

## **DRPR Guideline on Surreptitious Advertising**

### **Foreword**

The 'Council Guideline on Product Placement and Surreptitious Advertising' was published on 13 October 2003. To date, numerous Council proceedings on this subject have been concluded. Surreptitious advertising, especially on television, has been a focal point of the proceedings before the German Council for Public Relations during this time.

In the meantime, the topic has evolved in two ways. Firstly, technical and communicative innovations, particularly on the internet, have created further opportunities for surreptitious advertising. Secondly, there has been a change and consolidation of the relevant regulations at a legal level.

For these reasons, the DRPR has completely revised its guideline from 2003. The new guideline is based on the current PR codes and is largely orientated towards the current legal regulations for the media.

Product placement, for example, was newly regulated by the EU Directive on Audiovisual Media Services of 10 March 2010 and the 13th Interstate Broadcasting Treaty in conjunction with the Television Advertising Directive. The new directive on surreptitious advertising differs from the first version in this regard.

In times of communication via the Internet with the possibilities of anonymisation, the issue of transparency of paid advertising content takes on a special significance.

The non-transparent granting of advantages to media representatives for the placement of advertising topics and content contradicts the basic order of our democratic information society and makes the public relations profession untrustworthy.

The German Council for Public Relations, together with its four supporting organisations DPRG, GPRA, BdP and degepol, therefore appeals to all PR professionals to refrain from any form of surreptitious advertising.

Berlin, December 2011

## ***Preamble***

‘PR activities must be carried out openly’ (cl. 4) ‘Any attempt to deceive public opinion or its representatives is strictly forbidden’ (cl. 15) These passages from the Code de Lisbonne are central normative principles for the behaviour of all PR professionals towards the media and their employees. They also form the foundation for the voluntary commitment to refrain from any form of surreptitious advertising.

Disguising the sender of paid content in the media regularly goes hand in hand with an attempt to deceive the public about the advertising intentions of such a publication. This constitutes manipulation of the general public or certain sections of the public and is therefore unacceptable for a democratically organised information society.

Moreover, surreptitious advertising calls into question the credibility of the profession and the entire media system. Due to its responsibility, the DRPR only addresses possible misconduct by PR professionals, but points out that surreptitious advertising can also be tolerated, promoted or initiated by the media and their representatives.

## **1. Criteria for surreptitious advertising**

- 1.1 Surreptitious advertising occurs when media representatives are granted a valuable advantage in return for the publication of content or the treatment of a topic in their media and this is not sufficiently labelled for media users.
- 1.2 Media within the meaning of these guidelines are the press, private and public broadcasting, telemedia, in particular the Internet, on-demand audiovisual media services and artistic or entertaining media forms such as film, theatre, literature and music.
- 1.3 The granting of a valuable advantage is given if more or other than one product or service is provided for purely editorial purposes. This also applies to the indirect granting of benefits via third parties or if the granting of benefits is declared otherwise (production cost subsidies, licence fees, usage fees, etc.) as well as to bartering and tie-in transactions.

- 1.4 An advertising publication is sufficiently labelled as such if the media user is expressly informed directly in connection with the information and without having to carry out further research about the granting of a consideration for the publication.
- 1.5 The use of third parties (association, club, organisation, initiative, agency, etc.) as the sender of a publication is permitted if this does not lead to the actual sender being concealed.
- 1.6 Indications of surreptitious advertising can be, for example: the high intensity of the advertising presentation, lack of editorial-dramaturgical justification, lack of interest in information, lack of necessity to clarify a fact, unjustified unique position, unjustified choice of topics, sub-topics, content, in each case in connection with an assumed benefit for the advertiser.

## **2. Special forms of surreptitious advertising**

- 2.1 If media representatives are commissioned by PR people (e.g. for presentations, moderations, consulting), the scope, value and nature of the business relationship must be such that the media representatives cannot be impaired in their editorial freedom of choice. In any case, such cooperation must be publicised in general or to the relevant sub-publics on a permanent basis.
- 2.2 If a well-known or prominent personality is commissioned and used as a testimonial or so-called ambassador, this business relationship must be publicised generally or to the relevant sub-publics at least for the duration of the collaboration. The PR professional must also arrange for the celebrity to draw the organiser's or the media's attention to the business relationship during public appearances, unless it can be clearly assumed that this is already generally known.
- 2.3 Paid product placement and theme placement in broadcast programmes and comparable on-demand contributions are not permitted. However, exceptions to product placement apply to externally produced cinema films, films, series, sports programmes and light entertainment programmes, but not to children's programmes. Permitted product placements must not influence the programme, must not be too prominent and must not directly encourage a purchase. They must be labelled and made transparent.

2.4 The unpaid placement of products and services (product provision), e.g. as staffage, production aids, prizes etc., is not permitted in broadcast programmes and comparable on-demand contributions in the case of news, programmes on current political events, advice and consumer programmes, children's programmes and broadcasts of religious services. Product contributions are deemed to be product placements if they are of significant value. Permissible product contributions must be labelled and made transparent.

2.5 Generally, any influence aimed at interfering with media representatives' free choice of editorial content is not permitted.

### **3. Differentiating PR from surreptitious advertising**

3.1 One of the original tasks of PR is to achieve editorial publications about products, content and topics in the media. This PR activity is subject to free and desirable competition for the attention of the media and its users and is therefore in line with the social purpose of public communication. The precondition for its permissibility is that no further consideration is granted 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 permissible to provide the media with pre-produced material (broadcast contributions, press articles, film and image material, maternal and editorial services, etc.) as part of this PR activity.

3.3 If certain goods or services are made available to the media for research or test purposes, this is also a legitimate form of PR, provided that the media remain free to decide on the content and scope of a publication and the value of the product or service is not that high and its provision is not organised in such a way that the media or their employees gain a valuable advantage.

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