

QUESTIONNAIRE ON THE IMPACT OF ADVERTISING AND MARKETING PRACTICES ON THE ENJOYMENT OF CULTURAL RIGHTS

1. In accordance with Article 3 of the Advertising Act (*Official Gazette of the RS*, No. 79/05), advertising is free. Advertising is done in accordance with the law, other regulations, good business practice and professional ethics. Foreign legal entities and natural persons have the same rights and obligations in advertising as domestic entities.

With the principle of prohibition of discrimination in place (Article 7 of the Advertising Act), advertising may not directly or indirectly encourage discrimination on any grounds, especially on grounds of race, skin colour, sex, nationality, social background, birth, religion, political or other convictions, economic status, culture, language, age, mental or physical disability. Advertising or publishing may not be denied due to racial, national or ethnic background, gender or some other personal feature of the person asking for publication or broadcast of an advertisement.

In addition, an advertisement may not be directed individually at a particular person if that person clearly expressed his/her will not to have the advertisement addressed to him/her (Article 9). All of the stated also applies to advertisement via Internet (Article 2).

2.

The Advertising Act (Articles 72-85) particularly focuses on the protection of minors. An advertisement intended for minors may not abuse lack of experience or knowledge of minors and their credulousness, especially through preventing or impeding them to differentiate between fantasy and reality.

The Protection of National Minorities' Rights and Freedoms Act (*Official Herald of the FRY*, No. 11/2002 and *Official Herald of Serbia&Montenegro*, No. 1/2003 – Constitutional Charter and *Official Gazette of the RS*, No. 72/2009 – State law) regulates the following questions: protection of national minorities from all forms of discrimination in the enjoyment of rights and freedoms and the establishment of instruments that provide and protect special rights of national minorities to self-government in respect of education, use of language, information and culture, and the creation of institutions for facilitating participation of minorities in the Government and the management of public affairs, as well as the rights of national minority members to be fully and unbiasedly informed in their own language, including the right of expression, right to receive, send and exchange information and ideas via printed media and other forms of public informing. Moreover, the National Minorities Councils Act (*Official Gazette of the RS*, No. 72/2009) prescribes, *inter alia*, the election of national councils and the registration with the National Minorities Councils Register. By forming their own national councils, the national minorities earned the right to a minority self-administration in respect of culture, education, official use of language and script, and information. This, in accordance with Articles 3 and 4 of the Protection of National Minorities' Rights and Freedoms Act, provided full and effective equality of national minority members in terms of cultural autonomy.

3.

TV advertising as prescribed under the Advertising Act (Article 14) is the broadcasting of advertisements with or without compensation, for the purpose of

recommending an advertiser and his/her activity, product, service or other recommendations in order for the recipient at whom it is directed to accept it or use it.

TV advertising without compensation is done in the following cases:

- 1) TV advertising for self-promotion reasons, which informs the viewers of the content of the programme to be broadcasted in the next seven days, including advertising certain shows from the programme;
- 2) the announcements of public services and the advertisements of non-profit organisations for charity or humanitarian actions, as well as their appeals for charity or humanitarian action which are performed without compensation;
- 3) showing of the identification sign of the TV programme.

TV sale in terms of this Act is broadcasting with compensation of direct offers of products or services, including immovable property, rights and obligations.

4.

5.

The ministry competent for trade, tourism and services monitors the enforcement of the Advertising Act. The ministry competent for health monitors the application of the provisions of this Act which specifically regulate the advertisement of medicines and medical means, doctors and doctors' services. A unit of local self-government or city that is competent for utility affairs monitors the application of the provisions of this Act which specifically regulate the placing of advertising means on public surfaces. An independent organisation founded in the field of broadcasting performs supervision over the enforcement of the provisions of this Act which regulate advertising via television and radio programmes and brings, in accordance with this Act and the act that regulates broadcasting, more detailed rules on advertising and sponsorship on television and radio (Article 103 of the Advertising Act).

In the Republic of Serbia, the Advertising Act is applied to the field of advertising. In this respect, the competence for advertising in the electronic media or a radio program and/or TV stations with program broadcasting licences, has been split between the Republic Broadcasting Agency, the Ministry of Foreign and Internal Trade and Telecommunications and the Ministry of Health. For all other forms of advertising the competent authorities are the Ministry of Foreign and Internal Trade and Telecommunications, the Ministry of Health and bodies of local self-government units.

