

Code Of Advertising Standards

1. Scope and Application

1.1 The primary objective of the Code is the regulation of commercial advertisements in the consumer interest.

1.2 For the purposes of the Code

- a. an *advertisement* is defined as a paid-for commercial communication addressed to the public or a section of it, the purpose being to influence the behaviour of those to whom it is addressed. It is characteristic of an advertisement that an advertiser pays or rewards a third party for communicating a message;
- b. a *product* can encompass goods, services, facilities, opportunities, fund raising, prizes and gifts;
- c. a *consumer* is anyone who is likely to see or hear a particular advertisement or promotion;
- d. a *claim* can be direct or implied, written, spoken or visual;
- e. references to advertisers should be interpreted as including promoters unless the context indicates otherwise;
- f. where for the sake of clarity and brevity the singular form of a word is used this should be construed as including legal persons and groups as appropriate;
- g. every word importing the masculine gender should be construed as if it also imported the feminine gender unless the contrary intention appears. Every word importing the feminine gender should be construed as if it also imported the masculine gender unless the contrary intention appears.

1.3 The Code applies to:

- a. advertisements in newspapers, magazines and other printed publications, including 'free sheets',
- b. posters and other promotional media in public places,
- c. brochures, leaflets, circulars, mailings and fax transmissions,
- d. commercials broadcast on television or radio or screened in cinemas,
- e. advertisements carried on audiotapes, videotapes, viewdata services, the Internet and all other electronic and computer systems,
- f. sales promotion material,
- g. advertisement features and promotions.

1.4 The Code does not apply to:

- a. statutory, public, garda and other official notices,
- b. material published as a matter of record only,
- c. flyposting,
- d. packages, wrappers, labels and tickets unless they advertise another product or a sales promotion or are recognisable in an advertisement,

- e. point-of-sale displays, except those covered by the Code of Sales Promotion Practice or when part of a wider advertising campaign,
- f. advertisements whose principal purpose is to express the advertiser's position on a political, religious, industrial relations, social or aesthetic matter or on an issue of public interest or concern,
- g. classified private advertisements,
- h. press releases and other public relations material,
- i. the content of books and editorial material in media,
- j. private correspondence,
- k. oral communications, including telephone calls,
- l. works of art,
- m. specialised advertisements addressed to the medical and allied professions,
- n. advertising for premium rate telephone calls,
- o. advertisements in foreign media.

1.5 The Code is applied in accordance with the following criteria:

- a. An invitation from the Authority to comment on a complaint does not mean that the Authority accepts the complainant's view. Each case is considered on its merits.
- b. The Code rules are indivisible; advertisers must conform, where appropriate, with all rules.
- c. Conformity with the Code is assessed in the light of an advertisement's probable effect when taken as a whole and in context. Particular attention is paid to:
 - o the characteristics of the likely audience,
 - o the media by means of which the advertisement is communicated,
 - o the location and context of the advertisement,
 - o the nature of the advertised product and the nature, content and form of any associated material made available or action recommended to consumers.
- d. The Code does not deal with contractual relationships between advertisers and consumers. It does not presume to judge whether a product represents value for money nor does it seek to regulate terms of business.
- e. ASAI does not act as an arbitrator between conflicting ideologies.
- f. No legal advice can be given or should be presumed in communications from the Authority (Board, Complaints Committee or Secretariat).
- g. The judgement of the Advertising Standards Authority for Ireland on any matter of interpretation of the Code is final.

2. General Rules

Principles

2.1 All advertisements should be legal, decent, honest and truthful.

2.2 All advertisements should be prepared with a sense of responsibility to consumers and to society.

2.3 All advertisements should respect the principles of fair competition generally accepted in business.

2.4 The Code is applied in the spirit as well as in the letter.

2.5 An advertisement should not bring advertising into disrepute.

2.6 Primary responsibility for observing the Code rests with advertisers. Others involved in the preparation and publication of advertisements such as agencies and media also accept an obligation to abide by the Code.

2.7 Any unreasonable delay in responding to ASAI's enquiries may be considered a breach of the Code.

2.8 The Authority will observe requests to treat any confidential material supplied in strict confidence unless the Courts or an official agency acting within its statutory powers compel its disclosure.

Substantiation

2.9 Before offering an advertisement for publication, advertisers should be able to provide documentary evidence to substantiate all claims, whether direct or implied, that are capable of objective assessment. Relevant evidence should be sent without delay if requested by the Authority and should be adequate to support both detailed claims and the overall impression created by the advertisement.

2.10 If there is a significant division of informed opinion about any claim made in an advertisement it should not be portrayed as universally accepted.

2.11 Advertisements should not exaggerate the value, accuracy or usefulness of claims contained in books, tapes, videos and the like that have not been independently substantiated.

Legality

2.12 Advertisers have primary responsibility for ensuring that their advertisements are legal. An advertisement should not contain anything that breaks the law or incites anyone to break it, nor omit anything that the law requires.

Decency and Propriety

2.13 An advertisement should contain nothing that is likely to cause grave or widespread offence.

2.14 Advertisements should respect the dignity of all persons and should avoid causing offence on grounds of gender, marital status, family status, sexual orientation, religion, age, disability, race or membership of the traveller community.

2.15 Advertisements should respect the principle of the equality of men and women. They should avoid sex stereotyping and any exploitation or demeaning of men and women. Where appropriate, advertisements should use generic terms that include both the masculine and feminine gender; for example, the term 'business executive' covers both men and women.

