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Present Situation and Development of the Advertising Industry Self-Regulatory in China

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中国广告行业自律的 现状与发展

Present situation and development of the
advertising industry self-regulatory in China

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从本质上讲，广告行业自律是一种自我管理活动，明显区别于来自政府的强制性管理和来自大众的社会监督，有着自身的独有特色。

In essence, the advertising industry self-regulatory is a kind of self management activities, obvious difference in the mandatory management from the government and from the public and social supervision, has its own unique characteristics.

广告监督管理与广告行业自律的特性比较
Comparison of characteristics between advertising industry self-regulatory and the supervision and management of advertising

广告监督管理 The supervision and management of advertising	广告行业自律 Advertising industry self-regulatory
刚性Rigidity	灵活性Flexibility
强制性Mandatory	自愿性Voluntary
被动性Passivity	主动性Initiative
法律性Legal Character	道德性Moral character

一、中国广告行业自律的起源与发展
I. The origin and development of the advertising industry self-regulation in China

中国现代广告行业的自律最早出现于20世纪20年代。

China modern advertising industry self-regulation, first appeared in the twentieth Century 20's.

1920年5月5日，全国报界联合会（1919年4月15日成立于上海）在广州召开第二次常务会。这次会议通过了《劝告禁载有恶影响于社会之广告案》，**这是中国最早的广告自律文件。**

In May 5, 1920, the National Newspaper Association (founded in April 15, 1919 in Shanghai) held the second session of the Standing Committee in Guangzhou. The meeting adopted the "persuasion with prohibiting to publish bad influence advertisement to the society", **which is China's earliest advertising self-regulation file.**

自此以后，直至20世纪70年代，中国广告业一直没有得到充分的发展。尤其是在20世纪50年代至70年代，中国广告业更是经历了一个曲折的发展过程。到70年代末，广告行业几近消亡，广告行业自律也就无从谈起。直到1979年，我国的广告业才枯木逢春，重现生机。

Since then, until twentieth Century, 70's, Chinese advertising industry has not been fully developed. Especially in twentieth Century 50's to 70's, China advertising industry also experienced a tortuous development process. By the end of the 70's, the advertising industry almost die, advertising industry self-regulation is impossible. Until 1979, China's advertising industry again, back to life.

1979年至今，中国经历了举世瞩目的改革开放。伴随着经济的快速发展，广告业也得到了长足的进步。

Since 1979, China experienced remarkable reform and opening up. With the rapid development of economy, the advertising industry has also been considerable progress.

2013年的广告经营额第一次突破5000亿元人民币，达到5019.75亿元，是1979年0.15亿元的33465倍。

In 2013 the advertising business sales first exceeded 50000000000 Yuan, reaching 50197500000 Yuan, 33465 times more than 1500000 Yuan in 1979.

从1979年到2013年，全国广告经营额年均增长率超过30%。中国成为世界第二大广告市场。

From 1979 to 2013, the national advertising turnover average annual growth rate of more than 30%. China became the world's second-largest advertising market.

1979-2013年中国广告经营状况						China advertising situation 1979-2013					
年份	GDP (亿元)	GDP增长率 (%)	广告经营额 (亿元)	广告经营额增长率 (%)	广告经营额占GDP的比重 (%)	年份	GDP (亿元)	GDP增长率 (%)	广告经营额 (亿元)	广告经营额增长率 (%)	广告经营额占GDP的比重 (%)
1979	4062.00	-	0.15	-	0.004	1997	78973.00	10.95	461.96	26.00	0.585
1980	4545.60	11.91	0.60	400	0.013	1998	84402.30	6.87	537.83	16.42	0.637
1981	4891.60	7.60	1.18	196.67	0.024	1999	89677.10	6.25	622.10	15.70	0.694
1982	5323.40	8.83	1.50	27.12	0.028	2000	99214.60	10.64	712.66	14.32	0.718
1983	5962.70	12.01	2.34	56.05	0.039	2001	109655.20	10.52	794.89	14.54	0.725
1984	7208.10	20.89	3.65	56.05	0.051	2002	120332.70	9.74	903.15	13.62	0.751
1985	9016.00	25.08	6.05	65.69	0.067	2003	135822.80	12.87	1078.68	19.44	0.794
1986	10275.20	13.97	8.45	39.58	0.083	2004	159878.30	17.71	1465.00	17.23	0.916
1987	12058.60	17.36	11.12	31.63	0.092	2005	183867.90	15.00	1416.35	12.00	0.770
1988	15042.80	24.75	14.93	34.26	0.099	2006	216314.40	17.65	1573.01	11.06	0.727
1989	16992.30	12.96	19.99	33.90	0.118	2007	265810.30	22.88	1740.96	10.68	0.655
1990	18667.80	9.86	25.02	25.15	0.135	2008	314045.40	18.15	1899.56	9.11	0.605
1991	21781.50	16.68	35.09	40.26	0.162	2009	340506.90	8.43	2041.03	7.45	0.599
1992	26923.50	23.61	67.87	93.41	0.255	2010	397983.00	16.88	2340.50	14.67	0.588
1993	35333.90	31.24	134.09	97.57	0.388	2011	471564.00	9.20	3125.60	33.54	0.663
1994	48197.90	36.41	200.26	49.35	0.429	2012	519322.00	7.80	4698.00	50.31	0.905
1995	60793.70	26.13	273.27	36.46	0.475	2013	568845.00	9.54	5019.75	6.84	0.882
1996	71176.60	17.08	366.64	34.17	0.515						

在广告业和广告市场蓬勃发展的同时，大量的各种各样的广告问题也不断出现，集中表现为虚假违法广告的大量出现。而医药、医疗器械、食品、化妆品、新闻出版、网络营销等行业成为虚假违法广告的重灾区。

Vigorous development in advertising industry and advertising market, A large number of various advertising problems also appear constantly, The focus of a host of the emergence of false illegal advertisement. And the industries of medicine, medical equipment, food, cosmetics, the press and publishing, the internet marketing and so on become a major disaster area of false illegal advertisement.

