

ETHICAL PRINCIPLES REGARDING THE PROMOTION OF LOCAL AGRIFOOD PRODUCTS

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Abstract: *In the European Union's economic development, and of each individual member state, the consumer has a decisive role in the evolution of consumption, being a milestone both for producers and for businesses, a fact that justifies the development of a European policy centred on the consumer's protection and guaranteeing his/her fundamental rights, such as the right to health and safety, the right to freedom of choice, the right to true and accurate information, the right to have their current needs met, the right of having their economic interests protected. Regarding food industry, studies have shown the existence of an inverse correlation between the attractiveness of the product, based on the enhanced properties through advertising, and the real nutritional value, reflected onto the consumer's health.*

Key words: *consumer, ethics, advertising, minimal nutritional criteria, food products.*

1. Introduction

At the meeting point between marketing strategy and the need to boost sales in order to maintain the position on the market, on the one hand, and the principles of ethics, especially in case of agrifood, on the other hand, we can say that moral dilemmas emerge for marketers: how much information regarding the nutritional qualities of a product must we mention on the label and what can we overlook? Or is it unethical to use the image of children in advertisements for certain products, inducing the idea that parents have no decision role in the purchase of the product concerned? And how moral is it to promote agrifood for children using their image in advertisements, although the type

of food promoted is not adequate, or the product properties are exaggerated in the advertisement, although the producer knows that the product does not meet those qualities?

The marketing system must understand, correspond to and meet the needs of the consumers, contributing to the improvement of their life quality, increasing the comfort, and not least provide actual and accurate information about the product / service so that in their decision, the consumers focus on their current needs, their own comfort and their own health problems.

And yet, considering the remarkable impact of marketing on society as a whole, some criticism of the consumers' marketing policies must be considered,

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such as the influence of high distribution costs, those related to publicity and promotion on the final price of the product, the so called *cultural pollution* (the fact that commercials interrupt TV programs; newspaper ads overshadow articles, being allotted considerable space, billboards are not in agreement with the landscape of the location) but also deceptive practices or selling through pressure.

Thus, we find that most ethical dilemmas arise in connection with the promotion of the products on the market, given the fact that the marketer is tempted to use any means of manipulation of the consumer's decision in order to increase sales and the civil society is expected, through the legislative instruments, to regulate a legal and competitive framework in order to promote products, also ensuring the observance of consumer rights concerning health, integrity and true and accurate information.

2. Ethics vs. law

The law requires the establishment, within a given domain, of a set of rules, compulsory and available to all people in the spatial and temporal scope in which the regulatory act is adopted and applied, a set of rules whereby the state, through its authorities, sanctions the ones who, in their actions do not observe and do not enforce legal rules.

Regarding the national legal rules affecting the advertising of goods and / or services, one should take note of the Law no.148 / 2000 on advertising [5] and Law no.158 / 2008 concerning misleading and comparative advertising [6], laws prohibiting under administrative sanctions those forms of misleading advertising by which consumers, as recipients of products and of the advertising material are misled, their decision to purchase being affected, respectively the unlawful comparative

advertising through which final consumers are misled by identifying implicitly or explicitly a competitor economic agent to his goods or services.

Using specific notions of ethics, Law no.148 / 2000 [5] states that advertising must be decent, fair and elaborated in the spirit of social responsibility.

Ethics, deriving from the Greek word "ethos" which means morals, as a philosophical discipline, studies theoretical and practical issues of morality, operating with the fundamental categories of good and evil between which the individual behaviour is positioned, both in self-perception and the perception of the community the respective individual is part of.

Authors Gheorghe Ionescu and Vădăşan Ioana [2] define ethics as a systematic attempt to make sense of our individual and social moral experience, in a way that helps us to determine the rules that should govern human conduct, monitoring real values and character traits that serve us to develop in life.

Standards or ethical norms in society, in relation to which individual behaviour is analyzed are mandatory statements that indicate what to do or not to do, how an individual is to be or not to be, so that his/her behaviour is considered good by the community.

Even the legal norm may have ethical support, which can be observed in case of the provisions of Law no.148 / 2000 [5] that under certain conditions, the advertising for certain products such as tobacco, alcohol, drugs and psychotropic substances is prohibited.

Linking ethics, loyalty and legal norm, Law no. 363/2007 on combating unfair practices of traders in the relationship with customers and the harmonization of the regulations with the European legislation on consumer protection [7] ensures the implementation of the EU legislation

concerning unfair commercial practices of traders towards consumers, namely Directive 2005/29 / EC of the European Parliament and of the Council of 11 May 2005 regarding unfair business practices in the internal market for consumers [8], and introduces clear elements according to which a specific commercial practice can be considered improper and prohibited by law.

