in the main, from the EU Audiovisual Media Services Directive.

6. Split Screen, Interactive and Virtual Advertising Techniques

The rules under this heading deal with specific types of advertising techniques that are different to traditional advertising. Because such advertising techniques are within a programme or alongside it, there are additional risks and the rules in this section of the Code are intended to address these risks.

7. Sponsorship on Television

A key objective of these rules is to ensure that there is a difference between advertising and sponsorship. This is important because there are time limits on the amount of advertising permitted but not for sponsorship. The rules also highlight the difference between sponsorship and product placement.

8. Sponsorship on Radio

The rules under this section are similar to the rules for television. There is a difference between sponsorship and advertising and the rules are intended to offer specific protections to audiences when viewing and/or listening to sponsored content.

9. Product Placement

The rules under this section apply only to television since there is no product placement on radio. Because product placement, unlike advertising or sponsorship is embedded within the story of a programme, a high degree of transparency is required in circumstances where a broadcaster uses this type of commercial communication. The rules also limit the type of programmes where it may be used.

10. Alcohol

The Code includes a number of rules dealing with specific products or services. These rules recognise that additional regulation of these products or services are in the public interest. The first product is alcohol. The rules deal with a number of issues but the protection of children is a core focus of this section of the Code.

11. Medicinal Products

The draft Code acknowledges that there are particular risks associated with the promotion of medicinal products. Such products are strictly regulated at an Irish and European level and Code reflects the extent to which these products are restricted. Amongst the rules included are a prohibition on the promotion of prescription products.

12. Medical Treatments, Devices and Services

As with medicinal products, medical treatments, devices and services are also strongly regulated. Again, the BAI rules reflect this and amongst the rules included in the Code is a prohibition on giving medical treatments, devices and services as prizes in a competition.

13. Cosmetic Treatments, Products and Services

This section of the Code details particular restrictions on the promotion of cosmetic treatments and services. These rules apply to skin care and dental products, amongst others, but also to treatments and procedures such as cosmetic surgery. There are additional restrictions in the case of cosmetic surgery which mean that promotions for this service cannot incentivise the use of surgery by offering discounts or other measures intended to encourage the use of this service.

14. Hypnosis, Hypnotherapy, Psychology, Psychoanalysis and Psychiatry

This section of the Code permits the promotion of services providing hypnosis, hypnotherapy, psychology, psychoanalysis and psychiatry but prohibit the inclusion of any content which might incentivise their use.

15. Food, Nutrition and Health

The rules under this heading of the Code acknowledge that advertising for food products and for products and services making health and nutritional claims must be truthful and responsible. The rules also recognise that this type of advertising is regulated by Irish and European legislation. This section also includes a rule about the promotion of foods that are High in Fat, Salt and Sugar (HFSS), which support detailed rules about HFSS products and services in the *BAI's Children's Commercial Communications Code*.

16. Slimming Treatments, Products and Services

The rules under this section require that adverts, sponsorship and other types of commercial communications for slimming treatments, products and services take a responsible approach when informing the public of their services. It must be clear to a listener or viewer how the treatment, product or service will lead to weight reduction or maintenance and the promotions cannot undermine the following of a properly designed diet.

17. Smoking Cessation Aids

Smoking cessation aids are those products and services which are intended to assist people to stop smoking. The rules permits such products once they do not make claims that they will achieve this objective without the application of a person's willpower.

18. Financial Services and Products

These rules ensure commercial communications for financial services and products do not mislead and do not omit important information for audiences. This type of commercial communication is also regulated by the Central Bank, who has rules that must be complied with.

19. Gambling

The rules under this heading also require the promotion of gambling to be done in a socially responsible manner. The rules take account of the separate legislation and regulation in place for the National Lottery and the role of the regulator of the National Lottery in setting some of the standards for the promotion of lotteries.

20. Premium-rate Telecommunication Services

These rules deal with commercial communications for phone, text and other telecommunication services that cost more than a regular phone call or email. This type of commercial communication is regulated by the telecommunications regulator ComReg, who sets rules that must be complied with. The BAI's rules state a general requirement to ensure that commercial communications under this heading are legal and honest.

21. Fortune Tellers, Psychic Services, etc

The rules under this heading are intended to regulate fortune telling, psychic services and related services that are offered as entertainment. Individuals or companies who claim that they can in fact foretell the future or contact the dead or undertake similar services are not permitted to advertise.

22. Prohibited Communications

This section of the Code details the types of products and services that may not be advertised or included as part of a sponsorship, product placement or other commercial arrangement. This section includes a prohibition on political advertising and the promotion of electronic cigarettes.

How Can I Respond to the BAI's Consultation?

You can respond to the consultation in a number of ways. To help you, we have posed a number of questions under each of the above sections and at the end of the document. You may wish to address all of the questions posed but you are welcome to respond only to those sections of interest to you. It is important that you give reasons for your views so that the BAI can consider and compare all the responses received and understand the arguments being presented.

The consultation document, in its entirety and in separate sections, is published on the BAI's website at www.bai.ie. Responses to the consultation can be submitted in the following ways:

Email: Submit your response by email to gccc@bai.ie.

Post: Submit your response in writing to: BAI Draft General Commercial Communications Code, Broadcasting Authority of Ireland, 2-5 Warrington Place, Dublin 2.

If you require any assistance with making the response, please contact the BAI by email on info@bai.ie, by phone on 01 644 1200 or via our [Facebook](#) or [Twitter](#) accounts.

Timeframe for Responses

All responses to this public consultation must be submitted to the BAI by **12 noon on Tuesday, 20th September, 2016.**

Use of Information

The BAI will collect your name, email address and any other personal information that you include in your response(s). Your name and response(s) will be made publicly available. However, the BAI will not make publicly available your contact details, such as your address, phone number or email.

The information collected will be used only for the purposes of developing the final Code and for no other purpose. We will send the final *BAI General Commercial Communications Code* and related information to all respondents at the end of the process.

Freedom of Information

Information held by the BAI is subject to its obligations under law, including under the Freedom of Information Act 2014. All responses received in the public consultation will be made publicly available at the end of the process. Should you wish that any of the information supplied in your response should not be disclosed because of its sensitivity, you should, when providing the information, identify the same and specify the reasons for its sensitivity. The organisation will consult with you about this sensitive information before making a decision on any Freedom of Information request received.

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1. Introduction

Legislative Basis

The Broadcasting Authority of Ireland (“BAI”) prepares and publishes broadcasting codes for broadcasters, as required by law. This Code gives expression to the statute, specifically to the requirements of sections 42(2) (h) and (j) of the Broadcasting Act 2009 (“the Act”):

42(2) *Broadcasting codes shall provide –*

(h) that advertising, teleshopping material, sponsorship and other forms of commercial promotion employed in any broadcasting service, other than advertising and other activities as aforesaid falling within paragraph (g), must protect the interests of the audience,

(j) for the matters to be provided for by Chapters IIA, IV and V of the Council Directive.¹

Section 42(2) of the Act also provides for other broadcast matters in relation to programming and commercial content, which are given expression in a range of BAI Codes and Rules. The legislative provisions and the corresponding BAI Codes and Rules are set out in a table in Appendix One.

The Objectives of this Code

- To ensure that the public can be confident that commercial communications are legal, honest, truthful, decent and protect the interests of the audience.
- To ensure that commercial communications do not impinge on the editorial integrity of broadcasts.
- To provide guidance to the general public on the standards they can expect from commercial communications on broadcasting services.
- To provide clear guidance to broadcasters as to the standards to which commercial communications shall adhere.
- To provide broadcasters with a simple, flexible and comprehensive code that does not impede in an unwarranted manner their right to communicate commercial messages.

Complying with this Code

- Broadcast services shall comply with the spirit as well as the letter of the Code.
- The principles of this Code are indivisible, that is, all commercial communications shall conform to all of the principles.
- Commercial communications shall comply with all applicable rules in this Code. Commercial communications may be required to comply with more than one rule. Broadcasters are advised to consider the totality of the Code’s provisions and not to apply any single rule in a too narrow or focused way.

¹ ‘Council Directive’ means Council Directive 89/552/EEC of 3 October 1989 on the co-ordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities as amended by Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997 and by Directive 2007/65/EC of the European Parliament and of the Council of 11 December 2007. A simplified and codified version of these Directives was introduced in 2010: the Audiovisual Media Services Directive 2010/13/EU.

Complying with Relevant Legislation and Codes from other Authorities

- All commercial communications shall comply with applicable Irish and European legislation. This includes, but is not restricted to, the *Broadcasting Act 2009*, *Directive 2010/13/EU (Audiovisual Media Services Directive)* and *S.I. No. 258/2010 (European Communities (Audiovisual Media Services) Regulations 2010)*. A non-exhaustive list of legislation pertaining to commercial communications is included in Appendix Four.
- The Audiovisual Media Services Directive shall apply, as appropriate, to television channels exclusively devoted to advertising and teleshopping as well as to television channels exclusively devoted to self-promotion.
- Commercial communications must comply with all applicable binding codes issued by the relevant competent authorities, e.g. ComReg, the Health Products Regulatory Authority, the Central Bank, etc.

The Right to Complain

This Code is intended to help viewers and listeners who believe that they have a legitimate complaint about a broadcast and who wish to make a complaint. It explains how the BAI may assess a complaint. The intention is to make it as easy as possible to have your complaint considered.

How to Make a Complaint

- Viewers and listeners who believe commercial communication(s) have not complied with the provisions of this Code are entitled to make a complaint. Complaints should be made, in the first instance, to the broadcaster.
- You should identify the particular commercial communication(s) and explain what it is about the broadcast that has led you to make a complaint. It is important to set out clearly the grounds of your complaint or why you believe a commercial communication(s) does not comply with the Code and/or the legislative provisions set out above.
- Your complaint should reference at least one of the principles and/or rules.
- Each broadcaster is required to consider complaints in line with its Code of Practice for Complaints Handling and you should refer to the broadcaster's Code of Practice when making your complaint to the broadcaster. The Code of Practice should explain how a broadcaster will consider and assess your complaint.

How Complaints will be Assessed by the BAI

In circumstances where your complaint has not been responded to by the broadcaster or you are not satisfied with the response, you may refer your complaint to the BAI. Commercial communications shall be considered by the BAI in whole and in context with reference to:

- The matters identified in the complaint;
- The principles and rules in this Code;
- The provisions of the *Broadcasting Act 2009*;
- The provisions of the *Audiovisual Media Services Directive 2010/13/EU*; and
- The procedures, practices and policies of the BAI.

The BAI will not carry out a separate or independent assessment outside of the matters raised in the complaint.

Further information on the complaints process is available on www.bai.ie or by phoning (01) 6441200.

Scope and Jurisdiction

This Code shall apply to all commercial communications carried on broadcasting services operating under contract with the BAI or established under Irish statute. It shall not apply to commercial communications carried on broadcasting services licensed in other jurisdictions or commercial communications carried on non-broadcasting services.

The term 'broadcasting service' is understood in the context of the definition provided in the Broadcasting Act 2009, which is as follows:

a service which comprises a compilation of programme material of any description and which is transmitted, relayed or distributed by means of an electronic communications network, directly or indirectly for simultaneous or near-simultaneous reception by the general public, whether that material is actually received or not, and where the programmes are provided in a pre-scheduled and linear order, but does not include:

- (a) a service provided in a non-linear manner where each user of the service chooses a programme from a catalogue of programmes, or*
- (b) other audio and audiovisual services provided by way of the Internet.*

Broadcasting services may be commonly understood as the television and radio channels that are transmitted to the audience via cable, satellite, set-top box or integrated TV, or, for radio, on a traditional radio receiver. It does not cover services provided over the internet. It does not cover on-demand audiovisual services made available in the Republic of Ireland. On-demand audiovisual services are governed by the ODAS Code of Conduct for media service providers of on-demand audiovisual media services.

Guidance on the Code for Broadcasters

The BAI does not provide a copy clearance service to broadcasters, advertisers or the general public.

The BAI will provide general non-binding guidance regarding the provisions of this Code and/or in relation to commercial communications on request or as and when it is deemed necessary. The BAI reserves the right to publish and amend any such guidance from time to time as it sees fit.

Requests for such guidance must be submitted in writing or email, include the complete text and, where relevant, audio/video copy of the commercial communication in question. The submission should clearly state the section(s) of the Code, which the requestor believes are relevant, and set out the specific question about which the requestor would like a view. In certain circumstances, broadcasters may be requested to refrain from airing the communication under consideration. The BAI accepts no liability for any decision (or consequences arising) made by broadcasters to defer the airing of a commercial communication pending receipt of guidance from the BAI. Similarly, the BAI accepts no liability for any decision made (or consequences arising from) by a

broadcaster to air a commercial communication following receipt of non-binding general guidance from the BAI.

Effective Date

This Code comes into effect on [*date to be determined*].