对此，多年来广告由政府主管部门——国家工商行政管理总局与相关部门，如国家新闻出版广电总局、卫生部、商务部等，联合对虚假违法广告进行重点监管，常抓不懈。

In this respect, the departments of the government in charge of advertising-- the State Administration for Industry and Commerce and the relevant departments over the years, such as The State Administration of Press, Publication, Radio, Film and Television , Ministry of health, Ministry of Commerce, joint supervision of false and illegal advertisements, often catch indefatigable.

每年3月15日的消费者权益保护日都是对全国最突出的虚假违法广告进行集中公开曝光和处理的日期。

Each year in March 15th in China, World Consumer Rights Day, it is the day that centralized public exposure and processing times for the most prominent false illegal advertisement.

伴随着改革开放，中国的广告管理也是从分散到系统，逐步规范的。

With the reform and opening up, China's advertising management is also from scattered to system, gradually standardized.

日期 Date	发布主体 Subject	法规名称 Name of laws and regulations	影响 Effect
1982	国务院 The State Council	《广告管理暂行条例》 The Interim Regulations on Advertising Management	这是中国第一部全国性的广告管理法规，为广告管理提供了法律依据和准则。
1987	国务院 The State Council	《广告管理条例》 The Regulations on Advertising Management	该条例使广告管理法规进一步完善，为广告行业的健康发展提供了保障。
1995	国务院 The State Council	《广告法》 Advertisement Law	这标志着我国广告市场在法制化轨道上更进了一步，成为我国广告发展的一个新的里程碑。目前，涉及我国广告监督管理范围的法律和行政法规有十几种。这些规定围绕《广告法》形成了一整套系统较完备的广告监督管理制度。

随着广告业的迅速发展，我国当代广告行业自律逐步走向纵深化。20世纪80年代之后，全国及地方各级广告协会相继建立，不少有关行业和组织如广告公司、大众传媒及广告主企业等都制定出自我约束广告活动的自律规则。

With the rapid development of the advertising industry, China's contemporary advertising industry self-discipline to longitudinal deepening step by step. After the 1980's, the national and local advertising association at all levels have established, a lot of relevant industries and organizations such as advertising company, the mass media, and advertisers have to develop the self-discipline rules of the AD campaign.

广告行业协会制定的自律规则

Self-discipline rules formulated by the advertising industry association

发布日期 Date	自律制度 Name of self-regulation system
1991	《广告行业岗位职务规范》(试行) The Advertising Industry Post Job Specifications (Trial implementation)
1994	《中国广告协会自律规则》 The China Advertising Association Self-discipline Rules
1994	《中国对外贸易广告协会会员关于出口广告工作的自律守则》 The Member of China Advertising Association of Foreign Trade on Export Advertisements Self-discipline Rules
1998	《广告宣传精神文明自律规则》 Advertising Self-discipline Rules of Spiritual Civilization
1999	《广告行业公平竞争自律守则》 The Fair Competition in the Advertising Industry Self-Discipline Rules
2001	《城市公共交通广告发布规范(试行)》 The City Public Transport Advertising Specification (Try Out)

广告行业协会制定的自律规则（续）

Self-discipline rules formulated by the advertising industry association (continue)

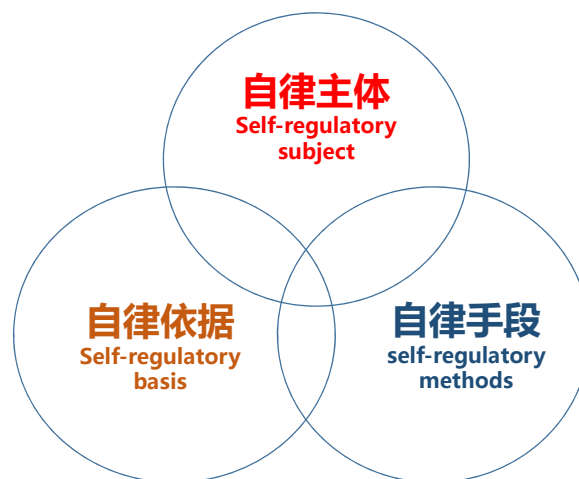
发布日期 Date	自律制度 Name of self-regulation system
2007	成立中国广告协会互动网络委员会，并出台了《互动网络广告行业自律守则》 China advertising association interactive network commission was established and introduced interactive online advertising industry self-discipline rules
2008	《中国广告行业自律规则》 The Chinese Advertising Industry Self-discipline Rules
2008	《广告自律劝诫办法》 Advertising self-discipline exhortation method
2008	《奶粉广告自律规则》 The Milk Powder Advertising Self-discipline Rules
2008	《卫生巾广告自律规则》 The Sanitary Napkin Advertising Self-discipline Rules
2010	关于促进农村广告市场发展加强涉农广告自律的若干意见 About strengthening agricultural advertising to promote the advertising market development several opinions of self-discipline

二、中国广告行业自律现状

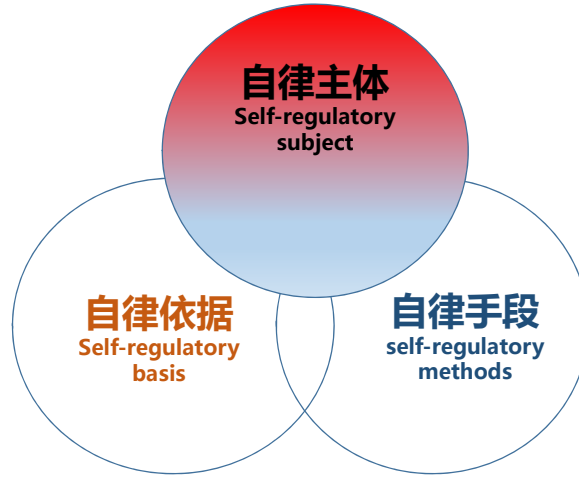
II. China ad industry self-regulatory status

