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PROCLAMATION No. \_\_\_\_\_/2011

Advertising Proclamation (Draft)

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A PROCLAMATION TO PROVIDE FOR ADVERTISEMENT

**WHEREAS**, advertisement plays a significant role in the political, economic and social development of the country by determining the activities of the public in [marketing exchange and services rendering](#);

**WHEREAS**, advertisement plays a significant role in establishing healthy market competition in which it relates to the market-led economic system of the country;

**WHEREAS**, [apart from protecting the development of the sector](#), the existence of advertisement law can help to protect the rights and benefits of the people and the [dignity and benefits](#) of the country;

**WHEREAS**, [because of the advertising agent, advertisement publishers and advertisers are required to undertake their tasks in proper manner with respect to the principles of advertising](#), it has been found essential to clearly define the rights and obligations of persons who undertake advertisement services;

**WHEREAS**, [to these ends](#), it has been found essential to issue a law that governs advertisement activities;

**NOW, THEREFORE**, in accordance with Article 55(1) of the Constitution of the Federal Democratic Republic of Ethiopia, it is hereby proclaimed as follows:

**PART ONE**

**GENERAL PROVISIONS**

**1. Short Title**

This Proclamation may be cited as the “Advertising Proclamation No.\_\_\_\_\_/2011”.

**2. Definition**

In this Proclamation, unless the context requires otherwise:

- 1/ "Advertisement" means a message which is transmitted to publicize or promote sales of goods and services, name, logo, trademark, objectives or other related message.
- 2/ "The means of advertising dissemination or transmission" means that uses for advertising dissemination or transmission and that includes Advertisement through mass media, outdoor advertisement, telecommunication, postal, internet and fax services, cinema, film, video or any other related means of advertising dissemination or transmission.
- 3/ "Public Advertisement" means a message transmitted by a non-profitable organization or any institution that provides services to the public that transmits message for the purpose of charity, the benefit of the public, to educate or inform the public, or to request the cooperation of the public.
- 4/ "Advertising Activity" means engagement in an activity related to choosing media or means of advertisement, planning, designing, by assess the market rendering sales and promotion services, produce and publish advertisements and undertaking any activity related to advertisement activities.
- 5/ "Advertising Agent" refers to a person who is assigned by advertiser or advertising publisher that is engaged in an activity related to choosing media or means of advertisement, planning, preparing, by assess of the market rendering sales and promotion services, disseminating promotional materials or undertaking any activity related to advertisement activities.
- 6/ "Advertisement Publisher" refers to a person that disseminate or transmit advertisement through the use of means of advertising dissemination or transmission by providing transmission time, printing coverage or other related services.
- 7/ "Advertiser" refers to a person to whom a message is transmitted to publicize and promote his sales of goods and services, name, logo, trademark, objectives or other related message through the use of means of advertising dissemination or transmission.
- 8/ "Mass Media" means printed matter that includes periodical and broadcasting services.

- 9/ "Periodical" means printed material which is scheduled to appear in regular sequences of at least twice a year, which has a fixed title and which has a general distribution aimed at the entire public or a section thereof, and includes newspapers and magazines; and for the purpose of the execution of this proclamation, it shall include advertisement book, yellow page and telephone directory.
- 10/ "Broadcasting Service" means a radio or television transmission program conducted to educate, inform, entertain the public and disseminate or transmit advertisement.
- 11/ "Outdoor Advertisement" means any advertisement transmitted by utilizing outdoor advertisement board hanged up on a pole or planted things or a stand, billboard, electronics screen, moving picture, written on a wall, advertisement either hanged, erected or affixed to on planted things, building or vehicle, banner, poster, sticker, plastic card, leaflets, brochure or flier, packaging, sound, audio cassette, microphone and other related means of advertising dissemination or transmission.
- 12/ "Outdoor Advertisement Service" means an advertisement which a person undertakes to announce products, services, name, logo, trademark, objectives or any related message by utilizing the advertisement media listed in Sub-Article (11) of Article 2 of this Proclamation.
- 13/ "Sponsored Program or Print" means a program or print the transmission cost of which is paid directly or indirectly or the payment of which is promised or the material, intellectual property or any service of which is provided as a support or cooperate.
- 14/ "Sponsor" means a person who supports or cooperates with an organizer of a program by providing financial, material, intellectual property or other service to a program or print of another person with the aim of promoting his own or another person's product, services, name, logo, trademark, objectives or other related messages.
- 15/ "Infomercial" means an advertisement enduring more than two minutes including teleshopping, home shopping, direct marketing and direct sales, which is transmitted through television broadcasting service after being prepared as a program format to

promote the products or services of the contracting party who agreed to pay to the broadcaster for such service and it does not include Public Advertisement.

