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logged inSelect Language ⌵ Powered by [Google Translate](#)MAIN MENU | [Select Another Country](#) | [ADA](#) | [ABOUT](#) | [CONTACT](#) | [CONTRIBUTORS](#) | [ADMIN](#) | [LOGOUT](#) |**Country Business Guides:**
Romania▶ **Overviews**▼ **Advertising & Marketing**[Advertising Law](#)▶ **Business Culture**▶ **Business Formation**▶ **Business Travel**▶ **Communications**▶ **Country Profile**▶ **Export**▶ **Import**▶ **Investment Climate**▶ **Language**▶ **Maps**▶ **Money and Banking**▶ **News Feeds**▶ **Seaports**▶ **Security Briefing**▶ **Taxation**▶ **Trade**[Generate Custom Reports](#)[Print-Friendly Version](#)[EMAIL Email This Page](#)[Cite This Document](#)**Romania: Advertising and Marketing
Advertising Law**[Banned from Advertising](#)[Regulations on Product and Service Advertising](#)[Regulations on Advertising Methodology](#)[Regulations on Media Channels](#)[Regulatory Agencies](#)[Key Laws and Regulations](#)[Advertising Pre-Clearance Agencies](#)[Trends](#)[About the Author of this Article](#)*This article is written and provided by: Muşat & Asociații.
[About the firm and author](#)***Introduction**

Advertising has experienced explosive growth since 1990, following the transition from a regulated economy to a market economy.

Romania's work toward accession to the European Union also included the adoption of extensive legislation compatible with European rules. In this process, Romania adopted the advertising and consumer protection legislation presented in this article, including the fundamental Law No. 148/2000 on Advertising, hereinafter the **Law on Advertising** (*Legea nr. 148/2000 privind publicitatea*) and Law No. 158/2008 on Comparative and Misleading Advertising, hereinafter the **Comparative and Misleading Advertising Law** (*Legea nr. 158/2008 privind publicitatea comparativa si publicitatea inselatoare*), thus ensuring a convenient environment for free and constructive competition and the welfare of its consumers.

Having said that, Romania lacks at present a central, state-controlled agency that would deal with all kinds of advertising issues. Instead, a variety of state authorities deal with specific advertising sectors or aspects of advertising.

The **Ministry of Public Finance** (*Ministerul Finantelor Publice*) is the main state body entrusted with the enforcement of advertising legislation and does so via the territorial branches of the **National Fiscal Administration Agency** (*Agentia Nationala De Administrare Fiscala*), its Bucharest branch being constantly involved in the resolution of complaints concerning infringements of advertising rules. Nonetheless, its powers are limited to issues related to comparative and misleading advertising. Furthermore, specifically for the broadcast industry, the authority ensuring the operation of national TV and radio stations in a responsible and competitive climate is represented by the **National Audiovisual Council** (*Consiliul National Al Audiovizualului*, hereinafter **CNA**), an autonomous public institution. Its core activity is governed by **Audiovisual Law No. 504/2002** (*Legea Nr. 504/2002 a audiovizualului*) and **CNA's Audiovisual Code** (*Legea audiovizualului*), adopted in 2006. CNA is empowered to monitor observance of the applicable legislation and to impose sanctions.

Some agencies supervise specific advertising practices and/or advertising of specific products; an example is the **National Authority for Consumer Protection**, responsible for sanctioning illegal behavior with respect to the advertising of spirits and tobacco products to children.

Self-Regulation

The state's decentralized approach towards advertising led in the 1990s to the industry setting up its own self-regulating body, the **Romanian Advertising Council** (*Consiliul Roman pentru Publicitate*, referred to hereinafter as **RAC**), active since 1999. The **RAC** is made up of 57 companies which have subscribed to the **Code on the Practice of Advertising**, a document providing the core rules for lawful advertising in Romania. The RAC's activity consists in providing both advice on the content of proposed ads and post-factum evaluation of advertisements, while also dealing with complaints brought forth by its members against each other concerning the lawfulness of the advertisements that they publish.

Although non-binding, the decisions adopted by the RAC's **Ethics Committee** serve in most cases as basis or guidance for the decisions of the local branches of the **National Fiscal Administration Agency** in dealing with complaints alleging breaches of advertising legislation.

Products and Services Banned From Advertising

- Narcotic products, banned for public health reasons
- Occult services, banned for public order reasons
- Firearms, weapons, and ammunition, banned for social security reasons

Regulations Related to Product and Service Advertising**Alcohol (Beer and Wine)**

Beer

Beer advertisements are subject to self-regulation in addition to the statutory legal provisions identified below. With reference to the advertising of alcoholic beverages in general and set down within the legal provisions identified below, mention has to be made of the **Code on the Practice of Advertising in the Beer Sector**. These rules were adopted by the **Brewers of Romania Association** under the umbrella of the **RAC**, aiming to complement the **Code on the Practice of Advertising** and to ensure that beer advertisements do not offend the audience and do not go beyond what is considered to be appropriate communication. The rules govern the following aspects of commercials:

- Responsible drinking
- Underage drinking
- Drinking and driving
- Social and social success
- Free samples

Moreover, extensive rules concerning the claims that may be made against noncompliant commercials are laid down. Such complaints will be judged by the **RAC Ethics Committee**, and the infringing party, being a member of the **Brewers of Romania Association**, will have to respect the decision given against it.

Wine

Several local norms drafted in accordance with the European regulations on the description and presentation of wines provide labeling requirements. For instance, the graphic representation of the grape, of grape vines, or of parts thereof on labels or other promotional materials is prohibited.

Alcohol (Spirits)

Advertising, presentation, and labeling rules for spirits are set out in the **Norm on the Labeling of Traditional Spirits** enacted by the **Ministry of Agriculture and Rural Activities** and approved by **Order no. 212/2008** issued

by the **National Authority for Consumer Protection**. Labels must contain a number of elements such as:

- Sale denomination
- Ingredients
- Storage conditions

A high degree of protection is granted to geographical indications; it is forbidden to mislead the consumer as to the true origin of the product. Where a given quality of a particular spirit drink is essentially attributable to its geographical origin, the label must bear an indication of the country or territory of origin. The enforcement of these specific provisions is under the competence of the **National Authority for Consumer Protection**, which has the power to investigate cases, ascertain minor offenses, and apply fines.