Consultation Information and Questions

This section of the Code is intended to provide clarity for broadcasters on how the Code is to be applied and to emphasise the right of the public to make a complaint in instances where they believe commercial content has not adhered to the provisions of the Code or relevant legislation. This section includes a number of administrative changes to the Introduction bringing it closer in format and content to the BAI's Code of Programme Standards.

Q: What are your views on the Introduction to the Code?

2. General Definitions and Exclusions

General Definitions

Below are the definitions that pertain to terms used throughout this Code. Definitions in relation to specific products and services are set out in Appendix Two.

Advertising

Images with or without sound and radio announcements broadcast whether in return for payment or for similar consideration or broadcast for self-promotional purposes by a public or private undertaking or natural person in connection with a trade, business, craft or profession in order to promote the supply of goods or services, including immovable property, rights and obligations, in return for payment.

Child/Children

For the purpose of this Code, the terms 'Child' and 'Children' refer to any person under 18 years of age.

Commercial Communication

Images with or without sound and radio announcements which are designed to promote, directly or indirectly, the goods, services or image of a natural or legal entity pursuing an economic activity. Such images and radio announcements accompany or are included in a programme in return for payment or for similar consideration or for self-promotional purposes. Forms of commercial communication include, among other things:

- advertising,
- sponsorship,
- teleshopping, and
- product placement.

Public service announcements and charity appeals broadcast free of charge are not commercial communications.

Comparative Commercial Communications

Commercial communications that contain explicit or implicit identification of a competitor or products or services offered by a competitor.

Interactive advertising

An advertising technique which allows the viewer/listener to interact with the television or radio broadcast by actively choosing the advertising content to which s/he wishes to be exposed to for as long as s/he wants. Interactive advertising allows the viewer/listener to provide information directly to the broadcaster/advertiser by means of a return path, and/or participate in an interactive environment which is separate to the broadcast content.

Misleading Commercial Communications

Commercial communications that contain any element of spoken or visual presentation which misleads or is likely to mislead, either directly or by implication, by act or omission, with regard to the merits of the product or service promoted or its suitability for the purpose recommended and

which, by reason of its misleading nature, is likely to prejudice the interests of individuals or a competitor.

Product Placement

Any form of commercial communication on television consisting of the inclusion of or reference to a product, a service or the trademark thereof so that it is featured within a programme. For the purposes of this Code, there is a distinction between two types of product placement as provided for in the Audiovisual Media Services Directive. These are as follows:

Paid Product Placement	A third party provides products and services for inclusion in a television programme for payment or similar consideration to the broadcaster.
Prop Placement	A third party provides products and services for inclusion in a television programme free of charge and the total value of all the products and services featured in a single scheduled episode of a programme is of significant value as determined by the Authority.

Products and services featured within a television programme free of charge, and where the total value of all those products and services featured within a single scheduled episode of a programme is **not** of significant value as determined by the Authority, does not constitute product placement.

The decisive criterion distinguishing product placement from sponsorship is the fact that in product placement the reference to a product or service is built into the action of a programme. In contrast, sponsor announcements or references may be shown during a programme but are not part of the plot or narrative of the programme.

Split-screen Technique

A technique which allows the simultaneous presentation of editorial content and commercial information on the same screen, divided into two or more parts.

Sponsorship

Any contribution made by a public or private undertaking or natural person not engaged in providing radio or television services or in the production of sound broadcasting or audiovisual works, to the financing of television and/or radio services or programmes with a view to promoting its name, its trade mark, its image, its activities, its products or its services.

Sponsor announcements or references may be shown during a programme but shall not be part of the plot or narrative. References to a product or service that are built into the action of a programme constitute product placement, where such references meet the definitions of Paid Product Placement or Prop Placement.

Subliminal Commercial Communications

Commercial communications that include any technical device, which, by using images of very brief duration or by any other means, exploits the possibility of conveying a message to, or otherwise influencing the minds of, members of an audience without their being aware or fully aware of what has been done.

Surreptitious Commercial Communications

Commercial communications that contain the representation in words or pictures of goods, services, the name, the trade mark or the activities of a producer of goods or a provider of services in programmes when such representation is intended by the broadcaster to serve as a commercial communication and might mislead the public as to its nature. Such representation shall, in particular, be considered as intentional if it is done in return for payment or for similar consideration.

Teleshopping

A direct offer broadcast to the public with a view to the supply of goods or services, including immovable property, rights and obligations, in return for payment. This includes content designed primarily to promote premium-rate telecommunication services.

Virtual Advertising

An advertising technique which allows broadcasters to electronically insert virtual commercial messages into broadcasts by altering the broadcast signal itself, for example, by replacing existing advertising boards on a field or by superimposing new (e.g. three-dimensional) images.

Exclusions

Advertising Minutage Exclusions

The following exclusions are forms of commercial communication and, therefore, must adhere to the principles and applicable rules of this Code, but they do not count towards advertising and teleshopping minutage.

1. Informational announcements made by the broadcaster in connection with its own programmes and ancillary products directly derived from these. The term 'ancillary' refers to products intended specifically to allow the viewing public to benefit fully from, or to interact with, these programmes.
2. Information announcements broadcast on RTÉ services for forthcoming concerts, recitals or performances, whether intended for broadcast or not, given by the National Symphony Orchestra, the RTÉ Concert Orchestra, and other RTÉ performing groups or of any other comparable groups which are employed by or under contract to RTÉ or employed by or under contract to a broadcaster and to which the public are allowed entry.
3. Sponsorship announcements and product placements.
4. Announcements of outside broadcasting events or of non-broadcast events organised in whole or in part by the broadcaster if the public are allowed entry free of charge. In the case of announcements of outside broadcasting events and announcements of non-broadcast events linked to a sponsorship arrangement, the broadcaster may credit the sponsor in accordance with the rules in relation to sponsorship in this Code.

Code Exclusions

The following exclusions are not forms of commercial communication and are not required to comply with this Code:

1. 'Trailers' consisting of extracts from programmes and/or a brief description of programme content are considered to be programmes once they relate to programmes carried on the same broadcasting service. Trailers for programmes broadcast on another broadcasting service or services are considered commercial content and must comply with this Code and be counted toward advertising and teleshopping minutage.
2. Public service announcements and charity appeals broadcast free of charge.

Consultation Information and Questions

The general definitions and exclusions included in this part of the Code derive, in the main, from the Broadcasting Act 2009 and the EU Audiovisual Media Services Directive and remain largely unchanged from the current General Commercial Communications Code.

The BAI would like to draw your attention to the implementation of the definitions of product placement and sponsorship. The placement of third party products and services free-of-charge in a television programme is product placement when a payment is made to the programme maker for the placement or when there is no payment but those products and services are of 'significant value'. The current General Commercial Communications Code does not define 'significant value' but the guidance notes for the Code set a monetary threshold of €5,000 for the total value of all products and services provided free of charge and featured in a single episode of a programme. A further guidance note for the current Code holds that when the value of the products and services provided free of charge is less than €5,000 per programme, their inclusion is considered sponsorship and not product placement. The review of the current Code highlighted difficulties in the application of these terms, in particular, where content that appeared to be product placement was being categorised as sponsorship.

The BAI is proposing to leave 'significant value' undefined in the Code and to be determined as cases arise in monitoring broadcast content for compliance with the Code. In addition, such products and services in a programme that are below 'significant value' shall not be considered sponsorship. The intent is to limit sponsorship to those explicit references and announcements such as 'brought to you by', 'sponsored by', etc, and to sponsored competitions within programmes. The definitions of sponsorship and product placement in the draft Code include clarification that references to products and services built into the action of the programme are product placement (if they meet the definition) and not sponsorship.

The exclusions sub-section comprises two headings to separate content non-commercial content, which is not required to comply with the Code, from that which is commercial. The latter, called advertising minutage exclusions, must comply with the Code but do not count toward limits on the amount of time that is permitted per hour and per day for advertising and teleshopping minutage. The BAI is of the view that this better reflects the provisions of the Audiovisual Media Services Directive.

Q: What are your views on how the Code proposes to deal with product placement and sponsorship, in particular, how the concept of 'significant value' will be applied?

Q: What are your views on the General Definitions and Exclusions as presented?

3. Principles of the Code

Principle 1: Legal, Honest, Decent and Truthful

Commercial communications shall be prepared with a sense of responsibility both to the individual and to society and shall be legal, honest, decent, truthful and protect the interests of the audience.

Advertisers, sponsors and providers of placed products and services shall not exercise any editorial influence over the content or scheduling of programmes. Special care is required in instances where commercial communications are included in programme material rather than dedicated content slots. In such instances the commercial communications shall not be unduly prominent and their inclusion must be editorially justified.

Advertising, sponsorship, teleshopping, product placement and any other type of commercial communication must be easily understood by audiences, must not unduly distract or alarm viewers and listeners and must not mislead the public, either directly or indirectly. Claims made in commercial communications must be true and devoid of exaggeration. Broadcasters shall have mechanisms to satisfy themselves to a reasonable degree that the details, claims, etc., made in commercial communications are legal, honest, decent and truthful.

Principle 2: Human Dignity, Offence and Harm

Commercial communications shall not prejudice respect for human dignity, cause serious or widespread offence, cause harm or encourage harmful behaviour. The manner in which persons and groups in society are represented in commercial communications shall be appropriate and justifiable and shall not stigmatise, support or condone discrimination or incite hatred against persons and groups in society, based on sex, racial or ethnic origin, nationality, religion or belief, disability, age, sexual orientation or membership of the traveller community.

Commercial communications shall not cause serious or widespread offence. Broadcasters shall have due regard for the appropriateness and/or justification for broadcasting commercial communications that include, depictions and/or descriptions of violence, sexual conduct and coarse and/or offensive language.

Commercial communications shall not encourage behaviour prejudicial to health or safety or grossly prejudicial to the protection of the environment.

Principle 3: Transparency

The principle of transparency is about ensuring that audiences are fully aware of the nature of the communications they see and/or hear. Broadcasters must ensure that the distinction between editorial content and commercial communications is clear and identifiable for audiences. Any commercial arrangement within programming shall be readily recognisable as such and the listener/viewer shall be made aware of such an arrangement.

The closer the commercial content is to programme content, through the use of sponsorship and product placement for example, the greater the degree of transparency required.

Principle 4: Protection of Children

Children are viewers and listeners with particular needs and broadcasters share a responsibility with parents and guardians for what children listen to and watch. It is expected that broadcasters will protect them from material that is unsuitable or would be likely to cause physical or moral detriment. This principle recognises that children of different ages and maturity require different levels of protection.

Commercial communications shall not directly exhort children to buy or hire a product or a service by exploiting their inexperience or credulity; they shall not directly encourage children to persuade their parents, guardians or others to purchase the products or services being promoted; they shall not exploit the special trust children place in parents, guardians, teachers or other persons; and, they shall not unreasonably show children in dangerous situations.

The BAI has a separate Children's Commercial Communications Code that deals specifically with commercial communications promoting products, services or activities that are deemed to be of particular interest to children and/or broadcast during and between children's programming. This is available to download from www.bai.ie.

Consultation Information and Questions

The draft Code has been developed to have separate and distinct principles and rules. The principles will apply to all advertising, sponsorship, product placement and other forms of commercial communications. There is a clear articulation of each principle in a similar approach to that taken in the BAI's Code of Programme Standards and Code of Fairness, Objectivity and Impartiality. The rules for all commercial communications flow from these principles and have been situated in the next section of the draft Code.

The BAI is proposing to retain three of the four existing principles from the current General Commercial Communications Code, with some changes to the heading titles. The three principles are: Principle 1: Legal, Honest, Decent and Truthful, Principle 2: Human Dignity, Offence and Harm and Principle 3: Transparency. The principle of Compliance and Assessment has been removed and its provisions are addressed under the Introduction to the Code.

A new principle, Principle 4: Protection of Children, is included. This gives expression to the provisions of the EU Audiovisual Media Services Directive that pertain to protecting children from content that may cause physical or moral detriment and from commercial communications that prey on their inexperience and credulity.

Q: What are your views on the four principles in the draft Code?

Q: Is there anything you disagree with or believe is missing from these principles?

