

# Zákony pro lidi·CZ

## Act No. 40/1995

on the Regulation of Advertising and on Amendments to Act No. 468/1991, on radio and television broadcasting, as amended <http://www.zakonyprolidi.cz/cs/1995-40>

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ACT

dated February 9, 1995

on the Regulation of Advertising and on Amendments to Act No. 468/1991, on radio and television broadcasting, as amended

Parliament has passed this Act of the Czech Republic:

### Section I

#### GENERAL PROVISIONS

##### § 1

- (1) This Act incorporates the relevant regulations of the European Union<sup>1)</sup> governing the regulation of advertising that constitutes an unfair commercial practice, comparative advertising, advertising of tobacco products, of medicines for human use, veterinary medicines, for food and initial and follow-on baby food formulas, and regulates the general requirements for advertising and its dissemination, including penalties for breach of obligations hereunder and the establishment of supervisory authorities. It also regulates advertising for alcoholic beverages, products for plant protection, firearms and ammunition, and funeral activities.
- (2) The term Advertising means the announcement, demonstration or other presentation disseminated particularly via communication media aimed at the promotion of entrepreneurial activity, particularly support for the consumption or sale of goods, construction, lease or sale of real estate, sale or use of rights or obligations, support for provision of services, promotion of trade marks,<sup>1a)</sup> unless specified otherwise.
- (3) Communications media in which the advertising is disseminated refers to the means for the transmission of advertising, namely periodical<sup>2)</sup> and non-periodical publications,<sup>3)</sup> radio and television broadcasting<sup>3a)</sup>, on-demand audiovisual media services<sup>3b)</sup>, audiovisual production,<sup>4)</sup> computer networks, audiovisual media, posters and leaflets.
- (4) Sponsorship means a contribution made to promote the production or sale of goods, services or other actions of the sponsor. Sponsor means a legal entity or natural person that provides such a contribution to this end.
- (5) The Advertiser (hereinafter referred to as the "Advertiser") for the purposes of this Act, is a legal entity or natural person who placed an order for advertising with another legal or natural person.
- (6) For the purposes of this Act, an advertisement processor (hereinafter referred to as "Processor" is a

legal entity or natural person that processes advertising for itself or for another legal entity or natural person. If the Processor processes the advertisement for itself it is, for the purposes of this Act, in the position of the Advertiser.

- (7) A Distributor of advertising (hereinafter referred to as "Distributor") is, for the purposes of this Act, a legal entity or natural person who publicly distributes advertising.
- (8) For the purposes of this Act an anonymous notification is a notification or other presentation distributed via communication media, unless it contains information about the entity that ordered the distribution of said communication or other presentation.
- (9) The provisions of this Act shall apply to anonymous notifications concerning elections distributed at the time of the announcement of elections until the end of the voting period.
- (10) The provisions of this Act shall apply to sponsorship, unless stated otherwise.

## § 2

- (1) The following is prohibited
  - a) the advertising of goods, services or other performances or values, whose sale, provision or dissemination is in conflict with the law,
  - b) an advertisement that constitutes an unfair commercial practice under special legislation<sup>5)</sup>; product placement in audiovisual work or other audiovisual recording, if it meets the conditions set by other legislation, does not constitute such advertising<sup>3a)3b)</sup>
  - c) the distribution of unsolicited advertising in paper form if it inconveniences the addressee; advertising that causes inconvenience is considered to be such advertising that is addressed to a specific recipient, where that recipient has given prior clear and understandable notice that they do not wish for unsolicited advertising to be distributed to them,
  - d) advertising distributed in public places outside an establishment other than through advertising or promotional installations set up under a special law<sup>5b)</sup>, if so provided by the municipality under its regulations issued under delegated powers<sup>5c)</sup>, to the extent specified in paragraph 5,
  - e) distribution of anonymous notifications relating to elections at the time from the announcement of the elections until the end of voting,
  - f) advertising for lotteries and other similar games that have not been authorised or notified under special legislation<sup>38)</sup>.
- (2) Comparative advertising is permitted under the conditions stipulated in this Act and the Civil Code.
- (3) Advertising must not be contrary to good morals, they may especially not contain any discrimination on grounds of race, gender or nationality or attacking religious or national sensibilities, threaten morality in a generally unacceptable manner, reduce human dignity, contain elements of pornography, violence or elements using the motif of fear. Advertising may not challenge political beliefs.
- (4) Advertising must not encourage behaviour injurious to health or endangering the safety of persons or property, or conduct detrimental to the interests of environmental protection.
- (5) The municipality in the regulation issued pursuant to paragraph 1(d) provides
  - a) public places, on which an advertisement is prohibited under paragraph 1(d)
  - b) the period in which advertising is prohibited pursuant to paragraph 1(d)
  - c) types of communication media under which advertising must not be distributed under paragraph 1(d), where appropriate
  - d) events not covered by the prohibition on distribution of advertising.

