



**THE MINISTRY OF INDUSTRY AND  
TRADE**

**Circular No. 40/2012/TT-BCT of  
December 21, 2012, on grant of food  
advertisement content certificates  
under the management of the Ministry  
of Industry and Trade**

*Pursuant to the Government's Decree No. 189/2007/ND-CP of December 27, 2007, defining the functions, tasks, powers and organizational structure of the Ministry of Industry and Trade;*

*Pursuant to the Government's Decree No. 44/2011/ND-CP of June 14, 2011, amending and*

*supplementing Article 3 of the Government's Decree No. 189/2007/ND-CP of December 27, 2007, defining the functions, tasks, powers and organizational structure of the Ministry of Industry and Trade;*

*Pursuant to the June 17, 2010 Law on Food Safety;*

*Pursuant to the Government's Decree No. 38/2012/ND-CP of April 25, 2012, detailing a number of articles of the Law on Food Safety;*

*The Minister of Industry and Trade promulgates the Circular prescribing the grant of food advertisement content certificates under the management of the Ministry of Industry and Trade as follows:*

Chapter I

GENERAL PROVISIONS

**Article 1.** Scope of regulation

This Circular provides the competence, order and procedures for certification of advertisement contents being names, ingredients, uses, use instructions, preservation and effect warnings (if any) of one or a group of the following kinds of food (below referred to as advertisement contents): liquor, beer, soft drink, processed milk, vegetable oil, processed flour and starch products, confectionery and jam.

**Article 2.** Subjects of application

This Circular applies to:

1. Organizations and individuals producing, processing, packaging and trading in liquor,

beer, soft drink, processed milk, vegetable oil, processed flour and starchy products, confectionery and jam which are advertised in the Vietnamese territory (below referred to as establishments).

2. Other related agencies, organizations and individuals.

**Article 3.** Conditions for obtaining advertisement content certificates

1. The establishment has a complete and valid registration dossier as prescribed in Article 8 of this Circular.

2. The food products are outside the list of products and goods banned from advertising under current law.

3. The establishment's food products meet food safety requirements or are of establishments/countries on the list of those recognized by competent Vietnamese agencies to fully meet food safety requirements under current law.

4. Advertisement contents are accurate and true to the quality and food safety assurance as announced and registered.

**Article 4.** Principles of advertisement contents

1. One dossier of registration for certification of advertisement contents is made only for one kind of food product.

2. Advertisement contents may be used in different forms of advertisement (in the mass media, on packages, leaflets, posters, books, newspapers, etc.).

3. Advertisement contents may be advertised nationwide after being certified by competent agencies.

**Article 5.** Responsibilities of establishments registering for advertisement content certification

An establishment registering for advertisement content certification shall:

1. Register for advertisement content certification in accordance with Chapter II of this Circular.

2. Take responsibility before law for the accuracy and truthfulness of its declaration and registration of food advertisement contents under regulations.

3. To advertise food in accordance with the certified contents only.

4. To advertise food only when the food advertisement content certificate remains valid.

5. To suspend food advertisements with inappropriate contents in the course of market inspection.

6. To pay charges and fees for the grant of advertisement content certificates in accordance with current law.

**Article 6.** Responsibilities of advertisement content certification agencies

An advertisement content certification agency shall:

1. Receive registration dossiers and guide establishments in carrying out registration procedures.

2. Assume the prime responsibility for, and coordinate with related units in:

a/ Appraising registration dossiers, notifying appraisal results and granting advertisement content certificates in accordance with Article 9 of this Circular;

b/ Publish on the websites of competent agencies specified in Article 13 of this Circular lists of food products of establishments having obtained advertisement content certificates and establishments having advertisement content certificates cancelled;

c/ Inspect and supervise food advertising activities of certified establishments according to the competence prescribed in Article 13 of this Circular.

## Chapter II

### DOSSIERS, PROCEDURES AND COMPETENCE TO GRANT FOOD ADVERTISEMENT CONTENT CERTIFICATES

**Article 7.** Registration for advertisement content certification

1. First registration: Applicable to each kind of food of a producer having not obtained an advertisement content certificate or to food products having obtained an advertisement content certificate which is, nevertheless, cancelled.

2. Re-registration: Applicable to food products whose advertisement contents have been certified but later change or whose advertisement content certificates expire.

**Article 8.** Dossiers of registration for food advertisement content certification

An establishment specified in Article 2 of this Circular shall submit 1 (one) complete dossier of registration for advertisement content certification conformable with food safety regulations to an advertisement content certification agency specified in Article 13 of this Circular.

