

LAW N° 2006/018 OF DECEMBER 29, 2006, GOVERNING ADVERTISING IN CAMEROON

The National Assembly has deliberated and adopted, and
The President of the Republic promulgates this law, whose content is as follows.

TITLE I- GENERAL PROVISIONS

Article 1 –

- (1) This Law governs advertising in Cameroon.
(2) To this end, it:
- organizes advertising activities;
 - defines the rules concerning the form and content of advertising messages;
 - sets the general framework for the oversight and regulation of advertising activities.

Article 2 –

The present Law applies to all activities that are advertising or intended as advertising performed in the territory of Cameroon by any operator active in this sector, regardless of their legal status, the location of their main office or principal establishment, the nationality of their owners, their capital or their directors.

Article 3 – For the implementation of this Law and the regulatory texts resulting thereby, the following definitions shall apply:

- 1. Outdoor posting of notices:** Any tract or prospectus, any printed visual material, any illuminated case or self-adhesive affixed to supports located in open spaces, on moveable or immovable elements, and visible to the general public, except for those posted on moveable or immovable elements at company headquarters, centers and distribution outlets, as well as commercial representations, as long as they do not disseminate an advertising message.
- 2. Consultant Services:** Any juridical person acting on behalf of an advertiser, with a view to preparing a strategy for advertising communication and following up on its operational implementation, whatever the nature and objectives in question may be.
- 3. Advertiser:** Any natural or juridical person acting at the behest of the party through which advertising messages are produced and broadcast, and who sees to the financing thereof.
- 4. Advertising broker:** Any person acting as a salesman on behalf of an advertising agency, with the aim of selling advertising spaces to advertisers, and paid on a commission basis.
- 5. Non-media:** Any vector of advertising messages not involving the conventional notion of media.
- 6. Media:** A means of communication making it possible to reach a given audience in a collective and simultaneous fashion, and drawing upon an assortment of techniques and technologies of production and mass dissemination between the source of the message and its recipients.
- 7. Direct Marketing:** An assortment of communication techniques engaged to reach the general public, with the possibility each time of validating the reception of messages broadcast and to instigate an interactive dialogue over time.
- 8. Point of Sale (POS):** Marketing action carried out at the point of sale for a good or service, with the aim of promoting items directly to a given audience, to bring about an act of purchasing on the spot.
- 9. Advertising:** An assortment of procedures and techniques aimed at attracting the attention or curiosity of an audience by informing it about a good or a service, to convince people to buy it, use it or adopt it.
- 10. Event-related advertising:** Any advertising action associated with an event, making it possible to directly reach the audience by associating it with the said event.
- 11. Advertising agency:** A juridical person acting on behalf of an advertising vehicle, with the aim of commercializing advertising spaces opened by the latter intended for advertisers.
- 12. Advertising vehicle:** Any space of communication or proprietary body owning a space of communication associated with media or non-media elements, as long as it makes it possible to establish final contact for an advertising message with the audience to which it has been addressed.

TITLE II- LEGAL REGIME FOR ADVERTISING ACTIVITIES

Chapter 1: Conditions for exercising the advertising professions

Article 4 –

The advertising professions are to be exercised within the framework of the following working situations:

- Advertising consulting firms;
- Advertising agencies;
- Advertising brokers.

Article 5 –

(1) Access to the advertising professions is free.

(2) Any person wishing to exercise an advertising profession is required, prior to undertaking such activities, to apply for and obtain an authorization issued by the Minister responsible for advertising.

Article 6 –

(1) All advertising enterprises must have an individual in charge.

(2) The individual in charge indicated in the sub-paragraph above is the individual who manages the enterprise and represents it in all acts of civil life.

(3) He must meet the following conditions:

- Be at least twenty-one (21) years of age on the date of submission of the application for authorization;
- Be of Cameroonian nationality or, failing this, show proof of having satisfied the conditions concerning the conduct of commercial activities by persons of foreign nationality in Cameroon;
- Prove professional experience of at least five years in the advertising industry, or have a university education;
- Be of good character.