2.16 To avoid causing offence, advertisements should be responsive to the diversity in Irish society and advertisements which portray or refer to people within the groups mentioned in 2.14 should:

- a. respect the principle of equality in any depiction of these groups;
- b. fully respect their dignity and not subject them to ridicule or offensive humour;
- c. avoid stereotyping and negative or hurtful images;
- d. not exploit them for unrelated commercial purposes;
- e. not ridicule or exploit religious beliefs, symbols, rites or practices.

2.17 Advertisers should take account of public sensitivities in the preparation and publication of advertisements and avoid the exploitation of sexuality and the use of coarseness and undesirable innuendo. They should not use offensive or provocative copy or images merely to attract attention.

2.18 The fact that a product is offensive to some people is not in itself sufficient basis for objecting to an advertisement for the product. Advertisers should nevertheless avoid causing offence in such advertisements.

2.19 Compliance with the Code is assessed on the basis of the standards of taste, decency and propriety generally accepted in Ireland, taking account of the product involved, the media used, the location and context in which the advertisement is placed and the characteristics of the audience addressed.

Honesty

2.20 Advertisers should not exploit the credulity, inexperience or lack of knowledge of consumers.

2.21 The design and presentation of advertisements should allow them to be easily and clearly understood. Where footnotes are used they should be of sufficient size and prominence and easily legible; where appropriate they should be linked to the relevant part of the main copy.

Truthfulness

2.22 An advertisement should not mislead by inaccuracy, ambiguity, exaggeration, omission or otherwise.

2.23 Obvious untruths or deliberate hyperbole that are unlikely to mislead, incidental minor inaccuracies and unorthodox spellings are not necessarily in conflict

with the Code provided they do not affect the accuracy or perception of the advertisement in any material way.

2.24 Claims such as 'Up to' and 'From' should not exaggerate the value or the range of benefits likely to be achieved in practice by consumers.

Matters of Opinion

2.25 Advertisers may state an opinion about the quality or desirability of a product provided it is clear that what they are expressing is their own opinion rather than a matter of fact and that there is no likelihood of consumers being misled about any matter that is capable of objective assessment. Assertions or comparisons that go beyond subjective opinions are subject to substantiation.

Fear and Distress

2.26 An advertisement should not cause fear or distress without good reason such as the encouragement of prudent behaviour or the discouragement of dangerous or ill-advised actions. In such cases the fear aroused should not be disproportionate to the risk.

Safety

2.27 An advertisement should not encourage dangerous behaviour or show unsafe practices except in the context of promoting safety. Particular care should be taken with advertisements directed at or depicting children.

Violence and Anti-Social Behaviour

2.28 An advertisement should contain nothing that condones or is likely to provoke violence or anti-social behaviour.

Protection of Privacy

2.29 Subject to the exceptions referred to in 2.30 below, advertisers should have written permission in advance from anyone portrayed or referred to in an advertisement. Permission is also required before anyone's house or other possessions can be featured in a manner which identifies the owner to the public.

2.30 Exceptions include the use of crowd scenes or property depicted in general outdoor locations or where the purpose of the advertisement is to promote a product such as a book or film of which the person concerned is a subject.

2.31 Advertisements should not exploit the public reputation of persons in a manner which is humiliating or offensive. Advertisements should not claim or imply an endorsement where none exists. Advertisers are reminded that persons who do not wish to be associated with the advertised product may take legal action against them.

2.32 References to deceased persons should be handled with particular care to avoid causing offence or distress.

Testimonials and Endorsements

2.33 Advertisers who use testimonials should be able to provide relevant supporting documentation to ASAI and they should hold signed and dated proof for any testimonials they use. Testimonials by persons named or depicted in an advertisement may be used only with the prior permission of those persons.

2.34 Testimonials may be misleading if the formulation of the product or its market environment changes significantly. They should therefore relate to the product as currently offered.

2.35 Testimonials do not constitute substantiation and the opinions expressed in them should be supported, where necessary, with independent evidence of their accuracy. Claims based on a testimonial should conform with the Code.

2.36 Endorsements by fictitious or historical characters should not be presented as though they were genuine testimonials.

2.37 References to tests, trials, professional endorsements, research facilities and professional journals should be used only with the permission of those concerned. All such tests, trials and endorsements should be signed and dated. Any establishment referred to should be under appropriate professional supervision.

Prices

2.38 If a price is stated in an advertisement, it should relate to the product depicted or specified in the advertisement. Care should be taken to ensure that prices and illustrated products match.

2.39 Except in advertisements addressed exclusively to the trade, prices quoted should normally include VAT and other taxes, duties or inescapable costs to the consumer. Where applicable, the amounts of any other charges such as those arising from the method of purchase or payment should be stated.

2.40 If the price of one product is dependent on the purchase of another, the extent of any commitment required of consumers should be made clear.

Free Offers

2.41 An offer should be described as free only if consumers pay no more than:

- a. the current public rate of postage;
- b. the actual cost of freight or delivery;
- c. the cost, including incidental expenses, of any travel involved if consumers collect the offer.

In all cases consumers' liability for such costs should be made clear and there should be no additional charges for packaging or handling.

2.42 Advertisers should not attempt to recover their costs by reducing the quality or composition, by imposing additional charges or inflating incidental expenses or by increasing the price of any other product that must be purchased as a pre-condition of obtaining a free item.

