

BIRD & BIRD

**THE EVOLUTION OF NEW ADVERTISING
TECHNIQUES**

ICELAND

ICELAND
- SUMMARY -

**This summary has been drafted by Bird & Bird Brussels
on the basis of the national report**

Television

TV regulation is included in the Icelandic Broadcasting Act n° 53/2000.

1. Definitions

- **broadcasting** : refers to any transmission of programme material within the area of Icelandic jurisdiction, whether in 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 unencoded or encoded form.
- **advertising**: any form of announcement broadcast whether in return for payment or for self-promotional purposes by the broadcaster
- **sponsoring**: 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 trademark, its image, its activities or its products.
- **tele-shopping: Directive**

2. Advertising

a) **Rules on insertion in and between programmes**

The rules are identical to the rules in the Directive.

b) **Rules on the maximum amount of advertising**

The rules are identical to the rules in the Directive.

3. Tele-shopping

The rules on tele-shopping spots are the same as those applicable for advertising. The rules on tele-shopping windows are identical to the rules provided in the Directive.

4. Sponsoring

The rules are similar to the rules included in the Directive.

5. Product Placement - Surreptitious advertising

The broadcasting Act prohibits surreptitious advertising and also states that sponsored programmes should not refer to products and services of the sponsor to promote their sale.

6. 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.

Radio

Regulation is partly similar to TV regulation but less detailed. For example there are no rules on maximum amount of advertising or specific restrictions on insertion of advertising.

Internet, Mobile Phone and Cinema

There is no specific regulation on advertising distributed on these media. The general rules on consumer protection, advertising, data protection etc apply.

ICELAND

- REPORT -

This report has been drafted by Gudrun Birgisdottir

Logos law office - Reykjavik

in cooperation with Bird & Bird Brussels

Table of content

TELEVISION.....	10
I. <u>Advertising</u>	10
A. General regulation	10
1. <u>General law on consumer protection containing rules on advertising</u>	10
2. <u>Specific audiovisual regulation</u>	15
a. Definitions:	15
b. Authorisation to distribute advertising	17
c. General rules on the content of television advertising	17
d. Rules on duration of advertising and insertion in or between programmes	18
e. Surreptitious advertising (Article 10 of the Television without Frontiers Directive)	19
B. Regulation for Specific Products	20
1. Alcohol.....	20
2. Tobacco.....	21
3. Medicines.....	22
4. Cars.....	24
5. Media;.....	24
6. Religion, politics and parties, social issue and groups;.....	24
C. Self-regulation	25
II. <u>Teleshopping</u>	27
A. General regulation	27
1. <u>General law on consumer protection containing rules on distance sale;</u>	27
2. <u>Specific audiovisual regulation</u>	28
a. Definition;	28
b. Authorisation;	28
c-d. General Rules on Content, Duration and Insertion in and Between Programmes:	28
B. Regulation for Specific Products	30
III. <u>Sponsorship</u>	30
A. General regulation	30
1. <u>General law on consumer protection</u>	30
2. <u>Specific audiovisual regulation</u>	30
a. Definition	30
b. Authorisation	31
c. General rules on the content	31
B. Regulation for Specific Products	32
IV. <u>Self-Promotion</u>	32
a. Definition	32
V. <u>Other Promotion Techniques</u>	33
a. Product placement and inevitable advertising	33
b. Co production and Co financing with promotional intent.	33
c. Merchandising.	33
VI. <u>New Advertising Techniques</u>	33
RADIO.....	34
I. <u>Advertising</u>	34
A. General regulation	34
1. <u>General law on consumer protection containing rules on advertising (misleading advertising)</u>	34
2. <u>Specific audiovisual regulation</u>	34
a. Definition	34
b. Authorisation to distribute advertising	34
c. General rules on the content of radio advertising	35
d. Rules on duration of advertising and insertion in or between programmes	35
B. Regulation for Specific Products	35
II. <u>Shopping</u>	36
III. <u>Sponsorship</u>	37
IV. <u>Self-Promotion</u>	38