## Section 2a

Comparative advertising on medicinal products intended for administration to humans (hereinafter referred to as "Medicinal Products for Human Use"), or on health services is admissible subject to the conditions laid down by the Civil Code if it is directed at persons entitled to prescribe or supply such medicines (hereafter referred to as "Experts") or provide such health services.

### Section 2c

Advertising shall not, in respect of persons under 18 years of age,

- a) encourage behaviour prejudicial to their health, mental or moral development
- b) exploit their special trust in their parents, legal guardians or other persons,
- c) inappropriately show them in dangerous situations.

### § 3

#### Tobacco products

- (1) Advertising of tobacco products <sup>10)</sup> and also sponsoring, the purpose or the direct or indirect effect of which is advertising for tobacco products, are prohibited, unless stated otherwise. This is also true for the sponsorship of events or activities that relate to several European Union Member States or other states of the European Economic Area or which take place in several Member States of the European Union or in other states of the European Economic Area or achieve cross-border effects in another way.
- (2) Advertising of tobacco products is also understood to mean
  - a) any form of commercial communication, the purpose or the direct or indirect effect of which is the promotion of a tobacco product,
  - b) The distribution of tobacco products free of charge, the purpose or the direct or indirect effect of which is the promotion of a tobacco product or free distribution, which has such a direct or indirect effect in the context of sponsorship in accordance with paragraph 1,
  - c) advertising which makes no direct mention of tobacco products, but uses trademarks<sup>1a)</sup>, the emblem or any other feature of a tobacco product, unless stipulated otherwise.
- (3) Advertising for tobacco products shall not use the trademark<sup>1)</sup> of a tobacco product that is registered or used for tobacco or other products or services before the effectivity of this Act on the advertising of non-tobacco products or services. In doing so, the method by which information is on a product or service is distributed must be clearly distinguished from the method of distributing information on tobacco products.
- (4) The prohibition on advertising in paragraph 1 shall not apply to
  - a) advertising in periodicals <sup>2)</sup>, non-periodical publications <sup>3)</sup>, on leaflets, posters or printed or advertising characters distributed via information society services <sup>10a)</sup> intended exclusively for professionals in the tobacco trade,
  - b) advertising of tobacco products in specialist tobacco product stores or in shop windows and on the appropriate marking of these stores,
  - c) advertising of tobacco products in establishments that sell or provide a wide range of goods or services, if the advertisement is placed in the section of such facility, which is designed for the sale of tobacco products
  - d) sponsorship of motor sport competitions and sponsorship notifications at the venues thereof, if they are not sponsorship events or activities that relate to several European Union Member States or other states of the European Economic Area or which take place in several Member States of the European Union or in other states of the European Economic Area or achieve cross-border effects in another way.

