

STANDING COMMITTEE
OF NATIONAL ASSEMBLY

SOCIALIST REPUBLIC OF VIETNAM
Independence - Freedom - Happiness

No. 39-2001-PL-UBTVQH10

Hanoi, 16 November 2001

ORDINANCE ON ADVERTISING

In order to improve the efficiency of State administration of advertising; to protect the lawful rights and interests of consumers, organizations and individuals in advertising activities; and to contribute to the socio-economic development of the country;

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam;

Pursuant to the Resolution of Legislature X at its 8th Session on the program for formulation of laws and ordinances in 2001;

This Ordinance makes provisions on advertising.

CHAPTER 1

General Provisions

Article 1 *Governing scope and applicable subjects*

1. This Ordinance governs advertising activities and stipulates the rights and obligations of organizations and individuals in advertising activities.
2. This Ordinance shall apply to Vietnamese and foreign organizations and individuals conducting advertising activities in the territory of Vietnam. Where an international treaty to which the Socialist Republic of Vietnam is a signatory or participant contains different provisions, the provisions of such treaty shall apply.

Article 2 *Right of organizations and individuals to advertise*

Organizations and individuals shall have the right to advertise directly their business activities and their goods and services, or to hire an organization or individual conducting the business of advertising services to advertise for them.

Article 3 *State policy on advertising activities*

1. The State shall protect the legal rights and interest of advertisers, of persons conducting the business of advertising services, of persons distributing advertisements, and of consumers.
2. The State shall create favourable conditions for persons conducting the business of advertising services and for persons distributing advertisements to develop and diversify all types of advertising to increase quality, thereby contributing to the socio-economic development of the country.
3. The State shall encourage Vietnamese residing overseas and foreign organizations and individuals to engage in business co-operation and to invest in the development of advertising services in Vietnam.

Article 4 *Definition of terms*

In this Ordinance, the following terms shall have the meanings ascribed to them hereunder:

1. *Advertising* means introducing business activities and goods and services to consumers, including services with a profit-making objective and services without a profit-making objective.

Profit-making services means services aimed at generating profit for the organization or individual providing them.

Non-profit making services means services not aimed at generating profit for the organization or individual providing them.

2. *Advertiser* means an organization or individual with a requirement to advertise its business activities, goods or services.
3. *Advertising product* means a product expressing the contents and form of an advertisement.
4. *Advertising distributor* means any organization or individual distributing an advertising product to consumers, including press bodies, publishers, organizations managing computer information networks, persons organizing cultural or sporting programs and fairs or exhibitions, and organizations or individuals using other advertising means.
5. *Promotion of advertising* means the activity of seeking and advancing opportunities to enter contracts for advertising services and for the provision of advertising services.

6. *Person conducting business of advertising services* means any organization or individual undertaking one, a number, or all of the work stages of the process of advertising activities for profit-making purposes.

Article 5 *Acts strictly prohibited in advertising activities*

1. Advertising which discloses State secrets, or which harms national independence and sovereignty, defence and security or the safety of society;
2. Advertising which is contrary to the traditions, history, culture, ethics or fine customs of the Vietnamese people;
3. Using the national flag, the flag of the Party, the national emblem, the national anthem or its melody, portraits of leaders or of Vietnamese dong, images of traffic signals or traffic notices for advertising;
4. Misleading advertising;
5. Advertising which has an adverse effect on urban beauty, landscape and environment, and traffic order and safety;
6. Taking advantage of advertising to offend the honour and reputation of, or to infringe the lawful rights and interests of organizations and individuals;
7. Advertising products or goods which are not yet permitted to be circulated or services which are not yet permitted to be provided at the time of the advertisement;
8. Advertising goods and services which the law prohibits to be traded or advertised.

CHAPTER 2

Advertising Activities

Article 6 *Contents of advertisements*

1. The contents of advertisements shall include information advertising business activities, goods or services.
2. Information advertising business activities, goods and services must be true, accurate and clear, and must not cause loss and damage to producers, business persons and consumers.

Article 7 *Forms of advertisements*

1. A form of advertisement means the expression of an advertising product by spoken language, written language, signs, appearances, colours, lights, photographs, actions, sounds or other forms.
2. Forms of advertisement must be clear, easily comprehensible and aesthetically pleasing.
3. Forms of advertisement must include signs which distinguish the advertised information from information which is not an advertisement in order not to confuse producers, business persons and consumers.

