

# THE THEORY OF PREVENTIVE CONSUMER LAW IN DIGITAL ADVERTISING

—Camilo Alfonso Escobar Mora\*

## I. CREATION OF BUSINESS DIGITAL ADVERTISING IN THE THEORY

In the theory of preventive consumer law in digital advertising creation of advertising must be done in a way that provides and makes the valid case (the valid case of business digital advertising) on what depends on creation. This means that conception, conceptualization, design and, in general, the variables (direct and indirect) of its creation must be harmonious with rules that apply to advertising according to its nature, content and effects.

Then: company must be diligent in defining the way it will be created and in making the creation valid. As diligence (commercial diligence — business diligence—) is the way to make the valid case: both that form and the creation must be valid. That is, both the creation process and the final product that is created must be harmonious with rules that apply to its variables. Then: creation process must be harmonious with rules that apply to the variables (extracontractual and/or contractual) of this process and the product created (the advertising created) must be harmonious with rules that apply to the variables (non-contractual and/or contractual) of said product.

Everything depends on the variables that the case has. The rules that apply depend on the case. The harmony necessary to make the valid case

---

\* Lawyer graduated from the Universidad del Rosario (Bogotá D.C., Colombia). Master in Law and Information Technology and Master in Telecommunications law, Universidad del Rosario. Master (LL.M.) in Commercial law, Universidad Externado de Colombia. Doctor (Ph.D.) in Law, Universidad Externado de Colombia. He held a Doctoral Research Stay at the Institute of Juridical Research of the National Autonomous University of Mexico (UNAM). Author (creator) of *The Theory of Preventive Consumer Law in Digital Advertising*. Scholar, Writer, International Lecturer, Founder of JURÍDIA - *Worldwide Learning and Research Center for preventive consumer law in digital advertising* ([www.juridia.co](http://www.juridia.co)). Contact: [gerencia@juridia.co](mailto:gerencia@juridia.co).

is defined and tailored to the case. The important thing is that it is a harmony that makes effective (all) the rules coming in the case. Then: that harmony must be in a way that makes applicable rules in the case materialized in their facts (in the facts of the case). Properly: that materializes the rules in each fact in which they apply and that the case (understood as the set of their facts) materialize harmoniously and comprehensively. That is the valid case in theory.

In theory: a case (case —the case—) is a legal relationship. Then: a case can involve several cases. Therefore: the case of business digital advertising is the case of the legal relationship (consumer relationship) formed between the company (business) and the consumer based on advertising (business digital advertising). But: that case involves (depending on the case) several cases. The case of creation of business digital advertising, the case of operation of business digital advertising, the case of communication of business digital advertising and the case of attention (attention of the effects) of business digital advertising.

Therefore: company must be diligent in detecting the rules that apply to each case of creation of advertising both in its creation process and in the attention to the nature, object and scope of the product that is created. In fact: in creation of advertising there is the case of the creation process and the case of the product created. The case of the creation process means the set of variables (extracontractual and/or contractual) involved in the way advertising is created. The case of the created product means the set of variables (extracontractual and/or contractual) involved in the advertising created and, in the relationships, (extracontractual and/or contractual) that company forms with consumer based on this.

Hence the importance of creating advertising. It is only possible that the case of creation of advertising is valid if the case of the process of creating the advertising and the case of the advertising created are valid. Therefore: the valid case of business digital advertising is only possible if the case of creation of advertising, the case of operation of advertising, the case of communication of advertising and the case of advertising attention are valid.

Properly: the valid case of business digital advertising is only possible if the company is diligent in making its variables involved harmonize with the rules that apply to it in a way that makes those rules materialized in its facts (in the facts of the case).

## II. COMMUNICATION OF BUSINESS DIGITAL ADVERTISING IN THE THEORY

In the theory of preventive consumer law in digital advertising communication of advertising is the way in which the message is transmitted and must be valid. It is valid if each of its variables (in each of its facts and in all its facts as a whole), each of its facts and all its facts as a whole (properly: the case understood as the set of its facts) are harmonious with rules that apply.

This is concrete in that business digital advertising must be communicated in a way in which the message that is transmitted is harmonious with the rules that apply to its nature, content and scope (effect) and make (achieve) a language agreement with the consumer that is harmonious with rules that apply to both that communication and the case of advertising.

