

LAW OF GEORGIA ON ADVERTISING

Chapter I

General Provisions

Article 1. Georgian Legislation on Advertising

The Georgian legislation on advertising comprises the Constitution of Georgia, international treaties and agreements, this Law and other legislative and normative acts of Georgia.

Article 2. Purpose of Law and Scope of Application

1. This law regulates legal relations arising in the production, placement and distribution of advertising on the Georgian commodity (works, services) and financial markets (including the securities market).
2. The Law aims at developing a fair competition in the field of advertising, protecting public interests, rights of advertising subjects and consumers, preventing and eliminating improper advertising.
3. The Law applies to Georgian and foreign natural and legal persons duly registered under the established rule, which are engaged in the production, placement and distribution of advertising in Georgia.
4. The Law also applies to instances where the advertising activity of Georgian natural and legal persons outside Georgia brings about (may bring about) certain negative results (restriction of competition, misleading of other natural and legal persons) on the territory of Georgia.
5. The Law does not apply to political advertising.
6. The Law does not apply to those statements by natural persons, which are not directly related to entrepreneurial activity.
7. Paragraph 2, Article 4 and paragraph 8, Article 8 of this Law do not apply to those branded consumer items and trade promotion devices that are defined under a relevant normative act. (30.06.2000, #462 legislative bulletin #)
8. Broadcast advertising and sponsorship issues are regulated by the Law on Broadcasting whilst general requirements to advertising, the advertising of alcoholic beverages and tobacco products, sex-related products, medical products (services), artificial baby-food, weapons, securities as well as the protection of minors from harmful influence in the production, placement and distribution of advertising are regulated by this Law. (9.06.2006 #3245)

Article 3. Definition of Terms Used in the Law

1. Advertising - information on goods, services and works (hereinafter – the product), natural and legal persons, ideas and undertakings disseminated through any means and in whatever form, which targets an unlimited circle of people and is designated to generate and perpetuate interest towards natural and legal persons, product, idea and undertaking as well as to promote sales of the product, idea and undertaking.

2. Improper advertising - unfair, unreliable, unethical, obviously false or other advertising that violates the requirements for its content, timing, placement or distribution established under the Georgian legislation.

3. Unfair advertising – advertising that contains biased comparison of the advertised product with the product of other natural and legal persons, and statements damaging the name, dignity and reputation of a competitor or third person, that discredits those natural and legal persons who do not use the advertised product, also, misleads consumers about the properties of the advertised product, unfairly taking advantage of confidence or lack of knowledge and experience of natural persons.

4. Unreliable advertising - advertising that contains data which does not reflect the reality. This include untrue information on advertiser, product properties, product composition, place of origin, procedure and date of production, purpose of the product, consumer qualities, terms of use, certification marks, compatibility with state standards, quantity, availability of the product on the market, possibility to purchase it in a given amount at an indicated location and within the indicated time, cost (price) of the product throughout the advertising period, additional terms of reimbursement, delivery, return and maintenance of the product, warranty terms, expiration date, the right to use state symbols (flag, emblem, anthem), official appreciation (acknowledgements, awards, diplomas and other prizes), research and testing results, actual demand for the product.

5. Unethical advertising - advertising that employing offensive language and comparisons in regards to physical persons' nationality, race, occupation, social standing, age, sex, language, religious, political and philosophical affiliation, violates universally recognized humane and ethical norms, impairs artworks and artifacts of history and architecture of national and world cultural heritage, insults state symbols (flag, emblem, anthem), national currency, religious symbols, natural or legal persons of Georgia and other countries, their activity, occupation or commodity.

6. Obviously false advertising - advertising in which the advertiser (advertising producer, advertising distributor) deliberately misleads the advertising consumer.

6¹. Comparative advertising - advertising which directly or indirectly identifies a competitor or goods and/or services offered by a competitor. (25.11.2005 #2165)

7. Counter-advertising - advertising that takes a position contrary to improper advertising.

8. Advertiser – a natural or legal person which is a source of advertising information for its further production, placement and distribution.

9. Advertising producer – a natural or legal person who gives a finished look to the advertising information for its placement and distribution.

10. Advertising distributor – a natural or legal person who places and/or distributes the advertising by using facilities (including radio and TV technical means, communication channels, airtime and other means).

