

New rules for selling mobile phones

Practical guide for sellers and distributors

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I. Measures

1. What are the exact implications of the measures?

As from 1 March 2014, the radiation value (SAR value¹) of all types of mobile phones (GSM mobile phone or smartphone) must be indicated by the seller:

- a. at the point of sale and for distance sales, through the internet;
- b. in advertising materials, if other technical specifications are included also.

Manufacturers, importers and distributors offering mobile phones on the Belgian market will have an obligation to communicate the SAR value to their buyers, so that the latter can display it at the point of sale.

Furthermore, a ban is imposed on selling mobile phones designed for children under the age of 7, as well as on advertising materials encouraging the use of mobile phones by this age group.

These measures have been introduced in the form of two Royal Decrees², published on 30 August 2013.

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2. Why were these measures taken?

Certain studies indicate the possibility of an increased risk of brain cancer from intensive use of mobile phones. For this reason, the International Agency for Research on Cancer (a World Health Organisation agency) has classified electromagnetic fields produced by mobile phones as "*possibly carcinogenic to humans*". Pending the availability of more specific scientific conclusions, the Belgian government has deemed it necessary to take precautionary measures.

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3. What is the purpose of these measures?

The measures aim at allowing consumers to take the SAR-value into account when choosing a mobile phone. Said value, which in the scope of the EU conformity evaluation procedure (when placing a product on the market) has to be measured for every mobile phone, is currently made available on producers' websites and in their technical documentation. Making the value available in the shop makes it easier for the consumer to take it into consideration when deciding on the purchase of a mobile phone.

Prohibiting advertising targeting young children and a ban on mobile phones designed for young children is meant to reduce the offer as well as the demand for mobile phones in this user category.

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¹ Specific Absorption Rate

² Royal Decree of 30 July 2013 concerning the prohibition of placing on the market any mobile phones specifically designed for young children; Royal Decree of 30 July 2013 concerning the availability of consumer information about the Specific Absorption Rate of mobile telephones and concerning the advertising for mobile telephones.

4. Who will control the implementation of these Royal Decrees and what kind of penalties are foreseen for offenders?

The implementation of these decrees will be checked by the control officers of the Federal Public Services (FPS) for both Health and Economy. In first instance, offenders will receive a warning. Repeat offenders will be facing other measures, such as a fine. Procedures and fines may vary depending on the violation. For instance: offenders who do not communicate the SAR value may incur a fine between EUR 52 and EUR 120,000. This amount will be multiplied by a surcharge amount (which in practice comes down to multiplication by 6).

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II. SAR in the shop and in e-commerce

The SAR value of mobile phones must be indicated at the point of sale, including distance sales (e.g. via the Internet). A letter A, B, C, D or E must be added to the SAR value as an indication of the category to which it belongs. An explanation of the categories must be included also, together with the statement "Think about your health...", as specified under question 10.

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5. To which phones do these new rules apply?

The new rules apply to GSM mobile phones and smartphones. They do not apply to portable home phones (e.g. DECT), walkie-talkies, tablets or professional radio equipment.

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6. What is SAR and as a salesman, where can I find the values?

SAR (Specific Absorption Rate) is the radiation rate of mobile phones; more specifically, it is the level of exposure of the user to the radio waves generated by a mobile phone. The SAR value indicates the speed at which the energy of radio waves is absorbed by the human body. There are different SAR values for the head and for the body.

In Dutch the value is known by the abbreviation SAT (*Specifiek AbsorptieTempo*); the French refer to it as DAS (*Débit d'Absorption Spécifique*); in German it is called SAR ("*Spezifische Absorptionsrate*").

SAR values are known to the manufacturers of mobile phones. After all, manufacturers are obligated to measure the SAR value for each device prior to placing it on the market (to ensure that it does not exceed the limit of 2 W/kg).

For the exact SAR value of any mobile phone you should first ask your supplier. They have a legal obligation of providing information on SAR values to their customers.

