# Dutch and EU laws and regulations for advertising

In the Netherlands and the EU, there are numerous laws and organizations that focus on the guidelines and conditions that advertisements must meet. These rules are constantly being tightened, with more and more emphasis on online forms of advertising.

In this appendix we provide a brief explanation of the most important guidelines and conditions that apply in the Netherlands and the EU.

Please note: this overview is not exhaustive. Therefore, always check whether the information is up-to-date and complete at the time of use.

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- Dutch Advertising Code (NRC):
- The Medicines Act
- Health claims for foods
- The Commodities Act
- Unfair Commercial Practices Act (WOHP)

# The Dutch Advertising Code (NRC) :

Here is an overview of the **general rules and specific codes** that apply to advertising in the Netherlands, based on the **Dutch Advertising Code (NRC)** :

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## General rules (for all types of advertising)

1. **Recognition** :
   - Advertising must be clearly recognisable as such.
   - Misleading forms such as hidden advertising or native advertising without designation (e.g. "*Advertorial* ") are not permitted.
2. **Honest information** :
   - Advertising must not be misleading about prices, features, benefits or limitations of a product or service.
   - Claims must be truthful and verifiable.
3. **Social responsibility** :
   - Advertising may not incite violence, discrimination, or other socially unacceptable behavior.
   - Vulnerable groups such as children must not be misled or pressured.
4. **Protection of privacy** :
   - Use of personal data in advertising (e.g. personalized advertisements) must comply with the GDPR.
5. **Consent** :
   - Unsolicited advertising (spam) via e-mail, telephone or other electronic channels is prohibited without the explicit consent of the recipient.

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## Specific codes

In addition to general rules, the NRC contains a number of **special advertising codes** that apply to specific sectors or subjects:

1. **Advertising Code for Alcoholic Beverages (RVA)** :
   - No advertising aimed at minors.
   - No association with better performance or health.
2. **Advertising Code for Food Products (RVV)** :
   - Claims about health benefits must be scientifically substantiated.
   - No misleading about ingredients, portion sizes, or calories.
3. **Social Media & Influencer Marketing Advertising Code** :
   - Advertising via influencers must be clearly recognizable (#ad, #spon).

- Collaborations must be transparently reported.

4. **Advertising Code for Gambling** :
   - Only permitted for license holders of the Gaming Authority.
   - No advertising aimed at vulnerable groups (e.g. young people or gambling addicts).
5. **Advertising Code for Children and Youth Advertising (RKC)** :
   - No use of fear or pressure with children.
   - No advertising for unhealthy products aimed at children under 12 years of age.
6. **Advertising Code for Medicines (RMG)** :
   - Only permitted advertising for over-the-counter medicines.
   - Claims must comply with the requirements of the Medicines Act.
7. **Advertising Code for Environmental Claims (RMC)** :
   - Environmental claims must be verifiable.
   - No vague terms like *"environmentally friendly"* without specification.
8. **Advertising Code for Tobacco Products** :
   - Advertising for tobacco and similar products (e.g. e-cigarettes) is prohibited.
9. **Email Advertising Code (RCEM)** :
   - Advertising by e-mail is only permitted with permission.
   - The option to unsubscribe should always be available.

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## Enforcement

The **Advertising Code Foundation (SRC)** monitors compliance with the NRC. Complaints about advertising expressions can be submitted to the Advertising Code Committee.

For more information about the SRC, visit https://www.reclamecode.nl/

# The Dutch and EU Medicines Act

The **Medicines Act** in the Netherlands contains additional rules that specifically relate to advertising for medicines. These rules supplement the Dutch Advertising Code (NRC) and ensure that medicine advertising is fair, transparent and safe. Here are the most important provisions of the Medicines Act:

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## 1. Over-the-counter medicines

The following rules apply to medicines available without a prescription (OTC medicines):

- **Honest and truthful information** :
  - Advertising may not contain false or misleading claims about the effectiveness or safety of the medicine.
  - All claims must be scientifically substantiated and verifiable.
- **Clear warnings** :
  - Advertising must always state: *"Read the package insert before use"* .
  - No health claims may be made that promise exaggerated results.
- **No medical professionals in advertising** :
  - The use of doctors, pharmacists, or other professionals to recommend the product is not permitted.
- **Accessibility** :
  - Advertising may not suggest that the medicine is without risks or that its use eliminates the need for a doctor's visit.

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## 2. Prescription medicines

Stricter rules apply to medicines that are only available on prescription:

- **Advertising aimed at consumers is prohibited** :
  - Only healthcare professionals (such as doctors and pharmacists) may receive information about prescription medicines.
- **Exception for public information** :
  - Providing information about an illness or condition is permitted, but the name of the prescription medicine may not be mentioned.

