

**REPUBLIC OF LITHUANIA**

**LAW ON ADVERTISING**

**July 18, 2000. No. VIII - 1871**

**Vilnius**

**CHAPTER I**

**GENERAL PROVISIONS**

**Article 1. The Purpose and Application of the Law**

1. The purpose of this Law is to improve consumer information concerning goods and services, protect consumer interests, protect freedom of honest competition and create conditions for the development of advertising activity.

2. This Law shall establish the requirements of the use of advertising, liability of advertising activity operators, and the legal basis for the control of advertising use in the Republic of Lithuania.

3. Given other Republic of Lithuania laws establish additional or other requirements

in the use of advertising, the provisions of those laws shall apply. Given the international agreements of the Republic of Lithuania, establish other requirements in the use of advertising, the provisions of those agreements shall prevail.

4. The advertising self-regulatory institutions representing advertising activity operators shall have the right to voluntarily regulate and control the advertising used by its own members, specifying the regulations that do not contradict the legal acts in force.

5. This Law shall not regulate political and social advertising and announcements that are not linked to commercial-economic, financial or professional activities.

**Article 2. Basic Definitions of This Law**

1. **Person** means legal or natural person as well as an enterprise which does not have the rights of a legal person.

2. **Economic Behaviour** means the decisions and actions of advertising consumers, in connection with acquiring goods or services, commercial-economic and financial or professional activities.

3. **Outdoor Advertising** means advertisement presentation means whereof are not located inside the premises. Various special (stands, billboards, columns, showcases, signboards etc.) and adapted (building walls, roofs, temporary constructions, transport means, hot air balloons etc.) means or advertisement presentation.

4. **Misleading Advertising** means advertising which in any way, including its presentation, deceives or is likely to deceive the persons to whom it is addressed or whom it reaches and which, by reason of its deceptive nature, is likely to affect their economic behaviour or which, for those reasons, injures or is likely to harm another person's capabilities in competition.

5. **Comparative Advertising** means any advertising which explicitly or by implication identifies a competitor of the advertiser and the goods or services offered by the competitor.

6. **Surreptitious Advertising** means information disseminated in any form and by any means, about the producer or service provider, his name or activities, mark of goods or service, presented in such a way which may confuse advertising consumers as to the actual purpose of presenting this advertising. Such presentation of information is considered as surreptitious advertising in all instances when it is paid or otherwise compensated for.

7. **Advertising** means the making of a representation in any form in connection with a trade, business, craft or profession in order to promote the supply of goods or services, including immovable property, rights and obligations.

8. **Supplier of Advertising** means a person upon whose initiative and interests the advertisement is used (ordered, produced, disseminated).

9. **Producer of Advertising** means a person who provides advertising services.

10. **Use of Advertising** means activity which includes ordering, production, mediation and dissemination of advertising.

11. **Operator of Advertising Activity** means supplier, producer, mediator or disseminator of advertising.

12. **Institution of Advertising Self-regulation** means an institution of voluntary self-regulation, established by operators of advertising activity, which is based upon this and other laws regulating advertising activity, as well as upon its approved regulations (code).

13. **Disseminator of Advertising** means a person who disseminates advertising by any means of information transmittal.

14. **Mediator of Advertising** means a person who serves as an intermediary in ordering advertisement dissemination, or production and dissemination of advertising services.

15. **Consumer of Advertising** means a person for whom the advertisement is intended or whom it can reach.

16. **Mark** is a distinguishing marking intended to separate the goods belonging to one person from the goods belonging to another person or the services provided by one person from the services rendered to another person.

## CHAPTER II

### PRINCIPLES AND GENERAL REQUIREMENTS OF ADVERTISING

#### Article 3. Principles of Advertising

Advertising must be:

- 1) proper and accurate;
- 2) clearly recognisable.

