



[ Asociación para la Autorregulación de la Comunicación Comercial ]

## AUTOCONTROL CODE OF ADVERTISING PRACTICE<sup>1</sup>

This Code of Advertising Practice was approved as per that established in the Articles of the Asociación para la Autorregulación de la Comunicación Comercial (AUTOCONTROL) at its AGM held on 19 December 1996 and amended at the AGM held on 3 April 2002.

### *1.- SCOPE AND GENERAL RULES.*

#### *1.- Scope.*

The rules of this Code apply to all advertising communications aimed to encourage, directly or indirectly, the trading of goods or services, or to promote trademarks or trade names, whatever the means or media used.

They will also apply to any commercial communication published or broadcast on behalf of any natural person or private legal entity, aimed to promote certain attitudes or behaviours.

They will not apply to political advertising.

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

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

**2.2.-** Some of the main aims of the Association are as follows:

**a)** To draw up general and/or sectoral codes of advertising practice which cover the basic ethical rules that are to be respected in commercial communications.

**b)** To settle controversies and complaints with regard to a specific piece of advertising, which may be submitted by members of the Association or any third parties.

**c)** To draw up reports and studies on issues related to advertising, when requested either by a member of the Association, by the public administration or by any third party.

**d)** To place itself on the court record in order to defend the purposes of the Association and general interests, in compliance with the advertising legislation in force in Spain.

**e)** To co-operate actively with statutory authorities and International organisms to ensure that advertising complies with the rules governing it, as well as to draw up requests, proposals, suggestions or issue reports in advertising issues for those organisations and authorities

**f)** To contribute to the development and improvement of Spanish advertising legislation.

**g)** To work actively with national and international organisations which are of interest for the purposes of this Association.

**h)** Any other activities that are complementary or consequence of the aims detailed above.

#### *3.- Obligations of members.*

The members of the Asociación para la Autorregulación de la Comunicación Comercial are obliged to:

**a)** Respect legislation in force in their advertising activities, as well as the Codes of Advertising practice approved by the Association.

<sup>1</sup> This translation is provided for merely informative purposes. The only official text of this Code is the Spanish version.



**b)** Comply with the adjudications issued by the Jury.

**c)** To provide with 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, as and when such information will be requested by the Governing Bodies of the Association or by the Jury.

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

**4.1.-** The Jury is a body specialised in advertising ethics. It is composed of prestigious persons in the fields of advertising and commercial communication, and has those powers specified in the Articles of Association and in the Jury's Rules. Its activity will be ruled by independence, amongst other key principles. As a specialised body, the Jury will enjoy full and absolute independence in its functions.

**4.2.-** The members of the Jury must abstain in the event of conflict of interests.

**4.3.-** The Jury's duties are:

**a)** To elaborate drafts of codes of advertising practice, which are passed on to the Association's Board of Directors for discussion and approval.

**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 practice approved by the Association, in accordance with its own Rules.

**c)** To deliver technical or ethical reports on advertising issues requested by the Association.

**d)** To act as a court of arbitration in advertising disputes submitted to it.

**e)** Any other duties regarding advertising issues commissioned 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.

The Divisions will adjudicate on complaints submitted for the alleged breach of the rules or codes of practice.

The Full Session will be competent to adjudicate on appeals submitted against the decisions issued by the Divisions.

#### *6.- Procedure.*

Procedure will be open "ex officio" or through a complaint submitted by any interested party against a piece of advertising.

#### *7.- Enforceability of the decisions.*

The Jury's adjudications are binding for the interested parties and for the rest of members of the Association.

#### *8.- Subsidiary and complementary rules to the Code.*

In all not foreseen in this Code, the current Code of Advertising Practice of the International Chamber of Commerce will apply.

The following Codes will also apply:

- Complementary to the above, the sectoral codes of advertising practice which have been approved by the Association will apply, and, subsidiary to these, those sectoral Codes established by the International Chamber of Commerce.

- Complementary to the above the sectoral codes of advertising practice adopted by the business associations, once they have been approved by the Board of Directors of this Association. This approval will be temporary pending final ratification by the General Assembly.

-The aforementioned rules will apply as long as they do not oppose this Code or legislation in force.

## *II. ETHICAL RULES.*

### *A.- Basic Principles.*

#### *1.- Value of Advertising.*

Advertising communication should be worthy of the service that advertising provides



to the market and it should contribute to its good operation.

## *2.- Principle of legality.*

Advertising shall respect legislation in place and especially all values, rights and principles established in the Spanish Constitution.

## *3.- Interpretation of advertising messages.*

**3.1.-** Advertisements and advertising messages should be analysed as a whole, without splitting their parts, and always taking into consideration the overall impression that they generate in consumers.

**3.2.-** Nevertheless, those advertising messages or parts which appear highlighted or stressed and therefore attract consumers' attention, might be analysed specifically.

**3.3.-** In any case, when an advertisement contains a clearly highlighted message, the advertiser should take any appropriate measure to ensure that the rest of the advertisement is clearly understood by consumers, as well as to ensure that it does not introduce relevant modifications or limitations to the main message.

**3.4.-** When analysing an advertisement, the Jury might take into account related or even external aspects, if they might influence the interpretation of the advertising message by consumers. In particular, the Jury might evaluate the influence that the following factors may have on the interpretation of the message: the timing when the message is made available to the public; the media used; channels and ways used for selling the advertised product; or other previous or simultaneous advertising campaigns, in any media, related to the advertising message being analysed.

## *4.- Good faith.*

Advertising shall never constitute a means to abuse consumers' good faith.

## *5.- Exploitation of fear.*

Advertising shall not use arguments based on or taking advantage of fear, distress or superstitions of advertising addressees.

