

General Regulation of Advertising Activities on the Example of the Republic of Uzbekistan

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Abstract: The increasing role of advertising among business entities and consumers brings to the fore the issues of protecting the rights and legitimate interests of consumers from inappropriate and unfair advertising content, along with protecting the rights of persons engaged in entrepreneurial activities from permissible signs of unfair competition in the advertising market. For this reason, in order to avoid the noted adverse consequences, it is worth revising the concept of advertising as an object of legal regulation and analyzing the legal nature of relations in this area. The main purpose of the study is a comprehensive study of international legal standards for advertising regulation with the simultaneous identification of the degree of effectiveness of the functioning of the advertising regulation system both at the national and international levels, as well as providing a legal basis for the recommended changes to the legislation.

Keywords: advertising law, marketing regulation, consumer protection, basic principles, Code of Ethics.

Introduction

Nowadays, when the competitiveness of business entities is determined by regulatory restrictions, advertising is considered to be one of the main means of promoting goods that provide conditions for competitiveness. The problematic range of issues associated with this term is determined by the establishment of the essence of advertising as an object of legal regulation, and therefore, the direct definition of the concept of "advertising".

In the scientific literature, the concept of "advertising" is defined by various definitions. So, if some experts perceive advertising as a specific kind of information, others adhere to the point of view of the need to recognize advertising as a process of certain activities [1]. However, the most priority for us remains the legislative definition of advertising in order to understand its essence as an object of legal regulation.

The Law of the Republic of Uzbekistan dated December 25, 1998 "On Advertising" defines advertising as "special information disseminated in accordance with the legislation in any form, using any means about a legal or natural person, products, including a trademark, service mark and technologies for the purpose of direct or indirect profit (income)"[2]. In this case, we see that the legislator defines advertising primarily through the concept of information. Information as an independent term comes from the Latin word *informatio*, which in turn translated as an explanation, presentation. That is, information transmitted by people orally, in writing or in another way (using conventional signals, technical means, etc.) [3]. At the same time, advertising is a complex phenomenon, which explains the existence of different points of view in the literature. Such a variety of theoretical approaches is explained, on the one hand, by the economic essence of advertising, and, on the other hand, by the presence of the legal characteristics of this phenomenon. So, again referring to the origin of the word "advertising", it owes this to the Latin word *reclamare*, which means "to shout loudly". The identification of the concepts of "advertising" and "advertising information" is not welcomed by most researchers in the field of advertising, for example, D.V. Khokhlov believes that the definition of advertising as information needs to be clarified, and the consideration of advertising through the concept of information does not take into account its intensive active nature. This point of view is also supported by I.V. Chubukova - a specialist in the field of administrative law, who gives a definition according to which "advertising information is information on an advertising medium, that is, already created in the form of a video, a layout, etc., but not yet widespread and, as a result, not possessing the targeting attribute. Advertising acquires its specific status precisely from the

moment of distribution”[4]. Such a comparison of the two concepts, or rather the definition of the concept of advertising by means of information, which in consequence leads to the consideration of these two terms as synonymous, may be explained by the inconsistency of the content of the concepts generally accepted in rule-making and science, those relations that have already developed and continue to improve at the present time.

Basic approaches

Taking into account the peculiarities of advertising, which is of a dual nature as an economic and legal element of market relations, the issue of forming an appropriate regulatory framework for regulating advertising activities is brought to the fore, bearing in mind at the same time minimal government interference in this area. Advertising business in Uzbekistan in its modern format is associated with our country's gaining independence and Uzbekistan's transition to market relations, the formation of a segment of private property in the republic and, accordingly, increased market competition for the provision of goods and services, Uzbekistan's desire to join the world market [5]. However, in our country, the legal regulation of advertising, in contrast to other institutions of the market economy, began to operate much later. In particular, despite the fact that the Republic of Uzbekistan began the transition to market relations after gaining independence, that is, in 1990-1991, the first special law regulating advertising relations was not adopted immediately. In addition, the regulatory framework governing this area of activity in our country in a market economy has not yet been developed or could not cover everything related to the advertising sector, which in turn requires a separate study and analysis of the process of developing a regulatory framework for advertising relations. So, as noted by B.K. Khodzhaev, conditionally this process can be considered by dividing it into three time periods:

a) *The period before 1991.* During this period, the mechanism of the state's legal influence on advertising relations did not exist in practice, that is, the legislation did not reflect the legal norm aimed at direct regulation of advertising, in particular, the provision of advertising services [1-6]. This is due to the fact that in the command-administrative economy there was only one form of ownership - state ownership, therefore, competition between enterprises due to the prevailing state ownership and the mechanism that moves under its influence did not exist, which also does not allow advertising to function as an independent market element. Although some scholars point out that advertising was already in effect during the New Economic Policy of 1917-1924, it cannot be said with certainty that the flow of information defined as “advertising” at that time could be equated with the status of “advertising” in a competitive market economy.

b) *1991-1998* –that is, the period when the legal framework for advertising began to form. During this period, the legal regulation of advertising services, in general, advertising itself was “fragmentary”. During this period, the regulatory framework governing advertising services was scattered, that is, fragmented in various bylaws, and has not yet been integrated into a single system. In addition, during this period, only certain aspects of advertising were regulated (for example, advertising costs, advertising taxes, etc.). That is why this period in the history of advertising has been called the “fragmentary period of advertising”.

c) the third, that is, the last period of development of the national advertising legislation, is called the “systematized period of advertising” and covers the *period from 1998 to the present*. The beginning of this period of advertising legislation is directly related to the adoption of the Law of the Republic of Uzbekistan “On Advertising” [6].

To date, the regulation of advertising activities at the national level in the Republic of Uzbekistan is carried out within the framework of specialized regulatory legal acts, which include laws and decrees of the President of the Republic of Uzbekistan, decisions of the Government, as well as other departmental acts. As noted above, the Law of the Republic of Uzbekistan “On Advertising” is considered the main document in the field of advertising, which has existed for more than 20 years (since 1998), and, accordingly, requires updating. In this regard, a draft of the new edition of the Law “On Advertising” was submitted for discussion, which may meet the new requirements of the market.

In addition to the Law "On Advertising", the range of legal sources aimed at regulating the advertising sphere: the Laws of the Republic of Uzbekistan "On Competition", "On Protection of Consumer Rights", the Civil Code of the Republic of Uzbekistan, the Code of Administrative Responsibility, which regulate the standards for the activities of business entities in the advertising market, as well as a number of other regulations aimed at determining the authorized bodies for the implementation of state control of advertising activities.

In today's environment, where mutual trust between advertisers, regulators and consumers is being eroded by increased cases of delinquency, it becomes necessary to establish guidelines and rules. The foundations of legal regulation of advertising are reflected not only in the previously listed regulatory documents, but also in the most important principles of advertising ethics that are universally guided at the international level [7-12]. They are based on the premise that all forms of communication, including advertising, must always do what is right for consumers and act in their best interest.

One of the basic principles of advertising is that advertising should not undermine public confidence in advertising. As Jeff Levick, Head of Advertising for AOL Inc, notes, "It is very important for the industry to recognize and accept that advertising is commercial information that must be handled with the same precision and ethics as editorial information. Advertising is extremely important to consumers and to our market economy. It provides consumers with information about the products and services they are interested in and stimulates competition. For these reasons, the government filed lawsuits to prohibit its restriction to private groups, and the Supreme Court ruled that truthful commercial speech is protected under the First Amendment of the US Constitution" [7]. Research confirms the high value that consumers attach to honest and ethical advertising, as it is this factor that determines how companies and enterprises meet high ethical standards, while forming the basis for consumer confidence.

The next principle implies that no advertising should mislead or deceive the consumer. This refers to avoiding ambiguity or exaggerated claims in advertising content that could lead to misconceptions among consumers [13-17]. Such restrictions in most cases relate to advertising of medicines, since the slightest omission of essential facts can lead to adverse consequences and make all advertising false. The New Zealand Advertising Code of Ethics cites the principle in question as a Fair Presentation Rule, and specifies that advertisements must not contain any statements or visual representations or create an overall impression that, directly or indirectly, by omission, ambiguity or exaggerated statement, introduces or may mislead the consumer, misrepresent, abuse the consumer's confidence, or exploit his or her lack of experience or knowledge. (Obvious hyperbole, identified as such, is not considered as misleading) [8].

The third principle assumes that all advertisements must be prepared with an appropriate sense of social responsibility towards consumers and society. It should be noted here that the listed principles are intended to serve as guidelines for professionals in the performance of their professional duties. The importance of advertising to consumers and the economy can motivate professionals to adhere to the highest ethical standards. Adam Werbach, Director of Sustainability at Saatchi & Saatchi (in 2010) commented: "As new professionals enter the advertising world, it is imperative that they understand the importance of high ethics to their consumers and their careers. More and more companies will include ethics in their performance evaluations in the future".

Finally, the last guiding principle states that any advertising must respect the principles of free and fair competition generally accepted in business. In terms of its semantic load, this principle is a universal principle, since it is this principle that underlies the business ethics of most large enterprises and organizations. In particular, from the point of view of advertising activities, this principle is to avoid the use of comparisons or certain types of techniques that can demean competitors or their products. The use of information about someone else's product without factual data, again, may indicate inaccuracy of information and be considered as one of the signs of unfair competition.

Conclusion

The above principles, as noted earlier, are applied everywhere in many countries, taking into account the peculiarities of their legal systems. Like advertising itself, advertising standards need to be tailored to suit national contexts to accommodate the different social, cultural and linguistic preferences of consumers. Accordingly, the current Law of the Republic of Uzbekistan "On Advertising" establishes a number of requirements, which include legality, accuracy, reliability, the use of forms and means that do not cause losses to the consumer of advertising, as well as moral harm. These requirements are ensured by compliance with all conditions assumed in the creation and placement of advertising content.

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