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Indonesia: Advertising and Marketing Advertising Law

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About the Author of this Article

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Introduction

There is no single law aiming to provide comprehensive regulation of advertising in Indonesia. Regulation on advertising is set out in several laws, the most important of which are as follows.

- Law Number 8 of 1999 on Consumer Protection (the **Consumer Protection Law**) covering general aspects of advertising
- Law Number 40 of 1999 on the Press (the **Press Law**) concerning advertising using print and electronic media in the form of text, sound, image, sound and image, and data and graphs
- Law Number 32 of 2002 on Broadcasting (the **Broadcasting Law**) covering broadcast media, particularly television and radio
- Law Number 11 of 2008 on Information and Electronic Transactions (the **ITE Law**) concerning advertising using electronic media in the form of digitally transmitted information, electronic transactions, information technology, electronic documents, and electronic systems

Moreover, there are Local Regulation of DKI Jakarta Number 12 of 2011 on Advertising Tax and Local Regulation of DKI Jakarta Number 7 of 2004 on Implementation of Advertising (**Local Regulations of DKI**) on ads in the form of billboards, large electronic displays (LED), fabric advertisements, stickers, flyers, and other media. The local regulations were issued with an aim to promote and oversee sources of advertising tax revenues for the local government of DKI Jakarta.

Industry-Specific Regulations

Some laws regulate advertising of specific products and services. Among these are:

- Annex III of Minister of Health Decree Number 386/MEN.KES/SK/IV/1994 on Advertising Guidelines of Drug-Free Traditional Medicine, Medical Devices, Cosmetics, Health Household Supplies and Food-Beverage (hereinafter the **Medicine Advertising Guidelines**)
- Minister of Health Regulation Number 1787/MENKES/PER/XII/2010 on Advertising and Publication of Health Care (hereinafter the **Health Care Advertising Regulations**)
- Government Regulation Number 69 of 1999 on Food Labeling and Advertising (hereinafter the **Food Advertising Regulations**).

Products and Services Banned From Advertising

- Gambling
- Sexual services
- Category C liquor (liquor with high alcohol content)
- Firearms, weapons, and ammunition

Regulations Related to Product and Service Advertising

Alcohol (Beer and Wine)

No specific restrictions

Alcohol (Spirits)

The **Broadcasting Law** prohibits broadcasting of commercial advertisements promoting liquor or addictive substances. It applies to advertisements broadcast on radio or television.

The **Medicine Advertising Guidelines** state that advertisements for liquor may not:

- Affect or stimulate people to start drinking liquor

- Describe the use of liquor in activities that require concentration (its use could endanger safety)
- Be intended for children under 16 years old or for pregnant women, or depict them in the ads
- Advertise C category liquor (with an alcohol content of 20 to 55 percent); advertisements for hard liquor are banned

Firearms, Weapons, and Ammunition

As noted above, advertising of firearms, weapons, and ammunition is prohibited completely.

Food

Food advertising is regulated under the **Food Advertising Regulations**. The law requires packaged foods sold in Indonesia to bear a label that is easily seen and read and is affixed in such a way that it is not easily faded, separated from the package, or damaged. It is prohibited to make false or misleading statements or representations, whether through text, images, or other means, in advertisements or on labels.

Manufacturers and importers of food for sale in Indonesia are responsible for the truth of statements that the food is *halal* (suitable per Muslim dietary laws). Food that is halal should include the word "halal" on the label.

Gaming

Advertising of gambling activities is prohibited completely per the **Broadcasting Law**.

Legal Service

Law Number 18 of 2003 on Advocates (**Advocate Law**) does not prohibit advertisement. However, the **Indonesian Advocate Code of Conduct** states that:

- Advertising that is designed to attract people's attention is prohibited, including use of signboards of excessive size.
- Attorneys are not justified to seek publicity through the mass media or to attract attention to their actions as advocates in cases they are handling or have handled, unless the information provided is intended not for self-promotion, but to uphold and foster the rule of law and the standards of the legal profession

Medical Devices

Under the **Food and Drug Advertising Guidelines**, medical devices, cosmetics, and personal-care products may be advertised if the product has obtained a registration number from the **Ministry of Health of the Republic of Indonesia**. Advertisement contents must comply with registration data and other information that was approved upon registration.

