

# **L A W**

## **ON ADVERTISING\***

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### **I INTRODUCTORY PROVISIONS**

#### **Subject**

##### **Article 1**

The present Law regulates the content of advertisement, general rules of advertising, special rules and restrictions, direct advertising, sponsorship, legal protection and supervision.

#### **Terms**

##### **Article 2**

Certain terms within the meaning of the present Law shall have the following meanings:

1) advertising is any form of representation in relation to business operation i.e. professional or business activity, in view of fostering the sale of goods and services, sale of real estate, as well as transfer of rights and obligations;

2) advertisement is a notification which constitutes the content of advertising, regardless of the form, method or medium by which it is transmitted;

3) advertiser is a person who is being advertised in the capacity of a trader in accordance with regulations governing trade or who acts for and on behalf of a trader, i.e. who performs professional or business activity of sale of goods and services, real estate, as well as transfer of rights and obligations, in accordance with special regulations;

4) transmitter of advertisement is a person who transmits the advertisement by mediums in his ownership, media which he publishes or domain which he registered, or who has the right of use or any other right over such mediums and domains, based on which he is authorised to transmit advertisements, as well as organiser of public manifestations and events where advertisements are being transmitted.

#### **Scope of Application**

##### **Article 3**

The provisions of the present Law shall apply to advertising, regardless of the method and medium by which it is performed.

Provisions of the present Law shall also apply to activities which are not considered as advertising within the meaning of Article 2, paragraph 1, item 1) of the present Law, such as:

1) publishing of personal messages, i.e. other announcements of natural persons which are not related to their business or professional activity;

2) public announcements made by state authorities, i.e. other public authorities within performing tasks incidental to their scope of work (e.g. public invitations, public advertising of sale of decommissioned armament and military equipment, announcements, public campaigns and the like), in accordance with the law governing the field of public information and other types of activities performed, in view of promotion and presentation of their programmes, projects, actions, works etc, by the Republic of Serbia, Autonomous Province, local self-government units, as well as by institutions and other legal entities predominantly owned by the state or entirely or predominantly financed from public revenues;

3) electoral campaigns and other promotional activities of political organisations, carried out in accordance with the regulations governing elections and regulations governing electronic media;

4) public information performed by associations, labour unions and other legal entities as part of activity not relating to sale of goods and services, including activities, sale of real estate and transfer of rights and obligations;

5) public information on activities of socially responsible behaviour, except where such activities include elements of sponsorship within the meaning of the present Law.

## **II GENERAL RULES OF ADVERTISING**

### **Freedom of advertising**

#### **Article 4**

Advertising shall be free, whereby rights and obligations of domestic and foreign legal entities and natural persons shall be equal.

No person may prevent publishing of an advertisement based on ideas or opinions on *res publica* contained in the advertisement.

Advertising shall be performed in accordance with the law, other regulations, fair business practices, professional ethics and other forms of self-regulation.

### **Business Rules**

#### **Article 5**

Independent regulation of business rules (self-regulation) means set of rules defining the procedures in commercial communication which comprises advertising in relation to one or more business processes or business branches, i.e. professional rules established in accordance with the provisions of the present Law and special regulations.

All actors in advertising shall adopt the business rules and shall be responsible for formulation, acceptance, application, monitoring of implementation and revision thereof.

Professional ethics, within the meaning of the present Law, is a standard of special skill and care which may reasonably be expected from advertisers, producers or transmitters of advertisements, in relation with recipients of advertisements and is equal to fair business (market) practice and general principles of good faith in professional rendering of activities by all actors in advertising.

The subject of business rules may refer to specific fields, i.e. business branches, as well as practices in the field of specialised services and advertising.

## **Co-Regulation**

### **Article 5a**

Transmitters of advertisements which are media service providers, within the meaning of the law regulating the field of electronic media, may, subject to the approval of regulatory body for electronic media, establish, independently or jointly, the special business rules in relation to inappropriate advertising of food or drinks which incorporate contents having nutritive or physiological effects whereof excessive consumption is not recommended, in particular fats, trans fatty acids, salt/sodium or sugar, which is broadcast before, during or immediately after the programme content intended or specialised for children.

## **Social Responsibility**

### **Article 6**

Advertising shall be based on the principle of use of allowed means to achieve a goal and other principles of social responsibility.

Advertisement shall not give rise to hatred or intolerance, misuse trust, relationship of dependence, credulity, inexperience or ignorance and superstition of advertisement recipients.

Advertisement shall not contain statements or visual representations which may be regarded as insulting.

Advertisement shall be true, in accordance with the law, good business practices, fair competition and professional ethics.

If an advertisement refers to opinions of certain scientists, experts or consumers, such opinions shall be confirmed, documented and verifiable.

## **Prohibition of Advertising of Certain Persons, Goods, Services and Activities**

### **Article 7**

Advertising whereby an advertiser, activity or production and turnover of goods and provision of services prohibited by law or by an individual act of the competent authority are being recommended, is forbidden.

If it is prescribed by law that an activity which includes the subject of advertising may be performed only based on consent, permit or other act issued by state authority, such advertising shall be prohibited where such consent, permit or other act is not issued by the state authority.

Advertising which induces inadmissible actions against other person or boycotting of other person and/or termination or prevention of establishment of relations with other person is prohibited.

### **Prohibition of Encouraging Discrimination**

#### **Article 8**

It is forbidden for the advertisement to, directly or indirectly, encourage discrimination on any grounds, especially on the grounds of belief, nationality, ethnicity, religion, gender, race, political opinion, sexual or other orientation, social background, state of assets, culture, language, age or psychic or physical disability.

### **Prohibition of Discrimination against Advertisers**

#### **Article 9**

It is forbidden to reject advertising, i.e. broadcasting of advertisement without justification, or to otherwise unjustifiably make difference between or exercise unequal treatment, exclusion, restriction or preference upon different advertiser in the same or similar situations.

### **Prohibition of Encouraging Jeopardising of Health and Safety**

#### **Article 10**

It is forbidden for the advertisement to encourage behaviour jeopardising health or safety of advertisement recipient, in particular the following:

- 1) scenes of violence and destruction of structures and nature, except where aimed at suppressing such behaviour;
- 2) presentations which may cause fear or aggressiveness;
- 3) sexual harassment, where presented as acceptable, desirable or common social behaviour;
- 4) presentation of minors in relation to sexuality, as well as of men and women as boys and girls having sexual characteristics of adults;
- 5) encouraging or approving actions which are prohibited by environmental regulations, as well as making false statements (e.g. by stressing the expression “environmentally safe”, “environmentally friendly”, “eco food”, “organic product” and similar words and symbols) that goods or services have positive or harmless health or environmental impact.

## **Misleading Advertising**

### **Article 11**

Misleading advertising is prohibited.

Misleading advertising means any advertising which in any way, including its presentation, deceives or is likely to deceive the advertisement recipients and which, by reason of its deceptive nature, is likely to affect their economic behaviour or which, for those reasons, injures or is likely to injure a competitor.

In determining whether advertising is misleading, account shall be taken of all its features, and in particular of any information it contains concerning:

1) the characteristics of goods or services, such as their: nature, composition, availability, quantity, specification, method of use, fitness for purpose, geographical or commercial origin, method and date of manufacture of goods or method and time of provision of service, results to be expected from the use of goods or services, or results or other indicators of tests or checks carried out on the goods or services;

2) the price or the manner in which the price is calculated, and the conditions on which the goods are sold or the services provided;

3) business information, attributes and rights of the advertiser, such as his identity and assets, his qualifications, commercial property or intellectual property rights or his awards and distinctions.

## **Product Placement**

### **Article 12**

Product placement is prohibited.

Product placement is representation of goods, services, trade names, trademarks or other signs, i.e. activities of a natural person or a legal entity engaged in production of goods or provision of services, where the intention of such representation is for advertising purposes and may mislead the public in respect of its actual nature, provided that it shall be deemed that such intention particularly exists if the above is performed in exchange for a remuneration or other compensation.

In assessing whether product placement exists, particular account shall be taken of existence of justification for representation of goods, services, trade names, trademarks or other signs i.e. activities, i.e. of justification for thereof indication during the programme and of whether there is editorial justification for presentation of or reference to particular goods, services, trademarks or other signs and/or activities in the programme (e.g. justification of frequency of presentation of or reference to goods, services or signs, or whether certain goods manufacturer or service provider is given preference in the programme, and the like).

