

Law of the Republic of Azerbaijan

On Advertising

Chapter I. General provisions

This Law controls relations arising in the process of production, arrangement and distribution of advertisements by legal entities and physical persons in the market of commodities, works and services (hereinafter - "commodities" in the Azerbaijan Republic).

Article 1. Definitions

The definitions used in this Law shall mean:

- **"advertisement"** - information that is spread in order to create interest to physical persons and legal entities, commodities, ideas and novelties (advertising information) or to support this interest, promote sale of commodities, realisation of ideas and novelties;
- **"social advertisement"** - information of non-commercial character that reveals essence of measures taken in order to strengthen sovereignty and statehood of the Azerbaijan Republic, implemented reforms, is brought to people' knowledge, raises responsibility with regard to sovereignty of the Azerbaijan Republic, national, defence patriotic feelings, assists in reconciliation of public attitude towards new economic relations, restores national traditions - business and charity, creates optimistic feelings, faith, patience in people; advertisements are ordered by state bodies, public institutions with the purpose of improvement of political, sanitary, ecological culture of people and may be presented using any advertising means;
- **"impermissible advertisement"** - unreliable, unethical, obviously false advertisements, and also advertisements violating legislation as per content, location and form of presentation;
- **"counter-advertisements"** - advertisements distributed with the purpose of denial of impermissible advertisements and liquidation of its consequences;
- **"recipient of advertisements"** - physical person or legal entity which receives information through advertising, and as a result becomes or may become influenced by advertisements;

- **"advertising carrier"** - any means that is directly used for presentation of advertisement to the customer, irrespective of the form of property (mass media means, cinema, audio, video, printed products, fixed, mobile and other technical devices and equipment);
- **"advertiser"** - physical person or legal entity that is the source of advertising information for making, placing and distribution of advertisements;
- **"producer of advertisements"** - physical person or legal entity, fully or partially preparing advertising information for distribution;
- **"distributor of advertisements"** - physical person or legal entity placing (distributing) advertisements by way of using or letting for use property, including mass media and other means;
- **"advertising agency"** - professional organisation which is legal entity, provides complex services connected with making and distribution of advertisements;
- **"sponsorship"** - provision of voluntary reimbursable monetary and material support or free services;
- **"Offer"** - proposal submitted by the person - with intention to conclude agreement - to one or several specific persons, said offer should demonstrate major provisions of agreement and comply with desire of said person to conclude agreement with any person.

Article 2. Sphere of application of the law

1. This Law applies to legal entities (their subsidiaries and representations) and physical persons involved in ordering, making and distribution of advertisements on the territory of the Azerbaijan Republic.

2. This Law does not apply to political advertisements, and also advertisements of legal entities and physical persons not related to commercial activity.

Article 3. Subjects of advertising activity

Subjects of advertising activity are advertisers, producers of advertisements and distributors of advertisements, advertising agencies carrying out purposeful activity on formation or maintaining interest with regard to producer, commodity, service, idea, novelty.

Article 4. Legislation on advertising

Advertising activity in the Azerbaijan Republic is controlled by this Law and other existing legislative acts of the Azerbaijan Republic.

If regulations of international agreements differ from those established by this Law, regulations of international agreements will apply.

Article 5. Copyrights for advertising

Advertisement is an object of the authorship right and related rights as specified in the Law of the Azerbaijan Republic "On authorship right and related rights". These rights are protected in accordance with existing legislation of the Azerbaijan Republic.

Chapter II. General and specific requirements to advertising

Article 6. General requirements to advertising

1. It is forbidden to advertise commodities which are subject to certification without certificate of compliance.

Actions with the intention of deceiving the customers, such as false comparison of market subjects, commodity, which could mislead the customer, distribution of such advertisements, use of illegal means of advertising influencing choice of the customer during purchase or conclusion of deal, are impermissible.

Purposeful attraction of attention of recipient of advertisements to specific commodity, producer, user or seller without preliminary duly warning about non-advertising nature of product of mass information, films and printed products with the purpose of formation or maintenance of interest to such is impermissible. When such materials are distributed in parts, warning about advertising should be repeated in proportion with number of such parts.

In cases of publication or distribution of advertisements in mass media in a form of information, editorial or author's material payment for advertising is not taken.

