



# International Code of Conduct on the Distribution and Use of Pesticides

## Guidelines on pesticide advertising



MARCH 2010

The Inter-Organisation Programme for the Sound Management of Chemicals (IOMC) was established in 1995 following recommendations made by the 1992 UN Conference on Environment and Development to strengthen cooperation and increase international coordination in the field of chemical safety. The participating organizations are the Food and Agriculture Organization of the United Nations (FAO), the International Labour Organization (ILO), the Organisation for Economic Co-operation and Development (OECD), the United Nations Environment Programme (UNEP), the United Nations Industrial Development Organization (UNIDO), the United Nations Institute for Training and Research (UNITAR) and the World Health Organization (WHO). The World Bank and the United Nations Development Programme (UNDP) are observers. The purpose of the IOMC is to promote coordination of the policies and activities pursued by the participating organizations, jointly or separately, to achieve the sound management of chemicals in relation to human health and the environment.

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E-ISBN 978-92-5-106830-4 (PDF)

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## **Abbreviations**

CD	compact disc
DVD	digital versatile disc or digital video disc
FAO	Food and Agriculture Organization of the United Nations
ICC	International Chamber of Commerce World Business Organisation
IPM	Integrated Pest Management
IVM	Integrated Vector Management
UN	United Nations
WHO	World Health Organization

## Definitions

**Active ingredient** means the biologically active part of the pesticide.<sup>1</sup>

**Advertising** means the promotion of the sale and use of pesticides by printed and electronic media, signs, displays, gift, demonstration or word of mouth.<sup>1</sup>

**Direct marketing** means the practice of delivering promotional messages directly to potential customers on an individual basis as opposed to through a mass medium.

**Integrated pest management (IPM)** means the careful consideration of all available pest control techniques and subsequent integration of appropriate measures that discourage the development of pest populations and keep pesticides and other interventions to levels that are economically justified and reduce or minimize risks to human health and the environment. IPM emphasizes the growth of a healthy crop with the least possible disruption to agro-ecosystems and encourages natural pest control mechanisms.<sup>1</sup>

**Integrated vector management (IVM)** is a rational decision-making process for the optimal use of resources for vector control.<sup>2</sup>

**Pest** means an organism that will or may cause unacceptable damage to a crop or stored product or threaten the health of humans or animals, and which is a target for a treatment with a plant protection, public health or domestic product, including, among others, insects, mites, nematodes, diseases, weeds, rodents or birds.

**Pesticide** means any substance, or mixture of substances, or microorganisms including viruses, intended for repelling, destroying or controlling any pest, including vectors of human or animal disease, nuisance pests, unwanted species of plants or animals causing harm during or otherwise interfering with the production, processing, storage, transport or marketing of food, agricultural commodities, wood and wood products or animal feeding stuffs, or which may be administered to animals for the control of insects, arachnids or other pests in or on their bodies. The term includes substances intended for use as insect or plant growth regulators; defoliants; desiccants; agents for setting, thinning or preventing the premature fall of fruit; and substances applied to crops either before or after harvest to protect the commodity from deterioration during storage and transport. The term also includes pesticide synergists and safeners, where they are integral to the satisfactory performance of the pesticide.<sup>3</sup>

**Product** (or pesticide product) means the pesticide active ingredient(s) and other components, in the form in which it is packaged and sold.<sup>1</sup>

**Registration** means the process whereby the responsible national government or regional authority approves the sale and use of a pesticide following the evaluation of comprehensive scientific data demonstrating that the product is effective for the intended purposes and does not pose an unacceptable risk to human or animal health or the environment.<sup>1</sup>

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<sup>1</sup> International Code of Conduct on the Distribution and Use of Pesticides (1).

<sup>2</sup> WHO position statement on integrated vector management (2).

<sup>3</sup> Manual on development and use of FAO and WHO specifications for pesticides (3).