Starting from the reality of different types of consumers (depending on age, gender, area of residence, level of education, etc.) at European level the principle according to which it is appropriate to protect all consumers against unfair commercial practices was established.

However, the European Court of Justice estimated, when deciding on issues related to advertising after the transposition of Directive 84/450 / EEC regarding the approximation of the acts with regulating power and the administrative acts of the Member States concerning misleading advertising, that it is necessary to examine their effects on a typical, fictitious consumer.

In accordance with the principle of proportionality, and in order to enable the effective application of protective measures thereunder, Directive 2005/29 / EC [8] considers some evaluation criteria in determining the protection rules for the average consumer, who is reasonably well informed and reasonably observant, taking into account social, cultural and linguistic factors, as interpreted by the European Court of Justice, but also contains provisions aimed at preventing the exploitation of consumers whose characteristics (such as age, physical or mental infirmity or credulity, in case of children) confer them an increased vulnerability to unfair commercial practices. The notion of average consumer is not a statistical concept.

Thus, according to the national legislation (Article 4, paragraph 1 of Law 363/2007), a commercial practice is unfair if:

a) it is contrary to the requirements of professional diligence;

b) distorts or is likely to distort essentially the economic behaviour of the average consumer whom it reaches or whom it addresses, or of the average member of a group, when a commercial practice is addressed to a particular group of consumers.

The Romanian legislature divides unfair commercial practices into deceptive trade practices (deceptive acts or omissions) and aggressive commercial practices, both resulting in the essential deformation of the economic behaviour of consumers in terms of decision making. Also, if articles 5-9 of Law 363/2007 [7] list the criteria by which a strategy to promote a product / service can be framed as an unfair commercial practice, in Annex 1 of the law, both the misleading commercial practices and the aggressive ones are listed, being considered incorrect in any situation.

In terms of national legislation (art.6-7 of Law 363/2007 [7], in accordance with Community rules (art.6-7 of Directive 2005/29 / EC [8]), a commercial practice is considered to be a misleading action if it contains false information, or in any situation, including the overall presentation, if it deceives or is likely to deceive the average consumer, so that, in both cases, whether it determines or is likely to induce the consumer to make a transactional decision that otherwise s/he would not have made, even if the information is in fact accurate.

However, a commercial practice is regarded as a misleading omission if, in the context of the presentation of facts, taking into account all its characteristics and circumstances as well as the limitations of the media used in order to transmit the

information, an essential piece of information necessary to the average consumer is omitted, taking into account the context, in order to make a decision knowingly and therefore determines or is likely to determine the consumer to make a decision regarding a transaction that otherwise s/he would not have made.

The legal definition of an aggressive commercial practice, both in Community law, as well as in the national legislation, considers its capacity to limit or its probability to significantly restrict the freedom of choice or the behaviour of the average consumer regarding the product, by harassment, coercion, including the use of physical force or undue influence and thereby determines or is likely to determine the consumer to make a decision regarding a transaction that otherwise (in other circumstances) s/he would not have made.

3. Ethics in Marketing

The concept of "business ethics" belongs to the Americans, in fact to the prestigious American Marketing Association which aimed at promoting high standards of ethical and professional norms and values for the marketing operators, developing in this respect a Code of Ethics including standards of behaviour, whose violation is punishable by expulsion from the association.

Promoting ethical values such as honesty (*to be honest and direct in dealing with customers and partners*), responsibility (*to accept the consequences of the decisions and marketing strategies aimed at customer satisfaction*), fairness (*trying to strike a balance between the buyer's needs and the seller's interests*), respect (*the recognition of fundamental human dignity of all partners*) and openness (*creating transparency in marketing operations*) [3], the American Marketing Association states

in the Code of Ethics, even from its preamble, that marketers in their actions, in which they apply ethical fundamental values must adhere to all laws and applicable regulations, thus establishing the compulsoriness of a balance between legality and morality in the decisions / marketing practices.

If the legal norm is mandatory to be met, ethics is an option, but in case of breaching both the legal norms and the ethical principles, sanctions are involved with consequences on the marketing operator's activity, and even for the companies which adopt the marketing policies.

Thus, if the law is not observed, this undertakes liability, while addressing the unethical behaviour will generate feelings of doubt, deceit, mistrust from consumers, who feel manipulated.

The relationship between legality and morality is complex and we render it in Figure 1, the marketer having to display an ethical behaviour within the legal norm, any other placement of the marketer generating inevitable consequences.

