

The Little Red Book

CODE OF

ADVERTISING

PRACTICE

MAURITIUS



GENERAL OVERVIEW

PREAMBLE

It is internationally accepted that self-discipline enables better consumer information and protection. It requires responsibility and integrity from the part of advertisers, advertising agencies, the media and self-regulatory bodies.

The present Code comprises rules of self-restraint that will enable the advertising industry's stakeholders to reach a consensus whilst respecting all sensitivities and interests in conflict. In part, this Code simply ratifies unofficial rules consistently put in practice by advertising agencies, advertisers and the media and, for another part, it sets new rules to ensure that public interest is safeguarded.

It is well understood that consumer interest is central to this Code. The present rules have as purpose to reassure consumers and consumer organizations as they prove that the aim of advertising is not to manipulate them.

Advertising must be appreciated in terms of its presumed influence on the consumer, considering the medium used. This Code is to be applied in the spirit as well as in the letter.

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GLOSSARY

Will be defined here the most recurrent terms used in the present Code as well as those that it is essential to figure out to understand this text in its legal sense. Some terms specific to law and to advertising that are less often used will be defined in the articles that directly relate to them.

ADVERTISING:

The term “advertising” refers to any form of message, words, figures, visual presentations, music or sound effects published by a medium against remuneration or some other consideration with a view to promoting the supply of goods or services in the context of a commercial, industrial or handicraft activity or a liberal profession, that is to ensure the commercial promotion of a public or private business or of any lawful organization.

Social advertising produced and published for public well-being and without commercial aim is authorized and doesn't fall within the precinct of all the rules of the present Code.

ADVERTISER:

The term “advertiser” refers to any producer, manufacturer, importer, distributor or commercial intermediary (business, organization or person) that orders the realization and/or publication of an advertisement in order to commercially promote its products or services, activities or brand.

ADVERTISING AGENCY:

The term “advertising agency” refers to any business or organization that designs, directs and executes or causes to execute by one or several sub-contractors, an advertisement ordered by an advertising client. It makes no difference that the publication is taken charge of by the advertising agency or directly negotiated by the advertiser.

MEDIUM:

The term “medium” refers to any media accessible to the general public, be it audiovisual or printed, static or movable.

CONSUMER:

The term “consumer” refers to any person who is part of the economic market and the consumer society. He/she is the one to whom an advertising message is addressed and/or is likely to receive it as an end-consumer, a customer or a professional user.

The base consumer is considered as being an adult having a responsible, reasonable and commonsense judgement; he/she is supposed to consider

the surrounding circumstances when analysing the elements of the advertisement, and this with a common critical mind and an average attention span. The present Code is destined to govern problems that advertising has been, still is or is likely to face in the future.

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.

CHAPTER 2

THE DIFFERENT TYPES OF ADVERTISING

SECTION 1: FALSE OR MISLEADING ADVERTISING

ARTICLE 25: DEFINITION

Is prohibited any advertisement comprising any form of allegations, indications or presentations that are false or likely to mislead when these pertain to one or many of the elements hereafter: existence, nature, composition, substantial qualities, useful constituents content, type, origin, quantity, manufacturing method and date, expiry date, properties, prices and conditions of sale of the goods or services advertised, terms of use, purposes and processes of the sale or service provision, significance of the advertiser's commitment, identity, qualities or aptitudes of the manufacturers, dealers, promoters or providers.

ARTICLE 26: MAIN FORMS OF FALSE OR MISLEADING ADVERTISING

Article 26-1: The difference between false and misleading advertising

False advertising implies positive deception, it actually implies identifiable and verifiable lies, that is, an objectively false announcement while misleading advertising is subjectively appraised for it can be analyzed in an advertisement likely to mislead the consumer.

Article 26-2: The different false and misleading advertising methods

- The positive method does not entail any commentary for it is obvious and easily identifiable.
- Advertising based on the obvious: any advertisement attributing properties to products or services as being exclusively theirs is misleading if the stated properties are common to most products or services of the type, or if these are habitual or prescribed properties.
- Silence can also be analyzed in a misleading advertisement as it conceal substantial qualities of the product or service, for example, to the consumer.
- Promises on the future without limitation in time as regards the prices of the services and products (for example: we will never be beaten on price; we will always be the cheapest; we will always offer credit facilities and unbeatable prices...) must always be verifiable and is binding on the advertiser.
- The typographic method of misleading advertising is also very important (size of lettering, referencing using asterisks, corrections). Additional information must therefore be clear and legible. Hyperbolic advertising is not considered as false or misleading. Here, it is a matter of advertisements that present to the public, in order to hold its attention, an unusual, completely unreal and totally imaginary spectacle.
- The product or service will be presented in an eccentric and very unusual situation, with conditions of use absolutely unfamiliar to the product or service; all these fictitious characteristics cannot escape the average

consumer's notice and thus cannot mislead him/her. In practice, hyperbolic advertising finds expression in parody or emphasis, fiction or humour, fantasizing, poetry or dramatization by means of real visuals or animation. This list is not exhaustive; false or misleading advertising can take many other forms and is still reprehensible.

ARTICLE 27: ELEMENTS TO WHICH THE DEFINITION APPLIES

The definition of false or misleading advertising aims relates to an entire set of elements that can constitute the point of departure of the reprehensible action. Furthermore, combination of deceit over several elements is possible.

Article 27-1: Existence, nature and composition

The product or service promoted must really exist, with the same characteristics and in the same conditions as advertised.

For the lie or deceit on the nature of the good or service to exist, it must be different from the product or service advertised; it must be different in the properties that essentially constitute it.

Goods and services advertised must be as presented by the advertiser, that is, comprising such and such essential elements or parts.

Article 27-2: Substantial qualities and useful constituents content of a product

These qualities are those that the advertisement will attribute to a product or service. Whether the advertisement is misleading or not results from the existence or absence of qualities advertised. These qualities are the ones that are presented to a person when contracting, and in the absence of which he/she would doubtlessly not have contracted or would have contracted under different terms.

