

**LAW OF MONGOLIA
ON ADVERTISEMENT**

May 30, 2002
Ulaanbaatar city

(Turiin medeel #23, 2002)

**CHAPTER ONE
GENERAL PROVISIONS**

Article 1. Purpose of the law

1.1. The purpose of this law is to regulate the relations related to the production, placement, dissemination and control of advertisement in the territory of Mongolia and prohibition of advertisements capable of causing conflict to fair competition, confusion and mislead to consumers, and harm to their interests.

Article 2. Application sphere of the law

2.1. This law shall apply to any advertisement produced, placed or distributed in the territory of Mongolia.

2.2. This law shall not apply to any political, religious or monastery advertisement and any news, information or announcements other than not related to trade and commercial activities.

2.3. If an international treaty to which Mongolia is a party is inconsistent with this law, then the provisions of the international treaty shall prevail.

Article 3. Terms of the law

3.1. For the purposes of this law, the following terms shall have the following meanings:

3.1.1. **"advertisement"** means the information disseminated through public mass media or other forms by citizen, organization and business entity with the purpose of expanding market demand and attracting potential consumers for their goods, services, projects or operations (hereinafter referred to as "the product");

3.1.2. **"advertisement subscriber"** means the person who ordered the advertisement to promote oneself or its products;

3.1.3. **"advertisement producer"** means the person who prepared the advertisement in accordance with subscriber's order for the public dissemination;

3.1.4. **"advertisement disseminator"** means the person who is placing and publicly distributing the advertisement by using or letting to use the media tools;

3.1.5. **"information means"** means the television, radio, communication network, computer network, special program, press and other tools.

Article 4. Use of intellectual values in advertisement

4.1. The use of intellectual values in advertisement shall be in accordance with provisions of Mongolian legislations and international treaties.

4.2. If the advertisement complies with the requirements provided in legislation of Mongolia, it shall be protected entirely or partially by the law and regulations on the intellectual property rights.

Article 5. Defense against advertisement discrediting personal honor, merit and business reputation

5.1. If the advertisement is discredited personal honor, merit and business reputation or violated provisions of items 21.1 and 21.2 of this law, or made incorrect comparisons down rating other's products or committed action stipulated in items 7.2.1 and 7.2.3 of this law, individuals or legal entities have the right to refute and demand compensation for losses.

CHAPTER TWO

GENERAL REQUIREMENTS AND RESTRICTIONS ON ADVERTISEMENT

Article 6. General requirements for production and dissemination of advertisement

6.1. An advertisement must be authentic, accessible and clearly recognizable as an advertisement regardless of the content, form of its dissemination means.

6.2. A printed advertisement related to activities that require license must include the name of the authority issued the license and the serial number of such permission.

6.3. In event of using statistical data, research results or documents in an advertisement, the relevant sources must be included.

6.4. Advertisement of hazardous and flammable goods must indicate the characteristics of such goods.

6.5. Following activities are prohibited in production and dissemination of advertisement:

6.5.1. any advertisement of activities that require license but such permission is not obtained:

6.5.2. advertisement of products prohibited to manufacture, trade or admit through the state border as provided by legislation of Mongolia;

6.5.3. advertisement of non-tariff restricted goods;

6.5.4. advertisement of non-certified products that are must be subject to mandatory standard, quality and hygiene certification as provided by the law;

6.5.5. advertisement that may cause conflicting actions or activities with the laws and regulations of Mongolia;

6.5.6. advertisement of project before the evaluation of environmental impact assessment of such project is carried out or after, despite of evaluation, a conclusion was drawn on impossibility of such project implementation;

6.5.7. advertisement that frightens or incites citizens to violence and pornography or may trigger actions or activities causing danger to human life, health and safety;

6.5.8. advertisement of goods, works or services that legally prohibited. .

Article 7. Illegal advertisement

7.1. The illegal advertisement includes improper, unauthentic, unethical and subliminal advertisements.

7.2. Following advertisements are understood as improper advertisement:

7.2.1. advertisement of own goods imitating other's;

7.2.2. advertisement that discredits other's honor, merit and business reputation;

7.2.3. advertisement that leaves out sufficient concrete information or misleads consumers taking advantage of their lack of knowledge and practical experience or their trusting nature.

