

**GUIDELINES FOR ETHICAL MARKETING
IN RBAL**

V1.0

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GUIDELINES FOR ETHICAL MARKETING IN RBAL

INTRODUCTION:

These guidelines are based on the Consolidated ICC Code of Advertising and Marketing Communication Practice. All actions performed by marketing Albania confirm to act according to these guidelines.

The principles of the guideline for ethical marketing in RBAL include the principles defined in the regulation “on transparency for banking financial products and services” approved with Decision nr. 59 dated 29.08.2008 of the Supervisory Council of Bank of Albania.

ARTICLE 1: BASIC PRINCIPLES

All marketing communications should be legal, decent, honest and truthful.

All marketing communications should be prepared with a due sense of social and professional responsibility and should conform to the principles of fair competition, as generally accepted in business.

No communication should be such as to impair public confidence in marketing.

ARTICLE 2: DECENCY

Marketing communications should not contain statements or audio or visual treatments which offend standards of decency currently prevailing in Albania.

ARTICLE 3: HONESTY

Marketing communications should be so framed as not to abuse the trust of consumers or exploit their lack of experience or knowledge.

Relevant factors likely to affect consumers’ decisions should be communicated in such a way and at such a time that consumers can take them into account.

ARTICLE 4: SOCIAL RESPONSIBILITY

Marketing communications should respect human dignity and should not incite or condone any form of discrimination, including that based upon race, national origin, religion, gender, age, disability or sexual orientation.

Marketing communications should not without justifiable reason play on fear or exploit misfortune or suffering.

Marketing communications should not appear to condone or incite violent, unlawful or anti-social behavior.

Marketing communications should not play on superstition.

ARTICLE 5: TRUTHFULNESS

Marketing communications should be truthful and not misleading.

Marketing communications should not contain any statement, claim or audio or visual treatment which, directly or by implication, omission, ambiguity or exaggeration, is likely to mislead the consumer, in particular, but not exclusively, with regard to:

- characteristics of the product which are material, i.e. likely to influence the consumer's choice, such as: efficiency and performance, quantity, commercial origin or environmental impact;
- the value of the product and the total price/ fee to be paid by the consumer;
- terms of termination terms of guarantee;
- copyright and industrial property rights such as patents, trademarks, designs and models and trade names;
- compliance with standards;
- official recognition or approval, awards such as medals, prizes and diplomas;
- the extent of benefits for charitable causes.

ARTICLE 6: USE OF TECHNICAL/ SCIENTIFIC DATA AND TERMINOLOGY

Marketing communications should not

- misuse technical data, e.g. research results or quotations from technical and scientific publications;
- present statistics in such a way as to exaggerate the validity of a product claim;
- use scientific terminology or vocabulary in such a way as falsely to suggest that a product claim has scientific validity.

ARTICLE 7: USE OF “FREE” AND “GUARANTEE”

The term “free”, e.g. “free gift” or “free offer”, should be used only

- where the offer involves no obligation whatsoever; or
- in conjunction with the purchase of another product, provided the price of that product has not been increased to cover all or part of the cost of the offer.

Marketing communications should not state or imply that a “guarantee”, “warranty” or other expression having substantially the same meaning, offers the consumer rights additional to those provided by law when it does not. The terms of any guarantee or warranty, including the name and address of the guarantor, should be easily available to the consumer and limitations on consumer rights or remedies, where permitted by law, should be clear and conspicuous.

ARTICLE 8: SUBSTANTIATION

Descriptions, claims or illustrations relating to verifiable facts in marketing communications should be capable of substantiation. Such substantiation should be available so that evidence can be produced without delay and upon request to the self-regulatory organizations responsible for the implementation of the Code.

ARTICLE 9: IDENTIFICATION

Marketing communications should be clearly distinguishable as such, whatever their form and whatever the medium used. When an advertisement appears in a medium containing news or editorial matter, it should be so presented that it is readily recognizable as an advertisement and the identity of the advertiser should be apparent (see also article 10).

Marketing communications should not misrepresent their true commercial purpose. Hence a communication promoting the sale of a product should not be disguised as for example market research, consumer surveys, user-generated content, private blogs or independent reviews.

ARTICLE 10: IDENTITY

The identity of the marketer should be apparent. Marketing communications should, where appropriate, include contact information to enable the consumer to get in touch with the marketer without difficulty

The above does not apply to communications with the sole purpose of attracting attention to communication activities to follow (e.g. so-called “teaser advertisements”).

ARTICLE 11: COMPARISONS

Marketing communications containing comparisons should be so designed that the comparison is not likely to mislead, and should comply with the principles of fair competition. Points of comparison should be based on facts which can be substantiated and should not be unfairly selected.

ARTICLE 12: DENIGRATION

Marketing communications should not denigrate any person or group of persons, firm, organization, industrial or commercial activity, profession or product, or seek to bring it or them into public contempt or ridicule.

ARTICLE 13: TESTIMONIALS

Marketing communications should not contain or refer to any testimonial, endorsement or supportive documentation unless it is genuine, verifiable and relevant. Testimonials or endorsements which have become obsolete or misleading through passage of time should not be used.

