



## **THE ADVERTISING STANDARDS**

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## **Preamble**

The Advertising standard lays down rules for advertisers, agencies and media owners.

The Advertising standard was prepared by the media and advertising industry and the Uganda Communications Commission. The Working Group consisted of members drawn from main industry bodies representing advertisers, agencies and media owners (including individual broadcasters), Telecommunications Sector; the Broadcast Media; the Uganda Consumer Protection Association; and the Uganda Communications Commission.

The Advertising standard contains wide-ranging rules designed to ensure that advertising does not mislead, harm or offend. Ads must also be socially responsible and prepared in line with the principles of fair competition. These broad principles apply regardless of the product/service/message being advertised.

In addition, the Advertising Standards contain specific rules for certain products and marketing techniques. These include rules for Telecommunication advertising; alcoholic drinks, health and beauty claims, children, medicines, financial products and prize promotions. These rules are complimentary to existing laws and are subject to such laws as exist and/or shall from time to time be enacted.

The following shall apply to the Standard:

- (i) It shall be administered and enforced by the Uganda Communications Commission.
- (ii) It shall be reviewed regularly and amended from time to time to meet the changing needs of both the industry and of our society.
- (iii) It shall be supplemented by individual sector specific standards (e.g. rules related to drug use in the case of the health sector) that are determined by the various sector member organisations, regulatory bodies and negotiated with governmental institutions. In such cases, these individual standards shall be reflected in the Appendices to the Standard. All such standards shall conform to the general principles laid down by this Standard and differ only in detail where the individual needs are to be met.
- (iv) Advertisers (publicists and channels transmitting messages to the public), shall be bound by the standard. The authority to interpret and pass judgement on matters relating to the Standard shall be vested in the Commission in accordance with its mandate to regulate content under Section 5 (x) of the Uganda Communications Act.
- (v) All advertisers and broadcasters shall adhere to the laws of republic of Uganda governing the subject.
- (vi) Acknowledging that Advertising is a service to the public and, as such, should be informative, factual, honest, and decent and its content shall not violate any of the laws of the country. In this regard therefore, all entities bound by the Standard shall neither prepare nor accept any advertising which conflicts with the Standard, and shall withdraw, amend and/or implement any other decision deemed as directed by the Commission.

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## **SECTION I**

### **THE STANDARD**

**Advertisers, Advertising Agencies and Broadcasters shall be obliged under their respective licenses and authorizations by subscription to this Standard to adhere to the provisions of the Standard.**

#### **OUTLINE FOR ADVERTISING CONDUCT**

- (a) All advertisements shall abide with the law.
- (b) All advertisements shall be prepared with a sense of responsibility to the consumer and shall be decent, honest and truthful.
- (c) All advertisements shall conform to the principles of fair competition in business.
- (d) No advertisement shall bring advertising into disrepute or reduce confidence in advertising as a service to the industry and to the public.
- (e) Advertisers, broadcasters and Advertising service agencies are responsible for ensuring that advertisements prepared and carried by them comply with all the relevant legal and regulatory requirements. Broadcasters may seek legal advice from the Commission if an advertiser claims an advertisement shall be considered:

#### **SCOPE**

##### ***1) Commercial advertising***

The primary object of this Standard is the regulation of commercial advertising, it applies therefore (except as expressly provided further on) to all advertisements for the supply of goods or services or the

provision of facilities by way of trade, and also to advertisements other than those for specific products which are placed in the course of trade by or on behalf of any trader.

## **2) *Non-commercial advertising***

In addition, the Standard applies, so far as is appropriate, to advertisements by government departments and agencies and to those by other non-commercial organizations and individuals.

## **3) *Political advertising***

As in the case of any advertisement the individual medium shall determine whether any political advertisement presented to it is acceptable within the provisions of this standard and any existing laws.

## **4) *Controversial subjects/Advocacy advertising***

Where a complaint is made against any advertisement which:

- Expresses an opinion on a matter which is the subject of controversy; and
- That controversy involves issues within the areas, broadly defined, of public policy and practice; then that opinion shall first be subjected to the Commission for interpretation as to determine whether it is subject to the provisions of the Standard relating to misleading claims.

All advertisements which contain such controversial statements shall:

- be readily recognizable as advertisements;
- cause no confusion as to the identity or status of advertiser;
- Whenever such information is not readily available state the advertiser's address and telephone number.

### **INTERPRETATION**

- 1) This Standard shall be applied in the spirit, as well as in the letter.
- 2) In assessing an advertisement's conformity to the terms of this Standard, the primary test applied shall be that of the probable impact of the advertisement as a whole upon those who are likely to see or hear it. Due regard shall be paid to each part of its contents, visual and aural, and to the nature of the mediums through which it is conveyed.
- 3) In assessing the impact of an advertisement, the Commission may consider, *inter alia* the following—
  - (a) the surrounding circumstances;
  - (b) that the language used in the advertisement and its interpretation as a whole in the context in which it has been used may justify departure from the literal meaning thereof;
  - (c) survey data, conforming to the requirements of indicating the probable impact as a whole upon those who are likely to see or hear it.
- 4) The Commission shall consider public sensitivity and social concern in interpreting advertising.
- 5) Clauses specific to advertising to children where applicable be differentiated from and/or include "young people".

- 6) When objections in respect of advertisements that were amended resulting from the Commission's ruling are received, both the original and amended version shall be taken into consideration.
- 7) Where the overall impression of the advertisement as a whole is in doubt, the Commission may, at the cost of the advertiser concerned, call for a consumer reaction test by independent research, acceptable to both parties and the Commission.
- 8) This Standard shall bind advertisers, advertising practitioners and media owners, but the principal responsibility for observing its terms shall rest with the advertiser.
- 9) In determining whether an advertisement is in breach of the provisions of this Standard, it shall not be the quantity of complaints that shall be determinative, but the validity of the complaints.
- 10) The Standard shall be subject to the provisions of the Constitution of the Republic of Uganda 1995 and any such laws made thereunder.

## **DEFINITIONS**

In this Standard, unless the context otherwise indicates –

- (a) "Advertisement" shall mean any visual or aural communication, representation, reference or notification of any kind –
  - (i) which is intended to promote the sale, leasing or use of any goods or services; or
  - (ii) which appeals for or promotes the support of any cause.
  - (iii) Promotional content of display material, menus, labels, and packaging shall also fall within the definition. Editorial material shall however not be an advertisement, unless it is editorial for which consideration has been given or received.
  - (iv) The word "Advertisement" shall apply to published advertising wherever it may appear. It shall however not apply to editorial or programming publicity.

- (b) "Act" means the Uganda Communications Act 2013;
- (c) "Commission" means the Uganda Communications Commission as established under section 4 of the Uganda Communications Act 2013;
- (d) "Advertiser" means the commercial entity, at whose instance the advertising licence appears;
- (e) "Broadcast medium" means the holder of a broadcasting license in accordance with Part IV of the Act;
- (f) "Children" means persons who are under the age of 18 years;
- (g) "Young People" means children between the ages of 13 – 17 years
- (h) "Minors" mean children of the age below thirteen years.
- (i) "The Standard" means the Advertising Standards Standard, as shall be amended from time to time, and shall include all appendices to the Standard and the Procedural Guide.
- (j) "Competitor complaints" means complaints lodged by, or on behalf of, a commercial entity or individual with a commercial interest concerning compliance with the Standard by another commercial entity.
- (k) "Consumer" means any person who is likely to be reached by or who is actually exposed to an advertisement. This includes an end consumer, user or trade customer.
- (l) "Consumer complaints" means complaints lodged by members of the public or by entities or organizations regarding consumer related matters, concerning compliance with the Standard by an advertisement or advertiser.
- (m) "Day" means any day but excludes Saturdays, Sundays and national holidays as well as the period from 25 December to 1 January in respect of the working days of the Commission

(n) "Discrimination" means any act or omission, including a policy, law, rule, practice, condition or situation which directly or indirectly –

- imposes burdens, obligations or disadvantage on; or
- withholds benefits, opportunities or advantages from, any person on one or more of the following grounds:
  - race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth, or
  - any other analogous ground;
  - and "discriminate" and "discriminatory" shall have corresponding meanings.

(o) "Electronic media" means all media as described and interpreted in the Electronic Media Act or other Act that may succeed it but shall at all times include advertising published by way of electronic means, and includes, inter alia, broadcast media.

(p) "Product" means goods, services, activities and facilities.

(q) "Retailer" means an entity carrying services, and acts as an intermediary between the public and service providers.

(r) "Testimonial" means any formal statement of truth or fact presented in or in support of an advertisement.

## **CONFIDENTIALITY**

The Commission shall make available to any person requesting some or all records, documents and other information in its possession, subject to the following:

- 1) The Commission shall refuse to disclose any record, document or other information, whether in respect of its own proceedings or otherwise in its possession, where such record, document or information contains:
  - a. trade secrets of a third party;
  - b. financial, commercial, or technical information, other than trade secrets, of a third party, the disclosure of which would be likely to cause harm to the commercial or financial interests of that third party; or
  - c. information supplied in confidence by a third party, the disclosure of which could reasonably be expected –
    - i. to put that third party at a disadvantage in contractual or other negotiations; or
    - ii. to prejudice that third party in commercial competition.
- 2) The Commission shall refuse a request for access to a record, document or other information if its disclosure would constitute an action for breach of a duty of confidence owed to a third party in terms of an agreement.

## **PRINCIPLES**

### **1) Offensive advertising**

- (a) No advertising shall offend against good taste or decency or be offensive to public or sectoral values and sensitivities, unless the advertising is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom.
- (b) Advertisements shall contain nothing that is likely to cause serious or wide-spread or sectarian offence.

## 2) **Honesty**

Advertisements shall not be so framed as to abuse the trust of the consumer or exploit his lack of experience or knowledge or his credulity.

## 3) **Unacceptable advertising**

### *(a) Fear*

Advertisements shall not without justifiable reason play on the fear of the consumers.

### *(b) Violence*

Advertisements shall not contain anything which might lead or lend support to acts of violence.

### *(c) Legality*

Advertisements shall not contain anything which might lead or lend support to criminal or illegal activities, nor shall they appear to condone such activities.

### *(d) Discrimination*

No advertisements shall contain content of any description that is discriminatory in nature.

## 4) **Truthful presentation**

### *(a) Substantiation*

- i) Before advertising is published, advertisers shall hold in their possession documentary evidence to support all claims, whether direct or implied,

- ii) Documentary evidence, whether in the form of survey data or any other documentation, shall be up to date and current, and shall have market relevance.
- iii) The accuracy of the claims based on the survey shall be evaluated and confirmed by an entity approved by, or acceptable to the Commission.
- iv) The advertiser shall bear the costs of such evaluation.
- v) Documentary evidence, other than survey data, shall emanate from or be evaluated by a person/entity, which is independent, credible, and an expert in the particular field to which the claims relate and be acceptable to the Commission.
- vi) Before making a ruling on documentary evidence, the Commission shall be entitled to:
  - i. Require the advertiser to engage the services of a person/entity which is independent, credible, and an expert in the particular field to which the claims relate, to confirm the accuracy of the claims,
  - ii. Require the advertiser, at the discretion of the Commission, to submit supporting documentation in order to determine the independence, credibility and expertise of the persons/entities from which the documentary evidence emanates.
- vii) Claims based on research conducted by publications must clearly state the source in advertising.

- viii) The Commission may consider new substantiation submitted after a ruling has been made by the Commission rejecting substantiation or upholding a complaint based on substantiation.

(b) Claims

i) Misleading claims

Advertisements shall not contain any statement or visual presentation which, directly or by implication, omission, ambiguity, inaccuracy, exaggerated claim or otherwise, is likely to mislead the consumer.

ii) Puffery

Value judgments, matters of opinion or subjective assessments are permissible provided that:

- it is clear what is being expressed is an opinion;
- there is no likelihood of the opinion or the way it is expressed, misleading consumers
- The guiding principle is that puffery is acceptable when an expression of opinion, but false and unacceptable when viewed as an expression of fact.

iii) Hyperbole

Obvious untruths, harmless parody or exaggerations, intended to catch the eye or to amuse, may be permissible provided that they are clearly to be seen as humorous or hyperbolic and are

not likely to be understood as making literal claims for the advertised product.