16/ “Inserted Advertisement” means an advertisement inserted in a form of sound or image to promote the products or services of any person from whom the broadcaster has earned money or obtained benefit.

17/ “Split-Screen Advertisement” means an advertisement shown adjacent to a program disseminated by television, video or film screen.

18/ “Counter Advertisement” means an advertisement transmitted to correct wrong public opinion created by previously transmitted advertisement in contradiction to the law and ethics of the profession and thereof to protect and ensure the legal benefits of the victim of such violation.

19/ “Program” means voice or visual or audiovisual arrangement transmitted to inform, educate or entertain the public or an all inclusive transmission program and it includes news.

20/ “News and Current Affairs” means news, [documentary](#), [feature](#) or [analysis](#) transmitted through mass media about any regional, national or international event which has [current](#) political, economical or social relevance.

21/ “Daily Transmission Time” means the broadcasting service transmission in the 24 hours starting from 6 hour in the morning.

22/ “Lottery” means any game or activity in which the prize winner is determined by chance, drawing of lots or by any other means and includes tombola or raffle, lotto, Toto, instant lottery, number lottery, multiple prize lottery, promotional lottery, bingo, sport betting lottery and other similar activities.

23/ “Appropriate Governmental Body” [means federal or regional governmental body to which the responsibility](#) is legally vested to execute the provisions of this proclamation.

24/ “Regional State” means any of the regional states specified under Sub Article 1 of Article 47 of the Constitution of the Federal Democratic Republic of Ethiopia, and shall, for the

purpose of this Proclamation, includes the Addis Ababa and Dire Dawa City Administration.

25/ “Authority” means the Ethiopian Broadcasting Authority.

26/ “Person” means a physical or juridical person.

### **3. Scope of Application**

This Proclamation shall be applicable to:

- 1/ Any advertising agent, advertisement publisher and advertisers engaged in advertising activities within the territory of Ethiopia; and
- 2/ Any advertisement prepared and transmitted in Ethiopia through mass media, outdoor advertisement, telecommunication, postal and internet service, fax transmission, moving picture, sound, audio-cassette, film or video and advertisement transmitted by an organization established in Ethiopia or a person who reside in Ethiopia through the internet service which is designed in Ethiopia or internet website designed out of Ethiopia.
- 3/ A foreign mass media from abroad or transmitting in Ethiopia which focus primarily on domestic issues and which have been produced primarily for local audiences.

## **PART TWO**

### **Undertaking Advertisement Activity**

#### **4. The right to Undertake Advertisement Activity**

- 1/ Every Ethiopian national and commercial business organization which is incorporated in accordance with the Ethiopian law, by Ethiopian national and its capital or its management control is not held by foreign nationals has the right to undertake advertisement Activity.
- 2/ Without prejudice to the provisions of other laws regarding foreign national of Ethiopian origin any foreign national of Ethiopian origin and commercial business organization which is incorporated in accordance with the Ethiopian law, by foreign national of Ethiopian origin and its capital or its management control is not held by foreign nationals has the right to engage in advertisement service.

3/ Notwithstanding to Sub-Article (1) of this Article, any broadcasting service licensee can not undertake advertisement Activity.

## **5. Obtaining Business License**

1/ Any person who wants to engage in advertising activity shall obtain an advertising business license from the appropriate governmental body.

2/ Without prejudice to the provisions of other law, an advertisement publisher undertook only in the transmission of advertisement is not required to obtain an advertising business license.

3/ Notwithstanding to Article 4 Sub-Article (3) and Sub-Article (1) of this Article, any person or governmental or non-governmental organization that want to promote its product, service or other message or notify public advertisement may prepare and transmit its own advertisement or transmit it through advertisement publisher, without having business license.

4/ Without prejudice to the provisions of Sub-Article (1) of this Article, based on the option of the advertiser any advertisement prepared abroad may be transmitted in Ethiopia:

a) By giving the advertisement directly to the advertisement publisher or

b) Through the advertising agent.

