

INDEPENDENT BROADCASTING AUTHORITY

Code of Advertising Practice



Standards Committee

Code of Advertising Practice

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**CODE OF ADVERTISING PRACTICE
MADE UNDER SECTION 29 (5) of the IBA ACT 2000**

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Preamble

Advertising has multiple roles and functions in today's society amongst other – informing, persuading consumers as well as providing an important source of finance to the media industry whether it be television, radio, cinema or the Internet.

There is no doubt that advertising has evolved considerably. In fact, nowadays advertisements command big budgets and are increasingly directed towards a sophisticated, demanding and global audience. Organisations are increasingly allocating more resources to advertisements in the 'bid' to occupy more or enter new markets. In this 'bidding game' for increased advertising space and audience attention it is essential that necessary legislations, rules, standards and compliances are put into place and practice.

The IBA Act (2000) makes provision for the setting up of a 'Code of Advertising Practice'. The main objective of this code is to act as a guide for the design, production and broadcast of advertisements in a multi-cultural society like Mauritius.

General Advertising Standards

1.1 Guiding Principles

- (i) The Code aims at ensuring listeners and viewers that radio and television advertising does not mislead, encourage harmful behaviour, or cause widespread or exceptional offence. Advertisements also have to be clearly separated and differentiated from programmes; the frequency and duration of commercial breaks are to be restricted and sponsorship has to be regulated.
- (ii) Advertisements represent a major source of revenue which enables broadcasters to deliver a range of programmes to the Mauritian population including news, information, education and entertainment. Commercial sponsors render a service to listeners and viewers in making known to them the goods and services available in the community. The story of such goods and services goes into the intimacy of the home. Hence, it shall be the responsibility of licensees to work with the advertisers and agencies in improving the technique of telling the advertising story so that this shall be legal, decent and truthful and it shall not offend what is generally accepted as the prevailing standard of good taste.
- (iii) Advertisements should take into account the diverse society and adopt a gender sensitive approach. As far as possible local people should be used in advertisements. Licensees should not allow stereotyping or classifying people along established prejudice.
- (iv) For the purposes of this Code, the term advertisement or advertising material means any item included in a television or radio programme which is designed to promote the sale of any particular product or service or to advance the interests of any organization, commercial concern or individual, whether by means of words, sound effects (including music) and/or of visual presentation and whether in the form of direct announcements, slogans, descriptions or otherwise, as well as any promotional reference in the course of a programme to any products or services, such as any form of sponsorship.
- (v) The Independent Broadcasting Authority, as the regulator, does not preview programmes and advertisement materials or consider proposals before production.
N.B. The editorial responsibility therefore lies with the licensees themselves.
- (vi) The Code sets out the factors which should be taken into consideration by licensees when making editorial judgement. It is incumbent upon licensees to ensure that all advertisements included in their licensed services comply with the Code.
- (vii) The Code sets out general principles. Licensees have to draw up their own operational guidelines in the light of the particular interests of advertisers and audiences so as to provide benchmarks to their staff on how these general principles should be applied in specific circumstances. In all cases concerned, licensees must reflect the general tone and emphasis of this Code in their own operating guidelines.

1.2 Principles Concerning Advertising Generally

- (i) Advertisements should be decent, honest and truthful.
- (ii) The content, presentation and placement of all advertising materials must comply with this Code.
- (iii) All advertisements must comply with the laws of Mauritius.
- (iv) Non-compliance with the above may be the subject of a complaint to the Complaints Committee under the Section 30(4)(a) and to a direction by the Authority under Section 5. Non-compliance with such a direction constitutes an offence by virtue of Sections 5 (i) and 37 of the IBA Act and is punishable by a fine up to Rs 200,000 and 2 years of imprisonment.

1.3 Identification of Advertisements

- (i) Advertising material should be clearly identifiable as an advertisement.

Distinction must at all times be maintained between advertisements and programmes. In the case of radio advertising licensees must ensure that the distinction between advertising and programming is not blurred and listeners are not confused between the two. For instance, a jingle may be used before the first advertisement and after the last advertisement.