1. A first registration dossier comprises:

a/ An application for food advertisement content certification, made according to a set form;

b/ A certified copy of the valid certificate of the establishment's eligibility for food safety granted by a competent agency;

c/ A certified copy of the establishment's business registration certificate with relevant business line;

d/ A certified copy of the receipt of the regulation conformity statement (for products for which technical regulations have been promulgated and effective) or food safety regulation conformity statement (for products for which corresponding technical regulations have not been promulgated and effective);

e/ Scientific documents evidencing that the products' properties and uses are the same as registered advertisement contents;

f/ The draft advertisement version (video clip, image, reportage, article, etc.);

g/ Advertising written authorization or advertising service hiring contract, for registration for advertisement certification by advertising service providers.

2. A re-registration dossier comprises:

a/ An application for food advertisement content certification, made according to a set form;

b/ A written explanation enclosed with documents related to the modified advertisement content;

c/ The documents specified at Points b and f, Clause 1 of this Article.

3. All the documents specified in Clauses 1 and 2 of this Article must bear the seal of the agency, organization or person registering for food advertisement content certification.

**Article 9.** Receipt, appraisal and grant of food advertisement content certificates

1. Within 3 (three) working days after receiving a registration dossier from an establishment, an advertisement content certification agency specified in Article 13 of this Circular shall verify the dossier and guide the establishment in supplementing the dossier as required.

2. Within 15 (fifteen) working days after receiving a complete and valid registration dossier, the advertisement content certification agency shall appraise the dossier and collect charges and fees in accordance with Article 12

of this Circular and notify the establishment of the result of advertisement content appraisal by:

a/ Granting a food advertisement content certificate, made according to a set form, if the advertisement contents are eligible;

b/ Issuing a notice clearly stating the reason for not certifying the advertisement contents and requirements for adjustment, supplementation and completion of the dossier, if the advertisement contents are ineligible.

3. The validity term of a food advertisement content certificate is based on:

a/ The validity of the certificate of the establishment's eligibility for food safety granted by a competent agency (applicable to domestic establishments);

b/ The validity of a competent Vietnamese agency's written recognition of eligibility for food safety of the Vietnam-bound food exporting country or establishment.

**Article 10.** Re-grant and grant of food advertisement content certificates

1. When its advertisement content certificate is lost, missing or damaged, an establishment may send a written request for re-grant of the certificate to the competent agency having granted that certificate for consideration. Within 5 (five) working days after receiving a written request, the advertisement content certification agency shall consider re-granting a certificate. In case of refusal, it shall issue a written reply clearly stating the reason.

2. A food product having obtained an advertisement content certificate under Clause 2, Article 13 of this Circular which is advertised for sale in Vietnam but is later exported must be registered for advertisement content certification with an advertisement content certification agency specified in Clause 1 of Article 13. The registration dossier shall be received and appraised in accordance with Article 9 of this Circular.

**Article 11.** Cancellation of advertisement content certificates

A food advertisement content certificate is cancelled in the following cases:

1. Advertising food when the certificate expires.
2. Tampering with or modifying the contents of the certificate.
3. Through inspection, the establishment's food products are detected to fail to meet prescribed food quality and safety requirements or fail to meet inspection, assessment and classification requirements.
4. Advertising food untruthfully, causing confusion to consumers, or not in conformity with the certificate.

**Article 12.** Charges and fees

Organizations and individuals registering for advertisement content certification shall pay charges and fees for the appraisal and grant of food advertisement content certificates to advertisement content certification agencies in

accordance with law.

Chapter III

IMPLEMENTATION PROVISIONS

**Article 13.** Organization of implementation

1. The Science and Technology Department under the Ministry of Industry and Trade shall act as the focal point in performing the functions specified in Article 6 of this Circular, receive and appraise dossiers, notify appraisal results and grant food advertisement content certificates for imported food products, exported food products and food products of establishments obtaining certificates of eligibility for food safety from the Ministry of Industry and Trade; and review and report on the implementation of this Circular nationwide.

2. Provincial-level Industry and Trade Departments shall receive and appraise dossiers, notify appraisal results and grant food advertisement content certificates for food sold in Vietnam of food producers and traders in their provinces or cities which obtain certificates of eligibility for food safety from provincial-level Industry and Trade Departments; and periodically and irregularly review and report on the implementation of this Circular in their provinces or cities to provincial-level People's Committees and the Ministry of Industry and Trade.

**Article 14.** Effect

1. This Circular takes effect on February 3, 2013.

2. Any problems arising in the course of implementation should be promptly reported to the Ministry of Industry and Trade for consideration and settlement.-

*For the Minister of  
Industry and Trade*  
Deputy Minister  
NGUYEN CAM TU

*Minister of the Ministry of Industry and Trade*  
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