- e) publications which are printed and published in third countries, unless they are primarily intended for the internal market of the European Union.
- (5) Advertising of tobacco products pursuant to paragraph 4(a) to (d) shall contain a clear warning which reads as follows: “The Ministry of Health warns: Smoking causes cancer”, consisting of at least 20% of the advertising message. In a written advertisement the text of the warning must be given on a white background arranged along the bottom edge of the advertising space, covering at least 20% of this area. The text must be printed in black in large bold letters so as to achieve an overall height of at least 80% of the height of the white background. Advertising distributed by audiovisual means must include captions with a warning according to subsections 1 and 2 hereinabove.
- (6) Advertising of tobacco products pursuant to paragraph 4(a) to (d) must not
- be aimed at persons under 18 years of age, especially by depicting such persons or by using features, means or actions that overwhelmingly appeal to such persons,
  - exhort people to smoke using words or by example, by showing scenes of open cigarette packets or scenes where people are smoking or holding cigarettes, cigarette packs or other tobacco products or smoking accessories.
- (7) In the advertising referred to in paragraph 4 the provision of free samples of tobacco products to the general public, aimed at promoting a tobacco product, is prohibited.

## Section 3a

### Electronic cigarettes

- (1) Advertising, the aim of which, or the direct or indirect effect of which, is the promotion of electronic cigarettes and refills thereof, disseminated via information society services<sup>10a)</sup> or in periodicals<sup>2)</sup>, non-periodical publications<sup>3)</sup>, leaflets, posters and other printed materials, with the exception of publications that are intended exclusively for professionals in the trade of electronic cigarettes and replacement cartridges for the same, and publications which are printed and published in third countries, unless such publications are primarily intended for the internal market of the European Union.
- (2) Any form of sponsorship of events, activities or individuals, the aim of which, or the direct or indirect effect of which, is the promotion of electronic cigarettes and replacement cartridges for them, if the subject of the sponsoring concerns several EU Member States or takes place in several Member States of the European Union or attains a cross-border effect in another manner, is prohibited.

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## Supervision of compliance with the Act

### Section 7

#### Supervision of compliance with the Act

The authorities competent to exercise supervision over compliance with this Act (hereinafter referred to as “supervisory authority”) are as follows

- Rada pro rozhlasové a televizní vysílání [Council for Radio and Television Broadcasting]<sup>3a)</sup> for advertising distributed in radio and television broadcasting and audiovisual on-demand media services and for sponsorship in on-demand radio and television broadcasting and audiovisual media services,
- Státní ústav pro kontrolu léčiv [State Institute for Drug Control]<sup>29)</sup> for advertising of medicinal products, for human tissues and cells and sponsorship in this area, with the exception of competences listed in a) hereinabove,
- The Ministry of Health<sup>30)</sup> for the advertising of health services and sponsorship in this area, with

the exception of competences listed in a) hereinabove,

- d) Ústřední kontrolní a zkušební ústav zemědělský [Central Control and Testing Institute of Agriculture]<sup>26a)</sup> for the advertising of plant protection products, with the exception of competences listed in a) hereinabove,
- e) Ústav pro státní kontrolu veterinárních biopreparátů a léčiv [Institute for State Control of Veterinary Biologicals and Medicines]<sup>31)</sup> for the advertising of veterinary medicinal products, with the exception of competences listed in a) hereinabove,
- f) Úřad pro ochranu osobních údajů pro nevyžádanou reklamu šířenou elektronickými prostředky [Office for Personal Data Protection for unsolicited advertising disseminated by electronic means]<sup>10a)</sup> under special legislation<sup>32)</sup>, if the method of distributing this advertisement constitutes unfair commercial practice,
- g) Státní zemědělská a potravinářská inspekce [Czech Agriculture and Food Inspection Authority] for nutrition or health claims under directly applicable EU regulations on nutrition and health claims<sup>21a)</sup>, for misleading information contrary to the directly applicable EU regulation on the provision of food information to consumers<sup>39)</sup> and for information used in accordance with applicable regulations of the European Union, which lays down rules for the use of designations of origin and geographical indications and traditional expressions<sup>40)</sup> in advertising of foods, including sponsorship, with the exception of competences listed in a) hereinabove
- h) Inland revenue offices for the advertisement of lotteries and other similar games that have not been authorised or notified under special legislation<sup>38)</sup>, and sponsorship in this area, with the exception of competences listed in a) hereinabove
- i) Regional trades licensing offices<sup>32a)</sup> in all other cases.