The deceptive allusion to the presence in a product or service of a substance or characteristic having healing or other curative virtues constitutes false advertising on the useful constituents content. Reference is hence made here only to useful qualities.

Article 27-3: Type, origin and quantity

The advertisement must be clear regarding the geographic origin and the product or service type, that is, its commercial origin (wholesaler or retailer, crafted or industrial...).

The advertisement is misleading even if the origin mentioned is partially exact (problem of mounted parts).

Generally, the advertiser is bound to present the product or service in its exact dimensions and quantities.

Article 27-4: Manufacturing method and date, expiry date

This article concerns especially products for which freshness, as well as a specific manufacturing process, is important, that is manufacturing 'know-how'.

Erroneous reference to the ancient character of a product, for example, falls in

this category and has become frequent because of the craze for hand-crafted products, according to the processes of yesteryear or made 'as in bygone days'.

If this appears in the advertisement, manufacturing and expiry dates must be affixed by the producer of the product or service and will have to comply with legal freshness standards.

Article 27-5: Prices and terms of sale

For the action to be considered reprehensible, the means used must really have been of nature to mislead the consumer regarding the final price that he/she will have to pay. In addition, the advertiser must respect the content of his/her advertising messages regarding to prices of goods and services, guarantees and after-sales services, terms of payment or credit, direct sales or factory prices...

However, expenses or remunerations corresponding to exceptional additional services expressly requested by the consumer, and whose cost has been previously agreed upon, can be added to the advertised sum.

Any advertisement must be appraised on its own merits and in an objective manner, notwithstanding any information provided at a later time.

It is incumbent upon the advertiser to modify or arrange for modification of advertised prices by the advertising agency or the medium, as soon as those prices rise.

The message 'anniversary' price (or its equivalent) necessarily implies that the products or services on offer in this context are sold at reduced prices. Advertising outside points of sale for products or services at reduced prices or sold at discounted prices must specify the significance of the reduction, either in absolute value or as a percentage of the base price, the products or services concerned, the conditions upon which the advertised advantages are granted and the duration of the promotional offer.

Article 27-6: Terms of use and results

The advertiser must be clear in the presentation of his/her product or service to enable the consumer to understand its use.

It is considered reprehensible to present as mandatory under the law or regulations, a device whose use is only optional. The advertiser cannot make promises as regards results that he/she will not be able to keep, except in the case of hyperbolic promises.

Results that can be expected from the use of the product or service provision are taken into account in comparison with what an average consumer (defined in article 28 of the present Code) can expect.

Article 27-7: Purposes and processes of the sale

This article aims at protecting consumers as regards specific advertisements that could give the impression to the public that they will benefit from exceptional conditions regarding sales after fires, floods, customs seizures, bankruptcies or before repair works... Such advertisements must be clear regarding this aspect too.

Article 27-8: Identity, qualities or aptitudes of the manufacturers, dealers, promoters or providers

The advertiser must not use false assents, titles, diplomas, powers, or false competences, identities or qualities. A professional from a given economic sector will not be able to present him/herself as an ordinary person. Sometimes, under conditions strictly defined by the law, such an offence may constitute fraud or deceit.

ARTICLE 28: THE BASE CONSUMER

The base consumer is one whose way of looking at things corresponds to that of the average consumer, having a degree of judgement and practical sense equivalent to the average consumer. He/she is considered as being normally intelligent, educated and attentive.

ARTICLE 29: RESPONSIBILITY

Article 29-1: The advertiser's capacity

The advertiser for whom the advertisement is published is responsible and principally accountable for the false or misleading nature of his/her advertisement. If it is a legal entity, the responsibility is incumbent upon its directors. The advertiser has the obligation to verify the content of the advertisement, its genuineness and clarity, before publication. The offence is constituted as soon as the advertisement is done, received or perceived in Mauritius. Here, the term responsible advertiser must be taken in its strict sense, that is, the one who gives the instructions to publish an advertisement.

Article 29-2: Absence of the moral element

False or misleading advertising exists even when the advertiser acts in good faith. He/she therefore has the obligation to verify the accuracy of the messages that he/she wishes to appear in his/her advertisement. In any case, false or misleading advertising will have to be rectified.

Article 29-3: The agencies' responsibility

It is the responsibility of the agencies designing the advertising arguments from the elements provided by the advertiser to request from the latter sound justifications of their allegations, notably when these appear suspicious or doubtful.

SECTION 2: SUBLIMINAL AND STEALTH ADVERTISING

ARTICLE 30: SUBLIMINAL ADVERTISING

Subliminal advertising here means advertising that, by stimulation techniques whose intensity is at the limit of perception by the senses, can act on the targeted audience without being consciously perceived.

Advertising must not use subliminal techniques. This ban corresponds to the principle of respect of human dignity and freedom, which implies that the targeted subject must be aware that the message that he/she is receiving is an

advertising message. This is a human rights requirement. The interdiction of subliminal advertising is also closely linked to the requirement that all forms of advertising must be identified as such.

ARTICLE 31: STEALTH ADVERTISING

Stealth advertising is the verbal or visual presentation of goods, services, name, brand or activities of a producer of goods or service provider in audio-visual programmes, when such presentation is made with a strictly advertising aim, and this, outside spaces provided for.

Stealth advertising of products or services subjected to an advertising ban is forbidden.

Advertising of all products or services linked with products and services subjected to an advertising ban and bearing the name, brand or advertising emblem of the latter is subjected to the same restrictions as advertising of products or services subjected to the advertising ban.

Advertising of products or services linked to products or services subjected to an advertising ban must not by its graphics, presentation or use of the advertising emblem, evoke the products or services subjected to the advertising ban.

Such an advertising ban also applies to the advertisers and the media.

SECTION 3: COMPARATIVE ADVERTISING

The possibility of comparison in advertising is found within an overall mechanism with public interest, information and therefore consumer protection, as purpose. It is to be noted that, in countries where comparative advertising already exists, consumer organizations themselves have fought for its legalization.

