



ASSOCIATION OF ACCREDITED
ADVERTISING AGENTS MALAYSIA

4As' Mandatory Pitch Fees By-Laws

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Why Pitch Fees & Objectives

Situation

- Pitches are expensive and resource draining, resulting in a financial burden to Agencies already operating with sliding margins.
- Advertiser pitch briefs are increasingly more demanding and complex in their requirements.
- Some pitches are merely a 'charade' with the Agency selection already made, prior to the presentation.
- Exploitation of Agencies for free brand positioning, strategy and creative ideas has become an acceptable market norm.
- Status of Agencies reduced to a 'supplier' rather than a valued 'consultant/communications partners'
- Some Advertisers have been known to organise a pitch involving more than the 4A's recommended 3 Agencies (4 if incumbent is included).

Objectives of a Mandatory Pitch Fee

- Encourage Advertisers to firstly try to make the existing Agency relationship work, rather than thinking that a move to a new Agency is necessarily the answer (Long term Advertiser - Agency relationships more often than not benefit the health of the Advertiser's brand).
- To promote the use of a 'Credentials/Case Studies' only pitch (Many successful Agency appointments are based on reputation, personal chemistry, credentials and reference from other Advertisers – as opposed to a full blown pitch).
- To offset a fair proportion of Agency costs when a pitch is called for (This fee is not about covering all the third party, staff and associate costs).
- To encourage a professional approach on both the Advertiser and Agency side.
- Deter misuse of pitches – 'fishing' for free ideas, calling for a large number of agencies.
- Increase the value of the ideas solicited from an Agency.
- Help evaluate the status and value of the Advertising industry.

NOTE

Payment of a pitch fee does not confer the right of the Advertiser to utilise the Agency's intellectual property directly or indirectly. Any violation can lead to the necessary legal action for copyright infringement.

Mandatory Pitch Fees By-Laws

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Mandatory Pitch Fees

The following By-Laws have been drawn up for members to comply with, pursuant to Rule 25.

1. CITATION

These By-Laws shall be cited as the Mandatory Pitch Fees By-Laws

2. INTERPRETATION

In these By-Laws unless the context otherwise requires:

Business Pitch includes a presentation where more than one Member has received the same Advertiser's brief for the same pitch exercise

Advertiser's Business means the stated budget of the advertiser in the pitch brief from the Advertiser to the Member

Advertiser means any organisation whether having either its place of business or registered address inside or outside Malaysia, seeking the services of a Member

Member means a Member of the Association of Accredited Advertising Agents Malaysia

Pitch means a pitch for the Advertiser's advertising business which is conducted in Malaysia and shall include a proposal for marketing, marketing communications strategies, market/consumer analysis/creative ideas/executions and any such display of an Agency's intellectual capital directed at communication solutions to help solve an Advertiser's brand/product/service needs.

Pitch Fee means the fee that the Advertiser has to pay to each Member invited for the pitch

4A's means the Association of Accredited Advertising Agents Malaysia.

3. APPLICATION

- 3.1 These Pitch Fee By-Laws shall apply to all Members of the 4A's.
- 3.2 Members shall require an Advertiser seeking a pitch for their advertising business to comply with these By-Laws.

4. PITCH FEE

4.1 An Advertiser seeking the services of a member or its subsidiary company, to pitch for their advertising business shall pay a Pitch Fee in the manner provided in these By-Laws. A subsidiary company of the member shall mean a company incorporated under the Companies Act 1965 in which the member has a majority ownership or management control or as well as way other entity which is required to act in accordance with from a member, provided such subsidiary or other entity is engaged in the same business as the member.

4.2 The Pitch Fee shall be based on the Advertiser's business that is opened for the pitch and shall be as follows:

Business	Pitch Fee
Up to RM 500,000.00	RM 5,000.00
RM 500,001.00 and above	RM 10,000.00

- 4.3 Where the value of the Advertiser's business is not stated in the Advertiser's pitch brief to Members the Pitch Fee shall be RM 10,000.00 per Member.
- 4.4 No member shall enter into any pitch without first requiring the Advertiser to execute an undertaking to pay the Pitch Fees to the 4A's.
- 4.5 Such undertaking shall be executed using the prescribed Pitch Fee Form and shall be submitted to the 4A's at least fourteen (14) working days prior to the pitch.

