



Asociación para la Autorregulación de la Comunicación Comercial

CODE OF ADVERTISING PRACTICE

Code of Advertising Practice has been approved as per that established in the Bylaws of Asociación para la Autorregulación de la Comunicación Comercial (AUTOCONTROL) at the AGM held on 19th December 1996. The last version includes the modifications approved at AGM held on 26th April 2011.

I.- SCOPE OF APPLICATION AND GENERAL RULES.

1.- *Scope of application.*

These rules on ethics apply to all advertising communication activities which, directly or indirectly, encourage the trading of goods or services or promote trade marks or trade names, whatever the medium used.

2.- *Purpose and aims of Asociación para la Autorregulación de la Comunicación Comercial.*

2.1.- The purpose of Autocontrol is to ensure that advertising constitutes a particularly useful instrument in the economic process, to ensure respect for ethics in advertising and to protect consumers' rights, excluding the defence of corporate interests.

2.2.- For purposes of illustration, the following aims of the Association are specified:

- a) To draw up advertising codes of ethics, both general and sectorial, which cover the basic rules of conduct that are to be respected in advertising activities.
- b) To settle controversies and conflicts which may arise as a result of a certain advertisement and which the members or third parties may submit.
- c) To draw up reports and studies of any type or form on issues concerning advertising, when requested either by a member or by a third party.
- d) To place itself on the court record in order to defend the purposes of the Autocontrol and general interests, in compliance with the advertising legislation in force in Spain.
- e) To collaborate actively with Public Offices, Public Bodies and International Entities to ensure that advertising adheres to the rules under which it is governed, as well as to carry out requests, draw up proposals, carry out suggestions or issue reports for those organisations and authorities in advertising issues.
- f) To contribute to the development and improvement of Spanish advertising legislation.
- g) To work actively with national and international associative organisations which are of interest for the purposes of the Autocontrol.
- h) Any other activities that are complementary to or arise as a result of the aims detailed above.



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3.- Obligations of members.

The members' obligations are:

- a) To respect current legislation in their advertising activities, and, in particular, the Advertising Codes of Conduct that may be applied.
- b) To comply with the decisions adopted by the Jury.
- c) To provide reliable and responsible information on issues which are not of a confidential nature or which are not likely to cause damage or involve serious risks, when such information will be requested by the Governing Bodies of the Autocontrol or by the Jury.

4.- The Jury: Composition, Conflict of Interests and Powers.

4.1.- The Jury is a body which specialises in ethical issues. It is composed of prestigious persons in the fields of advertising and commercial communication and has those powers specified in the Autocontrol Bylaws and in its Rules. The work of the Jury is ruled, amongst other criteria, by independence. As a specialised body, the Jury will enjoy full and absolute independence in its functions.

4.2- The Advertising Jury shall consist of a President, several vice-presidents and members, all of them indisputable impartiality, and that for the past three years or during their mandate had not maintained or will not, any employment, commercial, organic or other relationship, that would involve a stable partnership with members of the Association.

4.3.- The members of the Jury shall abstain and might be challenge in case of conflict of interest, under the terms set by the Rules of the Jury.

4.4.- The Association bodies will encourage appointments to the Jury brought forward by Agencies that promote consumers and users concerns or that stand for social interests.

4.5.- The Jury's tasks are:

- a) To draft and elaborate the preliminary texts of advertising codes of ethics, which are passed on to the Autocontrol Board of Directors for final processing.
- b) To handle complaints submitted by members and non-members against specific advertisements which are claimed not to comply with the rules and codes of ethics approved by the Autocontrol, in accordance with its own Rules.
- c) To deliver technical or ethical reports on advertising issues when submitted by the Association.
- d) To act as a court of arbitration in advertising disputes which have been submitted to the Jury.
- e) Any other duties, regarding advertising issues, referred to the Jury by the Board of Directors

5.- The Jury: Full Session or Divisions procedure. Remedy of appeal.

The Jury may proceed as a Full Session or in Divisions.



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The Divisions will settle complaints due to breach of the rules or codes of ethics enforced by the Jury.

The Full Session will be competent to decide remedies of appeal against the decisions of the Divisions.

6.- Procedure.

Procedure will be brought “ex officio” or by a complaint of any interested party to proceed against a certain advertisement, and will be process in accordance with the Rules of the Jury.

7.- Enforceability of the decisions:

The Jury’s decisions are binding for the interested parties and for the remainder of the members. It is the Association governing body obligation to ensure effective implementation of the Jury’s resolution, as well as to enforce the disciplinary procedure provided by the Statutes in case of default and, if it deems appropriate, inform the Authorities, any violations committed through advertising.

8.- Standards.

The Jury will resolve the Claims by applying the current Advertising Code of Practice and, if applicable, the Sectorial Codes approved by the Assotiation or whose application the Jury has been entrusted.

In the alternative related to the aforementioned rules, also be applicable the ICC Consolidated Code on Commercial Advertising and Direct Marketing from the International Chamber of Commerce.

II. RULES ON ETHICS.

A.- Basic Principles.

1.- The Value of Advertising.

