

The Saeima has adopted and the President has proclaimed the following Law:

Advertising Law

Chapter I

General Provisions

Section 1.

Advertising is any form or any mode of announcement or endeavour associated with entrepreneurial or professional activity, intended to promote the popularity of or demand for goods or services (including immovable property, rights and obligations).

Section 2.

The purpose of this Law is:

- 1) to regulate the production and dissemination of advertising, as well as determine the rights, obligations and liabilities of persons involved in the production and dissemination of advertising;
- 2) to protect the interests of persons as well as the general public in the field of advertising; and
- 3) to promote fair competition.

Chapter II

General Requirements for Advertising

Section 3.

(1) Advertising shall be lawful, truthful and objective and it shall be created in accordance with ethical advertising practices. Advertising shall not reduce public confidence in advertising and it shall comply with the principles of fair competition.

(2) Only such announcements or visual representations as do not breach generally accepted ethical, humanitarian, morality, decency and propriety norms, shall be permitted to be included in advertising.

Section 4.

(1) Violence and war propaganda shall not be permitted in advertising.

(2) In advertising, it is prohibited:

- 1) to express discrimination against a person due to his or her race, skin colour, gender, age, religious, political or other convictions, national or social origin, financial status or other circumstances;
- 2) to exploit the effect created by fear or superstition;
- 3) to exploit in bad faith the trust of a person and his or her lack of experience or knowledge;

4) to depict, use or in any other way mention either a natural person (as a private person or as an official) or his or her property without the consent of this person;

5) to defame, disparage or ridicule another person, or the activities, name (firm name), goods or services, or trade marks of another person;

6) to exploit the name, surname, name (firm name) or other identifying designation (including a trade mark) of another entrepreneur without the consent of the entrepreneur; and

7) to imitate the advertising text, slogan, visual representation, audio or other special effects of another advertiser without the consent of the advertiser or to carry out any other forms of activities which may create confusion or mislead in regard to the advertiser and the advertised goods or services.

(3) The provisions of Paragraph two, Clauses 6 and 7 of this Section are not applicable to comparative advertising if the provisions of Section 9 of this Law are complied with.

Section 5.

(1) Advertising directed to children or advertising which has been created with the participation of children shall not threaten the rights or interests of children and in its creation, regard shall be had to the perception and psyche of children.

(2) Exploiting the natural credulity or lack of experience of children in advertising is prohibited.

(3) Exploiting children in alcoholic beverage and tobacco product advertising, and aiming alcoholic beverage and tobacco product advertising at children, are prohibited.

(4) In advertising directed to children, it is prohibited:

1) to include assertions, or visual or audio information, which could cause moral or physical harm to them or create feelings of inferiority;

2) to include encouragement for or encourage aggressiveness and violence, and discredit the authority of parents, guardians or teachers;

3) to draw attention to the fact that the acquisition of specific goods or services creates physical, social or psychological advantages over peers or that the lack of the relevant good creates the opposite result;

4) to unmistakably indicate that the acquisition of the good or service to be advertised is possible for any family, irrespective of its budget;

5) to directly invite children themselves or invite children to encourage their parents or other persons to purchase goods or use services; and

6) to portray children in dangerous situations.

Section 6.

(1) Advertising, in which a special offer is made or a sale is announced, shall comply with general advertising requirements and the following shall be set out therein:

1) the subject of the special offer;

2) the date when the special offer or the sale starts and ends; and

3) the conditions on which the special offer or sale depend.

(2) In evaluating the compliance of the advertising of the special offer or sale with the provisions of this Section, the advertising shall be considered in its totality.

Section 7.

(1) Supplementary provisions in relation to advertising content, design or procedures for dissemination (including procedures for dissemination of advertising in particular mass media), for individual goods, groups of goods or services, may be provided for in other laws and regulatory enactments.

(2) Local governments may, in compliance with the provisions of this Law and other regulatory enactments in the field of advertising, issue binding regulations in regard to dissemination of advertising in public places in the relevant administrative territory.

Chapter III

Misleading and Comparative Advertising

Section 8.

(1) Misleading advertising is prohibited.

(2) Misleading advertising is such advertising as in any manner, including its manner of presentation, is directly or indirectly misleading or may be misleading and due to its misleading character, may affect the economic behaviour of a person, or is harmful or may be harmful to a competitor.