Article 7 –

(1) The permit application submitted to the Minister responsible for advertising to obtain authorization to engage in an advertising profession shall include the following elements:

- A request on stamped notarized paper at the rate in effect addressed to the Minister responsible for advertising stating:
- The chosen advertising profession;
- The name of the company and its complete address;
- The first and last names of the individual in charge (the general manager, manager or any other staff member in lieu thereof)
- A copy of the company's by-laws;
- A copy of the certification of registration of the company in the register of commerce and real estate property;
- A copy of the registration of the company in the statistical register;
- A copy of the currently valid taxpayer ID number;
- A copy of the currently valid trading license;
- A certificate of taxation for the most recent tax period preceding the permit application;
- An attestation of registration for submission to the CNPS;
- An attestation of the opening of an account in a banking institution subject to Cameroonian law;
- A statement of quittance of payment to the Public Treasury of the costs of the permit application, the amount for which is set by administrative order of the Minister responsible for advertising;
- A true, certified copy of the national identity card of the individual in charge;
- A copy of a good conduct certificate (Bulletin N° 3) of the individual in charge covering at least three months;
- Four Identification photos of the individual in charge;
- A certification of residence of the individual in charge;
- An attestation of civil liability insurance, or a bank guaranty the amounts for which are set by administrative order of the Minister responsible for advertising;
- A registered lease agreement, or a certificate of property ownership of the site for the company headquarters;
- A sworn statement attesting to the good character of the individual in charge of the company.

(2) Permit applications drawn up in accordance with the provisions of sub-paragraph 1 above are set by administrative order of the Minister in charge of advertising;

(3) The authorization is used for a period of one year and is renewable.

(4) Authorizations issued for the exercise of professions in consulting firms and advertising agencies are non-transferable.

(5) Renewal of the authorization is to be carried out under the same conditions as the original application.

Article 8

– The conditions for access to the advertising professions indicated in Article 5, subparagraph 2, as well as those in Articles 6 and 7 above do not apply to advertising brokers.

Article 9

(1) Any advertising agency wishing to engage the services of an advertising broker should, prior to such engagement, submit a declaration on the matter to the Minister responsible for advertising.

(2) The declaration of the advertising agency indicated in sub-paragraph 1 above shall include:

- A copy of the authorization of the advertising agency;
- Precise identification (first and last names, date and place of birth, parents' names, address of the broker);
- A copy of the certificate attesting to the advertising agency's engagement of the broker, specifying the duration of such engagement;
- Four identifying photos of the broker.

Article 10

–Professions in advertising consulting firms and advertising agencies are to be exercised within the framework of commercial companies, and in accordance with community, legislative and regulatory provisions governing commercial activities and setting the rules for competition in Cameroon.

Article 11 –

(1) advertising consulting firms and advertising agencies are incompatible.

(2) Accordingly, no company can seek to simultaneously engage in both advertising professions indicated in sub-paragraph 1 above, nor to engage in an advertising profession other than that for which it has been authorized.

Article 12 –

1) Advertisers and vehicles are partners in the advertising professions. They may not engage in one or the other of the livelihoods enumerated in Article 4 above.

(2) However, vehicles wishing to manage for themselves their own advertising spaces must establish themselves as separate juridical persons and submit to the conditions required for engaging in the profession of advertising agencies, as indicated in Article 5, subparagraph 2, as well as in Articles 6 and 7 noted above.

Article 13–

Operators under foreign law wishing to engage in any advertising activities within the territory of Cameroon must complete a representation agreement for such purpose with an operator under Cameroonian law duly authorized to practice the advertising profession in question.

Article 14 –

(1) As a consequence of the provisions of Article 3, subparagraph II, as well as those in Articles 11 and 12 above, advertising agencies are only authorized to sell advertising spaces on behalf of advertising vehicles.

(2) By the same token, consulting firms acting on behalf of advertisers are solely authorized to conceive creative strategies and draft advertising messages and media plans within the context of advertising campaigns conducted by the aforesaid advertisers.

Article 15 –

To present its messages to the public, advertising makes use of media and non-media resources.

Article 16 –

Media resources include the following:

- The print press;

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- Radio broadcasting;
- Television broadcasting; -
- Movies;
- Outdoor posting of notices;
- Internet sites and online journals;
- Illuminated signs;
- Advertising on cars or any similar procedure;
- Any other procedure of the same kind resulting from the progress of technology in the domain of communication.

