

**Draft concept of self-regulatory  
development of Russia's advertising  
industry**

**2017 – 2022**

## **1. PREFACE**

Self-regulation of the advertising industry has traveled a long way in developed nations and has proven its efficiency and significance in the system of economic regulation. East European countries (mostly in the 1990s), Turkey, India and China have acquired a new self-regulation experience of their own.

This concept is based on:

- ❖ International practice studied in Project ADVERTISEMENT. GLOBAL STANDARDS implemented by the online edition Reklamny Sovet (materials attached hereto)
- ❖ Analysis of history of the development of Russia's self-regulatory system from 1994 until the present day (a brief profile attached hereto)
- ❖ Study of the advertising industry's oversight exercised by the principal state advertising regulator, the Federal Anti-Monopoly Service, based on materials of the service and advertising expert councils of the service's territorial divisions published by the online edition Reklamny Sovet (materials attached hereto)
- ❖ Study of the actual situation on the Russian market of marketing communications in 2016 – 2017.

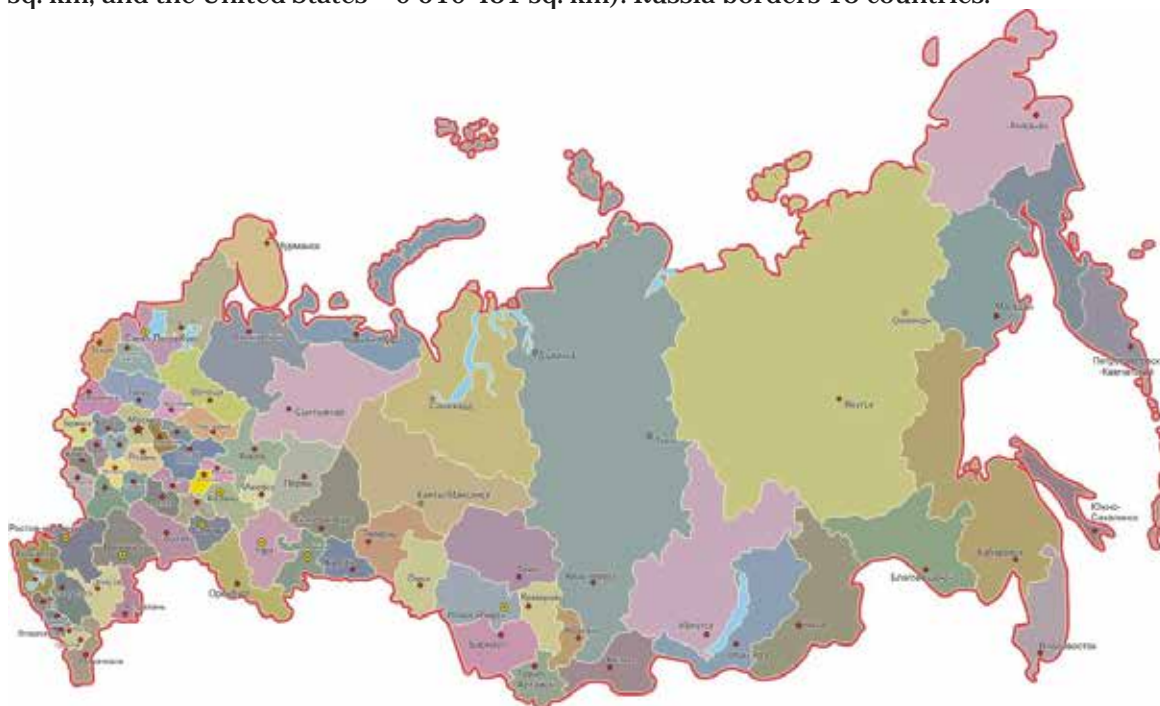
## 2. BACKGROUND

### 2.1. RUSSIA AS ADVERTISING SELF-REGULATION SUBJECT

Why does Russia need a special approach to advertising self-regulation?  
What should be taken into consideration?

#### **Territory**

Russia is the biggest country (17 151 442 sq. km), which occupies 1/8 of the world's land. Russia is nearly twice bigger than its runners-up (Canada – 9 984 670 sq. km, China – 9 598 962 sq. km, and the United States – 9 519 431 sq. km). Russia borders 18 countries.



In contrast to other countries, Russia has **complex administrative division** into:

- **8** federal districts,
  - **85** constituent territories of the federation, among them 22 republics, one autonomous region, four autonomous districts, nine territories, 46 regions and three federal cities.
- Each constituent has a different degree of economic independence, level of economic development, and industrial potential.

#### **Population**

The population stands at 146 804 372 people.

The fact that Russia is a multinational and multi-confessional state is important. More than 190 peoples populate Russia.

**Subjective factors** include Russia's relatively little experience of democratic development and traditions.

Seventy years of totalitarian state regulation of the country's economic and social life still have an impact on the behavior of economic entities, consumer psychology, and motivation of civil servants in the decision-making process.

Everyone acknowledges the inefficiency of authoritarian governance of economic processes and the impossibility to create a feasible and operational system of economic regulation in a totalitarian state.

Nobody can deny the insufficient development of civil society and social institutes and a lack of public trust in fair judiciary, on one hand, and paramount authority of governmental agencies, on the other hand.

### CONCLUSIONS:

With this in mind, the concept's authors believe that an analysis of global self-regulatory practices should demonstrate a certain synergy applicably to Russia:

- ❖ Practices of big countries with a similar federal structure (such as the United States or Canada),
- ❖ Advertising self-regulation in countries with a strong tradition of state influence on the life of society and business, preferably countries with a big population and territory (Turkey, India or China),
- ❖ Advertising self-regulation development in new European democracies that emerged in the middle of the 1990s and the early 21<sup>st</sup> century (Poland, Bulgaria or Romania) although these are small unitary countries.

An emphasis should be put on the practices of the world's self-regulation classics, such as the United Kingdom which boasts more than 60 years of advertising self-regulation.

## 2.2. RUSSIA'S ADVERTISING MARKET

Is Russia different from other countries in terms of advertising market development?  
How can these peculiarities influence the choice of an advertising self-regulation path?

**FIRST OF ALL:** Dynamics of Russia's advertising industry development, 2000 – 2016.

The overall advertising by various types of mass media reached 350 billion rubles excluding VAT in 2016, or 11% more than the year before. Considering budgets spent on creative solutions, production of advertisements and services of advertising agencies, the total volume of the Russian market of marketing communications reached approximately 630 – 650 billion rubles.

According to the official sources, Russia ranks the world's 16<sup>th</sup> by the market volume and occupies the seventh position in Europe (after the UK, Germany, France, Italy and a little behind Spain and Switzerland).

Russia's advertising market tends to grow despite the tangible decline rooted in the 2015 economic situation.

