



Law to Combat Unfair Practices in the field of Advertising

On June 3, 2021, the Decree issuing Law for the Transparency Prevention and Combat of Improper Practices in the matter of Advertising Hiring was published in the Official Gazette of the Federation. Such Law will enter into force 90 days after its publication. However, the issuance of the Regulations of the Law is still pending.

The purpose of this law is to promote transparency in the advertising market, as well as to prevent and combat commercial practices that constitute an undue advantage in favor of certain individuals to the detriment of advertisers and, ultimately, end consumers.

It shall apply to all acts, contracts, agreements, arrangements or procedures, whatever the name or denomination given to them, entered into between two or more Media Agencies, Advertisers and/or Communication Media.

From the content of this new Law, the following may be highlighted:

- A. An Agency may not acquire Advertising Spaces on its own account for subsequent resale to an Advertiser.
- B. An Agency may only acquire

Advertising Spaces for the account and order of an Advertiser, being necessary the execution of a written mandate contract.

- C. As remuneration for the services rendered to the Advertiser, the Agency may only receive the consideration established in the mandate contract.
- D. Any discount granted by the Media to the Agency shall be transmitted in full to the Advertiser.

Tax and Legal Services

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- E. Neither the Agency nor the third parties to whom the Agency has recourse may receive any remuneration or benefit whatsoever from a Communication Media.
- F. An Agency that is providing services to an Advertiser may not simultaneously provide services to the Communication Media.
- G. The Media shall send the invoice for the sale of Advertising Spaces directly to the Advertiser. However, payment may be made by the Agency.
- H. The Media shall send the Advertiser the following information: i) dates and places of dissemination; ii) Advertising Spaces disseminated and formats used; and iii) unit prices of the Advertising Spaces, including, if applicable, the amounts of any discount granted by the Media.
- I. The Agency shall inform the Media of the Advertiser's identity as soon as possible.
- J. The Agency shall deliver detailed reports to the Advertiser during the month following the broadcasting of the Advertising Spaces considered.
- K. The Agency shall inform the Advertiser in writing of the financial relationships that the Agency, or the economic group to which it belongs, has with the Media it intends to contract.
- In addition, the aforementioned law establishes various penalties to be applied for infringement of the provisions set forth therein.
- The Federal Economic Competition Commission (Mexican anti-trust commission) will process complaints derived from the provisions of this law.
- If you have any doubts in this regard, or would like to see the possibility of challenging the unconstitutionality of any of the provisions of this law, please contact our experts mentioned in this document.

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