中国的广告行业自律现状由三个主要部分构成：

China ad industry self-discipline status is composed of three main parts:



(一) 自律主体 Self-regulatory body



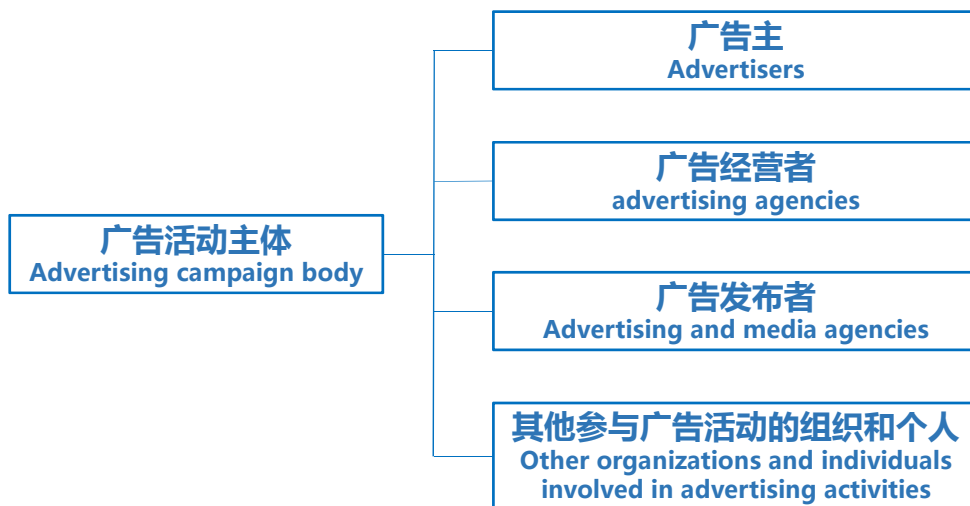
1. 广告活动主体 Advertising campaign body

随着中国广告行业的不断发展，发布的广告数量巨大，来自政府部门的行政性审查不可能覆盖到所有的广告。

With the continuous development of China's advertising industry, advertising a huge number, from the administrative review is impossible to cover all advertising.

因而，对于绝大多数广告而言，来自广告活动主体之间的自律与审查是最有效的管理手段。

therefore, for the vast majority of ads, self-discipline and review from the advertising subjects is the most effective means of management.



广告活动主体的自律行为主要包括如下两个方面：

Self-regulation of the advertising campaign body mainly includes two aspects as follows:

第一，以公平的方式开展竞争，认真履行各项签订的广告合同，不以商业贿赂、诋毁他人声誉和其他不正当手段达成交易；

First, to compete in a fair way, fulfill the sign advertising contract carefully, not on commercial bribery, defamation of reputation and other improper means to reach a deal;

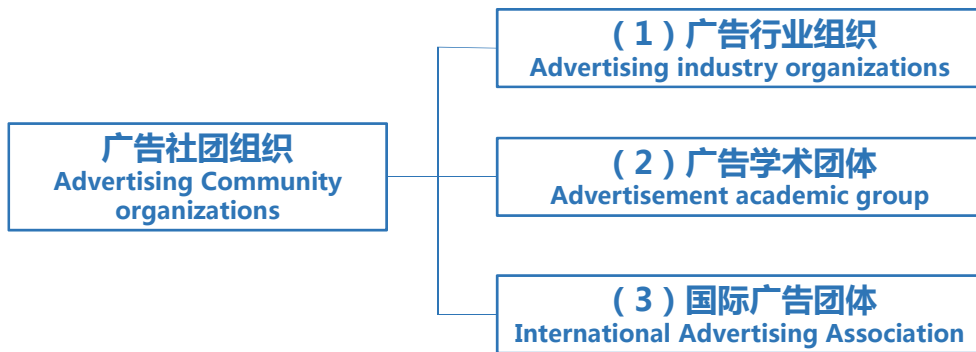
第二，依据《广告法》及相关法律法规、社会道德规范、行业规范等审查提交、经营、发布的广告内容，杜绝虚假广告、不实广告等违法广告，以及误导性广告、冒犯性广告等问题广告的出现。

Second, examine advertising content basis "advertisement law" and relevant laws and regulations, social ethics, industry standards, and so on, completely eradicate illegal advertising, such as false advertising, misleading advertising, offensive advertising and other advertising in question.

其中，媒体作为广告发布平台的提供者和最终把关者，负有最为重要的自律责任。

Among them, the media as an advertising platform providers and final gatekeeper, bear the most important responsibility of self-discipline.

