



CODIGO COSMEP

CODE OF SELF-REGULATION AND ADVERTISING
ETHICS OF COSMETIC PRODUCTS
(COSMEP, by its acronym in Spanish)



EXECUTIVE SUMMARY

The Mexican Chamber of Cosmetic Products (CANIPEC, by its acronym in Spanish) brings together the main cosmetics manufacturers and suppliers in Mexico representing 85% of the formal market of the sector. It is estimated that CANIPEC generates around 40,000 direct jobs as well as the income for over 2 million families thanks to its direct sale scheme.

The corporations which are members of CANIPEC have a strong commitment with the health and hygiene of the Mexican population. Their main objective is to promote the adequate awareness and understanding of the benefits of their products through Ethical Advertising. Due to this fact, we present the following Code of Self-regulation and Advertising Ethics of Cosmetic Products (Código COSMEP by its acronym in Spanish) to maintain, strengthen, and improve Commercial Communication in order to generate benefits for both consumers and corporations, without leaving aside their ethical commitment with society at large.

The Mexican Council for Self-regulation and Advertising Ethics (CONAR, by its acronym in Spanish) promotes the practice of advertising self-regulation in Mexico to foster a responsible commercial freedom of speech, ensuring it complies with a set of ethical standards as the basis for the good service all advertising must offer to the consumer.

The benefits attributed to cosmetic products through advertising must be consistent with the proper functions of this kind of products. Cosmetic products shall never be introduced as medications and their properties or characteristics shall not be exaggerated.

The main consideration for signing this Code is the commitment of all corporations to behave with social responsibility by giving consumers the confidence that the products they buy are secure, and that all advertising addressed to them is honest, legal, decent, truthful, and verifiable in order to avoid abusive or misleading information. This code applies for any commercial advertising of cosmetic products. The ethical standards written hereof shall be watched over by the people involved in the advertising field, i.e., all corporations, individual advertisers, agencies and media.

All members of CANIPEC and the corporations that adhere to the COSMEP Code are committed and shall commit themselves to comply with the guidelines which include the following principles: Legality, Honesty, Decency, Veracity, Dignity, Fair Competition, Health and Welfare, Infancy Protection, Social Responsibility, Data

Use and Technical and Scientific Terminology, Warranties, Promotions and Offers, Verification (Scientific substantiation), Advertising Identification, Testimonials, Prestige Exploitation, Comparative Advertising, Imitation, Responsibility, and Criteria for cosmetic products; as well as the annexes: the first one refers to respecting ethical advertising resolutions, the second one deals with the criteria of the terms that shall be used in advertising, the third one establishes the laws and norms of reference, and the fourth one is entitled National and International references.

CONAR, under the execution system that is currently operating in other sectors, shall watch over and sanction the fulfillment of this Code; likewise it shall help for its right application with the support of CANIPEC.

The benefits of signing this Code shall be evident due to the fact that any non-governmental civil organization, any natural or moral person - member or not member of CANIPEC- may present a complaint to CONAR whenever it is considered that the commitments of the COSMEP Code are violated. In this way, CONAR and CANIPEC collaborate with authorities such as COFEPRIS and PROFECO in benefit of consumers by protecting them against misleading or abusive information, and by generating the necessary equity between corporations to encourage a loyal competition in compliance with an ethical commitment with society, without undermining what is established in the Laws and Regulations.

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I. INTRODUCTION

The Code of Self-regulation and Advertising Ethics for Cosmetic Products (COSMEP Code) has been designed to offer solid corporate principles of social responsibility. Advertising supported by codes of conduct is an expression of the ethical obligations of the corporate community. Ethical and responsible advertising is a means to protect the prestige and reputation of corporations by paying attention to social, technological, and economic changes.

Our main concern for working with this Code is the fact that consumers want to have the certainty that all advertising addressed to them is honest, legal, decent, truthful, and verifiable, so that is not misleading or abusive.

Therefore, the main purpose of the Code of Self-regulation and Advertising Ethics for Cosmetic Products (COSMEP Code) is to promote an ethical commercial advertising as a means of information for consumers, providing benefits to society, to the industry, and to the government.

II. OBJECTIVE

To create an instrument that allows the development of an informative activity or an advertising communication for the consumer based on ethical principles, in order to favor the awareness and understanding of the benefits, scopes and correct use of products and services, with the purpose of protecting consumers against misleading and abusive forms of communication.

