

BISA/IBA/006

KHASHO HOUSE, 26 BAKER STREET, ROSEBANK 2196, JOHANNESBURG, GAUTENG PROVINCE, SOUTH AFRICA
PRIVATE BAG X31, PARKLANDS 2121. TEL + 27 (11) 447-6180 FAX + 27 (11) 447-6187/8/9

INDEPENDENT BROADCASTING AUTHORITY
LIBRARY & INFORMATION CENTRE



003289

**POSITION PAPER ON
A DEFINITION OF ADVERTISING, THE REGULATION
OF INFOMERCIALS AND THE REGULATION OF
PROGRAMME SPONSORSHIP**

31 March 1999

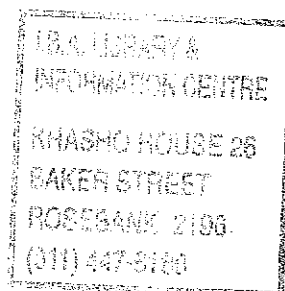
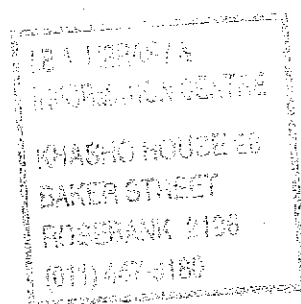


TABLE OF CONTENTS

1.	INTRODUCTION	p2
2.	LEGISLATIVE FRAMEWORK	p2
2.1	JURISDICTION OF THE ASA	p2
2.2	PUBLICATION OF REGULATIONS	p4
3.	DEFINITION OF ADVERTISING	p5
3.1	CRITERIA	p5
3.2	THE AUTHORITY'S DECISION	p6
3.2.1	THE PREAMBLE	p7
3.2.2	EXCLUSIONS	p7
3.2.3	INCLUSIONS	p7
4.	REGULATION OF INFOMERCIALS	p11
5.	REGULATION OF PROGRAMME SPONSORSHIP	p13
5.1	EDITORIAL INTEGRITY	p13
5.2	SPONSORSHIP OF NEWS AND CURRENT AFFAIRS	p13
5.3	SPONSORSHIP OF CHILDREN'S PROGRAMMES	p14
5.4	UNDUE PROMINENCE	p14
5.5	PRODUCT PLACEMENT	p15
5.6	RESTRICTIONS ON WHO MAY SPONSOR	p15
5.7	CLEAR LABELLING OF SPONSORED PROGRAMMING	p15
5.8	REGULAR RESEARCH	p16
6.	CONCLUSION	p17

APPENDIX: ADVERTISING, INFOMERCIAL AND PROGRAMME SPONSORSHIP
REGULATIONS



1 INTRODUCTION

This Position Paper is the culmination of a Section 28 Inquiry, during which the Authority asked for comment on a definition of advertising, the regulation of infomercials and the regulation of programme sponsorship. As part of this inquiry, the Authority published a Discussion Paper in October 1998 and held public hearings in December 1998.

There was a wide response to the Authority's Discussion Paper. Many different interest groups took the time to make comprehensive submissions to the Authority on the three important areas under consideration. The results of this input are laid out in this paper.

The Authority believes it has made a set of policy decisions consistent with its public interest obligations and with many of the concerns which stakeholders raised in their submissions and during the hearings.

2 LEGISLATIVE FRAMEWORK

2.1 JURISDICTION OF THE ASA

A contentious area during the inquiry was the jurisdiction of the ASA over advertising. Section 57 of the IBA Act 153 of 1993, is titled "Control over advertisements" and states that all broadcasting licensees must adhere to the Code of Advertising Practice as from time to time determined and administered by the Advertising Standards Authority (ASA).

The ASA Code is primarily concerned with advertising content. In July 1998, the ASA also assumed responsibility for administering the sponsorship code as agreed by the marketing and advertising industry and through the Direct Marketers Association (DMA) Code, the ASA also has jurisdiction over infomercials.

Many submissions argued that for this reason, the ASA is the body which should regulate sponsorship and infomercials and that the Authority should not concern itself with these matters. Some groups even argued that it is not necessary for the Authority to define advertising, since the ASA already has a definition.

It is, however, the Authority's assessment that the matters it was concerned with in this inquiry do not fall within the jurisdiction of the ASA. In discussions with the ASA, they have echoed this view.