#### Article 4. Requirements of Advertising

1. The requirements of the Law On the State Language shall apply to the written and sound text of advertising.

2. Advertising shall be banned if it:

1) violates public and moral principles;

2) degrades human honour and dignity;

3) incites national, racial, religious, gender-related or social hatred and discrimination as well as defames or disinforms;

4) promotes force and aggression, gives rise to panic;

5) promotes behaviour which presents a threat to health, security and environment;

6) abuses superstitions, people's trust, and their lack of experience or information;

7) mentions the name and surname of a natural person without his permission, his opinion, information about his private or public life, property, are presented and his physical picture is used;

8) uses special subliminal measures and technologies in advertising dissemination;

9) uses advertising material which has been prepared in violation of authors' rights in literature, art, science and (or) related rights;

#### **Article 5. Misleading Advertising**

1. Use of misleading advertising shall be banned.

2. When judging whether or not an advertising is misleading, account shall be given to the accuracy, comprehensiveness and the following presentation criteria thereof:

1) claims presented in advertising are false, if the provider of advertising can not substantiate accuracy of the assertion during the time of use. A decision regarding whether there are there enough documents substantiating accuracy of claims present in the advertising, shall be based upon the consideration of an individual case. The evidence and recommendations by persons, whose competence is not linked with the content of the information being submitted shall not be recognised as data substantiating the accuracy of claims being submitted;

2) the information supplied in the advertising is incomplete, if a certain part has been omitted, the supplying whereof, is taking into account other information presented in this advertising, is certainly needed in order to avoid misleading of the consumers of advertising.

3) manner or form of supplying advertising are such that, the consumer of advertising may perceive an understandable inaccurate (misleading) advertising claim.

3. When judging whether an advertising is misleading, one must pay particular attention to the information contained therein regarding:

1) the supplier of the advertising or another person, activity, firm's name, mark of goods or service, authors' rights and related rights, patents and licenses;

2) the goods or services, location and origin of their production, time of manufacture, manner of manufacture, purpose, quantity, content, energy value, consumption (use) suitability, testing time, location, type and assessments, way of consumption (use), whether it meets the established standard, certification, official goods recognition and prizes at fairs and exhibits;

3) conditions of acquisition and consumption (use) of goods and services that is, the price or the manner of calculation thereof, terms of payment, guarantees, term of delivery, exchange, repair, service and refund.

4. When judging whether the advertising is misleading, it is regarded, that advertising consumers shall form an opinion regarding the accuracy of the claims presented in the advertising, comprehensiveness of the advertising, manner or form of presenting the advertising and shall adopt such decision, which may be expected from an average advertising consumer.

#### **Article 6. Comparative Advertising**

1. Comparative advertising shall be permitted, provided that:

1) it is not misleading;

2) the goods or services compared in it, that meet the same need or are intended for the same purposes;

3) one or more basic, examined and typical goods or services characteristic is being objectively compared therein, and the price may also be compared;

4) does not mislead the consumer regarding the supplier of the advertising or his competitor as well as the goods or services of the consumer or those of his competitor and characteristics of their goods or services, marks firms and services and identity of other distinguishing marks;

5) does not discredit or belittle the goods and services of a competitor, the marks of his goods or services, the name of firms, other distinguishing marks, activity, his legal, financial or other circumstances;

6) goods, having the mark of origin, are compared only with the goods having the same mark of origin;

7) no attempt is made to dishonestly make use of the reputation of the goods' mark, firm's name, goods' origin or other distinguishing marks of a competitor;

8) does not provide goods or services having imitations or copies of goods which possess protection of the mark or name of goods or services.

2. Should a specific offer be provided in the comparative advertising, the date of the validity cessation of the offer must be clearly indicated, and if necessary, it must be stated that this offer depends on the quantity of the goods on hand or possibilities of providing the services. Should the offer be not yet valid at the time of the publication of the advertising, the date of its coming into force must be indicated.

#### **Article 7. Advertising and Children**

It shall be prohibited to cause moral and physical detrimental influence to children by:

1) exploiting children's trust in parents, guardians (providers), teachers or other adults;

2) directly exhorting children to persuade their parents or other persons, to purchase the advertised goods or services, taking advantage of their inexperience and credulity;

3) forming children's opinion linking consumption of certain goods or services with the enhancement of their physical, psychological or social advantages before the members of their peer group;

4) unreasonably showing children in situations which pose danger to their health and life.

#### **Article 8. Identifiable Advertising**

Advertising must be clearly identifiable according to its form of presentation. Should there exist the likelihood that due to its form of presentation, the consumers of advertising may not recognise the advertisement disseminated in the public information media, such advertising must be marked with the word "Advertisement." Surreptitious advertising shall be banned.

#### **Article 9. Advertising of Illegal or Prohibited by Law Activities or Services.**

Advertising disseminated in any form and by any means of dissemination, shall be prohibited in cases when one seeks to advertise:

1) activity, which is prohibited by laws or is illegal;

2) goods or services, the production whereof and (or) sale (supply) are banned by laws.

