

**RADIO CODE OF PRACTICE
ON ADVERTISING STANDARDS**

BROADCASTING AUTHORITY

31 AUGUST 2004

Preamble

1. This Code of Practice is issued by the Broadcasting Authority (BA) pursuant to section 19 of the Broadcasting Authority Ordinance (Cap.391). All materials included in a sound broadcasting service licensed under the Telecommunication Ordinance (Cap.106) must comply with this Code. The BA has the power to impose sanctions on licensees who do not comply with the Code.
2. The BA, as the regulator, does not pre-censor any advertising material. The editorial responsibility lies with the licensees themselves. The Code sets out the factors which should be taken into account when making editorial judgement. It is the responsibility of the licensees to ensure that any advertising delivered on their licensed service will comply with the Code. Judgement will always be called for by the licensee. When forming a view about the acceptability of any advertising material, the BA will give consideration to the category, scheduling and target audience of the advertisement and the circumstances in which the advertisement was broadcast.
3. The Code deals in general principles. Licensees would be required to draw up their own guidelines in the light of the particular interests of the organisations and their audiences so as to provide practical guidance to their staff on how these general principles would be applied in specific circumstances. Licensees must reflect the general effect of this Code in their own guidelines.
4. The detailed rules set out below have to be applied in spirit as well as in letter and should be read in conjunction with relevant programme standards, licence conditions and legislation currently in force. The legal and regulatory requirements cited in the Code are for reference only. It is the responsibility of the licensees to ascertain the applicable and up-to-date legal and regulatory requirements. As a matter of principle, the BA will not try to interpret or enforce the law under the purview of other enforcement agencies. When there is an alleged breach of the law, the BA will generally refer the case to the proper enforcement agency for action.

Definition of Advertisement

5. The following definition applies in this Code unless the contrary intention appears:
 - (a) advertisement or advertising material means any material included in a licensed service which is designed to advance the sale of any particular product or service or to promote the interests of any organisation, commercial concern or individual, whether by means of words and/or sound effects (including music) and whether in the form of direct announcements, slogans, descriptions or otherwise, as well as any promotional reference in the course of a programme to any products or services;
 - (b) for the purpose of this Code the term advertisement or advertising material does not include:

- (i) station/channel identifications;
- (ii) announcements in the public interest;
- (iii) material for the promotion of the licensee's station and programme services;
- (iv) material connected with charities and public appeals approved by the BA and for which the licensee does not receive payment or other valuable consideration for their transmission;
- (v) references on radio to the title of an event sponsored by a person other than the licensee carrying the trade name or brand name of the sponsor and other incidental references to the trade name or brand name of the sponsor in a programme provided that
 - (1) the licensee receives no consideration for such references;
 - (2) no undue emphasis is given to such references; and
 - (3) the references do not obtrude on programme interest or entertainment; and
- (vi) incidental or natural references to products or services in the course of a programme which are justifiable in programme context and do not obtrude on programme interest or entertainment.

Such definition shall extend to the grammatical variations and cognate expressions of such term and the word advertising shall be interpreted accordingly.

General Principles

6. The general principle which will govern all broadcast advertising is that it should be legal, decent, honest and truthful.
7. Advertisements must be clearly distinguishable as such and be recognizably separate from the programmes.
8. Advertisements must comply in every respect with the laws of Hong Kong.
9. It is the responsibility of the licensee to ensure that the following practices are observed in the preparation and broadcasting of all advertising matter:
 - (a) care and good judgment should be exercised in respect of advertisements to be broadcast during times when large numbers of children or adolescents may be likely to be listening;

- (b) advertising material should be presented with courtesy and good taste and disturbing material such as overly persistent repetition, and words or phrases implying emergency or playing on superstition should be avoided;
- (c) great care should be exercised by the licensee to prevent the presentation of false, misleading or deceptive advertising. No matter should be included which in any way departs from truth as to the composition, character or action of a product or its suitability for the purposes for which it is recommended; and
- (d) advertising matter should contain no claims intended to disparage competitors, competing products or other industries, professions or institutions. Statements should not be used in respect of any products that they are 'the best', 'the most successful', 'safest', 'quickest', or containing any similar use of unsupported superlative adjectives involving comparison with other products, or departures from strict truth. Advertisers must be prepared to produce evidence to substantiate any descriptions, claims or illustrations (including 'best-selling' claims).