An advertisement for medical devices, cosmetics, and personal-care products is required to be:

- **Objective**, stating facts in accordance with reality
- **Not misleading** and without exaggeration as to the origin, nature, quality, quantity, composition, usability, security, and restriction of medical devices, cosmetics, and health household supply.
- **Complete**, which includes not only information about the utility of the product and instructions for its use, but also warnings and advisories that should be considered by the user, such as ways to cope in the event of an accident

Medical Services

Under the **Health Care Advertising Regulations**, a health-care facility may promote and/or publish its health care services through any and all media. Publication of health care may be in the form of news, banners, text runs, articles, or features. Advertising and/or publication of health care by a health-care facility through the Internet may not be used as a long-range medical consultation (*telemedicine*).

The issuance of advertising and/or publication as mentioned above must be in accordance with the advertising ethic set out in the **Indonesia Hospital's Code Of Conduct**, the **Health Worker's Code Of Conduct**, the **Advertisers' Code Of Conduct**, and the laws. Advertisements and publications of health-care facilities must meet the requirements set forth in **Ministry of Health** regulations; statements must:

- Contain accurate facts
- Be based on evidence
- Be informative and educational
- Be responsible

Advertisements and/or publications as mentioned above which are published in print media, electronic media, or outdoor media must include the name and address of the health-care facility and the date of publication. Advertising and/or publication of health care is not allowed if it:

- Attacks and/or shows bad taste, for example by demeaning the honor and degree of the health profession;
- Provides information or statements that are false, deceiving, or misleading
- Contains information which implies that the health-care facility may obtain health outcomes which cannot be implemented by other health-care facilities
- Creates an inappropriate expectancy of health care which is given

Nonprofit Fundraising

No specific restrictions

Nutritional Supplements

Per the **Medicine Advertising Guidelines**, advertising of nutritional supplements may be done only to prevent or to overcome nutritional deficits experienced at times such as after surgery, during pregnancy and breastfeeding or after sickness, and by the elderly.

Also see [Pharmaceuticals](#) for requirements as to completeness and accuracy of information.

Occult ("Psychic") Services

No specific restrictions

Pharmaceuticals

Under the **Medicine Advertising Guidelines**, information on the advertising of medical products must comply with the criteria set out in Article 41 Paragraph (2) of **Law Number 23 of 1992 on Health**, as follows:

Political Advertising

Under Article 76 of Law Number 10 of 2008 on General Election of Members of the House of Representatives, The House Of Representatives District, And House Of Representatives District (the **General Election Law**), the general election campaign is performed according to the principle of responsibility and is a part of the political education of the society at large.

Under Article 81 of the General Election Law, the campaign material of the political party of a general election candidate has to include the vision, mission, and program of the political party. The same is true for the campaign material of the individual candidate.

Permitted

The general election campaign as referred to Article 76 may be performed through:

- A limited meeting
- A face-to-face meeting
- Print mass media and electronic mass media
- Distribution of campaign material to the public
- Installation of props in a public place
- General meeting
- Other activities which do not violate the prohibition of campaign laws and regulations

Prohibited

Organizers, candidates, and officials of a political campaign are prohibited from:

- Questioning the constitution of Pancasila, the Opening of Constitution Law of the Republic of Indonesia of 1945, and the Unitary State of the Republic of Indonesia
- Engaging in any activity which endangers the integrity of the Unitary State of the Republic of Indonesia
- Insulting any person, religion, tribe, race, group, candidate, or other election participant
- Disturbing the public order
- Inciting to violence or recommending the use of violence against a person, group society members, and/or other general election participants
- Destroying and/or removing campaign materials (*alat peraga*) of an opposing candidate
- Using government facilities, places of worship, and places of education
- Making use of images or other attributes of opposing candidates
- Promising or giving money or other materials to the campaigners

The following are prohibited from serving as campaign organizers: The chairman, vice chairman, young junior] chairman, supreme court judge, and judges in any judicial body under the supreme court, and judges on the constitutional court

- The chairman, vice chairman, or any member of the Financial Examiners Board (*Badan Pemeriksa Keuangan*)
- The governor, senior deputy governor, and deputy governor of the Bank of Indonesia
- Officials of enterprises owned by the state or region
- Civil servants
- A member of the Indonesian National Army and Police of the Republic of Indonesia
- Village heads
- Village administrative staff
- A member of a village consultative body (*badan permusyawaratan desa*)
- An Indonesian citizen who does not have right to vote

Products Related to Sexuality

Condoms in Indonesia are categorized as a medical device, which is set out in the **Medicine Advertising Guidelines**, which state that:

- Condom ads shall not encourage the use of condoms for immoral purposes
- Condom ads shall be adjusted to the aesthetic and oriental manners
- Condom ads shall be accompanied be a note reading "FOLLOW THE INSTRUCTIONS FOR USE"

Religion

Advertising of religion in order to offend and/or degrade other religions is prohibited by the **Press Law**.

