



Complaints Handling Rules

I. General provisions

1. The Advertising Ethics Committee (Komisja Etyki Reklamy) (hereinafter referred to as KER) is a body of the Union of Associations Advertising Council (Związek Stowarzyszeń Rada Reklamy) – an independent organisation regulating the advertising market (hereinafter referred to as the Advertising Council), which has been appointed to adopt resolutions on compliance of activities covered by the regulations of the Code of Ethics in Advertising (hereinafter referred to as the Code).
2. Proceedings before KER may be carried out independently from any proceedings before general courts of law, courts of conciliation, arbitration courts, public administration authorities or any other entities.
3. KER is composed of members who are appointed in accordance with the rules specified in the Advertising Council Statute.
4. KER members are appointed from among the candidates who represent a different group of actors of the advertising market, as defined in §5 section 1 of the Advertising Council Statute.
5. KER members appoint, from among themselves, the Presidium according to the rules resulting from §18 section 4 of the Advertising Council Statute.
6. The Presidium elects, from among its members, the KER Chairperson in accordance with §18 section 5 of the Advertising Council Statute. If the KER Chairperson is unable to perform his/her tasks specified in the Rules (for objective reasons), he/she will grant a power of attorney to one of the members of the Presidium, with the proviso that such a person will represent a different group of advertising market participants than the KER Chairperson. The power of attorney granted by the KER Chairperson expires at the moment when the KER Chairperson is able to take the actions provided for him/her in the Rules, with the proviso that the actions performed by the attorney remain in force. Should it be impossible (due to objective reasons) to grant the power of attorney referred to above, the person substituting for the KER Chairperson is indicated by the Presidium by way of a resolution.
7. The Presidium may adopt resolutions by voting through electronic mail.
8. KER Chairperson:
 - (a) directs the work of the Presidium,
 - b) determines the composition of the panel authorised to consider the complaints referred to in these Rules (hereinafter the Adjudication Panel),
 - (c) sets a date for the meeting of the Adjudication Panel,
 - d) invites the expert referred to in clause 29 to the meeting of the Adjudication Panel,
 - (e) takes any other action provided for in these Rules.



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9. The Presidium shall meet as and when necessary, but not less frequently than once a month. The Presidium's duties shall include, inter alia, the following:

- a) to review resolutions adopted by KER,
- b) to consider appeals against calls for correction of formal shortcomings, against decisions to return complaints and decisions to reject complaints due to their lack of relevance to the subject of the Code,
- c) to review requests for exclusion of any member of the Adjudication Panel,
- d) to make decisions to consider complaints jointly, if they concern the same charge or interrelated charges,
- (e) to decide to extend the period laid down in clause 15 – in the case of complaints referred to in clause 10, with the proviso that this period may be extended by no more than five days.

10. Complaints shall be submitted to the Office of the Advertising Council. The Office of the Advertising Council shall also provide office services for KER's need.

11. Complaints may be lodged by natural persons, legal persons and organisational units without legal personality. Complaints may be submitted jointly or separately by complainants. Personal data of any natural person who submits a complaint shall be for the knowledge of the Advertising Council only and may not be disclosed to any other entities, in particular to the entities whose action or omission is the subject of the complaint. However, personal data shall be disclosed to the arbitrators resolving the complaint.

12. The Board of Advertising Council may lodge complaints under the rules specified for entities referred to in clause 13. A complaint must be preceded with a resolution on the matter, adopted by the Board.

13. Complaints lodged by entrepreneurs in connection with their business shall be submitted in writing on a form attached to these Rules as Appendix 1. The complaint shall include e-mail address for correspondence on the matter in question. The complaint may also be lodged in the electronic form, by e-mail sent to the e-mail address of the Advertising Council, as a letter bearing a qualified electronic signature, or as a scan of the letter bearing a handwritten signature.

14. Other complaints shall be submitted in writing on a form attached to these Rules as Appendix 2 or via the Internet – using a form attached to these Rules as Appendix 5, which is available on the Advertising Council's website.

