

Full title of law or regulation	The Dutch Advertising Code (<i>Nederlandse Reclame Code</i> – NRC)
Title of relevant section	Section A: GENERAL. Art. 1: Definition of advertising
Article 1	<p>Advertising is defined as: any form of public and/or systematic direct or indirect promotion of goods, services and/or ideas by an advertiser or, either wholly or partly, on behalf of him, with or without the help of a third party. The solicitation of services is also defined as advertising.</p> <p>The advertiser is an organization or a person, not a consumer.</p> <p><u>Explanation of Article 1</u></p> <p>The different forms of advertising include (amongst others): teleshopping, telemarketing, sponsorship, product placement, packaging, labelling, direct marketing and buzz marketing.</p> <p>It is important that a (organised/ structured) mechanism can be described/ outlined, whereby the direct or indirect promotion of goods, services and/or ideas takes place or has taken place.</p> <p>The requirement of systematic promotion is needed in order to prevent all so-called one-to-one communications, such as for example, one-on-one sales talks, from being regarded as 'advertising'. A one-to-one communication may be regarded as advertising if it has been established that it was a standard/ generic communication and not specifically aimed at the individual recipient.</p> <p>Communications which do not contain any promotional element are not regarded as advertising within the meaning of this article. These might include purely factual statements, such as opening times and purely factual information about the policy (or changes in policy) of public authorities or private sector companies.</p> <p>Also, communications about goods, services and/or ideas, in which there is no inducement/ incitement or influence exerted by the advertiser, are not advertisements within the meaning of this article. If it is a question of a communication stimulated¹ by the advertiser, it may therefore constitute advertising *</p> <p>* The Advertising Code Authority and /or the Board of Appeal shall determine whether such communications can be attributed to the advertiser. This may be the subject of a special advertising code and will depend, inter alia, on whether the advertiser can actually exert influence on the announcement(s) and if not, whether the advertiser has made or makes sufficient effort beforehand to ensure that the announcement will meet the requirements of the Dutch Advertising Code.</p> <p>The overall message plays a role in assessing the promotional element. Not only is it about the text, but also the size, lay-out, use of colour and so forth. The mere stating of the advertiser's name may in itself constitute advertising (e.g. sponsor boards).</p> <p>The definition does not stipulate that the promotion is a paid advertisement. Usually this will be the case, but from the point of view of the public it makes no difference whether an advertisement is placed free of charge or in return for payment.</p>

¹ "Stimulating communications" can mean promoted (paid for) communications