7.3. Following advertisements that mislead consumers are understood as unauthentic:

7.3.1. product's purpose, composition, recipe, production method, manufactured date, characteristics, application method, expiry date, quality certificate, marks of conformity, guarantee of quality, quantity, volume, place of origin;

7.3.2. the presence of a quantity, volume of such good in the indicated, period of time and place, possibility of its purchase and realistic market demand and supply;

7.3.3. the cost of the good at the moment of dissemination of the advertisement;

7.3.4. additional conditions of payment;

7.3.5. exchange, repair and servicing conditions during product supply, transportation, installation, assembling and adjustment;

7.3.6. security guarantee for period of service and period of validity;

7.3.7. exclusive rights to use the results of intellectual values;

7.3.8. official recognition of advertisement subscriber, receipt or prizes, diplomas, certificates and other awards for the products;

7.3.9. citations from other's comments, observations, recommendations with regard to the advertisement subscriber and his products;

7.3.10. citations from results of research, experimentation, scientific definitions and other publications;

7.3.11. advertisement subscriber's own information, his address, operational field, objectives, experience and practice.

7.4. Following advertisements are understood as unethical:

7.4.1. down rated other's products;

7.4.2. denigrated national symbol, historic famous figure, national currency and religion of Mongolia or other countries;

7.4.3. misused the symbol and uniform of special state agents;

7.4.4. humiliated the works of art booked in national fund of historical and cultural values;

7.4.5. used offensive languages, comparisons and graphics insulting the nationality, language, race, origin, social status, age, gender, profession, education, religion and beliefs;

7.4.6. violated the morality, ethics and revered and valued traditions of Mongolians.

7.5. Advertisement that breached the provision of item 6.1 of this law and unconsciously influenced on the perception of the consumer is understood as subliminal advertisement.

7.6. Court may find an advertisement as an illegal advertisement by other reasons than those provided in Article 7 of this law in conformity with the content and principle of this law.

7.7. The subscription, production and dissemination of illegal advertisement prohibited.

CHAPTER THREE

PARTICULAR REQUIREMENTS ON ADVERTISEMENT

Article 8. Advertisement dissemination on transportation means

8.1. Otherwise stipulated by law, advertisement may be disseminated on transportation means based on agreement reached with the owner of the transportation mean or representative acting on behalf of the owner.

8.2. The local self-governing body in agreement with the state inspection department for traffic safety may set the safety regulations and standard requirements for the advertisement dissemination on transportation means.

Article 9. Outdoor advertisement

9.1. The dissemination and placement of advertisement in public area, on buildings, facilities, streets and town squares with the help of posters, billboards, illuminated boards, lights or other immobile tools are allowed contingent upon receipt of permission of aimag, capital city, soum or district administration.

9.2. The local self-governing body based on the recommendations of relevant state inspection department may set the safety regulations and standard requirements for the placement of outdoor advertisement.

9.3. Outdoor advertisements must not bear similarities to road signs, indicators and traffic visual signs must not impede their visibility and must not impair the safety of traffic movement.

9.4. The local self-governing body shall set the common procedures for the issuance of permission for the placement of advertisement in public area, on buildings and facilities.

9.5. The local administration shall use the fee proceeded from the outdoor advertisements placed in public area, on buildings and facilities for the improvement of infrastructure of the local territorial unit and for the environment.

9.6. The authorized executing party assigned to dissolve a legal entity shall organize activities to dismantle the outdoor advertisement means of such legal entity.

Article 10. Advertisement dissemination through telephone and other information services

10.1. Advertisement may be presented in telephone information service only after communicating the information that subscriber has requested.

10.2. Advertisement may be presented in payable telephone and other information services only with the agreement of the subscriber.

Article 11. Advertisement dissemination through radio and television

11.1. To run an advertisement during feature film, documentary or radio drama must obtain the permission of the author or copyright holder.

11.2. Only advertisement aimed for children may run during the children's programs.

11.3. Advertisement during the regular news programming on the national and global current events is prohibited.

11.4. Only advertisement related to education or training may be presented during educational or training programs with no more 30 seconds of duration in no more 5 minutes.

11.5. Any advertisement during a program with transmission time of no more than 20 minutes is prohibited.

Article 12. Advertisement dissemination through internet

12.1. The advertisement disseminator is prohibited to place his advertisement in the internet site owned by others with prior permission.

12.2. The advertisement disseminated through the internet shall have the name, address, contact telephone number of the advertisement disseminator and other information needed for the consumer to establish contact.

12.3. If a special payment is required when accessing the site where the advertisement is placed, notice of such payment shall be placed visible to consumer before the access to the site.