Then: there is the case of communication of business digital advertising and there is the case of business digital advertising. The case of communication of advertising means the case of the legal relationship that is formed between the company (commercial) and the consumer based on the form of communication of advertising. The case of business digital advertising means the case of the legal relationship (extra contractual and/or contractual) that is formed between the company and the consumer based on a digital business advertisement.

Therefore: the case of communication of advertising has its variables and facts. That is to say: it is a case that is made up of facts and each fact is composed of variables. Properly: the case is the set of its facts (and each fact is the set of its variables —properly: a fact is a set of variables related to a particular element within the case—). Then: its validity is when each of its variables, each of its facts and its facts as a whole are harmonious with the rules that apply to them.

But: it is a case that at the same time is part of the case of business digital advertising. The case of business digital advertising includes both that case and the case of creation of advertising, the case of operation (functioning) of advertising and the case of attention (attention of the effects) of advertising. Therefore: for the case of communication of business digital advertising to be valid, the case of business digital advertising must be taken into account.

Because: the case of communication of advertising is only valid if advertising is communicated in a harmonious way with the rules that apply to the form of communication and that is only possible if the case of business digital advertising is known and it is foreseen and makes the communication harmonious with the rules that apply to that case. Then: it must be foreseen and have the advertising communicated in a way that makes the duties and rights applicable to that communication (and in the case of advertising in relation to the form of communication of advertising) are efficient.

For that reason: to make the communication of the advertising valid (properly: to make the valid case of communication of the digital business advertising) it must be taken into account that advertising is a form of communication. Properly: it is a form of communication to influence consumer decisions. So: advertising can communicate messages that are not information, communicate messages that are information or communicate both messages that are not information and messages that are information. The information is the true, objective and verifiable message.

Then: the company must communicate the message (or messages) that is (are) harmonious with the rules that apply to the form of communication and the case of advertising. Everything depends on the case.

In some cases: it can communicate (in whole or in part, that is: in relation to one, several or all the messages that are communicated) any kind of message (or messages) and communicate it (or communicate them) in the way it decides (whenever it is diligent—that is, that it be in a way that makes the valid case—). In other cases: the company must communicate (in whole or in part, that is: in relation to one, several or all messages that are communicated) a specific message class (or messages), but it can communicate it (or communicate them) in the way it decides (as long as it is diligent). And in other cases: it must communicate (in whole or in part, that is: in relation to one, several or all the messages that are communicated) a specific class of message (or messages) and must communicate it (or communicate them) in the manner indicated in the rule or the rules that apply to the case of communication of advertising and/or the case of advertising (company only have the freedom to decide and do what is not indicated in a precise, clear and comprehensive way, as long as decides and make it in a diligent form—diligently—).

For this reason: company must be diligent in anticipating (foreseeing) and making advertising communicate (properly: that the message or the

messages of the advertisement are communicated) —whether it is communicated directly, whether it binds (links) a third party to communicate it or whether that it is a mixed model in which the company communicates a part and one or some third parties communicate another part— in a harmonic way with the rules that apply to the nature, content and scope (effect) of the message (or messages).

For example: that does not transmit to the consumer a content that for her/him is sensitive and injures one or more of her/his rights. Or for example: that fulfils the information duty or duties (properly: the duty or duties related to the information) that company has in that advertising in a way that makes effective the information right or rights (properly: the right or rights related to the information) that consumer has in that advertising.

At the same time: the company must be diligent in anticipating (foreseeing) and making advertising communicate in a way that makes a language agreement harmonic with the rules that apply to both the case of communication of advertising and the case of business digital advertising. This means that advertising must make a language agreement with the consumer in which consumer perceives, receives and/or understands —according to the case— the message (or messages) of the advertising in a harmonic way with the rules that apply to both the case of communication of advertising and the case of business digital advertising.

That is to say: company must be diligent in communicating the advertising (and/or in making that the third parties that are linked in the advertising communication be diligent in communicating the advertising) in a way that makes the perception, reception and/or understanding (as the case may be) of the advertising make effective the rights and duties of the company and the consumer that are applicable both in the case of communication of advertising and in the case of digital business advertising.

So: the case of communication of advertising is valid if advertising is transmitted with a message (or messages) whose nature, content and scope is harmonious with rules that apply and achieves a language agreement with consumer that is harmonious with the rules that apply.

### **III. OPERATION (FUNCTIONING) OF BUSINESS DIGITAL ADVERTISING IN THE THEORY**

In the theory of preventive consumer law in digital advertising functioning of advertising must be done in a way in which its variables

(extracontractual and/or contractual) are harmonious with rules that apply to them.