Availability of Products

2.43 Advertisers should be in a position to meet any reasonable demand created by their advertising. If a product proves to be available in insufficient quantity, advertisers should take immediate action to ensure that any further advertisements are amended or withdrawn.

2.44 Where there is limited availability on some or all of the products advertised, apart from indicating that there may be other terms and conditions which apply, advertisers

- a. should not exaggerate the availability of any of those products;
- b. should be able to demonstrate that there is a reasonable supply or proportion of each of the various products available.

2.45 Products should not be advertised as a way of gauging possible demand unless the advertisement makes this clear.

2.46 Advertisers should not use the technique of switch selling, where sales staff criticise the advertised product or suggest that it is not available and recommend purchase of a more expensive alternative. Advertisers should not place obstacles in the way of purchasing the product or delivering it promptly.

Comparisons

2.47 Comparisons are permitted in the interests of public information and vigorous competition. They can be explicit or implied and can relate to advertisers' own products or those of their competitors.

2.48 Comparisons should be fair and should be so designed that there is no likelihood of a consumer being misled. The basis of selection should be clear and the elements of comparison should not be unfairly selected in a way that gives the advertisers an artificial advantage.

2.49 A claim that any product is superior to others should only be made where there is clear evidence to support the claim. Wording which implies superior or superlative status such as "number one", "leading", "largest" and the like should be capable of substantiation with market share data or similar proof.

2.50 Advertisers should not unfairly attack or discredit other businesses or their products.

Guarantees

2.51 Where an advertisement refers to a guarantee, the full terms of the guarantee should be available for consumers to inspect before they are committed to purchase. Any substantial limitations (e.g. one year; parts only) should be clearly indicated in the advertisement.

2.52 'Guarantee' when used in a colloquial sense should not cause confusion about consumers' statutory rights.

Exploitation of Goodwill

2.53 Advertisers should not exploit or make unfair use of the goodwill attached to the name, trademark, brand, slogan or advertising campaign of any other person.

Imitation

2.54 An advertisement should not so closely resemble another as to be likely to mislead or cause confusion.

Recognisability

2.55 An advertisement should be designed and presented in such a way that it is immediately apparent that it is an advertisement.

2.56 An advertisement feature, announcement or promotion published in exchange for a payment or other reciprocal arrangement where the content is controlled by the advertiser should comply with the Code. It should also be clearly identified and distinguished from editorial matter.

3. Health And Beauty

3.1 Claims about health and beauty products and treatments should be backed by substantiation including the results of practical trials on human subjects of sufficient rigor, design and execution as to warrant general acceptance of the results.

3.2 No reference should be made to tests, trials or endorsements by any college, hospital, clinic, laboratory or similar establishment unless there exists a bona fide establishment corresponding to the description used and it is under the effective supervision of a registered medical practitioner or other appropriate professional. Reference to such establishment should be made only with the permission of the appropriate authorities.

3.3 An advertisement should not offer any product or treatment for serious or prolonged ailments or for conditions requiring the attention of a registered medical or other qualified practitioner.

3.4 An advertisement for a health or beauty product or treatment:

- a. should not contain any offer to diagnose, advise, prescribe or treat by correspondence;
- b. should not encourage indiscriminate, unnecessary or excessive use of the product or treatment;
- c. should not suggest that the product or treatment is safe or effective merely because it is 'natural' nor should it refer to the omission of any ingredient in a way that suggests that the ingredient is unsafe or harmful;
- d. should not employ words, phrases or illustrations that claim or imply the cure of any ailment, disability, illness or disease, as distinct from the alleviation or relief of symptoms;
- e. should not contain any claim to provide rejuvenation, that is to prevent, retard or reverse the changes brought about by or associated with increasing age;
- f. should not cause unwarranted anxiety or suggest that any product or treatment is necessary for the maintenance of health;
- g. should not suggest that a product or treatment will achieve success in every case or that the outcome can be other than dependent on the particular circumstances of the individual person;
- h. should not use unfamiliar scientific terms for common conditions.

3.5 Advertisers offering individual treatments, particularly those that are physically invasive, may be asked to provide prior to publication full details of the treatments together with information about those who would supervise and administer them. Consumers should be encouraged to take independent medical advice before committing themselves to significant treatments.

3.6 Advertisements for any products offering to deter the habit of smoking should make it clear that they offer only assistance, are not cures and that any success will necessarily be dependent on the willpower of the user.

3.7 An advertisement for a medicinal product should not contain an offer to refund money to dissatisfied customers.

3.8 Claims about the effect that a cosmetic has on or in the skin should distinguish between the composition of the product and any effects caused by the mode of application, such as massage.

Vitamins, Minerals and Food Supplements

3.9 An advertisement should not suggest or imply that a well balanced diet needs to be augmented by vitamins or minerals on a regular basis. Advertisers may offer supplements as a safeguard and may refer to the vitamin and mineral content of a particular product but should not suggest that there is a widespread vitamin and mineral deficiency. Advertisements should not imply that supplements will guard against dietary deficiency, elevate mood or enhance performance and supplements should not be promoted as a substitute for a healthy diet. Advertisements should not claim that a food supplement is capable of preventing, treating or curing disease.

3.10 An advertisement may promote vitamin and mineral supplementation to certain categories of people e.g. those who eat nutritionally inadequate meals, the

elderly, children and adolescents, convalescents, athletes in training, those who pursue physically very active occupations or recreations, women of child-bearing age and dieters.

