



**International Chamber of Commerce**

*The world business organization*

## **ICC comments on Codex Discussion Paper on Advertising CL 2004/54-FL**

Commission on Marketing and Advertising, February 2005

ICC recognizes the important mission of Codex Alimentarius in protecting the health of consumers and ensuring fair practices in the food trade. ICC also supports the efforts of Codex Alimentarius to promote coordination of all food standards work undertaken by intergovernmental and non-governmental organizations.

The Codex Committee on Food labelling (CCFL) was established to focus on provisions on labelling applicable to all foods. Recently, CCFL has considered undertaking projects on advertising in relation to health and nutrition claims, including a definition of advertising, as complementary to labelling, in view of the terms of reference of the Committee. Regulations and standards for claims on food labels and claims in advertising are neither identical, nor need to be identical, to appropriately serve the communications goal. Advertising and labelling face very different constraints in terms of space, time, costs and objectives. Consequently, they are treated under different regulatory regimes at national level.

As it has been pointed out by participants in Codex themselves, "advertising" is already defined and regulated under national law, so this proposed initiative by Codex is perplexing. There are no deficiencies in current definitions which could or should be appropriately addressed by Codex. Moreover, ICC is seriously concerned that the proposed Codex work in the field of food advertising would undermine the successful and robust advertising self-regulatory system currently in place.

For the last 70 years, world business has worked through ICC to promote high standards of ethics by business self-regulation through the ICC international advertising and marketing codes. These codes have been implemented, referenced and endorsed by companies, associations, governments and national organizations across the world. The ICC codes govern all products, including food and beverage products. In the case of food and beverage products, the ICC International Code of Advertising Practice has been supplemented by a Framework on Responsible Food and Beverage Communications to provide further guidance for industry and self-regulatory bodies. The result, with the ICC Codes as a guide, is a dynamic system of advertising self-regulation which on a daily basis benefits consumers, governments and businesses by providing accessible, effective and flexible mechanisms to handle complaints and enforce the self-regulatory framework for advertising communications, including food and beverage advertising.

### **ICC codes on marketing and advertising**

The ICC codes set forth ethical principles on advertising aimed at protecting consumers, including special provisions on children and young people. The ICC International Code of Advertising Practice applies to the advertising of food and beverage products, just as it does to other advertised products, and has been supplemented through the adoption of the ICC Framework on Responsible Food and Beverage Communications. Below are relevant examples of principles established by the ICC International Code of Advertising Practice and the Framework on Responsible Food and Beverage Communications:

- All advertising should be legal, decent, honest and truthful. Every advertisement should be prepared with a due sense of social responsibility.  
(Article 1, International Code of Advertising Practice - see Annex 1)

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- Descriptions, claims or illustrations relating to verifiable facts should be capable of substantiation.  
(Article 21, International Code of Advertising Practice - see Annex 1)
- Information provided with the product should include proper directions for use and full instructions covering health and safety warnings whenever necessary.  
(Article 15, International Code of Advertising Practice - see Annex 1)
- Advertisements should be so framed as not to abuse the trust of consumers or exploit their lack of experience or knowledge.  
(Article 3, International Code of Advertising Practice - see Annex 1)
- Advertisements should not contain any statement or visual presentation which directly or by implication, omission, ambiguity or exaggerated claim is likely to mislead the consumer.  
(Article 5, International Code of Advertising Practice - see Annex 1)
- Food and beverage advertisements should not encourage or condone excess consumption and portion sizes should be appropriate to the setting portrayed. Advertising should not undermine the importance of healthy lifestyles.  
(ICC Framework on responsible food and beverage communications - see Annex 2)
- Claims about nutrition and health benefits should have a sound scientific basis. The claims should be conveyed consistent with the nature and scope of the evidence, providing the consumer with supportable information. The claim should also be judged by the likely perception of the reasonable consumer, especially where children and young people are concerned.  
(ICC Framework on responsible food and beverage communications - see Annex 2)
- Where claims or terminology used in advertisements might reasonably be interpreted by a consumer as health or nutrition claims, they should be supportable with appropriate scientific evidence.  
(ICC Framework on responsible food and beverage communications - see Annex 2)
- Food and beverage advertisements should not mislead consumers about potential health or other benefits from the consumption of the advertised product.  
(ICC Framework on responsible food and beverage communications - see Annex 2)

### **The benefits of self-regulation**

ICC firmly believes that there is no need for the Codex Commission and CCFL to prepare specific texts on food and beverage advertising or definitions of advertising in relation to health and nutrition. Indeed, any further work by CCFL in this field would add complexity to the existing legal framework at an international and national level, increase cost to companies and put SMEs in a competitive difficulty given their lack of sophisticated legal infrastructure to cope with additional laws. It is also important to note how further regulatory work would jeopardize the benefits of the existing self-regulatory system including:

- the ability to swiftly update codes to address new issues. The ICC Commission on Marketing and Advertising keeps the codes under constant review, adjusting them when necessary to meet changing public sensitivities and the demands of new technologies. For example, in order to address the international focus on nutrition and health, ICC called on food and beverage companies to champion the ICC Framework on Responsible Food and Beverage Communications, which offers additional guidance on how existing general principles of truthful and fair advertising reflected in the ICC International Advertising Code apply to food and beverage communications.
- a set of universal standards that can be accepted by different cultures and political systems. The self-regulatory codes and guidelines offer a basis for national codes applied by professional associations.

- a true global consensus with buy-in from business. ICC's unique consensus building process means that the self-regulatory codes reflect the views of companies from all sectors, of all sizes, and from developed, transition and developing economies.
- an effective and cost-efficient system. Self-regulation assures consumers of ethical and responsible advertising. It reduces costs that otherwise would be required for governments to legislate and administer detailed regulatory codes.

### **Adoption of existing standards**

ICC respectfully encourages Codex to acknowledge, endorse and promote existing international advertising standards, which have roots in a solid historical tradition of responsible and ethical advertising practices, and maintain its focus on food safety, quality and science. In essence, the principle of advertising substantiation that is at the heart of the ICC Codes serves to establish that claims in labelling and advertising will not be contradictory.

These considerations were taken into account by CCFL's 18th Session as well as the Codex Alimentarius Commission's 16th and 19th Sessions. ICC believes that these decisions are still valid.

ICC would welcome a dialogue with Codex Alimentarius and its member governments, delegations and observers on issues that may arise from discussions within CCFL related to advertising and marketing communications.

### **About ICC**

ICC is the world business organization, the only representative body that speaks with authority on behalf of enterprises from all sectors in every part of the world. ICC promotes an open international trade and investment system and the market economy. Business leaders and experts drawn from the ICC membership establish the business stance on broad issues of trade and investment policy as well as on vital technical and sectoral subjects. ICC was founded in 1919 and today it groups thousands of member companies and associations from over 130 countries. Within a year of the creation of the United Nations, ICC was granted consultative status at the highest level with the UN and its specialized agencies.

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### **ANNEX 1**

**See:**

**[ICC International Code of Advertising Practice](#)**

### **ANNEX 2**

**See:**

**[ICC framework for responsible food and beverage communications](#)**