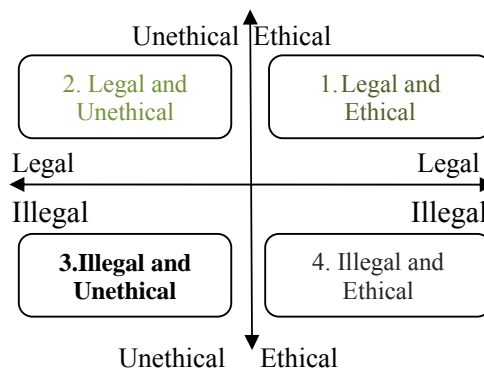


Fig.1. *The Legal - Ethical Report*

Obviously the ideal would be for all decisions and marketing policies to be of type 1, while the inclusion in the relationship of type 3 is to be completely avoided, while the other two types of

approach (type 2 and 4) generate consequences inherently sanctioned.

Professional ethics in marketing translates through customers' positive attitudes for the company and its products, while unethical practices jeopardize the customers' confidence in products and in the company, bringing direct material damage, creates dissatisfaction and negative publicity, these consequences often being felt in the long run.

The ethical issues, the compliance with the legal and ethical balance appear in all four elements of the marketing mix, thus raising ethical issues related to the goods, in relation to pricing, in connection with the promotion policies and investment efforts.

In the present paper we address ethics in promoting products, particularly on the promotion of agrifood, as it is widely recognized that the most ethical issues arise in connection with the promotional policy, with particular reference to promotion through advertising.

4. Promoting agrifood products – an element of the marketing mix

A component of the marketing mix, promotion involves research, study, development and implementation of all ideas and initiatives that contribute to the coordination, improvement and increase of sales, with the role of attracting more consumers, of building the loyalty of the majority of consumers and of increasing the amount of product / service promoted in order to boost profit [1].

The promotional campaigns mainly aim at positioning the product on the market, increasing sales and thus increasing the market position without encouraging the consumption of a product because of its specific origins, all these implying planned, deliberate and premeditated

activities, in which maintaining direct and / or indirect communication with the consumer provides real-time knowledge of the extent of the uptake in consumption.

On the food market, the promotion of products should follow the consumers' demands regarding the quality and freshness of the products, but also regarding the lowest possible degree of alteration of their qualities by processing and preservation processes, identifying market niches, exploiting the beneficial effects of the consumption of agrifood and especially organic products on the health and physical development of the consumer, according to age and / or gender categories.

5. Specific forms of promotion in the domain of local agrifood products

In the marketing of agrifood in Romania, we encounter a number of ways to promote products among which we mention food products exhibitions, fairs and exhibitions specialized in food, creating commercials and TV spots on organic products, selling organic and agrifood products in specialized stores, as well as online selling and advertising of food products.

Among these forms, some of them at an early stage on the Romanian market of agrifood products, most ethical issues are raised by the advertisements for certain products on TV or in newspapers, as well as display ads, in the sense of avoiding misleading messages which try to manipulate the consumer's decision, bringing him/her false information about a product.

The difference between agrifood exhibitions and agrifood product fairs is made by the public to whom they are addressed: thus the product exhibitions address a wide and diverse public, both the final users and the traders on the market, while the fairs and salons of agrifood

products are destined primarily to the connoisseurs, namely to the specialised traders that also include the competition on the market. A specific method of promotion in agrifood trade fairs and exhibitions is tasting as a direct procedure by which the consumer convinces him/herself directly of the palatability of the product, so that the possibility of manipulation or deception is reduced, making this method an ethical and legal promotion.

Regarding the promotion of agrifood on the internet, a more and more extensively used modality nowadays due to the impact of the internet in everyday life, we can say that since the message conveyed to the consumer is accurate and real, providing the consumer with information about the products (the nutritional characteristics of the products can be described in a more detailed way than the information contained by a label, certain references to the region of origin, manufacturer can be indicated, etc.), facilitating the communication between consumers (some sites offer a forum to post some opinions, recommendations of current and potential customers / visitors on the site) should be taken into consideration in order for such a marketing strategy not to become aggressive, thus entering the legal-unethical area.

Of all the promotional instruments, advertising in the media, in the contemporary society, proves to be an important, persuasive and even decisive force in the formation and / or influencing of the mentality and decision of the consumer in general, but also of the consumer of agrifood products. The role of advertising as a marketing strategy experiences an increase, both through the tendency to increase the expenses of advertising budgets in the campaigns to promote products / services, as well as by increasing the means of communication

(from advertisements in newspapers, on the radio and television, presently, new channels are now being identified and explored, such as direct mail offers, street banners or outdoor advertising and the internet).