Article 13. Advertisement in the health sector

13.1. Only advertisement of non-prescription of medicaments and proper consumption or application of medicines may be presented through public media.

13.2. Advertisement of prescription medicines, medicines that could have psychic effect, drugs for medical treatment use, plants or hospital equipment or device that require special knowledge or profession shall only be presented through information means dedicated to the health sector's personnel.

13.3. The advertisement of medicines must always remind to read their instructions for use.

13.4. Following activities are prohibited for the advertisement of medicines and medical items (hereinafter referred as to medicine):

13.4.1. advertisement of medicine not registered in state registration;

13.4.2. advertising medicines only for use in hospital settings as could be sold in pharmacies and other settings;

13.4.3. advertising medicines with purpose of concealing their side effects, warning and cautions;

13.4.4. advertising preliminary guarantee on the medicine effect;

13.4.5. advertising the medicine not by the general nomenclature but by commercial name;

13.5. Advertisement of medicine supply organizations (pharmaceutical factory, medicine procurement and supply entity, pharmacy) not obtained licenses from hospital and veterinary authorities and professional agencies of aimags and capital cities shall be prohibited.

13.6. Advertisement of non-certified health organization, non-licensed specialist, and non-authorized or non-confirmed treatment or service shall be prohibited.

13.7. Advertisement of hospitals or clinics shall be limited to announcement of their locations, service areas, names and addresses of the doctors.

13.8. Advertisement that praises the hospital service or appeals to be serviced shall be prohibited.

Article 14. Advertisement in nature and environment sector

14.1. Advertisement of supply, trade and purchase of rare and endangered species of fauna and flora, their root, stem, branch, leaf or wild animal organs such as deer horn, deer genital, deer testicles, female deer's tail, uterus, musk, bear's gall shall be prohibited.

14.2. Advertisement on selling and purchasing of organs or raw materials of wild animals and plants prohibited to hunt or prepare for certain time by the resolution of the Government during its legitimacy of power provided by the law is prohibited.

Article 15. Social advertisement

15.1. The activity of legal entity and citizen in the production and dissemination of advertisement for public interest support may carried out free of charge and the transfer of property to another legal entity or citizen for the production and dissemination of social advertisement are recognized as being for charitable aims and use of privileges provided under legislation.

Article 16. Defense of minors in production, placement and dissemination of advertisement

16.1. Following activities are prohibited in the production, placement and dissemination of advertisement:

- 16.1.1. discrediting the reputation of parents and guardians;
- 16.1.2. suggesting directly or influencing in other form to minors that they convince parents or other persons to acquire the advertised;
- 16.1.3. attracting the notion of minors to the notion that the possession of this or that good gives them some kind of advantage over other minors, and also to the notion that a lack of these goods results in the opposite effect;
- 16.1.4. mixing into the advertisement textual, visual or audible information that shows minors in dangerous places and situations;
- 16.1.5. underestimation or overestimation of level of knowledge, experience and practice necessary for a minor to use a good;
- 16.1.6. creating wrong understanding of the product price.

Article 17. Advertisement of bank, financial and investment fund, insurance services and securities

17.1. Advertisement of banking activities shall be true based on actual indicator of bank's liquidity and other indicators provided by the banking law. The advertisement of banking activities shall always include the main terms and conditions of bank deposit contract.

17.2. In respect of the production, placing and dissemination of advertisements for investment fund, banking, financial, insurance, and other services and activities connected with use and dispose of monetary means of legal entities and individuals, and of securities, the following shall be prohibited:

- 17.2.1. citing quantitative information that does not bear a direct relation to advertised products;
- 17.2.2. guaranteeing the size of dividends on common inscribed shares;
- 17.2.3. advertising prior to the permission to be issued by the Committee on Financial Regulations to securities to be offered to the public;
- 17.2.4. presenting any kind of guarantee, promise or proposal on the future effectiveness and profitability of security activities.

CHAPTER FOUR

RIGHTS AND RESPONSIBILITIES OF ADVERTISEMENT SUBSCRIBERS, PRODUCERS AND DISSEMINATORS

Article 18. Advertisement fee

18.1. Receive payment for placing and disseminating an advertisement using information means such as reporting, news, commentator's publication and non-advertisement forms shall be prohibited.

Article 19. Sponsorship advertisement

19.1. On contractual basis, the sponsor may contribute in form of property transfer, results of intellectual activity, furnishing of services or the performing of work to the advertisement disseminator on the condition of dissemination of sponsored advertisements about the sponsor or its products.