ARTICLE 14: PORTRAYAL OR IMITATION OF PERSONS AND REFERENCE TO PERSONAL PROPERTY

Marketing communications should not portray or refer to any persons, whether in a private or a public capacity, unless prior permission has been obtained; nor should marketing communications without prior permission depict or refer to any person’s property in a way likely to convey the impression of a personal endorsement of the product or organization involved.

ARTICLE 15: EXPLOITATION OF GOODWILL

Marketing communications should not make unjustifiable use of the name, initials, logo and/or trademarks of another firm, company or institution. Marketing communications should not in any way take undue advantage of another firm’s, individual’s or institution’s goodwill in its name, brands or other intellectual property, or take advantage of the goodwill earned by other marketing campaigns without prior consent.

ARTICLE 16: IMITATION

Marketing communications should not imitate those of another marketer in any way likely to mislead or confuse the consumer, for example through the general layout, text, slogan, visual treatment, music or sound effects.

Where a marketer has established a distinctive marketing communications campaign in one or more countries, other marketers should not imitate that campaign in other countries where the marketer who originated the campaign may operate, thereby preventing the extension of the campaign to those countries within a reasonable period of time.

ARTICLE 17: SAFETY AND HEALTH

Marketing communications should not, without justification on educational or social grounds, contain any visual portrayal or any description of potentially dangerous practices, or situations which show a disregard for safety or health, as defined by local national standards. Instructions for use should include appropriate safety warnings and, where necessary, disclaimers. Children should be shown to be under adult supervision whenever a product or an activity involves a safety risk.

Information provided with the product should include proper directions for use and full instructions covering health and safety aspects whenever necessary. Such health and safety warnings should be made clear by the use of pictures, text or a combination of both.

ARTICLE 18: CHILDREN AND YOUNG PEOPLE

Special care should be taken in marketing communications directed to or featuring children or young people. The following provisions apply to marketing communications addressed to children and young people as defined in national laws and regulations relevant to such communications.

- Such communications should not undermine positive social behavior, lifestyles and attitudes;
- Products unsuitable for children or young people should not be advertised in media targeted to them, and advertisements directed to children or young people should not be inserted in media where the editorial matter is unsuitable for them.

Services unsuitable for children should be clearly identified as such.

Inexperience and credulity

Marketing communications should not exploit inexperience or credulity, with particular regard to the following areas:

1. When demonstrating a product's performance and use, marketing communications should not
 - a. minimize the degree of skill or understate the age level generally required to assemble or operate products;
 - b. exaggerate the true value, nature, durability and performance of the product;
 - c. fail to disclose information about the need for additional purchases,
2. While the use of fantasy is appropriate for younger as well as older children, it should not make it difficult for them to distinguish between reality and fantasy.

3. Marketing communications directed to children should be clearly distinguishable to them as such.

Avoidance of harm

Marketing communications should not contain any statement or visual treatment that could have the effect of harming children or young people mentally, morally or physically. Children and young people should not be portrayed in unsafe situations or engaging in actions harmful to themselves or others, or be encouraged to engage in potentially hazardous activities or behavior.

Social values

Marketing communications should not suggest that possession or use of the promoted product will give a child or young person physical, psychological or social advantages over other children or young people, or that not possessing the product will have the opposite effect.

Marketing communications should not undermine the authority, responsibility, judgment or tastes of parents, having regard to relevant social and cultural values.

Marketing communications should not include any direct appeal to children and young people to persuade their parents or other adults to buy products for them.

Prices should not be presented in such a way as to lead children and young people to an unrealistic perception of the cost or value of the product, for example by minimizing them. Marketing communications should not imply that the product being promoted is immediately within the reach of every family budget.

Marketing communications which invite children and young people to contact the marketer should encourage them to obtain the permission of a parent or other appropriate adult if any cost, including that of a communication, is involved.

ARTICLE 19: DATA PROTECTION AND PRIVACY

When collecting personal data from individuals, care should be taken to respect and protect their privacy by complying with relevant rules and regulations.

Collection of data and notice

When personal information is collected from consumers, it is essential to ensure that the individuals concerned are aware of the purpose of the collection and of any intention to transfer the data to a third party for that third party's marketing purposes. (Third parties do not include agents or others who provide technical or operational support to the marketer and who do not use or disclose personal information for any other purpose.) It is best to inform the individual at the time of collection; when it is not possible to do so this should be done as soon as possible thereafter.

Use of data

Personal data collected in accordance with this code should be

- collected for specified and legitimate purposes and not used in any manner incompatible with those purposes;
- adequate, relevant and not excessive in relation to the purpose for which they are collected and/ or further processed;
- accurate and kept up to date;
- Preserved for no longer than is required for the purpose for which the data were collected or further processed.

Security of processing

Adequate security measures should be in place, having regard to the sensitivity of the information, in order to prevent unauthorized access to, or disclosure of, the personal data.