PROVIDED that such advertisements shall be shown with caution to minors.

iv) Expert opinion

Where informed opinion is claimed in support of a product, such opinion shall be substantiated by independent evidence.

v) Statistics and scientific information

Advertisements shall not misuse and/or abuse research results or quotations from technical and scientific literature.

vi) Headlines

- i. Headlines to advertising shall not be misleading in any way;
- ii. When a statement contained in a headline is highlighted to refer to an explanatory footnote, the footnote shall be in similar prominence as the headline and/or advert.

vii) Truthful presentation

Where material information is superimposed on screen, the print shall be clearly visible and remain on screen long enough to be easily read by the hypothetical reasonable viewer.

(c) The value of goods

- i) Consumers shall not be led to overestimate the value of goods whether by exaggeration or through unrealistic comparisons with other goods or other prices.

- ii) The advertiser shall be ready to substantiate any claim he makes as to the value in cash terms of goods offered by him at a lower price or free; and any saving to the consumer claimed to result from the offer of goods at a price lower than their actual value.

(d) Use of the word “free”

- i) Products shall not be described as “free” where there is any cost to the consumer, other than the actual cost of any delivery, freight or postage.
- ii) A trial may be described as “free”, although the consumer shall be expected to pay the cost of returning the goods, provided that the advertiser has made clear his obligation to do so.
- iii) Advertisements offering “free” goods shall indicate that such goods are only received subject to ‘*terms and conditions*’ clearly defined as such.

(e) “Up to . . .” and “from . . .” claims

Claims as to prices or performance, which use formulas such as “*up to 10 kilometres per litre*” or “*prices from as low as xxUGX*” shall not be acceptable unless a clear substantiation is made as to the range of prices or prizes available and distinctly separated.

(f) Direct supply

Except in the case of a service provider who distributes to the public directly, claims that goods are available “direct from the service provider” and the like shall not be acceptable where the advertiser cannot substantiate the implication that the consumer shall benefit, in terms of cash or otherwise, from the elimination of one stage or more in the normal process of distribution.

(g) Wholesale

No advertisement shall state or imply that goods offered for retail sale are being offered at wholesale prices unless the advertiser can prove that the prices in question are not higher than those at which goods are currently sold to retailers or other classes of trade buyers.

(h) Fresh

The word “fresh” shall not be used in advertising in such a manner as to mislead or confuse the consumer.

5) **Price comparisons**

(a) By service providers

An advertiser may claim that his prices are lower than those of his competitors PROVIDED that the claim can be substantiated.

(b) Co-operative advertising

Where a service provider inserts the name of a retailer the advertisement shall be deemed to be a “retail” advertisement and not that of a service provider and shall need to comply with the conditions contained herein governing retail advertisements.

(c) By retailers

Retailers shall be permitted to quote price comparisons/or specific discounts in advertising provided that the following conditions are complied with–

- i) Satisfactory documentary evidence of the price reduction is held available and can be provided on request.

- ii) A single price reduction, price comparison or discount may be advertised for a maximum period of 3 months.

*(d) Sale advertising*

Special sale prices shall be advertised only in the following circumstances:-

- i) Sale advertising with price comparisons shall be restricted to a maximum of period of 6 weeks per calendar quarter, and with a minimum of 3 months between any sale campaigns for the same product.
- ii) Satisfactory documentary evidence of all the claimed price reductions shall be made available to be furnished on request.

*(e) Corporate slogans*

The provisions of Clauses 5(d)(i) to 5(d)(ii) above shall not apply to corporate slogans, themes and statements relating to pricing.

**6) Disparagement**

(a) Advertisements shall not attack, discredit or disparage other products, services, advertisers or advertisements directly or indirectly.

(b) Comparisons highlighting a weakness in an industry shall not necessarily be regarded as disparaging when the information is factual and in the public interest.

(c) In considering complaints under this Clause, the Commission shall take cognisance of what it considers to be the intention of the advertiser.

## **1. Comparative advertising**

(a) Advertisements in which factual comparisons are made between products and/or services may be permitted provided that–

- i) All legal requirements have been adhered to;
- ii) only facts capable of substantiation have been used as governed by Clause 4(a) above;
- iii) one or more material, relevant, objectively determinable and verifiable claims have been made;
- iv) the claims are not misleading or confusing as governed by Clause 4(b)(i) above;
- v) no infringement of advertising good shall take place as governed by Section Clause 9 below;
- vi) no disparagement takes place as governed by Clause 7 above;

- vii) the facts or criteria used are fairly chosen. In this assessment the following shall, inter alia, be taken into account–
- the significance of the facts or criteria used;
  - the relevance and representativeness of the facts or criteria used; and
  - whether the basis of the comparison is the same.
- viii) products or services compared shall have the same or similar characteristics and must be intended for the same, or similar, purpose;
- ix) the contextual implication shall be strictly limited to the facts;
- x) where claims are based on substantiated research, the express consent as to the accuracy and scope of such claims shall be obtained from the relevant research body;
- xi) the advertiser has accepted responsibility for the accuracy of the research and claims.

*(b)* Reference to the claims above shall be deemed to include all visuals and aural representations.

*(c)* Group comparisons and comparisons which identify competitors by implication shall be acceptable subject to the criteria contained in this clause.

*(d)* The guiding principle in all comparisons shall be that products and/or services shall be promoted on their own merits and not on the demerits of competitive products.

(e) In considering matters raised under this clause, cognisance shall be taken of the intention of the advertiser.

## **2. Exploitation of advertising goodshall**

(a) Advertisements shall not take advantage of the advertising goodshall relating to the trade name or symbol of the product or service of another or advertising goodshall relating to another party's advertising campaign or advertising property.

(b) In considering matters raised under this clause consideration shall be given to, *inter alia*, the likelihood of confusion, deception and the diminution of advertising goodshall. Furthermore, whether the device or concept constitutes the "signature" of the product or service, is consistently used, expended throughout media and is prominent in the mind of the consumer.

## **3. Imitation**

(a) An advertiser shall not copy an existing advertisement, local or international, or any part thereof in a manner that clearly evokes the existing concept and which may result in the likely loss of potential advertising value.

(b) The provisions of Clause 10(a) above shall apply for a period of 5 years from the date of last usage of the advertising, packaging or labelling concerned.

## **4. Testimonials**

*(a) To be genuine*

Advertisements shall not contain or refer to any testimonial or endorsement unless it is genuine and related to the personal experience over a reasonable period of the person giving it.

*(b) Conformance to the Standard*

Testimonials themselves shall not contain any statement or implication contravening the provisions of this Standard and shall not be used in a manner likely to mislead.

*(c) Efficacy claims*

Testimonials shall not contain any claims to efficacy which cannot justifiably be attributed to the use of the product, and any specific or measurable results claimed shall be fairly presented.

*(d) Amendment*

Where any testimonial contains an expression which conflicts with this Standard, the advertiser may, with the written approval of the person giving the testimonial, amend it so as to remove the source of conflict.

*(e) Fictitious characters*

Particular care shall be taken to ensure that advertisements based on fictitious characters are not so framed as to give the impression that real people are involved.

*(f) Copies for inspection*

Advertisers and their agencies shall hold ready for inspection by the Commission, copies of any testimonials used in advertising.

**5. Protection of privacy and exploitation of the individual**

*(a)* Advertisements shall not, except in the circumstances noted in 12(b) portray or refer to, by whatever shall mean, any living persons, unless their express prior permission has been obtained.

*(b)* This clause does not apply–

- i) to the use of crowd or background shots in which individuals are recognisable, provided that neither the portrayal, nor the context in which it appears is defamatory, offensive or humiliating.
- ii) to advertisements for books, films, radio or television programmes, press features and the like, in which there appear portrayals of, or references to, individuals who form part of their subject matter;
- iii) to police or other official notices;
- iv) to occasions when in the Commission's opinion the reference or portrayal in question is not inconsistent with the subject's right to a reasonable degree of privacy and does not constitute an unjustifiable commercial exploitation of the individual's fame or reputation.

## **6. Identification of advertisements**

*(a)* Advertisements shall be clearly distinguishable as such whatever their form and whatever the medium used.

*(b)* In Electronic Media particular care shall be taken to clearly distinguish between programme content and advertising.

## 7. Safety

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

### *(b) Children and safety*

#### i) General principle

- i. Advertisements addressed to or likely to influence children shall not contain any statement or visual presentation which might result in harming them, mentally, morally, physically or emotionally.
- ii. The aim of the general principle is that children shall not be brought under the impression that it is acceptable and safe to be in certain surroundings; and situations as indicated or produced in the advert where such advert displaying acceptable material under clause 4(b)(ii) & (iii).
- iii. Particular attention and care shall be taken in advertisement that are aimed at or are likely to be viewed by Minors.

### *(c) Photosensitivity of viewers*

Advertisements that contain bright flashing and rapid moving images shall include a cautionary message to its viewers that “**the**

**contents of the advert contain bright flashing and rapid moving images that shall be viewed with caution”**

## **8. Guarantees**

- (a) “Guarantee” and “warranty” shall be used by advertisers to describe a formal written undertaking with legal force.
- (b) Advertisements shall not contain any reference to “guarantee” or “warranty” which take away or diminish any rights.
- (c) There shall be no objection to the use of “guarantee” etc. in a colloquial sense **provided** that the sense in which it used is made clear in the advert.

## **9. Money-back undertakings**

- (a) Neither “guarantee” nor “warranty” nor any word derived from either, shall be used in an advertisement to describe or refer to an undertaking.
- (b) *Time limit on money-back offers*

Where an advertiser, **in** an advertisement, makes an offer to refund part of the purchase price of a product under certain conditions, the period and conditions for which the offer is valid shall be stipulated in the advertisement.

**10. Use of the word “new” in advertising**

(a) The word “new” or words implying “new” shall be used for only a 6-month period.

(b) In electronic, print and outdoor media, the “new” message shall first be exposed no later than 180 calendar days after “date of proven first usage”

(c) The word ‘new’ shall not be used to advertise any change or improvement to a product, service or package, provided that the change or improvement is material and can be substantiated and defined.

**11. Use of animals in advertising**

Advertisers shall satisfy the Commission that no animal is caused pain or distress in the course of making any advertisement.

The use of animals in circumstances other than their “natural” way of use shall be subject to independent supervision by the authorized personnel.

**12. Pricing policy**

When any indication of cost is given in an advertisement regard should be had for the following provisions:

(a) *Quotation*

The selling price at which the goods shall be sold to the purchaser against immediate payment must be quoted in full.

*(b) Inclusiveness*

Such selling price shall include all necessary or incidental costs without which the product cannot or may not be purchased.

*(c) Clarity*

If reference is made in an advertisement to more than one product, or more than one version of a single product, it shall be clear to which product or version any quoted price relates.

**13. Psuedo cheques**

When pseudo cheques are used for promotional purposes such cheques shall: -

- (a)* have a warning notice printed, stating "Not valid for Bank Transactions";
- (b)* not have fictitious standards printed in the space; and
- (c)* the use thereof shall be subject to all Financial Institution and instrument regulations where applicable.

**14. Fair Competition**

All advertisements and advertising campaigns shall conform to existing and future fair competition laws and regulations.

**15. Advertising for specific marketing practices**

Any advertising campaign or promotion that involves bi or multifaceted media for advertising that includes broadcasting shall be subject to this standard and enforcement of any decisions affecting such promotion shall encompass all the media involved in the promotion.

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## **SECTION II**

### **COMPLAINTS RELATING TO ADVERTISEMENTS**

1. The Commission shall receive and resolve complaints lodged in respect to

Advertisements that are run on any of the platforms that it regulates.

2. The Commission shall exercise disciplinary control over all advertising that shall be published on the Communications platform as defined in the Act.

3. The Commission shall exercise its mandate by interpreting and enforcing the advertising standards standard contained herein in accordance with the Act.

#### **4. Simultaneous legal action**

The Commission shall not pursue complaints if the issue is the subject of simultaneous legal action in the Courts of law or in a separate arbitration process.

#### **5. Confidentiality**

- i) The Commission shall, subject to clause 4 above, on request treat in confidence any genuinely private or secret material

supplied unless legislation, the Courts or officials acting within their statutory powers compel its disclosure.

- ii) The Commission may in adjudicating over a complaint send confidential evidence to external consultants for expert opinion and such consultants shall be obliged to ensure confidentiality of the said information.
  
- iii) The Commission shall make available to complainants and advertising parties the names of relevant external consultants.