Acceptability of Advertising Matter

10. The licensee shall observe the following standards for the acceptability of advertising matter and the sponsorship of programmes:

- (a) the licensee shall refuse the facilities of his station where he has good reason to doubt the integrity of the advertiser, the truth of the advertising representations, or the compliance of the advertiser with the spirit and purpose of all applicable legal requirements; and
- (b) the licensee shall refuse to permit the use of advertising matter, or the advertising of products and services, which he has good reason to believe would be objectionable to a substantial and responsible segment of the community.

Unacceptable Products or Services

11. Advertisements for products or services coming within the recognized character of, or specially concerned with, the following are not acceptable:

- (a) fortune-tellers and the like: this does not preclude advertisements for publications (whether printed or otherwise) or pre-recorded information services (whether voice or data) on subjects of general interest such as horoscopes, astrology, Chinese almanacs, fung-shui etc.;

- (b) undertaker or others associated with death or burial: except advertisements for columbaria, which are acceptable provided that the following conditions are complied with:
 - (i) presentation of such advertisements should be dignified and restrained, and the licensee should exercise due sensitivity in scheduling and presenting such advertisements; and
 - (ii) all explicit references to death and technical aspects of associated services and morbid details must be avoided;
- (c) unlicensed employment services, registries or bureaux;
- (d) night clubs, dance halls, massage parlours, sauna houses, bath houses or similar establishments in which hosts or hostesses are employed for the primary purpose of attracting or entertaining customers or in which floor shows or other live performances or activities involving sexual behaviour of whatever nature are presented;
- (e) escort services in general and dating services targeting young people under the age of 18;
- (f) pay per call information services which offer adult material of a sexual nature;
- (g) organisations/companies/persons seeking to advertise for the purpose of giving betting tips; or
- (h) betting (including pools): this does not preclude advertisements for lotteries and football betting which are authorized by or under the Betting Duty Ordinance (Cap. 108) and for horse racing and football betting publications (whether printed or otherwise) and pre-recorded information services (voice or data) on horse racing and football betting provided that the advertisement does not encourage betting or contain any reference to betting tips. No advertisements for these items should be aired within or in proximity to children's programmes. In addition, the licensee must ensure that advertisements for the aforesaid lotteries and football betting should:
 - (i) not be broadcast between 4:00p.m. and 8:30p.m. each day or at other times when radio programmes, in the opinion of the BA, target young persons under the age of 18;
 - (ii) only target the adult audience and no children or adolescents should be allowed to participate in the presentation of these advertisements;
 - (iii) not feature any personality who has particular appeal to children or adolescents;

- (iv) not state or imply praise for those who participate in lotteries/football betting or denigrate those who abstain;
- (v) not mislead or exaggerate one's likelihood of winning;
- (vi) not be instructional in nature or unduly exhort the public to bet;
- (vii) not feature excessive or reckless betting; and
- (viii) not present lotteries/football betting as an alternative to work or a way out of financial difficulties.

Indirect Publicity of the Unacceptable Product or Service

12. The licensee should not broadcast an advertisement for an acceptable product or service if, in the opinion of the BA, a significant effect of the advertisement would publicize indirectly a product or service which is unacceptable to be advertised on radio. Where an advertisement for a particular product or service is not allowed in particular hours of the day, an advertisement which has a significant effect of publicizing such a product or service should likewise be prohibited in those hours. In determining whether the significant effect of an advertisement would publicize indirectly an unacceptable product or service for the purpose of this provision, the BA shall have regard to the contents of the advertisement and satisfy itself that the advertisement as a whole is clearly intended for the promotion of the acceptable product/service category. Without prejudice to the general discretion of the BA, some relevant factors which may be taken into consideration should include the following:

- (a) whether the advertisement contains any reference to the brand name or trade name of an unacceptable product/service or the name of the person/organisation supplying an unacceptable product/service or any logo, trade mark, theme music, slogan or copyline commonly associated with the unacceptable product/service or any advertisement for it;
- (b) whether the trade mark for the acceptable product/service which is being advertised is registered in Hong Kong or any other major markets in the world, or that an application for the registration of the trade mark is pending, or that the common law rights of an unregistered trade mark have been acquired in respect of the product/service;
- (c) whether the proprietor/applicant/licensed user of the registered trade mark or the proprietor of the unregistered trade mark engages in the marketing or manufacturing of the acceptable product/service; and
- (d) the target audience, the arrangement of the broadcast and the placement of the advertisement.

Specific Categories of Advertisement

13. The licensee should exercise care in the inclusion in its service of certain categories of advertisement having regard to the nature of the product or service advertised, the treatment of the product or service in the advertisement and the likely composition of the listeners for the time of day at which they are broadcast. The following paragraphs set out restrictions on advertisements for products or services which are of particular concern or sensitivity.

Tobacco and Tobacco Related Products

14. The licensee must comply with all relevant provisions relating to tobacco advertisements under the Smoking (Public Health) Ordinance (Cap. 371).

15. The presentation of tobacco products as prizes or gifts for radio contests will not be permitted.

16. Advertisements for certain tobacco related products such as cigarette holders, tobacco filters and other smoking accessories should be subject to the following rules:

- (a) such advertising should only target adult audience and no children or adolescents should be allowed to participate in the presentation of these advertisements; and
- (b) such advertisements should not be broadcast in proximity to children's programmes; or at other times when radio programmes, in the opinion of the BA, target young persons under the age of 18.

Alcoholic Beverages

17. The advertising of liquor or alcoholic liquor (as defined in the Dutiable Commodities Ordinance (Cap.109)) also requires special consideration and is subject to the following conditions:

- (a) such advertising should only target the adult audience and no children or adolescents should be allowed to participate in the presentation of these advertisements;
- (b) such matters should not be advertised in proximity to children's programmes; or programmes which, in the opinion of the BA, target young persons under the age of 18;
- (c) advertisements may not imply that drinking is a desirable new experience or that it is closely associated with social success or popularity or that refusal is a sign of weakness;
- (d) the presentation of alcoholic liquor as prizes in isolation for radio contests will not be permitted;

- (e) the licensee should not between the hours of 4:00p.m. and 8:30p.m. broadcast any advertisement for alcoholic beverages or invite, offer or accept sponsorship or commercial promotion for such beverages in respect of any programme, material or item broadcast between those hours;
- (f) the use of alcoholic beverages or products should not be portrayed as essential to maintain social status, relieve stress, or as a solution to personal problems. It is unacceptable to depict the consumption or presence of alcoholic beverages as a cause of the achievement of personal, business, social, sporting, sexual or other success;
- (g) alcoholic products should not be advertised as similar to or equated with non-alcoholic products, e.g. soft drinks, fruit drinks, etc., which have particular appeal to children or young persons under the age of 18;
- (h) advertisements must not suggest that a drink is more preferable because of higher alcohol content or intoxicating effect;
- (i) such advertisements must not feature any personality whose example children or young persons are likely to follow or who has a particular appeal to children or young persons under the age of 18;
- (j) use of alcoholic beverages or products should not be represented before or during any activity requiring alertness, dexterity and/or sober judgment, e.g. the operation of a motor vehicle, boat or aeroplane or engagement in swimming, water sports or other potentially hazardous activities;
- (k) advertisements must not encourage or depict immoderate drinking. This applies to the quantity of drink consumed and to the act of drinking portrayed;
- (l) advertising should not promote the misuse or abuse of alcoholic beverages;
- (m) advertising should not suggest that drinking is a prerequisite to relaxation. Alcohol should not be offered as a sedative or tranquilizer. While advertisements may refer to refreshment after physical performance they must not give any impression that performance can be improved by drink;
- (n) advertising by retail liquor outlets for alcoholic products should adhere to the advertising standards on alcoholic drinks; and
- (o) advertising must not encourage, challenge or dare non-drinkers or young persons under the age of 18 to drink.