3.11 Although there may be some depletion of vitamin stores during illness, an advertisement should not suggest that the replacement of such vitamins will influence the speed or extent of recovery. The prescribing of vitamins and minerals in such cases is a matter for a doctor and self-medication should not be encouraged.

Hair and Scalp

3.12 An advertisement should not claim that a particular product or treatment can prevent baldness or slow it down, arrest or reverse hair loss, stimulate or improve hair growth, nourish hair roots, strengthen the hair or improve its health (as distinct from its appearance) unless the claim can be substantiated in accordance with the requirements of paragraph 3.1 above.

3.13 Hair transplantation and re-positioning should both be regarded as physically invasive treatments - see paragraph 3.5 above.

Alternative and Complementary Medicine

3.14 Advertisements for alternative and complementary products and services including those for natural, herbal and traditional remedies are subject to the requirements of the Code.

Other Requirements

3.15 The advertising of medical preparations and cosmetic products is governed by a number of other codes and Statutory Regulations, some of which are quoted in the Appendix.

4. Slimming

4.1 A programme in which the intake of energy is lower than its output is the main self-treatment for achieving weight loss. Any claims made for the effectiveness of a slimming plan, method or product should be backed by rigorous practical trials on human subjects. Testimonials do not constitute substantiation and the opinions expressed in them should be supported where necessary by independent evidence.

4.2 Claims that long-term slimming, weight loss or inch loss can be achieved either generally or from specific areas of the body by any means other than dieting (e.g. by expelling water, speeding up the metabolism, using mechanical devices, wearing garments or applying substances to the skin) should not be made unless they can be substantiated. Slimming claims in respect of an unproven weight loss method cannot be justified merely by offering a diet or exercise scheme with it.

4.3 Advertisers should be able to show that their diet plans are nutritionally well balanced. These will be assessed in relation to the subjects who would be using them.

Vitamins and minerals do not contribute to weight loss, but can be offered to slimmers as a safeguard against any shortfall when dieting.

4.4 An advertisement should not suggest that persons of normal weight need to slim. "Crash diets" should not be advertised because of the danger that such diets can pose to the health of dieters not under medical supervision. An advertisement should not offer treatment for conditions that require medical treatment, such as obesity and anorexia.

4.5 Advertisements for diet aids such as low-calorie foods, food substitutes, appetite depressants and meal replacements should make it clear that they can be effective only as part of a calorie controlled diet. Prominence should be given to the role of the diet, and advertisements should not give the impression that particular methods cannot fail or that dieters can eat as much as they like and still lose weight.

4.6 Advertisers should not make general claims that specific amounts of weight can be lost within a stated period. Claims that individuals have lost specific amounts of weight should be compatible with good medical and nutritional practice, should give details of the time period and should not be based on unrepresentative experiences.

4.7 Both physical and passive exercise operate slowly to improve muscle tone and this can have an effect on body shape. An improvement in posture may also benefit the figure. Advertisers should be able to substantiate any claims that such methods used alone or in conjunction with a diet plan can lead to weight or inch loss. Advertisements for intensive exercise programmes should encourage users to check with a doctor before starting.

5. Advertising and Children

Advertisements addressed to children should comply with the rules in this Section in addition to all other rules in the Code. There are rules relating to children and safety in Section 2, paragraph 2.27, to children and vitamins in Section 3, paragraph 3.10, to young people and advertising for alcoholic drinks in Section 6, paragraph 6.4, to children and Distance Selling in Section 8, paragraph 8.10, and rules relating to children and sales promotions in the Code of Sales Promotion Practice at paragraphs 12.27 and 12.28 and 12.59(h).

5.1 Children lack adults' knowledge, experience and maturity of judgement. Advertisements addressed directly or indirectly to children and advertisements likely to be seen or heard by them should have regard to the special characteristics of children and the ways in which they perceive and react to advertisements.

5.2 An advertisement should contain nothing that is likely to result in physical, mental or moral harm to children or that is likely to frighten or disturb them. For example,

- a. Children should not be portrayed in a manner that offends against accepted standards of good taste and decency.

- b. They should not be encouraged to enter into unsafe situations or strange places or talk to strangers, e.g. for the purpose of making collections or accumulating labels, wrappers or coupons.
- c. They should not be shown in morally or physically dangerous situations or behaving dangerously in the home or outside except to promote safety. Children should not be shown unattended in street scenes unless they are old enough to take responsibility for their own safety.
- d. They should not be encouraged to engage in, or be portrayed engaging in anti-social behaviour; where they appear as pedestrians or cyclists they should be seen to observe the Rules of the Road. Special attention should be paid where relevant, to the wearing of car seat-belts and safety helmets.
- e. They should not be shown using or in close proximity to dangerous substances or equipment without direct adult supervision. Examples include matches, petrol, gas, medicines, certain household substances as well as certain electrical appliances and machinery, including agricultural equipment.
- f. An open fire in a domestic scene should always have a fireguard clearly visible when a child is included in the scene.

5.3 An advertisement should not exploit the loyalty, credulity, vulnerability or lack of experience of children. For example,

- a. They should not be made to feel inferior or unpopular for not buying an advertised product.
- b. They should not be made to feel that they are lacking in courage, duty or loyalty if they do not buy or do not encourage others to buy a particular product.
- c. Advertisements should not undermine the authority, responsibility or judgement of parents or guardians. Advertisements should not include any appeal to children to persuade their parents or other adults to buy advertised products for them.
- d. A product that is part of a series should be clearly indicated as such and should include the method of acquiring the series.