III. SCOPE

- To establish the ethical principles of the advertising of cosmetic products in Mexico through any media (electronic, audio, video, print) addressed to consumers.
- To foster the development of an advertising activity that complies with these ethical principles.
- To strengthen the current regulations and norms.

- To cooperate with freedom of speech under the established guidelines of this Code for the benefit of consumers, so that they have reliable information about cosmetic products generating a framework of fair market competition.

IV. INTERPRETATION

To help all those who will be interpreting this Code, the undersigned consider that:

This Code shall be applied to any advertising addressed to the national market and consumers distributed through any media by the undersigned corporations. The communication shall be evaluated according to its possible consumer impact, considering the specific features of the group and media used.

In other words, the communication shall be evaluated considering the typical Mexican consumer's discriminatory knowledge, experience, and capacity to which it is addressed. Regarding all communication addressed to children, their natural gullibility and inexperience must be considered.

Among other things, the purpose is to avoid all advertising disguised as newsworthy or informative, which by pretending a false objectivity and impartiality may mislead or deceive consumers.

It is acknowledged the discerning capacity of consumers that a celebrity, a model, a presenter or a host of any media, are easily recognizable by consumers as characters whose messages are sponsored by the advertiser. Likewise, it is acknowledged that the possibility of inserting a product does not necessarily mean that consumers are being misled.

V. APPLICATION FRAMEWORK

The principles enshrined in the present Code shall be adopted and implemented by all organizations, and corporations that are members of the Mexican Chamber of Cosmetic Products (CANIPEC), by all voluntary adherents to this Code, as well as by all those that submit a consultation or an advertising complaint to CONAR, regardless of the principles applied by the authorities within their working field, in accordance with the applicable legislation.

Any member of CONAR or CANIPEC, any civil organization, any consumer or moral person may start a non-conformity procedure at CONAR regarding any advertising that is considered to be against the principles and norms of this Code, and shall be subject to its resolution.

The approval of the COSMEP Code implies the deliberate acceptance of the advertising non-conformity procedure and of the actions established by CONAR.

VI. DEFINITIONS

For the purpose of this Code, the following terms shall be understood in the following way:

Advertisement: Message addressed to the public or a section of it, the purpose of which is to inform through the media about the existence or features of a product, service or activity for its commercialization.

Code: It refers to this Code of Self-regulation of Cosmetic Products and Advertising Ethics (COSMEP Code); an agreement which has been adopted by the undersigned in order to comply with the ethical principles hereof contained.

Commercial Communication: It includes all kinds of advertising as well as other techniques such as promotions, sponsoring, and direct or indirect marketing which shall be interpreted in a general sense to refer to any form of communication directly produced or financed by advertisers with the main purpose of promoting the buying and selling of products or to influence the consumer's behavior.

Media: Media used to distribute Advertisements to the population. This includes TV, cinema, radio, billboards, light box signs, posters, press, magazines, direct mailing, catalogues, brochures, flyers, point of sale, as well as any other kind of labels or press, electronic, telephone, computing, telecommunication media or any other technological media.

Legal Framework: Current body of laws that advertising must follow.

Advertising: Any form of Commercial Communication, distributed through any Media, that incites to buy or consume

Cosmetic Products: All products considered as such by the General Law of Health.

VII. LEGAL FRAMEWORK OF COSMETIC PRODUCTS

All Cosmetic Products marketed within the national territory must comply with the current Legal Framework on the subject; such as the General Law of Health – articles 269 to 272, and 300 to 306-, the Regulations for the Sanitary Control of Products and Services –articles 187-196 and its appendix fractions XX1.1 to XX.5.3- as well as with the Regulations of the General Law of Health in Advertising –articles 6 to 9 and 60 to 62-, the Mexican Official Standard NOM-141-SSA1-1955, Goods and Services, labeling of prepackaged perfume and cosmetic beauty products, as well as the agreement by which the prohibited and restricted substances during the manufacture of perfume and beauty products are determined.

In relation to Advertising, and in addition to what was mentioned in the last paragraph, they shall be carried out in compliance with the Federal Consumer Protection Law (LFPC, by its acronym in Spanish), particularly articles 18, 32, 34, 35, 37, 38, 40, 44, 46, and 77 to 84, as well as chapter III of the Regulations of the LFPC, and the agreement by which the operation and functioning rules of the Public Register of Consumers are established.

