

C.N. - 004

BARTERING COMPENSATION

SÃO PAULO, December 10, 2001

CENP – Conselho Executivo das Normas-Padrão, aiming at making the compensation of Advertising Agencies clear with respect to “standard agency discount” when the “bartering” activity between Advertiser and Media occurs, having Advertising Agencies taking part or not in the negotiation, states the following:

Considering that Advertising Agency compensation related to insertions comes from both the mediation of these Agencies with Media acting on behalf and for its Client-Advertiser and from the copyright of advertising spots created for insertions;

Considering that no advertising work may be inserted without the authorization of the Advertising Agency responsible for its creation allowing it to be taken to the public and without it being not compensated in the terms governed in the article 9, item VIII, as in Federal Law 9.610/98 (Copyright Law), as well as that in item 13 from the Code of Ethics of Advertising Professionals, incorporated to the legal system by article 17 from Federal Law 4.680/65, as “every professional advertising work is entitled to compensation based on that settled, prevailing in its absence the common fees for similar work”;

Considering that in negotiations for insertions through bartering contract, payment of insertions shall be made through other forms, that is not money;

The following is recommended and stated:

- a) In negotiations to advertise insertions, wherever the bartering is adopted, the Advertising Agency which serves the Client-Advertiser must necessarily participate in order to establish together with the Media and its client, its form of compensation, corresponding to the “standard Agency discount”;
- b) The Advertising Agency's compensation, corresponding to the “standard Agency discount”, will be payment due by the Media in any condition (having the Agency taken part or not in the negotiation), with the 20% (twenty per cent) corresponding to the referred Agency's fees based on the amount of the barter;
- c) It is given to the parties, clearly to the Media and Advertising Agencies together, the option in exceptional conditions to receive, as a "standard discount of Agency," advertising space / time in the referred Media, to be used by a client from the Agency, which shall, in advance, indicate the vehicle. This provision is established as an exception to the rule in item 4.7 of the Standard Norms.

Petrônio Corrêa
President

Note: The following text was freely translated into English and is valid for all legal purposes the original version in Portuguese.

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