



**Comparative study concerning the impact of control  
measures on the televisual advertising markets in the EU  
Member States and certain other countries**

**ICELAND**

**LEGAL REPORT**

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## **Introduction**

The relevant dispositions on television advertising are to be found in the Icelandic Broadcasting Act No. 53/2000 which is transposing the dispositions of the Directive 89/552/EEC as amended by the Directive 97/36/EC. Further regulation regarding the implementation of the Broadcasting Act, No. 53/2000 was set forth by The Ministry of Education, Science and Culture on 16 January 2002, Regulation on broadcasting activities No. 50/2002. The rules on television advertising in Icelandic law are identical towards PSB and commercial broadcasters.

Moreover, a self regulatory framework provides further regulation.

The Code of Ethics and the Advertising Code. The existence of the SIA Ethics Committee, *supra*, strengthens the conformity with the law and rules about advertising.

The Ethics Committee of the Society of Icelandic Advertising Agencies (SIA) implements the SIA Ethics Code and the Advertising Code. Any person or association can file a complaint in relation to a breach of the Code of Ethics based on ethical standards of the International Chamber of Commerce and or other breaches of regulations about advertising. The Ethics Committee can also start proceedings on its own initiative.

The complaint must be written and a detailed description of the advertising in issue is required. There are three possible venues for the handling of the complaint. Firstly, if the advertising is not considered a violation of the Ethics Code the complaint is dismissed. Secondly, provided that the advertisement is only a minor breach of the rules concerned, a correction will be demanded and a report to the participants of the Ethics Committee is circulated to the SIA members. Thirdly a major violation of the Code of Ethics constitutes a requirement by the Committee to cease advertising. Furthermore, an adjustment to the germane standard of advertising as set forth in the regulatory milieu of advertising is required accompanied with an explanation from the person responsible for the advertisement at issue. In the case of a refusal to modify Denial, an alternative to resolve the dispute is offered with arbitration by the Icelandic Chamber of Commerce. Whenever the arbitration method is declined, the final resource for the Ethics Committee is to advise the complainant to litigate the complaint in the Icelandic district courts. Statement about the procedure and the outcome is sent to members of SIA and to the complainant. It is permissible to declare the decision of the Committee publicly, but the names of participants shall only be publicised in a case of a major breach when the Committee has determined such publication.

The intervention of the Ethics Committee is limited to advertising and does not extend to other commercial practices (promotional sales, execution of the warranty of a contract, etc) or in the editorial content of media. Disputes between competitors or other private interests are also outside the committee's control.

The Council for the Icelandic National Broadcasting Service

The council is an administrative authority, which participates in the elaboration of the regulation of the audio-visual sector of The Icelandic National Broadcasting Service (RUV) an independent public service broadcaster, see article 6 of the Broadcast Act No. 53/2000.

The Council consists of seven persons designated by the Icelandic Parliament with a mandate of four years. The main task of the Council is to advise on all question related to the contents of the programs of RUV and implement rules regarding the main obligation of RUV which is to promote the Icelandic language, Icelandic history and Iceland's cultural heritage. The RUV must also honour basic democratic rules, human rights and the freedom of speech and opinion according to the Broadcasting Act No.68/1985. The Council's decisions regarding programs are final.

### Broadcasting Council

The Broadcasting Council oversees all matters concerning the private sector of radio and or television sectors in Iceland, which in this instance means every association except RUV. There are seven persons in this Council; the Icelandic Parliament for a mandate of a four-year period designates them. The purpose of the Broadcasting Council is twofold, first issuing temporarily broadcasting license with a maximum duration of seven years and second supervision in context to the conditions of the license, rules and regulations. The Council's decisions are final and can only be appealed in the general courts.

All persons, organisations and associations can make formal complaints to the Council, which can also start proceedings on its own.

The Council works on two levels of competence: one the authorisation, the other the control. The latter power is provided with power to sanction operators in case of default in his legal or conventional obligations.

## I. Definitions

Pursuant to the Icelandic Broadcasting Act No. 53/2000 (Chapter I, Article 1.), the following definitions may be found which in whole resemble the basic meaning of the definitions in the Council Directive 89/552/EEC; however as it is evident below, they are not identically replicated.