4. Rules for all Commercial Communications

- 4.1 Surreptitious, subliminal and misleading commercial communications are prohibited.
- 4.2 All pertinent details of an offer contained in a commercial communication shall be stated in a clear and understandable manner and shall not be contained solely in footnoted text on TV or taglines at the end of a commercial communication on radio.
- 4.3 Commercial communications shall comply with the following:
- a) Disclaimers and asterisked or footnoted information included/required in commercial communications shall not contradict more prominent aspects of the message and shall be located and presented in such a manner as to be clearly visible and/or audible
 - b) Where practicable, broadcasters shall use plain language which is easily understood by listeners and viewers.
 - c) Where information is spoken, it must be at an appropriate speed so that the content of any additional information provided can be clearly understood.
 - d) When using on-screen messages, broadcasters shall be mindful of the varying abilities of the public in terms of their physical and educational ability to read on-screen text.
 - e) Broadcasters shall also take into consideration the time required to read the specific text and matters of readability, including the contrast between the text and the background picture onto which it is placed.
- 4.4 Presenters and other on-air personnel shall not advertise or endorse products or services during editorial content. This does not limit legitimate editorial comment where products or services may be reviewed and about which opinions may be given, for example, in consumer programmes or reviews of cultural matters.
- 4.5 Comparative commercial communications containing direct or implied comparisons with other products or services are permissible provided they objectively compare products or services meeting the same needs or intended for the same purpose. Points of comparison shall be based on facts that can be substantiated. The subject matter of a comparison shall not be chosen in such a way as to confer an artificial or unfair advantage to a promoter of a product or service.
- 4.6 Broadcasters shall be mindful of the potential for sound effects in commercial communications to distract and/or alarm viewers and listeners. Particular care shall be taken when including sound effects such as sirens, horns, ringing phones and screeching tyres. They shall not be included at the beginning of a commercial communication. This rule applies regardless of the placement of the commercial communication in a commercial break i.e. whether at the beginning, middle or end of a commercial break.

- 4.7 Commercial communications shall be appropriately scheduled with regard to the time of broadcast; the type of programme; the type of channel or broadcast service; the likely expectations of the audience of a programme or broadcast service; the nature of the product or service being promoted; and, the likely size and composition of the audience.
- 4.8 Individual living persons shall not normally be portrayed or referred to in commercial communications without their permission. In general any reference to such an individual, taking the form of a caricature or an impersonation which has not been approved by the person in question, is not permitted. However, references to living persons may normally be made in commercial communications for books, films, radio or television programmes, newspapers, magazines etc., which feature the persons referred to in the communication, provided they are not offensive or inaccurate.
- 4.9 Commercial communications shall not be calculated to induce unwarranted fear on the part of the viewer or listener. Any appeal to fear in a commercial communication must be justified in the context of the product, service or activity promoted in the communication. Broadcasters shall give special consideration to the appropriateness and scheduling of such communications.
- 4.10 Commercial communications shall not feature persons regularly presenting news programmes (e.g. top-of-the-hour news bulletins and extended news bulletins). Commercial communications promoting appeals by registered charities or public service campaigns for safety, health, education, etc., do not fall within this category.
- 4.11 Commercial communications may make use of testimonials, that is, statements given by individuals reflecting their genuine views about a product or service. Such testimonials shall be genuine, relevant and contemporary and shall relate to the person giving the testimonial. Commercial communications that give the impression of a testimonial but where the testimonial is not genuine are prohibited. It must be made clear to audiences when a genuine testimonial is presented by an actor. The broadcaster shall retain documentary evidence of testimonials.
- 4.12 The language used in relation to guarantees, warranties and free goods and services shall be clear and unambiguous and shall not prejudice legal rights of consumers. No commercial communication shall contain a direct or implied reference which purports to take away or diminish the legal rights of a purchaser.
- 4.13 Commercial communications shall not describe products or services as 'free' unless the products or services are supplied at no cost or at no extra cost (other than actual postage or carriage) to the recipient. A trial may be described as 'free' even if the customer has to pay for the costs of returning the goods, provided this is made clear in the communication.

Consultation Information and Questions

The rules under this heading are largely unchanged from those in the current General Commercial Communications Code. A number of rules from the current Code were incorporated into the

Principles section of this draft Code (see previous section). Other minor changes to this section of the Code include removing duplicate provisions and adding some useful wording from the guidance notes to the current Code.

Q: What are your views on the Rules for all Commercial Communications?

5. Advertising and Teleshopping

Rules applying to television and radio

- 5.1 Advertising and teleshopping shall be readily recognisable and distinguishable from editorial content. Without prejudice to the use of split-screen, virtual or interactive advertising techniques, advertising and teleshopping shall be kept quite distinct from other parts of the programme by optical and/or acoustic and/or spatial means. Such means shall not contain any commercial communications, such as a sponsorship announcement.
- 5.2 The insertion of advertising and teleshopping shall not affect the editorial integrity and value of programming. Advertising and teleshopping segments shall be inserted into programmes in such a way that takes into account the natural breaks in and the duration and nature of the programme concerned, and shall not prejudice the rights of the rights holders.
- 5.3 Advertising or teleshopping segments shall not be inserted in any broadcast of a religious service.
- 5.4 Broadcasters shall take all reasonable measures to ensure that advertisements do not sound louder than adjacent programming. Broadcasters shall establish clear limits on the use of compression, limiting and equalisation as these apply to advertisements, in accordance with best practice.

Rules applying to television only

- 5.5 Advertising or teleshopping segments shall not be inserted:
- a) In any television broadcast of films made for television (excluding series, serials and documentaries), cinematographic works and news when their scheduled duration is less than 30 minutes.
 - b) More than once in each scheduled period of at least 30 minutes during the transmission of films made for television (excluding series, serial and documentaries), cinematographic works and news programmes.
- 5.6 Isolated advertising and television spots, other than in the transmission of sports, shall remain the exception. An isolated spot is generally understood as a single advertisement.
- 5.7 Teleshopping shall not exhort children to contract for the sale or rental of products and services by exploiting their inexperience or credulity. Please refer to the BAI's separate Children's Commercial Communications Code for further details.
- 5.8 Teleshopping shall not feature medicinal products (including prescription medicines), medical treatments, devices and services or cosmetic treatments and services.

Consultation Information and Questions

These rules reflect the provisions of the EU Audiovisual Media Services Directive. There are no substantive changes to this section from what is in the current General Commercial Communications Code.

Q: What are your views on the rules pertaining to Advertising and Teleshopping?

6. Split-screen, Interactive and Virtual Advertising Techniques

- 6.1 Split-screen and virtual advertising will count towards advertising minutage in the same way as a traditional advertisement.
- 6.2 Split-screen advertising is permitted during natural breaks and during end credits. Split-screen advertising may also be inserted during long-form sports programmes which do not have a natural break e.g. Formula 1 Racing.
- 6.3 Split-screen advertising shall not exceed 50% of screen space and only one split-screen advertisement shall appear at any given time.
- 6.4 Split-screen and virtual advertising are not permitted in news or current affairs programmes, feature films or broadcasts of religious services.
- 6.5 Interactive advertising shall not bring the audience immediately/directly to products or services that are advertised. Viewers and listeners shall be warned by appropriate means that they are about to enter a commercial interactive environment not governed by this Code. This shall be done via a two-step process whereby the viewer/listener shall be able to access the interactive content only after the second step.

Consultation Information and Questions

Split screen, interactive and virtual advertising are different from traditional advertising because they appear alongside or at the same time as programme content. For this reason, there are additional risks for audiences and separate rules are therefore necessary. The rules in this section remain unchanged from the current General Commercial Communications Code, with the addition of one rule (6.1) regarding split-screen advertising counting toward advertising minutage. This rule comes from the non-binding guidance notes the BAI issued for the current Code. These guidance notes are used to provide clarifications and explanations, where necessary, in relation to the provisions of the Code.

Q: What are your views on the rules pertaining to Split Screen, Interactive and Virtual Advertising Techniques?

7. Sponsorship on Television, including competitions

- 7.1 Sponsorship shall not influence the content and scheduling of programmes in such a way as to affect the responsibility and editorial independence of the broadcaster.
- 7.2 There shall be a clear separation between sponsorship and advertising for the audience. There is no prohibition on the inclusion during advertisement breaks of advertisements for a programme sponsor. Broadcasters shall take care to ensure sufficient separation between formal programme sponsorship announcements scheduled before or at the end of advertisement breaks and advertising for the products or services of the sponsor carried in a separate advertisement break.
- 7.3 There shall be a clear distinction between sponsorship and product placement. Sponsorship announcements and references may be shown during a programme but shall not be part of the plot or narrative. References to products or services built into the action of the programme are considered product placement, where such references meet the definition of Paid Product Placement or Prop Product Placement.
- 7.4 Audiences shall be clearly informed of the existence of a sponsorship agreement. Sponsored programmes shall be clearly identified as such by the name, logo and/or any other symbol of the sponsor such as a reference to its product(s) or service(s) or a distinctive sign thereof in an appropriate way for programmes at the beginning, during and/or at the end of the programmes.
- 7.5 Sponsorship must not constitute advertising, as defined in this Code, and sponsored programmes shall not directly encourage the purchase or rental of goods or services. A sponsorship announcement or reference shall not:
- a) Make special promotional references to a product or service e.g., sales and discounts,
 - b) Include advertising copy, prices, endorsements or calls to purchase or equivalent,
 - c) Afford undue prominence to a product or service of the sponsor.
- 7.6 Audience competitions within programme content may be sponsored. Announcements in relation to sponsored competitions shall not constitute advertising, as defined in this Code. Competition questions, entry mechanisms and prizes shall not give undue prominence to the sponsor in particular its facilities, products or services.
- 7.7 Participants in competitions shall have a fair chance of winning a sponsored competition and broadcasters shall make available to the audience pertinent information in relation to it, including, but not limited to:
- a) How to enter the competition,
 - b) Closing times and dates,
 - c) The means by which a winner is selected,
 - d) Key terms and conditions that would void entry or prohibit a winner from taking up the prize,
 - e) How to access the full set of terms and conditions in relation to the competition, and

- f) Any changes to the competition terms and conditions and/or processes and/or prize.
- 7.8 News and current affairs programmes shall not be sponsored. This rule does not prohibit the sponsorship of weather, entertainment and traffic items. Sponsor logos may not be shown during the editorial segments of documentaries and religious programmes.
- 7.9 Programmes sponsored by sponsor(s) whose activities include the manufacture or sale of medicinal products or medical treatments may promote the name or the image of the sponsor, but shall not promote specific medicinal products or medical treatments available only on prescription in the State.
- 7.10 Programmes shall not be sponsored by sponsor(s):
- a) Whose principal activity is the manufacture or sale of cigarettes and other tobacco products,
 - b) Whose products or services are not permitted to be promoted to the typical audience for that programme, or
 - c) Who are involved in the manufacture, supply or provision of a product or service that is not permitted to be promoted under this Code.

Consultation Information and Questions

The rules for sponsorship on television closely reflect the wording of the EU Audiovisual Media Services Directive.

A key proposed change in this section is the addition of a new rule (7.3), which sets out a clear distinction between sponsorship and product placement, wherein references to products or services built into the action of a programme will be considered product placement not sponsorship (where they meet the definition of paid or prop placement).

The current General Commercial Communications Code prohibits sponsorship announcements from referencing more than one product or service and from including “calls to action”. Rule 7.5 in this draft Code allows sponsorship announcements to reference more than one product or service and prohibits the more specific “calls to purchase” (e.g. ‘buy now’, ‘purchase online at’, etc) rather than “calls to action” (e.g. ‘check out our website’, ‘find more information at’, etc). This addresses two of the main issues raised in the review of the current Code.

In addition, more detail on sponsored competitions has been included in rules 7.6 and 7.7 with the intention of protecting the interests of the audience. The detail comes from the non-binding guidance notes the BAI issued for the current Code. These guidance notes are used to provide clarifications and explanations, where necessary, in relation to the provisions of the Code.

Q: What are your overall views on the rules for sponsorship on television?

Q: What are your views on the distinction between sponsorship and product placement?

Q: What are your views in relation to allowing reference to more than one product or service in a sponsorship announcement?

Q: What are your views in relation to changing the restriction in sponsorship announcements from 'calls to action' to 'calls to purchase'?

Q: What are your views on the additional rules in relation to sponsored competitions?

8. Sponsorship on Radio, including competitions

- 8.1 Sponsorship shall not influence the content and scheduling of programmes in such a way as to affect the responsibility and editorial independence of the broadcaster.
- 8.2 There shall be a clear separation between sponsorship and advertising for the listeners. There is no prohibition on the inclusion during advertisement breaks of advertisements for a programme sponsor. Broadcasters shall take care to ensure sufficient separation between formal programme sponsorship announcements scheduled before or at the end of advertisement breaks and advertising for the products and services of the sponsor carried in a separate advertisement break.
- 8.3 Sponsorship must not constitute advertising, as defined in this Code, and sponsored programmes shall not directly encourage the purchase or rental of goods or services. A sponsorship announcement or reference shall not:
- a) Make special promotional references to a product or service e.g., sales and discounts,
 - b) Include advertising copy, prices, endorsements or calls to purchase or equivalent,
 - c) Afford undue prominence to a product or service of the sponsor.
- 8.4 Listeners shall be clearly informed of the existence of a sponsorship agreement. Sponsored programmes shall be clearly identified as such by the name, branding of the sponsor, and/or a reference to its product(s) or service(s) or a distinctive sign thereof in an appropriate way for programmes at the beginning, during and/or at the end of the programmes.
- 8.5 Listener competitions within programme content may be sponsored. Announcements in relation to sponsored competitions shall not constitute advertising, as defined in this Code. Competition questions, entry mechanisms and prizes shall not give undue prominence to the facilities, products or services of the sponsor.
- 8.6 Participants in competitions shall have a fair chance of winning a sponsored competition and broadcasters shall make available to the audience pertinent information in relation to it, including, but not limited to:
- a) How to enter the competition,
 - b) Closing times and dates,
 - c) The means by which a winner is selected,
 - d) Key terms and conditions that would void entry or prohibit a winner from taking up the prize,
 - e) How to access the full set of terms and conditions in relation to the competition, and
 - f) Any changes to the competition terms and conditions and/or processes and/or prize.
- 8.7 News programmes on radio shall not be sponsored. This rule does not prohibit the sponsorship of current affairs, weather, entertainment, traffic items or religious programmes.

