

MANDATORY INFORMATION IN THE FINANCED PRICES ADVERTISING

By Marcelo E. Gallo

Which is the mandatory information that must be included in the financed prices advertising?

Several modifications that were recently included in the resolutions issued by the Secretariat of Trade of the Nation and in the regulations of the Central Bank of the Argentine Republic (*Banco Central de la República Argentina -BCRA-*) setting forth the mandatory information that must be included in advertisements that inform financed prices have generated many doubts in advertisers.

In fact, a larger or lower amount of information is usually included in financed prices advertisements than the amount required by the provisions in force. And occasionally the information varies greatly from that required by regulations.

The purpose of this article is to try to clarify said doubts.

Firstly, I highlight that in the advertising of financed prices, each advertisement must include the information set forth in subsections a) and b) of section 5th of Resolution 915/2017¹, similar to the previous one required by the Resolution of the Secretariat for the Defense of Competition, Deregulation and Consumer's Defense N° 7/2002, although now it is not mandatory to specify the corporate name of the provider of the product and its domicile in the country² or the express specification of such circumstance if it does not appear, the location and extent of the advertised goods must be informed (before, this was mandatory as regards services).

The information related to the essential features of the advertised goods and services as well as on some of their commercialization conditions may be supplied, as provided for in section 4th of Resolution 915/2017³ through a Webpage or toll free service number, and in such event such circumstance must be informed in the advertisement.

In other words, the advertising units announcing financed prices must include the following information, pursuant to section 4th and subsections a) and b) of section 5th of Resolution 915/2017:

¹ Text of the section according to its substitution by section 23 of [Resolution N° 248/2019](#) of the Secretariat of Domestic Trade, published in the Official Gazette on 5/24/2019. Effectiveness: as from the date following its publication in the Official Gazette.

² Pursuant to section 8th of Act 24,240 on the Consumer's Defense the obligation to inform the domicile survives in the cases where the offers of goods and services are made through the telephone shopping system, catalog buying or by mail orders, published by the media, in which the name, domicile and taxpayer identification number (*CUIT*) of the provider of the product must appear. In such cases, in addition, the publication of a post office box as a domicile is not allowed (According to section 33, Act 24,240).

³ Text of the section pursuant to its substitution by section 22 of [Resolution N° 248/2019](#) of the Secretariat of Domestic Trade, published in the Official Gazette on 5/24/2019. Effectiveness: as from the date following its publication in the Official Gazette.

- (i) The Price of each of the goods and services or services subject to advertising, expressed in accordance with the provisions of section 2nd of Resolution 7/2002, as regards the payment currency and type of good or service;
- (ii) The trademark, model, type or size of the advertised goods and services;
- (iii) The country of origin of the goods and services;
- (iv) The location and extent of the goods and services;
- (v) The phrase: “FOR MORE INFORMATION SEE...” or “FOR MORE INFORMATION CALL TOLL FREE TO THE PHONE ...”⁴
- (vi) The total financial cost of each advertised financing alternative⁵ and
- (vii) The cash price, advance payment, if any, and the number and amount of each installment.⁶

But the foregoing is not the only information that must be included in the advertisements of financed prices.

When financing is granted by financial institutions or through credit or purchase cards, the information required by the regulations of the BCRA shall be included also regarding the PROTECTION OF FINANCIAL SERVICES USERS.

In those cases – the vast majority - should be informed also in the advertisement, in a readable form, as set forth by the regulations on “INTEREST RATES IN CREDIT OPERATIONS” issued by the BCRA, paragraph 4.1., in the event that it is advertised through any individual or mass media (newspapers, magazines, billboards in the streets or in construction sites, the Internet, leaflets, correspondence, etc.), specific credits offers –such as personal loans or by means of credit cards– and the number of installments or their amount or interest rate must be mentioned:

- (viii) Annual nominal interest rate;
- (ix) Annual effective interest rate;
- (x, *idem* vi) The total financial cost⁷ and
- (xi) A fixed or variable interest rate.