5/ The provisions of this proclamation, as appropriate shall be applicable on those persons mentioned under the provisions of Sub-Article (3) and (4) of this Article, that those persons without obtaining business license can prepare and transmit their own advertisement or who give their advertisement to the advertisement publisher and those advertisement prepared abroad to be disseminate or transmit in Ethiopia.

6/ The appropriate governmental body which issued the business license, under Sub-Article (1) of this Article shall inform and forward to the Authority particulars of the persons who obtained business license to engage in advertisement service in a form designed for this purpose.

7/ The Authority should register the information forwarded to it pursuant to sub Article (6) of this Article.

### **PART THREE**

### **ADVERTISEMENT IN GENERAL**

#### **6. Advertisement**

Any advertisement transmitted through the use of means of advertising dissemination or transmission:

- 1/ Shall be free from any unlawful, immoral, misleading and unfair content or presentation that may harm consumers.
- 2/ Shall be truthful, shall not expose to harm the physical and mental health of the people, shall respect the social and traditional value of the society, protect the legitimate rights and interests of consumers, promote the quality and other related messages of commodities or services, shall not have any content that undermine the commodities or services of other persons, shall respect the healthy market competition principles, safeguard the dignity and interests of the State and respect professional code of conduct.
- 3/ Any advertisement transmitted through mass media shall be transmitted in a manner that clearly differentiates it from other programs and shall not also affect the contents of other programs.
- 4/ Laws issued to protect Copyright and Neighboring Rights and Inventions, Minor Inventions and Industrial Designs Patent shall be applicable on advertisement service as appropriate.

#### **7. Unlawful and Immoral Advertisement**

The following unlawful and immoral advertisements may not be disseminated or transmitted through the use of means of advertising dissemination or transmission:

- 1/ Advertisement that contains image, speech or comparisons which violate the dignity, liberty and equality of mankind in terms of language, gender, race, nation nationality, profession, religion, beliefs, political or social status.

- 2/ Advertisement that violates the rules of good behavior and human dignity of individuals, nation, nationalities and peoples and defames the reputation of an organization.
- 3/ Advertisement that instigates chaos, violence, terror, conflict or fear among peoples.
- 4/ Advertisement that undermine the national and regional states flag, emblem and national anthem, money or religious symbol.
- 5/ Advertisement that instigate an action that could endanger the physical and mental health and security of the people.
- 6/ Any advertisement causing sound pollution through any sound magnifying machine, which does not comply with the sound limit, set by the appropriate governmental body.
- 7/ Advertisement that violates the dignity and moral of physical and mental disabled person and people living with HIV Aids.
- 8/ Advertisement with obscene or grossly indecent including any immoral writing message, image, picture or film that calculating to inflame erotic feelings or lust or contain other obscene presentation.
- 9/ An advertisement containing acting with action that is culturally condemned and which contradicts social moral and decency.
- 10/ Advertisement that use the image, name or photograph of a person without the consent of such person and any artistic and creative work protected by our country's law.
- 11/ An advertisement promoting the violation of laws enacted to protect and conserve environmental and natural resources.
- 12/ Commercial advertisement conducted by using wears a defense force and police uniform, decorated and insignia; and advertisement which contains other prohibited content or presentation.

## **8. Misleading or Unfair Advertisement**

The following misleading or unfair advertisements may not be disseminated or transmitted through the use of means of advertising dissemination or transmission:



- 1/ Advertisement that gives false information about the country or place of origin, date of production, characteristic, ingredients, benefits, distinctive feature of the product or service, acceptance of consumers, current price and also regarding copy right or patent right, quality and standard certification or prize won of the product, fulfilling the national quality standard and other related information.
- 2/ The product or the service is presented beyond its real value and quality; and promotion of a product in deceit as if it has certain advantage, taste, flavor, ingredient, strength, durability, or excessiveness.
- 3/ An advertisement promoting expired product.
- 4/ An advertisement promoting that milk powder is more preferable than breast feeding for children under six months with words saying "better than or no difference with breast feeding".
- 5/ An advertisement with a content that promotes the products or services of others as its own.
- 6/ An advertisement, contrary to the principles of fair trade competition, that undermine those consumers who do not use the product or service or undermine the product, the service, or the capacity, the dignity or the reputation of the competitor by improperly comparing and contrasting the advertised product with the product and service of the competitor.
- 7/ An exaggerated advertisement that degrades local products and services with the aim of promoting imported commodities.
- 8/ An advertisement promoted in a manner difficult to distinguish the advertiser or the sponsor.
- 9/ An advertisement promoted in an ambiguous manner by which a product, service or a company is presented as another product, service or company.

