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APPENDIX 2: ADVERTISING RULES FOR ON-DEMAND SERVICES REGULATED BY STATUTE

Principle

The rules in Appendix 2 reflect the legal requirements in the Communications Act 2003 (as amended) with which media service providers must ensure they comply. Failure to ensure that advertising included in a regulated on-demand service complies with these rules may result in the matter being referred to Ofcom. If Ofcom concludes that the media service provider has contravened the relevant requirements of the Act, this may lead to Ofcom considering imposing a statutory sanction against the provider.

Definition

Some video-on-demand services are subject to regulation under the Communications Act 2003 (as amended). ('the Act'). In this section, "regulated on-demand services" refers to those services that are subject to statutory regulation and "media service providers" means providers of regulated on-demand services.

The rules in this section apply only to advertising "included" in a regulated on-demand service, which is advertising that can be viewed by a user of the service as a result of the user selecting a programme to view.

Rules

- 30.1 Advertising must be readily recognisable as such.
- 30.2 Advertising must not use techniques which exploit the possibility of conveying a message subliminally or surreptitiously.
- 30.3 Advertising must not prejudice respect for human dignity.
- 30.4 Advertising must not contain any material likely to incite hatred based on race, sex, religion or nationality.
- 30.5 Advertising must not include or promote any discrimination based on sex, racial or ethnic origin, nationality, religion or belief, disability, age or sexual orientation.
- 30.6 Advertising must not encourage behaviour prejudicial to health or safety.
- 30.7 Advertising must not encourage behaviour grossly prejudicial to the protection of the environment.
- 30.8 Advertising of the following products is prohibited:
 - 30.8.1 cigarettes or other tobacco products
 - 30.8.2 any prescription-only medicine.

- 30.8.3 electronic cigarettes or electronic cigarette refill containers (as defined in the section 368R of the Act)

- 30.9 Advertising for alcoholic drinks is prohibited unless
 - 30.9.1 it is not aimed at persons under the age of eighteen, and
 - 30.9.2 it does not encourage excessive consumption of such drinks.

- 30.10 Advertising must not cause physical or moral detriment to persons under the age of eighteen.

- 30.11 If advertising contains material which might seriously impair the physical, mental or moral development of persons under the age of eighteen, the material must be made available in a manner which secures that such persons will not normally see or hear it.

- 30.12 Advertising must not directly exhort persons under the age of eighteen to purchase or rent goods or services in a manner which exploits their inexperience or credulity.

- 30.13 Advertising must not directly encourage persons under the age of eighteen to persuade their parents or others to purchase or rent goods or services.

- 30.14 Advertising must not exploit the trust of persons under eighteen in parents, teachers or others.

- 30.15 Advertising must not unreasonably show persons under eighteen in dangerous situations.

Advertisements on regulated on-demand services are also separately subject to the CAP Code. The marketer, not the media service provider, bears the primary responsibility for ensuring compliance with the CAP Code.