The Authority needs a definition of advertising, stipulating what material it will consider to be advertising, so that it can enforce its policies and regulations. The ASA defines advertising in order to administer its Code governing the content of advertisements in all media. The roles of the IBA and the ASA, in relation to a definition of advertising are therefore quite distinct and may very well necessitate different definitions.

On infomercials, the ASA has adopted the DMA Code, which deals largely with the content of infomercials. The Authority on the other hand, is concerned with issues of scheduling and duration, which the ASA does not administer.

As far as programme sponsorship is concerned, the ASA Code mainly deals with the ethical behaviour of sponsors whereas the Authority is concerned with the editorial integrity of broadcast content.

In light of this, the Authority believes the issues under consideration in this inquiry are within its jurisdiction.

It should be noted, however, that the Authority's policy decisions in no way over-ride the ASA's rules, which exist for a different purpose.

The Authority did consider seriously, the proposal from some submissions that it should ask the ASA to amend its Code to reflect the Authority's concerns. These submissions argued that it would then be unnecessary for the IBA to publish its own regulations. While this proposal may hold merit, it is the Authority's opinion that the Act does not give it the power to delegate its control over these issues. To the extent that a particular aspect related to advertising is not regulated by the ASA, the Authority retains the power of regulation. The Authority therefore believes it is not possible to delegate these matters to the ASA, without amending the Act.

However, in the interests of achieving greater clarity on the respective roles of the ASA and the IBA, both bodies will make reference, as appropriate, to each other's regulations/rules on the definition of advertising, infomercials and programme sponsorship. The Authority and the ASA believe that this will assist in a better understanding of the different, but complementary roles of the two bodies.

2.2 PUBLICATION OF REGULATIONS

The Authority has decided to publish its decisions on the definition of advertising, infomercials and programme sponsorship in the form of regulations, which are attached as an appendix to this paper. These regulations will be binding on all broadcasters.

The Authority believes that these regulations will be widely acceptable to the industry and other stakeholders. In addition to these regulations, the Authority also lays out in this paper, certain guidelines, which it encourages the industry to follow. In this way, the Authority believes it has accommodated the calls by industry for the Authority not to be too prescriptive on these matters.

The regulations on the definition of advertising will take effect on 1 April 1999 although until 1 October 1999 commercial features shall not be deemed to be advertising. The regulations on infomercials and programme sponsorships will come into effect on 1 April 2000.

3 DEFINITION OF ADVERTISING

As stated in its Discussion Paper, the Authority believes that the current situation, with disparate and unevenly applied definitions of advertising (or lack thereof in the case of public radio stations, public television channels and radio), is untenable.

While strong arguments were put forward for self-regulation during the Section 28 hearings, the Authority remains convinced that advertising needs to be defined and regulated in order to safeguard the best interests of broadcasters, the wider industry and, most importantly, the public.

3.1 CRITERIA

In its Discussion Paper, the Authority proposed five criteria against which the effectiveness of a definition of advertising could be measured. The Authority requested input from stakeholders to expand on or revise the list of criteria.

On the whole there was consensus on four of the five criteria. The only area that elicited debate was that of “uniform application across all electronic media”, i.e. a technologically neutral definition. In this regard, arguments were put forward for a distinction to be drawn between *broadcasting sectors* (e.g. terrestrial vs. satellite) *medium types* (e.g. radio vs. television) and different tiers of broadcasting (public, private and community). While the Authority took cognisance of this stance and recognises the inherent differences in both categories, it is still of the opinion that a uniform definition of what *constitutes* advertising can be applied across the board.

It is the Authority’s belief that differences between broadcasting sectors and in medium types may be accommodated in the *amount* of advertising that is allowed – an area that did not form part of the Section 28 Inquiry.

The Authority believes a uniform definition of advertising is needed to enable it to stipulate what material it will consider to be advertising. This clarity is needed to enforce the Authority's policies and regulations, to promote stability and to ensure that fair competition prevails.

There was a strong view from many radio groupings that radio does not require a definition of advertising as there are currently no limits on the amount of advertising radio may take. This notwithstanding, the Authority has decided the definition should be applied to all broadcasters in the interests of consistency and fairness.