## **Recognisability Sign**

### **Article 13**

If an advertisement appears together with other information of non-advertising nature, the advertisement must be clearly marked with recognisability sign.

Recognisability sign is a graphical, visual and/or audio sign which, subject to method of advertising, characterises particular message as advertisement (e.g. “paid media space”, “advertisement” and the like).

Application of recognisability sign excludes product placement in a particular situation.

## **Comparative Advertising**

### **Article 14**

Comparative advertising is advertising which directly or indirectly identifies the competitor, i.e. his goods or services.

Comparative advertising shall, as far as comparison is concerned, be permitted when the following conditions are met:

1) it is not misleading within the meaning of Article 11 of the present Law and within the meaning of provisions on misleading business practices and omissions whereby consumers are misled, as prescribed by the law governing consumer protection;

2) it compares goods or services meeting the same needs or intended for the same purpose;

3) it objectively compares one or more material, relevant, verifiable and representative features of those goods and services, which may include price;

4) it does not discredit or denigrate the trade marks, trade names, designation of geographical origin or other distinguishing marks, goods, services, activities or circumstances of a competitor;

5) it relates in each case to products with the same designation of origin;

6) it does not take unfair advantage of the reputation of a competitor, trade mark, trade name or other distinguishing marks of a competitor or of the designation of origin of competing products;

7) it does not present goods or services as imitations or replicas of goods or services bearing a protected trade mark or trade name;

8) it does not create confusion between the advertiser and a competitor or between the advertiser’s goods or services, trade marks, trade names or other distinguishing marks and those of a competitor.

## **Use of Personal Property in Advertising**

### **Article 15**

If an advertisement contains personal property on the basis of which identity of a person can be ascertained or recognised, the advertisement may not be published without prior written consent of the person whom the property pertains to.

The personal property means personal data, personal record, face record (photo, drawing, graphical, movie, video or digital record), audio record of voice of and words said by a particular natural person.

If the person whom personal property pertains to dies, the consent within the meaning of paragraph 1 of the present Article shall be given by a spouse, children and/or other kin in the direct line of descent, including the adopted relatives, parents of the deceased or a person dedicated by legacy.

Obtaining of the consent referred to in paragraph 3 of the present Article shall cease to be necessary after 70 years of the death of the person whose personal property is used.

For a natural person having no legal capacity, the consent within the meaning of paragraph 1 of this Article shall be given by his/her legal representative, and for a child without parental care and an adult deprived of legal capacity, the consent shall be given by a guardian subject to prior approval of guardianship authority.

The consent by a person whom personal property pertains to, given for use of the personal property on other grounds, with or without compensation, and not on the grounds of advertising, shall not be considered at the same time to be the consent for its use in an advertisement.

The consent given for use of personal property in an advertisement or for a certain advertising period, certain advertising manner, or advertising for certain purpose, shall not be considered to be the consent for a repetitive or extended advertising, for advertising in another manner, or advertising for other purposes.

If a person whom personal property pertains to has reserved the right to withdraw consent for using personal property in an advertisement, the advertisement may not contain personal property upon receiving such withdrawal.

A person whom personal property pertains to is entitled to a withdrawal even when he/she did not reserve such right when providing previous consent to the use of personal property, if according to circumstances of the case such advertising would cause damage to his/her interests that he/she could not have foreseen.

If the consent for using personal property has been withdrawn in accordance with the present Law, the advertiser is entitled to compensation of damage caused by the withdrawal of the consent for using personal property.

If a person, whose personal property is used in an advertisement, subsequently consents to its use, he/she shall be entitled to ask for appropriate compensation for the use of his/her personal property.

## **Advertising of Sales Promotions**

### **Article 16**

In advertising sales promotions, the advertiser is obliged to indicate in the advertisement all elements contained in the offer of sales promotion in accordance with the law governing trade.

It is prohibited to advertise sales promotions whereby alleged sale or virtual discounted price of goods or services, scope of discount and the like, is being advertised, if the previous price is untruly indicated or if the goods were offered at previous price for the negligibly short period of time.

If products or services are advertised at prices preferential for certain categories of persons, for certain area or period of time, it is obligatory to precisely indicate the category of persons, the area and the period of time to which such price applies.

Promising gifts by using words such as “free”, “gratis”, “pay one, get two”, “two for one” and the like is allowed only if the goods or services are already offered at the regular (current) price.

If prices of goods or services of different quality, i.e. prices of faulty and faultless goods are compared in an advertisement, it has to be indicated that lower price is the result of lower quality i.e. the fault.

## **Hidden Tariff**

### **Article 17**

An advertisement that refers to a phone number and/or other customer service to which special tariff applies, must visibly, clearly and legibly indicate the amount of such tariff, i.e. the total price of such service (establishment of call and rating per minute etc).

## **Use of State Symbols of the Republic of Serbia, foreign countries and symbols of international organisations**

### **Article 18**

The use of flag, national anthem and coat of arms of the Republic of Serbia in advertising must be in accordance with the law regulating the use of those state symbols.

Advertisement may not contain symbols whereof use is against the regulations, business practices or morale.

The use of the flag, coat of arms, national anthem and other symbols of foreign countries and international organisations shall not be dishonest, and especially be such as to expose them to defamation or to insult dignity of a foreign country or its citizens or of an international organisation.



## **Advertising Declaration**

### **Article 19**

Advertising declaration is a document which contains data identifying the advertiser and the advertisement transmitter, advertisement content and the envisaged period and method of advertising, which the advertiser is to submit to the advertisement transmitter.

If legal requirement for performing the activity being subject of advertising is to obtain the consent, permit or another act of a state authority, the advertising declaration shall contain the number and date of such permit, consent or other act and the name of the state authority issuing such act.

The advertising declaration containing data referred to in paragraph 1 of the present Article shall be kept by the advertiser and the advertisement transmitter in the course of respective advertising and 30 days after termination of such advertising.

If the advertisement transmitter does not hold the advertising declaration containing data referred to in paragraph 1 of the present Article, it shall assume the position of the advertiser in respect of the liabilities and responsibilities prescribed by the present Law, unless such data can be reliably determined based on the respective advertisement.

Advertising declaration shall be drawn up in writing or in the electronic format document supported by electronic signature.

## **Responsibility of Advertisement Transmitter**

### **Article 20**

Advertisement transmitter shall be responsible jointly with the advertiser for any damage incurred as a result of publishing or otherwise transmitting the advertisement which can be determined through regular insight as obviously contrary to the present Law, where he failed to obtain the duly completed declaration.

The advertisement transmitter may assume, by way of a contract with the advertiser, the sole responsibility in respect of rights and obligations of the advertiser prescribed by the present Law.

Rights and obligations of advertisement transmitters in respect of advertising in open areas shall pertain to owners, holders of rights of disposition and/or use, or other rights over property, area or means, which incorporates their authorisation to make independent decisions in respect of placing or displaying of advertisements, including authorisation to collect remuneration for advertising.

The advertisement transmitter shall be responsible for advertising whereof advertisement is contrary to the provisions of the present Law or of another law or bylaw governing the contents of advertising, if he was aware or must have known, based on the regular review of circumstances of the specific case (i.e. by insight into the contents), that the advertisement was contrary to the above regulations, where he does not hold the advertising declaration referred to in Article 19 of the present Law.

### **III SPECIAL RULES AND RESTRICTIONS**

#### **1. Special Rules on Protection of Children and Minors**

##### **Protection of Children and Minors against Inappropriate Advertising**

###### **Article 21**

Advertisement shall not:

- 1) contain presentation of a child or minor in a dangerous situation;
- 2) directly induce children or minors to buy goods or services or invite them to ask their parents to do so;
- 3) incite children or minors to behaviour which may harm them;
- 4) directly encourage children or minors to buy or lease goods or services by abusing their inexperience and credulity;
- 5) abuse the particular trust which children and minors have in their parents, teachers or other persons.

