

THE SLOVENIAN CODE OF ADVERTISING PRACTICE

The Slovenian Code of Advertising Practice (hereinafter the Code) represents a supplement to the existing legal acts regulating advertising practices as well as the regulations arising from the nature and system of information provision in the Republic of Slovenia, a constituent part of which is advertising or paid transmission of information to businesses and other organizations and individuals on their products, services, offers, ideas, etc.

The reason for the adoption of this Code lies in the fact that it is the advertising profession which has the greatest interest in and is responsible for the development and advancement of advertising practices in Slovenia. In accordance with this, the Code is a self-regulatory instrument of the advertising business. Its aim is to ensure that advertising is:

- unlimited in its constructive creative freedom,
- in accordance with the morals of the democratic society and the principles of good conscience and honesty,
- prepared in a spirit of responsibility both to advertisers and consumers, as well as the society in general,
- in line with general principles of healthy competition,
- aesthetic in its appearance and prepared in accordance with the culture of the environment,
- in the function of promoting business competition, developing the quality of life, preserving the environment and establishing Slovenia in international trade.

The Code is a body of established rules and principles and serves two purposes:

1. It unifies the criteria for the work of all individuals and organizations engaged in the advertising process in the Republic of Slovenia.
2. The adoption of the Code provides opportunities for other factors in society to realize that the advertising business in Slovenia is equipped with a self-regulatory mechanism and can thus be trusted in its entirety.

The Code implements European self-regulatory patterns. Its principles are in accordance with the principles of the International Chamber of Commerce.

IMPLEMENTATION OF THE CODE

The Code functions in such a way that every advertisement appearing in Slovenian mass media and aimed at Slovene audiences can be assessed by means of its rules and principles. The procedure of accord evaluation of an advertisement with the Code can be initiated by any citizen of the Republic of Slovenia even if they are not strictly tied to the advertising business.

The Code applies to all individual and legal bodies engaged in the advertising process in Slovenia, including the advertiser, advertising agencies as well as the media. Nevertheless, as the commissioner, signatory and the most responsible party in the advertising process, it is the advertiser's task to be the first to examine its provisions before expressing the intention to create and publish an advertisement.

THE CODE'S LIMITATIONS

- a) The Code does not apply to advertisements aimed at foreign audiences, regardless of where they are broadcast or published.*
- b) The Code does not apply to promotional advertising, i.e. the dissemination of information on companies, products, etc. in the mass media which is free of charge. The possible and existing anomalies in this field must be resolved by the media organizations in their internal acts, and primarily by adhering in full to the code of the Journalists' Association.

- c) The Code does not apply to advertisements that fall into the category of classified ads, obituaries, general notices, etc.

**As a full-fledged member of the European Advertising Standards Alliance Slovenian Advertising Chamber is included in "Cross - border complaints system". This means that the Code's principles are appropriately adhered to in cross - border complaints in all countries members of the EASA.*

THE CODE AND THE LAW

The Code and the Law are interactive. The Code merely supplements the Law and may in no event contradict it. The Code is special in that it is not only applied by the letter, but also in the spirit of the provisions. Therefore, the interpretation of the Code's provisions depends not only on the written provision, but also and primarily on the understanding of the purpose for which the provision was designed. Interpretations of the Code in particular cases shall be provided by the Advertising Arbitration Court of the Slovenian Advertising Chamber.

THE ROLE OF ADVERTISING IN SLOVENIA

Free advertising is one of the key factors in encouraging trade and in this way the normal operation of the marketplace and its legality. Advertising fosters the spirit of healthy competition, the tendency to surpass what has already been achieved, it facilitates the establishment of better and more penetrating knowledge and work, it increases responsibility, creates conditions of trust in the marketplace and provides for greater economic effectiveness in trade.

The basic aim of advertising is to disseminate information on products, services, ideas, organizations, etc. (hereinafter products) of companies, other organizations and private individuals to specific target groups of society, whereby it assumes an equal role to that of other information in the mass communication process. It is distinguishable from other information in that it is a paid-for, recognizable and signed piece of information, which presupposes the characteristic that, in addition to being informative, advertising also strives to persuade and bring about a change in certain views and indirectly in an appropriate campaign of activity too. The persuasive element is not necessarily the predominant one in an advertisement, but even in the case of pure information it may be expected to be a type of persuasion, of course to the extent that the end-user and society as a whole allows it to and is willing to accept it as such. Although advertising in principle represents the interests of the client, this being generally accepted and expected, the essence of this activity is to establish a two-way communication between the user and the provider with the ultimate objective being to satisfy the wishes of both parties.