That is to say: there is the case of operation (functioning) of digital advertising (business digital advertising). That case involves facts. Each fact involves one or several variables (depending on the case). Then: the case is valid if each variable of each fact is harmonic with the rules that apply to it, if each fact is harmonious with the rules that apply to it and if all the facts (properly: the case —understood as the set of its facts—) are harmonic with the rules that apply to them.

To make this valid, the case variables must be detected and dealt with in a way that makes them harmonious with rules that apply to them. Therefore: company must be diligent in making that harmony is done both in its acts and elements and in the acts and elements of the third parties involved in the case of operation (functioning) of digital advertising. Properly: the company must be diligent in making the valid case of operation (functioning) of business digital advertising (that is to say: in making the case of valid functioning of the business digital advertising).

So: the operation (functioning) case of business digital advertising is not synonymous with the consumer relationship (that is: the relationship between the company —commercial company— and the consumer). It is not to make the valid consumer relationship that is formed based on a digital advertisement. It is to make the way of functioning of advertising is valid. This includes that consumer relationship is valid in terms of the operation (functioning) of advertising. But: consumer relationship formed based on digital advertising is only valid if both the creation, operation (functioning), communication, attention (attention of the effects) and/or any other variable involved in advertising is valid.

For that reason: the case of operation (functioning) of advertising focuses on the facts and variables of how advertising works. For example: in the way the collection and the use of the consumer personal data works in the model (system —in general: case—) of advertising involved. So: this is the case of the way advertising works. For that reason: if the valid case of functioning of business digital advertising is made, functioning of advertising is harmonized with the rules that apply to it.

Now: the case of the consumer relationship formed based on business digital advertising includes both this case and other cases. Mainly: the case of creation of advertising; the case of operation (functioning) of advertising;

the case of communication of advertising; and the case of advertising attention.

For that reason: so that the case of business digital advertising in the consumer relationship (that is: the case of the consumer relationship formed based on business digital advertising) is valid, all the cases that it involves (according to the case) must be valid. This makes that each fact, each variable and all the case facts of the consumer relationship formed based on the business digital advertising are harmonious with the rules that apply.

#### **IV. ATTENTION OF DIGITAL BUSINESS ADVERTISING IN THE THEORY**

In the theory of preventive consumer law in digital advertising the attention of advertising means that the company (commercial company) assumes the effect it causes. That is to say: that company assumes the effect caused by advertising. The effect may be extra contractual and/or contractual.

The extra-contractual effect of advertising is the legal relationship that is formed with a consumer based on advertising and that does not form a contract. For example: to communicate to the consumer a content (message) that is sensitive to her/him (that is to say: that violates one or more of her/his rights, as the case may be).

The contractual effect of advertising is the legal relationship that is formed with a consumer based on advertising and that forms a contract. For example: to communicate to the consumer a content (message) that is a commercial offer (that is to say: a message that is an invitation to celebrate a mercantile business —commercial business—) and that she/he accepts it (what forms a contract).

Now: the extracontractual effect of advertising may exist along with the contractual effect of advertising if the case does both effects. That is to say: it is possible that both effects coexist. Everything depends on the case. For example: advertising can communicate to the consumer a content (message) that stimulates their emotions in a valid way, but at the same time can communicate another content (another message) that is a commercial offer and that she/he accepts it.

Then: there is the case of digital advertising attention. This is the case of the legal relationship (extracontractual and/or contractual) that is formed based on the effect of advertising and consists in that effect is validly

addressed. For that reason: it is a case that has facts. Each fact is a part of the case. Properly: each part of the case is formed with the fact involved and their respective variables. Because: each fact has variables. And: the case is the union of their facts.

That is to say: it is a case that means the set of its facts. The set of its facts does not mean the result of adding them. It means the case understood as the set of its facts. That is to say: it is the result of involving all the facts of the case and presenting them as a whole (that is to say: as a whole created by the union of its parts).

Therefore: in order for the digital advertising attention case to be valid, each fact must be valid, each variable of each fact must be valid and all the facts (therefore: all the variables) as a whole must be valid. That is to say: the case is valid if the advertisement effect is valid and the form of effect attention is valid.

Then: the company must be diligent in anticipating (foreseeing) and making each fact, each variable and the case (as such) valid. In the theory: validity means the harmony of the being (for example: of the case, of the fact and/or of the variable) with the duty to be legal —legal must be. Legal must have— (that is: law) that applies to it (specifically: with the legal —juridical— norms —that is to say: rules that contains rules and/or principles— that govern the being) in a way that makes the being materialize that should be.

