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Hanoi, November 16, 2001

ORDINANCE

ON ADVERTISEMENT

*In order to raise the effectiveness of the State management over advertisement, to protect the legitimate rights and interests of consumers, organizations and individuals in advertising activities, contributing to boosting the socio-economic development;
Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam;
Pursuant to the Xth National Assembly's resolution of its 8th session on the 2001 law- and ordinance-making program;
This Ordinance prescribes the advertisement.*

Chapter I

GENERAL PROVISIONS

Article 1.- Scope of regulation and objects of application

1. This Ordinance prescribes the advertising activities, the rights and obligations of organizations and individuals involved in advertising activities.
2. This Ordinance applies to Vietnamese and foreign organizations and individuals that conduct advertising activities on the Vietnamese territory. Where an international agreement which the Socialist Republic of Vietnam has signed or acceded to otherwise provides for, such international agreement shall apply.

Article 2.- Organizations and individuals right to advertisement

Organizations and individuals may directly advertise their business activities, goods and/or services or hire advertising service-providing organizations and/or individuals to make advertisement for them.

Article 3.- The State's policies on advertising activities

1. The State protects the legitimate rights and interests of advertisers, advertising service dealers, advertisement issuers and consumers.

2. The State creates conditions for the advertising service dealers and the advertisement issuers to diversify forms of advertisement, raise the quality of advertisement, contribute to the socio-economic development.

3. The State encourages overseas Vietnamese, foreign organizations and individuals to cooperate and invest in developing the advertising services in Vietnam.

Article 4.- Interpretation of terms and expressions

In this Ordinance, the following terms and expressions are understood as follows:

1. Advertisement means introducing to consumers the business activities, goods, services including profit-making services and non-profit services.

Profit-making services are those aiming to generate profits for service-providing organizations or individuals.

Non-profit services are those which do not aim to generate profits for service-providing organizations or individuals.

2. Advertisers mean organizations and individuals that have the demand to advertise their own business activities, goods and/or services.

3. Advertising products are those which demonstrate the advertising contents and the advertising forms.

4. Advertisement issuers mean organizations and individuals that bring advertising products to consumers, including press agencies, publishing houses, computer information network-managing organizations, organizers of cultural or sport programs, fairs or exhibitions and organizations as well as individuals using other advertising means.

5. Advertisement promotion means activities of seeking and promoting opportunities to sign advertising service contracts and advertising service provision.

6. Advertising service dealers mean organizations and individuals that perform one, several or all steps of the advertising process for the profit-making purpose.

Article 5.- Acts banned in advertising activities

The following acts are strictly prohibited:

1. Making advertisements that disclose State secrets, cause harms to national independence, sovereignty, defense, security and social safety;

2. Making advertisements contrary to the historical tradition, culture, morality, fine customs and practices of the Vietnamese nation;

3. Using the national flag, the Party's flag, the national emblem, the national anthem or melody thereof, leaders' pictures, images of Vietnamese currency or traffic signal images for advertisement;
4. Making false advertisements;
5. Making advertisements which badly affect the urban beauty, landscape, environment as well as traffic order and safety;
6. Taking advantage of advertisement to hurt the honor, prestige or infringe upon the legitimate rights and interests of organizations and/or individuals;
7. Advertising products and/or goods which are not yet permitted for circulation and/or services which are not yet permitted for provision by the time of advertisement;
8. Advertising goods and/or services, which are banned by law from business or from advertisement.

Chapter II

ADVERTISING ACTIVITIES

Article 6.- Advertising contents

1. The advertising contents cover advertising information on business activities, goods and/or services.
2. The advertising information on business activities, goods and/or services must be truthful, accurate and clear, not causing harms to producers, traders and consumers.

Article 7.- Advertising forms

1. Advertising forms mean the presentation of advertising products in voices, scripts, symbols, colors, lights, images, actions, sounds and other forms.
2. Advertising forms must be clear, easy to understand and of aesthetic value.
3. Advertising forms must bear signs distinguishing advertising information from non-advertising information in order not to cause confusion to producers, traders and consumers.

Article 8.- Voices and scripts used in advertisement

1. Voices and scripts used in advertisement are of the Vietnamese language, except for the following cases:

a) Terms and expressions have been internationalized, trade marks or terms and expressions cannot be substituted by Vietnamese language;

b) Advertisements are made in books, newspapers and publications, which are permitted to be published in languages of ethnic minority people in Vietnam or foreign languages; radio and television programs broadcast in languages of ethnic minority people in Vietnam or in foreign languages.