The function of advertising is multi-faceted:

It strives to increase sales of products, reduce stocks, introduce new products, etc. It helps retail outlets to achieve greater turnover in the trading of goods. It provides the media with a source of funds for normal business operation and contributes and supplements their informational nature. It provides consumers with a better choice of products offered by individual suppliers. Advertising helps society in general, as it promotes economic development, encourages competition for quality and in this way prepares the society for an equal standing in the international marketplace.

The success of advertising depends first and foremost on the desire for a particular product, its quality and the degree to which the promise of a product accords with the post-purchase experience. The attitude of the wider community towards the advertising of particular producers and activities in general also depends on this, since the success of advertising is only possible in the event of mutual trust between all participants in the advertising process (advertiser, agency, media) as well as trust from the consumers.

OTHER DEFINITIONS

- a) A message in advertising (an advertisement) is any notice on the existence, features, purpose, advantages and types of a product embraced in any means of advertising and published or broadcast in any media, whereby the notice is commissioned and paid for.
- b) The medium by which an advertisement is communicated is any form through which the advertisement is materialized, both visual (printed advertisements, brochures, posters, leaflets, viewing cards, catalogues, annual reports, billboards, transparencies, circulars, lights, calendars, stickers, packaging when some other product is advertised on it, etc.) as well those which are audio and audio-visual in character (loudspeaker announcements, radio recordings, record or tape recordings, video-cassette commercials, video disks, commercials broadcast on TV or in the cinema, cinema slides, advertisement stills, teletext, interactive electronic media, etc.).
- c) A consumer in the sense of the Code is anyone likely to be reached by advertising within the competence of the Code.
- d) An advertiser is any company, organization or individual that produces or carries out services through its own work and means, the product of which is the subject of various forms of communication regardless of whether they themselves have ordered that an advertisement be published or broadcast in a medium, or if this was done by an agency specialized in communicating advertising services.
- e) An advertising agency is a company which through market communication and within this through advertising as its registered activity engages in the provision of services for clients in all or any parts of the advertising process (research, draft designs, creative work, project management, implementation and production, planning, purchase of space and time in the media etc.) and which in this way obtains revenue.
- f) A medium as understood in the Code is any organization whose basic or parallel activity is also the dissemination of advertisements.

RULES OF ADVERTISING

GENERAL PRINCIPLES

Article 1 CONSTITUTIONAL PROVISIONS

Advertising should contribute to the development of social community and should not directly or indirectly violate constitutional provisions. The Law governs the protection of constitutionality in the field of advertising, and for this reason it is not necessary to enumerate the particular statutory articles in this Code.

Article 2 LAWFULNESS

Advertisements should not contain anything which is in breach of the existing law, nor omit anything which the law explicitly requires. In the same way, it should not encourage or approve of any violations of the law.

Article 3 DECENCY

Advertisements should contain nothing likely to cause widespread offence in view of the generally prevailing principles of decency. Advertisements should not contradict the self-evident equality of the sexes, nor should they show men, women or children in an offensive or debasing manner. The use of nudity and sexual innuendo for the mere purpose of shocking or attracting attention, with no meaningful relationship to the product, is not acceptable. Whenever nudity and sexual innuendo are used in relation to an advertisement, it should not offend good taste.

Article 4 HONESTY

An advertisement should not be designed in such a way as to take improper advantage of consumers' trust, nor should it exploit their lack of experience or knowledge.

Article 5 TRUTHFUL PRESENTATION

Descriptions, claims and comparisons of technical nature published or broadcast in advertisements should be substantiated. In the case of unusual claims that are not of general knowledge, advertisers and agencies should upon request of the medium assume responsibility for the truthfulness of the claims in writing before the publication or broadcasting.

Advertisements should not contain claims or visual presentations seeking directly or indirectly to mislead consumers about the purpose of the product, or about the advertiser itself, whereby in an unfair manner harm may be done to other producers or advertisers.

Untruths or exaggerations, the purpose of which is to cause amusement or attract attention, are permissible only if it is evident that they are humorous, allegorical or obvious exaggerations and not a fact which should be received as such.

Article 6 FORM OF PRESENTATION

Advertisements should be aesthetic and should correspond to the requirements of a certain cultural environment. They should not irritate consumers through aggressiveness and distasteful approaches, scenes and expressions, irrespective of the type of medium through which they are published or broadcast.