(ii) Any advertisement that adopts a programme style, e.g., studio interview, cookery demonstration, should be carefully assessed to ensure that there is no risk of confusion with programme material. Where the style makes it not fully apparent that it is an advertisement, the advertisement must be flagged as such in a clearly legible or audible manner at the beginning and at the end. In the case of television, a superimposed text may be used. In the case of radio programmes, listeners must be able to

identify sponsored programmes without difficulty or misunderstanding.

1.4 Unacceptable items

- (i) Except for announcement of political events, advertisements shall not:-
 - be directed towards any political end;
 - be inserted by or on behalf of any body whose objects are wholly or mostly of a political nature;
 - have any relation to any industrial dispute;
 - show partiality in matters of political or industrial controversy or current public policy.
- (ii) Particular care is required, where advertising mentions any Government, political party, political movement or State-specific abuse, so as not to break the spirit of these rules, which are intended to prohibit lobbying or electioneering on politically controversial or partisan issues.
- (iii) No advertisement shall contain extracts from broadcasts of Parliamentary proceedings.
- (iv) No advertisement shall in any way discredit the State. Extreme care should be exercised when an advertisement is referring to a personality representing the State authority. No person in office while the advertisement is broadcast should be represented without authorization.
- (v) No debasing of, or any disrespectful comments, against the flag or any other national emblem of the Republic of Mauritius, or of any other country is not allowed.
- (vi) Expressions and sound effects associated with news bulletins, newsflashes, cyclone- warning jingles

or any other public service announcements, should not be used. Listeners or viewers must be able to readily recognize the message as an advertisement.

- (vii) Advertisements must not refer to the use or appearance of any product or service which have already appeared in a non-commercial programme.

1.5 Good Taste / Bad Taste

- (i) Advertising matter should be presented with courtesy and good taste.
- (ii) Disturbing and offensive materials such as words, phrases, sounds and images should be avoided. Every effort should be made to keep the advertisement in harmony with the content and general tone of the programme in which it appears.

1.6 Racism and Stereotyping

Extreme caution should be exercised by advertisers so as not to promote in any manner racist and/or stereotyped messages which might offend listeners / viewers of our multicultural society or a particular section of the community.

1.7 Safety and Cautiousness

- (i) An advertisement should not give or seem to give a complete guarantee of safety. Dangers or risks which may result from the normal use of a product should be highlighted. The safest way to use the product must be indicated.
- (ii) An advertisement should not portray or describe a dangerous behavior, except if the aim of the advertisement is to fight such behavior and a positive rectification is given in the same advertisement. Warnings and cautions that one should not emulate such

dangerous behavior, should be repeated

- (iii) Particular care should be exercised with advertisements directed towards or depicting children or teenagers.

1.8 Sound Effects

Advertisements should not include sounds likely to create safety hazards.

Distracting or potentially alarming effects such as sirens, horns, screeching tyres, vehicle collisions and the like must be treated cautiously and, as far as possible, avoided.

1.9 Disparagement

Advertising matter should not contain any claims that have the effect of disparaging competitors, competing products or services of other industries, professions, or institutions.

1.10 Precise/ Clear

Advertisements should be precise. Care should be taken that there is no ambiguity and the message is clear and concise.

1.11. Truthful Presentation

No advertisement should contain any description, claim or illustration which expressly or by implication departs from truth or misleads about the product or service advertised or about its suitability for the purpose recommended.

1.12 Imitation

Advertisements should not imitate or approximate unreasonably the name or advertising slogans of competitors.

1.13 Appeal to prejudices and other sentiments

Advertisements should not appeal to prejudices, superstitions or religious sentiments to manipulate behaviour.

1.14 Acceptability of Advertisement Matters

- (i) A licensee may refuse to broadcast an advertisement where it has good reason to doubt the integrity of the advertiser, the truth of the advertising messages and the compliance of the advertiser with all requirements including the provision of this Code
- (ii) A licensee may refuse to permit the use of advertising matter, or the advertising of products and services, which he/she has good reason to believe would be deemed objectionable by a substantial section of the community.

