

Draft Insurance Regulatory and Development Authority of India (Insurance Advertisements and Disclosure) Regulations, 2020

F.No.IRDAI/Reg/xx/2020 - In exercise of the powers conferred by clause (zd) of sub-section 2 of section 114A of Insurance Act, 1938 read with Sections 14 and 26 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999), the Authority, in consultation with the Insurance Advisory Committee, hereby makes the following regulations, namely:-

Short Title and Commencement.

1. (i) These regulations may be called the Insurance Regulatory and Development Authority of India (Insurance Advertisements and Disclosure) Regulations, 2020.
- (ii) These regulations shall come into force on the date of their publication in the Official Gazette.

Objective

2. (i) To ensure that the insurers, intermediaries or insurance intermediaries are adopting fair, honest and transparent practices while issuing advertisements and avoid practices that tend to impair the confidence of the public.
- (ii) To ensure that the publicity material is relevant, fair and in simple language enabling informed decision making.

Definitions

3. Unless the context otherwise requires-

- (a) "Authority" means the Insurance Regulatory and Development Authority of India established under sub-section (1) of section 3 of The Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);
- (b) "Advertisement" means a communication, addressed to the public or section of it, the purpose of which is to influence the opinion or behaviour of those to whom it is addressed and includes insurance and institutional advertisements.
- (c) "Insurance advertisement" means and includes any communication directly or indirectly related to a policy or product and intended to result in the eventual sale or solicitation of a policy or product from the members of the public or urges a prospect or a policyholder to purchase, renew, increase, retain or modify a policy of insurance and shall include all advertisements issued through any mode or medium

(1) "Invitation to inquire" means an advertisement which highlights the basic features of insurance or insurance products issued in any mode or medium to generate interest or create a desire to inquire further about them.

(2) "Invitation to contract" means an advertisement containing the detailed information regarding the insurance or insurance products mainly to induce the public to purchase, increase, modify, revive, reinstate or retain a policy.

Explanation: The following materials shall not be considered to be an Insurance advertisement provided they are not used to induce the purchase, increase, modification, or retention of a policy of insurance: —

(i) materials used by an insurance company within its own organization and not meant for distribution to the public;

(ii) communications with policyholders other than materials urging them to purchase, increase, modify surrender or retain a policy;

(iii) materials used solely for the training, recruitment including employment notices, and education of an insurer's personnel, agents, intermediaries, counselors, and solicitors, provided they are not used to induce the public to purchase, increase, modify, or retain a policy of insurance

(iv) any general announcement sent by a group policyholder to members of the eligible group that a policy has been written or arranged.

v) tender notices to the member of public provided they are not used to induce the public to purchase, increase, modify, or retain a policy of insurance.

(d) Institutional advertisement: An advertisement of any nature which is not, either directly or indirectly, intended to solicit the insurance business, but only promotes the brand image of the insurers and/or its intermediaries and may contain the registered name, address, toll-free number, logo or trademark thereof. Advertisements issued in any mode or medium including those that highlight sponsorships fall under this category.

(e) Joint Sale Advertisements (JS): Any insurance advertisement brought out jointly by an insurer either with its corporate agent or with a micro-insurance agent or any other intermediaries or insurance intermediaries as may be allowed by the Authority from time to time.

(f) "Prospect" means any party that enters or proposes to enter into an insurance contract directly, or through an intermediary or insurance intermediary.

(g) "Unfair or misleading advertisement" means and includes any advertisement that:

(i) fails to clearly identify the product as insurance;

- ii) makes claims beyond the ability of the policy to deliver or beyond the reasonable expectation of performance;
- iii) describes benefits that do not match the policy provisions;
- iv) uses words or phrases in a way which hides or minimizes the costs of the hazard insured against or the risks inherent in the policy;
- v) omits to disclose or discloses insufficiently, important exclusions, limitations and conditions of the contract;
- vi) gives information in a misleading way;
- vii) illustrates future benefits on assumptions which are not realistic nor realisable in the light of the insurer's current performance; or deviates from the stipulation by the authority through regulatory provisions.
- viii) where the benefits are not guaranteed, does not explicitly say so as prominently as the benefits are stated or says so in a manner or form that it could remain unnoticed;
- ix) implies a group or other relationship like sponsorship, affiliation or approval, that does not exist;
- x) makes unfair or incomplete comparisons with products which are not comparable or disparages competitors.
- xi) uses design, content or format which disguise, obscure or diminish the significance of any statement, warning or other matter which an advertisement should contain.
- xii) use or denigrate names, logos, brand names, distinguishing marks, symbols etc., which may be similar to those already used by others in the market that may lead to confusion in the market place.
- xiii) use terms or phrases that convey a fabricated sense of security.
- xiv) where features or benefits prominently displayed are the features or benefits that are applicable under extreme or exceptional scenarios.

