

# DEUTSCHER WERBERAT

## GERMAN ADVERTISING STANDARDS COUNCIL CODE OF CONDUCT ON ALL FORMS OF COMMERCIAL COMMUNICATION FOR FOODS AND BEVERAGES (Valid from January 2020)

### Definitions

For the purposes of this Code of Conduct,

- Commercial communication is the use of any communication instrument by a business enterprise with the primary objective of promoting the (online and offline) sale of foods and beverages. This includes classic advertising on TV, on posters, in newspapers or magazines, on the radio, but also Internet/mobile advertising, advertising in social networks, on video platforms, sponsoring, or display advertising at the point of sale; this does not include the pure trade dress and designation of products, their labelling and packaging, and editorial media contents,
- children are persons under twelve (12) years of age

### Preliminary note:

Food business operators are responsible for the quality of their products and the promotion thereof. In comparison to adults, children and adolescents generally require special care and protection. Nutrition education, the encouragement of exercise and physical activity, easy-to-understand nutritional information and the freedom to choose from a wide range of food products are constructive approaches to prevent obesity.

Awareness of issues like nutrition, diet, exercise, and obesity is growing worldwide. There are numerous studies addressing the underlying causes of obesity, especially in children and adolescents. According to these studies, it is a combination of both socio-economic factors (level of education, social stratum, ancestry) and a lack of physical exercise, unhealthy eating habits, genetic predisposition, and psycho-social aspects which play a major role in the development of obesity. Children's habits are formed under the influence of their social environment, above all of their family and friends, etc. In the opinion held by scientists, advertising has very little -if any- influence on the behaviour of children.

To properly deal with their exposure to advertising, it is important for children to learn how to recognise and understand advertising. Insulating children against advertising is not the best way to teach them how to become advertising-savvy consumers. On the contrary, children should be allowed to actively come to terms with advertising as an elementary component of today's media culture and market economy. Children require well-aimed support not only in their schools and homes, but also through governmental and corporate initiatives such as Media Smart e.V., a European educational initiative.

The organisations of the food and beverage industry, retailers, the media, communication agencies and advertising professions which are members of the German Advertising Federation (Zentralverband der deutschen Werbewirtschaft - ZAW e.V.) firmly believe that commercial communication has a fundamental and indispensable role in free, fair and open competition. Commercial communication makes the connection between enterprises advertising their products and their customers and helps to create and maintain well-ordered markets to the advantage of all concerned. Advertising is indispensable also to the existence of free and independent media.



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To make sure that these functions of advertising are upheld, there is a tight network of legal and self-regulatory rules in place which stipulates, among other things, that advertising shall be recognisable as such and does not mislead or unduly influence its recipients. In view of this target group's limited experience, any advertising aimed at children and adolescents is subject to particular legal and regulatory requirements.

Responsible commercial communication based on recognised codes of conduct of voluntary self-regulation shows that economic players are aware of their social responsibility. The member organisations of ZAW wish

- to ensure, to the full extent of their abilities, compliance with the legal requirements in the area of food and beverage advertising, in particular the provisions of the Act against Unfair Competition (Gesetz gegen den unlauteren Wettbewerb/UWG), the Food and Feed Act (Lebensmittel- und Futtermittelgesetzbuch/LFGB), the Regulation on nutrition and health claims made on foods (the so-called Claims Regulation/Verordnung über nährwert- und gesundheitsbezogene Angaben über Lebensmittel) and the law for the protection of minors (Jugendschutzgesetz/JuSchG and Jugendmedienschutz-Staatsvertrag/JMStV),
- to promote competitive commercial communication in accordance with the German Advertising Standards Council's Code of Conduct and to work to inhibit advertising which contravenes these standards. This concerns both the specific rules of conduct for food and beverage advertising and the other codes of conduct to be observed as part of the industry's voluntary self-regulation in advertising and summarised in the [German Advertising Standards Council's Code of Conduct](#).

