ETHICAL ASPECTS OF ONLINE ADVERTISING IN THE SLOVAK REPUBLIC

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Abstract — *The Slovak Republic (further SR) has a strong interest in ensuring that the ethical principles are promoted throughout society and therefore it pays close attention to ethics in marketing communication in the e-environment. The paper is aimed at explaining the principles, the overall context and the manner of applying the provisions of the Code of online advertising, which was adopted in the SR. It presents the results of secondary research aimed at the most interesting cases of assessed advertising and decision of the Arbitration Committee of the SR. The contribution brings new consumer protection rules for e-commerce in relation to the protection of personal data and downloading web content in online marketing. The authors of the draft submit a general request of procedures and the most important rules in the application of ethical behavior in the e-environment in developing digital projects and campaign.*

Index Terms — marketing communication, advertising, ethics in advertising, code of ethics, findings of the Arbitration Commission.

INTRODUCTION

Ethics, as a unique and exclusively human matter, is ubiquitous in the behavior and actions of individuals, but also in multifaceted organizational structures where people work and live their private, social and public life in. The concept of ethics comes from the Greek word *ethos,* which expresses the nature of character or habit. The word *ethos* is currently associated with distinguishing character traits, characters or attitudes of different people, cultures or groups. Ethics is an individual character of a man, but also social rules of right and wrong acting (also called morality). Morality is a social phenomenon that reflects interpersonal relationships and human activity from the viewpoint of good and evil. There is emerging concept *morality* along with the concept of morality, which is used to denote such a will of people and its expressions that are generally applied and recognized in society. Ethics along with the law represent regulators of human behavior. The ancient period is officially considered the period of formation of ethics, as well as the emergence of advertising, where an answer to the question of good and evil, good and bad things began strongly to search. The answers to these questions are found in the works of Democritus, Socrates and Plato, and especially Aristotle, who said that "ethics is the greatest virtue" and defined ethics as "conscious and rational human behavior." This question was later discussed in the Middle Ages by Thomas Aquinas, Descartes, Hobbes, Mill, Kant, in the 20th century by Bergson, Kierkegaard, Sartre and other prominent personalities.

Law, as a set of legal standards, focuses on the area of ownership and other social relationships of people. On the contrary, ethics focuses on various forms of behavior of individuals and groups. Legislation tries to be as close as possible to ethical principles, but in fact, human action can not include only laws. The principles of morality cover a much wider area in human life than law does. Law thus represents only a minimum of morality. In contrast to legal standards, ethical standards are not codified and can react more flexibly to any changes. They are also not supported or forced by the institutions, but are regulated and influenced by public opinion. Ethics and etiquette are concepts that are often used interchangeably and are closely related. Unlike ethics, etiquette represents a set of rules and customs governing social behavior, which should always lead to courtesy, humanity, respect and correctness.

If we simply characterized marketing as work with market, which makes exchange easier in order to satisfy human needs and wishes, we would have to combine this activity with the application of ethical principles. The distinction between legality and ethicality of marketing decision is a good starting point for understanding the nature and significance of ethics. Figure 1 helps to visualize the relationship between laws and ethics. While ethics deal with personal moral principles and values, law is society´s values and standards that are enforceable in the courts. The distinction can sometimes lead to the rationalization that if behavior is within reasonable ethical and legal limits, then it is not really illegal or unethical. We can characterize marketing ethics as multidimensional scientific discipline, which examines compliance with the general ethical principles in various marketing activities. Under general theory of marketing ethics, all ethical problems and dilemmas in marketing can be divided into two categories:

- category of problems and dilemmas in marketing that affect *marketing as a process*. These include the application of unethical marketing strategies, tactics and procedures, for example, false or misleading advertising, pricing or sale of dangerous products.

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- category consisting of such questions, which relate to *product in marketing*. These questions deal with the ethical adequacy (suitability) of marketing of certain products.

Ethics is applied as an essential prerequisite for the creation of all marketing tools. For the purpose of this contribution we will deal mainly with problems of an ethical approach to creating marketing communication as one of the marketing mix tool.

