

Full title of law or regulation	The guidance below is extracted from <a href="http://www.checksrc.nl">www.checksrc.nl</a> and <a href="http://www.checkdereclamecode.nl">www.checkdereclamecode.nl</a> , which is based on articles 2 & 8 of the Dutch Advertising Code and Book 3 of the Civil Code
Title of relevant section	COLUMN 1. General Advertising; applies to advertising that does not mention product and price, or just a product without price.
Introduction	<ul style="list-style-type: none"> <li>• Art. 8.2 DAC/NRC in summary states that the information in advertising must be clear and accurate, especially with regard to the main features of the product such as: <ul style="list-style-type: none"> <li>○ Availability - is there sufficient stock to meet the order?</li> <li>○ Benefits - does the product have the promised benefits?</li> <li>○ Performances/ execution and composition - does the consumer get what he/she expects?</li> <li>○ Results to be expected from their use - does the product deliver what is promised</li> </ul> </li> </ul> <p>If the advertising of one of these points is false or unclear, and this might affect the consumer's purchasing decision, the Advertising Code Commission will usually judge it to be misleading (advertising)</p> <ul style="list-style-type: none"> <li>• See Art. 8.3 c requires that advertising should be complete<sup>1</sup>. For example, if there is an important yet restrictive/ limiting requirement or condition, it should be mentioned in the advertisement. The consumer should not be surprised. Any restrictions that will impact on the consumer's decision to buy the product should be mentioned. In any case, it should be made clear that there are such restrictions.</li> <li>• The DAC and the Law set out what information should be provided for advertising. Also refer to Check for Unfair Advertising.</li> </ul>
Legal information requirements for online advertising	<p>According to the law, namely Art. 15d Book 3 Civil Code (and therefore Art. 2 DAC/ NRC) online advertising must include the following information:</p> <ol style="list-style-type: none"> <li>1. Name of Advertiser</li> <li>2. Geographical Address</li> <li>3. Website</li> <li>4. E-Mail address</li> <li>5. Telephone Number</li> <li>6. Trade Register</li> <li>7. Name of any authorised regulator/ supervisory authority</li> <li>8. In the case of a regulated profession: name of professional organization, professional title and reference to professional rules</li> <li>9. VAT identification number</li> </ol> <p>All this information must be stated in an advertisement to the extent that:</p> <ul style="list-style-type: none"> <li>• This information is not already apparent from the context</li> <li>• The consumer needs the information in order to decide whether or not to enter into a transaction</li> <li>• The channel/ medium is suitable to show that information</li> </ul> <p>Thus, the extent to which an advertiser in an advertisement must provide information in points 1 to 9 depends on the circumstances of the case.</p> <p>Failure to comply with the information provided will constitute a violation of the law. This is prohibited under Art. 2 DAC/ NRC.</p> <p><u>How best to avoid/ reduce the likelihood of a recommendation from the RCC)</u></p> <ul style="list-style-type: none"> <li>• In any event, it is sensible to list all of the information required in points 1-9 and ensure that this information is readily available to the consumer. It is also advisable to reference the website in the advertisement, not just for the advertised products/ services but also for "further/ additional information" (<i>verdere informatie</i>).</li> </ul>

<sup>1</sup> Misleading advertising includes: Omitting essential information, keeping information concealed, supplying information, in an unclear, incomprehensible, ambiguous way or supplying the information in an untimely fashion

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- Then review the context to see whether a general reference to the information on the website will be sufficient. When doing this, it is certainly better to be on the safe side. Too much information is never a bad thing.

Practical Tips:

- A website can hold a lot of information, whereas a TV or Radio commercial cannot. Therefore, make sure that the information on the website is complete, clear and easy to consult / readily accessible.
- If it is possible to hyperlink the website in the advertisement, then do that as well.
- Consider what information the consumer needs in order to make a purchasing decision; a VAT number will soon not be necessary, but mention of a trade or brand name will often be necessary so that consumers know who they are dealing with.

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Essential (material)  
information

- An advertisement must contain the information that the average consumer needs to make an informed decision about a transaction (Article 8.3.c NRC). This information is considered essential and must not be omitted. If that is the case then the Advertising Code Committee (RCC) will usually consider the advertisement to be misleading.
  - It is not possible to determine essential information in general terms. Based on the RCC decisions, it is shown that important restrictive conditions must be mentioned in the advertisement. Furthermore, it is necessary to prevent the consumer from getting a false picture or false expectation, due to the lack of information. In that context, where the medium is less restricted in terms of space/ time (where the chosen medium has fewer limitations), the advertisement must be more complete in terms of information provided.
  - Do the check for unfair advertising for more information about deception/ misleadingness.
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