- 8.8 Programmes sponsored by sponsor(s) whose activities include the manufacture or sale of medicinal products or medical treatments may promote the name or the image of the sponsor, but shall not promote specific medicinal products or medical treatments available only on prescription in the State.
- 8.9 Programmes shall not be sponsored by sponsor(s):
- a) Whose principal activity is the manufacture or sale of cigarettes and other tobacco products,
 - b) Whose products or services are not permitted to be promoted to the typical audience for that programme, or
 - c) Who are involved in the manufacture, supply or provision of a product or service that is not permitted to be promoted under this Code.

Consultation Information and Questions

Unlike television, sponsorship on radio is not governed at European level, however, many of the general rules in the television section may be appropriately applied to radio. As such, many of the rules for television and radio are the same or similar.

There are some small but significant wording differences designed to address concerns highlighted in the review of the current General Commercial Communications Code. The current Code prohibits sponsorship announcements from referencing more than one product or service and from including “calls to action”. Rule 8.3 in this draft Code now allows sponsorship announcements to reference more than one product or service and prohibits the more specific “calls to purchase” (e.g. ‘buy now’, ‘purchase online at’, etc) rather than “calls to action” (e.g. ‘check out our website’, ‘find more information at’, etc).

In addition, more detail on sponsored competitions has been included in rules 8.5 and 8.6 with the intention of protecting the interests of the audience. The detail comes from the non-binding guidance notes the BAI issued for the current Code. These guidance notes are used to provide clarifications and explanations, where necessary, in relation to the provisions of the Code.

Q: What are your overall views on the rules for sponsorship on radio?

Q: What are your views in relation to allowing reference to more than one product or service in a sponsorship announcement?

Q: What are your views in relation to changing the restriction in sponsorship announcements from ‘calls to action’ to ‘calls to purchase’?

Q: What are your views on the additional rules in relation to sponsored competitions?

9. Product Placement

The following rules apply only to programmes produced after the 19th December 2009.

- 9.1 Product placement shall be prohibited save for the limited exceptions set out in this section.
- 9.2 Paid product placement is only permitted in cinematographic works, television films, sport, dramas, including one-off dramas, drama series and serials (excluding docu-dramas) and light entertainment programmes (excluding talk/chat shows that regularly include 20% or more of news and current affairs content).
- 9.3 Prop placement is permitted in all programmes but shall not affect the integrity of such programmes, in particular, news and current affairs programmes.
- 9.4 Prop placement in children's programmes is not permitted in the case of products/services that may not feature in children's programmes (e.g. alcohol) and in the case of other relevant restrictions.
- 9.5 The content and scheduling of programmes that contain product placement shall not be influenced in such a way as to affect the responsibility and editorial independence of the broadcaster.
- 9.6 The placement of products in programme content shall be editorially justified and shall not give undue prominence to the products or services in question. Product integration and thematic placement are not permitted. Programme content, including storylines, shall not be tailored around a product, service or facility provided through a product placement arrangement or around a specific theme, e.g. the beliefs, policies, aims and objectives of the product or service provider.
- 9.7 Programmes that contain product placement shall not directly encourage the purchase or rental of products or services in particular by making special promotional references to those products or services and the placement therein must not constitute advertising as defined in this Code.
- 9.8 Audiences shall be clearly informed of the existence of product placement. Programmes containing product placement shall be appropriately identified by an announcement at the start and the end of the programme, and when a programme resumes after an advertising break, in order to avoid any confusion on the part of the audience. The BAI may prescribe the form of a product placement announcement from time-to-time, including its text, logo, size, colour, font type and audio message, and broadcasters shall ensure product placement announcements comply with the form and any related guidance prescribed by the BAI. This rule does not apply when broadcasting television programmes that have neither been produced nor commissioned by the broadcaster or a company affiliated to the broadcaster.
- 9.9 Programmes shall not contain product placement of:

- a) Tobacco products or cigarettes or product placement from undertakings whose principal activity is the manufacture or sale of cigarettes and other tobacco products
- b) Specific medicinal products or medical treatments available only on prescription in the State, or
- c) A product or service that is not permitted to be promoted under this Code.

9.10 The closing credits of a programme containing product placement shall include the name of the providers and the products, services etc. provided. Broadcasters shall keep a record of the programmes in which product placement occurs, the placement in each programme, the value of each individual placement and whether it is paid product placement or prop placement. This information must be available to the BAI upon request in the context of compliance monitoring or in instances where a complaint is investigated. This information must also be available in respect of any independent programmes commissioned by the broadcaster.

Consultation Information and Questions

The key change proposed to the rules on product placement is the definition of Product Placement, which is covered in the 'General Definitions and Exclusions' section of this Code. The only other changes to this section are minor wording changes informed by the guidance notes to the current General Commercial Communications Code, with the aim of providing greater clarity where needed. In addition, some elements of the guidance notes for the current Code have been incorporated into the rules.

Q: What are your views on the rules in relation to product placement?

Rules pertaining to specific products and services

10. Alcohol

10.1 Commercial communications for alcoholic beverages shall comply with all relevant Irish and European legislation and with rules, regulations and codes of practice issued from time to time by a relevant competent authority, in particular any relevant codes of practice published or recognised by the Department of Health.

10.2 Commercial communications for alcoholic beverages shall be cast towards brand selling and identification and shall not:

- a) Depict or feature children consuming these beverages or encourage children or non-drinkers to begin drinking,
- b) Link the consumption of alcohol to enhanced physical performance or to driving,
- c) Create the impression that the consumption of alcohol contributes toward sexual attraction and success or social success,
- d) Claim that alcohol has therapeutic qualities or that it is a stimulant, a sedative, tranquilizer or a means of resolving personal conflicts,
- e) Encourage immoderate consumption of alcohol or present abstinence or moderation in a negative light,
- f) Place emphasis on high alcohol content as being a positive quality of the beverages, or
- g) Bear health claims or nutrition claims for beverages containing more than 1.2% AbV, other than those which refer to a reduction in the alcohol or energy content.

10.3 Commercial communications are not permitted for the following:

- a) Beverages containing alcohol content of 25% AbV and above e.g. vodka, whiskey, tequila, rum, gin, brandy, etc.
- b) Alco-pops, pre-mixed spirit drinks and products of a similar nature.

This rule does not prohibit commercial communications for liqueurs or incidental references to brands of the above listed beverages, for example, where such a brand is associated with an event.

10.4 Alcohol sponsorship of sports programmes, including sports bulletins, is not permitted. Solus/whistle breaks advertising spots for alcohol brands are not permitted during sports programmes.

10.5 Commercial communications for alcoholic beverages shall comply with the following:

- a) They shall not be placed in any programme specifically aimed at children.
- b) They shall not be broadcast in or around programmes primarily intended for children whether as viewers or listeners.
- c) They shall be broadcast only in or around programmes with an adult audience profile of 75% or greater.

- d) They shall not be broadcast between 6am and 10am.
- 10.6 Where alcohol advertising is permissible, it is limited to a maximum of 25% of sold advertising time and only one in four advertisements for alcoholic beverages is permissible across the broadcast day, excluding the period from 6am to 10am. No more than two advertisements for alcoholic beverages can appear in any one advertising break.
- 10.7 Each broadcaster shall identify the programmes in their schedules that do not carry commercial communications for alcoholic beverages, in particular, those programmes specifically aimed at/appealing to children, and shall publish this list on a website maintained by the broadcaster and make a copy of the list generally available.
- 10.8 Broadcasters shall enforce a Code of Conduct for their presenters ensuring that speech content that glamorises or encourages over-consumption or misuse of alcohol is prevented. Each broadcaster will publish this Code on a website maintained by the broadcasters and make a copy of the Code generally available.

Consultation Information and Questions

This section of the draft Code incorporates provisions from the self-regulatory code for alcohol advertising, the *Alcohol Marketing, Communications and Sponsorship Code of Practice*. While broadcasters are already required by the current General Commercial Communications Code to comply with this self-regulatory code, many of its provisions are now made explicit in the above rules 10.4, 10.5, 10.6, 10.7 and 10.8 of this draft Code.

The Department of Health is mandated by Government to introduce new regulations in relation to alcohol, including the scheduling of alcohol advertisements. In December 2015, the Department of Health published the Public Health (Alcohol) Bill 2015 which provides for restrictions on the advertising of alcohol. This bill has yet to be enacted.

Section 10.1 of the Draft Code requires that: “Commercial communications for alcoholic beverages shall comply with all relevant Irish and European legislation and with rules, regulations and codes of practice issued from time to time by a relevant competent authority, in particular any relevant codes of practice published or recognised by the Department of Health”.

Once the Public Health (Alcohol) Bill 2015 is enacted, the Code will be updated to ensure that it is in line with the Public Health (Alcohol) Bill.

Q: What are your views on incorporating into the BAI’s draft Code the provisions from the Alcohol Marketing, Communications and Sponsorship Code of Practice?

11. Medicinal Products

- 11.1 Commercial communications for medicinal products shall comply with all relevant Irish and European legislation and with rules, regulations and codes of practice issued from time to time by a relevant competent authority.
- 11.2 Commercial communications are not permitted for prescription-only medicinal products, controlled drugs, psychoactive substances or for medicinal products intended to treat any serious complaint, condition, symptom or disease which should rightly receive the attention of a registered medical practitioner. This rule does not apply to commercial communications for vaccination campaigns approved by the Minister for Health. This rule does not apply to human health or disease awareness campaigns provided there is no reference, even indirect, to medicinal products.
- 11.3 Commercial communications for all other medicinal products are only permissible where such products are the subject of a marketing authorisation or certificate of traditional use registration or are registered/certified by a relevant competent authority.
- 11.4 Commercial communications for medicinal products shall not be broadcast unless:
- a) All parts of such communications comply with the particulars set out in the summary of product characteristics for the product,
 - b) The rational use of medicinal products is encouraged by presenting them objectively and without exaggerating their properties, and
 - c) They are not misleading.
- 11.5 Commercial communications for medicinal products shall be clear that the message is an advertisement and the products are clearly identified as medicinal products. Such communications shall include the following minimum information:
- a) the name of the medicinal product;
 - b) if it contains only one active ingredient, the common name of the medicinal product;
 - c) the information necessary for the correct use of the medicinal product;
 - d) an express and legible invitation to read carefully the instructions on the leaflet contained within the package or on the label, as the case may be; and
 - e) if it is a traditional herbal medicinal product, the following words “Traditional herbal medicinal product for use in” followed by a statement of one or more therapeutic indications for the product compatible with the terms of the certificate of traditional-use registration for that product, followed by the words “exclusively based upon long-standing use”.

This rule does not apply to a commercial communication for a medicinal product that is intended only as a reminder, if the commercial communication consists solely of the following: the name of the product or international non-proprietary name or trademark (or in the case of a homeopathic medicinal product that is the subject of a certificate of registration, the scientific name of the stock or stocks or its invented name); and, advice

to read carefully the instructions on the leaflet contained within the package, or on the label of the medicinal product, as the case may be.

11.6 Commercial communications for medicinal products shall not contain material which is directed exclusively or principally at children.