- Television broadcasting

broadcasting, by radio or television, refers to any transmission of programme material within the area of Icelandic jurisdiction, whether in the form of speech, music or images, that is intended for direct reception by the general public and distributed by means of electromagnetic waves, by wire or over the air, in encoded or unencoded form (art. 1.a Broadcasting Act, // art. 1 a. Directive TVWF);

- Broadcaster

means the natural or legal person who has been granted a broadcast license and who has the editorial responsibility for the composition of schedules of broadcasting programmes within the meaning of points (a) and (c) and who transmits them or has them transmitted by a third party (art. 1.b Broadcasting Act, // art. 1 b. TVWF Directive);

- Television Advertising

means any form of announcement broadcast whether in return for payment or for self-promotional purposes by the broadcaster and involving the promotion of a product or service (art. 1.d Broadcasting Act, // art. 1 c. TVWF Directive);

- Surreptitious advertising

means the display or other representation in words or pictures of goods, services, the trade mark or the activities of a producer of goods or a provider of services in programmes outside advertising slots when such representation is intended by the broadcaster to serve advertising and to deceive the public in this respect (art. 1.e Broadcasting Act, // art. 1 c. TVWF Directive);

- Sponsorship

means any contribution made by a legal or natural person to the financing of broadcasting programmes or their distribution with a view to promoting its name, its

trade mark, its image, its activities or its products (art. 1.f Broadcasting Act, // art. 1 d. TVWF Directive);

- Teleshopping

means direct offers broadcast to the public with a view to the supply of goods or services in return for payment. Teleshopping in this case includes immovable property as well as rights and obligations connected with such transactions (art. 1.g Broadcasting Act, // art. 1 f. TVWF Directive);

- Programming

includes the material broadcast in its entirety (art. 1.c Broadcasting Act);

- Encoded transmission

means the transmission of a radio or television broadcast intended for reception by the public the audio or video signals of which have been modified in order to grant access to the broadcast only to those who have paid for it (subscribers) (art. 1.h Broadcasting Act);

- Decoder

means a device that, by itself or together with other equipment, is intended to allow access to the content of an encoded transmission. ” (art. 1.i Broadcasting Act)

- Conclusion :

The definitions contained in the Directive have been fully implemented in the Icelandic legislation.

Moreover, the broadcasting Act contains other relevant definitions in this field.

## **II. Advertising recognition and advertising/programme separation (Article 10 TVWF Directive)**

### a. Regulations

Advertising recognition and advertising/programme separation are regulated by the Broadcasting Act No. 53/2000 which shall apply to transmissions of television programmes that can be received in Iceland and/or other States bound by the Agreement on the European Economic Area ('EEA States'). Further regulation regarding the implementation of the Broadcasting Act no 53/2000 was set forth by The Ministry of Education, Science and Culture (16/01/2002), called regulation on broadcasting activities no 50/2002.

Article 6 of the Broadcasting Act No. 53/2000 does not specify any distinction between State owned broadcasters and commercial broadcasters with regard to the authorisation to advertise. Both privately and governmental owned radio and television companies must comply with the provisions in the Broadcasting Act.

According to the Article 12 of the Regulation on broadcasting activities advertising refers in general and in addition to the formal definition mention above to any form of announcement broadcast in return for payment or for self-promotional purposes by the broadcaster, and involving the promotion of a product or service, including announcements from a television station in connection with its own programming and support services directly related to it.

The same rule shall apply to teleshopping spots.

- Examination of the rules related to advertising and teleshopping spots recognition (acoustic and / or optical means)

#### Article 16 Broadcasting Act:

Advertising shall be readily recognisable as such and kept quite separate from other parts of the programme service by optical and/or acoustic means (// art. 10 §1 TVWF Directive).

The same rule shall apply to teleshopping spots.

#### Article 14 Regulation on Broadcasting Activities:

Advertising slots shall be specifically identified as such with a sound signal **or** picture symbol; such identification need not be the same at the beginning and conclusion of the advertising period. The same shall apply to teleshopping slots. ( $\pm$  // art. 10 § 1 TVWF Directive).



- Examination of the rules related to the separation between the commercial content and the programme

Article 16 Broadcasting Act:

Advertising shall be kept quite separate from other parts of the programme service by optical and/or acoustic means (// art. 10 §1 TVWF Directive) under the above-mentioned conditions.

Article 14 Regulation on Broadcasting Act

Presentation of advertising shall according to Article 14 of the Regulation on broadcasting activities be presented in a group at special general advertising slots between programming items.

