

CODE OF ADVERTISING PRACTICE

v2021.1

Section III – Specific Categories of advertising

1. Charitable causes

Advertisements claiming that the purchase of a product will support some charitable or good cause are acceptable provided the following details are included in the advertisement–

- amount of donation;
- name of charity or good cause;
- duration of the campaign.

2. Commemorative and other items produced in limited editions

2.1 The number of articles to be produced in any limited edition should be stated in all advertising and promotional material containing any claim that the edition is limited. Where an edition is limited by the number of persons applying within a given period, it should be described as an edition limited by time, and the advertiser should offer to inform all purchasers of the number of articles eventually produced.

2.2 Advertisements for articles made of precious metal should state the amount and the fineness of the metal involved in the pieces on offer.

2.3 Advertisements which make claims about the investment potential of the articles on sale should also make it clear that there can be no guarantee of any future increase in value.

3. Collectibles and limited editions

3.1 A “collectible” is an item offered not, or not solely, on the basis of its practical utility but on the basis of its claimed artistic merit, rarity and/or potential for increase in value.

3.2 Great care should be taken in the advertising of “collectibles” so as to avoid prospective purchasers being misled about the scarcity or about the current or future value of the items offered.

3.3 In particular, advertisers are under an obligation not to exploit any lack of knowledge among the general public as to the nature and extent of the market for items of the kind advertised or about the criteria for assessment employed within the market. (See also Section III 2.3.)

- 3.4 The two most common methods of limitation imposed upon special editions of articles are by pre-announced number, or by application or subscription within a stated period of time. Where an advertiser claims either directly or by implication that an edition of any item is subject to a limitation of any kind, the nature of the limitation must be immediately evident from the description used in the advertising material.

4. Competitions

4.1 *General*

The ARB may, in respect of any advertisement for a competition, require that substantiation, in the form of acceptable legal advice that the competition is legal, be furnished.

The value of prizes referred to in advertising must include VAT.

4.2 *Fund-raising competitions*

Advertisements for competitions intended to collect contributions from the public or raise funds, or drawing attention to such competitions, shall only be published if -

- 4.2.1 the competition conforms to the relevant legislation;
- 4.2.2 the prizes offered are already available or guaranteed;
- 4.2.3 the prizes will be awarded irrespective of the number of entries received and that the competition will not be cancelled once the advertisement has been published;
- 4.2.4 a closing date for entries is stipulated as well as a date by which the name of the prize-winners will be published in at least one major regional or national publication.

5. Educational courses

- 5.1 Advertisements for educational courses should not mislead as to the status or extent of recognition of the qualification that can be obtained.

- 5.2 Descriptions such as “recognised”, “officially approved” or words having or implying similar meaning shall not be used without qualification unless related to qualifications recognised by -

- 5.2.1 bodies or Institutions such as Matriculation Boards, Universities, Technikons etc; and
- 5.2.2 bodies or Professional Institutions which have the credentials to do so and are representative of a particular field of endeavour.

In all other cases where the word “recognised”, “officially approved” or similar words which imply status or extent of recognition are used in an advertisement they shall be followed, wherever they appear and in the same print and type size, by an unambiguous description of the bodies that have granted such recognition.

Where international recognition is claimed the rules stated above shall also apply and it will not be sufficient to claim that the course is also offered in other countries.

It will be incumbent on the advertisers to furnish the ARB with acceptable evidence in support of these claims if required.

- 5.3 Unrecognised degrees or qualifications should not be offered nor should the value of recognised degrees be misrepresented.
- 5.4 The Correspondence Colleges Act 59 of 1965 and the regulations promulgated thereunder must be consulted with the preparation of advertisements for correspondence colleges.

6. Financial advertising

6.1 *Financial advertising*

Advertisements addressed to the general public for capital or financial products or services or financial information should, in addition to scrupulously observing the other provisions of this Code, so far as they are relevant, take special care to ensure that the public are fully aware of the nature of any commitment into which they may enter as a result of responding to the advertisement.

In this connection the advertiser should remember that the complexities of finance may well be beyond many of those to whom the opportunities they offer appeal, and that, therefore, the advertiser bears a particular responsibility to ensure that advertisements in no sense take advantage, wittingly or not, of the lack of experience or knowledge or the credulity of those to whose attention it is likely to come.