Article 7 RECOGNISABILITY

Advertisements should be so designed and presented as to be immediately recognised as advertisements. They should be clearly and recognizably distinguishable from, for example, editorial notices, opinion columns and other columns or broadcasts, and should not bear reference to them subsequently, irrespective of the medium through which they are communicated, so that consumers may distinguish them from editorial material published or broadcast in that medium. All advertisements published in the printed media which in style or form might mislead the reader into thinking that it is editorial material,

must be labeled accordingly. All advertisements broadcast via audio-visual media should be introduced as a special broadcast or be audio-visually separated otherwise.

Article 8 RESPONSIBILITY TO SOCIETY AND CONSUMERS

Advertisements should not exploit fear without a justified reason.

Advertisement should not denigrate historical monuments, presentations or events.

Advertisements should not make use of motifs of smoking, violence against people, animals or plants, excessive drinking, theft, games of chance, drug use, antisocial behavior, habits harmful to one's health or unhygienic practices, in a manner that would encourage or directly or indirectly condone this.

Article 9 PRIVACY

Advertisements should not portray or refer to any living persons if these persons have not granted permission for this and if the advertisements violate their right to enjoy a reasonable degree of privacy. This holds for citizens of Slovenia as well as foreign nationals. One exception is the portrayal of a group of people as the background for a basic presentation. Another exception is in the case of advertisements where the purpose is to promote a product such as a book, film, newspaper, TV or radio programme where the nature of the activity allows for a documentary approach. All this holds under the condition that the context of the advertisement is not offensive or aggravating. In the event of a reasonable complaint made by one of the individuals portrayed, an advertiser must withdraw the advertisement.

Article 10 RELIGIOUS SENTIMENTS

Advertisements should not offend the religious or atheistic beliefs of citizens.

Article 11 SAFETY

Advertisements should not advocate dangerous activities or scorn for safety, especially if they are aimed at children and young people.

Article 12 CHILDREN AND YOUNG PEOPLE

Special attention should be devoted to creating and communicating advertisements aimed at young people or those in which young people appear as actors or models. Advertisements should not exploit the inherent credulity of children or their lack of experience in life.

Direct appeals to buy should not be made to children in advertisements unless the product to be advertised is likely to be one of interest to them and one which they could reasonably be expected to afford. No advertisement should directly influence children to persuade their parents or guardians to buy a product. No advertisement should create images leading children to believe that they will be inferior to other children if they do not buy a particular product or have it bought for them by their parents or guardians.

Advertisements should not show children unattended in street scenes unless it is obvious that they are old enough to care for their own safety; children should not be shown playing in the street unless it is evident that it is a closed-off street or a designated play area; they should not be shown crossing the street without paying attention to traffic; if they are shown crossing the street they must be doing so on a pedestrian crossing -- all this is intended to ensure that they are not being encouraged in a wrong attitude to traffic safety.

Children should not be shown leaning dangerously out of a window or over bridges or climbing dangerous slopes on their own. Also, small children should not be shown climbing onto kitchen cabinets, for example, with the purpose of reaching something above their heads.

Advertisements should not depict children using matches, lighters or electric appliances which could lead to serious burns, electric shock or other injuries.

Children should not be shown driving vehicles (tractors, motorcycles, etc.) in advertisements unless it is obvious that they are of an age when they can be expected to be capable of this or to possess a driving licence.

Presentations of the situations cited in paragraphs 3, 4, 5 and 6 of this article can only serve the purpose of depicting behavior which children and young people should avoid and can be shown only in an educational context of this kind.

Article 13 DENIGRATION

Unfair and unobjective assaults on or discreditation of other products or brands, advertisers and their advertisements is prohibited.

Article 14 THE PROTECTION OF TRADEMARKS

Any direct abuse in advertisements and imitation of foreign trademarks for the same or a similar type of products runs counter to the principles of fair competition, irrespective of whether this relates to a brand, including the name of the product and producer's trademark, the product's design or packaging, or its art and graphic presentation.

Advertisements should not use the names of origin which evoke ideas that a certain product is of special quality due to its place of origin or that it is made in a certain way (well-known products), if the product or its basic component were not produced in the place cited as the origin or if the product was not produced in a way deserving of this title.