# Guidelines on pesticide advertising

## 1. Introduction

Advertising is the promotion of the sale and use of pesticides by printed and electronic media, signs, displays, gift, demonstration or word of mouth [1]. It is a powerful means of influencing purchasing decisions and building recognition of or loyalty for a brand or product name. When promoting pesticides, it is important to present accurate product information and emphasize the importance of user competence. Advertising guidance is set out in Article 11 of the *International code of conduct on the distribution and use of pesticides* [1]<sup>1</sup> (hereinafter referred to as the Code of Conduct) (see Annex 1). The pesticide industry is called upon to adhere to these standards, particularly in countries lacking appropriate legislation and advisory services, and governments are urged to put in place appropriate regulations or legislation to enforce advertising standards.

Advertising takes many different forms, and these guidelines provide details of current expectations and best practice with respect to standards. They are intended to cover pesticide advertising in relation to all uses, applications and services (including agriculture, public health, forestry, storehouse, home and garden, pest control operators, construction, etc.), following the definition of pesticide contained in the Code of Conduct.

These guidelines aim to:

- provide information for governments and the pesticide industry to supplement Article 11 (Advertising) of the Code of Conduct, considering both self-regulation and statutory measures, in order to ensure compliance and best practice;
- suggest a framework for monitoring pesticide advertisements, and indicate steps to take when encountering non-compliance with national legislation or non-observance of the Code of Conduct;
- recommend best advertising practices, in order to ensure observance of the Code of Conduct and compliance with relevant national legislation.

These guidelines are aimed principally at government bodies responsible for regulating pesticide distribution and sales, and trading standards, in agriculture, public health and other pesticide use situations. They are advisory and aim not to create conflicts with existing laws and regulations.

The guidelines will also provide directions for the pesticide industry, trade associations, those developing advertising or other promotional material for pesticide products, public interest organizations monitoring pesticide sales and distribution, and other interested parties.

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<sup>1</sup> The International Code of Conduct on the Distribution and Use of Pesticides (revised version) was adopted by the 123rd Session of the FAO Council in November 2002.

## 2. What is an advertisement?

The Code of Conduct defines advertising as "... the promotion of the sale and use of pesticides by printed and electronic media, signs, displays, gift, demonstration or word of mouth." The term "advertisement" covers any form of advertising for goods or services, regardless of the medium used [4].

Pesticide advertising is a communication aimed at promoting or selling a product or range of products, which is targeted at those with an interest or potential interest in the sale, supply, purchase or use of pesticides, including the general public. It is addressed to wholesalers, retailers, farmers, growers, public health authorities, amenity pesticide users, trade customers, and individuals targeted for home and garden use. It is likely to carry a product name and possibly a company logo.

An advertisement is issued, or paid for, by the company or organization manufacturing, selling, distributing or promoting the product, and the purpose is to create, increase or reinforce a market share for the product with an anticipated financial gain.

The term advertisement does not refer to the product label, a safety data sheet, an independent publication, internal company communications, a report of trials and experiments published in scientific literature, and similar factual publications.

Products and services may be advertised in many different forms and styles, and the advertisements may be placed in a range of different media, including:

- (a) print-based advertisements in papers, journals, newspapers, specialized agricultural publications, magazines, scientific journals, leaflets;
- (b) billboards, posters and notices by the roadside, on the side of shops and buildings, or aerial announcements;
- (c) advertorials, the term used for paid space in a newspaper or journal that promotes a product or viewpoint;
- (d) radio and television advertisements;
- (e) videos, digital versatile discs (DVDs) circulated or available on line;
- (f) web sites and other use of the Internet;
- (g) promotional offers such as sweepstakes, lotteries or entry into a prize draw, competitions, awarding of points to offset against future purchases, and any other promotional incentives or gifts that encourage the purchase of pesticides;
- (h) sponsorship of special promotional events, trade exhibitions or fairs;
- (i) messages on clothing or free gifts, such as t-shirts, hats, pens;
- (j) e-mails and direct marketing.

### **3. Standards, compliance and regulation**

All advertising should be legal, decent, honest and truthful [4]. All advertisements should comply with the requirements of any applicable legislation and adhere to any other applicable standards. They should not appear to approve or encourage actions that contravene or infringe national laws and regulations, or non-observance of standards or self-regulatory codes, and they should follow generally accepted standards of environmentally responsible behaviour.