## **6. Fast Track cases**

The Commission may, where circumstances warrant, depart from standard processes and deadlines and impose shorter response deadlines, forward the summary of the complaint and the draft recommendation to advertising parties at the same time.

## **THE ADVERTISING STANDARDS ANNEXES**

### **ANNEX 1: DEFINITIONS**

**Commercial Communication;** Images with or without sound and audio announcements designed to promote, directly or indirectly, the products, services, ideas or images of a natural or legal entity pursuing an economic activity. Such images and or audio announcements accompany or are included in a broadcast programme lineup in return for payment or for similar consideration or for self-promotional purposes. Forms of audio-visual commercial communication include, inter alia, advertising, sponsorship, telemarketing and product placement but do not include public service announcements and charity appeals that are broadcast free of charge.

**Advertising;** shall mean any visual or aural communication, representation, reference or notification of any kind –

- (i) which is intended to promote the sale, leasing or use of any goods or services; or
- (ii) which appeals for or promotes the support of any cause.
- (iii) Promotional content of display material, menus, labels, and packaging shall also fall within the definition. Editorial material shall however not be an advertisement, unless it is editorial for which consideration has been given or received.
- (iv) The word "Advertisement" shall apply to published advertising wherever it may appear. It shall however not apply to editorial or programming publicity.

**Sponsorship;** Any contribution made by a public or private undertaking or natural person not engaged in providing broadcasting services or in the production of audio and or visual works, to the financing of such works with a view to promoting its name, its trade mark, its image, its activities and or its products.

### **Misleading Commercial Communications**

Commercial communications that contain any element of audio and or visual presentation which misleads or is likely to mislead, either directly or by implication, by act or omission, with regard to the merits of the product or service promoted or its suitability for the purpose recommended and which, by reason of its misleading nature, is likely to prejudice the interests of actual or potential consumers or a competitor.

### **Comparative Commercial Communications**

Commercial communications that contain explicit or implicit identification and or comparison of a competitor or products or services offered by a competitor.

### **Surreptitious Commercial Communications**

Commercial communications that contain the representation in words or pictures of products, services, the name, the trade mark or the activities of a producer of products or a provider of services in broadcasts when such representation is intended by the broadcaster to serve as a commercial communication and might mislead the public as to its nature. Such representation shall, in particular, be considered as

intentional if it is done in return for payment or for some similar consideration.

### **Subliminal Commercial Communications**

Commercial communications that include any technical device, which, by using images of very brief duration or by any other means, exploits the possibility of conveying a message to, or otherwise influencing the minds of, members of an audience without their being aware or fully aware of what has been done or is being done.

### **Telemarketing**

A direct offer broadcast to the public with a view to the sale, purchase, rental or supply of products or the provision of services, including immovable property, rights and obligations, in return for payment.

### **Television Product Placement**

Any form of commercial communication on licensed broadcast media consisting of, inclusion of or reference to a product, a service or the trademark thereof so that it is featured within a broadcast, in return for payment or for similar consideration.

### **Virtual Advertising**

An advertising technique which allows broadcasters to electronically insert virtual advertising messages or sponsorship announcements into a broadcast by altering the broadcast signal itself.

### **Interactive Advertising**

An advertising technique which allows the viewer/listener to interact with the broadcast medium or platform by actively choosing the advertising content to which s/he wishes to be exposed to for as long as s/he wants. Interactive advertising allows the viewer/listener to provide information directly to the broadcaster/advertiser by means of a return path, and/or participate in an interactive environment which is separate to the broadcast content.

### **Split-screen Advertising**

An advertising technique which allows the simultaneous presentation of editorial content and commercial information on the same screen, divided into two or more parts.

Product integration entails specifically tailoring programme content (including storylines) around a product, service or facility provided via a product placement arrangement. Product integration is generally, but not exclusively, evident in a programme by virtue of the undue prominence afforded to the placed item as well as the lack of editorial justification for the placement and the manner of its placement.

Thematic placement is similar to product integration except this form of placement does not necessarily entail the integration of products, services, facilities etc., but rather the tailoring of programme content (including storylines) around a specific theme e.g. beliefs, policies, aims and objectives of the placer. Thematic placement is generally, but not

exclusively, evident in a programme by virtue of the undue prominence afforded, a lack of editorial justification and the manner of its placement.

For radio, commercial communication can include:

- (i) Pre-recorded advertisements
- (ii) Live reads (Scripted advertisements read out “live” by presenters)
- (iii) Open talks or Ad-libs (Unscripted presentations)
- (iv) Roving reports (Coverage of “live” events by presenters)
- (v) Tag-ons (Promotional messages for advertisers tagged on to credit mentions for sponsors)
- (vi) Endorsement of an advertiser’s or sponsor’s products/services
- (vii) Any other promotional reference to a product or service during a programme.

### **Exclusions**

The following announcements shall not constitute advertising:

- (i) Informational announcements about upcoming broadcasts on broadcasting platforms or media, including the date and time of transmission of the named broadcast(s), and including “trailer” excerpts and/or a brief description of broadcast content, once such announcements do not contain advertising content.
- (ii) Announcements of outdoor broadcasting events or of non-broadcast events organised in whole or in part by the broadcaster if the viewing or listening public are allowed entry free of charge.

**Note: The excluded announcements will not count towards advertising minuteage**

## **ANNEX 2: PROTECTING THE INDIVIDUAL AND SOCIETY**

- 1.** All commercial communications shall be prepared with a sense of responsibility both to the individual and to society and shall not prejudice the interests of either. All commercial communications shall be legal, honest, decent, truthful, promote and protect the interests of the audience.
  
- 2.** Surreptitious, subliminal and misleading commercial communications are prohibited.
  
- 3.** All pertinent details of an offer contained in a commercial communication shall be stated in a clear and understandable manner. Disclaimers and asterisked or footnoted information included/required in commercial communications shall not contradict more prominent aspects of the message and shall be located and presented in such a manner as to be clearly visible and/or audible
  
- 4.** Comparative commercial communications containing direct or implied comparisons with other products or services are permissible provided they objectively compare products or services meeting the same needs or intended for the same purpose. Points of comparison shall be based on facts that can be substantiated and independently verified. The subject matter of a comparison shall not be chosen in such a way as to confer an artificial or unfair advantage to a promoter of a product or service.

5. Broadcasters shall be mindful of the potential impact of sound effects in commercial communications to distract, disorient and/or alarm viewers and listeners. Particular care shall be taken when including sound effects such as sirens, horns, ringing phones and screeching tires. They shall not be included at the beginning of a commercial communication.

### **ANNEX 3: OFFENCE, HARM AND HUMAN DIGNITY**

Advertisements must not be harmful or offensive. Advertisements must take account of generally accepted standards to minimize the risk of causing harm or serious or widespread offence. The context in which an advertisement is likely to be broadcast must be taken into account to avoid unsuitable scheduling.

#### **RULES**

- 1.** Advertisements must contain nothing that could cause physical, mental, moral or social harm to persons under the age of 18.
- 2.** Advertisements must not cause serious or widespread offence against generally accepted moral, social or cultural standards.
- 3.** Advertisements must not exploit the special trust that persons under the age of 18 place in parents, guardians, teachers or other persons.
- 4.** Advertisements must not include material that is likely to condone or encourage behaviour that prejudices health or safety.
- 5.** Advertisements must not include sounds that are likely to create a safety hazard, for example, to those listening to the radio while driving.
- 6.** Advertisements must not include visual effects or techniques that are likely to affect adversely members of the audience with photosensitive epilepsy.
- 7.** Advertisements must not be excessively noisy or strident. The maximum subjective loudness of advertisements must be consistent and in line with the maximum subjective loudness of

programmes and junction material. Measurement and balancing of loudness levels should preferably be carried out using a means of subjective loudness measurement conforming to standards derived from relevant ITU recommendations.

- 8.** Advertisements must not condone or encourage harmful discriminatory behaviour or treatment. Advertisements must not prejudice respect for human dignity.
- 9.** Advertisements must not condone or encourage violence, crime, disorder or anti-social behaviour.
- 10.** Advertisements must not distress the audience without justifiable reason. Advertisements must not exploit the audience's fears or superstitions.
- 11.** Communications shall not be offensive or derogatory to religious or political beliefs, or encourage behaviour prejudicial to the protection of the environment or to the health or safety of the public.
- 12.** Commercial communications shall be appropriately scheduled with  
  
regard to the time of broadcast, type and or content of broadcast, channel/service type, nature of the product or service being promoted and shall at all times be mindful of the likely composition of the audience
- 13.** Commercial communications shall not cause or be to the moral, mental  
  
or physical detriment to children, and shall comply with the following criteria for their protection:

- a) They shall not directly exhort children to buy or hire a product or a service by exploiting their inexperience or credulity;
- b) They shall not directly encourage children to persuade their parents, guardians or others to purchase the products or services being promoted;
- c) They shall not exploit the special trust children place in parents, guardians, teachers or other persons of stature in society;
- d) They shall not unreasonably show children in dangerous situations

**14.** Individual living persons shall not normally be portrayed or referred to in commercial communications without their permission. However, references to living persons may normally be made in commercial communications for books, films, radio or television broadcasts, newspapers, magazines etc., which feature the persons referred to in the communication, provided they are not offensive or inaccurate.

**15.** Commercial communications shall not be calculated to induce unwarranted fear on the part of the viewer or listener. Advertisements must not distress the audience without justifiable reason. Advertisements must not exploit the audience's fears or superstitions

## **ANNEX 4: MISLEADING ADVERTISEMENTS**

### **Rules**

- 1.** Advertisements must not materially mislead or be likely to do so.
- 2.** Advertisements must not mislead consumers by omitting material information. They must not mislead by hiding material information or presenting it in an unclear, unintelligible, ambiguous or untimely manner.

Material information is information that consumers need in context to make informed decisions about whether or how to buy a product or service. Whether the omission or presentation of material information is likely to mislead consumers depends on the context, the medium and, if the medium of the advertisement is constrained by time or space, the measures that the advertiser takes to make that information available to consumers by other means.

- 3.** For advertisements that quote prices for an advertised product or service, material information includes: the main characteristics of the product or service, the identity (for example, a trading name) and geographical address of the marketer and any other trader on whose behalf the advertiser is acting, the price of the advertised product or service, including taxes, or, if the nature of the product or service is such that the price cannot be calculated in advance, the manner in which the price is calculated, delivery charges, the arrangements for payment, delivery, performance or complaint handling, if those differ from the arrangements that consumers are likely to reasonably

expect, that consumers have the right to withdraw or cancel, if they have that right.

4. Obvious exaggerations ("puffery") and claims that the average consumer who sees the advertisement is unlikely to take literally are allowed provided they do not materially mislead.
5. Subjective claims must not mislead the audience; advertisements must not imply that expressions of opinion are objective claims.
6. Advertisements must not mislead by omitting the identity of the advertiser. Advertisers should note that it is a requirement for advertisers to identify themselves in some advertisements.
7. Advertisements must not falsely imply that the advertiser is acting as a consumer or for purposes outside its trade, business, craft or profession. Advertisements must make clear their commercial intent, if that is not obvious from the context.
8. No advertisement may use images of very brief duration, or any other technique that is likely to influence consumers, without their being fully aware of what has been done.

### **Substantiation**

9. Broadcasters must hold documentary evidence to prove claims that the audience is likely to regard as objective and that are capable of objective substantiation.

## **Qualification**

10. Advertisements must state significant limitations and qualifications. Qualifications may clarify but must not contradict the claims that they qualify.
11. Qualifications must be presented clearly.

## **Exaggeration**

12. Advertisements must not mislead by exaggerating the capability or performance of a product or service.
13. Advertisements must not present rights given to consumers in law as a distinctive feature of the advertiser's offer.
14. Advertisements must not suggest that their claims are universally accepted if a significant division of informed or scientific opinion exists.
15. Advertisements must not mislead about the nature or extent of the risk to consumers' personal security, or that of their families, if they do not buy the advertised product or service.

## **Prohibited claims**

These rules apply regardless of any substantiation presented in support of the claims.

16. Advertisements must not claim that a product or service is able to facilitate winning in games of chance.
17. Advertisements must not explicitly claim that the advertiser's job or livelihood is in jeopardy if consumers do not buy the advertised product or service.

## **Prices**

### **Definition**

Price statements include statements about the manner in which the price will be calculated as well as definite prices.