## Section 7a

- (1) The advertiser is obliged to keep a sample (copy) of each advertisement for at least 5 years from the date on which the advertisement was last distributed. In the event that administrative proceedings are initiated<sup>33)</sup> under this Act before the deadline mentioned in the first sentence, the advertiser is obliged to retain a sample (copy) of the advertisement, which is the subject of administrative proceedings, until a final decision in the matter has been made. On written request it is compulsory to submit a copy of the advertisement to the supervisory authorities for the time necessary.
- (2) The advertiser is obliged at the invitation of the supervisory authorities for the purposes of administrative proceedings to provide information on the Distributor and the Processor, and advertisements and other materials and information related to this advertisement under this Act, within the period prescribed by the supervisory authority; the Advertiser is obliged to retain this data and materials for a period of 5 years from the date on which the advertisement was last distributed. In the event that administrative proceedings are initiated<sup>33)</sup> under this Act before this deadline, the advertiser is obliged to retain data and materials relating to the advertisement, which is the subject of administrative proceedings, until a final decision in the matter has been made.
- (3) For the purposes of administrative proceedings under this Act the Advertiser is obliged at the invitation of the supervisory authorities to communicate information about the Advertiser and the Distributor of the advertisement, if known, within the deadline set by the supervisory authority, at least within 5 working days.
- (4) For the purposes of administrative proceedings under this Act the Distributor is obliged at the invitation of the supervisory authorities to communicate information about the Advertiser and the Processor, and details of the person who commissioned the advertisement, within the deadline set by the supervisory authority, at least within 5 working days.
- (5) The obligations under paragraphs 1 to 4 shall also apply to Processors, Advertisers and Distributors of teleshopping.

## Section 7b

(1) In assessing whether advertising constitutes an unfair commercial practice<sup>5)</sup> the supervisory authority shall proceed under special legislation<sup>5)</sup>.

(2) When assessing whether it is a matter of unauthorised comparative advertising or advertising that constitutes an unfair commercial practice, the supervisory authority is entitled to require the advertiser to produce evidence about the accuracy of factual claims in the advertisement if such a requirement is reasonable having regard to the circumstances of the case or the legitimate interests of the advertiser or other persons.

(3) The supervisory authority may consider the claims in the advertisement to be inaccurate if the evidence required under paragraph 2 has not been provided within the prescribed period or to the extent strictly necessary.

## Section 7c

### Specific measures

(1) The supervisory authority may order the removal or termination of advertising that is in conflict with the law, and to determine a reasonable deadline for the same. It may also prohibit unacceptable comparative advertising or advertising that constitutes an unfair commercial practice as an infringement by the directly applicable European Union legislation<sup>33a)</sup>. The supervisory authority is entitled to suspend the commencement of the unauthorised distribution of comparative advertising or advertising that constitutes an unfair commercial practice<sup>5)</sup>. For such a procedure no actual losses or other damages caused by such advertising need to have occurred, nor need there have been fault on the part of the advertiser; however, this does not constitute authorisation to introduce a system of prior control of advertisement designs before its distribution.

(2) The supervisory authority shall publish in an appropriate manner the decision issued pursuant to paragraph 1 or pursuant to section 8a if as a result of the further spread of advertising there could be a threat to the life or health of persons. The supervisory authority is entitled to order the Advertiser or Processor to publish within a set deadline a corrective statement to the advertisement, which was found by final decision to constitute an unauthorised comparative advertisement or unfair commercial practice, and the removal or termination of which is res judicata, via the same communication medium by which such advertising was distributed. Costs of the publication of a corrective statement are borne by the party that was ordered by the supervisory authority to publish the same.

