

## CHAPTER 1 GENERAL PRINCIPLES

### ARTICLE 1: APPEALING TO PUBLIC GENEROSITY

Advertising of products or services designed and/or distributed for the handicapped is authorized subject to express ministerial opposition (Minister of Social Security or Principal Secretary).

The advertisement must not contain any inaccuracy, ambiguity, exaggeration or omission as regards the purpose and destination of the gifts collected by means of the said advertisement.

The advertisement must not exploit the representation of human distress. The dignity of the person represented must be respected.

When reference is made to a personality and that the name, representation or terms employed by that person can be understood by the public as a guarantee of the seriousness of the advertising organization, the person's capacity must be mentioned.

Organizations resorting to advertising campaigns to raise funds or obtain some other form of support in aid of some assistance or charitable organization, or in favour of a humanitarian cause also have certain obligations within the context of the said campaigns:

- The advertisement must disclose the name or designation of the person and, if need be, the corporate legal status of the responsible organization and/or beneficiary of the operation;
- The wording and graphical elements used must not comprise any inaccuracy, ambiguity, exaggeration as regards to the nature of the promoted cause, its setting up, the details of its implementation, the venue, its results, its success...;
- The advertisement must indicate the purpose to which the collected funds are intended or a means for the public to obtain information about it. In the latter case, the organizers must see to it that they have sufficient documentation to address any request for information;
- Any message appealing to generosity for a specific project, limited in time and/or space, must in addition clearly indicate the particulars and modalities of the action;
- Lastly, when the advertisement proposes to buy a product that is available on the market and/or mentions a price, it must specify the amount or percentage of the price that goes to the cause or action supported.

## **ARTICLE 2: EMOTIONAL APPEALS**

Fright, fear, superstition or stress must not be directly or indirectly caused, except when such feelings are proportional to the danger. Appeals to maternal instinct are acceptable if it is not exploited in an improper manner. Furthermore, in keeping with the Laws and Regulations in force, any advertisement using any medium and mode in favour of products, objects or methods recommended as means to take one's own life is strictly forbidden.

## **ARTICLE 3: CIVICS**

Advertising must not encourage crime and breaches of law, tax evasion, abstention and absenteeism. It must be in accordance with the principles laid down in the Constitution and laws of the Republic of Mauritius.

## **ARTICLE 4: UNFAIR COMPETITION**

This article concerns exclusively the advertising industry. It applies to business dealings among advertising agencies but also to advertisers who order the creation and/or publication of a message constituting unfair competition towards other advertisers.

There is unfair competition from the moment that, in the discharge of his/her duties and to the profit of his/her business, a person commits against another person exercising a similar activity, an act or an infringement likely to be detrimental to the latter, and this, with the intention of diverting his/her customers. The action in unfair competition marks an excessive recourse to the principle of freedom of commerce.

Unfair competition can take four aspects:

### *Article 4-1: Confusion*

It results in the creation of confusion or a risk of confusion between the two companies in the same trade (imitation of advertising, parasitism of a competitor's advertising performance, imitation of slogans...).

### *Article 4-2: Disparagement*

Unfair competition can consist in disparagement or attacking the vital forces of a business or of all businesses in the same trade. Disparagement constituent of unfair competition must be understood in the more general meaning of the word. Disparagement is any action tending to disparage or discredit the industry, the trade or the products of a said competitor.

### *Article 4-3: Exploiting reputation for advertising purposes*

The advertisement must not use the name or acronym of another company, business or institution without authorization. It must also not take undue advantage of the reputation attached to the name of a person, to the brand or the logotype of another company or another product, neither of the reputation acquired by an advertising campaign.

*Article 4-4: Imitation and parody*

Any imitation and/or parody of formatting, title, text, slogan, visual presentation, music and sound effects, etc., of other advertising messages is forbidden when the model copied is endowed with distinctive features and when such imitation is likely to cause misapprehension or confusion.

**ARTICLE 5: PHILOSOPHICAL AND POLITICAL CONVICTIONS**

The advertisement must respect the philosophical and political convictions of consumers as well as the Mauritian culture and identity.

**ARTICLE 6: CREDIBILITY OF THE STATE**

Any remark, argument, allusion likely to undermine the credibility of the state is forbidden. Messages presenting people representing the authority of the state must do so without disparagement and with caution.