Words and expressions used and not defined in these regulations but defined in the Insurance Act, 1938 (4 of 1938), or the Life Insurance Corporation Act, 1956 (31 of 1956) or the General Insurance Business Nationalisation) Act, 1972 (57 of 1972), or Insurance Regulatory and Development Authority Act, 1999 (41 of 1999) shall have the meanings respectively assigned to them in those Acts as the case may be.

Compliance and control

4. (1) Every insurer, intermediary or insurance intermediary shall —

(i) have a compliance officer, whose name and official position in the organisation shall be communicated to the Authority, and who shall be responsible to oversee the advertising programme;

(ii) establish and maintain a system of control over the content, form, and method of dissemination of all advertisements concerning its policies or products.

(iii) maintain an advertising register at its corporate office which must include:

(a) a specimen of every advertisement disseminated, or issued or a record of any broadcast or telecast, etc.;

(b) a notation attached to each advertisement indicating the manner, extent of distribution and form number of any policy or product advertised, and

(iv) maintain a specimen of all advertisements for a minimum period of three years.

(v) file a copy of each advertisement with the Authority within 7 days of its release, together with information:

(a) an identifying number for the advertisement;

(b) the UIN number(s) of the policy(ies) or Products advertised and when the product(s) were approved by the Authority;

(c) a description of the advertisement and how it is used.

(d) the method or media used for dissemination of the advertisement.

(vi) File a certificate of compliance with their annual statement stating that, to the best of its knowledge, advertisements disseminated by the insurer or by its intermediaries during the preceding year have complied with the provisions of these regulations and the advertisement code as stated in Regulation 13 within 30 days of closing of financial year.

(2) The advertisement register shall be subject to inspection and review by the authorized officials of the Authority.

(3) No person shall publish any unfair or misleading advertisement which comes under the provision of Regulation 3 (g).

Changes in advertisements

5. (1) Any change in an advertisement would be considered a new advertisement except in those cases where the advertisement is issued in other languages and other formats, with no change in content, design, image to that of base version of English and/or Hindi.

(2) All the provisions of regulation 4 shall apply *mutatis mutandis* to an advertisement referred to in sub regulation (1).

(3) The Authority shall be informed at the time of filing the advertisement the extent of change in the original advertisement.

Clarity in Advertisements

6. (1) Every insurer, intermediary or insurance intermediary shall prominently disclose in the advertisement, its full particulars, and not merely any trade name or monogram or logo.

(2) All insurance advertisements should ensure that:

(a) communications are clear, fair and not misleading whatever be the mode of communication. They should use material and design (including paper size, color, font type and font size, tone and volume) to present the information legibly and in an accessible manner.

(b) sales material and advertisements are comprehensible.

(c) the names of the product and benefits shall be as per the product filing with the Authority.

(d) the mandatory disclosures shall also be in the same language as that of the whole advertisement.

(e) all Insurance advertisements must prominently state the availability of underlying element of 'insurance coverage' to clearly identify the product as an insurance product.

Advertisements by Insurance Agents

7. (1) Every advertisement by an insurance agent must be approved by the insurer in writing prior to its issue;

(2) It shall be the responsibility of the insurer while granting such approval to ensure that all advertisements that pertain to the company or its products or performance comply with these regulations and are not deceptive or misleading.

Explanation: An agent shall not be required to obtain written approval of the company prior to issue for: —

(i) those advertisements developed by the insurer and provided to the agents;

(ii) generic advertisements limited to information like the agent's name, logo, address, and phone number; and Advertisements that consist only of simple and correct statements describing the availability of lines of insurance, references to experience, service and qualifications of agents; but making no reference to specific policies, benefits, costs or insurers.

Advertisements by insurance intermediaries

8. Intermediaries or insurance intermediaries as defined under clause (f) of sub section(1) of Section 2of IRDA Act, 1999, may advertise or solicit insurance through advertisements.

Advertising on the internet or through electronic media

9. (1) Website or portal of every insurer, intermediary or insurance intermediary shall —

(i) contain disclosure statements which outline the website’s specific policies vis-à-vis the privacy of personal information for the protection of both their own businesses and the consumers they serve.

(ii) display their registration or license numbers on their web sites.