The law is quite strict concerning advertising of spirits, providing the following restrictions:

- Spirits may be advertised only in newspapers and on radio and television
- In the audiovisual sector, pursuant to the **Audiovisual Code**, the advertising of alcoholic drinks between 6am and 10pm is prohibited

The advertising of spirit drinks has also been regulated by the leading spirits companies organized for the purpose as the **Romanian Forum for Responsible Drinking** (the **RFRD**). The forum enacted in 2012 a new set of self-regulatory standards, the **Rules on Responsible Advertising of Spirits**, which were subsequently attached to the **Code on the Practice of Advertising**. The main objective of these standards is to promote responsible drinking in Romania with particular emphasis on responsible ad content, protection of underage persons, safety and health, and cautions concerning the effects of alcohol.

Firearms, Weapons, and Ammunition

As mentioned above, under the provisions of the **Law on Advertising**, this kind of product is totally banned from advertising, except for the places where they are offered for sale. However the exception to this strict order refers to hunting, sport and panoply weapons, in relation to which advertising is allowed.

Food

Emergency Government Ordinance no. 97/2001 Regulating the Production, Movement and Marketing of Food Products forbids selling food products under certain sale denominations or using information, graphic representations, and presentations which may generate confusion or be misleading.

Advertisements for dietetic products must avoid any medical recommendations and must be produced in such a manner as to prevent the consumer from any nutritional excess.

The **RAC** has also adopted the **Ethics Code for Advertising to Children in Respect of Food Products (Ethics Code)**, which provides that:

- Advertisements should promote adequate food portioning and an active lifestyle
- All allegations as to taste, composition, nutritional factors, and health benefits must be in accordance with reality

Measures concerning food advertising targeting children are covered in detail under [Advertising to Children](#) below.

Labeling and Packaging

A noteworthy limitation in the area of labeling and packaging, as per the provisions of the **Methodological Norms** approved by way of **Government Ordinance no. 106/2002 on Food Labeling**, is that no fruits or vegetables or parts thereof may be represented on packages or any other promotional materials unless the names of the respective fruits or vegetables are contained in the sale denomination of the product and the said fruits or vegetables are listed as an ingredient in the mandatory ingredients list found on every product package. Moreover, the exact quantity of the illustrated fruit or vegetable has to be mentioned in percentages. No such representation is allowed for food products containing only fruit or vegetable flavorings and no real fruit or vegetables.

Gaming

Gambling activities are heavily regulated by way of **Government Emergency Ordinance no. 77/2009 on the Organization and Operation of Gambling Activities**, which requires persons wanting to provide gambling services to obtain a license from the competent authority. The ordinance not only prohibits the organization of online gambling activities or intranet communication systems, as well as through mobile telecommunications or other similar means, but it also incriminates violators in a disproportionate fashion, providing for imprisonment or fines. The same applies to games of chance whose results may be influenced by the dexterity of the croupier.

Advertising of such prohibited games is also forbidden, being sanctioned by fine of about €25,000.

Gambling operators are obliged to comply with a strict set of advertising rules with particular focus on the lighting and brand exposure on the exterior of the gambling sites.

In the audiovisual area, it is worth mentioning that, according to the **Audiovisual Code**, advertising of gaming activities cannot be featured during scheduling targeted towards underage persons.

Legal Services

Advertising of legal services imposes the observance of several rules so as not only to promote a fair competition amongst lawyers, but also to respect the principles governing this liberal profession. Therefore, **Law no. 51/1995 on the Legal Profession** prohibits lawyers to use methods, directly or through intermediaries, incompatible with the dignity of the profession or to use advertising in order to acquire clients. The purpose of advertising must be limited to the function of providing information. To this end, the following are permitted:

- Displaying the company name
- Advertisements in newspapers and in phone books
- Advertising during certain events, such as conferences
- Professional correspondence
- Business cards

The following are expressly forbidden:

- Making laudatory or comparative references
- Mentioning the identity of clients
- Door-to door-advertising
- Unsolicited offers of assistance
- Providing legal assistance in the media, for instance offering legal advice through radio or television programs. However, until approximately 5 years ago, the public radio broadcaster had a daytime program containing a 5-minute program containing legal advice from a specialist. This idea was repealed eventually.

Failure to comply with the above rules constitutes a disciplinary misconduct, which may be signaled to and addressed by a disciplinary commission functioning within each local bar and further appealed before the national disciplinary commission acting on the national level.

Medical Devices

According to the **Audiovisual Code**, medical devices used in conjunction with medicines follow the same regime as medications, based on whether they are prescription medicines. See [Pharmaceuticals](#) below.

Medical Services

Law no. 95/2006 on Health Reform (the **Health Law**) provides that commercial communication related to emergency medical assistance of a private nature must always clearly indicate that the telephone numbers are not free of charge and that the services provided are subject to fees.

Nonprofit Fundraising

According to the **Audiovisual Code**, social campaigns and charitable actions of a humanitarian nature pursued by nonprofit organizations are regarded as non-commercial communication. As a consequence, these messages will not be subject to the broadcast length requirements, will be communicated free of charge, and will be distinguished from ordinary advertisements mention of the phrase "Message/messages of public interest." The company names or logos of the sponsors are allowed only in the case of charitable actions at the end of the message and must not exceed a total duration of three seconds.

Nutritional Supplements

Commercial communication regarding nutritional supplements is regulated by specific provisions of several local acts. According to **Order no. 1069/2007 for the Approval of the Norms on Nutritional Supplements** enacted by the **Ministry of Public Health**, advertising of such products is permitted subject to prior certification of the commercial content by the ministry's **Public Health Authority**. The commercials must not make any reference to treatments, prevention, or diseases.

Apart from the above, other applicable rules are detailed in the **Code on the Practice of Advertising**. Notable among these rules is the requirement that specific notifications on the risks of consuming the product be included in the advertisement. Furthermore, any affirmation or suggestion that a well-balanced and diversified diet would not provide the necessary nutrients for a healthy body is forbidden, so as to avoid the risk that consumers feel they have to take nutritional supplements in order to be healthy.