In addition, the SAR value of a device can be found

- in the user manual of the device;
- on the website of the manufacturer;
- on the website of the Mobile Manufacturers Forum, www.mmfa.org.

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7. There are several SAR values for the same phone; which should I take?

You may find more than one SAR value for mobile phones that are manufactured outside the European Union, e.g. an American SAR value next to the European SAR value. These values differ because they are measured in different ways.

In some cases the information contains a value for the head as well as for the body.

You should refer only to the **European** value **for the head**: this is the only value that must be specified for selling and promotional purposes.

SAR US	0.85 W/kg (head)	1.55 W/kg (body)
SAR EU	0.42 W/kg (head)	0.54 W/kg (body)

Products whose European SAR value is not known to the manufacturer may not be sold on the European market.

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8. How should the SAR value be displayed?

The SAR value must be indicated next to every mobile phone model, e.g. on the price label, in the list of technical specifications, such as network, memory, etc.

The SAR value is expressed in watts per kilogram (W/kg), preceded by the abbreviation SAR. Values are displayed with one digit after the decimal point and rounded off as follows: 0.45 becomes 0.5; 0.44 becomes 0.4. A letter (A, B, C, D or E) is added next to the SAR value and indicates the SAR classification. The font size should not be smaller than the largest font size used for the other technical specifications of the product.

Mobile phone

Brand X model Y
SAR = 0.218 W/kg

Brand A model C
SAR = 0.562 W/kg

Label

Brand X Model Y

Price: EUR XX

Talk time: 10 hours

Camera: VGA

Bluetooth 3.0

SAR: 0.2 W/kg (A)

Brand X Model Y

Price: EUR XX

Talk time: 18 hours

Wi-Fi

Camera: 8 megapixels

SAR: 0.6 W/kg (B)

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9. Which category for which SAR?

Mobile phones with the lowest SAR values are in category A; those with the highest SAR values are categorised as E.

- A: SAR < 0.4 W/kg,
- B: $0.4 \leq \text{SAR} < 0.8$ W/kg,
- C: $0.8 \leq \text{SAR} < 1.2$ W/kg,
- D: $1.2 \leq \text{SAR} < 1.6$ W/kg,
- E: $1.6 \leq \text{SAR} \leq 2$ W/kg.

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10. Should I provide an explanation for the categories A-E?

Yes, you have a legal obligation to provide a legible poster in a visible place containing an explanation of the A, B, C, D and E SAR categories, together with the following notification:

"Think about your health – use your mobile phone moderately, make your calls wearing an earpiece and choose a set with a lower SAR value".

The text reads as follows in Dutch, French and German, respectively:

- "Denk aan uw gezondheid – gebruik uw mobiele telefoon met mate, bel met een oortje en kies voor een toestel met een lagere SAT-waarde (SAR-waarde)";
- "Pensez à votre santé – utilisez votre téléphone portable avec modération, privilégiez l'usage d'une oreillette et choisissez un appareil ayant une valeur DAS (SAR) faible";
- "Denken Sie an Ihre Gesundheit – Verwenden Sie Ihr Mobiltelefon in Maßen, verwenden Sie ein Headset und wählen Sie ein Gerät mit niedrigem SAR-Wert".

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11. Should the SAR value be displayed on the packaging?

No, the Royal Decree does not apply to the packaging of mobile phones.

12. Are foreign e-commerce websites supposed to comply with the new rules?

According to the rules of the European Directive 2000/31/EC ("E-Commerce Directive"), only Belgian companies have an obligation to observe the mandatory display of the SAR value in online sales of and online advertising for mobile telephones.

Companies established in other European member states or Iceland, Liechtenstein and Norway, are not bound by the Belgian rules for displaying information about SAR values in online sales of, and online advertising for mobile phones; not even if they specifically target Belgian consumers.