18. Price statements must not mislead by omission, undue emphasis or distortion. They must relate to the product or service depicted in the advertisement.
19. Quoted prices must include non-optional taxes, duties, fees and charges that apply to all or most buyers. However, VAT-exclusive prices may be given if all those to whom the price claim is clearly addressed pay no VAT or can recover VAT. Such VAT-exclusive prices must be accompanied by a prominent statement of the amount or rate of VAT payable.
20. If a tax, duty, fee or charge cannot be calculated in advance, for example, because it depends on the consumer's circumstances, the advertisement must make clear that it is excluded from the advertised price and state how it is calculated.
21. Advertisements that quote instalment costs must state the total price of the advertised product or service and the

instalment frequency as prominently as the cost of individual instalments.

- 22.** Advertisements that state prices must also state applicable delivery, freight or postal charges or, if those cannot reasonably be calculated in advance, state that such charges are payable.
  
- 23.** If the price of one product or service depends on another, advertisements must make clear the extent of the commitment consumers must make to obtain the advertised price.
  
- 24.** Price claims such as "up to" and "from" must not exaggerate the availability or amount of benefits likely to be obtained by consumers.

### **'Free' claims**

#### **Principle**

Advertisements must not describe a product or service as "free", "gratis", "without charge" or similar if the consumer has to pay anything other than the unavoidable cost of responding to the promotion and collecting or paying for delivery of the item.

- 25.** Advertisements must make clear the extent of the commitment consumers must make to take advantage of a "free" offer. Advertisements must not describe items as "free" if:

- i. consumers have to pay for packing, packaging, handling or administration of the "free" product or service
- ii. the cost of response, including the price of a product or service that consumers must buy to take advantage of the offer, has been increased, except where the increase results from factors that are unrelated to the cost of the promotion
- iii. the quality of the product or service that consumers must buy has been reduced.

**26.** Advertisements must not describe an element of a package as "free" if that element is included in the package price, unless consumers are likely to regard it as an additional benefit because it has recently been added to the package without increasing its price.

**27.** Advertisements must not use the term "free trial" to describe a "satisfaction or your money back" offer or an offer for which a non-refundable purchase is required.

### **Availability**

**28.** Broadcasters must be satisfied that advertisers have made a reasonable estimate of demand.

**29.** Advertisements that quote prices for featured products must state any reasonable grounds the advertisers have for believing that they might not be able to supply the advertised (or an equivalent) product at the advertised price, within a reasonable period and in reasonable quantities. In particular:

- i. if estimated demand exceeds supply, advertisements must make clear that stock is limited
  - ii. if the advertiser does not intend to fulfil orders, because the purpose of the advertisement is to assess potential demand, the advertisement must make that clear
  - iii. advertisements must not mislead consumers by omitting restrictions on the availability of products; for example, geographical restrictions or age limits.
- 30.** Broadcasters must be satisfied that advertisers who advertise products at specific prices will not use the technique of switch selling, in which their sales staff refuse to show the advertised product, refuse to take orders for it or to deliver it within a reasonable time or demonstrate a defective sample of it to promote a different product.
- 31.** Advertisements must not falsely claim that the advertiser is about to stop trading or move premises. They must not falsely state that a product or service, or the terms on which it is offered, will be available only for a very limited time to deprive consumers of the time or opportunity to make an informed choice.
- 32.** Advertisements must not mislead consumers about market conditions or the possibility of finding the product or service elsewhere to induce consumers to buy the product or service at conditions less favourable than normal market conditions.

The Commission will consider unqualified superlative claims as comparative claims against all competing products or services. Superiority claims must be supported by evidence unless they are obvious puffery (that is, claims that consumers are unlikely to take literally). Objective superiority claims must make clear the aspect of the product or service or the advertiser's performance that is claimed to be superior.

### **Comparisons with Identifiable Competitors**

- 33.** Advertisements that include a comparison with an identifiable competitor must not mislead, or be likely to mislead, consumers about either the advertised product or service or the competing product or service.
- 34.** Advertisements must compare products or services meeting the same need or intended for the same purpose.
- 35.** Advertisements must objectively compare one or more material, relevant, verifiable and representative feature of those products or services, which may include price.
- 36.** Advertisements must not create confusion between the advertiser and its competitors or between the advertiser's product or service, trade mark, trade name or other distinguishing mark and that of a competitor.
- 37.** Certain agricultural products and foods are, because of their unique geographical area and method of production, given special protection by being registered as having a "designation of origin". Products that are registered as having a "designation of origin" should be compared only with other products with the same designation.

### **Other Comparisons**

- 38.** Advertisements that include comparisons with unidentifiable competitors must not mislead, or be likely to mislead, consumers. The elements of the comparison must not be selected to give the advertiser an unrepresentative advantage.

### **Price Comparisons**

- 39.** Advertisements that include a price comparison must make the basis of the comparison clear.
- 40.** Price comparisons must not mislead by falsely claiming a price advantage. Comparisons with recommended retail prices (RRPs) are likely to mislead if the RRP differs significantly from the price at which the product or service is generally sold.

### **Imitation and Denigration**

- 41.** Advertisements must not mislead consumers about who manufactures the product.
- 42.** Advertisements must not discredit or denigrate another product, advertiser or advertisement or a trade mark, trade name or other distinguishing mark.
- 43.** Advertisements must not take unfair advantage of the reputation of a competitor's trade mark, trade name or other distinguishing mark or of the designation of origin of a competitor product or service.
- 44.** Advertisements must not present a product as an imitation or replica of a product or service with a protected trade mark or trade name.

### **Endorsements and testimonials**

45. Testimonials or endorsements used in advertising must be genuine, unless they are obviously fictitious, and be supported by documentary evidence. Testimonials and endorsements must relate to the advertised product or service. Claims that are likely to be interpreted as factual and appear in advertisements must not mislead or be likely to mislead.
46. Advertisements must not feature testimonials without permission.
47. Advertisements must not display a trust mark, quality mark or equivalent without the necessary authorization. Advertisements must not claim that the advertiser (or any other entity referred to in the advertisement), the advertisement or the advertised product or service has been approved, endorsed or authorized by any person or body if it has not or without complying with the terms of the approval, endorsement or authorization.
48. Advertisements must not falsely claim that the advertiser, or other entity referred to in the advertisement, is a signatory to a code of conduct. Advertisements must not falsely claim that a code of conduct has an endorsement from a public or other body.

#### **Guarantees and after-sales service**

49. Advertisements must not use the word "guarantee" in a way that could cause confusion about a consumer's rights.
50. Advertisements must make clear each significant limitation to an advertised guarantee (of the type that has implications for a consumer's rights). Broadcasters must be satisfied that the

advertiser will supply the full terms of the guarantee before the consumer is committed to taking it up.

- 51.** Broadcasters must be satisfied that advertiser will promptly refund consumers who make valid claims under an advertised money-back guarantee.

## **ANNEX 5: RECOGNITION OF ADVERTISING**

- 1.** Advertisements must be obviously distinguishable from editorial content, especially if they use a situation, performance or style reminiscent of editorial content, to prevent the audience being confused between the two. The audience should quickly recognize the message as an advertisement
  
- 2.** Commercial communications shall operate on a principle of transparency. Any commercial arrangement or promotion within any broadcast shall be readily recognizable as such and the listener/viewer shall be made aware of such an arrangement or promotion.
  
- 3.** If used in an advertisement, an expression or sound effect associated with news bulletins or public service announcements (for example, "news flash") needs special care. The audience should quickly recognise the message as an advertisement
  
- 4.** The use of a title, logo, set or music associated with a programme that is broadcast on that medium needs special care. The audience should quickly recognise the message as an advertisement.
  
- 5.** Presenters and other on-air personnel shall not advertise or endorse products or services during the broadcast of editorial content.
  
- 6.** Advertisers, sponsors and providers of placed products or services shall not exercise any editorial influence over the content or scheduling of broadcasts.

**7.** Commercial communications shall not describe products or services as “free” unless the products or services are supplied at no cost or at no extra cost (other than actual postage or carriage) to the recipient. And the latter fact must be made explicitly clear.

**8.** Commercial communications shall not feature persons regularly presenting news or informational broadcasts, except for commercial communications promoting appeals by registered charities or public service campaigns or announcements for safety, health, education, etc.

A person who currently and regularly reads the news on radio or television may voice radio advertisements but must not advertise products or services that are likely to be seen to compromise the impartiality of their news-reading role.

## **ANNEX 6: STANDARDS PERTAINING TO ADVERTISING AND TELEMARKETING**

1. The general principles and rules pertaining to all commercial communications shall apply to advertising and teleshopping
2. Without prejudice to the use of split-screen, virtual or interactive advertising techniques, advertising and telemarketing segments shall operate on a principle of separation, in the sense that commercial content in advertising breaks and telemarketing segments shall be separate from regular broadcast content.
3. The insertion and placement of advertising and telemarketing shall and should not affect the editorial integrity and value of programming. Advertising and telemarketing segments shall be inserted into regularly scheduled broadcasts in such a way that takes into account the natural breaks in, and the duration and nature of the broadcast.
4. Telemarketing shall not exhort or encourage children to contract for the sale or rental of products and services.
5. Advertising breaks and telemarketing segments shall be signaled by visual or audio means. Such means shall not contain any commercial communication.
6. Broadcasters shall take all reasonable measures and apply their best effort to ensure that advertisements do not sound louder than adjacent programming. Advertisements must not be excessively noisy or strident. The maximum subjective loudness of advertisements must be consistent and in line with the maximum subjective loudness of programmes and junction material. Measurement and balancing of loudness levels should preferably be carried out using a means of subjective loudness measurement conforming to standards derived from relevant ITU recommendations.



## **ANNEX 7: STANDARDS PERTAINING TO SPLIT SCREEN ADVERTISING**

Split-screen advertising consists of the simultaneous or parallel transmission of editorial content and advertising content. For example, an advertising spot may appear in a window during the transmission of a regularly scheduled broadcast in such a way that two separate images are visible on the screen. Provided the space set aside for advertising is not excessive, this technique enables the viewer to continue to watch the scheduled editorial broadcast during the transmission of an advertising spot. The split-screen technique is generally used for broadcasting relatively short advertising spots and, to date is primarily used during sports programming.

- 1.** Split-screen advertising is permitted during natural breaks and during end credits. Split-screen advertising may also be inserted during long-form sports programmes which do not have a natural break e.g. Formula 1 Racing.
- 2.** Split-screen advertising shall not exceed 50% of screen space and only one split-screen advertisement shall appear at any given time.
- 3.** Split-screen advertising is not permitted in news or current affairs Broadcasts.

## **ANNEX 8: STANDARDS PERTAINING TO INTERACTIVE ADVERTISING**

Interactive advertising allows the viewer/listener to supply information directly to the broadcaster via a return path e.g. telephone line, touch screen and/or to interactively explore a chosen environment for as long as s/he wishes.

Interactive advertising shall not bring the viewer/listener immediately/directly to products or services that are advertised.

Viewers/listeners shall be warned by appropriate means that they are about to enter a commercial interactive environment not governed by this Code. This shall be done via at a minimum a two-step process whereby the viewer/listener shall be able to access the interactive content only after the second step.

## **ANNEX 9: STANDARDS PERTAINING TO PROGRAMME SPONSORSHIP**

A programme is deemed sponsored if any part of its costs of production, acquisition or transmission is met through payment, or other valuable reward or consideration to the broadcaster, with the objective of promoting the sponsor's name, image, product, activities or services.

The overriding concern with programme sponsorship is the preservation of the editorial integrity of sponsored programmes. The threat to editorial integrity continues to grow, as advertisers/sponsors have assumed an even greater influential role in the media, where broadcasters, through the former's influence, have continued to change media output to suit their corporate interests. The broadcaster must ensure that the editorial integrity of their programming is not influenced by the sponsor.

Programme sponsorships, which include an advertiser-funded programme, is defined as a programme or broadcast that has had some or all of its costs met by a sponsor with a view to promoting its own or another's name, trademark, image, activities, services, products or any other direct or indirect interest. Costs include any part of the costs connected to the production and or broadcast of the programme, broadcast or channel.