Occult ("Psychic") Services

According to the **Audiovisual Law**, media service providers may not directly or indirectly promote occult practices. Furthermore, the **Audiovisual Code** prohibits teleshopping programs referring to occult practices such as voodoo and card-reading, fortune telling and the like. The competent authority to investigate and sanction violations of these rules

is the **Audiovisual National Council**.

Apart from this prohibition in television advertising and telemarketing, no other express prohibition of the advertising of such activities is laid down in the law.

Pharmaceuticals

The **Health Law** provides a severe set of rules with which over-the-counter medicines have to comply in order to be advertised to consumers. Irrespective of the advertising method, the following must be stated:

- Sale denomination
- Active substances contained
- Information about use

Commercials must never:

- Create the impression that a cure is guaranteed
- Suggest that no adverse effects are possible
- Imply or state that the advertised medicine is more effective or as effective as another medicine or treatment
- Suggest that the general, overall health of the patient will improve by taking the advertised medicine
- Use inadequate, misleading, or alarming terms to promise healing through use of the medicine
- Use inadequate, misleading, or alarming terms in order to visually represent changes in the human body caused by diseases or as a result of medicine use

Prescription Medications

General public advertisements for prescription drugs are forbidden; advertising is allowed solely regarding practicing professionals such as doctors.

Enforcement

The body responsible for monitoring and imposing measures in cases of medicine advertising infringements is the **National Agency for Medicines and Medical Devices**. This authority acts in accordance with the **Guide on the**

Evaluation of Advertising of Medicines for Human Use (the **Advertising of Medicines Guide**) adopted in 2011 approved by **Decision no. 21/2011** by the **Scientific Council** of the said agency and dealing specifically with the basic rules provided by the **Health Law**.

An extensive set of rules on advertising of medical products in broadcast media is to be found in the **Audiovisual Code**. For instance, it is prohibited that medicines identified by their trademark or commercial denomination, medical treatments, drug stores, or medical offices be advertised during a television program in the form of a recommendation. An audiovisual commercial must always specify, among other elements, the therapeutic indications and the spoken expression, "this product is a medicine. Carefully read the leaflet." The **Audiovisual Council** is the responsible body for judging and sanctioning violations of the enactments under its umbrella.

Disputes on advertising may be brought before the **RAC**, as its **Commercial Communication Guide** contains basic rules on medicine advertising that are binding for all businesses in the medical sector that are members of the **RAC**. By way of example, it is forbidden for an advertisement whereby medicines are compared to food products, cosmetic or any other consumption goods.

Political Advertising

As a general rule stipulated in the **Law on Advertising**, any commercial communication offending political beliefs is forbidden.

In the television sector, per the **Audiovisual Code**, advertising, either positive or negative, related to political parties, political candidates, or political messages, is prohibited except for political campaign periods. During such periods of time, audiovisual media service providers are permitted to broadcast political advertisements only when the latter are adequately separated from the rest of the commercial using appropriate devices signaling the transition. The **Audiovisual Council** plays an important role in tempering political advertising, being very active in this sector and applying drastic sanctions which may go as far as limiting by half the license validity period of the infringing television station.

Political Discussions and Debates

The **Audiovisual Code** also requires that political discussion or debate programs ensure the avoidance of any expression of discrimination against any sector of the population, as well as the impartiality, equilibrium, and the free formation and expression of opinions in respect of a given theme of discussion or debate.

Sponsorship

The **Audiovisual Code** prohibits sponsorship of political programs.

The national laws regulating the elections (**Law no. 67/2004 on the Election of Local Public Authorities, Law no. 35/2008 on the Election of Deputies and of Senate Members** and the **Law no. 370/2004 on the Presidential Elections**) provide that advertisements inviting people to vote for a candidate or a list of candidates may be broadcast only during political shows. Furthermore, no opinion polls, television votes, electoral street surveys or comments on the electoral campaign may be communicated to the public within 48 hours before the election date.

Products Related to Sexuality

Advertising of products related to sexuality is not specifically forbidden so long as it complies with the main rules provided by the national laws. However, limitations to this kind of advertising are set down in the audiovisual sector where the **Audiovisual Code** prohibits commercial communications related to sexual or pornographic products. Furthermore, advertising and teleshopping for products and treatments of a sexual nature must be communicated outside the hours between 6am and 10pm.

Religion

As a general rule, the **Law on Advertising** prohibits any kind of advertising which might go against the religious convictions of some people. In the audiovisual media, the **Audiovisual Council** is endowed with powers to act against persons infringing this rule. For example, in a case involving the use of adapted Christmas carols in a commercial related to mobile telecommunication, this authority ordered the concerned company to stop the communication of the commercial on the grounds that it offends religious views.

Sex (Adult) Services

The lawmakers are very strict in terms of advertising regarding sexual services, prohibiting any kind of pornographic commercial communication. Under the **Audiovisual Code**, advertisements destined for sex-oriented publications and movies or erotic shows may be communicated under the same regime as the co-called 18+ programs. A total ban on advertising is in place regarding erotic hotline services.

Tobacco Products

In accordance with the European rules on tobacco advertising, **Law 457/2004 on Advertising and Sponsoring for Tobacco Products** provides that tobacco commercials are permitted only in publications dedicated exclusively to professionals in the tobacco trade. However, tobacco advertisements are allowed via other kinds of publications if these are printed and published in third countries and are not principally intended for the European market. Because the law does not provide this exception for media other than print publications, it follows that advertising of tobacco via other media channels is banned.

Toys

According to the **Code on the Practice of Advertising**, advertising of toys, games, and educational products targeted to children must not be misleading as to the nature, characteristics, performance, and dimensions of the product. The following must be precisely communicated:

- The necessary skills for using the advertised toy
- The price of the main item
- The price of auxiliary items if these are purchased separately

The advertisement may not create the false impression that the product may be purchased by anyone without regard for budget.

Other Regulated Products

Although the **Law on Advertising** does not regulate other types of products beside the ones referred to above, advertising rules may be found in other acts. For instance, the **Code on the Practice of Advertising** provides rules with regard to hygienic products, cosmetics, and dietetic products.

Advertisements of hygienic products and cosmetics must not mislead the consumer into thinking that the advertised items may serve other purposes than the original one. Under no circumstances may advertisements present these products as having supplementary characteristics which may prevent certain diseases, unless the products were manufactured for such preventive purposes. As for dietetic products, the ads must not lead the consumer to make a nutritional mistake and must avoid recommendations of a medical nature.