2. Where the Vietnamese language, an ethnic minority language in Vietnam and a foreign language are used on the same advertising product, the Vietnamese language shall be inscribed first, then the ethnic minority language and the foreign language, and the sizes of the ethnic minority language and the foreign language letters must not be bigger than the size of the Vietnamese language letters.

Article 9.- Advertising means

The advertising means shall include:

1. The press, including printed press, audio press, visual press and electronic press;
2. The computer information networks;
3. Publications including films, photos, video tapes, video discs, audio tapes, audio discs;
4. Cultural or sport activity programs;
5. Fairs, exhibitions;
6. Billboards, signboards, panels, placards, screens at public places;
7. Illuminating objects, aerial objects, water objects;
8. Transport means, other moving objects;
9. Commodity;
10. Other advertising means as prescribed by law.

Article 10.- Advertisement on press

1. The printed press may carry advertisements for not more than 10% of their space, excluding specialized advertising newspapers; each drive of advertisement for an advertising product shall not exceed 5 days for the dailies or 5 consecutive issues for the periodicals; the interval between advertising drives must be at least 5 days for the dailies or 4 consecutive issues for the periodicals; advertisements of business activities, goods and/or services must not be carried on the front pages or front covers.

2. The audio press may carry advertisements for not more than 5% of the time volume of the programs, except for the specialized advertising frequencies; each broadcasting drive for an advertising product must not exceed 8 days, except for special cases stipulated by the Government; for each day it must not exceed 10 times; the interval between advertising drives must be at least 5 days; advertisements must not be made immediately after the musical theme and during the news-report programs.

3. The visual press may carry advertisements for not more than 5% of the time volume of the programs, except for the specialized advertising channels; each broadcasting drive for an advertising product must not exceed 8 days, except for special cases stipulated by the Government; for each day it must not exceed 10 times; the interval between advertising drives must be at least 5 days; advertisements must not be carried immediately after the symbol image or during the news-report programs.

4. The electronic press may carry advertisements like the printed press as prescribed in Clause 1 of this Article.

Article 11.- Advertisement on computer information networks

The advertisement on computer information networks must strictly comply with law provisions on advertisement, access services, exchange services and the provision of advertising services in various forms on computer information networks and comply with the technical and operational regulations in order to ensure the State secrets.

Article 12.- Advertisement on publications

The advertisement on publications shall be carried out according to the following regulations:

1. Only advertising products with contents in service of learning can be printed on covers of pupils notebooks;

2. Films, video tapes, video discs, audio tapes, audio discs and other news-recording means may carry advertisements for not more than 5% of the time volume of the programs.

3. Advertisement of business activities, goods and/or services must not be carried on the front covers of books of all kinds; advertisement must not be carried in text books, teaching materials or political works;

4. Other law provisions on publication and the provisions of this Ordinance.

Article 13.- Advertisement in cultural or sport programs, fairs, exhibitions

The advertisement through cultural or sport programs, fairs and/or exhibitions must comply with the law provisions on art performances, sport activities, fairs and exhibitions as well as the provisions of this Ordinance.

Article 14.- Advertisement on other means

The advertisement on means prescribed at Points 6, 7, 8 and 10, Article 9 of this Ordinance must comply with the law provisions on advertisement, on urban and rural plannings, urban beauty, landscapes, environment, traffic order and safety, social safety.

Article 15.- Conditions on advertisement of business activities, goods and services

1. The conditions on advertisement of business activities, goods and services are prescribed as follows:

- a) The advertisement of goods on the list of goods subject to quality inspection or on the list of goods requiring quality certification requires the State management bodies certificates of the goods quality; where the goods quality standards are self-proclaimed, there must be the written self-proclamation; where goods are intellectual property objects, there must be the intellectual property (ownership) certificates;
- b) Where advertisement is made for an asset which, under the provisions of law, requires the ownership registration, there must be the certificate of the asset ownership;
- c) The advertisement of business activities, goods and/or services requires the business registration certificates;
- d) The advertisement on computer information networks, billboards, signboards, panels, placards, screens at public places, illuminating objects, aerial objects, water objects, transport means and/or other moving objects requires the advertising permits granted by competent State management bodies in charge of culture and information.