Article 17 –

- Non-media resources include the following;
- Event-related advertising;
- Point-of-sale (POS) promotion;
- Cell phone networks;
- Electronic messaging;
- Any other tool or vehicle of direct marketing;
- Any other procedure of the same kind resulting from the progress of technology in the domain of communication.

Article 18 –

The specific modalities for the dissemination of advertising through media and non-media resources are set by regulatory provision.

Chapter II – Specific conditions for outdoor posting of notices

Article 19 –

- (1) Outdoor posting of notices is subject to the rules determining the federal regime in Cameroon.
- (2) Accordingly, the applicable rules concerning the managing and exploitation of public and private spaces or areas within their scope where outdoor posting of notices is mounted, are those set by the Laws and regulations applicable to the federal regime in Cameroon.

Article 20 –

- (1) All outdoor posting of notices as defined by this Law, and with the exception of the advertising indicated in Articles 33 and 34 of Law N° 90/052 of December 19, 1990, concerning freedom of social communication, are subject to the payment of taxes and license fees upon the purchase of advertising spaces.
- (2) The provisions of sub-paragraph 1 above apply to all printed or illuminated visual elements within the scope of public spaces, as defined by the legislative and regulatory provisions setting the regime
- (3) The specific conditions for the organization of outdoor posting of notices are set by regulatory provision.

Article 21–

Outdoor posting of notices can only be implemented in spaces reserved or assigned for such purpose by the competent authorities, as indicated in Article 19, subparagraph 2 noted above;

Article 22 –

- (1) Notwithstanding the provisions of Article 21 above, outdoor posting of notices is prohibited on movable property belonging to government, associations of a political character and organizations of a religious character.
- (2) The same prohibition applies to buildings containing government facilities, places of worship and associations of a political character.
- (3) However, outdoor posting of notices can be authorized on movable property belonging to associations of a political character or organizations of a religious character, as well as on buildings containing the aforesaid associations and organizations as long as they concern their products or activities.
- (4) The specific modalities of outdoor posting of notices indicated in sub-paragraph 3 above are set by regulatory provision.

Chapter III –

Rules concerning the form and content of advertising messages

Article 23 –

- (1) The content of advertising messages must be in accordance with the requirements of decency, morality and truthfulness.
- (2) It may not undermine the credit of the State, or the values and traditions of national culture.

Article 24 –

Advertising messages should be free of any racial, ethnic or sexual discrimination, scenes of violence and any incitation to behaviors injurious to health, the security of property and persons or protection of the environment.

Article 25 –

Advertising messages must not contain any element of a kind that clashes with the political or religious convictions of consumers.

Article 26 –

- (1) Advertising must not present minors in dangerous situations, except for legitimate reasons.
- (2) It must not under any circumstances exploit the inexperience or innocence of children or adolescents, or the fragility of handicapped persons or any other person who is vulnerable because of his physical or mental condition.

Article 27 –

- (1) When it is addressed to children, advertising must not be of a character to compromise their education, involve visual presentations or written or oral declarations that could cause them physical, material, mental or moral harm.
- (2) It must not exploit, alter or tend to ruin the particular confidence or respect that minors have towards their parents, their teachers or other persons on whom their moral or intellectual training depends.

Article 28 –

- (1) Advertising messages must be easily identifiable.
- (2) They must for this reason exhibit indications allowing for their express identification as such.
- (3) The conditions for the inscription and visibility of such indications are set by regulatory provision.

Article 29 –

Advertising must not make appeals in a written, oral or visual manner to individuals signing press articles or presenting sound or television broadcasts acting as journalists, in the sense that this is understood by Law No. 90/052 of December 19, 1990, concerning freedom of social communication, its subsequent amendments as well as the regulatory texts setting the conditions for the issuance of press cards.

Article 30 –

It is prohibited to engage in advertising for illegal products and particularly for counterfeit products.

Article 31 –

Imitative advertising is prohibited when it infringes trademark rights, copyright, and rights of intellectual property in general, as indicated by the regulations in force, and when there is actual advertising, through to the final presentation of the advertising message to the public.

Article 32 –

When it touches upon trademark rights, imitative advertising does not constitute counterfeiting except to the extent that imitation of a brand is likely to give rise to a confusion between the reference brand and the imitative one.

