

Advertising in the UAE: The legal framework and key issues

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It is the advertiser's duty to make the advertisement convincing and appealing to consumers. However, advertisers also need to be aware of the legal issues associated with advertising and marketing in the region. It is wise to always consult a lawyer before you proceed with development of the advertising content to ensure that you and your brand are on the right path.

Generally, advertisements must comply with the relevant advertising standards and consumer protection legislation in each jurisdiction in which they are published.

The United Arab Emirates has its own rules and regulations specific to advertisements. Advertisements are not regulated by a single regulation; they are regulated by numerous laws such as the Printing and Publication law, National Media council regulations and Cybercrime law and laws governing consumer protection and commercial activities particularly in relation to anti-competitive practices and illegal monopolies.

Additionally, in this region, advertisements should be sensitive to the cultural expectations and tolerances of the target audience in addition to the legal framework governing the dissemination of advertising content. Producers and advertisers will always focus on what they want to convey to the people throughout the content of the advert - they will want to deliver their idea in a creative way to attract attention. It is important to remember that, whilst advertisers have freedom to be creative, there are limits imposed by these laws and local culture.

All companies that develop or deliver advertising to the public need to be aware of these laws. To assist them in this, we have developed a set of Questions and Answers that all advertisers should ask themselves before creating an advertisement. These provide a simple pathway to highlight some of key issues that can arise.

Could your advertisement content offend someone indirectly? Could the content be offensive to a particular culture?

The answer can be complex and is particularly subjective. Advertising may be offensive to one section of the community but not another - for example, an advertisement may be offensive to a particular culture or religion. It is important to balance the value of the message against the risk of causing offence.

Is the message in any way ambiguous or misleading?

Advertising also runs a high risk of being considered as having misleading content. Consumers' perspectives on the advertisements should not be disregarded - this is not always a matter that can be determined by a review of the laws and regulations. Past consumer behavior should also be considered. It is also important to note that the authorities are highly discretionary as to whether the advertisement has violated the law and is considered either offensive or misleading. Therefore, in the United Arab Emirates in particular, advertisements should be sensitive to the cultural expectations and tolerances of the target audience within the context of the legal framework governing the dissemination of advertising content.

Do you need the appropriate consent/ right from the copyright owner of any of the content?

Generally speaking, producers and advertisers must always bear in mind that, unless they developed and produced every element of the campaign themselves, they may be infringing another person's copyright by using music, images or clips without a proper licence. It is important to note that it is standard practice for a rights owner to substantially increase the licence fee if there is an infringement - it is always more cost effective in the long run to licence the rights appropriately at the beginning of the process.

Do I need to worry about my campaign if it is just on-line? Could the Cybercrime law relate to advertising?

On-line campaigns must still comply with all the laws that relate to advertising. In addition the Cybercrime law may become relevant if there was a criminal aspect in broadcasting an advert. For example, gambling is prohibited in the UAE and, under the cybercrime laws, the advertising of gambling on-line would lead to severe penalties. When it comes to publication in any media it is important to take a 'helicopter' view and be aware of all potential pitfalls including potential criminal implications.

Sanctions for violating the advertisement laws and regulations

Companies spend so much time and expense on their advertisement to support the promotion of their brand. Financial penalties and potentially adverse PR will certainly undermine these efforts and thus advertisers should avoid unconsciously violating regulations. Failure to do so may mean spending money and creative effort on an advertisement which could be banned from media outlets.

As an example of the range of sanctions that are available in the case of a violation of the regulations, the National Media Council has the right to require any of the following actions from the advertiser in question:

- warning;
- suspension of the advertisement and apology;
- the removal of the damage resulted from the violation;
- apply to close down the establishment or shop;
- suspension of the licenses of the media outlet for the period deemed appropriate by the Council; and/or
- cancellation of the license granted to the media outlet.

In conclusion, all content that is available to the general public must be rigorously vetted in order to ensure that it is compliant with the law, the regulations and as the principles and standards of within the wider community. Anything less will be potentially crippling to the advertiser and could lead to damage to the brand's reputation in the marketplace.

Al Tamimi & Company's *Technology, Media & Telecommunications* team regularly advises on content issues, and issues relating to advertising and marketing. For further information, please Ahlam Al Tamimi (a.altamimi@tamimi.com).