11. Advertising consumer – a natural or legal person which is sought to be targeted or influenced by advertising.

12. Tobacco product advertising – advertisement that bears a trade mark, logotype of tobacco product or tobacco manufacturer, shows tobacco product, its carton or box, the process of smoking or any other related activity.

13. Alcohol advertising – advertisement that bears a trade mark, logotype of alcoholic beverage or alcoholic beverage manufacturer, shows alcoholic beverage, its container, the process of consumption or any other related activity.

14. Strong alcoholic beverage advertising - promotion of alcoholic beverage with the alcohol content of more than 14 percent.

15. Sex-related product advertising – promotion of products intended to satisfy sexual needs, including medical products for the prevention and treatment of sexual disorders. (20.06.2003 #2442)

15. Broadcast advertising - commercial, social or election advertising distributed (broadcast) by a broadcaster, except statements made by a broadcaster concerning its own or independent programme, which is the information, promoted through any means and in whatever form, about a natural and legal person, goods, service, activity, idea and undertaking that targets an unlimited circle of people and is designated to generate and perpetuate interest towards natural and legal persons, product, idea and undertaking as well as promotes sales of the product, service, activity, idea and undertaking. (9.06.2006 #3245)

Chapter II

General and Special Requirements to Advertising

Article 4. General Requirements to Advertising

1. The advertising, upon its presentation, shall be instantly perceived as advertising without applying any special knowledge and technical means.

2. Advertising shall be in the official state language throughout the territory of Georgia. This requirement does not apply to programs and print editions that are distributed in other languages, also, to the lettering on the image of the product, except a trade mark; However, an owner of a trade (service) name (logotype) registered in a foreign language and placed in Georgia, shall be transliterated in Georgian.

3. The lettering in foreign language shall not exceed in size (on any occasion) and amount (except TV production) that of transliterated in Georgian. (30.06.2000 #462 legislative bulletin #)

4. Where lettering of luminous material is applied in two different languages, any lettering (Georgian and foreign) on the object shall be similarly illuminated and readable (22.06.99 #2135 law bulletin #27(34))

5. Issues regarding the compliance with language standards in advertising are regulated under the Georgian legislation.

6. No product shall be advertised in Georgia, which is prohibited under the Georgian legislation to manufacture or sell or needs a special permit (license) whereas such permit is not obtained; also, no economic agent shall be promoted that needs a special permit (license) to perform its activity whereas such permit is not obtained.

7. Advertisement of the product which needs certification shall be signposted as "certified".

8. No improper advertising shall be placed and distributed. It is subject to the sanctions established under the Georgian legislation commensurate with committed action, degree and nature.

9. The image or name of a natural person shall not be used without his/her consent.

10. Objects of exclusive rights (intellectual property) shall be used in advertising in accordance with the rule established by the Georgian legislation.

11. Advertising shall not incite citizens to violence, aggression and chaos, shall not encourage dangerous actions that could harm human health or jeopardize their safety.

12. Advertising fees shall not be differentiated by types of promoted products.

13. The distribution (broadcast) of advertising from foreign countries in Georgia that contradicts the Georgian legislation on advertising shall be prevented in accordance with the Georgian legislation and international treaties.

14. An image or voice of minor, in whatever form, shall not be used in sex-related product advertising. (20.06.2003 #2442)

Article 5. Indoor advertising

1. Non-commercial video, audio and film production as well as print material shall not draw advertising consumer's interest simultaneously on a brand (model, type), manufacturer, customer or seller of a particular product without giving a prior warning that it is an advertisement

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6. Films in cinemas and video service shall not be interrupted with advertising; advertising is allowed only during intervals between the series (parts).

7. In toll-free information telephone service, advertising shall be provided to a subscriber only after he/she has received information sought.

8. In telephone, computer and other paid information service, advertising shall be provided to a subscriber only upon his/her consent. The cost of such advertising shall not be included in the cost of information sought by a subscriber.

9. Advertising shall not be distributed via telex or fax without a prior consent from a customer.

Article 6. Outdoor Advertising

1. Advertising in Georgian cities, villages and other administrative-territorial units can be distributed by posters, stands, light-boxes and other technical means for fixed territorial placement (outdoor advertising) in accordance with the rule provided in paragraphs 2-8 of this article.

