

# DEUTSCHER WERBERAT

## RULES OF PROCEDURE (September 1979)

### Article 1 Right to submit complaints

- (1) Everyone has the right to submit complaints to Deutscher Werberat.
- (2) Deutscher Werberat may also instigate proceedings itself.

### Article 2 Scope of Deutscher Werberat mandate

- (1) The activities of Deutscher Werberat are restricted to the commercial advertising sector.
- (2) Deutscher Werberat passes on any complaints claiming infringement of the Heilmittelwerbegesetz (the German Healthcare Products Advertising Act) to the Verein für lautare Heilmittelwerbung e.V. (the industry self-regulatory body governing such advertising).
- (3) If Deutscher Werberat deems there to be a manifest breach of the law, it can pass on the case to the Zentrale zur Bekämpfung unlauteren Wettbewerbs (Centre for Combating Unfair Competition) in Bad Homburg.
- (4) If a complaint claims infringement of statute law by a competitor, Deutscher Werberat may advise the complainant to assert its own rights unless the advertisement has a critical potential impact on private consumers.
- (5) Deutscher Werberat does not appraise advertisements for acceptability prior to publication (pre-clearance or copy advice).

### Article 3 Form of submission

- (1) Complaints must be submitted in writing, identifying the complainant and enclosing or identifying the advertisement (press advertisement, leaflet, television commercial, hoarding, etc.), to Deutscher Werberat:

Deutscher Werberat  
Am Weidendamm 1A  
10117 Berlin  
Telephone: +49 (0)30 590099-700  
Telefax: +49 (0)30 590099-722  
E-mail: werberat@werberat.de

- (2) Complaints received by telephone will be processed if the complainant can be identified.
- (3) Anonymous complaints are not normally processed.



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## Article 4 Confidentiality of complaints

- (1) The names of all complainants will be treated confidentially unless they consent to being named.
- (2) The names of organisations, institutions or public agencies submitting complaints may be disclosed to others who are party to a case unless the complainant expressly demands confidentiality.

## Article 5 Cost of proceedings

Proceedings before Deutscher Werberat are free of charge.

## Article 6 Manifestly unfounded complaints

- (1) Deutscher Werberat summarily rejects any complaint it deems manifestly unfounded. It may inform the complainee (the advertiser), the advertising agency and the advertising medium about the matter.
- (2) The complainant may appeal against summary rejection. The procedure then continues as set out in Article 7 onwards.

## Article 7 Statement of party subject to complaint

- (1) After receiving a complaint, Deutscher Werberat sets the advertiser and/or advertising agency a deadline by which it can submit its response to the complaint.
- (2) Deutscher Werberat may report the matter to the advertising medium whose publication the complaint refers to.

## Article 8 Resolution of complaint by modification of advertisement

- (1) If the advertiser and/or advertising agency agrees to modify or discontinue an advertisement that is subject to complaint, Deutscher Werberat notifies the complainant in writing and, where Article 7(2) applies, the advertising medium.
- (2) In exceptional cases, Deutscher Werberat can still decide whether the complaint would have been upheld.

## Article 9 Submission to Deutscher Werberat

- (1) If the advertiser and/or advertising agency considers a complaint to be wholly or partly unjustified and hence refuses to modify or discontinue the advertisement or if no response is received by the stated deadline (Article 7(1)), Deutscher Werberat will pass a decision.
- (2) Deutscher Werberat can make decisions by written submission.
- (3) Cases raising fundamental issues will be discussed at the next meeting of Deutscher Werberat.
- (4) Decisions are adopted by simple majority of the votes of the members.

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## Article 10 Rejection of complaints

If Deutscher Werberat rejects a complaint, it notifies the complainant, the advertiser and/or the advertising agency and, where Article 7(2) applies, the advertising medium.

## Article 11 Upholding of complaints

- (1) If Deutscher Werberat upholds a complaint, it first notifies the advertiser and/or advertising agency and sets it a deadline by which it may agree to modify or discontinue the advertisement.
- (2) If the advertiser and/or advertising agency agrees to modify or discontinue an advertisement that is subject to complaint, Deutscher Werberat notifies the complainant and, where Article 7(2) applies, the advertising medium.
- (3) If the advertiser and/or advertising agency refuses to modify or discontinue the advertisement or if no statement is received by the stated deadline (Article 11(1)), Deutscher Werberat notifies the complainant and, where Article 7(2) applies, the advertising medium of its decision.

## Article 12 Publication

- (1) If a complaint is resolved under Article 8 or Article 11(2) or rejected under Article 10 and if the complaint was made publicly or the advertiser and/or the advertising agency has notified the public of the complaint, Deutscher Werberat likewise publishes the result of its intervention.
- (2) Deutscher Werberat notifies the public of any complaints upheld under Article 11(3). A *public reprimand* of this kind is only issued if the advertiser fails to respond after Deutscher Werberat has upheld a complaint. The advertiser and/or advertising agency must be made expressly told of this consequence beforehand.

## Article 13 Appeals

- (1) The complainant can appeal against rejection of a complaint under Article 10.
- (2) The advertiser and/or advertising agency can appeal against the upholding of a complaint under Article 11(1).
- (3) Appeals must be submitted to Deutscher Werberat in writing.
- (4) Appeals are decided by Deutscher Werberat. Decisions regarding appeals are subject to Article 9. Articles 10 and 11 apply analogously to appeals.