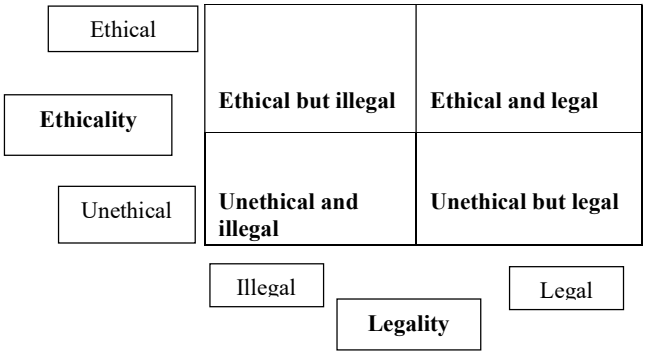

FIGURE. 1
CLASSIFICATION OF MARKETING DECISIONS IN RELATION TO THE ETHICAL AND LEGAL ASPECTS [1]

The essence of marketing communication is to influence customers using marketing communication tools [2]. If we wanted to pay priority attention to advertising, we need to approach this problem with the fact that advertising is essentially an expression of the manufacturer or service provider that is intended to alert to its products or services, while the customer has the freedom to decide whether he makes use of such an offer [3]. Considering ethical application, advertising is regulated by legislation at European and national level. In addition to legal regulations, there are also used non-legal forms. There was developed and published a number of international and national codices arranging ethical standards that must be respected in advertising. General principles of advertising practice, which include advertising politeness, honesty of advertising, social responsibility of advertising and truthfulness of advertising, are starting to significantly modify for their use in online marketing in the SR [4]. One of the reasons is that there appear statements even in a recognized scientific literature that "Internet, unfortunately, resembles a junkyard, where however, using common sense and patience we can find pearls" [5]. Internet has grown from technological innovation to tool for communication and trade and nothing has swallowed imagination of marketing professionals, media and the world of communications as the Internet. It has became a reality that it is no longer possible to ask the question "Who has a website?", but it must be declared as "Who has no website?" [6].

CURRENT STATE OF THE PROBLEMS

Advertising reflects the culture of the country. However, it would be simple to give advertising a "national label" with respect to a certain style of advertising or advertising appeal used. There is known British style of advertising, American style of advertising, German style of advertising, advertising style of southern Europe as well as French, Dutch, Swedish, but the concept of ethics in advertising has its own specifics [7]. The final objective of ethics in marketing communication, not only in the SR, is the benefit of all participating components of the communication process. It is important to consider that there can always be several different views in this area. Considering ach advertising statement, it depends on the ethics of the society, at a given time, area, the Code of Ethics (if the society has), on morality of reviewers but also the ethics of advertising creator, advertiser and media.

Society declares particular moral and cultural values, and therefore seeks to maintain ethical rules in various areas of life. The same applies in advertising whose natural objective is communication between the advertiser and the customer to promote sales of product or service. Ethics also seeks compliance with the standards, which generally does not involve legislation in the field of advertising. In addition to the legal normative adjustments dealing with the "correctness" or "incorrectness" of behavior of active advertising entities, or marketing communication, there are Ethical Principles of Advertising Practice valid in the territory of the SR. Failure to comply with legal standards, i.e. the law is monitored and sanctioned by the State through its bodies. Certain social groups identify themselves with ethical principles, however, only on a voluntary basis. Various associations and professional institutions often seek to observe these standards just the law does not complicate the situation. Therefore, based on voluntary compliance and respect of regulations, these institutions seek for self-regulation using ethical standards. In 1995, there was established the Advertising Standards Council in SR (hereinafter "Council") with clearly specified function, field of activity and structure. There is the fact guaranteeing Council the independence that it was not formed as state regulatory institution, but as a subject which helps to prevent potential breaches of relevant laws relating to marketing communications. Advertising Standards Council is a body of ethical self-regulation in advertising. It associates entities that are actively involved in the process of marketing communication – advertisers, advertising agencies and clients. The interest of these entities is – following the rules – to guard the reputation of the advertising. They adopted together ethical rules of advertising practice valid in the territory of the SR. The activity of the Council is funded by the advertising industry through annual membership fees of full members. The aim of the action of the Council is to provide and promote honest, decent, decent, legal and truthful advertising in the territory of the SR.

