

Points of Attention regarding Comparative Advertising

When a member conducts “comparative advertising” or provides information concerning the member through “tie-up articles, etc.,” and “review websites,” the member shall pay attention to the matters set forth below and ensure the appropriateness of operations concerning advertising, etc.

1. Points of Attention regarding Comparative Advertising

When a member indicates data such as fees and performance of its investment advisory services in comparison with those of other business operators (so-called comparative advertising), the member needs to satisfy all the requirements specified in (1) through (3) below regardless of the advertising media, paper width or the like. For example, attention shall be paid that indicating such expressions as “industry’s lowest-level fees” and “industry’s top-level performance” or details contrary to the fact, without satisfying all the requirements specified in (1) through (3), is likely to be deemed to be exaggerated advertising. In addition, when making a comparative indication, a member needs to pay attention not to mislead investors, such as by specifying the scope of comparison, extraction standards, or other bases.

(1) Assertions made in comparative advertising are objectively proved.

For example, indications like the following are likely to be deemed not to have been objectively proven:

- a. indicating figures that are based on a desktop (fictitious) calculation as if they are actuals or fixed (including figures that are highly likely to mislead customers into believing that; the same applies to (2) and (3) below) and comparing them;
- b. indicating and comparing the contents, methods, performance, or the like of investment advisory services that are not actually conducted as those that are actually conducted; and
- c. showing evaluations and comments by only a few customers (including survey results) in a comparative indication as if they are general (majority) evaluations.

(2) Proven figures and facts are accurately and appropriately quoted.

For example, indications like the following are not likely to be deemed as an accurate and

appropriate quotation:

- a. making a comparative indication after removing those data, either arbitrarily or without conducting sufficient research despite the existence of more advantageous data such as on fees and performance;
- b. indicating performance or survey results under certain conditions for comparison as if they apply under any conditions;
- c. quoting performance figures of a very limited period, or results of a survey of a very few samples for comparative indication; and
- d. contents on which the timing of survey is specified and facts of which are accurately and appropriately stated as of that point but are contrary to facts as of now and thus are likely to mislead investors.

Note: When conducting an advertising review of comparative advertising, it is desirable to check data on which the figures are based regarding an accurate and appropriate quotation of figures and retain the record of it as necessary.

(3) The method of comparison is fair.

For example, indications like the following are not likely to be deemed as an accurate and fair comparison:

- a. comparing the contents, methods, or the like of investment advisory services that are not based on the same assumptions without a reasonable basis, and indicating them as if services conducted by the member is superior;
- b. for example, only evaluations by the member or a person requested by the member, or arbitrarily selected evaluations are shown in a comparative indication on a review website, affiliate website, listing advertisement, or the like as if they are objective evaluations by third parties; and
- c. placing an advertisement on a comparison site or the like knowing that its ranking is based on the size of advertising expenses.

2. Points of Attention regarding Tie-Up Articles

Attention needs to be paid that even if articles, opinions, or the like are posted through a tie-up (including both cases of paying or receiving a consideration and requesting or being requested without compensation) a member has with a website or other media operated by mass media (such

as television, radio, newspaper, and magazine) or any other company, organization, or an individual, those articles, opinions, or the like may be deemed to be advertising by the member. Any advertising that is deemed to be conducted by the member is required to be conducted appropriately in compliance with the Self-Regulation Standards on Advertising and Solicitation.

Even if they are not deemed to be advertising by the member, it is desirable that the member checks articles, etc. to be posted through the tie-up to ensure that their contents are accurate and appropriate before they are posted. In addition, if the contents of articles, etc. are found to be inappropriate after being posted, it is considered to be necessary for the member to take action such as requesting correction or deletion.

3. Points of Attention regarding Review Websites

Attention needs to be paid that if a member itself posts or requests a third party (including employees of the member) to post (regardless of whether a reward is given or not) so-called “word-of-mouth” information on a review website (meaning a website that carry word-of-mouth information, such as on reputation and rumors of companies, products, services, or the like; including not only websites aimed at exchanging word-of-mouth information but also websites where specific business operators post word-of-mouth information on their own products and services, and blogs and other websites providing information operated by individuals), the indication of the word-of-mouth information may be deemed to be advertising by the member. Any advertising that is deemed to be conducted by the member is required to be conducted appropriately in compliance with the Self-Regulation Standards on Advertising and Solicitation, such as by indicating matters required under laws as provided in Article 10 of those Standards. If any inappropriate indication is found with respect to word-of-mouth information privately posted by an employee of the member or family member or the like of the employee, which is not based on an instruction or request by the member, the member is required to take action such as having the employee delete or correct the information.

In addition, attention needs to be paid that, in addition to websites, a publication that carry the same word-of-mouth information as well as a document or the like that show processed or edited part of it may be also deemed to be advertising of the member. For example, indications like the following (not limited to cases of bearing advertising expenses or paying rewards) are considered to have the possibility of being deemed to be advertising by the member:

- a. an indication that is considered to explain the contents, methods, or the like of a member’s investment advisory services

- (e.g., the advisory service on ___ provided by ___ Co. (name of the member) is very helpful);
- b. an indication that is considered to be attracting action such as conclusion of an investment advisory contract with a member
- (e.g., you should apply to ___ Co. for an investment advisory contract); and
- c. an indication that misleads people into believing that an evaluation is conducted by a third party with respect to the contents, methods, performance, or the like of a member
- (e.g., “___ Co. is ranked top for advisory fees!);

<Reference>

Attention needs to be also paid that, in addition to the regulation on advertising under the Financial Instruments and Exchange Act, acts by a member such as a. writing a high evaluation of the member, b. writing a low evaluation of others, and c. having a low evaluation of the member deleted, etc. are likely to fall under the category of misleading representation in advertising as so-called stealth marketing, depending on factors such as its contents.

Supplementary Provisions

These Points of Attention come into effect as of July 17, 2014.