That is to say: the case of advertising attention is valid if each message that is communicated has a valid effect and the effect of each message is validly served (attended) by the company. So: for the case of advertising attention to be valid both the creation and operation (the operating —functioning— model) and the communication of advertising must be valid. For that reason: in order for the advertising attention case to be valid, the business digital advertising case must be valid.

Properly: the case of digital advertising attention is part of the case of business digital advertising. That is to say: the case of attention of advertising (advertising attention case) is a delimited legal relationship, but at the same time it is part of a case (of the case of digital business advertising) that involves both that case and the case of creation of advertising, the case of operation (functioning) of advertising and the case of communication of advertising.

Therefore: company must be diligent in anticipating (foreseeing) and making both that case and the other cases involved in the case of business digital advertising (business digital advertising case) are valid. This makes the case of business digital advertising valid (that is to say: business digital advertising valid case).

## V. CONSUMER PERSONAL DATA PROCESSING (TREATMENT) IN THE THEORY

In the theory of preventive consumer law in digital advertising the processing (treatment) of consumer personal data means the legal act that a person makes (physical —natural— or moral —juridical—) that has as an object the reception and/or use of that data for a specific purpose —that is: for an specific activity and/or objective— (if the purpose is indeterminate, the legal act is vitiated because its object is imprecise). Personal data is the data that is linked and/or associated to a person.

Data owner (properly: data holder) is the person who links and/or associates with the data. Is the person linked and/or associated with the data. Then: consumer is the owner (holder) of the data with which her/him is associated and/or linked. That is to say: she/he is the owner (holder) of the data that is associated and/or linked to her/him. Properly: the consumer is the owner (holder) of the data that is associated and/or linked to her/him specific and particular characteristics in a way that makes her/him determinate and/or determinable.

There is public personal data and not public personal data. The public is the one that can be received and/or validly used without having the authorization (consent) of its owner (holder). But: the reception and/or use is only valid if it is done for the purpose for which a rule considers it public. That is: it is only valid if it is done for the purpose determined in the rule. For that reason: if the norm (rule) does not determine the purpose with clarity (properly: if the norm does not determine the purpose) the data is not public. The non-public data (data of restricted reception and/or use) is the one that can only be received and/or validly used if the person that needs to use that data has the owner (holder) authorization (consent).

Now: in the theory the processing (treatment) of consumer personal data must be done when it is diligent to make the advertising that is communicated to be valid. In general: in the theory the processing (treatment) of consumer personal data is done if it is diligent to make the legal relationship

between the company and the consumer based on advertising valid. And: it should not be done if it does not make that validity. For that reason: diligence defines the necessity of processing (treatment) of consumer personal data (according to the case, in the case and to the extent of the case —tailored to the case—) and the form to make that processing (treatment) valid (when it is necessary).

Processing (treatment) of consumer personal data is a unilateral legal act that involves actions and/or omissions on these data. Therefore: as it is a legal act must meet the validity elements that apply (depending on the case). It is clarified: in the theory that act is included within the legal relationship that is formed between the company (commercial company) and the consumer based on advertising (digital advertising) because the treatment is linked to an advertising activity (advertising activity).

Properly: the processing (treatment) is linked to a company unilateral legal act whose purpose is the communication of advertising from the company to the consumer (or towards consumer) and that company act (unilateral act of communication of its advertising to the consumer or towards consumer) can be part of a legal relationship that has formed with the consumer (if before the advertising communication that relationship has been formed) or can form a legal relationship with consumer (if before the advertising communication does not a relationship has been formed).

This relationship can be extra-contractual or contractual. There is a contractual relationship if the relationship prior to the advertising communication forms a contract or if consumer accepts an advertisement that has the form of a commercial offer. There is an extra-contractual relationship if the relationship prior to the advertising communication does not form a contract or if consumer is not informed of an advertisement that has the form of a commercial offer (that is to say: if advertising does not communicate a commercial offer to the consumer).

Then: the act validity (of the unilateral legal act of processing —treatment— of consumer personal data) depends on the validity of that legal relationship (that is to say: depends on that legal relationship validity). Therefore: the legal relationship must be harmonious with the rules that apply to it. And: as the act is part of that relationship if the relationship is valid the act is valid.