Article 33 –

Without impairment to the trademark protections indicated in Articles 31 and 32 above, copyright and related rights, and in general, intellectual property rights apply to advertising.

Article 34 –

Any advertising of a kind likely to discredit a company or specific product, or in any way whatsoever involves false allegations, indications or presentations of a kind that would mislead people, is prohibited.

Article 35

(1) Advertising that presents a comparison of goods and services is prohibited when it uses a citation or representation of the trademark, brand or service mark of others, whether it is a citation or representation of the company title or company name, brand name or sign belonging to others.

(2) For goods and services endowed with a title of controlled origin, comparison is only authorized if it involves goods or services endowed with the same title.

(3) When a comparison involves prices, it should concern identical products sold under the same conditions, and indicate the duration for which the prices invoked by the advertiser for its product are maintained.

Article 36 –

In any event, it is prohibited to cause comparative advertisements to appear on packaging, invoices, travel documents, payment statements or tickets for admission to places open to the public.

Article 37 –

Without the authorization of the interested parties or their proxies, advertising must not contain references or other declarations emanating from an identified individual, firm or institution, nor display without the permission of the authorized party the image, first name, surname or pseudonym of an identifiable individual.

Article 38 –

(1) Advertising of fire arms and explosives of any kind, or for any other instrument or product capable of causing death or impairing the physical integrity of human beings is prohibited, whatever their use or purpose may be.

(2) Also prohibited are advertisements for funeral homes and funeral services.

Article 39 –

(1) Advertisements for cigarettes and other tobacco products are prohibited in the print press, via radio, TV broadcast, outdoor advertising and in movies or any other comparable structure.

(2) The prohibition indicated in sub-paragraph 1 above also applies to any form of sponsorship or underwriting displaying cigarettes and other tobacco products, as well as cross-border advertising broadcast from within Cameroonian territory.

(3) Advertisements for cigarettes and other tobacco products communicated under conditions other than those set forth in subparagraphs 1 and 2 above are subject to restrictions whose conditions are set by regulatory provision.

Article 40 –

(1) Advertisements for alcohol and alcoholic beverages are subject to restrictions whose terms are set by regulatory provision.

(2) The restrictions indicated in sub-paragraph 1 above chiefly concern the form, volume, advertising arguments, characters involved as actors in advertisements and what is visible to the public in such advertisements when they are broadcast, the broadcast times, the media and the nature of the places where advertising messages are broadcast.

(3) Also subject to restrictions whose terms are set by regulatory provision, are advertisements for schools and universities.

Article 41 –

Advertising for the legal professions is prohibited.

Article 42 –

(1) Advertising for medications and pharmaceutical establishments is not allowed, except under conditions set by the Minister of Public Health, following consultation with the Order of Pharmacists and the national order of physicians.

(2) The conditions for advertising indicated in sub-paragraph 1 above are set by an administrative order of the Minister of Public Health, following consultation with the Order of Pharmacists, the national order of physicians and the National Advertising Council.

Article 43 –

Advertising for health care institutions and medical practices is prohibited in the print press, via radio, TV broadcast, outdoor posting of notices, in movies or by any other means of communication allowing access to the general public.

TITLE III - REGULATION AND OVERSIGHT OF ADVERTISING ACTIVITIES.

Chapter IV: Regulatory and oversight agencies

Article 44 –

The State shall undertake the regulation of the advertising industry and exercise oversight of its advertising activities under the auspices of the Minister responsible for advertising, with the assistance of the National Advertising Council.

Article 45 –

(1) The National Advertising Council is a consulting body at the disposal of the Ministry responsible for advertising, to assist it with the drafting, implementation and assessment of State policy concerning advertising. To this end, it is charged with the following things:

- to issue opinions on permit applications for the various advertising professions, and for all drafts of texts of a legislative or regulatory character concerning the advertising industry;
- to see to the observance of professional ethics and regulations concerning advertising;
- to draft reports on the functioning of the advertising industry;
- to propose to the Minister responsible for advertising measures conducive to the harmonious development of the advertising industry.

(2) The organization and functioning of the National Advertising Council are set by regulatory provision.

Article 46 –

An independent agency is hereby created for the study and identification of audiences of the media advertising vehicles, whose organization and functioning are set by regulatory provision.