2. Outdoor advertising shall not look like road signs and pointers; it shall not impair the visibility of these signs, pointers and road, and jeopardize the traffic and pedestrians. The advertisements on buildings and constructions shall not impair their architectural appearance and shall be securely fixed. The outdoor advertising, in whatever form, shall not distort the monuments of history and architecture of national and worldwide cultural heritage.

3. A permit on the placement and distribution of outdoor advertising shall be issued in writing by local self government (government) bodies. *(03.06.2005 #1551)*

4. The local self- government and government bodies shall have the plan of the distribution of outdoor advertising (considering the size, shape and appropriateness of advertising) which shall be agreed beforehand with:

a) a relevant road management body and a territorial traffic police unit – when advertisement is placed within the area belonging to the roads or its adjacent line (not falling within the borders of settlements)

b) a territorial traffic police unit – when advertisement is placed within urban and rural settlement areas;

c) a relevant railway management body – when advertisement is placed within the area belonging to the railways;

d) the scientific-operations department for the protection of monuments of history and culture of Georgia or its regional units – when advertisement is placed within the protected natural, historical and cultural areas, natural reserves and national parks.

5. The rule for establishing a permit fee on the distribution of outdoor advertising and the amount of fee shall be determined by the legislation of Georgia.

6. The placement of outdoor advertising within the territory (including protected areas of cultural, sacred monuments), on buildings and constructions (or territories adjacent to them) and other objects as well as the amount and the rule of payment of the fee for such advertising shall be specified in an agreement concluded with the owner (or a person who has the ownership right of this property) unless otherwise provided by the law or agreement. Moreover, the permit specified in paragraph 3 of this article shall be obtained.

7. A number of the permit issued on the distribution of advertising by a local self-government and government body shall be displayed on an outdoor advertisement.

8. A lettering, in whatever size and form (signboard, stand, etc), on an office of an economic agent (entrepreneur), which designates the name of a company, trade firm, restaurant, etc. housed in this building shall not be considered advertising unless it is at least 1,5 meters away from this particular office. *(03.06.2005 #1551)*

Article 7. Transport Advertising

1. Transport advertising shall be executed on the basis of an agreement concluded with the owner of a relevant transport means (or a person who has the right to own transport means), unless otherwise provided by the law or agreement.
2. For ensuring traffic safety, the Ministry of Internal Affairs of Georgia establishes restrictions and prohibitions on transport advertising.

Article 8. Advertising of Alcoholic Beverages and Tobacco Products

1. Advertising of alcoholic beverages and tobacco products, irrespective of the rule of distribution, shall not create the impression that the use of alcohol or tobacco contributes to the improvement of physical and mental health, achievements in social life or sports.
2. Advertising shall not discredit the refraining from the use of alcohol or tobacco. At the same time it shall not contain information on their positive medical properties.
3. Advertisement of strong drinks and tobacco products, in whatever form, shall not be placed in avenues, on bridges and squares (and within 20 meters therefrom) and transport means in cities and other settlements.
4. Advertising of alcoholic beverages and tobacco products shall not target minors and shall in no form be distributed in cinemas and video service, radio and TV programmes, print editions intended for minors.
5. Advertising of alcoholic beverages and tobacco products shall not be placed at children, educational and medical institutions, cultural and sports organizations and within 100 meters of the premises, except in the cases specified in paragraphs 5¹ and 5² of this article.

5¹. Advertising of alcoholic beverages in sports organizations is permitted only in cases when a sports organization (stadium, sport hall) hosts local (national/local) or international sports event (except for sport competition of minors). (9.06.2006 #3243)

5². In cases specified in paragraph 5¹, it is permitted to use a trade mark, logotype of an alcoholic beverage or its manufacturer and display them on sport gear and other equipment. (9.06.2006 #3243)

6. Tobacco product advertisement shall not feature an open carton or box of tobacco product, the use of tobacco product, shall not encourage its consumption. At the same time, it shall not violate the universally recognized, humane, ethical and ethno-psychological norms. (9.06.2006 #3243)

6¹. Alcoholic beverage advertisement which features open container or the use of alcoholic beverages, encourages its consumption shall have a warning "Alcohol abuse can damage health". At the same time, it shall not violate the universally recognized, humane, ethical and ethno-psychological norms. (9.06.2006 #3243)

7. Strong alcoholic beverages and tobacco products shall not be promoted by means of radio and TV, newspapers, covers of magazines.