5. ADMINISTRATION

- 5.1 Upon receipt of an invitation to a pitch from an Advertiser, the member shall notify the 4A's secretariat in writing of the receipt of such invitation.
- 5.2 Upon receipt of such notification the 4A's Secretariat shall forward to the Advertiser the 4A's Pitch Policy Requirements including the Terms and Conditions and the fee payable.

5.2A Such terms and conditions shall include a requirement for the Advertiser to make a decision within sixty (60) days.

Provided that the Advertiser may before the Pitch request for a longer period to make a decision and the 4A's Secretariat may extend the time but such extension shall not exceed a period of ninety (90) days from the date of the Pitch.

- 5.3 If the Advertiser accepts the terms with regards to the Pitch Policy Requirements and the fee payable it shall forward to the 4A's Secretariat the names of the Members invited to pitch and stipulate the type of pitch. The acceptance shall be on such conditions and in such form as is prescribed by the 4A's.
- 5.4 The 4A's Secretariat shall invoice the Advertiser upon acceptance of the Pitch Policy requirements and the Advertiser shall pay the Pitch Fees within fourteen (14) days from the pitch date.
- 5.5 The 4A's Secretariat will inform all invited agencies of the receipt of the Pitch Fees from the Advertiser. Any Member withdrawing from the Pitch after receiving the Advertiser's brief shall immediately advise the 4A's secretariat. Upon being so advised the 4A's secretariat shall return the fees to the Advertiser forthwith.
- 5.6 Upon the results of the Pitch being announced by the Advertiser to the 4A's Secretariat, the Secretariat shall within forty-five (45) days :
- (a) return 100% of the successful member's pitch fees portion to the Advertiser
 - (b) be paid 10% of the Pitch Fees as administrative/processing fee by the successful agency
 - (c) release 90% of the unsuccessful members portion to each of the unsuccessful member. The 4A's retains 10% as administrative/processing fee.
- 5.7 The 4A's secretariat shall hold the Pitch Fee for a period of sixty (60) days commencing from the day of the Pitch by a Member.
- 5.8 If within sixty (60) days or such extended period is allowed a decision as to a successful member is not notified to the 4A's Secretariat, the Pitch Fee shall be disbursed to all participating agencies in the manner provided by By-Laws 5.6.

6. BREACH OF RULE

- 6.1 A member who pitches for an Advertiser's business shall be in breach of these By-Laws if such member
- (a) Pitch for an Advertiser's business before such Advertiser has signed the undertaking to pay the Pitch Fees and returned the Pitch Fee Form.

- (b) Pitch for an Advertiser's business where the pitch is not otherwise in accordance with these By-Laws.
- 6.2 If any Member of the Association shall in the opinion of the Council refuse or neglect to comply with these By-Laws, the Rules and the Standards of Practice and Ethical Conduct or the By-Laws established pursuant to Rule 25 or shall be guilty of any conduct which may be likely to injure, discredit or defeat the objects of the Association, the Council shall suspend such Member from membership of the Association for a period not exceeding two (2) years.
- 6.3 In the event of a dispute with regards to the provisions in the preceding By-Law 5 of these By-Laws the matter shall be referred to the 4A's Council whose decision thereon shall be binding and final.

7. EXEMPTIONS

- 7.1 When a Pitch is conducted amongst a Advertiser's panel of Agencies whereby a Member is on such panel and the Member has been on such panel for more than 6 months the requirement for a Pitch Fee shall not apply.

Subject to the requirement that if non-panel Agencies are invited in addition to the Panel Agencies, the Pitch Fee will be payable in respect of all Agencies participating.
- 7.2 A Member shall be deemed to be on an Advertiser's panel of agencies when it is stated in its appointment letter and the Member has been doing work for the Advertiser in Malaysia for the preceding six (6) months or more prior to the Pitch.
- 7.3 An agency credentials pitch shall not require payment of any Pitch Fee.
- 7.4 Global, regional aligned panel agencies or existing Advertiser's panel agencies pitches and Government Ministry campaigns that are aimed at altering people's behaviour/perceptions shall be exempted from the application of these By-Laws. Government Linked Companies that are profit oriented are not exempted.