The purpose of regulations and standards are to ensure that information in advertisements is conveyed correctly and fairly, is not misleading, and that use instructions are communicated appropriately. These guidelines focus both on voluntary standards or codes of practice (in chapters 4 and 6) and legally binding national legislation on advertising (in chapter 5).

### **4. International and national voluntary standards**

The Code of Conduct is the main international voluntary standard that should be referred to for best practice in pesticide advertising [1]. General standards for advertising have furthermore been set by the International Chamber of Commerce (ICC) in its Consolidated Code on Advertising and Marketing Communication Practice (the ICC Code) [4]. The ICC Code promotes a number of general principles that marketers and advertisers should adhere to in their advertising and marketing communications. It also contains a section on environmental claims in marketing communication. Similarly, voluntary national advertising standards may also be applicable (see, for example, [5] and [6]).

It should be noted, however, that the provisions of the Code of Conduct are specific to pesticides and should be seen as minimum requirements for pesticide-related advertising. Other international standards, such as the ICC Code, provide valuable additional guidance for advertising, but care should be taken that, as far as pesticide advertising is concerned, they do not contradict or weaken the minimum provisions agreed on by all relevant stakeholders in the Code of Conduct. The requirements for advertising pesticides, which are supported by the pesticide industry, as set out in the Article 11 of the Code of Conduct (see Annex 1 for full text) and elsewhere, can be divided into messages that may be included and messages that should be avoided in advertisements:

The pesticide industry should ensure that:

- all statements used in advertising are technically justified (11.2.1),<sup>1</sup> and truly reflect the outcome of scientific tests and assessments (4.1.4);
- attention is drawn to warning phrases and symbols set out in the Food and Agriculture Organization of the United Nations (FAO) labelling guidelines (11.2.13);
- purchasers and users are encouraged to read the label carefully, or have the label read to them if they cannot read (11.2.17);

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<sup>1</sup> References to specific articles in the Code of Conduct are contained in parentheses.

- technical literature provides adequate information on correct practices, including the observance of recommended application rates, frequency of applications and pre-harvest intervals (11.2.14);

The pesticide industry should avoid statements or representations that:

- mislead the buyer in any way, in particular regarding the “safety” of the product, its nature, composition or its suitability for use, official recognition or approval (11.2.2);
- encourage any use other than that specified on the approved label (11.2.5);
- make recommendations in promotional material that are at variance with those of the recognized research and advisory agencies (11.2.6);
- misuse research results or quote from technical or scientific literature, or use scientific jargon to make claims of a scientific basis that products do not possess (11.2.7);
- make safety claims, including statements such as “safe”, “non-poisonous”, “harmless”, “non-toxic” or “compatible with IPM1,” regardless of whether a qualifying phrase such as “when used as directed” is included. (However, reference to use within specified IPM programmes may be included if validated by the regulating authority and if the claim is qualified accordingly) (11.2.8);
- compare the risk, hazard or “safety” of different pesticides or other substances (11.2.9);
- give misleading information concerning the effectiveness of the product (11.2.10);
- guarantee or imply a guarantee, such as “more profits with ...” or “guarantees high yields”, unless there is definite evidence to substantiate such claims (11.2.11);
- show (visually) potentially dangerous practices, such as mixing or application without sufficient protective clothing, use near food or use by or in the vicinity of children (11.2.12);
- make false or misleading comparisons with other pesticides (11.2.15);
- offer inappropriate incentives or gifts to encourage the purchase of pesticides (11.2.18);

In addition, the pesticide industry should make sure that:

- pesticides that are legally restricted to use by trained operators are not publicly advertised other than in journals catering for such operators, unless the restricted availability is clearly and prominently shown (11.2.3);
- recommendations published by the World Health Organization (WHO) on the use of public health pesticides are only used in documentation addressed to public health professionals, and are referred to in a discrete manner;
- products with different active ingredients or combinations of ingredients are not simultaneously marketed under a single brand name (11.2.4);
- staff involved in sales promotion are adequately trained and possess sufficient technical knowledge to present complete, accurate and valid information on the products sold (11.2.16).