Advertising Standards Council issues the Code of Ethics and enforces compliance with this Code through the

Arbitration Commission. It also undertakes promotional and educational activities, represents its members in the European Advertising Standards Alliance (EASA), considering the issues of ethical advertising, cooperates with state authorities, courts, associations and other institutions in the SR and abroad, carries out other activities to fulfilling its objective, defends the interests of the advertising industry to the state and other institutions, and is involved in forming legislation, which extends into the area of marketing communication within its professional reviewing.

It is obvious that advertising in the SR is subject to ethical regulation. This is done through the Code of Ethics (hereinafter "the Code"), which defines the boundaries of advertising ethics. The current version was created in 2014 to cover all aspects of marketing communication and advertising. The right to interpret the Code of Ethics is purely the part of Arbitration Commission. For the purposes of the Code, advertising means a communication process initiated by a competitor or his designee, as well as the content that is the result of such communication process:

a) communication process is carried out for payment or other consideration, or
b) purpose of the communication process is to affect the consumer's behavior in any way, particularly to provide the consumer with the information about a product, activity or competitor's objectives, or on a project of a charitable or other non-commercial nature.

For the purposes of the Code, advertising also means the communication process initiated by non-entrepreneur, as well as the content that is the result of such communication process, as long as the communication process is characterized by using the methods, pursuing objectives and in the distribution of the content such manners are used, which are typically used, monitored or used in a commercial communication, even if the process is conducted by a person authorized by the non-entrepreneur. For the purposes of the Code, advertising includes:

- any form of public promotion or presentation using the advertising techniques, especially direct marketing, including telemarketing;
- use of communication media including digital advertising, teleshopping, sponsorship and product placement being understood that the user generated content within social networks, blogs or similar virtual spaces is taken into consideration if and only if such is referred to the provision that the communication process is carried out for payment or other consideration, or the purpose of the communication process is to affect the consumer's behaviour in any way, particularly to provide the consumer with the information about a product, activity or competitor's objectives, or on a project of a charitable or other non-commercial nature.

Communication medium is particularly television broadcasting, radio broadcasting, Internet and other digital platforms, including online gaming, electronic mail and other means of electronic communication, medium of an multimedia work and medium of an audiovisual work. The Code specifies that advertising must be clearly identifiable, no matter what form or what communication medium used; when assessing, however, a form of advertising, communication medium, and advertising technique used is taking into account.

MATERIALS AND METHODS

The problem of compliance with the Code of Ethics of the SR can be assessed by monitoring the development of number of advertising assessed in relation to media and finding trends in the development of arbitration findings concerning the problem in question. The research monitored primarily websites of contract owner; classical forms of Internet advertising (banners); advertising on social networks (facebook fan page, YouTube, etc.); blogs, but only if it was the advertisement initiated by a competitor; advertising articles and direct marketing (e-mail marketing, newsletters). Decision-making in questions of advertising ethics concerns complaint by a natural or legal person, and application for an opinion by the advertiser. The meeting of the Arbitration Commission for the Council is carried out at least once a month. The Arbitration findings are published in the SR within three working days. In relation to the activity of the Council, when finding positive findings, there occurs advertising withdrawal or editing. [8]

STATISTICAL RESULTS AND ANALYSIS OF SELECTED ASPECTS OF THE SUBJECT IN QUESTION

In relation to the method for assessing the ethical principles in advertising, there was noticed an increasing trend in advertising assessed in the years 1996 to 2013. (Table 1)

TABLE 1
DEVELOPMENT OF NUMBER OF ADS ASSESSED IN THE YEARS 1996 TO 2013 [9]

Year	Number of ads assessed	Year	Number of ads assessed
1996	5	2005	80
1997	11	2006	80
1998	13	2007	66
1999	17	2008	75
2000	24	2009	90
2001	15	2010	72
2002	28	2011	133
2003	47	2012	126
2004	70	2013	121

It is also possible to follow the development of ads assessed in relation to the medium. (TABLE 2).

