

## Understanding Ofcom's Rules on Product Placement

Many of you will already know that Ofcom, the statutory communications regulator, published its Code rules on product placement in programming on 20 December 2010. The new rules, which allow product placement on UK licensed services, come into force on Monday 28 February 2010. Until then, all programmes must comply with the current Ofcom Broadcasting Code 2010. Here's a whistle stop tour of the basic dos and don'ts.

1. **What is Product Placement (PP)?** It's defined as the inclusion in a programme of a product, service or trade mark for a commercial purpose in return for payment. The Code rules also apply to the placement of products for non-commercial purposes.
2. **Where is it allowed?** PP will be permitted in certain types of programmes: television series, films, light entertainment and sports programmes (single dramas and documentaries will be classed as films for TV).
3. **Where isn't it allowed?** PP in the following genres of programming is prohibited: news, current affairs, children's programmes, religious programming and consumer advice programmes.
4. **Can any product be placed?** Certain products are prohibited from PP in UK produced programmes, namely tobacco and tobacco-brand-named products, prescription and over the counter medicines, alcohol, gambling, HFSS (high in fat, salt and sugar) foods, infant formula and follow-on formula, electronic smokeless cigarettes, cigarette lighters, cigarette papers or pipes for smoking and any product/service not allowed to advertise on television.
5. **Where do we find the rules?** Section Nine of the Ofcom Broadcasting Code (2011) contains the new rules and sets three key principles for commercial references in programmes:
  - i) Editorial Independence
  - ii) Transparency
  - iii) Distinction between editorial content and advertising
6. **Broadcasters will be familiar with these principles but what are the must dos?** Programmes that contain product placement will have to carry a universal neutral PP logo (to be prescribed by Ofcom at the time of writing) at the beginning and end the programme and at beginning of programme parts. Ofcom will require its

licensees to report the revenues generated from product placement so broadcasters should devise a process to track and monitor PP deals to ensure they fulfil this requirement and the signalling requirement required for transparency.

7. **How do we make it happen?** Ofcom has issued detailed guidance on interpreting the new rules. These allow for sponsor credits within programmes, known as “internal credits”. This is good news for many brand partners but is far from straightforward for sponsors who are prohibited from product placement.

If you want advice on interpreting the rules and how to prepare for the new opportunities please get in touch with us at [info@louisemcmurchie.com](mailto:info@louisemcmurchie.com).