When promoting specific pesticide products, the provisions of the Code of Conduct are in principle applicable to all types of advertisements listed in chapter 2 of these guidelines. Whether or not such advertising represents cases of non-observance of the Code of Conduct will depend on the exact text or message used for the advertisement and the situation in which

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<sup>1</sup> For the purpose of these guidelines, reference to integrated pest management (IPM) is explicitly considered to also cover integrated vector management (IVM).

it is published or distributed. Governments will either need to regulate such specific situations at the national level, or decide their acceptability on a case-by-case basis.

A provision of the Code of Conduct that will also often require national interpretation is the definition of inappropriate incentives or gifts used to promote a pesticide (11.2.18). Promotion of pesticides should always adhere to the practices laid down in the ICC Code [4]. In general terms, an incentive or gift may be considered appropriate if it is in line with the objectives of the Code of Conduct, and inappropriate if it runs counter to these objectives; that is, if it encourages the purchase of a pesticide for a reason other than to make the best choice to control a pest or disease, or in excess of the user's needs. In this respect, reference to the best choice is understood to be a reference to a choice based on agronomic, economic, environmental and health reasons.

## **5. National legislation on advertising**

While some governments rely on general laws that prohibit false or misleading advertising of any products (see, for example, [7]), others have introduced statutory controls on pesticide advertising (see, for instance [8] and [9]). FAO and WHO recommend that governments put in place an appropriate national regulatory system to cover pesticide advertising.

Legislation should provide a basis for action in the event of any violations or publication by industry of any misleading or inaccurate information when advertising or promoting pesticides. The provisions concerning advertising in the Code of Conduct and these guidelines may assist governments in developing such a regulatory system. As a voluntary international instrument, the Code of Conduct cannot be directly enforced by countries. Governments may therefore wish to introduce national laws and regulations that include the recommendations made in the Code of Conduct.

National laws and regulations should give clear guidance to registration, trade and enforcement officials, and to others who are interested in pesticide advertising. Statutory provisions should indicate what actions are available against those who violate any applicable national laws and regulations. They should give clear guidance to those advertising and promoting pesticides and should include the recommendations of the Code of Conduct and other relevant international standards.

### **5.1 Laws and regulations**

In developing pesticide advertising laws and regulations, governments may wish to consider the following recommendations:

#### *Scope of the legislation*

Legislation should cover all pesticide uses (see coverage as described in chapter 1). It should provide a clear definition of advertising, and cover advertising in all its forms. Special reference should be made to guidelines for pest control companies, which typically advertise their services to handle indoor and/or public health pests.

Legislation should establish the right of a government authority, and possibly of third parties, to initiate legal action.

#### *Appointing a competent authority*

Governments should establish a responsible authority (the “competent authority”) within their national legal system to:

- promote information on standards;
- ensure compliance with national legislation;
- examine and approve advertising;
- receive complaints on illegal or inappropriate advertising;
- take legal or other action.

The authority could be the body responsible for pesticide registration, a trading standards body, or another government entity with appropriate knowledge, authority and capacity to liaise with the pesticide regulatory authorities.

Where governments have limited resources for monitoring and enforcing regulations, they could establish a regional body to address concerns. This is particularly appropriate when pesticide advertisements may be used across a region.

#### *General provisions to be addressed*

Governments should take into account the conditions of pesticide use in the country when developing legislation on pesticide advertising, and should address in particular the following guidance or provisions:

- that advertising in all media “is not in conflict with label directions and precautions, particularly those relating to proper maintenance and use of application equipment, appropriate personal protective equipment, special precautions for children and pregnant women or the dangers of reusing containers” (Article 11.1);
- the recommendations made in Article 11.2 of the Code of Conduct (see Annex 1);
- that claims of the safety of a product, pesticides used or pest control services should not be made;
- that any limitations on use of the product, such as the importance of specific personal protective equipment, buffer zones or other precautions should be clearly indicated, and that advertisements should not contain any visual presentation or description of dangerous practices or situations that show a disregard for safety or health;
- that claims of environmental benefit, and on the use of categorical statements such as “environmentally friendly”, “safe”, “green” or “natural” should not be made. The advertising industry provides voluntary guidelines on environmental claims [4];
- that public health pesticide products should not be advertised in a way that implies that they will prevent the occurrence of specific diseases, without additional precautionary measures;
- that claims relating to the absence of a harmful chemical or damaging effects, in particular when a product contains other harmful constituents, should not be made;
- that claims of “registration” or “approval” in another country should not be used to imply benefits;