Other Regulated Services

The **Code on the Practice of Advertising** sets down advertising rules with regard to services such as teaching courses, job offers, study offers, business offers, touristic offers and financial and real estate transactions.

Teaching

Teaching services must be clearly distinguished from job offers so that no impression is created in the consumer's mind that a successful completion of a certain course comes with a job offer. Advertising of teaching offers and study offers should state the registration, participation, and graduation terms in a clear-cut manner.

Financial and Real Estate Transactions

Financial and real estate transactions should be advertised by providing clear and precise information so as not to mislead potential customers inexperienced in this type of transaction. In case the value of the investment concerned is guaranteed, details of the guarantee should be presented.

Tours and Excursions

Touristic offers should contain clear, complete, and easily understandable information.

Regulations Related to Advertising Methodology

Advertising to Children

Legislation

Article 16 of the **Law on Advertising** sets forth the principles based on which advertising to children may be undertaken. The principles are of a restrictive nature, specifying that the following should be absent from advertisements intended for children:

- Representations that may affect their moral, intellectual, or physical development
- Representations that may undermine their special relationship with their parents and teachers
- Depiction of situations that unjustifiably present children in dangerous situations
- Slogans taking advantage of children's lack of experience and innocence for the purpose of influencing them to purchase certain products or services

The **Audiovisual Code** no longer restricts which advertisements may be presented in the vicinity of children's programs. However, with a view to protecting the normal development of children, the code prohibits broadcast of the following in the timeframe from 6am to 10pm:

- Depiction of smoking
- Use of trivial or vulgar behavior or language
- Pornographic images or allusions

Self-Regulation

In the area of food advertising targeting children, the **Ethics Code for Advertising to Children in Respect of Food Products (Ethics Code)**, adopted by companies in the industry as a result of the support granted by **RAC**, provides several basic rules in order to promote an active lifestyle and a well-balanced diet for children. The two primary commitments are to refrain from:

- Advertising any food product in schools unless the school requests it
- Advertising products with low nutritional value during broadcast of a program that has audience ratings of least 50 percent among the under-12 age group
- Products with Low Nutritional Value

Products with low nutritional value refer here to soft drinks and products that do not comply with the minimum nutritional criteria based on accepted scientific proofs and national and international nutritional guides (minimum nutritional criteria required).

Any violation of this code may be reported to the **RAC**, the body vested with the authority to evaluate infringing cases and to ask the concerned company to take the necessary measures to comply with the code. Companies are also invited to subscribe to a supplementary set of guidelines, including refraining from:

- Encouraging children to ask their parents to buy the advertised products
- Posting outdoor advertising for low-nutrition foods nearer than 50 meters from kindergartens and primary schools
- Using famous characters and celebrities to advertise low-nutrition products to children under 12, unless the products comply with the minimum nutritional criteria required
- Advertising for low-nutrition foods by including a surprise toy or a funny element inside the product package, unless the products comply with the minimum nutritional criteria required
- Advertising for low-nutrition food in children print media, unless the products concerned comply with the minimum nutritional criteria required
- Directly promoting products to children, unless their parents are present and the products concerned comply with the minimum nutritional criteria required

Celebrity Endorsements

The issue of celebrity endorsements has come up quite often in relation with advertisements shown on television. This issue was assessed by the **National Audiovisual Council** on various occasions and was finally regulated via the **Audiovisual Code**, which provides for a general prohibition on celebrity endorsements for medicines and medical treatments. The professional categories which qualify as "celebrities" pursuant to the code are:

- Public figures
- Cultural, scientific, and sports personalities
- Socialites

The reason behind the prohibition is obvious, since by their notoriety and personal example celebrities may influence consumers in purchasing medical products.

Also see [Advertising to Children](#), above, concerning advertisements of low-nutrition foods to young children.

Comparative Advertising

The general principles on comparative advertising were first enacted in Romania via the **Law on Advertising**, which rules that comparisons that regard a special offering must clearly and unequivocally specify:

- The date when the offer expires
- If the special offer has not yet begun, the date as of which the special price is applicable
- If the special offering is limited to available stocks of products and/or services

The bulk of the provisions on comparative advertising are to be found in the **Comparative and Misleading Advertising Law**, which requires any comparative advertisement to comply with the following:

- It must not be misleading
- It must compare goods/services addressing the same needs
- It must compare one or more of the main, essential, relevant, verifiable and representative features (price included) of the goods/services in question
- It may not discredit or tarnish the trademarks or trade names of a competitor
- In the case of products bearing an indication of origin, it must refer to products bearing the same indication
- It may not unlawfully take advantage of the reputation of a trademark
- It must not present goods/services as imitations or reproductions of goods/services under a protected trademark
- It may not create confusion between competing companies, trademarks, or trade names

The same requirements are to be found in the **Code on the Practice of Advertising** adopted by the **RAC**.

Contests

The **Audiovisual Code** sets rules both for sponsorship of audiovisual programs and for the broadcasting of interactive, gaming, and competition programs. Pursuant to the rules on sponsorship, an audiovisual program may be sponsored and it must also be identified as such. The maximum duration of a given sponsorship advertisement cannot exceed 30 seconds of the entire duration of the broadcast program, and it may not be aired more than five times a day. The **Audiovisual Code** does not allow for any connection between the name of the contest and the name or image of the

sponsor to exist.

The only other specific restriction is that an audiovisual program addressing minors may not be sponsored by a producer of alcoholic beverages, of medical treatments, of food supplements or by organizers of games and contests not recommended for children under 18 years of age.

Deceptive, False, or Misleading Advertising

Under the **Comparative and Misleading Advertising Law**, there is no legal or terminological distinction between deceptive, false, and misleading advertising, the law referring solely to misleading advertising as a unitary concept. Misleading advertising is defined by the law as advertising that in any manner, including its presentation, misleads or may mislead its intended addressees and which, by its misleading character, may affect the latter's economic behavior with the consequence of damaging a competitor. It provides that in order to determine that an advertisement is misleading one must take into consideration all of its elements, with special regard to:

- Features of the goods/services
- Price
- Method for calculating the price
- Conditions in which the goods are distributed or the services are provided
- Nature, attributes, and rights of the company that is advertising (such as its identity, its goods, qualifications, the holding of IP rights, awards or distinctions)

Careful reading of the above legal guidelines makes it clear that under Romanian law an advertisement may be qualified as misleading even if the deception is in the form of an omission.

