

## **ADVERTISING COUNCIL BILL, 2020**

### **MEMORANDUM**

The purpose of the Bill is to establish the Advertising Council to regulate advertising, register practitioners and license advertising companies.

The advertising industry has grown extensively over the last three decades. The Advertising Association of Ghana has tried in its own way to regulate advertising through voluntary compliance and moral persuasion. This originally worked effectively because newspapers and the Ghana Broadcasting Corporation were the only media and had in house vetting committees to ensure that advertisements conformed to the standards and regulations of the industry.

After the liberalisation of the airwaves in 1995 which opened the floodgate for a myriad of media channels, agencies and clients it became impossible to regulate the industry through the established in house vetting committees. This was because there was no legislature to spell out the rules that should govern the activities of the industry. The absence of legislation has led to a free for all advertising industry where any person may register an advertising company and immediately start the production of advertisements without recourse to any rules and regulations.

Media owners generally overlook irregularities and inadequacies in the advertisements brought to them. This is mainly because of the fear to the potential loss of business to other media houses if an issue on the unethical nature of a particular advertisement were to be raised. The situation is worsened by the failure of some regulatory agencies to deal with substandard advertisements. This has led to the current chaotic and improper practice where women and children are exploited and advertisements on alcoholic beverages for example claim to be aphrodisiacs.

There are many instances where patients who visit health institutions with avoidable health complications, claim to have used products that were advertised in the media as medicinal product.

As a matter of public interest, there is the need to promote more responsible and responsive advertising to reassure consumers who are entitled as of right to factual information. There should be a complaints mechanism for the public to deal with unethical advertising and advertisements that make false claims. There are basically two approaches to the regulation of advertising globally, these are self-regulation and legal regulation.

Most developed countries predominantly practice self-regulation. This is a system that relies on an independent voluntary trade and professional association to enforce codes of practice. It is effective in these countries because practitioners cannot practice advertising without belonging to a professional association.

The other approach is to regulate advertising through legislation. The Food and Drugs Authority has had a role in this regard to restrain the advertising, without approval, of drugs on television station, but it has not been able to do this effectively.

Though the best standard of consumer protection may not be achieved through legislation, it provides the essential backup to make regulation effective through a statutory body that will deal with the broadcast of lawless and irresponsible advertisements in the electronic media that have led to the concerns of many well-meaning people. To regulate advertising many countries including Nigeria have adopted a hybrid of self-regulation and a statutory mechanism. It is proposed that Ghana also adopts such a hybrid system. It is to address the problem of lack of regulation that the bill is being proposed.

The Bill establishes the Advertising Council to regulate the practice of advertising, register practitioners and license advertising companies. The Council is to prescribe and approve courses of study for the advertising profession and ensure that advertising is legal, honest and fruitful and that advertising protect the best interest of the consumer.

The Council is a body corporate which has the object of securing the highest professional standards in the practice of advertising, the promotion of the advancement of the profession and the assurance of integrity, *clauses 1 and 2*. The functions of the Council include the establishment and maintenance of standards and the regulation of advertising practice. The Council is to register persons who can practice advertising and protect consumers. The Council is to prescribe and approve courses of study for the advertising profession and in consultation with the Food and Drugs Authority regulate the practice of advertising that relates to food, cosmetics, beverages and drugs. Other functions include ensuring that there is a percentage of local content in advertisements and giving policy advice to the Minister for Trade.

The governing body of the Council is a Board comprising nine persons, *clause 4*. The composition includes representatives from the Ministries of Trade, Information and Communications. Others are a distinguished fellow of the advertising profession who is the chairperson and representatives from the advertising practitioners in the country. The media is represented by a person nominated by private providers of broadcasting service and there is one nominee from the Private Enterprise Foundation. The Registrar is a Board member and links governance with management.

*Clause 5 to 11* deals with standard provisions such as the tenure of office of members of the Board, meetings of the Board and the disclosure of interest by members of the Board. Other provisions are on the establishment of committees of the Board, allowances to be paid to members of the Board, the establishment of branch offices of the Council and Ministerial directives. Under *clause 8*, the Board is to have three specialised committees, the Advertising Practitioners Disciplinary Committee, the Advertising Standards Compliance Committee and the Education Committee. The Advertising Standards Compliance Committee is to ensure that advertisements conform to relevant laws and the Code of Professional Conduct and Ethics. The Education Committee is to deal with the academic training in the industry.

*Clause 12 to 14* deal with administrative provisions. *Clause 12* provides that the President, in accordance with Article 195 of the Constitution, is to appoint a person of not less than ten years standing in the advertising industry as Registrar of the Council. *Clause 13* deals with the functions of the Registrar. *Clause 14* is on appointment of other staff of the Council necessary for the proper and effective performance of its functions.

The financial provision and standard provisions on account and audit, annual report and other reports are in *clause 15 to 19*.

*Clauses 20-36* deal with the registration and licensing of advertising practitioners. The meaning of advertising is in *clause 20*. A person is considered to be engaged in advertising if that person, acting alone or in partnership with another person is engaged for a public purpose in the business of advertising. A person who only performs an obligation a contract of employment is not a person engaged in advertising. Under *clause 21*, the Code of Professional Conduct and Ethics in the first schedule is to be observed by practitioners. There are three categories of practitioners who may register with the Council; associate members, full members and fellows. A person engaged in the design and production of art works for the advertising industry may, depending on the qualification of that person, be registered with the Council, *clause 22*. *Clause 23* mandates a person who intends to practice in the advertising industry and to be admitted to any of the memberships specified in the Second Schedule to be registered in accordance with the Bill and licensed. Failure on the part of a person engaged in advertising to comply with this clause is an offence. The qualification and condition of registration and licensing are provided in *clause 24*. *Clause 25* deals with application for registration and licensing whilst *clause 26* deals with issue of certificate of registration and licensing. Provision on the validity and renewal of certificates of registration are in *clauses 27 and 28*. The validity and renewal of licenses are dealt with under *clauses 29 and 30*.

*Clause 31* deals with suspension of the licence of an advertising practitioner where an offence or allegation of professional misconduct by that practitioner is being investigated, or a false declaration has been made in an application for registration by that practitioner, or that practitioner has contravened a provision of the Bill.

*Clause 32* provides for the cancellation of the registration of an advertising practitioner by the Board acting on the recommendation of the Disciplinary Committee of the Council, where that practitioner is convicted of an offence under the provisions of the Bill or where that practitioner has lost the qualification on the basis of which registration was made, or where that practitioner is convicted of a criminal offence involving fraud or dishonesty.

*Clause 33* makes provision for the removal and restoration of names of practitioners where registration has been cancelled. *Clause 34* requires the Board to give an advertising practitioner, at least thirty days' notice of an intention to suspend that practitioner's licence and to provide that practitioner an opportunity to make representation to the Board before the licence of that practitioner is suspended. The provision affords the practitioner, an opportunity to appeal against the decision of the Board to the High Court. Under *clause 35*, the Registrar is to publish an annual list of registered practitioners who

are in good standing in the Gazette. The Board may give temporary registration to an applicant who is not a citizen, *clause 36*.

*Clause 37 to 45* provide for the registration of an advertising practice. *Clause 37* creates an offence where a person practices advertising without being registered in accordance with the provisions of the Bill. *Clause 38* states the qualification for registering an advertising practice. *Clause 39* provides for the effect of registering an advertising practice. By the grant of the certificate of registration, the person is empowered to establish, operate or otherwise provide advertising service to the public. The certificate of registration is to be displayed on the business premises of registered person, *clause 40* and is not transferable, *clause 41*. *Clause 42* gives the Board the discretion to modify a certificate of registration if modification is required in the public interest. A certificate of registration granted to person to engage in an advertising practice may be revoked, suspended or not renewed, *clause 43*.

The list of practitioners in good standing is required to be published by the Council periodically in at least two national daily newspapers for the guidance of those who seek to engage the services of advertising practitioners, *clause 44*. This has become necessary because individuals are creating content for placement on various media networks who may not be qualified to do so and there is the need to balance the greater demands of accountability in advertising practice. A register of advertising practitioners that contains the names of duly registered advertising practitioners and that indicates the practitioners in good standing and persons who may engage in advertising practice, details of suspension and cancellation is to be kept by the Board, *clause 45*.

*Clause 46 to 50* provide for the registration of educational units and advertising programmes. The National Accreditation Board under *clause 46* is required to register educational institutions and the Board is to maintain a register of certificates, diplomas, degrees and other qualifications awarded by the educational institution. A person holding a degree or diploma from an academic institution which is recognized by the Council, is required to pass an examination specified and conducted by the Council before that person is registered, *clause 47*. The Board is responsible for the quality of programmes and courses in advertising, *clause 48*.

*Clause 49* requires the Board to appoint an inspection team to undertake visits to institutions to ascertain whether the advertising programme satisfies the requirement for recognition. *Clause 50* deals with the revocation of registration of an advertising educational unit.

Miscellaneous provisions are in *clause 51 to 60*. Under *clause 51*, the Board is to collaborate with subvented agencies and other bodies in the performance of its functions under the Bill. *Clause 52* authorises a person to enter premises to inspect the registration of a practitioner. The obstruction of an authorized officer is an offence under *clause 53*. *Clause 54* provides that the Council is a Category IV public agency under the Subvented Agencies Act, 2006 (Act 706) as it is fully commercial. The Council will therefore not receive government subvention. *Clause 55* replicates section 137 of the Criminal Offences Act, 1960 (Act 29) on charlatanic advertisement. Finally, offences, Regulations,

interpretation, transitional provisions and consequential repeals are dealt with under *clauses* 56 to 60.

HON. ALAN KYREMATEN  
Minister responsible for Trade and Industry

Date: July, 2020.

**ADVERTISING BILL, 2020**

**ARRANGEMENT OF SECTIONS**

*Establishment of the Council*

*Section*

1. Establishment of the Advertising Council
2. Object of the Council
3. Functions of the Council
4. Governing body of the Council
5. Tenure of office of members
6. Meetings of the Board
7. Disclosure of interest
8. Establishment of committees
9. Allowances
10. Branch offices of the Council
11. Ministerial directives

*Administrative Provision*

12. Registrar
13. Functions of the Registrar
14. Appointment of other staff

*Financial Provision*

15. Fund of the Council
16. Sources of funds of the Council
17. The use of funds of the Council
18. Account and audit
19. Annual report and other reports

*Registration and Licensing of Practitioners*

20. Meaning of advertising
21. Code of Professional Conduct and Ethics
22. Categories and designation of advertising practitioners
23. Advertising practitioner

*Advertising Council Bill, 2020*

24. Qualification for registration and licensing.
25. Application for registration and licensing
26. Issue of certificate of registration and licence
27. Validity of certificate of registration
28. Renewal of registration
29. Validity of licence
30. Renewal of licence
31. Suspension of licence
32. Cancellation of registration
33. Removal of names from and restoration of names to register
34. Representation to the Board and Appeal
35. Annual list of practitioners published in the Gazette
36. Temporary registration of non-citizen as advertising practitioner

*Registration of an Advertising Practice*

37. Registration of an advertising practice
38. Qualification for registering an advertising practice
39. Effect of registration
40. Display of certificate of registration
41. Non-transferability of certificate of registration
42. Power to modify certificate of registration
43. Revocation, suspension and refusal to renew a registration
44. Publication of registration in the national daily newspapers
45. Establishment of register

*Registration of Educational Units and Advertising Programmes*

46. Registration
47. Power of Board to conduct examinations
48. Power of Board to recognise programmes for purposes of registration
49. Inspection teams
50. Revocation of registration of advertising educational units

*Advertising Council Bill, 2020*  
*Miscellaneous provisions*

- 51. Collaboration with subvented agencies and other bodies
- 52. Entry of premises
- 53. Obstruction of inspector
- 54. Status of the Council
- 55. Charlatanic advertisement
- 56. Offences
- 57. Regulations
- 58. Interpretation
- 59. Transitional provisions
- 60. Consequential repeals

FIRST SCHEDULE

*Code of Professional Conduct and Ethics*

SECOND SCHEDULE

*Categories and Designation of Advertising Practitioner*



**A**

**BILL**

**ENTITLED**

**ADVERTISING COUNCIL ACT, 2020**

**AN ACT** to establish the Advertising Council to regulate the practice of advertising, register practitioners, license advertising companies and to provide for related matters.

**PASSED** by Parliament and assented to by the President:

*Establishment of the Council*

**Establishment of the Advertising Council**

1. (1) There is established by this Act a body corporate with perpetual succession to be known as the Advertising Council.

(2) The Council may for the performance of its functions acquire and hold movable and immovable property and may enter into contract or any other transaction.

(3) Where there is hindrance to the acquisition of property, the property may be acquired for the Council under the State Lands Act 1960 (Act 125) and the costs shall be borne by the Council.