2. The advertisers must produce documents prescribed in Clause 1 of this Article to advertising service dealers or advertisement issuers; the advertising service dealers must produce the documents prescribed in Clause 1 of this Article to the advertisement issuers.

Article 16.- Competence and procedures for granting the advertising permits

1. The Ministry of Culture and Information shall grant permits for advertisement on computer information networks, radio waves and programs, television channels and programs, which are specialized in advertising, and specialized advertising supplements.

2. The provincial/municipal Services of Culture and Information shall grant permits for advertisement on billboards, signboards, panels, placards, television screens at public places, illuminating objects, aerial objects, water objects, transport means and other moving objects.

3. The Ministry of Culture and Information shall specify the procedures for granting of advertising permits.

Article 17.- Advertising service contracts

The hiring of advertising services must be established in contracts. The advertising service contract must be made in writing with the following contents:

1. Names and addresses of the contracting parties;
2. Advertising forms, contents, means and products;
3. Time, location and scope of advertisement;
4. The service charge and other relevant expenses as well as payment mode;
5. Rights and obligations of the parties;
6. Liabilities for breach of the contract;
7. Other contents agreed upon by the parties.

Chapter III

ADVERTISING ACTIVITIES INVOLVING FOREIGN ELEMENTS

Article 18.- Advertisement by foreign organizations, individuals

1. Foreign organizations and individuals operating in Vietnam may directly advertise their business activities, goods and/or services or hire Vietnamese advertising service dealers or advertisement issuers to make the advertisement for them.
2. Foreign organizations and individuals that do not operate in Vietnam but wish to make advertisements in Vietnam of their business activities, goods and/or services shall have to hire Vietnamese advertising service dealers or advertisement issuers to make the advertisements for them.

Article 19.- Advertising representative offices

The Vietnam-based representative offices of foreign organizations and individuals dealing in advertising services may operate only after the competent State bodies grant the permits for establishment of the representative offices and may only conduct the advertising promotion, must not directly deal in the advertising services.

Article 20.- Advertising branches

Foreign organizations and individuals dealing in advertising services may base their branches in Vietnam to deal in advertising services.

The Government shall specify the establishment and operation of foreign advertising branches in Vietnam.

Article 21.- Cooperation on and investment in advertising activities

Vietnamese organizations and individuals dealing in advertising services may cooperate with foreign organizations and individuals and invest in advertising activities under the provisions of law.

Article 22.- Advertisement overseas

Vietnamese organizations and individuals may advertise their business activities, goods and/or services in foreign countries under the provisions of law.

Chapter IV

**RIGHTS AND OBLIGATIONS OF ORGANIZATIONS AND INDIVIDUALS ENGAGED
IN ADVERTISING ACTIVITIES**

Article 23.- Rights and obligations of the advertisers

1. The advertisers shall have the following rights:

- a) To advertise their business activities, goods and/or services;
- b) To choose the advertising service dealers, advertisement issuers, advertising means and forms;
- c) To register for the protection of intellectual property right over their advertising products;
- d) Other rights prescribed by law.

2. The advertisers shall have the following obligations:

- a) To make advertisements suitable to the contents of their business registration certificates;
- b) To ensure the truthfulness and accuracy of the advertising contents;
- c) To fulfill the duties stated in the signed contracts;
- d) To fulfill other duties prescribed by law.

Article 24.- Rights and obligations of advertising service dealers

1. The advertising service dealers shall have the following rights:

- a) To opt for the forms and fields of advertising service business;

- b) To request the advertisers to provide truthful and accurate information on advertising contents;
- c) To register for the protection of the intellectual property right over their own advertising products;
- d) To cooperate with organizations and/or individuals in advertising activities;
- e) To join domestic and foreign advertising associations;
- f) Other rights prescribed by law.

2. The advertising service dealers shall have the following obligations:

- a) To strictly observe the stipulations in their business registration certificates;
- b) To strictly abide by law provisions on advertisement;
- c) To fulfill the duties stated in the signed advertising service contracts;
- d) To compensate for damage caused by them-selves;
- e) To fulfill other duties prescribed by law.

Article 25.- Rights and obligations of advertisement issuers

1. The advertisement issuers may make advertisements on their own means and collect the advertisement issuing service charges according to the provisions of law.