Dangerous situations referred to in paragraph 1, item 1) of the present Article shall especially mean climbing unsecured structures, entering unknown premises, talking to strangers and the like, or child without parent's supervision holding or being near hazardous substances or equipment, such as matches, lighters, gasoline, medications, electric household appliances and the like, unless where the advertisement directly promotes safety of children and protection of their integrity.

During a children's show, i.e. a show intended for minors, only advertisements and TV sale messages appropriate for the age of children i.e. minors may be broadcast.

Within the meaning of paragraph 3 of the present Article, in the course of and at least ten minutes before or after broadcasting of a children's show, i.e. show intended for children, it is particularly illegal to broadcast advertisements and TV sale messages recommending the following:

- 1) alcoholic beverages;
- 2) games of chance;
- 3) ignition mediums, flammable substances and other hazardous agents which may jeopardize a child or a minor;
- 4) weight loss products, medical treatment methods, institutions providing such services, medications, medical devices and dietary supplements.

The provisions of the present Article shall accordingly apply to television and radio programmes and media services on demand which are specialised for programme contents intended for children and/or minors.

A child, within the meaning of the present Law, is a person under 12 years of age.

A minor, within the meaning of the present Law, is a person who turned 12 but is under 18 years of age.

## **Advertisement Intended for Children and Minors**

### **Article 22**

Advertisement intended for children, within the meaning of the present Law, is the advertisement which is directly or indirectly addressed to children.

Advertisement intended for minors, within the meaning of the present Law, is the advertisement which is directly or indirectly addressed to minors.

## **Abuse of Inexperience, Ignorance and Credulity**

### **Article 23**

An advertisement intended for minors shall not abuse their inexperience or ignorance or their credulity.

An advertisement intended for children shall not, in addition to requirement set forth in paragraph 1 of the present Article, prevent or impede making difference between reality and fantasy.

An advertisement intended for children and/or minors shall not contain inaccurate data on the advertised goods or services, especially in terms of the actual size, value, nature, durability, characteristics, speed, colour and the like.

If an advertisement shows result of drawing, making, assembling, modelling and the like, ability for achieving this result has to suit average ability of children or minors whom the advertisement refers to.

In case referred to in paragraph 4 of the present Article, it is obligatory to specify the age of children and/or minors whom the advertisement is intended for.

The advertisement intended for children or minors may not contain, in addition to price, a judgment on the price as well, especially the words “only”, “penny worth”, “bargain” etc.

The advertisement intended for children and/or minors may not, along with goods and services intended for them, recommend a product or a service that is not intended for them.

## **Protection of Health and Development**

### **Article 24**

It is prohibited to advertise milk, other food or drinks for the infants up to six months old, as well as kits for their use.

Advertising which encourages or induces behaviour that jeopardizes health, physical and psychic development of children and minors is prohibited.

## **Protection of Integrity**

### **Article 25**

The advertisement intended for minors must not contain presentation of violence, including violent scenes between animated characters, puppets and the like.

The advertisement intended for minors must not abuse their trust in certain persons, especially in parents, teachers, doctors and the like, by undermining their authority or views.

The advertisement intended for minors shall not suggest that by using goods or services they will attain physical, intellectual or other social advantages over other minors, i.e. that failure to use such goods or services would have opposite effect.

The provisions of the present Article shall accordingly apply to advertising intended for children as well.

## **Advertising in Educational and Pedagogical Institutions**

### **Article 26**

Advertising in school, pre-school or other institution intended for children or minors is not allowed, unless it aims to protect the general interest and interests of children or minors, or serves for pedagogical, educational or sports activity.

## **2. Special Rules regarding Advertising Method**

### **a) Advertising in Electronic Media**

#### **Term and Types of Advertising in Electronic Media**

### **Article 27**

Advertising in electronic media is advertising within programme contents of radio and television, as well as within programme contents available on demand via electronic communication networks, in exchange for remuneration or other compensation or for self-promotion purposes.

Advertising in electronic media is carried out via images with or without sound (audio-visual commercial communication) or via sound, in the form of: television or radio advertising, sponsorship, television or radio sale and product marketing.

Advertising in electronic media must be clearly recognisable. Advertising within programmes which are retransmitted on the territory of the Republic of Serbia in accordance with the regulations on electronic media and the provisions of the European Convention on Cross-Border Television (“Official Gazette of the RS – International agreements”, No 42/09) is permitted only where such advertising forms an integral part of the original programme, i.e. where such advertising does not modify or customise the original programme (signal flow interrupted).

## **Product Marketing**

### **Article 28**

Product Marketing is a type of advertising in electronic media which consists of presentation of or reference to goods, services, trademarks or other signs in the course of programme contents, in the manner that such presentation or reference is integrated into the content and form constituent part thereof, in exchange for remuneration or other compensation.

Product marketing is prohibited.

By way of exception from paragraph 2 of the present Article, product marketing shall be permitted:

1) in feature films, television films, TV series, sports and entertainment shows, unless they are intended exclusively for children; or

2) if certain goods or services are presented within programme contents as production equipment or reward, whereby it is not done so in exchange for remuneration, but goods and services are being disposed or provided free of charge in exchange for their presentation or reference within such programme content.

Product marketing referred to in paragraph 3, item 2) of the present Article is prohibited within news, programmes relating to current social and political events and programmes for children where such product marketing is performed in exchange for remuneration, except in sports news and weather forecast.

Regulatory body for electronic media governs the terms and method of presentation of and reference to goods, services, trademarks or other designations referred to in paragraph 1 of this Article within programme contents.

## **Prohibited Methods of Product Marketing in Programme Contents**

### **Article 29**

In programme contents where products are being marketed, the following is prohibited:

1) direct encouragement to purchase, lease or use the goods or services being marketed;

2) inappropriate apparition of goods, services or trademarks being the subject of marketing, especially by using close-ups of goods or by emphasising thereof quality by the hosts, guests or other participants in the programme;

3) influencing the contents and schedule of broadcast in the way which jeopardises the editorial independence of the media service provider.

Goods, services or trademarks whereof advertising in electronic media is prohibited must not be the subject of product marketing.

## **Notification of Product Marketing**

### **Article 30**

The programme contents in which product is being marketed shall be clearly designated with a notification of product marketing, both at the beginning and at the end, as well as after commercials, save where such programme contents are produced or ordered by the media service provider itself or by a person associated to it within the meaning of the law regulating the status of business companies.

The duration of product marketing is not to be counted in the time of television advertising and television sale within one full hour of programme broadcasting.

Regulatory body for electronic media shall define in detail the form, duration and place of notification of product marketing.

### **Article 30a**

The provisions of Articles 28 through to 30 shall apply only to programme contents produced after August 13, 2014.

## **Television and Radio Advertising and Television and Radio Sale**

### **Article 31**

Television and/or radio advertising is a form of advertising in electronic media which consists of publishing of advertisements within television and/or radio programme (hereinafter: TV advertising).

Television and/or radio sale is a form of advertising in electronic media which consists of publication of advertisements (TV sale and Radio sale messages) within television and/or radio programme that include offering of or invitation to offer the conclusion of contract whereof subject matter is goods, services, real estate, as well as rights and obligations (hereinafter: TV sales).

Regulatory body for electronic media shall define in detail the method and terms for broadcasting of TV advertising and/or TV sales.

The provisions of the present Law which relate to TV advertising and TV sales shall accordingly apply to radio advertising and radio sale as well.

## **Recognisability**

### **Article 32**

TV advertising and TV sale have to be easily recognisable and clearly and visibly segregated from other programme contents in respect of sound, image or space.

**Broadcasting of TV Advertising and TV Sale between Shows  
or by Interruption Thereof**

**Article 33**

TV advertising and TV sale shall, as a rule, be broadcast in a set and between individual shows, by continuously broadcasting multiple advertisements, i.e. TV sale messages.

By way of exception from paragraph 1 of the present Article, broadcasting of single advertisement i.e. TV sale message is permitted if this is necessary considering the duration of the advertisement or TV sale message or the nature of the programme content whereof broadcasting is being interrupted.

By way of exception from paragraph 1 of the present Article, broadcasting of a show may be interrupted in order to broadcast TV advertising i.e. TV sale, if this does not harm the integrity of the show, taking into account the normal breaks, thereof duration and nature, and the rights of the copyright and related right holder.