### Administrative delicts

## § 8

- (1) A natural person commits an offence by
- a) failing to notify the entity that demonstrates a legitimate interest under section 6b(2), which is the Advertiser or Processor,
  - b) distributing an advertisement or anonymous report concerning elections, which, under section 2 (1)(a), (b), (d) or (e) is forbidden
  - c) violating the obligation to distinguish the method of distributing information about a product or service by way of distributing information on tobacco products under section 3(3) or distributes advertising of tobacco products other than those specified in section 3 (4),
  - d) violating the ban on supplying free samples of tobacco products to the general public in accordance with section 3(7) or medicinal products for human use in accordance with section 5a (4),
  - e) distributing to the public advertising of veterinary medicinal products, which is inconsistent with section 5h,
  - f) distributing advertising on firearms and ammunition contrary to section 6,
  - g) distributing the advertising of funeral activities contrary to section 6a,

- h) contrary to section 2(1)(c) distributing unsolicited advertising in paper form,
  - i) contrary to section 5b(1) distributing communication media advertising of Medicinal Products for Human Use which is aimed at professionals, where such means are intended only for the professionals to whom the advertising of Medicinal Products for Human Use is concerned,
  - j) violating the ban on offering, promising or providing gifts or other benefits under section 5b (4),
  - k) breaching the obligation stipulated for the distribution of advertising for infant formula milk according to section 5e(1),
  - l) distributing advertising for lotteries and other similar unauthorised or non-notified games of chance under special legislation<sup>38)</sup>,
  - m) failing to disclose details of the Advertiser or Processor of advertising or a person who commissioned the distribution of advertising from them at the request of the supervisory authority and within the stipulated deadline, pursuant to section 7(4), or
  - n) contrary to section 3a(1) distributing advertising on electronic cigarettes, or their refills.
- (2) A natural person as an advertiser shall commit an offence if they
- a) commission advertising that is prohibited under section 2(1)(a) or (f) or section 3(1) or is in contravention of section 3(5),
  - b) violate the conditions laid down for the advertisement content in section 2(3) or (4), section 2c, section 3(6), section 4, section 5(3), (4) or (5), section 5a(1), (2), (5), (6), (7) or (8), section 5b(2) or (8), section 5c(1) or (2), section 5d, section 5e(1), section 5f, section 5g, section 5h, section 5i,
  - c) violate the conditions laid down for comparative advertising set out in section 2(2) or section 2a, or
  - d) fail to keep a sample (copy) of each advertisement according to section 7a(1) or provide a free copy of the advertisement to the supervisory authorities for the necessary time or fails to fulfill the obligation under section 7(2).
- (3) A natural person as the processor shall commit an offence by
- a) processing advertising, which is prohibited under section 2(1)(a) or (f) or section 3(1) ,
  - b) contrary to section 2(1)(b) processing an advertisement that constitutes an unfair commercial practice,
  - c) violating the conditions laid down for comparative advertising set out in section 2(2) or section 2a,
  - d) violating the conditions laid down for the advertisement content in section 2(3) or (4), section 2c, section 3(6), section 4, section 5(3), (4) or (5), section 5a(1), (2), (5), (6), (7) or (8), section 5b(2) or (8), section 5c(1) or (2), section 5(d), section 5e(1), section 5f, 5g, 5h or 5i,
  - e) failing to place a warning on advertising on a tobacco product under section 3(5) or
  - f) contrary to section 7a(3) failing to divulge data about the advertiser and Distributor of advertising at the request of the supervisory authority and within the deadline stipulated.
- (4) An expert shall commit an offence by requesting or receiving benefits that are prohibited under section 5b(4) or which are in conflict with section 5b(5) .
- (5) A fine of up to
- a) CZK 100,000 may be imposed in the case of an offence under subsection 1(j) or under subsection 4.
  - b) up to CZK 500,000 may be imposed in the case of an offence under subsection 1(a) or (m), subsection 2(d), or under subsection 3(f),
  - c) up to CZK 2,000,000 in the case of an offence under subsection 1(b), (c), (d), (e), (f), (g), (h), (i), (k), (l) or (n), under subsection 2(a), (b) or (c) or under subsection 3(a), (b), (c), (d) or (e).
- (6) For an offence under subsections 1 to 4 inclusive a fixed-penalty fine of up to CZK 5,000 may be

imposed.

