



2024 AVIA Regulating for Growth – Advertising Matrix for Sri Lanka

	Pay TV	OCC TV	Foreshadowed changes
GENERAL			
<i>Overview of Regulation</i>	<p>In terms of the Finance Act No. 11 of 2006 (Finance Act) and the Finance (Teledrama, Films and Commercial Levy) Regulation No. 01 of 2017 (Regulation) a Teledrama, Film and Commercials Levy is charged from every institution licensed under the Sri Lanka Rupavahini Corporation Act, No. 6 of 1982 (SLRC Act) on commercials, made and/or filmed outside Sri Lanka. The Ministry of Mass Media (MMM) collects the levy imposed by the Regulation.</p> <p>For the purposes of this matrix, we assume that pay TV means the broadcasting of television channels through a television broadcasting station where customers have to pay a subscription to view a channel broadcast by that television broadcasting station. If such pay TV provider establishes a broadcasting station in Sri Lanka, they will be required to obtain a licence under the SLRC Act from the Sri Lanka Rupavahini Corporation.</p> <p>In such an event, the licensed pay TV provider will be subject to the Regulation.</p> <p>The Regulation also states that all foreign teledrama, films and commercials require a certificate of clearance issued by the secretary to the MMM which may be refused on the basis of such teledrama, film or commercial being obnoxious. A panel is set up through the Regulation to hear an appeal of any aggrieved party of whom such decision is made.</p> <p>However such a levy will only apply to a teledrama, film or commercial that is made and/or filmed outside Sri Lanka and bought or imported into Sri Lanka for the purpose of being telecast.</p>	<p>We understand that the term OCC refers to Online Curated Content, i.e. content which is both curated and delivered by the responsible industry, e.g. Netflix, Disney+. Therefore, we assume that the OCC TV provider will not have any broadcasting station or a place of business in Sri Lanka.</p> <p>As OCC TV providers will not have a television broadcasting station in Sri Lanka, such operators are not required to obtain a licence under the SLRC Act.</p> <p>The levy charged under the Regulation is charged from institutions that have obtained a licence under the SLRC Act. As OCC TV providers do not require a licence under the SLRC Act, they are not subject to the levy charged under the Finance Act and the Regulation.</p> <p>The industry specific restrictions and limitations are also applicable in this regard, and subject to the same difficulty in enforcement.</p>	<p>We do not anticipate any changes in relation to the applicable regulatory structure.</p>

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	Further, there are industry specific restrictions and limitations applicable on advertising in relation to certain products such as tobacco, alcohol, medicine and food, although there may be practical difficulties encountered in enforcing the same where the Pay TV provider does not have a place of business in Sri Lanka.		
<i>Regulatory Bodies</i>	The MMM collects the levy imposed by the Regulation. The secretary to the MMM issues the certificate of clearance required of all foreign teledrama, films and commercials, as stated under the Regulation.	So long as OCC TV providers do not establish a television broadcasting station in Sri Lanka, such OCC TV providers will not be regulated under the Regulations and will not be subject to the restrictions/limitations imposed thereunder.	We do not anticipate any changes in relation to the applicable regulatory structure.
<i>Advertising per hour</i>	There are no restrictions on minutage.	There are no restrictions on minutage.	We do not anticipate any changes in relation to minutage.
<i>Revenue Restrictions</i>	There are no restrictions on revenue.	There are no restrictions on revenue.	We do not anticipate any changes in relation to revenue restrictions.
<i>Product Placement</i>	There are no regulations on product placements.	There are no regulations on product placements.	We do not anticipate any changes in relation to product placement.
<i>Foreign Commercials</i>	Under the Finance Act and Regulation, commercials made and/or filmed outside Sri Lanka and bought or imported into Sri Lanka for the purpose of being telecast, is charged a Teledrama, Film and Commercials Levy at a rate in relation to the duration of the commercial, as specified by the Minister of Finance. However, such levy will only apply to a teledrama, film or commercial that is made and/or filmed outside Sri Lanka and bought or imported into Sri Lanka for the purpose of being telecast. Therefore, foreign commercials broadcast by a pay TV provider will be subject to the said levy. Further, as stated above, the foreign commercial will also be required to obtain a certificate of clearance from the secretary to the MMM.	As OCC TV providers are not required to obtain a licence under the SLRC Act. OCC TV providers are not subject to the Teledrama, Film and Commercials Levy imposed under the Finance Act.	We do not anticipate any changes in relation to foreign commercials.
<i>Govt Levy</i>	As per Gazette (Extraordinary) No. 1686/4 dated 27 th December 2010 published under section 22G of the Sri Lanka Telecommunications Act, No. 25 of 1991, cess is payable at the rate of 2% on the annual gross turnover of the operator, which is applicable when the pay TV operator uses a telecommunication service.	There is no other levy applicable.	We do not anticipate any changes in relation to government levy on advertisements.

