Advertising Law of the PRC

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Chapter I — General Provisions

Article 1 — This Law is enacted for the purposes of regulating advertising activities, protecting the lawful rights and interests of consumers, promoting the sound development of the advertising industry, and maintaining social and economic order.

Article 2 — This Law shall apply to commercial advertising activities in which commodity operators or service providers directly or indirectly introduce commodities or services they market through certain media and forms within the territory of the People's Republic of China. For the purposes of this Law, "advertiser" means a natural person, legal person, or other organization that designs, produces, and publishes advertisements on its own or entrusts others to do so to promote commodities or services. "Advertising operator" means a natural person, legal person, or other organization that is entrusted to provide advertising design, production, and agency services. "Advertising publisher" means a natural person, legal person, or other organization that publishes advertisements for advertisers or advertisers' entrusted advertising operators. "Advertising spokesperson" means a natural person, legal person, or other organization that makes recommendations or certifications for commodities or services in advertisements in its own name or image, other than the advertiser.

Article 3 — Advertisements shall be truthful and lawful and express the advertising content in a healthy manner, conforming to the requirements of the construction of socialist spiritual civilization and the promotion

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of the core socialist values.

Article 4 — Advertisements shall not contain false or misleading content and shall not deceive or mislead consumers. Advertisers shall be responsible for the truthfulness of the content of advertisements.

Article 5 — Advertisers, advertising operators, and advertising publishers shall abide by laws and regulations, be honest and trustworthy, and compete fairly in their advertising activities.

Article 6 — The administrative departments for industry and commerce of the State Council shall be responsible for the administration of advertising nationwide. The relevant departments of the local people's governments at or above the county level shall be responsible for the administration of advertising within their respective functions and duties.

Chapter II — Advertising Content Standards

Article 8 — Where an advertisement involves the performance, function, place of origin, use, quality, composition, price, producer, expiration date, promise, or other particulars of a commodity, or the content, form, quality, price, promise, or other particulars of a service, it shall be accurate, clear, and explicit. Where an advertisement indicates that a commodity or service is accompanied by a gift, the variety, specifications, quantity, term, and method of the gift shall be expressly stated. Where any matter required to be expressly stated in an advertisement by laws or administrative regulations shall be expressly stated.

Article 9 — An advertisement shall not contain the following: (1) the use of the national flag, national emblem, or national anthem of the People's Republic of China, or the flag, emblem, or anthem of the Chinese People's Liberation Army; (2) the use or disguised use of the names or images of state functionaries; (3) words such as "state-level," "highest-level," or "best"; (4) content that endangers national security, damages national dignity or interests, or divulges state secrets; (5) content that obstructs social stability, harms public interests, or infringes upon the personal and property safety of others; (6) content that endangers personal and property safety or divulges personal privacy; (7) content that obstructs social public order or violates good social customs; (8) content that is pornographic, superstitious, terrorist, or violent; (9) content involving ethnic, racial, religious, or gender discrimination; (10) content that hinders the protection of the environment or natural resources; or (11) other circumstances prohibited by laws or administrative regulations.

Article 10 — Advertisements shall not harm the physical and mental health of minors or persons with disabilities.

Article 11 — Where an advertisement involves any matter that is subject to administrative licensing, the content of the advertisement shall be consistent with the content of the license. Where an advertisement uses data, statistical information, survey results, excerpts, quotations, or other materials, it shall indicate the source and be truthful and accurate.

Article 12 — Where an advertisement involves a patented product or a patented method, it shall indicate the patent number and type of patent. Where a person who has not obtained a patent right claims in an advertisement that he has obtained a patent right, he shall be prohibited. Where an advertisement uses a patent application that has not been granted a patent right, it shall be prohibited. It shall be prohibited to use an invalid patent in an advertisement.

Article 13 — An advertisement shall not disparage the commodities or services of other producers or operators.

Article 14 — An advertisement shall be identifiable and enable consumers to identify it as an advertisement. Mass media shall not publish advertisements in the form of news reports. Where an advertisement is published through mass media, it shall be conspicuously marked as "advertisement" so as to distinguish it from other non-advertising information, and consumers shall not be misled. Where a radio or television

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station publishes an advertisement, it shall comply with the time length and time slot prescribed by the relevant departments of the State Council and shall not influence the audience's viewing or listening in the form of a program introduction.

Chapter III — Advertising Activities

Article 16 — Advertisements for drugs, medical devices, and medical treatments shall not contain: (1) assertions or guarantees of efficacy or safety; (2) statements of cure rates or efficacy rates; (3) comparisons of efficacy or safety with other drugs, medical devices, or medical institutions; (4) use of advertising spokespersons for recommendations or certifications; or (5) other content prohibited by laws or administrative regulations.

Article 17 — No advertisement other than those for drugs, medical devices, and medical treatments shall involve disease treatment functions, and medical terms or terms that may cause the marketed commodities to be confused with drugs or medical devices shall not be used.

Article 18 — Advertisements for health food shall not contain the following: (1) assertions or guarantees of efficacy or safety; (2) claims of disease prevention or treatment functions; (3) claims or implications that the advertised health food is necessary for health protection; (4) comparisons of the health food with drugs or other health foods; or (5) advertising spokespersons for recommendations or certifications. Health food advertisements shall conspicuously indicate that the product is not a substitute for drugs, and that the health food is not a drug.