- Examination of the rules related to the isolated advertising and teleshopping spots

The broadcasting of individual advertisements or teleshopping spots between program items is unauthorised except in exceptional instances, e.g. in the case of unusually long advertisements, e.g. 10-15 minutes in length. (art. 14 Regulations on Broadcasting activities)

Isolated advertising and teleshopping spots shall remain the exception (// art. 10 §2 TVWF Directive)

- Prohibition of the use of "subliminal techniques"

Advertising and teleshopping spots shall not use subliminal techniques (art. 16 Broadcasting Act, // art. 10 §3 TVWF Directive).

- Prohibition of surreptitious advertising and teleshopping

Surreptitious advertising shall be prohibited, as well as teleshopping spots (art. 16 Broadcasting Act, // art. 10 §4 TVWF Directive).

b. Conclusion

Article 16 of the Icelandic Broadcasting Act is a direct duplicate of Article 10 of the Council Directive 89/552/EEC. It is relevant to note that the same rules are also mentioned in the Icelandic regulation on Broadcasting activities

The rules are identical to the rules in the Directive.

### **III. Rules related to insertion of advertising and teleshopping spots between and within the programmes (Article 11 TVWF Directive)**

#### a. Regulations

Article 17 of the Icelandic Broadcasting Act is directly adopted from Articles 10 and 11 of the Directive.

- Examination of the rules related to the insertion of advertising and teleshopping spots between the programmes

Article 17 of the Broadcasting Act entitled *Broadcast time reserved for advertising and teleshopping spots* states that, as a general rule advertising shall be broadcast in separate general advertising slots between programmes. The same rule shall apply to teleshopping spots (// art. 11 §1 TVWF Directive).

There are no stipulated conditions regarding teleshopping programmes.

- Examination of the rules related to the insertion of advertising and teleshopping spots within the programmes (allowed or prohibited; specific rules regarding the type of programme)

Advertising and teleshopping spots may also be inserted during programmes in such a way that the integrity and value of the programme, the integrity of the broadcast and the rights of the rights holders are not prejudiced (// art. 11 §1 TVWF Directive), as follows:

- a. In programmes consisting of autonomous parts, or in sports programmes and similarly structured events, advertising and teleshopping spots shall only be inserted between the parts or in the intervals (// art. 11 §2 TVWF Directive);
- b. The transmission of films, including films made for television, provided their scheduled duration is more than 45 minutes, may be interrupted once for each period of 45 minutes with advertising or teleshopping spots. A further interruption shall be allowed if their scheduled duration is at least 20 minutes longer than two or more complete periods of 45 minutes ( $\pm$  // art. 11 §3 TVWF Directive);
- c. Where programmes, other than those covered by point (a), are interrupted by advertising or teleshopping spots, a period of at least 20 minutes should elapse between each successive advertising break within the programme (//art. 11 §4 TVWF Directive, the Icelandic regulation does not mention that the series, serials, light entertainment programmes and documentaries are excluded).

Further regulation regarding the implementation of Article 17 of the Broadcasting Act is set forth in Article 16 of the Regulation on broadcasting activities entitled *Programming interruption*. In the case of programming as referred to in sub-paragraphs a to c, the broadcasting of a programme may be interrupted with advertising or teleshopping slots as provided for here below, provided the interruption of programming does not lead to distortion of the programme or substantial disturbance of continuous broadcasting, or prejudice the rights of rightholders:

a. programmes consisting of autonomous parts, sports programmes and similarly structured events, consisting of parts which form a substantial whole, but would have been separated by the nature of the material or progress of events without the advertising slots. Such programmes may be interrupted by broadcasting of advertising if this is inserted between independent sections or in intermissions or at junctures in programmes (± // art. 11.2 TVWF Directive);

b. dramatic films intended for cinema projection and television dramas which are longer than 45 minutes in length may be interrupted by advertising or teleshopping slots once every 45 minutes. The broadcast may be interrupted again if the viewing time is more than 20 minutes longer than two or more, full 45-minute periods, as described here below: (// art. 11.3 TVWF Directive)

a dramatic film shorter than 45 minutes duration:	may not be interrupted by advertising
a dramatic film longer than 45 minutes duration:	may be interrupted once
a dramatic film of 46-89 minutes duration:	may be interrupted once
a dramatic film of 90-109 minutes duration:	may be interrupted twice
a dramatic film of 110-135 minutes duration:	may be interrupted three times
a dramatic film of 136 -180 minutes duration:	may be interrupted four times
a dramatic film of 180 - 225 minutes duration:	may be interrupted five times

