



Hogan
Lovells

China's new Advertising Law
sees the light of day

APRIL

2015

China issues new Advertising Law – effective on 1 September 2015

1. Background

On 24 April 2015, China passed the draft amendments to the Advertising Law. This amended Advertising Law ("Amended Law") will come into effect on 1 September 2015. The Amended Law represents the first major revision of the law since the Advertising Law was first introduced in 1995 and will bring about significant changes to the regulatory regime for advertising activities in China.

We have been closely monitoring the status of the draft Amended Law and highlighted some of the key proposed changes in our previous article titled "[China Slaps Record Fine on False Advertising: Draft Advertising Law stimulus for tougher stance?](#)". Most of these proposed changes were adopted in the Amended Law. In addition, since the publication of our article, some further changes were made to the draft and implemented in the Amended Law. In this article, we summarize these additional changes.

2. Highlights of the Amended Law – (please also refer to our previous article "[China Slaps Record Fine on False Advertising: Draft Advertising Law stimulus for tougher stance?](#)"):

Prohibition of "misleading advertising"

The Amended Law broadens the definition of "false advertising" by expressly prohibiting both false and misleading advertising contents.

3-year ban for engaging endorsers who fall foul of the Amended Law

One major change to the Amended Law is that celebrities or other endorsers endorsing a product or service may be held liable if they know, or ought to know that the advertisement amounts to false advertising. In addition, the Amended Law imposes a ban on further engaging endorsers who were held liable of endorsing false advertising for a 3-year period.

Restrictions on advertising healthcare food and breast milk substitutes

The Amended Law prohibits the advertising of healthcare food, pharmaceutical products, medical

equipment and the like under the disguise of "health information" programmes or columns on radio or TV stations, printed media or on the Internet.

The Amended Law also introduces a ban on advertisements on mass media and public premises for baby dairy products, drinks and other baby food which claim to serve as a substitute for breast milk.

Unsubscribe facility

In addition to the prohibition on sending advertisements to home addresses or in electronic format without the recipient's consent or request, the Amended Law also requires that advertisements sent in electronic format must display the sender's real identity and contact details, together with information about how the recipient can unsubscribe from further advertisements. Violations of these rules are punishable by a fine of up to RMB 30,000.

Increased enforcement powers

As we pointed out in our previous article, the sanctions under the Amended Law are wide-ranging. It is noteworthy that the Amended Law also provides that any entity or individual may report suspected false advertising activities to the AIC, which will be required under the law to handle the case and notify both parties within 7 working days. In addition, the China Consumers' Association and other consumer protection organizations will also be empowered under the law to monitor false advertising activities which compromise consumer interests. The AIC will furthermore be required to keep records of false advertising activities and will have the power to publish them.

3. Conclusion

The Amended Law has a wide scope, and it is expected that further implementing measures or interpretations may be issued in the future to give further guidance on the application of the new law. In the meantime, it is advisable for businesses to review their advertising practices in China to ensure compliance with the new law, especially in light of the potential surge of regulatory enforcement and consumer complaints. It is undeniable that the Amended Law sends out a signal

that China is keen to strengthen consumer protection by clamping down on undesirable advertising activities. The above is a snapshot of the Amended Law. For questions or comments in relation to any specific topic or industry sector, please contact us.

Eugene Low, Partner

eugene.low@hoganlovells.com

T +852 2840-5907

Further information

If you would like further information please contact the person mentioned below or the person with whom you usually deal.

Contact

Beijing

Deanna Wong, Partner

deanna.wong@hoganlovells.com

T +86 10 6582 9419

Rae Yan, Partner

rae.yan@hoganlovells.com

T +86 10 6582 9528

Hong Kong

Alan Chiu, Partner

alan.chiu@hoganlovells.com

T +852 2840 5619

Eugene Low, Partner

eugene.low@hoganlovells.com

T +852 2840 5907

Henry Wheare, Partner

henry.wheare@hoganlovells.com

T +852 2840 5087

Shanghai

Zhen Feng, Partner

zhen.feng@hoganlovells.com

T +86 21 6122 3826

William Fisher, Partner

william.fisher@hoganlovells.com

T +86 21 6122 3850

www.hoganlovells.com

Hogan Lovells has offices in:

Alicante	Dusseldorf	London	New York	Silicon Valley
Amsterdam	Frankfurt	Los Angeles	Northern Virginia	Singapore
Baltimore	Hamburg	Luxembourg	Paris	Tokyo
Beijing	Hanoi	Madrid	Philadelphia	Ulaanbaatar
Brussels	Ho Chi Minh City	Mexico City	Rio de Janeiro	Warsaw
Budapest*	Hong Kong	Miami	Riyadh*	Washington DC
Caracas	Houston	Milan	Rome	Zagreb*
Colorado Springs	Jakarta*	Monterrey	San Francisco	
Denver	Jeddah*	Moscow	São Paulo	
Dubai	Johannesburg	Munich	Shanghai	

"Hogan Lovells" or the "firm" is an international legal practice that includes Hogan Lovells International LLP, Hogan Lovells US LLP and their affiliated businesses. The word "partner" is used to describe a partner or member of Hogan Lovells International LLP, Hogan Lovells US LLP or any of their affiliated entities or any employee or consultant with equivalent standing. Certain individuals, who are designated as partners, but who are not members of Hogan Lovells International LLP, do not hold qualifications equivalent to members.

For more information about Hogan Lovells, see www.hoganlovells.com.

Where case studies are included, results achieved do not guarantee similar outcomes for other clients. Attorney Advertising.

©Hogan Lovells 2015. All rights reserved.

*Associated offices