### Volume of Russia's advertising market in 2000-2016, bln rubles, excluding VAT

	2000 r	2001 r	2002 r	2003 r	2004 r	2005 r	2006 r	2007 r	2008 r	2009 r	2010 r	2011 r	2012 r	2013 r	2014 r	2015 r	2016 r
Телевидение	6,6	12,4	24,0	31,8	41,5	55,8	72,8	95,9	117,7	96,4	110,8	131,5	143,4	156,2	159,8	136,7	150,8
Радио	1,4	2,5	3,8	5,0	6,3	8,0	10,2	13,6	13,1	9,2	10,3	11,8	14,6	16,7	16,9	14,3	15,1
Пресса	10,9	14,9	19,8	24,0	29,3	36,7	44,9	55,9	63,8	35,6	38,0	40,4	41,2	37,0	33,0	23,3	19,7
ООН	3,9	6,5	10,2	13,4	17,4	26,1	32,9	41,7	47,7	27,4	32,8	38,4	42,6	46,4	45,7	36,2	38,4
Интернет	0,0	0,2	0,3	0,6	1,3	2,4	4,8	10,2	14,9	17,8	27,0	42,2	59,0	77,0	97,0	112,3	136,0
ИТОГО по медиа рынку	22,8	36,5	58,2	74,8	95,8	129,0	165,7	217,3	257,2	186,4	218,9	264,3	300,8	333,3	352,5	322,8	360,0

Television, Radio, Press, Out of Home, The Internet, Media market's TOTAL

### Dynamics of Russia's advertising market in 2000 – 2016, %

	2000 г.	2001 г.	2002 г.	2003 г.	2004 г.	2005 г.	2006 г.	2007 г.	2008 г.	2009 г.	2010 г.	2011 г.	2012 г.	2013 г.	2014 г.	2015 г.	2016 г.
Телевидение	68%	88%	94%	33%	31%	34%	30%	32%	23%	-18%	15%	19%	9%	9%	2%	-14%	10%
Радио	60%	79%	52%	32%	26%	27%	28%	33%	-4%	-29%	12%	15%	23%	14%	2%	-16%	6%
Пресса	58%	37%	33%	21%	22%	25%	22%	25%	14%	-44%	7%	6%	2%	-10%	-11%	-29%	-16%
ООН	118%	69%	57%	31%	30%	50%	26%	27%	14%	-43%	20%	17%	11%	9%	-1%	-21%	6%
Интернет	-	-	73%	73%	116%	85%	102%	111%	46%	19%	52%	56%	40%	31%	26%	16%	21%
ИТОГО по медиа рынку	69%	60%	59%	28%	28%	35%	28%	31%	18%	-28%	17%	21%	14%	11%	6%	-8%	11%

Television, Radio, Press, Out of Home, The Internet, Media market's TOTAL

### Structure of Russia's advertising market in 2000 – 2016, bln rubles, %

	2000 г.	2001 г.	2002 г.	2003 г.	2004 г.	2005 г.	2006 г.	2007 г.	2008 г.	2009 г.	2010 г.	2011 г.	2012 г.	2013 г.	2014 г.	2015 г.	2016 г.
Телевидение	29%	34%	41%	43%	43%	43%	44%	44%	46%	52%	51%	50%	48%	47%	45%	42%	42%
Радио	6%	7%	7%	7%	7%	6%	6%	6%	5%	5%	5%	4%	5%	5%	5%	4%	4%
Пресса	48%	41%	34%	32%	31%	28%	27%	26%	25%	19%	17%	15%	14%	11%	9%	7%	5%
ООН	17%	18%	18%	18%	18%	20%	20%	19%	19%	15%	15%	14%	14%	13%	13%	11%	11%
Интернет	0%	1%	1%	1%	1%	2%	3%	5%	6%	10%	12%	16%	20%	23%	28%	35%	38%
ИТОГО по медиа рынку	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

Television, Radio, Press, Out of Home, The Internet, Media market's TOTAL

The 'outdoor advertising' and 'other' segments, which include indoor and movie theater advertising budgets, were incorporated in the Out of Home segment last year. The updated volume of the advertising market reflected every change.

According to the latest data of the Russian Association of Communication Agencies <http://www.akarussia.ru/node/7849>.

SECOND OF ALL: As we have mentioned before, Russia has a huge territory, uneven economic development of its regions, concentration of big business in the center, and apparently uneven distribution of advertising budgets between territories, which is proven by the table herein.

The overall volume of regional advertising in selected cities topped 29.3 billion rubles excluding VAT in 2016, or 1% more than in the previous year. In contrast to the regional advertising market as a whole, which dropped by 1%, big cities basically demonstrated a slightly better dynamics. The dynamics ranged between -16% and +9% depending on the city.

Region	TV	Radio	Press	Outdoor advertising **	Total in four media segments
Volgograd	197	94	109	309	709
Yekaterinburg	883	285	576	827	2 571
Kazan	569	218	758	661	2 206
Krasnoyarsk	414	199	217	604	1 434
Nizhny Novgorod	652	221	332	522	1 727
Novosibirsk	710	240	657	947	2 554
Omsk	353	129	126	416	1 024
Perm	466	145	271	354	1 236
Rostov-on-Don	415	164	124	466	1 169

Samara	575	174	396	558	1 703
St. Petersburg	3 576	1 280	1 935	3 452	10 243
Ufa	444	145	149	593	1 331
Chelyabinsk	448	158	206	590	1 402
Total in 13 cities	9 702	3 451	5 856	10 300	29 309

*The volume of regional advertising via mass media in biggest cities in 2016 \* (excluding the Moscow regional advertising market), mln rubles.*

*\* 2015 data was adjusted in particular segments and particular cities.*

*\*\* The outdoor advertising segment includes total budgets of all advertisers in the city (both federal and regional).*

### **CONCLUSION:**

Advertising self-regulation in central regions (Moscow, St. Petersburg) may fail unless it is synchronized with similar processes at least in regional centers.

### **2.3. STATE REGULATION OF RUSSIA'S ADVERTISING INDUSTRY**

The state regulatory system envisages a broad range of laws regulating the advertising industry and a network of executive agencies exercising control over the enforcement of those laws.

Russia has a strong tradition of state regulation.

#### **Legislation**

The first edition of Law on Advertising No 108-FZ passed on July 18, 1995, and lasted for over a decade without any substantial additions or adjustments.

The State Duma adopted a new law on advertising on February 22, 2006. It is still in effect.

The main problem with Russian laws at this moment is the wish of the legislative and executive authorities to tighten them and to make never-ending changes and additions.

#### **Regulators**

The Federal Anti-Monopoly Service is the principal (only) state regulator in Russia.

The Federal Anti-Monopoly Service is a federal executive authority entitled to adopt normative legal acts, and to control and oversee the enforcement of laws on competition on commodity markets, the market of financial services, the activity of natural monopoly entities and advertising.

THE DEPARTMENT ON OVERSIGHT OF ADVERTISING AND UNFAIR COMPETITION is the Federal Anti-Monopoly Service's division which regulates advertising in Russia. Territorial departments of the service also have divisions overseeing the compliance with advertising laws.