Subject to fulfilment of requirements set forth in paragraph 3 of the present Article, broadcasting of feature film, TV film (exclusive of feature series and documentary series) and news may be interrupted for purposes of broadcasting TV advertising i.e. TV sale once in each entire part of the show whereof envisaged duration is at least 30 minutes.

Subject to the fulfilment of requirements set forth in paragraph 3 of this Article, broadcasting of show for children may be interrupted for purposes of broadcasting TV advertising i.e. TV sale if the envisaged duration of the show is longer than 30 minutes, once in each entire part of the show whereof envisaged duration is at least 30 minutes.

Transmission of religious rituals may not be interrupted for purposes of broadcasting of TV advertising i.e. TV sale.

Provisions of this Article shall not apply to television programmes entirely dedicated to advertising and TV sale, as well as to television programmes entirely dedicated to self-promotion.

**Broadcasting of TV Advertising and TV Sale without Interruption of Shows**

**Article 34**

TV advertising i.e. TV sale may be broadcast simultaneously with an ongoing show, i.e. not interrupting its continuity in time, by using electro-graphical and other technical means (e.g. virtual advertising, split-screen, crawls, inserters and the like) under the following terms:

- 1) if it does not harm the integrity of the show, taking into account the natural breaks, thereof duration and nature and rights of copyright and related right holder;
- 2) if it is separated, in respect of sound, image or space, from the programme content during which they are being broadcast, if this does not impede following of the programme content.

Duration of TV advertising i.e. TV sale broadcast in a manner described in paragraph 1 of this Article shall be counted in the overall time of advertising within one full hour of broadcast programme.

At least five minutes have to elapse between broadcasting of TV advertising i.e. TV sale in the manner referred to in paragraph 1 of this Article and broadcasting of advertisements in the manner referred to in Article 33, paragraphs 1 and 2 of the present Law.

At least five minutes have to elapse between broadcasting of certain forms of TV advertising and TV sale in the manner referred to in paragraph 1 of this Article.

It is prohibited to simultaneously broadcast different forms of TV advertising i.e. TV sale in the manner referred to in paragraph 1 of this Article.

It is prohibited to broadcast TV advertising i.e. TV sale in the manner referred to in paragraph 1 of this Article within shows exclusively intended for children or minors, religious shows and programmes on current social and political events.

Regulatory body for electronic media shall define in detail the forms and terms for broadcasting of TV advertising and/or TV sales referred to in paragraph 1 of this Article.

## **Duration of TV Advertising and TV Sale**

### **Article 35**

Within one full hour of broadcast programme of commercial media service providers, TV advertising and TV sale may not take more than 20% of the time.

Within one full hour of broadcast programme of public broadcasting service and media service provider of civil sector, TV advertising and TV sale may not take more than 10% of the time.

One full hour of broadcast programme means the hour which starts with the zero minute and ends with elapsing of 59th minute (e.g. 00:00:00-00:59:59), regardless of the moment at which the media service provider started broadcasting the programme on a particular day.

Broadcast of international sport events of national importance, included in the list of most significant events of special importance for all citizens, by public broadcasting service, may be interrupted with TV advertising and TV sale for the maximum duration of nine minutes per hour, provided that overall daily broadcasting of TV advertising and TV sale may last 10% of the overall daily sports programme broadcast at most.

Provisions of this Article shall not apply to television programmes entirely dedicated to advertising and TV sale, as well as to television programmes entirely dedicated to self-promotion.



## **Contents whereof Duration is not to be counted in the Overall**

### **Duration of TV Advertising and TV Sale**

#### **Article 36**

The following shall not be counted in the overall duration of TV advertising and TV sale within one full hour of broadcast programme:

- 1) announcement of content in the own programme;
- 2) announcement of by-products directly stemming from the programme;
- 3) notifications about sponsor;
- 4) product marketing;
- 5) notifications of public interest, if broadcast without remuneration;
- 6) invitations to humanitarian actions, if broadcast without remuneration;
- 7) TV sale as separate programme content;

8) intro and outro flashes for broadcasting of TV advertising and TV sale, except where they contain advertisement or TV sale message;

9) notifications about products of modern cultural-artistic creativity and other contents in the field of culture financially supported by the ministry competent in the field of culture, or approved by the National Council for Culture.

Announcement of content in the own programme of the media service provider (the so called promo content) referred to in paragraph 1, item 1) of the present Article are considered the contents whereby media service provider announces or recommends programme contents to be broadcast within the programme in which such announcement is broadcast or in some of its other programmes (e.g. if such provider broadcasts multiple programmes), whereby they will not be counted in duration of TV advertising and TV sale, regardless of the method of their broadcasting (e.g. broadcasting between certain shows or within a show, announcement of hosts, broadcasting by way of split-screen or crawls etc).

Announcement of by-products directly stemming from the programme referred to in paragraph 1, item 2) of this Article are the contents recommending the products or services directly stemming from the programme contents produced by the media service provider, and which allow recipients of media services a more complete and higher quality communication in relation to such programme content or a better interaction with such programme content.

Notification of public interest referred to in paragraph 1, item 5) of this Article is the notification by which the state authorities or other public power holders, within the framework of tasks incidental to their scope of work, inform the public of the activities and measures of importance for the citizens (e.g. public invitations, notifications, public campaigns etc).

Invitation to humanitarian action referred to in paragraph 1, item 6) of this Article is the notification of a non-profit or other organisation regarding charity or humanitarian actions, particularly their invitation to participate in such actions.

## **TV Sale as Separate Programme Content**

### **Article 37**

Broadcasting of TV sale as separate programme content is broadcasting of TV sale as individual show which represents separate programme whole within the programme and is segregated from the remainder of the programme by appropriate flash.

Separate TV sale show must be clearly designated by image and sound, by way of intro and outro flash containing textual notification whereof content clearly indicates that a separate TV sale show is in question (TV sale or TV shopping) and must last for 15 minutes in continuity.

TV sale as a separate programme content may not be broadcast within another show, but only between individual shows.

TV sale of medicinal products subject to marketing permit regime is prohibited.

## **b) Advertising in Print Media**

### **Article 38**

Print media, within the meaning of the present Law, are daily newspapers and magazines, and other printed public information means.

Digital editions of daily newspapers and magazines, i.e. other print media, which are identical to printed editions and available on demand to users via Internet, shall be deemed to be print media within the meaning of the present Law.

Advertising in print media is governed by the provisions of the present Law.

## **c) Advertising in Open Area**

### **Term**

### **Article 39**

Advertising in open areas is a form of advertising using mediums appropriate for permanent conveying of advertisement to the public, placed in outdoor areas, available to public i.e. to indefinite number of recipients.

Advertising within closed area available to public, i.e. indefinite number of advertisement recipients shall not be regarded as advertising in open areas, regardless of the separate spatial entities within such area (e.g. malls, hotels, hospitals and the like).

Advertising mediums for advertising in open areas are, as a rule, billboards, posters, displays, illuminated signs and the like.

## **Protection of Safety of Persons and Other Public Interest**

### **Article 40**

Advertising in open areas must not harm the interest to protect safety of pedestrians, motor vehicles and other participants in traffic or the interest to preserve and improve the outlook of local self-government unit, to protect cultural and historical monuments or other public interest, i.e. the requirement of safety of persons and property.

Terms and methods of advertising referred to in paragraph 1 shall be regulated in detail by the local self-government unit.

## **Placing of Advertising Boards in Public Areas**

### **Article 41**

Advertising board may be placed in open areas, which a state authority or local self government unit authority manages or is empowered to determine the method of managing thereof, in accordance with special regulations (hereinafter referred to as: public areas), always subject to the prior approval of the competent authority.

The competent authority referred to in paragraph 1 of this Article shall adopt a plan for placing of advertising boards in public areas and shall publish, based on such plan, a tender for selection of user of the location for placing the boards in such areas.

Detailed requirements and criteria for implementation of the tender referred to in paragraph 2 of this Article, including the method to determine the remuneration for placing of boards, i.e. other advertising mediums in public areas, shall be established by the act of the competent authority of the local self-government unit.

Subject to the fulfilment of the stipulated requirements, the competent authority referred to in paragraph 1 of this Article may deny approval referred to in paragraph 1 of this Article, if it establishes it as necessary in order to protect the safety of pedestrians, motor vehicles and other participants in traffic or another public interest, i.e. the requirement of safety of persons and property.