2. 广告社团组织 Advertising community organizations



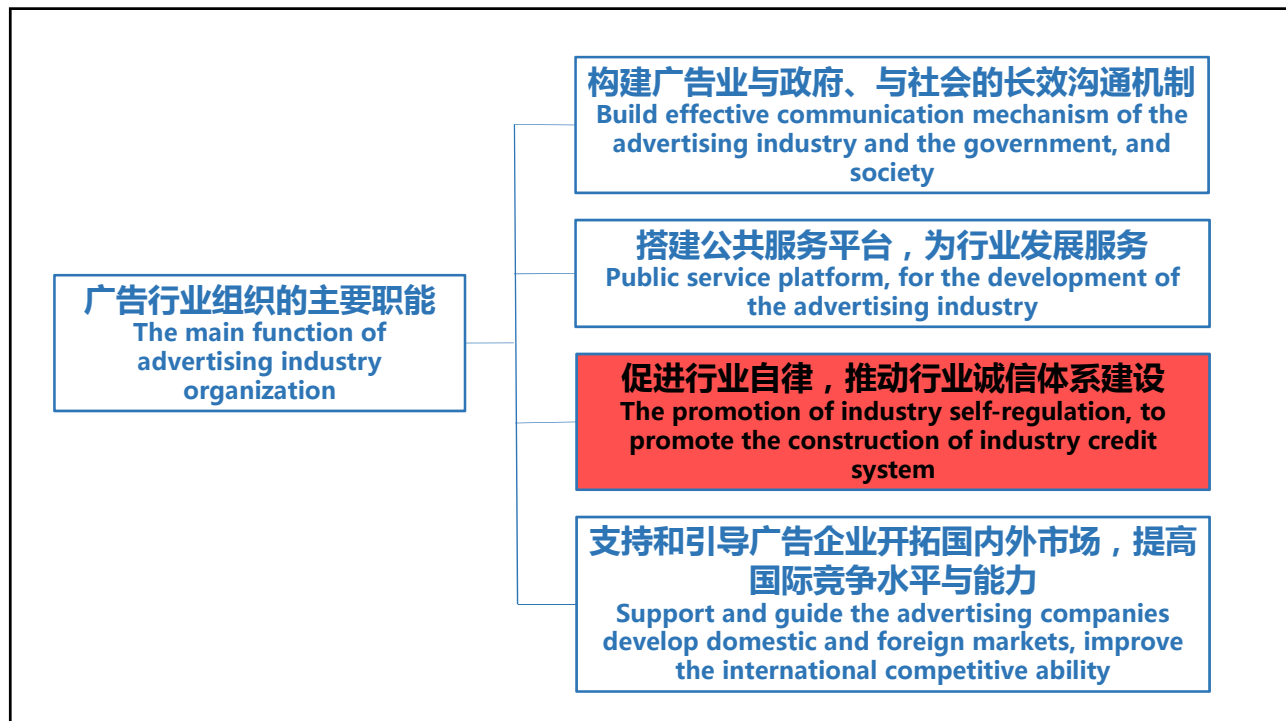
由于在中国广告学术组织和国际广告团体多是与广告行业组织建立了密切合作、通过行业组织来开展工作，因而**中国广告行业自律主要由广告行业组织来推动。**

Due to the Chinese advertisement academic organizations and international advertising group establish close cooperation with advertising industry organizations, and carry out the work through advertising industry organizations, so **Chinese advertising industry self-regulatory is mainly composed of the advertising industry organization to promote.**

(1) 广告行业组织 Advertising industry organizations

行业组织（主要包括行业协会、商会）是该组织内成员本着自发、自愿的原则，为了行业的共同发展目标、维护共同的合法权益和行业利益而形成的非营利性社会组织。

Industry organizations (including industry associations, chambers of Commerce) is the organization members in line with the principle of voluntary and spontaneous, for common development goals, the industry to maintain the legitimate rights and interests of the common, form non-profit social organizations.



中国最具代表性的全国性广告行业组织情况				
Chinese most representative national advertising industry organizations				
名称 Name	成员组成 Member	主管机构 Authorities	职能侧重点 Function point	成立时间 Founding date
中国商务广告协会 China Advertising Association of Commerce	全国商务广告行业，包括品牌和创意产业	商务部	加强对创意产业的研究； 促进自主品牌建设； 加强对会员单位的服务。	1981
中国广告协会 Chinese Advertising Association	广告公司、广告媒体、广告主、广告调查机构、广告设备器材供应机构等经营单位、地方性广告组织、广告教学研究机构及个人	国家工商行政管理总局	向政府有关部门反应行业意见和建议； 开展交流、资质认定、行业数据发布等服务工作； 加强行业自律，开展行业维权工作。	1983
中国广告主协会 China Association Of National Advertisers	广告主	国务院国有资产监督管理委员会	维护广告主合法权益； 反对不正当竞争和恶性竞争行为； 促进广告传播活动的科学化、规范化，提升广告主的市场竞争力。	2005
中国4A Chinese 4A	广告代理公司	商务部	树立专业的作业规范； 引导各代理公司良性竞争； 培养人才	2006

(2) 广告学术组织 Advertisement academic organization

由广告活动主体、广告理论研究和广告行政管理部门联合组成的学术研究组织，以及设置有广告专业的教育和研究机构，通过其教学、研究、交流等一系列活动，可达到提高广告行业的业务水平与理论水平，为广告界提供具有相应自律意识、道德规范和操作水平的人才等目的，从而也为我国广告行业自律贡献了一部分力量。

A coalition of advertising subject, advertising theory research and advertising administration and academic research organizations, and provided with advertising professional education and research institutions, through its teaching, research, exchange and other series of activities, can improve the service level and the theoretical level of the advertising industry, advertising industry has to provide corresponding self-discipline consciousness, ethics specifications and operating level of talent, etc, thus it contributes a part of power for the self-discipline of China's advertising industry.

中国具有代表性的广告学术组织

China advertising representative academic organization

名称 Name	主管单位 Authorities	职能侧重点 Function point
广告教育专业委员会 Advertising Education Professional Committee	中国高等教育学会	提升广告学术研究的地位，强化广告学科的学术尊严； 加强广告专业教育的国际化交流和沟通； 对重大的广告争议出具相关的学术论证意见。
广告博物馆 Advertising Museum	民间学术组织	中国广告业历史、现状的梳理研究； 广告专业理论的研究与教学科普。
国家广告研究院 National Advertising Research Institute	中国传媒大学	配合国家政策开展广告业规划发展、监督管理及产业政策和 发展趋势的研究； 举办国际性的广告论坛和学术会议； 为我国广告业研究培养高级人才。

(3) 国际广告团体 International Advertising Association

国际广告团体通过在中国建立分会或与行业组织进行合作等方式，促进中国广告行业与世界各国的交流，间接提升中国广告行业的运作水平和规范化程度，最终推进了中国广告行业自律的进程。

International advertising group in China by means of establishing branch or cooperating with industry organization, promote China advertising industry exchanges with countries in the world, indirectly enhance China advertising operation level and the degree of standardization, ultimately promote the process Chinese advertising industry self-discipline.