## Breaches

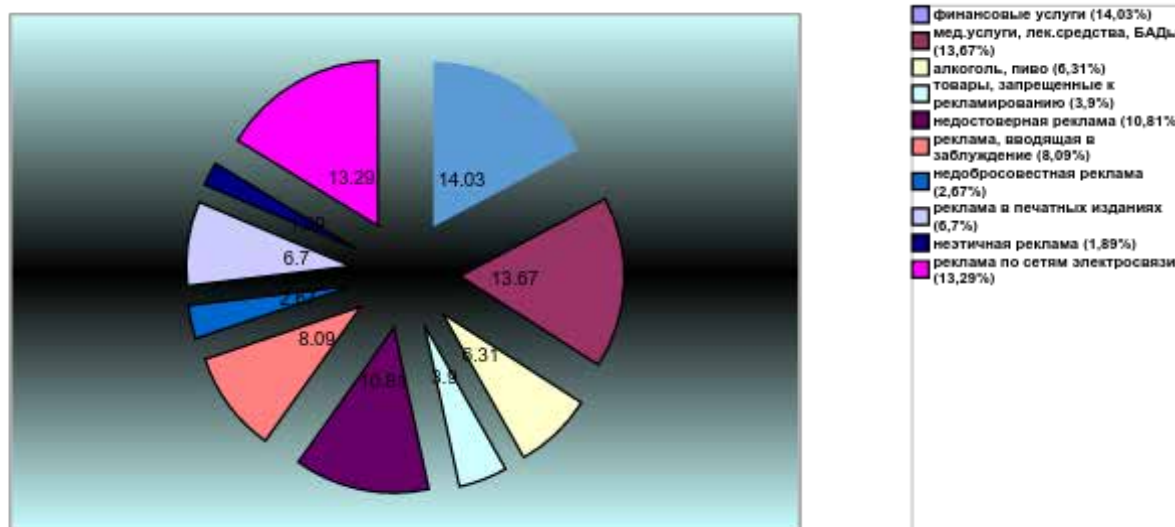
### Outcomes of state control over the enforcement of Russian advertising laws in 2016

#### General structure of breaches

	2016	2015
Number of investigated facts indicating breaches of Russian advertising laws	20 000	21 000
Number of processed statements on advertisement's failure to comply with advertising laws	12 190	14 664
Number of cases opened on breaches of Russian advertising laws, Number of breaches stopped	4 805 6 659	6 598 7 870
Number of administrative cases opened, Number of fine orders to a sum, Including fines for failure to comply with orders to stop breaching advertising laws To a sum	4 718 2945 129 543 800 rubles 18 2 332 000 rubles	5 066 3984 199 597 600 rubles 231 29 666 000 rubles

#### Breaches by area of activity, 2016

Financial services (14.03%), medical services, medicines, biologically active additions (13.67%), alcohol, beer (6.31%), goods prohibited for advertising (3.9%), inaccurate advertising (10.81%), misleading advertising (8.09%), fraudulent advertising (2.67%), advertising in printed media (6.7%), unethical advertising (1.89%), television, radio and online advertising (13.29%)



The diagram shows that:

Most breaches uncovered by anti-monopoly agencies occurred in the advertising of **financial services**, 14.03% of all uncovered violations (as against 12.24% in 2015).

The number of violations in the advertising of **medicines, medical services and biologically active additions** also constituted a fair share of uncovered violations 13.67% (v. 7.61% in 2015).

**Misleading advertisements** amounted to 8.09% of all violations in 2016, which was comparable to the 2015 index (7.48% of all violations in 2015).

The scope of **inaccurate advertisements** grew a bit year-on-year: 10.81% of all violations in 2016 (as against 9.75% in 2015).

The number of violations in the advertising of **alcoholic products, beer and beer-based beverages** increased inconsiderably year-on-year (6.31% of all violations in 2016, compared to 4.87% in 2015).

The number of **fraudulent advertisements** did not change much: 2.67% of all violations in 2016 (1.98% in 2015), same as the number of **unethical advertisements**, which stood at 1.89% in 2016 (1.65% in 2015).

The number of violations in **television, radio and online advertisements** drastically reduced in 2016 to the 2013 level (13.29% of all violations uncovered in 2016, as against 13.15% in 2013), primarily due to the modification of mailing laws (the violations stood at 31.4% in 2015, and 47.17% in 2014).

**IMPORTANT!!!** Most cases are processed by territorial departments of the Federal Anti-Monopoly Service. The service's central staff processes no more than 10% of all cases. For instance, 940 applications were processed in 2016; 895 of them were rejected, and cases were opened on the basis of 45 applications (including 11 applications filed by legal entities, and 34 applications filed by citizens). The Federal Anti-Monopoly Service opened eight cases at its own initiative (without somebody else's application).



## 2.4. CO-REGULATION

The activity of the **Federal Anti-Monopoly Service's Expert Council on the Enforcement of Advertising Laws** sets an example of attempts at creating a co-regulatory system in Russia.

The Expert Council on the Enforcement of Advertising Laws was founded in 2004 to assist the Anti-Monopoly Service in dealing with most complex issues in the assessment of advertisements' compliance with Russian laws. The Expert Council includes representatives of federal executive agencies and associations of advertisers, producers and distributors of advertisements, and experts on particular fields of knowledge.

**The Council is an advisory body.**

Primary objectives of the Expert Council include examination and assessment of advertisements' content, their influence on consumers, and authenticity of information, as well as elaboration of proposals on an improvement of advertising laws.

**Expert councils have also been set up under territorial departments of the Federal Anti-Monopoly Service.** St. Petersburg is the only place where the expert council is independent from the territorial department of the Federal Anti-Monopoly Service.

The Federal Anti-Monopoly Service and its territorial departments take decisions of expert councils into consideration in overseeing the compliance with advertising laws and processing of administrative cases.

The attached profile titled '**ACTIVITY OF EXPERT COUNCILS ON THE ENFORCEMENT OF ADVERTISING LAWS UNDER TERRITORIAL DEPARTMENTS OF THE FEDERAL ANTI-MONOPOLY SERVICE**' presents principal topics of the inquiries, which can give an idea of the core activity of the future self-regulatory body.

### **CONCLUSIONS:**

- ❖ Given the Russian tradition and history of state regulation and co-regulation, it would be necessary to have a single legislative act to regulate advertising and a single state regulator in the person of the Federal Anti-Monopoly Service.
- ❖ Alongside growth of the self-regulatory body's authority, it may be vested with some regulatory functions, and some advertising restrictions imposed by existent (or pending) laws may be referred to self-regulatory acts.
- ❖ The structure of consumer applications filed in regions and the activity of expert councils under territorial departments of the Federal Anti-Monopoly Service prove the need for synchronized development of self-regulatory processes in Russia.

## 2.5. SELF-REGULATION IN RUSSIA (1995 – 2017)

### **How did it begin?**

There have been multiple attempts to create a self-regulatory body (SRO) in Russia.