(3) In determining whether advertising is misleading, all its aspects shall be considered – individual component and overall content and design and, particularly, any information that is offered in the advertising regarding:

- 1) accessibility, properties, operation, content, manufacturing or distribution method and date, purpose, usage, quantity or the effect on the environment or human health of goods or services, the geographical or commercial origins or the results which are expected from the use of goods, or the results of tests or inspections, or material features of goods or services;
- 2) the price or method for calculating price and the conditions under which goods are supplied or services are provided; and
- 3) the advertiser, including the identity and good characteristics, qualifications, property rights or awards of the advertiser.

Section 9.

(1) Comparative advertising is any advertising in which comparison is used which directly or indirectly indicates a competitor or goods or services offered by a competitor.

(2) A comparison shall not be misleading. The comparison shall be developed in accordance with principles of fair competition, utilising facts that may be proved.

(3) Comparative advertising, insofar as it pertains to a comparison, shall be permitted if all of the following conditions are complied with:

- 1) it compares goods or services that are intended for the same needs or for the same purposes;
- 2) it objectively compares one or more material, related, verifiable and characteristic features of the relevant good or service, which may also include price;
- 3) it does not create confusion between the advertiser and a competitor, or between the advertiser and the company, trade mark, brand names or other distinguishing marks, goods or services of a competitor;

- 4) it does not defame a competitor, or the name (firm name), trade marks, brand names or other distinguishing marks, goods, services or operations, or personal characteristics and the like of a competitor;
- 5) it does not unfairly use the name (firm name), trade mark, brand name or other distinguishing marks of a competitor or the reputation of the designation of origin of a competing good;
- 6) it does not display goods or services as an imitation or copy of such good or services as there is a protected trade mark for; and
- 7) in advertising goods with a designation of origin, the comparative advertising pertains to goods with the same designation of origin.

Chapter IV

Provisions for the Production and Dissemination of Advertising

Section 10.

- (1) Advertisers are persons who for the purposes of gaining commercial or other benefit, produce and disseminate advertising themselves, or on whose instructions and in whose interests another person produces or disseminates advertising.
- (2) Advertisers shall be liable for the content of the advertising.
- (3) Advertisers are entitled to produce, order, disseminate or provide for dissemination only such advertising as is not in contradiction with this Law and other regulatory enactments.
- (4) The legal relations between an advertiser and the producer or disseminator of advertising shall be determined by this Law, other regulatory enactments and contracts entered into.

Section 11.

- (1) A producer of advertising is a person who, pursuant to the order of an advertiser carries out the production, alteration or adaptation of advertising.
- (2) Producers of advertising, in producing advertising, are entitled to express their creative ideas in any form, if these comply with the provisions of this Law and regulatory enactments, as well as a contract that has been entered into by the producer of the advertising and the advertiser.
- (3) Paragraph two of this Section shall also be complied with in cases where the producers of the advertising alter, translate or otherwise adapt advertising for dissemination in Latvia, as well as in cases where the advertising is produced, altered or adapted by advertisers themselves.

Section 12.

- (1) Disseminators of advertising are persons, who themselves disseminate advertising or provide an opportunity for advertisers to disseminate advertising.
- (2) Disseminators of advertising are entitled to disseminate advertising in any form if it complies with the provisions of this Law and other regulatory enactments, as well as the contracts that have been entered into between disseminators of advertising and advertisers or persons authorised by the advertisers.
- (3) Disseminators of advertising have an obligation to separate advertising from other forms of information.

- (4) Disseminators of advertising are prohibited from disseminating advertising for which they know or should have known a dissemination prohibition exists.
- (5) It is prohibited for disseminators of advertising to accept advertising for dissemination from advertisers or persons authorised by them without requesting the following information:
- 1) from a legal person – name, registration number and legal address; and
 - 2) from a natural person – name, surname and personal identity code.

Part V

Government Policies and Supervision in the Field of Advertising

Section 13.

- (1) Compliance with this Law shall be supervised by the Consumer Rights Protection Centre, the Competition Council, the State Pharmaceutical Inspection and the Radio and Television Council within the spheres of their competence (hereinafter – the Supervisory Institution).
- (2) The Supervisory Institution, if necessary, is entitled to request that the State administrative authorities that are responsible for State control and supervision in relation to specified goods or services, shall verify the compliance of specific goods or services with the information mentioned in advertising.

Section 14.