8. Advertising of tobacco products (except that via radio and TV) shall be accompanied with the warning on the harm of smoking. Advertisements of tobacco products shall, namely, contain the text in large black letters against the white background: "Ministry of Health warning: smoking is

dangerous to your health”. Such an advertisement shall also contain one of the following statements: “Smoking causes cancer”, “Smoking causes heart disease”, “Smoking leads to an early death”, “Smoking by pregnant women may result in fetal injury”, “Passive smoking is dangerous to health”. Such information shall cover at least 10% of the total advertisement space.

9. When promoting tobacco products by radio and TV the information about the harm of smoking, approved by the Ministry of Health and Social Affairs, shall be in the form of verbal warning. (21.12.2001 #1220)

Article 8¹. Sex-related products advertising

1. Sex-related products shall not be advertised by radio and TV, newspaper pages and covers of magazines.

2. The ban in paragraph 1 of this article does not apply to sex-related preventive and treatment means and medical products provided that they are necessary to protect human health. In such cases, the abovementioned products shall be promoted in accordance with the rule established under the Georgian legislation. (20.06.2003 #2442)

Article 9. Advertising of Medical Product (Service)

1. Medical products, medical devices and equipment shall not be advertised if no permit is issued for their production and/or sale; also, treating, preventive, diagnostic and rehabilitation methods shall not be promoted if no special permit is issued on such service by the health authorities of Georgia, even when the patent on the invention in the said sphere has been granted.

2. No advertisement shall be distributed of a medicine, which persuades customers that it can be taken without consulting a physician, has no side effects, notably improves health when administered and vice versa, can be used as food product, cosmetic means or other consumer goods.

3. No advertisement shall be distributed of a medicine that is not registered in Georgia, cannot be dispensed without physician’s prescription and/or contain narcotic, psychotropic, toxic or radioactive substances.

4. Medical devices and equipment that require special training to be applied can be promoted in those print editions which are intended for medical and pharmaceutical personnel (taking into account paragraph 1 of this article).

5. Diabetes and other diseases shall not be mentioned on signboards of trade outlets.

Article 9¹. Artificial Baby-Food Advertising

Advertisement of artificial baby-food products (except supplementary food), baby bottles and dummies, in whatever form, shall not be distributed. (09.09.99 #2378 legislative bulletin #43(50))

Article 10. Weapons Advertising

Fighting weapons shall not be advertised. Advertising of all other types of weapon, including hunting and sporting weapons, is permitted only under a special permit to be issued by a relevant body of the Georgian interior ministry.

Article 11. Securities Advertising

1. The aim of advertisement about the issuance and placement of securities is to inform. The offering and supply of securities is carried out only by means of emission prospectus.

2. Securities advertising shall indicate:

- a) the issuer's name;
- b) the underwriter's name and address;
- c) the name and address of persons responsible for placement;
- d) the place where potential investor can purchase or get familiar with the issue prospectus;
- e) a license number and the name of the body which issued a license.

3. It is prohibited:

- a) to distribute securities advertisement before the issue prospectus has been officially registered;
- b) to disseminate any information other than the one indicated in the issue prospectus;
- c) to give any guarantee, promise or forecast of any future efficiency (profitability) of the business, including of the increase in the rate of securities.
- d) to indicate guaranteed value of dividends on ordinary shares;
- e) to make any attempt or expression of self-quoting own securities on the part of an issuer.

Article 12. Social Advertising

1. The social advertising - the advertising aimed at supporting public goods and achieving charitable objective, which is neither commercial nor election advertising and does not promote a legal entity of public law or a government organization as well as the service rendered by them. (9.06.2006 #3245)

2. Social advertising shall not designate commercial organizations and individual entrepreneurs, any brand (models, type) of their product, also any particular brand (model, type) of the product which is the output of supporting entrepreneurial activity of non-profit organizations.

3. The unpaid activity of natural and legal persons for the production and distribution of social advertising, also the transfer of own assets, including money, to other natural and legal persons for the same purpose is regarded as charitable activity that is eligible for concessions under the law of Georgia.