**1995** – the first attempt to create an advertising self-regulatory body in modern Russia was made, and a number of individuals set up the Public Council on Advertising. The International Chamber of Commerce's Consolidated Code of Advertising and Marketing Communication Practice was signed in April 1995.

Since **1997** the Public Council on Advertising has been operating at the Chamber of Commerce and Industry of Russia with the increasing involvement of the Federal Anti-Monopoly Service, the Russian Association of Communication Agencies, the Russian Union of Journalists, the International Confederation of Consumer Societies, and other non-governmental organizations. The Council started to resemble similar associations of the world addressing advertising standards, as it involved unions of journalists, advertisers and advertising agencies. Conformant to global standards, the Public Council on Advertising established ethics and complaints committees. The work on a code of business customs and rules began.

In **1998** the Public Council on Advertising joined the European Advertising Standards Alliance (EASA).

In **1999** the Council was reorganized into a non-profit partnership, the Advertising Council of Russia. The Council looked into unethical, inaccurate and fraudulent advertisements and presented itself as a formally independent entity although it had a strong governmental component.

In **2001** the Advertising Council of Russia developed and approved the Advertising Code of Russia, the first systemic self-regulatory act adjusting principal ideas of the International Code of Advertising Practice to national realities.

In **2003** the Advertising Council of Russia ceased to exist

### **New attempts**

A new attempt to develop the advertising self-regulatory system in Russia was linked to the establishment of the Council of Media Industry Associations which included practically every principal actor of the media market, such as Mediasoyuz, the Guild of Press Publishers, the Association of Communication Agencies, the Association of Advertisers, the Public Relations Association of Russia, the National Association of Broadcasters, etc.

The Council did not address specific law enforcement practices or compliance with the code at its meetings.

In 2004, the Council set up a public commission on advertising ethics and good practice tasked with preventing breaches of professional ethics in the advertising industry. The commission failed as well.

The unsuccessful attempts to create a single self-regulatory body in Russia prompted the principal state regulator to set up its own advisory body under the Federal Anti-Monopoly Service.

### **Exception**

The St. Petersburg Public Council on Advertising stands out in the history of self-regulation of the Russian advertising industry. It was set up in 1995 consistent with Article 28 of the Law on Advertising and united the most authoritative members of the city advertising industry and mass media, heads of associations of chief editors, and the association of advertising agencies. In fact, it has become an independent body settling disputes and processing consumer complaints. The St. Petersburg Public Council on Advertising operates until the present day.

### **What has been done?**

One of the few positive results of the joint efforts of Russia's advertising industry actors is the elaboration and legitimization of the main self-regulatory document, the Russian Code of Advertising and Marketing Communication Practice.

The document is based on the provisions and principles of the International Chamber of Commerce/World Business Organization Consolidated ICC Code of Advertising and Marketing Communication Practice dated 1 June 2006.

The Code was signed by the leaders of 19 communication associations. It has been posted on association websites but is not easily accessible. Nothing is being done to promote (or, so to say, enforce) the code.

#### **CONCLUSIONS:**

- ❖ The said historical processes in the development of advertising self-regulation and co-regulation, both successful and unsuccessful attempts, have created a situation in which the advertising industry and the government represented by the regulator have every objective and subjective reason to establish a self-regulatory system of full value.
- ❖ Considering the negative Russian experience, the concept presents a five-year phased development program rather than a package of one-time measures, which would result in the establishment of yet another organization.
- ❖ As we have said before, while seeking to avoid mistakes, the concept's authors not only studied the establishment and operation of self-regulatory bodies in countries, which differ from one another by their territory, administrative structure and public mentality, but also presented those practices for public consideration on the Reklamny Sovet website.

### **3. GLOBAL PRACTICE**

While preparing the concept, the authors studied and popularized in the professional community the experience of various countries in the creation of a self-regulatory system. Those countries included the ones with an experience exceeding 50 years, such as the United Kingdom, and countries, which are still forming their self-regulatory system, among them China, Turkey and Bulgaria.

While studying the experience of various countries, the authors could ask clarifying questions to heads of self-regulatory bodies, as well as the European Advertising Standards Alliance (EASA – Cross-Border Complaints System), which marks the 25<sup>th</sup> anniversary and unites ALL (!) advertising self-regulatory bodies of the world.

Materials accumulated in the course of Project 'ADVERTISING. GLOBAL STANDARDS' and published on the website <http://sovetreklama.org/> are attached to the concept.

The concept authors are guided with the universal notion of advertising regulation. The European Advertising Standards Alliance (EASA – Cross-Border Complaints System) defines the essence and purpose of advertising self-regulation in the following way:

*The self-regulatory principles never change: ads shall be legal, decent, honest, truthful, prepared with a sense of social responsibility and created with due respect to the rules of fair competition. This goal is achieved by means of the rules and principles of best advertising practice, to which the advertising industry voluntarily commits itself. The rules are applied by self-regulatory organizations founded to this end by the advertising industry itself. Their purpose is to ensure high standards of advertising and consumer confidence to the benefit of every interested party.*

A study of foreign practices and communication with the heads of self-regulatory bodies of certain countries and major international advertisers enabled the concept's authors to single out essential common principles necessary for building a self-regulatory system irrespective of national peculiarities and issues, which every country may address from the angle of national and territorial specifics and the degree of state authority. These issues have been highlighted as OPEN TO DEBATE (!)

### **IMPORTANT CONCLUSIONS – COMMON PRINCIPLES:**

**A!** The advertising self-regulatory system represented by a self-regulatory body is independent from government.

**B!** The self-regulatory body does not substitute state regulation, it operates with the framework of laws as a supplement and undertakes functions, which state regulators are ready to delegate. In some countries these powers are delegated by special agreements approved by either governments or parliaments.

**C!** Self-regulatory bodies implement main principles by means of national codes of advertising practices based on the International Chamber of Commerce/World Business Organization Consolidated ICC Code of Advertising and Marketing Communication Practice (attached hereto).

**D!** The advertising self-regulatory organization, which, in particular, is bound to monitor compliance with the code, is set up by three principal parties:

- advertisers or their associations,
- advertising agencies or their associations,
- advertisement distributors or their associations.

The constant 'trio' not only minds the interests of all advertising market actors but also provides a decision-implementing mechanism, as any decision to change or remove an advertisement can be rapidly fulfilled by the media (for instance, a television channel).

There are some exceptions (see the clause OPEN TO DEBATE).

**E!** The self-regulatory body forms a number of councils (units) which are mandatory, as a rule, such as a council settling disputes, a council processing consumer complaints, and an appeal panel. Usually, every member of the self-regulatory body (advertisers, agencies and the media) appoints its representative to the council.

There are other models as well (see the clause OPEN TO DEBATE).

**F!** Self-regulatory procedures prescribe ways as to how a conflict of interest can be avoided.

**G!** It is possible to appeal decisions within the self-regulatory body (the appeal panel). In case a decision is not fulfilled, the media may be compelled to stop displaying the advertisement. Sanctions are also possible, including release of decisions, notification of associations, and other 'reputational' methods.

There are some exceptions (see the clause OPEN TO DEBATE).