2. Advertising of commodities forbidden for production and sale in the Azerbaijan Republic is impermissible.

3. If license is required for activity of an advertiser, number of license and name of organisation which has issued this license should be indicated in the advertisement.
4. If commodity being advertised is subject to certification, distributed advertisements must be accompanied with signature "is subject to obligatory certification".
5. Objects of exclusive right (intellectual property) might be used in advertisements in compliance with legislation of the Azerbaijan Republic.
6. Advertisements should not call citizens to violence, aggression, create confusion, and also encourage actions that could damage health and security of physical persons, activity directed to violation of environmental protection.
7. Cultural valuables, including cultural valuables of religious purpose without consent of their owners (users), and also religious structures cannot be used for advertisement.
8. The state language shall be used and state language requirements shall be applied in advertisements in the territory of the Republic of Azerbaijan. Where appropriate, other languages may also be used in addition to the state language in advertisements. However, the area occupied by text in foreign language should not be larger than that in Azerbaijani language and shall come after the text in Azerbaijani language.
9. When prices of goods (works, services) sold within the Republic of Azerbaijan are shown on advertisement, the price may only be shown in Azeri Manats.

Article 7. Improper advertising

Advertising is considered improper if:

- it discredits legal entities and physical persons that are not using advertised commodity;
- advertisements contain tactless comparisons of commodities being advertised with commodities of other legal entities and physical persons, and also images discrediting honour and dignity, or business standing of competitor;
- advertisements deceive the customers with regard to advertised commodity by way of imitation and copying of general project, text, advertising formula, image, musical and sound effects used in other advertisement, and

also abuse confidence of physical persons or take advantage of their lack of experience, including deliberate concealment of certain part of important information in advertisement.

Improper advertising is impermissible.

Article 8. Inaccurate advertising

Advertisements are considered inaccurate if they reflect inaccurate data with regard to:

- composition, method of production and date of production of commodity, its purpose, consumer characteristics, conditions of use, availability of certificate and symbols, confirming compliance with state standards, quality and place of production;
- existence of commodity at the market, possibility of its purchase in indicated volumes, time period and place;
- cost (price) of commodity at the moment of distribution of advertisements;
- additional terms of payment;
- delivery, exchange, return, repair of commodity and other services;
- expire date, service life and guarantee obligations;
- right for use of state symbols (flag, state emblem, hymn) and also symbols of international organisations;
- official recognition, obtaining medals, prizes, diploma and other awards;
- where commodity is certain part of series - possibility of information about obtaining its whole series;
- results of investigations and tests, scientific terms, quotations from technical, scientific and other published materials;
- statistical data;
- comparison with other commodity (commodities), and also status and rights of other physical persons and legal entities;
- information about advertiser and actual demand for commodity;

use of words "the very", "only", "just", etc., without confirming documents.

Inaccurate advertising is impermissible.

Article 9. Unethical advertisement

1. Advertisements are considered unethical, if:

- there are insulting words, comparisons and images, contradicting religious, philosophical, political and other convictions of races, nations, professions, social categories, age groups, sexes, languages or physical persons and also generally recognised standards of humanism and morals;
- discredits objects of arts constituting national and general cultural inheritance, national currency of the Azerbaijan Republic and currencies of other states, religious symbols, any physical person or legal entity, activity, profession or commodity.

2. Physical person or legal entity, whose honour, business standing, rights suffered as a result of distribution of advertisements (of slanderous and other nature), might bring an action (law court, or economic law court) against an advertiser, producer of advertisements and distributor of advertisements in accordance with legislation of the Azerbaijan Republic.

Unethical advertising is impermissible.

Article 10. Deliberately false advertising

Advertisement is considered deliberately false if, using it, advertiser (producer of advertisements, distributor of advertisements or advertising agency) deliberately misleads recipient of advertisements.

Deliberately false advertising is impermissible.

Article 11. Hidden advertising

Advertising used in radio, TV, audio, cinema, published and other products, that indirectly influences recipients is considered hidden advertising (including advertising with the use of special video devices, double sound recording and other means).

Hidden advertising is impermissible.

Article 12. Specific nature of advertising on radio and TV

Broadcasting of advertisements on radio and TV is regulated by the appropriate legislation.

Article 13. Specific nature of advertising in mass media

In periodicals not specialised in advertising, advertisements may not exceed 40 percent of total volume of periodical.