11.7 Commercial communications for medicinal products shall not contain material which:

- a) is calculated to induce fear on the part of the viewer or listener that s/he may, without treatment, suffer, or suffer more severely, from any serious complaint, condition, symptom, or disease;
- b) uses, in improper, alarming or misleading terms, pictorial representations of changes in the human body caused by disease or injury, or of the action of a medicinal product on the human body or parts thereof;
- c) refers, in improper, alarming or misleading terms, to claims of recovery;
- d) encourages unnecessary, indiscriminate, irrational and/or excessive use of medicinal products;
- e) gives the impression that a medical consultation or surgical operation is unnecessary, in particular by offering a diagnosis or by suggesting treatment by mail (includes post, telephone, e-mail and other electronic means of communication);
- f) might, by a description or detailed representation of a case history, lead to erroneous self diagnosis;
- g) suggests that the effects of taking the medicinal product are guaranteed, are unaccompanied by adverse reactions or are better than, or equivalent to, those of another treatment or medicinal product;
- h) suggests that the health of the subject can be enhanced by taking the medicinal product;
- i) suggests that the health of the subject could be affected by not taking the medicinal product (this does not apply to commercial communications for vaccination campaigns approved by the Minister for Health);
- j) contains unwarranted and indiscriminate use of such words as "safe", "without risk", "harmless", or terms of similar meaning in connection with medicinal products;
- k) suggests that the safety or efficacy of the medicinal product is due to the fact that it is natural;
- l) includes exaggerated claims, in particular, through the selection of testimonials or other evidence unrepresentative of the effectiveness of medicinal products;
- m) refers to a recommendation by scientists, health professionals or persons who are neither of the foregoing but who, because of their celebrity status, could encourage the consumption of medicinal products;
- n) gives the impression of professional advice or recommendation made by persons who appear in the commercial communication and who are presented, whether actually or by implication, as being qualified to give such advice or recommendation;
- o) refers to a hospital, clinic, college, institute, laboratory or other similar body unless a bona fide establishment corresponding to the description used does in fact exist;
- p) refers to doctors unless such reference can be used with propriety in the context of the commercial communication;

- q) suggests that the medicinal product is a foodstuff, cosmetic or other consumer product;
- r) refers to a prize, competition or similar scheme or offers medicinal products as prizes in a competition.

Consultation Information and Questions

In this draft Code, the rules regarding medicines are in a separate section to the rules for medical treatments, products and services and cosmetic treatments, products and services. In the current General Commercial Communications Code, these came under one heading. The BAI is of the view that separate headings provide greater clarity and ease-of-use for stakeholders and reflect the fact that EU legislation treats medicinal products separately from medical treatments, devices and services. Rules 11.2 to 11.7 derive from the Medicinal Products (Control of Advertising) Regulations 2007 and rule 11.7 incorporates provisions from the current Code and related guidance notes.

Q: What are your views on the Medicinal Products section of the draft Code?

12. Medical Treatments Devices and Services

- 12.1 Commercial communications for medical treatments, devices and services intended to treat any serious complaint, condition, symptom or disease, which should rightly receive the attention of a registered medical practitioner, are not permitted. This does not prohibit commercial communications for vaccination campaigns that have been approved by the Minister for Health or disease awareness campaigns.
- 12.2 Commercial communications for medical treatments, devices and services shall not contain material which is directed exclusively or principally at children.
- 12.3 Commercial communications for medical treatments, devices and services shall not contain material which:
- a) is calculated to induce fear on the part of the viewer or listener that s/he may, without treatment, suffer, or suffer more severely, from any serious complaint, condition, symptom, or disease;
 - b) uses, in improper, alarming or misleading terms, pictorial representations of changes in the human body caused by disease or injury, or of the action of a medical treatment, device or service on the human body or parts thereof;
 - c) refers, in improper, alarming or misleading terms, to claims of recovery;
 - d) encourages unnecessary, indiscriminate, irrational and/or excessive use of medical treatments, devices and services;
 - e) gives the impression that a medical consultation or surgical operation is unnecessary, in particular by offering a diagnosis or by suggesting treatment by mail (includes post, telephone, e-mail and other electronic means of communication);
 - f) might, by a description or detailed representation of a case history, lead to erroneous self diagnosis;
 - g) suggests that the health of the subject can be enhanced by availing of a medical treatment, device or service;
 - h) suggests that the health of the subject could be affected by not availing of a medical treatment, device or service;
 - i) contains unwarranted and indiscriminate use of such words as "safe", "without risk", "harmless", or terms of similar meaning in connection with medical treatments, devices and services;
 - j) suggests that the safety or efficacy of a medical treatment, device or service is due to the fact that it is natural;
 - k) includes exaggerated claims, in particular, through the selection of testimonials or other evidence unrepresentative of the effectiveness of medical treatments, devices and services;
 - l) refers to a recommendation by scientists, health professionals or persons who are neither of the foregoing but who, because of their celebrity status, could encourage the use of medical treatments, devices and services;
 - m) gives the impression of professional advice or recommendation made by persons who appear in the commercial communication and who are presented, whether actually or by implication, as being qualified to give such advice or recommendation in connection with medical treatments, devices and services;

- n) refers to a hospital, clinic, college, institute, laboratory or other similar body unless a bona fide establishment corresponding to the description used does in fact exist;
- o) refers to doctors unless such reference can be used with propriety in the context of the commercial communication;
- p) refers to a prize, competition or similar scheme or offers medical treatments, devices or services as prizes in a competition.

Consultation Information and Questions

In this draft Code, the rules regarding medicines are in a separate section to the rules for medical treatments, products and services and cosmetic treatments, products and services. In the current General Commercial Communications Code, these came under one heading. The BAI is of the view that separate headings provide greater clarity and ease-of-use for stakeholders and reflect the fact that EU legislation treats medicinal products separately from medical treatments, devices and services.

Rule 12.3 restricts the type of content that is permitted in commercial communications for medical treatments, devices and services. Some provisions under this rule are unchanged from the current Code and others derive from similar provisions applying to Medicinal Products in the previous section of this draft Code. The BAI believes these suitably apply to medical treatments, devices and services and offer appropriate protection for audiences for these types of commercial communications.

Q: What are your views on the Medical Treatments, Devices and Services section of the draft Code?

13. Cosmetic Treatments, Products and Services

- 13.1 Commercial communications for cosmetic products shall comply with all relevant Irish and European legislation and with rules, regulations and codes of practice issued from time to time by a relevant competent authority.
- 13.2 Commercial communications for cosmetic products shall not contain material such as text, names, trademarks, pictures, and figurative or other signs, to imply that these products have characteristics or functions which they do not possess.
- 13.3 Commercial communications for cosmetic treatments, products and services intended to treat any serious complaint, condition, symptom or disease, which should rightly receive the attention of a registered medical practitioner, are not permitted.
- 13.4 Commercial communications for surgical cosmetic treatments and services, may contain the address of the service provider and factual descriptions of services available but shall not contain anything which could be deemed a direct encouragement to use the treatment or service.
- 13.5 Commercial communications for cosmetic treatments and services shall not contain material which is directed exclusively or principally at children.
- 13.6 Commercial communications for cosmetic treatments, products and services shall not contain material which:
- a) is calculated to induce fear on the part of the viewer or listener that s/he may, without treatment, suffer, or suffer more severely, from any serious complaint, condition, symptom, or disease;
 - b) uses, in improper, alarming or misleading terms, pictorial representations of changes in the human body caused by disease or injury, or of the action of a cosmetic treatment, product or service on the human body or parts thereof;
 - c) refers, in improper, alarming or misleading terms, to claims of recovery;
 - d) encourages unnecessary, indiscriminate, irrational and/or excessive use of cosmetic treatments, products and services;
 - e) gives the impression that a medical consultation or surgical operation is unnecessary, in particular by offering a diagnosis or by suggesting treatment by mail (includes post, telephone, e-mail and other electronic means of communication);
 - f) might, by a description or detailed representation of a case history, lead to erroneous self diagnosis;
 - g) suggests that the health of the subject can be enhanced by using a cosmetic treatment, product or service;
 - h) suggests that the health of the subject could be affected by not using of a cosmetic treatment, product or service;
 - i) contains unwarranted and indiscriminate use of such words as "safe", "without risk", "harmless", or terms of similar meaning in connection with cosmetic treatments, products and services;

- j) suggests that the safety or efficacy of a cosmetic treatment or service is due to the fact that it is natural;
- k) includes exaggerated claims, in particular, through the selection of testimonials or other evidence unrepresentative of the effectiveness of cosmetic treatments and services;
- l) refers to a recommendation by scientists, health professionals or persons who are neither of the foregoing but who, because of their celebrity status, could encourage the use of cosmetic treatments and services;
- m) gives the impression of professional advice or recommendation made by persons who appear in the commercial communication and who are presented, whether actually or by implication, as being qualified to give such advice or recommendation in connection with cosmetic treatments and services;
- n) refers to a hospital, clinic, college, institute, laboratory or other similar body unless a bona fide establishment corresponding to the description used does in fact exist;
- o) refers to doctors unless such reference can be used with propriety in the context of the commercial communication;
- p) refers to a prize, competition or similar scheme or offers cosmetic treatments and services as prizes in a competition;
- q) details special offers, discounts, references to credit facilities available or any other promotional offers intended to encourage the use of surgical cosmetic treatments or services.

13.7 Commercial communications promoting sunbeds shall comply with any guidance, rules or regulations prescribed by the Minister for Health regarding permitted information and marketing practices for sunbeds.

Consultation Information and Questions

In this draft Code, the rules regarding cosmetic treatments, products and services are separate to the rules for medicines and medical treatments, products and services. In the current General Commercial Communications Code, these came under one heading. The BAI is of the view that separate headings provide greater clarity and ease-of-use for stakeholders.

Rule 13.2 derives from the provisions of the European Communities (Cosmetic Products) Regulations 2004 and rule 13.7 comes from the Public Health (Sunbeds) Act 2014. The remaining rules, for the most part, incorporate similar provisions from the current Code or are referenced in the BAI's Children's Commercial Communications Code.

The provisions in rule 13.6 come from the current Code and are supplemented with modified versions of protections applying to commercial communications for Medicinal Products (see earlier section of this draft Code). The BAI believes these suitably apply to cosmetic treatments, products and services and offer appropriate protection for audiences for these types of commercial communications.

Q: What are your views on the Cosmetic Treatments, Products and Services section of the draft Code?

14. Hypnosis, Hypnotherapy, Psychology, Psychoanalysis and Psychiatry

- 14.1 Commercial communications for hypnosis, hypnotherapy, psychology, psychoanalysis or psychiatry may contain the address of the service provider and factual descriptions of services available but shall not contain anything which could be deemed a direct encouragement to use the product, treatment or service.
- 14.2 Commercial communications for hypnosis, hypnotherapy, psychology, psychoanalysis or psychiatry intended to treat any serious complaint, condition, symptom or disease, which should rightly receive the attention of a registered medical practitioner, are not permitted.
- 14.3 Commercial communications for hypnosis, hypnotherapy, psychology, psychoanalysis or psychiatry shall not contain material which is directed exclusively or principally at children.
- 14.4 Commercial communications shall not contain material which:
- a) is calculated to induce fear on the part of the viewer or listener that s/he may, without treatment, suffer, or suffer more severely, from any serious psychological complaint, condition, or symptom;
 - b) uses, in improper, alarming or misleading terms, pictorial representations of changes in the human body caused by disease or injury, or of the action of hypnosis, hypnotherapy, psychology, psychoanalysis or psychiatry on the human body or parts thereof;
 - c) refers, in improper, alarming or misleading terms, to claims of recovery;
 - d) encourages unnecessary, indiscriminate, irrational and/or excessive use of hypnosis, hypnotherapy, psychology, psychoanalysis or psychiatry;
 - e) gives the impression that a medical consultation or surgical operation is unnecessary, in particular by offering a diagnosis or by suggesting treatment by mail (includes post, telephone, e-mail and other electronic means of communication);
 - f) might, by a description or detailed representation of a case history, lead to erroneous self diagnosis;
 - g) suggests that the health of the subject could be affected by not using of hypnosis, hypnotherapy, psychology, psychoanalysis or psychiatry;
 - h) contains unwarranted and indiscriminate use of such words as "safe", "without risk", "harmless", or terms of similar meaning in connection with hypnosis, hypnotherapy, psychology, psychoanalysis or psychiatry;
 - i) includes exaggerated claims, in particular, through the selection of testimonials or other evidence unrepresentative of the effectiveness of hypnosis, hypnotherapy, psychology, psychoanalysis or psychiatry;
 - j) refers to a recommendation by scientists, health professionals or persons who are neither of the foregoing but who, because of their celebrity status, could encourage the use of hypnosis, hypnotherapy, psychology, psychoanalysis or psychiatry;
 - k) gives the impression of professional advice or recommendation made by persons who appear in the commercial communication and who are presented, whether actually or by implication, as being qualified to give such advice or recommendation

in connection with hypnosis, hypnotherapy, psychology, psychoanalysis or psychiatry;

- l) refers to a hospital, clinic, college, institute, laboratory or other similar body unless a bona fide establishment corresponding to the description used does in fact exist;
- m) refers to doctors unless such reference can be used with propriety in the context of the commercial communication;
- n) refers to a prize, competition or similar scheme or offers hypnosis, hypnotherapy, psychology, psychoanalysis or psychiatry as prizes in a competition;
- o) details special offers, discounts or any other promotional offers intended to encourage the use of hypnosis, hypnotherapy, psychology, psychoanalysis or psychiatry.

Consultation Information and Questions

The rules in this section generally reflect what is in the current General Commercial Communications Code and provide additional clarity where necessary.