**H!** In each country, self-regulatory bodies have their memorandum (charter) and procedures of operation. Those documents are published on websites of self-regulatory organizations.

**I!** As a rule, self-regulatory bodies are funded by the industry with membership fees (including a special tax levied in the UK). Contributions of the advertising industry are mandatory.

**J!** The self-regulatory body has a small staff, which organizes the activity and provides technical support.

**K!** All self-regulatory bodies are members of the European Advertising Standards Alliance (EASA).

### **IMPORTANT CONCLUSIONS – OPEN TO DEBATE:**

**Re clauses A! and B!** – a relationship between the self-regulatory body and governmental agencies should be clarified in the concept of the establishment of the advertising self-regulatory system. Given the practices of countries with strong state authority and economic regulation, there is a phased (step-by-step) process of the reassignment of powers from the state regulator to the self-regulatory body depending on the activity and outcomes of the self-regulator's activity.

**Re clause D!** – a number of big countries, for example, India (which has the second largest population in the world and the seventh largest territory), have a fourth element of the self-regulatory organization –marketing and research companies, PR associations and even education establishments. Russia also has associations with direct influence on the advertising market, such as the Guild of Marketing Specialists, the Russian branch of the Global Association for Marketing at Retail, the Club of Marketing Specialists, the Public Relations Association of Russia, etc.

**Re clause D!** – some countries have individual membership, an instrument operating outside the system of non-governmental associations (the United States, India and Bulgaria). There are plans that, during the initial stage of the self-regulatory body's operation in Russia, its activity should be PREDOMINANTLY carried out via non-governmental industry unions, such as legal entities, which would promote the emergence of civil society and a civilized advertising market.

**Re clause E!** – considering Russia's specifics (weak civil society, territorial disconnection, etc.), the concept envisages the establishment of a special division to promote the development and interact with territorial bureaus (on the U.S. example) and a special council on social advertisements and social responsibility, which will start with fostering advertising and self-regulatory values in the business community and amongst consumers.

**Re clause G!** – perhaps, mala fide market actors shall be punished at the first stage with the assistance of the state regulator (the Federal Anti-Monopoly Service). For instance, in the UK (see the background info), the state regulator is one of the last institutions to which the case of a mala fide advertiser or any advertising market actor is referred. In India, the government bans commercials on channels with state licenses in case such commercials are not approved by the self-regulatory body (see the background info).

**Re clause I!** – in addition to mandatory contributions made by the industry, various self-regulatory organizations are funded with/or consultation fees, and/or dispute settlement fees (excluding consumer complaints), and/or sales of their products (for instance, in the United States), and/or coaching sessions. It is important to envisage target contributions for the activity of particular divisions or target projects.

# **ESTABLISHMENT AND LAUNCH OF ADVERTISING SELF-REGULATORY BODY IN RUSSIA IN 2017–2022**

- ❖ Who in Russia may be the founder (organizer) of the self-regulatory body?
- ❖ How can Russia’s self-regulatory body be named?
- ❖ Principal functions of Russia’s self-regulatory body
- ❖ Structure of the self-regulatory body
- ❖ Procedure of the establishment and operation of the self-regulatory body
- ❖ Interaction with federal and regional governmental agencies and affiliated industrial, consumer and business associations
- ❖ Procedure of funding the self-regulatory body
- ❖ Main steps and stages of the self-regulatory body’s development until 2022

## **1. Who in Russia may be the founder (organizer) of the self-regulatory body?**

As we have said, self-regulatory bodies, which also exercise control over compliance with the code, are usually established by the advertising industry’s TRIO, which stands for the interests of three component part of the advertising industry: advertisers, advertising agencies, and distributors of advertisements represented by industry or professional unions.

Given:

- ❖ the present-day structure of non-governmental associations,
- ❖ the existence of the self-regulatory code signed by the heads of principal non-governmental associations, whose implementation is expected to be controlled by the self-regulatory body,
- ❖ the existence of the advertising business committee, which practically unites all those organizations,

The following composition of the principal co-organizers of the self-regulatory body has been suggested:

### **ON BEHALF OF ADVERTISING AGENCIES**

Russian Association of Communication Agencies (RACA)	since 1993	Over 200 agencies, regional	2	Association members render advertising and marketing services, including development of advertising (creative) products, media planning,
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		branches	media buying, strategic planning, advertisement placing in media outlets and the Internet, public relations, sales and demand promotion, goods and services promotion, including at sales points, direct marketing, sponsorship, marketing and other types of research, design and packing, branding, decoration of sales points, etc.
Russian Branding Companies Association (RBCA)	2010	70 agencies representing 12 Russian regions	A voluntary association of legal entities – businesses professionally designing consumer, corporate, non-governmental, regional and national brands. Consolidation of association members for the purposes of the industry's identification and elaboration of areas for solving current and future tasks

The Russian Association of Communication Agencies (RACA) has every capacity to become the only organization representing advertising agencies, which provide services to clients (advertisers) across Russia, including regions, through the opening of regional offices. The association may develop its own (internal) codes of honor and bona fide practices and independently interact with other industry associations.

OPEN TO DEBATE (!): The Russian Branding Companies Association may act on its own within the self-regulatory body, or it may delegate powers to the Association of Communication Agencies.

### ON BEHALF OF ADVERTISERS

Non-Profit Partnership RusBrand	since 2002	More than 50 domestic and international majors. Partnership members represent over 58% of the televised advertising market	Russia's biggest association of manufacturers of consumer goods. RusBrand's activity aims to establish a constructive dialogue with all market actors and governmental agencies. The partnership prioritizes protection of intellectual property, assistance in the formation of a competitive media market, bolstering of partnership between industry and trade which foster mutual business development, support to administrative and legal reform, and educational activity regarding the role and significance of brands
Association of Advertisers	since 1997		Undergoing reorganization

**Non-Profit Partnership RusBrand** is primarily focused on international brands or major advertisers (such as Russky Standart, MTS, Megafon), which are rather disciplined actors of the advertising market due to their corporate regulations. Besides, RusBrand has its own self-regulatory system for members.

**Association of Advertisers.** Judging by the statistics of Advertising Law breaches, the risk zone mostly comprises financial, medical (pharmaceutical), real estate, retail, and some other types of Russian comprises. Hence, it is a major task to ‘compel’ advertisers of various levels to comply with international and Russian advertising standards and to engage them in the self-regulatory processes. The Association of Advertisers, which acts as the Russian office of the World Federation of Advertisers (WFA), will be vested with this task. A network of regional offices of the Association of Advertisers will open simultaneously with the creation of territorial bureaus of the self-regulatory body, and agreements will be concluded with industry associations representing various forms of business, such as:

The Retail Companies Association, the Union of Alcohol Producers, the Russian Brewers’ Union, the Association of Russian Banks, Non-Profit Partnership of Biologically Active Additives Manufacturers, the Association of Russian Pharmaceutical Manufacturers, and others.