ARTICLE 32: THE PRINCIPLE OF FREEDOM

Advertising comparing goods and services while having recourse either to the quotation or representation of the trade, commercial or service brand of others, the quotation or representation of the corporate, social or commercial name or sign of others, that is, the quotation or representation of their main principal activity and known to others as such, is authorized.

Is equally considered as comparative advertising any advertising that refers to a competitor without naming it directly but which, by the text and/or images used, enables the base consumer to recognize the said competitor.

ARTICLE 33: CONDITIONED FREEDOM

Such authorization is valid only if the comparative advertisement fulfils six cumulative obligations:

- The comparative advertisement must be loyal, truthful, correct and not disparaging.
- It must not be of nature to mislead the consumer.
- It must limit itself to an objective comparison that limits itself to the essen-

tial, significant, relevant and verifiable characteristics.

— It must concern goods or services that are alike in nature and characteristics.

—The presentation of the products or services must be equitable. The advertisement must allocate an equivalent space and/or air time to the different products or services represented. It must also use images, sounds, writings or other communication means of an identical quality that will represent the compared products or services in an identical setting.

—These products or services must be available on the market in question.

ARTICLE 34: PRICE COMPARISONS

When the comparison relates to prices, the advertisement must fulfil four cumulative conditions in addition to the six general obligations:

— Identical products and characteristics;

— Identical terms of sale;

— Indication of the duration of the advertised price's stability;

— Sale by different businesses or commercial concerns.

ARTICLE 35: GENERAL LIMITATIONS

Comparative advertising has recourse to individual or collective opinions or assessments. It excludes any personal assessment based on elements such as aesthetics, taste or appeal of a product or of a service.

Testimonials that are subjective in nature as well as polls cannot be taken into account. On the other hand, comparative tests are admitted provided that reference is made to the source, which must be scientific and accepted by the Government or acknowledged for its seriousness and reliability.

No comparison can have as main aim to draw advantage of the notoriety attached to a brand. The comparison cannot, as well, represent products or services as the imitation or replicas of products or services of a previously registered trademark.

For products holding a label of origin (Appellation d'origine contrôlée [A.O.C.]), comparison is authorized only if all the products concerned hold the same classification. Are mainly concerned by this label agricultural products and foodstuffs of a duly established notoriety and whose quality and characteristics are due to the geographic environment, comprising natural and human factors. The A.O.C. rests upon a production technique guaranteed by a set of ancestral specifications and on the existence of a production area. Comparative advertising is forbidden regarding the Financial Stock Market sector (The Stock Exchange Act 1988).

ARTICLE 36: THE ADVERTISER'S OBLIGATIONS

The advertiser for the account of whom comparative advertising is published must be able to prove the accuracy of his/her allegations, indications or presentations.

If the medium maintains the advertisement although the professional concerned is not agreeable, the latter can then have recourse to justice to prevent

its broadcasting or to seek redress, if he/she hasn't taken any action before publication.

ARTICLE 37: ABSENCE OF THE RIGHT OF REPLY

The right of reply of the professional(s) concerned does not apply to the domain of comparative advertising. It only represents an option for which the media keep their freedom of choice.

SECTION 4: SPONSORSHIP

ARTICLE 38: DEFINITION AND DOMAIN

In the present article, we will treat only sponsorship of products and services other than tobacco and alcohol. Endorsement is any contribution of a business or of a public or private person to the financing of any project, in order to promote its name, brand, image, activities or realizations.

ARTICLE 39: LIMITATIONS

Article 39-1: Limitations of the sponsored projects

The content of the projects cannot, in any case, be influenced by the sponsor in ways likely to undermine the editorial independence of any print media, radio or television service.

Articles 39-2: Identification of the sponsor

The sponsored projects must clearly be identified as such in the beginning and/or at the end of broadcasting/publication. This identification can be done by mentioning the sponsor's name, designation, corporate name, sector of activity, brands, product(s) or by image factors and distinctive signs that are usually associated to him/her/it such as an acronym, logotype and signature tune.

However, when the sponsoring is destined to finance a game show or contest, the sponsor's products or services can be graciously offered to the participants as prizes.

During the sponsored broadcast and in the trailer, mentioning the sponsor is possible only to the extent that it is selective and discreet, limiting itself to recall the sponsor's contribution and not resorting to any means other than those mentioned in the present article.

SECTION 5: STUDIES AND OPINIONS

ARTICLE 40: TESTS

Prior to the use of any result, any advertiser must ensure having obtained the consent of the practitioner who carried out the tests.

Advertising referring to tests pertaining to the advertised products or services is authorized. However, the prerequisite to be fulfilled is that it is a test undertaken by a neutral and renowned testing institution, using indisputable testing methods, and that the consumer is presented with an accurate overall picture

as regards the basis, established using very precise criteria.

In fact, any advertisement as a rule must specify the name of the promoter and practitioner undertaking the tests, the date on which they were carried and the size of the sample. As a rule, the duration of use of the allegations is limited to 12 months but it can be renewed upon justification.

No presentation of amounts must lead to suppose that the stated result relates to a sample other than the one that was the object of the study.

Furthermore, the conditions in which these tests have been carried out and the results obtained must be clearly explained in an elaborate document before the initial publication of the advertisement and forwarded to the medium in question if requested.

In any case where the tests are carried out in the advertiser's own laboratories without external supervision, the advertisement must specify that the tests were undertaken by the advertiser, mentioning the exact conditions of study.

If the advertiser has the duty to carry out tests on his/her premises to establish the quality and characteristics of the products or services that he/she intends to sell to consumers, this does not authorize him/her to liken the said tests to other studies that should have been carried out by other official scientific bodies and which would have increased the reliability of the said products and services in the eyes of the consumer.

ARTICLE 41: TESTIMONIALS

By testimonial, the Code here means a direct or indirect statement emanating from an identified physical person having used the product or service presented in the message and whose affirmations on the said product or service reflect his/her experience and opinion.