与中国联系密切的具有代表性的国际广告团体

Close contact with Chinese representative international advertising group

名称 Name	成立时间及 总部地点 Founding time And place	服务对象 Service object	宗旨 Purpose
国际广告协会 International Advertising Association	1938年 纽约 New York	广告主、广告公司、媒体、学术机构以及营销传播界	保护和促进商业言论自由和消费者自由选择的权利； 鼓励广告自律的广泛实施好认可； 对从业人员的教育和培训，引领行业高水准发展。
世界广告主联合会 World Federation of Advertisers	1953年 布鲁塞尔 Brussels	广告主	促进有效的市场营销传播活动和投资； 通过帮助国家广告主协会制定国家层面的营销传播行为自律准则； 推动全球范围内的负责任营销传播； 净化营销传播的大环境。
亚洲广告公司协会联合会 Asian Association of Advertising Agencies Association	2007年 新加坡 Singapore	亚洲广告公司、广告行业协会	提高亚洲地区广告业的服务水平； 提高广告业地位。

3. 其他行业相关组织

Other industry related organizations

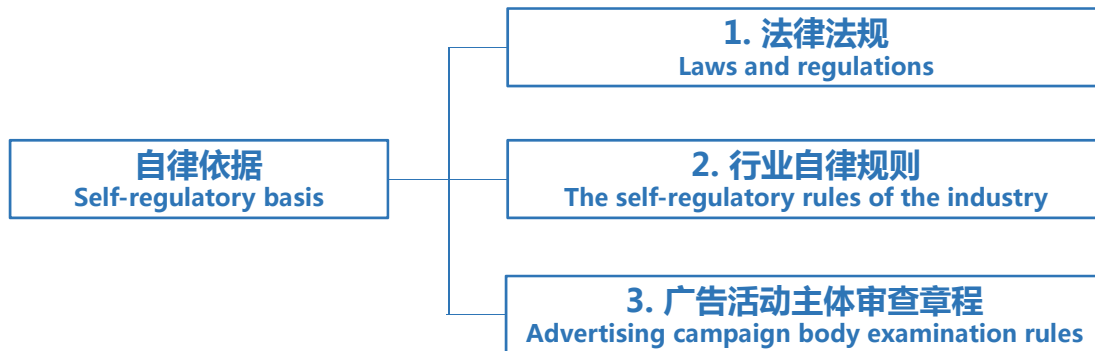
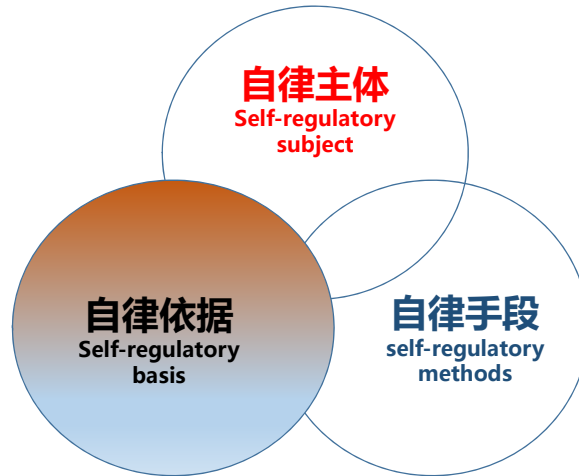
由于广告活动会涉及到国民经济的诸多行业，来自其他行业的一些自律行为在其活动中也会对广告业的自律形成影响。

The advertising campaign involves many sectors of the national economy, some self-discipline behavior from other industries will impact on the advertising industry self-regulatory.

例如：互联网行业的中国互联网协会、中国电影发行放映协会、中华全国商业联合会美容化妆品业商会，等等。

For example: China Internet association, China Film Association, The Cosmetics industry chamber of Commerce of the National Association of business, etc..