1.15 Testimonials

- (i) Testimonials may be used in advertisements. A testimonial is defined as a real person's point of view, or statement of experience.
- (ii) The use of testimonials is subject to the following:
 - Testimonials must be genuine and must not be misleading;
 - Licensees must obtain satisfactory documentary evidence in support of any testimonial or claim before accepting it for inclusion in an advertisement;
 - Children must not testify about any product or service.
- (iii) A person's professional status may be used to lend authority to his/her opinions. Stations' presenters may not make personal testimonials within advertisements on stations on which they appear.

1.16 Comparative Advertising

- (i) Comparative advertising concerns goods or services of the same nature, with the same characteristics.
- (ii) It should be objective, truthful, loyal, correct and non-degrading; it should be limited to essential, significant, relevant and verifiable characteristics of the products or services compared only.
- (iii) It should compare with products or services available on the same market.
- (iv) It should give fair treatment (sound, images, copies or other means of comparable quality) to the different products compared.
- (v) When comparison concerns prices, it should refer to identical products, sold under same conditions.
- (vi) The validity of prices announced should be clearly indicated.
- (vii) Comparative advertising cannot be based on opinions or appreciations, on aesthetics, taste or seduction of a product or service.

1.17 Programmes carrying no advertisement

Advertisements must not be inserted in the course of:

- (i) religious programmes;
- (ii) school programmes within the Educational Television (ETV) time slot or radio broadcast.

2.

Factual And Best-Selling Claims

2.1. Claims to be substantiated

2.1.1 Language

Advertisements should be clear and easily understandable so to avoid confusion. All claims should be capable of substantiation. Particular care should be exercised when using the following terms:

(i) **“New”**

The use of this term is allowed only during the first year after the product has been launched in its country of origin.

(ii) **“Happiness”**

Saying or implying that happiness can be achieved **only** through the use of the product or service advertised, must be avoided.

(iii) **“First” “Best”**

It is imperative that reasons are given as to why the product is the “first” or the “best”.

(vi) **“Guarantees”**

No advertisement may contain the words, ‘guarantee’, ‘guaranteed’, ‘warranty’ or ‘warranted’, or words having the same meaning, unless the full terms of the guarantee are available for inspection by the licensee.

(v) **“Free”**

Advertisements must not describe goods, services or samples as “free” unless the

goods, services or samples are supplied at no cost or no extra cost to the recipient, other than actual postage or carriage or incidental travel undertaken by the customer in collecting the offer. No additional charge for packing and handling may be made. A product may be described as “free” although the customer is expected to pay the cost of returning the goods, provided that the advertisement makes clear the customer’s obligation to do so. Likewise in the case of phone-in services, the use of the word ‘free’ should be properly defined, specifying exactly what service/s is/are free.

(vi) **“Natural”-“Pure”**

These terms may be used only if no additives or synthetic products have been added to the product.

(vii) **“Healthy”**

This term is acceptable provided it is officially certified by medical practitioners’ or nutritionists that the product advertised is good for health.

2.1.2 Superlatives

Superlatives such as “most popular”, “most favoured” when used in a manner which clearly suggests a number one sales position, should be substantiated by independently audited sales figures, and reliable and valid sample surveys.

2.1.3 Other language items

Such as “most successful” “safest”, “quickest” or containing any similar use of superlative adjectives must not be used in statements unless the truthfulness of such statements is adequately substantiated.

2.2 Research Claims

Where a factual claim is substantiated by research or testing based on the advertiser’s own assessment or work done at his request, the source and date of the assessment or research should be indicated in the advertisement.

2.3 Misleading Claims

- (i) No advertisement may claim or imply that the product or service advertised, or any ingredient of it, has some special features or composition if these are incapable of being established and substantiated.
- (ii) References to the results of research surveys or tests relating to the product or service to be advertised should be presented carefully, so as not to mislead viewers. Statistics of limited validity must not be presented in such a way as to make claims appear that they are universally true.
- (iii) Information conveyed must be accurate and not misleading by concealing or failing to make clear significant facts.
- (iv) Visual and verbal presentations of advertisements indicating price, price comparisons or reductions or any pricing element must be accurate and must not be misleading by undue emphasis or distortion.