Testimonials can be made either by recognizable persons due to their notoriety or persons whose identity and/or position are specified. Fictitious messages are therefore not concerned here.

Article 41-1: Content of the messages

Objective allegations must be truthful and verifiable. Subjective allegations must respect the main principles that govern the present Code.

A testimonial from a physical person having notoriety or competence related to the product or service in question is also authorized but under certain conditions:

Professionals advocating or recommending the products or services must be designated, by wearing a badge for example, as the advertiser's technicians or spokespersons in order to avoid misleading the consumer on the competences of the professional featuring in the advertisement.

This designation will have to be clear and legible for the consumer.

Article 41-2: Appendix

Only testimonials emanating from medical, pharmaceutical, veterinary, dental or other medical or paramedical professions are to be prohibited.

This rule does not apply to messages comprising caricatured and imaginary

scenes for which any form of medical guarantee is unfounded because of the nature of the product or service presented.

This rule does not apply as well when public interest demands it (problems with lice or epidemics in schools or elsewhere...).

ARTICLE 42: POLLS

Any advertisement referring to a poll must specify the nature of the sample, the wording of the question(s) whose answer(s) are used, the date on which it was carried out and the names of the mandating promoters and the mandated polling organizations or institutes.

The advertiser must keep the whole of the information at the disposal of any person who would make a request in this sense.

No amount presented must lead to suppose that the stated result concerns a geographic zone or sample other than those that have been the object of the poll.

The duration of use of the results of the poll is limited in time considering the uses, current events and the publication of new results. Generally, a study cannot be exploited in advertising beyond a year after its publication.

SECTION 6: PROMOTIONAL ACTIVITIES

ARTICLE 43: DEFINITIONS

A promoter is any person, corporation or organization by whom or for the account of whom is launched the promotional activity.

The term “addressee” refers to any person, corporation or organization targeted by any sales promotion, whether it is the end-consumer or a professional user.

The main product is the product, service and/or commodity being the subject of a promotion.

The term ‘complementary benefit’ in the present Code means any product, service, commodity or combination of these, offered for promotional purposes.

ARTICLE 44: WORDING AND DESIGNATION

The advertisements must be clear, precise and rigorous to enable consumers to properly understand the nature of what is proposed to them. In particular, the promotional offer must never lead the participant to think that he/she won one of the prizes as long as he/she has not effectively won.

The message giving information on the prizes to be won must specify the nature and number of main prizes.

The prizes must be presented in such a manner that no confusion can exist in the minds of participants as regards their value.

ARTICLE 45: BASIC PRINCIPLES

Any promotion will be designed, worded and realized in a manner that avoids

justified disappointment or any other legitimate motive of discontent.

The control of promotions and the fulfilment of any resulting obligation must be prompt and effective.

The terms and conduct of any promotion must be equitable towards all participants. Any factor liable to affect the decision to participate or not in a promotion will be presented in a manner that enables the addressee to think things over before engaging in any purchase required to participate.

ARTICLE 46: GENERAL RULES

Promotions must be conceived in a manner not to abuse or to exploit the eventual lack of experience or knowledge of the target audience.

Promotions must be conceived in a manner that enables addressees to clearly assess the terms of the offer.

The promoter must ensure that:

- a) complementary benefits are available in sufficient quantity to meet the demand in a reasonably brief period of time. In case of inevitable delay, the addressees must be notified and necessary measures taken to adjust the advertisement to the actual offer;
- b) faulty articles or non-conforming services will be replaced or give rise to an appropriate financial compensation; expenses incurred to this effect will be immediately refunded upon request;
- c) any complaint will be efficiently and properly treated.

Promotions must respect the privacy of consumers and must not be the cause of annoyance or harassment for anyone.

Promotions will be conceived and realized respecting normal safety conditions, to ensure that neither the addressees, nor any other person are exposed to any risk.

Promotions that are addressed to children and adolescents, or that are of nature to influence them, will be conceived in a manner that doesn't take advantage of their natural gullibility or immaturity. In addition, such promotions will be conceived in a manner not to cause any mental, moral or physical harm to children or adolescents, and not to test their loyalty towards their parents and/or those that are responsible for their education.

ARTICLE 47: SPECIFIC RULES

The presentation of promotions must enable the addressee to take into account all details relevant to the promotional offer, before purchasing the main product.

Assessment of such a comprehensive presentation is based on the whole advertising campaign, not on an isolated advertisement, and this for technical reasons.

In particular, the presentation must specify:

- a) the means to use or obtain the promotional offer;
- b) any prescribed time to benefit from the promotional offer;
- c) any limitation as regards geographic zone, quantity of promotional articles or other complementary benefits, or any other quantity limitations. In case of a

quantity limitation, any advertisement must specify that the promotional offer will run while stocks of complementary benefits last.

Advertising will have to stop when complementary benefits are out of stock.

d) the value of any voucher or stamp offered, when cash payment is possible;

e) any expenses, including transport, delivery or postage costs, and the terms of payment;

f) the name of the promoter;

g) an address to which complaints can be sent.

Promotions involving a comparison with another product must respect the provisions of the present Code regarding comparative advertising.

The main responsibility in implementing promotions, whatever the nature or content, is always incumbent upon the promoter.

The proof of verifiable facts required to establish that the promotion is in conformity with the provisions of the present Code must be made available by the promoter and ready to be produced upon anyone's request.

SECTION 7 : OTHER ADVERTISING METHODS

ARTICLE 48: PRODUCT PLACEMENT AND PRODUCTION ARRANGEMENTS

Product placement consists in the presentation of goods or services produced or marketed by a business in programmes or articles that are not of commercial nature, in particular variety shows, audiovisual and film works and press articles. In return for this service, the media receives a contribution that enables it to partly finance its production.

Product placement can either refer to the appearance of an actual commercial product in a film, programme or article, or refer to the placement of all characteristic elements of a business (services, logotypes, acronyms, image factors). These can either appear on the screen or be mentioned orally or in writing.

As a matter of principle, product placement is authorized provided that the producer, the director of the work or show or the editor keep their total creative independence.