Chapter V – Administrative oversight of advertising activities

Article 47 –

(1) In case of the violation of one of the provisions of Articles 5 and 7, subparagraph 4, as well as those of Articles 9, 11, 12, 13, 14, 21 and 22 of this Law, the Minister responsible for advertising may, after due notice has had no effect, and without impairment to legal prosecution, impose a fine between one million francs and ten million francs on the offender.

(2) When an offense is committed in the context of an advertising campaign, the Minister responsible for advertising shall declare such campaign to be prohibited.

Article 48 –

(1) The fines indicated in Article 47 above are payable by the offender to the Public Treasury against receipt.

(2) Should the need arise, such fines shall bring about the implementation of a proceeding for compulsory collection by the State under the oversight of the Treasury department three months after the notification of the decision imposing the aforesaid fines.

Article 49 –

In the event of repeated commission of the offenses indicated in Article 47 above, the Minister responsible for advertising shall impose on the offender the suspension or revocation of its permit, without impairment to the penalties of fines and prohibition noted above.

Article 50 –

(1) Authorized agents of the Ministry responsible for advertising are charged, under the authority of the Minister responsible for advertising, with the oversight of advertising activities.

(2) The procedures for the oversight of advertising activities indicated in sub-paragraph 1 above are organized by regulatory provision.

TITLE IV – PENAL PROVISIONS

Article 51 –

(1) Violations of the provisions of this Law and regulatory texts concerning its application are to be verified by the officers of the judicial police with general competence, authorized agents of the Ministry responsible for advertising and any other agents commissioned and authorized for such purpose. To this end, they are authorized to undertake investigations and confiscations if there are grounds to do so.

(2) Written reports ascertaining the offenses and objects confiscated are to be forwarded to the Prosecutor of the Republic within whose jurisdiction they occur.

Article 52 –

Anyone who knowingly causes an advertising message to be broadcast that undermines the credit of the State is to be punished by the penalties indicated in Article 222 of the Penal Code.

Article 53 –

Anyone who knowingly causes an advertising message to be broadcast containing scenes that are obscene or of a character capable of corrupting morals is to be punished by the penalties indicated in Article 265 of the Penal Code

Article 54 –

(1) Anyone who knowingly causes the dissemination of an advertising message likely to compromise the education of children, to cause them physical, material, mental or moral harm, to alter or ruin the personal trust or respect that minors have towards their parents, or to ruin the personal trust or respect that minors have towards their parents, teachers or other persons on whom their moral or intellectual training depends, is to be punished by the penalties indicated in Article 344 of the Penal Code.

(2) The same penalties shall apply to anyone who knowingly causes and without a legitimate reason the dissemination of an advertising message presenting minors in situations of danger or exploiting the inexperience or innocence of children and adolescents, or the fragility of handicapped persons or any other person who is vulnerable because of his physical or mental condition.

Article 55 –

Anyone who knowingly causes the dissemination of an advertising message presenting scenes of violence or undertaking the promotion of fire arms or explosives or any other instrument or product capable of causing death or impairing the physical integrity of persons or the security of property, is to be punished by the penalties indicated in Article 228, subparagraph 2 of the Penal Code.

Article 56 –

Anyone who knowingly causes the dissemination of an advertising message containing assertions that are false or likely to mislead consumers is to be punished by the penalties indicated in Article 240 of the Penal Code.

Article 57 –

Anyone who knowingly causes the dissemination of an advertising message containing elements likely to constitute an insult to a race or a religion is to be punished by the penalties set forth in Article 241 of the Penal Code.

Article 58 –

(1) Anyone who knowingly causes the dissemination of an advertisement concerning illegal products, particularly smuggled or counterfeit products, is to be punished by five to ten years' imprisonment, and a fine of 500,000 (3) to 10,000,000 francs, or by only one of these two penalties.

(2) Anyone who knowingly causes the dissemination of a product that involves an infringement of trademark rights, copyrights, or similar rights, is to be punished by the penalties set forth in sub-paragraph 1 above.

(3) Anyone who knowingly causes the dissemination of an imitative advertisement under the conditions set forth in Articles 31 and 32 of this Law is to be punished by the same penalties.

(4) For the application of this article, the definition of counterfeiting falls within the activities indicated in Article 81 of Law N° 2000/11 of December 19, 2000, concerning copyrights and related rights.