Likewise, as set forth in section 9th of Resolution 7/2002, when financing is not granted by the provider of the product or service, advertisement must inform to the public:

⁴ What we are concerned with here, is to furnish the information required by paragraph second of section 4th of Resolution 7/2002, as authorized by the regulation of section 4th, subsection c. of Resolution 915/2017 (text according to Resolution 248/2019).

⁵ Pursuant to section 5th, subsection b. of Resolution 915/207, text substituted by section 23 of [Resolution N° 248/2019](#) issued by the Secretariat of Domestic Trade, published in the Official Gazette on 5/24/2019, that provides that said information shall – and as set forth by section 4th “shall no longer” be furnished through a webpage or toll free service number. Effectiveness: as from the date following its publication in the Official Gazette. Said information shall be supplemented by another one, as we will see below, when financing is not offered by the seller of the goods or the provider of the services.

⁶ This information, required by the second paragraph of section 4th of Resolution 7/2002 may, according to section 5th, subsection b., second paragraph of Resolution 915/2017 (text according to Resolution 248/2019) be supplied through a website or a toll free service number.

⁷ The interest rates and financial cost must be informed in percentages bearing at least a decimal.

(xii) The name of the entity(ies) in charge of said financing.

Finally, as required by section 7th of Act 24,240, on Consumer's Defense and by section 7th of Annex I of decree 1798/94 (that regulates Act 24,240), the following must be informed:

(xiii) The precise start/end dates of the offer and the announcer's available stock to cope with demand.

In short, in most advertisements informing financed prices **the following shall be informed without fail**:

- (1) The price of each of the goods or services subject matter of the advertisement, expressed in accordance with the provisions of section 2nd of Resolution 7/2002, with respect to the payment currency and the type of good or service;
- (2) The trademark, model, type or size of the advertised goods and services;
- (3) The country of origin of the goods and services;
- (4) The location and extent of the goods and services;
- (5) The phrase: "FOR MORE INFORMATION SEE..." or "FOR MORE INFORMATION CALL TOLL FREE TO THE PHONE ...";
- (6) The total financial cost of each advertised financing alternative;
- (7) The cash price, advance payment, if any and the number and amount of each installment;⁸
- (8) Annual nominal interest rate;
- (9) Annual effective interest rate;
- (10) A fixed or variable interest rate;
- (11) The name of the entity(ies) in charge of said financing; and
- (12) The precise start/end dates of the offer and the announcer's available stock to cope with demand.

Where should the Mandatory Information be placed?

Since neither Resolution 915/2017 nor the other regulations mentioned before that govern the issue require that the information listed above be included in certain places, as it was required for part of it by the derogated section 8th of Resolution 7/2002, said information may be freely placed in the advertising units, provided that they may be easily read.

In which font size should the Mandatory Information be included?

The new section 4th of Resolution 915/2017⁹ partially made up for the omissions in its original text, by providing now the size that should be used in the inclusion of legends and warnings set forth as

⁸ As I mentioned above, this information may be furnished through a Website or toll free service number.

⁹ Text substituted by section 22 of [Resolution N° 248/2019](#) of the Secretariat of Domestic Trade, published in the Official Gazette on 5/24/2019. Effectiveness: as from the date following its publication in the Official Gazette.

mandatory by the national or provincial Acts and the regulations thereof and their stays on screen.¹⁰

According to the new wording of paragraph b) of item 1 of the above said section 4th, said legends or warnings shall be included:

(a) In graphic media: with typographic characters of not less than two (2) millimeters of height in the sense of the publication writing, in colors contrasting with it. The letters shall be legible and clear and must not confuse the reader.

(b) In television, film or digital media: with a type of easily readable letter, in colors contrast, in the sense of the publication and with typographic characters of an equal screen height of two percent (2%) or a higher one.