No advertising communication should be unworthy of the service which advertising provides to the market whose good operation it shall contribute to.

2.- Respect for legality and for the Constitution.

Advertising shall respect current legislation and especially all values, rights and principles recognised under the Spanish Constitution.

3.- Interpretation of advertising.

3.1.- Advertisements and advertising claims shall be equitable and broadly defined avoiding the break-down of their parts and taking into account the overall impression generated in the mind of the consumers.

3.2.- Nevertheless, those parts of advertisements specifically stressed and those that hold the consumers’ attention shall be analysed with particular attention.

3.3.- In any case, when advertising has an stressed message, the advertiser should take the appropriate measures to make the rest of the advertisement clearly understood, in such a way that it does not lead to relevant modifications or limitations of the main message.



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3.4.- When analysing an advertisement, the Jury might take into account related or even external aspects, if such aspects could influence the interpretation of the message by consumers. In particular, the Jury might analyse the influence that the following factors may have on the interpretation of the message: the time when the message is broadcast; the media used; the channels and ways of marketing the product; or other previous or simultaneous advertising campaigns, in that or other media, related to the message analysed.

3.5.- When analyzing an advertisement, the Jury will take into account the perspective of an average consumer, who is reasonably well informed and reasonably observant and circumspect, within the target of recipients to which advertising is directed.

4.- Good faith.

Advertising shall never constitute a means to abuse the good faith of the consumer.

5.- Exploitation of fear.

Advertising will not offer reasons for purchasing which take advantage of fear, distress or superstitions of those to whom it is addressed. Advertisers may resort to fear as long as it is proportionate to risk, in order to encourage prudent behaviour or to discourage dangerous, imprudent or illegal actions.

6.- Non incitement to violence.

Advertising will not incite violence, nor will it suggest that there are any advantages in violent attitudes.

7.- Non incitement to illegal behaviour.

Advertising will not incite illegal behaviour.

8.- Respect of good taste.

Advertising shall not include contents that cause offence against prevailing standards of good taste, social decorum, and good customs.

9.- Dangerous practices and security.

Advertising shall not encourage dangerous practices, except when made in a context in which it may be specifically deduced that it encourages safety.

10.- Discriminatory advertising.

Advertising shall avoid endorsing discrimination based upon race, nationality, religion, sex or sexual orientation. Advertising shall respect human dignity. Particularly, avoid advertisement that can be vexatious or discriminatory to women.

11.- Right of honour.

Advertising shall necessarily respect the right of honour, privacy and personal image.

12.- Respect for the environment.



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Advertising will neither incite nor encourage behaviour that may be damaging to the environment.

B.- Authenticity.

13.- *Advertising will be clearly disclosed as such, whatever the medium used.*

C.- Principle of Truthfulness.

14.- *Misleading Advertising.*

14.1.- Advertising shall not be misleading. Shall be regarded as misleading the advertising that deceives or is likely to deceive the average consumer, in relation to one or more of the following elements, and in either case causes or is likely to cause him to take a transactional decision that he would not have taken otherwise:

- a) The existence or nature of the product.
- b) The main characteristics of the product, such as its availability, benefits, risks, execution, composition, accessories, method and date of manufacture or provision, delivery, fitness for purpose, usage, quantity, specification, geographical or commercial origin or the results to be expected from its use, or the results and material features of tests or checks carried out on the product.
- c) Post sales customer assistance and complaint handling.
- d) The extent of the trader's commitments, the motives for the commercial practice and the nature of the sales process, any statement or symbol in relation to direct or indirect sponsorship or approval of the trader or the product.
- e) The price or the manner in which the price is calculated, or the existence of a specific price advantage.
- f) The need for a service, part, replacement or repair, and the change of the initially advertised price, unless there is a subsequent agreement between the parties agreeing to such change.
- g) The nature, attributes and rights of the trader or his agent, such as his identity and assets, his qualifications, status, approval, affiliation or connection and ownership of industrial, commercial or intellectual property rights or his awards and distinctions.
- h) The consumer's rights or the risks he may face.

14.2.- Equally, it will be regarded as misleading the Advertising that omits material information that the average consumer needs to take an informed transactional decision and thereby causes or is likely to cause the average consumer to take a transactional decision that he would not have taken otherwise..

14.3.- For the application of the previous paragraph it shall be taken into account all the advertising characteristics and circumstances, as well as the limitations of the communication medium.

Where the medium used to communicate the commercial practice imposes limitations of space or time, these limitations and any measures taken by the trader to make the information available to consumers by other means shall be taken into account in deciding whether information has been omitted.

D.- Rules on certain advertising forms and techniques.

15.- *Guarantees.*



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Advertising shall not contain any reference to a guarantee that does not improve the legal position of the purchaser. Advertising may contain the words "guarantee", "guaranteed", "certified" or words having the same meaning provided that it does not deceive or is likely to deceive the consumer regarding the scope of the guarantee.

16.- Availability of products.

Offers shall not be made of products or services that cannot be supplied or provided, unless the advertisement indicates the time-scale for delivery.

17.- Technical data.