6.2 *Business opportunities*

Advertisements covered by clauses 6.2.1, 6.2.2 and 6.2.3 must reflect the full physical address of the advertiser or the Micro Finance Regulatory Council Registration Number as well as the advertiser's telephone number.

6.2.1 *Self-employment opportunities*

- 6.2.1.1 Advertisements for self-employment opportunities may not be phrased, in a manner which is likely to lead to the opportunity being confused with part time or normal employment.
- 6.2.1.2 Advertisements offering instructional courses should not contain misleading promises of employment nor exaggerate the opportunities of employment or remuneration claimed to be open to those taking such courses.
- 6.2.1.3 Advertisements for self-employment opportunities may not require any money to be sent prior to full information about the schemes being supplied to the consumer.
- 6.2.1.4 If a finance scheme or package is offered which can readily be identified or is not clearly set out in the advertisement, full details of the scheme shall be furnished to the medium concerned before the advertisement is published.
- 6.2.1.5 If an advertisement is placed by an agent its contact details, and the name of the principal should be stated in the advertisement.

6.2.1.6 Advertisements shall not require those interested to send money for further details (even for postage cost though requests for a stamped self-addressed envelope is acceptable).

6.2.2 **Financial assistance and debt consolidation**

Advertisements offering loans or to consolidate debts must state whether the advertiser is a moneylender or broker for a moneylender.

6.2.2.1 The Minister of Trade and Industry in terms of Act 71 of 1988 declared that it is illegal to charge an upfront fee when a promise to obtain a loan on behalf of a client is made. Refer to Government Gazette No 777 of 18 August 1995.

6.2.3 **Brokerage of instalment take-overs**

Advertisements by brokers offering to arrange instalment take-overs or delegations, without the consent of the financial institution involved, will not be permitted. Advertisers wishing to offer such services will be required to provide proof that such consent has been given before the advertisement is placed.

6.3 ***Employment training and courses of instruction***

6.3.1 Advertisements for situations vacant

6.3.1.1 must be in respect of genuine vacancies the existence of which can be fully substantiated if required by the ARB.

6.3.1.2 must not misrepresent either working or living conditions, or nett remuneration after mandatory deductions.

6.3.2 The preceding rule does not prevent the offer for sale of directories and the like, provided the advertisement is clear as to what is offered.

6.3.3 Advertisements offering training or other instruction courses shall

6.3.3.1 make no unconditional offers of further employment (whether or not by the advertiser) or of future remuneration for those taking the course;

6.3.3.2 if appropriate, make clear the actual duration of the course and the level of prior attainment needed to derive benefit from it;

6.3.3.3 not offer unrecognised degrees or qualifications nor misrepresent the value of certificates of competency or other forms or recognition of due completion of the courses or training offered;

6.3.3.4 advertisements offering correspondence courses may only be placed by colleges registered with the Correspondence Colleges Council of SA; and

6.3.3.5 the Correspondence Colleges Act 59 of 1965 and the regulations promulgated thereunder must be consulted with the preparation of advertisements for correspondence colleges.

6.4 **Work-from-home schemes**

6.4.1 Advertisements for schemes in which a person is invited to make articles at home for remuneration shall -

6.4.1.1 contain an adequate description of the work to be done and the conditions imposed on the above worker;

6.4.1.2 clarify whether the home-worker is to be employed by the advertiser, or will be self-employed; and

6.4.1.3 not indicate what level of earnings should be attainable unless acceptable substantiation is available.

6.4.2 If the advertiser levies a charge for starter kits or components, or offers to buy back the goods produced by the home-workers, relevant information should be included in the advertisement, particularly as to any limitations which may affect the homemaker's decision to accept the advertiser's offer.

6.5 **Interest rates payable to bank customers**

Any reference to the interest rates applicable to a financial product must always be directly followed by the description "per annum" or "per year".

7. **Franchise schemes**

7.1 Franchise scheme means a scheme where a company, firm or individual, known as a "franchisor", gives to a person, known as a "franchisee", the right, often exclusive, to sell specified products or other specified services in return for an initial payment, a percentage of the profits (or a royalty), or any other consideration.