- 10/ A fraud advertisement by which the public is informed of having the product or service freely or discount and the gratuity period while selling with the price or no discount is given.
- 11/ An advertisement that un assertively announcing the amount of dividend of printed and distributed shares.
- 12/ An advertisement which offers prize or guarantee but it fails to pay the reward or abide by the guarantee it has given to the customers.
- 13/ Research results, data, statistics, survey results, excerpts or quotations addressed in advertisement while having no relation with the promoted product or service.
14. An advertisement which uses false witness.
15. An advertisement containing hard to prove superlatives such as "The first of its kind", "The only one", "For the first time", "Ever before" or the like; and any other advertisement content or presentation that misleads the consumer.

#### **9. Special Certification for Advertisement**

- 1/ Any advertising agent, seeking to promote any cosmetic product, body crèmes, medicines, herbicides, pesticides and food and beverage products shall fulfill the standard prescribed by the appropriate governmental body and submit a certificate or evidence issued by the appropriate governmental body assigned to verify the standard of such products.
- 2/ An advertiser who is obliged to obtain a business license for his products or services, may not advertise his product or service without obtaining business license from the appropriate government body.

#### **10. Advertisement Concerning Minor**

The following advertisements may not be disseminated or transmitted through the use of means of advertising dissemination or transmission:

- 1/ An advertisement that may harm the attitude, feeling and thinking of a minor, and instigate to undesired direction.

- 2/ An advertisement that may cause a minor to lose trust in his parent, guardian, tutor teacher, society or country.
- 3/ An advertisement openly pushes a minor to enforce his parent, guardian, tutor or any other person to buy a product or a service advertised.
- 4/ An advertisement which directly or indirectly provides a misleading price and giving an impression to a minor that as if a product or a service advertised may be affordable to any family.
- 5/ An advertisement causing an inferiority complex to a minor who does not buy a certain advertised product or service, by comparing that the one who does is better than the one who does not.
- 6/ An advertisement demonstrating that a minor undertaking any action contrary to law and moral or in dangerous situation or place, through mixing of sound, writing and pictures.
- 7/ An advertisement using a minor as an advertisement actor without the consent of his guardian or tutor.
- 8/ An advertisement demonstrating any sound, writing or picture of a minor which false fully depicts a minor in a product or a service which was not directly prepared for a minor; and advertisement which contains other prohibited content or presentation.

## **11. Herbicides and Pesticides Advertisement**

Herbicides and pesticides advertisement:

- 1/ Shall provide clear and accurate information on their usage and the precautions to be taken during their usage.
- 2/ May not provide that the product is not completely poisonous and is not harmful to health.

## **12. Lottery Advertisement**

- 1/ Any lottery related advertisement may not be promoted by anyone other than the person authorized to do so. Any person intending to advertise a lottery shall obtain permission from the appropriate governmental body.
- 2/ Non-profitable organization may advertise a lottery for fund raising purpose by obtaining a permission from the appropriate governmental body,
- 3/ Any lottery advertisement shall disclose:

- a) The time, venue of the lot casting and the name of the lot organizing person,
- b) It has a legal permission and
- c) Accurate amount of money or prize to be awarded for winning the lot.

### **13. Public Advertisement**

- 1/A public advertisement shall not advertise a business activity, product, service or related message of any other person.
- 2/ The amount of money required by the advertisement publisher to be charged for public advertisement shall not exceed that of commercial advertisement.
- 3/ Any advertisement publisher shall give priority to public advertisement than commercial advertisement and disseminate it based on the choice of the advertiser.
- 4/ An advertisement publisher shall priory inform the advertisement agent or the advertiser in cases where the advertisement publisher fails the contract concluded with the advertisement agent to transmit the advertisement due to priority given for public advertisement or any other reason.

### **14. Counter Advertisement**

- 1/ The advertising agent, the advertisement publisher and the advertiser shall disseminate a counter advertisement against any advertisement that breaches any provisions of this proclamation in favor of the victim.
- 2/ Unless otherwise a contrary evidence is provided by the advertising agent, the advertisement publisher or the advertiser, they shall be jointly and severally liable to cover the cost of the counter advertisement.
- 3/ The counter advertisement shall be disseminated in the same way, method, duration and place as the illegal advertisement is disseminated. However, if found necessary, the Authority or other appropriate body may order a change to be effected on the way, method, duration and place of the counter advertisement.