When technical, scientific or statistical data are included in the advertisement, they shall be relevant and comparable, and they will not create confusion with regard to individuals or legal entities, the nature of these or other supporting circumstances.

18.- Comparative tests.

Publication of comparative tests on products or services shall reveal the identity of the individuals and legal entities that have carried them out, as well as the date on which they were carried out. In the event of partial spreading, this shall be done in an equitable way.

19.- Testimonials.

When advertising includes recommendations and/or testimonials, that is, assertions from parties not connected to the advertiser and who are not acting as spokesmen for the advertiser, whether they are paid or not, advertising shall be truthful. Specifically, with regard to the person recommending/testifying and to the content of the recommendation and/or testimonial.

Testimonials shall be used only with the permission in writing of those giving them. The advertiser shall be able to prove the truth of the testimonial. Such advertising may only be used as long as the above conditions are held to be valid.

20.- Exploitation of the prestige of others and imitation.

20.1.- Advertising shall not contain either explicitly or implicitly, any reference to the distinctive signs of another advertiser, other than in legal or conventionally permitted cases or in the case of acceptable comparative advertising.

20.2.- Advertisements will not imitate the general outline, text, slogan, distinctive signs, visual presentation, music, or sound effects of other national or foreign advertisements, even if they have come to an end, when any of these items are protected by industrial or intellectual property rights or the Advertising may create a risk of confusion among consumers, or involves taking unfair advantage of effort or reputation of others.

21.- Denigration.

Advertising shall not implicitly or explicitly discredit or denigrate other companies, activities, products or services. Precise, truthful and pertinent advertising representation will not be considered denigrative. At no time should a competitor be mentioned with reference to his personal circumstances or his company's.

22.- Comparisons.

Direct or indirect, comparative advertising, shall respect the requirements listed below:



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- a) The goods or services compared shall have the same purpose or meet the same needs.
- b) The comparison will be done objectively between one or more material, relevant, verifiable and representative features of those goods and services, which may include price.
- c) In the case of products covered by a designation of origin or geographical indication, specific name or guaranteed traditional specialty, the comparison may be only made with other products of the same designation.
- d) May not be submitted goods or services as imitations or replicas of good of services bearing a protected trade mark or trade name.
- e) The comparison does not contravene any rules established by 14, 20 and 21 of the Code of deception, related to denigration and confusion and exploitation of another's reputation.

23.- Proof of advertising claims.

It is up to the advertiser the burden of proving the truth of the statements and claims included in the advertising.

24.- Aggressive Advertising.

Advertising shall not be aggressive. Aggressive advertising is defined as one that is significantly impairs or is likely to significantly impair the average consumer's freedom, by harassment, coercion, including the use of physical force, or undue influence and thereby causes him or is likely to cause him to take a transactional decision that he would not have taken otherwise.

25.- Promotions.

Promotional advertising, such as contests or similar operations will clearly indicate the conditions of participation and the completion and/or expiration dates. At no time will the necessary conditions for obtaining the prize or the costs of responding to the commercial practice it or taking part in the promotion be concealed.

26.- Common characteristics.

No advertiser may suggest in their advertising that their products or services possess characteristics which are particular to them, when these are common to the various similar products or services.

27- Charity campaigns.

27.1.- When advertising mentions the advertiser's participation in a charity act or campaign, advertising shall be absolutely respectful with the principles of good faith and truthfulness.

27.2.- Besides, the following rules should be observed:

- a) The advertiser shall, explicitly, unequivocally and without inducing to error, reveal the extent of its participation in the act or campaign.
- b) If advertising names any NGO, the advertiser shall have its consent and respect its instructions or conditions of authorisation.

E.- Protection of children and adolescents.



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28.- Advertising messages addressed to children shall be handled extremely carefully. They shall not exploit the natural ingenuity, immaturity, inexperience or credulity of children or adolescents, nor shall they take advantage of their sense of loyalty

Advertising messages addressed to children or adolescents, or which are susceptible of influencing them, shall not contain declarations or visual presentations which might damage them mentally, morally or physically.

Special care will be taken to ensure that advertisements do not mislead children as to true size, value, nature, durability or performance of the advertised product. If extra items (for example, batteries) are required to use the product or to produce the results described or shown (for example, paint) this shall be explicitly pointed out. Advertisements shall not overestimate the degree of skill or the age limit of the children in order to enjoy or use the products.

F.- Health protection.

29.- Advertising shall avoid the enticement of its receivers, specifically adolescents, to behave harmfully to their health.

G.- Credit Institutions Advertising

30.- Autocontrol's affiliated Financial Institutions undertake to respect within their advertising, the specific rules relevant to them, particularly the general principles contained in the Annex to the Circular 6/2010, September the 28th, by the Bank of Spain (Banco de España), to Credit and Payment Institutions, on the advertising of banking services and products.

H.- Code Compliance Enforcement

1.- Compliance with this Code of Conduct or the other applicable sectorial codes may be verified by the means provided in the Rules of the Jury.

2.- Likewise, the bodies of the Association may establish annually an specific plan to monitor the compliance of the present Code or the applicable sectorial codes in relation to advertisement groups or categories that may be grouped according to specific and homogeneous criteria.