15. The costs of receiving and considering the complaint shall not be borne by the complainant.

16. KER shall not consider any complaints the subject matter of which has already been considered and finally resolved by KER. In this case, the complaint shall be dismissed without consideration and the complainant shall be notified accordingly and informed about the reasons for the decision.

17. When determining the deadlines referred to in the Rules, no public holidays and no Saturdays shall be taken into account.



II. Preparation of proceedings before the KER

18. A KER member selected in accordance with §17, section 4 of the Advertising Council Statute (hereinafter referred to as the speaker-arbiter), shall make a decision to:

a) refer the complaint to the Adjudication Panel for consideration; or

b) shall make other decisions, depending on the circumstances referred to in clauses 16, 25, 26 and 27, within ten days after the receipt of the complaint by the Office of the Advertising Council.

19. The speaker-arbiter and the members of the Adjudication Panel shall not be linked to any party by affinity, kinship or legal bond under a regular employment contract, a fixed-term employment contract, a specific-task contract or other contract to similar effect. If such a connection occurs in the case of the KER Chairperson, the Chairperson's prerogatives to appoint the Adjudication Panel and arrange its session shall be taken over by one of the Vice-Chairpersons. If such a connection occurs in the case of the speaker-arbiter, his/her tasks under these Rules shall be performed by a member of the Board of Advertising Council or a staff member from the Office of the Advertising Council, or a KER member designated by the KER Chairperson.

20. If the speaker-arbiter is unable to fulfil his/her duties under these Rules, his/her role shall be taken over by a KER member designated by the KER Chairperson, subject to clause 19. The speaker-arbiter must not be a member of Adjudication Panels or Appeal Panels.

21. In case of complaints referred to in clause 14, a complaint shall be presented and supported before the Adjudication Panel by the speaker-arbiter.

22. The complainant shall be notified of the speaker-arbiter's decision.

23. In case of complaints referred to in clause 14, the Office of the Advertising Council, under the speaker-arbiter's supervision, can collect evidence regarding the charges, included in the complaint, until the date when the complaint is sent to the complainee.

24. When appointing KER members to consider a specific complaint, other circumstances that may raise doubts about the impartiality of the KER members shall also be taken into account. The parties concerned may also request the exclusion of a specific Adjudication Panel member within a period of five days after the notification referred to in clause 31 from the Office of the Advertising Council is received.

25. If any formal shortcomings are found in the complaint, the speaker-arbiter shall request the complainant to correct them. The following are considered formal shortcomings:

a) submission of the complaint on an incorrect form,

b) incorrect completion of the form or missing obligatory attachments that should have been enclosed to the form.

26. If, according to the Advertising Council Statute or the Code, the subject of the complaint is not within the competence of KER, the complaint shall be rejected and the complainant shall be notified accordingly.



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27. The complainant shall be notified of the content of the call to correct formal shortcomings by e-mail sent to the address indicated in the complaint. The notification shall include the justification and the deadline for correction, which is ten days from the date of delivering the notification. The notification shall be deemed to have been delivered once the Advertising Council sends an e-mail with the notification. The notification shall be delivered to the complainant only once. If the complainant fails to correct the formal shortcomings by the stated deadline, the complaint shall not be considered and the complainant shall be notified accordingly.

28. In cases referred to in clauses 16, 25, 26 and 27, the complainant shall have the right to appeal to the KER Presidium. The complainant shall be notified of that and shall be given the period of ten days as a deadline for the appeal, starting from the date when the notification from the Office of the Advertising Council is received as set forth in clause 27.

29. The Office of the Advertising Council shall keep a list of experts (approved by the Board of Advertising Council) who will provide expert opinions, as required by the Adjudication Panels, if such expertise is required to consider a complaint. The Adjudication Panels may request that experts not included on the list be appointed if the listed experts do not represent the fields needed to consider the complaint. The Board of Advertising Council shall indicate the institutions which, in agreement with the Advertising Ethics Committee, shall verify the compliance of food products with the dietary criteria described in Appendix 2 to the Code of Ethics in Advertising (Standards of Food Advertising Aimed at Children).