18. Generally speaking, drinks containing 1.2 per cent or less of ethyl alcohol by volume and presented as a low or no alcohol version of an alcoholic liquor, must not be advertised in or adjacent to children's programmes. In particular, drinks containing more than 0.5 per cent but not more than 1.2 per cent ethyl alcohol by volume, whether or not presented as a low or no alcohol version of an alcoholic liquor, must not be advertised in or adjacent to children's programmes. The advertisements must also comply with subparagraphs (a), (b), (c), (d), (f), (g), (h), (i), (j), (l), (m), and (o) of paragraph 17 above.

Educational Courses

19. The licensee must comply with section 86A of the Education Ordinance (Cap. 279), section 34 of the Non-local Higher and Professional Education (Regulation) Ordinance (Cap. 493) and section 3 of the Non-local Higher and Professional Education (Regulation) Rules (Cap. 493 sub.leg.).

Personal Products

20. Products of a personal nature, such as female sanitary products, condoms, deodorants for the genital area, incontinence products, etc., should be presented with care and sensitivity.

Financial Advertising

21. The licensee should comply with the supplementary standards on financial advertising as set out in Appendix I.

Real Property Advertising

22. No advertisement offering for sale or to let any flat, shop, office or other unit of accommodation in Hong Kong should be accepted:

- (a) in respect of a completed building, unless the advertiser is able to substantiate that the proposed sale or letting does not constitute any breach of the conditions relating to such sale or letting as imposed in the lease conditions affecting the land on which such completed building stands;
- (b) in respect of an uncompleted building:
 - (i) unless the prior consent of the Director of Lands or any other Government authority relating to such sale or letting as required under the lease conditions affecting the land on which such uncompleted building stands has been given; or
 - (ii) unless the developer is able to produce evidence that his solicitor has deposited a statutory declaration under Rule 5C (3) of the Solicitors Practice Rules in regard to the sale and purchase of the affected real property in the relevant Land Registry where consent as mentioned in (b)(i) above is not

required for the sale of units in such uncompleted building (a solicitor's letter certifying that the above condition has been met will be regarded as sufficient substantiation).

23. No advertisement offering for sale to Hong Kong residents any flat, shop, office or other unit of accommodation in a building or proposed building or any land or any sub-division, share or interest thereof or therein situated outside Hong Kong should be accepted unless the developer or vendor is able to produce the following:

- (a) a letter from a firm of solicitors/attorneys registered and recognized in the country where the real property or land is situated confirming that :
 - (i) all the requirements imposed by the local government relating to the development and sale of the real property or land to be advertised have been properly complied with by the developer or vendor;
 - (ii) the developer or vendor has obtained the requisite consent (if necessary under the local laws) from the local government for the sale of the real property or land to non-residents; and
 - (iii) housing loan is available to prospective purchasers from a licensed financial institution, either locally or elsewhere; and
- (b) a letter from a firm of solicitors who are qualified to practise in Hong Kong confirming that, to the best of their knowledge and belief, the local firm of solicitors/attorneys providing the confirmation in (a) above is registered in the country where the real property or land is situated for the provision of legal advice within that jurisdiction.

24. No advertisement should be accepted if it invites members of the public to take part in any arrangements with respect to real property, whether as an investment or otherwise, the purpose of which is to enable them (whether by becoming owners of the real property or part of the real property or otherwise) to participate in or receive profits or income alleged to arise or to be likely to arise from the acquisition, holding, management or disposal of such real property.