If the information is transferred to third parties, it should be established that they employ at least an equivalent level of security measures.

Children's personal information

When personal information is collected from individuals known or reasonably believed to be children 12 and younger, guidance should be provided to parents or legal guardians about protecting children's privacy if feasible.

Children should be encouraged to obtain a parent's or other appropriate adult's permission before providing information via digital interactive media, and reasonable steps should be taken to check that such permission has been given.

Only as much personal information should be collected as is necessary to enable the child to engage in the featured activity.

Data collected from children should not be used to address marketing communications to the children's parents or other family members without the consent of the parent.

Identifiable personal information about individuals known to be children should only be disclosed to third parties after obtaining consent from a parent or legal guardian or where disclosure is authorized by law. (Third parties do not include agents or others who provide technical or operational support to the marketer and who do not use or disclose children's personal information for any other purpose.)

Privacy policy

Those who collect data in connection with marketing communication activities should have a privacy policy, the terms of which should be readily available to consumers, and should provide a clear statement if any collection or processing of data is taking place, whether it is self-evident or not.

In jurisdictions where no privacy legislation currently exists, it is recommended that privacy principles such as those of the ICC Privacy Toolkit are adopted and implemented.

Rights of the consumer

Appropriate measures should be taken to ensure that consumers understand and exercise their rights

- to opt out of marketing lists (including the right to sign on to general preference services);
- to require that their data are not made available to third parties for their marketing purposes; and
- to rectify incorrect data which are held about them.

Where a consumer has expressed a wish not to receive marketing communications using a specific medium, whether via a preference service or by other means, this wish should be respected.

Cross-border transactions

Particular care should be taken to maintain the data protection rights of the consumer when personal data are transferred from the country in which they are collected to another country.

When data processing is conducted in another country, all reasonable steps should be taken to ensure that adequate security measures are in place and that the data protection principles set out in this code are respected. The use of the ICC model clauses covering agreements between the originator of the marketing list and the processor or user in another country is recommended.

ARTICLE 20: TRANSPARENCY ON COST OF COMMUNICATION

Where the cost to consumers of accessing a message or communicating with the marketer is higher than the standard cost of postage or telecommunications, e.g. “premium rate” for an online message, connection or telephone number, this cost should be made clear to consumers, expressed either as “cost per minute” or as “cost per message”. When this information is provided on-line, consumers should be clearly informed at the time when they are about to access the message or online service, and be allowed a reasonable period of time to disconnect without incurring the charge.

Where a communication involves such a cost, the consumer should not be kept waiting for an unreasonably long time in order to achieve the purpose of the communication and calls should not be charged until the consumer can begin to fulfill that purpose.

ARTICLE 21: UNSOLICITED PRODUCTS AND UNDISCLOSED COSTS

Marketing communications associated with the practice of sending unsolicited products to consumers who are then asked for payment (inertia selling), including statements or suggestions that recipients are required to accept and pay for such products, should be avoided.

Marketing communications which solicit a response constituting an order for which payment will be required (e.g. an entry in a publication) should make this unambiguously clear.

Marketing communications soliciting orders should not be presented in a form which might be mistaken for an invoice, or otherwise falsely suggest that payment is due.

ARTICLE 22: ENVIRONMENTAL BEHAVIOUR

Marketing communications should not appear to condone or encourage actions which contravene the law, self-regulatory codes or generally accepted standards of environmentally responsible behavior.

ARTICLE 23: RESPONSIBILITY

Responsibility for the observance of the rules of conduct laid down in the Code rests with the marketer whose products are the subject of the marketing communications, with the communications practitioner or agency, and with the publisher, media owner or contractor.

Marketers have overall responsibility for the marketing communications of their products.

Agencies or other practitioners should exercise due care and diligence in the preparation of marketing communications and should operate in such a way as to enable marketers to fulfill their responsibilities.

Publishers, media owners or contractors, who publish, transmit, deliver or distribute marketing communications, should exercise due care in the acceptance of them and their presentation to the public.

Individuals employed by a firm, company or institution falling into any of the above categories and who take part in the planning, creation, publication or transmission of a marketing communication are responsible, to an extent commensurate with their respective positions, for ensuring that the rules of the Code are observed and should act accordingly.

The Code applies to the marketing communication in its entire content and form, including testimonials and statements, and audio or visual material originating from other sources.

The fact that the content or form of a marketing communication may originate wholly or in part from other sources does not justify non-observance of the Code rules.

ARTICLE 24: EFFECT OF SUBSEQUENT REDRESS FOR CONTRAVENTION

Subsequent correction and/ or appropriate redress for a contravention of the Code, by the party responsible, is desirable but does not excuse the contravention.

ARTICLE 25: IMPLEMENTATION

Marketers, communications practitioners or advertising agencies, publishers, media owners and contractors should be familiar with the Code and with other relevant local self-regulatory guidelines on advertising and other marketing communications, and should familiarize themselves with decisions taken by the appropriate self-regulatory body. They should ensure an appropriate means exists for consumers to make a complaint and that consumers can readily be aware of it and use it easily.