Then: the consumer (or her/his valid representative) must accept (validly) the formation of that relationship. What also makes the development

and termination of that relationship valid for that acceptance (as for that acceptance). But: so that the whole relationship is valid (properly: so that the relationship is valid) both the formation and its development (execution) and termination must be harmonious with rules that apply.

And: if within that relationship there exists an act of processing (treatment) of her/his personal data that processing (treatment) must be valid both in the fact of being accepted by her/him (before it is performed) in a valid way with the rules (norms) that apply to it (that is to say: with rules that apply to that acceptance) as in the fact of be done in a harmonious way with rules that apply to it (that is to say: with rules that apply to that processing) and to be completed in a harmonious way with the rules that apply to it (that is to say: with rules that apply to that completeness).

For that reason: the company or the third parties that it involves to do that act in its representation must be diligent in making that unilateral legal act (that is to say: in processing —treatment— that data) in a valid way. As its object (that is to say: as the object of the act) is not directly available to the person who performs the act (because the consumer personal data is not its property. In general: does not have the ownership right over the consumer data personal) it (that is: the company) must obtain the right of use, enjoyment and/or disposition that is related to the purpose of the act.

As the company is the person who performs the act (including: it is the person in whose name the act is performed, in the case in which another person does it in its representation) that is the person who must obtain the right of (that is to say: the right to) use, enjoyment and/or disposition that is related to the purpose of the act. Another thing is that people linked to the company must be authorized by the company to perform the act on its behalf and must only do so on what the company obtains the right of use, enjoyment and/or disposition that is related to the object of the act.

The act object is the treatment of the consumer personal data for a specific purpose. That is: for a specific activity and/or objective. In the theory: that specific activity and/or objective is an activity and/or objective related to the digital advertising communication from the company to the consumer (or towards consumer).

Company obtains the right of use, enjoy and/or dispose of that data from a rule. From the rule (included: from the set of rules) that applies to the case (according to the case, in the case and to the extent of the case —tailored to the case—).

This rule can be a norm that makes it obtain the right to use, enjoy and/or dispose of that data in a direct way (if the act object is the treatment of a public personal data and the act is related to the specific processing —treatment— purpose that is allowed in that norm) or it can be a norm that makes it obtain the right of use, enjoyment and/or disposition of that data in an indirect way that consists of obtaining the consumer authorization (if the act object is the treatment of a non-public personal data).

Then: when the act object is the treatment of a non-public personal data the consumer must authorize that person to validly use, enjoy and/or dispose of her/his personal data. And: the act can only be done for what consumer has authorized.

Then: company must be diligent in foreseeing and making the legal relationship it forms with consumer based on an advertisement valid. Therefore: it must be diligent in defining if processing —treatment— is necessary for that validity. And: if the treatment is necessary the company must be diligent in foreseeing and making that legal act be valid.

## **VI. ARTIFICIAL INTELLIGENCE TO MAKE THE VALID CASE OF BUSINESS DIGITAL ADVERTISING**

In the theory of preventive consumer law in digital advertising artificial intelligence is a means (properly: it is a product —good and/or service, depending on the case—) that can make the valid case (the valid case of business digital advertising) if necessary to do so. This means that the company's diligence (commercial diligence —mercantile diligence—) defines when it is necessary to create and/or use artificial intelligence to make the valid case. Everything depends on the case.

For that reason: artificial intelligence is only necessary when it makes the valid case. That is to say: when the artificial intelligence makes a part, parts and/or the whole case valid it is necessary to create it and/or use it. So: it is diligent to create and/or use artificial intelligence when it makes a part of the case or the whole case valid. Properly: in the theory make the valid case means to make the facts of the case (case facts) are harmonic with the rules that apply to them in a way that those facts materialize those rules (in the case).

Therefore: if artificial intelligence contributes to that harmony and/or makes that harmony (depending on the case) it is diligent to create and/or

use it. Properly: it is a duty (duty of diligence) to use and/or create artificial intelligence when it is necessary for the valid case (to make the valid case).

In fact: making the valid case is only achieved (done) if that validity is done in an effective way (efficient and effective). There is only the valid case if that harmony is done effectively. Properly: there is only the valid case if done diligently. The diligence is a rule (norm) applicable in the case. Then: the case can only be valid if it is harmonious with the rule (or rules) of diligence that apply to it (in general: the case is only valid if it is harmonious with all the rules that apply to it).