5.4 An advertisement addressed to children:

- a. should not feature products that are unsuitable for children;
- b. should make it easy for them to judge the actual size, characteristics and performance of any product advertised;
- c. should not exaggerate what is attainable by an ordinary child using the product;
- d. should not encourage an unhealthy lifestyle or unhealthy eating or drinking habits; advertisements representing mealtime should clearly and adequately depict the role of the product within the framework of a balanced diet; snack foods should be clearly represented as such, and not as substitutes for meals;
- e. should not ask them to disclose personal information about themselves or their families without having first obtained permission from their parents or guardians;
- f. should not minimise the price of products by the use of such words as "only" or "just".

6. Alcoholic Drinks

6.1 Advertisements for alcoholic drinks (i.e. those that exceed 1.2% alcohol by volume) should be socially responsible and should not exploit the young or the immature. They should neither encourage excessive drinking nor present abstinence or moderation in a negative way. Under broadcasting regulatory requirements, advertising of spirit based alcohol drinks (i.e. whiskey, gin, vodka, brandy, etc.) is not permitted on radio or television broadcasting services.

Social Dimension

6.2 An advertisement may refer to the social dimension or refreshing attributes of a drink but

- a. should not imply that it can improve physical performance,
- b. should not imply that drinking can contribute to social or business success or distinction or that those who do not drink are less likely to be acceptable or successful than those who do,
- c. should not suggest that any drink can contribute towards sexual success or make the drinker more attractive to the opposite sex by word or allusion,
- d. should not portray drinking as a challenge nor should it be suggested that those who drink are brave or daring,
- e. should not link in any way the consumption of alcohol to aggressive or anti-social behaviour.

6.3 Advertisements should not suggest that a product can mask the effects of alcohol in tests on drivers; advertisements for breath testing devices should include a prominent warning on the dangers of drinking and driving.

Young People

6.4 Advertisements should not be directed at minors (those under 18 years of age) or in any way encourage them to start drinking. Accordingly:

- a. Anyone depicted in an alcohol advertisement should be over twenty-five and should appear to be over twenty-five.
- b. Treatments that are likely to appeal to minors should not be used. Advertisements should not feature characters (real or fictitious), motifs, colours or styles that are likely to appeal particularly to minors in a way that would encourage them to drink.
- c. Alcohol advertising should not be placed in media primarily intended for minors. Advertisers should take account of the age profile so that advertisements are communicated, so far as is possible, to adults.

Health and Safety

6.5 In the interests of health and safety:

- a. Advertisements should not encourage immoderate drinking or regular solitary drinking and abstinence or moderation should not be presented in a negative light. Buying of large rounds should not be depicted or implied.
- b. Advertisements should not claim that alcohol has therapeutic qualities or that it is a stimulant, a sedative or a means of resolving personal conflict.
- c. Advertisers should ensure that low alcohol drinks (i.e. those that contain 1.2% alcohol by volume or less) are not promoted in a way that encourages inappropriate consumption.
- d. Advertisements should not depict any association with activities or locations where drinking alcohol would be unsafe or unwise. In particular, advertisements should not associate the consumption of alcohol with operating machinery, driving, any activity relating to water or heights, or any other occupation that requires concentration in order to be done safely.
- e. Factual information can be given about the alcoholic strength of a particular drink but it should not be the principal theme of any advertisement. Drinks should not be promoted as being more or less intoxicating or presented as preferable because of their higher or lower alcohol content.

7. Financial Services and Products

7.1 Advertisements for financial services and products should be prepared with care and with the conscious aim of ensuring that members of the public fully grasp the nature of any commitment into which they may enter as a result of responding to an advertisement. Advertisers should not take advantage of people's inexperience or gullibility.

7.2 Advertisements which invite a response by mail should contain the full address of the advertiser separate from any response coupon.

7.3 Advertisements should indicate the nature of the contract being offered and provide information on any limitations on eligibility, any charges, expenses or penalties attached and the terms on which withdrawal may be arranged. Alternatively, where an advertisement is short or is general in its content, free explanatory material giving full details of the offer should be made available before a binding contract is entered into.

7.4 When an advertisement contains any forecast or projection, it should make clear the basis on which the forecast or projection is made explaining, for example

- whether reinvestment of income is assumed
- whether account has been taken of any applicable taxes
- whether any penalties or deductions will arise on premature realisation or otherwise.

7.5 Advertisements should make it clear that the value of investments is variable and, unless guaranteed, can go down as well as up. If the value of the investment is guaranteed details should be included in the advertisement.

7.6 Advertisements should specify that past performance or experience does not necessarily give a guide for the future. Any examples used should not be unrepresentative.

Statutory and Other Regulatory Requirements

7.7 Advertisements for financial products and services, including investment opportunities, deposits and credit facilities, are subject to a number of statutory and Central Bank requirements, some of which are quoted in the Appendix.

8. Distance Selling

(Mail Order and Direct Response)

8.1 This Section sets out the rules governing transactions for goods or services in which the buyer and the seller, having been brought into communication through an advertisement, conduct their business without meeting face-to-face.

8.2 Mail order and direct response advertisements are not acceptable unless

- a. the name and full address of the advertiser is stated in the advertisement (in the case of a print advertisement this should be separate from any response coupon),
- or
- b. arrangements have been made for enquirers to be informed by media of the name and full address.

A separate address for orders may also be given. This need not be a full address but may be a Freepost or Box Number.