The provisions in rule 14.4 come from the current Code and are supplemented with modified versions of protections applying to commercial communications for Medicinal Products (see earlier section of this draft Code). The BAI believes these suitably apply to hypnosis, hypnotherapy, psychology, psychoanalysis and psychiatry and offer appropriate protection for audiences for these types of commercial communications.

Q: What are your views on the Hypnosis, Hypnotherapy, Psychology, Psychoanalysis and Psychiatry section of the draft Code?

15. Food, Nutrition and Health

- 15.1 Food information in commercial communications shall be accurate, clear and easy to understand and shall not mislead as to the characteristics of the food, food effects or properties or attribute medicinal properties to foods. Food information shall not attribute to any food the property of preventing, treating or curing a human disease, nor refer to such properties, subject to derogations provided for by European law applicable to natural mineral waters and foods for particular nutritional uses.
- 15.2 Commercial communications containing health and nutritional claims made for foods shall comply with all relevant Irish and European legislation and with rules, regulations and codes of practice issued from time to time by a relevant competent authority.
- 15.3 Nutrition and health claims in commercial communications shall be based on and substantiated by generally accepted scientific data. A nutrition or health claim shall not be made if it is inconsistent with generally accepted nutrition and health principles or if it encourages or condones excessive consumption of any food or disparages good dietary practice.
- 15.4 The use of nutrition and health claims in commercial communications shall only be permitted if the average consumer can be expected to understand the beneficial effects as expressed in the claim.
- 15.5 The use of nutrition and health claims in commercial communications shall not:
- a) be false, ambiguous or misleading;
 - b) give rise to doubt about the safety and/or the nutritional adequacy of other foods;
 - c) encourage or condone excess consumption of a food;
 - d) state, suggest or imply that a balanced and varied diet cannot provide appropriate quantities of nutrients in general, subject to derogations provided for by European law;
 - e) refer to changes in bodily functions which could give rise to or exploit fear in the consumer, either textually or through pictorial, graphic or symbolic representations.
- 15.6 Commercial communications involving health claims shall include all of the following information:
- a) a statement indicating the importance of a varied and balanced diet and a healthy lifestyle;
 - b) the quantity of the food and pattern of consumption required to obtain the claimed beneficial effect;
 - c) where appropriate, a statement addressed to persons who should avoid using the food; and
 - d) an appropriate warning for products that are likely to present a health risk if consumed to excess.
- 15.7 The following health claims shall not be allowed in commercial communications:

- a) claims which suggest that health could be affected by not consuming the food;
 - b) claims which make reference to the rate or amount of weight loss;
 - c) claims which make reference to recommendations of individual doctors or health professionals and other associations not registered/certified by a relevant competent authority.
- 15.8 Reduction of disease risk claims in commercial communications shall comply with European and Irish legislation and shall also bear a statement indicating that the disease to which the claim is referring has multiple risk factors and that altering one of these risk factors may or may not have a beneficial effect.
- 15.9 Commercial communications for follow-on infant formula shall comply with all relevant Irish and European legislation and with rules, regulations and codes of practice issued from time to time by a relevant competent authority. Commercial communications for follow-on infant formula shall not suggest, either directly or by implication, the superiority of this product to breastfeeding and shall clearly indicate the unsuitability of this product for infants under six months.
- 15.10 A maximum of 25% of sold advertising time and only one in four advertisements for High Fat Salt Sugar (HFSS) food products and/or services products are permissible across the broadcast day. There is a range of other rules in relation to food commercial communications for children and these can be found in the BAI's Children's Commercial Communications Code, which is available to download from www.bai.ie.

Consultation Information and Questions

This section is titled "Food (including HFSS food)" in the current General Commercial Communications Code and has been renamed "Food, Nutrition and Health" to better reflect the more detailed rules now proposed.

There are 10 rules in this section, an increase on the more minimalist approach in the current Code. The additional rules derive from EU regulations on food information (15.1) and on nutrition and health claims made on foods (15.3 to 15.8). The other rules are largely unchanged from the current Code.

Please note that the BAI is not proposing at this time to amend Rule 15.10. This will be considered in the context of the review of the Children's Commercial Communications Code, which will commence in 2017.

Q: What are your views on the Food, Nutrition and Health section of the draft Code?

16. Slimming Treatments, Products and Services

- 16.1 Commercial communications shall not contain any offer of a treatment, product or service for slimming (i.e. weight reduction, limitation or control) which:
- a) is in itself likely to lead to harmful effects;
 - b) is not directly associated with the following of a properly designed diet;
 - c) does not clearly state the manner in which slimming will be achieved.
- 16.2 Commercial communications for slimming treatment, products and services shall not contain material which is directed exclusively or principally at children.
- 16.3 Commercial communications for foods for use in energy restricted diets for weight reduction shall not make reference to the rate or amount of weight loss which may result from their use.
- 16.4 Where slimming treatments, products and services could reasonably be categorised under the headings in sections 11 to 15 of this Code, the commercial communications for such slimming treatments, products and services must adhere to the rules under the relevant section(s) in addition to rules under this section.

Consultation Information and Questions

New rules have been added to this section of the Code to protect the interests of the audience. Rule 16.3 derives from an EU law in relation to foods for use in dieting and weight reduction. Rule 16.4 clarifies for stakeholders that when a slimming treatment, product or service could be considered a food or medical treatment or cosmetic service, etc, then commercial communications for those items must comply with the rules under the relevant section or sections of this Code.

Q: What are your views on the Slimming Treatments, Products and Services section of the draft Code?

17. Smoking Cessation Aids

- 17.1 Commercial communications for products or services purporting to assist people to quit smoking shall indicate clearly that the product or service is only effective in conjunction with the positive application of the consumer's will power. Commercial communications purporting to assist people to quit smoking shall not indicate that a cure will be brought about by the product or service but may focus on the potential role of the product or service in assisting people to quit smoking.
- 17.2 Where smoking cessation aids could reasonably be categorised under the headings in sections 11 to 15 of this Code, the commercial communications for such smoking aids must adhere to the rules under the relevant section(s) in addition to rules under this section.

Consultation Information and Questions

A new rule (17.2) is included to clarify for stakeholders that when a smoking cessation aid could be considered a food or medical treatment or cosmetic service, etc, then commercial communications for those items must comply with the rules under the relevant section or sections of this Code.

Q: What are your views on the Smoking Cessation Aids section of the draft Code?

18. Financial Services and Products

- 18.1 Commercial communications for financial services and products shall be presented in terms which do not mislead, whether by exaggeration, omission or in any other way.
- 18.2 Commercial Communications for financial services and products shall comply with relevant Irish and European legislation and with the rules, regulations and codes of practice issued from time to time by the relevant competent authority.

Consultation Information and Questions

The rules in this section are unchanged from the current General Commercial Communications Code. The review of the current Code highlighted a concern of radio broadcasters that the existing requirements for a spoken regulatory statement are not effective and are disadvantageous for radio. The Central Bank is responsible for these regulations and it is of the view that changes should not be made to these requirements.

Q: What are your views on the Financial Services and Products section of the draft Code?

19. Gambling

- 19.1 Commercial communications for gambling shall comply with all relevant Irish and European legislation and with rules, regulations and codes of practice issued from time to time by a relevant competent authority.
- 19.2 Commercial communications are not permitted for remote bookmaking operations carried on by a person who does not hold a bookmaker's licence.
- 19.3 Commercial Communications are not permitted for lotteries, save for the National Lottery or for other lotteries granted licences by the relevant competent authority. Commercial Communications for the National Lottery shall comply with the *Marketing Communications, Advertising, Promotions and PR Code of Practice* approved by the regulator of the National Lottery and with rules 19.5 and 19.6 of this section of the Code.
- 19.4 Commercial communications that seek to promote services to those who want to gamble may contain the address of the service provider and factual descriptions of services available but shall not contain anything which could be deemed to be a direct encouragement to gamble. This includes providing information detailing special offers, free bets as prizes in competitions, discounts, inducements to visit any gambling establishment (including on-line) or any promotional offer intended to encourage the use of services of this nature.
- 19.5 Portrayals of gambling in commercial communications shall not:
- a) encourage behaviour that is socially irresponsible or could lead to financial, social, psychological or emotional harm;
 - b) suggest that gambling can be a solution to personal or professional problems or financial concerns;
 - c) suggest that gambling can enhance personal qualities or contribute toward sexual attraction and success or social success; or
 - d) depict or feature children gambling.
- 19.6 Commercial communications shall not be aimed at children and shall not be broadcast in or around programmes primarily intended for children whether as viewers or listeners.

Consultation Information and Questions

The heading for this section is "Betting" in the current General Commercial Communications Code. It is replaced by the more comprehensive "Gambling" in this draft Code and a definition of gambling has been introduced in Appendix 2.

Rules 19.2 and 19.3 come from the Betting (Amendment) Act 2015 and the Gaming and Lotteries Act 1956.

Rule 19.4 comes from the current Code. The restriction on mentioning betting odds has been removed but the restriction on promotional offers of odds has been retained. Similarly, the prohibition on “encouragement” to bet is changed to “direct encouragement”.

Rules 19.5 and 19.6 restrict the type of content that is permitted in commercial communications for gambling. These two rules are based on similar provisions in the Advertising Standards Authority of Ireland (ASAI) Code.

Q: What are your views on the Gambling section of the draft Code?

20. Premium-rate Telecommunications Services

- 20.1 Commercial communications for premium-rate telecommunication services shall comply with all relevant Irish and European legislation and with rules, regulations and codes of practice issued from time to time by a relevant competent authority.
- 20.2 Commercial communications for premium-rate telecommunication services shall clearly state all charges for accessing these services in terms which do not mislead, whether by exaggeration, omission or in any other way.

Consultation Information and Questions

The rules in this section are unchanged from the current General Commercial Communications Code.

Q: What are your views on the Premium-rate Telecommunications Services section of the draft Code?

21. Fortune Tellers, Psychic Services, etc.

- 21.1 Commercial communications for fortune tellers, psychic services etc., are acceptable where the service is evidently for entertainment purposes only and this is made clear in the communication. Such communications shall not include any of the following:
- a) claims that future events may be predicted, other than as a matter of opinion;
 - b) claims to make contact with deceased persons; or
 - c) claims pertaining to matters of health, cures, curing and/or healing.
- 21.2 Commercial communications for fortune tellers, psychic services etc., shall not be broadcast in or around programmes specifically aimed at/appealing to children.

Consultation Information and Questions

The first rule (21.1) comes from the current General Commercial Communications Code and the second rule (21.2) clarifies the position in relation to such commercial communications aimed at children.

Q: What are your views on the Fortune Tellers, Psychic Services, etc., section of the draft Code?

22. Prohibited Commercial Communications

- 22.1 All forms of commercial communications for cigarettes and other tobacco products are prohibited. This includes indirect forms of commercial communication which, whilst not directly mentioning the tobacco product, seek to circumvent the ban on audiovisual commercial communication for cigarettes and other tobacco products by using brand names, symbols or other distinctive features of tobacco products or of undertakings whose known or main activities include the production or sale of such products.
- 22.2 Commercial communications for controlled drugs under section 2 of the Misuse of Drugs Act 1977, for psychoactive substances under the Criminal Justice (Psychoactive Substances) Act 2010 and for medicinal products and medical treatments available only on prescription in Ireland are prohibited.
- 22.3 Commercial communications with the aim or direct or indirect effect of promoting electronic cigarettes and refill containers are prohibited. This does not apply to electronic cigarettes and refill containers that are subject to (1) an authorisation requirement relating to medicinal products for human use (under Directive 2001/83/EC) or (2) the requirements concerning medical devices (under Directive 93/42/EEC).
- 22.4 Commercial communications for infant formula for use by infants during the first 6 months of life are prohibited.
- 22.5 Commercial communications that are directed towards a political end or that have any relation to an industrial dispute are prohibited. This rule does not prohibit the broadcasting of a party political broadcast provided that a broadcaster does not, in the allocation of time for such broadcasts, give an unfair preference to any political party. This rule does not apply to commercial communications broadcast at the request of the Referendum Commission in relation to a matter referred to in section 3 of the Referendum Act 1998 concerning a referendum.
- 22.6 Commercial communications that address the issue of the merits or otherwise of adhering to any religious faith or belief or of becoming a member of any religion or religious organisation are prohibited.

Broadcasters should be aware that other classes of commercial communication are prohibited, limited or otherwise restricted by legislative or regulatory provisions. A guide to these provisions is contained in the Appendix Four and this guide should not be deemed exhaustive.

Consultation Information and Questions

Prohibitions on certain commercial communications derive from EU and Irish law. A new prohibition (22.3) is included in relation to commercial communications for electronic cigarettes. This comes from the Tobacco Products Directive (2014/40/EU), which was recently transposed into Irish law.

Q: What are your views on the Prohibited Commercial Communications section of the draft Code?