Any person in office at the moment of publication of the advertisement must not be represented without authorization, even if by a double. Representations of non-contemporary personalities are allowed.

Any offence against the flag or any other national emblem is prohibited.

**ARTICLE 7: DECENCY**

The advertisement must not expose attitudes condemned by society, likely to evoke unhealthy emotions or to shock a reasonably thinking person.

**ARTICLE 8: DISCRIMINATION**

Any discrimination based on race, sex or nationality is forbidden. The advertisement must not appeal, even indirectly, to racism and/or sectarianism and/or sexism.

**ARTICLE 9: THE RIGHT TO ONE'S IMAGE IN ADVERTISING**

The advertisement must not cause direct and personalised damage. Any advertisement representing a person without his/her express or implied consent is prohibited.

In any case, the advertisement cannot directly or indirectly be contemptuous of, or expose to ridicule or bring into disrepute a person, his/her possessions or the institution that he/she represents or is part of.

The burden of proof of consent lies upon the publisher of the message. Authorization can be given only by the photographed or filmed person, such a right being non-transferable. Parents or guardians will give their consent for minors under their responsibility.

The owners of property or pets will also have to give their authorization prior to publication.

The consent, if given, must pertain to a specific and limited usage, the advertisement not being authorised to operate beyond such limitations.

People photographed or filmed in groups (4 persons or more) and in a public place, without them knowing it, lose the right to their image except in cases falling under the qualification of defamation or humiliation. It is well understood

that these persons only lose their right to oppose themselves to the publication of the advertisement but keep the right to enter any claim for damages. The representation of a person by a double is not possible without prior authorization of the person imitated and a visible message in the advertisement mentioning that it is a double. The right to one's image extends to all the attributes of the person: voice, name, signature... Here also, the authorization of the person concerned is required in all cases.

## **ARTICLE 10: ECOLOGY-ENVIRONMENT**

Every advertisement must be environment focus and friendly.

An advertisement based on an ecological claim must be clear and specific in the contribution of the product to the environment and inform consumers on the effects thereof on the environment.

Any declaration likely to mislead the consumer on the ecological advantages or properties of the product or service as well as the advertiser's actions in favour of the environment must be prohibited.

The advertisement cannot mention demonstrations, attestations or scientific conclusions relating to the environment if these are not in conformity with scientifically recognized works.

The advertisement cannot give or appear to give a total or complete guarantee of harmlessness regarding the environment, when the ecological qualities of the product or service comprise only one of these properties.

The advertisement will have to indicate in what manner the product or service presents the qualities claimed.

The advertisement must not wrongly distinguish the product or service by presenting characteristics as special while such characteristics relating to the protection of the environment are common among all other similar products or services.

The signs, colours, and wording used must not suggest ecological virtues that the product or service does not possess.

The tests carried out and put forward concerning strictly the product or service must be verified by a national scientific organization or authorized foreign institution (Mauritius Standards Bureau, for example) to be able to be published, and the advertiser must be in a position to show proof of all the elements put forward in his/her advertisement.

Furthermore, the advertisement will have to be designed in a manner not to exploit the possible lack of ecological knowledge of the consumer.

Ecological jargon or scientific terminology is acceptable as long as they are relevant and can easily be understood by the consumers.

Lastly, signs or symbols relating to the environment shall be used in the advertisement only if these signs and symbols are clearly shown and that there cannot be any confusion regarding their meaning. These signs or symbols shall not falsely evoke an official assent.

## **ARTICLE 11: HONESTY-TRUTHFULNESS**

### *Article 11-1: Principles*

The advertisement must not take advantage of the gullibility, lack of knowledge or experience of the consumer to whom it is addressed. It must not make use of exaggeration, ambiguity or omissions in the presentation of the product or service, and this, notably in the following areas: nature of the product or service, composition, manufacturing method and date, expiry date, suitability for the purpose, possible uses, available quantities, commercial and geographic origin, cash and credit value and price, delivery, sending back, repairs, maintenance and guarantees.

Humour used in the advertisement can be a palliative to this rule if it can be clearly identified as being humour.

