

G-Regs™

Netherlands – Comparative advertising



Full title: Comparative Advertising

Section: Section A of Dutch Advertising Code: General

Article 13 Comparative advertising is defined as any form of advertising in which a competitor, or goods or services provided by a competitor, are mentioned explicitly or implicitly. Comparative advertising is permitted - as far as the comparison is concerned- provided it:

- a. is not misleading according to the spirit of the Dutch Advertising Code.
- b. compares products or services that meet the same demands or are intended for the same purpose;
- c. compares objectively one or more essential, relevant, checkable (verifiable) and representative characteristics of these goods or services, such as price;
- d. does not lead to the advertiser being confused with a competitor, or the brands, trademarks, other distinguishing characteristics, goods or services of the advertiser being confused with those of a competitor;
- e. does not harm the good name or make disparaging remarks about the brands, trademarks, other distinguishing characteristics, goods or services, activities or circumstances of a competitor;
- f. concerns in the case of products with a designation of origin, products with the same designation;
- g. leads to no unfair advantage resulting from the familiarity of a brand, trade name or other distinguishing characteristics of a competitor or the origin designation of competitive products; and
- h. does not present goods or services as an imitation or copy of goods or services with a protected trademark or protected trade name.

Any comparison that refers to a special offer shall indicate clearly and unambiguously the end (i.e. the date on which the offer ends) and, should the special offer not yet apply, the beginning of the period during which the special price or other specific conditions apply, or state that the special offer continues as long as stocks last or services can be provided

Section: Section C of Dutch Advertising Code: General Recommendations

c. Use of the words 'comparable store sale price/ retail value'

It has become clear to the Advertising Code Committee that advertisements and catalogues for products or free gifts ('premiums') that are not actually being sold in stores indicate the 'comparable store sale price/ comparable retail value' and specify the price in decimals. The Committee holds that this form of advertising is contrary to Article 7 DAC (advertising must not be unfair), as it is impossible to determine the exact comparable store price of products that are not being sold in stores. Wherever a comparable store sale price of such products or premiums is mentioned, the value shall be given in round figures preceded by the word 'approximately' (*ongeveer*). The Committee recommends that advertisements that do not comply with the above should not be placed or should be refused, as the case may be. (February 1975).

URL of source: Dutch: <https://www.reclamecode.nl/nrc/pagina.asp?paginaID=262%20&deel=2>

e. Use of superlatives

The Advertising Code Committee noted that in many advertisements where a price is mentioned the advertiser often states that its product is "the cheapest" (*het goedkoopst*), "the least expensive" (*het minst duur*) or as having "the lowest" (*het laagst*) prices in comparison to those of its competitors. Given the fact that in almost all cases, it will be physically impossible for an advertiser to perform a validity check and to produce evidence thereof, such a statement will almost always be misleading. The Committee therefore recommends that advertisements, which use superlatives with respect to price, are not placed or are refused, as the case may be. (October 1975)