Sex (Adult) Services

Law Number 44 of 2008 on Pornography prohibits offering or advertising, directly or indirectly, sexual services.

Tobacco Products

Advertising and promotion may be performed only by a person who produces cigarettes and/or distributes cigarettes into the territory of Indonesia. Such advertising and promotion may be performed through electronic media, print media, or outdoor media. Advertising on electronic media may only be performed from 9:30pm to 5am local time.

Advertisements for tobacco products are prohibited from:

- Encouraging people to smoke
- Claiming or suggesting that smoke gives health benefits
- Showing or describing, in images and/or text, a pack of cigarettes, a cigarette, or people in the act of smoking
- Displaying, in images and/or text, children, teenagers, or pregnant women
- Listing the name of product concerned as cigarette
- Conveying messages contrary to the prevailing norms in society

Each advertisement on electronic media, print media, or outdoor media has to include a mandated warning about the danger of smoking for health. The warning has to be written clearly so that it is easy to read, and it must occupy no less than 15 percent of the total advertising area.

Under the **Press Law**, a press company (*perusahaan pers*) may not publish advertisements containing depictions of cigarettes or of the act of smoking. The **Broadcasting Law** also prohibits cigarette advertisements from including depictions of cigarettes.

Toys

No specific restrictions

Regulations Related to Advertising Methodology

Advertising to Children

Commercial advertising which is broadcast between segments of a children's movie show has to comply with the standard of children's broadcasting set forth in the **Indonesian Broadcasting Commission Regulations on Broadcast Program Standard** and the **Broadcasting Code of Conduct**.

Celebrity Endorsements

No specific restrictions

Comparative Advertising

There is no current restriction on comparative advertising, but the **Consumer Protection Law** mentions that an entrepreneur is prohibited from disparage competitors' goods and/or other services, directly or indirectly.

Contests

No specific restrictions

Deceptive, False, or Misleading Advertising

Article 10 of the **Consumer Protection Law** states that entrepreneurs are prohibited to offer, promote, advertise, or create incorrect or misleading statements on the following:

- The price or rate of a certain good or service
- The use of the good or service
- The condition, warranty, guarantee, rights, or compensation on certain goods and/or services
- Discounts or prizes offered in connection with the good or service
- Dangers associated with use of the good or service

Disguised Ads and Advertorials

No specific restrictions

False Advertising

See [Deceptive, False, or Misleading Advertising](#) above.

Free Gifts/Samples

Free gifts and samples are permitted, but "bait-and-switch" tactics are expressly prohibited. The **Consumer Protection Law** prohibits entrepreneurs from offering, promoting, or advertising goods and/or services by promising to grant free goods or services as a prize with the intention of not granting them or granting them but not complying with the promised plan.

Limits to Free Speech

Under the **Press Law**, independence of the press is guaranteed as a right of citizens. This means that the press is free from restriction and suppression so that the citizen's rights to obtain the information are guaranteed.

Length of Commercial, Volume, and Similar Restrictions

The **Broadcasting Law** limits the broadcast time of commercial advertising to 20 percent of overall broadcast time for private broadcasting institutions and 15 percent. for public broadcasting institutions.

Rights of Privacy

Article 26 of the **ITE Law** states that personal data transmitted electronically may be used only subject to approval of the person concerned. In the utilization of information technology, protection of personal data is a part of privacy rights.

The right to privacy is defined as the right to:

- Enjoy a private life free from harrassment
- Communicate with other persons without surveillance by outside parties
- Have control over who may access one's personal information

Product Demonstrations

Cigarette smoking may not be demonstrated, per the **Press Law**, **Broadcasting Law**, and **Government Regulation Number 19 of 2003 on Smoking Safety of Health**. See [Tobacco Products](#), above.

Regional Public and/or Community Standards

Billboard advertising is regulated under Article 2 of Local Regulation of Special Capital Territory Jakarta (*Daerah Khusus Ibukota Jakarta*) Number 7 of 2004 on Implementation of Advertising (**Local Regulation of DKI Jakarta**). For more information, see [Billboard Advertising](#) below.