Entertainment programmes, documentaries made for television and television series are not covered by this sub-paragraph or the definition above. (// art. 11.3 TVWF Directive)

Other programme items may be interrupted by advertising but at least 20 minutes must elapse between pauses for advertising during the same programme item. (≠ art. 11.4 TVWF Directive)

- Possible prohibitions of insertion of advertising and teleshopping spots within certain types of programme

Advertising and teleshopping spots may not be inserted in any broadcast of a religious service or programme, news or news related programmes or children's programmes. ( $\neq$  art. 11.4 TVWF Directive). Nevertheless, news related programmes may be interrupted if their scheduled duration is 30 minutes or longer ( $\pm//$  art. 11 §5 TVWF Directive).

b. Conclusion

The rules of the Directive have been fully transposed.

However, referring to the dispositions of Article 11 §2, the Icelandic regulation does not impose to take into account the natural breaks, the nature and duration of the program.

The national restrictions are stricter to the extent it prohibits interruption of children programs. On the other hand, interruption of documentaries is not regulated.

#### IV. Quantitative restrictions (Article 18 TVWF Directive)

##### a. Regulations

Article 18 of the Icelandic Broadcasting Act and Article 18 of the Regulation on broadcasting activities are directly adopted from Article 18 of the Directive.

- Examination of the legal maximum percentage of daily transmission time devoted to teleshopping and advertising spots and for other forms of advertising (20% in the TVWF Directive)

Article 18 entitled *Restrictions on advertising time on television* states the proportion of transmission time devoted to advertising may however be increased to 20 % if the time devoted to teleshopping spots is included, with the exception of teleshopping windows within the meaning of Article 19 (// art. 18 §1 TVWF Directive).

- Examination of the maximum daily transmission time devoted to advertising messages (15% in the TVWF Directive)

Article 18 entitled *Restrictions on advertising time on television*, states with regard to television programmes that the proportion of transmission time devoted to advertising spots shall not exceed 15 % of the daily transmission time (// art. 18 §1 TVWF Directive).

- Examination of the maximum daily transmission time devoted to advertising and teleshopping spots within a given clock hour (20 % in the TVWF Directive)

The proportion of advertising and teleshopping spots within a given clock hour shall not exceed 20 % (// art. 18 §2 TVWF Directive).

- Examination of the factors to take into account or not for the calculation of the advertising time

For the purposes of this Article, advertising does not include:

- a. Announcements made by the broadcaster in connection with its own programmes and ancillary products directly derived from those programmes.
- b. Public service announcements and charity appeals broadcast free of charge (//art. 18 §3 TVWF Directive).

##### b. Conclusion

The rules are identical to the rules in the Directive.

## V. Quantitative restrictions related to teleshopping programmes (Article 18 BIS TVWF Directive)

### a. Regulations

Article 19 of the Icelandic Broadcasting Act is directly adopted from Article 18bis of the Directive. Article 19 sets out the special provisions regarding *teleshopping windows* broadcast by a channel not exclusively devoted to teleshopping. They must be clearly identified as teleshopping windows by optical and acoustic means (// art. 18bis TVWF Directive).

- Examination of the minimum duration of windows devoted to teleshopping programmes (15 minutes in the TVWF Directive)

These windows shall be of a minimum uninterrupted duration of 15 minutes (// art. 18 bis §1 TVWF Directive).

- Examination of the maximum number of windows (8 in the TVWF Directive)

The maximum number of windows per day shall be eight (// art. 18bis §2 TVWF Directive).

- Examination of the maximum daily duration (3 hours in the TVWF Directive)

Their overall duration shall not exceed three hours per day (// art. 18 Bis §2 TVWF Directive).

### b. Conclusion

The rules are identical to the rules in the Directive.

All provisions of this Act shall apply, as appropriate and *mutatis mutandis*, to channels exclusively devoted to teleshopping. Advertising on such channels shall be allowed within the daily limits established by Article 18 of the Broadcasting Act, except that the restrictions of Article 19 shall not apply.