### **CHAPTER III**

#### **REQUIREMENTS OF ADVERTISING, DISSEMINATED BY**

##### **INDIVIDUAL MEANS OF TRANSMISSION**

#### **Article 10. Advertising in Television Programmes**

This Law and the Law on Provision of Information to the Public shall set forth the requirements of advertising in television programmes.

#### **Article 11. Advertising in Movie Theatres and Video Halls**

In showing films at movie theatres and video halls, advertising may be presented only prior to showing of the movie film and (or) following it.

#### **Article 12. Outdoor Advertising**

1. Outdoor advertising shall be prohibited as follows:

1) in motorways and their sanitary protection areas, as well as in streets and along the side thereof, if it might block technical traffic regulation means and road signs, decrease visibility thereof, blind traffic participants, detract attention thereof, thus increasing the danger to traffic participants, and also it is prohibited to use advertising that imitates road signs;

2) on sculptures and monuments;

3) without permission of the owner of the land, structures, immovable cultural property on which it is being erected.

2. Advertising in protected areas and immovable cultural properties and areas thereof, shall be permitted only upon co-ordination with the state institution, that is responsible for the protection of the cultural properties, and the authorised institution of the protected area's founder.

3. An institution authorised by the Government shall approve the standard regulations regarding the mounting of outdoor advertising.

#### **Article 13. Requirements of Advertising, Disseminated by Other Means**

1. Advertising by telephone, fax and electronic mail may only be supplied with the advertising consumer's concurrence or per his request.

2. It shall be prohibited to directly supply advertising to a specific person if this person's disagreement has been clearly stated.

### **CHAPTER IV**

#### **REQUIREMENTS OF ADVERTISING INDIVIDUAL GOODS AND PROVISION OF SERVICES**

##### **Article 14. Foodstuffs Advertising**

1. It is prohibited in advertising :

1) to indicate or mention those foodstuffs characteristics, which it does not possess, and also about the healing or disease prevention characteristics, if no certificate of a special purpose food product registration issued according to the procedure established by the Ministry of Health, exists confirming this information;

2. to indicate, that a certain food product has extraordinary characteristics, if in effect all similar products possess the same characteristics.

2. Mother's milk substitutes may be advertised only in publications intended for health care experts and on the packaging of these products in accordance with legal acts of the Republic of Lithuania.

##### **Article 15. Advertising of Health Care Services**

It shall be prohibited to use a patient' name, surname, likeness and use the recommendations of healthcare administrative institutions, and of health care specialists or their professional organisations, in advertising health care services.

##### **Article 16. Advertising of Weapons and Ammunition**

Advertising of service and personal weapons and ammunition shall be permitted only in the places where these are being sold, specialised exhibits or fairs and publications specifically intended for specialists.

### **CHAPTER V**

#### **CONTROL OF ADVERTISING**

##### **Article 17. Institutions and Agencies of Control**

1. The National Council for Consumer Protection and its authorised institution, the Republic of Lithuania Council on Competition (hereinafter-Competition Council), local government

executive institutions and the state agency responsible for the protection of cultural properties as well as the agency authorised by the founder of the protected area, shall control the implementation of bans and requirements established by this Law.

2. The Competition Council shall control whether the advertisement is misleading and comparative advertisement; local government executive institutions and the state agency shall be responsible for the protection of cultural properties; the agency authorised by the founder of the protected area, shall supervise how the regulations of outdoor advertising are being observed; the National Consumer Protection Council and its authorised state agencies, shall supervise the implementation of the other bans and requirements established by this Law.

3. The institutions and agencies indicated in paragraph one of this Article, shall co-operate with the self-regulatory institutions of advertising in controlling the use of advertising.

#### **Article 18. Rights of State Agencies Authorised by National Consumer Protection Association**

1. In controlling advertising, state institutions authorised by the National

Consumer Protection Council, shall have the right to:

1) obtain from the state and local government institutions and agencies, and other persons, the information and documents necessary for investigation of the violation of this Law;

2) obtain from advertising activity operators information and documents, and if necessary, some samples of advertised goods, required in investigating a violation of this Law. Upon completion of the investigation of the violation, and if the decision by the National Consumer Council has been appealed in court, following the entry into force of the court decision, the ample of advertised goods and documents shall be refunded to operators of advertising activity;

3) to request that the operators of advertising activity or heads thereof, as well as other persons who are responsible for the use of advertising, would come and provide verbal or written explanations,

4) to obligate operators of advertisement activity to cease the advertising that does not meet the requirements set forth by this Law;

5) to warn the operators of advertising activity, that failure to cease the use of advertisement that does not meet the requirements set forth by this Law during the time limit set by the National Consumer Rights Council, that the fines established in Article 22 shall be imposed;

6) to set fines in cases established by laws.