7.2 Advertisements by franchisors seeking franchisees are not acceptable unless the franchisor has provided all the information required by media in advance of publication. Such advertisement should not mislead, directly or by implication, as to the support available or the likely reward for the investment and work required. For the Franchisor or the Franchisor's agent (if any) the advertisement must state

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- name of senior executive;
- full title of the company; and
- the street address of the company.

These requirements apply to both display and "smalls" advertisements.

8. **Furniture advertising**

8.1 Advertisements for suites of furniture which depict items additional to those offered, but which are not included in the price, shall clearly state that these items are excluded.

8.2 In particular advertisements for bedroom suites should, when a base and mattress are depicted in the advertisement but are not included in the price, clearly state that these items are excluded.

9. Imported products

No advertisement shall give the impression that a product is imported when it is, in fact, manufactured in South Africa. Similarly, no product may create the impression that it is manufactured in South Africa when it is in fact imported.

10. Inclusive tours

10.1 Advertisements for inclusive tours should be so framed as to avoid disappointment to the consumer. In the interests of such protection the medium concerned may determine and require publication of information covering -

10.1.1 the firm or organisation responsible for the tour;

10.1.2 the means of transport, whether charter or scheduled (including whenever possible name of carrier, type and class of aircraft or other means of transport);

10.1.3 destination and itinerary;

10.1.4 exact duration of the tour and of the stay at each locality;

10.1.5 the type and standard of accommodation and meal facilities offered;

10.1.6 any special arrangements offered (entertainments, sightseeing, etc);

10.1.7 the total price of the tour as advertised (at least minimum and maximum prices) and those items which are included therein (airport taxes and other fiscal charges, incidental transportation, portage, tips, etc);

10.1.8 cancellation conditions.

10.1.9 the number of days indicated in the travelling time include both date of departure and arrival.

11. Motor vehicle advertising

11.1 It is accepted that standardised and controlled fuel consumption testing is applied across the motor vehicle sector in a manner that does not typically represent real-world driving conditions. When advertisers claim fuel consumption figures which were obtained using such methodologies and results, it should be made patently clear that such standardised, controlled testing was used, and that the claimed consumption does not necessarily represent real-world consumption, but is quoted for comparison purposes only.

11.2 Advertisements making claims of successes in motor sport shall not be submitted for publication until the claims have been approved by AA Motorsport.

11.3 Advertisements offering motor vehicles on a lease or rental basis should include full details on the payments to be made and the basis on which the residual value will be determined if ownership of the vehicle is obtained at the end of the agreement.

The price stated in such advertising must be a true reflection of the actual price to be paid by the lessee or hirer.

12. Property advertising

12.1 Information furnished

Advertisements for fixed property, whether for sale or for rent, should not mislead or exaggerate on such matters as -

- 12.1.1 the land itself and any buildings erected or to be erected thereon;
- 12.1.2 the size of the land, availability of services, fixtures and amenities in the buildings and the suburb or location;
- 12.1.3 the legal title and formalities;
- 12.1.4 rights and servitudes of any kind;
- 12.1.5 local authority and town planning requirements;
- 12.1.6 taxes, rates and other duties;
- 12.1.7 the price, terms of payments and loan facilities;
- 12.1.8 claiming extraordinary conditions of sale like "deceased estate", "owner transferred", "owner going overseas", "owner already bought elsewhere";
- 12.1.9 making reference to Municipal valuation, Building Society valuation, cost price or replacement value;
- 12.1.10 mentioning the name of a specific architect, builder or designer.

12.2 Restrictions on transfer

When immediate transfer of the property into the name of the purchaser is not possible, this should be clearly mentioned in the advertisement in specific terms i.e. "Transfer available on proclamation" or "Transfer available on opening of a Sectional Titles Register".

- 12.2.1 On no account should the advertiser estimate the time required for such transfer to become available.

12.3 Estate agents

No estate agent shall by means of an advertisement, canvass clients or offer property for sale or to let unless he, in that advertisement, publishes his name and the fact that he is an estate agent, and if applicable, the name of his employer or the estate agent he represents. Refer to the Estate Agent Act 112 of 1976.