- that advertising of products not registered for use in the country in question should not be used.
- that staff selling and promoting pesticides should undergo appropriate training in all uses of the products in question (see chapter 1);
- the naming of the active ingredient and brand name of the product, guidance on electronic marketing, including ensuring the commercial nature of the advertisement, is clear, and that those advertising disclose their identity and that of the relevant subsidiary, where appropriate, in such a way that the consumer can contact the advertiser or marketer without difficulty;
- any national clearance required for pesticide advertisements;
- any other specific statutory national requirements;

#### *Breaches of pesticide advertising regulations*

Legislation should establish a complaints procedure, including follow up actions, the scope of the actions and the parties concerned (the company placing the advertisement and any related companies), and should indicate the scale of fines or other action that can be imposed to deter violations, which should be sufficient to act as a deterrent. The competent authority should maintain a record of violations.

#### *Jurisdiction*

The increased use of electronic advertising poses the question of jurisdiction. The ICC Code states that marketing and advertising using electronic media should be subject to the rules and regulations in the country of origin or, where permissible, of the country targeted by the advertiser/marketer. Advertisers and marketers are urged to familiarize themselves with the rules and regulations of the jurisdictions where they target their advertising or marketing messages, where different laws may apply [4].

## **5.2 Dealing with breaches and complaints**

It is recommended that national legislation provide clear guidance for advertisers and those purchasing pesticides, and establish the basis for legal action. As industry adopts voluntary measures, governments should encourage self-regulatory bodies to adopt high standards, and seek confirmation from such bodies that any agreed voluntary advertising standards, as well as national regulatory standards, have been effectively communicated to advertising standards agencies, advertising companies, the media and other relevant industries.

While legislation on pesticide advertising should establish the basis for legal action, complaints may also be pursued without immediate recourse to legal action. This option may be the first step, with the possibility to resort to legal action should a violation continue.

## **6. Self-regulation in advertising**

### **6.1 International standards of self-regulation**

The advertising industry promotes self-regulation in preference to government controls of advertising. In countries where pesticide advertising regulation is currently lacking or enforcement capacity limited, a national advertising association can provide guidance on advertising pesticide products and services to all relevant producers, distributors and retailers in the country. The competent authority should liaise with any such association to ensure dissemination of information on legal requirements for pesticide advertising.

A national association representing advertisers or the pesticide industry may develop voluntary codes, and receive and investigate complaints. A good voluntary body will adopt principles to ensure that advertisements are legal, decent, honest, truthful, socially responsible and respectful of the principles of fair competition generally accepted in business. These principles are established by the ICC Code [4] and are used throughout the world.

National advertising standards associations should establish a complaints procedure, nominate an officer to receive complaints and investigate complaints free of charge.

### **6.2 Self-regulation action on non-observance**

An independent advertising authority has no power to fine companies for non-observance of advertising codes, and may not be able to force a company to withdraw an advertisement unless legal action is taken. However, it can exert pressure on advertisers, and may be able to take rapid action against offending advertisements and to discourage non-observance. The actions that it can take may include:

- ensuring that its existence and role are widely publicized and providing appropriate advice and guidance on advertising requirements for pesticides and pest management services;
- receiving complaints and requests for action on advertisements that the public, officials and any other relevant body believe are in contradiction of the Code of Conduct or constitute non-compliance with national laws and regulations;
- providing standards for sales promotions and receiving complaints about promotional offers that contradict the Code of Conduct or constitute non-compliance with national laws and regulations;
- maintaining and making available a set of codes to judge acceptability of advertising on television, radio, sales promotions and direct marketing;
- referring complaints to the competent authority, if appropriate, and supplying the company concerned with a copy of the complaint;
- using its authority to encourage withdrawal of a misleading or offensive advertisement or having it changed to observe the Code of Conduct;
- requesting national or regional pesticide trade associations to provide an annual report of actions relating to advertising among member companies and publishing relevant actions in its annual report.