Disguised Ads and Advertorials

Under Romanian laws, advertorials and disguised ads fall under the ambit of the provisions relating to misleading advertising. As such, advertorials must be assessed pursuant to the parameters laid down by the **Comparative and Misleading Advertising Law** as outlined [above](#). The **Advertising of Medicines Guide**, in its turn, provides parallel restrictions.

Free Gifts/Samples

The **Code on the Practice of Advertising** rules that within an advertisement, an offering may be described as "free" solely if:

- The consumer pays only the cost of participation or his own traveling costs (if applicable)
- The offer does not entail an obligation
- In cases where the free offering entails the acquisition of a product, the price of the product does not increase so as to partially or fully cover the costs of the offering
- Any additional products required in order for the consumer to benefit from the offered product are clearly mentioned
- When an offering regards two or more products out of which only one is free of charge, this is clearly mentioned

A sample or gift must also not be defined as "free" if the consumer must pay for the product's return costs, unless such costs are clearly indicated to the consumer from the very beginning.

Finally, should unsolicited samples be distributed within a promotion activity, the consumer must be clearly informed that he is not under any obligation to pay for or return them.

Limits to Free Speech

The Law on Advertising prohibits advertisements which:

- Negatively affect the respect for human dignity and public morals
- Include bigotry of any kind
- Run against religious or political convictions
- Damage the honor, dignity, private life, or public image of individuals

Length of Commercial, Volume, and Similar Restrictions

The **Audiovisual Law** limits the total duration of advertisements per hour to 20 percent, i.e. 12 minutes. This applies for privately held television broadcasters, while a maximum length of 8 minutes applies for the national public television broadcaster.

Length of Individual Ads During Sports Broadcasts

The **Audiovisual Code** provides that during the broadcast of a sporting competition, the broadcaster may display graphic inserts covering only a small part of the screen, with a maximum length of 10 seconds per intervention. Such broadcast of graphic inserts may not exceed 2 minutes per sporting transmission.

As per the Audiovisual Code, individual (or isolated) advertisements may be broadcast solely if the breaks within the transmission (e.g. in a football or boxing match) are sufficiently long so as to allow the broadcast of such a spot. The spot may not exceed 30 seconds and must display the "advertisement" mark on the lower right side of the screen. This mark is the letter P from the Romanian word *publicitate* (advertisements) within a circle.

Broadcasters may insert during the broadcast of sporting events mini-spots with the observance of the following cumulative conditions: the length must not exceed 10 seconds; there can be only two such mini-spots per half; they must be inserted during the moments of natural pause during the game; they must carry the specific "advertisement" mark in the lower right side of the screen.

Rights of Privacy

Pursuant to the **Audiovisual Code**, every person has the right to protection of private and family life. For this reason

Pursuant to the **Audiovisual Code**, every person has the right to protection of private and family life. For this reason, the code rules that no mere allegation of public interest suffices for the breach of the right to privacy. However, the right to privacy may be breached when there exists a justified public interest and where there are significant and clear connections between a person's private life and the justified public interest.

These provisions need to be corroborated with those of the **Civil Code of 2011** (hereinafter the **Civil Code**), which protect the sanctity of a person's private life and public image. Article 75 of the code names the following (among others) as violations of a person's private life:

- The recording and broadcasting of a person's image or voice while in private premises, without the person's consent
- The broadcasting of news, inquiries, debates, and so on concerning the private life of a person, without the person's consent
- The use in bad faith of a person's name, voice, image, or resemblance with another person.

The **Civil Code** provides that a person whose private life has been exposed in any of the manners described above—either in advertisements or elsewhere—may file suit for damages.

Product Demonstrations

Advertising laws in Romania are silent as to the particular issue of product demonstrations. However, this gap in advertising law texts is partially filled by a rather general provision of **Law No. 296/2004 on the Consumer Code** (the **Consumer Code**). This provision states that, when placing on the market products that have an extended life cycle, the companies selling them may undertake promotional demonstrations of their use, either in public or in the media. This general provision needs to be corroborated with the above-detailed provisions of the **Audiovisual Code** on advertisements. It may thus be inferred that advertisements concerning product demonstration must comply with the prerequisites of fair advertising, duration, and timing of their broadcasting.

The **Consumer Code** also requires companies to demonstrate the use and functioning of a product to the consumer, upon the consumer's request at the time of purchase.

Regional Public and/or Community Standards

The **Audiovisual Law** provides for general standards applicable nationwide. Similarly, so does the **Audiovisual Code**. However, considering the constitutional principle of local (community) autonomy, nothing impedes community councils from enacting stricter (as opposed to less stringent) provisions in relation to different types of advertisements.

Rebates

Government Ordinance No. 99/2000 on the Sale of Products and Market Services (GO No. 99/2000) is the only enactment that deals directly with the issue of advertisements of rebates. The enactment defines several types of sales at reduced prices such as liquidations, sales, and promotions. Advertisements of such sales need to specify:

- The date of debut of the sale
- The duration of the sale
- The sort of merchandise up for sale under the advertised conditions (this latter condition being applicable if the liquidation is not carried out in relation to the entire merchandise stock)

Article 33 of the enactment sets forth the following rules for the advertising of rebates:

- The advertisement must indicate in figures a rebate as compared to the reference price (price comparison advertisements, advertisements that do not contain figures, but solely letters, advertisements concerning the launch of a new product, oral advertisements broadcast in the shop, being exempt from such an obligation)
- The advertisement may be valid only until the stocks are exhausted
- The advertisement must be legible and unequivocal
- All documents attesting to the validity of the rebate as compared to the reference price must be available for verification
- Any advertisement that is not in accordance with the price effectively charged amounts to a form of misleading advertising

Sex in Advertising

The **Audiovisual Code** defines an obscene audiovisual production as an ensemble of images, sounds, words, gestures, or behavior that are immoral, indecent, trivial, or explicitly or implicitly sexual and which, by their significance, offend morals. Such obscene productions may be broadcast solely between 11pm and 6am. The code further provides that commercial communications for erotic telephone conversations as well as for sexual products/services are prohibited.