(二) 自律依据 Self-regulatory basis



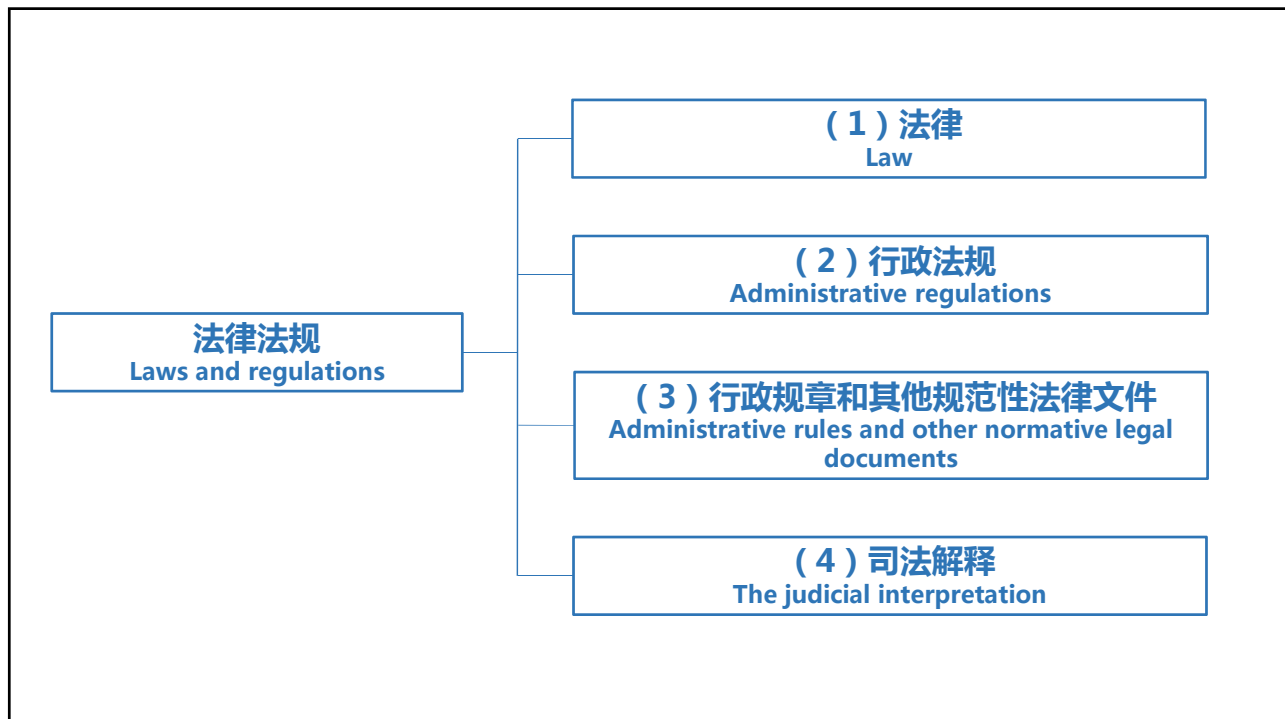
1. 法律法规Laws and regulations

法律法规是各行业自律主体制定自律规则时所参照和依托的基础。

Laws and regulations is the basis for the self-regulatory subject to develop self-regulatory rules when the reference and support.

现阶段，我国涉及广告管理的法律法规是以《广告法》为核心，以《广告管理条例》为补充，以其他行政规章、规范性法律文件和司法解释为实际操作依据的多层次法律体系。

At present, China's laws and regulations relating to the advertising management is the "advertisement law" as the core, with "advertising management regulations" as a supplement, in other administrative regulations, laws and judicial interpretation for the multi-level legal system based on the actual operation.



(1) 法律Law

以1995年2月1日起正式施行的《广告法》为核心。

In February 1, 1995 the formal implementation of the "advertisement law" as the core.

该法律以商业、服务性广告为调整对象，具有其他法律法规所不可比拟的力度和覆盖面，同时也是制定行政法规、地方性法规的依据。

The law on commercial, service advertising as the adjustment object, with other laws and regulations by the incomparable strength and coverage, as well as the formulation of administrative regulations, local laws and regulations basis.

同时，由于广告活动涉及多个领域，《刑法》、《消费者权益保护法》、《反不正当竞争法》、《食品安全法》、《药品管理法》、《烟草专卖法》等多部法律中都有涉及广告管理的内容，这些法律与《广告法》形成有益的配合与补充，共同发挥效力。

At the same time, because the advertising campaign involved a number of areas, "criminal law", "consumer protection law," "Anti Unfair Competition Law", "food safety law", "Drug Administration Law", "tobacco monopoly law" and other laws are involved in advertising management content, is matched with the beneficial supplement these laws and "advertising law", to play the effect.

(2) 行政法规 Administrative regulations

这是以1987年颁布的《广告管理条例》为主体，即使在《广告法》施行后，其也作为《广告法》的补充依旧在行政法规的位阶上发挥作用。

This is in 1987 promulgated the "Regulations on the administration of advertising" as the main body, even in the "advertisement law" after the implementation of the ", also as supplement advertising law" still play a role in the administrative regulations of the position.

(3) 行政规章和其他规范性法律文件 Administrative rules and other normative legal documents

包括：
Include

由国务院有关部门根据其管理实际颁布的与广告相关的行政规章
By the relevant departments of the State Council issued according to the practical management and advertising related administrative regulations

地方政府制订的行政规章
The local government to formulate administrative regulations

由国家工商行政管理总局发布的其他规范性法律文件
Issued by the State Administration for Industry and Commerce and other normative legal documents

如国家新闻出版广电总局（原国家广播电影电视总局）于2009年9月8日发布的《广播电视广告播出管理办法》、国家工商行政管理总局颁布的《医疗广告管理办法》、《化妆品广告管理办法》等

其主要针对一些专项广告管理和地方广告管理的实际问题而制订

这是国家工商行政管理总局根据广告行政执法中的实践而下发的文件，包括公告、通知和给地方工商局的答复等多种文件

(4) 司法解释Judicial interpretation

即指最高人民法院、最高人民检察院在审理或办理某些案件时所做出的解释中，涉及广告内容、经营、发布等方面的部分，这同样在规范广告活动主体行为、明确其权责等方面起到积极作用。