Article 15 IMITATION

The plagiarizing or imitating advertisement illustrations, recordings, slogans, texts, packaging, labels as well as unauthorized use of others' ideas in the creation of an advertisement and the realization of means of advertising is considered in whole or in part an unfair procedure in contradiction with professional etiquette and good practices in the advertising business. A procedure is considered especially unfair if the imitation is carried out for the same type of product or similar ones, which might confuse the consumer and cause damage to the advertiser whose means of advertising and advertisements are being imitated.

Article 16 REFERRING TO THIRD PARTIES

Advertisements should not contain references to a person or organization representing an authority in a certain field without their authorized permission. All testimonials of this kind should be accompanied by full names of the persons or the title of the organization referred to.

Statements in advertisements which use as their main or supplementary argument the results of testing conducted by various institutes should be equipped with the name of the institute and the date of testing. If this is not possible, arguments of this kind may not be used.

Article 17 REFERRING TO RECOGNITIONS

Recognitions of quality and other forms of recognizing a product may only be used in advertisements in such a way that they cannot mislead the consumer in assessing the real significance and value of these documents. In the same way, they may be used only if they have not become outdated or otherwise unsuitable for use.

Medals, prizes, certificates and other recognitions bestowed on a product or producer at fairs, exhibitions, competitions or from assessing institutions, may only be used in advertising with a special degree of correctness so that consumers do not overestimate their real significance.

Article 18 ADVERTISEMENTS QUOTING PRICES

In accordance with the technical possibilities of the medium, this type of advertisement must respect the following requirements:

- it should be made clear which product (type) the price is quoted for;
- it should be made clear whether the price includes the value added tax and other incidental costs which might be incurred;
- it should be clearly indicated what precisely the quoted price includes;
- when using the word "free of charge" all additional costs which could be incurred in acquiring such a product should be indicated. The word "free" should not be used if these additional costs exceed those that would typically arise in buying such products.

Article 19 GUARANTEES

Advertisements should clearly define what falls under guarantee and what does not, as well as what the conditions for the duration of the guarantee are.

Article 20 ENVIRONMENTAL CLAIMS

Advertisements should not exaggerate in glorifying the particular "green" components of a product if the practice of acquiring, using or disposing of it runs counter to environmental protection standards.

SPECIAL PROVISIONS

Article 21 ALCOHOLIC DRINKS AND TOBACCO PRODUCTS

Advertising alcohol and tobacco products must not create an impression that the consumption of alcohol or smoking possibly increases physical or psychical fitness.

Such advertising must not create an impression that the consumption of alcohol or smoking present a condition for social or sexual successfulness.

Advertising alcoholic drinks or tobacco products must not include claims that the consumption of alcohol or smoking can improve working efficiency.

Advertising alcoholic drinks or tobacco products must not hint at positive relation between the consumption of alcohol or smoking and practising sports.

Advertising alcohol and tobacco products must not be oriented toward young people and must not show them drinking alcohol or smoking tobacco products nor encourage them to do so by showing people who are their role models.

Advertising alcohol or tobacco products must not include symbols, images or role models with which young people identify.

Sponsoring events or programmes designed mostly for teenagers is prohibited to all companies which produce alcoholic drinks or tobacco products.

Advertising alcohol or tobacco products must not be published or broadcast in media which is mostly or specifically aimed at young people.

Dealing free samples of alcoholic drinks or tobacco products to young people is prohibited.

Advertising alcoholic drinks must not in any way encourage overconsumption of alcoholic drinks.

Advertising alcoholic drinks must not present consumption of alcoholic drinks while driving or participating in potentially dangerous activities, unless such presentations are used for the purpose of social campaigns aimed against overconsumption of alcohol.

Advertising alcoholic drinks must not create ideas that would encourage consumers to believe that consuming alcoholic drinks can have healing effects to one's health.

Such advertising must not encourage overconsumption or reckless consumption of alcoholic drinks nor present abstinence or moderate consumption in a negative way.

Advertising must not be unclear about the nature of an alcoholic product and the quantity of alcohol in the product advertised.

Advertising can include information about the quantity of alcohol in a product. If so, it must not stress the high quantity of alcohol as a positive quality.

Advertising must not allege the small quantity of alcohol in a product advertised as a statement of the product's safety. It can, however, report the quantity of alcohol in a product with the intention to inform consumers.

Advertisements for alcoholic drinks must not be broadcast on the radio, TV or in the cinemas during, immediately before or after the programme, if it is listened to or watched by mostly young people.

