

4. The Nature of the Contract

- 4.1 The type of contract forming the basis of the product or service advertised (and especially any charges, expenses or penalties) should be made clearly, and wherever the nature of the investments underlying the contract or to which it is linked is material to its choice, a fair description of investment objectives and of such investments should be given.

5. Tax

- 5.1 Where a claim is made in an advertisement as to the return offered by a given investment, and the achievement or maintenance of the return quoted is dependent in part upon the assumed effects of tax or duty, the advertisement should make it clear that no undertaking can be given that the fiscal system may not be revised with consequent effect upon the return offered.
- 5.2 The phrases ‘tax-free’, ‘tax-paid’ and other phrases should not be used without qualification as to the particular tax and/or duties involved. In particular the advertiser should state as clearly as possible what liabilities may arise and by whom they will be paid.

6. Other Restrictions

- 6.1 Where an advertiser reserves the right under certain circumstances to defer repayment of any sum invested for which in normal circumstances immediate repayment might be demanded by the investor, the maximum period during which repayment may be withheld should be stated in the advertisement.
- 6.2 Where investors are offered planned withdrawal of capital as an income equivalent, e.g. by cashing in unit trusts, the advertiser should ensure that the effect of such withdrawals upon capital invested is clearly explained.
- 6.3 Advertisements which may lead to the employment of money in a vehicle whose value is not guaranteed, should indicate that the value of the investment can go down as well as up. Where values are guaranteed, sufficient detail should be included to give the readers a fair view of the nature of the guarantee.

PART 6 – Mail Order Advertising

1. Definition of Mail Order Advertisement

- 1.1 “Mail order advertisement” refers to all advertisements, (except as expressly provided below) in which an offer is made, whether directly or by implication, to dispatch goods, or have them delivered to the purchaser, upon receipt of a written order, accompanied by payment in whole or in part, without the necessity for the consumer to visit any retail establishment or to examine the goods

prior to purchase. The rules in the ensuing paragraphs apply to all mail order advertisements including those by any advertiser who also conducts a normal retail business.

- 1.2 Where payment of RM1.00 or less is required by the advertiser for the provision of information (e.g. by way of all catalogue, brochure, price list or the like), the provisions of this Part, apart from 3.1, do not apply.

2. Conformity to the Main Code

- 2.1 Mail order advertisers should conform to all applicable sections of the Malaysian Code of Advertising Practice and also to requirements 3 to 5 below.

3. Obligations of Mail Order Advertisers

- 3.1 The name of the advertiser and an address at which he can be contacted should be given in full in the advertisement. Accommodation address may not be used. If a newspaper, magazine or Post Office box number is used, a full postal address for the advertiser should also be given in the advertisement.
Advertisers who offer goods by mail order should be prepared to meet any reasonable demand created by their advertising and should be prepared to demonstrate or supply samples of the goods advertised to the media owners to whom their advertisements are submitted.
- 3.2 The name of the advertiser should be prominently displayed at the given address in the advertisement.
- 3.3 Adequate arrangements should exist at that address for enquiries to be handled by a responsible person available on the premises during normal business hours.
- 3.4 Samples of the goods advertised should be made available there for public inspection, except as provided below in 3.5.
- 3.5 Where bespoke or made-to measure goods are concerned, or where it is the advertiser's proposal (in which case it must be clearly stated in his advertisement) that manufacture should not be expressed by him unless sufficient public interest is manifested in the articles on offer, then models or examples of similar work should be made available in lieu of samples of the articles to be supplied.
- 3.6 The advertiser should refund all money paid for the goods and their dispatch in the following circumstances:
 - (i) Where goods are returned to the advertiser, undamaged, within seven days of receipt. If items are returned, the date of posting or the date of handling over to the carrier will be taken as the date on which the goods are returned to the

advertiser. The advertiser should make it clear to consumers whether or not they may try out the goods, subject to these remaining undamaged. If no indication is given, it will be taken that trial by the consumer is permitted.

(ii) A consumer shall be entitled to be reimbursed in consequence of a delay in fulfilment of the order.

(iii) In either case, cash refunds should be made immediately upon receipt of the returned goods or request for reimbursement. Credit notes or vouchers should not be supplied in lieu of cash refunds unless specifically requested.

(iv) Except where the publisher requires otherwise, the advertiser is not expected to pay the cost of return postage (or carriage) from the consumer to himself, unless the goods supplied by him do not conform to description or are damaged on receipt, or he otherwise fails to satisfy his contractual obligations.

Where the product is advertised stating the benefit of a money back guarantee (however expressed) and if no limit is placed in the advertisement for the period during which such a guarantee is to be effective, the advertiser should be prepared to make a refund at any time throughout the reasonably anticipated life of the product.

3.7 The advertiser should be prepared to fulfil all orders placed as the result of a mail order advertisement either immediately upon receipt, or within such period as is either prominently stated in the advertisement or is required to be stated by the publishers. In no case, except those detailed below, should such period exceed 28 days:

(i) Where security for the publisher's money is provided, whether through stakeholder or schemes, longer periods than 28 days may be permitted (at the discretion of publisher) to elapse before dispatch of the goods, provided that the advertiser's proposal thus to delay dispatch is prominently and clearly expressed in the advertisement.

(ii) Where an advertisement makes it clear that a series of items are to be dispatched in sequence and states the intervals between consignments, then, when advance payment for the whole series is involved, only the first delivery need be made within the 28-day period. Where a substantial sum is required in one advance payment, advertisers are required to provide security by means of stakeholder or similar schemes for that part of the purchaser's money which remains unsatisfied by the provision of goods, the outstanding money to be released to the seller at intervals as he fulfils his contract with the buyer.

- (iii) Unless advertisements for the supply by mail order prominently and clearly state the latest date on which (or period within which) dispatch will be effected, the following categories of goods may be exempted from the requirements of dispatch within 28 days:
- Plants.
 - Bespoke and made-to-measure goods.
 - Goods, the manufacture of which may not commence unless sufficient response is forthcoming (in which case the advertiser's statement of his intention should be clearly expressed in his advertisement).
- 3.8 When, for whatever reason, an order cannot be fulfilled immediately and no date for dispatch is quoted in the advertisement, an acknowledgement of the order, quoting a reference for correspondence, should be sent by return post. This acknowledgement should state the anticipated date when the order will be fulfilled. If, when that date arrives, the advertiser is still unable to dispatch the goods, and in any event not later than 28 days from receipt of the original order, the advertiser should send another communication to the consumer enclosing a reply paid post card, and offering a refund of his money. Similar procedures should be followed where orders cannot be fulfilled within the period stated in the advertisement. If the consumer nonetheless elects to await the delivery of the goods, the progress of his order should be reported to him at intervals of not more than 14 days.

4. Conformity of Goods to Description and Sample, and to Relevant Standards

- 4.1 All goods dispatched in response to orders received as a result of a mail order advertisement should conform both to the description of them given in that advertisement, and to any sample which may have been supplied to the publisher of the advertisement. Substitutes may only be supplied with the express consent of the person who ordered the goods for which they are placements.
- 4.2 All goods offered in mail order advertisements should aim to conform to relevant acceptable standards, particularly those relating to safety of consumer goods, and should not infringe any regulations under the Trade Description Act. Electrical goods should comply with the Electricity Act 1949.
- 4.3 Advertisements for articles made of precious metal should state the amount and fineness of the metal involved in the pieces on offer.

5. Goods Unacceptable for offer in Mail Order Advertisement

- 5.1 'Lucky' charms, mascots or other goods which seek to exploit superstition.
- 5.2 Medical products except as provided in Part B of this Code.