

NOTE: Explanation of Article 7, Dutch Advertising Code

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If an advertisement is targeted at a specific group of consumers, it shall only be considered unfair if the advertisement distorts the economic behaviour of the average member of this group. Advertisements which the advertiser/ trader could reasonably be expected to foresee as materially distorting or likely to materially distort the economic behaviour of a specific, clearly recognizable group of consumers, i.e. consumers who are particularly vulnerable to that type of advertising or to the corresponding products due to their mental or physical disability/ infirmity, age or credulity, must be assessed from the perspective of the average member of that group. This does not affect the common and legitimate advertising practice of making exaggerated statements or statements that are not meant to be taken literally.

"Materially distorting the economic behaviour of consumers," means using advertising to appreciably impair the consumer's ability to make a well-informed decision that causes the consumer to make a transactional decision that he otherwise would not have made.

'Professional diligence' is defined as the normal level of skill and care that may be reasonably expected from a trader towards the consumer, in accordance with honest market practice and/ or the standard of good faith within the trader's market sector.

"Transactional decision" means a decision made by a consumer as to whether, and if so how and on what terms he purchases a product, makes a payment in whole or in part (i.e. in instalments), retains or disposes of a product, or exercises a contractual right in relation to the product, irrespective of whether or not the consumer decides to act or refrain from acting (i.e. decides to conclude a transaction)