Article 8 *Language of spoken and written advertisements*

1. The spoken or written text of an advertisement must be in Vietnamese, except in the case of:
 - (a) Words which have become internationally known, commercial names, or words which are unable to be translated into Vietnamese;
 - (b) Advertisements in books, newspapers or printed matter which have been licensed to be published in the languages of ethnic minorities in Vietnam or in foreign languages; radio and television programs in the languages of ethnic minorities in Vietnam or in foreign languages.
2. Where a single advertising product uses the Vietnamese language and a language of an ethnic minority in Vietnam and a foreign language, the Vietnamese language must be read first, followed by the language of the ethnic minority followed by the foreign language; and the size of the text of the language of the ethnic minority and of the foreign language must not be larger than the Vietnamese text.

Article 9 *Advertising media*

Advertising media shall comprise:

1. Media, including printed papers, spoken media, visual media and electronic media;
2. Computer information networks;
3. Publications, including films, photos, videos, picture disks, sound videos, sound disks;
4. Programs of cultural and sporting events;
5. Fairs and exhibitions;

6. Billboards, placards, panels, banners and screens placed in public places;
7. Objects which radiate or appear in the air or underwater;
8. Means of transportation and other mobile objects;
9. Goods;
10. Other advertising media in accordance with the provisions of the law.

Article 10 *Advertisements in the media*

1. The area covered by advertisements in printed papers must not exceed ten (10) per cent, except in specialized advertising newspapers; the period of exposure of one advertising product must not exceed five days in the case of a daily newspaper, or five consecutive issues in the case of a periodical; the interval between two rounds of the one advertisement must be at least five days in the case of a daily newspaper, or four consecutive issues in the case of a periodical; business activities or goods and services must not be advertised on the front cover or on the first page.
2. The period of exposure for advertisements on spoken media must not exceed five per cent of the duration of a program, except on specialized advertising channels; the period of broadcast of one advertising product must not exceed eight days, except in special cases stipulated by the Government, and must not exceed ten (10) times in one day; the interval between two rounds of the one advertisement must be at least five days; and there must not be any advertising immediately after signature tunes or on current affairs programs.
3. The period of exposure for advertisements on visual media must not exceed five per cent of the duration of a program, except on specialized advertising channels; the period of transmission of one advertising product must not exceed eight days, except in special cases stipulated by the Government, and must not exceed ten (10) times in one day; the interval between two rounds of the one advertisement must be at least five days; and there must not be any advertising immediately after signature tunes or on current affairs programs.
4. The provisions applicable to advertisements on electronic media shall be the same as for spoken media as stipulated in clause 2 above.

Article 11 *Advertisements on computer information networks*

Advertising on computer information networks must be conducted correctly in accordance with the laws on advertising, accessing services, connecting services and provision of all types of advertising services on computer information

networks; and technical and professional regulations must be implemented to protect State secrets.

Article 12 *Advertisements in publications*

Advertising in publications must be conducted in accordance with the following provisions:

1. Only advertising products which assist study may appear on the covers of exercise books;
2. The period of exposure for advertisements on videos, picture disks, sound videos, sound disks and other information-recording media must not exceed five per cent of the duration of the program;
3. Business activities and goods and services may not be advertised on the front cover of books, and advertisements may not appear in textbooks, teaching materials or political works;
4. Other provisions of the law on publications and the provisions of this Ordinance.

Article 13 *Advertisements in cultural or sporting programs and at fairs and exhibitions*

Advertising in cultural or sporting programs and at fairs and exhibitions must be conducted in accordance with the laws on artistic performances, sports, fairs and exhibitions and the provisions of this Ordinance.

Article 14 *Advertisements in other media*

Advertisements in the media referred to in clauses 6, 7, 8 and 10 of article 9 of this Ordinance must comply with the laws on advertising and on rural and urban planning, and must ensure urban beauty, landscape and environment, traffic order and safety, and the safety of society.

Article 15 *Conditions applicable to advertising business activities, goods and services*

1. The conditions for advertising applicable to business activities, goods and services shall be as follows:
 - (a) There must be a certificate of goods quality from the State management body for goods quality in order to advertise goods which are on the list requiring quality inspection or the list requiring a certificate of quality; where an entity declares its own goods quality criteria, there must be a letter of such declaration; if goods are the

subject of intellectual property rights, there must be a certificate relating to such;

- (b) If the law requires property ownership to be registered, there must be a certificate of ownership of the property prior to it being advertised;
 - (c) There must be a business registration certificate prior to business activities, goods and services being advertised;
 - (d) There must be a permit to conduct the advertisement issued by the competent State administration body for culture and information prior to advertising on computer information networks, billboards, placards, panels, banners and screens placed in public places, on objects which radiate or appear in the air or underwater, on means of transportation or on other mobile objects.
2. An advertiser must present the documents stipulated in clause 1 of this article to the person conducting the business of advertising services or to the advertising distributor; the person conducting the business of advertising services must present the documents stipulated in clause 1 of this article to the advertising distributor.