VIII. GENERAL PRINCIPLES

Advertising shall be legal, decent, honest, truthful and verifiable; it shall be done with a social and professional sense of responsibility according to the principles of fair competition generally accepted in the market. Advertising shall not be so framed as to abuse the trust of consumers.

1. Legality

Advertising shall comply with the current legal regulations and the requirements that appear in this Code.

2. Honesty

Advertising shall be done with rectitude and integrity, using adequate information and documentation. Advertisements shall not refer to goods, products, services and concepts in a way likely to mislead the target audience.

3. Decency

Advertising, regardless of the Media, shall not use any obscene or vulgar expressions that may be offensive to morals and good manners.

4. Truthfulness

Advertising shall present the properly accredited features and qualities of the goods, products, services, and concepts they may refer to, omitting any expression that may contemplate partial truths or misleading statements. The descriptions and images relating to verifiable facts shall be subject to reliable scientific support whenever so requested.

5. Dignity

No advertising shall present, promote, tolerate or refer to any discriminatory, offensive or insulting situation in regards to nationality, race, religion, gender, political preferences, sexual preferences, physical characteristics, or disabilities.

6. Fair Competition

No advertising shall directly or indirectly denigrate third parties' goods, products, services or concepts and it shall not copy their advertising ideas. Comparison between goods, services or concepts may be carried out, as long as they belong to the same kind, and if this comparison is done by making reference to identical objective elements. The points of comparison shall be based on irrefutable and reliable facts. They shall not be selected in an unfair or biased way. Any comparison that may mislead or confuse the consumer shall be avoided.

7. Health and Well-being

Advertising shall not include images, texts or sounds that may induce to insecure practices, and/or that may put in risk the physical or mental health of people, induce to violence, and/or that may harm the environment.

If advertising uses elements based on fantasy or science fiction, or that are not compatible with reality, it does not mean that the aforementioned is not being fulfilled.

8. Infancy Protection

Advertising addressed to children shall consider their vulnerability, critical capacity, experience and credulity. Any use of images, sounds, texts, language, and other contents that may put them at risk, deteriorate or damage their physical or mental health, as well as anything that may directly or indirectly portray a negative family concept or negative educational values shall be avoided.

It is important to have special considerations for all advertising addressed to children. A child is any person under 12 years of age.

Inexperience and credulity

Advertising addressed to children shall not exploit their inexperience and gullibility, especially regarding the following areas:

1. While presenting the performance or use of a product, all advertising addressed to children shall not:

- a. minimize the skill or age generally required to use the products;
- b. intentionally exaggerate the true size, value, nature, durability or performance of the product; unless the true dimensions and/or contents of the product are mentioned in the Advertisement.
- c. omit information about the necessary acquisition of additional products, such as accessories or any other specific collectable item required to produce the offered results;
- d. use phrases that may induce children to adopt negative behaviors in order to acquire the product; or
- e. create a sense of urgency to acquire the product.

2. Although the use of fantasies is allowed, it shall not make it difficult for children to distinguish between reality and fantasy regarding the benefits of the Cosmetic Product.

3. Advertising addressed to children shall be easily recognizable as such and shall not use imagination in an inadequate way as to mislead children in regards to the features and benefits of a Cosmetic Product.

Harm Prevention

All Advertising addressed to children shall not include texts or visual representations that may produce any mental, moral or physical harm.

It shall not present insecure situations by performing harmful activities for both the people and the child audience; likewise it shall not induce to perform potentially dangerous activities or behaviors.

Social Values

Advertising addressed to children shall not undermine the authority, and/or responsibility of parents, considering the current social and cultural values.

All Advertising that invites children to contact the advertiser shall also encourage them to obtain the authorization of their parents or of any other appropriate adult.

9. Social Responsibility

Advertisements shall not offensively present any social difference that may result from the consumer's buying power.

Advertisements shall not, based on the attributes that the product does not have, induce fear, nor encourage, tolerate or incite illegal or antisocial behaviors, nor take advantage of the people's ignorance and beliefs.