### **6.3 Pesticide industry actions**

A number of industry bodies support the Code of Conduct and expect their members and affiliates to observe the principles and ethics it expresses. Such members and affiliate companies, and other relevant stakeholders associated with the distribution and use of pesticides, should disseminate information about advertising requirements throughout their companies. National and regional pesticide industry organizations should have detailed knowledge of pesticide advertising standards and national statutory requirements, and ensure that member companies, affiliates and their subsidiaries are informed of, and adhere to, such standards and requirements.

Companies should communicate agreements made in the context of self-regulation throughout an entire organization, from public affairs to marketing operations. A transnational corporation should be responsible for ensuring that advertisements comply with established standards, not only in their base country but also in the country where products are marketed. Concurrence with this is implicit in the Code of Conduct, as companies undertake to observe its guidelines wherever they operate.

Pesticides are increasingly advertised and sold over the Internet, and the ICC Code calls on advertising organizations to incorporate the agreed practices and require that online advertising and marketing be conducted in accordance with the laws of the country from which the message originates.

In spite of ICC standards, there are widely differing practices among national self-regulatory bodies. Industry bodies in developing countries should establish an advertising standards agency with high standards for its members, and follow the good practice, environmental guidelines and any other relevant guidance provided by national and international advertising bodies.

## **7. Government responsibilities**

### **7.1 Establishing a framework for action**

Governments should take steps to ensure that high standards of pesticide advertising are maintained and that the relevant elements of the Code of Conduct are observed. The ultimate aim is to enact national laws and regulations that incorporate the provisions of the Code of Conduct and provide a legal basis for enforcement. The government should establish a clear complaints procedure for reporting advertising violations.

Some governments have established a procedure for examination and approval of pesticide advertisements in advance of their appearance in print or other media. If this approach is considered a useful means of avoiding violations, the system established should allow for rapid and transparent decisions.

Governments should appoint a competent authority to carry out appropriate duties.

## **7.2 Duties of the competent authority**

Depending on its mandate, the competent authority should carry out the following duties:

- examine and approve the application for pesticide advertising (see Annex 2);
- receive and investigate complaints about infringements of advertising standards and maintain a record of established violations;
- institute a strategy for action against infringements that may encompass: issuing a warning to offenders; requiring evidence of withdrawal; imposing fines of a sufficient level to act as a deterrent; liaising with the pesticide registration authority to consider means of dealing with products that are persistently advertised in contradiction of the Code of Conduct and against national laws and regulations; or take other action to prevent continued display of the advertisement (see [10] for an example);
- promote observance of the Code of Conduct through the drafting and enacting of laws and regulations that incorporate the recommendations made in the Code of Conduct;
- take legal action, where appropriate, against advertisements that infringe any national law or regulation, particularly in the case of persistent, deliberate or highly misleading offences;
- publicise in summary form established violations of the applicable laws and regulations and cases of non-observance of the Code of Conduct in relation to advertising;
- ensure that national advertising agencies have been informed about voluntary standards and national regulatory requirements for pesticide advertising;
- ensure that the farming community in particular, as well as others likely to purchase pesticides, are aware of what to expect from pesticide advertising standards;
- promote local awareness, and foster a sense of responsibility, about the advertising standards set out in the Code of Conduct, particularly among national pesticide producers, formulators, packagers, suppliers, distributors and retailers, relevant departments in the ministries of agriculture, forestry, health and the environment, researchers and academics, crop boards and public interest organizations;
- publicize results of any monitoring of advertising in the country.

## **8. Monitoring pesticide advertising and action on non-observance and non-compliance**

The Code of Conduct, in its Article 11.3, calls on international organizations and public sector groups to draw attention to departures from its provisions on pesticide advertising.