A sponsor is any public or private undertaking (other than the broadcaster or programme producer), who is sponsoring the programme, broadcast, programming or channel in question with a view to promoting their or another's name, trademark, image, activities, services, products

or any other direct or indirect interest. This meaning extends and is also applicable to those who are otherwise supplying or funding the programme or channel

Sponsorship arrangements include: -

- a) The provision of direct funding by the sponsor e.g. where a sponsor provides funding and is the named sponsor of the programme.
- b) Through in-kind investment in the form of the provision of facilities or services from the sponsor (e.g. in outdoor broadcasts).
- c) The supply of products and services, including prizes

Broadcasters should recognise that there is a distinction between programme sponsorship and advertising. Through the sponsorship of a programme, an organisation gains public exposure, prestige and favourable association. The image of the organisation may be enhanced, and this is what sponsorship amounts to. It does not equate with advertisements or infomercials (long-form advertisements), where there is a direct appeal to the public to purchase a specific product or use a particular service.

The standards are intended to ensure that the distinction between advertising and sponsorship is clear to broadcasters and to viewers and listeners. This distinction is important as there are limits to the amount of advertising that can be broadcast and, in the absence of a clear distinction, it would be difficult to assess compliance with these limits, for broadcasters to ensure compliance and for the public to distinguish between sponsorship and advertising.

## **RULES**

- 1.** Sponsorship shall not constitute advertising as defined by this Code.
- 2.** A sponsorship announcement or reference shall not directly encourage the purchase or rental of a product or service, in particular by, inter alia, making special promotional references to a product or service, by the inclusion of advertising copy, prices, endorsements or calls to action, or by affording undue prominence to a product or service of the sponsor
- 3.** Viewers and listeners shall be informed of the existence of a sponsorship agreement. Sponsored programmes shall be identified as such by the name, logo and/or any other symbol of the sponsor such as a reference to its product or service or a distinctive sign thereof in an appropriate way for programmes or broadcast at their beginning, during and/or the end of the said programmes or broadcasts. Sponsor logos shall not be shown during the editorial segments of television documentaries.
- 4.** Programme material shall not be sponsored by an entity involved in the manufacture, supply or provision of a product or service that is not permitted to be promoted.
- 5.** Programmes shall not be sponsored by a sponsor(s) whose products or services are not permitted to appeal to the typical audience for that programme or during which time it would not be permitted to promote
- 6.** The sponsorship of programmes by entities whose activities include the manufacture or sale of medicinal products and medical treatment may promote the name or the image of the undertaking, but shall not promote specific medicinal products or medical treatments available only on prescription
- 7.** News, current affairs, and religious services shall not be sponsored on television.

- 8.** News programmes shall not be sponsored on radio.
- 9.** The information provided in respect of, and the mechanism used to participate in, sponsored competitions shall not constitute advertising.
- 10.** Broadcasters may accept sponsorship of weather broadcasts, financial broadcasts or traffic reports but the licensed operator shall retain ultimate editorial control of the sponsored programme;
- 11.** Broadcasters shall ensure that sponsorship of an informative programme does not compromise the accuracy and impartiality of the programme's contents;
- 12.** Broadcasters shall not discriminate against or favour a particular sponsor;
- 13.** Broadcasters shall not broadcast any programme which has been sponsored by a political party except for an advertisement by a political party in which case the advert must be distinctly identified as such, so that it is not confused with normal programming; and
- 14.** Broadcasters shall acknowledge the sponsorship of a programme immediately before and after the programme is broadcast, and any connection between the programme's subject-matter and the sponsor's commercial activities shall be explicitly identified as such.
- 15.** Broadcasters should maintain their integrity and exercise their responsibility to the public to ensure that consumer's interest is protected. Hence, they must retain their editorial and programming independence and should not be influenced by the sponsor on either the content or acquisition of a programme.
- 16.** On free-to-air television, broadcasters should bear in mind that channels are not over-commercialised such that viewers are inundated with sponsorship messages.
- 17.** Sponsorship of a channel is not allowed.

- 18.** Sponsorship of programmes may be allowed, but promotional references and presenters' endorsements of the sponsor or its products, that have the effect of advancing the sale or publicising the sponsor or its products within the programme, are not allowed.
- 19.** Programmes should not be made to look like infomercials.
- 20.** Broadcasters should be vigilant in ensuring that there is no undue prominence given to a sponsor. As a general principle, references to a sponsor's name, product/service, product name, trade mark or slogan in any programme should be editorially justified and should not (impose) obtrude on programme interest. Sponsorship identifications in a programme should also not be distracting such that they affect viewing pleasure.
- 21.** Broadcasters should bear in mind that programmes such as info-educational, current affairs, and children's programmes require a greater sensitivity to sponsorship, as opposed to entertainment or sports programmes. Broadcasters should hold these programme genres to stricter sponsorship standards. Genres such as info-educational programmes should always provide balanced, factual and objective coverage so that viewers can make informed choices.
- 22.** Advertisements tagged as part of a sponsorship credit will be counted as part of the 10 minute per clock hour advertising limit. However, sponsor credits before and after a programme will not be included in the 10-minute limit.
- 23.** A sponsored programme or programme segment must be clearly identified before the beginning and after the end of the programme or programme segment. The credits should explain the sponsor's actual connection with the programme.

## **SPONSORSHIP CONSIDERATIONS FOR PROGRAMME GENRES**

## **Children's Programmes**

1. For the purposes of this standard, 'children' is defined here as persons aged 18 years and below.
2. Sponsorship of children's programmes should be treated with caution. Broadcasters should consider carefully the appropriateness of any sponsorship of children's programmes as children are unlikely to understand fully the relationship between sponsor and programme.

## **Current Affairs and Info-educational Programmes**

3. Current Affairs programmes are characterised by their analysis and explanation of current events and issues, including materials dealing with current public policies, political, economic or social controversy.
4. Info-educational programmes are programmes which serve informational and educational needs. These programmes serve to inform and educate the public about a range of issues including, but not limited to, health, finance and education.
5. Broadcasters should consider carefully the appropriateness of any sponsorship of these programmes, particularly programmes which are analytical, informative or investigative in nature. It is therefore the responsibility of the broadcaster to maintain the programme's editorial integrity.

## **SPONSORSHIP FORMAT**

### **Sponsorship Credits**

6. A sponsored programme or programme segment must be clearly identified before the beginning (i.e. front credit) and/or after the end (i.e. end credit) of the programme or programme segment.

- a. The credits should explain the sponsor's actual connection with the programme, for example: "sponsored by", "in association with" or "brought to you by".
  - b. The sponsor's name, trade, brand, product, service name and/or trademark or logo (the essential identification for the sponsor) may be used.
  - c. Credits may indicate the connection between the sponsor and a brand or the nature of the sponsor's business, e.g. "sponsored by Company X, makers of Product X".
  - d. Slogans or copy lines of the sponsors may appear in visual display and/or through voice-overs during the front/end credits, but not within the programme or programme segment. Sponsor's promotional messages are also allowed at the end of a sponsored programme or programme trailer.
  - e. Bumper sponsorship credits (i.e. entering and/or leaving any commercial break) would be counted as part of the advertising allowance of 10 minutes per clock-hour.
7. The main purpose of a trailer is to alert viewers to a forthcoming programme or to provide general information about the broadcaster's programme service. The sponsor's presence should therefore remain secondary.

### **Programme Title Sponsorship**

8. A sponsor's name may be incorporated into the title of a programme, provided that it is an entertainment variety or sports programme. These programmes should adhere to the general principles of sponsorship and not be made to look like infomercials. While the sponsor's products and services can be featured in the programmes,

they should not be given undue prominence and be sales pitches that promote and encourage the purchase of the products. Presenters or interviewees appearing in these programmes should also not endorse the sponsor's products or services.

- 9.** A sponsor's name should not be integrated into the titles of other programme genres, especially news, current affairs, info-educational and children's programmes.
- 10.** A sponsor's name may also be integrated into a programme title when the title is that of a sponsored event covered by the programme (eg the Konica Cup Final, AXA FA Cup) or when the programme is acquired (eg Barclays EPL Highlights). This applies to both sponsored programmes and segments.
- 11.** A sponsor's name may be integrated into the generic title for programme title slots. Therefore, generic titles for time slots, such as "Company XXX's Blockbuster Sunday", may be used. However, this dispensation will not be applicable to time slots dedicated to children's programmes news, current affairs, business and informational programmes.
- 12.** The programme title should not share the same graphic representation or adapt the typeface of the sponsors' trade name/mark/logo. This is to preserve the identity of the broadcaster's programme from that of the sponsor's. A programme title is a part of a programme and producers of these shows should not be pressured into designing titles to meet sponsorship demands.
- 13.** The sponsor's logo should not appear within programme genres such as news, current affairs, info-educational or children's programmes. An exception would be if the sponsor's logo appears as part of the physical landscape of the featured event itself.
- 14.** For entertainment programmes, sponsor's logo may appear within a programme, as part of the studio set or on sponsor's products. However, the logos' appearance on screen should be incidental and should not be given prominence in terms of close-up or from favourable camera angles, or for any significant length of time.

**15.** The sponsor's logo should not be superimposed onto any programmes such as News, Info-educational, Current Affairs, and Children's programmes. A sponsor's logo can be superimposed onto a programme in the following instances:

**a. Superimposition on Screen**

Sponsor's logos can be superimposed on a corner of the screen during entertainment programmes, such as films, dramas or variety programmes. This can be allowed for a maximum of five seconds.

**b. Provision of Information Services**

This includes reports containing factual data such as weather reports, scoreboards, traffic updates etc. In this instance, the sponsor's logos can also be accompanied by a short slogan provided it does not block vital information.

**c. Coverage of Sports Events**

This will include technical timing for various sporting events such as athletics, swimming and football matches.

**d. Provision of timing**

This will include technical timing for various sporting events such as athletics, swimming and football matches. An on-screen acknowledgment to the technical provider may appear on screen whenever the information is displayed.

**e. Banners Superimposed during Programmes**

This refers to SMS banners (superimposed banners carrying viewers' SMS messages) and programme banners (superimposed banners to promote the channel or its programmes).

- 16.** In the above exceptions mentioned in Clause 33(a) to 33(e), the sponsor's logo as well as the vehicles that carry the logo (e.g. timer, sms banner), should not block any vital action or visual information on screen and not mar viewing pleasure. Sponsors logo and programme banners should not appear concurrently. Sponsor's logos should also not appear more than once every quarter of an hour.
- 17.** Crawlers with congratulatory messages and a sponsor's logo are can be allowed in the coverage of sports events where there is local participation to congratulate local athletes who have won competitions. The messages presented should not be unduly distracting and the logo used in such crawlers should be in accordance with guidelines mentioned in Clause 34.

#### **Virtual Logos/Billboards**

- 18.** Electronic imaging systems allow broadcasters to alter, add, or superimpose logos or billboards onto the telecast of an event. For example, a sponsor's logo is superimposed on the football field before the start of a match.
- 19.** The use of such virtual signage are allowed. When used, the virtual signage should not obstruct or interfere with events happening on the screen.
- 20.** The virtual signage can feature the sponsor's logo and slogans, but it should not contain any sales message. (Example of a slogan without sales message is "Toyota – Moving forward".)
- 21.** Since such virtual signage works by altering the broadcast signal itself, the usage of such systems should not result in a discernible degradation of the picture quality.

## **REFERENCE TO THE SPONSOR WITHIN A PROGRAMME**

- 22.** A programme sponsor can be featured in a programme but the content and presentation should not be of a promotional nature and should be relevant to the programme's context, storyline and format.
- 23.** If the sponsor's logo, products or other identification is used, they should be governed by the programme's context, storyline and format.

### **Undue Prominence**

- 24.** When featuring a sponsor in the programme, it is important to note that undue prominence should not be given to the sponsor within the programme such that the effect amounts to advertising. Any references to a product, service, company name or logo must be limited to what can be justified by the editorial requirements of the programme.
- 25.** Undue prominence may result from the recurring presence or reference to a product, service, company name or logo in a programme, or from the manner in which a product, service, company name or logo is presented or appears in a programme. Instances where undue prominence may occur include product placements and plugging.
- a. 'Product placement' is the placement of a product in a programme such that it is prominently seen, either through close-ups, choice angles, a shot held longer than usual, or repeated often.
  - b. 'Plugging' is a free mention of a product, service, company name either by the presenter or voice-over narration extolling the virtues of the product or service. It may also include close-ups, choice angles, repeated and/or prolonged shots of commercial products, services, logos, trade names, etc.

- 26.** The general principle of undue prominence should also apply to product and/or set sponsors. These are sponsors who provide only props/sets in programmes. These items need to be relevant to the programme's storyline or context and used discreetly and tastefully.