2. Employees of the National Consumer Council and of state agencies authorised by it shall be prohibited from divulging a commercial secret of the advertising activity of advertising activity operators, entrusted to them, except in cases established by law.

#### **Article 19. Rights and Obligations of Council on Competition in Controlling Advertising**

1. In controlling the rights and obligations of the Council on Competition the Law

on Competition shall establish whether the advertising is misleading and the comparative advertising.

2. In addition to the rights established by the Law on Competition, the Council on Competition shall also have the right to:

1) to adopt a decision concerning an advertisement being acknowledged as misleading;

2) upon obtaining authorisation from the Higher Administrative Tribunal to temporarily prohibit, according to the procedure established by the Law on Competition, the dissemination of the advertisement, if sufficient information is available, or that the disseminated or projected to be disseminated advertising may be recognised as misleading and would cause other economic entities or public interests fundamental harm or irreparable consequences would ensue;

3) obligate the operators of advertising activity to cease the use of misleading advertisement;

4) to warn operators of advertising activity that, the fine set forth in Article 22, shall be applied for failure to cease use of misleading advertisement within the time limit established by the Competition Councils;

5) to obligate operators of advertising activity, whose advertising has been acknowledged as misleading to issue a corrective statement regarding this;

6) to apply sanctions in cases established by this Law and the Law on Competition.

## **CHAPTER VI**

### **PROCEDURE OF APPLYING LIABILITY FOR VIOLATIONS OF LAW ON ADVERTISING**

#### **Article 20. Liability for Violations of this Law**

1. Operators of advertising activities, who have violated the requirements of this Law, shall be liable in accordance with the procedure established by this and other laws.

2. Administrative liability established by laws shall be applied to natural persons for violation of this Law.

#### **Article 21. Special Features of Liability for Use of Misleading Advertising**

1. Supplier of advertising shall be liable for use of misleading advertisement, if he fails to prove, that this Law has been violated due to no fault of his.

2. The producer, mediator, or disseminator shall be liable for use of misleading advertising only in such cases when he was aware or had to be aware that a misleading advertisement was being used or the misleading occurred due to his actions in producing or publishing the advertising, or the producer of advertising, mediator or disseminator is unable to submit proofs, that would allow to establish the supplier (producer) of the advertising.

#### **Article 22. Fines**

1. For use of misleading advertising operators of advertising activity shall be given a fine amounting from five to twenty thousand Lt.

2. For failure to implement a temporary ban by the Council of Competition to issue a corrective statement on misleading advertising or an unsuitable implementation thereof, operators of advertising activity shall be assigned fines from one to twenty thousand Lt.

3. For failure to comply with the request of the Consumer Protection Council or its authorised state agencies to furnish information and documents, and if necessary, samples of advertised goods, needed for investigation of this case or inappropriate implementation thereof, operators of advertising activity shall be given a fine from one to ten thousand Lt.

4. For use of the advertising prohibited in Article 9 of this Law, operators of advertising activity shall be given a fine from five to twenty thousand Lt.

5. For failure to comply with the requirements of advertising use set forth in Article 6 of this Law, operators of advertising activity shall be fined from one to fifteen thousand Lt.

6. For failure to comply with advertising use requirements in Article 7,8,11,13,14,15, and 16 of this Law, operators of advertising activity shall be fined from one to ten thousand Lt.

7. The Council for Competition, having determined that misleading advertising, advertising prohibited in Article 9 of this Law or by the requirements set forth in Paragraphs 5 and 6 of the indicated Article are being used, shall obligate the operators of advertising activity to cease the use of such advertising.

8. The violations listed in Paragraphs 2, 3 and 4 of this Article of the Law on Advertising shall be considered persistent and fines shall be issued for such violations without any warning. A fine without warning shall also be issued in cases when the operator of advertising activity, after having been obligated to cease use of advertising activity, shall renew it in violation of the obligation.

9. The fine for the use of misleading advertising and failure to adhere to the requirements of advertising use in the articles indicated in paragraphs 5 and 6 of this Article shall be issued only in cases where operators of advertising activity fail to cease it following a warning obligation of the cessation thereof.

