

**REPUBLIC OF LITHUANIA**

**LAW ON  
ADVERTISING**

18 July 2000 No VIII-1871

(As last amended on 25 June 2015 – No XII-1885)

Vilnius

**CHAPTER ONE  
GENERAL PROVISIONS**

**Article 1. Purpose and scope of the Law**

1. The purpose of this Law shall be to improve consumer information concerning goods and services, protect consumer rights and legitimate interests, protect the freedom of fair competition, promote advertising self-regulation and create conditions for the development of advertising activity.

2. This Law shall establish requirements for the use of advertising, liability of operators of advertising activity, and the legal basis for the supervision of the use of advertising in the Republic of Lithuania.

3. Where other laws of the Republic of Lithuania stipulate additional or different requirements for the use of advertising or establish a different procedure for supervising the use of advertising or different liability of operators of advertising activity, the provisions of those laws shall apply. Where the international treaties ratified by the Republic of Lithuania provide for other requirements for the use of advertising, the provisions of these treaties shall apply.

4. Provisions of this Law shall apply accordingly to an intra-Community infringement, as it is defined by Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation) (hereinafter: 'Regulation (EC) No 2006/2004'), in the cases when provisions of Article 5 or Article 6 of this Law are infringed.

5. This Law shall not regulate political and social advertising nor announcements which are not related to economic and commercial, financial or professional activities.

6. This Law shall implement the legal acts of the European Union listed in the Annex to this Law.

## **Article 2. Definitions**

1. **Economic behaviour** means the decisions or actions of advertising consumers related to the acquisition of goods or services and commercial and economic, financial or professional activities.

2. **Outdoor advertising** means advertising the means of presentation whereof are located outside premises. Such means of presentation include various special means (stands, billboards, columns, showcases, etc.) and adapted means of advertising presentation (building walls, roofs, temporary construction works, means of transport, hot air balloons, etc.).

3. **Misleading advertising** means advertising which in any way, including its presentation, deceives or is likely to deceive the persons to whom it is addressed or whom it reaches and which, by reason of its deceptive nature, is likely to affect their economic behaviour or which, for those reasons, injures or is likely to injure another person's opportunities to compete.

4. **Comparative advertising** means any advertising which explicitly or by implication identifies a competitor of the supplier of advertising and the goods or services offered by the competitor.

5. **Surreptitious advertising** means information disseminated in any form and by any means about a producer of goods or a provider of services, the name or the activities thereof, the trade mark presented in a way that may confuse advertising consumers as to the actual purpose of presentation of such advertising. Such presentation of information shall be considered as surreptitious advertising in all cases if it is done in return for payment or for similar consideration.

6. **Infant formulae** means foodstuffs intended for particular nutritional use by infants during the first months of life and satisfying by themselves the nutritional requirements of such infants until the introduction of appropriate complementary feeding.

7. **Trade mark** means any sign which is capable of distinguishing the goods of one person from those of another person or the services of one person from those of another person and which can be described graphically.

8. **Advertising** means information disseminated in any form and by any means and relating to a person's commercial and economic, financial or professional activities, where it promotes the purchase of goods or use of services, including the purchase of immovable property and the takeover of property rights and obligations.

9. **Operator of advertising activity** means a supplier of advertising, provider of advertising services.

10. **Supplier of advertising** means a person on whose initiative and in whose interests advertising is used (ordered, produced, disseminated).

11. **Producer of advertising** means a provider of advertising services that provides advertising production services.

12. **Use of advertising** means an activity which includes ordering and production of, mediation in and dissemination of advertising.

13. **Provider of advertising services** means a citizen of the Republic of Lithuania, another Member State of the European Union or a country of the European Economic Area (hereinafter: a 'Member State'), another natural person who exercises the rights of movement between the Member States conferred to him under the legislation of the European Union, a legal person established in the Republic of Lithuania or a legal person established in another Member State, another organisation or branches thereof, a branch of a foreign legal person or another organisation established in the Republic of Lithuania and providing the services of a producer, disseminator and/or mediator of advertising.

14. **Advertising self-regulatory authority** means an institution of voluntary supervision established by operators of advertising activity, which acts in observance of legal acts regulating advertising activity, as well as its approved regulations (code).

15. **Disseminator of advertising** means a provider of advertising services that disseminates advertising by any means of information transmittal.

16. **Mediator of advertising** means a provider of advertising services that serves as an intermediary in ordering advertising dissemination services or advertising production and dissemination services.

17. **Consumer of advertising** means a person for whom advertising is intended or whom it may reach.

18. **Religious symbol** means an image, object, graphic or written sign which is honoured by a religious community as referring to a deity or sanctity.

19. The concepts 'operator of commercial activity', 'commercial offer', 'transactional decision', 'consumer' and 'average consumer' as used in this Law shall be interpreted as they are defined in the Law of the Republic of Lithuania on the Prohibition of Unfair Business-to-consumer Commercial Practices (hereinafter: the 'Law on the Prohibition of Unfair Business-to-consumer Commercial Practices').

## CHAPTER TWO

## **PRINCIPLES OF AND GENERAL REQUIREMENTS FOR ADVERTISING**

### **Article 3. Principles of advertising**

Advertising must be:

- 1) proper and accurate;
- 2) clearly recognisable.