## Section 8a

- (1) A legal or natural person shall commit an administrative offence by, as the Distributor,
- a) failing to notify the person that demonstrates a legitimate interest under section 6b(2) which is the Advertiser or Processor,
  - b) distributes an advertisement or anonymous report concerning elections, which, according to section 2 (1)(a), (d) or (e) is forbidden
  - c) contrary to section 2(1)(c) distributes unsolicited advertising in paper form,
  - d) violates the obligation to distinguish the method of distributing information about a product or service by way of distributing information on tobacco products under section 3(3) or distributes advertising of tobacco products other than those specified in section 3 (4),
  - e) violates the ban on supplying free samples of tobacco products to the general public in accordance with section 3(7) or medicinal products for human use in accordance with section 5a (4),
  - f) distributes advertising of Medicinal Products for Human Use aimed at professionals using means of communication which are not primarily intended for such professionals,
  - g) violates the duties of a commercial agent under section 5b(3) ,
  - h) violates the ban on offering, promising or providing gifts or other benefits under section 5b(4),
  - i) provides samples of medicinal products for human use in contravention of section 5b(7).
  - j) breaches the obligation stipulated for the distribution of advertising for infant formula milk according to section 5e,
  - k) distribute advertising on firearms and ammunition contrary to section 6,
  - l) distribute the advertising of funeral services contrary to section 6a,
  - m) disseminate to the public advertising of veterinary medicinal products, which is inconsistent with section 5h,
  - n) contrary to section 2(1)(b) distribute advertisements that constitute an unfair commercial practice,
  - o) distribute advertising for lotteries and other similar unauthorised or non-notified games of chance under special legislation<sup>38)</sup>,
  - p) does not disclose details of the Advertiser or Processor of advertising or a person who commissioned the distribution of advertising from them at the request of the supervisory authority and within the stipulated deadline, pursuant to section 7a(4), or
  - q) contrary to section 3a(1) distributes advertising on electronic cigarettes, or their refills.
- (2) A legal or natural person shall commit an administrative offence as the Advertiser by
- a) commissioning advertising that is, under section 2(1)(a) or section 3(1)
  - b) contrary to section 2(1)(b) commissioning an advertisement that constitutes an unfair commercial practice,
  - c) violating the conditions laid down for comparative advertising set out in section 2(2) or section 2a,
  - d) violating the conditions laid down for the advertisement content in section 2(3) or (4), section 2c, section 3(6), section 4, section 5(3) (4) or (5), section 5a(1), (2), (5), (6), (7) or (8), section 5b(2) or (8), section 5c(1) or (2), section 5d(3) or (4), section 5e(1), section 5f, 5h or 5i,
  - e) fails to place a warning on advertising on a tobacco product under section 3(5),