Therefore: when artificial intelligence is necessary to make the valid case it is a must (duty) to create it and/or use it to do it. It is only possible to make the valid case if its form is effective. Properly: creating and/or using artificial intelligence is a duty (duty of diligence) to make the valid case when it is necessary to make the harmony that makes the valid case and/ or when it is necessary for that harmony to be in an effective way.

Then: the diligence (mercantile diligence —commercial diligence—) defines in each case if creation and/or use of artificial intelligence is necessary or unnecessary to make the valid case.

## VII. PREVENTIVE LAW IN DIGITAL ADVERTISING COMMUNICATED TO CONSUMERS

*Preventive law is when there is legal validity, effectiveness and security in the case. —Camilo Alfonso Escobar Mora*

This article presents the structural elements of the theory of preventive law for the effectiveness of consumer rights in relation to the advertising that the company communicates in electronic commerce (digital advertising). It should be specified that the legal (juridical) concept of consumer only exists when consumer relations are formed. These are relationships in which one end is a company (of a commercial nature) and the other (is) a consumer. The consumer (consumer) is any person, physical (natural) or moral (legal) who does not act professionally and regularly in the relevant market of the company with which she/he interacts.

The relevant market (relevant market) is the geographic and product (good and/or service) context in which the company develops its ordinary business turn —ordinary business activity— (for example: the geographical context of an electronic commerce platform can be a specific country and

the product context the good and/or service offered in that territory). It is worth clarifying that a company can have a main relevant market (for example: operate worldwide and offer licenses for the use of specific software) and several relevant submarkets, according to the different scenarios and sectors involved in each case (for example: when it operates in each country, or even in each territory within that country). This is important because the relevant market of each legal relationship allows establishing the public order that applies to it and the way to comply with it through self-regulation tailored to the variables involved.

That is what preventive law consists of. The aim is to create self-regulatory solutions that allow each legal, contractual or extra-contractual, link (relationship) to be valid. The premise that governs validity is the generation of legal effectiveness. This means that something is only valid if it enforces the applicable rules (norms) in each case. So, the validity (validity) is not only formal. It is also material. The validity is the harmony of the formal and material variables of the case. Only in this way can efficiency be obtained: the enjoyment of the rights and the fulfillment of the duties that proceed in the specific situation (specific case).

Having defined the above, this doctrine (theory) must be related to the topic of digital advertising in consumer relations. When the consumer receives or perceives this kind of messages they must be valid. Its validity depends on the advertising nature. Advertising is a form of communication (that is to say: it is the transmission of a message from a sender to a receiver) that can be merely communicative or communicative and informative. The first one refers to communicating messages that are not information. The information (information) is the true, objective and verifiable message. This advertising can be done when the company enjoys the freedom to communicate without informing, for example: to communicate an advertisement (ad) that does not present affirmations but emotional experiences in the abstract.

Otherwise, it can not be merely communicative, since it has to be subject to one or several duties of information (depending on the case). When it has such freedom, the communication must ensure that the content and/or effects of the messages do not harm any consumer right (for example: that is not a sensitive content that transgresses a legally protected right enshrined in its favor, such as an announcement with violent content that affects the special and prevalent protection of minor —under-age— consumer rights). However, and as a consequence of the freedom that exists in this kind of

advertising, it is not subject to information duties, because advertising does not contain or cause information. The determining factor for the validity of this advertising is that it achieves a valid agreement of the language with the consumer, that is to say that this subject receives, perceives and understands validly.

In the second case, advertising communicates messages that contain or generate information. Here, the company must detect what information duties apply to it and ensure that the communication is done in a manner that allows the consumer to receive sufficient, accurate and timely information, according to the type of message (involved). If this is achieved, the advertising will be valid because it fulfils the information duties and achieves the mentioned language agreement.

Giving way to a vision of empathy: advertising is for the consumer. Only in this way will a valid language agreement be formed. Then, the preventive law is obtained when the company acts with diligence (mercantile diligence—commercial diligence—) to determine if its advertising can be communicative or communicative and informative, and if the form that is going to do is the one that is more effective (that is to say: efficient and effective) to achieve language agreement, and if it is validly done. Thus, being (advertising) coincides with the duty to be legal that applies, according to the case variables (formal and material)—that is to say: advertising matches with law. Creating (including: communicating) a valid advertising—. If this is done in this matter, and in any other topic, the quality of life increases. Preventive law (the preventive law) is the way to materialize the law (law) in each case.