## **Placing of Posters in Public Areas**

### **Article 42**

Advertising on poster placed in public area is permitted if:

- 1) the public area where poster is to be placed is designated for such purposes by the act of the local self-government unit;
- 2) placing of posters in public area requires the permit issued by local self-government unit, upon obtaining of such permit.

## **Placing of Other Advertising Mediums in Public Areas**

### **Article 43**

Placing of advertisements on structures located in public areas (pillars, balloons, public transport stops, screens, electronic displays, illuminated letters and the like) shall be performed in accordance with the rules applicable to placing of advertising boards set forth in Article 41 of the present Law.

## **Placing of Posters and Other Advertising Mediums in Other Areas**

### **Article 44**

In areas which are not public, placing of posters and other advertising mediums shall be permitted only subject to the consent of the owner and/or a person holding the appropriate right or authority.

## **d) Online Advertising**

### **Article 45**

Online advertising is advertising via web-presentation, social network, application or by other form of online communication, where the contents of the advertisement unambiguously indicates that it is addressed to advertisement recipients from the Republic of Serbia and that the advertised goods or services can be purchased and/or delivered on the territory of the Republic of Serbia.

It shall be deemed that the advertisement is addressed to advertisement recipient from the Republic of Serbia if:

- 1) it refers to the address of outlets where the advertised goods or services can be purchased (if in the Republic of Serbia), or
- 2) it is in Serbian language or uses domestic currency, or
- 3) it is in foreign language or uses foreign currency, but allows for the advertised goods and/or services to be delivered on the territory of the Republic of Serbia.

Online advertising is, as a rule, performed by way of banners, contextual messages and menus, specialised online magazines and the like.

Presentation on one's own internet domain (website) shall not be considered as advertising within the meaning of the paragraph 1 of this Article.

Where the advertisement transmitter is information society service provider, within the meaning of the law governing electronic trading, it shall be obliged to ensure clear identification of the advertiser in the course of advertising and for 30 days after termination of advertising.

Where the advertisement transmitter is information society service provider, within the meaning of the law on electronic trading, it shall not be responsible for the content of the posted advertisement or for thereof conveying, if it did not:

- 1) initiate the transmission;
- 2) select the transmitted data or documents;
- 3) exclude or modify the data contained in the advertisement or documents;
- 4) select the transmission recipient.

If, during the inspection, the competent authority establishes that the content of the advertisement referred to in paragraph 1 of this Article is contrary to the provisions of the present Law, it shall order, by decision, the advertisement transmitter referred to in paragraph 6 of this Article to remove such advertisement and shall leave appropriate time for him to do so, which shall not be less than 3 or more than 8 days from the day of receipt of the decision.

The advertisement transmitter referred to in paragraph 6 of this Article that fails to act in accordance with the decision referred to in paragraph 7 of this Article and by the time specified in such decision, shall be deemed responsible for the content of the advertisement and any remedy envisaged by the present Law may be imposed on him.

The provisions of the present Law shall accordingly apply to online advertising, except for the provisions of Article 19 and Article 20. Article 20 of the present Law shall apply by way of exception subject to the fulfilment of requirements set forth in paragraph 8 of this Article.

### **3. Special Rules with Regard to Subject of Advertising**

#### **Restrictions to Advertising of Alcoholic Beverages**

#### **Article 46**

Advertising of alcoholic beverages, including any displaying of trademark or other sign of alcoholic beverage, is not allowed.

It is permitted to display alcoholic beverages and/or trademark or other designation of alcoholic beverage at the point of sale, publishing and individual delivery to particular adults, who previously provided their consent, of notification of quality and other features of alcoholic beverage at point of sale, exhibition stand, in professional books, magazines and other professional publications intended exclusively to manufacturers and vendors of such products, as well as to use trademark or other designation of alcoholic beverage and of manufacturer of alcoholic beverage within the means of business communication and representation.

By way of exception from prohibition of advertising referred to in paragraph 1 of the present Article, it is permitted to advertise alcoholic beverages with less than 20% alcohol content:

- 1) in public area, at a location which is situated at least 100 meters along aerial line from the nearest point of the complex of pre-school, school, health care institution or an institution intended for minors;

- 2) on transport vehicles, save on public transport vehicles (bus, tram, taxi and the like);

3) via electronic media, in cinemas, theatres or other areas where performance is being shown i.e. featured, in the period from 6 p.m. to 6 a.m. unless such performance is dedicated to children and/or minors in terms of subject or purpose;

4) in relation to and at sporting events;

5) via online advertising.

By way of exception from prohibition of advertising referred to in paragraph 1 of this Article, it is permitted to advertise alcoholic beverages in print media, unless they are intended for children or minors in terms of purpose and subject.

By way of exception from the prohibition referred to in paragraph 1 of this Article, it is permitted to advertise alcoholic beverages containing over 20% of alcohol in electronic media in the period from 11 p.m. to 6 a.m.

## **Prohibited Methods of Advertising of Alcoholic Beverages**

### **Article 47**

It is prohibited to present in advertising the use or simulation of use of alcoholic beverages.

Advertising of alcoholic beverages shall not:

1) encourage excessive use of alcoholic beverages or present alcohol-intoxicated persons;

2) imply that alcohol-intoxicated condition is acceptable or present refraining from drinking or temperance as negative;

3) indirectly or directly be addressed to children or minors or present children or minors in the context of use of alcoholic beverages;

4) correlate use of alcoholic beverages and improved physical fitness or driving;

5) induce or remind of violent, aggressive, illegal, dangerous or other antisocial behaviour;

6) link the use of alcohol with courage, or make an impression that use of alcoholic beverages contributes to social or sexual success;

7) present pregnant women or correlate pregnancy or motherhood with use of alcohol;

8) connect their use with healthy way of living;

9) refer to high percentage of alcohol as positive feature of alcoholic beverage;

10) contain statement that alcoholic beverage has therapeutic effect or that it is a stimulus, sedative or means for resolving situations of conflict.

**Advertising of Alcoholism Termination, Rehabilitation and  
Combating  
Article 48**

The provisions of the present Law on advertising of alcoholic beverages shall not apply to advertisement which recommends termination of consumption of alcoholic beverages, rehabilitation from addiction to use alcoholic beverages and combating alcoholism.

It is prohibited to use trademarks or other designations of alcoholic beverages or of manufacturers of those beverages in the advertisement referred to in paragraph 1 of this Article.

**Warning Message  
Article 49**

Advertisement whereby alcoholic beverage is being advertised must also contain the warning message indicating the prohibited sale and serving of alcoholic beverages to children and minors.

Advertisement whereby alcoholic beverage is being advertised shall contain warning of responsible use of alcoholic beverages.

It shall be deemed that advertisement contains warning message referred to in paragraph 1 of this Article and warning of responsible use of alcoholic beverages referred to in paragraph 2 of this Article if it contains the prescribed sign of prohibition of sale and serving of alcoholic beverages to children and minors and the prescribed sign of harmful effect of excessive use of alcoholic beverages.

The minister in charge of trading shall prescribe the outlook and contents of signs referred to in paragraph 3 of this Article.

**Prohibition of Advertising of Tobacco Products  
Article 50**

Advertising of tobacco and tobacco products is prohibited, including any displaying of trademark or other designation of manufacturers of those products.

It is prohibited to distribute free tobacco products to consumers.

It is also prohibited to display trademark or other designation of a manufacturer of tobacco and tobacco product referred to in paragraph 1 of this Article in the advertisement which is not advertising the manufacturer of tobacco and tobacco product, including the advertisement whereby sponsored activity is being advertised, unless otherwise prescribed by the present Law.

Displaying of tobacco products shall not be considered as advertising referred to in paragraph 1 of this Article, when at a point of sale for which competent authority has

issued a permit for retail sale of tobacco products in accordance with the regulations on marketing of tobacco products.

Advertising referred to in paragraph 1 of this Article does not include displaying i.e. publishing and individual delivery to particular adults, who previously provided their consent, of a notification of quality and other features of tobacco and/or tobacco products at point of sale referred to in paragraph 4 of this Article, in professional books, magazines and other professional publications intended exclusively to manufacturers and vendors of such products, or the use trademark or other designation of manufacturers of tobacco products within the means of business communication and representation of such manufacturers.