13. Smoking deterrents

No advertisement will be accepted for any smoking deterrent unless the advertiser makes clear that the product offers only assistance and not a cure, and that its success will be dependent upon the willpower of the user.

14. Exploitation of superstition or beliefs

- 14.1 Advertisements for products or treatments with unproven supernatural properties including those for achieving health, wealth or happiness should only appear in media where the following disclaimer clearly appears, legibly and boldly:

The claims made [on this page/in this programme/ on this poster/ on this billboard] have not been scientifically proven. The advertised outcomes claimed are not guaranteed.

14.2 The onus for compliance with this clause lies both with the advertiser and the medium carrying the advertising.

14.3 The following media specific requirements apply:

- In the case of print, the disclaimer will appear in a frame around either the advertisement or the page that carries the advertisement.
- In the case of television, the disclaimer will appear on a clearly legible banner for the duration of the commercial.
- In the case of radio, the disclaimer must be read before the commercial.
- In the case of out-of-home, the disclaimer will appear along the bottom of the billboard or poster in a clearly legible format.
- In media that is not specified, the disclaimer must be applied in a reasonable manner that would ensure that the reasonable consumer is aware of it.

15. Cellular telephones and mobile networks

15.1 Advertisements for post-paid cellular telephone services in all media must prominently state -

15.1.1 the minimum total monthly costs at which that contract can be entered into; and

15.1.2 the time period for which the contract is valid.

15.2 If, at the time of submitting an advertisement for publication, the advertiser is aware that the minimum total monthly cost will vary during any period of the contract period by other than the regulated tariff increases, the following must be stated in the advertisement, all with equal prominence -

15.2.1 the initial minimum total monthly cost and time period for which it is valid; and

15.2.2 the subsequent minimum total monthly cost and time period for which it is valid.

15.3 Any direct or indirect claims of Mobile Network superiority must be properly couched to ensure transparency and avoid ambiguity. In particular; when Mobile Network superiority is being claimed or implied, such claims should be phrased in a manner that immediately alerts consumers as to the nature of the superiority being claimed. By way of illustration:

Claim being made: "South Africa's favourite network".

Because "favourite" presupposes subjective opinion, consumers are immediately alerted to the true nature and intention of the claim. Assuming adequate evidence exists, this claim would be permissible.

Claim being made: "South Africa's best network"

Because "best" could incorporate either objectively proven superiority or subjective opinion, the claim requires adequate qualification to be incorporated into the claim.

Possible solutions would be:

- “South Africa’s best loved network” (subjective context).
- “South Africa’s best performing network” / “South Africa’s best network for downloads” (objective context).

15.3.1 When parity or superiority is claimed or implied in relation to real-world network performance, the following mandatory criteria apply:

15.3.1.1 The advertiser must produce at least one independent report or benchmarking study conducted by an authority that complies with the provisions of Clause 4.1 of Section II (Substantiation).

15.3.1.2 This independent report or benchmarking study must measure actual network performance across all South African Networks.

15.3.1.3 Modelled or simulation-based reports will not be considered acceptable.

15.3.1.4 The independent substantiating entity referred to above must confirm that the advertiser had no influence over the methodology and analysis adopted during the benchmarking exercise.

15.3.2 when parity or superiority is claimed or implied in relation to subjective measures such as, *inter alia*, consumer preference, such claims should be phrased in a manner that provides instant clarity. Words such as “voted the best” or “most liked” are recommended for this purpose. Such claims would remain subject to substantiation as per Clause 4.1 of Section II of the Code.

15.3.3 it will not be acceptable to provide clarity or context by means of body copy or disclaimers when the initial claim is not suitably qualified or contextualised.

15.3.4 In the event that the entity relied on to substantiate such claims as contemplated in clauses 15.3.1 and 15.3.2 above issues a new report, affected advertisers must remove all redundant claims within the deadlines stipulated in the Code.

The requirements of Clause 15.3.4 will not apply if the affected advertiser retains its position of superiority / parity in the newest report.

16. Non-availability of advertised products

16.1 Advertisements should not be submitted for publication unless the advertiser has reasonable grounds for believing that it can supply any demand likely to be created by the advertising.

16.2 In particular, no attempt should be made to use the advertising of unavailable or non-existent products as a means of assessing likely public demand.

Ends/