

ADVERTISING SERVICES





Introduction

This booklet is one of a series of 20 booklets prepared by MIDA for the purpose of providing investors with relevant information on establishing projects in the identified services sub-sectors in Malaysia. The complete list of booklets is as follows:

- Booklet 1:** General Policies, Facilities and Guidelines
- Booklet 2:** Regional Operations
- Booklet 3:** Research and Development (R&D) Services
- Booklet 4:** Logistics Services
- Booklet 5:** Specialised Technical Support Services
- Booklet 6:** Information and Communication Technology Services
- Booklet 7:** Environmental Management Services
- Booklet 8:** Distributive Trade Services
- Booklet 9:** Tourism and Travel Related Services
- Booklet 10:** Education and Industrial Training Services
- Booklet 11:** Legal Services
- Booklet 12:** Accounting, Auditing and Taxation Services
- Booklet 13:** Architectural Consultancy Services
- Booklet 14:** Surveying Consultancy Services
- Booklet 15:** Medical and Health Care Services
- Booklet 16:** Engineering and Energy Consultancy Services
- Booklet 17:** Management Consultancy Services
- Booklet 18:** Market Research Services
- Booklet 19:** Advertising Services
- Booklet 20:** Quick Reference

The Ministry of International Trade & Industry (MITI) spearheads the development of industrial activities to further enhance Malaysia's economic growth. As an agency under MITI, the Malaysian Investment Development Authority (MIDA) is in charge of the promotion and coordination of industrial development in the country.

MIDA is the first point of contact for investors who intend to set up projects in manufacturing and services sector in Malaysia. With its headquarters in Malaysia's capital city of Kuala Lumpur, MIDA has established a global network of 23 overseas offices covering North America, Europe and the Asia Pacific to assist investors interested in establishing manufacturing projects and services activities in Malaysia. Within Malaysia, MIDA has 12 branch offices in the various states to facilitate investors in the implementation and operation of their projects.

If you wish to explore investment opportunities in Malaysia, please contact MIDA for more information as well as assistance in your decision-making (please see the last page of contact details of MIDA's headquarters and state and overseas offices).

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ADVERTISING SERVICES

Advertising (classified under code 74300, Malaysia Standard Industrial Classification) refers to the provision of advertising services by an advertising agency. Advertising agency activities encompass creating and placing advertisements in periodicals, newspapers, radio, television and outdoor advertising. Its activities also include media representation, aerial advertising, distribution or delivery of advertising materials or samples, and renting of spaces for advertisement. Outdoor advertising refers to billboards, panels, bulletins and frames, window dressing, showroom design, car and bus carding, etc. Media representation refers to sale of time and space for various media soliciting advertising. It excludes the following:

- (a) Printing of advertising material which is classified in Item 22210: Printing.
- (b) Market research which is classified in Item 74130: Market research and public opinion polling.
- (c) Public relations activities which are classified in Item 74143: Public relations consultancy services.
- (d) Direct mailing activities which are classified in Item 74992: Bill collecting, credit rating, direct mailing, mail advertising and similar activities.
- (e) Production of commercial messages for radio, television and film which are classified in the appropriate items of Group 921: Motion picture, radio, television and other entertainment activities.

1. LICENSING AND REGISTRATION

1.1 Registration with Companies Commission of Malaysia

The setting up of a company providing advertising services the intended party to register with the Companies Commissions of Malaysia (CCM) under the Registration of Businesses Act, 1956 or incorporate a company under the Companies Act, 1965. A foreign company cannot carry on business in Malaysia unless it incorporates a local company, or registers a branch in Malaysia.

A 'Foreign Company' is defined under the Companies Act, 1965 as:

- a company, corporation, society, association or other body incorporated outside Malaysia, or

- an unincorporated society, association, or other body which under the law of its place of origin may sue or be sued, or hold property in the name of the secretary or other officer of the body or association duly appointed for that purpose and which does not have its head office or principal place of business in Malaysia.

1.2 Registration with Ministry of Finance (MOF)

Any consulting firm wishing to tender for Government contracts shall register with MOF using the codes specified by MOF.

Conditions that must be fulfilled for registration with MOF:

- (i) Firm with accumulated/paid-up capital as follows:

Sole proprietorship	-	minimum of RM50,000
Partnership	-	minimum of RM50,000
Sdn. Bhd.	-	minimum of RM50,000
- (ii) The firm needs to have a legitimate office address, either leased or own property.
- (iii) The business premise is not allowed to use the address of on-line office, P.O.Box, mailing box office services and other premises where the traceability and capacity of the firm is difficult to be determined.
- (iv) The firm must have at least three (3) staffs under permanent employment and contribute to the Employees Provident Fund (EPF) with the following composition:
 - a) one (1) professional staff with academic qualification of at least a degree in related field;
 - b) one (1) semi-professional with academic qualification of at least a diploma in related field; and
 - c) one (1) clerk.
- (v) The owner of the firm must be appointed as a full-time Director, and can be appointed as the professional staff or the management, but is not allowed to be appointed as a worker in the firm.
- (vi) The owner of the firm must have the necessary professional qualification in the field of expertise applied for in accordance with the provision of the laws and regulations and is required to submit relevant CV/work experience.
- (vii) The professional staff and the semi-professional staff are required to submit their first degree or diploma together with their relevant CV/work experience.

