

Full title of law, regulation or guidance	SRC Check: Recognition/ identification of advertising Last updated by SRC on 20/08/2014: http://www.checksrc.nl/check/herkenbaarheid_van_reclame/
Title of relevant section	Specific themes
Advertorial	<ul style="list-style-type: none"> • Advertorials are permitted but should be easily identifiable as advertising. This may be achieved via layout/ formatting, presentation, content or otherwise. However, avoid ambiguity and make it clear that it is about advertising. For print ads, it's best to place the word 'advertorial' or 'ad' above the publication. • If an article does not clearly show that an advertiser has paid for the editorial content, point 10¹ from the Blacklist (Annex 1 DAC – advertising considered misleading and thereby unfair in all circumstances) will have been contravened. If there is no payment for the editorial content and it does not adequately show that it is an advertorial, then the advertising will violate Art. 11.1 DAC. See case: 2011/00441-I² (whether or not editorial has been paid for does not preclude it from being defined as an advertisement under Art. 1 DAC – it does not mention that monetary consideration has to be exchanged).
Teasers	<ul style="list-style-type: none"> • Teasers are permitted if the follow-up of the advertising campaign clearly shows who the advertiser is. N.B. If the teaser does not cause or is unlikely to cause the consumer to take a transactional decision that he would not have otherwise taken, it will not be considered misleading within the meaning of the Dutch Advertising Code (Example Case: RCC 08.00115³)
Channels/ media	
Direct Postal Mail	<p>It should be easy to identify whether postal mail contains advertising simply from the envelope. If the recipient has to open the envelope, then Article 11.1 DAC has not been observed, as per Board of Appeal. On a case-by-case basis it must be assessed whether sufficient information has been provided about the fact that it contains advertising. Of importance are:</p> <ul style="list-style-type: none"> • Inscriptions/ notices on the envelope as well as the shape and colour of the envelope – for example a blue coloured envelope could denote correspondence from the tax office and not advertising • In addition, the content of the envelope must also meet the requirement that it is clearly recognisable that this is advertising <p>In no event may the consumer misrepresent the information on the envelope, for example, by giving the addressee the impression that it is official government mail or other communications that are not commercial in nature. The following was adjudged contrary to Art. 11.1 DAC:</p> <ul style="list-style-type: none"> • An envelope that states: “Concerning your reservation/ booking” (<i>Betreft uw reservering</i>) – when no reservation has been made. Case: 2011/00321⁴ • A red envelope that says: “Important information about your neighbourhood” (<i>Belangrijke informatie over uw buurt</i>) while in reality it is advertising <p>The fact that in both cases the full name of the advertiser was present does not change this false impression</p>

¹ Misleading under all circumstances: Using editorial content in the media to promote a product, where the advertiser has paid for the promotion without making that clear in the content or by images or sounds clearly identifiable by the consumer (advertorial).

² <https://www.reclamecode.nl/webuitspraak.asp?ID=36323&acCode>

³ <https://www.reclamecode.nl/uitspraak.asp?acCode=&uitspraakID=340717&menu=menuUitspraak.asp%3frubriek%3d1&terugURL=%2Fhitlist%2Easp%3FacCode%3D%26vdag%3D%26vmaand%3D%26vjaar%3D%26tdag%3D%26tmaand%3D%26tjaar%3D%26dossierNr%3D%26uitspraak%3D0%26rubi>

⁴ <https://www.reclamecode.nl/webuitspraak.asp?ID=55037&acCode>

E-Mail	Advertising by e-mail must be clearly identifiable/ recognisable as such by lay-out, presentation (address line and subject), content or otherwise (Art. 2.1 Email Code)
Internet	<p>Advertising on the Internet must be easily identifiable as such. When content on websites is associated with a particular product, there will usually be advertising. With a banner specifically referring to a product as well. Under no circumstances may the consumer be misled, for example, by giving him/ her impression that it is an official newflash/ message</p> <p><i>Example Case:</i> 2011/00311⁵ (Banner on a news website (telegraaf.nl) read: "Hoogeveen in turmoil; Read more" at a time when there had been a murder in Hoogeveen. It was in fact a banner for the National Postcode Lottery. The text does not make it sufficiently clear that advertising is involved. The fact that the font of the banner and colours of the letters used differs from the font and colour of the text of the actual news articles on www.telegraaf.nl does not provide sufficient clarity about the fact that it is advertising).</p>
Internet – Social Media	Make sure that advertising through Social Media is clearly recognisable as such by layout and / or presentation. If applicable, reference the fact that the distributor (person posting the ad) receives a fee. Follow as closely as possible the instructions of Article 3 of the Social Media Advertising Code.
Print	<p>Advertising in print publications can take different forms: Sometimes it's an advertisement in a newspaper/ magazine, but sometimes it's also a whole magazine as an advertising manifestation (for example, the <i>Allerhande</i>, a free magazine on food and recipes from Albert Heijn – the largest grocery store chain in Netherlands)</p> <p>Key point in advertising in newspapers/ magazines is the demarcation between 'pure' editorial and editorial pieces that contain advertisements in the form of direct pricing or product placement. See specific themes above.</p>
TV (Linear and non-linear / broadcasting and On-demand):	<p>Consult the Media Act 2008 NL⁶ / EN⁷ for provisions, which distinguish between public and commercial broadcasting; see Channel Section C; In brief, the following is key:</p> <ul style="list-style-type: none"> • TV advertising and Teleshopping should be clearly distinguishable from other content of the programme by acoustic or visual (or spatial) means (Art. 11.2 DAC and Arts 2.94 (1) / 3.7 (1) Media Act) • Advertising and Teleshopping and Sponsored media offerings (and for commercial channels product placement) should be identifiable/ recognisable as such (Art. 11.1 DAC and Arts 2.88b (1) / 3.5b (1) Media Act) • In advertising and telemarketing and sponsored media offers (and for commercial channels offers with product placement), subliminal techniques must NOT be used (Art. 11.2 DAC and Arts 2.88b (2) / 3.5b (2) Media Act) • Programmes are prohibited from containing surreptitious advertising (Arts 2.88b(3b)/ 3.5b (3) Media Act)
Telemarketing	Make clear what purpose and on behalf of which organisation the telemarketing call is made. In any case, there must no misunderstanding over the purpose of the call, whether it be commercial, idealistic, or charitable (See Art. 4 (1) and (2) Telemarketing Code)

⁵ <https://www.reclamecode.nl/webuitspraak.asp?ID=54520&acCode>

⁶ <http://wetten.overheid.nl/BWBR0025028/2017-02-01>

⁷ <http://www.gregsregs.com/downloads/NLMediaAct2008d.pdf>