### **Article 4. General requirements for advertising**

1. The requirements of the Law of the Republic of Lithuania on the State Language shall apply to a written and audio text of advertising.

2. Advertising shall be prohibited where it:

- 1) violates principles of public morality;
- 2) degrades human honour and dignity;
- 3) incites national, racial, religious, gender-related or social hatred and discrimination as well as defames or misinforms;
- 4) promotes coercion and aggression and gives rise to panic;
- 5) promotes behaviour which poses a threat to health, security and the environment;
- 6) abuses superstitions, people's trust and their lack of experience or knowledge;
- 7) makes a reference to the name and surname of a natural person without his consent, presents his opinion, information about his private or public life and property and makes use of the natural person's image;
- 8) uses special subliminal means and technologies in advertising dissemination;
- 9) uses advertising material which has been prepared in violation of copyright to works of literature, art and science and/or related rights.
- 10) scorns religious symbols of the religious communities registered in Lithuania.

### **Article 5. Misleading advertising**

1. The use of misleading advertising shall be prohibited.

2. When judging whether or not advertising is misleading, account shall be taken of the following criteria of accuracy, comprehensiveness and presentation thereof:

1) claims in advertising are false if the provider of advertising is unable to substantiate the accuracy of the claims in the course of the use of advertising. A decision as to whether there is sufficient information substantiating the accuracy of the claims in advertising shall be taken on a case-by-case basis. The evidence and advice provided by persons whose competence is not

linked with the content of the information presented shall not be recognised as information substantiating the accuracy of the claims presented;

2) the information presented in advertising is incomplete if a certain part of the information has been omitted, where the presentation thereof is, taking account of another information presented in such advertising, necessary in order to avoid misleading of consumers of advertising; The information presented in advertising shall also be considered as incomplete if material information is undisclosed, concealed or is provided in an obscure, incomprehensible, ambiguous or untimely manner, where the average consumer needs this information to be able to make an informed transactional decision and thus causes or is likely to cause the average consumer to take a transactional decision that he would not have taken otherwise. If means of advertising transmittal are limited in terms of scope or time, in deciding whether the information is incomplete account must be taken of such limitations, features of a particular case, relevant circumstances and any other measures that the provider of advertising has undertaken to ensure that information is made available to consumer in other ways;

3) the manner or form of presentation of advertising are such that the consumer of advertising may perceive an implied inaccurate/misleading claim of advertising.

3. If legal acts of the European Union stipulate compulsory presentation of certain information in advertising, such information shall be considered as material.

4. Where a commercial offer is made in advertising to the consumer, the information stipulated in Article 6(3) of the Law on the Prohibition of Unfair Business-to-consumer Commercial Practices shall be considered as material.

5. When judging whether advertising is misleading, particular account shall be taken of the information contained therein regarding:

1) the supplier of advertising or another person, the activities, registered office, name (in the case of a natural person – his name and surname), legal form and assets thereof, ownership of industrial or intellectual property rights, licences/authorisations, qualifications, affiliation, awards and distinctions;

2) goods or services, the place or origin of manufacture thereof, date of manufacture, method of manufacture, purpose, quantity, composition, energy value, consumption properties, risks, fitness for purpose, uses, testing time, place, method and evaluation, method of use, conformity with a set standard, certification, official recognition of a product or service and awards at fairs and exhibitions;

3) terms and conditions of acquisition and consumption/use of goods/services, that is, the price or the manner in which the price is calculated or the existence of a specific price

advantage, terms of payment, delivery and return, guarantees, terms and conditions of replacement, repair and service;

4) the extent of commitments of the supplier of advertising, the motives for the commercial, financial or professional practice and the nature of the product's or service's sales process, any statement or symbol in relation to direct or indirect sponsorship or approval of the supplier of advertising or the product or service;

5) the consumer's rights, the risks he may face, and examination of complaints.

6. Advertising shall be regarded as misleading under any circumstances if it contains features of misleading commercial practices stipulated in Article 7(1) to (21) of the Law on the Prohibition of Unfair Business-to-consumer Commercial Practices.

7. When judging whether advertising is misleading, it shall be regarded that consumers form an opinion regarding the accuracy of the claims presented in such advertising, the comprehensiveness of advertising and the manner or form of presentation of advertising and take such decisions which may be expected from the average consumer.

8. When advertising is intended for a particular group of consumers of advertising, in judging whether advertising is misleading its impact on the average member of that group shall be assessed.

#### **Article 6. Comparative advertising**

Comparative advertising shall be permitted provided that:

1) advertising is not misleading under Article 2(3) and Article 5 of this Law;

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

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

4) it does not create confusion among operators of commercial activity, between the supplier of advertising and a competitor or between the supplier of advertising's trade marks, trade names, other distinguishing marks, goods or services and those of a competitor;

5) advertising does not discredit or denigrate the trade marks, trade names, other distinguishing marks, goods, services, activities, financial or other circumstances of a competitor;

6) for products or services with designation of origin, advertising relates in each case to products or services with the same designation;

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

8) advertising does not present goods or services as imitations or replicas of goods or services bearing a protected trade mark or trade name.

#### **Article 7. Advertising and children**

1. Prohibitions and limitations with respect to the use of advertising causing harmful effects on children shall be stipulated in paragraph 2 of this Article and by the Law of the Republic of Lithuania on the Protection of Minors against the Detrimental Effect of Public Information.

2. It shall be prohibited to cause harmful moral and physical effects on children by:

1) abusing the children's trust in their parents, guardians/custodians, teachers or other adults;

2) forming the children's opinion linking consumption of certain goods or services with the enhancement of their physical, psychological or social advantage over peers or other persons;

3) unreasonably showing the children in situations which pose danger to their health and life.

#### **Article 8. Identifiable advertising**

1. Surreptitious advertising shall be prohibited.

2. Advertising must be clearly identifiable according to its form of presentation. Where there exists the likelihood that due to the form of presentation, consumers of advertising may not identify the advertising disseminated in the media, such advertising must be marked with the word 'advertisement'.

#### **Article 9. Advertising of activities and goods or services which are prohibited by law or are unlawful**

Advertising disseminated in any form and by any means of advertising transmittal shall be prohibited in cases when one seeks to advertise:

1) the activity which is prohibited by law or is unlawful;

2) the goods or services the production and/or sale/supply whereof are prohibited by law;

3) the goods which have been withdrawn from civil circulation.

**CHAPTER THREE**  
**REQUIREMENTS FOR ADVERTISING DISSEMINATED BY SPECIFIC MEANS OF**  
**ADVERTISING TRANSMITTAL**

**Article 10. Advertising in television programmes**

This Law and the Law of the Republic of Lithuania on Provision of Information to the Public shall set forth requirements for advertising in television programmes.

**Article 11. Advertising in cinemas and video halls**

In screening films at cinemas and video halls, advertising may be presented only prior to the screening of a film and/or following it.

**Article 12. Requirements for mounting outdoor advertising**

1. Outdoor advertising shall be prohibited:

1) on motorways, above motorways, in traffic lanes and in protection areas, except for stands informing traffic participants about the condition of the road. Outdoor advertising shall be prohibited in and alongside streets if it might obstruct technical traffic regulation means, reduce visibility, blind traffic participants and pose danger to traffic participants. It shall also be prohibited to use the advertising that imitates road signs and/or uses road sign symbols. Advertising mounted in breach of such requirements must be removed, demolished or dismantled without compensating for losses to the owner thereof or at the expense of the persons that have mounted such advertising;

2) on sculptures, monuments and trees;

3) in natural and complex reserves and state parks, where advertising is not related to the complexes and objects/properties protected in the reserves or state parks. This prohibition shall not apply to the mounting of outdoor advertising in the territories of cities and towns located in the reserves and state parks;

4) without the consent of a person managing by the right of ownership or on other legitimate grounds land, structures or other objects whereon it is mounted (hereinafter: the 'owner'). In the cases when advertising is mounted on common objects – without the consent of the majority of owners of flats and other premises, unless the statutes of an association of owners of flats and other premises or a joint activity contract provides otherwise;

5) without an authorisation for the mounting of outdoor advertising (hereinafter: an 'authorisation').



2. Outdoor advertising at objects of cultural heritage, in territories and protection zones thereof shall be permitted only upon obtaining, in the cases specified by the Law of the Republic of Lithuania on Protection of Immovable Cultural Heritage, of the consent of an institution responsible for the protection of an object of cultural heritage, in protected areas – upon coordination with a protected area directorate or a regional environmental protection department, where there is no protected area directorate established in a protected area.

3. The Rules for Mounting Outdoor Advertising stipulating requirements for the mounting of outdoor advertising, a procedure for issuing authorisations and terms of the validity thereof shall be approved by the Government of the Republic of Lithuania (hereinafter: the ‘Government’) or an institution authorised by it.

4. Outdoor advertising must be mounted in compliance with provisions of the legal acts regulating design, construction, protection of objects of cultural heritage and landscape, spatial planning and the use of the state language, the Rules for Mounting Outdoor Advertising, special plans for outdoor advertising approved by a municipal institution or general spatial planning documents and/or regulations for mounting outdoor advertising stipulated therein.

5. An authorisation shall grant the right to mount, at a location indicated in the authorisation, a special means of presentation of outdoor advertising and to disseminate advertising thereon or to disseminate advertising on an adapted means of presentation of outdoor advertising.

6. The executive authority of a municipality within the territory whereof outdoor advertising is mounted shall, acting in compliance with the Rules for Mounting Outdoor Advertising, issue authorisations, suspend the authorisations, lift the suspension of the authorisations, and revoke the authorisations.

7. The issue of an authorisation shall be refused where:

1) not all documents provided in the Rules for Mounting Outdoor Advertising are submitted, the submitted documents do not meet statutory requirements or inaccurate data have been provided and the operator of advertising activity fails to comply with the requirement of the municipal executive authority to eliminate these shortcomings within five working days;

2) outdoor advertising planned to be mounted does not meet the requirements for mounting outdoor advertising specified in this Article.

8. An authorisation of the operator of advertising activity shall be suspended where:

1) it transpires that incorrect data have been submitted to obtain the authorisation;

2) outdoor advertising has been mounted in violation of the outdoor advertising mounting design indicated in the authorisation.

9. Suspension of an authorisation of the operator of advertising activity shall be lifted where the operator of advertising activity fulfils requirements of the issuing municipal executive authority to eliminate the identified shortcomings within five working days.

10. An authorisation shall be revoked where:

1) the operator of advertising activity files an application for revocation of the authorisation;

2) the operator of advertising activity (legal person) is liquidated;

3) the operator of advertising activity (natural person) dies;

4) the operator of advertising activity, upon suspending his authorisation, fails to comply with the request of the issuing municipal executive authority to eliminate shortcomings within five working days;

5) the consent of the owner of the land, construction works or other structures whereon outdoor advertising is mounted expires.

11. Authorisations shall be registered in accordance with the procedure laid down by a municipal executive authority, and information on their issue shall be published on the municipality's website.

12. Upon the expiry of the term of validity of an authorisation or upon revocation of the authorisation, the operator of advertising activity must, within a time limit laid down by a municipal executive authority, dismantle a special means of presentation of outdoor advertising or take down advertising and manage the environment.

### **Article 13. Requirements for advertising disseminated by other means of advertising transmittal**

1. Advertising by telephone, telefax, telex and electronic mail may be provided only with the consent of a consumer of advertising or at his request.

2. It shall be prohibited to directly provide advertising to a specific person where this person has clearly stated his objection.

## **CHAPTER FOUR**

### **REQUIREMENTS FOR ADVERTISING OF SPECIFIC GOODS AND SERVICES**

#### **Article 14. Food advertising**

1. In advertising, it shall be prohibited:

1) to indicate or mention the food characteristics which it does not possess, as well as healing or disease prevention characteristics and other properties, unless the provision of such information conforms to the requirements stipulated in legal acts;

2) to indicate that a certain food has particular characteristics, where all similar products actually possess the same characteristics.

2. Advertising of infant formulae shall be restricted to publications specialising in health care and scientific publications in accordance with the procedure laid down by legal acts.

3. Food advertising must indicate that food is genetically modified where, according to statutory requirements, it must be labelled showing the information that such food is genetically modified organisms, that food contains or its ingredients contain genetically modified organisms, that food has been produced from genetically modified organisms or that it contains parts produced from genetically modified organisms.

4. Advertising of food supplements must bear the label 'food supplement'.

5. It shall be prohibited to indicate energy drinks as products of sponsors or advertise them in any other way:

1) in educational establishments attended by persons under the age of 18;

2) at venues hosting concerts, sports, charity and/or sponsorship and other events for persons under the age of 18 and in advertising thereof;

3) at venues hosting theatre performances, movie films and video films for persons under the age of 18 and in advertising thereof;

4) in the media for persons under the age of 18 and in advertising thereof;

5) in campaigns and contests for persons under the age of 18 and in advertising thereof.

6. It shall be prohibited to distribute energy drinks free of charge for advertising purposes among persons under the age of 18.

7. Advertising of energy drinks must bear the words 'Do not use with alcoholic beverages'.

8. Rules for the provision of the information indicated in paragraphs 3, 4 and 7 of this Article shall be stipulated by an institution authorised by the Government of the Republic of Lithuania.

### **Article 15. Advertising of health care services and medical instruments and apparatus**

In advertising health care services and medical instruments and apparatus, it shall be prohibited to use a patient's name, surname and image and to rely on recommendations of health care administrative institutions, health care professionals or their professional organisations.

#### **Article 16. Advertising of weapons and ammunition**

Advertising of weapons and ammunition shall be permitted only at their points of sale, exhibitions of weapons and ammunition and publications intended for professionals.

#### **Article 17. Advertising of cosmetic products**

Advertising not conforming to provisions of Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products shall be prohibited.

#### **Article 18. Advertising of biocidal products**

Advertising not conforming to provisions of Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 December 2012 concerning the making available on the market and use of biocidal products shall be prohibited.

### **CHAPTER FIVE SUPERVISION OF ADVERTISING**

#### **Article 19. Advertising supervisory authorities**

1. Supervision of the implementation of the requirements stipulated in this Law shall be exercised by the following institutions, each acting in compliance with this Law and other laws and within its remit:

1) the State Consumer Rights Protection Authority - regarding provisions of Articles 4, 7, 8, 9, 11 and 13, Article 14 (shall examine infringements of the requirements stipulated in this Law and impose fines for the infringements investigated at its own discretion or under documents of the investigation of infringements as submitted by the State Food and Veterinary Service along with findings of the investigation (a statement, protocol or another document) (hereinafter: an 'investigation document')), Articles 15, 16, 17 and 18 of this Law;

2) the Competition Council of the Republic of Lithuania (hereinafter: the 'Competition Council') – regarding provisions of Articles 5 and 6 of this Law;

3) the State Food and Veterinary Service – regarding provisions of Article 14 of this Law (shall conduct an investigation of an infringement of the requirements stipulated in this Article and draw up investigation documentation);

4) municipal executive authorities – regarding provisions of Article 12(1), (2), (4) and (12) of this Law;

5) the Department of Cultural Heritage Protection under the Ministry of Culture – regarding provisions of Article 12(1), (2), (4) and (12) of this Law (regarding the mounting of outdoor advertising at objects of cultural heritage, in territories and protection zones thereof);

6) a protected area directorate or a regional environmental protection department, where there is no protected area directorate established in a protected area – regarding provisions of Article 12(1), (2), (4) and (12) of this Law (regarding the mounting of outdoor advertising in protected areas).

2. The Competition Council shall be in charge of the application of Regulation (EC) No 2006/2004 in so far as it is related to functions of the Competition Council in supervising whether advertising is misleading and comparative advertising.

3. The institutions indicated in paragraph 1 of this Article (hereinafter: ‘supervisory authorities’) shall co-operate with advertising self-regulatory authorities in supervising the use of advertising.

#### **Article 20. Advertising self-regulation and advertising self-regulatory authorities**

1. Advertising self-regulation shall be based on the principles of justice, publicity, impartiality, legitimacy, ethical advertising, non-discrimination of operators of advertising activity and openness.

2. Advertising self-regulatory authorities shall have the right to draft and approve codes of conduct/ethics that do not contradict the legal acts in force (hereinafter: a ‘code’) and supervise compliance therewith by operators of advertising activity that have assumed the obligations stipulated in the code.

3. Advertising self-regulatory authorities shall notify supervisory authorities of the approval of codes and shall indicate their contact details and the website address.

4. An advertising self-regulatory authority must have in place a collegial body for the examination of infringements of a code and adoption of decisions regarding these infringements. The collegial body shall act in compliance with the rules of procedure approved by the advertising self-regulatory authority.

5. A code, the procedure for exercising supervision of compliance therewith and decisions on infringements of the code shall be published on the website of an advertising self-regulatory authority.

6. If the operator fails to comply with a decision of an advertising self-regulatory authority regarding an infringement of a code and there is factual evidence providing reasonable grounds to suspect that the requirements stipulated in this Law have been infringed, the

advertising self-regulatory authority must notify competent supervisory authorities of such an infringement.

### **Article 21. Rights and duties of the supervisory authorities**

1. In supervising the implementation of the requirements stipulated in this Law, the supervisory authorities shall have the right:

1) to obtain from state and municipal institutions and bodies and other persons the information and documents necessary for the investigation of an infringement of the requirements stipulated in this Law;

2) to obtain from operators of advertising activity the information and documents and, where necessary, samples of advertised goods and advertising required for the investigation of an infringement of the requirements stipulated in this Law. Upon completion of the investigation of the infringement or, where a resolution of the supervisory authorities has been appealed against to court, upon the coming into effect of a decision of the court, the samples of advertised goods and original copies of operational documents must be returned to the operators of advertising activity at the request thereof;

3) to request operators of advertising activity or heads thereof and other persons responsible for the use of advertising to appear and provide oral or written explanations;

4) to adopt, in urgent cases and provided that there is sufficient information that the advertising disseminated or planned to be disseminated may be recognised as not conforming to the requirements stipulated in this Law and would incur damage to other economic entities or public interests or lead to irreparable consequences, a resolution to impose a temporary measure, that is, the obligation to suspend dissemination of advertising until adoption of the resolution indicated in Article 25(17) of this Law. Prior to adopting a resolution to impose a temporary measure, that is, the obligation to suspend dissemination of advertising, the supervisory authority must provide the operator of advertising activity suspected of infringing the requirements stipulated in this Law with a possibility to provide explanations within the time limit laid down by it;

5) to impose on operators of advertising activity the obligation to terminate the use of advertising which does not meet the requirements stipulated in this Law;

6) to inform operators of advertising activity in writing that their actions may contain elements of an infringement of the requirements stipulated in this Law and propose that they terminate the use of such advertising or replace it;

7) to impose fines in the cases established by law.

2. In addition to the rights stipulated in paragraph 1 of this Article, the Competition Council shall have:

1) the right to impose on the operators of advertising activity whose advertising is recognised as misleading or unlawful comparative advertising the obligation to refute it and to lay down time limits, procedure for and conditions of compliance with this obligation;

2) the rights granted to the competent authority under Regulation (EC) No 2006/2004 in so far as it is related to functions of the Competition Council in supervising whether advertising is misleading and comparative advertising;

3) the right to identify priorities of activities of the Competition Council in exercising supervision of the use of advertising, which shall be published on the website of the Competition Council.

3. The staff of the supervisory authorities shall be prohibited from disclosing the commercial secrets of operators of advertising activity entrusted to them, except for the cases stipulated by law.

## **CHAPTER SIX**

### **LIABILITY FOR INFRINGEMENTS OF THE REQUIREMENTS STIPULATED IN THIS LAW AND THE PROCEDURE FOR IMPOSING IT**

#### **Article 22. Liability for infringements of the requirements stipulated in this Law**

1. Operators of advertising activity in breach of the requirements stipulated in this Law, with the exception of natural persons, shall be held liable under this Law.

2. For infringements of the requirements stipulated in this Law, natural persons shall be subject to administrative liability stipulated by law.

#### **Article 23. Features of liability for the use of advertising not conforming to the requirements stipulated in this Law**

1. The supplier of advertising shall be held liable for the use of advertising not conforming to the requirements stipulated in this Law, unless he proves that the requirements stipulated in this Law have been infringed due to no fault of his.

2. The provider of advertising services shall be held liable for the use of advertising not conforming to the requirements stipulated in this Law only in the cases when it was aware or ought to have been aware that advertising not conforming to the requirements stipulated in this Law was used or the requirements stipulated in this Law have been infringed due to his actions

in producing or publishing advertising, or the provider of advertising services is unable to provide evidence that would allow to identify the supplier of advertising/producer of advertising.

#### **Article 24. Fines**

1. Operators of advertising activity may be subject to a fine in the amount from EUR 289 to EUR 8 688 for non-compliance with the requirements stipulated in Articles 4, 5, 6, 7, 8, 9, 11, 13, 14, 15, 16, 17 and 18 of this Law. In the event that an infringement of the requirements stipulated in Article 5 or 6 of this Law is repeated within one year from the imposition of the fine, the operators of advertising activity may be imposed a larger fine of up to EUR 34 754.

2. For non-compliance with the provisional obligation to terminate dissemination of advertising as imposed by the supervisory authorities, non-compliance with the obligation to terminate the use of advertising not conforming to the requirements stipulated in this Law or inadequate compliance therewith, repeat use of advertising which the operator of advertising activity has been under the obligation to terminate, where this results in an infringement of the requirements stipulated in this Law, or for non-compliance with the obligation to refute misleading or unlawful comparative advertising as imposed by the Competition Council or inadequate compliance therewith, operators of advertising activity shall be subject to a fine in the amount of EUR 289 for each day of non-compliance with the obligations, inadequate compliance or repeat use of advertising.

3. For non-compliance with the request of the supervisory authorities to furnish information and submit documents and, where necessary, also samples of advertised goods and advertising required for the investigation of an infringement of the requirements stipulated in this Law or inadequate compliance therewith, operators of advertising activity shall be subject to a fine in the amount from EUR 289 to EUR 2896.

4. For non-compliance with the requirements stipulated in Article 12(1), (2), (4) and (12) of this Law, operators of advertising activity may be subject to a fine in the amount from EUR 289 to EUR 2896.

5. The amount of the fine imposed shall be determined according to the average of the minimum and maximum fine and taking account of the mitigating and aggravating circumstances stipulated in paragraphs 7 and 8 of this Article, the nature of an infringement, the duration and scope thereof.

6. The court hearing a complaint concerning a resolution of the supervisory authorities shall, taking into account mitigating and any other circumstances (due to which a respective fine imposed on the operator of advertising activity that has committed an infringement of this Law would be manifestly excessive because it would be disproportionate to the committed



infringement and therefore unfair) and acting in compliance with the criteria of fairness and reasonableness, have the right to impose a fine smaller than the minimum fine stipulated in the respective paragraph of this Article.

7. Actions of the operator of advertising activity that has committed an infringement of requirements stipulated in this Law, where they have been taken on its own initiative to prevent the harmful consequences of the infringement, acknowledgement of the commission of the infringement and its assistance to the supervisory authorities in the course of the investigation, compensation for losses or elimination of the damage done shall be considered as mitigating circumstances. Actions of the operator of advertising activity whereby it has assumed the obligations stipulated in a code, had observed them prior to the commission of the infringement of the requirements stipulated in this Law and has submitted a document of advertising self-regulatory authority evidencing this fact may also be considered as mitigating circumstances.

8. Actions of the operator of advertising activity whereby it hinders the investigation, continues an infringement of the requirements stipulated in this Law despite the obligation to terminate it, where damage is incurred to consumers of advertising or to other persons or the infringement is repeated within one year from the imposition of a fine provided for in this Law, shall be considered as aggravating circumstances.

9. The amount of a fine imposed for infringements indicated in the first sentence of paragraph 1 of this Article and paragraphs 2, 3 and 4 of this Article shall not exceed 3 percent of the annual income of the operator of advertising activity during the last financial year, and for infringements indicated in the second sentence of paragraph 1 of this Article – 6 percent of the annual income of the operator of advertising activity during the last financial year. Where the operator of advertising activity pursues activities for a period less than one year, account shall be taken of the income thereof during the current financial year.

10. A fine may be imposed not later than within one year from the last day of dissemination of advertising, in the cases specified in paragraphs 2 and 3 of this Article – from the adoption of a decision of the supervisory authority, and in the cases specified in paragraph 4 of this Article – from the detection of an infringement. Where the supplier of advertising indicates in advertising the obligations extending over a certain period, the fine may be imposed within one year from the last day of the period of duration of the obligations, but not later than within three years from the last day of dissemination of advertising.

**Article 25. Procedure for examining infringements of the requirements stipulated in this Law**

1. Infringements of the requirements stipulated in this Law shall be examined in accordance with the procedure laid down in this Article and by legal acts approved by the supervisory authorities.

2. The right to request to commence the examination of infringements of the requirements stipulated in this Law shall be granted to the persons whose interests have been violated, state and municipal institutions and bodies and the associations representing interests of individuals (hereinafter: 'applicants').

3. The supervisory authority shall have the right to commence the examination of infringements of the requirements stipulated in this Law at its own discretion by adopting a reasoned resolution. In this case, the provisions of paragraphs 8-19 of this Article shall apply *mutatis mutandis*.

4. A report/complaint concerning an infringement of the requirements stipulated in this Law must be submitted in writing. The report/complaint must indicate:

1) the applicant's name, surname and address (if the applicant is a natural person) or name, registration number, address of the registered office (if the applicant is a legal person) and contact data;

2) factual elements of the infringement of the requirements stipulated in this Law whereof the applicant is aware, and evidence thereof must be attached to the report/complaint.

5. The examination of a report/complaint shall be refused by a reasoned resolution of the supervisory authority or by a reasoned decision of an authorised official thereof where:

1) the examination of the infringement of the requirements stipulated in this Law as referred to in the report/complaint does not fall within the remit of the supervisory authority. In this case, the report/complaint shall, in accordance with the procedure and within the time limits laid down by the Law of the Republic of Lithuania on Public Administration, be transferred to an entity of public administration having the necessary powers, which shall be notified to the applicant, or, if there is no other entity of public administration whereto the report/complaint could be transferred for examination within its remit, an appropriate notice shall be given to the applicant;

2) the facts contained in the report/complaint have already been examined, the court or the supervisory authority has taken a decision thereon;

3) more than one year has lapsed from the commission of the infringement of the requirements stipulated in this Law or, in the event of a continuing infringement or where the supplier of advertising indicates in advertising the obligations extending over a certain period - from the transpiration of the infringement;

4) the report/complaint does not conform to the requirements set therefor, and the applicant fails to eliminate shortcomings of the report/complain within the time limit of five working days as laid down by the supervisory authority;

5) there is no factual evidence providing reasonable grounds to suspect that this Law has been infringed, and the applicant fails, without valid reason within a period of not less than five working days established by the supervisory authority, to submit the documents and data supporting his report/complaint;

6) the facts contained in the report/complain are of minor significance and do not incur damage to the interests of persons protected by law.

6. The supervisory authority by a reasoned resolution or an authorised official thereof by a reasoned decision may also refuse to commence the examination of a report/complaint where the advertising self-regulatory authority submits to the supervisory authority a document certifying that the facts contained in the report/complaint have already been examined, the advertising self-regulatory authority has taken a decision thereon, and the operator of advertising activity that has committed an infringement of the requirements stipulated in this Law has terminated the infringement.

7. In addition to the cases of refusal to examine the report/complain referred to in paragraphs 5 and 6 of this Article, the Competition Council or an authorised official thereof may refuse to commence the examination of the report/complaint if the examination of an infringement of the requirements stipulated in this Law as referred to in the report/complaint does not conform to priorities of activities of the Competition Council. This provision shall not apply if the report/complaint contains factual evidence providing reasonable grounds to suspect that the infringement incurs material damage to the interests of persons protected by law.

8. A reasoned resolution of the supervisory authority to commence the examination of a report/complaint, a reasoned resolution of the supervisory authority or a reasoned decision of an authorised official of the supervisory authority to refuse to commence the examination of the report/complaint must be adopted not later than within 30 calendar days from the receipt of the report/complaint, except for the cases indicated in points 1, 2 and 3 of paragraph 5 of this Article. A notice of the adopted resolution of the supervisory authority or the decision of the authorised official of the supervisory authority shall be given to the applicant in writing not later than within three working days from the adoption of the resolution or the decision. In the cases indicated in points 1, 2 and 3 of paragraph 5 of this Article, a reasoned resolution of the supervisory authority or a reasoned decision of an authorised official of the supervisory authority to refuse to commence the examination of the report/complaint must be adopted, and the

applicant must be notified thereof, not later than within five working days from the receipt of the report/complaint.

9. After the supervisory authority adopts a resolution to commence the examination of a report/complaint, authorised officials thereof shall, in accordance with the procedure laid down by the supervisory authority, conduct investigation in relation to the report/complaint and draw up an investigation document. In the cases when investigation in relation to the report/complaint is conducted and the investigation document is drawn up by officials authorised by the State Food and Veterinary Service, the investigation document shall, not later than within three working days from the drawing up thereof, be forwarded to the State Consumer Rights Protection Authority for examination.

10. The examination of a report/complaint shall be attended by the operator of advertising activity in respect of acts/omissions whereof the examination has been commenced, the applicant and experts, professionals and other persons by a decision of the supervisory authority (hereinafter: ‘participants in the examination of a report/complaint’).

11. Participants in the examination of a report/complaint may be represented by their representatives under law or under mandate.

12. The supervisory authority shall, upon commencing the examination of a report/complaint, refer in writing to the operator of advertising activity in respect of acts/omissions whereof the examination has been commenced and shall request to submit a reasoned explanation regarding the circumstances due to which the examination has been commenced and supporting evidence within a time limit of not less than 14 calendar days as laid down by the supervisory authority.

13. Participants in the examination of a report/complaint shall, during the examination of the report/complaint, have the right to provide oral or written explanations, submit additional information and other documents and also, upon the receipt of the information indicated in paragraph 15 of this Article concerning the examination of the report/complaint at the supervisory authority, get access to the documents and other information received, with the exception of the documents and information which constitute a state, official, commercial or professional secret. In order to access the documents containing commercial secrets, it shall be necessary to receive the consent of the operator of advertising activity whose documents containing commercial secrets are sought to be accessed.

14. The supervisory authority shall examine a report/complaint in accordance with the written or oral procedure.

15. Participants in the examination of a report/complaint shall, not later than 21 calendar days prior to the examination of the report/complaint at the supervisory authority, be notified by

registered mail about the potential infringements of the requirements stipulated in this Law, the venue and time of examination of the report/complaint and the procedure for examining the report/complaint and shall also be offered to get access to the documents and other information received, with the exception of the documents and information which constitute a state, official, commercial or professional secret, and to provide written explanations not later than seven calendar days prior to the examination of the report/complaint at the supervisory authority.

16. Where in the case of examination of a report/complaint in accordance with the oral procedure, participants in the examination of the report/complaint are not present during the examination of the report/complaint, the report/complaint may be examined only if it can be proved that the participants in the examination of the report/complaint have been properly and timely notified of the time and venue of examination of the report/complaint.

17. Upon completion of the examination of a report/complaint by the supervisory authority, a collegial body or a person authorised in accordance with the procedure laid down by legal acts shall adopt a resolution to impose the fines provided for by this Law or, in the absence of an infringement of the requirements stipulated in this Law, to terminate the examination of the report/complaint. In addition to a fine, the operator of advertising activity may be imposed the obligation to terminate the use of advertising not conforming to the requirements stipulated in this Law and/or to refute advertising which has been recognised as misleading or unlawful comparative. The following must be specified in the resolution:

- 1) the name of the supervisory authority;
- 2) the date and place of adoption of the decision;
- 3) data of the collegial body/person that adopted by the decision, the secretary of the meeting, participants of the examination of the report/complaint;
- 4) data on the operator of advertising activity in respect of whose acts/omissions the resolution has been adopted;
- 5) the established factual elements of the infringement of the requirements stipulated in this Law;
- 6) evidence of the fact of the infringement of the requirements stipulated in this Law whereon the resolution relies;
- 7) grounds for the imposition of the fine and the amount of the fine;
- 8) the relevant article of this Law establishing liability for the infringement;
- 9) explanations provided by the operator of advertising activity in respect of acts/omissions whereof the decision has been adopted and their assessment;
- 10) the decision adopted;
- 11) the procedure for and time limit of implementing the resolution;

12) time limits and the procedure for appealing against the resolution.

18. Resolutions of the supervisory authority shall, within three working days from adoption thereof, be published on the website of the supervisory authority which has adopted them and forwarded to the persons in respect whereof the resolutions have been adopted.

19. Infringements of the requirements stipulated in this Law must be examined and a resolution referred to in paragraph 17 of this Article must be adopted not later than within six months from the adoption of a resolution of the supervisory authority to commence the examination of an infringement of the requirements stipulated in this Law. This time limit may be extended for a period not exceeding six months by a reasoned resolution of the supervisory authority.

#### **Article 26. Recovery of fines**

1. A fine imposed by the supervisory authority shall be paid into the state budget not later than within one month from the adoption of a resolution on the imposition of the fine.

2. At a reasoned request of the operator of advertising activity, the supervisory authority shall have the right to defer the payment of a fine or a part thereof for a period of up to three months, provided that the operator of advertising activity is unable to pay the fine in time for objective reasons.

3. A resolution of the supervisory authority on the imposition of a fine shall be an enforceable document to be enforced in accordance with the procedure laid down by the Code of Civil Procedure of the Republic of Lithuania.

#### **Article 27. Appeal against resolutions of the supervisory authority and decisions of authorised officials thereof**

1. The operator of advertising activity in respect of whose acts/omissions a resolution is adopted, the applicant who disagrees with the resolution of the supervisory authority adopted in compliance with Article 21(1)(4) or Article 25(17) of this Law or the applicant who disagrees with the resolution of the supervisory authority or the decision of an authorised official thereof taken in compliance with Article 25(5), (6) and (7) of this Law shall have the right, within 30 calendar days from the adoption of the resolution or the decision, appeal against it to court according to the procedure established by the Law of the Republic of Lithuania on Administrative Proceedings.

2. An appeal to court shall not interrupt the implementation of a resolution, unless the court rules otherwise.

## **Article 28. Defence of rights**

1. The persons whose rights and interests protected by law are violated while using the advertising prohibited under this Law shall have the right to refer to court in accordance with the procedure established by law with a claim on:

- 1) termination of the use of advertising;
- 2) compensation for the damage incurred;
- 3) obligation to publish one, two or more statements of a specific content and form refuting misleading advertising.

2. Organisations representing the interests of operators of economic activity or consumers of advertising and advertising self-regulatory authorities shall also enjoy the rights specified in points 1 and 3 of paragraph 1 of this Article.

*I promulgate this Law passed by the Seimas of the Republic of Lithuania.*

PRESIDENT OF THE REPUBLIC

VALDAS ADAMKUS

Annex to  
the Law of the Republic of Lithuania  
on Advertising

## **LEGAL ACTS OF THE EUROPEAN UNION IMPLEMENTED BY THIS LAW**

1. Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation) (OJ 2004 L 364, page 1).
2. Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive') (OJ 2005 L 149, page 22).
3. Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising (codified version) (OJ 2006 L 376, p. 21).

4. Commission Directive 2006/141/EC of 22 December 2006 on infant formulae and follow-on formulae and amending Directive 1999/21/EC (OJ 2006 L 401, p. 1).
5. Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products (OJ 2009 L 342, p. 59).
6. Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products (OJ 2012 L 167, p. 1).