<u>V. Other Promotion Techniques</u>	38
a. Product placement and inevitable advertising,	38
b. Co-production or co-financing with promotional intent	38
c. Merchandising	39
<u>VI. New Advertising Techniques</u>	39
<u>CINEMA</u>	40
<u>I. Advertising</u>	40
<u>II. Sponsorship</u>	41
<u>III. Self-Promotion</u>	42
<u>IV. Other advertising techniques</u>	42
<u>INTERNET</u>	43
<u>MOBILE TELEPHONY:</u>	45

TELEVISION

General preliminary remarks

I. Advertising

A. General regulation

1. General law on consumer protection containing rules on advertising

The Icelandic Competition Act No. 8/1993 is the most significant with respect to the subject matter of advertising. The objective of the law is to promote efficient competition and thus to increase the efficiency of the factors of production in society. It thus covers the regulation of competition, marketing and consumer protection in private business and some public business activities. This objective shall be reached by;

- a. preventing unreasonable limitations or barriers to freedom of economic operation,
- b. preventing unfair trade practices, harmful oligopoly and restriction of competition,
- c. facilitating the entry of new competitors into the market.

In achieving this, special standing committee is established to protect the interests of consumers as described below in article 7 of the act. Its function is to provide assistance and guidance to the Competition Counsel and Competition Authority. Their administrative operations are fully detailed in article 6 of the Act, but since the focus of this study is not on such administrative or procedural aspects of the Act, we will not elaborate here. The provisions covering such subject matter are to be found under Articles 6, 8, and 9 of the Act.

Article 7

“A standing committee of three members shall provide counsel to the Competition Council.

The committee shall be called the Advertisements Committee, and shall consider advertisements and observe that incorrect, incomplete or misleading information is not provided by advertising and that advertisements are not contrary to Articles 21 or 22 in other respects. The Committee shall be appointed by the Minister, and the chairman and the vice-chairman shall be nominated by the Competition Council among its members or alternate members. Other members of the Committee shall be appointed by the Minister following consultation with the main parties representing the interests in question, including consumer organizations. The commission of the committee members shall expire at the same time as that of the Competition Council. The Minister shall issue rules of procedure for the Committee in other respects; the Committee shall make recommendations on the resolution of individual matters to the Competition Council.”

Article 30 sets out the guidelines whereby the Competition Council may issue further provisions for preventing the dissemination of misleading or improper information to consumers, as well as general provisions concerning the application of Articles 20-23. The Competition Authority shall, as possible, consult with concerned parties or their organizations before issuing such provisions. The Competition Council may take measures against acts that violate provisions of Articles 20, 20a, 21 and 22 of the Act concerning Control with respect to Unfair Trade Practices and business activities contrary to the interests of consumers. The Council's measures can be a ban, orders or authorisation with a certain condition. Law nr. 107/2000. Please find the act appended to this report.

Those individual matters which are appealed to the Competition Counsel may be finally appealed to the Competition Appeals Authority which is a special committee consisting of three supreme courts judges at any one time and is the final resting place for legal matters raised as contrary to this act. The administrative procedure is fully detailed in Articles 8 and 9 of the Act.

Other specific means by which this act governs the control of misleading advertising is by virtue of Chapter VI, Article 20 of the Act whereby;

Article 20 states;

“ Any activity in the course of business operations which is contrary to good business practice, or any activity which is improper with regard to the interests of consumers is prohibited.”

With regard to misleading and comparative advertising the following provision, covers permitted means of displaying or comparing goods or services in advertising.

Article 20a.

*“**Comparative advertising** means any advertising which explicitly or by implication identifies a competitor or goods or services offered by a competitor.*

Comparative advertising shall, as far as the comparison is concerned, be permitted when the following conditions are met:

- a. it is not misleading,*
- b. it compares goods or services meeting the same needs or intended for the same purpose*
- c. it compares one or more material, relevant, verifiable and representative features of those goods or services, which may include price,*
- d. that an advertiser, his trade marks or trade names, other distinguishing marks, goods or services, not be mistaken in the market place for the competitor's,*
- e. it does not discredit or denigrate the trade marks, trade names, other distinguishing marks, goods, services, activities, or circumstances of a competitor,*
- f. for products with designation of origin, it relates in each case to products with the same designation,*
- g. it does not take unfair advantage of the reputation of a trade mark, trade name or other distinguishing marks of a competitor or of the designation of origin of competing products,*

h. it does not present goods or services as imitations or replicas of goods or services bearing a protected trade mark or trade name.