Notification referred to in paragraph 5 of this Article shall contain information on contents, filter, flavour, origin and/or other relevant data on quality and features of tobacco products, and shall contain compulsory health warning whereof contents are prescribed by the law on at least 10% of the layout of such notification.

Tobacco product referred to in the notification from paragraph 5 of this Article may be presented as a closed pack of cigarettes or closed packaging of other tobacco product, i.e. as one cigarette or other tobacco product, and may contain the current retail sale price of the tobacco product, determined and published in accordance with the law.

Equipment for displaying tobacco products at a point of sale, as well as notification referred to in paragraph 5 of this Article must not contain characters, audio or movable, light (blinking) effects or any other attractive contents which would particularly be susceptible for children or minors.

The notification referred to in paragraph 5 of this Article may not contain other statements in Serbian or other languages, if such do not relate to quality and other features of tobacco and tobacco products.

If the point of sale referred to in paragraph 4 of this Article is an area where catering activities are performed, then the displaying of tobacco products in the near vicinity of the cash register, displaying i.e. publishing of notification referred to in paragraph 5 of this Article or displaying of trademark of tobacco products on a pricelist or smoking accessories (e.g. ashtrays, lighters, matches and the like) in the part of the area exempt from prohibition of smoking, shall not be deemed to be unlawful advertising referred to in paragraph 1 of this Article.

## **Prohibition of Presentation of Smoking**

### **Article 51**

It is prohibited to present smoking or simulation of smoking, and/or use of tobacco products and tobacco smoke in the advertisement.



## **Advertising of Combating Smoking**

### **Article 52**

Prohibitions and restrictions prescribed by the present Law relative to advertising of tobacco products shall not apply to advertising which aims at prevention of tobacco and/or tobacco products use or prevention of exposure to tobacco smoke, including of agents for smoking cessation.

It is not allowed to use in advertising referred to in paragraph 1 of this Article a trademark or other designation of manufacturers of tobacco products.

## **Electronic Cigarettes**

### **Article 53**

Advertising of electronic cigarettes, liquids and parts for electronic cigarettes, as well as of other products which, by their function, represent or substitute cigarettes and other tobacco products, shall accordingly be governed by the rules on advertising of tobacco products.

## **Restrictions to Locations of Advertising of Games of Chance**

### **Article 54**

It is prohibited to advertise conventional and special games of chance in open areas, except at a location which is situated at least 100 meters along aerial line from the nearest point of the complex of pre-school, school, health care institution or an institution intended for children and minors.

Advertising of conventional and special games of chance on websites which are intended for children or minors, in terms of subject and purpose, is prohibited.

It is prohibited to advertise conventional and special games of chance (games organised in gaming facilities-casinos, on gaming devices, sports betting) within radio and television shows which are intended for children or minors, as well as in print media intended for such persons.

It is prohibited to advertise lottery and betting tickets (slips), which can not be a subject of sale, cessation, issuance or any other representation on the territory of the Republic of Serbia in accordance with the law regulating games of chance.

It is prohibited to advertise games of chance if the game organiser failed to obtain consent, license or permit issued by the competent authority for organising the game of chance.

## **Restrictions to Contents of Advertising of Games of Chance**

### **Article 55**

Advertising of games of chance shall not:

1) contain ungrounded statements regarding chances of winning or revenues which the participants may expect in the games of chance;

2) suggest that skill may affect the outcome of the game if this is not the case;

3) by way of time, place or nature of advertising exert special pressure in view of participating in games of chance or of underrating of non-participation (by encouraging participants in the games of chance to retrieve their loss and the like);

4) present participation in games of chance as socially acceptable or correlate participation in games of chance and success or social status;

5) suggest that participation in games of chance may represent a way to solve social, professional or personal problems;

6) suggest that participation in the games of chance may represent a substitute for employment, resolution of financial issues or a financial investment.

### **Timing of Advertising of Games of Chance**

#### **Article 56**

Advertising of conventional and special games of chance via electronic media, as well as in cinemas, theatres and other areas where performance is being shown i.e. featured, is permitted, save where such performance is intended for children or minors in terms of subject or purpose.

Advertising of conventional and special games of chance must contain warning on prohibition of participation of children and minors.

Advertising of conventional and special games of chance shall not:

1) abuse inexperience or ignorance of children or minors;

2) use children and minors in advertising, i.e. address advertising to children or minors;

3) correlate participation in games of chance with the activities intended for children or minors;

4) correlate participation in games of chance with getting mature.

Advertiser is obliged to point out, in the advertising of sale promotions for participation in games of chance (free credits, bonuses or other means for participation in games of chance offered to participants free of charge), in a clear and intelligible manner, the rules of use of the sale promotion, particularly the special requirements which the participant has to meet in order to use the sale promotion.

Advertising of promotions for participation in conventional and special games of chance (sale promotions) shall be accordingly subject to restrictions referred to in paragraphs 1 and 2 of this Article.

Advertising of prize-winning competitions, where prizes are awarded in goods or services, shall be accordingly subject to the provisions of this Article, save for the provisions of paragraph 2 and 3, items 2) and 3).

## **Prize-Winning Competitions**

### **Article 57**

It is permitted to advertise prize-winning competitions which are not games of chance (quiz of knowledge, skills, bidding and the like) provided that the organiser points out in the advertisement, in a clear and intelligible manner, the rules of the game, type and value of prize, i.e. the tariff referred to in Article 17 of the present Law.

## **Health Statements and Statements on Nutritive Characteristics**

### **Article 58**

Advertising which contains statements on health, therapeutic or nutritive characteristic of the advertised goods or services (health statement or statement on nutritive characteristic), must be based on appropriate scientific or professional findings, i.e. such characteristics and/or statement must be confirmed and approved in accordance with special regulations.

## **Narcotics and Other Psychoactive Controlled Substances**

### **Article 59**

Advertising of narcotics is prohibited.

Advertising of other psychoactive controlled substances shall be conducted under the terms and in the manner prescribed by the present law and the law governing the psychoactive controlled substances.

## **Restrictions to Advertising of Pornography**

### **Article 60**

Advertising whereof content is pornographic is prohibited, except in pornographic public media.

Advertisement whereof content is not pornographic, but which refers to pornography (hot-line, advertisement for pornographic press, movies and the like) is prohibited, except in television and radio programmes in the period from 12 midnight to 5 a.m. and in pornographic public media.

Advertising referred to in paragraph 2 of this Article which refers to pornography is prohibited in specialised television and radio programmes intended for children or minors, and in television and radio programmes in which, in the period referred to in paragraph 2 of this Article, shows are being broadcast which are intended for children or minors, or whereof audience is mainly composed of such persons.

## **Restriction to Advertising of Armaments and Military Equipment**

### **Article 61**

Advertising of armaments and military equipment is prohibited.

By way of exception, armaments and military equipment may be advertised only to professional public audience, composed of authorised manufacturers and authorised traders in armaments and military equipment, and state and its military forces as authorised buyers, in specialised magazines or by way of direct advertising.

Advertising of sporting and hunting weapons, parts thereof and ammunition for such weapons is permitted.

## **IV DIRECT ADVERTISING**

### **Term**

#### **Article 62**

Direct advertising is addressing of the advertisement to a named or otherwise individually specified person.

Direct advertising shall be carried out:

1) as remote advertising, by submitting letters or other addressed mail, by inserting mail into the letter box or otherwise leaving in a specific residential or commercial area, by electronic mail or other form of direct electronic communication;

2) by direct addressing, handing over of materials containing the advertisement or by way of other personal communication (presentation, promotion, via telephone and the like).

## **Direct Advertising Requirements**

### **Article 63**

Direct advertising to natural persons requires their prior consent.

Consent provided within the meaning of paragraph 1 of this Article may be revoked at any moment and the advertiser i.e. advertisement transmitter has to allow for it.

Direct advertising to natural persons shall be performed in accordance with the rules on advertising via remote communication mediums in line with the law governing consumer protection.

If the persons referred to in paragraph 3 of this Article oppose to direct advertising, the advertiser i.e. advertisement transmitter is obliged to terminate that kind of advertising in the future.