**Part four**

**Sponsorship**

**15. Sponsored Mass Media Program or Print**

- 1/ The content and timetable of a sponsored mass media program or print shall not be fall under the influence of the sponsor. In particular, a sponsored program or print shall not agitate the sell or hire of the sponsor's product or service.
- 2/ A sponsored mass media program shall announce the name general situation of the sponsor at least at the beginning and the end of the program. However, this advertisement shall not exceed 10% of a sponsored program. When there are more than one sponsor, all of them shall give their permission.
- 3/ Unless otherwise agreed between the sponsor and the mass media, other commercial advertisement may not be transmitted by interrupting sponsored program.
- 4/ Person who produces, sells or renders service whose advertisement prohibited by law, any liquor with more than 12% percent alcoholic content and products of cigarette and tobacco shall not be sponsored.
- 5/ In sponsored program or print, the owner of the program or print is considered as advertisement publisher and the sponsor is considered as advertiser.
- 6/ A sponsored mass media has the obligation to ensure the sponsored program, printed content, timetable and presentation are not direct or indirect fall under the influence of the sponsor.
- 7/ The provisions of this proclamation shall be applicable as deemed necessary on sponsored advertisements disseminated or transmitted through the use of means of advertising dissemination or transmission.

**Part Five**

**Provisions Related to the Different Means of Advertising Dissemination or Transmission**

**16. Advertisement Disseminated through Broadcasting Service**

- 1/ Unless it is a broadcasting service which is established for advertising dissemination or transmission or an advertisement broadcasting station, a broadcasting service station shall not allocate more than 20% of its daily transmission or in a particular program time for advertisements.
- 2/ Advertisement shall not be disseminated or transmitted for more than 12 minutes in one hour transmission time.
- 3/ When an advertisement is disseminated adjacent to a program disseminated by television, video or film screen, or when an advertisement is displayed under the program by readable moving line, the space occupied by such advertisement shall not exceed 7% from the total space covered by the television window or the screen frame.
- 4/ The following programs shall not be interrupted by advertisement:-
  - A) Discussion of the House of People Representatives.
  - B) Children's program.
  - C) News and current affairs.
  - D) Unless authorized by the copy right owner or the possessor, music, drama and documentary film; and
  - E) Any program the transmission time of which is not more than 20 minutes.
- 5/ In a broadcasting service:-
  - A) Shall not disseminate or transmit the same advertisement of a single product or service for more than twice in one hour transmission time.
  - B) Shall not insert an inserted advertisement in any discussion of the House of People Representatives, children's program and news and current affairs.

**17. Infomercials**

- 1/ A television broadcaster may disseminate or transmit informational.

- 2/ Unless it is a broadcasting service which is established for advertising dissemination or transmission or an advertisement broadcasting station, an infomercial shall have a title so that clearly differentiates it from other programs

### **18. Advertisement Disseminated through Community Broadcasting Service**

- 1/ Notwithstanding to Sub Article (1) of Article 16, any community broadcasting service station shall not allocate more than 15% of its daily transmission or in a particular program time for advertisements.
- 2/ Notwithstanding to sub Article (2) of Article 16, in any community broadcasting service station advertisement shall not be disseminated or transmitted for more than 9 minutes in one hour transmission time.

### **19. Advertisement Disseminated through Periodical**

Unless it is a periodical which is established for advertising dissemination or transmission or an advertisement periodical, an advertisement disseminated or transmitted through any periodical shall not exceed 70% of the whole content of each edition.

### **20. Outdoor Advertisement**

- 1/ Regional States are entitled to promulgate and execute laws that regulate and administer outdoor advertisement, issuance of permission for outdoor advertisement, control its contents and presentation, affixing, hanging, planting or any other means of dissemination and transmission time, place and condition as well as service fee and other related issues of outdoor advertisement.
- 2/ Any person who wants to use outdoor advertisement shall obtain prior permit from the appropriate governmental body.
- 3/ Outdoor advertisement can only be affixed, hanged, planted or transmitted on a place authorized by the appropriate governmental body.
- 4/ Any person, unless duly authorized by the appropriate governmental body shall not affix, hang, plant or disseminate or transmit outdoor advertisement on:-

