

DEUTSCHER WERBERAT

CODE OF CONDUCT OF THE GERMAN ADVERTISING COUNCIL AGAINST PERSONAL DENIGRATION AND DISCRIMINATION

(July 2014)

Advertising is a necessary instrument for economic competition and for the information of (potential) consumers of products and services. Advertising is protected by the constitutional right freedom of expression. This freedom cannot, however, be absolute. It encounters its limits in general legislation and in the legitimate interests of others. Of particular importance here are the principles which apply to the general order of the state and society, of the protection of human dignity and non-discrimination, together with of the protection of children and minors.

The German Advertising Council intervenes if these principles are infringed. Based on its own previous precedents it notes that discrimination is evident if the impression is conveyed that a person or group of persons is of less value than others. Denigration arises if persons experience injury in regard to their human dignity or are treated with contempt.

In reaching its decisions, the German Advertising Council takes into account the rights and interests of all market participants. The special concerns and opinions of minorities receive appropriate consideration.

In commercial advertising, no expressions or depictions may consequently be used which, in particular,

1. discriminate against persons, for example, on account of their gender, descent, race, language, place of origin, religion, political opinions, age, disability, or occupation;
2. treat persons as of lesser value simply because they do not conform to prevailing expectations in respect of their appearance, behaviour, sexual orientation, personal qualities or lifestyle;
3. include violence or the trivialisation of violence against persons or permit violence or domineering behaviour to appear to be acceptable;
4. create the impression that persons are available for sale or treat them as objects;
5. reduce persons to their sexuality or suggest their sexual availability;
6. convey a degraded view of sex with excessive display of nakedness; or
7. are of a pornographic character.



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In deciding whether there has been a breach of these principles, the following criteria in particular are to be considered:

- the general understanding of the average, informed and reasonable consumer belonging to the sections of the public which the advertising addresses (according to the politically and socially recognized consumer model in the member states of the European Union);
- the nature of the product or service being advertised; in particular attention is to be given to whether the connection between the depiction of the human body and the product or service is socially acceptable, not discriminatory or derogatory;
- the situation in which the consumer comes into contact with the advertising;
- the advertising medium;
- the character of the medium by which the advertising is disseminated;
- aspects of the protection of children and minors, in particular if they are directly addressed or the advertising appears in public places;
- the generally accepted basic values in society and the prevailing views of decency and morality;
- social reality, as represented, for example, in the editorial content of the media.