However, commercial communications for erotic publications, movies, or shows may be broadcast following the conditions established for "18 programs": they will be broadcast within the midnight–6am timeframe and will be duly marked with the "18" emblem.

Moreover, the **Audiovisual Code** provides that advertisements and teleshopping for products and treatments for sexual afflictions may be broadcast only in the 10pm–6am timeframe and that advertisement and teleshopping spots are prohibited from mentioning therapeutic indications for STDs.

Lastly, it is worth mentioning that both the **Audiovisual Law** and the **Code on the Practice of Advertising** stipulate that beverages advertisements are prohibited from inferring that alcohol consumption improves sexual performance.

Sponsorships

The **Audiovisual Code** contains an entire chapter on sponsorship of audiovisual programs, closely related with advertising rules, as follows:

- A sponsored audiovisual program must be easily identifiable by the audience
- Sponsorship announcements must be clearly separated from advertisements
- Sponsorship announcements broadcast within the sponsored program may not exceed 30 seconds in duration for each 30 minutes of the sponsored program

- Should representatives from the sponsors attend the sponsored program, no reference to any of the sponsors may exceed 30 seconds
- There must be no connection whatsoever between the name, brand, or image of the sponsor and the name of the sponsored program

Subliminal Advertising

The **Advertising Law** defines subliminal advertising as any form of advertising that employs stimuli far too weak to be consciously perceived, but which can influence the economic behavior of a person. For this reason of psychological manipulation of audiences, subliminal advertising is banned.

Sweepstakes Offers

Sweepstakes offers (although not terminologically or legally identical to the American concept) are regulated by the **GO No. 99/2000**. They are defined as the practice of product/service promotion that tends to stimulate within the participants the hope of a winning via a sweepstakes. Such practices are admitted insofar as the participants do not incur any costs supplementary to the costs of purchasing the product/service.

Advertisements issued in respect of such commercial practices are to contain the nature, the number, and the trade value of the winnings, as well as the following compulsory stipulation: "The organization and participation regulation is available free of charge upon request." Such regulations and/or any other documents substantiating the sweepstakes offer must be notarized prior to the launch of the offer.

In order to verify the lawfulness of the sweepstakes offer, representatives of the **National Agency for Consumer Protection**, the **Ministry of Finance**, and the **Ministry of the Interior** may request to review the regulation and the advertisements promoting the offer. All requested documentation must be provided to these authorities within five days of their request. Moreover, professional and self-regulating bodies (e.g. **RAC**) may monitor the lawfulness of such practices.

GO No. 99/2000 defines a particular type of misleading advertising that may arise in connection with sweepstakes offers. It is considered to be proof of misleading advertising if the organizer thereof suggests that the addressee:

- Has won the grand prize, although the sweepstake actually has not yet taken place
- Has won a significant prize, when in reality the prize won is of minimal value or is a consolation prize

Testimonials

The **Code on the Practice of Advertising** states that advertisements may not contain or make reference to testimonials unless they are true, verifiable, and relevant. In order to avoid misleading and potentially harming the consumer, commercial communications must not employ testimonials and admittances that have become obsolete. The **Audiovisual Code** specifically prohibits television programs from including recommendations of medical treatments, drugstores, medical offices, or medicines identified by their trademark or commercial denomination.

Tie-In Offers

As a general rule, making the acquisition of a product subject to the acquisition of another product is forbidden. However, **GO No. 99/2000** provides that the following are not to be considered tie-in offers:

- Sales of an ensemble of different products or services at a global price
- Pre-packed identical products offered in a collective packaging (conditional upon each product/service being likely to be purchased separately and upon informing the customer of the price of the product/service)
- Sales of product lots justified by commercial uses or consumer need

The enactment also covers forced sales which are generally banned. The following qualify as forced sales (a subspecies of tie-in offers):

- Sending a product to a person, without the person's prior request or order, requesting the person to buy the product or to return it to the sender in the case of refusal
- The unsolicited performance of a service to a person, followed by a request for payment for it

Use of a Public Person's Image or Name

The **Code on the Practice of Advertising** stipulates that advertising should not envisage or refer to private or public persons without their approval. Moreover, advertising should refrain from referring to assets or properties of a natural person or a legal entity without their prior approval.

The issue of protection of a person's image—in advertising or elsewhere—is subject to regulation by Article 75 of the

Civil Code, which identifies the following (among others) as violations of a person's private life:

- Recording and broadcasting of a person's image or voice while in private premises, without the person's consent
- Broadcasting of news, inquiries, debates, and so forth concerning the private life of a person, without the person's consent
- Use, in bad faith, of a person's name, voice, image, or resemblance with another person.

The **Civil Code** provides that a person whose private life has been exposed in any of the manners described above (either in advertisements or elsewhere) may file suit for damages.

Use of Children in Advertising

Both the **Audiovisual Law** and the **Audiovisual Code** contain provisions concerning the protection of children, stating that the participation of a minor in audiovisual programs must respect the sensibility and the age-specific vulnerabilities of the child and take into account the child's personality. Also as a general principle, a child may not be exposed in audiovisual programs by the child's parents, relatives, or guardians for the purpose of obtaining any type of advantages or influencing the decision-making process of public authorities. The child and the child's parents or guardians must be informed of their rights prior to the shoot or the recording. The participation of a child below the

age of 14 in audiovisual programs (other than cultural and/or sporting events) is possible solely pursuant to the written consent of the parents.

News programs, debates, and reports are prohibited from displaying images of the body of a deceased child. Moreover, broadcasting of images exploiting the physical aspects of a child is prohibited, as is the broadcasting of images depicting children in perilous situations.

No audiovisual program displaying children below the age of 14 may be broadcast after 10pm, except for cultural and/or sporting events.

Use of Foreign Language in Advertising

Pursuant to **Law No. 500/2004 on the Use of the Romanian Language in Public Places, Public Relations, and Public Institutions** (hereinafter **Law No. 500/2004**), whenever a text of public interest written or spoken in a foreign language is broadcast, it must be accompanied by a Romanian translation and/or adaptation. In their turn, audiovisual programs in foreign languages that are transmitted by Romanian broadcasters must be accompanied by Romanian subtitling and, in emergency cases, simultaneous translation will be employed. A text having a public interest is defined by **Law No. 500/2004** as any text broadcast with the purpose of public information, having a direct or indirect advertising character.