Provision will be made, in the stipulated placement contract between the producer of the work/media and the advertiser, for the different conditions under which the product or service appear in the work or media as well as the sums and modes of payment of these placements.

In production arrangements, the advertisers are directly associated with a project to produce an audiovisual or film work. The advertising message that will be displayed in the work is thus certain to appear in the programme.

This form of advertising is also authorized provided that the producer and the director of the work keep their total creative independence.

ARTICLE 49: TELEPHONE ADVERTISING

Advertising and canvassing carried out over the phone on behalf of the adver-

tiser will have to subject themselves to the set of rules set forth in the present Code as well as to its spirit.

Children must not, in any case, be the object of any commercial appeal over the phone.

Telephone messages must enable the persons who are being called to understand right from the outset of the conversation the advertising and/or commercial aim of the advertisement as this type of advertising not must mislead, abuse, take advantage of the lack of experience or knowledge of the person being called.

Telephone advertising must not lead to confusion with a market survey, opinion poll or other.

The message must not in any case disparage directly or indirectly a competing business, product or service.

ARTICLE 50: ELECTRONIC ADVERTISING

Article 50-1: Definitions

Electronic advertising consists in a visual and/or oral presentation of goods, services, name, brand or activities of a producer of goods or services provider using a computer medium (internet, for example) or electronic (an information terminal, for example).

In this type of advertising, it is important, in the first place, to protect the user.

The user is the person who handles the computer or electronic medium and for whom the advertisement is internal to the medium's screen.

Article 50-2: Principles

Electronic advertising must subject itself to the set of rules set forth in the present Code as well as to its spirit.

The legality of the advertisement will be assessed according to its country of origin. Only advertisements produced and published from Mauritius will therefore be validly governed by the rules set forth in the present Code.

Article 50-3: Information

The advertiser must always clearly indicate his/her name, corporate name and all his/her contact details to enable the users of the advertisement to contact the advertiser without difficulty.

The advertiser must state even before the beginning of the message the applied rate for the communication if this rate is higher than the standard rate.

This information mechanism regarding the rate must enable the user not to access the advertisement if he/she wishes so and without incurring the financial burden of the surcharge.

Article 50-4: Data banks

If the aim of the advertisement is to collect the user's personal information, the advertiser must state, from the outset of the advertisement, the purposes for which such information is collected. The advertiser must not, in any case, use the collected data for some use incompatible with the main purpose. The

advertiser will have to take reasonable measures to protect the information and respect its confidentiality.

The advertiser must offer the possibility to the user not to disclose his/her personal information.

Article 50-5: Specific recommendations

Electronic advertising must encourage parents or guardians of underage users to participate and/or supervise the electronic activities of these minors.

Electronic advertising must encourage children to obtain the authorization of their parents and/or guardians before disclosing any personal information.

CHAPTER 3

SECTOR-BASED ADVERTISING

Sector-based advertisements are the object of a special chapter but the provisions of Chapters 1 and 2 also apply to them. Chapter 3 therefore approaches domains where advertising, besides common obligations, should follow certain recommendations due to the sensitiveness of each of these sectors.

SECTION 1: TOBACCO

ARTICLE 51: TOBACCO AND TOBACCO BY-PRODUCTS

Government Notice (GN) No. 62 of 1999 forbids any form of advertising and sponsoring of tobacco and tobacco by-products.

SECTION 2: ALCOHOL

ARTICLE 52: ADVERTISING OF ALCOHOLIC BEVERAGES

In Mauritius presently, no advertising of alcoholic beverages is authorised in the media as per Government Notice No.1 of 2009 'The Public Health Act': Regulations made by Minister under Section 193 of the Public Health Act.

The AAA had recommended a responsible approach to such advertising in restricted and strictly controlled media. The AAA will continue to discuss this issue in a very open-minded way with the authorities concerned.

- i) Advertisements for alcoholic drinks are prohibited .
- ii) Any sponsorship related to an alcoholic drink or brand name associated with an alcoholic drink is not allowed. (see regulations within Public Health Act)

SECTION 3: TOYS

ARTICLE 53: PROTECTION OF THE CONSUMERS OF TOYS

Besides the application of the principles set in article 23 of the present Code, advertisements relating to toys being, as a matter of fact, almost exclusively intended for children, should subject themselves to the following recommendations:

- The messages must give a truthful and exact presentation of the toys;
- The messages must not create any confusion as regards the real content of the boxes or packaging of the toys. In the eventuality that the objects displayed do not correspond to the real content, the message must comprise clear indications in this respect (for example: the number of boxes neces-

- sary for the displayed scenes, accessories or batteries sold separately, etc.);
- The toys must be shown or advertised in a real game situation, allowing an appreciation of their true characteristics (performance, speed, durability, solidity...);
 - The advertisement must not, as well, mislead the consumer on the dimension of the toy(s). For example, it must show the toy in a real situation, close to an object whose size is commonly known;
 - The advertising must clearly indicate when some complementary elements must be bought separately (for example: electric batteries, paint...);
 - It is better to recall, on screen and/or with sound, the minimum age of the child for whom the toy is intended;
 - The advertisement must not make any value judgement on the prices of toys or on the potential purchase that may result.

SECTION 4: EMPLOYMENT OPPORTUNITIES

ARTICLE 54: GENERALITIES

Any advertisement pertaining to an employment opportunity should include unambiguous indications regarding the nature of the job advertised and on the identity of the intermediary or the Post Office Box number that will have ordered the publication of the advert.

Some job advertisements require more caution than others due to their specific character. It is the case regarding opportunities in the field of temporary employment and work-from-home schemes.

ARTICLE 55: TEMPORARY EMPLOYMENT

Advertisements on behalf of one or several temporary employment companies and employment opportunities originating from these companies should expressly state the company name and their nature as businesses offering temporary work.

ARTICLE 56: WORK-FROM-HOME SCHEMES

The attention of advertising agencies and media is drawn to the fact that advertising offering work from home can correspond only to random and hypothetical offers and must therefore only be published with utmost reservation and total cognizance of the professional quality of the advertiser.