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<i>PSAs</i>	There are no requirements of public service announcements by a pay TV operator	There are no requirements of public service announcements by an OCC TV operator	We do not anticipate any changes in relation to public service announcements.
PRODUCT-SPECIFIC			
<i>Alcohol</i>	<p>In terms of the National Authority on Tobacco and Alcohol Act, No. 27 of 2006 (National Authority on Tobacco and Alcohol Act) it is prohibited to publish, cause to publish, or authorize the publication of, a tobacco or an alcohol advertisement.</p> <p>However, it is not a contravention of the aforesaid prohibition to transmit or broadcast, to Sri Lanka from outside Sri Lanka a tobacco or an alcohol advertisement or any television or radio programme containing a tobacco advertisement or alcohol advertisement, unless such transmission or broadcast is intended to be seen or heard, as the case may be, only or mainly by viewers or listeners in Sri Lanka.</p>	<p>The National Authority on Tobacco and Alcohol Act does not prohibit the transmission or broadcast to Sri Lanka from outside Sri Lanka a tobacco or alcohol advertisement or any television programme or radio programme containing a tobacco or alcohol advertisement, unless the transmission or broadcast, is intended to be seen or heard only or mainly by viewers or listeners in Sri Lanka.</p> <p>Therefore, if OCC TV operators do not broadcast a tobacco or alcohol advertisement that is intended to be seen or heard only or mainly by viewers or listeners in Sri Lanka, there will be no prohibition of such advertisement in terms of the National Authority on Tobacco and Alcohol Act.</p> <p>However, enforcing the National Authority on Tobacco and Alcohol Act to advertisers or OCC TV operators outside Sri Lanka will have difficulty unless the advertisers or OCC TV operator has a place of business in Sri Lanka.</p>	We do not anticipate any changes in relation to the advertising of alcohol.
<i>Pharmaceutical</i>	<p>In terms of the National Medicines Regulatory Authority Act No. 05 of 2015 (NMRA Act), no person must advertise any medicine, medical device or any borderline products¹ in a manner that is false, misleading, deceptive or likely to create an erroneous impression regarding efficacy, quality, composition or safety. Further, the prior written approval of the National Medical Regulatory Authority (NMRA) is required for the advertising of any medicine, medical device or borderline product.</p> <p>Although the aforesaid restrictions are imposed in relation to advertising medicines, medical devices or borderline products, since such restriction is precluded by the words “no person”, which can be interpreted broadly so as to encompass a broadcaster or publisher of the advertisement, the said restrictions imposed by the NMRA Act will be applicable to pay TV providers.</p>	<p>The restrictions imposed on advertising medicines, medical devices or borderline products by the NMRA Act are applicable here as well.</p> <p>However, if the OCC TV provider has no presence in Sri Lanka, there may be issues relating to the enforcement of offences committed under the NMRA Act.</p>	We do not anticipate any changes in relation to the restrictions imposed under the NMRA with regard to the advertising pharmaceutical products.

¹ The borderline product means the products having combined characteristics of medicines and foods, medicines and medical devices or medicines and cosmetics.