### **Endorsements**

- 27.** The presenter of sponsored programmes (including featured artistes and guests) should be objective and should not promote or endorse the sponsors and their products, especially in children's programmes and programmes that seek to inform/educate or give consumer advice.

### **Game and Award Shows**

- 28.** More flexibility is given to Game and Award shows in which sponsored prizes and products may form an inherent part of the programme. For instance, aural and audio/visual references to the sponsor's provision of the prizes may be allowed.

## **UNACCEPTABLE SPONSORSHIP**

### **Unacceptable Products and Advertisers**

- 29.** Broadcasters should not accept sponsorship from products, services and establishments that are not acceptable for advertising under the Advertising standards. Annex ibra

### **Political and religious interests**

- 30.** Sponsorship of non-political or religious programmes by political parties and religious groups shall not be accepted.

### **UNSPONSORABLE PROGRAMMES OR PROGRAMME SEGMENTS**

- 31.** The following programmes must not be sponsored:

- a. Religious Services
- b. Parliamentary Programmes
  - i. Parliamentary programmes would include Opening of Parliament, Highlights from Parliament, Select Committee Hearings, Special Committees of Parliament, Commission of Inquiry, etc.
- c. Programmes related to the elections
  - i. Election-related programmes include Campaign Reports and Polling Night Results.
- d. Ministerial Speeches, Press Conferences and Speeches by Public Officials
- e. News Programmes including flashes, bulletins, headlines, top stories specials, and breaking news
  - i. The main news bulletin, including headlines, top stories, news flashes and breaking news, should not be sponsored.
  - ii. Specialist news reports may however be sponsored. Specialist news reports refer to factual data like traffic, weather, stock market indices, foreign exchange rates, and “softer” news items like culture, sports and travel. Such sponsored reports

must be separated from the general news programme clearly, for example by programme end credits or a commercial break, so as not to give the perception that the whole news programme is sponsored.

## **ANNEX 10: STANDARDS PERTAINING TO CONTESTS**

Broadcasters should take steps to ensure that competitions are prepared and undertaken with a sense of responsibility, both to the individual and to society. Competitions must be legal, honest, decent and truthful, must not be misleading and must protect the interests of the audience. All pertinent information regarding the competition must be provided to the viewer or listener.

The broadcasters SHALL take the following steps to ensure that the requirements of the Code are met: -

- 1.** The terms and conditions regarding the competition should be clear, and easy to understand.
- 2.** Individuals entering competitions should have a fair chance of winning the competition. Accordingly, broadcasters should ensure that the methodology used to reach a correct answer to the competition is clear and explained on-air, even where no winner emerges upon completion of the competition. This is particularly important where the solution is cryptic or complex.
- 3.** Broadcasters should be mindful when running competitions that may, in certain circumstances, have than one possible correct answer. In such circumstances, a viewer or listener will have a reasonable expectation of having a chance at winning the competition (or one element of the competition) in instances where an alternative answer is correct.
- 4.** Broadcasters or their Presenters should not mislead audiences about the complexity of a competition. In addition, broadcasters are advised to ensure that the answer is reasonable based on the manner of its presentation.

- 5.** In the case of repeat programmes containing competitions that have been completed, the Commission advises broadcasters to take steps to notify viewers and or listeners to the said repeat programmes that the competition has been closed. Where a listener or audience member can enter the competition via a repeat programme, broadcasters are advised to ensure that such entries will be included in the competition.
- 6.** Where a technical issue arises in respect of the competition, such that it will affect the fairness of the competition, broadcasters are advised to take steps to notify the audience and amend the competition process accordingly e.g. by carrying the competition over to another day.
- 7.** The Commission recommends that broadcasters draw up and make available terms and conditions that may apply to a particular competition. The Commission recommends broadcasters to state on-air any key terms that would void an entry or prohibit a winner from taking-up the prize e.g. age limits or time limits in the case of travel prizes.

## **ANNEX 11: STANDARDS ON TELEVISION PRODUCT PLACEMENT**

The product placement rules apply only to television. These rules apply to the placement, under certain circumstances, of products and/or services (including facilities, venues, etc.), in television programmes. Products and services are generally placed in television programmes as production props, locations, facilities or prizes and are included in order to enhance the realism of a programme and/or in order to provide interactive opportunities for audiences and as a source of revenue to broadcasters.

Broadcasters should note that commissioned programmes aired on their service(s) must comply with the product placement rules and broadcasters should put in place measures to ensure compliance in this regard.

- 1.** Product placement is prohibited unless permitted as specified in this standard.
  
- 2.** Product placement may be permissible:
  - (a) In return for payment or similar consideration i.e. Paid Product Placement;
  - (b) Where there is no payment but the provision only of certain products and services is free of charge, such as production props and prizes, with a view to their inclusion in a programme i.e. Free Product Placement

**3.** Programmes that contain permitted product placement shall meet all of the following requirements: -

- a) their content shall in no circumstances be influenced in such a way as to affect the responsibility and editorial independence of the broadcaster and the placement therein shall be editorially justified;
- b) their scheduling shall in no circumstances be influenced in such a way as to affect the responsibility and editorial independence of the broadcaster;
- c) they shall not directly encourage the purchase or rental of products or services in particular by making special promotional references to those products or services and the placement therein must not constitute advertising as defined in this Code;
- d) they shall not give undue prominence to the products or services in question;
- e) Viewers shall be clearly informed of the existence of product placement. Programmes containing product placement shall be appropriately identified, at the start and the end of the programme, and when a programme resumes after an advertising break, in order to avoid any confusion on the part of the viewer.

The requirements of (e) do not apply when broadcasting television programmes that have neither been produced nor commissioned by the broadcaster or a company affiliated to the broadcaster.

**4.** Product integration and thematic placement are not permitted

**5.** Paid Product Placement (Permitted Programme Genres)

Paid product placement is only permitted in cinematographic works, television films, sport, dramas, including one-off dramas, drama series and serials (excluding docu-dramas) and light entertainment programmes (excluding talk/chat shows that regularly include such proportion of news and current affairs content as specified by the Commission).

### **Characteristics of Programme Genres**

The following consists of an outline of some of the key characteristics of programmes genres/types that can and cannot include Paid and Free Product Placement. The descriptions are for guidance purposes only and should not be taken as definitions since each programme is unique. While one programme may fall neatly into one genre, it may also straddle another e.g. a documentary may also be a news and current affairs programme.

**Cinematographic works:** full-length films (i.e. normally more than 75 minutes in length) wherein a fictional plot is played out by actors, produced with the intention of a cinema release.

**Television films:** full-length films (normally between 50 to 90 minutes long) produced with the intention of being aired on television.

**Sports programmes:** include both live transmissions of sport events and unedited retransmissions of live coverage, as well as edited sports programmes or sports shows, which transmit only parts of the event or the highlights. Also includes sport analysis and other programming focusing on sport.

**Drama Serial:** an ongoing, episodic work of drama presented in a serial format i.e. a soap opera is an example of a drama serial. Serials tend to have a continuous storyline and fixed cast. They are generally broadcast all year on a weekly basis (or more frequently).

**Light entertainment:** a genre of programming that encompasses a wide range of programme types including games shows, talk/chat show, comedy programmes, music programmes, variety shows etc. The absence of serious content is a characteristic of such programme; however, human-interest material is also common. Light entertainment, Lifestyle and Factual programming overlap.

**Factual programmes:** include science and history programmes, arts programmes, wildlife and nature programmes, hobbies and leisure programmes and reality programmes.

**Game show:** a type of programme where the public or celebrities play a game that involves answering questions or solving puzzles, usually for money and/or prizes. Games shows and reality television programmes may overlap.

**Talk show / chat show:** a program where one person (or group of people) discusses various topics put forth by a talk/chat show host. These programmes can include a panel of guests or a single guest who discuss their work or area of expertise with a host or co-hosts.

**Comedy:** includes scripted comedy, satire, stand-up, sitcoms and sketch shows

**News programming:** includes a news bulletin (including extended bulletins) providing national, international, regional, local and community news coverage and news magazine programmes, which contain a range of items, related to news stories, with comments and elements of general interest.

**Current affairs programming:** includes explanation and analysis of current events and issues, including matters which are either of public controversy or the subject of current public debate.

**Arts programmes:** includes programmes providing information, comment or critical appraisal of the arts. The subject matter can cover

theatre, opera, music, dance, cinema, visual arts, photography, architecture and literature, among others.

**Religious programmes:** includes programming whose focus is religious belief and informational programmes on such belief. Coverage of religious services is also included.

**Documentaries:** includes programmes that present subject matters in a factual and informative manner and often consisting of actual news films or interviews accompanied by narration. Such programmes contain little or no fiction (except in the case of docu-dramas).

**Docu-drama:** a drama based on reality, telling the story of actual events.

Paid Product Placement is not permissible in any programme genre/type that is not specifically listed above. In this regard, news and current affairs, documentaries, docu-dramas, religious programmes, broadcasts of religious services and children's programming, among others, may not contain paid product placement.

## **ANNEX 12: FAITH, RELIGION AND OTHER EQUIVALENT SYSTEMS OF BELIEF**

These rules seek to strike a balance between freedom of speech and the prevention of advertising that could be harmful. The Commission will us them to;

- a. reduce the social harm that can result from damage to inter-faith relations
- b. protect the young and allow parents to exercise choice in their children's moral and philosophical education

- c. protect those who are vulnerable because, for example, of sickness or bereavement
- d. prevent potentially harmful advertisements from exploiting their audience.

The rules in this section apply to advertisements, about any matter, by or on behalf of bodies that are wholly or mainly concerned with religion, faith or other systems of belief that can reasonably be regarded as equivalent to those that involve recognition of a deity, including belief in the non-existence of deities

### **Rules**

- 1.** Broadcasters must not accept advertisements from or on behalf of bodies:
  - a. that practice or advocate illegal behavior
  - b. whose rites or other forms of collective observance are not normally directly accessible to the general public or
  - c. that apply unreasonable pressure on people to join or participate or not to opt out.
- 2.** Broadcasters must be satisfied that no representatives will contact respondents without their consent.
- 3.** Advertisements must not promote psychic practices or practices related to the occult. Psychic and occult-related practices include Satanism, casting of spells, palmistry, attempts to contact the dead, divination, the invocation of spirits or demons and exorcism.
- 4.** Advertisements must identify the advertiser and its faith, if that is not obvious from the context.

5. Advertisements must not expound doctrines or beliefs, unless they are broadcast on channels whose editorial content is wholly or mainly concerned with matters of religion, faith or equivalent systems of belief ("specialist broadcasters"). Advertisements carried by specialist broadcasters may express the advertiser's opinion on matters of doctrine or belief but must not present it as unqualified fact and must make clear to the audience that it is the advertiser's opinion.
6. Advertisements must not exhort audience members to change their beliefs or behavior.
7. Advertisements must not refer to the alleged consequences of faith or lack of faith. They must not present the advertiser's beliefs as the "one" or "true" faith.
8. Advertisements must not denigrate the beliefs of others.
9. Advertisements must not appeal for funds, except for charitable purposes. If the charitable purpose includes or will be accompanied by recruitment or evangelism, the advertisement must make that clear.

Broadcasters are urged to take measures and be satisfied that before broadcasting an advertisement that includes a charitable appeal, the funds raised will be used solely for the benefit of specified groups. Advertisements must not imply that respondents will receive spiritual benefits in return for a donation to the advertised cause.

10. Advertisements must not exploit the hopes or fears of the vulnerable. The elderly, the sick and the bereaved should be regarded as especially vulnerable.
11. Advertisements must not claim that faith healing, miracle working or faith-based counselling can treat, cure or alleviate physical or

mental health problems; they may, however, make restrained and proportionate claims that such services can benefit emotional or spiritual well-being.

## **ANNEX 13: STANDARDS PERTAINING TO SPECIFIC PRODUCTS AND SERVICES –**

### **ALCOHOL**

- 1.** Commercial communications for alcoholic drinks shall not encourage excessive consumption of alcohol or present abstinence or moderation in a negative light. Advertisements must not feature, imply, condone or encourage irresponsible or immoderate drinking. That applies to both the amount of drink and the way drinking is portrayed.
- 2.** Commercial communications for alcoholic drinks shall not claim that alcohol has therapeutic qualities or that it is a stimulant, a sedative, tranquilizer or a means of resolving personal conflicts.
- 3.** Commercial communications for alcoholic drinks shall not place emphasis on high alcohol content as being a positive quality of the beverages.
- 4.** Commercial communications for alcoholic drinks shall not create the impression that consumption of such beverages contributes towards sexual attraction and success or social success. Advertisements must not link alcohol with daring, toughness, aggression or unruly, irresponsible or antisocial behaviour.
- 5.** Commercial communications for alcoholic drink shall not link the consumption of alcohol to enhanced physical performance or to driving.
- 6.** Commercial communications for alcoholic drinks shall not be aimed at children or depict children consuming these beverages.
- 7.** Commercial communications for alcoholic drinks shall be cast towards brand selling and identification only.

