

Amendment to Advertisement Regulations 2080 B.S. (2023 A.D.)

Introduction

The Advertisement (Regulation) (First Amendment) Rules 2080 B.S. (2023 A.D.) (“Amendment”) was published in the Nepal Gazette on August 17, 2023, amending the Advertisement (Regulation) Rules 2077 (2020 A.D.) (“ARR”).

This Briefing aims to highlight some of the major amendments brought by the First Amendment.

New Terms Defined

The following new definitions have been added:

Digital Medium

Digital medium is defined as a medium established or registered according to prevailing laws and integrated with the principles of journalism and editorial principles to produce, publish, broadcast or disseminate message-oriented or subject-based thoughts, information, news and audiovisual content through the Internet and the use of symbols, letters, sounds, graphics, photos, songs, music, videos and animation.

Communication Medium

Communication medium is defined as digital or print medium for publication or broadcast, which is incorporated with an intention to broadcast news, information, entertainment programs and messages by governmental, community or private sector. It also includes Internet-based communication mediums.

Social Media

Social media is defined as a digital medium established for the purpose of people connecting and interacting with each other through the Internet.

Expanding the Role of the Advertisement Board

The Amendment has expanded the powers, functions

and duties of the Advertisement Board (“Board”) to include, among others, - enrollment of communication medium and determination of standards for the purpose of distribution of advertisement; classification of advertisement; developing guidelines and code of conduct on advertisement and monitoring thereof; regulation and monitoring of advertisement agencies; and making the payment process for advertisements transparent.

Examination of Advertisement

Standards for examination of advertisements to be broadcast through a communication medium shall be prepared by the Board on the basis of: the nature and subject matter of the advertisement; the time and duration of broadcast; and audio, imagery or audiovisual components in the advertisement.

Categorization of Advertisement

Advertisement or information that is to be published or broadcasted at the present or for a specified duration shall be categorized on the following basis:

- Advertisement or information related to public interest;
- Promotional advertisement or information;
- Other advertisement or information.

Determination of Standard or Grade

The Board shall also determine the standard or grade of the communication medium on the following basis for the purpose of publishing or broadcasting government advertisement or information:

- Categorization of the communication medium according to prevailing laws.
- For newspapers: the structure, number of pages, number of publication and broadcast, state of dissemination and reach in geographical terms.

- For broadcasting organization: access to the broadcast and participation of viewers.
- For digital medium: number of viewers and readers.

The Board shall ask the communication medium so standardized or graded to provide their rates for publication or broadcasting of government advertisement or information on a yearly basis.

Provisions Related to Hoarding Boards

The concerned local level agency shall provide approval for advertisements through hoarding boards, vehicles and other mediums, according to the procedures, structure, types and standards prescribed by the Board. If an advertisement is to include a picture of any person, such person must be a Nepali national.

Advertising on Vehicles

Approval must be sought from the local level agency which shall consider the following for approval:

- Assurance that the advertisement is not contrary to prevailing laws relating to vehicles and transport.
- Assurance that the subject-matter of the advertisement will not cover the full mirror.
- No changes in the structure of the vehicle.
- Standards and other conditions determined by the Board.

Regulation of Advertisement

The following factors shall be taken into consideration by the Board while regulating advertisements on digital medium or social media:

- Whether or not the advertisement was done through official channels.
- Whether they are compliant with Advertisement (Regulation) Act 2076 (2019 A.D.) and ARR.
- Whether the advertisement was done through an enrolled or listed communication medium or advertisement agency.

Prohibitory Powers of the Board

The Board may prohibit any advertiser, communication medium or advertisement agency that does not follow the relevant code of conduct from operating.

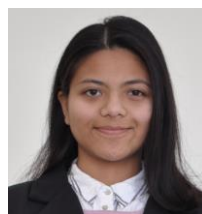
Nepali Advertisements during Foreign Programs

Approval of the Board must be taken when Nepali advertisements are to be broadcasted during the broadcasting of any programs or sports related content of international importance by television organizations registered in Nepal, having obtained related broadcasting rights from foreign organizations.

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