Rebates

Rebates *per se* are not prohibited. Under the **Consumer Protection Law**, entrepreneurs are prohibited from offering, promoting, or advertising goods or services at special prices or rates within a certain period of time and in a certain number if the entrepreneurs do not intend to make the goods available according to the advertised terms and during the advertised time.

Sex in Advertising

Law Number 44 of 2008 on Pornography forbids advertisers to produce, make, reproduce, duplicate, distribute, broadcast, import, exporting, offer, sell, lease, or otherwise make available pornography which explicitly includes:

- Sexual intercourse, including sexual intercourse considered deviant
- Sexual harshness
- Masturbation
- Nudity or an impressive display of nakedness
- Genitals
- Child pornography

Violators face a criminal sanction of imprisonment for six to twelve months and/or a fine for a minimum of 250 million rupiah and up to six billion rupiah.

Sponsorships

No specific restrictions

Subliminal Advertising

No specific restrictions

Sweepstakes Offers

Based on the **Consumer Protection Law**, entrepreneurs offering goods or services for trade by granting a prize through lottery, are prohibited from:

- Trading the goods without drawing the lottery on the scheduled lottery date
- Announcing the lottery result without using mass media
- Granting a prize other than the one promised
- Substituting the prize which does not comply with the value of the promised prizes

Telemarketing

No specific restrictions

Testimonials

No specific restrictions

Tie-In Offers

No specific restrictions

Use of a Public Person's Image or Name

Under Article 19 of the **Copyright Law**, to reproduce or create the copyright holder of a person's portrait must obtain the permission of the person who has been portrayed, or permission of the person's heir within a period of 10 (ten) years after the death of the person who has been portrayed. If a portrait contain two or more people, for reproduction or announcement of each person who has been portrayed, if the announcement or reproduction also includes another person in the portrait, the copyright holder must obtain permission from every person in the portrait, or permission of each heir within a period of 10 (ten) years after the person who has been portrayed has died.

Use of Children in Advertising

No specific restrictions

Use of Foreign Language in Advertising

Foreign-language shows may be broadcast in their original language, and for television shows, Indonesian subtitles may be provided or the foreign language may be selectively dubbed into the Indonesian language in accordance with the purposes of a certain program. The subtitles or dubbed text must be in Indonesian. This obligation applies only to television broadcasting services.

Dubbing from a foreign language to Bahasa Indonesia is limited to 30 percent of the total broadcasting using foreign language.

Use of Models as Doctors, Nurses, Lawyers, or other Professionals

No specific restrictions

Violence in Advertising

No specific restrictions

Regulations Related to Media Channels

Print, Broadcast, and Electronic Media Channels and Article 13 of the Press Law

In Indonesia, the **Press Law**, the **Broadcasting Law**, and the **ITE Law** taken together govern advertising in all media channels apart from telemarketing, direct mail, and outdoor (billboard) advertising. **Article 13 of the Press Law**, which governs electronic media as well as print media, thus applies to each of these media channels. **Article 13** bans four principal categories of advertisements, namely those that:

- Express condescension toward any religion or that disturb inter-religious harmony
- Are contrary to public decency
- Promote or encourage use of liquor, narcotics, psychotropic drugs, and other substances banned by applicable laws and regulations

Depict cigarettes or smoking A press company (understood to mean any company issuing print, broadcast, or electronic media) that violates these provisions is subject to a maximum fine of Rp. 500,000,000 (five hundred million rupiah).

Billboard Advertising

Article 7 of **Local Regulation of DKI Jakarta** states that every advertising implementation of megatron, videotron, large electronic display and billboard must comply with a billboard building plan which includes size (dimension), construction, and presentation of billboards.

Billboard placement must take note of ethics, aesthetics, and architectural and environmental harmony in accordance with the city plan. Ethics includes consideration of religious and moral norms, decency, cleanliness, health, safety, and order.

The city plan for billboards is based on zoning, which identifies areas where billboards may not be placed (white areas) and three categories of areas where billboards are permitted: Tight Control Areas, Medium Control Areas, and Special Areas, according to the character of the urban space. No cigarette advertising is permitted in Tight Control Areas.

Digital Media Advertising

Subject to **Article 13**.