## 3. Specific restrictions on advertising

- **Comparative advertising** :
  - Advertising of medicines may not make direct comparisons with other medicines.
- **No deception about treatment** :
  - Advertising may not suggest that the use of a medicine will automatically lead to recovery or that there are no side effects.
- **No exaggeration of symptoms** :
  - Advertising should not create fear or exaggerate the seriousness of a disease to stimulate sales.

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## 4. Approval and supervision

- **Central Commission for the Assessment of Advertising of Medicines (CCBR)** :
  - Advertisements for medicinal products often require prior approval by the CCBR.
- **Health and Youth Care Inspectorate (IGJ)** :
  - The IGJ monitors compliance with the Medicines Act. Violations can result in fines being imposed or advertising campaigns being banned.

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## 5. EU directives

The Medicines Act is based on EU legislation (Directive 2001/83/EC), which means that similar rules apply in other EU countries. This ensures uniform standards for advertising medicines within the European internal market.

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## Importance of advertising on websites

If you want to promote medicines through a website:

- Check whether the product is prescription-only (no advertising to consumers).
- Make sure all claims are verifiable and do not promise exaggerated results.
- Add mandatory warnings, such as: *“Read the package insert before use .”*

# Health claims for foods

Health claims made on foods must comply with strict rules according to the **EU Regulation (EC) No 1924/2006** on nutrition and health claims made on foods. Here is an overview of the most important requirements:

## What is a health claim?

A health claim is any statement that indicates, suggests or implies that there is a relationship between a food or one of its constituents and health. Examples:

- "This product supports heart function."
- "Calcium contributes to the maintenance of strong bones."

## Requirements for health claims

1. **Scientific basis** :
    - Any health claim must be based on generally accepted scientific data.
    - The claim must be approved by the **European Food Safety Authority (EFSA)** before it can be used.
2. **Admission of claims** :
    - Only health claims included in the EU list of approved claims may be used.
    - Unapproved or rejected claims may not be used, even in modified form.
3. **No deception** :
    - Claims must not mislead consumers about the properties, composition or benefits of a product.
    - No exaggerated or absolute claims such as “this product cures disease X.”
4. **Full context** :
    - Claims must be understandable to the average consumer.
    - The conditions for the intended effect (such as the required consumption quantity) must be clearly stated.
5. **Use of labels** :
    - Health claims must be accompanied by:
        - A statement about the importance of a varied and balanced diet.
        - The amount of the nutrient needed to achieve the intended effect.

## Types of claims

1. **Nutritional claims** :
    - Indicate that a product contains certain nutrients, such as: *"Rich in fiber"* or *"Low in fat"* .
    - These claims are only allowed if the product meets specific thresholds set out in the Regulation.
2. **Functional health claims** :
    - Claims that describe an effect of a nutrient on the normal function of the body, such as: *“Vitamin C contributes to a normal immune system.”*
3. **Risk reduction claims** :
    - Claims that suggest a product can reduce the risk of a disease, such as: *“Plant sterols may lower cholesterol levels, which is a risk factor for cardiovascular disease.”*
    - These claims require additional scientific evidence and explicit approval by EFSA.
4. **Claims about child development** :
    - Specific claims regarding the growth and development of children must meet additional strict requirements.

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## Terms of Use

1. **Approval by EFSA** :
    - The European Food Safety Authority (EFSA) assesses whether a health claim is scientifically substantiated.
    - Approved claims will be included in the EU register of nutrition and health claims.
2. **No implied medical claims** :
    - It is forbidden to promote foods as medicine or to suggest that they can cure a disease.
3. **Manufacturers' Responsibility** :
    - The manufacturer must prove that the product meets the requirements.
    - Control and enforcement are the responsibility of national authorities, such as the Netherlands Food and Consumer Product Safety Authority (NVWA).

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## Sanctions for violation

- Failure to comply with the rules may result in:
    - Removal of the product from the market.

- Fines by supervisors, such as the NVWA.
- Damage to the brand's image.

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## EU Register of Claims

The European Commission maintains a public register of all approved and rejected health claims. This register provides:

- A list of permitted claims with specific conditions for use.
- An overview of rejected claims and the reasons for them.

You can consult the register via: EU Register of Nutrition and Health Claims

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## Practical tips

1. Check whether your health claim is included in the EU register.
2. Make sure all your product information and marketing materials comply with legislation.
3. If you have any doubts about the admissibility of a claim, please consult a nutritionist or legal advisor.

# The Commodities Act

The **Commodities Act** plays an important role in advertising for products that fall under this act, such as food, cosmetics, and household items. The Commodities Act sets requirements for the safety, quality, and presentation of products, and therefore also for advertising for them. Here are the most important aspects:

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## 1. What does the Commodities Act regulate?