- A) Any governmental office building or premises, museum, historical monument and building,
  - B) Any transport, building, pole, fence, wall, public bus station, public phone and other related things; and
  - C) A place, a road, a highway or a rail way which is found in any federal, regional, zonal, woreda and other special administrative.
  - D) Without prejudice to the provisions of Sub-Article (4)(B) of this Article, unless authorized by the owner, an outdoor advertisement shall not affix, hang, plant or in any other means disseminate or transmit on a building or premise.
  - E) An appropriate governmental body may issue a permission in consultation with the nearby branch office of the Federal Roads and Transport Authority for an outdoor advertisement to be hanged or planted alongside a road, a highway or a railway bordering the administrative territories which are enumerated under Sub-Article (4)(C) of this Article.
- 5/ Without prejudice to the provisions of other law, any outdoor advertisement transmitted in writing shall be written in our country alphabet or language prior to or above any other foreign alphabet or language. Foreign alphabet or language can be used after our own country's alphabet or language.
- 6/ An outdoor advertisement shall not be placed in a manner causing confusion with traffic signs or directions, barring view, interrupting traffic movement and safety, spoiling the image and the beauty of the city or disseminate or transfer by breaching the provision of other laws.
- 7/ Without prejudice to the provisions of Sub-Article (4)(B) of this Article, any outdoor advertisement transmitted through transportation service shall be executed based on the prior contractual agreement with the owner of the transport or his agent. However, the appropriate governmental body may prohibit or take measure against such action in order to protect the traffic safety.



## **21. Advertisement Disseminated through Telecommunication Services**

- 1/ An advertisement through telecommunication service can only be disseminated or transmitted after obtaining permission from the appropriate governmental body that provides telecommunications service.
- 2/ Unless the advertisement concerns public advertisement or telecommunication service rendering company's advertisement otherwise, without the consent of telephone service user, any commercial advertisement transmitting through the apparatus of telephone service user is prohibited.

## **22. Advertisement Disseminated through Postal Services**

An advertisement through postal service can only be disseminated or transmitted after obtaining permission from the appropriate governmental body that provides postal services. The permission procedure shall be decided by this governmental body.

## **23. Advertisement Disseminated through Cinema, Film or Video**

Interruption of any cinema, film and video service for advertisement is prohibited unless during break time or end of a scene.

## **Part Six**

### **Prohibited or Partially Prohibited Advertisement**

## **24. Prohibited Advertisement**

- 1/ The following advertisements shall be prohibited from disseminated or transmitted through the use of any means of advertising dissemination or transmission:
  - A) Any advertisement related to narcotic drug identified as narcotic drug by appropriate governmental body,
  - B) Advertisement that encourage users to buy medicine, traditional medicine and medical equipment that needs particular training for its usage, medical technology, diagnosis, disease prevention and treatment method that may not be administered without medical

prescription and any other advertisement that do not obtain transmission permit certificate from the appropriate governmental body,

- C) Any advertisement related to anesthesia, sleeping drug, toxic drug, psychotropic substances, and radioactive drugs,
- D) Weapon advertisement,
- E) Gambling advertisement,
- F) Advertisement for illegal product or service,
- G) Usury advertisement,
- H) Witchcraft advertisement,
- I) Cigarette and tobacco products advertisement, and
- J) Other advertisement prohibited by law.

2/ The provision of Sub-Article (1)(B) of this Article do not ban the dissemination or transmission of an advertisement of legal medical services of a medical institution that obtain a certificate or evidence issued by the appropriate governmental body, for its advertisement content. However, a medical institution shall respect the professional code of conduct while advertising its service.

## **25. Partially Prohibited Advertisement**

- 1/ Any advertisement of liquor with more than 12% alcoholic content may not be transmitted or disseminated through the use of mass media, telecommunication, postal, internet and fax services, cinema, film and video advertising dissemination or transmission.
- 2/ Without prejudice to the provisions of Sub-Article (1) of this Article, the advertisement of any liquor with more than 12% alcoholic content may only be disseminated or transmitted through the use of outdoor advertisement.

3/ Notwithstanding to Sub-Article (2) of this Article, the advertisement of any liquor with more than 12% alcoholic content may not be disseminated or transmitted through the use of electronic screen, sound, microphone, audio cassette, and other moving picture.

4/ An outdoor advertisement which is disseminated or transmitted based on Sub-Article (2) of this Article:

- A) May not advertise that the consumption of alcohol is good for health, bring about individual and social success, try to persuade such consumption is improved the psychological and physical strength, provide the healing power or the good side of alcohol products, shall not instigate repeated consumption or over dosage or any other similar message.
- B) May not undermine or oppose abstention from alcohol addiction.
- C) May not bear image of a young person under 25 years of age or shall not be directed to attract the attention of a minor.
- D) Shall clearly disclose such product is not for sale for minor.
- E) May not be affixed, hanged or distributed within 100 meter radius at children day care center, schools, medical and historical institutions, sport centers and stadiums.