Article 22 MEDICINES AND MEDICINAL PREPARATIONS

Advertisements for medicines and medicinal preparations are regulated by law. Advertisements should not claim to "cure" any of the real causes of a disease, they may only speak of the relief or soothing of outward symptoms of a disease. They should not create the impression that by using a medicine of this

kind the consumer need not consult a doctor. Such advertisements should be denoted with a notice, such as: "Consult your doctor or pharmacist about the possible risks or side effects."

Article 23 "HEALTH" FOODS AND GENERAL CONSUMER PRODUCTS

Advertisements for foods and general products should not include illustrated or textual presentations which could mislead the consumer with regard to the composition, properties, importance or efficacy of these products. Advertisements for "health" foods and general consumer products should not contain claims and presentations of the medicinal properties of these products (honey, tea, bio-pyramid etc.) except in special cases authorized by the administrative body responsible for health affairs.

Article 24 SPECIAL PRODUCTS

Advertisements for biogenetic products (products for enhancing vital or sexual potency, products for enhancing the growth of breasts or hair and other products) which consumers expect to help them with their difficulties should not in illustrated or textual form contain presentations which could mislead the consumer with regard to the real efficacy of these products.

Article 25 THERMAL SPAS AND HEALTH RESORTS

Advertisements for thermal spas and climatic health resorts should not in word or illustration present situations which are not attainable and which could mislead the consumer with regard to the health efficacy of visiting such a place.

Article 26 SCHOOLS AND PROFESSIONAL COURSES

Advertisements for schools and professional courses should not exaggerate the opportunities of those attending such courses or completing a certain school in finding employment, nor should they list qualifications and titles which according to statutory regulations and their status they cannot offer.

Article 27 HOLIDAYS AND TRAVEL

Advertisements for holidays and travel should list the full details of the offer or indicate the source where this information can be obtained in order to avoid mistakes with regard to the scope and type of service being advertised.

Article 28 PURCHASES IN INSTALLMENTS AND CREDIT SALES

Advertising for purchases in installments and credit sales should be presented in such a way that no ambiguities of any kind with regard to the price or conditions of sale of the products arise.

Article 29 MAIL ORDER

In view of the fact that the consumer realizes that there is no possibility of inspecting the product in advance, mail order advertisements should clearly and accurately describe the products on sale, specifying all the details required in order to recognize them. Mail order advertising should clearly specify the conditions of purchase, particularly of the manner of payment, delivery deadline, delivery costs, the total price of the purchased goods and the procedure for obtaining a refund.

Article 30 GAMES OF CHANCE (LOTTERIES)

Advertisements for games of chance should not promise that the purchase itself of a product will bring the consumer luck or, vice versa, that not purchasing a product will bring bad luck.

Article 31 EMPLOYMENT

Advertisements which offer employment should specify all the necessary information on the type of employment, the requirements and place of employment. Such offers must not be ambiguous or even of a physically and socially harmful nature.

Article 32 POLITICAL ADVERTISING

This type of advertising is regulated by statutory acts and the Code does not wish to interfere with it in any particular way. As this form of advertising also falls into the broader category of advertising, advertisements should fulfill the following requirements:

- they should be unmistakably recognizable as political advertising,
- they should be signed with the name of the advertiser,
- they should respect all relevant articles of the Slovenian Code of Advertising Practice.

FINAL PROVISIONS

Article 33

Members of the Slovenian Advertising Chamber are also morally bound to establish and maintain the Code's provisions in their environment.

Article 34

The Code applies to all factors in advertising in the territory of the Republic of Slovenia.

Article 35

From the date of its adoption, the Code applies to all foreign nationals engaged in the advertising business with the purpose of influencing the Slovenian public through the Slovenian media.

Article 36

The original version of the Code is written in the Slovenian language. The Code has been translated into English for the needs of foreign advertisers.

Article 37

Alterations and annexes to the Code are adopted by the Slovenian Advertising Chamber's Members' General Assembly.

TRANSITORY PROVISIONS

Article 38

Until the new Rules of procedure on the work of the Advertising Arbitration Court are adopted the provisions of the existing Code and Rules of procedure on the work of the Advertising Arbitration Court are in force.

The Slovenian Code of Advertising Practice was adopted by the General Assembly of the Slovenian Advertising Association in Portoroz on 12th October 1994.

The Slovenian Code of Advertising Practice was updated by the General Assembly of the Slovenian Advertising Association in Ljubljana, on 28th October 1997.

The Slovenian Code of Advertising Practice was updated by the General Assembly of the Slovenian Advertising Chamber in Ljubljana, on 22nd September 1999.