In addition, the **ITE Law** prohibits any person from intentionally and without right distributing, transmitting, or giving access to electronic information or electronic documents which contain or display:

- Violation of decency
- Gambling
- Contempt and/or defamation
- Extortion and/or threats
- Fabricated and misleading news which causes losses to consumers of electronic transactions
- Information which is intended to cause hatred or hostility on the part of individuals and/or certain social groups toward others based on ethnicity, religion, race, or social group
- Violence or intimidation of any person or group

Direct Mail Advertising

No specific restrictions

Email Advertising (Spam)

Subject to **Article 13**.

The provisions of the **ITE Law** cited under [Digital Media Advertising](#) (see above) apply as well to email advertising.

Newspaper and Periodical Advertising

Subject to **Article 13**.

Radio Advertising

Subject to **Article 13**.

The **Broadcasting Law** further prohibits broadcasting of commercial advertising which exploits children under 18 years old.

Television Advertising

Subject to **Article 13**.

Television advertising is subject to the provisions is subject to the provisions of the **ITE Law** cited above under [Digital Media Advertising](#).

Telemarketing

No specific restrictions

Social Media Advertising (Facebook, YouTube, Twitter, etc.)

Subject to **Article 13**.

Social media advertising (Facebook, YouTube, Twitter, and so on) is subject to the provisions of the **ITE Law** cited above under [Digital Media Advertising](#).

Regulatory Agencies

Ministry of Health Kementrian Kesehatan

Jl H.R.Rasuna Said Blok X.5 Kav. 4-9
DKI Jakarta, Indonesia
Web: www.depkes.go.id

Responsible to the monitoring of medicine, food and beverage advertising.

Indonesian Broadcasting Commission Komisi Penyiaran Indonesia

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Jl. Gajah Mada No.8, Jakarta Pusat 10120
DKI Jakarta, Indonesia
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Fax: 021-6340667, 6340679
Web: www.kpi.go.id

Responsible to the monitoring of media channels advertising.

Key Laws and Regulations

Consumer Protection Law Undang-Undang Perlindungan Konsumen

Law Number 8 of 1999 on Consumer Protection

Among the law's stated purposes are the following:

- To create a consumer protection system that provides legal certainty and access to clear information
- To increase entrepreneurs' awareness of the importance of consumer protection, so that the result is honesty and responsibility in doing business
- To increase the quality of goods and services

Broadcasting Law Undang-undang Penyiaran

Law Number 32 of 2002 on Broadcasting

The broadcasting as a mass communication activity has a function as information media, education, wholesome entertainment, control and social cohesiveness. Broadcasting also has economic and cultural functions. Broadcasting is to provide the correct information, balanced, and responsible. For the implementation of

broadcasting, a broadcasting commission is established. Broadcasting Commission is called the Indonesian Broadcasting Commission which is shortened as KPI. KPI is an independent state institution which is regulating the broadcasting.

Press Law

Undang-undang Pers

Law Number 40 of 1999 on Press

The press is a social and mass communication institution which performs journalistic activities including search for, acquire, possess, save, processes and conveys the information either in the form of text, sound, image, sound and image, and data and graphs or in other forms by using media print, electronic media, and all available channels. Freedom of press is one manifestation of people's sovereignty which is based on principles of democracy, justice, and supremacy of law. National press has function as media of information, education, entertainment, and social control. In addition to these functions, the national press may be served as economic institution. Press freedom is guaranteed as right of citizens. The national press is not imposed of censorship, restrictions or bans of broadcasting. To ensure the freedom of press, national press has the right to look for, obtains, and disseminates of idea and information. In responsible of news before the law, the journalist has the right to Reject (*Hak Tolak*). The national press must report the event and opinion and respect to religious norms and a sense of public decency and the presumption of innocence.

Information and Electronic Transaction Law

Undang-undang Informasi dan Transaksi Elektronik or ITE Law

Law Number 11 of 2008 on Information and Electronic Transactions

The use of information technology and electronic transactions is to provide security and protection, justice, and legal certainty for users and providers of information technology. Electronic information, electronic documents, and prints is a valid evidence, which is an extension of the valid evidence in accordance with the Law of Civil Procedure that is applicable in Indonesia in the event of future disputes on the use of the Information Technology and Electronic Transactions.

Advertising Pre-Clearance Agencies

Based on the **Broadcasting Law**, broadcast content in the form of film and/or advertisement must obtain the mark of passed censorship from the authorized institution.

For the advertising of Drug-Free, drug advertisements may be published after the draft of the advertisement is approved by the Ministry of Health under the Medicine Advertising Guidelines.

Trends

Advertisement content is increasingly considered legally binding.

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