



BOTSWANA COMMUNICATIONS REGULATORY AUTHORITY



CODE OF ADVERTISING FOR BROADCASTING

BOCRA DECEMBER 2019

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1. INTRODUCTION

- 1.1. Botswana Communications Regulatory Authority (BOCRA) has been mandated through the Communications Regulatory Act [No. 19 of 2012] (CRA Act) to regulate the communications sector in Botswana, comprising telecommunications, internet and information and communication technologies, radio communications, broadcasting, postal services and related matters. BOCRA has further been mandated as per Section 6 (2) (r) of the CRA Act to make industry regulations necessary for its responsibilities under the Act such as Code and rules of conduct. It is in this light that the Authority developed the Advertising Code for Broadcasting or the Code.
- 1.2. Advertising is a vital element of the economy used to inform consumers of the different products and services available. Effective advertising regulation helps ensure that advertising is responsible and can be trusted. The Code will provide guidance to broadcasters in day to day operations. All advertisements should be legal, decent, honest and truthful and should not mislead the audience. All advertisements should be prepared with a sense of responsibility both to the consumer and to the society. All advertisements should conform to the principles of fair competition as generally accepted in business.

2. AIM OF THE CODE

- 2.1. This Code of Conduct aims at giving general rules to all broadcasting service licensees on advertising principles. It is further designed to inform all advertisers or potential advertisers on the expected content and scheduling of advertisements. It will set ideal standards and rules which will guide advertisers and broadcasters in giving consumers the right information to enable them to decide what is good or bad for them.

- 2.2. It will further protect and promote the interests of audiences, consumers, purchasers and other users of the services advertised in the regulated sectors, particularly in respect of the delivery of a product or service as advertised.
- 2.3. It will ensure that the broadcasters are not capped or controlled by advertisers.
- 2.4. This Code does not seek to replace or substitute any law or legislation relating to advertising, but rather complements such. This Code therefore does not absolve a Broadcaster from compliance to other laws and legislation relating to advertising.

3. SCOPE

- 3.1. The Code shall apply to all advertisements that are aired in broadcasting platforms regulated in accordance with the Communications Regulatory Authority Act, 2012 [No. 19 of 2012].
- 3.2. It shall further apply to all sponsored programmes on the regulated platforms.

4. RATIONALE OR BACKGROUND

- 4.1. Broadcasting in Botswana has grown, particularly in the number of available platforms and the audience that can be reached. This has greatly increased opportunity for advertising in the broadcast space. However due to the absence of Advertising Board in Botswana, it has been necessary for the Authority to create a common and predictable environment for broadcasters, advertisers and consumers on advertising through this Code.
- 4.2. The general objective of this Code is to ensure that non-offensive advertisements are carried on regulated broadcasting mediums, and that relevant advertisements are placed at appropriate times and are not wrongfully used to, *inter alia*, incite crime or hatred in Botswana.

- 4.3. The current broadcasting licences contain some clauses on fairness in Advertising but there is no specific guidance on how licensees should deal with advertisements of certain products, to certain audiences including allowable scheduling of such advertisements.

5. DEFINITIONS

- 5.1. In this Code of Conduct, any word to which a meaning has been assigned in the Communications Regulatory Authority Act, 2012 [No. 19 of 2012] shall have that meaning unless the context otherwise indicates:
- 5.2. **“Advertising”** means the broadcasting or distribution, by any means, of any item or information which is intended to promote a cause or to inform or influence its recipients, in return for payment or other valuable consideration.
- 5.3. **“Advertisement”** is any item which is broadcast or distributed for the purposes of advertising.
- 5.4. **“Advertiser”** means an entity or a person, at whose instance the advertising appears, or who stands to benefit commercially from advertising.
- 5.5. **“Authority”** means the Botswana Communications Regulatory Authority established under the CRA Act.
- 5.6. **“Broadcasting”** has the same meaning as defined in Section 2 of the CRA Act [No. 19 of 2012];
- 5.7. **“Child”** has the same meaning as defined in the Children’s Act [No.8 of 2009]
- 5.8. **“Decent”** means conforming with generally accepted community standards of respectable or moral behaviour.
- 5.9. **“Gambling”** shall have the same meaning as defined in the Gambling Act of 2012;