**Object of the Council**

2. The objects of the Council is to:

- (a) secure the highest standard in the advertising profession;
- (b) promote the advancement of the advertising profession; and
- (c) assure integrity in the advertising profession.

**Functions of the Council**

3. To achieve its objects, the Council shall

- (a) establish and maintain standards for the advertising profession;
- (b) confer honorary fellowship on a person whose contribution to the advertising industry is considered to be distinguished and exemplary;

*Advertising Council Bill, 2020*

- (c) determine the standards of knowledge and skill to be attained by a person who seeks to become a registered member of the advertising profession;
- (d) organise continuous professional development programmes at registered tertiary educational institutions and other relevant institutions subject to the approval of the National Accreditation Board
- (e) prescribe and approve courses of study and programmes for the advertising profession and ensure high quality education in advertising;
- (f) conduct examinations in the advertising profession;
- (g) register practitioners qualified to practice in the advertising industry and be responsible for the discipline of practitioners;
- (h) provide a register of persons entitled to practice as practitioners;
- (i) subject to the approval of the Food and Drugs Authority, and regulate and control the practice of advertising that relates to food, cosmetics, beverages and drugs;
- (j) protect consumers from
  - (i) the powerful influence of misleading, untruthful, and unsubstantiated advertising in regards to the choice of products; and
  - (ii) unsubstantiated advertisements that are inimical to their wellbeing of consumers;
- (k) ensure that advertising practitioners do not abuse the freedom of commercial speech in their quest for profit;
- (l) ensure that businesses compete fairly in the market and sustain the operation of a free market economy;
- (m) safeguard indigenous concepts and norms by ensuring a percentage of local content in advertisements;
- (n) protect local advertising companies from foreign domination and control;
- (o) advise the Minister on policy matters concerned with the advertising industry; and

*Advertising Council Bill, 2020*

- (p) perform any other functions that are necessary for attaining the objects of the Council.

**Governing body of the Council**

- 4. (1) The governing body of the Council is a Board consisting of
  - (a) a chairperson who is a distinguished fellow of the advertising profession,
  - (b) one representative from
    - (i) the Ministry for Trade and Industry not below the rank of Director,
    - (ii) the Ministry for information not below the rank of a Director,
    - (iii) the Ministry of communication not below the rank of a Director,
  - (c) the Registrar,
  - (d) two representatives of advertising practitioners in Ghana, nominated by the practitioners,
  - (e) one person nominated by private providers of broadcasters services, and
  - (f) one person nominated by the Private Enterprise Federation.

(2) The members of the Board shall be appointed by the President in accordance with article 70 of the Constitution.

(3) The Board shall ensure the proper and effective performance of the functions of the Council.

**Tenure of office of members**

5. (1) A member of the Board shall hold office for a period not exceeding four years and is eligible for re-appointment but a member shall not be appointed for more than two terms.

(2) Subsection (1) does not apply to the Registrar of the Council.

(3) A member of the Board may at any time resign from office in writing addressed to the President through the Minister.

*Advertising Council Bill, 2020*

(4) A member of the Board, other than the Registrar of the Council, who is absent from three consecutive meetings of the Board without sufficient cause ceases to be a member of the Board.

(5) The President may, by letter addressed to a member, revoke the appointment of that member.

(6) Where a member of the Board is, for a sufficient reason, unable to act as a member, the Minister shall determine whether the inability would result in the declaration of a vacancy.

(7) Where there is a vacancy

(a) under sub-Section (3), (4) or section 7(2) ,

(b) as a result of a declaration under subsection (6), or

(c) by reason of the death of a member,

the Minister shall notify the President of the vacancy and the President shall appoint a person to fill the vacancy.

**Meetings of the Board**

6. (1) The Board shall meet at least once every three months for the despatch of business at the times and in the places determined by the chairperson.

(2) The chairperson shall, at the request in writing of not less than five of the members of the Board, convene an extraordinary meeting of the Board at the place and time determined by the chairperson.

(3) The quorum at a meeting of the Board is five members of the Board or a greater number determined by the Board in respect of an important matter.

(4) The chairperson shall preside at meetings of the Board and in the absence of the chairperson, a member of the Board elected by the members present from their number shall preside.

(5) Matters before the Board shall be decided by a majority of the members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote.

(6) The Board may co-opt a person to attend a Board meeting but that person shall not vote on a matter for decision at the meeting

**Disclosure of interest**

7. (1) A member of the Board who has an interest in a matter for consideration.
- (a) shall disclose the nature of the interest and the disclosure shall form part of the record of consideration of the matter; and
  - (b) shall neither be present at nor participate in the deliberations of the Board in respect of that matter.
- (2) A member ceases to be a member of the Board, if that member has an interest in a matter before the Board and
- (a) fails to disclose that interest, or
  - (b) is present at or participates in the deliberations of the matter.

**Establishment of committees**

8. (1) The Board may establish committees consisting of members of the Board or non-members or both to perform a function of the Board.
- (2) Without limiting subsection (1), the Board shall have an
- (a) Advertising Practitioners Disciplinary Committee to consider any matter referred to it by an investigating panel which conducts a preliminary hearing;
  - (b) Advertising Standards Compliance Committee to ensure that advertisements conform to the relevant laws and the Code of Professional Conduct and Ethics set out in the First Schedule; and
  - (c) Education Committee to ensure that the curriculum and syllabus of an institution for training and advertisers conforms to the standards of the industry and the requirements of the National Accreditation Board.
- (3) The Disciplinary Committee shall comprise seven persons, at least three of whom are members of the Board and shall be chaired by a lawyer appointed by the Council.
- (4) The Standards Committee shall comprise nine members who are representative of stakeholders.

*Advertising Council Bill, 2020*

(5) The Education Committee shall comprise five persons including at least one person from the National Accreditation Board and other members determined by the Board.

(6) A committee of the Board may be chaired by a member of the Board.

(7) Section 7 on disclosure of interest shall apply to a member of a committee of the Board.

**Allowances**

9. Members of the Board and members of a committee of the Board shall be paid the allowances approved by the Minister in consultation with the Minister responsible for Finance.

**Branch offices of the Council**

10. (1) The Board may establish branch offices of the Council in places determined by the Board.

(2) A branch office of the Council shall perform the functions of the Council that the Board may direct.

**Ministerial directives**

11. The Minister may give directives to the Board on matters of policy and the Board shall comply.

*Administrative provisions*

**Registrar**

12. (1) The President shall in accordance with article 195 of the Constitution, appoint a person of not less than ten years standing in the advertising industry as the Registrar of the Council.

(2) The Registrar shall hold office on the terms and conditions specified in the letter of appointment.

(3) The Registrar is the secretary to the Board.

**Functions of the Registrar**

*Advertising Council Bill, 2020*

13. (1) The Registrar is responsible for the day to day administration of the affairs of the Council and is answerable to the Board in the performance of functions under this Act.

(2) The Registrar shall perform any other functions determined by the Board.

(3) The Registrar may delegate a function to an officer of the Council but shall not be relieved from ultimate responsibility for the performance of the delegated function.

**Appointment of other staff**

14. (1) The Board shall have other officers and employees that are necessary for the proper and effective performance of the functions of the Council.

(2) Other public officers may be transferred or seconded to the Council or may otherwise give assistance to it.

(3) The Council may engage the services of advisors on the recommendations of the Board.

(4) The terms and conditions of service of officers and employees of the Council shall be determined by the Board.

*Financial provisions*

**Fund of the Council**

15. The Council shall establish and maintain a Fund under the management and control of the Board into which shall be paid moneys received for and on behalf of the Council and out of which shall be met the expenses and liabilities incurred by the Council in performing its functions under this Act.

**Sources of funds of the Council**

16. The Council may raise funds through:

(a) membership fees or any other similar fees;

(b) fees levied on practitioners and advertising companies

(i) for services rendered by the Council, and

(ii) for specific purposes;

*Advertising Council Bill, 2020*

- (c) examination fees;
- (d) donations, grants and gifts from the Government or from any other donor;
- (e) fund raising events;
- (f) conference and seminar fees;
- (g) sales of publications, books and academic literature; and
- (h) any other legal means considered appropriate by the Board.

**The use of funds of the Council**

**17.** (1) The funds of the Council may be expended only on the activities approved by the Board.

(2) The Board may invest excess funds in a manner it considers appropriate but shall include a report of any investments made and the income derived from the investment in the annual report of the Council.

**Accounts and audit**

**18.** (1) The Board shall keep books of account and proper records in relation to them in the form approved by the Auditor-General.

(2) The Board shall submit the accounts of the Council to the Auditor-General for audit within three months after the end of the financial year.

(3) The Auditor-General shall, not later than three months after the receipt of the accounts, audit the accounts and forward a copy of the audit report to the Minister.

**Annual report and other reports**

**19.** (1) The Board shall within one month after receipt of the audit report, submit an annual report to the Minister covering the activities and the operations of the Council for the year to which the report relates.

(2) The annual report shall include the report of the Auditor-General.

(3) The Minister shall within one month after the receipt of the annual report, submit the report to Parliament with a statement that the Minister considers necessary.



*Advertising Council Bill, 2020*

(4) The Board shall also submit to the Minister any other reports which the Minister may require in writing.

*Registration and licensing of practitioners*

**Meaning of advertising**

20. (1) For the purpose of this Act, a person is engaged in advertising if that person acting alone or in partnership with another person is concerned with matters listed in the Third Schedule for public purpose.

(2) A person who is serving a contract of employment shall not be deemed to be engaged in advertising by virtue of only performing obligations under a contract.

**Code of Professional Conduct and Ethics**

21. (1) The Council may amend or revise publish the Code of Professional Conduct and Ethics set out in the First Schedule but shall publish the amendment or revision in the *Gazette*.

(2) The Code shall be observed by any person who is registered to practice advertising.

**Categories and designation of advertising practitioners**

22. (1) The following categories of advertising practitioners shall register with the Council;

- (a) associate members,
- (b) full members, and
- (c) fellows.

(2) A person engaged in the design and production of art works for the advertising industry shall not be register with the Council, if that person has been admitted to any of the membership specified under subsection (1).

(3) The Council shall publish the qualification for registration from time to time in the *Gazette* and in two daily newspapers of national circulation, in the first week of February each year.

**Advertising practitioner**

23. (1) A person shall not conduct the business of an advertising practitioner, unless that person

### *Advertising Council Bill, 2020*

- (a) has been admitted by the Council to any of the membership specified in Column I of the Second Schedule after having satisfied the corresponding qualification in Column II of that Schedule
- (b) is registered with the Council; and
- (c) has been granted a licence for that purpose by the Council.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not less than one thousand five hundred penalty units and not more than two thousand five hundred penalty units or to a term of imprisonment of not less than four years and not more than five years or to both the fine and imprisonment.

(3) In the case of a continuing offence the person is liable to a further fine of ten penalty units for each day during which the offence continues after a written notice has been served on the offender by the Board.

### **Qualification for registration and licensing**

**24.** (1) A person qualifies for registration and licensing as an advertising professional if that person has been admitted by Council to membership specified under Column I of the Second Schedule after having satisfied the corresponding qualification in Column II of that Schedule.

(2) The Board may, despite subsection (1), register and license a person who has attained a level of education in advertising or advertising practice considered to be adequate for the advertising profession.

(3) The Board may provisionally accept a qualification in respect of an application for registration and licensing, subject to conditions that the Board may specify.

### **Application for registration and licensing**

**25.** (1) A person may apply to the Council for registration and a licence in the manner determined by the Board and the application shall be submitted with the prescribed fee.

(2) The application shall be submitted to the Registrar.

(3) The Registrar shall acknowledge receipt of an application not later than fourteen days after receipt of the application.

(4) The Council shall consider the application and may grant or refuse the registration and licence within sixty days from the date of acknowledging receipt of the application.

(5) The Council shall inform the applicant in writing about the decision and where the application is refused, state the reasons for the refusal.

(6) The Council shall, where an application made under subsection (2) is refused, state the reasons for the refusal.

(7) The Council may request the applicant to provide further information and may for that purpose extend the period for the grant of application for registration and license.

**Issue of certificate of registration and a licence**

26. (1) Where an applicant satisfies the conditions required for registration and issue of a licence, the Board shall approve the application and issue the applicant with the certificate of registration and licence to practice as an advertising practitioner.

(2) A person issued with a certificate of registration and licence is known as an advertising practitioner.

(3) Despite subsection (1), the Board may, for reasons of public interest or public safety decide not to issue an applicant with a licence and shall inform the applicant of its decision.

**Validity of certificate of registration**

27. (1) A certificate of registration is valid for three calendar years but may be refused after the expiration of the three years.

(2) An advertising practitioner shall provide evidence of participation in continuing education in marketing knowledge in order to qualify for renewal of registration.