10. The size of the fines shall depend on the type of violations of the requirements of advertising use and the extenuating or aggravating circumstances;

11. A liability extenuating circumstance shall be considered to be such when an operator of advertising activity, having committed a violation, of his own accord, barred the way to harmful consequences resulting from the violation, assisted the supervisory institutions in the course of investigation and compensated for the losses or removed the caused damage.

12. A liability aggravating circumstance shall be considered to be such when the subject of advertising activity hindered the investigation, ignoring the obligation to cease it, if damage was caused to advertising activity users, or the same type of violation had been repeatedly committed over the year, for which a fine had been imposed upon the operator of advertising activity.

13. The fine may be imposed no later than within a one-year period from the last day of the dissemination of the advertising, and in instances noted in paragraphs 2 and 3 of this Article, from the day of adoption of a decision by an advertising control institution or state agency.

14. the fines set forth in this Article shall not apply to natural persons.

### **Article 23. Investigation Procedure for Violations of Advertising Law**

1. The Council on Competition shall investigate the violations indicated in paragraphs 1, 2 and 5 of Article 22 of this Law. The procedure of investigation and examination of violations shall be established by the Law On Competition.

2. The National Consumer Protection Council shall examine the violations listed in paragraphs 3,4 and 6 of Article 22 of this Law in accordance with the procedure established in this Article.

3. Employees of the state institutions authorised by the National Consumer Protection Council shall draw up a protocol of violation of this Law, in the form established by the National Consumer Protection Council, and conduct an investigation. Upon completion of the investigation, they shall remit the case within 30 days, with conclusions and proposals for examination by the National Consumer Protection Council.

4. When the National Council of Consumer Rights examines the case, the violator, and a representative thereof, who shall have the right to become familiar with the collected material, provide some explanation and submit requests. The failure to arrive by the violator and his representative, if they have been informed in time regarding the place and time of case examination, shall not interfere with examination of the case.

5. Upon completion of case examination regarding a violation of this Law, a decision shall be adopted which shall indicate the name of the state institution which adopted the decision, location and date of examination of the violation, information regarding the violator, circumstances of the violation, article of this Law, establishing the liability for the violation, also a decision. shall be adopted.

#### **Article 24. Collection of Fines**

1. The fine set by the National Consumer Protection Council shall be paid into the State Budget within one month of the day, on which the violator of this Law was handed down a decision regarding the setting of the fine.

2. An unpaid fine shall be collected in accordance with the procedure established by the Lithuanian Republic Code On Civil Procedure.

#### **Article 25. Appeal of Decisions by the National Consumer Protection Council**

1. Operators of advertising activity, may within 20 days from the day of receipt of the decision of the National Consumer Protection Council obligating them to cease the use of advertising or having imposed a fine, may appeal this decision in court according to the procedure established by the Law on Administrative Proceedings.

2. A court appeal shall not interrupt implementation of the decision, if the court does not rule otherwise.

#### **Article 26. Defence of Rights**

1. Persons whose rights and law-protected interests shall be violated while using the advertising prohibited by this Law, shall have the right in accordance with the procedure established by laws, to appeal in court with a claim on:

1) cessation of use of the advertising;

2) compensation of the damage inflicted;

3) obligating to publish one or more statements of definite content, correcting the misleading advertising.

2. The organisations representing advertising activity operators or consumer interests and also advertising self-regulatory institutions shall have the rights indicated in items 1 and 3 of paragraph 1 of this Article.

### **CHAPTER VII**

#### **FINAL PROVISIONS**

**Article 27. Entrance into Force of the Article**

This Law, with the exception of Article 28, shall enter into force from January 1, 2001.

**Article 28. Proposals to the Government**

1. Within three months of the adoption of this Law, the Government shall draft and submit to Seimas drafts of a Lithuanian Republic Code On Violations of Administrative Law Supplement and Lithuanian Republic Civil Process Code Supplement.

2. Within three months, the Government or its authorised institution, shall approve the legal acts implementing the Law on Advertising.

3. Until such time as a National Consumer Council shall be established, an institution, authorised by the Government shall implement the control of advertising use, stipulated for it.

*I promulgate this Law passed by the Seimas of the Republic of Lithuania.*

**PRESIDENT OF THE REPUBLIC VALDAS ADAMKUS**