In accordance with its Discussion Paper, the Authority has decided that a definition of advertising should comply with the following criteria:

- Unambiguous formulation
- Easy implementation and enforcement
- Measurable (e.g. in terms of broadcasters booking systems, industry sources such as Adindex and Constant Watch, The IBA's Monitoring and Complaints Department etc.)
- Uniform application across all electronic media
- Fairness to stakeholders

3.2 THE AUTHORITY'S DECISION ON THE DEFINITION

The Authority is grateful for the varied and constructive input received regarding a possible definition of advertising. From the feedback it became clear that any definition should be very specific in its formulation and the use of terminology.

For ease of reference, the Authority's decision regarding the definition of advertising will be dealt with in three parts, the *preamble*, *specific exclusions* and *specific inclusions*.

With regard to the last element, the following specific exclusions will be allowed:

6.
 - a) On-screen corner logos
 - b) Opening and closing billboards
 - c) Stings
 - d) Squeezebacks
 - e) On-air brand/product/company mentions*
 - f) Ribbons and crawls
 - g) Naming rights
 - h) Product placement

It should be noted that some of the terms used above might be applicable to radio or television only, and some to both.

With regard to competitions and self-promotions, the following exclusions will be allowed:

7. Competitions linked to or forming part of a programme and promotional spots referring to such competitions*
8. Branded promotional spots promoting a programme and/or related event*
9. Self-promotion promos*

*The Authority would, however, like to point out, that in the case of items 4, 6(e), 7, 8 and 9 above, the emphasis should be on promoting the relevant programme and/or station. Should the Authority become aware of a trend where, in any of the aforementioned items, programme or station exposure becomes secondary to commercial exposure, the situation will have to be reviewed.

For the sake of clarity, the Authority would also like to point out that *transmission elements* such as station identification (e.g. on-screen logos, signature tunes etc.) and continuity announcements will be excluded from the definition. For the time being this will include cross SABC channel and SABC station promotions on the SABC. This will be further debated when the SABC is restructured.

3.2.3 INCLUSIONS

In deciding which elements of advertising, promotions and competitions should be included in the definition of advertising, the Authority took heed of concerns that advertising rates and media inflation might be negatively affected, if too broad an approach was adopted. The Authority is, however, also conscious of its responsibility to find a fair balance between its public interest obligations and its obligation to ensure the viability of the industry. The Authority has, therefore, decided to include the following items, in the definition of advertising (as and where applicable to television and/or radio).

The definition of advertising will include, but not be limited to:

1. Spot commercials
2. Paid for Public Service Announcements
3. Infomercials of up to 2 minutes in duration
4. The proportion of sponsorship packages which are constituted of spot commercials.

With the exception of infomercials, all other items listed above will be included regardless of duration.

During the Section 28 process it became clear that one of the most contentious areas of the Authority's proposal was the inclusion of self-promotions and competitions where the bulk of the content is devoted to the commercial exposure of a product, good or service.

As stated under section 3.2.2, Exclusions, the Authority will allow the exclusion of programme-related competitions and promotions as well as self-promotions where the programme or station is of principal importance.

The Authority is, however, of the belief that competitions and promotions that are not programme related, but revolve primarily around promoting the interests of a person, product or service should be treated as advertising.

In this regard the Authority has therefore decided to include the following fifth element:

5. Commercial features, including commercial competitions, advertising features and advertising programmes which revolve primarily around promoting the interests of one or more persons, products, services or sponsors, regardless of duration. Current examples of this item would be, amongst others, the SABC Big Brand Show, Bonny's Best Buys, Ads-Up, etc.

In conclusion, the Authority believes that defining what constitutes advertising should not be seen as a static, once-off process. Broadcasting is a changing and dynamic industry, known for its constant innovation to satisfy the needs of the public and advertisers. Any definition of advertising should reflect these changes and the Authority will set in place the mechanisms to make sure this happens.

The Authority would also like to encourage broadcasters and the industry to conduct regular research to gauge the public's perception and tolerance of the amount of advertising broadcast, and that the Authority is kept abreast of these research plans.