They have accordingly drawn up the following code of conduct on commercial communication for foods and beverages.<sup>1</sup> Compliance with this Code of Conduct, organisation of the complaints procedure and the assessment of complaints are the responsibility of the German Advertising Standards Council.

In the design and execution of commercial communication for foods and beverages the following principles in particular are to be observed:

## 1. General Principles

- 1.1 Commercial communication for foods and beverages should be designed in a way that does not abuse the consumers' confidence in the quality of the advertised product.
- 1.2 Commercial communication for foods and beverages should not undermine a healthy, active lifestyle.
- 1.3 Commercial communication for foods and beverages should not undermine a balanced, healthy diet.
- 1.4 Commercial communication for foods and beverages should not encourage excessive or one-sided consumption of the advertised products.
- 1.5 Commercial communication for food and beverages should not denigrate either

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<sup>1</sup> In addition to this Code of Conduct of the German Advertising Standards Council there are further codes specific to particular industries or enterprises such as the [ICC Framework for Responsible Food and Beverage Marketing Communication](#) or the so-called [EU Pledge](#).

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unprocessed or processed foods.

- 1.6 Commercial communication for foods and beverages containing nutrients and substances with a nutritional or physiological effect, of which excessive intakes in the overall diet are not recommended, should not represent avoidance of consumption of this item in a negative manner.

## 2. Children

In commercial communication aimed at children, in addition to the principles under point 1, the following rules are to be observed.

Account must be taken of the commercial inexperience and the need for protection of persons of this age group. This applies in particular to responsible communication in social networks.

- 2.1 Commercial communication aimed at children should not be inappropriate or incomprehensible for the age group addressed,
- 2.2 Commercial communication for foods and beverages should contain no direct demand for purchase or consumption addressed to children.
- 2.3 Commercial communication for foods and beverages should contain no direct demand to children to induce their parents, other adults or other children to purchase the advertised product.
- 2.4 Commercial communication for foods and beverages should not aim to undermine the role of parents or guardians in ensuring a balanced and healthy diet for their children.
- 2.5 Commercial communication for foods and beverages should not exploit the special confidence which children place in persons of trust such as parents and teachers.
- 2.6. Commercial communication for foods and beverages aimed at children should not employ inducements to purchase (e.g., give-aways) and aleatory advertising (e.g., sweepstakes and prize competitions) in a way which exploits children's commercial inexperience. In particular, commercial communication for foods and beverages should not lure children by promising excessive advantages in an unduly inappropriate manner.
- 2.7 Commercial communication for foods and beverages should not suggest to children that the consumption of a particular product is indispensable for a complete and well-balanced meal.
- 2.8 Commercial communication for foods and beverages should not deter children from acquiring a healthy, active lifestyle.
- 2.9 Commercial communication for foods and beverages aimed at children should not show scenes of children consuming foods and beverages in front of a Screen while at the same time touting a particularly inactive lifestyle.
- 2.10 Commercial communication for foods and beverages should not deter children from acquiring balanced, healthy dietary habits.
- 2.11 Commercial communication for foods and beverages should not encourage children to omit breaks between meals and to eat continuously.

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- 2.12 Commercial communication for foods and beverages should not contain statements claiming to improve the social popularity and/or school success of children by consuming the advertised foods or beverages unless these statements comply with the EU Health Claims Regulation.

## **Assessment criteria**

When assessing a promotional activity, the German Advertising Standards Council looks at

- the perception of the average consumer who is reasonably well informed and reasonably observant and circumspect, who is part of the relevant public targeted by the advertising;
- the Code of Conduct set out specifically for the target group of children under point 2 if the advertising is aimed specifically at children and not at the general public. Relevant criteria include e.g. the selection of the medium used to place/publish the advertisement as well as child-specific content or the use of language or symbols typically aimed at children;
- the situation in which the advertisees are exposed to the advertisement;
- the advertising media or means of promotion;
- the nature of the medium by which the advertising is disseminated.