- 8.** Broadcasters shall ensure that commercial communications for alcoholic drinks are not transmitted in or around programmes primarily intended for children whether as viewers or listeners.
- 9.** Commercial communications for alco-pops and products of a similar nature are not permitted unless they are clearly identified as alcoholic drinks. Advertisements must neither imply that alcohol can contribute to an individual's popularity or confidence nor imply that alcohol can enhance personal qualities

**MEDICINES, MEDICAL TREATMENTS, PRODUCTS AND SERVICES AND COSMETIC TREATMENTS AND SERVICES.**

The fact that serious harm may result to the individual from exaggerated, misleading or unwarranted claims necessitates the maintenance of a very strict standard in relation to the advertising of Medicines, Medical Treatments, Products and Services and Cosmetic Treatments and Services on radio and television.

1. Commercial communications shall not contain recommendations or endorsements by health professionals or recommendations by persons who, because of their celebrity or standing in society, could encourage the use of medicines, medical treatments, products and services and/or cosmetic treatments and services.
2. Commercial communications shall not contain statements which give the impression of professional advice or recommendation made by persons who appear in the commercial communication and who are presented whether actually or by implication, as being qualified to give such advice or recommendation.
3. Commercial communications shall not make reference to a hospital, clinic, college, institute, laboratory or other similar body unless a bona fide establishment corresponding to the description used does in fact exist and is duly registered as such. No reference shall be made to doctors unless such reference can be used with propriety in the context of the commercial communication.
4. Commercial communications shall not contain the unwarranted and indiscriminate use of such words as "safe", "without risk", "harmless", or terms of similar meaning. In addition, exaggerated claims are not permitted, be they through the selection of testimonials or other evidence unrepresentative of the effectiveness of medicines, medical treatments, products and services and cosmetic treatments and services.

- 5.** Commercial communications for medicines, medical treatments, products and services and cosmetic treatments and services intended to treat any serious medical or health related complaint, condition, symptom or disease, which require the attention of a registered medical practitioner, are not permitted.
- 6.** Commercial communications containing offers to diagnose, or treat by correspondence, any medical or health related complaint, condition, symptom or disease are not permitted.
- 7.** No commercial communication shall be calculated to induce fear on the part of the viewer or listener that s/he may, without treatment, suffer, or suffer more severely, from any serious complaint, condition, symptom, or disease.
- 8.** No commercial communication shall falsely claim or suggest that a medicine, medical treatment, product or service, or a cosmetic treatment or service being promoted is in the form in which it occurs in nature or claim that its value lies in its being "natural".
- 9.** The unnecessary, indiscriminate, irrational and/or excessive use of medicines, medical treatments, products and services and cosmetic treatments and services shall not be encouraged either directly or indirectly
- 10.** Commercial communications of this nature may contain the address of the service provider and factual descriptions of services available but shall not contain anything which could be deemed an encouragement to use the product or service. Information detailing special offers, discounts or any other promotional offers intended to encourage the use of treatments, products or services of this nature are not permitted.
- 11.** Commercial communications for surgical cosmetic treatments and services may contain the address of the service provider and factual descriptions of services available but shall not contain anything which could be deemed an encouragement to use the treatment or service. Information detailing special offers, discounts, references to credit facilities available or any other

promotional offers intended to encourage the use of cosmetic treatments or services of this nature are not permitted.

- 12.** Deriving from Section 33 of National Drug Authority Act, Cap 206 of 2000, the following sub code to the Advertising code is proposed to guide advertisers of Drugs and medicines.

**No person shall, by way of, advertisement, publish, in whatever manner, in relation to any drug, descriptive matter calculated to lead to the use of that drug for:**

- a) Prevention or treatment of any disease specified in the Fifth Schedule of the Act
- b) The purpose of termination or influencing the course of human pregnancy, or
- c) Any purpose relating to enhancing human potency.

**Diseases specified under the Fifth schedule include;**

- a) Syphilis, Gonorrhoea, Amenorrhoea (absence of Menstruation)
- b) Arteriosclerosis (affects blood vessels),
- c) Bladder stones,
- d) Blindness,
- e) Nephritis
- f) Bright's disease (disease of the kidneys)
- g) Cancer Cataract (clouding of the eyes)
- h) Trachoma (disease of the eyes),
- i) Deafness,
- j) Diabetes,
- k) Diphtheria,
- l) Tuberculosis,
- m) Dropsy (swelling of the body),
- n) Epilepsy or Fits,
- o) Tetanus or Lock jaw,

- p) Erysipelas (affects the skin),
- q) Gallstones,
- r) Glaucoma (damage of the eye nerves),
- s) Goiter,
- t) Heart disease,
- u) Hernia or Rapture,
- v) Kidney stones,
- w) Leprosy,
- x) Locomotorataxy and Paralysis,
- y) Lupus (Auto immune disease),
- z) Pneumonia and Pleurisy,
- aa) Poliomyelitis (Polio),
- bb) Scarlet fever,
- cc) Schistosomiasis (Bilharzia),
- dd) Septicemia,
- ee) Smallpox
- ff) Any structural organic ailment of the auditory (hearing) system.
- gg) HIV/AIDS.

## **ANNEX 14: WEIGHT CONTROL AND SLIMMING PRODUCTS**

The standards are designed to ensure that advertisements for weight control and slimming products and services receive the necessary high level of scrutiny. These standards apply to advertisements for weight-control and slimming foodstuffs, aids (including exercise products that make weight-loss or slimming claims), clinics and other establishments, diets, medicines, treatments and the like.

### **RULES**

- 1.** Advertisements for services offering remote personalized advice on health matters related to weight control or slimming are acceptable only if all staff providing that advice are suitably qualified and subject to regulation by a statutory or recognized medical or health professional body and the advice given is in accordance with its relevant professional code of conduct. That does not prevent advertisements that offer general information on health matters related to slimming or weight control.
- 2.** Advertisements must not encourage indiscriminate or excessive use of a weight-control or slimming product or service.
- 3.** Broadcasters must obtain suitably qualified independent medical advice or other suitably qualified health specialist advice on the safety and efficacy of weight control and slimming products or services before broadcast. In particular, the advice must satisfy broadcasters that:
  - a. the slimming product or service is likely to be effective and will not lead to harm
  - b. clinics and other establishments offering medically supervised treatments are run in accordance with

the Regulations issued by the Ministry of Health or the National Drug Authority.

4. Commercial communications shall not contain any offer of a treatment, product or service for slimming (i.e. weight reduction, limitation or control) which: -
  - i. Is in itself likely to lead to harmful effects, and;
  - ii. Is not directly associated with the following of a properly designed diet, and;
  - iii. Does not clearly state the manner in which the suggested slimming will be achieved.

## **ANNEX 15: GAMBLING**

### **Principle**

The rules in this section are designed to ensure that gambling advertisements are socially responsible, with particular regard to the need to protect under-18s and other vulnerable persons from being harmed or exploited by advertising that features or promotes gambling.

The rules in this section apply to advertisements for "play for money" gambling products and advertisements for "play for free" gambling products that offer the chance to win a prize or that explicitly or implicitly direct the consumer to a "play for money" gambling product, whether on-shore or off-shore.

### **Rules**

- 1 Advertisements must not:
  - a. portray, condone or encourage gambling behaviour that is socially irresponsible or could lead to financial, social or emotional harm
  - b. suggest that gambling can provide an escape from personal, professional or educational problems such as loneliness or depression
  - c. suggest that gambling can be a solution to financial concerns, an alternative to employment or a way to achieve financial security

- d. portray gambling as indispensable or as taking priority in life; for example, over family, friends or professional or educational commitments
- e. suggest peer pressure to gamble or disparage abstention
- f. suggest that gambling can enhance personal qualities; for example, that it can improve self-image or self-esteem, or is a way to gain control, superiority, recognition or admiration
- g. link gambling to seduction, sexual success or enhanced attractiveness
- h. portray gambling in a context of toughness or link it to resilience or recklessness
- i. suggest gambling is a rite of passage
- j. suggest that solitary gambling is preferable to social gambling.
- k. exploit cultural beliefs or traditions about gambling or luck
- l. condone or encourage criminal or anti-social behavior
- m. exploit the susceptibilities, aspirations, credulity, inexperience or lack of knowledge of under-18s or other vulnerable persons
- n. be likely to be of particular appeal to under-18s, especially by reflecting or being associated with youth culture

## **ANNEX 16: STANDARD FOR BETTING SERVICES**

- 1.** Commercial communications that seek to promote services to those who want to bet are acceptable.
- 2.** Commercial communications of this nature may contain the address of the service provider and factual descriptions of services available but shall not contain anything, which could be deemed to be an encouragement to bet. Information detailing special offers, discounts, inducements to visit any betting establishment (including on-line), references to betting odds available or any promotional offer intended to encourage the use of services of this nature are not permitted.
- 3.** Broadcasters should take particular care during interviews with representatives of betting services in editorial content. References by presenters or guests to the products and services of a sponsor, including betting odds, special offers etc., will breach the Code. The rule does not apply to spread betting/spread trading where the product/service being promoted is a service that is regulated by the financial regulator. However, broadcasters should note that a commercial communication that promotes a betting service alongside a spread betting/trading service will be required to comply with the betting rules.

## **ANNEX 17: BETTING TIPSTERS**

### **Principle**

Advertisements for betting tipster services should not be likely to mislead the audience.

### **Definition**

"Proofing" means provably lodging and securely recording a betting tip with an independent and suitably qualified third party, such as a solicitor, before the start of the event to which the tip relates.

### **Rules**

- 1.** Advertisements for betting tipsters must not be likely to be of particular appeal to under-18s.
- 2.** Advertisements for betting tipster services must not make money-back guarantees.
- 3.** Advertisements for betting tipster update-line services are acceptable only if the broadcaster is satisfied that the recorded messages are brief and the lines are a valid and necessary complement to the main-line service.
- 4.** Before broadcasting an advertisement for a betting tipster service, a broadcaster must hold the tipster's name (not merely his or her business name) and his or her full, permanent business address.
- 5.** Advertisements for betting tipsters who run, or are associated with, another betting tipster service must make that link clear.
- 6.** Advertisements may include claims about a betting tipster's previous successful tips only if those claims are

supported, before the relevant race, by proofing of all tips offered on his or her service on the day or during the period in question.

- 7.** Advertisements for betting tipsters must not include claims about notional profits. Claims about previous profits must be proportionate and representative.
- 8.** Advertisements for betting tipsters must not state or imply that success is guaranteed or that players could forge a long-term income by following the advertiser's tips.
- 9.** Advertisements for betting tipsters may include claims about previous successful double, treble or other combination bets only if those claims are supported by proofing that the winners were clearly and specially tipped as a combination.
- 10.** Profit, success or individual-win claims must not refer to odds.
- 11.** If a change in circumstance would render it misleading, for example, if a race meeting were cancelled, an advertisement for a betting tipster must be not be repeated in its original form.
- 12.** Advertisements for betting tipsters must not refer to a tip as a maximum bet or similar unless it is the only tip offered for that race. Claims about the success of a maximum tip are acceptable only if they are supported by advance proofing.

## **ANNEX 18: LOTTERIES**

### **Principle**

The rules in this section are designed to ensure that commercial communications for lotteries are socially responsible, with particular regard to the need to protect children (young persons under 18) and other vulnerable persons from being harmed or exploited by advertising that features or promotes lotteries.