19.2. The sponsorship contributions, in accordance with item 19.1 of this law, are recognized as payment for advertising.

19.3. A sponsor is prohibited to interfere in or influence to the activities of the advertisement disseminator.

Article 20. Holding of advertisement materials

20.1. The advertisement subscriber, producer and disseminator are obliged to retain materials and copies containing the advertising matters for a period of 6 months from the day of last dissemination of the advertisement.

Article 21. Demanding the materials related to the advertisement

21.1. The advertisement producer and disseminator have the right to demand from the advertisement subscriber the proof of authenticity of the advertised information.

21.2. If the activity of the advertisement subscriber is subject to licensing then upon advertising corresponding good or the company itself, the latter is required to present the corresponding license or an appropriate certified copy of it.

21.3. The advertisement producer and disseminator have the right to request the presentation of the corresponding license or an appropriate certified copy of it as provided in item 21.2 of this law.

21.4. The authorized official to monitor the implementation of legislation on advertisement has the right to demand from the advertisement subscriber, producer and disseminator the submission of proofing documents, explanation, video and audio recordings and other information required to exercise his rights as provided in Article 24 of this law.

21.5. As provided by this Article, the person who obtained information about the advertisement producer and disseminator shall keep their confidentiality as stipulated by the law and in case of breaching this obligation, he shall be liable in accordance with relevant laws.

21.6. If the proof documents requested according the item 21.1 of this law are not presented, the advertisement producer and disseminator have the right to terminate the relevant contract and claim for damages from the advertisement subscriber.

Article 22. Notifying the possible circumstances that may violate the legislation on advertisement

22.1. The advertisement producer must notify in a timely manner the advertisement subscriber of the fact that compliance with demand of the latter is leading to violation of the legislation on advertisement.

22.2. In case the advertisement subscriber does not change its own request or order despite the notification in accordance with item 22.1 of this law, the advertisement producer must refuse to produce the advertisement.

Article 23. Involvement of individual or legal entity in the production and dissemination of advertisement

23.1. In event of showing individual person, his name, reputation, life, property, work of art or citing from his speech or using other forms of presentation in the advertisement, the permission of the person or his heir or successor shall be obtained prior to the advertisement production.

23.2. In event of using the name, symbol, product, trademark or name abbreviation of publicly known, reputable legal entity in the advertisement, the provision of item 23.1 of this law shall have same force.

CHAPTER FIVE

CONTROL AND REGULATION OF ADVERTISEMENT

Article 24. State control on advertisement

24.1. The control to be exercised on the advertisement in the territory of Mongolia shall be implemented by the State Intellectual Property Inspection Agency.

24.2. The State Intellectual Property Inspection Agency shall implement the following key tasks in respect of controlling the advertisement:

24.2.1. monitor the implementation of the legislation on advertisement;

24.2.2. determine whether the legislation on advertisement is violated or not and in case of infringement, take and implement relevant measures;

24.2.3. protect consumers' rights and interests from illegal advertisements.

24.3. In addition to provisions provided in paragraph 3 of Article 20 of State Inspection Law, the State Intellectual Property Inspection Agency shall exercise the following powers:

24.3.1. with own initiative or based an analysis made to suggestions, requests, demands and information submitted by others, conduct inspections on advertisement subscription, production and dissemination activities;

24.3.2. provide methodological management to local institutions and officials exercising control on the advertisements in their respective territorial units;

24.3.3. approve recommendations to be followed and sample contract formats to be used in the advertisement production, placement and dissemination;

24.3.4. send materials on the violation of the legislation on advertisement to the authority that issued the license, in order to solve a matter regarding suspension or early revocation of the license for the corresponding type of activity;

24.3.5. send claims to the court on the violation of the legislation on advertisement;

24.3.6. determine whether an advertisement is violated the requirements provided by the legislation on advertisement, suspend its production and dissemination or oblige the correction of conflict presented;

24.3.7. other powers provided by the law.

24.4. In addition to provisions provided in paragraph 9 of Article 21 of the State Inspection Law, the inspector of the State Intellectual Property Inspection Agency shall enjoy and undertake the following rights and roles:

24.4.1. oblige the conformity of an advertisement with the requirements of the legislation on advertisement;

24.4.2. in case of violation of the legislation on advertisement, transfer the related materials to relevant authorities for resolution;

24.4.3. when taking action to put a stop to the identified violation or to correct a detected violation, respect the rights and legal interests of the citizen, organization or business entity;

24.4.4. stop the dissemination of an advertisement violating the legislation;

24.4.5. in accordance with this law, impose liabilities for the violators of the legislation on advertisement;

24.4.6. other rights and duties provided by the law.