It may thus be seen that under Romanian laws, advertisements may be broadcast either in Romanian or in a foreign language provided the latter is accompanied by an accurate translation or adaptation.

Mention must also be made of the fact that the **Audiovisual Code**, in line with the general principles of the **Audiovisual Law**, provides for the allocation of air space for programs (and, consequently, advertisements) in the languages of national minorities. These must also be translated and/or adapted into Romanian, as per the provisions of **Law No. 500/2004**.

Use of Models as Doctors, Nurses, Lawyers, or other Professionals

No express prohibition is laid down by any of the laws mentioned above. However, the law concerning the protection of the private life and public image of a person must be respected, and use of models within advertisements must avoid any characteristic leading to a finding of misleading advertising.

Violence in Advertising

The **Law on Advertising** institutes a general ban on advertising that incites to violence or that affects the safety of persons.

Although the **Audiovisual Code** provides that programs depicting violence may be broadcast during specific timeframes and pursuant to special warning messages aired before the broadcast, this cannot be interpreted as allowing advertisements depicting violence of any sort during such specific timeframes.

Regulations Related to Media Channels

Billboard Advertising

At the national level, Government Decision No. 955/2004 on the Enforcement of the Framework Regulation for the Administration of the Communities Public and Private Domain of Local Interest (hereinafter **GD No. 955/2004**) provides limited provisions as to the erection and/or placing of billboards on public and private buildings. The main rules set forth in GD No. 955/2004 regard the prerequisite of obtaining a construction permit and/or town planning authorization. However, this law does not provide for the contents, duration, or characteristics of billboard advertising.

It is worth mentioning that the **Ministry for Development** issued, back in 2010, a **Draft Framework Regulation on the Placement of Advertising Materials**, but this draft framework has not yet been adopted by the government. **Government Ordinance No. 43/1997 on the Legal Regime of Roads** contains an entire section dedicated to the erection of billboards by the sides of roads. Such may be done only after obtaining a construction permit, an authorization for the placing of the billboard at the side of the road, and/or access authorization, as the case may be. Billboards placed at the side of the road must avoid interfering with the traffic safety on that road. Although such provisions relate only to the regulatory aspects of placing billboards, it may be deemed that the billboards themselves must fully respect the rules relating to prohibited or restricted advertising, misleading and/or comparative advertising, testimonials, and use of the public images of certain persons.

Considering the constitutional principle of local (community) autonomy, local councils may enact specific regulations concerning the placing of billboards on buildings and the erection of billboards beside county or local roads. However, such local regulation may not contravene national regulation on the content of ads.

Digital Media Advertising

The **Code on the Practice of Advertising** provides that advertisements transmitted via digital media may not employ any technique that could conceal the factors influencing the consumer's decision (e.g. pricing, terms and conditions of sale).

The steps leading up to a purchase order or the signing of an agreement or of an engagement must contain complete and correct information regarding the terms of the transaction. When data for the purpose of filling in a purchase order are requested, the consumer must have the possibility of verifying the accuracy of the filled-in data prior to the effective launching of the order.

Commercial communications conveyed via digital media must include a clear and transparent mechanism allowing the consumer to opt out of receipt of advertising messages. This unsubscribing mechanism must be easily identifiable, easily comprehensible, and easy to use, and it must take effect quickly.

Direct Mail Advertising

No specific restrictions

Email Advertising (Spam)

The **Code on the Practice of Advertising** regulates the matter of email advertising. It provides that a commercial communication conveyed via email must be clearly indicated as such (i.e. as a commercial communication), in the subject line, without need for the email to be opened and read by its addressee. The subject of the message must not be misleading, and the nature of the message may not be concealed.

Newspaper and Periodical Advertising

Besides the applicable general rules of advertising, as per the **Deontological Journalists' Code** adopted under the supervision of the **Romanian Press Club**, it is prohibited for a journalist to carry out negotiations regarding the advertising space in newspapers and periodicals.

Radio Advertising

See [Television and Radio Advertising](#) below.

Social Media Advertising

No specific restrictions

Telemarketing

The **Code on the Practice of Advertising** contains a rather extensive section that sets forth the basic rules for commercial communications over the telephone as follows:

- The operator performing the call must immediately specify the name of the seller and the reason for the call, and must politely end the conversation as soon as it becomes clear that the addressee is not interested in the offering
- If the consumer's telephone allows display of the calling number, such number must be visible
- Before ending the call, the operator must make sure that the addressee is informed and has acknowledged the nature of the engagement entered into and any subsequent action
- Should the call not lead to an immediate sale but to a future contract with the seller or to the processing of personal data, then the operator is under the obligation of duly informing the addressee of this
- Should the information provided by the consumer be used for non-obvious purposes, then the operator must explain these purposes to the consumer in accordance with the rules on the processing of private data
- Should the call end in an order being placed, then the seller must inform the consumer of the consumer's right to receive a written confirmation (or a confirmation inscribed on a long-lasting interface) of the terms and conditions, in due time, but no later than the receipt of the product or of the date of commencement of service providing. The confirmation must include all information concerning withdrawal, seller identity, and any other relevant information connected to a remote sale
- The monitoring and recording of telephone conversations having a commercial purpose must be undertaken following appropriate security measures. Such may be done in order to allow verification of the content of the conversation, confirmation of a commercial transaction, instruction and quality control. Operators and consumers must be informed of the possibility of such monitoring taking place from the very commencement of the conversation. No recording may be made public without the prior approval of both parties to the conversation.

It is prohibited to telephone persons whose telephone numbers are not public, unless the consumer has made the number available to the seller or to the operator for such purpose.

Television and Radio Advertising

TV and radio advertising are regulated by the **Audiovisual Law** and the **Audiovisual Code**. As a general rule, advertising via these channels must be easily identified and clearly separated from the editorial content and has to take place only between programs. In exceptional situations, advertisements may be broadcast during the program, subject to not affecting the integrity or the copyrights thereof. However, public broadcasters are not allowed to advertise during programs under any circumstances. Another restriction refers to news presenters not being allowed to appear in commercial communications.

Split-Screen Advertising

Split-screen advertising must be clearly separated within the main window and must always display the word "Advertising." Only one split screen is allowed for advertising purposes. This method of advertising is prohibited when it comes to political debates, programs intended for children, or news.