4 REGULATION OF INFOMERCIALS

For the purpose of this Position Paper, an infomercial means material of more than two minutes duration, broadcast in visual and/or audio form, for which the broadcaster receives a consideration. Infomercials are usually presented in a programme format and promote the interests of a person, product or service. Infomercials entail a direct offer of a product or service to the public in return for payment, and usually contain a demonstration of the use of the product. Infomercials include material known as tele-shopping, home shopping, direct marketing and direct sales.

Recognising that infomercials are a relatively new phenomenon in the South African broadcasting landscape and noting that they provide a source of revenue to broadcasters, the Authority had to balance a number of concerns which at times act in opposition to each other, when devising its regulations.

For instance, the Authority was concerned with the scheduling of infomercials and also with the tendency of some broadcasters to regard such material as programming. The Authority would like broadcasters to note that infomercials should not be regarded or calculated as programming.

However, the Authority sees no reason to prohibit infomercials and is generally satisfied that at this point infomercials do not require strict regulation. The Authority therefore, proposes the following regulations with regards to the scheduling, duration and labelling of infomercials.

- Infomercials must not be scheduled during prime time or during children's programmes.
- Broadcasters must clearly label infomercials. The viewing audience must be able to distinguish between infomercials and normal programming. This may necessitate labelling before, during and after the infomercials.
- Each channel is restricted to a maximum of two hours of infomercials during the performance period in any one day.

In addition to the regulations stated above, the Authority would like to encourage broadcasters to ensure the following:

- That the viewing audience has real choice, and accordingly, that infomercials are not carried on all free-to-air broadcasters at the same time. This may necessitate agreements between different broadcasters around the scheduling of infomercials.
- That broadcasters conduct regular audience research in order to gauge viewer reaction to the amount and scheduling of infomercials and that the Authority is kept abreast of this research.

The Authority would like broadcasters to note that the above regulations will not apply to dedicated infomercial/home shopping channels.

5 REGULATION OF PROGRAMME SPONSORSHIP

For the purpose of this Position Paper, programme sponsorship means direct or indirect financing, whether partial or total, of the production or transmission of a programme by an advertiser or person with a view to promoting its own or another person's name, trade mark, image, activities, product or service.

5.1 EDITORIAL INTEGRITY

The over-riding concern with programme sponsorship is to preserve the editorial integrity of sponsored programmes. This was an area which was debated extensively during the hearings.

The Authority wishes to ensure that editorial control of sponsored programmes remains with the broadcaster. It is the responsibility of broadcasters to ensure that editorial integrity is not influenced by the presence of sponsorship. In order to secure this, the Authority will require broadcasters to ensure that no sponsor has any influence in the content and/or scheduling of sponsored programming. The Authority will therefore require that a clause to this effect is included in all sponsorship contracts or booking forms.

5.2 SPONSORSHIP OF NEWS AND CURRENT AFFAIRS

Due to the factual nature of such programmes, the Authority is particularly concerned with the preservation of editorial integrity in news broadcasts and current affairs programmes. However, the Authority notes that sponsorship of radio news is an established tradition in South Africa and that radio broadcasters receive significant revenue from news sponsorship. Although the effect of the removal of news sponsorship has not been conclusively quantified, any regulation which might result in a substantial reduction in radio revenue could be viewed as unduly burdensome on this sector. On the other hand, sponsorship of television news and current affairs does not

yet occur. In this context, the Authority proposes the following regulations with regard to sponsorship of news and current affairs:

- 1) That sponsorship of news and current affairs on television be prohibited.
- 2) That weather forecasts and sports bulletins that form part of television news bulletins may be sponsored.

As far as sponsorship of radio news and current affairs is concerned, the Authority will continue to allow it. However, the Authority would like to encourage the industry to work towards phasing this sponsorship out. The Authority will review the sponsorship of radio news and current affairs in approximately the next five years, with a view to phasing it out. In the meantime, should the Authority become aware of any trends signifying the influence of sponsors on radio news and current affairs, it will prohibit this sponsorship.

5.3 SPONSORSHIP OF CHILDREN'S PROGRAMMES

The Authority is concerned with the vulnerability of children and their ability to distinguish programme content from sponsorship. However, the Authority recognises that some children's programming depends heavily on sponsorship and that prohibition of sponsorship may jeopardise this programme type.

In light of this, the Authority would like special care to be taken with the sponsorship of children's programmes. Broadcasters are therefore encouraged to ensure that sponsorship is appropriate to children's programming and does not promote the interest of products unsuitable for use by children. Broadcasters should ensure, that particularly when children are part of the viewing audience, the line between commercial and editorial messages is not blurred.

5.4 UNDUE PROMINENCE

While either promotional or incidental reference to a sponsor, or to a product or service is permitted within programmes, the Authority wishes to ensure that no undue

prominence is given in any programme to a commercial product or service. Broadcasters are, therefore, required to ensure that references to sponsor products or services are always secondary to the programme content or story line.

5.5 PRODUCT PLACEMENT

Product placement means the depiction of, or reference to, a product or service in a programme for which the broadcaster and/or the producer receives payment.

In many regulatory regimes product placement is prohibited. While the Authority does not approve of product placement, it is of view that its complete prohibition in South Africa may have an unduly negative effect on broadcasters' revenue and potentially on local content production.

However, in some cases it is clear that product placement is not appropriate. Product placement within news and current affairs programming will therefore be prohibited. In addition to the above prohibition, the Authority will also require broadcasters to ensure that where it occurs, product placement is secondary to the programme content.

Finally, the Authority wishes to encourage broadcasters to investigate the possibility of phasing out product placement in some programme types, for instance children's programmes. Once again, the Authority will review the issue of product placement in the next five years, with a view to phasing it out.

5.6 RESTRICTION ON SPONSORS WHO CAN SPONSOR PROGRAMMES

No party who is prohibited from advertising will be allowed to sponsor any programme.

5.7 CLEAR LABELLING OF SPONSORED PROGRAMMES

In the public interest, the Authority would like to see sponsors' association with programmes made clear to the viewer or listener. Sponsored programming should therefore be clearly labelled.

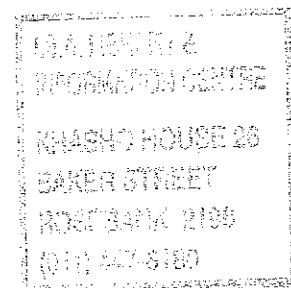
The Authority is also concerned with the perception created by the use of phrases such as "brought to you by" or "with the compliments of" which suggest that the sponsor is involved in the production of a programme. Broadcasters are encouraged to give preference to more neutral descriptions such as "sponsored by" or "in association with".

5.8 REGULAR RESEARCH

Finally, the Authority encourages broadcasters to conduct regular research to gauge viewer and listener reaction to programme sponsorship and asks that the Authority be kept abreast of such research plans.

6 CONCLUSION

The Authority wishes to thank all those parties who participated in this inquiry. The constructive input of various stakeholders greatly assisted the Authority in its work.



APPENDIX:
ADVERTISING, INFOMERCIAL AND
PROGRAMME SPONSORSHIP REGULATIONS

**REGULATIONS RELATING TO THE DEFINITION OF ADVERTISING AND THE
REGULATION OF INFOMERCIALS AND PROGRAMME SPONSORSHIP IN
RESPECT OF BROADCASTING ACTIVITIES**

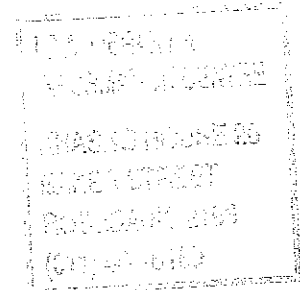
The Independent Broadcasting Authority has, under Section 78(1) of the
Independent Broadcasting Authority Act, 1993 (Act No. 153 of 1993), made the
regulations in the schedule.

SCHEDULE

1. Definitions

In these regulations, any word or expression to which a meaning has been assigned in the Act shall bear such meaning and, unless the context indicates otherwise:

- 1.1 "Act" means the Independent Broadcasting Authority Act, No. 153 of 1993;
- 1.2 "advertisement" means any material broadcast, in visual and/or audio form, for which the broadcaster receives a consideration, in cash or otherwise, and which promotes the interests of any person, product or service, provided that:
- 1.2.1 spot commercials, public service announcements for which the broadcaster receives a consideration, any material that would constitute an infomercial but for the fact that it is of two minutes' duration or less, that part of sponsorship packages which is constituted by spot commercials, and commercial features shall be regarded as being advertisements; but