In the chronological evolution of the advertising message, regardless of the broadcast channel, we also discover that advertising as a vital way for the economic agents to make their products and services known, under the increasing market competition, now combines the provision of information about the quality of products / services with practices to influence the consumers' preferences and decisions in order to stimulate the decision to buy.

6. General and special ethical principles in promoting agrifood products

Based on some ethical principles in the promotional policy in general, principles established by the Code of Practice in Commercial Communication [9] approved by the Romanian Advertising Council (RAC), we intend to further address the ethical principles that should be considered in the promotion of agrifood products, based on the characteristics of this type of products (nutritional value, perishability, seasonality or rarity of certain products, specific packaging and labelling) and taking into account the direct effect of these products on the human body and health.

Set up under Article 21 of the Law on Advertising [5], the Romanian Advertising Council (RAC) is a self-regulatory body with responsibilities in ensuring a fair competition in the advertising domain in order to protect the consumers and the general public interest against the negative consequences of advertising.

From this perspective, the Romanian Advertising Council has developed a set of

ethical rules to be observed by all those involved in advertising and in any form of commercial communication, in order to ensure proper, honest and decent communication under the rule of law and the principles of practice in advertising and commercial communication stated by the International Chamber of Commerce, rules contained in the Code of Practice in commercial communication.

One of the most common criticisms brought to advertising by the consumers relate to the misleading advertising message, which in many cases is difficult to prove because the decryption method of the advertising message differs from one consumer to another, what a consumer considers to be misleading, another consumer can consider insufficient information (e.g. the claim that a bottled juice is natural because it contains the pulp of a particular fruit can be interpreted that the product is entirely natural or that only the addition of pulp is natural, the rest being obtained from additives and flavour enhancers).

Corroborating the effect of agrifood products on the human body and on the consumers' health with the rules of conduct stated in the Code of practice in commercial communication [9], we identify the following general ethical principles regarding the promotion of agrifood products:

- commercial communication consisting of advertising or other means of transmitting information with the purpose of informing or influencing the consumer's behaviour, regardless of the dissemination environment and of the promotion techniques used, must be honest, true, clear and decent, providing real information on the nutritional qualities of food products;

- Considering agrifood products that meet specific nutritional criteria based on accepted scientific evidence and / or

national and international nutritional guides, the benefits the product brings to the body will not be exaggerated through their advertisement, especially if these benefits are not supported scientifically and demonstrated;

- Communication should avoid any statement or representation which could mislead consumers, including by omission, suggestion, ambiguity or exaggeration, especially with regard to the nutritional characteristics of agrifood products, and to be in compliance with the standards (in case of organic products, for example), of official recognition by biological certification;

- In the context of promoting agrifood products, inappropriate portioning or excessive consumption will not be encouraged, ignoring the consequences on health and lifestyle, the commercial communication having to promote proper portioning by providing all the necessary information in each case;

- Communication should be responsible and should not imply giving up on products and activities that are part of a healthy lifestyle. A sedentary, unhealthy lifestyle, or unhealthy dietary habits will not be encouraged;

- The statements relating to the characteristics of taste, composition, nutritional qualities or health benefits will be consistent with reality without exaggerating or potentiating certain effects on the body.

The code of practice in commercial communication [9] contains special rules concerning certain foods such as beer, which is allotted an Appendix containing the Rules of responsible commercial communication regarding beer or food for children, in that sense another Annex of the Code refers to the ethical code for advertising destined to children, regarding food (according to the Code of Practice on Commercial Communications, the child is

defined as any boy or girl aged three to twelve).

Regarding the audience represented by children, commercial promotion practices through advertising need a different and responsible approach because children have an impaired judgement, are easily influenced and for this reason, they become vulnerable to misleading messages, especially given that their sensitivity is increased and advertising techniques use those elements (colour, rhythmic soundtrack) that capture children's attention.

Regarding certain foods, even if the advertisement emphasizes the nutritional characteristics or the benefits brought by consuming that product, the improper consumption can be even harmful for children, in disagreement with the rules of a healthy diet, in relation to the special dietary needs of children during the physiological process of growth and physical development.

Starting from the reality regarding present day nutrition of children, as evidenced by the results of scientific and medical studies, in that the daily diet of children currently focuses mainly on a diet with an excess of calories, saturated fats, hydrogenated fats, sugar and salt, as well as the fact that children consume far too little fruit, vegetables, cereals and vitamins, it was shown, unfortunately, that the nutrition choices that parents and children make depend on numerous factors, including advertisements addressed to children, which promote unhealthy products purchased by parents urged by their children (the fact that while shopping, if a child sees a food product that reminds him/her of a TV ad and asks the parent to buy it, the adult, most often, will yield to the request without verifying its nutritional qualities).