Appendix One

BAI Codes and Rules corresponding to Section 42(2) of the Broadcasting Act 2009

Legislation	Broadcasting Codes shall provide:	BAI Code
Section 42(2)(a)	<i>all news broadcast by a broadcaster is reported and presented in an objective and impartial manner and without any expression of the broadcaster's own views,</i>	Code of Fairness, Impartiality and Objectivity in News and Current Affairs
Section 42(2)(b)	<i>the broadcast treatment of current affairs, including matters which are either of public controversy or the subject of current public debate, is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views,</i>	Code of Fairness, Impartiality and Objectivity in News and Current Affairs
Section 42(2)(c)	<i>anything being likely to promote or incite to, crime, or as tending to undermine the authority of the State, is not broadcast by a broadcaster,</i>	Code of Programme Standards
Section 42(2)(d)	<i>in programmes broadcast by a broadcaster, and in the means employed to make such programmes, the privacy of any individual is not unreasonably encroached upon,</i>	Code of Programme Standards
Section 42(2)(e)	<i>a broadcaster does not, in the allocation of time for transmitting party political broadcasts, give an unfair preference to any political party,</i>	Code of Fairness, Impartiality and Objectivity in News and Current Affairs <i>and</i> Election and Referenda Guidelines
Section 42(2)(f)	<i>in respect of programme material broadcast by a broadcaster that audiences are protected from harmful or offensive material, in particular, that programme material in respect of the portrayal of violence and sexual conduct, shall be presented by a broadcaster –</i> <i>(i) with due sensitivity to the convictions or feelings of the audience, and</i> <i>(ii) with due regard to the impact of such programming on the physical, mental or moral development of children,</i>	Code of Programme Standards

Legislation	Broadcasting Codes shall provide:	BAI Code
<i>Section 42(2)(g)</i>	<i>advertising, teleshopping material, sponsorship and other forms of commercial promotion employed in any broadcasting service, in particular advertising and other such activities which relate to matters likely to be of direct or indirect interest to children, must protect the interests of children having particular regard to the general public health interests of children,</i>	Children’s Commercial Communications Code
Section 42(2)(h)	advertising, teleshopping material, sponsorship and other forms of commercial promotion employed in any broadcasting service, other than advertising and other activities as aforesaid falling within paragraph (g), must protect the interests of the audience,	General Commercial Communications Code
<i>Section 42(2)(i)</i>	<i>the provision of a broadcasting service which has, as one of its principal objectives, the promotion of the interests of any organisation, protects the interests of the audience, and</i>	Code of Programme Standards
Section 42(2)(j)	for the matters to be provided for by Chapters IIA, IV and V of the Council Directive.²	Code of Programme Standards, General Commercial Communications Code , Children’s Commercial Communications Code, BAI Rules on Advertising and Teleshopping

In preparing or revising a broadcasting code, the Authority must have regard to each of the following matters, further to the provisions of Section 42(3) of the Act:

- (a) *the degree of harm or offence likely to be caused by the inclusion of any particular sort of material in programmes generally, or in programmes of a particular description,*
- (b) *the likely size and composition of the potential audience for programmes included in television and sound broadcasting services generally, or in television and sound broadcasting services of a particular description,*

² ‘Council Directive’ means Council Directive 89/552/EEC of 3 October 1989 on the co-ordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities as amended by Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997 and by Directive 2007/65/EC of the European Parliament and of the Council of 11 December 2007. A simplified and codified version of these Directives was introduced in 2010: the Audiovisual Media Services Directive 2010/13/EU.

- (c) the likely expectation of the audience as to the nature of a programme's content and the extent to which the nature of a programme's content can be brought to the attention of potential members of the audience,*
- (d) the likelihood of persons who are unaware of the nature of a programme's content being unintentionally exposed, by their own actions, to that content,*
- (e) the desirability of securing that the content of a broadcasting service identifies when there is a change affecting the nature of the service that is being watched or listened to and, in particular, a change that is relevant to the application of the codes set under this section, and*
- (f) the desirability of maintaining the independence of editorial control over programme content.*

Appendix Two

Definitions for Specific Products and Services

Cosmetic Product

A cosmetic product is defined as any substance or mixture intended to be placed in contact with the external parts of the human body (epidermis, hair system, nails, lips and external genital organs) or with the teeth and the mucous membranes of the oral cavity, with a view exclusively or mainly to cleaning them, perfuming them, changing their appearance, protecting them, keeping them in good condition or correcting body odours.

Cosmetic Treatments and Services

Cosmetic treatments and services are defined as surgical and non-surgical procedures where the primary aim is the change, the restoration, normalisation or improvement of the appearance, the function and well-being at the request of the individual. These treatments are for aesthetic rather than medical reasons. A non-exhaustive list of surgical procedures includes: liposculpture/liposuction; breast augmentation/uplift and reduction; penile enhancement; circumcision; ear correction surgery; fat removal; tummy tuck; lip, calf, cheek and chin implants. A non-exhaustive list of non-surgical procedures includes: semi-permanent make-up; laser skin rejuvenation; non-surgical uplift; microdermabrasion; tattoo removal; laser hair removal; Botox injections; dermal fillers.

Electronic Cigarette

Electronic cigarette means a product that can be used for consumption of nicotine-containing vapour via a mouth piece, or any component of that product, including a cartridge, a tank and the device without cartridge or tank. Electronic cigarettes can be disposable or refillable by means of a refill container and a take, or rechargeable with single use cartridges. Refill container means a receptacle that contains a nicotine-containing liquid, which can be used to refill an electronic cigarette.

Infant Formula

Infant formulae means foodstuffs intended for particular nutritional use by infants during the first months of life and satisfying by themselves the nutritional requirements of such infants until the introduction of appropriate complementary feeding.

Follow-on Infant Formula

Follow-on infant formulae means foodstuffs intended for particular nutritional use by infants when appropriate complementary feeding is introduced and constituting the principal liquid element in a progressively diversified diet of such infants.

Food

Food means any substance or product, whether processed, partially processed or unprocessed, intended to be, or reasonably expected to be ingested by humans. Food includes drink, chewing gum and any substance, including water, intentionally incorporated into the food during its manufacture, preparation or treatment. It includes water after the point of compliance as defined in Article 6 of Directive 98/83/EC and without prejudice to the requirements of Directives 80/778/EEC and 98/83/EC. Food shall also not include:

- feed;
- live animals unless they are prepared for placing on the market for human consumption;
- plants prior to harvesting;
- medicinal products within the meaning of Council Directives 65/65/EEC (1) and 92/73/EEC (2);
- cosmetics within the meaning of Council Directive 76/ 768/EEC (3);
- tobacco and tobacco products within the meaning of Council Directive 89/622/EEC (4);
- narcotic or psychotropic substances within the meaning of the United Nations Single Convention on Narcotic Drugs, 1961, and the United Nations Convention on Psychotropic Substances, 1971;
- residues and contaminants.

Gambling

Gaming is defined as playing for a stake in a game of chance for a monetary prize or other form of reward, and includes the playing of games available in casinos. Gambling may be gaming, betting, lotteries, bingos or amusement arcade games. Betting is defined as making or accepting a bet (including when made or accepted through a betting service or a betting exchange) on: (a) the outcome of a race, competition or other event or process, including virtual events,(b) the likelihood of something occurring or not occurring, or (c) whether or not something is true, and includes pool betting. Financial services and products regulated by the Financial Regulator must adhere to the rules under the Financial Services and Products section of this Code and are not required to adhere to the rules pertaining to Gambling.

Health Claim

A health claim means any claim that states, suggests or implies that a relationship exists between a food category, a food or one of its constituents and health (for example, “aids digestion”). Broadcasters should also note the definition of a reduction of disease risk claim included in EU regulation. This means any health claim that states, suggests or implies that the consumption of a food category, a food or one of its constituents significantly reduces a risk factor in the development of a human disease.

HFSS foods

HFSS foods are those that are assessed as high in fat, salt or sugar in accordance with the Nutrient Profiling Model developed by the UK Food Standards Agency as adopted by the BAI. An overview of the Nutrient Profiling Model and how to apply it is provided in Appendix Three.

Medical Treatment, Device or Service

A medical treatment, device or service is defined as a treatment, device or service intended to prevent, cure or alleviate a medical complaint, condition, symptom or disease.

Medicinal Product

For the purpose of this Code, a medicinal product is defined further to Directive 2001/83/EC, as amended by Directive 2004/27/EC, as “*any substance or combination of substances presented as having properties for treating or preventing disease in human beings or any substance or combination of substances which may be used in or administered to human beings either with a view to restoring, correcting or modifying physiological functions by exerting a pharmacological,*

immunological or metabolic action, or to making a medical diagnosis". This definition includes prescription-only medicines and medicinal products available from the pharmacy or shop counter that can be sold only once a Product Authorisation License has been granted by the relevant competent authority. It also includes medicinal products that are subject to any other licensing or certification requirements, including homeopathic and traditional herbal medicines. This does not include foods that make health or nutritional claims except those making medicinal claims.

Nutrition Claim

Further to the EU regulation, a 'nutrition claim' means any claim which states, suggests or implies that a food has particular beneficial nutritional properties due to:

- the energy (calorific value) it provides, provides at a reduced or increased rate, or does not provide;
- the nutrients or other substances it contains, contains in reduced or increased proportions, or does not contain.

Appendix Three

Nutrient Profiling Model

For the purpose of this Code, the Nutrient Profiling Model developed by the UK Food Standards Agency should be used to assess whether commercial communications is for a product or service that is high in fat, salt or sugar and therefore subject to restrictions and regulation. There are three steps to working out the overall score of a food or drink.

1. Work out total 'A' points

A maximum of ten points can be awarded for each nutrient.

Total 'A' points = (points for energy) + (points for saturated fat) + (points for sugars) + (points for sodium). The following table indicates the points scored, depending on the amount of each nutrient in 100g of the food or drink:

Points Allocation 'A' Nutrients

Points	Energy (kJ)	Sat Fat (g)	Total Sugar (g)	Sodium (mg)
0	≤ 335	≤ 1	≤ 4.5	≤ 90
1	>335	>1	>4.5	>90
2	>670	>2	>9	>180
3	>1005	>3	>13.5	>270
4	>1340	>4	>18	>360
5	>1675	>5	>22.5	>450
6	>2010	>6	>27	>540
7	>2345	>7	>31	>630
8	>2680	>8	>36	>720
9	>3015	>9	>40	>810
10	>3350	>10	>45	>900

If a food or drink scores 11 or more 'A' points then it cannot score points for protein unless it also scores 5 points for fruit, vegetables and nuts.

2. Work out total 'C' points

A maximum of five points can be awarded for each nutrient/food component.

Total 'C' points = (points for % fruit, vegetable & nut content) + (points for fibre [either NSP or AOAC]) + (points for protein)

The following table indicates the points scored, depending on the amount of each nutrient/food component in 100g of the food or drink:-

Points Allocation 'C' Nutrients:

Points	Fruit, Veg and Nuts (%)	N&P Fibre (g)	Or AOAC Fibre ³ (g)	Protein (g)
0	≤40	≤0.7	≤0.9	≤1.6
1	>40	>0.7	>0.9	>1.6
2	>60	>1.4	>1.9	>3.2
3	-	>2.1	>2.8	>4.8
4	-	>2.8	>3.7	>6.4
5	>80	>3.5	>4.7	>8.0

3. Work out overall score

- If a food scores **less than 11 'A'** points then the overall score is calculated as follows:

Total 'A' points (energy + saturated fat + sugars + sodium) minus total 'C' points (fruit, veg and nuts + fibre + protein)

- If a food scores **11 or more 'A' points** but scores 5 points for fruit, vegetables and nuts then the overall score is calculated as follows:

Total 'A' points (energy + saturated fat + sugars + sodium) minus total 'C' points (fruit, veg and nuts + fibre + protein)

- If a food scores **11 or more 'A' points, and less than 5 points for fruit, vegetables and nuts**, then the overall score is calculated as follows:

Total 'A' points (energy + saturated fat + sugars + sodium) minus total points for fibre + points for fruit, vegetables and nuts (not allowed to score for protein)

A **food** is classified as 'less healthy' where it scores **4 points or more and is subject to the restrictions in the Code.**

A **drink** is classified as 'less healthy' where it scores **1 point or more and is subject to the restrictions in the Code.**

For further detail on the application of this model, please refer to separate guidance provided by the BAI and published on www.bai.ie.

³ One or other of the dietary fibre columns should be chosen to how the fibre content of the food or beverage was calculated by the manufacturer.

Appendix Four

Legislation affecting commercial communications

The following is a non-exhaustive guide to the principal legislation which may restrict, control or otherwise affect commercial communications in Ireland. This is provided for guidance only and it is entirely a matter for individual parties to ascertain any relevant legislative provisions that may apply in each case as well as any updates, repeals or amendments made to the relevant legislation.