- 1.2.2 public service announcements in respect of which the broadcaster does not receive any consideration, supply agreements, infomercials exceeding two minutes in duration, branded filler material which is of a public service nature, sponsorship elements which form part of in-programme material, presenters' credits and (in relation to competitions and self-promotions) programme competitions, branded promotional spots and self-promotion promos shall not be regarded as being advertisements;
- 1.3 "ASA" means the Advertising Standards Authority of South Africa;
- 1.4 "Authority" means the Independent Broadcasting Authority established by Section 3 of the Act;
- 1.5 "BMCC" means the Broadcasting Monitoring & Complaints Committee referred to in Section 21(1)(b) of the Act;
- 1.6 "branded filler material which is of a public service nature" means a visual and/or audio announcement transmitted by a broadcaster and aimed at imparting knowledge the dissemination of which is in the public interest, regardless of whether such announcement has the effect of promoting the interests of a commercial entity;
- 1.7 "branded promotional spot" means a promotional announcement transmitted by a broadcaster regarding a forthcoming programme or regarding a channel or station and which mentions or refers to an advertiser or a commercial entity;
- 1.8 "broadcaster" means a person who provides a broadcasting service under and in accordance with a broadcasting licence issued to it by the Authority under Chapter VI of the Act;
- 1.9 "commercial feature" means a stand-alone feature, unrelated to a programme, and which may take the form of (but is not limited to) a

commercial competition, advertising feature or advertising programme which is primarily intended to promote the interests of one or more person, product, service or sponsor, regardless of duration, and excludes any programme competition;

- 1.10 "infomercial" means material of more than two minutes' duration, broadcast in visual and/or audio form, for which the broadcaster receives a consideration, in cash or otherwise, which is usually (but not necessarily) presented in a programme format, which promotes the interests of any person, product or service, which entails a direct offer of a product or service to a member or members of the public in return for payment, and which usually (but not necessarily) contains a demonstration of the use of the product or service concerned, and includes material known as tele-shopping, home shopping, direct marketing and direct sales;
- 1.11 "news or current affairs programme" means a programme transmitted by a broadcaster in which it reports on news events or which focuses on and includes comment on and interpretation and analysis of issues of immediate social, political or economic relevance and matters of international, national, regional and local significance;
- 1.12 "performance period" means the period between 05h00 and 23h00 every day;
- 1.13 "presenters' credits" means any acknowledgement of the provision of hair products, clothing, accessories, make-up or other goods or services to a production company or broadcaster by a third party;
- 1.14 "prime time", in relation to a person who provides a television broadcasting service, means the period between 18h00 and 22h00 every day;

- 1.15 "product placement" means the depiction of, or a reference to, a product or service in material (other than an advertisement) broadcast, in visual and/or audio form, in respect of which the broadcaster and/or the producer of the material concerned receives payment or other valuable consideration, and which promotes the interests of any person, product or service;
- 1.16 "programme competition" means a competition that forms part of, or is linked to, a programme by way of a competition window, insert or slot, and which does not have the promotion of the commercial interests of a person, product or service as its primary purpose;
- 1.17 "programme sponsorship" means the direct or indirect financing, whether partial or total, of the production or transmission of broadcast programme material by an advertiser or person with a view to promoting its own or another person's name, trade mark, image, activities or product;
- 1.18 "public service announcement" means a visual and/or audio announcement transmitted by a broadcaster and aimed at imparting knowledge or information the dissemination of which is in the public interest and/or which attempts to solicit support for, or create awareness of, any non-profit organisation or any other organisation which conducts activities in the public interest;
- 1.19 "self-promotion promo" means a promotional announcement transmitted by a broadcaster and which focuses on a forthcoming programme to be transmitted by that broadcaster, or on the broadcaster itself or one of its channels;
- 1.20 "sponsorship element" means marketing material which forms part of, or is superimposed on, broadcast programme material and includes (but is not necessarily limited to) on-screen corner logos, opening and closing billboards, stings, squeezebacks, the on-air depiction of, or

referral to, any brand, product or name, ribbons and crawls, naming rights, and product placements;

- 1.21 "supply agreement" means any agreement that forms part of a programme purchasing contract concluded between a broadcaster and a programme provider and which usually, but not necessarily, specifies the amount and frequency of promotional material which the broadcaster is obliged to transmit before, during or after the transmission of the purchased programme material.