However, online sales in the Belgian territory of mobile phones specifically designed for young children is prohibited for both Belgian and foreign companies.

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III. Advertising

SAR in advertising

The SAR value must be displayed in advertising for mobile phones (together with the other technical specifications, if provided). It is also mandatory to display the explanation about the A, B, C, D and E categories in relation to the SAR value, together with the health statement (one single mention in the advertising leaflet or on the website – legible and visible).

Ban on advertising for mobile phone use by young children

Ads promoting the use of mobile phones by young children under the age of 7 are prohibited, i.e. any advertising in children's programmes on radio and television, on websites, in children's magazines or any other print work, etc., aiming at this target group.

13. What does advertising entail?

According to the Law on Market Practices and Consumer Protection of 6 April 2010, advertising is "any public statement by a company with the direct or indirect purpose of promoting the sale

of products, irrespective of the communication media used". Advertising is, for example: commercials on radio or television; posters on billboards; banners on internet pages; promotional films in cinema's; adverts in newspapers and magazines, on trams, buses, taxis, cars, etc.

The Royal Decree does not apply to *all* advertising involving mobile phones: only if the advert mentions the technical specifications of a mobile phone does the SAR value have to be displayed (next to the A, B, C, D or E category and the caution on usage).

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14. How about a promotional display made from mobile phone boxes in a store?

The Royal Decree does not apply to the packaging of mobile phones. Even if the packaging is used in the store to draw the attention of consumers, it does not have to display the SAR value. Placing the SAR value on the label next to the model on display – together with the technical specifications – is enough.

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15. May young children be confronted with adverts targeting older children or adults?

The Royal Decree prohibits advertising specifically targeting young kids. Advertisements in an age-neutral or adult context do not fall within the scope of this Royal Decree.

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16. What if a brochure contains advertising for various age groups, such as a mobile phone for teenagers and toys for the smallest children (e.g. a toy brochure for Christmas)?

The Royal Decree does not prohibit advertising aimed at older age groups. However, it is not allowed to use such brochures for the promotion of mobile phones specifically in connection with young children, for instance through a picture of a young child with a mobile phone.

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IV. Ban on selling mobile phones for children

A ban is imposed on mobile phones designed specifically for children under the age of 7.

17. Which mobile phones for children are banned?

The definition "mobile phones for young children" encompasses any mobile phone that has been made enticing for children under the age of 7, or that has been declared by the manufacturer as specifically designed for this age group.

It includes mobile phones that look like toys due to their playful design, simple operation and minimum set of keys.

Below are a few examples of mobile phones that are now banned:



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18. Which mobile phones for children may still be sold?

The mobile phones shown below may still be sold. They are in fact normal mobile phones but with a playful design, made for older children.



The mobile phone for elderly people shown below does not have a playful design, but is nevertheless easy to operate and could be used by young children. This mobile phone is also suitable for other users who need a phone that is easy to operate. This mobile phone is not meant for young children and therefore may be placed on the market.



Selling walkie-talkies for children is allowed: they fall outside the scope of the Royal Decree.

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19. Are GPS trackers for children prohibited?

GPS stands for *Global Positioning System*. A GPS tracker is a device which determines its location using satellite navigation and communicates this information to the user.

Some mobile phones are equipped with a GPS system and some GPS trackers also use a SIM card and allow the user to call or be called. Both devices comply with the definition of mobile phone as provided for in the royal decree. They may be sold if they are not intended for children. In other words, if such a product is made appealing for young children (by having a playful design) or if the manufacturer states that the product targets children under the age of 7, it may not be sold on the Belgian market.

Please note that GPS trackers which are not equipped to call with, may still be sold (even if they are intended for children). GPS trackers with SIM card using the GSM network only for geolocation purposes (transmission of coordinates by means of a message) and not for phoning, may also still be sold.

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Image sources: Samsung, Kidstel gsm tracker, Sitcon, KaKatech