Broadcasting Legislation

Broadcasting Authority Act, 1960
Broadcasting Authority (Amendment) Act, 1976
Broadcasting and Wireless Telegraphy Act, 1988
Broadcasting Act, 1990
Broadcasting Act, 2009

Other National Legislation

Adoption Acts 1952 to 2010.
Animal Remedies Act 1993.
Animal Remedies (Control of Sale) Regulations 1985-1991 (S.I. 258/1985, S.I. 244/1991).
Betting Act 1931.
Betting (Amendment) Act 2015.
Building Societies Act 1989 as amended by 2006 Act.
Central Bank and Financial Services Authority of Ireland Act, 2003 and 2004.
Central Bank Acts 1942-1998.
Central Bank (Supervision and Enforcement) Act 2013.
Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Undertakings for Collective Investment in Transferable Securities) Regulations 2015 (S.I. No. 420/2015).
Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Lending to Small and Medium-Sized Enterprises) Regulations 2015 (S.I. No. 585/2015).
Censorship of Films Acts 1923-1992.
Censorship of Publications Acts 1929-1967.
Censorship of Publications Regulations 1980 (S.I. 292/1980).
Child Trafficking and Pornography Act 1998.
Child Trafficking and Pornography (Amendment) Act 2004.
Code of Professional Conduct and Ethics for Social Workers bye-law 2011 (S.I. No. 143/2011).
Companies Acts 1963-2009.
Communications Regulation (Premium Rate Services and Electronic Communications Infrastructure) Act 2010.
Communications Regulation (Licensing of Premium Rate Services) Regulations 2012 (S.I. No. 111/2012).
Consumer Credit Act 1995.
Consumer Credit Act 1995 (Section 28) Regulations, 1996 (S.I. 245/1996).
Consumer Protection Act, 2007.
Consumer Information (Advertisement for Concert or Theatre Performances) Order 1997 (S.I. 103/1997).

Consumer Information (Advertisements)(Disclosure of Business Interest) Order 1984 (S.I. 168/1984).
Consumer Information (Advertisement for Airfares) Order, 2000 (S.I. 468/2000).
Consumer Information (Miscellaneous Goods)(Marking) Order, 1984 (S.I. 178/1984).
Copyright Act 1963.
Copyright and Related Rights Acts 2000 and 2004.
Credit Guarantee Scheme 2012 (S.I. No. 360/2012).
Credit Union Act 1997.
Criminal Justice (Psychoactive Substances) Act 2010.
Criminal Justice (Theft and Fraud Offences) Act 2001.
Data Protection Acts 1988 and 2003.
Dairy Products Acts 1924 to 1947.
Defamation Act 2009.
Defence Acts 1954 to 2007.
Dietitians Registration Board Code of Professional Conduct and Ethics Bye-law 2014 (S.I. No. 448/2014).
Employment Agency Act 1971.
Employment Agency Regulations 1972 to 1993 (S.I. 27/1971, S.I. 255/1972, S.I. 49/1993).
Employment Equality Acts 1998 and 2004.
Gaming and Lotteries Acts 1956 to 1979.
Hallmarking Act 1981.
Health (Foods for Particular Nutritional Uses) Regulations 1991 (S.I. 331/1991).
Health (Miscellaneous Provisions) Act 2014.
Health (Pricing and Supply of Medical Goods) Act 2013.
Hire Purchase and Credit Sale (Advertising) Order 1961 (S.I. 183/1961).
Industrial and Commercial Property (Protection) Acts 1927 to 1958.
Industrial Research and Standard Acts 1961 and 1979.
Insurance Acts 1909 to 2000
Investment Intermediaries Act 1995.
Licensing Acts 1833 to 2004.
Investor Compensation Act 1998.
Medicinal Products (Control of Advertising) Regulations 2007 (S.I. 541/2007).
Medical Preparations (Labelling and Package Leaflets) Regulations 1993-1999 (S.I. 71/1993, S.I. 440/1994, 187/1999).
Medical Preparations (Licensing, Advertisement and Sale) Regulations 1984 to 1994 (S.I. 210/1984, S.I. 347/1989, S.I. 70/1993, S.I. 439/1994).
Medicinal Products (Prescription and Control of Supply) Regulations 2003 as amended (S.I. 540/2003).
Medicinal Products (Licensing and Sale) Regulations 1998 (S.I. 142/1998) and 2001.
Merchandise Marks Act 1970.
Metrology Act 1996.
Milk and Dairies Acts 1935 and 1956.
Occasional Trading Act 1979 as amended by the Casual Trading Act 1995.
Official Languages Act 2003.
Opticians Acts 1956 and 2003.
Package Holidays and Travel Trade Act 1995.
Prices and Charges (Tax-Inclusive Statements) Order 1973 (S.I. 9/1973).

Property Services (Regulation) Act 2011.
Public Health (Sunbeds) Act 2014
Public Health (Sunbeds) (Prohibition of Certain Marketing Practices) Regulations 2015 (S.I. No. 51/2015).
Public Health (Sunbeds) (Prohibition of Certain Marketing Practices) (Amendment) Regulations 2015 (S.I. No. 279/2015).
Public Health (Tobacco) Acts 2002 to 2009.
Public Health (Tobacco) (Amendment) Act 2013.
Public Health (Tobacco) (Control of Sales Promotion) Regulations 2013 (S.I. No. 530/2013).
Radiographers Registration Board Code of Professional Conduct and Ethics Bye-law 2013 (S.I. No. 392/2013).
Red Cross Acts 1938 to 1954.
Sale of Goods and Supply of Services Act 1980.
Savings Certificates (Issue 21) Rules 2014 (S.I. No. 442/2014).
Solicitors Acts 1954-2002 Solicitors (Advertising) Regulations 2002 (S.I. 518/2002).
Solicitors Acts 1954-2002.
Speech and Language Therapists Registration Board Code of Professional Conduct and Ethics Bye-law 2014 (S.I. No. 472/2014).
State Airports (Shannon Group) Act 2014.
Stock Exchange Act 1995.
Taxi Regulation Act 2013.
Taxi Regulation (Small Public Service Vehicle) Regulations 2015 (S.I. No. 33/2015).
The Civil Law (Miscellaneous Provisions) Act 2011.
Tobacco Products (Control of Advertising, Sponsorship and Sales Promotion) Regulations 1991-2009 (S.I. 326/1991, S.I. 215/2000, S.I. 243/2009).
Tourist Traffic Acts 1939 to 1970.
Trade Marks Act 1996.
Trustee Savings Banks Acts 1989 and 2001.
Unit Trusts Act 1990.

Rights

Equality (Miscellaneous Provisions) Act 2015
Equal Status Acts 2000 to 2004
Equality Act 2004
European Convention on Human Rights Act 2003
Prohibition on Incitement to Hatred Act 1989

European-Based Legislation

- Council Directive 2010/13/EU (Audiovisual Media Services Directive)
- European Communities (Audiovisual Media Services) Regulations 2010 (S.I. No. 258/2010).
- Council Regulation (EC) No. 2200/96 as amended by 2699/2000 and European Communities (Fruit and Vegetables) Regulations 1997 (S.I. 122/1997).
- European Communities (Authorisation, Placing on the Market, Use and Control of Plant Protection Products) Regulations 2003 as amended (S.I. 83/2003).
- European Union (Batteries and Accumulators) Regulations 2014 (S.I. No. 283/2014).
- European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477/2011).
- European Union (Biocidal Products) Regulations 2013 (S.I. No. 427/2013).

- European Union (Capital Requirements) Regulations 2014 (S.I. No. 158/2014).
- Electronic Commerce (Directive 2000/31/EC) Regulations 2003 (S.I. 68/2003).
- European Communities (Definition, Description and Presentation of Spirit Drinks) Regulations 1995 (S.I. 300/1995).
- European Communities (Definition, Description and Presentation of Aromatised Wines, Aromatised Wine-Product Cocktails) 1998 (S.I. No. 254/1998).
- European Communities (Classification, Packaging and Labelling of Pesticides) Regulations 1994 (S.I. 138/1994).
- European Communities (Classification, Packaging and Labelling of Plant Protection Products and Biocide Products) Regulations 2001 (S.I. 624/2001).
- European Communities (Consumer Credit Agreements) Regulations 2010 (S.I. No. 281/2010).
- European Communities (Co-operation between National Authorities Responsible for the Enforcement of Consumer Protection Laws) Regulations 2006 (S.I. 290/2006).
- European Communities (Cosmetic Products) Regulations 1997-2013 (S.I. 87/1997, S.I. 213/1998, S.I. 150/2000, S.I. 203/200, S.I. 870/2004, S.I. 373/2006, S.I. 440/2013).
- European Union (Deposit Guarantee Schemes) Regulations 2015 (S.I. No. 516/2015).
- European Communities (Distance Marketing of Consumer Financial Services) Regulations 2004 (S.I. 853/2004).
- European Communities (Distance Marketing) of Consumer Financial Services (Amendment) Regulations 2005 (S.I. 63/2005).
- European Union (Energy Performance Of Buildings) Regulations 2012 (S.I. No. 243/2012).
- European Union (Foodstuffs Intended for Particular Nutritional Uses) Regulations 2012 (S.I. No. 169/2012).
- European Communities (Food Supplement) Regulations 2003 (S.I. 539/2003).
- European Communities (Infant Formulae and Follow-on Formulae) Regulations 2007 (S.I. No. 852 of 2007) amended by European Communities (Infant Formulae and Follow-on Formulae) (Amendment) Regulations 2009 (S.I. No. 209 of 2009), European Communities (Infant Formulae and Follow-on Formulae) (Amendment) Regulations 2013 (S.I. No. 384 of 2013) and European Communities (Infant Formulae and Follow-on Formulae) (Amendment) Regulations 2014 (S.I. No. 92 of 2014).
- Commission Directive 2006/141/EC on Infant Formulae and Follow-on Formulae.
- European Union (Insurance and Reinsurance) Regulations 2015 (S.I. No. 485/2015).
- European Communities (Labelling, Presentation and Advertising of Foodstuffs) Regulations 2000 and 2002 (S.I. 92/2000, S.I. 483/2002).
- European Communities (Life Assurance) Framework Regulations 1994 (S.I. 360/1994).
- Market Abuse (Directive 2003/6/EC) Regulations 2005 (S.I. 342/2005).
- European Union (Manufacture, Presentation and Sale of Tobacco and Related Products) Regulations 2016 (S.I. No. 271 of 2016).
- Means of Distance Communications (Amendment) Regulations 2005 (S.I. 71/2005).
- European Communities (Misleading and Comparative Marketing Communications) Regulations 2007 (S.I. 774/2007).
- Directive on Misleading and Comparative Advertising (Directive 2006/114/EC).
- European Communities (Names and Labelling of Textile Products) Regulations 1998 (S.I. 245/1998).
- European Communities (Non-Life Insurance) Framework Regulations 1994 (S.I. 359/1994).

- European Communities (Directive 1924/2006) on Nutrition and Health Claims Made on Foods.
- European Union (Nutrition and Health Claims made on Foods) Regulations 2014 (S.I. No. 11/2014).
- European Communities (Requirements to Indicate Product Prices) Regulations 2002(S.I. 639/2002).
- European Communities (Pesticides Residues) (Feeding Stuffs) Regulations 1992 (S.I. 40/1992).
- European Communities (Plant Protection Products) Regulations 2012 (S.I. No. 159/2012).
- Poisons (Control of Residues in Foods of Animal Origin) Regulations 1985 and 1986 (S.I. 257/85, S.I. 236/86).
- Prospectus (Directive 2003/71/EC) Regulations 2005 (S.I. 324/2005).
- European Communities (Protection of Consumers in Respect of Contracts Made by Means of Distance Communications) Regulations 2001(S.I. 207/2001).
- European Communities (Protection of Consumers in Respect of Contracts Made by Means of Distance Communications) (Amendment) Regulations 2005 (S.I. 71/2005).
- European Communities (Protection of Geographical Indication and Designations of Origin for Agricultural Products and Foodstuffs) Regulations 1995 and 1999 (S.I. 148/1995, S.I. 275/1999).
- European Union (Protection of Consumers in respect of Timeshare, Long-term Holiday Product, Resale and Exchange Contracts) Regulations 2011 (S.I. No. 73/2011).
- European Union (Provision of Food Information to Consumers) Regulations 2014 (S.I. No. 556/2014).
- European Union (Quality and Safety of Human Organs intended for Transplantation) Regulations 2012 (S.I. No. 325/2012).
- European Communities (Supply of Information on the Origin Identification and Destination of Bovine Animals) Regulation 1999 (S.I. 258/1999).
- European Communities (Television Broadcasting) Regulations 1999 (S.I. 313/1999).
- Tobacco Products Directive (2014/40/EU).
- EC (Traditional Specialities Guaranteed) Regulations 2010 (S.I. No. 379/2010).
- European Communities (Undertakings for Collective Investments in Transferable Securities) Regulations 2003 (S.I. 211/2003) (as amended).