8. PROHIBITIONS

- 8.1 No Member shall enter into a Pitch when the Advertiser has not signed an undertaking to the 4A's to pay the Pitch Fee.
- 8.2 No Members shall pay, or offer to pay, for any Pitch Fee on behalf of an Advertiser as an inducement to be invited for a Pitch.
- 8.3 No Member shall participate in any Pitch where the Advertiser requires that all or part of, the pitch proposal becomes the Advertiser's property at the pitching stage or if the pitch proposal is unsuccessful.

9. GENERAL

- 9.1 Members shall endeavour to discourage Advertisers from calling for more than four (4) members (including the incumbent agency) to be involved in a pitch.
- 9.2 Members shall take appropriate steps to ensure that their intellectual property rights are protected.
- 9.3 Members shall endeavour to take such steps as lie within their powers to eliminate abuse to the Pitch process and enhance the general welfare of the Members vis-à-vis the Industry.
- 9.4 It shall be the responsibility of the Member to ascertain whether the Advertiser has signed the undertaking to pay the Pitch Fee.

SAMPLE LETTER TO ADVERTISER
(4A's letterhead)

Dear Sir/Madam

INVITATION TO 4A's MEMBER AGENCIES TO PITCH

We refer to your decision to invite member Agencies of the 4A's (Association of Accredited Advertising Agents Malaysia) to submit their speculative pitch proposals for your company's advertising business. Please be advised of our Association's "Mandatory Pitch Fee By-Laws" that has come into effect, from January 1, 2006.

Kindly note that as a condition of inviting our member Agencies to pitch, your company will need to comply with the following terms. This applies to any company/organisation whether inside or outside Malaysia, seeking services of a member.

1. Payment of a "Pitch Fee" in the sum of RM5,000.00 (for a stated annual advertising budget of RM500,000 and below) or RM10,000 (for a stated annual budget of RM501,000 and above) per invited member. Where the value of the budget is not stated in the Advertiser's pitch brief, the pitch fee shall be RM10,000 per invited member.

(We recommend that a maximum of 4 Agencies, including the incumbent, be invited.)

2. The Pitch Fee per member, as the case may be, is payable to the "Association of Accredited Advertising Agents Malaysia". The 4A's will invoice your company the total fee upon receipt of the attached/completed Pitch Fee form.
3. The Pitch Fee must be paid within fourteen (14) days of the Pitch date. Member Agencies are bound by the By-Laws and will not enter into the pitch, when the Advertiser has not executed and accepted the Pitch Policy requirements.
4. The 4A's will hold the Pitch Fee for a period of 60 days commencing from the date of the pitch by a member. If within 60 days a decision as to the successful member is not notified to the 4A's, the Fees shall be disbursed to all the participating member Agencies.
5. Should your company require a longer period for a decision to be made, the onus is on your company, to notify the exact extended days needed to the 4A's and invited member Agencies before the pitch brief is given. If, within this extended period a decision is not notified to the 4A's, the fees will be disbursed to all participating agencies.
6. 4A's will refund 100% of the successful/selected member Agency(ies) Pitch Fee portion to your company (the Advertiser), provided the successful member Agency(ies) is selected/announced to the 4A's within 60 days (or the extended days notified in advance as specified in point 5) of the pitch presentation date. This refund shall be within 45 days of your written notification date on who the successful member Agency(ies) is.

7. The Pitch Fee paid in respect of the unsuccessful member(s) will not be refunded. 90% of the fee will be paid to the unsuccessful member(s) to help offset a proportion of their manpower and third party costs for the pitch. The balance 10% will be retained by the 4A's to cover administrative/processing costs.

If you agree to the above terms kindly indicate your acceptance by signing and returning to us the Pitch Fee Form signed by your authorized signatory. A copy of the "Mandatory Pitch Fee By-Laws" is available on request via email.

We also attach for your reference "The Pitch Guide", a 9 point guide issued by the 4A's.

Thank you.

Yours faithfully
MACOMM MANAGEMENT SERVICES SDN BHD

Secretariat



ASSOCIATION OF ACCREDITED
ADVERTISING AGENTS MALAYSIA

PITCH FEE FORM

Kindly complete and return this form to the 4A's Secretariat at Fax 603 – 76608532.