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	<p>Further, the Guideline on Advertising of Medicines and Medicinal Products to General Public published by the NMRA on 15th October 2019 will be applicable for an advertisement concerning a medicine or medicinal product, as defined therein. These Guidelines contain specific references to advertisers which must be complied with in relation to the advertisement of medicines and medicinal products. The said Guidelines can be accessed at: https://nmra.gov.lk/images/PDF/guideline/Guideline-on-Advertising-of-Medicines--Medicinal-products-.pdf</p> <p>However, if the pay TV provider has no presence in Sri Lanka, there may be issues relating to enforcement of offences committed under the NMRA Act.</p>		
<i>Gambling</i>	There are no regulations in relation to gaming advertisements.	There are no regulations in relation to gaming advertisements.	We do not anticipate any changes in relation to the advertising of gambling.
<i>Claims</i>	<p>The Consumer Affairs Authority Act, No. 9 of 2003 (CAA Act) states that, any trader who, in the course of a trade or business, in connection with the supply or possible supply of goods or services or in connection with the promotion by any means of the supply or use of goods or services falsely represents <i>inter alia</i> that goods or services are of a particular standard, quality or grade, or that goods are of a particular style or model or falsely represent that goods are new, will be guilty of an offence.</p> <p>Since a pay TV provider may promote the supply or use of goods or services in the course of advertising, the CAA Act will be applicable.</p> <p>Additionally, the Food (Labelling and Advertising) Regulations 2005 published in Gazette (Extraordinary) No. 1376/9 dated 19th January 2005 made under the Food Act, No. of 1980 (Food Act) (Food Regulations) also impose restrictions on advertisements of food containing false claims or misleading descriptions, claims that the food has special characteristics, or containing the words that it is recommended or suggests that it is recommended by a medical practitioner.</p>	<p>The restrictions imposed by the CAA Act and the Food Regulations are applicable to OCC TV providers.</p> <p>However, if the OCC TV provider has no presence in Sri Lanka, there may be issues relating to enforcement of offences committed under the Food Act.</p>	<p>The Ministry of Health has published the Food (Labelling and Advertising) Regulations 2022 in Gazette (Extraordinary) No. 2319/40 dated 14th February 2023 which is to repeal the Food Regulations upon coming into operation on 1st January 2025. However, since some of the provisions of these Regulations are unclear and, in some cases, <i>ultra vires</i>, there have been many calls for reform thereto. The operational date of these Regulations has been postponed once and it is likely that it will be delayed again to allow time for amendments to be made.</p>

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	<p>Therefore, the restrictions imposed by the Food Regulations will apply.</p> <p>However, if the pay TV provider has no presence in Sri Lanka, there may be issues relating to enforcement of offences committed under the Food Act.</p>		
<i>Food & Beverages – general</i>	The restrictions set out in the Food Act and the Food Regulations are applicable to pay TV providers.	The restrictions set out in the Food Act and the Food Regulations are applicable to OCC TV providers.	We do not anticipate any changes in relation to the advertising of food and beverages.
<i>Food & Beverages – sugar levels</i>	<p>The Food (Colour Coding for Sugar Levels) Regulations 2016 published in Gazette (Extraordinary) No. 1965/18 dated 3rd May 2016 apply to the advertising of sugar beverages.</p> <p>The Food (Colour Coding for Sugar, Salt and Fat) Regulations 2019 published in Gazette (Extraordinary) No. 2119/3 dated 17th April 2019 contains provisions regarding the advertising of solid or semi-solid food containing sugar. These regulations therefore cover <i>inter alia</i> the advertisement of any solid or semi-solid food which contains an amount of sugar, salt, or fat (as specified in the Regulations), to be in accordance with the labelling requirements therein.</p>	<p>The Food (Colour Coding for Sugar Levels) Regulations 2016 published in Gazette (Extraordinary) No. 1965/18 dated 3rd May 2016 apply to the advertising of sugar beverages.</p> <p>The Food (Colour Coding for Sugar, Salt and Fat) Regulations 2019 published in Gazette (Extraordinary) No. 2119/3 dated 17th April 2019 contains provisions regarding the advertising of solid or semi-solid food containing sugar.</p>	The Minister of Health has published the Food (Colour Coding for Sugar Levels – Liquid) Regulations 2022 in Gazette (Extraordinary) No. 2319/42 dated 14 th February 2023 which relates to the advertising of liquid food containing sugar. The said Regulations are to come into operation on 1 st January 2025.
<i>Personal hygiene/ Sanitary (including Condoms)</i>	Please refer to our discussion under pharmaceutical products.	Please refer to our discussion under pharmaceutical products.	We do not anticipate any changes in relation to the advertising of personal hygiene and sanitary (including condoms) products.
<i>Tobacco</i>	Please refer to our discussion under alcohol products.	Please refer to our discussion under alcohol products.	We do not anticipate any changes in relation to the advertising of tobacco.
<i>Children</i>	The Food Regulations contains restrictions with regard to the advertisements of food concerning children.	The Food Regulations contains restrictions with regard to the advertisements of food concerning children.	We do not anticipate any changes in relation to advertisements targeting children or of children’s products.
<i>Women</i>	There are no specific regulations in relation to advertisements targeting women or of women’s products.	There are no specific regulations in relation to advertisements targeting women or of women’s products.	We do not anticipate any changes in relation to advertisements targeting women or of women’s products.
<i>Property</i>	There are no specific regulations in relation to advertisements of property.	There are no specific regulations in relation to advertisements of property.	We do not anticipate any changes in relation to the advertising of property.
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