Such advertisements should include an adequate description of the modalities of the work on offer.

When a sum of money is or will be asked from the job-seeker, the amount should be specified in the advertisement. Thus, when the aim of the advertisement is not to actually offer employment, but to entice the public to acquire, at a costly price, a guide, catalogue or manual, or to join a list or directory, the advertisement should not, in any case, appear in the "EMPLOYMENT" section.

SECTION 5: PROPERTY ADVERTISING

ARTICLE 57: CONTRACT AND PRICE

If reference is made, in an advertisement, to the legal nature of the contract, it must be specified whether it is a contract for a promotion, the sale of a building to be erected, the sale or transfer of subscription of units or shares, or the contract to erect an individual house.

Any price indication must be clear on what it includes and what is excluded. Overall graphic representations of the construction must be accompanied by an indication enabling to know whether the project is in its current or future state.

ARTICLE 58: INFORMATION FURNISHED

If reference is made to the surface area, it can only be usable area, with the exclusion of any other term. The surface area of annexes can be specified separately as well as surfaces convertible in the future. When the number of rooms is mentioned, a distinction must be made between main rooms and annexes.

If reference is made to collective social, cultural, sports, commercial facilities or green spaces... or to access to such facilities, the advertisement should specify the expected date of realization of the said installations, their geographic location, their main characteristics as well as the scheme of future use.

The distances between the property and any urban, cultural, commercial, social or sports facilities must be expressed in real terms: either in linear distance on the ground using existing routes,

— or in average duration of the trip while specifying the mode of transport.

The designation, description or graphic representation of a property must not, in any case, lead to an erroneous assessment of benefits, surface area or geographic location mentioned.

SECTION 6: FOODSTUFFS

ARTICLE 59: GENERAL FOODSTUFFS

Article 59-1: Basic consumer goods

No mandatory message is requested for the advertising of such products. It is however recommended that advertisers base their advertising campaigns on 'consumer care' and healthy use arguments so that such products are distributed and consumed in a manner that ensures consumer respect and protection.

Such advertisements should not show or present basic consumables as likely to be intended for a special diet.

The advertiser is, in any case, accountable for his/her advertisement and has the obligation to justify his/her allegations.

Article 59-2: Special foods

Such commodities are identifiable by the allegations made in advertising messages referring to them. There is a need to establish a classification.

a) nutritional allegations and the nutriments - Definitions

Is considered as presenting a nutritional allegation any advertising message that enunciates, suggests or implies that some foodstuff possesses special nutritional properties due to the energy (calorie value) and/or the nutriments that it provides at a reduced or increased level, or does not provide.

Proteins, glucides, lipids, fibres (as well as the constituents of these macronutriments), vitamins and minerals constitute nutriments.

b) nutritional allegations relating to quality

There are three sorts of allegations of this type:

- allegations referring to the relation between some foodstuff and a healthy diet;
- dietary allegations for people with a disrupted metabolism, in incidental physiological conditions, for infants or small children;
- allegations referring to the physiological role of the nutriments.

c) nutritional allegations relating to quantity

Here also, three groups of allegations are distinguished:

- Negative or relative nutritional allegations, that is, referring to the absence of energy or of nutriment in the products or to the non- addition of nutriments;
- comparative nutritional allegations (low-fat);
- absolute nutritional allegations (rich in...).

A non-exhaustive list of such commodities can be established as follows: baby food, dietary food intended for special medical purposes, food low in sodium or without gluten, food low in or without cholesterol, nutrition adapted to intense muscular exercise especially for sportspersons, nutrition destined to people with a disrupted glucidic metabolism.

For such special foods, mentioning the product's characteristics is a sales argument that is systematic and recommended. However, the advertiser remains accountable for his/her allegations as regards any false or misleading advertising (remember that the advertiser's silence on some characteristics of the product can be considered as misleading). The advertiser must also be in a position to justify his/her allegations at any time.

Article 59-3: Breast milk substitutes

Is forbidden any advertisement and/or promotion targeting the general public and relating to the following products intended for infants aged 0 to 4 months: breast milk substitutes, including preparations for infants; other lacteal products, foods and drinks, including food complements given by the feeding bottle, when they are marketed or presented in any other manner as appropriate, with or without modification, to partially or totally replace breast milk (reference to article 5-1 of the International Code of Marketing of Breast Milk Substitutes which was adopted by the World Health Organization in 1981).

ARTICLE 60: GENERAL RULES REGARDING ADVERTISING INTENDED FOR MINORS

Advertising must not encourage minors to eat and nibble all day long, at any time, or to consume titbits before going to bed.

Advertising must not suggest that 'junk foods' consumption can replace a balanced meal.

SECTION 7: PHARMACEUTICAL AND PHARMACEUTICAL PRODUCTS

ARTICLE 61: GENERAL MEDICINE, HUMAN AND ANIMAL

Advertising not must undermine the protection of public health.

No medicine can be the object of advertising unless an authorization for sale is delivered by the Government as well as an authorization to advertise delivered by the Pharmacy Board at the Ministry of Health.

The definition of the medicine is given by the Pharmacy Act (Act 60 of 1983).

ARTICLE 62: PARA-PHARMACEUTICAL PRODUCTS

Article 62-1: Vocabulary

Certain recommendations regarding the advertising vocabulary relating to such products or methods must be taken into account.

The term 'new' and its derivatives must be used only when there has been a real modification of the product, its directions for use or packaging. The advertisement must specify precisely the level of the novelty.

The term 'natural' will be used only for products that do not contain any synthetic product (with the exception of preservatives, flavours and propellers).

Article 62-2: Testimonials and guarantees

Besides the prescribed obligations in Section 5 of Chapter 2 of the present Code (Studies and Opinions), the people and situations represented before and after treatment can be reproduced by image and/or sound only if the recording conditions are identical as regards the situation, reproduction scale, presentation and staging of the people, objects, setting, point of view and other elements of comparison. Consequently, it is strongly advised not to use any phototechnical means or other manipulation and editing techniques to deteriorate the situation before and to embellish it after the treatment. Furthermore, 'before/after' representations are to be prohibited if they cannot be supported by proofs.