Any comparison referring to a special offer shall indicate in a clear and unequivocal way the date on which the offer ends or, where appropriate, that the special offer is subject to the availability of the goods and services, and, where the special offer has not yet begun, the date of the start of the period during which the special price or other specific conditions shall apply. Law nr. 107/2000.

Other relevant provisions regarding the content of advertising messages in the Act are found in Articles 21 of the Act whereby the provision of **incorrect, incomplete or misleading information in advertisements** or by other means, or the employment of other similar business methods possessing such characteristics, is prohibited, if such advertisements or methods can influence the demand or supply of goods, real property, services or other objects of trade offered in the course of business operation to which this Law applies. Advertisements and other business methods shall not be unfair to competitors or consumers, by reason of their form or references to irrelevant matters.

Article 22 sets out further provisions on the **presentation of advertisements** intended to appeal to Icelandic consumers and shall thus be in the Icelandic language. They should also be prepared in such a manner as to preclude any doubt about their nature as advertisements. Advertisements shall be clearly separated from other matter presented in the media.

With regard to the **protection of minors** 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.

Article 24 sets forth the **prohibition on warranties** that may only be extended if the warranty declaration provides the recipient with greater rights than those provided by the legislation in force.

Article 25 sets forth the prohibition concerning **the use in the course of business of a firm name, trademark or other similar distinctive mark** to which the user is not entitled and any business activity under a name conveying misleading information concerning ownership or liability of the operator is prohibited. Using a distinctive mark, to which the user is entitled in a manner causing possible confusion with another distinctive mark lawfully used by another undertaking, is prohibited.

Article 26 of the Act specifies a prohibition on influencing, in the course of a business activity, an employee of another party or a person representing another party by **gifts or other benefits**, or by promises of such advantages, is prohibited, if this is done without the other party's knowledge and in the purpose of obtaining for the giver or others a commercial privilege or benefit not offered to others or consumers, provided the gift or the benefit is suited to obtain this purpose. If gifts are given or benefits provided after a violation has been committed as described in Paragraph 1 the provisions of that Paragraph shall apply, if the gain thus obtained is deemed to constitute an excessive remuneration.

Article 29 sets out the guidelines for the sale or offering for sale of **goods which have been marked or labelled**, themselves or their wrappings, with the international symbols for relief or humanitarian activities or other similar distinctive markings, or with corresponding names. The unauthorized use of such symbols, distinctive markings or names on advertising posters, in advertisements, on invoices or in catalogues or other trade documents, is therefore prohibited.

Article 28 contains restrictions on **clearance sales or other sales** whereby prices are reduced and may only be advertised or announced if prices are actually reduced.

The original prices of goods thus offered shall be clearly shown on price labels.

Chapter VII covers **Control with Respect to Market Transparency** under Article 31, which sets out the guidelines concerning the labelling and pricing of goods and services to consumer. In such situations, the seller must present the product with the sales price or state the sales price at the place of sale in such prominent manner as to be easily noticed by consumers. The Competition Authority may, by public announcement, issue further provisions with respect to price labelling.

The Act also provides guidelines under Articles 32 and 33, and 34 on the measures to be taken by the Competition Authority to control and facilitate the assessment of prices and quality by customers, and impose a duty to state prices, trade terms, quality or other characteristics, and the methods of measuring, weighing or classifying goods.

Price Marking and Display Regulation

2. Specific audiovisual regulation

a. Definitions:

Pursuant to the Icelandic Broadcasting Act No. 53/2000, 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 is evident below they are not identically replicated.

Chapter I, Article 1.

“For the purposes of this Act:

- a. '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 un-encoded form;
- b. '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;
- c. 'Programming' includes the material broadcast in its entirety;
- d. '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;
- e. '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;
- f. '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;
- g. 'Teleshopping' means direct offers televised 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;
- h. '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);

i. 'Decoder' means a device that, by itself or together with other equipment, is intended to allow access to the content of an encoded transmission. ”

b. Authorisation to distribute advertising

Article 6 of the Broadcasting Act 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 Radio Act. The Act states that broadcasts originating in Iceland are subject to a license issued by the Broadcast Licensing Committee unless otherwise provided in Icelandic legislation in particular the Icelandic National Broadcasting Service Act. The Broadcast Licensing Committee may grant legal and natural persons a temporary broadcast license. The conditions involved in being a licensee require that the legal person is established in an EEA state and authorisations for the operation of broadcasting stations granted to foreign non EEA parties to Icelandic legal persons in which such a party holds a share fall within the scope of the Act on Foreign Investment in Business. Further conditions follow within this Article.