Monitoring activities should be documented and reported to the competent authority if national laws and regulations are violated or to FAO if the Code of Conduct is not observed to enable quick action be taken. This will ensure that breaches or non-observances are addressed and errors are corrected, and that the offending advertisements are quickly withdrawn. If national laws or regulations are violated, legal action may be taken by the competent authority, or by any other entity entitled to do so by law.

## 8.1 Documentation

Evidence of the advertisement that is contradicting the Code of Conduct or has violated national laws or regulations should be compiled by the competent authority. This will include:

### *Essential*

- date of publication or date observed;
- name of the company advertising and of the product;
- name and description of the publication in which it appeared (e.g. newspaper, farming magazine, scientific journal, radio, TV, signboards, poster, Internet);
- a copy of the advertisement, or a photograph where possible. If the actual advertisement cannot be copied (e.g. television or radio advertisement), the misleading statements should be accurately provided and/or the offending pictures accurately described;
- if the advertisement cannot be copied, or there are no facilities for copying, its form should be described (e.g. advertisement in newspaper, journal, magazine; advertorial; roadside poster or billboard; radio or television; Internet; video or DVD; promotional clothing).

### *Desirable*

- if the text of the advertisement is in national or local languages, a translation into one of the official languages of the United Nations (Arabic, Chinese, English, French, Russian, Spanish) may be provided;
- a statement of the non-observance of the Code of Conduct, and if national laws or regulations are in place, a statement of the area of non-compliance, for example: false and misleading statements; inappropriate environmental claim; implication of government endorsement; failure to indicate the importance of reading the label.

## 8.2 Reporting non-compliance with national legislation

Once documentation is in order, pesticide advertising that allegedly does not comply with national laws or regulations should be reported to:

- i. the competent authority on pesticide advertising (described in section 5.1) and/or the body that regulates pesticides in the country (unless it originates the report itself);
- ii. the company responsible for the advertisement;
- iii. the company producing the pesticide (if different from ii.);
- iv. any national advertising standards agency.

The report of non-compliance should be accompanied by a covering letter stating the evidence listed in section 8.1 and requesting action. Copies of submissions should be retained.

If the violation of national legislation also comprises non-observance of any of the provisions of the Code of Conduct, a report may also be sent to FAO (see section 8.3).

### **8.3 Reporting non-observance of the Code of Conduct**

Irrespective of the existence of any specific national legislation on (pesticide) advertising, pesticide advertising that allegedly contradicts the Code of Conduct may be reported to:

- i. the body that regulates pesticides in the country (unless it originates the action);
- ii. the company responsible for the advertisement;
- iii. the company producing the pesticide (if different from ii.);
- iv. any national advertising standards agency;
- v. the Director-General of FAO.

The report of non-observance should be set forth in a covering letter accompanied by the evidence listed in section 8.1. Copies of submissions should be retained by the entity submitting the report.

It is at the discretion of governments and any other stakeholder whether to notify FAO of advertisements that contradict the provisions of the Code of Conduct. When notified, FAO will review the information obtained and will, if appropriate, consider actions such as ad hoc monitoring. FAO will furthermore apply the procedures of the *FAO guidelines on monitoring and observance of the code of conduct* [11]. FAO will maintain a record of any such complaints and will notify the reporting organization of any action undertaken and of its outcome.

## References

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## **Annex 1 - International Code of Conduct on the Distribution and Use of Pesticides: Article 11 – Advertising**

11.1 Governments should control, by means of legislation, the advertising of pesticides in all media to ensure that it is not in conflict with label directions and precautions, particularly those relating to proper maintenance and use of application equipment, appropriate personal protective equipment, special precautions for children and pregnant women or the dangers of reusing containers.