### *Article 11-2: Additional information and referencing*

Additional information provided in the form of referencing must necessarily be indicated by an asterisk and be legible under the following conditions:

- Use of visible asterisks;
- Use of a sharp colour in the message background;
- The size and body of the characters shall be chosen according to the medium and proportionate to the size and body of the catch line.

## **ARTICLE 12: IDENTIFICATION OF THE ADVERTISEMENT**

The advertisement must be clearly identified as such, whatever the form and medium used. Editorial advertising, when it cannot be identified as such, must feature the message “advertisement” or “advertorial”.

Audiovisual advertising must be preceded and followed by a “jingle” thus demarcating advertising slots. The responsibility of such identification falls to the media.

## **ARTICLE 13: PUBLIC INTEREST AND ORDER**

The advertisement must not show behaviours or encourage behaviours undermining public interest. It must not, for example, openly disparage the police.

## **ARTICLE 14: LANGUAGE**

The daily cohabitation of several forms of expression in Mauritius does not exclude the principle according to which an advertisement must be as clear and understandable as possible in order not to create confusion in the consumer’s mind. Some terms must be used with caution:

### *Article 14-1: ‘New’*

The use of this term is recommended only during the year following the release of a product or two years if it pertains to a range of products. This term shall be used only if the novelty concerns the product or service, its directions for use or packaging and it shall be clearly specified that the novelty is at this level only.

*Article 14-2: 'Happiness'*

Saying or implying that happiness can be achieved only with the use of the promoted product or service is to be avoided.

*Article 14-3: 'First-Best...'*

Clarity on the quality for which the product is the best is recommended.

*Article 14-4: Terms generally used to qualify competitors*

No direction is to be considered if one remains within the limits of a description that is neither disparaging nor pejorative. An advertiser must not act as a spokesperson for the consumer. The latter is represented by associations in charge of his/her protection, not by any trading company.

*Article 14-5: 'Natural-Pure'*

The use of such terms is possible only if the products do not comprise additives or synthetic elements.

*Article 14-6: 'Healthy'*

The beneficial contribution to health must be generally or officially accepted for this term to be used in an advertisement.

*Article 14-7: 'Fresh-Freshness...'*

The product being advertised must meet the legal criteria of freshness, respect a minimum of hygiene and not be preserved through the use of chemical additives. A use-by date must also be set regarding products having recourse to this term in their advertising.

*Article 14-8: 'Based on'*

The term "based on" can be used only if the main property (or properties) of the product are attributed to the said substance.

**ARTICLE 15: LEGALITY**

All advertisements must pertain to legally manufactured and distributed products. Advertising for a service or business in its generic designation must as well relate to sectors which are legally constituted and operated.

**ARTICLE 16: CONSUMER PROTECTION GENERALLY**

In a general manner, advertising must not mislead the consumer. Besides all the obligations already exposed, the consumer is protected by the measures taken in certain advertising sectors (cf. Chapter 3: Sector-based Advertising) and those governing the different types of advertising (cf. Chapter 2). It is understood that the main aim of this Code is consumer protection.

**ARTICLE 17: PROTECTION OF MINORS**

The protection of minors in advertising goes through compliance with two sets of recommendations.



### *Article 17-1: The minor as spectator*

The advertisement must not take advantage of the inexperience, gullibility or sense of loyalty of minors. It must not either exaggeratedly encourage them to persuade their parents, third parties or relatives to buy some products or services. The special trust that minors have in their parents, teachers or other persons must not be wrongly exploited or impaired. The advertisement cannot encourage minors to obvious misuse or excessive consumption and must clearly state the use of the products to avoid any incident. Thus, advertising must not minimize the generally required skills or age to use a product.

Advertising must not falsely suggest that the possession or use of a product will give to a child a physical, social or psychological advantage on other children of his age or that not possessing the product would have an adverse effect.

It is recommended to particularly ensure that minors are not misled on the dimensions, value, nature, useful life, performance, required accessories shown and/or sold separately.

The advertisement must not cause mental or physical harm to minors and must not lead to situations likely to represent a serious threat to their health or safety.

The advertisement must not encourage minors to go to unknown or dangerous places or persons.

The advertisement must not offer mail ordering, credit sales, correspondence courses to minors without the consent of their parents or guardians.

Of course, advertisements that would use humour and/or extrapolation cannot in any case be subject to censorship or restrictions if the sense of humour and/or exaggeration of their concept is obvious to the average base consumer.