## VI. Sponsoring (Article 17 TVWF Directive)

### a. Regulations

Article 1 of the Broadcasting Act defines Sponsorship as, “...any contribution made by a legal or natural person to the financing of broadcasting programmes or their distribution with a view to promoting its name, its trade mark, its image, its activities or its products;” This is applicable to broadcasting material however the provisions of the Competition Act and the Door to Door and Distance Selling Act in accordance with Directive 97/7/EEC on Distance Selling would impliedly cover other forms of media although they are not specifically mentioned.

Article 21 of the Icelandic Broadcasting Act is directly adopted from Article 17 of the Directive.

Further regulation regarding the implementation of Article 21 of the Broadcasting Act is set forth in Article 19 of the Regulation on broadcasting activities advertising entitled *Sponsorship*. A broadcasting station may obtain sponsorship for the preparation of individual programming items, but never for news or news-related material, i.e. obtain a financial contribution from a legal or natural person to the making or broadcasting of programmes with a view to promoting its name, its trade mark, its image, its activities or its products.

- Examination of the rules related to editorial independence of the broadcaster

In accordance with article 21 of the Broadcasting Act, Broadcasters may seek sponsorship for the production of individual programmes, provided that the sponsor does not influence the content and style of the sponsored programme nor affect the responsibility and editorial independence of the broadcaster (// art. 17 §1 a. TVWF Directive).

- Sponsor identification

Article 21 of the Broadcasting Act stipulates that sponsored programmes must be clearly identified as such (// art. 17 §1 b. TVWF Directive).

- Examination of the rules related to the insertion of the sponsor's name or logo within the programme (beginning/end, break bumper, during all the programme)

Sponsored programmes must be clearly identified by an introduction, the name and/or trade mark of the sponsor at the beginning and/or at the end of the programme (// art. 17 §1 b. TVWF Directive).

A programme item may not be interrupted for presentation of the sponsor. If a programme item may be interrupted with the broadcasting of advertising or teleshopping spots, a presentation of the sponsor of the programme may be presented at the beginning and end of the advertising period.

- Identification of the programmes that cannot be sponsored

News and current affairs programmes may not be sponsored (// art. 17 §4 TVWF Directive).

- Examination of the rules related to the content of the message (moving images, mention of the product, slogan, etc.)

Generally, programming must not be financed by other parties than the licensee, although this does not apply in the case of individual programmes.

Programmes may not be sponsored by natural or legal persons who manufacture or sell products, or provide services, the advertising of which is prohibited.

Nevertheless manufacturers and suppliers of medicinal products may promote the name or the image of their undertaking by way of sponsorship but may not promote specific medicinal products or medical treatments (±// art. 17 §3 TVWF Directive).

Sponsoring by parties who are unauthorised to advertise their goods or services is prohibited, e.g. tobacco brands (// art. 17 §3 TVWF Directive).

- Examination of other relevant rules related to product placement, price mentioning during TV shows, sponsorship linked to schedule/points indication during sport broadcasts, etc.)

Sponsored programmes must not encourage the purchase or rental of the products or services of the sponsor or a third party, in particular by making special promotional references to those products or services (art. 19 c. Regulation 50/2002). A separate regulation laying down special rules for programmes sponsored by charitable or humanitarian organisations may be issued.

Presentation of a sponsor may not involve further promotion of the sponsors products or services, neither in written nor oral form.

As stated in Chapter II, surreptitious advertising is prohibited as such in art 16 of the Broadcasting Act. When read together with the relevant rules on sponsorship, it is clear that product placement as such is not allowed in any form in Icelandic law whether the producer of the product or the holder of the brand is a sponsor of a program or not. Moreover, there are no specific provisions allowing to show a product for instance in game shows in order to be able to show the prices or to show a product in a documentary or fiction if this is required by the editorial content or justified by information purposes. However, in those instances, it could be argued that this would



not fall under the definition of surreptitious advertising. In practice, product placements have taken place for a few years now in various TV programmes by commercial broadcasters, without any interference by authorities.

b. Conclusion

The rules are almost strictly identical to the rules in the Directive.

The rules on the editorial independence of the broadcaster do not make provision regarding the scheduling of the programs.

The provisions restricting advertising for medicinal products do not cover only medicines available only on prescription.

As sponsorship is considered equal to other forms of advertising presentations all the same provisions apply to the conditions of their presentation. Conversely, so far the sponsorship in Iceland has for the most been limited to products that can be considered harmless for minors and also the sponsorship has been aimed at specific group

## **VII. New advertising techniques**

In Iceland only one broadcaster is using new advertising techniques such as split screen techniques. Other advertising techniques such as interactive advertising or virtual advertising are not used at all. There exists no specific regulation for these techniques and there are no projects to adopt new regulation in this field but all provisions of the Broadcasting Act shall apply to those techniques, as appropriate and *mutatis mutandis*.