Article 16 *Authority and procedures for issuance of permits to conduct advertisements*

1. The Ministry of Culture and Information shall issue permits to conduct advertisements on specialized computer information networks, radio channels and programs, television channels and programs, advertising programs, and for specialized advertising supplements and supplementary advertising issues.
2. Departments of Culture and Information shall issue permits to conduct advertisements on billboards, placards, panels, banners and screens placed in public places, on objects which radiate or appear in the air or underwater, on means of transportation or on other mobile objects.
3. The Ministry of Culture and Information shall promulgate specific regulations on issuance of permits to conduct advertisements.

Article 17 *Contracts for advertising services*

Hiring of advertising services must be implemented by way of a written contract for advertising services with the following contents:

1. Names and addresses of parties to the contract;
2. Form, contents, media, advertising product;

3. Duration, location and scope of advertisement;
4. Cost of services and other related fees and means of payment;
5. Rights and obligations of the parties;
6. Liability for breach of contract;
7. Other contents as agreed by the parties.

CHAPTER 3

Advertising Activities with a Foreign Element

Article 18 *Advertisements of foreign organizations and individuals*

1. Foreign organizations and individuals operating in Vietnam may directly advertise their business activities and their goods and services, or hire a Vietnamese person conducting the business of advertising services or a Vietnamese advertising distributor to conduct their advertising for them.
2. Foreign organizations and individuals not operating in Vietnam and wishing to advertise their business activities or their goods and services in Vietnam must hire a Vietnamese person conducting the business of advertising services or a Vietnamese advertising distributor to conduct their advertising for them.

Article 19 *Advertising representative offices*

A representative office in Vietnam of a foreign organization or individual conducting advertising business services in Vietnam may only operate upon issuance of a licence to open a representative office from the competent State body, and may only promote advertising and not directly conduct advertising business services.

Article 20 *Advertising branches*

Foreign organizations and individuals conducting advertising business services may open a branch in Vietnam in order to conduct advertising business services.

The Government shall promulgate specific regulations on the establishment and operations of foreign advertising branches in Vietnam.

Article 21 *Co-operation and investment in advertising activities*

Vietnamese organizations and individuals conducting advertising business services shall be entitled to co-operate and invest in advertising activities with foreign organizations and individuals in accordance with law.

Article 22 *Advertising abroad*

Vietnamese organizations and individuals shall be entitled to advertise their business activities and their goods and services abroad in accordance with law.

CHAPTER 4**Rights and Obligations of Organizations and Individuals
Conducting Advertising****Article 23** *Rights and obligations of advertisers*

1. Advertisers shall have the following rights:
 - (a) To advertise their own business activities, goods and services;
 - (b) To select a person conducting the business of advertising services or an advertising distributor, and the media and form of an advertisement;
 - (c) To register protection of intellectual property rights with respect to their own advertising products;
 - (d) Other rights in accordance with law.
2. Advertisers shall have the following obligations:
 - (a) To advertise in accordance with the contents of their business registration certificate;
 - (b) To ensure the contents of advertisements are true and accurate;
 - (c) To discharge their contractual obligations;
 - (d) To discharge other obligations in accordance with law.

Article 24 *Rights and obligations of persons conducting business of advertising services*

1. Persons conducting the business of advertising services shall have the following rights:
 - (a) To select the business form and sector of their advertising services;
 - (b) To require an advertiser to provide true and accurate information in relation to the contents of an advertisement;
 - (c) To register protection of intellectual property rights with respect to their own advertising products;
 - (d) To engage in business co-operation with organizations and individuals in advertising activities;
 - (dd) To participate in domestic and foreign advertising associations;
 - (e) Other rights in accordance with law.
2. Persons conducting the business of advertising services shall have the following obligations:
 - (a) To implement strictly the provisions of their business registration certificate;
 - (b) To implement strictly the provisions of the law on advertising;
 - (c) To discharge the obligations in contracts for advertising services which they enter into;
 - (d) To pay compensation for loss and damage they cause;
 - (dd) To discharge other obligations in accordance with law.