Virtual Advertising

Virtual advertising may be transmitted to the public only on the occasion of sport, cultural events, or exhibitions

subject to conditions including the following:

- Approval of the organizers
- Absence of harm to the integrity or value of the event
- Expressly mentioning that "this program contains virtual advertising."

Short Spots

Short spots may be communicated during sports transmissions subject to the following conditions:

- Maximum duration of 10 seconds
- Only two spots are allowed per half time
- Spots must be inserted when the game is naturally interrupted
- In case of television, a capital P letter of a certain size must be displayed on screen

Exceptionally, isolated advertisements may be transmitted between 8pm and 6am, on the condition that all the other

applicable rules are respected thereto.

Commercial communication in both these areas is also dealt with in the **Code on the Practice of Advertising**, vesting the **RAC** with the power to impose sanctions.

Regulatory Agencies

Ministerul Finantelor Publice – Agentia Nationala De Administrare Fiscala **Ministry Of Public Finance – National Fiscal Administration Agency**

17 Apolodor St.
District 5
Bucharest
Romania

Please note that the enforcement of the rules on advertising detailed above is undertaken by local branches of the Ministry of Finance. The Bucharest General Directorate of Public Finance has a specialized department dealing with complaints relating to misleading advertising issues, as well as with state aid ones; this is the branch that deals most frequently with complaints of this nature. Its contact details are specified below:

Directia Generala A Finantelor Publice A Municipiului Bucuresti **General Directorate Of Public Finance Of The City Of Bucharest**

13 Dimitrie Gerota St.
District 2
Bucharest
Romania

Email:

Tel: [40] (21) 3057080, [40] (21) 3057083

Fax: [40] (21) 3057083

Web: www.bucuresteni.ro/servicii/institutii/4.htm (Romanian only; part of alphabetical list on this page)

Enforces legal provisions relating to advertising, discounted sales of products, and related matters.

Consiliul National Al Audiovizualului (CNA) **National Audiovisual Council**

14 Libertatii Blvd
District 5
Bucharest
Romania

Tel: [40] (21) 305 53 50

Fax: [40] (21) 305 53 54

Enforces the legal provisions on the content of audiovisual programs (including advertisements).

Agentia Nationala a Medicamentului Si A Dispozitivelor Medicale **National Agency for Medicines and Medical Devices**

Authorizes the marketing of medicines in Romania and approves the advertising content of over-the-counter medicines

Medicinal Products for Human Use

48 Aviator Sanatescu Street
Sector 1
Bucharest, Code 011478
Romania

Tel: [40] (21) 317 11 00; [40] (21)317 11 01; [40] (21) 316 10 79 Secretary

Fax: [40] (21) 316 34 97

Medical Devices

58 Nicolae Titulescu Blvd
Sector 1
Bucharest, Code 011144
Romania

Tel: [40] (21) 222 86 52; [40] (21) 260 01 58; [40] (21) 260 01 59

Fax: [40] (21) 222 86 83

Key Laws and Regulations

Codul Civil **Civil Code**

Codifies the main private law rules on interaction between persons (natural or moral)

Legea nr. 148/2000 privind publicitatea **Law No. 148/2000 on Advertising**

Concerns the general legal framework for advertising activities in Romania

Legea nr. 158/2008 privind publicitatea comparativa si publicitatea inselatoare **Law No. 158/2008 on Comparative and Misleading Advertising (Comparative and Misleading Advertising Law)**

Concerns specifics of misleading and comparative advertising

Legea audiovizualului nr. 504/2002 **Law No. 504/2002 on Audiovisual (Audiovisual Code)**

Sets forth the rules of broadcasting activities

Legea nr. 296/2004 privind codul consumului **Law No. 296/2004 on the Consumer Code (Consumer Code)**

Law No. 296/2004 on the Consumer Code (Consumer Code)

Sets forth the main rules on trading of different products and fair trading in respect of consumers

Legea nr. 500/2004 privind folosirea limbii romane in spatii, relatii si institutii publice

Law no. 500/2004 on the Use of the Romanian Language in Public Spaces, Institutions, and Relations

Provides for the general rules of the use of the Romanian language in broadcasting activities

Ordonanta Guvernului nr. 99/2000 privind comercializarea produselor si serviciilor de piata

Government Ordinance No. 99/2000 on the Trading of Products and Market Services

Lays down the rules on different types of discounted sales practices and certain types of unlawful commercial practices

Hotararea Guvernului nr. 955/2004 privind pentru aprobarea reglementărilor-cadru de aplicare a

Ordonanței Guvernului nr. 71/2002 privind organizarea și funcționarea serviciilor publice de administrare a domeniului public și privat de interes local

Government Decision No. 955/2004 on the enforcement of the Framework Regulation for the Administration of the Communities' Public and Private Domain of Local Interest

Sets forth the general rules on the administration of the public and private domains of local communities

Decizia nr. 220/2011 a Consiliului National a Audiovizualului privind aprobarea ghidului privind continutul audiovizualului

Decision No. 220/2011 of the National Audiovisual Council on the Approval of the Guide of Audiovisual Contents

Lays down detailed rules on the broadcasting and contents of audiovisual programs

Decizia nr. 21/2011 a Consiliului Stiintific al Agentiei Nationale a Medicamentului si Dispozitivelor

Medicale privind aprobarea Ghidului de evaluare a publicitatii privind medicamentele de uz uman
Decision No. 21/2011 of the Scientific Council of the National Agency for Medicines and Medical Devices on the approval of the Guide for Evaluating Advertising of Medicines for Human Use

Provides for the rules on advertising of human-use medicines

Advertising Pre-Clearance Agencies

Consiliul Roman Pentru Publicitate
Romanian Advertising Council

61 Buzesti Road, 8th floor, room 55

District 1

Bucharest

Romania

Email: office@rac.ro

Tel/Fax: [40] (21) 312 25 83

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Mușat & Asociații is one of the first law firms established in Romania after January 1, 1990 and stands for the highest level of expertise and commitment in assisting clients in business matters. For over 20 years, Mușat & Asociații has acted for banks and other financial institutions, international businesses, venture capital funds, major

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For information on our in-house editorial staff and international writing team, please access our [Contributors page](#).