

### **With regard to question 1**

Advertising and sponsoring are regulated by the Law of Georgia on Advertising (LoA) adopted on 18 February 1998 and the Law of Georgia on Broadcasting (LoB) adopted on 24 December 2004. According to Article 1 of LoB its purposes are to safeguard the right to free speech and regulate broadcasting activities, ensuring the principles of transparency, equality and impartiality. According to Article 2 of the LoA its purposes are: development of competition in the purview of advertising; protection of the rights of society, subjects of advertising and consumers and; prevention and preclusion of inappropriate advertising.

### **With regard to question 2**

According to Article 4(8) of LoA and Article 63 of LoB it is prohibited to place and disseminate inappropriate advertising. According to Article 3 of LoA advertising is inappropriate if it is unscrupulous, unreliable, unethical or misleading. LoA defines unethical advertising as an advertising which by using insulting words and comparisons against persons with distinguished nationality, race, occupation, social affiliation, age, sex, language, religion, political and philosophical belief violates the universal humanitarian and moral norms; defiles Georgian or other national currencies, religious symbols, physical or legal personalities, their occupation, profession or production.

Furthermore, with a view to protect the rights of national minorities LoA makes an exemption from the requirement that all advertising on the Georgian territory shall be made only in Georgian language – non-Georgian TV programs and publications are allowed to advertise in languages other than Georgian.<sup>1</sup> In addition, according to Article 64(4) of LoB it is not allowed to interrupt live broadcasting of religious ceremonies or programs on religious issues by advertising.

With a view to protect the rights and interests of juveniles LoA contains the following requirement – it is prohibited to directly address the advertisements of alcoholic beverages and smokables to persons under 18<sup>2</sup>. The same prohibition is also prescribed by Article 63(7) of LoB with regard to teleshopping. It is also prohibited to disseminate advertisement of alcoholic beverages and smokables in childcare, educational and medical institution<sup>3</sup>. In addition Article 67(6) of LoB envisages that advertising aimed at children audience or with participation of children shall not contravene their interests.

Article 14 of LoA, which is entitled “Protection of minors during production, placement and dissemination of advertisement”, places special attention to the interests of children. Thus, according to this provision it is prohibited: (a) to prompt a child to persuade parents to purchase the advertised item; (b) to concentrate a child’s attention on the fact that possession of the advertised item provides him/her with some advantage with comparison to other children while its non-possession causes opposite effect; (c) to include in advertisements texts, audio or video information that depict a child in a dangerous place and situation; d) not to take into account a child’s maturity level while advertising goods designed for

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<sup>1</sup> Article 4(2) of LoA

<sup>2</sup> Article 8(4) of LoA

<sup>3</sup> Article 8(5) of LoA

minors; e) to create wrong perception among minors about a real price of the advertised goods, for example by using word “only”, as well as indicate directly or indirectly that the advertised goods are affordable to a family with any income level.

### **With regard to question 3**

Advertisement is defined by LoA<sup>4</sup> as information on goods, services, activities (goods); physical or legal personalities; ideas and innovations disseminated by any means and form that are addressed to unidentified number of persons and serves the purpose of creation and maintenance of interest towards the physical and legal personalities, goods, ideas and innovation as well as of realization of goods, ideas and innovations.

The Georgian legislation also contains definitions of social advertising as well as of pre-election advertising. Thus, social advertisement is advertisement aimed at achieving social weal and charitable purposes which is not commercial or pre-election advertisement and which do not advertise a legal personality, governmental agency or services they may provide.<sup>5</sup>

Pre-election advertisement is defined as advertisement aimed at facilitating election of a candidate for presidential, parliamentary and local elections.<sup>6</sup>

### **With regard to question 5**

According to Article 17 of LoA local self-governing bodies (for example Tbilisi City hall in Tbilisi) are responsible for exercising state supervision over fulfilling law requirement by mass media in the sphere of advertising. Within their competence the local self-governing bodies may take decision to partially or completely terminate dissemination of inappropriate advertisement and order issuance of counter-advertisement; bring a violator of law requirements to administrative responsibility; apply to respective body with a motion to initiate criminal procedure; in case of non-execution of local self-governing decisions the latter are authorized to apply to courts. While exercising their functions as supervisors in the sphere of advertisement local self-government bodies are authorized to receive any relevant information from producer and disseminator of an advertisement.<sup>7</sup> With regard to outdoor advertisement, permissions on its placement are also issued by local self-governing bodies<sup>8</sup>. The registered number of such permission shall be placed on an outdoor advertisement.<sup>9</sup> Persons whose interests and rights are violated as a result of inappropriate advertisement are authorized to apply to court to seek compensation for damage to health, property, good name and reputation, commercial goodwill and to request public refutation of the inappropriate advertisement. In the sphere of broadcasting advertising is supervised by special Commission - a legal entity of public law, standing national regulatory body that is not subordinate to any governmental agency.<sup>10</sup> In case of failure to

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<sup>4</sup> Article 3(1) of LoA

<sup>5</sup> Article 2 of LoB and Article 12 of LoA

<sup>6</sup> Ibid.

<sup>7</sup> Article 18 of LoA

<sup>8</sup> Article 6(3) of LoA

<sup>9</sup> Article 6(7) of LoA

keep within the law on the part of a broadcaster the Commission is obliged to issue a written warning and set a deadline for bringing a violation to the end. If the broadcaster do not comply with the Commission's warning on time or if it commits another violation during 1 year after the first warning, the Commission is authorized to fine it.<sup>11</sup>

**With regard to question 7**

Article 4(9) of LoA stipulates that it is prohibited to use image or name or physical personality without his/her permission. Furthermore, according to Article 58(3) of the Broadcaster's Code of Conduct approved by the Decree №2 of the National Communication Commission 12 March 2012 if it is revealed that a person's image or name has been used for advertising purposes in a TV program without the person's permission the relevant part of the program shall be removed from the air.

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<sup>10</sup> Article 5(2) of LoB

<sup>11</sup> Article 71 of LoB