30. The Office of the Advertising Council shall prepare all materials connected with the complaint for the KER sessions.

31. If the speaker-arbiter makes a decision to refer the complaint to the Adjudication Panel for consideration, the complainant and the complainees shall be notified accordingly. A copy of the complaint (after removing the data of the natural person who has submitted the complaint) is sent to the complainees, requesting that he/she should take a position on the complaint within ten days starting from the date when the notification from the Office of the Advertising Council is received as set forth in clause 27. The Office of the Advertising Council shall send the response to the speaker-arbiter and in case of complaints referred to in clause 13 – also to the complainant. No materials sent in after that date shall be taken into account by the Adjudication Panel. The absence of any response within the appointed deadline shall not stop the complaint consideration procedure.

32. The parties' letters may include applications to admit evidence. During the session, only evidence mentioned in the complaint and in the response to the complaint may be considered.

33. The KER Chairperson shall appoint, within four days of the ineffective expiry of the deadline for the complainees to send his/her reply to the complaint, or within four days of the date of receipt of the reply to the complaint, a three-person Adjudication Panel. If an appointed member of the Adjudication Panel is not able to attend a session, he/she shall notify the KER Chairperson and the KER Chairperson shall appoint another KER member to take his/her place. The Adjudication Panel shall be composed of KER members selected according to § 17 sections 1 and 3 of the Advertising Council Statute and each representing a different category of advertising market actors. These rules apply accordingly if a request referred to in clause 9 letter c is accepted.

34. The KER Chairperson shall set the date of the session, which shall take place within ten days from the date of appointment of the Adjudication Panel. The Office of the Advertising Council shall notify the parties according to the rules described in clause 27, within two days from the issue of the decision on the date of the session and the composition of the Adjudication Panel.



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35. If the complaint is lodged by entities referred to in clauses 12 and 13, the parties shall be notified of the date of the session and the composition of the Adjudication Panel according to the rules described in clause 27. Otherwise, the parties shall be notified of the referral of the complaint to the session of the Adjudication Panel according to the rules described in clause 27, together with indicating the date of the session and the composition of the Adjudication Panel, while the complainant shall be notified of the appointment of the speaker-arbiter or any other person designated, according to clauses 19, 20 or 21, to present and support the complaint at the session.

36. The Chairperson, may, on the basis of requests from the members of the Adjudication Panel submitted at least seven days before the session, invite experts referred to in clause 29 to participate in the session. The Office of the Advertising Council shall provide the experts with necessary materials related to the complaint. The experts shall give oral presentations of their opinions, with concluding remarks to be included in the minutes of the session. During the session of the Adjudication Panel, its members, as well as the parties, their proxies or representatives, according to clauses 19, 20 or 21, may question the experts.

37. The complainant may withdraw the complaint before the beginning of the session of the Adjudication Panel.

38. The Office of the Advertising Council does not return materials submitted in connection with the complaint. The parties may collect them within six months from lodging of the complaint. After this deadline, the Office of the Advertising Council may destroy the materials.

III. Proceedings before the Adjudication Panel

39. The Adjudication Panel members shall select from among themselves the Chairperson who shall manage the Adjudication Panel's work. The Office of the Advertising Council shall be notified of the identity of the Adjudication Panel Chairperson on the day before the session. Otherwise the KER Chairperson shall appoint the Adjudication Panel Chairperson.

40. The session is attended by the speaker-arbiter who, in addition to the powers described in clause 21, monitors whether the proceedings run according to the Complaints Handling Rules, and – if required - reports the details of the case to the members of the Adjudication Panel. For the same reasons the speaker-arbiter can also listen to the counsel if such a decision is made by Adjudication Panel members.

41. Sessions of the Adjudication Panel are minuted. A person who shall take the minutes of the session is appointed by the Adjudication Panel Chairperson from among the employees of the Office of the Advertising Council. The minutes are signed by the Adjudication Panel Chairperson and the person appointed to take the minutes of the session.

42. During the session of the Adjudication Panel, the parties have the right to deliver 15-minute speeches and then 7-minute replies in the following order: first the complainant and then the complaine. The Adjudication Panel may consider the complaint and adopt a resolution even if a party or parties are absent or do not take part in the meeting despite being present.

