

ICC International code of advertising practice (1997 Edition)

Commission on Marketing, Advertising and Distribution, 21 April 1997

Introduction

This edition of the ICC International Code of Advertising Practice follows the well-established policy of the ICC of promoting high standards of ethics in marketing via self-regulatory codes intended to complement the existing frameworks of national and international law. The Code, which was first issued in 1937, and revised in 1949, 1955, 1966, 1973 and 1987, is an expression of the business community's recognition of its social responsibilities in respect of commercial communications. The globalization of the world's economies, and the intense competition which ensues therefrom, require the international business community to adopt standard rules. The adoption of these self-disciplinary rules is the best way that business leaders have of demonstrating that they are motivated by a sense of social responsibility, particularly in light of the increased liberalization of markets. A manifestation of this commitment to social responsibility is to be found in the ICC's decision to incorporate formally within this code the former ICC Guidelines for Advertising Addressed to Children.

This edition combines past experience with current thinking based on the concept of advertising as a means of communication between sellers and customers. In this respect the ICC considers freedom of communication (as embodied in article 19 of the United Nations International Covenant of Civil and Political Rights) as a fundamental principle.

The Code is designed primarily as an instrument for self-discipline but it is also intended for use by the Courts as a reference document within the framework of applicable laws.

The ICC believes that this new edition of the Code will promote adherence to high standards of commercial communications leading to efficient international markets and significant consumer benefits.

Scope of the Code

The Code applies to all advertisements for the promotion of any form of goods and services. It should be read in conjunction with the other ICC Codes of Marketing Practice, namely:

- ICC International Code of Sales Promotion
- ICC International Code of Practice on Direct Marketing
- ICC Code on Environmental Advertising
- ICC Code on Sponsorship
- ICC/ESOMAR International Code of Marketing and Social Research Practice

The Code sets standards of ethical conduct to be followed by all concerned with advertising, whether as marketers or advertisers, advertising practitioners or agencies, or media, and is to be applied against the background of the applicable law.

Interpretation

The Code is to be applied in the spirit as well as in the letter.

Because of the different characteristics of the various media (press, television, radio and other broadcast media, outdoor advertising, films, direct mail, fax, e-mail, Internet and online services, etc.) an advertisement which is acceptable for one medium may not necessarily be acceptable for another. Advertisements, therefore, should be judged by their likely impact on the consumer, bearing in mind the medium used.

The Code applies to the entire content of an advertisement, including all words and numbers (spoken and written), visual presentations, music and sound effects.

Definitions

For the purpose of this code:

- the term "advertisement" is taken in its broadest sense, and means any form of advertising for goods or services, regardless of the medium used;
- the term "product" refers to any good or service;
- the term "consumer" refers to any person to whom an advertisement is addressed or who can reasonably be expected to be reached by it whether as a final consumer or as a trade customer or user.

Basic Principles

Article 1

All advertising should be legal, decent, honest and truthful.

Every advertisement should be prepared with a due sense of social responsibility and should conform to the principles of fair competition, as generally accepted in business.

No advertisement should be such as to impair public confidence in advertising.

Decency

Article 2

Advertisements should not contain statements or visual presentations which offend prevailing standards of decency.

Honesty

Article 3

Advertisements should be so framed as not to abuse the trust of consumers or exploit their lack of experience or knowledge.

Social Responsibility

Article 4

1. Advertisements should not condone any form of discrimination, including that based upon race, national origin, religion, sex or age, nor should they in any way undermine human dignity.
2. Advertisements should not without justifiable reason play on fear.
3. Advertisements should not appear to condone or incite violence, nor to encourage unlawful or reprehensible behaviour.
4. Advertisements should not play on superstition.

Truthful presentation

Article 5

1. Advertisements should not contain any statement or visual presentation which directly or by implication, omission, ambiguity or exaggerated claim is likely to mislead the consumer, in particular with regard to
 - a. characteristics such as: nature, composition, method and date of manufacture, range of use, efficiency and performance, quantity, commercial or geographical origin or environmental impact;
 - b. the value of the product and the total price actually to be paid;
 - c. delivery, exchange, return, repair and maintenance;
 - d. terms of guarantee;
 - e. copyright and industrial property rights such as patents, trade marks, designs and models and trade names;
 - f. official recognition or approval, awards of medals, prizes and diplomas;
 - g. the extent of benefits for charitable causes.
2. Advertisements should not misuse research results or quotations from technical and scientific publications. Statistics should not be so presented as to exaggerate the validity of advertising claims. Scientific terms should not be used to falsely ascribe scientific validity to advertising claims.

Comparisons

Article 6

Advertisements containing comparisons should be so designed that the comparison is not likely to mislead, and should comply with the principles of fair competition. Points of comparison should be based on facts which can be substantiated and should not be unfairly selected.

Denigration

Article 7

Advertisements should not denigrate any firm, organization, industrial or commercial activity, profession or product by seeking to bring it or them into public contempt or ridicule, or in any similar way.

Testimonials

Article 8

Advertisements should not contain or refer to any testimonial or endorsement unless it is genuine, verifiable, relevant and based on personal experience or knowledge. Testimonials or endorsements which have become obsolete or misleading through passage of time should not be used.

Portrayal or imitation of personal property

Article 9

Advertisements should not portray or refer to any persons, whether in a private or a public capacity, unless prior permission has been obtained; nor should advertisements without prior permission depict or refer to any person's property in a way likely to convey the impression of a personal endorsement.