Article 14. Specific nature of advertising in movie, video and search services

1. In cinema, video halls, films must not be interrupted by advertisements except during the break between the parts.
2. When making inquiries by telephone advertising is permitted only after reference(s) requested by subscriber has (have) been given.
3. In case of paid telephone, reference, computer and other services, advertisements may be made only with subscriber consent. Cost of such advertisements shall not be included into cost of reference provided to subscriber.

Article 15. Specific nature of outdoor (wall) advertising

1. In cities (towns) and villages, on other territories advertisements may be distributed in a form of posters, stands, illuminated advertising boards and other technical structures, installed as specified in clauses 2, 3, 4 of this article. Outdoor advertisements must not resemble road signs, reduce vision zones and have negative impact on safety on the roads.
2. In cities, inhabited areas and on other territories outdoor advertisements may be placed only with consent of relevant executive power bodies (presidential decree of 24.11.1997, No. 644).
3. In road and roadside zones that are under control of relevant executive power body, advertisements are placed only with consent of relevant executive power body (the Ministry of Transport of the Republic of Azerbaijan and the Internal Ministry of the Republic of Azerbaijan within the scope of their powers, decree of the President of the Republic of Azerbaijan - 03.11.2001, No. 595) and based on the agreement concluded between the motor road owner and advertisement distributor.
4. Payment for placement and distribution of outdoor advertisements is taken in an order and at rates approved by local authorities, taking into account requirements specified in clause 1 of this article.

The guidelines for calculation of the minimum amount of payment for placement and distribution of outdoor advertisements, as well as location of advertisement

areas are determined by the appropriate body of executive authority of Republic of Azerbaijan.

The charge paid in accordance with the terms and conditions of an appropriate agreement by advertiser for placing advertisements on lands, buildings and other objects owned by municipalities, shall be transferred to the account of the corresponding municipality; whereas the charge paid in accordance with the terms and conditions of an appropriate agreement by advertiser for placing advertisements on lands, buildings and other objects owned by the state shall be transferred to the account of the corresponding body of executive authorities.

Advertisers may place advertisements on lands, buildings and other objects under special ownership based on agreements concluded with owners of such properties (in respect of provisions mentioned in clauses 2 and 3 of this article).

Article 16. Specific nature of advertisements on transportation means and mails

- 1. Advertisements may be placed on transportation means in accordance with agreements concluded with the owners of transportation means after consent of relevant executive power body has been obtained.
- 2. Distribution of advertisements in mail may be done with consent of relevant executive power body, in accordance with legislation.

The amount invested into distribution of advertisements shall not exceed expenditures made by the body that has issued permit. This amount shall be transferred to state budget in full amount.

Article 17. Specific nature of advertising various commodities

1. Advertising alcoholic drinks in any form is not permitted if such advertising:
 - demonstrates acts of drinking;
 - creates impression that drinking play an important part in achieving public, sport and personal success, or improvement of physical and psychic condition of people;
 - demonstrates disrespect to those who refuses drinking spirits and smoking;

- contains information about positive medicinal properties of alcohol;
- presents high content of alcohol and nicotine within composition of certain product as advantage of this product;
- when applying directly to young people under age, ladies uses names of persons and sportsmen popular among young people, and also any persons under 25;
- is distributed in any form in broadcasts and telecasts, films and video-films, press organs intended for young people under age and ladies;
- advertisements of alcoholic drinks are given on front pages of newspapers, title pages of magazines;
- advertisements of alcoholic drinks are distributed in schools, educational organisations, sport complexes, religious buildings and structures and also within 100 m radius therefrom;

2. Advertising of tobacco and tobacco products is not permitted.

3. Advertising of medicines, medicinal goods, medical equipment (when there is no permit for their production or sale), treatment methods , prophylactics, diagnostics, rehabilitation (when there is no permit of relevant executive power body for such services) is forbidden.

4. Advertising of preparations containing narcotic and psychotropic substances is impermissible.

5. Advertising of medicines issued only under prescriptions and also medicinal equipment requiring special qualifications is permissible only in specialised medical and pharmaceutical publications, observing requirements specified in clause 3 of this article.

6. Advertising of mass treatment seances, methods of hypnosis, medicinal properties of psychic and biological influence is impermissible without permission of the corresponding body of executive authorities.

7. Advertising of all kinds of weapons, military equipment (except permitted fowling-pieces and sporting guns) is impermissible.