4. Deleted (9.06.2006 #3245)

Article 12¹. Comparative Advertising

Comparative advertising shall be permitted when the following conditions are met:

- a) It compares goods or/and services meeting the same needs and intended for the same purpose;
- b) It objectively compares one or more material, relevant, verifiable and representative features of those goods or/and services, which may include price.

- c) It does not create confusion in the market place between advertiser and competitor or between advertiser's trade marks, trade names, other distinguishing marks, goods and services and those of a competitor.
- d) It does not discredit trade marks, trade names, other distinguishing marks, goods and services of a competitor.
- e) For products with a designation of origin, it relates in each case to products with the same designation.
- f) It does not take unfair advantage of the reputation of a trade mark, trade name and other distinguishing marks of a competitor or the designation of origin of competing product.
- g) It does not represent the replication of goods and/or services bearing a protected the trade mark and trade name.

Article 13. Sponsorship

As per this law the sponsorship is a contribution of a natural or legal person to the activity of another natural or legal person (in the form of money, assets, outcome of intellectual activity, rendering service or rendered service, performing the work) on conditions that the product manufactured by the sponsor will be promoted. A sponsor's contribution is regarded as the cost of advertising whilst a sponsor and the one who has been sponsored as advertiser and advertising distributor, respectively. The sponsor has no right to interfere in the activity of the producer and distributor of advertising. Sponsorship is not allowed for persons whose product or activity is prohibited to be advertised under this Law. (30.06.2000 #462 //// #)

Article 14. Protection of Minors in Production, Placement and Distribution of Advertising

To prevent the exploitation of minors' credulity and inexperience in the process of production, placement and distribution of advertising, advertisements:

- a) shall not exhort minors to ask parents or other adults to buy advertised products for them.
- b) shall not lead minors to believe that if they have the product advertised they will be superior to other minors whilst otherwise they will be inferior to other minors.
- c) shall not contain such text, audio and video material which show minors in dangerous places and situation;
- d) shall give consideration to the skills needed for minors to use the product. Moreover, if the result of the use of the product is shown or described, the advertising shall provide information on what can really be achieved by targeted age-group of minors;
- e) shall not create false (distorted) impression about the price of product by words such as "only", "just", etc. and direct or indirect indication that advertised product can be afforded by any family.

Chapter III

Rights and Obligations of Advertiser, Producer and Distributor

Article 15. Terms of Keeping Advertising Materials

The advertiser, advertising producer and distributor shall keep the advertising materials or their copies, including all changes made to them, for two months after the last day of the distribution of advertising, and if the material is the subject of dispute – until before this dispute has been resolved by relevant bodies.

Article 16. Submission of Information to Local Self Government (Government) Bodies (03.06.2005 #1551)

The advertiser, advertising producer and distributor shall, upon the request and within the specified time, submit to local self government (government) bodies being in charge of controlling the implementation of the Georgian advertising legislation authentic documents, written explanations and information required for exercising powers under this Law.

Chapter IV State Control in Advertising

Article 17. Powers of Local Self Government (Government) Bodies in the Sphere of Advertising (03.06.2005 #1551)

A local self government (government) body:

a) within the scope of its competence:

- a.a) carries out the state control on advertising in mass media;
- a.b) takes a decision on partial or full suspension of improper advertising and carrying out counter advertising;
- a.c) has the right to impose an administrative sanction for the violation of the Georgian legislation on advertising;
- a.d) is authorized to appeal to relevant bodies to file a criminal case.

b) goes to courts with the same request in case an economic agent fails to fulfill the decision on the breach of the Georgian legislation on advertising.

Article 17¹. Control in the Sphere of Broadcast Advertising (9.06.2006 #3245)

The sole institution responsible for controlling the timing, placement and means of broadcast advertising as well as the compliance of broadcast advertisement distributor with the restrictions in broadcast advertising specified in the Laws of Georgia On Broadcasting and On Advertising and other legislative acts, is the Georgian National Communications Commission which within the scope of its competence:

- a) takes a decision on partial or full suspension of improper advertising and carrying out of counter advertising;
- b) is authorized to impose on violators of Laws of Georgia On Broadcasting and On Advertising and other legislative acts the sanctions defined in the Law of Georgia on Broadcasting;
- cd) is authorized to appeal to relevant bodies to file a criminal case.