**Renewal of registration**

28. A practitioner who requires the certificate of registration to be renewed shall apply for renewal before the 31<sup>st</sup> day of December of the third year of registration.

**Validity of licence**

29. A licence issued is valid from January to December of each year but may be renewed.

**Renewal of licence**

30. (1) An application for the renewal of a licence shall be made not later than two months before the expiration of the licence.

(2) The application shall be made to the Board in the manner specified by the Board.

(4) ) An applicant who seeks to renew a licence shall pay the prescribed fee for the renewal to the Board before the issue of the renewed licence.

(5) A licensee who fails to renew a licence or whose application for renewal is rejected by the Board, shall cease to practise as an advertising practitioner within thirty days after the expiration of the licence.

### **Suspension of licence**

**31.** The Board may suspend the licence of an advertising practitioner for not more than three months where

- (a) an offence or allegation of professional misconduct in relation to the practitioner is being investigated;
- (b) a false declaration has been made in an application for registration issued to the practitioner; or
- (c) that practitioner has contravened a provision of this Act.

### **Cancellation of registration**

**32.** The Board shall cancel the registration of an advertising practitioner on the recommendation of the Disciplinary Committee of the Council where the practitioner

- (a) is convicted of an offence under this Act;
- (b) has lost the qualification on the basis of which the registration was made; or
- (c) is convicted of a criminal offence involving fraud or dishonesty.

### **Removal of names from and restoration of names to register**

**33.** (1) The Registrar shall, on the direction of the Board remove from the register the name of a practitioner

- (a) who is dead,
- (b) who has been found guilty of professional misconduct by the Disciplinary Committee, or
- (c) who has not paid the prescribed registration fee.

(2) The Board may direct the Register to restore the name of a person to the register.

### **Representation to the Board and appeal**

**34.** (1) Registration of an advertising practitioner shall not be suspended nor the registration cancelled unless the Board has given the practitioner at least thirty days notice

*Advertising Council Bill, 2020*

of its intention to suspend the licence or cancel the registration and has provided the practitioner an opportunity to make a representation to the Board.

(2) A practitioner dissatisfied with a decision of the Board may appeal to the High Court.

**Annual list of practitioners published in *the Gazette***

35. The Registrar shall by 31<sup>st</sup> day of January each year publish the list of registered advertising practitioners who are in good standing in the *Gazette*.

**Temporary registration of a non-citizen as advertising practitioner**

36. (1) The Board may temporarily register an applicant who is not a citizen if that applicant

- (a) has the requisite work permit and meets other travel requirements specified by the Immigration Service;
- (b) is registered in accordance with the Ghana Investment Promotion Center Act, 2013 (Act 865) , where necessary;
- (c) has qualification specified under the Second Schedule;
- (d) has a good working knowledge of the English language; and
- (e) has proof of registration to practise in the country of origin of that applicant.

(2) A temporary registration under subsection (1) is valid for six month but may be renewed.

*Registration of an Advertising Practice*

**Registration of an advertising practice**

37. (1) A person shall not practice in the advertising unless that person is registered in accordance with this Act.

(2) A person who seeks to register an advertising practice shall apply to the Registrar in the manner determined by the Board.

(3) A person who operates an advertising practice without being registered with the Council commits an offence and is liable on summary conviction to a fine of not more than two hundred penalty units and not more than five hundred penalty units or to a term of imprisonment of not more than three years or to both.

### **Qualification for registering an advertising practice**

38. (1) A person may apply to the Council for the registration of an advertising practice, if that person

- (a) a citizen;
- (b) a body corporate registered under the Company Act, 1963 (Act 179) or under any other law,
- (c) a partnership registered under the Incorporated Private Partnership Act, 1962 (Act 152) or
- (d) a foreign individual or foreign company in a registered joint venture relationship with a citizen or a local company, and has been convicted of a criminal offence involving fraud or dishonesty.

(2) A person who applies for registration under subsection (1) shall,  
(a) where that person is a citizen, submit to the Registrar, proof of

- (i) belonging to any of the memberships specified under the Second Schedule;
- (ii) possession of premises appropriate for practice as an advertising professional; and
- (iii) possession of basic equipment for practice as an advertising professional;

(b) where that person is a body corporate, submit to the Registrar proof of

- (i) employment of at least three persons who belong to any of the memberships specified under the Second Schedule;
- (ii) possession of premises appropriate for practice as an advertising company; and
- (iii) possession of the basic equipment for practice as an advertising company; or

(c) where that person is a partnership registered under the Incorporation Private Partnerships Act, 1962 (Act 152) , submit to the Registrar proof of

- (i) employment of at least three persons who belongs to any memberships specified under the Second Schedule;
- (ii) possession of premises appropriate for practice as in advertising firm; and
- (iii) possession of the basic equipment for practice as an advertising firm.

(3) The application shall be submitted to the Registrar.

## *Advertising Council Bill, 2020*

- (4) The Registrar shall acknowledge receipt of the application not later than fourteen days after receipt of the application.
- (6) The Council shall consider the application and may grant or refuse the licence within sixty days from the date of acknowledging the receipt of the application and inform the applicant in writing about the decision.
- (7) The Council shall, where an application made under subsection (2) is refused, state the reason for the refusal in writing to the applicant under subsection (5).
- (8) The Council may request the applicant to provide further information and may extend the period for the grant of the application for registration.

### **Effect of registration**

**39.** The grant of a certificate of registration to a person for an advertising practice under subsection (5) of section 38 empowers that a person to establish, operate or otherwise provide advertising service to the public.

### **Display of certificate of registration**

**40.** A certificate of registration issued under this Act shall be conspicuously exhibited by the registered person in a prominent place on the business premises of that person.

### **Non transferability of certificate of registration**

**41.** (1) A certificate of registration is not transferable except with the prior written approval of the Board.

(2) A person who transfers a certificate of registration otherwise than in accordance with this section commits an offence and is liable on summary conviction to a fine of not less than two thousand five hundred penalty units and not more than three thousand five hundred penalty units or to a term of imprisonment of not less than five years and not more than seven years or to both the fine and imprisonment.

### **Power to modify certificate of registration**

**42.** (1) The Board may modify a certificate of registration if the Board considers that the modification is required in the public interest.

(2) The Board shall not modify a certificate of registration unless the Board has given at least sixty working days notice in writing to the holder of certificate.

*Advertising Council Bill, 2020*

- (a) stating that the Board proposes to modify the certificate of registration, and
  - (b) indicating the consequences of the modification.
- (3) The Board shall before a modification is made consider any representations or objections that are made by the holder of the certificate with respect to modification.
- (4) The Board shall publish the modification in the *Gazette*.
- (5) The Board may compensate the holder of the certificate for any expenses incurred or damage caused as a result of the modification of the certificate registration

**Revocation, suspension and refusal to renew a registration**

**43.** The Board may revoke, suspend or refuse to renew a certificate of registration in respect to an advertising practice where

- (a) the provisions of this Act are not being complied with satisfactorily,
- (b) the continued operation of the advertising practice poses a risk to public health or safety,
- (c) the service provided by the advertising practice has deteriorated below the required standard,
- (d) the advertising practice has not complied with any of the conditions of the certificate of registration;
- (e) an offence in relation to the licensee is being investigated.

**Publication of registration in the national daily newspapers**

**44.** The Board shall cause the list of advertising practices in good standing and their particulars to be published in the first week of February each year in at two daily newspapers of national circulation.

**Establishment of register**

**45.** (1) The Board shall establish and keep a register in a form that the Board may determine and shall record in the register.

- (a) certificates issued under this Act to associate members, full



*Advertising Council Bill, 2020*

members and fellows and to persons to enable them engage in advertising practice;

- (b) the suspension and cancellation of certificates, and
  - (c) other information related to the certificates that the Board considers appropriate.
- (2) A person may on payment of a fee, require the Board to supply to that person an extract from any part of the register.

*Registration of educational units and advertising programmes*

**Registration**

**46.** (1) An educational institution or unit shall not offer education on advertising or hold itself out as an entity that offers education on advertising unless that institution is registered with the Council and accredited by the National Accreditation Board.

(2) An educational institution or unit that seeks to be registered shall apply to the Registrar in a form determined by the Board as regards the contents and standards of its programmes on advertising.

(3) The Board may direct the Registrar to register an educational institution or unit where the required conditions have been satisfied and on the payment of the prescribed fee before the educational institution or unit seeks accreditation with the National Accreditation Board.

(4) The Board shall maintain a register of the certificates, diplomas, degrees and other qualifications that are required for purposes of registration of an educational institution or unit.

**Power of Board to conduct examinations**

**47.** (1) The Board may specify the degrees, diplomas and certificate that are to be awarded by a registered educational institution or unit.

- (2) A person who holds a degrees, diplomas or certificate awarded by a registered educational institution or unit shall not be registered unless that person has passed the examination conducted by the Council.

**Power of Board to recognise programmes for purposes of registration**

**48.** (1) The Board shall ensure that an educational institution or unit that is registered to provide programmes or courses in advertising provides instructions and information in advertising practice that is relevant to advertising profession.

*Advertising Council Bill, 2020*

- (2) In furtherance to subsection (1) the Board shall
  - (a) determine the minimum content of programmes and courses that a person may pass as a condition for the registration of that person as a practitioner, and
  - (b) collaborate with the National Accreditation Board and other relevant bodies to ensure that the minimum educational requirements are met.

**Inspection teams**

49. (1) The Board shall collaborate with the National Accreditation Board and other relevant bodies to appoint an inspection team to undertake visits to institutions to ascertain whether the advertising programmes being offered satisfy the requirement for initial and continuing registration.

(2) The Board may register an advertising programme for a fixed period or withdraw the registration of the programme.

(3) The Board shall make recommendations that it considers necessary as regards courses of study or examinations and request the educational institution or unit to give effect to the recommendations.

**Revocation of registration of advertising educational unit**

50. (1) The Board may advise the National Accreditation Board to revoke the registration of an educational institution or unit that teaches advertising if it is satisfied that

- (a) the educational institution or unit has acted contrary to a provision in this Act, or

- (b) a condition specified in the registration certificate necessary for the carrying on of the instruction in advertising has not been satisfied.

(2) An advertising educational institution or unit aggrieved by the revocation of its registration may apply to the High Court for a judicial review of the decision.

(3) Where a registration is revoked and the Board is satisfied that the educational institution or unit has since the revocation complied with the condition specified in the registration, the Board may restore the registration.

*Miscellaneous provisions*

**Collaboration with subvented agencies and other bodies**

51. The Board shall collaborate with subvented agencies and other bodies in the performance of its functions under this Act.

### **Entry of premises**

**52.** A person authorised by the Board may enter premises at a reasonable time to inspect the registration of a practitioner, if that person has reasonable cause to believe that an offence under this Act has been, is about to be or is being committed on the premises.

### **Obstruction of inspector**

**53.** (1) A person shall not obstruct an authorised person who is discharging a duty under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not less than two hundred and fifty penalty units and not more than five hundred penalty units or to a term of imprisonment of not more than one year and not more than two years or both.

### **Status of the Council**

**54.** The Council as a category IV public agency under the Subvented Agency Act, 2008 (Act 706) and shall not receive government subvention.

### **Charlatanic advertisement**

**55.** The publication in a journal, newspaper, or on a website or the production of an electronic records, however described or linked, that is an advertisement or notice on

- (a) Fortune-telling, palmistry, astrology, or
- (b) the use of any subtle craft, means or device,

by which it is sought to deceive or impose on a member of the public, or which is calculated or likely to deceive or impose on a member of the public is prohibited.

### **Offences**

**56.** (1) A person who

- (a) makes a false declaration in an application for registration or for a licence;
- (b) willfully and falsely uses a name, title or addition implying a qualification to practice under this Act; or

*Advertising Council Bill, 2020*

- (c) operates an advertising company without one of the board members of the company being a registered practitioner or without being in partnership with a registered practitioner,
- (d) willfully destroyed or damage a register kept under this Act,
- (e) is an editor, publisher, proprietor and the printer of a journal or newspaper in which a charlatanic advertisement or notice is published, or
- (f) uses an electronic record or website related publication however described or linked, for a charlatanic advertisement; or

commits an offence and is liable on summary conviction to a fine of not more than two hundred penalty units and not more than five hundred penalty units or to a term of imprisonment of not less than one year and not more than two years or both.

(2) In the case of a continuing offence the person is liable to a further fine of ten penalty units for each day during which the offence continues after written notice has been served on the offender by the Board.

## **Regulations**

**57.** (1) The Minister may, on the advice of the Board by legislative instrument make Regulations to

- (a) prescribe the conditions for the registration of practitioners;
- (b) prescribe practice standards for practitioners;
- (c) provide for the discipline of practitioners;
- (d) prescribe the fees to be paid under this Act;
- (e) prescribe accreditation standards for training institutions for the advertising industry;
- (f) provide for application under this Act
- (g) provide for administrative review procedure;
- (h) amend the Schedules to this Act; and
- (j) provide for any other matters necessary for the effective implementation of the provisions of this Act.