### **a. Split screens**

No specific rules apply to split screens. Furthermore, the regulatory authority has not issued any opinion, on if and how advertisements on split screens conform with the Icelandic broadcasting Act and Regulation. It seems clear, that in fact, split screen advertising do not comply with the insertion and separation requirements in the law, but until today the regulatory authority has in practice tolerated it.

### **b. Interactive advertising**

No specific rules apply to interactive advertising.

### **c. Virtual advertising**

No specific rules apply to virtual advertising.

## **VIII. General rules related to advertising and teleshopping content (Article 12 TVWF Directive)**

### a. Regulations

Indications of the rules related to the content of commercial messages (human dignity, discrimination, religious or political beliefs, health and safety, environment, and eventually other rules) are not to be found in the Broadcasting Act, except for special provisions regarding advertisements aimed at children. These basic principles are thought to be sufficient protected by other legislation, such as the human rights chapter in the Icelandic Constitution and provisions in the Competition Act on unfair marketing. There is, however, in Icelandic legislation no general set of rules on consumer protection in relation to contents of advertisements. (≠ art. 12 TVWF Directive).

### b. Conclusion

Article 12 of the Directive is not specifically implemented in Iceland.

## IX. Specific products and targets

### a. Regulations

#### • Tobacco products

Iceland has had a state monopoly on import and distribution of tobacco since 1 January 1932 (Act no. 58/1931). In 1984 the Act on defense against tobacco (the so-called Act on prevention of the use of tobacco) no. 74/1984 was passed. This act was amended in by Act no. 101/1996 and Act no. 95/2001, and as so amended is the subject of this report.

#### **Article 7 of the Act now reads:**

##### *"Article 7*

*Any kind of advertising of tobacco and smokers' requisites is prohibited in this Country (// art. 13 TVWF Directive). However, this does not apply to advertisements in foreign publications by foreign parties, their main objective not being that of advertising such products. Nevertheless, the State Wine, Spirit and Tobacco Authority can issue a price list for tobacco and publish a list of harmful ingredients in tobacco products.*

*Furthermore, it is prohibited to show the consumption or any kind of display of tobacco or smokers' requisites in advertisements or information concerning other kinds of products or services and with illustrations on goods.*

*The term "advertisements" in this Act includes among others:*

- 1. Any kind of public announcements, or announcements aimed at specific target groups, including product presentations, displays in shop windows, any kind of signs and similar equipment,*
- 2. All use of traditional tobacco brand names (names and distinguishing features) or parts thereof; excepted are however products manufactured under such brand names, but the limitations of this Act concerning advertisements apply to them in other respect,*
- 3. any kind of discussion in the mass media of individual kinds of products for purposes other than specifically warning against their harmfulness.*
- 4. The distribution of product samples to consumers.*

*It is forbidden to put tobacco on the market in Iceland with brands that are known or used as brands for other goods or services.*

*Any kind of contribution to events or activities aimed at or having the direct or indirect effect of publicising tobacco is banned.*

*Tobacco and tobacco brands shall be arranged at retail outlets so that they are not visible to customers."*

The changes from the previous article 7 are as follows: The addition of the words *product presentations* in numeral 1 of paragraph 3; new, more precise, wording of numeral 3, and the addition of the three last paragraphs, nos. 4-6.

The words ***product presentations*** were added to the definition of advertisement in order to remove any doubt that such presentations were to be included, and, it seems, because of certain occurrences where such presentations had been made.

Numeral 3 is a replacement of the previous numeral 3 of paragraph 3 of article 7 in the Act as amended in 1996, which read: *Any kind of discussion in the media of individual kinds of products unless it is the clear purpose to convey information which would reduce the hazard of tobacco consumption.* The present change reflects the intention of the legislature to prevent the possibility of discussion in the media of the ostensible less hazard of new products, as the previous numeral 3 might have permitted, with reference to the notes on the law bill in 1996.

The new **paragraph 4** is a restatement of numeral 2 of paragraph 3, and goes considerably further in prohibiting the marketing of other goods under the same trade marks as tobacco products.