Exploitation of goodwill

Article 10

Advertisements should not make unjustifiable use of the name, initials, logo and/or trademarks of another firm, company or institution nor should advertisements in any way take undue advantage of another firm, person or institution's goodwill in its name, trade name or other intellectual property, nor should advertisements take advantage of the goodwill earned by other advertising campaigns.

Imitation

Article 11

1. Advertisements should not imitate the general layout, text, slogan, visual presentation, music and sound effects, etc., of any other advertisements in a way that is likely to mislead or confuse the consumer.
2. Where advertisers have established distinctive advertising campaigns in one or more countries, other advertisers should not unduly imitate these campaigns in the other countries where the former may operate, thus preventing them from extending their campaigns within a reasonable period of time to such countries.

Identification of advertisements

Article 12

Advertisements should be clearly distinguishable as such, whatever their form and whatever the medium used; when an advertisement appears in a medium which contains news or editorial matter, it should be so presented that it will be readily recognized as an advertisement.

Safety and health

Article 13

Advertisements should not without reason, justifiable on educational or social grounds, contain any visual presentation or any description of dangerous practices or of situations which show a disregard for safety or health.

Children and young people

Article 14

The following provisions apply to advertisements addressed to children and young people who are minors under the applicable national law.

Inexperience and Credulity

- a. Advertisements should not exploit the inexperience or credulity of children and young people.
- b. Advertisements should not understate the degree of skill or age level generally required to use or enjoy the product.
 - i. Special care should be taken to ensure that advertisements do not mislead children and young people as to the true size, value, nature, durability and performance of the advertised product.
 - ii. If extra items are needed to use it (e.g., batteries) or to produce the result shown or described (e.g., paint) this should be made clear.
 - iii. A product which is part of a series should be clearly indicated as should the method of acquiring the series.
 - iv. Where results of product use are shown or described, the advertisement should represent what is reasonably attainable by the average child or young person in the age range for which the product is intended.
- c. Price indication should not be such as to lead children and young people to an unreal perception of the true value of the product, for instance by using the word 'only'. No advertisements should imply that the advertised product is immediately within reach of every family budget.

Avoidance of Harm

Advertisements should not contain any statement or visual presentation that could have the effect of harming children and young people mentally, morally or physically or of bringing them into unsafe situations or activities seriously threatening their health or security, or of encouraging them to consort with strangers or to enter strange or hazardous places.

Social Value

- a. Advertisements should not suggest that possession or use of a product alone will give the child or young person physical, social or psychological advantages over other children or young people of the same age, or that non-possession of the product would have the opposite effect.
- b. Advertisements should not undermine the authority, responsibility, judgment or tastes of parents, taking into account the current social values. Advertisements should not include any direct appeal to children and young people to persuade their parents or other adults to buy advertised products for them.

Guarantees

Article 15

Advertisements should not contain any reference to a guarantee which does not provide the consumer with additional rights to those provided by law. Advertisements may contain the word "guarantee", "guaranteed", "warranty" or "warranted" or words having the same meaning only if the full terms of the guarantee as well as the remedial action open to the purchaser are clearly set out in the advertisements, or are available to the purchaser in writing at the point of sale, or come with the goods.

Unsolicited products

Article 16

Advertisements should not be used to introduce or support the practice whereby unsolicited products are sent to persons who are required, or given the impression that they are obliged to accept and pay for these products (inertia selling).

Environmental behaviour

Article 17

Advertisements should not appear to approve or encourage actions which contravene the law, self-regulating codes or generally accepted standards of environmentally responsible behaviour. Advertisers should respect the principles set forth in the ICC Code on Environmental Advertising.

Responsibility

Article 18

1. Responsibility for the observance of the rules of conduct laid down in the Code rests with the advertiser, the advertising practitioner or agency, and the publisher, media owner or contractor.
 - a. Advertisers should take the overall responsibility for their advertising.
 - b. Advertising practitioners or agencies should exercise every care in the preparation of advertisements and should operate in such a way as to enable advertisers to fulfil their responsibilities.
 - c. Publishers, medium-owners or contractors, who publish, transmit or distribute advertisements should exercise due care in the acceptance of advertisements and their presentation to the public.
2. Those employed within a firm, company or institution coming under the above three categories and who take part in the planning, creation, publishing or transmitting of an advertisement have a degree of responsibility commensurate with their positions for ensuring that the rules of the Code are observed and should act accordingly.

Rules apply to entirety of advertisement

Article 19

The responsibility for observance of the rules of the Code embraces the advertisement in its entire content and form, including testimonials and statements or visual presentations originating from other sources. The fact that the content or form originates wholly or in part from other sources is not an excuse for non-observance of the rules.

Effect of subsequent redress for contravention

Article 20

While an advertiser's subsequent correction and appropriate redress for a contravention of the Code are desirable, they cannot excuse the original contravention of the Code.

Substantiation

Article 21

Descriptions, claims or illustrations relating to verifiable facts should be capable of substantiation. Advertisers should have such substantiation available so that they can produce evidence without delay to the self-regulatory bodies responsible for the operation of the Code.

Respect of self-regulatory decisions

Article 22

No advertiser, advertising practitioner or agency, publisher, medium-owner or contractor should be party to the publication of any advertisement which has been found unacceptable by the appropriate self-regulatory body.

Implementation

Article 23

This Code of self-discipline should be implemented nationally by bodies set up for the purpose and internationally by the ICC's International Council on Marketing Practice as and when the need arises.

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International Chamber of Commerce
The World Business Organization

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