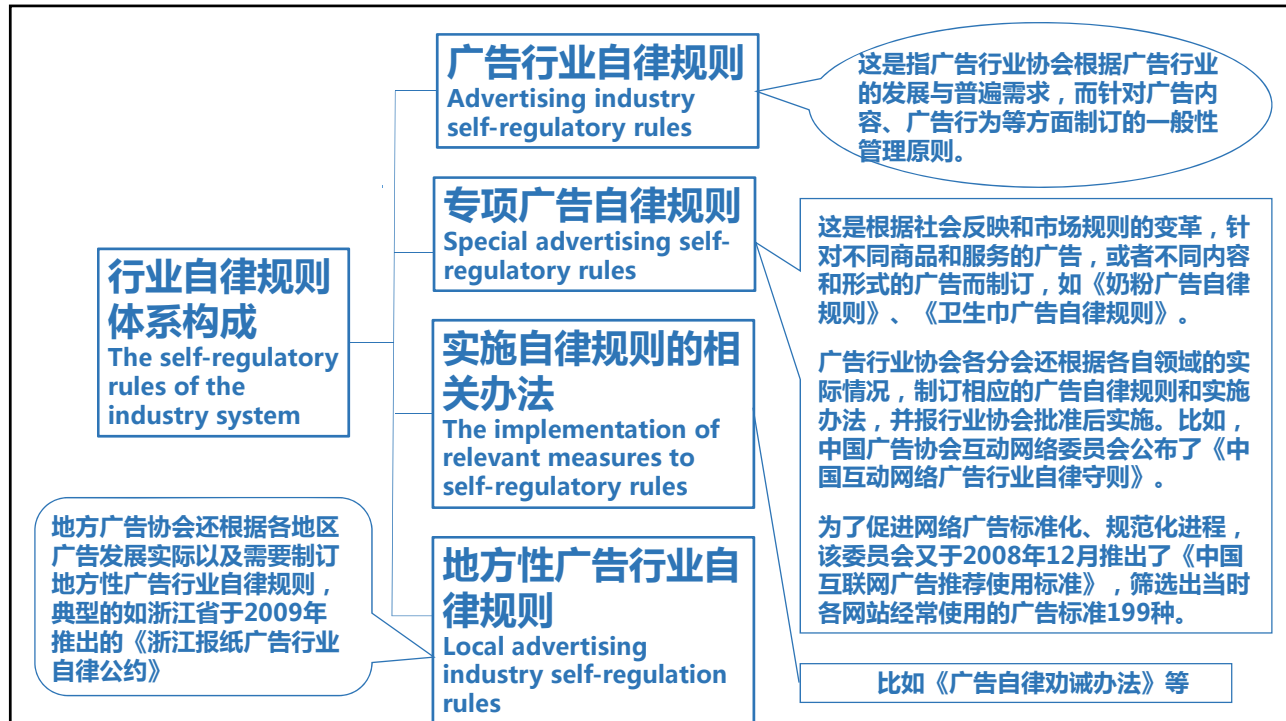
The judicial interpretation of the Supreme People's court, refers to the Supreme People's Procuratorate made in the trial or for some cases of interpretation, involve the advertising content, management, release and other parts, which also regulate advertising activities subject behavior, clear the responsibilities of role.

2. 广告行业自律规则

Self-regulatory rules of the advertising industry

广告行业自律规则是指依据《广告法》及相关法律法规，广告行业组织制订行业的行规、公约，从而为组织内各成员规范自身活动提供依据。

Advertising industry self-regulation rules which is based on the "advertisement law" and relevant laws and regulations, the advertising industry organizations to develop regulations, the convention industry, so as to provide the basis for the member organization to regulate their own activities.



3. 广告活动主体审查章程 Advertising campaign body censor statutes

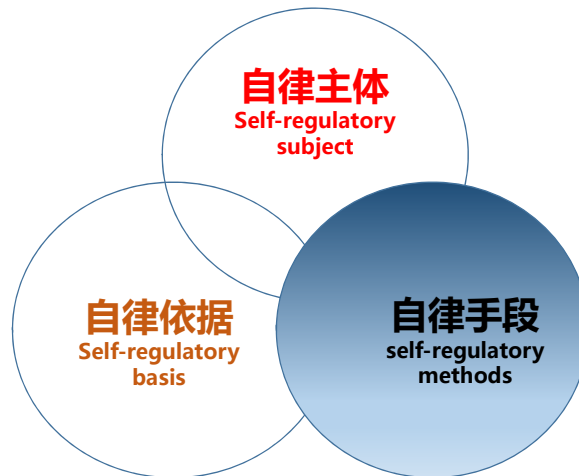
依据法律法规及行业公约，广告活动主体也会制订相应的广告审查章程，在广告发布前对广告进行自律性的审查把关。

According to the laws and regulations and industry convention, Advertising campaign body will formulate the corresponding advertising censor statutes, then self-discipline screening the advertising before the advertisement is published.

例如，中央电视台在2011年发布了《中央电视台广告审查（暂行）标准》，对其所发布的广告内容以及广告主经营资质等方面做出了严格规定。

For example, CCTV released the "review of the CCTV advertisement in 2011 (Provisional) standard", for the content of advertisements issued and the advertising business qualification etc made strict provisions.