### *Article 17-2: The minor as active participant in advertising*

In fact, it is the use of the child as an alibi that needs to be prevented, not the normal presence of the child or adolescent in advertising, in the same way as he/she is naturally present in society.

The advertisement must not represent a minor in dangerous situations without legitimate grounds, that is, without positive corrective action.

The minor cannot be the actor or main character of the message if there is no direct or indirect relation between him and the product.

He/she cannot appear in an advertisement whose object should, by its nature, quality or use, be kept out of reach of children.

Advertising focused on child nudity must ensure that the behaviour of the naked child is natural and common for a child of his/her age.

The minor can express a judgement on the product or service only if that corresponds to a natural situation and reflects common sense but the opinion must be compatible with the reasonable knowledge a child can normally have of the product or service.

Nevertheless, one can imagine hypotheses in which a child would express a judgement beyond his/her competence but where the situation would explicitly

show that he/she is only repeating the judgement expressed by an adult (a child reading technical characteristics on a package, repeating his/her parents' comments, playing intellectual...). It is recommended anyway to be careful about the treatment of such scenes, which must focus on the playful aspect of the child's behaviour.

#### **ARTICLE 18: INTERNAL ETHICS OF AGENCIES**

Advertising agencies must adopt rigorous ethics regarding conflicts of interests (especially concerning the confidentiality of the strategies).

#### **ARTICLE 19: RELIGION**

The use of religious rituals or texts in any advertising message that is likely to ridicule or shock the followers as a whole is to be prohibited.

#### **ARTICLE 20: REPRESENTATION OF SOCIAL GROUPS**

Any allusion, even humorous, to any pejorative view or notion of inferiority as regards ethnic or religious belonging must be banished. The expression of stereotypes alluding to characteristics supposedly representative of an ethnic or religious group must be handled with the greatest care.

#### **ARTICLE 21: REPRESENTATION OF MAN AND WOMAN**

Advertising must take in consideration the evolution of the respective roles of women and men in society, an evolution towards a growing mixity in the activities of either sex in the family, professional spheres, leisure and purchases. It must represent women as equally capable, responsible and independent in the conduct of their activities. In addition, neither the picture of a caricature denigrating the role of any person in a couple, nor the representation of an excessive dependence of the character with respect to the products promoted must be displayed.

Advertising must respect the dignity of women and men; their image must be used in a manner that doesn't hurt the sensitiveness of the general public. The idea of woman's inferiority or the limitation of her role to matters pertaining to the household or strictly household chores, and this, in a uniquely exclusive manner, must not be put forward.

Lastly, woman must not be treated as an object in advertising especially when her image has no direct relation with the promoted product or service.

#### **ARTICLE 22: SOCIAL RESPONSIBILITY**

Any advertisement should be conceived with a sense of the social responsibility that is incumbent upon it.

No message must be of nature to undermine the public's confidence in advertising. Besides its commercial purpose, the latter has an educational and informative purpose.

All those involved in the advertising industry must feel accountable for advertising in Mauritius and denounce any effective misdemeanour, bringing up issues whenever they arise. Thus, the media and consumer organizations, amongst others, shall efficiently assist agencies in professionalizing the sector.

### **ARTICLE 23: SAFETY AND CAUTION**

Dangers that can result from the normal use of the product or service as well as the safest possible use must be pointed out.

Advertisements relating to harmful products are subject to certain obligations (cf. Chapter 3).

Elementary cautionary warnings regarding road safety, amongst others, must be followed (fastening one's seat belt, wearing a crash helmet, respecting traffic lights, speed limits, indicators, pumping the brakes on wet roads, abstaining from stopping at forbidden or dangerous locations, drink driving or making phone calls while driving...).

In no circumstance can the advertisement show dangerous behaviour except when the aim is to fight against such behaviour and which will establish a corrective positive action.

Special caution is required in advertising aiming at or representing children or adolescents.

### **ARTICLE 24: VIOLENCE AND PORNOGRAPHY**

Any direct or indirect incitement to violence or pornography is to be banished. The advertisement must not show violent scenes or pornography or incite to violence or pornography. An exception can however be allowed when the aim of the advertisement is precisely to fight against such behaviour.