

By Email & Post
8th July 2011

Consumer Protection Codes Division
Central Bank of Ireland
PO Box 559
Dame Street
Dublin 2

To Whom It May Concern,

RTÉ, Irelands National Public Service Broadcaster, is committed to the protection of consumers who are both the audience and owners of our services. To this extent it endeavours to deliver consumer information to the public at large and uncover and highlight unsavoury commercial practices where possible. We believe our bona fides in these regards have been well established over many decades.

RTÉ welcomes the thrust of the Central Bank Consumer Protection Code and has, over the past two years, met with officials of the Financial Regulator to express our common purposes in this area. The proposed Code within its General Principles strengthens the requirements that consumers are provided with sufficient and relevant information on financial products or services before entering any purchasing agreements. This is to be welcomed as it provides additional protection to consumers, particularly vulnerable ones.

RTÉ is a founder member and director of the Advertising Standards Authority for Ireland (ASAI) and inputs into consumer protection principles contained in its code, in the codes of the Broadcasting Authority of Ireland (BAI) and into broadcast legislation covering consumers. All advertising proposed for broadcast on stations regulated in the Republic of Ireland must comply with;

- a) The General Commercial Communications Code of the BAI.
- b) The Code of Standards for Advertising of the ASAI, and
- c) Consumer Protection legislation.

While these Codes may at times differ in their detail they are all based on the fundamental principles that all commercial communications should be legal, decent, honest and truthful. If it were possible to reduce these still further it would be that all commercial communications should be prepared responsibly and should not mislead the recipient of the communication. It is our belief, and that of these independent experts in the area of advertising regulation, that any taglines or conditions attached to advertising should be kept, brief, simple and easy to understand. Over elaborate and complicated mandatories are not useful on electronic media and often have the opposite effect to that intended and result in confusing the recipient.

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The conditions contained in the General Principles of the proposed Code provide for full disclosure prior to a consumer entering a contract for any financial product/service. We believe these are excellent requirements which ensure the consumer is fully aware of the detail of any contract before entering into it and that this is the most appropriate time to fully inform the consumer of all relevant terms, conditions, limitations and details of the products/services.

Advertisements are simply invitations to treat and are not part of any contract. The elements of an agreement or contract are only brought into play when the recipient of a commercial message approaches the sender with an interest in pursuing that interest further. For this reason, and bearing in mind the stringent protections awarded to potential consumers contained in the General Principles, we contend that the requirement to carry much of the mandatory or warnings in advertising, particularly broadcast advertising, is unnecessary and does not really provide potential consumers with real protection but is more likely to confuse them.

The requirements proposed in the Chapter 9 seem designed to deal more appropriately with print or static display advertising and are less appropriate for broadcast advertising and it is not clear that they would cover more modern forms of digital or electronic delivery at all. Indeed page 65 defines Advertising as any Commercial Communication... but this is at variance with almost every code in Europe which would see commercial communications as the primary classification of which advertising is but one expression. We urge The Central Bank to bring its understanding of media in line with other regulators and believe a one set of requirements for all media is no longer appropriate, practical or effective. In the interests of consumers the regulator must take the effort to understand how the consumer relates to or consumes different media. What is appropriate to traditional press or print media is not so for electronic or broadcast media. To lose the opportunity presented by the present review to make the code fit for purpose would be a misfortunate outcome if not a negation of the consultation process.

If The Central Bank is not disposed to accept that different media require different rules an alternative way forward might be to allow the requirements to remain for Print advertising but supplement the Advertising Section of the Code with a Broadcast Sub-Section which would have more appropriate requirements. With a newspaper, magazine, or poster the reader has time to fully absorb the message and the opportunity to revisit it if necessary. The normal twenty or thirty second radio or television broadcast advertisement simply cannot provide this. If a supplementary Broadcast Advertising Section were included it could offer a two tier or two step level of information. That is, if each broadcast advertisement were required to carry basic advice such as "Take expert advice before entering a Financial Agreement" or "Financial products and services can carry risks" accompanied by a mandatory website link which contains full conditions regarding the product or service.

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At this stage in media development it is simply not satisfactory to draw up a code which references font sizes, design format of advertisements or bold type and believe they can apply to broadcast media. Nor is a simple throwaway line “In the case of non-print media, it is sufficient that warning statements are outlined at the end of the advertisement” sufficient or a real attempt to use the strengths of the media to engage with the consumer and provide them with real protection. I am sure The Central Bank is aware the vast majority of media consumed by the public is no longer print.

RTÉ is happy to engage with The Central Bank in any efforts to draw up meaningful and appropriate rules for advertising on broadcast services and would urge The Central Bank to take this opportunity to deal with the matter in a more complete manor.

Kind Regards,
Yours sincerely,

Paul Mulligan,
Head of Operations, RTÉ Television