10. Use of Data and Scientific and Technical Terminology

Advertising shall not:

- a) Induce confusion or mislead consumers;
- b) Misuse technical data research results, or falsely quote technical or scientific magazines.
- c) Exaggerate the validity of scientific data derived from partial or unreliable statistics regarding a product.
- d) Use scientific terminology or vocabulary that may falsely suggest that a statement regarding a product has scientific value.

The benefits attributed to cosmetic products shall be consistent with the proper functions of that kind of product, and must be supported by reliable researches and/or verifiable results.

Cosmetic products shall not be presented as drugs.

Regarding the ingredients declaration, Advertising of cosmetic products shall comply with the following requirements:

- i) The ingredient present in the cosmetic product shall not be prohibited, and in case its use is restricted, it shall have the maximum concentrations authorized by current national regulations.

- ii) When a direct relation between an ingredient and a specific result or benefit is presented, the evidence proving the relation between the presence of the ingredient and the result or benefit obtained through the use of the product shall be presented.

11. Use of Perception Studies.

The benefits and results announced regarding the perception of consumers shall have support. The subscribers to this Code commit themselves to establish standards in regards to the use of studies with consumers in order to avoid that any advertising supported by these studies is misleading or biased.

12. Warranties, Promotions and Offers.

Terms such as offer, discount, sale, free, or any other similar or analogous expression, as well as the indication and implication of a warranty or promotion shall only be used if they comply with the Federal Consumer Protection Law and the current Legal Framework.

13. Substantiation (scientific support)

All descriptions, statements, and illustrations regarding verifiable facts shall be susceptible of verification. The support shall be available so that it may be delivered within the period of time established in the current Code of Procedures of CONAR.

14. Advertising Identification

When an Advertisement appears in a media containing news or editorial material, it shall be so framed as to easily be recognized as Advertising.

15. Testimonials

Testimonials, endorsements or support documentation used in an Advertising shall be genuine and capable of substantiation. They must have been truly emitted by the person, institution, society or association to which they are attributed to, and this circumstance must be verifiable. In addition, testimonials of quantifiable and measurable performances, endorsements and support documentation that state a verifiable property, shall be considered as an statement made by the advertiser, even when they are made by a celebrity or by a third party, and shall have the respective evidence.

16. Prestige Exploitation

No advertising shall denigrate the name, the acronym, logo and/or trademarks of any other firm, company or institution. Likewise, it shall not take improper advantage of any prestigious name, brand, corporation, person or institution nor take advantage of the prestige obtained by other Advertising campaigns without previous authorization.

17. Comparative Advertising

The signatories of this Code acknowledge the benefits of a loyal competition, and the fact that Comparative Advertising is useful for consumers so that they make well informed purchases.

The signatories of this Code acknowledge that in Comparative Advertising is unavoidable to show the superiority of a product over another, and over its specific benefits. They acknowledge the fact that in order to achieve a fair Comparative Advertising, it shall be carried out by making reference to objective elements of comparison, that these comparisons shall remove any ambiguity, and shall be done on relevant features for the consumer.

18. Imitation

Advertising shall not copy other advertising performed by third parties in Mexico or abroad.

19. Responsibility

These general regulations regarding responsibility apply to all forms of Commercial Communication.

- a) Advertisers have an integral responsibility for the Advertising of their products.
- b) Agencies and professionals must act with care and diligence when doing Commercial Communication in order to let advertisers fulfill their responsibilities.
- c) This Code applies to the content, and advertising form, including testimonies and statements done according to what is established in points 14 and 15 of this Code. The fact that the content or form of a Commercial Communication originates, in part or as a whole, from other sources, such as an advertising done by another agency or by those corporations that create, prepare, program or execute an Advertising by instruction of any of the adherent parties to this Code, does not justify the lack of compliance to this Code.
- d) Adherents to this Code assume the obligation of giving instructions to the agencies or corporations regarding the previous paragraph so that they comply with the established guidelines of the present Code.

IX. TRANSITORY

FIRST. The Code of Self-regulation for Cosmetic Products and Advertising Ethics shall be effective 6 months after the signing date of the Collaboration Agreement between CONAR and CANIPEC. During these 6 previous months there will be a Diffusion and Training Program to learn how to use this Code, likewise the monitoring of its application will begin based on the methodology defined in the Complimentary Guidelines to Code of Procedures of CONAR for the application of the present Code.