## **26. Cigarette Advertisement**

1/ Without prejudice to the provisions of Sub-Article (1) (I) of Article24, Any cigarette advertisement which is dissemination or transmission through the use of the package of the cigarette products shall bear a message stating that smoking is seriously damage health.

2/ The provision shall be applicable to any tobacco product even if it is not produces as cigarette.

## **Part Seven**

### **Obligations of the Advertising Agent, Advertisement Publisher and Advertiser**

## **27. Verification of Information**

The Advertising Agent, Advertisement Publisher:

- 1/ Have the obligation of verifying the correctness of the information provided by the advertiser. The advertiser has the obligation of submitting documents requested by the advertiser or disseminator.
- 2/ Have the obligation of informing the advertiser that if the advertisement is prepared in the way he wants will breach the law.
- 3/ May cancel the contract and claim damages to be paid to them in cases, where the advertiser refuses to remove or omit the message which shall not be disseminated in the advertising to which he was alerted or fails to submitting the documents to prove the correctness of the information provided in his advertisement.

## **28. Providing Information and Keeping of Advertisement Record**

The advertising agent, advertisement publisher and advertiser:

- 1/ Have the obligation of submitting document, oral or written explanation, video or audio cassette or any other essential information necessary for the execution of this proclamation on due time as requested by the appropriate governmental body.
- 2/ They shall keep the record of every advertisement image, sound or message disseminated through the means of advertising dissemination or transmission, for 30 days.
- 3/ Where a complaint or a plea is forwarded against a disseminated advertisement before the expiry of the time limit specified in Sub Article (2) of this Article, they shall keep the record of image, sound or message until the case is decided in accordance with the appropriate law. Where a copy of such advertisement is needed for inspection or to investigate a complaint lodged against it, they shall, at their own expense, provide a copy of the program to the Authority or any other appropriate governmental body.

## **29. Responsibilities of the Advertising Agent, Advertisement Publisher and Advertiser**

- 1/ Any advertisement disseminated or transmitted in breach of the provisions of this proclamation, either in content or way of presentation shall be assumed to have conducted

with mutual interest, recognition and desire of the advertising agent, advertisement publisher and advertiser; they shall be jointly and severally liable.

- 2/ Notwithstanding to Sub-Article (1) of this Article, right is reserved to submit contrary evidence.
- 3/ The broadcaster or publisher of the periodical shall be held liable for any advertisement disseminated or transmitted through the use of mass media, in breach of the provisions of this proclamation, either in content or way of presentation.

## **Part Eight**

### **Broadcasting Authority**

#### **30. Power and Duties of the Authority**

Without prejudice to the power and duties assigned to the Authority by the Broadcasting Services Proclamation, the Authority shall have the following power and duties to execute the implementation of this proclamations:

- 1/ Ensure that the advertising service is conducted in such a manner that contributes to the proper economic, social and political development of the country;
- 2/ Keeping record of persons obtaining advertisement business license and undertake in advertisement activity.
- 3/ Examine the compliant or plea made against an advertisement that is disseminated or transmitted through the use of mass media, in breach of the provisions of this proclamation, either in content or way of presentation and order to fully or partially suspend the illegal advertisement, issue to disseminate a counter advertisement or pass related decision and order.
- 4/ Forcing the submission of the copy of any transmitted or transmitted advertisement image, sound, message and any relevant documents from advertising agent, advertisement publisher, and advertiser and examining such document.

- 5/ Issue the code of ethics directive and standard for advertising practice, with the consultation of relevant organs.
- 6/ Handing over any necessary information to the appropriate governmental body for the institution of action against any offender who disseminated or transmitted an advertisement in breach the provisions of this proclamation, either in content or way of presentation,
- 7/ Designing method to develop the profession of advertisement, and facilitate the self regulatory system of the sector, and providing the necessary support and has the power and duties to perform other acts.