Article 59 –

Anyone who, in violation of the provisions of Articles 35 and 36 of this Law, knowingly causes the dissemination of a comparative advertisement is to be punished by the penalties set forth concerning unfair competition.

Article 60 –

Anyone who knowingly causes the dissemination of an advertisement containing references or other declarations emanating from an identified individual, firm or institution, without the authorization of the interested parties or their proxies, or without the permission of the authorized party exhibiting the image, first name, surname or pseudonym of an identifiable individual is to be punished by the penalties indicated in Article 300 of the Penal Code.

Article 61 –

(1)- Anyone who, in violation of the provisions of Article 42 of this Law, knowingly causes the dissemination of an advertising message for medications or pharmaceutical establishments is to be punished by the penalties indicated in Article 228, subparagraph 2 of the Penal Code.

(2) Anyone who knowingly causes the dissemination of an advertising message for health care institutions or medical practices in the print press, by radio, TV broadcast, outdoor posting of notices, movies or by any other means of communication providing access to the general public, is to be punished by the same penalties as those indicated in subparagraph 1 above.

Article 62 –

(1) Anyone who, in violation of the provisions of Articles 39 and 40, subparagraphs 1 and 2 of this Law, knowingly causes the dissemination of an advertising message for cigarettes and other tobacco products or for alcohol and alcoholic beverages, is to be punished by a fine of 20,000,000 to 50,000,000 francs.

(2) – The fine indicated in Article 1 above, may, as appropriate, be increased to an amount equivalent to half of the budget spent on the illegal advertising campaign.

(3) The same penalties shall apply to anyone who knowingly causes the dissemination of an advertising message concerning elements likely to harm the health of persons or the protection of nature or the environment.

(4) Conviction shall be accompanied by a suspension of all advertising activity for a period whose duration may not exceed one year.

Article 63 –

(1)- Anyone who knowingly causes an advertising message for the legal professions to be published is to be punished by a fine of 1,000 to 5,000,000 francs.

(2)- Anyone who, in violation of the provisions of Article 40, subparagraph 3 of this Law, knowingly causes the dissemination of an advertising message for funeral establishments and funeral services, is to be punished by the penalties set forth in subparagraph 1 above.

(3)- The same penalties shall apply to anyone who knowingly causes the dissemination of an advertising message for funeral establishments and funeral services [*sic*].

Article 64 –

Without impairment to Articles 96 and 97 of the Penal Code, the following persons, in this order, are liable to the penalties for punishing the offenses set forth in this Law: - the advertiser and the consulting firm; - in their absence, the advertising agency and the advertising vehicle.

Article 65

(1) When a juridical person and its individual in charge, a natural person, are prosecuted for the same offense, two separate penalties are to be imposed.

(2) In the event of the prosecutions and convictions indicated in sub-paragraph 1 above, the juridical person and the individual in charge of the company shall be, if appropriate, jointly sentenced to payment of damages and interest.

Article 66 -

(1)- The prosecution of the offenses set forth in this Law shall be brought by the Public Prosecutor, or at the request of the Minister responsible for advertising.

(2) – However, with regard to crimes against private individuals, prosecution shall be undertaken upon complaint filed by the victim or any other authorized person, if the victim is a natural person; and upon complaint of the individual in charge of the institution when the victim is a juridical person.

Article 67

The rules concerning a judgment in criminal prosecutions, the prescription of civil actions and criminal prosecution, and the joinder of the two proceedings actions are set forth in the Code of Criminal Procedure.

TITLE V: TRANSITORY AND FINAL PROVISIONS

Article 68 –

Advertising firms and all of the professions in question, as well as the natural or juridical persons concerned with the application of this Law and actively engaged on the date of its promulgation, have a period of six months to enter into compliance with its provisions.

Article 69 –

Regulatory and supervisory bodies created prior to the entry into force of this Law shall continue to function up until the termination of their mandates.

Article 70 –

Any earlier provisions at variance with this Law, particularly Law n° 88/016 of December 16, 1988, governing advertising in Cameroon, are hereby rescinded.

Article 71-

This Law is to be registered, published on a basis of urgency, and then inserted into the *Journal officiel* [Official Journal] in French and English.

Yaoundé, December 29, 2006
President of the Republic,
(é) Paul BIYA