2. The advertisement issuers shall have the following obligations:

- a) To abide by law provisions on press, publication, the management of computer information networks, cultural or sport programs, fairs, exhibitions and this Ordinance in using the press, publications, computer information networks, cultural or sport programs, fairs, exhibitions and other advertising means to make advertisements;
- b) To perform the advertisement issuance con-tracts signed with advertisers or advertising service dealers;
- c) To compensate for damage caused by themselves;
- d) To fulfill other obligations prescribed by law.

Article 26.- Rights and obligations of the lessors of means for advertisement

1. The lessors of means for advertisement shall have the following rights:

- a) To opt for advertisers, advertising service dealers;
- b) To collect charges from the lease of means for advertisement according to agreement in the contracts;
- c) Other rights in the lease of means for advertisement, as provided for by law.

2. The lessors of means for advertisement shall have the following obligations:

- a) To fulfill the obligations stated in the signed contracts on lease of means for advertisement;
- b) To compensate for damage caused by themselves;
- c) To fulfill other obligations in the lease of means for advertisement as prescribed by law.

Article 27.- Advertisement taxes, charges and fees

The advertisers, the advertising service dealers, the advertisement issuers, the advertising means lessors are obliged to pay taxes, charges and fees according to the provisions of law.

Chapter V

STATE MANAGEMENT OVER ADVERTISEMENT

Article 28.- Contents of State management over advertisement

The contents of State management over advertisement shall include:

1. Elaborating and directing the implementation of, plannings, plans and policies on advertising development;
2. Promulgating and organizing the implementation of, legal documents on advertisement;
3. Granting, revoking permits for performance of advertisement, permits for establishment of advertising representative offices and/or branches in Vietnam of foreign organizations and individuals dealing in advertising services;
4. Organizing and managing the training work, the scientific and technological research and application in the advertising field;
5. Conducting international cooperation on advertisement;
6. Examining, inspecting and settling complaints and denunciations and handling violations of the legislation on advertisement.

Article 29.- Agencies exercising the State management over advertisement

1. The Government unifies the State management over advertisement.
2. The Ministry of Culture and Information is responsible before the Government for exercising the State management over advertisement.
3. The Ministry of Trade, the other ministries, the ministerial-level agencies and the agencies attached to the Government shall, within the scope of their tasks and powers, have to coordinate with the Ministry of Culture and Information in exercising the State management over advertisement.
4. The People's Committees at all levels shall, within the scope of their tasks and powers, exercise the State management over advertisement in their localities as assigned by the Government.

Article 30.- Advertising inspectorate

The culture and information State inspectorate shall function as the specialized advertising inspectorate.

The tasks of the culture and information State inspectorate specialized in advertising shall be specified by the Government.

Article 31.- Complaints and denunciations, and the settlement thereof

1. Organizations and individuals have the right to lodge their complaints; individuals have the right to denounce acts of violating the legislation on advertisement.
2. Upon receiving complaints and/or denunciations, the competent organizations and/or individuals shall have to settle them according to law provisions on complaints and denunciations.

Chapter VI

COMMENDATION AND HANDLING OF VIOLATIONS

Article 32.- Commendation

Organizations and individuals that record achievements in advertising activities shall be commended and/or rewarded according to the provisions of law.

Article 33.- Handling of violations

1. Those who commit acts of violating the legislation on advertisement shall, depending on the nature and seriousness of their violations, be administratively sanctioned or examined for penal liability; if causing damage, they must compensate therefor according to law provisions.

2. Those who abuse their positions or powers, violating the provisions on the granting and withdrawal of advertisement permits, obstructing lawful advertising activities of organizations and/or individuals, harassing for bribes or committing other acts of violating the provisions of this Ordinance and other relevant law provisions shall, depending on the nature and seriousness of their violations, be disciplined or examined for penal liability; if causing damage, they must compensate therefor according to law provisions.

Chapter VII

IMPLEMENTATION PROVISIONS

Article 34.- Implementation effect

1. This Ordinance shall take effect as from May 1, 2002.
2. The earlier provisions contrary to this Ordinance shall all be annulled.

Article 35.- Implementation guidance

The Government shall detail and guide the implementation of this Ordinance.

On behalf of the National Assembly Standing Committee

CHAIRMAN

Nguyen Van An