TABLE 2
DEVELOPMENT TREND OF ADS ASSESSED ON THE INTERNET [9]

Number	2010	2011	2012	2013	1-10. 2014
• of ads assessed on the Internet in %	24	32	35	28	30
• of ads assessed out of the Internet in %	76	68	65	72	70

However, arbitration findings from the years 2011 to 2013 reached a slightly decreasing trend. (TABLE 3)

TABLE 3

DEVELOPMENT OF ARBITRATION FINDINGS IN THE PERIOD 2011 – 2013 [9]

Period	2011	2012	2013
Total number of findings	121	113	102
Number of positive findings	49	59	28
Number of negative findings	72	54	74

Reasons for complaints or aspects that hinder consumer advertising can be defined in three main areas:

- in the field of politeness and social responsibility in advertising,
- in the field of veracity in advertising,
- in the field of the value of a product

Politeness and social responsibility in advertising was the reason for the examination and identification of positive findings primarily because they included: presentation of the exposed human body and nudity; breach of the general standards of morality and decency; dishonor and degradation of women / sexism in advertising; promoting excessive to sexuality, sexual use of incentives; negative impact of advertising on children; use of vulgarity and ambiguous statements; insult to religious feelings of consumers. Veracity in advertising comprised mainly negative aspects related to: misleading advertising; unclear communication of offer conditions and failure to supply substantial information affecting consumer decision-making. Value of a product is mainly associated with the use of superlatives in advertising.

Instances of Internet advertising, which addressed Arbitration Commission, may recently include the following advertising campaigns on the Internet:

Website advertiser: “The only par motor in the world with no torque effect” of advertiser: SCOUT aviation s. r. o.

The Council received a complaint from an individual to the information contained on the website of SCOUT aviation s.r.o., which promote par motor used in paragliding. The complainant objects the claim that it is the only par motor in the world without torque and points out that the advertiser has no established truth of that statement. The Council´s Arbitration Commission, after considering any relevant documents, concluded that complaint is justified and recognized the complainant's objections and considers that, given the circumstances and context in which it was used, this can be considered deceptive, despite the fact that the advertiser stated that the invention has filed a patent application. Filing a patent application does not automatically mean its approval or demonstrate the validity of advertising claims, namely that the advertiser is the only producer of par motor without torque in the world. For the Code of Ethics, deceptive data is considered the true data itself if it can, give the circumstances and context in which it is used, bring an average consumer into mistake. With respect to this fact, AC ASC considers advertising for breach of the Code and the applicant's complaint was justified. [9]

Website advertiser: ”Distributing 100 tablets a week”, Alza.cz a.s.

The Council received a complaint from an individual to an advertising campaign, which the advertiser communicates consumer competition where consumers can obtain tablets. The complainant considers the claim "Distributing 100 tablets a week" misleading, because the advertiser does not give any fact that distributes 100 tablets in SR and the Czech Republic as well. For the Code of Ethics, advertising must not be designed so that it abused the confidence of the average consumer or exploited his lack of experience, knowledge or credulity. Slogan saying "Distributing 100 tablets a week" is the dominant expression of the advertising. Although the advertiser communicated the conditions of consumer competition using various channels (for example, creating separate sub-sites on the Internet, publishing competition rules), but it did not state anywhere, even in the rules themselves the fact that 100 tablets - prices for the competition are distributed within two different markets, the Czech and SR. The Commission considers this fact important characteristic of consumer competition and is of the opinion that the advertiser should pay attention to its presentation and present it in the course of its promotion. The consumer may acquire a false impression from the present communication that the company provides 100 tablets a week for customers who purchased goods in Slovakia, which, however, in view of the above is not true. Advertiser´s argument that the consumer has enough information about the company, and should therefore be aware that the company Alza.cz a.s. implements the sale of goods by mail order in SR from the Czech Republic, it is not possible, in view of the fact, that the advertising campaign was conducted in the SR and was also focused on Slovak consumers as relevant, since Slovak consumer does not know, and neither is no way of knowing that the consumer competition takes place at the same time in the Czech Republic and the price is determined for both markets together. In view of the above, the Commission considers that advertising exploits the confidence of the average consumer and uses his lack of experience and knowledge and it breaks the Code. Based on the above, the Commission decided the advertising campaign is in conflict with the Code of Ethics and is therefore justified. [9]

Website advertiser: The best price for SMS in Slovakia of 0.08 € including VAT, Thom Software, s.r.o.