**ON BEHALF OF ADVERTISEMENT DISTRIBUTORS**

Advertisement distributors traditionally fall into the following categories: printed press, television, the radio, outdoor advertisements (Out-of-home), and the Internet (online trade and social networks stand alone in a number of developed countries).

<b>Printed press</b>			
Guild of Press Publishers (GPP)	1998	Over <b>300</b> companies, including about 250 regional	<b>Primary objective of GPP</b> is to create favorable conditions for development of publishing business in Russia and to form an integral publishing community. Publishers affiliated to GPP release more than 2 500 printed editions, including major dailies, and consumer, business, scientific, entertainment and field-specific magazines GPP initiates and launches industry projects in the fields of distribution, industry statistics, advertising and media measurement, industry education, printing and paper, and renders various services to publishers
<b>Television and the radio</b>			
National Association of Broadcasters (NAB)			A non-profit organization, a professional association of Russian television and radio companies. NAB protects rights and interests of its members in legislative and executive authorities, and gives legal, advisory and information support to association members
National Advertising Alliance (NAA)	2016		National Advertising Alliance (NAA) was founded in 2016. Its principal area of activity is the



			implementation of advertising capacities of media holdings – its founders and the provision of services to advertisers. NAA sells and places federal commercials on television channels of media holdings Channel One, VGTRK, Gazprom Media, NMG, STS Media, Zvezda and TVC. It services the biggest theme channels Discovery, Viasat, RBC and others. NAA's non-TV clients include radio stations of VGTRK Holding (Radio Russia, Mayak, Radio Russia. Culture. Vesti FM), Govorit Moskva, and Mir, as well as movie theater networks Cinema Park, Formula Kino, Karo, and Luxor, retail chains Perekryostok, Pyatyorochka, Magnit, Auchan City and MediaMarkt, in addition to displays in major airports, higher education establishments, taxis and media facades
Radio academy			
<b>Out-of-home advertising</b>			
National Association of Visual Communications (NAVC)	since 2003	15 major out-of-home advertising operators	<p>NAVC seeks to become a single coordination center capable of formulating new high industry standards, forming the agenda and providing platforms for discussion of pressing regulatory issues. NAVC is the association of best members of the professional visual communications community. Its <b>principal targets</b> include consolidation of efforts of out-of-home market actors, their intellectual and creative potential aimed at the emergence of long-term and civilized conditions for visual communications business and efficient mechanisms of the industry's self-regulation.</p> <p>Defense and protection of industry interests in a frank and open dialogue with legislative and executive authorities, non-governmental organizations, and business unions.</p> <p>Elaboration and implementation of new professional standards of visual communications, media measurement and market analysis. Expert analysis</p> <p>Development of mechanisms aimed at higher ethical standards and social and educational functions of out-of-home advertising</p>
<b>Interactive advertising, Internet</b>			
Non-profit partnership	since 2012		The partnership aims to assist its members in the development of interactive advertising and

promoting interactive advertising Russia	IAB		marketing in Russia; the promotion and propaganda of interactive methods of marketing communications and advertising of goods and services; improvement of interactive advertising and marketing communication by using global practices.
Association of Telecommunications (AT)	Since 2006	More than 150 telecommunications market actors	Its mission is to form a civilized telecommunications market, support projects in industry education and science, and encourage laws that would protect market actors.

## 2. How can Russia's self-regulatory body be named?

As a rule, self-regulatory bodies of the world are called an ORGAN (which is not the best sounding name) an ALLIANCE or a COUNCIL.

They address either advertising standards or advertising self-regulation. Therefore, we are suggesting the following names:

- Council on Advertising Standards
- Council on Self-Regulation of the Advertising Industry
- Alliance of Advertising Standards
- Advertising Self-Regulatory Alliance

## 3. Principal functions of Russia's self-regulatory body (SRO)

**Elaboration and adjustment of the code, elaboration of standards and regulations.** Advertising standards need constant updates. Some countries impose special standards on subjects, which the government deems to be the most sensitive. The United States singles out the protection of children and social network advertisements as a separate self-regulated field, while the UK adopted special standards of gender policy in advertising in July 2017.

**Processing of consumer appeals (complaints) against fraudulent advertisements.** This is one of the most important tasks of the self-regulatory body. SRO may receive consumer appeals either from governmental agencies and non-governmental associations or directly from consumers as a result of its information campaigns.

**Settlement of disputes between market actors.** Any SRO seeks such authority in the professional community, which will encourage market actors to settle their disputes within SRO rather than seek assistance of regulators. For instance, the U.S. self-regulatory organization, Advertising Self-Regulatory Council (ASRC), has a motto suggesting that its services are cheaper than legal action.

**Promotion of advertising standards.** SRO should be constantly promoting advertising standards laid down by its code. The business community often describes the code promotion

as 'COMPULSION' to sign and implement advertising standards. The term 'EDUCATION' is used in relation to consumers. Consumers should know that advertising industry professionals want their advertisements to be decent, truthful and honest and file their appeals with SRO rather than the police whenever they are discontent. India carries out programs of the kind under the slogan of conscientious advertisements. Hence, MAXIMAL TRANSPARENCY is one of the SRO principles.

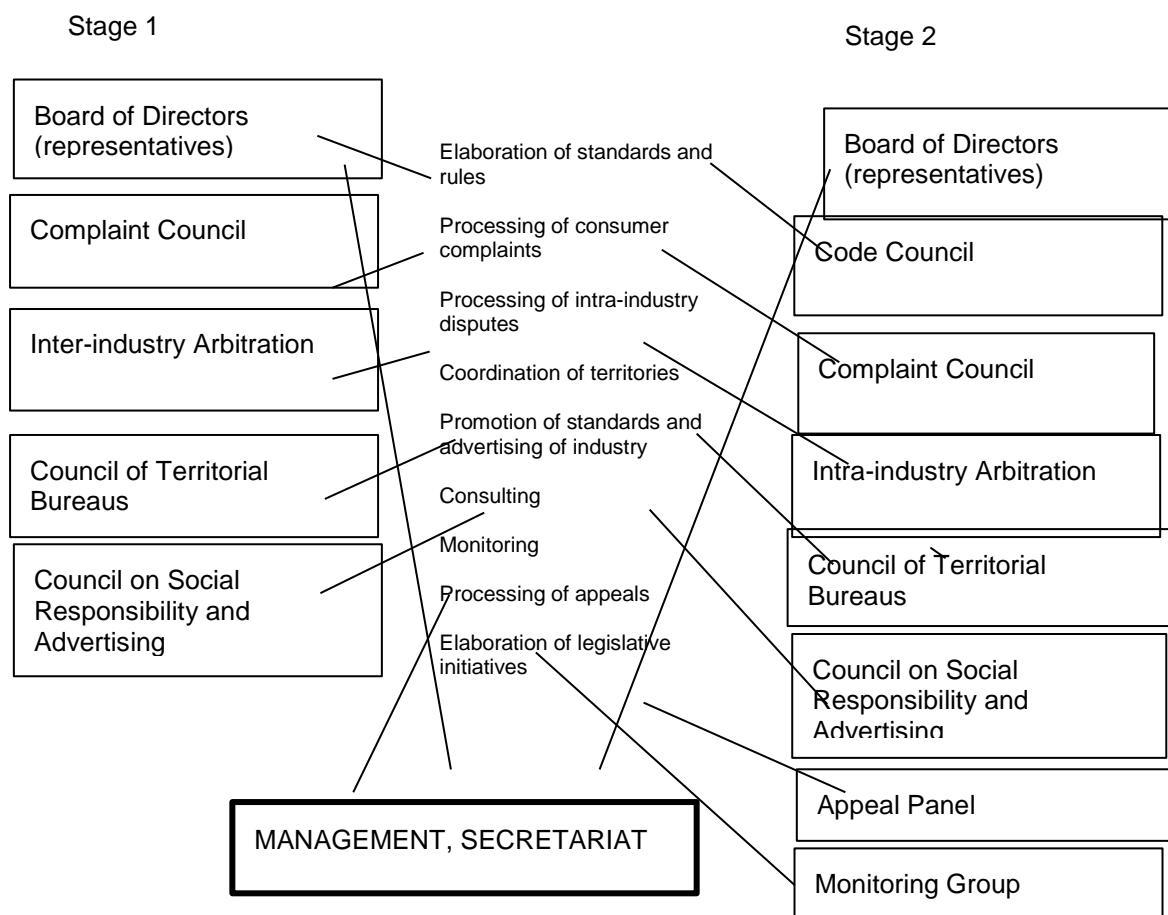
**Consulting.** At a certain stage, SRO should acquire grounds and the right to provide consultations to market actors on the compliance of their advertisement with the SRO principles. Far from all SRO exercise this function. In some cases SRO reassigns consulting to outsourcing companies. So, this function is OPEN TO DEBATE.

