

Surreptitious Advertising

Foreword:

The DRPR “Guideline on product placement and surreptitious advertising” was published on October 13, 2003. The PR Council has already dealt with numerous cases relating to this thematic area. Over this period, surreptitious advertising, especially on television, has been a major focus of PR Council proceedings.

Meanwhile, the topic has undergone further developments in two respects. Firstly, technological and communicative innovations, especially on the internet, have led to further opportunities for surreptitious advertising. Secondly, the relevant regulations have been modified and consolidated at the legal level. The DRPR has therefore completely revised its 2003 guideline.

The new guideline is based on the current PR codes and is largely oriented towards the latest legal regulations for the media. Product placement, for example, has been newly regulated through the EU directive on audiovisual media services from March 10, 2010, and the 13th German Broadcasting Agreement (Rundfunkstaatsvertrag), in conjunction with the advertising directive for television. The new guideline about surreptitious advertising thus differs from its first version.

In times of communication via the internet, with the resulting opportunities for anonymization, the issue of the transparency of paid advertising content becomes especially significant. The non-transparent granting of advantages to media representatives regarding the placement of promotional topics and content contradicts the fundamental order of our democratic information society and undermines the credibility of public relations as a profession.

The PR Council and its four support organizations (DPRG, GPRA, BdP and de’ge’pol) therefore appeal to all PR practitioners to refrain from any form of surreptitious advertising.
Berlin, December 2011.

Preamble

“Public relations activities must be carried out openly” (clause 4); “Any attempt to deceive public opinion or its representatives is strictly forbidden” (clause 15). These passages from the Code of Lisbon are key normative principles for the actions of all PR practitioners towards the media and their employees. The voluntary commitment to desist from any form of surreptitious advertising is also based on these principles.

The concealment of the sender of paid content in the media usually involves the attempt to deceive the public about the promotional intentions of such content. This constitutes a manipulation of the general public or of particular segments of the public, and is therefore not acceptable for a democratic information society.

Surreptitious advertising also casts doubt on the credibility of the professional field and of the media system as a whole. In keeping with its field of competence, the DRPR only deals with potential misconduct from PR practitioners, but it points out that surreptitious advertising can also be condoned, promoted or initiated by the media or its representatives.

1. Criteria for surreptitious advertising

1.1 Surreptitious advertising is present when media representatives are granted a valuable benefit in return for the publication of certain content or the discussion of a topic in their media outlets, and when this is not sufficiently identified for media users.

1.2 'Media' in terms of this guideline are the press, private and public-service broadcasters, telecommunications media, especially the internet, on-demand audiovisual media services, and artistic or entertaining forms of media such as film, theater, literature, music.

1.3 The granting of a valuable benefit is given when something more or other is provided than a product or services for purely editorial purposes. This also applies to the indirect granting of benefits through third parties, or when the granting of benefits is declared in different ways (production cost subsidies, license fees or royalties etc.), as well as in cases of bartering and tying arrangements.

1.4 A promotional publication is sufficiently identified as such if it is explicitly pointed out to media users, in direct connection with the information and without any need for further research on their part, that a benefit has been granted in return for the publication.

1.5 The use of a third party (association, advocacy organization, initiative, agency etc.) as the sender of a publication is permissible if this does not lead to the concealment of the actual sender.

1.6 Indications of surreptitious advertising may be, for example: the high intensity of the promotional presentation, a lack of editorial/dramaturgic justification, a lack of informational interest, unnecessary explanation of a situation, unfounded assertion of uniqueness, unjustified choice of topics, subtopics, content, in each case in conjunction with an expected benefit for the advertiser.

2. Special forms of surreptitious advertising

2.1 If media representatives are engaged by PR practitioners (e.g. for talks, presentations, consulting), the scope, value and type of the business relationship must be arranged in such a way that the media representatives cannot be compromised in their editorial freedom of decision. In each case, a collaboration of this kind has to be made known to the general public or the relevant segments of the public on a permanent basis.

2.2 If a well-known or prominent personality is being engaged or deployed to endorse something or to act as an "ambassador," this business relationship must be made known to the general public or the relevant segments of the public at least for the duration of the collabo-

ration. The PR practitioner should also ensure that the personality points out the business relationship to the organizer or the media when making public appearances that are in the interests of the assignment, unless it can be clearly assumed that this relationship is already common knowledge.

2.3 Paid product placement or issue placement in broadcasts and comparable on-demand programs is not permissible. Exceptions for product placement apply, however, to films, series, sportscasts and light entertainment programs produced by third parties, but not to children's programs. Permissible product placements must not influence the schedule, must not be emphasized excessively, and must not directly encourage customers to purchase the product. They are to be identified and made transparent.

2.4 The unpaid placement of products and services (product supply), e.g. as accessories, production aids, prizes etc., is not admissible in broadcasts and comparable on-demand programs in the case of news and political current affairs programs, consumer advice programs, children's programs, or broadcasts of religious services. Product supply is regarded as product placement if the products are of significant value. Permissible instances of product supply are to be identified and made transparent.

2.5 As a basic principle, all influences that aim at compromising the freedom of media representatives to make decisions about editorial content are prohibited.

3. Distinction between PR and surreptitious advertising

3.1 It has always been one of the tasks of PR to achieve editorial publications about products, content or issues in the media. This PR activity is subject to free and desirable competition for the attention of the media and media users, and is therefore in line with the social purpose of public communication. The prerequisite for its legitimacy is that no additional benefits will be granted in return for the publication, and that the media are free to decide on the type and scope of the publication.

3.2 Under the same conditions, it is admissible to provide the media with pre-produced material (programs, press articles, film and photographic material, "Materndienste" (a special service preparing print-ready journalism-style advertisements and placing them in media outlets, or editorial services etc.) in the context of the PR activity.

3.3 It is also a legitimate PR tool to provide the media with certain goods or services for research or testing purposes, as long as the media still have the freedom to decide about the content and scope of any publication, and as long as the value of the product or the service is not so high and its provision is not organized in such a way that the media outlet or its employees will benefit from it.