- f) contrary to section 7a(1) failure to keep one sample copy of each advertisement or provide one copy to the supervisory authorities for the time necessary,
  - g) failure to comply with the obligation under section 7a(2),
  - h) commissions the advertising of plant protection products contrary to the directly applicable EU regulation governing the placement of plant protection products on the market<sup>27a)</sup>
  - i) commissions the advertising of foodstuffs in which nutrition or health claims are made contrary to the directly applicable EU regulation governing on nutrition and health claims made on foods<sup>21a)</sup>,
  - j) commissions the advertising of food that does not meet the requirements laid down by the directly applicable EU regulation governing the provision of food information to consumers<sup>39)</sup> or directly applicable EU regulation, which lays down rules for the use of designations of origin, geographical indications and traditional expressions<sup>40)</sup> or
  - k) commissions advertising for lotteries and other similar unauthorised or non-notified games of chance under special legislation<sup>38)</sup>.
- (3) A legal entity or entrepreneur shall commit an administrative offence as the Processor by
- a) processing advertising, which is prohibited under section 2(1)(a) or section 3(1),
  - b) contrary to section 2(1)(b) processing an advertisement that constitutes an unfair commercial practice,
  - c) violating the conditions laid down for comparative advertising set out in section 2(2) or section 2a,
  - d) violating the conditions laid down for the advertisement content in section 2(3) or (4), section 2c, section 3(6), section 4, section 5(3) (4) or (5), section 5a(1), (2), (5), (6), (7) or (8), section 5b(2) or (8), section 5c(1) or (2), section 5d(3) or (4), section 5e(1), section 5f, 5h or 5i,
  - e) failing to place a warning on advertising on a tobacco product under section 3(5),
  - f) contrary to section 7a(3) failing to divulge data about the advertiser or Distributor of advertising at the request of the supervisory authority and within the deadline stipulated.
  - g) processing the advertising of plant protection products contrary to the directly applicable EU regulation governing the placement of plant protection products on the market<sup>27a)</sup>
  - h) processing the advertising of foodstuffs in which nutrition or health claims are made contrary to the directly applicable EU regulation governing on nutrition and health claims made on foods<sup>21a)</sup>,
  - i) processing the advertising of food that does not meet the requirements laid down by the directly applicable EU regulation governing the provision of food information to consumers<sup>39)</sup> or directly applicable EU regulation, which lays down rules for the use of designations of origin, geographical indications and traditional expressions<sup>40)</sup> or
  - j) processing advertising for lotteries and other similar unauthorised or non-notified games of chance under special legislation<sup>38)</sup>.
- (4) A legal entity or entrepreneur shall commit an administrative offence by
- a) violating the ban on offering, promising or providing gifts or other benefits under section 5b (4),
  - b) providing free meals and accommodation in conflict with section 5b(5),
  - c) requesting or receiving benefits in connection with the advertising of medicinal product for human use that are prohibited under section 5b(4) or which are in conflict with section 5b(5) or
  - d) violating the prohibition of sponsorship in accordance with section 3 or section 3a.
- (5) For an administrative offence under subsection 1 the following fines shall be imposed
- a) up to CZK 500,000, for an administrative offence under subsection 1(a) or (p),

- b) up to CZK 2,000,000, for an administrative offence under subsection 1(b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m) or (q),
  - c) up to CZK 5,000,000, for an administrative offence under subsection 1(n) or (o).
- (6) For an administrative offence under subsection 2 the following fines shall be imposed
- a) up to CZK 500,000, for an administrative offence under subsection 2(f) or (g),
  - b) up to CZK 2,000,000, for an administrative offence under subsection 2(a), (c), (d), (e), (h), (i) or (j),
  - c) up to CZK 5,000,000, for an administrative offence under subsection 2(b) or (k).
- (7) For an administrative offence under subsection 3 the following fines shall be imposed
- a) up to CZK 500,000, for an administrative offence under subsection 3(f),
  - b) up to CZK 2,000,000, for an administrative offence under subsection 3(a), (c), (d), (e), (g), (h) or (i),
  - c) up to CZK 5,000,000, for an administrative offence under subsection 3(b) or (j).
- (8) For an administrative offence under subsection 4 the following fines shall be imposed
- a) up to CZK 1,000,000, for an administrative offence under subsection 4(a) or (b),
  - b) up to CZK 100,000, for an administrative offence under subsection 4(c),
  - c) up to CZK 2,000,000, for an administrative offence under subsection 4(d).
- (9) For administrative offences under subsections 1 to 4 a fixed penalty fine of up to CZK 5,000 may be imposed if the infringement is reliably ascertained, there is sufficient agreement and the entity accused of an administrative offence is willing to pay the fine. No appeal may be made against the imposition of a fixed-penalty fine. An authorised employee of the supervisory authority is entitled to collect the imposed fine. Receipts are used for the imposition and collection of fixed-penalty fines.