2.4. Superimposed Text

- (i) When information is included in the form of captions, either standing alone or superimposed onto other images, the text must be clearly legible and held long enough for the full message to be read by the average viewer on a standard domestic television set.
- (ii) Special attention should be paid to the typeface, letter spacing, line spacing, background or other element of presentation including, without limitation, the interaction with the background which may render the text blurred or otherwise indistinct.

PROTECTION OF MINORS

3.1 General

Particular care should be taken over advertising which is broadcast within or in close proximity to programmes targeting children, or in which children are to appear.

3.2. The Child: Viewer / Listener

- (i) No product or service may be advertised, and no method of advertising may be used, in association with a programme intended for children which may result in physical, mental, moral, or emotional harm to them. No method of advertising may be employed which takes advantage of the natural credulity and sense of loyalty of children.
- (ii) Advertisements must not lead children to believe that unless they acquire or use the product advertised they will be inferior in some way to other children or liable to be held in contempt or ridicule.
- (iii) Advertisements must not misguide minors towards obvious abuse or excess. They should clearly explain the use of the products advertised in order to avoid unfortunate incidents.
- (iv) Advertisements must not offer mail orders or sale on credit to children.
- (v) If there is to be reference to a competition for children in an advertisement, the value of the prizes and the chances of winning one must be fairly stated.

3.3 The Child in Advertisements

The appearance of children in advertisements is subject to the conditions set out below:

3.3.1 Safety

Any situation in which children are to be seen in television advertisements should be carefully considered from the point of view of safety. Children should be shown as responsible and law-abiding pedestrians, cyclists or passengers and should not:

- (i) appear to be unattended in street scenes unless they are obviously old enough to be responsible for their own safety;
- (ii) be seen playing in the road unless it is clearly shown to be a safe area;
- (iii) be shown stepping carelessly off the pavement or crossing the road without due care;
- (iv) be seen leaning dangerously out of windows or over bridges or climbing cliffs;
- (v) be shown playing in or near water bodies, unaccompanied by adults, or playing irresponsibly on escalators or in busy street scenes;
- (vi) be seen crossing the road outside a zebra crossing;
- (vii) be shown, in the case of small children, climbing up to high shelves or reaching up to take things from a table above their heads.

- (viii) Medicines, disinfectants, antiseptics and caustic substances must not be shown within reach of children without close parental supervision, nor should children be shown using these products in any way.
- (ix) Children must not be shown using fire, matches or any gas, paraffin, petrol, mechanical or mains-powered appliance which could lead to their suffering burns, electrical shock or other injury.
- (x) Advertising and products advertised must be consistent with generally recognised safety standards. Demonstrations must not, for example, induce children to engage in harmful or dangerous use of product. When children are shown engaging in activities potentially dangerous to them, such activities should be seen being carried out under parental supervision.
- (xi) Except in the case of advertisements designed specifically and only to promote safety, children should not for the mere purpose of advertising, be shown, in dangerous situations.

3.3.2 Protection of Children

Licensees should be vigilant in portraying children in advertisements bearing in mind, amongst other things, the provisions of the Child Protection Act.

3.3.3 Good manners and behaviour

Children seen or described in advertisements should be presented in such a manner as to set a good example of behaviour and manners, and preferably be shown in family surroundings.

3.3.4 Nudity

Care and restraint are recommended when showing naked or partly undressed children in advertisements.