43. The Adjudication Panel

1. shall adopt a resolution where it may:



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- a) reject the complaint if, according to the Advertising Council Statute or the Code, the complaint is not within the competence of KER,
- b) dismiss the complaint on the grounds that the Code has not been violated or there is a lack of evidence,
- c) state that the advertisement violates the Code's standards,
- d) state that the advertisement should be modified as soon as possible, so that the violation of the Code's standards ceases,
- e) address the complainee and present KER's opinion where it states that the distribution of the advertisement should be stopped.

2. the Adjudication Panel shall, by presenting the opinion referred to in clause 1 letter a or e, set a deadline for the complainee (advertiser) to, respectively, modify the advertisement in question or stop the distribution thereof, taking into account the technical and organisational feasibility of the implementation of the resolution;

3. in the case referred to in the above clause, the Adjudication Panel shall order that the Advertising Council, in addition to delivering a copy of the resolution to the complainee, notify the advertising agency which produced the advertisement and the media which (have) distributed it; in the notification, the Advertising Council shall oblige these entities to appeal to advertisers and other entities which commissioned the production or distribution of the advertisement, for the implementation of the resolution.

44. The Adjudication Panel shall adopt a resolution on the day of its session, according to models presented in Appendix 3. A resolution in writing shall be issued within seven days of its adoption. A draft resolution shall be drawn up by the speaker-arbiter who shall present it to the members of the Adjudication Panel for approval by signing.

45. A member of the Adjudication Panel, who does not agree with the contents of the resolution and who has been outvoted, may present his/her dissenting opinion regarding the resolution of the Adjudication Panel. A dissenting opinion requires a written justification made within 7 days from the date of the resolution. A dissenting opinion shall be attached to the resolution of the Adjudication Panel.

46. The Adjudication Panel may also decide to publish its resolution in selected industry media.

IV. Implementation of the Adjudication Panel's resolutions

48. All final and binding resolutions of the Adjudication Panel (with no measure of appeal) shall be published in the (online) information portal of the Advertising Council – within seven days of the issue of the resolution in writing.

49. The parties, as well as members of the Advertising Council and interested advertising agencies, shall receive a final and binding resolution of the Adjudication Panel without undue delay.

50. The Adjudication Panel may decide in a resolution to communicate its contents to other entities after the resolution becomes final and binding, including in particular the Municipal Consumer Ombudsman or the President of the Office of Competition and Consumer Protection. In addition, the



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complainee shall be advised to voluntarily implement the opinion included in the final and binding resolution.

V. Appeals against the Adjudication Panel's resolutions

51. The parties may appeal against the resolution of the Adjudication Panel within ten days of the receipt of the resolution. The appeal may only be based on new facts and evidence, which were not known to the party concerned on the date of the adoption of the resolution, referred to in clause 43, by the Adjudication Panel.

52. The appeal shall be considered by the KER Appeal Panel composed of three KER members who were not members of the Adjudication Panel which considered the complaint.

53. The appeal shall be submitted to the KER Presidium, which shall appoint the Appeal Panel under the rules set forth in clause 33.

54. The proceedings before the Appeal Panel shall be governed by the provisions of these Rules, with the following exceptions:

- a) the right to appeal against a resolution of the Appeal Panel,
- b) appointment of an expert if he/she has presented an opinion before the Appeal Panel,
- c) the obligation to use the forms attached as Appendices 1 and 2.

55. Upon considering the appeal, the Appeal Panel, in their resolution, may:

- a) dismiss the appeal,
- b) rule fully or partly in favour of the appeal.

56. The Appeal Panel may not refer the case for re-consideration by the Adjudication Panel.

VI. Final Provisions

57. Any correspondence related to the matters referred to in the Rules is carried out, in general, by means of electronic mail. The e-mail address of the Advertising Council for correspondence is provided on the Advertising Council's website. In particular cases – justified by the situation of the complainant, it is possible to carry out the correspondence in paper form, i.e. by means of a traditional mail (by a registered letter).

58. The General Assembly may, by means of a resolution, offer remuneration to the KER members for their contribution to the KER's work and establish the principles under which such remuneration is to be paid.

59. Any matters which are not provided for in these Rules shall be governed by the Code and the Advertising Council Statute.