The new **paragraph 5** prohibits any kind of sponsoring or contribution by tobacco marketers of events where such sponsorship or contribution might lead to publicising of tobacco. The purpose of the paragraph is clearly as a catch-all addition to the advertising ban.

The Prevention of the Use of Tobacco Act does not specifically refer to television advertising, instead it states; any kind of advertising of tobacco and smokers' requisites is prohibited. However, this does not apply to advertisements in foreign publications by foreign parties, their main objective not being that of advertising such products. Furthermore, it is prohibited to show the consumption or any kind of display of tobacco in advertisements or information concerning other kinds of products or services and with illustrations on goods.

All media coverage about particular tobacco brand is banned unless it is clear that the aim is to inform about the harmfulness of tobacco use. But in 1987 the Supreme Court in Iceland ruled that a magazine article with a general description of tobacco products was permissible.<sup>1</sup>

## Conclusion

Iceland has incorporated stricter measures than the Directive.

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<sup>1</sup>HRD. 1987:394.

- Medicines (Article 14 TVWF Directive) :

Drugs for human and veterinary consumption.

Different bans or conditions regarding advertising of drugs for human or animal consumption are stipulated in the Pharmaceutical Act No. 93/1994. The Act makes a distinction between advertising targeting the public and advertising aimed at professional health care providers. According to Article 13 of the Act, as a general rule drug advertisements are banned, with few exceptions.

Generally all advertisements and public announcements about non-prescription drugs can be presented in trade magazines for pharmacists and doctors. Moreover, prescription drugs and treatments can be promoted to the same professionals, but care must be made so that the promotion is unlikely to reach the general public, Article 14.

All forms of general public advertising for drugs or medical treatments, which are unavailable without prescription in Iceland, is prohibited (// art. 14 §1 TVWF Directive). Non-prescriptions drugs can be promoted and advertised to the general public, but television advertising is prohibited. There are no special provisions for minors, the advertising ban and other restrictions on advertising are general and therefore applicable also for minors.

The State Drug Inspectorate regulates the accuracy of advertisements on drugs. A total ban on public advertising can be implemented if an advertisement contains wrong or inadequate information. Furthermore, the Commission can demand that advertisers distribute corrections or supplementary explanations. When there is a doubt about the legitimacy of advertising, the State Drug Inspectorate shall seek counsel from the State Pharmaceutical Committee and the Competition Council.

No special provisions are made regarding teleshopping for non-prescription drugs or treatments, as the veto on advertising drugs in television covers this. Therefore, the ban is general and applies also to minors. Also, because of the general ban television advertising of drugs, sponsorship by companies whose activities comprise the manufacturing or sale of drugs and medical treatment can only consist of stipulating the name or image of the company, but may not refer to the drugs or medical treatment in Iceland.

The Pharmaceutical Act only makes a distinction between non-prescription drugs and treatments and prescription drugs and treatments. As a result whether or not drugs can be advertised and if so under what restrictions are conditional upon the classification set forth in the pharmacology list. For example contraceptives require prescription in Iceland and cannot be generally promoted or advertised.

Finally, human and veterinary drugs have the same prerequisite in effect as advertising and promotion.

## Conclusion

The rules are identical to the rules in the Directive; however, no provisions are made for teleshopping.

- Alcoholic beverages (Article 15 TVWF Directive)

The retail sale of alcoholic beverages is restricted to a governmental corporation, ATVR, and generally all the rules in the Alcohol Control Act are focused on reaching the objective set forth in the first article of the Alcohol Control Act no. 75/1998, to work against the abuse of alcohol. There is a ban in Article 18 on serving alcoholic beverages to persons younger than the age of twenty years. Admittance to premises licensed to sell alcoholic beverages is restricted to youth over the age of eighteen, unless accompanied by their guardians or spouse. Minors younger than 18 years may not work in premises licensed to sell alcoholic beverages.

There is also a general prohibition on commercial advertising for alcoholic beverages ( $\neq$  art. 15 TVWF Directive). Moreover, all presentations about the consumption of alcohol or other use are banned in Article 20 of the Alcohol Control Act.

Advertising is broadly defined in the second paragraph of Article 20; and does not refer specifically to television advertising at all; it states; all public announcements for marketing reasons where it is shown verbally or visually demonstrates alcoholic brands or scenes related to alcohol use, such as the name of an alcoholic brand, posters or other similar equipment, displays distribution of printed materials and product samples and etc.