Restriction referred to in paragraph 1 of this Article refers to advertising to persons who perform professional or business activity in relation to such activity (business communication).

## **V SPONSORSHIP**

### **Term and Application of Advertising Rules**

#### **Article 64**

Sponsorship is any form of financial or other support from sponsor to another legal entity or natural person or their activities in view of promotion of sponsor's name, business name or trademark, activity or product.

Sponsorship referred to in paragraph 1 of this Article does not include the situation where media service provider or producer of audio-visual work participates in financing of media services or programme contents.

Sponsorship of news and other information contents is prohibited, save for sports news and weather forecast.

Sponsorship shall accordingly be governed by the general rules of advertising.

#### **Prohibition of Misleading**

#### **Article 65**

Sponsorship must be clearly designated.

Sponsored programme content must be clearly designated as such by stating the name, sign or other symbol of the sponsor (e.g. by specifying name of goods or services or other recognisable sign of the sponsor) at the beginning and at the end, and possibly during the programme content.

If programme contents for children and religious programme contents are being sponsored, the designation referred to in paragraph 2 of this Article is allowed only at the beginning and at the end of such content.

Sponsorship must not by way of imitation of other sponsor or activity thereof or otherwise mislead the advertisement recipient in respect of identity of the sponsor, the sponsored person or activity, sponsor's activity, characteristics of their products, thereof effects and potential health hazards.

Where media services or programme contents are sponsored by a legal entity or a natural person whereof activity includes manufacturing or selling of medical devices and provision of health care services, the sponsored service or content may promote the name i.e. the business name of the sponsor.

Media services and programme contents may not be sponsored by state authorities and organisations and political organisations.

Regulatory body for electronic media shall regulate in detail the contents of notification, methods of broadcasting and time of broadcasting of notification about sponsor, as well as terms for use of name or other symbol of sponsor as well as the title of the sponsored programme content.

## **Protection of Integrity**

### **Article 66**

Sponsor may not restrict the creative freedom of the sponsored person, his/her rights to independent management, setting of goal and content of the sponsored activity.

Sponsor must not influence the content of sponsored audio-visual media services or programme contents, or the schedule of their presentation in case of television broadcasting, in the way which affects the responsibility and editorial independence of media service provider.

Contract concluded contrary to the paragraph 1 of this Law shall be null and void.

The sponsored media services or programme contents shall not directly encourage purchase or lease of goods or services, in particular by promotional reference to such good or service.

Sponsor may not, by way of sponsorship, jeopardise the integrity of artistic, sports or cultural contents of the sponsored activity and may not harm the reputation of the sponsored person.

The sponsored person may not, by way of the sponsored activity, alter the name, i.e. business name of the sponsor, his trademark or service mark, nor may he/she otherwise harm the reputation and image of the sponsor.

## **Sponsorship by Manufacturers of Alcoholic Beverages**

### **Article 67**

Advertiser of alcoholic beverages may not sponsor media, athletes, sport clubs, sports competitions, including sponsorship of individuals, i.e. participants of such events.

Advertiser of alcoholic beverages may not sponsor children and minors, thereof activity or persons or activities whereof audience is predominantly composed of children and minors.

Prohibition referred to in paragraph 1 of this Article shall not apply to advertiser of alcoholic beverages with less than 20% alcohol content.

Prohibition referred to in paragraph 1 of this Article shall not apply to sponsorship of print media and events organised by print media, unless they are intended for children or minors in terms of purpose or subject.

Advertising of sponsored events whereof sponsor is advertiser of alcoholic beverages shall be governed by the provisions of this law relating to advertising of alcoholic beverages.

Any sponsorship by manufacturers of alcoholic beverages shall warn of responsible use of alcoholic beverages or contain the warning message referred to in Article 49 of the present Law.

## **Sponsorship by Organisers of Games of Chance**

### **Article 68**

Organiser of conventional and special games of chance may not sponsor children or minors, thereof activity or persons or activities whereof audience is predominantly composed of children and minors.

## **Prohibition of Sponsorship by Manufacturers of Tobacco Products**

### **Article 69**

Advertiser of tobacco products may not sponsor media, programme contents, athletes, sport clubs, sports competitions, including sponsorship of individuals, i.e. participants of such events.

Advertiser of tobacco products may not sponsor children and minors, thereof activity or persons or activities whereof audience is predominantly composed of children and minors.

In cases of sponsorship which is not prohibited within the meaning of paragraph 1 of this Article, it is permitted to use trade name and trademark of manufacturers of tobacco products in areas intended for participants of sponsored gatherings and for audience of sponsored events.

Use of trade name and trademark of manufacturers of tobacco products is not permitted on the stage and within the scenery of a cultural event and/or in another notable manner which would ensure thereof visibility during possible television streaming or in the footage of the event.

Use of name and trademark of manufacturers of tobacco products is not permitted in advertisements used to advertise the sponsored event.

Sponsorship by manufacturers of electronic cigarettes shall be accordingly governed by the provisions of this Article.

## **VI LEGAL PROTECTION**

### **Keeping of Advertisement and Information on Advertisement**

#### **Article 70**

Advertiser is obliged to keep the advertisement for 30 days from the date of last publishing thereof, in the form which allows insight into the advertisement, information on location, time and frequency of advertising.

Advertiser is obliged to allow access to the advertisement i.e. the information referred to in paragraph 1 of this Article upon request of interested person, not later than five days from the day of receipt of such request.

The interested person referred to in paragraph 2 of this Article is a person whose right or interest is jeopardised or infringed by the advertisement.

Advertiser is obliged to allow access to the advertisement i.e. the information referred to in paragraph 1 of this Article upon request of competent authority referred to in Articles 74 and 75 of the present Law not later than five days from the day of receipt of such request.

## **Judicial Protection against Misleading and Comparative Advertising**

### **Article 71**

A person whose right or interest is jeopardised or infringed by misleading or unlawful comparative advertising may file a claim to the competent court seeking the court to order termination of the misleading, i.e. unlawful comparative advertising, and the correction of the advertisement.

Where misleading or unlawful comparative advertising has not been performed yet, but thereof performing is certain, the person referred to in paragraph 1 of this Article may file a claim to a competent court seeking the court to prohibit such advertising.

In deciding on the claims referred to in paragraphs 1 and 2 of this Article, the court shall take no account of whether the disputable advertising incurred damage to any person and/or whether such damage might be incurred, or whether the advertiser is responsible for the misleading nature of the advertising i.e. whether he is responsible for the unlawfulness of the comparative advertising.

By the judgement on adoption of the claims referred to in paragraphs 1 and 2 of this Article, the court shall order the respondent to terminate the misleading and/or unlawful comparative advertising or prohibit the respondent to perform the pending misleading and/or unlawful comparative advertising.

If the court adopts the claim, the court shall order the respondent by way of the judgement to publish the entire or part of the judgement at his own cost, i.e. to publish the correction of the advertisement, and shall determine the method in which such judgement i.e. correction will be published.

Unless otherwise determined in the present Law, judicial proceedings referred to in this Article shall be governed by the provisions of the law regulating the civil procedure.

Jurisdiction over the disputes in relation to the claim referred to in articles 1 and 2 of this Article shall be of a court determined in accordance with the law regulating the jurisdiction of courts.

## **Temporary Injunction**

### **Article 72**

A person whose right or interest could be infringed by the misleading or unlawful comparative advertising may seek the court to prohibit such advertising by temporary injunction pending the valid termination of the procedure.

The petitioner must make it probable that there is a risk of infringement by unlawful advertising.



## **Claims by Other Persons**

### **Article 73**

The registered consumer protection associations, associations whereof objectives aim at protection and improvement of a certain occupation or profession, as well as chambers shall also be entitled to instigate procedure for protection of the rights in the manner described in Article 71 of the present Law.

## **VII SUPERVISION**

### **Supervision by Ministry, Regulatory Body and Local Self-Government**

#### **Article 74**

Supervision of application of the present law shall, unless otherwise specified, be performed by the ministry in charge of trading.

Supervision of application of the present Law with regard to advertising in electronic media shall be performed by the regulatory body for electronic media.