### **Rules**

1. Advertisements must not:
  - a. portray, condone or encourage gambling behaviour that is socially irresponsible or could lead to financial, social or emotional harm
  - b. suggest that participating in a lottery can provide an escape from personal, professional or educational problems such as loneliness or depression
  - c. suggest that participating in a lottery can be a solution to financial concerns, an alternative to employment or a way to achieve financial security. Advertisers may, however, refer to other benefits of winning a prize
  - d. portray participating in a lottery as indispensable or as taking priority in life, for example, over family, friends or professional or educational commitments
  - e. suggest peer pressure to participate in a lottery or disparage abstention
  - f. suggest that participating in a lottery can enhance personal qualities; for example, that it can improve self-

image or self-esteem, or is a way to gain control, superiority, recognition or admiration

g. link participating in a lottery to seduction, sexual success or enhanced attractiveness

h. portray participation in a lottery in a context of toughness or link it to resilience or recklessness

i. suggest participation in a lottery is a rite of passage

j. suggest that solitary gambling is preferable to social gambling.

- 2 Advertisements for lotteries that can be participated in only by entering gambling premises must make that condition clear.
- 3 Advertisements for lotteries must not exploit the susceptibilities, aspirations, credulity, inexperience or lack of knowledge of under-18s or other vulnerable persons.
- 4 Advertisements for lotteries must not be likely to be of particular appeal to under-18s, especially by reflecting or being associated with youth culture.
- 5 Advertisements for lotteries must not exploit cultural beliefs or traditions about gambling or luck.
- 6 Advertisements for lotteries must not condone or encourage criminal or anti-social behaviour.
- 7 Advertisements for lotteries must not condone or feature gambling in a working environment (an exception exists for workplace lottery syndicates and gambling premises).

## **ANNEX 19: FINANCIAL PRODUCTS, SERVICES AND INVESTMENT**

Selecting the most relevant financial products or services normally requires consumers to consider many factors. The short-form television and radio advertisements are not well-suited to communicating large amounts of detail. They are not, therefore, suitable formats for advertising especially high-risk or specialist investments or any financial products or services.

### **Rules**

1. Broadcasters are responsible for ensuring that advertisements carried by them comply with all the relevant legal and regulatory requirements. Broadcasters are advised to seek legal advice if an advertiser claims an advertisement should be considered:
  - a. not to be a financial promotion or
  - b. to be a financial promotion that is not required to be communicated or approved by Bank of Uganda
2. Financial promotions or other advertisements for regulated activities may be broadcast if:
  - a. communicated by an authorized person
  - b. approved or issued by an authorized person or an appointed representative of an authorized person who, to the broadcaster's satisfaction, has confirmed that the final recorded version of the advertisement complies with the Bank of Uganda's financial promotion rules

## **ANNEX 20: CHARITIES**

These rules are intended to prevent the abuse of people's charitable impulses. Charity advertisements or advertisements that feature charities should treat with care and discretion any subjects likely to arouse strong emotions. Although audiences are generally more tolerant of potentially distressing treatments when the objectives of an advertisement are charitable, sensitivity is nevertheless required especially in relation to younger audiences.

### **Rules**

- 1.** Advertising is acceptable only from bodies registered with the relevant Ugandan authorities as having charitable status or bodies that have had their charitable status otherwise officially recognized by the Government of Uganda.
- 2.** Advertisements seeking donations for, or promoting the needs or objectives of a charitable body must not:
  - a. misrepresent the body, its activities or the benefits of donated funds or exaggerate the scale or nature of the cause it claims to support
  - b. suggest that anyone will lack proper feeling or fail in a responsibility by not supporting a charity
  - c. disrespect the dignity of those on whose behalf an appeal is being made
  - d. address fund-raising messages to children or likely to be of particular interest to them.
- 3.** Advertisements that include an offer to donate money to charity must:

- a. not depend on sales reaching a given level or be subject to a similar condition. If a target total or an amount for each purchase is stated, any extra money given to the charity must be donated on the same basis as contributions below that level
  - b. identify the charity that will benefit and state the basis on which the contribution will be calculated and, where more than one charity is involved, the advertisement may give a generic identification but should be accompanied by a statement listing the charities and the proportions in which they will benefit.
- 4.** Broadcasters must hold evidence that each charity has agreed to the proposed advertisement
- 5.** Advertisements for medicinal products may offer to donate money to charity but must not be likely to encourage indiscriminate, unnecessary or excessive purchases of medicinal products. Advertisements must state the basis on which the contribution will be calculated.
- 6.** Where a promotion states or implies that part of the price paid for goods or services will be given to a charity or cause, the advertisement must state the actual amount or percentage of the price that will be paid to the charity or cause, for example, "10% of the purchase price".
- 7.** For any other promotion linked to a charity or where a third party states or implies that donations will be given to a charity or cause, the advertisement must state the total (or a reasonable estimate) of the amount the charity or cause will receive.

**ANNEX 21: STANDARD WITH RESPECT TO FORTUNE TELLERS, PSYCHICS, ASTROLOGERS, NECROMANTICS, MAGICIANS ETC.**

1. Commercial communications for fortune tellers, magicians, psychic services etc., are acceptable where the service is evidently for entertainment purposes only and this is made clear in the communication.
2. Claims that future events may be predicted, other than as a matter of opinion, are not permitted.
3. Claims to make contact with deceased persons are not permitted.
4. Claims pertaining to matters of health, cures, curing and/or healing are not permitted.
5. Deriving from Section 2 of the Witchcraft Act (Cap 124) which prohibits the practices of witchcraft, and the Uganda Communications Act of 2013 that sets Minimum Broadcasting Standards and stipulates that all broadcasters shall ensure that their broadcasts are in compliance with existing Law. All broadcasters are therefore bound by Section 2 of the Witchcraft Act (Cap 124).
6. No Radio or TV Station shall promote the use of witchcraft.
7. No Radio or TV shall host a witchdoctor for purposes of promoting his/her witchcraft practices.
8. No Radio or TV station should be used to advertise the services of a witch doctor or giving directions to people to visit a certain witchdoctor.
9. No person shall use Radio or TV to use witchcraft, sorcery, enchantment, conjuration, knowledge of an occult or crafty science to tell fortunes, recover stolen property, give luck and wealth, cast out misfortunes or curing certain diseases.

- 10.** No Radio or TV shall broadcast a programme that promotes the practice of necromancy<sup>1</sup>.

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## **ANNEX 22: INTRODUCTION AND DATING SERVICES**

### **Rules**

- 1) All claims relating to matching require substantiation.
- 2) Advertisements must not dwell excessively on loneliness or suggest that people without a partner are inadequate.
- 3) Broadcasters must satisfy themselves that advertisers give customers clear advice on precautions to take when meeting people through an advertisement for an introduction or dating agency.
- 4) Advertisements for an introduction or dating agency must not have particular appeal to people under 18.

## **ANNEX 23: INSTRUCTIONAL COURSES AND EDUCATIONAL OPPORTUNITIES**

### **Principle**

Instructional course advertisements must neither mislead the audience nor exploit the susceptibilities or credulity of those seeking work.

### **Definition**

Instructional courses are training or educational opportunities that typically offer instruction in a trade.

### **Rules**

1. Advertisements offering a qualification, a course of instruction in a skill or a course that leads to a professional or technical examination must not exaggerate the resulting opportunities for work or remuneration.
2. Advertisements for a correspondence school or college may be broadcast only if the advertiser has given the broadcaster evidence of suitable and relevant credentials: for example, affiliation to a body that has systems for dealing with complaints and for taking disciplinary action; systems in place for regular review of members' skills and competencies and registration based on minimum standards for training and qualifications.

## **ANNEX 25: HOME WORKING SCHEMES**

### **Principle**

Homeworking scheme advertisements must neither mislead the audience nor exploit the susceptibilities or credulity of those seeking work.

### **Definition**

Homeworking schemes are employment opportunities requiring participants to make articles, perform services or offer facilities at or from home. Participants can be self-employed or employed by a business.

### **Rules**

1. Advertisements must not give a misleading impression of how homeworking schemes work or of the likely remuneration. Advertisements must make clear conditions, obligations or limitations that could reasonably be expected to influence a decision to participate in the scheme.
2. No homeworking scheme may be advertised IF:
  - a) if a charge or deposit is required to obtain information about the scheme
  - b) if it involves a charge for raw materials or components
  - c) if the advertiser offers to buy goods made by the homemaker.

## **ANNEX 26: STANDARD ON SCHEDULING, PLACEMENT AND DURATION OF ADVERTISEMENT**

Broadcasters must take special care when scheduling advertisements that might be unsuitable for children or young persons or the audience of religious programmes or for broadcast around sensitive programming or news items.

Particular sensitivity is required for advertisements inserted in or around news or current affairs programmes in which a news item, especially one of a tragic nature, could completely transform the context in which an advertisement having an apparent connection with it could be perceived by viewers or listeners. A separation from news references might be inadequate and suspending the advertisement altogether to avoid distress or offence could be preferable.

### **Definitions**

**"Adjacent"** refers to an advertising break immediately before or after the programme in question.

**"Current"** refers to a programme still running or scheduled to be resumed in the near future.

**"Children's programme"** means a programme made for persons below the age of 18.

### **Children**

Advertisements that might frighten or distress children or are otherwise unsuitable for them (for example because they refer explicitly to sexual matters) must be subject to restrictions on times of transmission to minimise the risk that children in the relevant age group will see or hear them. That does not preclude well-considered daytime scheduling for such material but broadcasters should take account of factors, such as school holidays, that could affect child audience levels. Material that

would be incomprehensible to pre-school children and could, therefore, reasonably be broadcast when they are viewing or listening with parents, might be more problematic in relation to older children.

### **Rules**

- 1** Broadcasters must ensure that television advertising and teleshopping is readily recognizable and distinguishable from editorial content and kept distinct from other parts of the programme service
- 2** **Time devoted to ANY advertising on television and radio on any channel in any clock hour must not exceed 10 minutes.**
- 3** Where advertising is inserted during programmes, broadcasters must ensure that the integrity of the programme is not prejudiced, having regard to the nature and duration of the programme, and where natural breaks occur.
- 4** Broadcasters must exercise responsible judgement on the scheduling of advertisements and operate internal systems capable of identifying and avoiding unsuitable juxtapositions between advertising material and programmes, especially those that could distress or offend viewers or listeners.
- 5** The following may not be advertised in or adjacent to programmes commissioned for, principally directed at or likely to appeal particularly to audiences below the age of 18:
  - a. alcoholic drinks
  - b. lotteries
  - c. gambling
  - d. betting tipsters
  - e. slimming products, treatments or establishments

- f. trailers for films or videos carrying an 18 + rating
  - g. Religious matter subject to the rules on Religious Advertising
- 6** Relevant timing restrictions must be applied to advertisements that, through their content, might harm or distress children of particular ages or that are otherwise unsuitable for them.
- 7** These products may not be advertised in or adjacent to programmes commissioned for, principally directed at or likely to appeal particularly to children below the age of 10:
- a) sanitary protection products
  - b) condoms
- 8** The Commission reserves the right to issue directions requiring separation between certain advertisements or types of advertisement and certain programmes or types of programme for reasons or in ways that go beyond those already listed.
- 9** Special care is required for these categories:
- a) sensational newspapers, magazines or websites or their content
  - b) divination or the supernatural
  - c) sexual material, sex shops, stripograms or similar
  - d) sanitary protection products
  - e) family planning products (including contraceptives and pregnancy-testing products)
  - f) anti-drugs messages, including solvent abuse
  - g) HIV/AIDS prevention messages.

- 10** Violent or sexually explicit material must not be advertised in or adjacent to programmes targeted particularly at audiences below the age of 18.
- 11** The Commission expects broadcasters to exercise responsible judgement in the placing of broadcast television text and interactive television advertisements and specially to consider the sensitivities of viewers likely to be exposed or attracted to particular editorial content. Advertisements that are unsuitable for children (for example, because they might cause distress or because they refer explicitly to sexual matters) must be subject to restrictions on the time of transmission designed to minimise the risk that children in the relevant age group will see them.
- 12** Broadcast television text and interactive television advertisements for these product categories must not:
  - a) be directly accessible from programmes commissioned for, principally directed at or likely to appeal particularly to children
  - b) be directly accessible from advertisements that are adjacent to programmes commissioned for, principally directed at or likely to appeal particularly to children
  - c) appear on editorial pages (text or interactive) that are likely to be of particular appeal to a significant audience of children
  - d) alcoholic drinks (including low-alcohol drinks)
  - e) films or DVDs carrying an 18+certificate
  - f) medicines, vitamins or other dietary supplements

- g) betting tips
- h) computer or console games carrying an 18+, 16+ or 15+ rating
- i) introduction and dating agencies
- j) gambling, including lotteries.