25. The licensee must ascertain that any descriptions, demonstrations and claims of a specific nature with regard to real property advertisements have been adequately substantiated by the advertisers. In particular,

- (a) no claim may expressly or by implication misrepresent the location, size and value of the real property and the available transport facilities;
- (b) the lowest selling price of a real property should be stated as such and should not give an impression that it is the average price;

- (c) a price being offered to local purchasers only should be stated as such and should not give an impression that it is also being offered to overseas purchasers, if there is a significant difference in the prices; and
- (d) advertisements must not offer any furniture, home appliances or any other goods as "free gifts" unless such items are supplied at no cost or no extra cost to the recipient. The licensee needs to obtain a statement to this effect from the advertiser.

The licensee should have his responsibility under this subparagraph discharged if he did not know and had no reason to suspect that the information contained in the advertisement or data supplied by the developer or advertiser were false or misleading and could not, with reasonable diligence, have ascertained that the claims were false or misleading.

Medical Preparations & Treatments

26. The advertising of medical preparations and treatments is subject to the detailed rules given in Appendix II.

Claims Relating to Nutritional and Dietary Effects

27. Claims relating to the nutritional and dietary effects of products or services should be handled with care. Advertisements for products and services containing such claims should comply with the following rules:

- (a) claims of effects or treatment for conditions of health for which qualified medical attention or advice should reasonably be sought are not acceptable. The licensee must also comply with the provisions of the Undesirable Medical Advertisements Ordinance (Cap. 231);
- (b) specific claims for the nutritional value of food must be supported by sound scientific evidence and must not give a misleading impression of the nutritional or health benefits of the food as a whole;
- (c) advertisements for dietary supplements, including vitamins or minerals, must not state or imply that they are necessary as additions to a balanced diet in order to avoid dietary deficiency or that they are the only means to enhance normal good health;
- (d) no advertisements should encourage patterns of behaviour which are prejudicial to health;
- (e) advertisements making nutritional and dietary claims are required to comply with paragraph 5 of Appendix II governing professional advice and support;

- (f) the licensee must ensure that the advertisements which make claims relating to nutritional and dietary effects comply with all relevant legislation including without limitation the Public Health and Municipal Services Ordinance (Cap.132); and
- (g) no advertisements for products, services and establishments which offer or provide treatment aimed at the achievement of weight loss or reduction of body fatness are acceptable unless these advertisements state that their services/products are adjunct to having a balanced/healthy diet to achieve such effect. The following rules must also be complied with:
 - (i) such advertisements must not be addressed to persons under 18 and containing elements which are likely to be of particular appeal to them such as featuring children or any persons posing as adolescents in the advertisements;
 - (ii) the licensee must obtain sound evidence showing that such services are likely to be effective and will not cause harm. The effect of the products or services must be substantiated;
 - (iii) such advertisements must not be directed at the obese or must not use case histories to show that subjects who were obese lose weight and become slimmer after using the product or service advertised;
 - (iv) such advertisements must not suggest or imply that to be underweight is acceptable or desirable. Those giving testimonials should not be underweight; and
 - (v) advertisements for food products in this category must make it clear that the product can assist weight loss only as part of a calorie controlled diet.

(Note: For the purpose of this rule the Body Mass Index for a normal person is between 18.5 and 25 kilograms/meter² as recommended by the World Health Organisation. Body Mass Index over or under this range would be considered as obese or underweight.)

Political Advertising

28. No advertisement of a political nature shall be broadcast except with the prior approval of the BA.

29. Advertisements which contain statements or suggestions which may be considered offensive to religious views, racial traits or to particular sections of the community should be avoided.

Film Advertisements

30. Advertisements relating to the promotion of films other than Category I intended for public exhibition in Hong Kong should contain audio references to the category of the film as classified under the Film Censorship Ordinance (Cap. 392). In addition, advertisements for films classified under categories other than Category I should carry advisories to the effect that they are not suitable for particular group(s) of persons or approved for exhibition to persons aged 18 or above, as the case may be.

Imitation

31. Advertisements which imitate or approximate unreasonably the name or advertising slogans of competitors to the knowledge of the licensee should not be permitted.