## **Interpretation**

**58.** In this Act, unless the context otherwise requires:

"advertising" includes

- (a) conceptualising of advertising copies;
- (b) conceptualising of advertising visuals and illustrations;

*Advertising Council Bill, 2020*

- (c) conceptualising of advertising audio – visuals;
- (d) production of advertise copies;
- (e) design and production of advertising print works,
- (f) production of advertising audio visuals;
- (g) planning, organisation and execution of advertising programmes and campaigns;
- (h) research and evaluation of advertising programmes and campaigns;
- (i) monitoring of advertising programmes and campaign;
- (j) booking and placement of a advertisements in the media;
- (k) planning of layout, allocation of sites, and marketing and scheduling of advertisements and commercials in the media
- (l) seeking and obtaining agency and other commissions for media bookings;
- (m) planning, organising and execution of advertising education programmes;
- (n) teaching of advertising course at tertiary level;
- (o) general management of advertising philosophy and operation;
- (p) general research into advertising functions;
- (q) planning, organisation and execution of sales promotion programme and campaigns
- (r) formulation of corporate advertising policy and programmes;
- (s) superintending corporate advertising policy and programmes;
- (t) vetting of advertisements;
- (u) registration of advertising practitioners
- (v) regulation of advertising practice
- (w) making presentations and obtaining contracts for the advertising accounts;
- (x) marketing communications; and
- (y) any other function that may be determined by the board from time to time.

“advertising industry” means engagement in the business of advertisement;

“advertising programme” means a curriculum offered by an educational Institution registered by the Council and accredited by the National Accreditation Board to run courses for the advertising industry;

“advertising service” means the provision of information for the procurement of goods and services;

“art work programme” means a finished design of advertisement;

“associate member” means a person who has the qualification specified in the Second Schedule;

“Board” means the governing body of the Council;

*Advertising Council Bill, 2020*

“bodies” include the Ghana Advertisers Board, the Ghana Independent Broadcasting Association, the Private Newspapers Publishers Association of Ghana, and others recognised by the Advertising Association of Ghana;

“business premises” means the place where the advertising company operates from;

“certificate” means a registration certificate;

“charlatanic” means to create a situation of pretence;

“Code” means the Code of Professional Conduct and Ethics;

“consumer” means a person who can reasonably be expected to be influenced by an advertisement to purchase goods or patronize services;

“Disciplinary Committee” means the Advertising Practitioners Disciplinary Committee;  
“educational unit programme” means a course content of a curriculum run by an educational institution;

“electronic record” includes data generated, sent, received or stored by electronic means

(a) voice, where voice is used in an automated transaction; and

(b) a stored record;

“fellow” means a person who has the qualification specified in the Second Schedule;

“local content” means products and services procured from indigenous sources;

“marketing” is the business of buying and selling goods and services;

“media” includes newspapers, magazines, radio, television, open spaces, cinema, the internet, postal and courier services:

“Minister” means the Minister responsible for Trade and industry;

“national daily” means a public or private newspaper;

“next friend” means a person who intervenes to assist a child in a legal action;

“practitioner” means a person registered under this Act to practice in the advertising industry;

“premises” includes a house, building, structure, tent, caravan, land, ship, boat, an aircraft and a mechanically propelled vehicle;

“public interest” includes a right or advantage that ensures or is intended to ensure to the general benefit of the people of this country;

“relevant institution” means an body concerned with the practice of advertising;

“stakeholders” include persons who are consumers of advertisements;

“Standards Committee” means the Advertising Standards Compliance Committee;

“subvented agency” includes the National Media Commission, the National Insurance Commission, the Food and Drugs Authority, the Ghana Standards Authority and the Copyright Office;

*Advertising Council Bill, 2020*

“tertiary institution” includes a centre of learning that has as one of its objects, the provision of post senior high school education through a course of instruction by any method of delivery; and

“website” means a location on the internet containing a home page or web page;

**Transitional provisions**

**59.** (1) A person who owns an advertising company shall apply to be registered within three months after the date of the commencement of this Act.

(2) A company engaged in the provision of advertising and marketing services shall apply to be registered within three months after the commencement of this Act.

(3) A person engaged in the advertising industry shall register as a practitioner within three months after the commencement of this Act.

**Consequential repeal**

**60.** The following enactment are hereby repealed;

(a) section 137 of the Criminal Offences Act, 1960 (Act 29) on charlatanic advertisement; and

(b) section 110 of the Electronic Transactions Act, 2008 (Act 722) on charlatanic advertisement.

*Advertising Council Bill, 2020*  
**FIRST SCHEDULE**  
(sections 8 and 14)  
**Code of Professional Conduct and Ethics**  
**PART ONE**

**Article 1: Legality**

Advertisements shall conform to law of this country as well as the Oath of Advertising Practice.

**Article 2: Decency**

- (1) An advertisement shall not use visual illustrations or words or sounds that offend public decency.
- (2) Advertisements shall not be obscene or offensive.

**Article 3: Honesty**

- (1) An advertisement shall be framed so as not to abuse the trust of consumers or exploit their lack of experience.
- (2) Relevant factors likely to affect the decisions of consumers shall be communicated in such a way and at such times that consumers can take them into account.

**Article 4: Sexuality**

An advertisement shall not for the purpose of sales of goods or service other than In connection with family planning services exploit, depict or suggest sexual behavior either in obvious or implied context.

**Article 5: Gender discrimination**

No gender shall be depicted as subservient, superior or inferior to the other, or as an object to satisfy the sexual pleasure of the other.

**Article 6: Superstition**

An advertisement shall not promote or exploit superstitions or negative myths even if the superstitions or myths reflect an aspect of culture, philosophy, or world view.

**Article 7: Appeals to fear and distress**

An advertisement shall not play on or exploit fear or distress in an attempt to induce patronage.

**Article 8: Children**

- (1) Special care shall be taken in advertisements directed to or featuring children.
- (2) These advertisements shall not undermine positive social behaviour, lifestyle and attitude.
- (3) Products suitable for children shall be advertised in media targeted at children.
- (4) Advertisements directed at children shall not be inserted in the media where the editorial matter is unsuitable for children.



*Advertising Council Bill, 2020*

- (5) Materials unsuitable for children shall be clearly identified as being unsuitable for them.

**Article 9: Testimonials**

An advertisement that contains a testimonial and endorsement shall be genuine and the models used shall be alive and suitable for the products and ideas they endorse in the advertisement.

**Article 10: Copyright**

- (1) An advertisement shall not contain any item in breach of local and international copyright laws, or omit anything that the laws on intellectual property require.
- (2) Copyright permission shall be obtained from the registered owner before the copyright may be used.

**Article 11: Privacy**

- (1) The right of an individual to privacy shall be respected.
- (2) Pictures, names, identity and properties of an individual shall not be used in a manner that suggests that individual's endorsement of the advertised product or service, without the consent of that individual.
- (3) A proper contractual agreement shall be entered into by the agency, advertising practitioner and individual and the contractual terms shall be respected by the parties.

**Article 12: Identity**

- (1) An advertisement that solicits patronage or reaction shall show the correct name of the advertising practitioner as well as the street address where personal calls can be made to ascertain the genuineness of the claims contained in the advertisement.
- (2) Media organisations shall except in a teaser advertisement only accept or expose advertisements that indicate the proper identity of the sponsor.
- (3) Advertisements shall not bear signoffs as "committee of friends", "concerned citizens", or any other broad terms without verifiable names and addresses.

**Article 13: Camouflage**

- (1) An advertisement shall be clearly distinguished as an advertisement and shall not be disguised as news.
- (2) The use of headlines such as "News Flash" and "Breaking News" to introduce an advertisement is prohibited.

**Article 14: Religion**

- (1) An advertisement shall not disparage or exploit religious beliefs, mislead people, or employ miracles as a bait to elicit patronage.

*Advertising Council Bill, 2020*

- (2) An advertisement that promotes a particular faith or belief shall not be presented in a manner that offends the right of other people to hold contrary beliefs or convictions.

**Article 15: Violence**

An advertisement shall not depict violence against people.

**Article 16: Advertisement for competing products and services**

Two or more advertisements for competing or similar products or services shall not be placed adjacent to each other in print, outdoors, or in the electronic media.

**Article 17: Price**

Advertising practitioners and agencies are encouraged to indicate the prices of products or services in their advertisements.

**Article 18: Product hype**

Announcers, writers and other editorial personnel shall not engage in product hype or any form of product promotion that employs superlative, unsubstantiated or misleading claims, testimonials or descriptions.

**Article 19: Denigration**

An advertisement shall not denigrate any person or group of persons, firm, organisation, industry, or commercial activity, profession or product, or seek to bring any of them into public contempt or ridicule.

**Article 20: Comparative advertising**

- (1) An advertisement shall not discredit, disparage, or attack other products, services, ideas personalities, or organisations unfairly, or exaggerate the nature or importance of competitive differences.
- (2) An advertisement shall not imitate the slogans or illustrations of another advertising practitioner in a manner to mislead the consumer.

**Article 21: Presentation for approval**

- (1) An advertisement, except a public notice, goodwill message, obituary and vacancy shall be presented for vetting and approval by the Advertising Standards Committee and be approved by the Food and Drugs Authority before exposure.
- (2) It is mandatory for a media house to demand a Certificate of Approval of the Advertising Standards Committee issued for an approved advertisement before placing the advertisement.
- (3) Details and modalities for advertisements are available in the Vetting Guidelines published by the Council in the *Gazette*.

**PRESENTATIONS AND CLAIMS**

**Article 22: Presentation / Description**

### *Advertising Council Bill, 2020*

An advertisement shall not contain any description, claim, or illustration that directly or by implication conveys an erroneous or misleading impression about the product or services advertised or about its suitability for the purpose recommended.

#### **Article 23: Substantiation**

- (1) Any description, claim, or illustration made in an advertisement shall be subject to empirical proof or capable of substantiation.
- (2) The proof or substantiation shall be available so that evidence can be produced without delay and upon request to the Council in matters of superlative or comparative claims made in an advertisement.
- (3) Testimonials or endorsement in an advertisement shall be subject to proof.

#### **Article 24: Consent**

- (1) Where a testimonial or endorsement in an advertisement suggests or recommends the use of a product, the prior written consent of the model used shall be obtained before the exposure of advertisement.
- (2) Where the person giving the testimonial or making the endorsement is a child, the prior written consent of the model used from the next friend of the child shall be obtained before the exposure of the advertisement.

#### **Article 25: Scientific terms and data**

An advertisement shall not employ complex computations and scientific terms or data in a manner to confer authenticity on claims that complex computations and scientific terms or data do not possess.

#### **Article 26: Statistics**

An advertisement shall not employ statistics with limited validity or application in such a manner that suggest the statistics appear to be universally true or applicable.

#### **Article 27: Guarantee/ Warranty**

An advertisement may use the terms the “guarantee” or “warranty” but the condition of sale or purchase of the product or service which the words refer to shall be clearly stated.

#### **Article 28: Passing-Off**

An advertisement shall not contain false representations which are likely to confuse or induce others to believe that the products, services, or advertisements of another are those of or connected with the advertising practitioner or vice versa.

#### **Article 29: Imitation**

An advertisement shall not imitate or be closely similar to another previously published or exposed advertisement to the extent that the latter advertisement is confused with, or associated with the former advertisement.

**Article 30: Hidden Extras**

An advertisement that indicates cost or charges for products or services shall disclose information related to the cost or charges of the products or services so that consumers will not be required to incur extra costs or charges for the product or services.

**Article 31: Bait Advertising**

An advertisement shall not appear to offer any product or service as being for sale in order to switch consumers to other products unless that product or service advertised is intended for sale.

**SPECIAL PROVISIONS  
ALCOHOLIC BEVERAGES**

**Article 32: Radio / Television**

- (1) An advertisement for alcoholic beverages shall not be displayed or made during programmes that involve children's, religious or sports events.
- (2) Children, sportsmen, sportswomen and pregnant women shall not be used as models in advertisements for alcoholic beverages.
- (3) An advertisement for alcoholic beverages shall not employ religious or medical suggestions or connotations.

**Article 33: Print Media**

- (1) An advertisement shall not bear any religious or medical connotations.
- (2) Children, sportsmen, sportswomen and pregnant women shall not be used as models in the print media.
- (3) An advertisement for an alcoholic beverage shall not be placed in a publication for children.

**Article 34: Outdoor**

- (1) An advertising structure shall impact positively on the environment and shall not cause visual blight and environmental pollution.
- (2) An advertisement for alcoholic beverage shall not be sited within a radius of 200 metres from the nearest perimeter fence of any place of worship, hospital, school or lorry station.
- (3) Children, sportsmen, sportswomen and pregnant women shall not be used as models for outdoor advertisements.

*Advertising Council Bill, 2020*

- (4) An advertisement for alcoholic beverage shall not employ religious or medical suggestions or connotations.

**Article 35: Cinema**

- (1) An advertisement for alcoholic beverage shall not be displaced or made during film show for children or during religious and sports shows.
- (2) Children, sportsmen, sportswomen and pregnant women shall not be used as models.
- (3) An advertisement for alcoholic beverage shall not employ religious or medical suggestions or connotations.

**Article 36: Sponsorship**

- (1) Sponsorship of sporting events by alcoholic beverage brands is permitted however, in television coverage, or in the promotion of a sporting event, only brand corporate names, logos and product packs may be used as flashes or backdrops on the screen.
- (2) Events and competitions directed at children shall not be linked to any alcoholic beverage through sponsorship or any other form of the marketing support.

**Article 37: Gift Items**

Give away items connected to alcoholic beverages shall not be directed at children, sportsmen, women and pregnant women in terms of their appeal.

**Article 38: Claims, Institutions and Associations**

- (1) An advertisement for alcoholic beverage shall not state or suggest that alcoholic beverages have healthy benefits.
- (2) An advertisement for alcoholic beverage shall not be made at any event that involves, driving, riding or any sports activity.
- (3) An advertisement for alcoholic beverage shall not show a person stating that the person drank alcoholic beverages when that was a child.
- (4) An advertisement for alcoholic beverage shall depict only responsible drinking.
- (5) An advertisements for alcoholic beverage shall not show a person wearing clothing typical of the healthcare professions, healthcare trades.
- (6) For purposes of this article “responsible drinking” means drinking of an alcoholic beverage by a person who is eighteen years or more in a manner that.
  - (a) does not danger the life of the person drinking or impair the judgement of that person to the extent that the conduct of that of that person exposes others to danger ; or
  - (b) does not affect the ability of the person to perform a function required to be performed by that person in order to secure the safety of others.

**Article 39: Time of Exposure**

### *Advertising Council Bill, 2020*

An advertisement for alcoholic beverage shall not be aired between 6:00am and 8:00pm on radio and between 6:00am and 10:00pm on television.

#### **Article 40: Product-in-Use**

An advertisement for alcoholic beverage shall not depict people drinking heavily or very rapidly or imply that that behavior is attractive or appropriate.

#### **Article 41: Age Limit of Models**

(1) Models used in advertisements for alcoholic beverage shall not appear to be less than eighteen years old

(2) Persons under the age of eighteen years shall not be depicted in advertisements for alcoholic beverages except where it would be usual for them to appear, such as in family scenes or in background crowds. They shall not be shown drinking alcoholic beverages or appear to be doing so.

#### **Article 42: Social Acceptance**

(1) An advertisement shall not imply that alcoholic beverage consumption is essential for business and social success or acceptance.

(2) An advertisement shall not depict abstinence in a negative light or suggest that it is wrong or foolish to refuse a drink.

#### **Article 43: Sexual Indulgence**

(1) An advertisement for alcoholic beverage shall not be suggestive of sexual indulgence or permissiveness or portray nudity.

(2) An advertisement for alcoholic beverage shall not present any situation that is derogatory to the virtue of normal sex behaviour, claim or suggest that alcoholic beverages can contribute directly to success in sexual behaviour.

#### **Article 44: Attributes**

An advertisement for alcoholic beverage shall not offer a product expressly as a stimulant, sedative or tranquilizer.

Advertisements may refer to the refreshing attributes of alcoholic beverages, but shall not imply that the consumption of alcoholic drink can improve sexual or any other performance.

### **TOBACCO PRODUCTS**

#### **Article 45: Prohibition**

(1) Advertising of tobacco products in any manner is prohibited.

(2) Any other form of consumer engagement and brand communication in respect of tobacco product shall be as stipulated in Part Six of the Public Health Act, 2012 (Act 851).

**Article 46: Sponsorship**

- (1) Corporate sponsorship of programmes and events by tobacco manufacturers is permitted if adequate care is exercised to ensure that only persons above the age of eighteen years are admitted to these events.
- (2) Events mentioned under this article including events in support of tobacco brands are restricted to the place where programme or event is being held.

**ADVERTISEMENTS FOR CONDOMS**

**Article 47: Indecency**

- (1) An advertisement for condoms shall not encourage indecency in the use of the product.
- (2) Emphasis of the message shall be on health and family planning applications.

**Article 48: Insinuations**

An advertisement for condoms shall not dramatise or in any other manner depict or insinuate the sexual act by word, graphic, sound or action.

**Article 49: Health Warning**

An advertisement for condoms shall carry the following health warning: Be Warned: "The Condom is not 100% safe. Total abstinence from pre – marital sex or faithfulness is the best option."

**Article 50: Time/Place of Exposure**

- (1) An advertisement for condoms shall not be aired during children's programmes.
- (2) An advertisement for condoms shall not be aired between 6:00am and 8:00pm on radio and between 6:00pm and 10:00pm on television.
- (3) Outdoor advertisements for condoms shall not be sited near schools or places of worship.

**ADVERTISEMENT FOR HEALTH, BEAUTY PRODUCTS AND THERAPIES**

**Article 51: Diet and Lifestyle**

- (1) An advertisement shall advocate good dietary practice and shall avoid anything likely to encourage poor nutritional habits or an unhealthy lifestyle, especially among children.

### *Advertising Council Bill, 2020*

- (2) An advertisement shall not discourage the selection of foods, such as fresh fruit and vegetables that generally accepted dietary opinion recommends should form a greater part of the average diet.
- (3) This article does not preclude responsible advertising for any products including those that shall be eaten only in moderation.
- (4) Claims of nutritional or health benefits shall be considered in the context of a balanced diet or lifestyle or both.
- (5) Nutrition or health claims shall be supported by sound scientific evidence. Generalised claims such as “goodness” or “wholesome” shall not exaggerate the nutritional or health benefit of a food product or an ingredient.
- (6) Reference to the properties of an ingredient shall not give a misleading impression of the properties of the whole product.
- (7) The scientific meaning of the word “energy” calorific value shall not be confused with its colloquial meaning of the physical vigour.
- (8) An advertisement shall not encourage or condone excessive consumption of any food.

### **Article 52: Medicals**

- (1) Medical and scientific claims made about beauty and health-related products shall be backed by evidence where appropriate, that consists of trials conducted on people. Where relevant, the rules should also relate to claims for products for animals. Substantiation shall be assessed on the basis of available scientific knowledge.
- (2) An advertisement that invites a consumer to diagnose personal minor ailments shall not make claims that may lead to a mistaken diagnosis.
- (3) An advertising practitioner shall not discourage essential treatment and shall not offer specific advice on the diagnosis of or treatment for a serious or prolonged condition unless it is conducted under the supervision of a doctor or other suitably qualified health professional who is subject to regulation by a statutory or recognised medical or health professional body. Accurate and responsible general information about these conditions may however be offered.
- (4) A consumer shall not be encouraged to use a product in excess and an advertising practitioner shall hold proof before suggesting a product or therapy is guaranteed to work and is absolutely safe without side effects,
- (5) An advertisement shall not suggest that any product is safe or effective merely because it is “natural” or that it is generally safer because it omits an ingredient in common use.
- (6) An advertising practitioner who offers individual treatment, particularly treatment that is physically invasive, may be asked by the media and the Association to provide full details with information about those who will supervise and administer



### *Advertising Council Bill, 2020*

the treatment where appropriate, an advertising practitioner shall have a relevant and recognised qualification.

- (7) An advertising practitioner shall encourage a consumer to take independent medical advice before committing to significant treatment, including physically invasive treatment.
- (8) Reference to the relief of symptoms or the superficial signs of ageing are acceptable if they can be substantiated. Unqualified claims such as “cure” and “rejuvenation” are not acceptable.
- (9) An advertising practitioner shall use familiar scientific words for a common condition.

### **Article 53: Medicines**

- (1) The extant applicable regulatory health instruments govern the promotion of medicines and the conditions of ill health that can be offered to treat.
- (2) Medicines shall have a Food and Drugs Authority registration number before they are advertised.
- (3) Prescription only medicines may not be advertised to the public.
- (4) Health-related claims in advertising addressed only to the medical, dental, veterinary and allied professions are exempt from the Code.
- (5) An advertising practitioner shall not use fear or anxiety to promote medicines or recovery from illness and shall not suggest that using or avoiding a product can affect normal good health.
- (6) An illustration of the effect or action of a product in an advertisement shall be accurate.
- (7) An advertisement for medicines shall not be addressed to children.
- (8) An advertisement for any medicine shall not claim that its effects are as good as or better than those of another identifiable product.
- (9) Homeopathic medicinal products shall be registered with the appropriate agency. Any product information given in the advertisement shall be confined to what appears on the label. The advertisements, where necessary, shall include a warning to consult a doctor if symptoms persist.

### **Article 54: Vitamins, Minerals and Other Dietary Supplements**

- (1) An advertising practitioner shall hold scientific evidence for any claim that a vitamin or mineral product or other food supplement is beneficial to health.
- (2) A well-balanced diet shall provide the vitamins and minerals needed each day by a normal, healthy individual.
- (3) An advertising practitioner may offer vitamin and mineral supplements to certain groups as a safeguard to help maintain good health but shall not imply that they

### *Advertising Council Bill, 2020*

can be used to prevent or treat illness, elevate mood or enhance normal performance.

- (4) Without well-established proof, an advertisement shall not suggest that there is a widespread vitamin or mineral deficiency or that it is necessary or therapeutic to augment a well-balanced diet. Individuals shall not be encouraged to swap a healthy diet for supplementation.
- (5) An advertisement that is directed at ensuring that people who are potential at risk of deficiency are safeguarded by vitamin and mineral supplementation is permissible.
- (6) Products shall be appropriate and advertising shall specify the group addressed when claiming or implying that health may be maintained. Indicative groups include:
  - (a) people who eat nutritionally inadequate meals;
  - (b) the elderly;
  - (c) children and adolescents;
  - (d) convalescents;
  - (e) athletes in training or others who are physically very active;
  - (f) women of child-bearing age;
  - (g) lactating and pregnant women;
  - (h) people on restricted food or energy diets; and
  - (i) people who smoke.
- (7) Serious vitamin and mineral depletion caused by illness shall be diagnosed and treated by a doctor. Self-medication shall not be promoted on the basis that it will influence the speed or extent of recovery.

#### **Article 55: Cosmetics**

- (1) Claims made in an advertisement about the action that a cosmetic has on or in the skin shall distinguish between the composition of the product and any effects brought about by the way in which it is applied, such as massage. Available Scientific evidence should establish this distinction.
- (2) Some cosmetics have an effect on the kind of skin changes that are caused by environmental factors. Advertising for them shall refer to temporarily preventing, delaying or masking the effect of those skin changes.

#### **Article 56: Prevention of Ageing**

An advertisement for drugs shall not contain any claim to provide rejuvenation, or to prevent, retard or reverse the physiological changes and degenerative conditions brought about by or associated with advancement in age.

#### **Article 57: Hair and Scalp**

*Advertising Council Bill, 2020*

An advertising practitioner has to provide scientific evidence, in the form of trials conducted on people where appropriate, for any claim that a product or therapy can prevent baldness or slow it down, arrest or reverse hair loss, stimulate or improve hair growth, nourish hair roots, strengthen the hair or improve its health as distinct from its appearance.

**Article 58: Weight Control**

- (1) An advertisement for slimming, weight or figure control shall state the likely side effects.
- (2) A weight reduction regime in which the intake of energy is lower than its output is the most common self-treatment to achieve a weight reduction. A method or product and an advertisement for such regime shall be backed if appropriate, by rigorous trials on people; testimonials that are not supported by trials do not constitute substantiation.
- (3) Obesity is frequently associated with medical conditions and treatment for it shall not be advertised to the public unless it is to be used under suitably qualified supervision.
- (4) An advertisement for a weight reduction regime or establishment shall neither be directed at, nor contain anything that will appeal particularly to, people who are under eighteen or those in whom weight reduction would produce a potentially harmful body weight. An advertisement shall not suggest that it is desirable to be underweight.
- (5) An advertising practitioner shall show that weight reduction is achieved by loss of body fat before claims are made for a weight reduction aid or regimen. Combining a diet with an unproven weight reduction method does not justify making weight reduction claims in an advertisement for that method.
- (6) An advertising practitioner shall be able to show that diet plans advertised by that practitioner are nutritionally balanced, except for producing a deficit of energy and this shall be assessed in relation to the kind of person who will use the diet plan.
- (7) An advertisement of vitamins and minerals should indicate that vitamins and minerals do not contribute to weight reduction but may be offered to slimmers as a safeguard against any shortfall when dieting.
- (8) An advertising practitioner that promotes a very low calorie diet shall do so only for short term use and shall encourage users to take medical advice before embarking on it.
- (9) An advertising practitioner for a diet aid shall make clear how the diet works, give prominence to the role of the diet and shall not give the impression that a dieter cannot fail or can eat as much as wanted and still lose weight.
- (10) An advertisement shall not contain a claim that people can lose precise amounts of weight within a stated period or that weight or fat can be lost from specific parts of the body.

*Advertising Council Bill, 2020*

- (11) An advertisement that claim that individuals have lost exact amounts of weight shall be compatible with good medical and nutritional practice and shall state the period involved and not be based on unrepresentative experiences.
- (12) Resistance and aerobic exercise can improve muscular conditions and tone. This improves body shape and posture. An advertising practitioner shall be able to substantiate any claims that the method used alone or in conjunction with its diet plan can lead to weight or inch reduction. An advertisement for an intensive exercise programme shall encourage a user to check with a doctor before starting an exercise programme.
- (13) Short-term loss of girth may be achieved by wearing a tight fitting garment. This shall not be portrayed as permanent, nor shall it be confused with weight or fat reduction.

**Article 59: Offensive Advertisements**

An advertisement shall not describe or dramatise distress or a morbid situation in an offensive manner.

**Article 60: Elimination of Ailment**

An advertisement for a drug shall not contain a claim to cure any ailment or symptoms of ill health, nor shall any advertisement for a drug contain a word or expression or impression that suggests the elimination of an ailment, illness or disease.

**Article 61: Prescription Drugs**

An advertisement for a drug or device related to the treatment of a disease, complaint, or symptom that rightly requires the attention of a registered medical practitioner shall not be exposed in any public medium, except in the relevant professional media.

**Article 62: Diagnosis, Prescription, or Treatment**

An advertisement shall not contain an offer to diagnose, advice or prescribe treatment for any disease, complaint, condition, or symptom that requires the attention of a medical doctor

**Article 63: Appeals to Fear and Exploitation of Credulity**

An advertisement shall not cause unwarranted anxiety especially to those who suffer, or may suffer from the condition to which the advertisement relates, nor suggest that the use of the advertised product is all that is required for the maintenance of the physical or mental well-being of a person.

**Article 64: Encouragements of Excesses**

An advertisement shall not in any way encourage indiscriminate, unnecessary, or excessive use of a medical product.

**Article 65: Hypnosis**

*Advertising Council Bill, 2020*

An advertisement shall not contain any offer to diagnose or treat a complaint or condition by hypnosis.

**Article 66: Restricted Words**

- (1) An advertisement shall not use words such as “safe”, “without risk” or “harmless” unless certified by a medical authority.
- (2) An advertisement shall not offer to cure cancer, AIDS or similar ailment unless the cure has been authenticated by the relevant regulatory body in this country.
- (3) An advertisement of a product, medicine, treatment for disorder or irregularity, peculiar to women, shall not contain an expression such as” inducing abortion”.
- (4) An advertisement shall not contain any exaggeration especially the use of words such as” magic,” “magical,” miracle” and “miraculous”.
- (5) An advertisement for a medical product shall not offer to refund money to a dissatisfied user.
- (6) An advertisement shall not contain words such as “clinic,” institute”, “laboratory” or similar terms unless the establishment does exist and is a registered facility.
- (7) An advertisement for medicine shall not purport to increase “sexual libido” or correct “sexual weakness”.

**Article 67: Alternative Medical Practices**

Subject to the provisions of this Code, an advertisement, promotion and other marketing communication activity concerned with alternative medical practice, products and treatments shall:

- (a) clearly specify the name and address of the dispenser or advertising practitioner who must be registered by the appropriate regulatory body;
- (b) specify the particular ailment to which the product applies and shall not claim efficacy over a range of conditions; and
- (c) have dosage specifications.

**ADVERTISEMENTS FOR RELIGIOUS AND RELATED MATTERS**

**Article 68: Encouragements**

An advertisement for a religious product and service shall not go beyond the effort to encourage the spiritual, physical, social and psychological wellbeing of the adherents.

**Article 69: Exploitation of Weakness**

A religious advertisement shall not exploit the weaknesses, handicaps, shortcomings, or state desperation of members of the public.

**Article 70: Miracles, Portents and Coercion,**

An advertisement and promotion of a religious product or service shall not:

*Advertising Council Bill, 2020*

- (a) exaggerate the occurrence of miracles or use of spurious testimonies that are likely to deceive the audience;
- (b) appear to guarantee financial prosperity, healing, marriage or employments;
- (c) cast aspersion on any other sect or religious belief; and
- (d) coerce, cajole, or otherwise compel anyone to become an adherent of a particular sect or belief or to participate in any religious activity.

**ADVERTISEMENTS FOR POLITICAL ACTIVITIES**

**Article 71: Presentation and Contents**

A political advertisement shall be issue-oriented and devoid of abusive statements or references. It shall not employ false, distorted or unsubstantiated claims or contain misrepresentations about a political personality.

**Article 72: Advertising practitioner's Identity**

Each political advertisement shall clearly identify the sponsoring organisation or individual, visually or orally.

**Article 73: Sectional Interests**

A political advertisement shall not explicitly nor implicitly exploit ethnicity, religion or any other sectional interest.

**Article 74: Compliance**

Media houses, agencies, political parties, politicians and their agents shall ensure that political advertisements are in consonance with the provisions of this Code as it relates to political activities, the Oath of Advertising Practice and any other regulatory body or enactment.

**ADVERTISEMENTS FOR TELECOMMUNICATION PRODUCTS AND SERVICES**

**Article 75: Compliance with Rules and Regulations**

An advertisement for a telecommunication product and services shall comply with rules and regulations of the National Communication Authority and any other relevant regulatory body.

**Article 76: Access to Information**

- (1) Any claim made in a telecommunication advertisement shall portray the true picture of what is offered in terms of product quality and services.
- (2) An advertising practitioner shall ensure that consumers can view and download the relevant terms and conditions of the telecommunication services from an accessible website.

**Article 77: Requirements**

### *Advertising Council Bill, 2020*

An advertisement for a telecommunication product and service shall comply with the following requirements:

- (a) Where the products and service representations can be tested by survey or data, the survey or data shall be reasonably competent and reliable and reflect the true and accepted principle of the research;
- (b) The standards for quality, grade of service, products and equipment that are manufactured, imported or sold in the country as set by the National Communications Authority;
- (c) Any other standard or requirements of a specific or general nature that may be specified by relevant regulatory authorities.

#### **Article 78: Pricing**

- (1) An advertisement with complicated price structures and information that appears in transient types of media such as radio and television shall explain the details of the complicated price structure and information accompanied with detailed print media explanations.
- (2) The transient media shall specifically instruct a consumer to see the print medium for details.

#### **Article 79: Advertising Content**

An advertisement for a telecommunication product or service shall not contain any obscenities nor contain any racial or prejudicial content that relates to ethnic origin, religion, sex, gender, or age.

#### **Article 80: Internet Connections**

- (1) An advertisement for telecommunication internet connections shall state the internet connection speed available to an end user as well as the specific upload and download speed.
- (2) Where the connection speed quoted can only be obtainable under special circumstances, the circumstances shall be clearly stated.

### **MAIL ORDER/ DIRECT SALES**

#### **Article 81: Stock**

- (1) An advertising practitioner shall ensure that there is adequate stock of advertised products to satisfy the demand expected to be generated from the advertisement
- (2) An advertisement for mail order shall clearly indicate that a consumer who shows reasonable cause for dissatisfaction shall have the money paid by that consumer of the mail order refunded.

#### **Article 82: Samples**

An advertising practitioner shall be prepared to provide a demonstration or sample of the advertised product on demand by the Standards Committee.

#### **Article 83: Advertising practitioners Address**

*Advertising Council Bill, 2020*

An advertisement for mail order and direct sales shall clearly state the name and address of the advertising practitioner.

**Article 84: Conformity with Description**

An advertised product shall conform to the description contained in the advertisement.

**Article 85: Statements of Terms**

The selling arrangements shall conform to the description contained in the advertisement.

**Article 86: Substitution**

- (1) A consumer who responds to a mail order and direct sale advertisement shall be offered the product advertised.
- (2) A substituted product shall not be delivered without the consent of the buyer.

**EMPLOYMENT AND BUSINESS OPPORTUNITIES**

**Article 87: General**

- (1) An advertising practitioner shall distinguish clearly between an offer of employment and business opportunity.
- (2) Before publication of an advertisement for employment or for a business opportunity in the media the publisher shall demand full details of the advertising practitioner and any terms and conditions imposed on a respondent.
- (3) Employment advertising shall correspond to a genuine vacancy and potential employees shall not be asked to send money for further details.
- (4) Living and working conditions shall be represented correctly. Quoted earnings shall be precise and if a forecast has to be made, it shall be representative.
- (5) Where income is earned only from a basic salary and commission, or in some other way, this shall be made clear.
- (6) An employment agency shall specify its full name and contact details in an advertisement and state that it is an employment agency, if the name does not disclose that fact.
- (7) An advertisement for a homework scheme that requires a participant to make an article, perform a service or offer facilities at or from home shall contain:
  - (a) the full name and location address of the advertising practitioner;
  - (b) a clear description of the work and the support available to a home worker which shall not be exaggerated;
  - (c) an indication of whether participants are self employed or employed by a business;
  - (d) the likely level of earnings, but only if this can be supported with evidence of the experience of a current home worker;
  - (e) no forecast of earnings if the scheme is new;
  - (f) a statement of any required investments or binding obligation;



*Advertising Council Bill, 2020*

- (g) a statement of any charges for raw materials, machines, components administration and the like;
- (h) information on whether the advertising practitioners will buy back any products made;
- (i) any limitations or conditions that might influence a consumer before a decision is taken to participate in the homework scheme.

(8) An advertising practitioner may include that information in follow up literature made available to a consumer before a commitment but the initial advertising shall state if a financial outlay is required.

(9) An advertisement for a business opportunity shall

- (a) contain the full name and location address of the advertising practitioner that is not a post office box or private mail bag ;
- (b) a clear description of the work involved and the extent of investor commitment, including any financial investment, the support available shall not be exaggerated; and
- (c) contain representative earning figures and not exaggerate them.

(10) An advertisement for vocational training and other instruction courses shall not make a promise of employment unless it is guaranteed. The duration of the course and the admission requirements shall be made clear.

(11) An advertisement for the sale of a directory that gives details of employment or business opportunities shall indicate plainly the nature of what is being offered.

## **FINANCIAL AND RELATED SERVICES**

### **Article 88: Scope**

- (1) This category of advertising relates to banking, mortgage, financing and insurance services.
- (2) An application for the approval of an advertisement for financial and related services shall show approval of the institution, products and services from the Bank of Ghana, National Insurance Commission and any other appropriate regulatory agency.

### **Article 89: General**

- (1) An advertisement for a financial and related service shall, in addition to the provisions of this Code, be prepared with great care to ensure that a member of the public fully appreciates any commitment concerned with responding to the advertisement.
- (2) The following rules shall apply:

### *Advertising Council Bill, 2020*

- (a) An advertisement by a bank or deposit-taking institutions for the opening, closure or relocation of an office, branch or cash centre shall require the written approval of the Bank of Ghana;
- (b) The use of words or phrases that depict lottery or gambling such as “raffle”, “raffle draw”, “bonanza” or “win” in an advertisement shall not be permitted except if the lottery is licensed by the National Lottery Authority or the game of chance is licensed by the Gaming Commission; and
- (c) Where insurance linked products or products with scholarship benefits are to be advertised, the actual value of the insurance and scholarship benefits shall be clearly stated.

#### **Article 90: Advertising practitioners Address**

An advertisement for financial and related services in a newspaper, magazine, and other print media, except for an outdoor advertisement, shall bear at least the corporate address of the advertising practitioner.

#### **Article 91: Deposits and Interest Rates**

- (1) Where interest rates are stated in an advertisement, the annual rate shall be clearly indicated.
- (2) Interest rates for deposits of less than one year shall be stated to be proportional.

#### **Article 92: Tenor of Deposit**

Where deposits are solicited for a minimum period in any advertisement, the tenor of the deposits with the rates payable shall be clearly stated.

#### **Article 93: Ghana Cedi Notes and Coins**

- (1) The reproduction of Ghana Cedi notes in an advertisement in the same size and colour as the real note is prohibited.
- (2) Coins may be reproduced in print, but cut-out or die-cut reproduction in any material is prohibited.
- (3) An advertisement that features Ghana Cedi notes and coins shall encourage proper handling.
- (4) An advertisement shall not depict the display of the Ghana Cedi in a manner that reflects frivolity such as heaping, tossing or attempts to titillate covetousness in the consumer.

#### **Article 94: Coded Accounts**

An advertisement shall not encourage nor imply that coded or anonymous bank accounts can be operated in Ghana unless permitted by the Bank of Ghana.

**Article 95: Exchange Rates**

An advertisement that features foreign currency shall also show current Ghana Cedi equivalents.

**Article 96: Disparagement of Competitors**

(1) An advertisement for financial and related services shall not disparage other banking or financial and related institutions, products and services.

(2) An advertisement for financial and related services shall not:

(a) be injurious to the operations, products or services of other financial institutions of financial system; nor

(b) contain figures from audited financial statements of the advertising institution that have not been audited.

**Article 97: Promotion and Incentives**

(1) An advertisement shall not encourage customers of other banks or financial institutions to switch patronage through competition, lotteries and other promotional techniques.

(2) An advertisement that offers a better incentive than other another competitor shall ensure that they supply the public with the relevant facts necessary for a proper assessment of their claims.

(3) Where terms and conditions apply, an advertising practitioner shall state them clearly or refer to an accessible website where they can be found.

**Article 98: Forecasts**

An advertisement for financial and related services that contains any forecast or projection of a specific return or rate shall clearly state the basis upon which the forecast or projection is made.

**Article 99: Prohibited Names**

(1) An advertising practitioner of financial products and services shall not bear names that are misleading or offensive. In addition the names shall not include words such as “Central”, “National”, “Ghana”, “State”, “Christian”, “Islam”, “Koranic”, “Biblical”, “Bonanza”, “Raffle”, and “Raffle Draw”.

(2) Financial products and services shall have target markets with clear features, benefits derivable by both the banks and customers, modes of operation that do not contravene any relevant laws as well as circulars or directives issued from time to time by the Bank of Ghana.

(3) Financial products and services shall have features and benefits that shall not be deceptive in any manner or form.

(4) The issuing institution of a financial product and service shall have the capability to honour its obligations to investors or depositors in the product as indicated in the product features and benefits.

## **ADVERTISING AIMED AT CHILDREN**

### **Article 100: Inducements**

An advertisement shall not induce children to pressure their parents, guardians, other adults or any person whatsoever to purchase the advertised product.

### **Article 101: Appeals**

An appeal in an advertisement directed at a child shall not make them feel inferior to or less likeable than other children who buy or use the advertising practitioners products and services.

### **Article 102: Exaggeration**

An advertisement directed at a child shall not exaggerate the use of the product or services.

### **Article 103: Safety**

- (1) An advertisement shall not portray a child indulging in behaviour or practice that is unsafe or in any manner hazardous to the child.
- (2) Street scenes depicted in an advertisement shall show adequate regard for the Road Traffic Regulations.
- (3) A child shall not be depicted in a dangerous situation, such as walking on an unguarded stairway, leaning over a balcony or darting across a busy highway.
- (4) A child shall not be shown reaching or attempting to reach an item far above its head because imitating this posture in real life could lead to an accident.

### **Article 104: Accidents**

A child shall not be shown in advertisement using an item that could lead to electrocution, burns, or any other type of accident. These items include cooking gas, matches, kerosene, petrol, inflammable materials and electric appliances.

### **Article 105: Medicines**

- (1) The precepts that medicines, disinfectants and antiseptics shall be kept out of the reach of children shall be complied with in any advertisement.
- (2) Where medicines are shown to be in use in an advertisement meant for children, they shall be demonstrated with adult supervision.

**Article 106: Motorised Machines**

A child shall not be shown driving a car or operating a motorised machine.

**Article 107: Exploitation of Innocence**

An advertisement directed at a child shall promote its physical and moral well-being and shall not exploit its natural innocence or trusting nature.

**Article 108: Values**

An advertisement using a child as a model shall not expose the child to corrupt values.

**ADVERTISING AND FEMALES**

**Article 109: Decency**

A female who appears in an advertisement shall be decently clothed in a manner acceptable to the society where the advertisement is exposed.

**Article 110: Caricature**

A woman in an advertisement shall not detract from the sanctity of marriage as well as family values.

**NON- RETENTION OF ADVERTISING AGENCY**

**Article 112: Non-Retention of Advertising Agency**

- (1) Where an advertising practitioner does not retain the services of an advertising agency, the advertising practitioner shall ensure that its advertising business is handled by a registered advertising practitioner.
- (2) Its media purchase order and relevant advertising materials shall be duly endorsed by an advertising practitioner in the advertising practitioner's employment or retainership.
- (3) This Code recognises that there will always be individuals and small organisations whose advertising requirements may not justify the need for the services of an advertising agency. This category of advertising practitioners may transact advertising business directly if there is an advertising practitioner employed or engaged for that purpose.
- (4) The onus to ensure strict adherence to the ethics and Code of advertising practice shall be on the advertising practitioner.

**RESPONSIBILITIES OF MEDIA OWNERS**

**Article 113: Rates**

### *Advertising Council Bill, 2020*

Media rates shall be published for the information of advertising practitioners, agencies and the general public.

#### **Article 114: Rate Cards**

The conditions related to the acceptance of an advertisement shall be clearly stated on media rate cards. Cash discounts, rebates, and similar incentives shall also be clearly stated.

#### **Article 115: Advertisements for Competing Brands**

An advertising service provider shall not place a competing brand next to a brand being advertised for a client, when advertising a brand of the client, when advertising the brand of the client in an electronic medium.

#### **Article 116: Endorsement of Advertising Materials**

Advertising materials and media purchase orders shall be duly endorsed by a registered advertising practitioner not below the grade of Associate Member of the Profession. Only an advertisement that meets the requirement shall be accepted for exposure in the media.

#### **Article 117: Outdoor Regulations**

- (1) An outdoor board and structure used for advertisement shall be sited and maintained with due regard to the relevant legislation, bye-laws and industry guidelines.
- (2) Outdoor hoardings shall not be placed in a manner that poses a hazard of any nature to the public.
- (3) The use of motion pictures or lurid images is prohibited on sites along a highway or road where they can cause traffic distractions.

#### **Article 118: Outdoor Environment**

An outdoor board and structure shall be sited and maintained with adequate consideration for the safety of the public and protection of the environment in particular. The standards set by the Ghana Standards Authority specifications for outdoor signs G5847:2010 published in the *Gazette* on 5<sup>th</sup> March, 2010 shall be adhered to.

#### **Article 119: Credit Management**

- (1) An advertisement placement transaction shall be covered by a formal contract between the advertising practitioner or advertising agency and the media.
- (2) The terms of the contract between the parties shall be strictly adhered to and enforced by them.
- (3) It is the primary responsibility of a media owner to ensure that media contracts are strictly adhered to and sanctions are imposed on a defaulter.

#### **Article 120: Sectorial Guidelines**

Other guidelines adopted by a sectorial group shall be in consonance with the spirit and letter of this Code.

## **ADVERTISING PRODUCTION AND MANAGEMENT**

### **Article 121: Models**

A model used in an advertisement exposed in this country shall be a citizen except where the concept specifically requires a person who is not a citizen.

### **Article 122: Advertising Positions**

A person who is a registered advertising practitioner, a citizen or non-citizen may be employed in an advertising position. A non-citizens who intend to establish an advertising agency and practice the profession shall in addition to being registered as a practitioner, satisfy the terms set out in the Ghana Investment Promotions Centre Act 2013 (Act 865) for the establishment of a new business, as well as immigration requirements determined by the Immigrations Act 2000 (Act 573).

### **Article 123: Advertising Content**

- (1) The majority of the content of an advertisement shall as much as possible, be Ghanaian.
- (2) Ghanaian languages shall be properly used in advertisements.
- (3) Ghanaian locations and ambience shall be correctly depicted.

## **PART TWO** **SALES PROMOTION**

### **Article 124: General Application**

- (1) The sales promotion rules shall be read in conjunction with the general rules, directing marketing rules and other specific rules, if relevant.
- (2) The sales promotion rules are designed primarily to protect the public but they also apply to trade promotions and incentive schemes and to the promotional elements of sponsorships.
- (3) The rules regulate the nature and administration of promotional marketing techniques. The techniques generally involve the provision of a range of direct or indirect additional benefits, usually on a temporary basis, designed to make goods or services more attractive to purchasers.
- (4) The rules do not apply to the routine, non-promotional, distribution of a product or to product extension, such as the suitability of a one-off editorial supplement whether in print or electronic form to a newspaper and magazine.
- (5) A promoter' is responsible for the aspects and stages of a promotion that shall be conducted equitably, promptly and efficiently and shall be seen to deal fairly and honourably with a consumer.
- (6) A promoter shall avoid causing unnecessary disappointment.

**Article 125: Protection of Consumers, Safety and Suitability**

- (1) A promoter shall make a reasonable effort to ensure that a promotion, including a product sample, is safe and does not cause harm to a consumer or the consumers property. Literature accompanying a promotional item shall give any necessary warning and safety advice.
- (2) A promoter shall make every effort to ensure that only suitable or appropriate material reaches a consumer. A promotion is socially desirable to the audience addressed if it by encourages excessive consumption or inappropriate use and should be designed and conducted in such a way that the right of a consumer to a reasonable degree of privacy and freedom from annoyance is respected.
- (3) A promotion or promotional item shall not be offensive to the audience addressed.

**Article 126: Children**

- (1) Special care shall be taken when a promotion is addressed to a child or when the product intended for an adult may fall into the hands of a child.
- (2) Alcoholic drinks shall not feature in a promotion directed at people under eighteen years.

**Article 127: Availability**

- (1) A promoter shall be able to demonstrate that a reasonable estimate of likely response has been made and that it is capable of meeting that response.
- (2) Phrases such as “subject to availability” do not relieve a promoter of the obligation to take reasonable steps to avoid disappointing a participant in the promotion.
- (3) A promoter shall not encourage a consumer to make a purchase or series of purchases as a precondition to apply for promotional items if the number of those items is limited.
- (4) If a promoter is unable to supply on demand a promotional offer because of an unexpectedly high response or some other unanticipated factor outside the promoters control, the promoter shall offer refunds or substitute products in accordance with article136 (f) .
- (5) Where a prize promotion is widely advertised, a promoter shall ensure that entry forms and any goods needed to establish proof of purchase are widely available.

**Article 128: Administration**

- (1) A promotion shall be conducted under proper supervision and adequate resources shall be made available to administer it. A promoter and intermediary shall not give a consumer justifiable grounds for complaint.
- (2) A promoter shall allow adequate time for each phase of the promotion and shall notify the trade, distribute the goods, issue rules if relevant, collect wrappers, judge and announce results.



**Article 129: Free Offers and Free Trials**

- (1) A promoter shall not try to recover costs by reducing the quality or composition or by inflating the price of any product that shall be bought as a pre-condition to obtain the free item.
- (2) A promoter shall not describe an individual element of promotion as “free” if the cost of that element is included in the package price.
- (3) A promoter shall not use the term “free trial” to describe “satisfaction or your money back” offers, “buy one get one free” offers or other offers where a non-refundable purchase is required. If appropriate, a promoter shall provide a free trial for a participant.
- (4) A consumers’ liability for cost shall be made clear in any material featuring a “free” offer. An offer shall be described as free only if a consumer pays no more than:
  - (a) the minimum, unavoidable cost to respond to the promotion, such as the current public rate of postage, the cost of telephoning up to and including the national rate or the minimum, unavoidable cost to send an e-mail or SMS text message;
  - (b) the true cost of freight or delivery; and
  - (c) the cost, including incidental expenses, of any travel involved if a consumer collects the offer.
- (5) A promoter shall not charge to administer the free offer.

**Article 130: Prize Promotions and the Law**

A promoter shall take legal advice before embarking on a promotion with a prize, including a competition, prize draw, instant win offer and premium payment promotion to ensure that the mechanism involved makes them lawful lotteries under the National Lotto Act, 2006 (Act 722).

**Article 131: Significant Conditions for Promotions**

- (1) A promotion shall specify clearly before any purchase or before or at the time of an entry or application, if no purchase is required:
  - (a) how to participate in a promotion, including significant conditions and costs and any other major factors reasonably likely to influence the decision or understanding of the consumer about the promotion and If a promotion has a free entry route as required by law, that route shall be explained clearly;
  - (b) the start date in a competition for a special offer if the special offer has not yet begun;
  - (c) the closing date for a purchase and submission of an entry or claim in a prominent manner;
  - (d) where it is prize promotion addressed to or targeted at children should have a closing date.

*Advertising Council Bill, 2020*

- (e) if the deadline to respond to an undated promotional material will be calculated from the date the material was received by a consumer;
  - (f) that the closing date shall not be changed unless circumstances outside the reasonable control of the promoter make it unavoidable. If it is changed, a promoter shall take reasonable steps to ensure that a consumer who participated within the original terms will not be disadvantaged;
  - (g) the proof of purchase requirements;
  - (h) the minimum number and nature of any prizes, if applicable and the promoter shall state if the prize is to be awarded in instalments or to be shared among recipients;
  - (i) the personal or technological restrictions such as location, age or the need to have access to the internet, and the promoter shall state any need to obtain permission from an adult or employer to enter the promotion;
  - (j) where it is not obvious, whether there is likely to be a limitation on the availability of promotional packs in relation to a stated closing date of the offer;
  - (k) the full name and business address of the promoter, unless this is obvious from the context but a promotion by a newspaper and magazine, need not state the name and address of the promoter if they can be found easily elsewhere in the publication;
  - (l) that a participant is entitled to retain these conditions or have easy access to them throughout the promotion and the advertisements for promotions shall specify all the significant conditions that are applicable
- (2) A competition that refers to a special offer whether the promoters previous offer or a competitor's offer, does not require a start date if it is stated to "subject to availability"
- (3) A promotion limited to the availability of a promotional pack such as a gift with a purchase, extra volume packs and reduced price packs and loyalty schemes should run on an open ended basis.

**Article 132: Other Rules for Prize Promotions**

- (1) A promoter shall not claim that a consumer has won a prize if they have not. The distinction between a prize and a gift shall always be clear. Gifts offered any consumer in a promotion shall not be described as a prize. If a promoter offers a gift to a consumer in addition to giving prizes to those who win, particular care is required to avoid confusing the two. It shall be clear that a consumer "qualifies" for the gifts but merely has an opportunity to win the prize. If a promoter includes a gift that a consumer has qualified for in a list of other prizes, they shall distinguish clearly between the two.

*Advertising Council Bill, 2020*

- (2) A promoter shall not overstate a consumers' chance to win a prize. If a promoter includes a consumer who has not won a prize in a list of those who have won prizes, they shall distinguish clearly between the two.
- (3) A promoter shall not claim that a consumer is luckier than the promoter is. A promoter shall not use terms such as "finalist" or "final stage" in a way that implies that a consumer has progressed, by chance or skill, to an advanced stage of a promotion if they have not.
- (4) A promoter shall not claim that a consumer shall respond by a specified date or within a specified time if they need not.
- (5) Complex rules shall be avoided and only very exceptionally will it be considered acceptable to supplement a condition of entry with additional rules. If extra rules cannot be avoided, a participant shall be informed how to obtain them and the rules shall not contain anything that could reasonably have influenced consumers against making a purchase or participating.
- (6) A promoter of a prize draw shall ensure that a prize is awarded in accordance with the Gaming Act 2006 (Act 721) and under the supervision of an independent observer.
- (7) A participant in an instant win promotion shall obtain the winnings at once or shall know immediately what the participant has won and how to claim unreasonable costs or administrative barriers without delays. Instant win tickets, tokens or numbers shall be awarded on a fair and random basis and verification shall take the form of an independently audited statement that the prizes have been distributed or made available for distribution in that manner.
- (8) A prize promotion shall specify before or at the time of entry:
  - (a) any restriction on the number of entries;
  - (b) whether or not a cash alternative can be substituted for a prize;
  - (c) when a prize winner will receive the prize if later than six weeks after the closing date;
  - (d) how and when a winner will not be notified of results;
  - (e) how and when a winner and result will be announced.
  - (f) if relevant, who owns any copyright in the entries;
  - (g) if applicable, how entries will be returned by promoters;
  - (h) if applicable, how entries will be returned by promoters; and
  - (i) any intention to use a winner in post-event publicity.
- (9) Promoters shall either publish or make available on request the name and location address of major prize winners and, if applicable, their winning entries. And a prize winner shall not be compromised by the publication of excessively detailed personal information

*Advertising Council Bill, 2020*

- (10) Participants should to retain the conditions issued under article 131 or have easy access to them throughout the promotion
- (11) A promoter shall award the prize described in advertising or reasonable equivalents.
- (12) A promoter shall not falsely claim or imply that a consumer has already won, will win, or will on doing a particular act win a prize or other equivalent benefit if the consumer incurs a cost to claim the prize or other equivalent benefit or if the prize or other equivalent benefit does not exist.

**Article 133: Front Page Flashes**

A publisher who announces a reader promotion on the front page or cover of a publication shall ensure that a consumer knows whether the consumer will be expected to buy subsequent editions of the publication.

Major conditions that might reasonably influence a consumer to signify in their decision to buy the publication shall appear on the front page or cover of the publication.

**Article 134: Charity-linked Promotion**

A promotion run by a third party such as a commercial company that claims that participation will benefit a registered charity or cause shall:

- (a) name each charity or cause that will benefit and make available to the Standards Committee the formal agreement with those who will benefit from the promotion;
- (b) define its nature and objectives If it is not a registered charity;
- (c) specify exactly what will be gained by the named charity or cause and state the basis on which the contribution will be calculated;
- (d) state if the promoter has imposed a limit on its contributions;
- (e) show that the targets set are realistic;
- (f) not exaggerate the benefit to the charity or cause derived from an individual purchase of the promoted product;
- (g) if asked, make available to a consumer, a current or final total of contributions made; and
- (h) take particular care when appealing to children.

**Article 135: Trade Incentives**

- (1) An incentive scheme shall be designed and implemented to take account of the interest of each person involved and shall not compromise the obligations of an employee to give honest advice to consumers.
- (2) If a promoter intends to ask for help from, or offer an incentive to another company's employees, those employees shall be required to obtain their employer's

*Advertising Council Bill, 2020*

permission before participating. A promoter shall observe the procedures established by a company for its employees, including any rules for participating in a promotion.

- (3) An incentive scheme shall make clear to those benefiting that they may be responsible to pay tax.
- (4) A promoter shall not claim that a product is able to facilitate winning games of chance.

## **DIRECT MARKETING**

An advertisement in this category means that product advertised is to be sold to the buyer at the home of the buyer.

The direct marketing rules shall be read in conjunction with the general rules, sales promotion rules and other specific rules, where relevant and applicable.

### **Article 136: Distance Marketing**

- (1) For the purposes of this Code, a distance selling advertisement is the final written advertising stage in the process that allows a consumer to buy products without the buyer and seller meeting face-to-face. A marketer shall comply with the applicable regulatory laws including the Sale of Goods Act, 1962 (Act 137).
- (2) Distance selling marketing communication shall include communication that requires payment before products are received and have written response mechanisms such as postal, fax or email, the full name and location address of the marketers and suppliers if different or other response mechanism so that it can be retained by a consumer.
- (3) Communication containing a telephone response mechanism need only state the full name and telephone number, but a consumer calling the number shall be told the location address. Communication that does not require payment before products are received shall state:
  - (a) the full name of the marketers and the suppliers if different;
  - (b) the main characteristics of the products;
  - (c) the price, including any Value Added Tax or other taxes payable, and any other payment arrangement;
  - (d) the amount and number of any delivery charges;
  - (e) the estimated delivery or performance time and arrangements;
  - (f) that, unless inapplicable a consumer has the right to cancel an order for products;
  - (g) that a marketer of services shall state that the right to cancel will be lost once the provision of services have begun with the consumer's agreement.

*Advertising Council Bill, 2020*

if the marketer of services wishes to limit a consumers' cancellation rights in this way, it should be made clear when the services will begin;

- (h) any telephone, postal or other communication charges calculated at higher than the basic rate such as where a premium rate call is required.
  - (i) any other limitation on the offer such as period of availability and any other conditions that affect the validity of the offer.
  - (j) whether a marketer intends to provide substitute products of equivalent quality and price if those ordered are unavailable and that they will meet the cost of returning substitute products on cancellation; and
  - (k) The minimum duration of open-ended contracts, such as where goods are supplied or services performed permanently or recurrently.
- (4) At the latest, by the time that goods are delivered or services begin, a marketer shall give a consumer written information on:
- (a) how the consumer is to exercise the right to cancel taking into consideration the requirement that the marketer shall allow at least seven weekdays after delivery or after the conclusion of a service contract for a consumer to cancel a sale;
  - (b) in the case of goods, whether the consumer has to return the goods to the suppliers on cancellation and, if so, who is to bear the cost of return or recovery of the goods or substitute goods;
  - (c) any other after-sales services and guarantees;
  - (d) the full location address of the suppliers for any consumer complaints; and
  - (e) the conditions that apply to the cancellation of open-ended contracts.
- (5) A marketer shall fulfil an order within thirty weekdays after the day a consumer sends the order unless they meet one of the following criteria and state the longer delivery time that might be given for products such as plants and made-to measure items. A marketer may state that it does not intend to begin to supply the product unless a sufficient response is received or a series of products might be sent at regular intervals after the first thirty days.
- (6) Marketers shall refund money promptly at the latest within thirty weekdays after notice of cancellation has been given if:
- (a) a consumer has not received products, but if the consumer prefers to wait, the consumer shall be given a firm despatch date or two weeks progress reports. Alternatively, a marketer may, if asked or if stated before purchase, provide a substitute of equivalent quality and price;
  - (b) a product is returned because it is damaged when received, is faulty or not as described, in which case the marketer shall bear the cost of transit in both directions;
  - (c) a consumer cancels the order within seven weekdays after delivery in which case the consumer may assume that a product can be tried but shall take

### *Advertising Council Bill, 2020*

reasonable care of the product before it is returned but the consumer shall return the product and pay the costs of doing so if the marketer made this clear before the product was delivered;

- (d) an unconditional money-back guarantee is given and the products are returned within a reasonable period; and
  - (e) a product that has been returned is not received if the consumer can produce proof of posting.
- (7) So long as each contractual obligation to a consumer is met, a marketer does not have to provide a refund on:
- (a) A provision of services that have already begun, where the price payable and any other payments have been arranged and have been complied with;
  - (b) a product the price of which is dependent on fluctuations in the financial market that are outside the control of the suppliers;
  - (c) perishable , personalised or made-to-measure products;
  - (d) audio or video recordings or computer software;
  - (e) newspapers, periodicals or magazines; and
  - (f) betting, gaming or lottery services.
- (8) If a marketer intends to call on a respondent personally, this shall be made clear in the advertisement or in a follow-up mailing. This is to allow a consumer adequate opportunity to refuse a personal visit and a marketer shall provide a reply-paid post card or free phone contact instruction.
- (9) a marketer shall take particular care when packaging products that might fall into the hands of a child.
- (10) a marketer shall not falsely imply that consumers have already ordered the marketed product by including in marketing material, an invoice or similar document that seeks payment.
- (11) a marketer shall not ask a consumer to pay for or return unsolicited product, except for substitute products supplied in conformity with (article 127(d) and article 136(f).

## **SANCTIONS**

### Article 137; Penalties

- (1) A media house that publishes or exposes an advertisement without a Certificate of Approval from the Standards Committee is liable to a minimum penalty of one

*Advertising Council Bill, 2020*

thousand five hundred penalty units and a maximum penalty of four thousand penalty units.

- (2) An agency that creates or places for publication or exposure an advertisement without a Certificate of Approval from the Standards Committee is liable to pay the Council a minimum penalty of one thousand five hundred penalty units and a maximum penalty of four thousand penalty units.
- (3) An advertising practitioner who authorises the publication or exposure of an advertisement without the Certificate of Approval from the Standards Committee is liable to pay the Council a minimum penalty of one thousand five hundred penalty units and maximum penalty of four thousand penalty units.
- (4) A practitioner, who publishes, exposes or knowingly aids the publication or exposure of an advertisement without a Certificate of Approval from the Standards Committee is subject to the disciplinary procedure of the Advertising Association of Ghana, despite the payment by a client of the appropriate penalty.

The Certificate of Approval from the Standards Committee is an attestation that the advertising material has satisfied the provisions of this Code.



**SECOND SCHEDULE**

(section 12)

(section 23 (1) (a), 24(1), 36 and 38(2))

**Categories and designation of advertising practitioners**

Designation	Qualification
1. Associate member	<p>(a) is a person who holds a university degree or higher national diploma in marketing.</p> <p>(b) Has passed an examination or interview conducted by the Council.</p> <p>(c) Is employed in entity where professional experience in advertising can be acquired.</p> <p>(d) Is of good character;</p> <p>(e) Has not been convicted of an offence involving fraud or dishonesty;</p> <p>and</p> <p>(f) Has worked in the advertising industry for a minimum of three years.</p>
2. Full member	<p>Same as for an Associate member and is a person who satisfies the Council that at the date of application for registration, has been in continuous active practice as an advertising practitioner for not less than five years</p>
3. Fellow	<p>Same as for an Associate and Full member and is a person who satisfies the Council that at the date of application for registration, has been in continuous active practice as an advertising practitioner and has in the opinion of the Council made significant contribution to the advertising profession.</p>

Date of Gazette notification: July ,2020.