Article 25 *Rights and obligations of advertising distributors*

1. Advertising distributors shall be entitled to advertise on their own media and to collect fees for services of distributing advertisements in accordance with law.
2. Advertising distributors shall have the following obligations:
 - (a) To comply with the laws on media, publications, management of computer information networks, programs of cultural and sporting events, fairs and exhibitions and the provisions of this Ordinance while using the media, publications, computer information networks,

programs of cultural and sporting events, fairs and exhibitions, and other advertising media to advertise;

- (b) To fulfil contracts for distributing advertisements which they enter into with advertisers or persons conducting the business of advertising services;
- (c) To pay compensation for loss and damage they cause;
- (d) To discharge other obligations in accordance with law.

Article 26 *Rights and obligations of persons hiring out advertising media*

1. Persons hiring out advertising media shall have the following rights:
 - (a) To select advertisers or persons conducting the business of advertising services;
 - (b) To collect fees for hiring out advertising media in accordance with agreements in contracts;
 - (c) Other rights while hiring out advertising media in accordance with law.
2. Persons hiring out advertising media shall have the following obligations:
 - (a) To discharge correctly their obligations in contracts for hiring out advertising media which they enter into;
 - (b) To pay compensation for loss and damage they cause;
 - (c) To discharge other obligations while hiring out advertising media in accordance with law.

Article 27 *Advertising taxes, fees and charges*

Advertisers, persons conducting the business of advertising services, advertising distributors, and persons hiring out advertising media shall be obliged to pay taxes, fees and charges in accordance with law.

CHAPTER 5

State Administration of Advertising

Article 28 *Contents of State administration of advertising*

State administration of advertising shall comprise the following matters:

1. Formulation of, and directing implementation of master planning, specific plans and policies for the development of advertising;
2. Promulgation of legal instruments on advertising and organizing their implementation;
3. Issuing and revoking advertising permits and licences for opening advertising representative offices and branches of foreign organizations and individuals conducting the business of advertising services in Vietnam;
4. Organizing and managing the work of training, research, applied science and technology in the advertising sector;
5. Undertaking international co-operation in advertising;
6. Conducting inspections and checks, resolving complaints and denunciations, and dealing with breaches of the law on advertising.

Article 29 *State administration bodies for advertising*

1. The Government shall uniformly exercise State administration of advertising.
2. The Ministry of Culture and Information shall be responsible before the Government to carry out State administration of advertising.
3. The Ministry of Trade, ministries, ministerial equivalent bodies and Government bodies shall, within the scope of their respective duties and powers, be responsible to co-operate with the Ministry of Culture and Information to carry out State administration of advertising.
4. People's committees at all levels shall, within the scope of their respective duties and powers, carry out State administration of advertising within their respective localities in accordance with the powers delegated to them by the Government.

Article 30 *Inspectorate for advertising*

The State Inspectorate for Culture and Information shall exercise the function of inspectorate for the specialized advertising branch.

The Government shall promulgate regulations on the specific duties of the State Inspectorate for Culture and Information - Specialist Advertising Branch.

Article 31 *Complaints and denunciations and their resolution*

1. Organizations and individuals shall have the right to lodge complaints; and individuals shall have the right to denounce conduct in breach of the law on advertising.
2. Organizations and individuals authorized to receive complaints and denunciations shall be responsible for resolving them in accordance with the law on complaints and denunciations.

CHAPTER 6**Commendations and Rewards,
Dealing with Breaches****Article 32** *Commendations and rewards*

Organizations and individuals having notable achievements in advertising activities shall be commended and rewarded in accordance with law.

Article 33 *Dealing with breaches*

1. Any person in breach of the law on advertising shall, depending on the nature and seriousness of the breach, be subject to administrative penalty or criminal prosecution; and if such breach causes loss, shall be liable to pay compensation in accordance with law.
2. Any person who takes advantage of his or her position or power to breach the provisions on issuance or revocation of advertising permits, or who impedes the lawful advertising activities of any organization or individual, or who harasses for bribes or otherwise breaches the provisions of this Ordinance or other relevant provisions of the law shall, depending on the nature and seriousness of the breach, be disciplined or be subject to criminal prosecution; and if such breach causes loss, shall be liable to pay compensation in accordance with law.

CHAPTER 7

Implementing Provisions

Article 34 *Effectiveness*

1. This Ordinance shall be of full force and effect as of 1 May 2002.
2. Any previous provisions which are inconsistent with this Ordinance are hereby repealed.

Article 35 *Implementing guidelines*

The Government shall provide detailed regulations and guidelines for implementation of this Ordinance.

For the Standing Committee of the National Assembly
Chairman

NGUYEN VAN AN