3.3.5 Gambling

- (i) In no circumstances should advertisements target minors.
- (ii) Advertisements for lotteries which are authorized under the law are allowed

Certain General Principles Concerning Categories of Advertisements

4.1 Toys

- (i) Advertisements must give a true and exact presentation of toys and must not create any doubt or confusion regarding the real contents of toy boxes or packages. Advertisements should mention the minimum age the advertised toy is intended for.
- (ii) Advertisements for toys and their components and/or detachable parts which may present a risk of physical injury and/or a risk of being swallowed or inhaled should be accompanied by a warning "*To Be Used Under Adult Supervision.*" Further, advertisements for toys which present a risk of physical injury when in motion should bear a warning accordingly.
- (iii) Advertisements for "electric toys", "functional toys", "chemical toys" and toys intended for use in water should bear a warning "*For Use under Adult Supervision.*" "Functional toys" means toys which are used in the same way as, and are often models of, appliances for installations intended for adults. "Chemical toys" means chemistry sets, plastic embedding sets, miniature work shops for ceramics, enameling or photography and similar toys. Advertisements for "chemical toys" containing inherently dangerous substances or preparations should mention the precautions to be taken by the user.
- (iv) Food advertisements for children, accompanied by small toys should mention that these toys are not edible.
- (v) Advertisements for toys and articles such as slides, suspended swings and rings, trapezes, ropes should mention that these toys and articles should be properly assembled, checked and maintained. Advertisements for skates and skateboards for children should indicate the recommended protection equipments to be worn by the user. Advertisements for video games should mention that it is not recommended that a child plays with them for long hours. Advertisements for fireworks should bear a warning: "*For Use Under Adult Supervision.*"
- (vi) Advertisements must not invite children to purchase toys by mail or telephone including fax, email and internet.

4.2 Food

4.2.1 Advertisements shall not contain any statement or visual presentation which directly or by implication, omission or exaggerated claim, is likely to mislead consumers with regard to:

- (i) characteristics such as nature, composition component, additive, ingredient, date of manufacture, expiry date, fitness for purpose, range of use, quantity, weight, commercial or geographical origin;
- (ii) the value of the product and the total price actually to be paid;
- (iii) official recognition or approval, awards of medals, prizes and diplomas;

- (iv) industrial property rights such as patents, trade marks, designs, models and trade names;
- (v) research results or quotations from technical and scientific literature or statistics or scientific terms presented so as to imply a greater validity than they really have, or to make claims appear to have a scientific basis they do not possess;
- (vi) testimonials or endorsements which are obsolete or otherwise no longer applicable;
- (vii) the medicinal, nutritional, slimming, dietetic or other therapeutic value of the food.

4.2.2 Advertisements shall not:

- (i) unless supported by sound medical evidence, contain generalized claims such as “goodness” or “wholesome” which may imply that a food product or ingredient has a greater nutritional or health benefit than is actually the case;
- (ii) disparage good dietary practice, and any comparison between foods shall not discourage selection of foods such as fresh fruits and vegetables;
- (iii) encourage or condone excessive consumption of any food;
- (iv) When addressed to children, encourage frequent consumption throughout the day (particularly of potentially carcinogenic products, such as those containing sugar) or depict situations which discourage the cleaning of teeth every night.

4.2.3 Advertisements shall be accepted:

- (i) for claims for vitamins or minerals where they relate to restricted, unsupplemented or low food energy diets, for the use of women who are pregnant or lactating, and growing children and some people over 50.

- (ii) for low calorie food and drinks, if presented as, or as part of, slimming regimes or if using a slimming or weight control theme; it shall not be claimed that they can by themselves reduce weight without being part of a calorie/energy controlled diet.

4.3 Tobacco products

- (i) Advertisements for cigarettes and tobacco-related products are prohibited.
- (ii) The presentation of tobacco products as prizes or gifts for television contests should not be permitted. *(see regulations within Public Health Act)*

4.4 Alcoholic Drinks

- (i) Advertisements for alcoholic drinks are prohibited.
- (ii) Any sponsorship related to an alcoholic drink or brand name or brand associated with an alcoholic drink is not allowed. *(see regulations within Public Health Act)*

4.5 Medicines, Treatments and Health Claims

4.5.1 Pharmacy Act

- (i) The Pharmacy Act provides that no person shall advertise any pharmaceutical product intended for human or veterinary use, except in such technical or professional publications as may be approved by the Pharmacy Board.
- (ii) The above Act clearly defines such pharmaceutical products as medicines, drugs, preparations, poisons or therapeutic substance. As a general rule, all products making a “clear therapeutic claim” are considered to be drugs, for this purpose. Products

claiming to cure migraines or even headaches thus fall within the control of the Pharmacy Board. For example, a product which claims to soothe the throat does not, but if the same product claims to cure throat infections, it definitely comes under this control.