Article 18. Right on Information (03.06.2005 #1551)

1. Local self government (government) bodies, in order to carry out controlling functions, have the right to receive any information from producers and distributors of advertising without delay.
2. The information which contains commercial secret and is obtained by the persons indicated in paragraph 1 of this Article shall not be disclosed.
3. If information containing commercial secret is disclosed local self government (government) bodies shall compensate damages in accordance with the rule established under the Georgian legislation.

Chapter V
Counter-Advertising and Responsibility for Improper Advertising

Article 19. Counter-Advertising (03.06.2005 #1551)

1. Local self government (government) bodies are entitled to take a decision on a partial or full suspension of improper advertising and executing counter advertising;
2. A violator shall stop improper advertising right after the decision of local self government (government) bodies and carry out counter advertising within 10 days thereafter.
3. If the decision on the violation of advertising legislation is not fulfilled, local self government (government) bodies are entitled to go to court with the request to have improper advertising stopped and violator imposed the obligation to execute counter advertising.
4. Counter advertising shall be distributed by the same means and in the same sequence, space and place as improper advertising. The content of counter advertising shall be agreed with a local self government (government) body. The sequence, space and place of counter advertising can be changed by the decision of this body.

Article 20. Responsibility of Advertiser, Producer and Distributor

1. The advertiser shall be held responsible for the violation of advertising legislation of Georgia in regards to the content of information submitted for the production of the advertising, unless it is proved that such violation was caused by advertising producer or distributor.
2. The advertising producer shall be held responsible for the violation of the advertising legislation of Georgia in regards to the design, production or preparation of the advertisement.
3. The advertising distributor shall be held responsible for the violation of the advertising legislation of Georgia in regards to the advertising time, place or media.

Article 21. Responsibility for Violation of Advertising Legislation of Georgia

1. Natural and legal persons (advertisers, advertising producers and distributors) shall be held responsible for the violation of advertising legislation of Georgia in accordance with the Georgian legislation.

2. Local self-government and government bodies shall be responsible for the conformity with the requirements stipulated in Article 6 of this Law.

2¹. The responsibility for the breach of regulations in broadcast advertising shall be imposed by the Georgian National Communications Commission. *(9.06.2006 #3245)*

3. Persons, whose rights and interests are infringed as a result of improper advertising, are entitled to apply to the court in accordance with the established rule for compensation of damages caused to health and property, name, dignity and business reputation and demand the retraction of improper advertising.

4. The imposition of responsibility does not relieve the advertiser, advertising producer and distributor of the obligation to remedy the breach of legislation and to execute the decision on the execution of counter-advertising.

5. Advertisers, advertising producers and distributors are entitled to apply to courts in accordance with the Georgian legislation for total or partial abrogation of the decision by a local self government (government) body. *(03.06.2005 #1551)*

6. The submission of the abovementioned application to the court does not suspend the execution of the decision by local self government (government) body unless the court rules on its suspension. *(03.06.2005 #1551)*

Chapter VI Interim and Concluding Provisions

Article 22. Interim Provisions

1. Deleted *(9.06.2006 #3245)*.

2. The words (“except that via radio and TV”) in paragraph 8, Article 8 of this law shall be in force until December 31, 1999.

3. Paragraph 3, Article 12 of this Law shall enter into force from the effective date of the appropriate amendments to the Tax Code of Georgia.

4. Local self-government and government bodies shall undertake measures for bringing outdoor advertising in line with the requirements of this law within 2 months following the effective date of this law.

5. Deleted *(9.06.2006 #3245)*.

6. Deleted *(9.06.2006 #3245)*.

Article 23. Effective Date of Law and Normative Acts to Be Abolished

1. This Law shall enter into force upon its publication.

2. Paragraph 7, Article 8 of this Law shall enter into force from April 1, 2003. *(21.12.2001 #1220)*

3. The following shall be declared nil and void from the effective date of this Law:

a) Decree No. 60, dated March 10, 1995, of the Head of State of Georgia “On Protection of Consumers from Unfair Advertising”.

b) Resolution No 160, dated March 27, 1995, of the Cabinet of Ministers of Georgia “On Urgent Measures for Protection of Consumers from Unfair Advertising”.

President of Georgia

Eduard Shevardnadze

Tbilisi,

February 18, 1998

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