8.3 Orders should be fulfilled within 28 days except:

- a. where security is provided for purchasers' money through an independent scheme;
- b. for goods such as plants and made-to-measure products where the estimated time of delivery should be made clear;
- c. where the advertisers make clear that they do not intend to begin production unless a sufficient response is received;
- d. where a series of goods is to be dispatched in sequence; in such cases only the first delivery need be made within 28 days but the period within which subsequent deliveries will be made should be stated.

8.4 Goods supplied should conform to any relevant and accepted standard and to the description given in the advertisement.

8.5 Advertisers should refund all money promptly when:

- a. consumers have not received their goods or services; alternatively advertisers may, if asked, provide a replacement;
- b. goods are returned because they are damaged or faulty or are not as described, in which case the advertisers should bear the cost of their return;
- c. unwanted goods are returned undamaged within fourteen working days of being received by the consumer; consumers should assume that they can try out goods unless the advertisement says otherwise;
- d. an unconditional money-back guarantee is given and the goods are returned within a reasonable period;
- e. goods that have been returned are not received back, provided consumers can produce proof of posting.

8.6 Advertisers do not have to provide a full refund on:

- a. perishable, personalised or made-to-measure goods provided all contractual and statutory obligations to the consumer are met;
- b. goods that can be copied, unless they fall under 8.5(a), (b) or (c).

8.7 When an advertiser offers to supply goods on approval, the consumer will be expected (subject to 8.5 (b) above) to bear the cost of return of unwanted goods unless the advertiser has undertaken to refund such costs.

8.8 Advertisers should be in a position to meet any reasonable demand created by their advertising. If a product proves to be available in insufficient quantity, advertisers should take immediate action to ensure that any further advertisements are amended or withdrawn.

8.9 If advertisers intend to call on respondents personally this should be made clear in the advertisement or in a follow-up letter. Advertisers should provide a reply-paid postcard or telephone contact to allow consumers an adequate opportunity to refuse a home visit.

8.10 Advertisers when using youth media should not promote products that are unsuitable for children. They should take particular care when packaging products that may fall into the hands of children.

Media Requirements

8.11 Advertisers should be aware that media may, in respect of cash with order advertisements, require special undertakings over and above the requirements set out in this Section. Media may also require undertakings that advertisers have adequate arrangements to handle all orders efficiently.

Data Protection

8.12 Attention is drawn to the requirements of the Data Protection Act, 1988, in regard to the collection, processing, keeping, use and disclosure of personal data.

Other Regulatory Requirements

8.13 Attention is also drawn to the requirements of the European Communities (Protection of Consumers in Respect of Contracts Made by Means of Distance Communications) Regulations, 2001 (S.I. No. 207 of 2001).

9. Employment And Business Opportunities

9.1 Advertisers and media should distinguish clearly between offers of employment, business opportunities and training courses.

Employment

9.2 Employment advertisements should correspond to genuine vacancies and should not require interested respondents to send money for further details. Terms and conditions should not be misrepresented and any earnings forecast should be realistic. If income is earned from a basic salary and commission, or commission only, this should be made clear.

Business Opportunities

9.3 Advertisements for business opportunities should not mislead participants as to

- a. the nature of the work involved,
- b. the amount of support available,
- c. the extent of any financial investment required,
- d. the potential earnings.

Where an advertisement does not contain the name and address of the advertiser, it is the responsibility of media to be satisfied as to the advertiser's identity and bona fides.

Homework Schemes

9.4 Advertisements for homework schemes in which respondents make articles, perform services or offer facilities at or from home should contain a clear description of the work and should make clear whether the homemaker will be an employee of the company or will be self-employed. Any forecast of earnings should be based on the experience of current homeworkers. If it is a new scheme, no realistic forecast of earnings can be made and none should be given in the advertisement. Where an advertisement does not contain the name and address of the advertiser, it is the responsibility of media to be satisfied as to the advertiser's identity and bona fides.

9.5 Details of charges imposed by the advertiser for machines, components or raw materials should be available to respondents before they are committed to any scheme.

9.6 If the advertiser intends to buy back the goods produced by the homemaker, all relevant information should be supplied before any binding obligation or investment is made by the respondent. Homeworkers should know if there are any limitations

that might affect their decision to accept the advertiser's offer before being committed to participate.

Training Courses

9.7 Advertisements for training and instruction courses should make no promise of employment unless a job is guaranteed. The duration of the course and the level of attainment needed to embark on it should be made clear.

Directories

9.8 Advertisements for directories giving details of employment or business opportunities should indicate plainly the nature of what is being offered.

10. Occasional Trading

10.1 Advertisements by persons engaged in occasional trading, including one-day sales, should contain the advertiser's name and full verifiable permanent address (not a Box Number or an accommodation address).

10.2 Descriptions such as 'liquidation sale', 'closing down sale', 'emergency sale' should be capable of substantiation.

10.3 An advertiser should not misrepresent the nature or status of an event through the use of headlines such as "Public Announcement" or the inclusion of references to Customs or other official authorities.

10.4 It is the responsibility of media to be satisfied about the advertiser's true identity and bona fides.

11. Environmental Claims

11.1 Environmental claims should not be used without qualification unless advertisers can provide convincing evidence that their product will cause no environmental damage.

11.2 Qualified claims and comparisons may be acceptable if advertisers can demonstrate that their product provides an improvement in environmental terms either against their competitor's or their own previous products.

11.3 The basis of any claim should be explained clearly and should be qualified where necessary. Unqualified claims may mislead if they omit significant information.