8. It is prohibited to use pornography when advertising.

9. The following is not permitted while advertising artificial milk products for infants and children:

- using images of children in advertisements of artificial milk products;
- publication of information about food formulas in media other than scientific and children care releases;
- distribution of advertisements about artificial milk products in medical enterprises;
- creating impression that artificial milk products are equal or preferential to natural milk, and not mentioning the preferential advantages of mother's natural milk;
- distribution of publications related to artificial milk products among pregnant women and mothers;

10. Advertising of forbidden promotional lotteries and other non-registered lotteries, shall not be permitted.

Article 18. Specific nature of advertising financial, insurance, investment services and securities

When producing, placing and distributing advertisements on financial (including bank), insurance, investment services, other services related to use of money of legal entities and physical persons and also securities, the following is not permitted:

- to distribute data of quantitative nature, not related directly to advertised services or securities;
- to advertise prospectus of emission of securities without registration;
- to give guarantees on dividends based on ordinary shares;
- should advertisement indicate conditions of agreement - conceal any of these conditions.

When distributing advertisements, it is impermissible to create false impression about real or expected profit from shares, contributions, securities and their sale and also terms of purchase.

Article 19. Advertisements of social nature

1. Social advertisements serve public and state interests and have charitable purpose. Social advertisements must not contain names of commercial organisations, private businessmen, specific brands of commodities, and also brand names (models, articles) of commodities produced as a result of commercial activity of non-commercial organisations.

2. Non-paid activity of legal entities and physical persons in the area of production and distribution of social advertisements, payments made by other legal entity for production and distribution of social advertisements are recognised as charity and will enjoy privileges in accordance with existing legislation.

3. Distributors of advertisements - organisations of mass information must allocate for social advertisements submitted by advertiser 5 percent of broadcasting time and advertising area, as specified by this law.

Distributors of advertisements must provide distribution of social advertising within the limits of 5 percent of annual subscription fee, provided by organisations other than mass information organisations.

Producer of advertisements must provide services on production of social advertising up to 5 percent of annual advertising production volume. Should advertiser, not later than one month in advance inform distributor of advertisements about time and form of distribution of advertisements, distributor of advertisements will have to fulfill this order without fail.

4. Payment for placement and distribution of social advertisements is done based on agreement.

5. Should producer of advertisements and distributor of advertisements prevent in any way production, placement, distribution of social advertisements, except conditions specified in clause 3 of this article, such actions might be appealed against at the law court, in compliance with legislation.

Article 20. Sponsorship

Sponsor and sponsored are regarded respectively as advertiser and distributor of advertisements, and contribution of sponsor - as payment for advertisement.

Sponsor has no right to interfere with activity of sponsored.

Article 21. Protection of persons under age when producing, placement and distribution of advertisements

1. In order to protect persons under age when producing, placing and distributing advertisements, the following is not permitted:

- to abuse inexperience, credulity of persons under age, in order to protect persons under age when producing, placing and distributing advertisements;
- to discredit parents and educators, undermine faith in them;
- to induce persons under age so that they shall influence their parents or other persons to buy advertised commodity;
- to impress on persons under age that purchase of one or another commodity will give them certain priority among their friends, and failure to possess this commodity will have opposite effect;
- to demonstrate persons under age for advertising in dangerous places or circumstances using any type of advertising carrier;
- to form wrong ideas in minds of persons under age about the cost of some commodity, to use such words as "the very", "only", etc., to impress on mind of persons under age that any family can afford cost of commodity being advertised.

2. It is forbidden to create images of minors when advertising commodities that have no connection with them, no matter what types of advertising carriers are used.

Chapter III. Obligations of subjects of advertising activity

Article 22. Term for storing advertising materials

Advertiser, producer of advertisements, distributor of advertisements and advertising agencies must keep advertising materials and their copies, including amendments and changes introduced later, within one year from the last day of distribution of advertisements.

Article 23. Provision of information for production and distribution of advertisements

1. Advertiser, producer of advertisements, distributor of advertisements and advertising agency have the right to request from the advertiser documents confirming reliability of advertisements. Advertiser must present these documents.

2. If license is required for activity of advertiser, producer of advertisements, distributor of advertisements and advertising agency are obliged to request respective license from the advertiser permitting advertising and activity of the advertiser itself (himself).