## **Part Nine**

### **Miscellaneous Provisions**

#### **31. Consumers Association**

Any consumers association shall have the following rights:

- 1/ Participating in drafting proclamation, regulation or directive related to advertisement.
- 2/ Providing support and cooperation to the Authority in order to enable the latter execute its power and duties.
- 3/ Handing over any necessary information to the appropriate governmental body for the institution of action against any offender who breach the provisions of this proclamation, either in content or way of presentation, and
- 4/ If it is necessary, filling a civil suit on behalf of consumers upon endanger of the interests of consumers.

#### **32. Right to Organize**

- 1/ Advertising agents have a right to organize themselves into any professional associations of their choice.

2/ Any association established in accordance to Sub Article (1) of this Article shall have the following rights:

A) Participating in drafting proclamation regulation or directive related to advertisement.

B) Providing support and cooperation to the Authority in order to enable the later execute its power and duties.

### **33. Compliant**

1/ Any person, whose personal or organizational reputation or dignity damaged by any advertisement which disseminated or transmitted through the use of mass media, in breach of the provisions of this proclamation either in content or way of presentation, has the right to request the Authority, ordering fully or partially suspend the illegal advertisement and ordering the advertising agent, advertisement publisher and advertiser to issue to disseminate a counter advertisement.

2/ Notwithstanding to Sub-Article (1) of this Article, any person, whose personal or organizational reputation or dignity damaged by any advertisement which disseminated or transmitted through the use of means of advertising dissemination or transmission, in breach of the provisions of this proclamation, either in content or way of presentation, has the right to request the pertinent court or to arbitration body to be established by a proclamation, ordering fully or partially suspend the illegal advertisement, ordering to disseminate a counter advertisement and ordering the advertising agent, advertisement publisher and advertiser to issue to disseminate a counter advertisement and can also claim damages to be paid to him.

### **34. Period of Limitation**

1/ No proceeding, to the Authority, court or arbitration body, for an offence committed through an advertisement which disseminated or transmitted through the use of mass media may be instituted after the lapse of 6 month from the date when the advertisement was disseminated or transmitted.

- 2/ No proceeding for an offence committed through an advertisement which disseminated or transmitted through the use of means of advertising dissemination or transmission, other than mass media, may be instituted after the lapse of 6 month from the date when the advertisement was disseminated or transmitted.

### **35. Penalty**

Unless punishable with more severe penalty under other law:

- 1/ Any person found guilty of Sub Article (1) of Article 5 of this Proclamation shall be punishable with a fine not less than Birr 50,000 and not exceeding Birr 100,000. In addition, any payment or benefit obtained from the illegal advertisement shall be confiscated.
- 2/ Any person found guilty of Sub Article (3) of Article 6, Article 9-13, Sub Article (1)(2)(3) and (6) of Article 15, Article 16-23, Sub Article (2) of Article 24, Article 27 or Article 28 of this Proclamation shall be punishable with a fine not less than Birr 1,000 and not exceeding Birr 50,000. In addition, any payment or benefit obtained from the illegal advertisement shall be confiscated.
- 3/ Any person found guilty of Sub Article (1) and (2) of Article 6, Article 7, Article 8, Article 14, Sub Article (4) of Article 15, Article 25 or Article 26 of this Proclamation shall be punishable with a fine not less than Birr 5,000 and not exceeding Birr 1000,000. In addition, any payment or benefit obtained from the illegal advertisement shall be confiscated.
- 4/ Any person found guilty of Sub Article (1) from (A)-(I) of Article 24 of this Proclamation shall be punishable with a fine not less than Birr 10,000 and not exceeding Birr 1000,000. In addition, any payment or benefit obtained from the illegal advertisement shall be confiscated. His business license may also be suspended or cancelled.
- 5/ If the breach of law against the provisions of this Article is committed by a legal entity or organization, the minimum and maximum fines shall be two times.

### **36. Applicability of Other Laws**



1/ Without prejudice to the provisions of this Proclamation, the relevant provision of other laws concerning about advertisement, shall be applicable.

2/ No proclamation, regulation, directive or working procedure shall in so far as it is inconsistent with the provision of this Proclamation, be applicable to matters provided for this proclamation.

**37. Power to issue Regulations and Directives**

The council of Ministries may issue regulations necessary for the proper implementation of this Proclamation. The Authority may issue directive necessary for the proper implementation of this Proclamation.

**38. Effective date**

This Proclamation shall come in to force up on publication in the Federal Negarit Gazeta.

Done at Addis Ababa, this \_\_\_\_ day of \_\_\_\_\_2010

GIRMA WOLDEGIORGIS

PRESIDENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA