

LAWS RELATING TO ADVERTISING IN SINGAPORE



Singapore Advertisers Association

LAWS RELATING TO ADVERTISING IN SINGAPORE

IDENTIFICATION & EXAMINATION OF EXISTING LAWS AND
REGULATIONS AFFECTING THE ADVERTISING INDUSTRY



Prepared for

THE SINGAPORE ADVERTISERS ASSOCIATION (SAA)

by Applied Research Corporation

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FOREWORD

The Advertising Industry of Singapore has come a long way in the last fifty years with the number of regulations affecting its conduct on the increase.

The Singapore Advertisers Association Councils of 1981/82 and 1982/83 commissioned the Applied Research Corporation to compile these regulations and the results have been put together within the pages of this book.

In the course of their work ARC met and interviewed a number of practitioners and their views on the best way to maintain the high ethical standards of advertising in Singapore are also reported.

We earnestly hope that this work will be the basis of the further education of members of the Singapore Advertising Industry to achieve a higher ethical professional practice of the art of Advertising.

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This book attempts to cover most of the important legislative provisions relating to the laws of advertising in Singapore. However, it does not purport to be a complete or exhaustive study of every facet of the relevant law. The publisher accepts no liability for any mis-statements or omissions.

Introduction and Objectives

This research study was undertaken by Applied Research Corporation on behalf of the Singapore Advertisers Association.

Objectives of the study are:—

1. To inform advertising practitioners of the current status of advertising legislation and regulations in Singapore, reason(s) and source(s) of origination of selected legislation and regulations.
2. To provide information to assist in planning a future policy both for self regulation with the industry and for negotiation/consultation with relevant official/government bodies.

Scope of Study

In the course of the study, only legislation and regulations affecting the following media are covered:—

1. Newspapers/periodicals.
2. Television/movie houses.
3. Radio.
4. Signboards.

Legislation and regulations pertaining to advertising via direct mailing are excluded from the study.

Methodology

The study was conducted primarily from extensive desk research. Information required was collected from the following sources:—

1. Government publications such as gazettes,
2. Law Libraries,
3. Press articles, and
4. SAA's minutes on infringements of advertising regulations.

In addition, interviews with officials of the following organisations were conducted:—

1. Singapore Broadcasting Corporation
2. Straits Times Group
3. Rediffusion (S) Pte Ltd
4. Leo Burnett Pte Ltd
5. Survey Research S'pore Pte Ltd
6. Ministry of Health
7. Ministry of Environment
8. ASAS
9. CASE and
10. Others

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1 Advertising Control and Problems

1.1 Introduction

In this chapter, *controls in advertising and advertising practice* will be discussed. In particular, both legislative and voluntary controls will be analysed in some detail; problems in these controls will then be highlighted.

It is envisaged that the following categories of persons and agencies will be interested in the existence and the implementation of these controls:

- a) consumers and CASE;
- b) advertisers;
- c) advertising agencies;
- d) ASAS;
- e) Media owners; and
- f) government agencies.

Control on advertising and its practice are in two forms. The first is through the legislative and regulatory process. As shown in Volume II, sufficient laws and regulations are in existence to moderate advertising practice in Singapore.

Secondly, *voluntary control* is practised by the advertisers and their agencies. Some in-house codes of advertising practice have been devised to assist in the design of the advertising copy.

The existence of such regulatory and voluntary measures stress the importance of these controls. All these have assisted in the standardisation of advertising and its practice in their various forms, format and in different media. This standardisation will in turn help to enlighten the consumers. Furthermore, elimination of fraudulent practices on advertising is the social obligation of all advertisers, agencies and media owners. It is in the interest of all those connected with the advertising industry to self-regulate their activities.

Professional ethics require the formulation of a code of advertising practice which is preferably subscribed to by all. These dos and don'ts

are not totally enforceable but usually are adhered to by most reputable advertisers, agencies and media owners.

On the other hand, *undesirable advertising practice* can be prevented through due process of the laws in the country. These laws and regulations are monitored and enforced by their respective agencies, statutory boards and ministries. Any action contrary to these regulations is punishable by law.

The question is which of these controls are best suited for the advertising industry in Singapore, and which are the more effective and acceptable to the consumers, the advertising industry and the government. Excessive legislative controls can

1. stifle and discourage the practice of advertising;
2. prevent the advancement of advertising technology; and
3. frustrate the role and enthusiasm of the advertising professionals.

On the other hand, a total lack of legislative control will mean a state of free-for-all which reflects a total lack of concern on the part of the advertisers, the agencies and the government to advertising. This is not in the interest of the consumers and would be disastrous to the industry which generates a revenue of about \$220 million per annum in Singapore.

A total reliance on *voluntary control* will depend on the integral commitment to advertising and the level of professionalism. Excessive competition in the market between agencies and among the media owners will render voluntary control less effective. Hence, a suitable balance of legislative and voluntary control is required to promote the interest of advertising.

The *ethics of advertising* have been for a long time a major public relations exercise for the advertising industry. A series of controls is now operated by government agencies, advertising agencies and Advertising Standards Authority of Singapore.

1.2 Controls

The advertising business in most of the developed countries is disciplined by both legal and voluntary controls. Singapore is no exception. A system of such controls has evolved over the years.

Advertising laws and regulations are monitored and enforced chiefly by:

- a) the Ministry of Health;
- b) the Ministry of the Environment; and
- c) the Department of Customs and Excise, Ministry of Finance

The media owners (such as the Singapore Broadcasting Corporation and the national dailies) help by not accepting advertisements which

are likely to contravene any of these laws and regulations. In addition, these organisations have also formulated some in-house rules or codes on programme and copy.

The Ministry of Health under the *Medicines (Medical Advertisement) Regulations 1977* requires that no advertisement or sales promotion for medicinal products, medical devices, apparatus, instruments or contrivances shall be published or undertaken unless a permit for such advertisement or promotion has been obtained from the *Licensing Officer, Ministry of Health*. For purposes of this control, "advertisement" includes all forms of advertising whether in print or by light or sound; and "sales promotion" means any sales campaign, exhibition, competition etc. Guidelines on the dos and don'ts on medical advertising and promotion are contained in a guide book obtained from the Ministry of Health. Advertising (in this case) excludes the advertising of professional medical services.

Similarly, the Ministry of the Environment under the *Sales of Food Act, Chapter 12 (1973)* checks on the standard of food and monitors food advertisement and labelling. Regular sampling in the market place is undertaken to check for compliance to this legislation. In 1978, the Director for Food Administration gave further and more precise guidelines on the sale of food to members of the Association of Accredited Advertising Agents of Singapore (4AS). These guidelines had helped in the interpretation of the *Sales of Food Act*.

Under the *Customs Acts (1979)*, the Customs and Excise Department of the Ministry of Finance controls premises which sell duty-free goods. These premises are now restricted to the airport.

On the other hand, in-house guidelines for advertisers and advertising agencies on copy writing are contained in the codes issued by the Singapore Broadcasting Corporation. These codes on programme and copy assist the agencies in their presentation of advertisements for TV and radio. Through these codes, the Corporation ensures that all programmes:—

- a) observe ordinary good taste and common sense;
- b) respect the law, religious beliefs and social institutions;
- c) respect individual opinion of the public; and
- d) give proper regard to the special needs of children.

This in-house control has been in existence since 1964. The procedure is found to be effective and generally acceptable to all interested parties. Through these codes, a "healthy" climate for friendly and effective competition in the advertising trade has been cultivated. Besides, it also ensures good effective advertiser-consumer interaction; and last, but not the least important, a sizeable growth in TV and radio advertising.

Similarly, the numerous national dailies (English, Chinese, Malay and Tamil) also exercise self control in their display of

advertisement in their papers. While the papers are anxious to sell space the media owners realise that they will have respect and readership if they are associated with trustworthy advertising. Besides, these dailies are required to observe the laws and regulations of the country as well. Ultimately, these daily papers are answerable to the Ministry of Culture for all items which they publish.

In 1976, the Consumers' Association of Singapore (CASE) initiated the formation of the Advertising Standards Authority of Singapore (ASAS). The latter is an advisory council to CASE. ASAS acts to protect the public from advertisers whose advertisements mislead, misrepresent or offend. ASAS objectives include:—

- (1) The promotion and the regulation in Singapore of the highest ethical standards of advertising in all media;
- (2) To codify the standards of advertising;
- (3) To provide advice and assistance to consumers and advertisers in the observance and enforcement of the advertising code.

ASAS meets regularly to:—

- (a) moderate on complaints from consumers through CASE;
- (b) review questionable advertisements found in the local press, TV and Radio; and
- (c) advise CASE and government agencies on the current trend and status of advertising in Singapore. Voluntary co-operation from the advertisers' agencies and the media owners are usually sought for compliance to the Code of Advertising Practice introduced in April 1976 by ASAS. In this respect, goodwill and better judgement usually prevail.

Finally, advertising associations also inform their members on current practices and frequently examine new directions, approach and technology on advertising. Group pressure is usually brought to bear on recalcitrant members in their attempt at self regulation and control.

1.3 Problems in Control of Advertising

It is generally accepted by all those involved in the advertising industry that control of advertising is a necessary evil. It can stifle the practice and the enthusiasm of the advertisers and their agencies, but it can also promote the standard of advertising technology in Singapore. Too much control or too few and poorly understood guidelines create additional problems.

Voluntary and legislative controls are necessary for the protection of the more gullible consumers, especially the young, and at the same time these controls provide the framework for a healthy and competitive atmosphere in the practice of advertising.

In the past before the advertising industry had attained the scale and status found nowadays, it was necessary to have *total legislative control*, since it was found to be more speedy and effective in the implementation of the laws and regulations.

With advancement in technology, it is inevitable that advertising has become more complicated, sophisticated and varied. Hence it is important that laws and regulations are brought up-to-date to take into account increasing complexities on advertising.

But *supplementary legislation* requires time for study and approval by Parliament. This involves additional effort on the part of the ministries, taking into account the specialised manpower required.

Voluntary control which has an immediate effect on the advertising industry would seem to be the next best approach. A case can be made for *voluntary control* to exist and continue to exist side-by-side with *legislative control*. In fact it has been suggested that voluntary control should take precedence over legislative control by those in the advertising industry.

However, each of these *control procedures* has its advantages and disadvantages. *Laws and regulations* expressed in legal language are subject to interpretation. Therefore, it is important that proper and official guidelines on the interpretation of these laws related to advertising be known to the advertising industry. Otherwise a flexible approach rather than a strict adherence to the administrative interpretation is preferred. A spirit of mutual understanding and co-operation rather than confrontation should be encouraged.

For effective control, *legislation and codes* can be reviewed occasionally so as to enable amendments and additions to be made on practices in the advertising industry. This will encourage standardisation and discourage blatant wastage of manpower, time and financial resources.

Besides legislative controls, the media owners are capable and are now in the position to control the *ethos* and *creativity* of the advertising trade.

In particular, we are concerned with the actual problems encountered in advertising and their control. This section carries a summary of the problems that were told to the consultants in their course of investigation. The list is certainly not meant to be exhaustive, but is intended to show the numerous problems faced by the advertising industry in both legislative and voluntary control.

A more thorough and in-depth study can now be made to understand these problems and to recommend possible solutions, remedies and legislation (if necessary).

The problems in *advertising control* do not usually stem from the implementation of official policy or the code of advertising practice

but rather arise from the misinterpretation or lack of guidelines and references on advertising practice in the codes.

The discussion is best undertaken by considering separately the problems experienced by different groups.

From the *media owner's point of view*, there are numerous problems. These are related to the following key areas:—

- (a) Language
- (b) Food and Health
- (c) Product Claim and Guarantee
- (d) Services
- (e) Hire Purchase
- (f) "New" Product
- (g) Mail Order
- (h) Classification
- (i) Other government rulings, campaigns.

We shall attempt to discuss briefly each of these in the hope that all concerned are able to appreciate their common difficulties and to find workable solutions to these problems.

(a) Language

The media owners take great care to ensure that copies in English are grammatically correct, that slang, vulgar language etc, are not allowed. Many of the advertising copies rejected were initially because of language problems. These are requested to be modified, amended or corrected before allowing to advertise.

Complication arise when advertisements are translated from one language to another. It is not always possible to translate literally from English to Chinese or vice-versa because the wording used in the copies may not have direct equivalents.

This problem is encountered by SBC.

(b) Food and Health

Food products are monitored by the Ministry of the Environment and medicinal products by the Ministry of Health. There are now a number of cultured milk drinks which require classification as food or health drinks. Therefore one advertising agency had to apply to both Ministries for clearance/permit for its advertisement.

(c) Product Claims/Guarantee

This problem is regularly encountered by the newspapers. Advertisements on electrical appliances, artificial hair etc. are commonly mentioned. It is not possible for the newspapers to vet all claims or guarantees.

(d) Services

Beauty treatment, and hair transplant are two of the services which are often mentioned in the press. These have been given prominence since the consumers are generally unhappy about the services rendered and the price they are required to pay, and would have to pay in the future.

Recently, advertisements relative to social escorts and marriage bureaus were voluntarily disallowed because of other 'shady' business attributed to these agencies.

These are only a few of the numerous undesirable services offered to the public. The problem here is their early detection and subsequent warning to the public on the nature of these businesses.

(e) Hire Purchase

The sale of furniture has reached its climax. The competition is so intense that furniture is offered at "cut-throat" prices. In addition, Hire-Purchase (HP) can also be arranged. The problem is that the advertisements usually carry the monthly payment with no mention of total price and number of payments.

(f) "New Products"

Products such as Ginseng, cosmetic preparations, wine, health tonics etc. are easily available in the market. However these items *are not* directly included in the advertising code of practice.

Similarly, others such as genuine Chinese gold coins, new toiletries, essence etc. also require inclusion in the code.

Hence the media owners are required to use discretion and personal judgement in their evaluation of these products.

(g) Mail Order

Although mail order services have never caught on in Singapore, it is necessary for the media owners to ensure that the public is not cheated by these mail order firms. Therefore, a little detective work is often necessary to verify the credibility and reliability of these firms before publication of these advertisements.

(h) Classification

This is applied to the *film industry*. Singapore has no classification scheme on film, video cassettes etc. Therefore advertisements made in USA or UK which carry the classification code are not allowed. Hence deletion is required before publication or broadcast.

(i) Other Government Rulings, Campaigns

A problem related to this aspect of advertising control arises

from the numerous rulings and campaigns introduced by the government. These include:—

- 1 Speak Mandarin;
- 2 Long Hair;
- 3 Save Energy/Water/Electricity;
- 4 Safety;
- 5 Anti-Littering;
- 6 Anti-Smoking;
- 7 Metrication;
- 8 Pollution;
- 9 Family Planning.

Advertisements which portray anything contrary to the official stand are not allowed.

The problem is not because these advertisements are not allowed but because of the imported programmes and magazines which show the vary practices that are not permitted of local advertisers.

Hence a claim of double standard is often heard among the advertising agencies.

Similarly, the agencies have found it futile to appeal against the "better" judgement of the media owners. This is especially so once the decision is made by the "bosses". Hence it is strongly contended that an *independent and influential body* be established (like that of ASA in UK) to allow appeals to be made. This is more critical since the advertising industry is competitive and no one agency likes the prospect of losing any of its clients.

Some common problems faced by the advertising agencies and the advertisers are:—

- a) Delay;
- b) Problems on Guidelines;
- c) Communication; and
- d) New product advertising.

Delay, claimed by some agencies, on the part of the media owner should be rectified. This will avoid any further unhappiness.

Problems on guidelines are due to interpretation and to lack of specification. Anomalies in decision-making on the part of Ministry officials, their lack of information and knowledge of products advertised are only some of these problems.

Part of the present problem can be attributed to lack of *communication*. This has resulted in delay, failure in understanding and appreciation. An effective *communication system* should be introduced.

With *new products*, the nature of the product, its chemical composition or content, its claims and effectiveness and its properties should be communicated at the time the permit is applied for.

Consumers too have problems with advertising control. Often, they do not know the responsibilities of the different sectors in the advertising trade.

Brief Comments On Advertising Control In Other Countries

From the discussion so far, one may be under the impression that the advertising trade in Singapore has many problems. However, a survey of advertising control in Singapore as well as in other countries around the world has shown that Singapore is no exception in having problems on control of advertising. Many of the areas of conflict are common to other countries.

In Europe, the problems with control is centred on liquor, tobacco, children, drugs and sex-stereotyping advertising. In most of these Western European countries both *legislative and voluntary controls* exist. In some countries (such as Italy, Belgium, Denmark, Norway and Sweden) legislative control dominates; and in others (such as UK, France and West Germany) self-regulation has been increasingly more effective.

In fact *in UK*, voluntary controls are said to be stricter than the laws relating to advertising. However, in the British Code of Advertising Practice (6th Edition April 1979), sale advertisements and direct mailing are not covered effectively by self-regulation.

In the *United States of America*, nearly every aspect of the advertising industry is covered by one or more legislative controls. The Federal Trade Commission is even prepared to introduce rules on:—

- 1) claims of energy content on food and
- 2) advertising aimed at children

Hence, it has often been said that the American advertising industry is the most over-regulated industry compared to others. In their attempt to limit more government intervention, the advertising bodies lay strong emphasis on the spirit of competition and self-regulation.

In Canada, the dominance and impact of government control is strongly felt by the advertising industry. It has a commission to regulate all aspects of advertising. The Canadian Radio-television and Telecommunication Commission is now responsible. In two of the provinces in Canada, taxes on advertising have been instituted.

In Japan, there is a strong consumer pressure to control advertising. This includes advertising to children by mail order or by television.

In Australia, government involvement and control of advertising is strong, and the advertising voice is fragmented. Local commercial television stations are pressuring the government for self-regulation.