The doctor's title and any other academic or university qualification, whatever the nationality of the holder and whatever the context of the advertisement in which it is used, must be accompanied by the name of the discipline to which the title refers.

The term 'diploma' must also be accompanied either by the discipline in which it was conferred or the name of the institution that delivered it, to enable the identification of the activity covered by the diploma.

Article 62-3: Cosmetics

Is considered a cosmetic product any non-medicinal preparation intended for body, skin and beauty care and be in contact with the various superficial parts of the human body, the skin, the pilous and capillary systems, the nails, the lips and external genital organs, the teeth, buccal membranes, in view exclusively or mainly to clean, perfume, protect them in order to keep them in good shape, to change their aspect or to rid them of body odour.

Advertising of such products must not attribute characteristics other than those relating to cosmetology to these products.

It is recommended that the advertisement does not convey the message that such products have properties and functions enabling them to reach objectives other than those to correct the appearance and care for the hygiene of the person.

Advertising should also not present such products in forms and aspects likely to prevent specific pathological situations, that is, as having curative or preventive properties.

Advertising regarding baldness and hair regrowth must not be done in a manner that would lead to believe that the result is certain, fantastic and/or permanent.

Advertising pertaining to suncare products must indirectly or directly recommend not to get exposed at times of maximum sunshine and will have to specify that abusive exposure is harmful to the health, especially for children.

Articles 62-4: Slimming products

The medical profession considering that obesity is a disease and that thinness is the consequence either of a disease, specialized treatment or change in the diet, no reference can be made to these two terms, as well as to weight loss, regarding a cosmetic slimming product.

The use of the word 'to slim' is acceptable to express an improvement in the aesthetic appearance without ambiguity in the expression.

Advertising for slimming products cannot refer to a decrease in measurements and/or the period within which results will be achieved except if the advertiser is in a position to prove such allegations.

SECTION 8: THE OCCULT

ARTICLE 63: DEFINITIONS AND PRINCIPLES

The occult refers to any method, treatment or procedure that would call upon the irrational, clairvoyance, sibylline and/or esoteric practices and that would be proposed to the consumer in order to solve his/her problems, whatever they may be. Practices aiming at predicting the future, including 'horoscopes services', are also considered as occult sciences.

No advertising for the occult sciences must mention:

- Implicit or explicit guarantees of results;
- Promises that are impossible to keep and the ability to master chance;
- Magic, witchcraft;

- Influences on the free will (bewitchment) or feelings of others (return of affection);
- Special aptitudes requiring a title or in-depth knowledge (health, justice...);
- Realized prediction when it cannot be proved by a published and commonly acknowledged document;
- Personal horoscopes when these have not been the object of an individual study.

SECTION 9: FINANCIAL AND LEGAL SERVICES AND PRODUCTS

ARTICLE 64: LOAN AND CREDIT FACILITIES

Article 64-1: Definition

The present article relates to all eventual credits and sureties usually granted by physical persons or legal entities, in return for payment including hire purchase, leasing, sales or service provisions whose payment is spread, deferred, or in instalments.

Article 64-2: Recommended messages

The advertisement should specify the identity of the lender, the nature, object and duration of the proposed operation as well as the total cost and, if necessary, the effective credit rate.

The advertisement should also specify the amount, in rupees, of repayments due by redemption dates or, if that is not possible, the means to calculate it. This amount should include the cost of insurance when the latter is compulsory.

The advertisement should indicate, for operations over limited periods, the number of redemption dates.

In any case, the advertisement must not play down the financial implications for the consumer.

The advertisement will not be able to present credit offers as an increase in purchasing power.

Articles 64-3: Legibility of the messages

All messages must be legible and understandable to an average consumer. For a perfect perception, the colour, sound, size and positioning of characters must be chosen according to the medium and received in normal reading, hearing or visualizing conditions.

ARTICLE 65: INVESTMENTS

Article 65-1: Recommendations

Advertising relating to the investment of funds to constitute deposits, savings plans or to acquire units, shares, debentures, will have to specify the name and the corporate legal status of the management company, the nature, object and duration of the proposed commitment.

The messages in favour of such investments should indicate the deadline to obtain the promised final interest.

The advertisement must pay special attention to the declaration of profits and avoid being misleading.

It is recommended to the advertising agencies and media not to accept creating or publishing any advertisement relating to financial products and/or services unless the advertisers are officially recognized organizations or institutions.

Lack of caution from their part could lead them to advertise for a business attempting at swindling and therefore act as accomplices.

Article 65-2: The Stock Market

Advertising in favour of the activities on the Stock Market must first submit itself to the provisions of the Stock Exchange Act (No. 38) 1988, which deals – in a more specific manner – with the provisions set in Chapters 1 and 2 of the present Code (Identification of the advertiser, false advertising, comparative advertising, responsibility and procedure).

ARTICLE 66: LEGAL ASSISTANCE

It is strongly inadvisable to engage in advertising pertaining to consultations, drafting of legal documents or assistance in legal matters in all media except the print media.

This recommendation does not apply to government and public services, associations, professional unions and other non-profit organizations. It is not applicable, as well, to companies providing pieces of information, information or services secondarily or incidentally comprising pieces of legal information.

ARTICLE 67: INSURANCE

Articles 67-1: Definition of advertising relating to insurance

It is strongly inadvisable to use the term ‘insurance’ in advertising if it does not comply in a cumulative manner with the following requirements:

- cover of a risk, danger or probable occurrence of an event,
- the insured person’s responsibility,
- the insurance’s responsibility in case of realization of the risk, danger or event,
- a contract based on a disclosed forward-looking plan.

Articles 67-2: Advertising concerning the institution

When an advertisement refers to past performances of the insurance firm or company basing itself on figures, it is recommended to specify the type of contract concerned and the period referred to.