The total financial cost information must be included in highlighted color typography, of identical font and with a size at least five times—keeping all the proportions of thickness of strokes, height and width—larger than the one used to inform the level of the annual nominal rate.

Some issues on the size of the letters of the Mandatory Information not resolved by regulations

As I pointed out in a previous work, published in Abogados.com.ar. on June 4, 2019¹¹, curiously, the regulation of section 4th, item 1., paragraph b. of Resolution 915/2017¹² does not set a minimum size of letters for mandatory mentions in street advertising different from the one provided for the rest of the advertisements in graphic media (as it does in paragraph c. of the same item 1., in the case of the legends “FOR MORE INFORMATION SEE...” or “FOR MORE INFORMATION CALL TOLL FREE TO THE PHONE”..).

Consequently, it might be thought that said mandatory mentions -at least in the cases in which the provisions that impose them do not set a different height - could be included in street advertising with letters of two (2) millimeters height. But this is not the case, because its inclusion with said size would turn said legends unreadable and then the advertisement would be “misleading” in accordance with section 5th of Resolution 248/2019.¹³

As I also pointed out in the above said work, the enforcement authorities of the regulation may tend to apply, by analogy, item i of paragraph c. of section 4th of Resolution 915/2017, that provides for a minimum height of the letters in street advertising for the phrases “FOR MORE INFORMATION SEE...” and “FOR MORE INFORMATION CALL TOLL FREE TO THE PHONE ...” of two percent (2%) of height of the advertisement. But, in the absence of an express reference, I consider that

¹⁰ I understand that -in spite of its omission in the text- they must be considered included in the regulation of legends and warnings set as mandatory by the legal and regulatory provisions issued by the City of Buenos Aires.

¹¹ “Legal requirements for advertising: modifications to the Resolution 915/2017”.

¹² Text according to Resolution 248/2019.

¹³ That considers as such the advertisement in which the supplied information is incomprehensible as a result of the size of its letters, among other reasons.

the size of the letters could be smaller, provided that they are clearly readable in the advertisement as from the consumer's standpoint.

I do not understand either, why the phrases "FOR MORE INFORMATION SEE..." and "FOR MORE INFORMATION CALL TOLL FREE TO THE PHONE..." may be included in digital media "... with easily readable typographic characters, according to the device used." And instead, the other mandatory phrases referred to above must be included in said digital media "...with typographic characters of an equal screen height of two percent (2%) or a higher one ..."

Stay on Screen of the Mandatory Information

The stay on screen of information in cases of television, film and digital advertising, is set now at least in three (3) seconds.¹⁴

The provision does not expressly provide, like the previous one (Resolution 789/98), that broadcasting for a minimum amount of three (3) seconds as it requires, must be continuous. Therefore, it can be expected that the information could be shown in the advertisement more than once, at least three (3) seconds each time, provided that the total duration is of at least three (3) seconds. In my opinion, that is a reasonable interpretation only if the broadcasting thereof, of less than three (3) seconds, allows the public to read in whole the information in question every time that it is broadcasted.

Radio and sound Advertising

Even though the new section 4th, item 1, paragraph b. of Resolution 915/2017 is not referred to radio or sound advertising when it regulates mandatory legends or warnings (again, a curious omission, because it requires it, at least for radio media, in the case of the legends "FOR MORE INFORMATION SEE..." and "FOR MORE INFORMATION CALL TOLL FREE TO THE PHONE..."), these should be "spoken" in a clear and audible manner, as required by section 5th of Resolution 248/2019.¹⁵

Buenos Aires, August 26, 2019.

¹⁴ Resolution 917/2017, section 4th, subsection b, ii), pursuant to the substitution by section 22 of [Resolution N° 248/2019](#) of the Secretariat of Domestic Trade, published in the Official Gazette on 5/24/2019. Effectiveness: as from the date following its publication in the Official Gazette.

¹⁵ That considers that the advertisement in which the information supplied cannot be understood as a result of the speed of speech -among other cases- is misleading.