**Advertisement monitoring.** In many countries SRO undertakes to monitor advertisements' compliance with the standards. India is the most illustrative example: its SRO has entered into an agreement with a company, which monitors principal online and printed editions. The U.S. SRO performs random monitoring of the most sensitive issues (advertisements for children and in social networks), the UK conducts theme monitoring (for instance, in July 2017, the accuracy and honesty of advertisements were monitored within the anti-fraud month).

#### **4. Structure of the self-regulatory body**

The structure of any SRO is being constantly improved. This draft suggests a structure of the first (organizational) stage and a structure, which may be discussed, adjusted and modified during the second stage. Chart No 1 presents segregation of functions defined by Section 3 between the SRO's units.

Chart No 1



A procedure of forming SRO and its divisions should be determined in the course of an in-depth consideration of the structure.

## 5. Procedure of the establishment and operation of the self-regulatory body

At the first stage, SRO should comprise organizations affiliated to the CCI of Russia Committee on Entrepreneurship in Advertising, which have signed the code and harmoniously fit the universal idea of the advertising industry's TRIO (see Section 1).

During the first stage, the CCI of Russia Committee on Entrepreneurship in Advertising (which consists of the heads of industry members) will act as a founding body (which is named either a meeting or an assembly depending on the country).

Preferably, the maximal consensus (!) should be the foundation of the process forming SRO divisions.

**The Board of Directors (representatives)** is actually the principal body coordinating SRO activities. The Board of Directors shall consist of representatives formally delegated by SRO founders on the principle of one organization – one representative. Those delegates should be fully vested with power to address SRO development issues. Whenever objections are raised against a founder's representative on the grounds of a conflict of interest, this representative should be replaced. At the initial stage, the Board of Directors should elaborate the code and

regulations, act on SRO's behalf in legislative and executive authorities, and perform other functions that need to be fulfilled although they are not dubbed as its inherent duties.

**The Complaint Council (CC)** is the most efficient division of SRO. It is traditionally formed of experts, authoritative and esteemed specialists. At first, those may be members of the Advertising Expert Council under the Federal Anti-Monopoly Service (excluding businessmen), who have already proven their worth. In the future, non-governmental organizations, which act as the SRO founders, may nominate their candidates to the Complaint Council (perhaps, consistent with the quota set by the Board of Directors). The candidates will have to be confirmed by every industry organization affiliated to the SRO system. The Complaint Council shall be processing materials of the monitoring initiated by the Board of Directors in addition to processing other documents.

**The Council of Territorial Bureaus (CTB)** is bound to coordinate the activity of SRO territorial bureaus. The Council consists of heads of territorial bureaus, representatives of non-governmental organizations who provide liaison with regions. It also includes a representative of the CCI of Russia. The initial task of the Council of Territorial Bureaus is to create territorial bureaus in regions and to synchronize those processes with the activity of non-governmental organizations working to commence their own regional offices. It is also due to elaborate a code based on precedents and to propose that precedents be used as the foundation of the code's implementation.

At first, the Council of Territorial Bureaus may be entrusted by the Federal Anti-Monopoly Service with coordination of the activity of the service's expert councils and fulfillment of a regional self-regulation program.

**The Council on Social Responsibility and Advertising (CSRA)** will be developing standards of the production and placing of non-commercial advertisements, assessing social projects (on the basis of appeals), elaborating and implementing programs to promote the code and self-regulation values in the business community and amongst consumers, and authoring programs, which would raise the prestige of the advertising industry in the eyes of consumers. CSRA will be made of specialists, acclaimed experts, approved by the industry, and representatives of non-governmental organizations and governmental agencies.

**The Intra-Industry Arbitration (IIA).** Alongside growth of its influence in the industry, SRO will start building an institution, which will hear disputes between advertising industry actors from various fields of market communication. The institution will include authoritative lawyers, community leaders, and industry professionals. IIA members should have an impeccable reputation. IIA should have clear and transparent regulations.

**The Appeal Panel.** As a rule, all SRO have a body to which entities displeased with decisions of the councils may turn. The need for setting up this body and the procedure of its formation are expected to be determined on results of SRO's initial activity.

**The Monitoring Group.** Wherever SRO decides to monitor advertisements' compliance with advertising laws, this is done either by its own group or a research company providing monitoring services on the outsourcing terms.

**Management. Secretariat.** At first, SRO is supposed to have a small managerial staff – the managing director and the executive secretary. They may also be a chairman in some situations. In this case, **the chairman** is expected to elaborate and implement SRO development plans in every area, to interact with all SRO members, governmental agencies and federal consumer associations, as well as other interested representatives of civil society, territorial departments

of the Federal Anti-Monopoly Service and offices of the CCI of Russia in the establishment of territorial bureaus, and to address other strategic tasks. The **managing director** shall organize the daily routine of SRO units, meetings of its councils and work with experts, draw estimates, and prepare regulations, a promotion program, etc. **The executive secretary** shall control technical and organizational issues of communication, and the drawing of protocols and other documents, as well as receive applications, maintain correspondence, etc.

## **6. Interaction with federal and regional governmental agencies and affiliated industrial, consumer and business associations**

Considering the history of SRO in various countries of the world, the authors have concluded that self-regulation's development has been interconnected with state regulation despite the degree of regulation in the economy as a whole and particular industries.