11.4 Where there is a significant division of scientific opinion or where evidence is inconclusive this should be reflected in any statements made in the advertisement. Advertisers should not suggest that their claims command universal acceptance if this is not the case.

11.5 If a product has never had a demonstrably adverse effect on the environment, advertisements should not imply that the formulation has been changed to make it safe. It is legitimate, however, to make claims about a product whose composition has been changed or has always been designed in a way that omits chemicals known to cause damage to the environment.

11.6 The use of extravagant language should be avoided, as should bogus and confusing pseudo-scientific terms. If it is necessary to use a scientific expression, its meaning should be clear.

11.7 Symbols may imply environmental claims in themselves. They should be simple and used in such a way that they do not convey false impressions about the characteristics of goods or services.

Appendix

Statutes, Statutory Instruments and Other Codes listed by sponsoring Departments or organisations affecting Advertising and Sales Promotions.

The following list is not exhaustive and is for guidance only.

Department of Agriculture, Food and Rural Development

- Irish Whiskey Act, 1980 - S.I. No. 33 of 1980
- European Communities (Definition, Description and Presentation of Spirit Drinks) Regulation, 1995 - S.I. No. 300 of 1995
- European Communities (Definition, Description and Presentation of Aromatised Wines, Aromatised Wine-based Drinks and Aromatised Wine-Product Cocktails) Regulations, 1998 - S.I. No 254 of 1998
- European Communities (Protection of Geographical Indication and Designations of Origin for Agricultural Products and Foodstuffs) Regulations, 1995 - S.I. No. 148 of 1995
- European Communities (Certificates of Specific Character for Agricultural Products and Foodstuffs) Regulations, 1995 - S.I. No. 149 of 1995
- European Communities (Protection of Geographical Indication and Designations of Origin for Agricultural Products and Foodstuffs) (Amendment) Regulations, 1999 - S.I. No. 275 of 1999
- European Communities (Supply of Information on the Origin Identification and Destination of Bovine Animals) Regulations, 1999 - S. I. No. 258 of 1999
- Council Regulation (EC) No. 2200/96 on the common organisation of the market in fruit and vegetables
- EC (Pesticides Residues) (Fruit and Vegetables) Regulations, 1989 - 1998
- EC (Pesticides Residues) (Foodstuffs of Animal Origins) Regulations, 1999
- EC (Pesticides Residues) (Products of Plant Origin, including Fruit and Vegetables) Regulations, 1999
- EC (Pesticides Residues) (Feedingstuffs) Regulations, 1992
- EC (Pesticides Residues) (Cereals) Regulations, 1999
- EC (Classification, Packaging and Labelling of Pesticides) Regulations, 1994

- EC (Export and Import of Certain Dangerous Chemicals) (Pesticides) (Enforcement) Regulations, 1995 - 1998
- EC (Authorisation, Placing on the Market, Use and Control of Plant Protection Products) Regulations, 1994 - 1999
- EC (Prohibition of Certain Active Substances in Plant Protection Products) Regulations, 1981 - 1990
- Poisons (Prohibition of the Use of Certain Substances for Agricultural Purposes) Regulations, 1991
- EC (Seed of Fodder Plants) Regulations, 1981 - 1999
- EC (Seed of Oil Plants and Fibre Plants) Regulations, 1981 - 1997
- EC (Beet Seed) Regulations, 1981 - 1997
- EC (Vegetable Seeds) Regulations, 1981 - 1997
- EC (Seeds) Regulations, 1974 - 1975
- EC (Cereal Seed) Regulations, 1981 - 1983
- Animal Remedies Act, 1993
- Animal Remedies (Control of Sale) Regulations, 1985
- Dairy Produce Act, 1924
- Milk and Dairies Act, 1935
- Milk and Dairies (Special Designation) Regulations, 1938 and 1955
- Poisons (Control of Residues in Foods of Animal Origin) Regulations, 1985

Department of Arts, Heritage, Gaeltacht and the Islands

- Broadcasting Act, 1990
- Broadcasting Act, 2001
- Broadcasting Authority Acts, 1960 - 1993
- Radio and Television Act, 1998
- Regulation No. 313 of 1999 implementing EU Directive 89/552/EEC as amended by EU Council Directive 97/36/EC (Television without Frontiers)

Department of Defence

- Defence Act, 1954
- Red Cross Acts, 1938 and 1954

Department of Enterprise, Trade and Employment

- Casual Trading Act, 1980
- Charges (Hairdressing) Display Order, 1976
- Companies Acts, 1963 - 1999
- Consumer Credit Act, 1995
- Consumer Credit Act, 1995 (Section 28) Regulations, 1996
- Consumer Information Act, 1978
- Consumer Information (Advertisement for Concert or Theatre Performances) Order, 1997
- Consumer Information (Advertisements) (Disclosure of Business Interest) Order, 1984
- Consumer Information (Advertisement for Airfares) Order, 2000