Addressing the promotion of the products destined for children, from an ethical

perspective, we identify in the Ethical Code section on food advertisements addressed to children, some guiding principles regarding products destined to children, such as the recognition and emphasis on the primary role that parents have in the decisions made by children, with respect to which marketing practices will not undermine their authority, they will not be encouraged or influenced to impose their wishes and preferences in buying food or non-alcoholic beverages.

Also, advertising aimed at children under 12 years old is done only for those products that meet specific nutritional criteria based on accepted scientific evidence and / or national and international nutritional guidelines applicable to each company, as published on this site www.eu-pledge.eu.

Another established ethical principle is the one referring to the use of well-known characters and celebrities from television, movies, cartoons, sports, music and history, in the sense that these characters should only be used to advertise the products that meet nutritional criteria based on specific evidence supported and / or national and international nutritional guides, when 50% or more of the audience is under 12 years old.

7. Conclusions

As noted above, the Romanian legislature established rules in the advertising domain in order to avoid consumer manipulation and to protect the economic interests and the right to true and accurate information.

However, consumers are presently deceived and manipulated by advertising, for manipulation does not directly involve the existence of falsity, but consists in shaping the consumer's psychology by emphasizing the product's characteristics according to the expectations of the

average consumer, thus influencing the consumer's decision to purchase.

Concluding that the consumer's power of decision regarding the purchase of products / services is a factor that determines the ethical perception on advertising, we understand the need to establish ethical principles regarding advertising so as the marketing strategies help traders in achieving their goals while respecting the rights and economic interests of consumers.

The excesses in advertising, and implicitly in marketing, annoy consumers and make them come to detest a product / company even if they have had no direct contact, but only through the aggressive advertising message.

When either by the nature of the message or the nature of the means of distribution and the frequency of broadcast, the advertisement becomes aggressive from the consumer's perspective, we deal with unethical business practices. Still an unethical business practice and forbidden in the code of practice in commercial communication [9] is also the use of advertising messages with a vulgar connotation, considered indecent or repulsive from the point of view of the average consumer's common sense, since in this case, the greater degree of attention given to this kind of messages is also speculated, if only out of curiosity.

Analyzing the legislation listed above in connection with the contents of the chapter on general rules and special rules from the Code of practice in commercial communication [9] we reached the same conclusion as the author Diana Vrînceanu [4] in the sense that ethics goes beyond the legal framework as the latter cannot and does not include all the situations in which moral rules are affected, to a greater or lesser extent.

Although we have not found explicitly in the Code of Practice in commercial

communications the enunciation of a postulate according to which the demonstrations recorded and played in the advertisement of a product, especially with regard to agrifood products, must be produced in reality for that product in order for the commercial practice in question to fall within the scope of ethics, we consider that it is necessary to impose such a rule of conduct.

In this respect we consider the use of deception when filming, deceit which is perfectly justified given the conditions on the advertisement's recording site and time frame and the need to ensure an appropriate recording. However, in order to comply with an ethical business practice, it is absolutely necessary that, in this case, the message of the advertisement and the information on the product which is advertised, be precisely the one which had been altered by the use of visual deception in the filming process (e.g. using a pudding or mashed potatoes in filming an advertisement for ice cream in which the theme of the commercial emphasizes, among other nutritive qualities, the capacity of the product not to melt easily due to its particular composition, falls into the category of unethical business practices and should be expressly prohibited).

Also, the use in commercials and displayed advertisements of the image of a personality / celebrity to endorse the qualities of a product and to cause the average consumer to choose that product, gives credibility to the product and avoids any suspicion of unethical behaviour if that personality also uses that product in real life, convinced being of the qualities that s/he has just asserted in the video advertisement, and their statements regarding the qualities of that product and the benefits on the human body can be supported and scientifically proven or based on the national and international dietary guidelines .

An example that comes to mind is the advertisement for the Activia yogurt, a Danone company product - that, prior to 2014, used the public image of actress Emilia Popescu, a pleasant personality, appreciated by the public, and the main benefit underlined in that spot, which unfortunately proved to be misleading and unsupported by scientific research, was the product's ability to influence bowel movement, bringing a health benefit to the body.

Acknowledgements

This paper is supported by the Sectoral Operational Programme Human Resources Development (SOP HRD) ID134378 financed from the European Social Fund and by the Romanian Government.

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