Article 19 — Radio stations, television stations, newspaper and periodical publishers, and Internet information service providers shall not publish advertisements in disguised forms introducing medical treatments, drugs, medical devices, or health food through programs or columns on health preservation knowledge.

Article 20 — Advertisements for drugs, medical devices, pesticide, veterinary drugs, and other commodities that are prohibited from being advertised in mass media by laws or administrative regulations shall be prohibited, except for advertisements for drugs and medical devices for external use only.

Article 21 — Advertisements for agricultural pesticides, veterinary drugs, feed, and feed additives shall not contain: (1) assertions or guarantees of efficacy or safety; (2) use of the images or names of scientific research institutions, academic institutions, technology promotion institutions, industry associations, professionals, or users for recommendations or certifications; or (3) statements of effective rates.

Article 22 — Tobacco advertisements shall be prohibited in mass media, public places, public transport vehicles, and outdoors. Advertisements for tobacco products in any form in disguised form such as promoting the name, trademark, packaging, or decoration of tobacco products, or commemorative or gift advertisements for tobacco products through other commodities or services shall be prohibited.

Article 23 — Advertisements for alcohol shall not contain: (1) inducements or suggestions on the effects of drinking alcohol on relieving worries or improving mood; (2) scenes of drinking alcohol; (3) expressions of drinking alcohol; or (4) scenes of minors. Advertisements for alcohol shall not expressly state that drinking alcohol can eliminate tension and anxiety or increase physical strength.

Article 24 — Advertisements for education and training shall not contain: (1) express or implied guarantees of entering a higher school, passing an examination, obtaining a degree or qualification certificate, or obtaining employment; or (2) recommendations or certifications by scientific research institutions, academic institutions, educational institutions, industry associations, professionals, or beneficiaries.

Article 25 — Advertisements for investment promotion commodities or services such as real estate shall be truthful and lawful, and shall not contain express or implied guarantees of appreciation in value or return on investment in the future, nor may they use data, statistical information, survey results, or other materials to

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mislead people.

Chapter IV — Supervision and Administration

Article 40 — Where the publishing of an advertisement is prohibited by laws or administrative regulations, no advertisement shall be published; where the publishing of an advertisement is restricted by laws or administrative regulations, the advertisement may be published only when it meets the requirements.

Article 41 — The relevant departments of the people's governments at or above the county level shall, within their respective functions and duties, strengthen supervision and administration over advertising activities. The administrative departments for industry and commerce shall establish and improve the advertising monitoring system, improve monitoring measures, and detect and investigate illegal advertising activities in a timely manner.

Article 42 — An advertising review authority shall review in accordance with the law the advertisements published in mass media for drugs, medical devices, health food, and other commodities and services whose advertisements are subject to review as prescribed by laws or administrative regulations. No advertisement that has not been reviewed shall be published.

Article 43 — No organization or individual shall send advertisements to another person without the consent or request of the person, nor shall advertisements be sent in electronic form with identity information concealed or altered. No organization or individual shall use the Internet to publish or send advertisements, or interfere with the normal use of the Internet by another person by any other means.

Article 44 — When using the Internet to engage in advertising activities, the provisions of this Law and other relevant laws and administrative regulations shall apply. The publishing and sending of Internet advertisements shall not affect the normal use of the Internet by users. Pop-up advertisements and other advertisements published on Internet pages shall be conspicuously marked with a close button so that they can be closed with one click.

Chapter V — Legal Liability

Article 55 — Where a false advertisement is published in violation of the provisions of this Law, the administrative department for industry and commerce shall order the cessation of the publication of the advertisement, order the advertiser to eliminate the effects within the corresponding scope, and impose a fine of not less than three times but not more than five times the advertising expenses; where the advertising expenses cannot be calculated or are obviously too low, a fine of not less than 200,000 yuan but not more than one million yuan shall be imposed. In the case of serious circumstances, the advertising expenses shall be imposed a fine of not less than five times but not more than ten times the advertising expenses; where the advertising expenses cannot be calculated or are obviously too low, a fine of not less than one million yuan but not more than two million yuan shall be imposed, and the business license may be revoked.

Article 56 — Where a false advertisement deceives or misleads consumers in relation to commodities or services, and damages the lawful rights and interests of consumers who have purchased the commodities or accepted the services, the advertiser shall bear civil liability in accordance with the law. Where the advertising operator or publisher cannot provide the true name, address, and valid contact information of the advertiser, the advertising operator or publisher shall bear the compensation liability in advance.

Article 57 — Where an advertisement violates the provisions of Articles 9 through 12 of this Law, the administrative department for industry and commerce shall order the cessation of the publication of the advertisement and impose a fine of not less than 200,000 yuan but not more than one million yuan on the advertiser; in the case of serious circumstances, the business license may also be revoked, and the advertising review authority shall revoke the approval document for the advertisement.

Chapter VI — Supplementary Provisions

Article 72 — This Law shall apply mutatis mutandis to public service advertisements other than those required to be published by the relevant state authorities. Where laws provide otherwise for the administration of advertising in special industries, such provisions shall prevail.

Article 73 — This Law shall apply to advertising activities carried out by foreign-invested enterprises within the territory of the People's Republic of China; where laws or administrative regulations provide otherwise for foreign-invested advertising enterprises, such provisions shall prevail.

Article 74 — This Law shall come into effect on September 1, 2015. The Advertising Law of the People's Republic of China adopted at the 10th Session of the Standing Committee of the Eighth National People's Congress on October 27, 1994, shall be repealed simultaneously.

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