In accordance with Article 100 of the Advertising Act, a person whose right or interest has been jeopardised or harmed by an advertisement is entitled to protection, which he/she obtains through a lawsuit before the competent court of law. For any damages caused by the advertisement, the advertiser and producer of that advertisement shall be jointly liable.

Natural persons and legal entities have the right to submit claims or objection to the Agency relating to the content of the broadcaster's program, should they believe the program offends or threatens their personal or common interests, as prescribed in Article 14 of the Broadcasting Act (*Official Gazette of the RS*, Nos. 42/2002, 97/2004, 76/2005, 79/2005 – State law, 62/2006, 85/2006, 86/2006 – revised and 41/2009).

6. A message that presents an advertisement must be recognisable. If the advertisement appears together with another message or notice which does not have an advertising character, the advertisement must be clearly pointed out. An advertisement is forbidden if it is directed at one's subconscious, and if it recommends products and services during shows that are not intended for advertising or other forms of undercover advertising (Article 5 of the Advertising Act).
7. The use of personal property is governed by Articles 44-48 of the Advertising Act. If an advertisement contains name, personal data, personal record, face record-photo, drawing, film, video or digital recording, recording of voice or words said – tape, phonograph and digital recording, written records- letter, diary, note or digital inscription (hereinafter referred to as "personal property"), on the basis of which identity of a person may be determined or recognised, the advertisement may not be published without a previous consent of the person to whom the property refers.
- 8.
9. Open space advertising is regulated by Articles 24-29 of the Advertising Act. Open space advertising is done in a manner that ensures safety of pedestrians, motor vehicles and other participants in traffic, protection of cultural and historical monuments and property of common interest and preservation and improvement of the outlook of the city or settlement.
10. In accordance with Article 85 of the Advertising Act, it is illegal to advertise in schools, pre-schools or other institutions intended for minors, unless the advertisement serves to protect the common interest or the interest of a minor and if it does not favour a specific producer or service provider.

Article 156 – *Sources of Funding* of the Foundations of the Education System Act (*Official Gazette of the RS*, No. 55/13), regulates the funding sources as follows:

The funding of work and activities of institutions established by the Republic of Serbia, an autonomous province or a local self government unit shall be provided from the budget of the Republic of Serbia, an autonomous province or a local self-government unit.

Institutions may have their own revenues from donations, sponsorships, scholarships, tuition fees, contracts and other activities in accordance with the law.

The revenues, accounting and utilisation of funds as stated in paragraph 2 of this Article shall be done in accordance with the provisions governing the budget system.

The funds as stated in paragraphs 1 and 2 of this Article shall be provided in keeping with the criteria and standards prescribed by the Minister.

Article 69 – *Transportation and Alimentation*, paragraph 5 of the Foundations of the Education System Act (*Official Gazette of the RS*, No. 55/13) regulates the question of food alimentation and the possibility of donations to that purpose:

In agreement with a local self-government unit and donors, a school may, entirely or in part, provide free food to all students.

Article 68 - *Advertising of Alcoholic Beverages* of the Advertising Act prohibits advertising of beers and wine, including the showing of a stamp or other mark of beer and wine or a beer and wine producer, specifically in pre-school facilities, schools, health and other institutions intended for minors, as well as in open space up to 100 metres from a pre-school facility, school, health and other institutions intended for minors (paragraph 2, point 4).

Article 85 - *Advertising in Children Institutions* of the special chapter - *Advertising Intended for Minors* of the Act prohibits the advertising in schools, pre-schools or other institutions intended for minors, unless the advertisement serves to protect a common interest of a minor and if it does not favour a specific producer or service provider.

11.

The Higher Education Act (*Official Gazette of the RS*, Nos. 76/2005, 100/2007, 97/2008, 44/2010, 93/2012 and 89/2013), Article 6 - *University Autonomy*, point 7 – *The Right to Dispose of Financial Resources in Conformity with the Law*

Article 57 Sources of Finance

A higher education institution shall acquire funds for carrying out its activities in accordance with the law and the Statute, from the following sources:

- 1) funds provided by the founder;
- 2) tuition fees;
- 3) donations, gifts and endowments;
- 4) funds for financing scientific research, artistic and professional work;
- 5) projects and contracts related to the carrying out of courses of study, research and consulting services;
- 6) remuneration for commercial and other services;
- 7) rights of the founder and contracts with third persons;
- 8) other sources in accordance with the law.

12.