The Commodities Act is intended to protect consumers from unsafe and misleading products. The law sets rules for:

- **Product Safety** : No risk to health or safety of consumers.
- **Labelling and advertising** : Correct, clear and non-misleading information about products.
- **Sales prohibitions** : It is prohibited to sell dangerous or incorrect products.

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## 2. Rules for advertising under the Commodities Act

The Commodities Act requires that advertising be honest, truthful and complete. Here are the most important rules:

**a) No deception**

- Advertisements may not contain incorrect or exaggerated information about:
    - Composition, origin or product properties.
    - Consequences of use (e.g. health claims).
    - Advantages compared to other products.

**b) Correct claims**

- Claims about product features, such as “organic” or “sugar-free,” must be demonstrably true.
- Advertising may not contain medical claims unless it concerns a medicine that complies with strict regulations.

**c) Labelling and presentation**

- Labels must contain all mandatory information, such as ingredients, nutritional values, allergens and origin.
- Advertising may not suggest that a product has properties that it does not possess.

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## 3. Specific points of attention per product category

**a) Foodstuffs**

- Advertising of food products must comply with **Regulation (EU) No 1169/2011** on food information:
    - Allergens must be clearly stated.
    - Health claims are only allowed if they comply with EU regulations (as discussed earlier).

**b) Cosmetics**

- Claims such as “hypoallergenic” or “natural” must be scientifically substantiated.
- Advertising may not suggest that a product has medicinal properties unless it is a registered medicine.

**c) Children's products**

- Advertising for baby and infant food may not suggest that it is a better choice than breastfeeding.
- Strict requirements apply to labelling and health claims.

**4. Control and enforcement**

- **Supervisor** : The Netherlands Food and Consumer Product Safety Authority (NVWA) monitors compliance with the Commodities Act.
- **Penalties for violation** :
    - Warnings.
    - Fines depending on the severity of the violation.

- Ban on further sale of a product or recalls.

## 5. Overlap with other regulations

The Commodities Act works together with other laws and regulations, such as:

- The **Dutch Advertising Code (NRC)** : For general advertising requirements.
- The **Medicines Act** : For products presented as medicines.
- The **Unfair Commercial Practices Act** : For protection against misleading advertising.

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## 6. Practical tips for advertising under the Commodities Act

1. **Check claims** :
   - Ensure that all product claims are truthful and substantiated.
2. **Use scientific evidence** :
   - Particularly for nutritional and health claims.
3. **Be complete and transparent** :
   - Ensure that labels and advertisements contain all required information.
4. **Consult the NVWA** :
   - Use their guidelines to ensure that your advertising complies with the Commodities Act.

**Example: Advertising Errors and Consequences**

A fruit juice manufacturer claimed: *"100% natural without added sugars."* When checked, it turned out that sugars had been added. This led to a warning and a fine from the NVWA for misleading advertising.

# Unfair Commercial Practices Act (WOHP)

Here is a brief overview of how the **Unfair Commercial Practices Act (UCPA)** specifically relates to advertising:

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## 1. Misleading advertising

Advertising must not mislead consumers about:

- **Product Features** :
  - No false claims about quality, functionality or benefits.
  - No fake quality marks or certifications.
- **Price** :
  - No fictitious discounts ("from-for" promotions that are not correct).
  - All costs (including VAT and surcharges) must be clear.
- **Availability** :
  - Do not suggest that a product is in limited supply unless this is true.

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## 2. Aggressive advertising

Advertising may not put consumers under pressure by:

- **Coercion or intimidation** :
  - For example, threatening negative consequences if a consumer does not buy.
- **Excessive social pressure** :
  - Such as advertising that uses guilt or children influencing their parents.

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## 3. Transparency

- Advertising must be truthful and clearly recognisable as advertising.
- No hidden advertising (for example in the form of articles or social media posts without clear indication, such as *#ad* or *sponsored* ).

## 4. Special attention to online advertising

- **Hidden costs** :
  - In online advertisements, all additional costs must be immediately visible.
- **Cookies and tracking** :
  - Personalized advertisements may only be used with the explicit consent of the consumer.

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## Enforcement

- **Supervision** : The **Netherlands Authority for Consumers and Markets (ACM)** monitors compliance.
- **Sanctions** : Fines of up to €900,000 or 1% of annual turnover.

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## Practical tips for advertising

1. Ensure that all claims in advertisements are correct and demonstrable.
2. Use clear pricing information, including all additional costs.
3. Avoid exaggeration or manipulative techniques, such as creating false urgency.