(2) In case of communications on or through internet or any other electronic media, an insurer, intermediary or insurance intermediary should ensure that the recipients or viewers have the opportunity to view the full text of the relevant key features; relevant terms and conditions; any other applicable risk information and they shall not be hidden away in the body of the text. It shall be easily obtained, before any application form is offered. In case of e-mail communications there should be a provision to unsubscribe from the mailing list.

(3) For the purposes of these regulations, except where otherwise specifically excluded or restricted, no form or policy otherwise permissible for use shall be deemed invalid or impermissible, if such form or policy accurately reflects the intentions of the parties in such form or policy as published electronically or transmitted electronically between parties.

Endorsement and other third party involvement

10. (1) No insurer, intermediary or insurance intermediary shall allow a third party whether individual, association, entity or group to –

(i) distribute information about an insurance policy, intermediary or insurer, on its letterhead or through any mode or medium including mail system or domain.

(ii) distribute information about an individual insurance policy, or about an insurance intermediary or insurer in its envelopes or through any mode or medium including mail system or domain, unless–

a) the third party is providing only a distribution service for the insurance advertisement and is not itself soliciting the coverage, and

b) the insurance information is a piece separate from any other information distributed by the third party and clearly indicates its origin.

(iii) recommend that its members purchase specific insurance products.

(iv) imply that a person must become a member of its organization in order to purchase the insurance policy.

(v) imply that a purchaser of an insurance policy by becoming a member of a limited group of persons shall receive special advantages from the insurer not provided for in the insurance policy or product.

Rating or Ranking or Awards

11. (1) Any claim of rating or award should be based only on those declared by entities which are independent of the insurers and its affiliates. Insurers and its affiliates should neither pay nor procure services from such independent entities so as to get a rating or award.

(2) Source of such rating or award including year in which such rating or award is received shall be disclosed conspicuously and legibly in such advertisements.

(3) No claim of ranking by Insurer or insurance intermediary, as regards its position in the insurance market, based on any criteria (like premium income or number of policies or branches or claims settlements etc.,) is permissible in any of the advertisements.

(4) All insurers shall use or publish claims paid ratios, as per the instructions issued from time to time.

Procedure for action for violation of regulatory provisions

12. If an advertisement issued by an insurer, intermediary or insurance intermediary is not in accordance with these regulations the Authority may take action against them in one or more of the following ways:

(i) issue a letter to the insurer, intermediary or insurance intermediary seeking information within a specific time, not being more than ten days from the date of issue of the letter;

(ii) direct the insurer, intermediary or insurance intermediary to correct or modify the advertisement already issued in a manner suggested by the Authority with a stipulation that the corrected or modified advertisement shall receive the same type of publicity as the one sought to be corrected or modified;

(iii) direct the insurer, intermediary or insurance intermediary to discontinue the advertisement forthwith;

(iv) any other action deemed fit by the Authority, keeping in view the circumstances of the case, to ensure that the interests of the public are protected.

The insurer, intermediary or insurance intermediary may seek additional time from the Authority to comply with the directions justifying the reasons therefor. The Authority, may, however, refuse to grant extension of time if it feels that the insurer, intermediary or insurance intermediary is seeking time only to delay the matters.

Any failure on the part of the insurer, intermediary or insurance intermediary to comply with the directions of the Authority may entail the Authority to take such action as deemed necessary including levy of penalty.

Adherence to Advertisement code

13. Every insurer or insurance intermediary shall follow recognised standards of professional conduct as prescribed by the Advertisement Standards Council of India (ASCI) and discharge its functions in the interest of the policyholders.

Statutory warning

14. Every proposal for an insurance product shall carry the following stipulation, as prescribed in section 41 of the Insurance Act, 1938 :— "No person shall allow or offer to allow, either directly or indirectly, as an inducement to any person to take out or renew or continue an insurance in respect of any kind of risk relating to lives or property in India, any rebate of the whole or part of the commission payable or any rebate of the premium shown on the policy, nor shall any person taking out or renewing or continuing a policy accept any rebate, except such rebate as may be allowed in accordance with the published prospectus or tables of the insurer."

Power to interpret and issue clarifications

15. In respect of the application or interpretation of any of the provisions of these Regulations, the Chairperson of the Authority may issue appropriate circulars, clarifications or guidelines, as and when required.

Repeal and Savings:

16. (1) The IRDA (Insurance Advertisements and Disclosure) Regulations, 2000 shall be repealed from the date these Regulations come into force.

(2) Unless otherwise provided by these Regulations, nothing in these Regulations shall deem to invalidate the Advertisements released prior to these Regulations coming into force.