2. Application

- 2.1 These regulations are binding on every broadcaster who provides a television broadcasting service and, to the extent that they are applicable, taking into account the nature of a sound broadcasting service and the nature of the obligations imposed by these regulations, on every broadcaster who provides a sound broadcasting service.
- 2.2 Every broadcaster shall, in addition to complying with these regulations, comply with the Code of Advertising Practice of the ASA, as required by Section 57(1) of the Act.
- 2.3 To the extent that there may be any inconsistency between these regulations and the Code of Advertising Practice of the ASA in respect of any matter which falls within the jurisdiction of the Authority, these regulations shall prevail.

3. Advertising

- 3.1 The definition of "advertisement" set out in regulation shall be applicable to all broadcasters.

3.2 The definition of "advertisement" set out in regulation 1 shall be used by the Authority to distinguish between programme material, advertisements, infomercials and programme sponsorships transmitted by broadcasters, for the purposes of:

3.2.1 ensuring compliance by broadcasters with these regulations;

3.2.2 determining whether jurisdiction in respect of complaints concerning material transmitted by broadcasters vests in the BMCC or the ASA;

3.2.3 in the case of broadcasters who provide a television broadcasting service, regulating the amount of advertising that may be transmitted.

3.3 Any broadcaster who transmits a programme competition, a branded promotional spot, branded filler material, a self-promotion promo or a sponsorship element in the form of the on-air depiction of, or referral to, any brand, product or name, shall ensure that the primary purpose of the broadcast of such material is to promote the broadcaster or the programme concerned, rather than the commercial interests of the person, product or service referred to in the course of such transmission.

3.4 Transmission elements such as continuity announcements and station identification, in the form of on-screen logos, signature tunes and the like, do not constitute advertisements.

4. Infomercials

4.1 No broadcaster may transmit any infomercials during prime time or during the transmission of, or in breaks during the transmission of, any children's programme.

- 4.2 Every broadcaster shall ensure that all infomercials transmitted by it are presented and labelled in such a manner that it will be clear to the audience that such infomercials do not constitute programme material.
- 4.3 No channel may transmit infomercials for more than two hours during the performance period in any one day.
- 4.4 The provisions of this regulation 4 shall not apply to any dedicated infomercial channel which may obtain a broadcasting licence from the Authority in accordance with the applicable provisions of the Act.

5. Programme Sponsorship

- 5.1 Every broadcaster who derives benefit from a programme sponsorship shall ensure that, in relation to the relevant sponsored programme, editorial control remains with that broadcaster.
- 5.2 Every broadcaster shall:
- 5.2.1 in respect of every programme sponsorship obtained or accepted by it, enter into a written sponsorship contract with the sponsor which shall provide that the sponsor shall not be entitled in any way to influence the content or scheduling of the sponsored programme;
- 5.2.2 on the Authority's request furnish the Authority with copies of sponsorship contracts concluded by that broadcaster.
- 5.3 A broadcaster who provides a television broadcasting service shall not obtain or accept any programme sponsorship from any person in respect of any news or current affairs programme.
- 5.4 Notwithstanding regulation 5.3, a broadcaster who provides a television broadcasting service shall be entitled to obtain or accept a programme sponsorship in respect of a weather forecast or sports

results bulletin which constitutes part of a news programme broadcast by that broadcaster.

- 5.5 Any depiction of, or referral to, the name, logo, product or service of a person who provides a programme sponsorship to a broadcaster, whether before, during or after the broadcast of the relevant programme, shall be subordinate to the content of the programme material to ensure that undue prominence is not given to that name, logo, product or service.
- 5.6 No broadcaster shall permit any product placement in any news or current affairs programme transmitted by it.
- 5.7 Product placement in programming other than news and current affairs shall be subordinate to the content of the programme material.
- 5.8 No broadcaster shall accept any programme sponsorship from any person who is prohibited by any legislation from procuring the transmission by a broadcaster of any advertisement, infomercial or other marketing material.
- 5.9 In all cases of programme sponsorship, the broadcaster shall, before and after the transmission of the sponsored programme, state clearly the nature of the sponsor's association with the relevant sponsored programme. Preference should be given to descriptions such as "sponsored by" or "in association with" as opposed to descriptions such as "brought to you by" or "with compliments of".