Besides, any advertisement in favour of insurance products and/or services must subject themselves to the provisions of the Insurance Act in its most recent version and of any other code of conduct for insurance companies, agents and intermediaries introduced by the regulatory body.

SECTION 10: HARMFUL SUBSTANCES AND PREPARATIONS

ARTICLE 68: DEFINITIONS AND CLASSIFICATION

Substances here means chemical elements and their compounds as they

present themselves in their natural state or as produced by the industry, eventually containing any additive necessary to offer them for sale. Preparations are mixtures or solutions composed of two substances or more.

Are considered as harmful substances or preparations all the elements appearing in the following classification:

- explosive substances and preparations, that can explode if exposed to a flame or that are more sensitive to shock and friction than common products;
- comburant substances and preparations that, when put in contact with other substances, notably with flammable substances, present a strong exothermic reaction;
- substances and preparations that can heat up and finally catch fire in the presence of air at a normal temperature and without energy supply;
- solid substances and preparations that can easily catch fire by a brief action of an inflammation source and that continue to burn or to consume themselves after the inflammation source has been taken away;
- gaseous substances and preparations that are flammable in the presence of air at a normal pressure;
- substances and preparations that, in contact with water or humid air, develop easily flammable gas in dangerous quantities;
- very toxic substances and preparations that, after inhalation, ingestion or skin penetration, present extremely serious, serious risks or even risks limited in seriousness, acute or chronic risks and even death;
- corrosive substances and preparations that, in contact with living tissue, can act destructively on the latter;
- irritant non-corrosive substances and preparations that, in immediate, extended or repeated contact with the skin or membranes, can cause an inflammatory reaction;
- carcinogenic substances and preparations that, by inhalation, ingestion or skin penetration, can cause cancer or increase its frequency;
- teratogenic or mutagenic substances and preparations;
- anti-parasitic substances and preparations for agricultural or horticultural purposes;
- harmful substances and preparations are neither medicines nor cosmetic or personal hygiene products.

Insecticides and pesticides for domestic use as well as household products do not belong to the classification of harmful substances or preparations presented in the previous sub-article.

However, it is strongly recommended to insert in advertisements relating to pesticides and insecticides intended for household use, as well as in advertisements relating to household products, the health warning: “A utiliser avec les précautions d’usage”/“Caution”.

ARTICLE 69: RECOMMENDED MESSAGES

The superimposed message “DANGEREUX – RESPECTEZ LES PRECAUTIONS D’EMPLOI”/“DANGEROUS – USE WITH PRECAUTION” is recom-

mended for all the substances and dangerous preparations. It is recommended to mention: “Lire attentivement la notice”/“Please read the notice carefully” and “Tenir hors de portée des enfants”/“Keep out of reach of children”.

ARTICLE 70: PROHIBITIVE, RESTRICTIVE OR PRESCRIPTION MEASURES

For hygiene or public health reasons, the advertising of these substances and preparations can be subjected to special prohibitive, restrictive or prescription measures by an act of Government.

SECTION 11: LAND MOTOR-VEHICLES

ARTICLE 71: DOMAIN AND LIMITATIONS

Advertising arguments based on the fuel consumption of land motor-vehicles as well as on its speed must be derived from real and clear performances and must never put consumers, and especially minors, in dangerous situations. It is recommended not to evoke the engine’s reserve of power or braking possibilities to encourage speeding, but to present them as safety elements whose effects vary according to the quality and state of the roads, atmospheric conditions and the driver’s reflexes, in order to contribute to develop the users’ sense of responsibility.

Furthermore, advertising should not lead to think that the qualities of the land motor-vehicles regarding security allow the trespassing of elementary rules of caution that any driver must respect.

Advertising must not present, in normal conditions of use, land motor-vehicles in contravention of the Highway Code or safety requirements and must not lead the drivers to aggressive, violent behaviour or behaviour endangering other road users.

The present recommendations do not apply to hyperbolic advertisements that present to the public, in order to hold its attention, an unusual, completely unreal and totally imaginary spectacle where the land motor-vehicle would be presented in an eccentric and very unusual position and in conditions absolutely unfamiliar to this product’s common purposes.

Special caution is required for advertisements relating to two-wheeled motorized vehicles that minors are allowed to drive.

The advertisement for a two-wheeled motorized vehicle must not in any case refer to ‘kits’ and/or means likely to modify the technical characteristics of the products.

When an advertisement discloses the price of a land motor-vehicle, the land motor-vehicle on display must be the one to which apply the posted or advertised price while specifying if this price is “inclusive of tax” or “before tax”. It is preferable for the advertisement not to disclose the price of the basic range unless it is preceded by the message “as from”.

Lastly, it is recommended not to conduct advertising representing directly or indirectly an all-terrain land motor-vehicle in conflict with the respect and protection of the environment.

SECTION 12: ENERGY

ARTICLE 72: ENERGY-SAVING

Advertising relating to liquid and gaseous hydrocarbons, electricity and any energy source must not be incoherent with the authorities' policy regarding energy.

Every Advertising Agency in the world must adhere to a Code of Practice. Usually, the agency refers to the Code of Advertising Practice which is in force in the country where it is located.

The Association of Advertising Agencies of Mauritius launched its first Code of Ethics in 1994. That code was unanimously accepted by the main stakeholders, i.e. advertising agencies, clients and media, and was widely respected. It was reviewed a few times to accommodate and adapt to major technological developments, especially in the ICT sector, and new trends in advertising.

The present Code of Advertising Practice is an essential tool of reference to all advertising agencies when they have any doubt during the creative process or while finalizing any advert before it goes public. The media must also refer to the Code in case there is any doubt before publication or broadcast. The AAA can also be contacted for any clarification as to what is accepted or not by the Code.

The main objective of the AAA is to promote creativity and professionalism in the advertising industry while upholding a sense of ethics and respecting the Code of Practice with the support of all the stakeholders. The AAA is confident to reach its objective, thus contributing to achieve higher standards of service in Mauritius and abroad.