## Section 8b

### Common provisions

- (1) A legal entity shall not be liable for an administrative offence if it proves that it had made every effort that could have been required of it to prevent a breach of its legal obligations.
- (2) In assessing the level of the fine on the legal entity, the severity of the administrative offence shall be reflected, particularly the manner of its commission and its consequences and the circumstances under which it was committed.
- (3) The liability of the legal entity for an administrative offence shall lapse if the administrative body fails to commence proceedings within 2 years from the date on which it learned of such delict, but not later than 5 years from the date on which it was committed.
- (4) Administrative offences under this Act shall be heard as the first instance by supervisory authorities according to their competence as defined in section 7.
- (5) The responsibility for conduct that occurred in the business of the natural person<sup>34)</sup> or in direct connection therewith, shall be subject to the provisions of this Act on liability and sanctions for legal entities.
- (6) The fine imposed by the supervisory authority pursuant to section 7(a) to (h) constitutes state budget revenue. The fine imposed by the supervisory authority pursuant to section 7(i) constitutes state budget revenue. A fine which constitutes state budget revenue is collected by the supervisory authority that imposed it. A fine which constitutes regional budget revenue is collected and enforced by the competent regional authority, with the exception of fixed penalty fines which are collected by the competent regional trades licensing authority.

## Section 8c

- (1) An appeal against decisions of the supervisory authorities referred to in section 7(b), (c), (d), (e), (f), (g), (h) and (i) issued under sections 7c, 8 and 8a may be filed within 15 days of notification of the decision<sup>36)</sup>.
- (2) Decisions of the supervisory authority referred to in section 7(a) and issued under sections 7c, 8 and 8a cannot be appealed. The filing of an appeal<sup>37)</sup> against the decision of the supervisory authority referred to in section 7(a) on the imposition of a fine for an administrative offence has a suspensive effect.

## § 9

### Final provisions

The following are repealed:

1. section 4(1)(g) and section 4(3)(b) of Act No. 37/1989, on protection against alcoholism and other addictions.
2. section 20 of Act No. 634/1992, on consumer protection, as amended by Act No. 217/1993
3. section 5(2) of Act No. 273/1993, on certain conditions of production, distribution and archiving of audiovisual works, on the amending and supplementing certain Acts and certain other regulations.
4. section 6 and section 7(3) and (5) of Act No. 303/1993, on abolishing of the state tobacco monopoly and on related measures; in section 7(4) the words “or in section 6” are deleted.

## Section II

Act No. 468/1991, on radio and television broadcasting, as amended by Act No. 597/1992, Czech National Council Act No. 36/1993 and Act No. 253/1994, are amended as follows:

1. In Section 6(1) letters (c) and (d) are deleted. The existing letters e) and (f) are reassigned as (c) and (d).
2. In Section 6(2) letters (b), (c) and (d) are deleted, including footnotes 3) and 4). The existing letter e) is reassigned as letter b).
3. A new section 6a is inserted which, including the heading and footnotes 3) and 4), reads:

### “Section 6a

#### Inserting advertisements into programs

- (1) Broadcasters are obliged to ensure that advertisements are inserted between programs, with the exception of programs consisting of independent, in terms of individual program content integrated and separable parts or sports broadcasts and broadcasts of events and performances containing intervals, with the exception of audiovisual programs referred to in section 2.
- (2) Holders of television broadcasting licences are obliged to ensure that during the broadcasting of audiovisual programs advertisements are inserted as follows:
  - a) when broadcasting a film or a work expressed in a similar manner,<sup>3)</sup> only if it lasts, including classified advertisements, for more than 45 minutes, no more than once during each period of 45 minutes of time; a further interruption is allowed if the duration of such film including advertising is at least 20 minutes longer than two or more complete 45-minute time slots; between two consecutive interruptions at least 20 minutes must have elapsed,
  - b) during the broadcast of other audiovisual programs with the exception of the provisions of paragraph 3, only if the program including classified ads lasts for more than 30 minutes and not more than once during each 30 minute time slots; between two consecutive interruptions at least 20 minutes must have elapsed.
- (3) Interruptions for news programs, religious programs and children's advertising are not permitted.

(4) Rights protected by copyright law<sup>4)</sup> remain unaffected.

(3) section 6 of Act No. 35/1965, on literary, scientific and artistic works (the Copyright Act), as amended by Act No. 89/1990

(4) Act No. 35/1965, as amended.

4. In section 8(d) the words in brackets are deleted.

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