Article 24. Responsibility of producer of advertisements to inform advertiser about circumstances which could result in violation of legislation of the Azerbaijan Republic concerning advertising

Producer of advertisements, distributor of advertisements and advertising agent must duly inform advertiser about incompliance of his requirements with this Law. Should the advertiser, in spite of warning, fail to change his requirements, or fail to submit documents confirming accuracy of information in advertisement, producer of advertisement (advertising agency) may refuse to conclude agreement.

Chapter IV. Control in the sphere of advertising

Article 25. Control over advertising activity

1. In the Azerbaijan Republic state control and self-control over the advertising activity takes place.

2. Relevant executive power bodies, carrying out state control over the advertising activity, within the limits of their authority have the right:

- to put a stop to distribution of advertisements which contradict this Law by legal entities and physical persons;
- to forward notifications to advertisers, producers of advertisements, distributors of advertisements and advertising agencies about violations of this Law, decisions requesting obligatory counter-advertising;
- to apply to law courts in connection with violations of this Law. Whereas relevant executive power bodies are released from state duty.

3. Self-control over the advertising activity is carried out by professional organisations, unions, associations of advertisers, that:

- are enlisted to working out normative-legal acts on advertising;
- with the purpose of verification of compliance of advertisements with legislation, carry out independent expertise of advertisements, submit proposals to relevant executive power bodies and also to advertisers, recipients of advertisements and distributors of advertisements;
- are enlisted by relevant executive power bodies to implementation of control over observance of legislation on advertising activity.

Article 26. Right for information

1. Relevant executive power body, within the limits of its authority as specified by this Law has the right to be supplied with all materials from advertisers, producers of advertisements, distributors of advertisements and advertising agencies.

At request of relevant executive power body subjects of advertising activity must, within specified term, submit personal or written explanations, documents, audio- and video-materials and also other materials required for implementation of their obligations under this Law.

It is forbidden to disclose information constituting commercial secret.

Damage done by disclosure of such information is reimbursed as specified by legislation.

Chapter V. Responsibility for counter-advertising and improper advertising

Article 27. Counter-advertising

1. When facts of violation of legislation of the Azerbaijan Republic concerning advertising are established, subject of advertising activity having violated the law, should organise counter-advertising within a term specified by relevant executive power body. All costs of counter -advertising should be borne by entity having violated the Law.

2. If counter-advertising has not been implemented within specified term, relevant executive power body that has issued decision about implementation of counter-advertising shall have the right to apply to relevant state authorities requesting complete or partial termination of advertising activity of the offender, until counter-advertising is accomplished.

Relevant executive power body must inform all parties that have agreements with the offender.

3. Counter-advertisements must be distributed using carriers with the same duration as improper advertisements have been distributed, using same approaches. Content of counter-advertisements must be agreed upon with relevant executive

power body. In some cases relevant executive power body may change space characteristics, carrier, term and method of distribution of counter-advertisements.

4. Damage incurred to the customer as a result of purchase of unduly advertised commodity (work, service) shall be reimbursed by guilty persons in full amount.

Article 28. Responsibility of advertiser, producer of advertisements, distributor of advertisements (advertising agency)

In compliance with legislation of the Azerbaijan Republic advertiser will be responsible for content of materials proposed for production of advertisements, producer of advertisements - for production of advertisements, and distributor of advertisements - for place, time and means of distribution.

Article 29. Public offer about conclusion of agreement on advertising

Consequences of recognition of advertisement as invitation to submit offers or public offers (public offer about conclusion of agreement in advertising) are established in accordance with civil legislation of the Azerbaijan Republic.

If advertisement informs about at least one of existing conditions, advertiser must specify term of validity of advertisement, both inviting to make offers and also acting as an open offer.

If after acceptance from the person (entity) - addressee of public offer has been received in an established order, advertiser refuses to conclude agreement, said person (entity) will have the right to apply to relevant law court, requesting to conclude agreement and to reimburse damage incurred as a result of unjustified refusal of advertiser.

Article 30. Responsibility for violation of the law

Subjects of advertising activity are responsible for violation of this Law in accordance with legislation of the Azerbaijan Republic.

Persons whose rights have been violated as a result of improper advertising might apply to relevant law court, demanding for protection of their honour and dignity, and reimbursement of damage.

Physical persons and officials ordering, producing and distributing deliberately false advertisements with the purpose of making profit will be legally responsible for damage incurred to public and state interests.

President of the Republic of Azerbaijan

Heydar Aliyev

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