- 5.10. **“Infomercial”** means any advertising broadcast in visual or audio form, lasting for more than two minutes, which may contain demonstrations of the use of the product or service advertised, entailing direct offers to the public in return for payment, and which results in the broadcaster receiving payment in monetary terms or otherwise
- 5.11. **“Licensee”** means a service provider or operator licenced under the Act by the Authority.
- 5.12. **“Medicine”** shall have the same meaning as defined in the Medicines and Related Substances Act of 2013.
- 5.13. **“Product Placement”** in relation to a broadcasting service, is an advertising technique in which specific products or services are featured in programmes.
- 5.14. **“Programme”** in relation to a broadcasting service, means visual information or sound, or a combination of visual information and sound, which inform, enlighten or entertain the general public, and includes –
- 5.14.1. advertising or sponsorship material, whether of a commercial nature or not; and
 - 5.14.2. news bulletins, current affairs programmes, informative programmes, interviews, panel discussions and phone-in programmes;
- 5.15. **“Testimonial”** is an advertising method that highlights the end user’s statement extolling the virtue of a product, brand or service.
- 5.16. **“Watershed period”** means a period from 9.00 p.m. to 6.00 a.m. when material unsuitable for children may be broadcast.

6. GENERAL PRINCIPLES

- 6.1. **A licensee shall ensure that all advertisements conform to the Code.**
- 6.2. The general principle that govern all advertisements broadcast by a licensee is that they shall be lawful, decent, honest and in conformity with the principles of fair competition in business.
- 6.3. A licensee shall not unreasonably discriminate against or in favour of any advertiser.
- 6.4. No advertisement shall be accepted by a licensee if there is good reason to doubt its integrity of the truth, its representation and/or its compliance with all applicable legal requirements and legislation, including, but without limiting the generality of laws, the Consumer Protection Act, as may be amended from time to time.
- 6.5. All advertisements shall comply, in every respect, with other laws of Botswana and set professional standards.
- 6.6. No advertisement shall contain any item likely to encourage, incite crime, lead to disorder or be offensive to the public.
- 6.7. No advertisement shall be made with an intention to offend any person alive or dead, or the generality of the community.
- 6.8. The advertiser shall be clearly distinguished in all advertisements or the closing advertisement preceded by teasers.
- 6.9. Advertisements shall be clearly distinguishable and separate from the programmes and shall not, directly or indirectly, be presented as “programmes”.
- 6.10. Notwithstanding clauses 6.8 and 6.9 above, product placement is permitted within broadcast genres and programmes.

- 6.11. Advertisements featuring actors exploiting their acting roles must be packaged in such a way that the viewer is able to distinguish between their acting roles in an entertainment programme and an advertisement.
- 6.12. Every effort shall be made to keep the advertising message in harmony with the content and general tone of the programme in which it appears.
- 6.13. Statistics shall not be presented so as to imply a greater validity than they really are.
- 6.14. Jargons (Scientific, Legal etc) and irrelevancies shall not be so exaggerated as to make a claim appear to have a basis or universality it does not possess.
- 6.15. Newscasters personify the sacredness of news, therefore, a person who regularly presents news or current affairs programmes or similar factual programmes shall not feature, visually or vocally, in any advertisement.
- 6.16. Testimonials used in advertisements must be genuine and provable.
- 6.17. Any information in the form of captions, whether standing alone or superimposed, must be in a clearly readable text and held long enough for the viewer to read.
- 6.18. No advertisement shall be framed in such a manner as to exploit superstition.
- 6.19. The advertising of products and services that are not legal, approved, registered, licensed or subject to any regulation and not allowed in the country is not permitted.
- 6.20. Advertisements must not use visual illustrations that offend public taste and decency. In particular, no obscene exposure will be allowed in any advertisement. All advertisements must adhere to community standards.

- 6.21. Advertisements should not exploit sex, religion, culture and race in obvious or implied contexts, to promote discrimination or stereotypes by casting one group as inferior to the other.
- 6.22. The appeal to fear must not be used without justification in advertisements. Even where it is appropriate as in health and disease, caution must be exercised to ensure that dignity is maintained.
- 6.23. Advertisements must not popularise negative myths and superstitious beliefs, even when these are based on aspects of our culture.
- 6.24. Advertisements must not ridicule the religious beliefs of other people, nor deceive people into believing that miracles are common place events. The propagation of religious faith deserves utmost care.
- 6.25. Advertisements for household or industrial products that need to be handled with care must reflect concern for safety, especially about children and people with disabilities.
- 6.26. The rights of individuals to privacy must be respected. Pictures, voices and property of individuals should not be used arbitrarily without the prior consent of the rightful owners. Consent must be sought in writing from parents or guardians when dealing with children.
- 6.27. No advertisements shall contain any descriptions, claims or other material which may, directly or by implication, mislead members of the public in relation to the product or service advertised, or about its suitability for the purpose recommended; and
- 6.28. Advertisements shall offer a product or service on its positive merit and refrain from unduly discrediting or unfairly attacking competitors, competing products or services, other industries, professions or institutions.



- 6.29. Descriptions, claims or illustrations relating to verifiable facts shall be easily substantiated.
- 6.30. An advertisement shall not contain a copy which is exaggerated by reason of the improper use of words, phrases or expressions, such as “magic”, “magical”, “miracle”, “miraculous”, etc.

7. SPONSORSHIP

- 7.1. News bulletins shall not be sponsored but the licensee may accept sponsorship for segments such as weather, traffic, financial, technology, health and entertainment reports and as maybe defined from time to time
- 7.2. Subject to paragraph 7.1 (above) any programme may be sponsored provided that the licensee retains ultimate editorial control of the programme.
- 7.3. The Licensee shall ensure that sponsorship of information programmes does not compromise the impartiality and accuracy of the content of the programme.
- 7.4. Sponsor funding and contribution to programmes shall be clearly acknowledged immediately before and after the programme and any link between the programme’s subject matter and the sponsor’s commercial activities must be made clear.
- 7.5. Licensees shall not broadcast any programmes which have been sponsored by a political party or movement.
- 7.6. The Licensee shall not unreasonably discriminate against or be in favour of any particular sponsor.

8. Infomercials

- 8.1. An infomercial shall not be broadcast:
- 8.1.1. for a period exceeding three hours of the performance period in any day;

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8.1.2. during prime-time; or

8.1.3. during any break in the transmission of a children's programme.

8.2. A licensee shall ensure, either by visual or audio form, that the broadcast of any infomercial is distinguishable from any programme material broadcast.

9. CHILDREN AND ADVERTISING

9.1. A licensee should be cautious when placing an advertisement on children programming as children may not be able to distinguish the media world from the real world and hence will be vulnerable to exhibiting copycat behaviour. It is therefore critical to ensure that advertisements placed on children programming do not need children to be under parental supervision.

9.2. No advertisement for alcoholic beverages or any product/service legally not allowed for child consumption will be allowed in children's programmes.

9.3. The depiction of violence against people, products or other objects must be avoided.

9.4. Advertisement for a product or service shall not contain any appeal which suggests in any way that unless the children buy the products, they will be failing or lacking in any way towards some person or organization.

9.5. Advertisement shall not lead children to feel inferior to other children because they or their parents do not own the product advertised, or that they are liable to be ridiculed for not owning it.

9.6. In offering a gift, a premium or a competition for children, the emphasis of the advertisement shall be only on the product with which the offer is associated.

9.7. In advertising a competition for children, the rules shall be published, and the value of prizes and the chances of winning shall not be exaggerated.

10. ALCOHOL AND TOBACCO

- 10.1. Tobacco advertising is prohibited on all kinds of broadcasting services in line with the Control of Smoking (Amendment) Act, 2004-Act No 28 of 2004.
- 10.2. Broadcasters should use caution when placing advertisement for alcohol so as not to air the advertisement when most children are watching television or listening to the radio. Advertisements for alcoholic drinks should not target audiences under the age of 18.

11. MEDICINES

- 11.1. The advertising of medicines shall, in so far as applicable, comply with the Medicines and Related Substances Act of 2013, in particular Section 46 thereof, as may be amended from time to time.
- 11.2. For any avoidance of doubt, the advertising of medicines, shall not, by word, illustration or by any other way give any false, misleading, or deceptive information concerning the properties of the medicine, or information which is likely to encourage wrong or excessive use of the medicine.
- 11.3. The advertising of medicines which may be dispensed without prescription shall not include promises of unfailing results or expressions or illustrations of a nature likely to offend or intimidate the audience, or make reference to symptoms in a manner likely to induce the audience to make wrong diagnosis.
- 11.4. An advertisement shall not be broadcast if it:
 - 11.4.1. contains material which describes or dramatizes distress in an offensive manner.
 - 11.4.2. contains an offer of a medicine or product, or an advice relating to the treatment of serious diseases, complaints, conditions, indications or symptoms which should rightly receive the attention of a registered

medical practitioner and unless such medicine has been proved by a competent authority to do so.

- 11.4.3. contains medication that is dispensed solely by prescription from a medical practitioner.
- 11.5. contains expressions such as “inducing abortion”, “Never known to fail”, etc.
- 11.6. offers any medication, health product, treatment for beauty, slimming, weight reduction or figure control, without stating the likely side-effects.
- 11.7. contains any offer to diagnose or treat complaints or conditions by hypnosis.

12. INTIMATE PRODUCTS AND GAMBLING SERVICES

- 12.1. Caution must be exercised when broadcasting an advertisement or Community Service Announcement for condoms or other contraceptive products.
- 12.2. An advertisement of platform sex service (including a sex line) is prohibited.
- 12.3. Any gambling advertisement shall, in so far as applicable, comply with the Gambling Act of 2012, in particular Sections 105 as read with 106 thereof, as may be amended from time to time.
- 12.4. For any avoidance of doubt, an advertisement relating to gambling should not be made in a manner intended to target or attract children, and any advertisement relating to gambling shall include a warning against the dangers of addictive and compulsive gambling.
- 12.5. An advertisement relating to gambling must not be broadcast:
 - 12.5.1. outside the watershed period
 - 12.5.2. during news, current affairs and sports programs
 - 12.5.3. during any Program principally directed to Children.

12.6. The restrictions at clause 12.5 do not apply to the following:

12.6.1. an advertisement relating to entertainment or dining facilities at places where betting or gambling take place, or a tourism advertisement which incidentally depicts betting or gambling, provided in each case that the contents do not draw attention to betting or gambling in a manner calculated to directly promote their use.

13. COMPARISONS

13.1. Advertisements containing comparisons with other advertisers, or other products are permissible in the interest of vigorous competition and public information, provided they comply with the terms of the Code.

13.2. The subject matter of a comparison should not be chosen in such a way as to confer an artificial advantage upon the advertiser or to suggest that a better bargain is offered than is truly the case.

13.3. Points of comparison should be based on facts which can be substantiated and should not be unfairly selected. In particular:

13.3.1. The basis of comparison should be the same for all the products being compared and should be clearly stated in the advertisement so that it can be seen that like is being compared with like.

13.3.2. Where items are listed and compared with those of competitors' products, the list should be complete or else the advertisement should make clear that the items are only a selection.

14. COMPLAINTS PROCEDURE AND ENFORCEMENT

- 14.1. Broadcasters shall make available to BOCRA, complaints procedures that includes advertisements placed on the stations. Complaints procedures shall be broadcast regularly by the stations.
- 14.2. Broadcasters must appoint a person(s) who shall serve as their point of contact in relation to all matters applicable to this Code.
- 14.3. Any complaint should be presented as a written complaint to the broadcasting station concerned with a request for an appropriate correction, retraction or right to reply.
- 14.4. In a case where a complainant approached the licensee unaware of the complaints procedures the same shall be advised by the licensee on the procedures available.
- 14.5. In the event that a complaint is not resolved to the satisfaction of the aggrieved party the matter may be referred to BOCRA.

15. SCHEDULING ADVERTISEMENT

- 15.1. An advertisement must not exceed 40 seconds in duration.
- 15.2. No broadcast of advertisements shall cumulatively exceed twelve minutes for every 60 minutes programming.
- 15.3. A broadcaster shall exercise responsible judgement when scheduling categories of advertisement which may be unsuitable for children during periods when large numbers of children may be expected to be watching in line with the watershed period.

16. PENALTY

16.1. In the event of failure comply with this Code or breach of a licence condition by the Licensee, the Authority may impose such a fine or penalty in line with the CRA Act.

17. EFFECTIVE PERIOD

17.1. The Code of Advertising for Broadcasting shall be in force from.....

18. REVIEW

18.1. This Code of Conduct shall be reviewed from time to time to conform with local laws, regulatory requirements or when necessary in consultation with all stakeholders.

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