Appeal to Fear

32. Advertisements should not unduly play on fear.

Advertising Time Allowance

33. The total amount of advertising time must not exceed the limit set by the conditions of the Licence.

Advertising & Children

34. Particular care should be taken over advertising that is likely to be heard by large numbers of children and advertisements in which children (or child-like voices) are to be employed. More detailed guidance is given in Appendix III.

Appendix I

SUPPLEMENTARY STANDARDS ON FINANCIAL ADVERTISING

Legal Responsibility

1. It is the responsibility of the licensee to ensure that advertisements comply with all the relevant legal and regulatory requirements including, but not limited to, the following:

- (a) the Companies Ordinance (Cap. 32);
- (b) the Banking Ordinance (Cap. 155);
- (c) the Insurance Companies Ordinance (Cap. 41);
- (d) the Securities and Futures Ordinance (Cap. 571);
- (e) the Mandatory Provident Fund Schemes Ordinance (Cap. 485);
- (f) the Codes of the Securities and Futures Commission (SFC), including without limitation :
 - (i) the Code on Unit Trusts and Mutual Funds;
 - (ii) the Code on Investment-linked Assurance Schemes;
 - (iii) the Code on Pooled Retirement Funds;
 - (iv) the Code on Immigration-linked Investment Schemes;
 - (v) the SFC Code on MPF Products;
 - (vi) the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission;
 - (vii) the Fund Manager Code of Conduct;
 - (viii) the Corporate Finance Adviser Code of Conduct; and
 - (ix) any other prevailing rules and guidelines on other types of investment products regulated by the SFC such as paper gold schemes; and

- (g) the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited and the Rules Governing the Listing of Securities on the Growth Enterprise Market of The Stock Exchange of Hong Kong Limited.

(The list is for reference only and it is the responsibility of the users of this Code to ascertain the applicable and up-to-date legal and regulatory requirements.)

Deposit and Savings Facilities

2. Advertisements for deposit and savings facilities should comply with the following provisions:

- (a) for deposit and savings facilities offered by any licensed bank, any restricted licence bank or any deposit-taking company authorized under the Banking Ordinance (Cap. 155):
 - (i) the advertisement should not use any terms or expressions indicating that the deposits will be absolutely or completely secure or to the like effect;
 - (ii) the advertisement should not state or imply that the repayment of any deposits or the payment of any interest payable on deposits is guaranteed or secured unless it also states the nature and extent of the guarantee and the name of the guarantor, or the nature and extent of the security, as the case may be;
 - (iii) no reference should be made to the amount of the nominal or authorized capital of the institution; and
 - (iv) no reference should be made to the total assets of the institution or to the total deposits made with the institution unless at the same time a reference is made to the amounts of the paid up capital and reserves either separately or together; or
- (b) for invitations to make a deposit outside Hong Kong, the advertisement should comply with the requirements specified in the Fifth Schedule to the Banking Ordinance (Cap. 155).

Lending and Credit

3. Mortgage, other lending facilities and credit services offered by licensed banks, restricted licence banks and deposit-taking companies authorized under the Banking Ordinance (Cap. 155) may be advertised. Care should be taken to avoid the public being misled as to the terms of the loan services being advertised.

Review or Advice about the Stock Market or Investment Prospects

4. Subject to paragraphs 5 and 6 of this appendix or unless otherwise permitted (whether expressly or impliedly) under applicable law, no advertisement should contain any review of or advice about the stock market (including securities listed on the stock market), investment prospects, any investment advice or make any reference to specific securities, futures contracts or investment products.

Investment Products

5. Advertisements for investment products requiring authorization by the SFC, including but not limited to unit trusts, mutual funds, investment-linked insurance schemes, pooled retirement funds, Mandatory Provident Fund products and immigration-linked investment schemes, are not acceptable unless these advertisements are authorized by the SFC pursuant to section 105 of the Securities and Futures Ordinance (Cap. 571).