- (viii) All equity/share-holders must have at least five (5) years of working experience in the field of expertise applied for after obtaining their first degree.
- (ix) The field of expertise submitted for registration with MOF must be consistent with the practising licence issued by the respective Professional Boards.
- (x) The consulting firm needs to have an active current account.
- (xi) For professions whose ethics of service are governed by the Professional Boards, the equity/ share-holders shall be registered with their respective Professional Boards. The field of expertise to be registered with MOF will be the expertise approved by the Professional Boards.
- (xii) For professions whose ethics of service are yet to be governed by the Professional Boards, the field of expertise to be registered with MOF will be based on the academic qualification and the working experiences of the owner.
- (xiii) The consulting firm is required to submit its registration certificate with the Professional Board as compliance with the provisions of the Act of the Professional Board for purposes of carrying out consultancy services.

Application must be made only through www.eperolehan.gov.my

Please refer to the above website for policy of registration, registration code and other relevant information.

1.3 Business Licence

Companies intending to set up an office are required to obtain a business premise/ signboard licence from the respective local authorities, depending on the nature of the business activity.

There are 179 local authorities in Malaysia which are responsible for approving business premise and signboard licences. The requirements for obtaining a business premise/signboard licence may vary according to the conditions requirements set by each local authority.

Applicants are advised to contact the relevant local authority (based on the location of the business premises) regarding the specific rules and regulations pertaining to business premise/ signboard registration. The fees may vary according to each of the local authorities.

Contact details for local authorities are available in the Quick Reference Booklet in this series.

2. EQUITY POLICY

To increase local participation in business, the Government encourages joint-ventures between Malaysian and foreign investors.

3. GENERAL AGREEMENT ON TRADE IN SERVICES (GATS), ASEAN FRAMEWORK AGREEMENT ON SERVICES (AFAS) AND FREE TRADE AGREEMENTS (FTAS)

The updates and information on Schedule of Specific Commitments of GATS, AFAS and FTAs is available in MITI'S website www.miti.gov.my

4. SPECIFIC IMMIGRATION PROCEDURES

Companies providing advertising services in Malaysia may employ expatriates. The company must submit its applications for Employment Passes to the Immigration Department.

Before applying for the Employment Pass for expatriates, the company or organisation must apply for approval of the related post from the Expatriate Committee of the Immigration Department.

Key posts will be considered if the foreign paid-up capital is at least RM500,000. However, this sum is only a guideline and the number of key posts considered is dependent on the company's needs, on a case-by-case basis.

Upon approval of the expatriate posts, companies should forward their applications for Employment Passes to the Immigration Department for endorsement. The spouse and children of the expatriate can apply for Dependant Passes once the expatriate has been issued with the Employment Pass. The Dependant Pass may be applied together with the application, for the Employment Pass or after the Employment Pass is approved. The spouse and children of the expatriate who enter the country on a visit (temporary employment or professional) will be issued a visit (social) pass.

5. GENERAL GUIDELINES FOR ADVERTISING PRACTICE

The Malaysian Code of Advertising Practice is a fundamental part of the system of control by which the advertising activities are regulated in Malaysia. It is administered by the Advertising Standards Authority Malaysia (ASAM). It does not cover publicity for products which appear in media other than in space or time paid by advertisers.

Outdoor advertising guidelines and approvals are under the auspices of the respective state Government/local authorities.

Government-owned television and radio have their own Advertising Code (Kod Pengiklanan) which is under the control of the Ministry of Communications and Multimedia.

Advertisements communicated electronically, which include private-owned television and radio, online services and audiotext hosting services otherwise referred to as premium rate

services, have their own Content Code which is administered by the Malaysian Communications and Multimedia Content Forum (CMCF) of Malaysia.

Commercials must have at least 80% local content and be made in Malaysia if they wish to qualify as a Made-in-Malaysia advertisement according to the Made-in-Malaysia (MIM) rules under National Film Development Corporation (Perbadanan Kemajuan Filem Nasional Malaysia) (FINAS).

The Film Censorship Board (Lembaga Penapisan Filem) has its own Film Censorship Guidelines (Garis Panduan Penapisan Filem).

General guidelines to be followed by the companies providing advertising services are:

- (i) All advertisements shall be legal, decent, honest and truthful.
- (ii) Advertisements must project the Malaysian culture and identity, reflect the multiracial character of the population and advocate the philosophy of 'Rukun Negara' which reads as follows:
 - Believe in God
 - Loyalty to King and Country
 - Upholding the Constitution
 - Rule of Law
 - Good Behaviour and Morality
- (iii) Advertisements must not identify or type-cast each particular racial group or sex with vocations, traditional values and backgrounds.
- (iv) A list of statutes affecting advertising is set out. Particular attention is drawn to the Trade Description Act, 1972.
- (v) Advertisements must comply in every respect with the law, common or statute. Advertising should not propagate fraudulent trade practice.
- (vi) No advertising material which tends to offend the proprieties of ethics generally observed by the community or contains terms, words or subject matter not generally considered acceptable in polite conversation shall be accepted.
- (vii) All advertisements shall be prepared with a sense of responsibility to the consumer.
- (viii) All advertisements shall conform to the principles of fair competition as generally accepted in business.
- (ix) No advertisement shall bring advertising into disrepute or reduce confidence in advertising as a service to the industry and to the public.
- (x) Advertisements must be clearly distinguishable as such.



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