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PROVOCATIVE ADVERTISING

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Life is changing dramatically and competition for consumers' attention becomes more and more intense each day. Producers of goods and services providers must use numerous artifices and become more sophisticated to achieve the best results to increase sales.

Professionals believe that typical instruments like classical advertising do not always work. Consumers' attention should be attracted by something unusual, unexpected, new, breathtaking.

Provocative advertising became one of those "fresh ideas."

It may be of any kind: shocking, thrilling, surprising, prompting, outrageous, even frightening, and may be distributed through any communication channels, but should not violate the law.

The effectiveness of provocative advertising is disputable even among the specialists. Some believe that provocative advertising will definitely attract the consumers' attention to the higher degree and thus promote the main aim – brand recognition and increase of sales. The opponents believe that provocative advertising may have the opposite effect: it will distract the consumer's attention from the mere advertising object or may even compromise the famous brand.

Despite two controversial points of view with regard to provocative advertising and the potential risk related to possible violation of law, provocative advertising remains productive and widely used by well-known companies.

Russian legislation on advertising provides for some specific provisions related to provocative advertising.

Use of foul language or anything pornographic in nature is prohibited. Demonstration of processes of smoking and consumption of alcoholic beverages is also inadmissible.

The above-described restrictions are mandatory for compliance, relative law enforcement practices as well as the court practices are uniform in that respect.

It is, however, different with regard to compliance with the restriction on the use of obscene and offensive images – this issue is more complicated from the point of view of compliance due to the fact that the notions "obscene" and "offensive" have a subjective-evaluative nature.

It causes difficulties in evaluation of the information as being "obscene" or "offensive." Some categories of people may perceive advertising as offense to their honor, human dignity or feelings, particularly in regards to gender, race, religion, nationality, profession, social category, or age. Advertising may be recognized as obscene if contradicting rules or morality and ethical standards of a particular person, while the same advertising may not have any negative connotation at all to another person.

Perception of the same information will strongly depend on various factors. Among others – differences in culture, religious upbringing, age, level of education, family values.

Russia is a multi-ethnic country and thus, it is easy to imagine a situation where the same advertising could be viewed diametrically opposite by different populations.

Taking the above into account, what are those formal criteria for recognizing provocative advertising offensive or obscene to eliminate/avoid risks of violating the law on advertising if provocative advertising is chosen as one of the means for promotion of goods/services? Strictly speaking, there is no such formal criteria. The clarifications of the Russian competent authorities may be a kind of a guidance and it is currently as follows - perception of the advertising as offensive or obscene by a significant number of people will be sufficient to consider the advertising as non-compliant with legislation on advertising.

Historically Russia is a country with rather conservative moral principles and values, thus the risk of the provocative advertising being considered illegal is rather high. However, those companies that consider provocative advertising the best instrument for promotion of their goods/services confess that the risk is in most cases justified businesswise.