Supervision of application of provisions of Articles 39 through to 44 of the present Law shall be performed by the local self-government units by way of conferred power.

Supervision of application of the present Law shall also be performed by another authority, organisation or public power holder whereof competence is determined by a special regulation, if certain issues established hereby are incidental to the scope of work of such authority or organisation.

#### **Inspection**

#### **Article 75**

Inspection referred to in Article 74 paragraph 1 of the present law shall be performed by the ministry in charge of trading, through the market inspectors.

Inspection referred to in Article 74, paragraph 3 of the present Law shall be performed by the local self-government units, through municipal services inspectors.

### **Rights, Duties and Powers in respect of Supervision**

#### **Article 76**

In performing the supervision, i.e. inspection of application of the provisions of the present Law, the inspector and/or authorised person shall have all the rights, duties and powers stipulated by the present Law and by the law governing the inspection procedure of the competent inspection authority, i.e. acting of the authorised supervising person.

In performing the supervision referred to in Article 74, paragraph 2 of the present law, the regulatory body for electronic media shall have powers and duties stipulated by the

present Law and by the law governing electronic media, especially to impose remedy to the advertisement transmitter (media service provider) in accordance with the law governing electronic media, to file a petition for instigation of misdemeanour proceedings against the advertisement transmitter (media service provider) and to notify the competent authorities in case there are grounds for imposing measures upon the advertiser.

## **Special Measure**

### **Article 77**

If in the course of inspection, the competent inspector establishes that advertising is being conducted against the provisions of the present Law, he/she will prohibit such advertising by a decision and order elimination of irregularities, including removal of the advertisement.

If in the course of supervision, the competent authority of the local self-government unit establishes that advertising in open areas is being conducted against the provisions of the present Law, he/she will order by a decision the removal of advertising medium.

Decision referred to in paragraph 1 of this Article shall be adopted within 48 hours from the completion of the inspection and it shall be subject to appeal within eight days from the day of receipt to the competent authority of second instance.

The appeal referred to in paragraph 3 of this Article shall not cause a stay of execution of the decision.

The decision referred to in paragraph 2 of this Article is subject to appeal in accordance with the law.

## **VIII PENALTY PROVISIONS**

### **Offences**

#### **Article 78**

A fine in the amount of RSD 300,000.00 to 2,000,000.00 shall be imposed for offence upon a legal entity if:

- 1) it acts contrary to Articles 7, 8 and 10 of the present Law;
- 2) it acts contrary to Article 11 of the present Law;
- 3) it conducts product placement referred to in Article 12 of the present Law;
- 4) it fails to mark the advertisement with recognisability sign in accordance with the Article 13 of the present Law;
- 5) it acts contrary to Article 14 of the present Law;
- 6) it advertises sale promotions contrary to Article 16 of the present Law;
- 7) it fails to display telephone tariff in accordance with the Article 17 of the present Law;

- 8) it acts contrary to Article 21 of the present Law;
- 9) by the advertisement intended for children or minors, it misuses the inexperience, ignorance or credulity of a child or a minor contrary to Article 23 of the present Law;
- 10) it advertises milk, other food and drinks for infants up to 6 months of age, as well as kits for their use contrary to Article 24 of the present Law;
- 11) by advertisement intended for children or minors it fails to protect the integrity of children or minors in accordance with the Article 25, paragraphs 1 and 3 of the present Law;
- 12) it performs advertising in educational and pedagogical institutions contrary to Article 26 of the present Law;
- 13) it performs advertising contrary to Article 27, paragraphs 3 and 4 of the present Law;
- 14) it performs advertising by product marketing contrary to Articles 28-30 of the present Law;
- 15) it performs TV advertising i.e. TV sale contrary to Articles 31-36 of the present Law;
- 16) it broadcasts TV sale as separate programme content contrary to the Article 37 of the present Law;
- 17) it places advertising board in public areas contrary to article 41 of the present Law;
- 18) it displays posters in public and other areas contrary to Articles 42 and 44 of the present Law;
- 19) it fails to provide information referred to in Article 45, paragraph 5 of the present Law;
- 20) it advertises alcoholic beverages contrary to Articles 46 and 47 of the present Law;
- 21) the advertisement does not contain the warning message, i.e. the warning in accordance with Article 49 of the Law;
- 22) it advertises tobacco and tobacco products and electronic cigarettes, liquids and parts contrary to Articles 50, 51 and 53 of the present Law;
- 23) it displays and/or publishes a notification of quality and/or other features of tobacco and tobacco products and electronic cigarettes, liquids and parts contrary to Article 50 of the present Law;
- 24) it advertises games of chance contrary to Articles 54-56 of the present Law;
- 25) it advertises prize-winning competitions contrary to Article 57 of the present Law;
- 26) it advertises goods or services for which it makes statements on health, therapeutic or nutritive characteristics contrary to Article 58 of the present Law;

27) it advertises narcotics and other psychoactive substances referred to in Article 59 of the present Law;

28) it advertises pornography contrary to Article 60 of the present Law;

29) it advertises weapons contrary to Article 61 of the present Law;

30) it performs direct advertising contrary to Article 63 of the present Law;

31) it acts contrary to Article 64, paragraph 3 of the present Law;

32) it acts contrary to Article 65 of the present Law;

33) it acts contrary to Article 66 of the present Law;

34) it sponsors media, athletes, sport clubs, sport competitions, including sponsoring of individuals, i.e. participants in those events, as well as children or minors contrary to Article 67 of the present Law;

35) it sponsors children or minors, thereof activities, or persons or activities whereof audience is predominantly composed of children or minors, contrary to Article 68 of the present Law;

36) it sponsors media, athletes, sport clubs, sport competitions, including sponsoring of individuals, i.e. participants in those events, as well as children or minors contrary to Article 69, paragraphs 1 and 2 of the present Law;

37) in cases of sponsorship which is not prohibited, it uses trade name and trademark of a manufacturer of tobacco products contrary to Article 69, paragraphs 3-5 of the present Law;

38) it fails to keep the advertisement for 30 days from the day of thereof last publishing, in the form which allows insight into the advertisement, information on location, time and frequency of advertising, i.e. hinders the access to the advertisement in accordance with the Article 70 of the present Law;

39) it fails to execute the decision referred to in Article 77 of the present Law;

A fine of RSD 50,000.00 to 150,000.00 shall be imposed on a natural person or authorised person within a legal entity for actions referred to in paragraph of this Article.

A fine of RSD 50,000.00 to 500,000.00 shall be imposed on an entrepreneur for actions referred to in paragraph 1 of this Article.

A fine of RSD 50,000.00 to 150,000.00 shall be imposed on an authorised person within an authority of the Republic of Serbia, Autonomous Province or local self-government unit for actions referred to in paragraph of this Article.

## **Safeguard Measure**

### **Article 79**

In addition to misdemeanour penalty referred to in Article 78, paragraph 1 of this Law, legal entity may be subject to a safeguard measure implying prohibition of

performing certain activity during a period of six months to one year, as well as to a safeguard measure of publishing of the judgement.

In addition to misdemeanour penalty referred to in Article 78, paragraph 2 of the present Law, authorised person within a legal entity may be subject to a safeguard measure implying prohibition of performing particular work during a period of six months to one year.

In addition to misdemeanour penalty referred to in Article 78, paragraph 3 of the present Law, an entrepreneur may be subject to a safeguard measure implying prohibition of performing certain activities during a period of six months to one year.

## **IX FINAL PROVISIONS**

### **Article 80**

As of the date of start of application of the present Law, the validity shall expire of the provisions of:

1) the Law on Advertising (“Official Gazette of the RS”, No 79/05 and 83/14 – state law);

2) the Article 11 of the Law on Consumer Protection “Official Gazette of the RS”, No 62/14);

3) the Article 4, items 12)-16), the Articles 56-59, Article 67, Article 111, paragraph 1, item 2)-4) and 6), and Article 111, paragraph 2, items 2)-4) and 6) of the Law on Electronic Media (“Official Gazette of the RS”, No 83/14).

### **Article 81**

The present Law shall come into effect on the eight day of the day of publishing in the "Official Gazette of the Republic of Serbia", and shall apply upon expiry of three months after the effective date.

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**\*UNOFFICIAL TRANSLATION**