The prohibition also includes advertisements with simply the company's name and/or the logo of alcoholic beverages. However, an alcohol manufacturer who produces other non-alcoholic beverage products is permitted to use the company's name or logo in connection with advertisements about them on the condition that it will be obvious that the beverages are non-alcoholic as defined by the Act and that no references are made to alcoholic products.

From the general ban on advertising alcoholic beverages exceptions are made in three instances. Firstly, foreign alcoholic advertisements in foreign printed materials are permissible, unless the main purpose of the literary work or the export is to advertise alcohol. Secondly the identifying mark with the company's name or logo is allowed on the usual equipment for alcohol serving in restaurants. Finally, vehicles, letterheads, containers and everything else needed for the business may be identified with the company name or logo.

## Conclusion

Iceland has incorporated stricter measures than the Directive. There is a general ban on advertising for alcohol with limited exceptions.

- Minors (Article 16 TVWF Directive)

Article 14 of the Broadcasting Act sets down guidelines concerning the protection of minors against unauthorized broadcast material. Broadcasters may not transmit programmes, including advertising, which might seriously impair the physical, mental or moral development of minors, in particular programmes that involve pornography or gratuitous violence, at times of broadcast when minors are likely to be able to view those programmes.

Furthermore, programmes deemed unsuitable for minors pursuant to the first paragraph above shall only be transmitted in a way that ensures by technical measures that minors in the area of transmission will not normally hear or see such broadcasts. When such programmes are broadcast they shall be preceded by a spoken warning or be identified by the presence of a visual symbol throughout their duration.

Further rules regarding the implementation of this Article are laid down in Article 13 of the ministerial decree No. 50/2002 regarding Regulation on broadcasting activities.

In Article 13 of the Regulation it is stated that television stations may not broadcast advertising which could have seriously detrimental effect on the physical, mental or moral development of minors, in particular programmes that involve pornography or gratuitous violence, during those hours of programming when there is a risk of minors viewing it.

Furthermore broadcasting advertising may not:

- a. encourage minors to purchase a product or a service by exploiting their inexperience or credulity (// art. 16 §1 a. TVWF Directive);
- b. encourage minors to persuade their parents or others to purchase the goods or services being advertised (// art. 16 §1 b. TVW Directive);
- c. exploit the special trust minors place in parents, teachers or other persons (// art. 16 §1 c. TVWf Directive);
- d. shall not without cause show minors in dangerous situations (±// art. 16 §1 d. TVWF Directive).

The provisions of the first paragraph shall also apply to teleshopping programmes. Such programmes may not encourage minors to contract for the sale or rental of goods or services.

With regard to the **protection of children** from the dissemination of information by means of advertisements Article 22 further sets out the guidelines to be followed whereby advertisements shall be presented on the assumption that they will be seen and heard by children, and shall in no way be offensive to them.



Special care must therefore be evinced in advertisements by reason of the credulity of children and young persons and the impressions received by them.

If children are shown in advertisements care shall be taken not to show or describe dangerous acts or situations that may lead to them or other children coming into a situation of danger or evincing conduct which is not permitted. The statement with the bill for the Competition Act included that minors will only be allowed to participate in advertising if they are shown in their natural environment or if minors are necessary to show the use of goods or services. The Competition Council ruled in September 1998 that an advertisement which showed an infant sitting on a washing machine with his arms reaching down to the switch, without showing an adult was a breach of article 22. The advertisement was considered to show dangerous activity and also that a washing machine was not a natural part of child's environment. Subsequently the advertisement was banned.

## Conclusion

The rules are identical to the rules in the Directive.

- Other product/services categories subject to a specific regime

Apart from the particular regulatory frame regarding alcohol, tobacco and drugs, *infra*, there are no further individual restrictions or rules about advertising goods or services in connection with drugs or health. As a result the rules in the Competition Act and in the Broadcasting Act *vis-à-vis* advertising serve as general guidelines for advertising on all other subject matter in connection with drugs and health.

The Regulation about labels, advertisement and promotions for food products No. 588/1993 stipulates in article 6; deceitful statements about the food products quality is prohibited if in fact all other food products of this kind have those same qualities.

Furthermore, statements that the food products have either medical healing powers or preventive measures are prohibited.

## Conclusion

Few individual restrictions or rules apply additionally about advertising goods or services. The rules in the Competition Act and in the Broadcasting Act *vis-à-vis* advertising serve as general guidelines for advertising on all other subject matter.

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