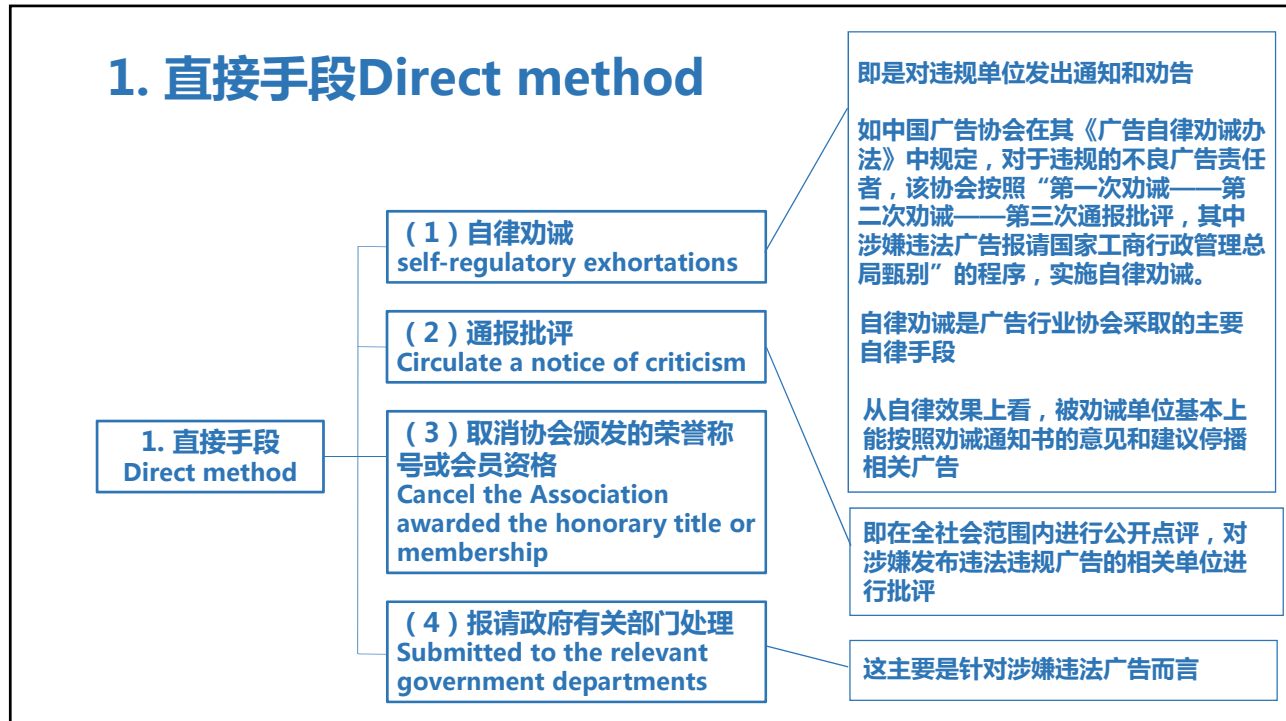
(三) 自律手段 self-regulatory methods



自律手段主要包括两个层面
self-regulatory methods
mainly include two aspects

1. 直接手段
Direct method

2. 完善广告行业自律环境的根本举措
The fundamental measure to improve
the advertising industry self-regulation
environment

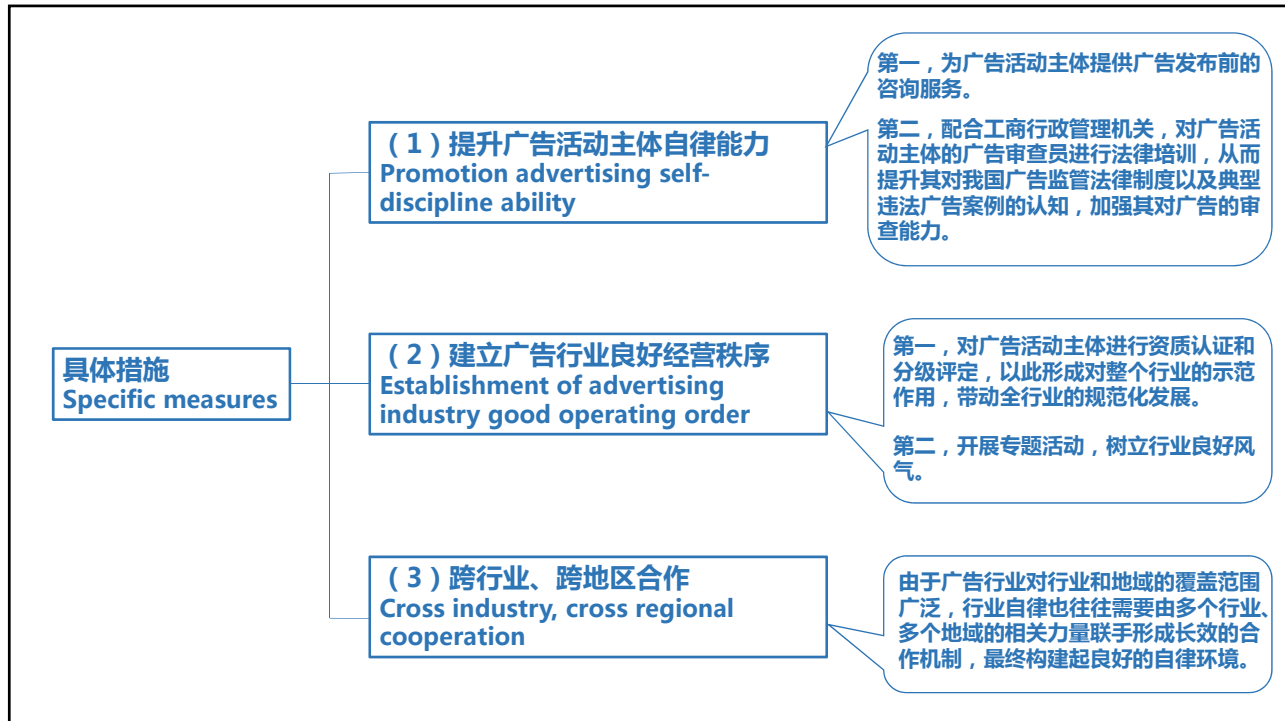


2. 完善广告行业自律环境的根本举措

The fundamental measure to improve the advertising industry self-regulation environment

在惩处违规行为之外，广告行业组织也在探索建立自律的长效机制，以求从根本上提升我国广告行业的自律水平、完善自律环境，从而减免违规广告的出现。

In addition to punish illegal behavior, the advertising industry organizations have been exploring to establish a long-term mechanism of self-discipline, in order to fundamentally improve the level of China's advertising industry self-regulation, and reduce or avoid the occurrence of illegal advertisement .



三、广告行业自律的现存问题

IV. Advertising industry self-discipline of the existing problems

1. 自律主体不明确

Self-discipline subject not clear

2. 自律规则不完善

Self-discipline rules is not perfect

3. 惩戒机制不完善、自律基础相对薄弱

Disciplinary mechanism is imperfect, discipline is relatively weak

四、广告行业自律的优化路径

The optimum path of advertising industry self-discipline

(一) 强化自律主体的合法性、构建专职自律机构

Strengthen the legitimacy of the subject of self-discipline, build professional self-discipline organization

(二) 以广告法为准绳，建立完善有效的自律规则

Advertisement law as the criterion, establish and improve effective self-discipline rules

(三) 建立多元化的违规广告监测、惩处机制

Advertisement law as the criterion, establish and improve effective self-discipline rules

谢谢！
Thank You !