Regulated Activities

6. Advertisements relating to carrying on of any regulated activity (as defined in the Securities and Futures Ordinance (Cap. 571)) should comply with the relevant provisions of the Securities and Futures Ordinance (Cap. 571) (including but not limited to the requirement for the issuer to be licensed by the SFC).

Financial Publications

7. Subject to paragraphs 5 and 6 of this appendix or unless otherwise permitted (whether expressly or impliedly) under applicable law, advertisements for publications, including periodicals, books, teletext services and other forms of electronic publishing, on investments and other financial matters must make no recommendation on specific securities or investment products; advertisements for subscription services for such publications must be in general terms and make no reference to specific securities or investment products.

Estimates of the Proceeds of Insurance Policies

8. No numerical examples of the proceeds of insurance policies including but not limited to estimates of future bonus or dividend declarations on participating life insurance policies should be quoted in any advertisement.

Appendix II

SUPPLEMENTARY STANDARDS ON MEDICAL PREPARATIONS AND TREATMENTS

General

1. The licensee should ensure that all medical advertisements conform with the laws of Hong Kong, including without limitation the Undesirable Medical Advertisements Ordinance (Cap. 231).

Medical Preparation

2. The term 'medical preparation' means any kind of medicament or other curative or preventive substance and whether a proprietary medicine, a patent medicine or purported natural remedy. It includes:

- (a) mixtures, powders, tablets, lozenges, or any product to be taken by mouth for therapeutic use;
- (b) drops or paints, such as eye, ear or nose drops, throat paint, etc.;
- (c) ointments, creams, pastes or powders for therapeutic use externally;
- (d) liniments or any product to be rubbed on;
- (e) injections; and
- (f) foods which claim to assist 'regularity' or other health problems.

Restricted Medical Preparations

3. Advertisements for medical preparations which are included in :

- (a) Part I of the Poisons List in the Pharmacy and Poisons Ordinance (Cap.138); or
- (b) Schedule 1 of the Antibiotics Regulations, Antibiotics Ordinance (Cap.137),

are not acceptable.

Unacceptable Products or Services

4. Advertisements for products or services coming within the recognised character of, or specifically concerned with, the following are not acceptable:

- (a) smoking cures;

- (b) clinics for the treatment of hair and scalp;
- (c) pregnancy testing services;
- (d) clinical laboratory testing services;
- (e) relief or cure of alcoholism and drug addiction;
- (f) cosmetic surgery and slimming or weight reducing measures involving the use of medical preparations; and
- (g) procuration of miscarriage or abortion.

Impressions of Professional Advice and Support

5. Unless it can be substantiated that professional advice or recommendation has been obtained from an acceptable organisation of the relevant profession (for the purpose of this provision, any organisation acceptable to the Director of Health or the relevant professional body in Hong Kong from time to time and the relevant professional body itself should be deemed to be an acceptable organisation), advertisements containing the following are not acceptable:

- (a) presentations of doctors, dentists, veterinary surgeons, pharmacists, nurses, midwives, or other supplementary medical professionals under the control of the Supplementary Medical Professions Ordinance (Cap. 359) which give the impression of professional advice or recommendations;
- (b) statements giving the impression of professional advice or recommendation by persons who appear in the advertisements and who are presented, either directly or by implication, as being qualified to give such advice or recommendation. To avoid misunderstanding about the status of the presenter, it may be necessary to establish positively in the course of an advertisement that the presenter is not a professionally qualified adviser; and
- (c) references to approval, acceptance or recommendation of, or preference for, the product or its ingredients or their use by the professions referred to in (a) above.

Appeals to Fear or Exploitation of Credulity

6. No representation should be used which dramatizes distress or morbid situations involving ailments or sickness or which conveys the suggestion that harmful consequences may result from the product advertised not being used. No representation of vivisection should be allowed. No advertisement should contain any matter which would lead persons to believe from the symptoms described that they are suffering from any serious ailment.