Advertisers might resort to fear as long as it is proportionate to risk, and only when it is used to encourage responsible behaviour or to discourage dangerous, unwise or illegal actions.

## *6.- Incitement to violence.*

Advertising shall not incite to violence, nor shall it suggest that there are any advantage in violent attitudes.

## *7.- Incitement to illegal behaviour.*

Advertising shall not incite to illegal behaviour.

## *8.- Good taste.*

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

## *9.- Dangerous practices and security.*

Advertising shall not promote dangerous practices, except when made in a context which specifically encourages safety.

## *10.- Discriminatory advertising.*

Advertising shall not suggest any kind of discrimination based upon race, nationality, religion, sex or sexual orientation, and it shall never attack human dignity.

## *11.- Right to reputation.*

Advertising shall always respect rights to reputation, privacy and personal image.

## *12.- Respect for the environment.*

Advertising shall never incite to behaviour that may be damaging for the environment.

## *B.- Identification of advertising.*

**13.-** Advertising shall be clearly disclosed as such, independently of the medium used.



### *C.- Principle of Truthfulness.*

**14.-** Advertising shall not be misleading. Misleading advertising refers to that advertising which in any way, including its presentation, or due to inaccuracies in the substantial data contained therein, or by ambiguity, omission or other circumstances, leads or may lead consumers to erroneous conclusions. All advertising statements shall be understandable, exact and the advertiser shall be able to substantiate them, in particular with regard to:

**14.1.-** Characteristics of goods, activities or services such as:

- a) Geographic origin or denomination.
- b) Nature.
- c) Composition and specifications.
- d) Availability conditions.
- e) Method and date of manufacture, supply or performance.
- f) Novelty. Reference to novelty must indicate whether it refers to a new product in the marketplace or to new aspects of those advertiser's products already available in the market. References to something new must not be used in an abusive manner.
- g) Results from using the product or service.
- h) Results from tests or studies on the products or services.
- i) Risks arising from the use of the product.

**14.2.-** Price. Price indication in advertising should be complete or establish a method of assessment.

**14.3.-** Legal and financial conditions of purchase, use and delivery of the products or performance of the services, including, where applicable, the guarantees being offered.

**14.4.-** Nature, qualifications and rights of the advertiser, in particular regarding:

- a) Identity, wealth and professional qualifications.
- b) Industrial or intellectual property rights.
- c) Prizes or distinctions received.

**14.5.-** After-sales services.

**14.6-** Relevant limitations of the offer.

### *D. Rules on certain advertising forms and techniques.*

#### *15.- Guarantees.*

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 only if the full terms and contents of the guarantee are clearly set out.

#### *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 shall not create confusion with regard to individuals or legal entities, their nature and any other circumstances supporting those data.

#### *18.- Comparative tests.*

Publication of comparative tests on products or services must 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 must be done fairly.

#### *19.- Testimonials.*

When advertising includes endorsements and/or testimonials, that is, statements from persons 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 both with regard to the person endorsing or recommending the advertised product and to the content of the recommendation and/or testimonial . Testimonials should be used only



with the permission in writing of those giving them. The advertiser must be able to substantiate testimonials. Such advertising can only be used as long as the above conditions are held to be valid.

#### *20.- Exploitation of goodwill and imitation.*

Advertising shall not contain any explicit or implicit reference to the trademarks, trade names or any other distinctive signs of another advertiser, except for in legal or conventionally permitted cases or in the case of acceptable comparative advertising. Advertisements shall not imitate the general outline, text, slogan, distinctive signs, visual presentation, music, or sound effects of any national or foreign advertisements, even if these have already stopped its publication or broadcast, when such imitation is likely to create confusion or when it implies undue or unfair advantage. In advertising all risk of confusion should be avoided.

#### *21.- Denigration.*

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

#### *22.- Comparisons.*

Comparative advertising, be it direct or indirect, shall respect the requirements listed below.

Advertising which compares the advertiser's own activity, services or establishment and those of other advertisers shall be based on essential, similar, analogous and objectively demonstrable features. Such advertising shall always be truthful and will not be expressed in denigrating terms.

In the case of comparisons between products or services, at no time shall a comparison be accepted with others which are not similar or which are unknown or have a limited participation in the marketplace.

#### *23.- Substantiation of advertising claims.*

Advertising statements and messages to which reference is made in articles 14, 17, 18, 19, 20, 21 y 22 of this Code, shall be immediately substantiated by the advertiser before the Jury of Advertising Self-Regulation, upon its request.

#### *24.- Distance selling.*

Advertising related to distance selling or sales outside the premises shall clearly describe the advertised products, prices, payment and delivery conditions, as well as return or cancellation clauses in the legal terms. The full name and address of the advertiser shall be clearly indicated.

#### *25.- Promotions.*

Promotional advertising, such as contests or similar operations shall clearly indicate their conditions of participation and expiry dates. At no time shall the necessary conditions for obtaining the prize or the costs involved receiving it or taking part in the promotion be concealed.

#### *26.- Common features.*

Advertising shall never suggest that the advertised products or services possess specific or particular features when these are common to other existing similar products or services.

#### *27.- Charity campaigns.*

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

**27.2.-** Besides, the following rules should be respected:

- a)** The advertiser shall reveal the extent of its participation in the event or campaign explicitly, unequivocally and truthfully.
- b)** If advertising mentions any NGO, the advertiser shall have its authorisation and shall respect its instructions or conditions.



*E.- Protection of children and adolescents.*

**28.-** Advertising addressed to children must be extremely careful. It shall not exploit the natural ingenuity, immaturity, inexperience or credulity of children or adolescents, nor shall it take advantage of their sense of loyalty.

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

Special care shall 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 must be explicitly pointed out. Advertisements must 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 not encourage consumers, specially adolescents, towards behaviour or patterns which might be harmful to their health.