The Council received a complaint of a natural person to the information contained on the website of smspripomienky.sk where the company Thom Software, s.r.o. communicates best prices for SMS in SR of 0.08 €. The complainant considered advertising misleading.

In relation to the value of the product, the advertising must not use any superlative, particularly the "best" without a clear and credible proof of authenticity and eligibility of the claim, which binds the whole product. The Commission found in this case that the use of superlative "best price for

SMS in SR..." is not possible to consider in this case to be justified and ethical, because the advertiser has not shown anyhow the facts on which the price for SMS should be the best. In addition, at least one of the mobile operators allowed sending SMS at a lower price at the time of publishing. Advertiser itself modified the text of advertising and removed superlative used before considering advertising by the Commission. The Commission decided that the advertising on the website is in the conflict with the Code of Ethics and the applicant's complaint is justified [9].

DISCUSSION

In relation to the issue under consideration, it is therefore necessary that the advertisers should consider the context and relationship of advertising to the product, rethink the potential impact of advertisement on different target audience, and communicate information truthfully, responsibly and current. In the discussion on the subject, it should be neglected even matter of unofficial rules of etiquette contained. Etiquette in the field of marketing communication in virtual space as well as in traditional marketing should respect the "rules", or principles of etiquette.

The first principle concerns *perception of a man in virtual space*. This is not an imaginary but a living being we communicate through the Internet with.

The second principle should be directed to the fact that *we should behave in the on-line world as we behave in the real world.*

The third principle emphasizes the fact that *it is necessary to follow local customs in cyberspace,* i.e. respect the man in communication who established the web.

The fourth principle gives rise to a debate in respect to the fact that *we should respect people's time and quality of the Internet connection* on-line marketing. In the past, we tried to save time for connections, but even now the length of communication should not be exaggerated.

The fifth principle points out the need *to work on on-line image* and think carefully the entire communication before the communication.

The sixth principle points to the need of *knowledge sharing* what must be understood in the sense that if we know something to say, we should comment on it.

The seventh principle enters into the consciousness of whoever communicating clearly "fighting for his truth." It is necessary to *keep flame war under control.*

The eighth principle points out the need *to respect other people's privacy* and thus it is necessary to communicate "for yourself" and not someone else.

The ninth principle binds to *not abusing power* and not overloading space with our opinions and the tenth principle resembles the need *to be tolerant*. [10]

The space for discussion among experts should also be given to comparative advertising, abuse of consumer objectives, targeting advertising to health damaging products (alcohol, tobacco), the use of products which are decided by a doctor, or anything that harms the environment, or other ethical dilemmas and problems. A significant marketing expert, Philip Kotler, already urged in 1997 the nation-wide discussion on the issue of fraudulent conduct, deception, fraud and invasion of privacy representing social and ethical problems in marketing. He criticized these phenomena very openly and claimed the harsh restrictive measures by the state [11]. Despite the fact that after almost twenty years this problem is still very actual, we can currently find its new forms, which by their severity, exceeded expectations of prognosticators in the field of marketing communication.

CONCLUSION

The issue of how to follow ethics and etiquette in virtual space is very broad. In this paper we have tried to point out the situation, which is specific to the SR in certain selected aspects of ethics. There appears a fact to be significant that we are aware of the specifics of marketing communication on the Internet in terms of on-line marketing in Slovakia. Other important preconditions for the application of ethical principles in virtual space are the facts that the advertisers consider the context and relationship of advertising to product that want to introduce to customers. Truthful, clear, visible enough and timely information is also a guarantee that communication on the Internet could be considered ethical. The last but not least, it would be necessary to realize the principle that behavior on the Internet should be normal, because it is normal to be ethical on the Internet.

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