Conditions Requiring Medical Attention

7. Advertisements on any product or treatment which claims to cure chronic or incurable ailments or for use in conditions in which self-medication presents a risk are prohibited.

Encouragement of Excess

8. No advertisement may directly or indirectly encourage indiscriminate, unnecessary or excessive use of any medical preparation or treatment.

Exaggeration

9. No advertisement may make exaggerated claims, in particular through the selection of testimonials or other evidence unrepresentative of a product's effectiveness, or by claiming that it possesses some special property or quality which is incapable of being established. Statements should not be used in respect of any product or method of treatment that it is 'the most successful', 'safest', 'quickest' or similar use of superlative or comparative adjectives.

General Statements

10. Advertisements should not contain:

- (a) general statements which mislead listeners by omitting essential facts;
- (b) statements directly stating or implying that 'all' of a certain group of diseases will be cured by the preparation; or
- (c) statements directly stating or implying that 'all' diseases are due to a particular cause.

Depiction of Patients

11. Advertisements should not depict a patient receiving treatment or under the influence of a drug or hypnotism. The depiction of a patient implying or testifying to the cure of any condition is also not acceptable.

Description of Bodily Functions

12. Repellent descriptions of bodily functions or matters which are generally considered not acceptable to a wide cross section of society are not allowed.

Derogatory Reference to Physical or Mental Affliction

13. No derogatory reference should be allowed for advertising purposes to any physical or mental affliction or deformity. Any reference to such infirmities must avoid bringing ridicule or offence to the sufferers or their families.

Sales Promotions

14. No advertisement for a medical preparation or treatment may contain any reference to a prize competition or promotional scheme such as gifts, premium offers and samples.

Appendix III

ADVERTISING AND CHILDREN

The Child Audience

1. No product or service may be advertised and no method of advertising may be used, in association with a programme targeting children or which large numbers of children are likely to hear which might result in harm to them physically, mentally or morally, and no method of advertising may be employed which takes advantage of the natural credulity and sense of loyalty of children.

In particular :

- (a) No advertisement may encourage children to take part in any scheme that contains an element of danger to them, e.g. to enter strange places or to converse with strangers in an effort to collect coupons, wrappers, labels, etc. The licensee should have his responsibility under this subparagraph discharged if he had exercised reasonable effort to ensure that the scheme advertised contain no element of danger to children.
- (b) Advertisements must not directly urge children to purchase or to ask their parents or others to make purchases.
- (c) No advertisement for a commercial product or service is allowed if it contains any appeal to children which suggests in any way that unless the children themselves buy or encourage other people to buy the product or service they will be failing in some duty or lacking in loyalty towards some person or organisation whether that person or organisation is the one making the appeal or not.
- (d) No advertisement is allowed which leads children to believe that if they do not own the product advertised they will be inferior in some way to other children or that they are liable to be held in contempt or ridicule for not owning it.
- (e) No advertisement dealing with the activities of a club is allowed without the submission of satisfactory evidence that the club is carefully supervised in the matter of the behaviour of the children and the company they keep and that there is no suggestion of the club being a secret society.
- (f) If there is to be a reference to a competition for children in an advertisement, the value of prizes and the chances of winning one must not be exaggerated.

- (g) Advertisements for toys, games and other products of interest to children must not mislead, taking into account the child's immaturity of judgment and experience.

Restrictions on Transmission Time

2. Advertisements for products or services, films and any material which are considered as not suitable for children may not be broadcast within or in close proximity to programmes targeting children or at times when a large number of children are expected to be listening.

3. Advertisements which are frightening, or provoke anxiety, or which contain depictions of violent, dangerous or anti-social behaviour are not allowed to be broadcast within or in close proximity to programmes targeting children or at times when a large number of children are expected to be listening.

The Child in Advertisements

4. The participation of children in advertisements is subject to the following conditions:

- (a) Children in advertisements should be reasonably well-mannered and well-behaved.
- (b) Children will not be permitted to participate in the presentation of advertisements for alcoholic liquor or tobacco related products.