[RO] New Advertising Act Passed

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On 1 November the Legea privind publicitatea (Advertising Act no.148), adopted by the Romanian Parliament on 29 June 2000, came into force. Previously, advertising in the Romanian audiovisual sector had been regulated by the Consiliul National al Audiovizualului (National Audiovisual Council) or merely self-regulated by advertising agencies and media institutions. The main purpose of the new Act is to protect consumers from misleading advertisements. Advertising is considered "misleading" if there is a deliberate intention to mislead the consumer by concealing essential information concerning the identity and features of advertised goods or services. An advert can also be considered misleading on other grounds, however, such as the description of goods or services, their price or the way it is calculated, services provided during the warranty period, or even the identity, social benefit, qualification, industrial right of ownership or other rewards that the customer receives.

The Act prohibits subliminal advertising in the audiovisual sector, discriminatory advertising which might offend people's religious or political convictions and any advertisement that glorifies or incites violence, harms human dignity or public morals or plays on people's superstitions or fears. Comparative advertising is also forbidden if it is misleading, ie if a comparison is drawn between goods or services that are essentially different, or if the features or prices of different articles are not compared objectively, pertinently and verifiably for example, or if the comparative advertisement is designed to discredit a competitor and its products.

The advertising of tobacco products and alcoholic beverages is forbidden in the audiovisual sector. The Act contains a series of provisions designed to protect children from harmful consequences of advertising.

Apart from cases of misleading advertising or unlawful comparative advertising (regarding which only the advertiser bears responsibility for breaching the relevant provision), the authors of an advertisement and those legally responsible for the TV channel on which it is broadcast are also held liable if it infringes the Act.

The penalties set out in the Act range from ROL 5 million to ROL 40 million (equivalent to approximately Euro 237,372 and Euro 1,898,975). Depending on the case, these fines can be imposed by the Oficiul pentru Protectia Consumatorului (Consumer Protection Authority), the Administratia Publica Locala

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(local public authority), the Oficiul Concurentei (Competition Commission), the Ministerul Sanatatii (Ministry of Health) or the Consiliul National al Audiovizualului (National Audiovisual Council).

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