Company name :

Address :
.....
.....
.....

Telephone : Fax :

We confirm that we have invited the following 4A's member Agencies to submit their speculative pitch proposals to our company. Our stated annual advertising budget for this pitch is: (Please tick clearly the applicable level.)

Below RM500,000 Above RM501,000 Not Stated

<u>4A's Member Agency Name</u>	<u>Payable</u>	<u>Date of Pitch Presentation</u>	<u>Pitch Fee</u> (RM)
1.
2.
3.
4.

Total
=====

We hereby agree and accept the terms of the 4A's Mandatory Pitch Fee By-Laws requirements including payment of the Pitch Fee to be paid within fourteen (14) days of the Pitch date. Kindly invoice us the total amount immediately.

Name/Designation : Email :

Signature : Date :

Remarks: * This Pitch Fee represents the right to invite 4A's member Agencies to participate in the pitch. It does not however allow the right to utilize or release the Agencies proposals, documents, concepts, ideas and all other information and intellectual property either directly or indirectly. Any violation will lead to the necessary legal action.

Advertiser acknowledges that any and all ideas, concepts, strategies, trademarks and materials that Agency presents or provides to Advertiser (the “Presentation Concepts and Materials”) are being presented or provided for the sole purpose of allowing Advertiser to determine whether Advertiser wishes to use the Presentation Concepts and Materials and to engage Agency’s ongoing services. Advertiser acknowledges and agrees that the Presentation Concepts and Materials are, and will, remain Agency’s property regardless of any payment made by Advertiser to Agency in connection with Agency’s participation in the review. Agency shall retain all right, title and interest in connection with the Presentation Concepts and Materials regardless of whether the physical embodiment of the creative work is in Advertiser’s Possession in the form of copy, artwork, etc.

- * Company cheques should be made in favour of the “**ASSOCIATION OF ACCREDITED ADVERTISING AGENTS MALAYSIA**” and to be delivered to:-

Association Of Accredited Advertising Agents Malaysia
c/o Secretaries - Macomm Management Services Sdn. Bhd.
Unit 706, Block B, Pusat Dagangan Phileo Damansara 1
No 9, Jalan 16/11, Off Jalan Damansara, 46350 Petaling Jaya, Selangor
MALAYSIA
Tel: 603 - 76608535

FOR MORE INFORMATION

Contact : The 4A's Secretariat (Mr Ganesh/Mr J Matthews)

Macomm Management Services Sdn Bhd (225555-X)

Unit 706, Block B, Pusat Dagangan Phileo Damansara I
No 9, Jalan 16/11, Off Jalan Damansara
46350 Petaling Jaya
Selangor Darul Ehsan

Tel : 7660 8535 Fax : 7660 8532

Email : aaaa@macomm.com.my

www.aaaa.org.my

The 4A's Mission

1. IMPROVE /STRENGTHEN AD AGENCY BUSINESS BY:
 - Counseling members on operations/management
 - Provide collective experience of the many to each
 - Foster professional development
 - Encourage highest creative and business standards
 - Attracting bright and qualified people to join our industry

2. WORK WITH FEDERAL, STATE AND LOCAL GOVTS
 - Help achieve desirable social/civic goals
 - Influence public policy
 - Resist unwise/unfair legislation and regulation
 - Be the Government's principal source of information and advice on advertising

3. ADVOCATE OF ADVERTISING
 - Communicate the positive ways in which our profession contributes to the economy and society

4. REPRESENT AGENCY POINT OF VIEW TO ADVERTISERS
 - Provide constructive suggestions
 - Help solve collectively mutual industry issues that agencies and advertisers cannot resolve singly
 - Help improve our members' value to advertisers
 - Receiving and acting upon similar information from them

5. REPRESENT AGENCY POINT OF VIEW TO MEDIA AND INDUSTRY SUPPLIERS
 - Provide constructive suggestions
 - Provide solutions to problems and technical help
 - Receiving and acting upon similar information from them

6. GENERAL
 - Service our members need for agency management counsel, professional development and information.
 - Be alert to relevant new needs as they arise