Some SRO sought to win confidence of regulators, governments, parliaments and major consumer associations by their work and achievements (for instance, India), some others built their activity in collaboration with state regulators from the start and had more powers formally reassigned to them by the regulators (for instance, the UK).

The prospective SRO is supposed to build its relations with governmental agencies on:

- participation of SRO managers in public and expert councils of governmental agencies,
- participation of governmental agencies' representatives in SRO divisions (for instance, the Complaint Council, the Council on Territorial Bureaus, and the Council of Social Responsibility and Advertising),
- regular submission of information about SRO activity and achievements to legislative and executive agencies.

Roskonnadzor and Rospotrebnadzor would be the principal partners of SRO.

SRO may build its relationship with the state regulator (the Federal Anti-Monopoly Service) on the basis of an agreement, which will contain a list of powers reassigned by the state regulator to SRO and the sequence of their reassignment, interaction in the opening of territorial bureaus, and punishment of industry actors who regularly fail to comply with the codes and abuse of consumers' confidence, up to joint legal action.

A key task SRO will address together with the state regulator is **the creation of SRO territorial bureaus**. It is planned to **reorganize between 2018 and 2022** the activity of expert councils operating at territorial departments of the Federal Anti-Monopoly Service in a majority of Russian regions and to make them formally independent from the state regulator. It is proposed to make regional chambers of commerce and industry the principal organizations supporting the activity of SRO territorial bureaus for the following reasons:

- The International Chamber of Commerce (ICC) is the keeper of the Consolidated Code
- The Committee on Entrepreneurship in Advertising, which unites heads of practically every industry organization, operates under the CCI of Russia
- The federal SRO is expected to operate on the CCI of Russia basis

- Regional chambers of commerce and industry possess relevant technical capacities, authority in the business community, and powers.

The process of forming territorial bureaus **should be synchronized** with the establishment of non-governmental industry associations in Russian regions, such as branches or representative offices of the associations of advertising agencies, advertisers, or the media.

With the consent of the state regulator, SRO may undertake **coordination of the activity of expert councils operating under territorial departments of the Federal Anti-Monopoly Service** during the first and second stages: they may be offered information and methodological assistance, their activity may be popularized, their interaction with industry organizations may be facilitated, etc.

The first stage is expected to witness the beginning of **the process of transfer of powers from expert councils to territorial bureaus, which would be created in St. Petersburg and the Nizhny Novgorod and Sverdlovsk regions.** Considering the existence of the St. Petersburg Public Council on Advertising, which operates as an expert council and is independent from the Federal Anti-Monopoly Service, there will be no problem to formulate basic principles of operation of territorial bureaus. The process will spread into other regions in the future consistent with the development plan.

## **7. Procedure of funding the self-regulatory body**

As we have said before, the principal source of SRO funding is contributions of its founders.

Criteria of contributions to be paid by each organization are negotiable and will be established by consensus. Approaches to criteria vary from one country to another: they depend on the number of members and representatives delegated to SRO units, the material status of a particular association, etc.

Anyway, members of the SRO management will suggest an estimate of expenditures to the SRO founders, including expenses related to the establishment of SRO and its annual budget.

In addition to mandatory contributions by the industry, various SRO have additional funding sources, some of which may not be acceptable in Russia. For instance, SRO management, which includes the duty of finding financial sources, was delegated in the United States to the Council of Better Business Bureaus (CBBB), which organized the Club of Leaders with various degrees of membership, actually, principal benefactors of SRO. Membership is open in India, so SRO has over 400 participants providing additional financing, etc.

Traditionally, additional income mostly comes from consultation fees (which may be possible after SRO wins authority in the business community), sale of information products, and paid coaching events. At some stage of SRO's development, it may be possible to arrange streamlined collection of fees for the settlement of disputes (excluding consumer complaints). Targeted contributions (targeted financing) of particular SRO units (such as the Council on Social Responsibility and Advertising) or particular target projects, including the elaboration of standards for a particular branch of the industry, should not be ruled out either.

## **8. Main steps and stages of the self-regulatory body's development until 2022**

Any SRO, even the utterly classic and profoundly experienced, is undergoing the process of constant development and improvement. It is proposed that main stages of the SRO formation and criteria of its successful performance be set.

**STAGE 1** (August 2017 – May 2018) – formation

**STAGE 2** (June-December 2018) – development

**STAGE 3** (January 2019 – December 2020) – improvement

**STAGE 4** (January 2021 – December 2022) – perfection

The SRO management will draw up development plans for each of those stages.

**Principle criteria for assessment of the SRO management's performance in each stage:**

- ❖ Dynamics of consumer applications lodged directly with SRO
- ❖ Dynamics of advertisement complaints and proposals filed by governmental agencies and large consumer associations directly with SRO
- ❖ Number (scope) of powers reassigned by the state regulator to SRO (token of confidence)
- ❖ Dynamics (number) of the opening of territorial bureaus in Russian regions
- ❖ Volume and quality of information and advertising campaigns promoting the industry, standards and SRO itself
- ❖ Dynamics of awareness of consumers, the authorities, advertising industry actors, and the business community of self-regulatory processes
- ❖ Dynamics of the number of organizations affiliated to the SRO code and system
- ❖ Growth in the number of media outlets and other advertisement carriers undergoing independent monitoring of advertisement's compliance with the code
- ❖ Internal criteria shall include a growth of the SRO annual budget, number of engaged professional employees, experts and specialists, and a growth in the number of targeted social programs in various sectors of the industry.

**Steps towards the concept's implementation at the FIRST STAGE:**

**August 2017:**

Coordination of the concept with the state regulator (Federal Anti-Monopoly Service)  
Negotiations with heads of founding organizations, coordination of the concept, determination of the degree of involvement  
Approval of the concept at a meeting of the CCI of Russia Committee on Entrepreneurship in Advertising in the form of the working group's report.

**September 2017:**

Presentation of concept at a Russian conference on self-regulation involving administrations of Russian regions and representatives of territorial departments of the Federal Anti-Monopoly Service, as well as at the World Communications Summit attended by heads of the European Advertising Standards Association (EASA), the World Federation of Advertisers (WFA), International Advertising Association (IAA), and heads of advertising standard alliances of Turkey, India, and a number of European countries.

**October 2017:**

Beginning of the active campaign to promote advertising standards  
Formation of SRO

Concept's appendixes:



1. MATERIALS REGARDING ANALYSIS OF GLOBAL PRACTICES OF THE CREATION AND DEVELOPMENT OF SELF-REGULATORY BODIES PUBLISHED ON THE SOVETREKLAMA.ORG WEBSITE BETWEEN MAY AND JULY 2017
2. ACTIVITY OF EXPERT COUNCILS ON IMPLEMENTATION OF ADVERTISING LAWS UNDER TERRITORIAL DEPARTMENTS OF FEDERAL ANTI-MONOPOLY SERVICE.