- Consumer Information (Diesel and Petrol) (Reduction in Retail Price) Order, 1997
- Consumer Information (Miscellaneous Goods) (Marking) Order, 1984
- Copyright Act, 1963
- Employment Agency Act, 1971
- Employment Agency Regulations, 1972 - 1993
- European Communities (Labelling, Presentation and Advertising of Foodstuffs) Regulations, 2000
- European Communities (Misleading Advertising) Regulations, 1988
- European Communities (Names and Labelling of Textile Products) Regulations, 1998
- European Communities (Life Assurance) Framework Regulations, 1994
- European Communities (Non-Life Insurance) Framework Regulations, 1994
- European Communities (Quantitative Analysis of Binary and Ternary Fibre Mixture) Regulations, 1990
- EU Council Directive on Comparative Advertising
- European Communities (Protection of Consumers in Respect of Contracts Made by Means of Distance Communications) Regulations 2001
- Hallmarking Act, 1981
- Merchandise Mark Acts, 1887 - 1970
- Merchandise Marks (Prepackaged Goods) (Marking and Quantities) Order, 1973 (as amended)
- Metrology Act, 1996
- Occasional Trading Act, 1979
- Packaged Goods (Quantity Control) Act, 1980
- Patents Act, 1964
- Prices Acts, 1958 - 1980
- Prices and Charges (Tax-inclusive Statements) Order, 1973
- Pyramid Selling Act, 1972
- Registration of Business Names Act, 1963
- Retail Price (Beverages in Licensed Premises) Display Order, 1999
- Retail Price (Diesel and Petrol) Display Order, 1997
- Retail Price (Food in Catering Establishments) Display Order, 1984
- Sale of Goods and Supply of Services Act, 1980

Department of the Environment

- Local Government (Planning and Development) Acts, 1963 - 1993
- Local Government (Planning and Development) Regulations, 1994

Department of Finance

- Building Societies Act, 1989
- Central Bank Acts, 1942 - 1989
- Copyright Act, 1963
- Forgeries Act, 1913
- Investment Intermediaries Act, 1995
- Investment Compensation Act, 1998
- Trustee Savings Banks Act, 1989

Department of Health and Children

- Adoption Acts, 1952 - 1976
- European Communities (Cosmetic Products) Regulations, 1997 - 2000
- Health (Foods for Particular Nutritional Uses) Regulations, 1992
- Medicinal Products (Licensing and Sale) Regulations, 1998
- Medical Preparations (Advertising) Regulations, 1993 - 1996
- Medical Preparations (Labelling and Package Leaflets) Regulations, 1993 - 1999
- Medicinal Products (Prescription and Control of Supply) Regulations, 1996 - 2000
- Opticians Act, 1956
- Opticians Act, 1956, Rules 1977 (Amendment) Rules, 1993
- Tobacco Products (Control of Advertising, Sponsorship and Sales Promotion) Act, 1978
- Tobacco Products (Control of Advertising, Sponsorship and Sales Promotion) Regulations, 1991 - 2000

Department of Justice, Equality and Law Reform

- Betting Act, 1931
- Censorship of Films Acts, 1923 - 1970
- Censorship of Publications Acts, 1929 - 1965
- Children Act, 1934
- Data Protection Act, 1988
- Employment Equality Act, 1998
- Equal Status Act, 2000
- Gaming and Lotteries Act, 1956 (under review)
- Intoxicating Liquor Act, 1988
- Intoxicating Liquor Act, 1988 (Age Card) Regulations, 1999
- Moneylenders Act, 1933
- Solicitors (Advertising) Regulations, 1996
- Solicitors Amendment Act, 1994

Department of the Marine

- Merchant Shipping Acts, 1894 - 1992
- Merchant Shipping (Safety Convention) Act, 1952
- Merchant Shipping (Certification of Seamen) Act, 1979
- Dumping at Sea Act, 1981
- Oil Pollution of the Sea (Civil Liability and Compensation) Act, 1988
- Sea Pollution Act, 1991

Department of Public Enterprise

- Transport (Tour Operator and Travel Agents) Act, 1982 and the regulations made under it
- Package Holidays and Travel Trade Act, 1995 and the regulations made under it

Department of Tourism, Sport and Recreation

- Tourist Traffic Acts, 1939 - 1987

OTHER CODES

- **Animal and Plant Health Association** - Code of Practice for the Animal Health Industry with guidelines for TV and Radio advertising
- **Central Bank of Ireland** - Advertising Requirements applicable to Credit Institutions
- **Drinks Industry Group** - Code of Practice (Naming, packaging and merchandising of single-serve alcohol beverages in the Republic of Ireland)
- **Irish Association of Investment Managers** - Code of Advertising Practice
- **Irish Brokers Association** - Code of Conduct for Insurance Intermediaries
- **Irish Direct Marketing Association** - Code of Practice on Direct Marketing
- **Irish Direct Marketing Association** - Code of Practice for Data Protection
- **Irish Direct Marketing Association** - Code of Practice on Telemarketing
- **Irish Insurance Federation** - Code of Practice on Advertising and Sales Material
- **Irish Mail Order Association** - Code of Practice on Catalogue Mail Order Trading
- **Irish Pharmaceutical Healthcare Association** - Code of Standards of Advertising Practice for the Consumer Healthcare Industry
- **Minister for Arts, Heritage, Gaeltacht and the Islands** - Code of Standards, Practice and Prohibitions in Advertising, Sponsorship and Other forms of Commercial Promotion in Broadcasting Services (and Codes made thereunder by RTE and IRTC)
- **Regulator of Premium Rate Telecommunications Services** - REGTEL Code of Practice
- **The Dental Council** - Guidelines on Public Relations and Communications
- **The Medical Council** - Guide to Ethical Conduct (Advertising and the Media)
- **The Opticians Board** - Rules relating to Advertising

NOTE: Advertisers and promoters should also comply with any relevant Codes of Practice approved from time to time by the Director of Consumer Affairs.