SECOND. The COSMEP Code shall be reviewed 6 months after coming into effect; in case that any modifications are required, these must be issued during the month after the end of the review period.

THIRD. The application of this code following CONAR regulations as well as the Complimentary Guidelines to the Code of Procedures of CONAR for the Application of the Code of Self-regulation and Advertising Ethics for Cosmetic Products.

FORTH. Additionally to what is established in the aforementioned points, any documentation that may improve the application of this Code shall be generated at any moment.

ANNEX 1

FULFILLING RESOLUTIONS ON ADVERTISING ETHICS

All parties pledge to make an effort to include in their contracts and agreements relating to Advertising and commercial communication a statement to ensure that the undersigned will fulfill the regulations and respect the resolutions issued by CONAR.

ANNEX 2

CRITERIA FOR THE TERMS TO BE USED IN ADVERTISING

The use of terminology with support evidence or that corresponds to the function of cosmetic products is allowed as long as it complies with the present code and with the current Legal Framework. For example:

Anti-age, Anti-aging, Re youth:

The products or ingredients that have the property of helping improve the appearance of the skin of an individual, or that help prevent the noxious effects of the factors that contribute or accelerate the aging process, can be referred to as “anti-aging” or “re youth” ingredients or products.

Any statement that establishes that the use of the product reduces the age of a person is prohibited.

- Products may state, when substantiated by evidence, that they have anti-aging effects on the surface of the skin.
- The effects to attenuate or reduce wrinkles are acceptable as long as what is shown or communicated is supported.

Anti-cellulite:

- The term weight loss or any similar expression with the same meaning is acceptable if it expresses, without confusion, an improvement on the aesthetic appearance of a person.
- In this case, it is important to have tests studies. Likewise, all products that have an aesthetic action may be referred to as “anti-cellulite”, if, for example, they achieve a visual change perceptible by the consumer against any skin defect. If their properties stay within the skin embellishment domain, the skin’s appearance or its good condition, they may use terms like “smooth skin”, “unbroken skin”, and “more flexible skin”.

The use of terms relating to the prevention or treatment of cellulite is prohibited; however, terms relating to the signs, effects or certain aspects of cellulite may be used.

ANNEX 3

LAWS AND NORMS OF REFERENCE

1. General Law of Health
2. Statutes of the General Law of Health on Sanitary Control of Advertising.
3. Federal Consumer Protection Law
4. Regulations of the Federal Consumer Protection Law
5. Agreement for the establishment of the operation and functioning regulations of the Public Register.
6. Mexican Official Regulation NOM-141-SSA1-1995, Goods and services, Labeling for prepackaged perfume and cosmetic beauty products.
7. Mexican Official Regulation NOM-028-SCFI-2007 Commercial Practices- Information elements on collectable promotions and/or through draws and contests.
8. Mexican Official Regulation NOM-030-SCFI-2006, Commercial Information of the quantity described on the label-specifications.
9. Agreement by which it is established the prohibited and restricted substances during the manufacture of cosmetic products.
10. Agreement by which it is determined the permitted additive and coadjuvant substances.

ANNEX 4

NATIONAL AND INTERNATIONAL REFERENCES

Código Consolidado ICC – Información y publicidad comercial y mercadotecnia 2007 <http://www.iccwbo.org/>

ICC Código sobre venta directa

CONAR Mexico – Reglamento de Normatividad del CONAR, Código de Ética y Convenio de Colaboración. <http://www.conar.org.mx/>

CONAR Brazil. <http://www.conar.org.br/>

Blue Book : Advertising self-regulation in Europe and analysis of self-regulatory systems and codes of advertising practice – EASA 2007 www.easa-alliance.org

Great Britain: The British Code of Advertising, Sales Promotion and Direct Marketing; the committee of advertising practice 2005

Spain: Código de Conducta Publicitaria aprobado en la Asamblea General Extraordinaria celebrada el 19 de diciembre de 1996, según lo establecido en los Estatutos de la Asociación para la Autorregulación de la Comunicación Comercial. Última versión, con las modificaciones aprobadas por la Asamblea General Ordinaria, el día 3 de abril de 2002

Netherlands: The dutch advertising code information about the working procedure of the Advertising Code Committee and the board of appeal, octubre 1985.

United Nations Guidelines for Consumer Protection
http://www.un.org/esa/sustdev/publications/consumption_sp.pdf



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