11.2 Pesticide industry should ensure that:

11.2.1 all statements used in advertising are technically justified;

11.2.2 advertisements do not contain any statement or visual presentation which, directly or by implication, omission, ambiguity or exaggerated claim, is likely to mislead the buyer, in particular with regard to the “safety” of the product, its nature, composition or suitability for use, official recognition or approval;

11.2.3 pesticides which are legally restricted to use by trained or registered operators are not publicly advertised through journals other than those catering for such operators, unless the restricted availability is clearly and prominently shown;

11.2.4 no company or individual in any one country simultaneously markets different pesticide active ingredients or combinations of ingredients under a single brand name;

11.2.5 advertising does not encourage uses other than those specified on the approved label;

11.2.6 promotional material does not include recommendations at variance with those of the recognized research and advisory agencies;

11.2.7 advertisements do not misuse research results, quotations from technical and scientific literature or scientific jargon to make claims appear to have a scientific basis they do not possess;

11.2.8 claims as to safety, including statements such as “safe”, “non-poisonous”, “harmless”, “non-toxic” or “compatible with IPM<sup>1</sup>,” are not made with or without a qualifying phrase such as “when used as directed”. (However, reference to use within specified IPM programmes may be included if validated by the regulating authority and the claim is qualified accordingly);

11.2.9 statements comparing the risk, hazard or “safety” of different pesticides or other substances are not made;

11.2.10 misleading statements are not made concerning the effectiveness of the product;

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<sup>1</sup> For the purpose of these guidelines, reference to integrated pest management (IPM) is explicitly considered to also cover integrated vector management (IVM).

11.2.11 no guarantees or implied guarantees, such as “more profits with ...” or “guarantees high yields,” are given unless definite evidence to substantiate such claims is available;

11.2.12 advertisements do not contain any visual representation of potentially dangerous practices, such as mixing or application without sufficient protective clothing, use near food or use by or in the vicinity of children;

11.2.13 advertising or promotional material draws attention to the appropriate warning phrases and symbols as laid down in the FAO labelling guidelines;

11.2.14 technical literature provides adequate information on correct practices, including the observance of recommended application rates, frequency of applications and pre-harvest intervals;

11.2.15 false or misleading comparisons with other pesticides are not made;

11.2.16 all staff involved in sales promotion are adequately trained and possess sufficient technical knowledge to present complete, accurate and valid information on the products sold;

11.2.17 advertisements encourage purchasers and users to read the label carefully, or have the label read to them if they cannot read;

11.2.18 advertisements and promotional activities should not include inappropriate incentives or gifts to encourage the purchase of pesticides.

11.3 International organizations and public sector groups should call attention to departures from this Article.

## **Annex 2 - Examination and approval of pesticide advertising**

If national legislation requires approval from the competent authority before any advertisements can be publicized, the government must ensure that the approval authority is capable of performing the task of evaluating and granting approval in a timely and transparent manner. An adequate number of personnel is vital in achieving those objectives. The clearance and approval procedures established should include the following:

- state the relevant provision of the law that requires advertisements to obtain prior approval;
- make known to all applicants/advertisers of the requirements of the law and the authority responsible for the approval;
- scope of the control, i.e. whether it covers all form of media or only selected media;
- develop appropriate application forms as well as an approval certificate to be used for approval of various types of advertisements;
- application submission, supporting data requirements and the prescribed fee;
- evaluation and approval procedures;
- provision for the approval authority to reject the application or to request the applicant to make necessary changes prior to approval;
- provision for the applicant to appeal the decision of the approval authority;
- validity period of approval and whether renewal is required;
- provision for assigning approval number and terms and conditions of approval;
- provision for fast track approval if the advertisements contain no false or misleading claims;
- if necessary, develop specific guidelines on pesticides advertising to spell out the requirements of the national legislation in order to inform the applicant/advertiser of the procedures for obtaining pesticide advertisement approval from the competent authority. To expedite evaluation and approval, guidance on the DOs and DON'Ts either based on the national legislation or on international standards and codes should be spelt out clearly in the guidelines.

In order to facilitate the approval of pesticide advertisements, the following evaluation procedures may be adopted:

- establish an inter-ministerial or inter-departmental advertisement committee responsible for evaluating advertisements submitted for approval;
- this committee should hold regular meetings, preferably every month;
- processing and clearance of advertisements for fast track approval should only be carried out by the Secretariat.