24.5. Advertisement disseminated through local information and media distributors shall be subject to the control exercised by aimag8 capital city governors and inspectors assigned by them and the latter shall have rights and roles as provided in item 24.4 of this law.

24.6. Professional inspection agencies in areas of pharmaceutical products, biologic, hygiene, environment, quality, standardization, construction, transportation, customs, taxation, trade and services, local administrative institutions and authorities issued licenses as provided in item 6.2 of this law, shall have the obligation to exercise control on the implementation of the legislation on advertisement in their respective fields and take measures within their powers.

24.7. The inspections agencies and organizations stipulated in item 24.6 of this law have obligation to submit information on violation of the legislation on advertisement along with specific background and comments in a timely manner to the authorized agency to exercise control on the advertisement.

Article 25. Public control on advertisement

25.1. An organization, business entity or individual may send information on violation of the legislation on advertisement along with concrete background and comments to the authority and if necessary, may warn the public through mass media or information means.

25.2. The non-governmental organization with purpose of protecting the consumers' rights and rights and interests of the parties involved in the production and dissemination of advertisement shall have the following rights:

25.2.1. submit claims to the court on behalf of the consumers on violation of the legislation on advertisement;

25.2.2. issue recommendations on whether an advertisement complies with the requirements of the legislation;

25.2.3. comment or provide recommendations on matters related to the advertisement subscriber, producer and disseminator.

25.3. Implementation of certain tasks related to the control on advertisement may be assigned to non-governmental organization and related costs may be financed partially or in whole from the central state budget.

Article 26. Joint control on advertisement

26.1. The State Intellectual Property Inspection Agency may cooperate with the legal entities stipulated in item 24.6 and Article 25 of this law by exchanging information conducting joint controls, inspections and researches.

Article 27. Complaints on the decision and activity of the advertisement inspectors

27.1. The legal entity or individual, who does not accept the decision or activity of an inspector of State Intellectual Property Inspection Agency, shall complain to the head of the authority responsible for the control on advertisement.

27.2. The head of the State Intellectual Property Inspection Agency shall solve the problem within 21 working after the receipt of the compliant. If necessary, an authorized official may extend this period for 14 more days.

27.3. Compliant submission, receiving, checking and solving processes shall be regulated by the procedures provided by law on solving of compliant of a citizen to government organizations and government officials.

Article 28. Complaints and claims on the decision and activity of the inspection agency on advertisement

28.1. A legal entity or individual as provided in item 25.1 and 27.1 of this law may submit complaint or claim to the court in respect of the decision or activity of the State Intellectual Property Inspection Agency.

28.2. The submission of complaints or claims as stipulated in item 27.1 and 28.1 of this law shall not constitute the basis of postponing of imposed liabilities or administrative sanctions.

CHAPTER SIX

LIABILITIES IMPOSED FOR VIOLATION OF THE LEGISLATION

Article 29. Administrative liabilities

29.1. The inspector of the State Intellectual Property Inspection Agency shall impose the following administrative liabilities for the legal entity or individual violated this law:

29.1.1. if the official decision and request of the State Intellectual Property Inspection Agency or its official is violated or not implemented without reasonable cause, a fine of 10000-50000 MNT for citizen, 25000-60000 MNT for responsible official and 50000-250000 MNT for organization or business entity shall be imposed respectively;

29.1.2. If requirements provided in paragraph 6.1, 6.3, 6.4; provisions 6.5.1-6.5.8; Article 7; paragraph 9.3; Articles 10-14, 16, 17; paragraph 19.3, 22.1; and Article 23 are breached a fine of 10000-50000 MNT for citizen, 25000-60000 MNT for responsible official and 50000-250000 MNT for organization or business entity shall be imposed respectively.

29.2. The administrative liability provided in item 29.1 of this law shall not constitute basis of indemnifying from liabilities stipulated by other acts or from implementing the requirements to stop the violating action or activity of the legislation on advertisement.

29.3. The damage or loss caused by the decision or activity of the State Intellectual Property Inspection Agency shall be borne in accordance with the procedures provided in the Civil Code.

VICE CHAIRMAN OF
THE STATE IKH KHURAL

J. BYAMBADORJ