- (1) The Supervisory Institution shall commence examination of a matter regarding possible violations in the field of advertising based on a submission or a complaint or on its own initiative.
- (2) Matters regarding possible violations within the field of advertising shall be examined within ten days from the day that a submission or a complaint has been received or a possible violation has been determined. If as a result of the circumstances of the matter at least one of the decisions mentioned in Section 15, Paragraph four of this Law may not be taken, within the term provided for, the Supervisory Institution is entitled to take a decision regarding extension for ten days of the term for review of the matter.
- (3) Pursuant to its evaluation of the material, the Supervisory Institution shall determine that a violation exists and take at least one of the decisions mentioned in Section 15, Paragraph four of this Law or determine that a violation has not occurred and terminate the proceedings. The Supervisory Institution shall inform a person found to be guilty in writing of the decision taken.
- (4) The Supervisory Institution shall determine a violation only based on such evidence as regarding which the persons involved in the violation are given the opportunity to state their point of view.
- (5) The Supervisory Institution shall not commence proceedings and shall terminate commenced proceedings, if other Supervisory institutions have already taken at least one of the decisions mentioned in Section 15, Paragraph four of this Law regarding the same facts, or have taken a decision regarding termination of proceedings.

Section 15.

- (1) In examining matters regarding violations in the field of advertising, the Supervisory Institution is entitled to request and receive clarification, information or

documents from an advertiser, producer of advertising or disseminator of advertising and, if it is particularly necessary for the clarification of circumstances in regard to a specific matter, evidence regarding the preciseness, accuracy and compliance with the provisions of this Law and other regulatory enactments of an announcement (assertion) in advertising, and to determine the term for submission of such.

(2) If the evidence requested in accordance with Paragraph one of this Section is not submitted within the specified term or is inadequate, the Supervisory Institution is entitled to view the announcement (assertion) offered in the advertising as imprecise or inaccurate.

(3) Before taking a decision, it is the duty of the Supervisory Institution to attempt to achieve the termination of a violation by conducting negotiations with the persons involved in this violation.

(4) If violations of this Law or other regulatory enactments in the field of advertising have been determined, the Supervisory Institution is entitled to take a decision in which:

- 1) the advertiser is instructed to provide through advertising or goods labelling, or in another manner, additional information which is essential from the point of view of protection of persons or the lawful rights of entrepreneurs;
- 2) particular elements (information, visual representations, audio or other special effects) are requested to be deleted from the advertising;
- 3) dissemination of the advertising is prohibited;
- 4) recall of the advertising is requested; or
- 5) the application of an administrative sanction is determined in accordance with procedures prescribed by law.

(5) The actions mentioned in Paragraph four of this Section shall also be carried out if there is no evidence regarding the losses caused, or evidence is lacking in regard to the advertiser having acted in bad faith or carelessly.

(6) In its decision, the Supervisory Institution shall set out the grounds for taking such.

(7) In taking a decision, the Supervisory Institution shall have regard to the lawful interests of the advertiser and other persons involved.

Section 16.

(1) Recall of advertising shall be disseminated by means of the same mass media as that through which the prohibited advertising was disseminated. If this is not possible, the recall of advertising may be disseminated by another method.

(2) The person responsible for the dissemination of the recall of advertising and the method by which the recall of advertising is to be disseminated shall be set out in the decision regarding the recall of advertising. The person who has been indicated in the decision by the Supervisory Institution as the responsible person shall cover the expenditures for the dissemination of the recall of advertising.

Section 17.

(1) A decision of the Supervisory Institution is in effect from the time it is taken.

(2) A decision of the Supervisory Institution may be appealed to a court within one month from the day the decision is taken. The appeal of a decision shall not suspend the execution of the decision.

(3) In order to prevent the dissemination of prohibited advertising, the Supervisory Institution is entitled to, if necessary, publish the decision taken in the newspaper

Latvijas Vēstnesis [official gazette of the Government of Latvia]. The expenses of publishing the decision taken shall be paid by the advertiser.

Chapter VI

Liability for Violations of the Law

Section 18.

Persons who have not complied with the requirements of this Law shall be held to liability in accordance with laws and other regulatory enactments.

Section 19.

If it is determined that the decision of the Supervisory Institution was unfounded and, therefore, losses have been caused to the advertiser, the producer of the advertising or the disseminator of the advertising, the advertiser, producer or disseminator has the right to bring an action in court regarding compensation for losses.

This Law has been adopted by the *Saeima* on 20 December 1999.

President

V.Vīķe-Freiberga

Riga, 10 January 2000