- (iii) The Pharmacy Board should be consulted in case of doubt as to whether the advertisement of any drug on radio or television is permissible

4.5.2 Children

No advertisement of pharmaceutical products may be directed at children under the age of 16.

4.5.3 Correspondence

No advertisement may contain any offer to diagnose, advise, prescribe or treat by correspondence (including post, telephone, fax or email).

4.5.4 Encouragement of excess

Advertisements must not imply or encourage indiscriminate, unnecessary or excessive use of any medical product or treatment.

4.5.5 Exaggeration

Advertisements must not make any exaggerated claims, in particular through the selection of testimonials or other evidence unrepresentative of a product's effectiveness, or by claiming that it possesses some special property or quality which cannot be substantiated.

4.5.6 Sales promotion

No advertisement for a medicinal product or treatment may contain any references to sales promotion, for example, competitions, premium offers or samples.

CHARITY ADVERTISING

5.1. Registration

Charity advertisements which solicit donations for:

- (i) private needs, individuals and associations or organisations, or
- (ii) campaigns for the raising of funds or any other kind of support, call for special attention.

5.1.1 Pre-requisites for charity advertising.

- (i) Licensees must satisfy themselves that the association is registered as a charitable association or that its charitable status has otherwise been recognised.
- (ii) Charitable associations or organisations wishing to advertise for (i) or (ii) of above section 5.1 above must be prepared to submit to a licensee full details of their constitutions, aims and objects, membership of governing body and recent and current activities, and such additional information as may be appropriate. This may include, for example, details of audited accounts.

6.2 Assurances

Charitable organisations proposing to advertise must be required to undertake that:

- (i) they are not involved in transactions in which members of their governing body or staff have a financial interest;
- (ii) the response to their proposed advertising, whether in cash or kind or services, will be applied solely to the purposes specified or implied in the advertisements;

(iii) They will not publish or otherwise disclose the names of contributors without their prior permission.

(iv) The IBA. reserves the right to seek other assurances on other matters, where appropriate.

5.3 Obligations

Advertising for charitable organisations must:

- (i) handle with care and discretion matters likely to arouse strong emotions in the general public;
- (ii) respect the dignity of those on whose behalf an appeal is being made;
- (iii) avoid presenting an exaggerated impression of the scale or nature of the social problem to which the work of the charity is addressed, for example, by illustrating the message with non-typical extreme cases
- (iv) reveal the destination of the funds collected or indicate how the public can obtain this information and in any case, information should be made readily available to the public.
- (v) not address any fund-raising message to children;
- (vi) not contain comparisons with other charities;
- (vii) not mislead in any way as to the field of activity of the charity, or the use to which donations will be put;
- (viii) not suggest that anyone will lack proper feeling or fail in one's responsibility through not supporting a charity.

- (ix) charitable organisations are not exempt from abiding to the general principles spelt out in the Code of Advertising Practice.

5.4 Persons appearing in charity advertisements.

When reference made to a known personality may be understood by the public as a guarantee of the seriousness of the advertised association, the person's qualifications and exact relation with the association must be indicated.

5.5 References to charitable organisations by commercial advertisers

Commercial advertisers may promote, either as a main or incidental purpose, the needs and objects of charitable organisations, in conformity with this Code, subject to the conditions that:

- (i) evidence must be provided to the licensee that the charitable organisation concerned has given its consent to the proposed advertisement; and
- (ii) in the case of an advertisement including an offer to donate part of the proceeds of sales to charity, such advertisement shall specify which organisation/s will benefit and make clear the basis on which the donation of the proceeds will be calculated.