c. General rules on the content of television advertising

Article 7 of the Icelandic Broadcasting Act covers the **obligations of broadcasters** in presenting their material whereby they shall strive for general cultural advancement and strengthen the Icelandic language. Nevertheless, licenses to broadcast in other languages than Icelandic may be granted in special cases.

Article 9 contains guidelines for which **democratic principles** are to be upheld in all broadcasting operations. Broadcasters are to respect free speech and encourage the expression of different opinions.

Article 14 sets down guidelines concerning the protection of minors against unauthorised 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 broadcasted, 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 a ministerial decree.

Article 16 sets down general principles for advertising, whereby **surreptitious advertising** shall be prohibited, as shall surreptitious teleshopping spots. Advertising and teleshopping spots shall not use subliminal techniques.

However, more specific regulations are to be found in the Joint Nordic Standards for Television Advertising where joint standards for television and advertising based on the legislation of marketing practices in the Nordic countries was established. This was a combined effort drafted in 1991 between the Nordic Consumer Ombudsmen and the Directorate of Prices in Iceland, now the Competition Authority in Iceland. Its contents specifically concern the content and format of television advertising for the requirements set for television advertising according to the legislation in the Nordic countries. The Joint Standards for Television Advertising apply to *advertisers* rather than to *broadcasters*.

d. Rules on duration of advertising and insertion in or between programmes

Article 16 of the Icelandic Broadcasting Act is a direct duplicate of article 10.1 of the Council Directive 89/552/EEC.

Identification of advertising, insertion between programmes, insertion during programmes, prohibition to insert advertising. Articles 10,11 and 18 of the Directive.

Article 17 of the Icelandic Broadcasting Act is directly adopted from Articles 10 and 11 of the Directive, the only difference being that the Icelandic version also includes teleshopping. Article 17 of the Broadcasting Act entitled *Broadcast time reserved for advertising and teleshopping spots* states in reference to article 10.2 of the Directive; “Isolated advertising and *teleshopping spots* shall remain the exception.”

Duration. Article 18 of the Directive.

Article 18 of the Icelandic Broadcasting Act entitled *Restrictions on advertising time on television*, concerns duration and although its meaning is similar to article 18 of the Directive it is not identical and is thus reproduced below;

*In television programmes, the proportion of transmission time devoted to advertising spots shall not exceed 15% of the daily transmission time. This proportion may however be increased to 20% if time devoted to **teleshopping spots** is included, with the exception of teleshopping windows within the meaning of Article 19. The proportion of advertising and teleshopping spots within a given clock hour shall not exceed 20 %. 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.

e. Surreptitious advertising (Article 10 of the Television without Frontiers Directive)

The Icelandic Broadcasting Act provides a definition of *surreptitious advertising* in Article 1 as reproduced earlier in this report. It is also mentioned under Article 16 of the Icelandic Broadcasting Act under General Principles; where it states that advertising shall be readily

recognisable as such and kept quite separate from other parts of the programme service by optical and/or acoustic means. The same rule shall apply to teleshopping spots. Surreptitious advertising shall be prohibited, as shall surreptitious teleshopping spots. Advertising and teleshopping spots shall not use subliminal techniques.

B. Regulation for Specific Products

1. Alcohol

General rules

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. 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.

2. Tobacco

General rules

The Act on the Prevention of the Use of Tobacco No. 74/1984 has a ban on smoking accessible by the public services rendered by them. This, however, does not apply to restaurants and places of entertainment, but they must ensure a smoking free area. Tobacco smoking is absolutely prohibited in public places where children or youngsters of school age are allowed, lodged or taken care of, see article 10 of the Act.

Advertising

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.

The term advertisement includes among others:

1. Any kind of public announcements or announcements aimed at specific target groups, including displays in shop windows, any kind of signs and similar equipment.
2. All use of traditional tobacco brand names.
3. Any kind of media discussion concerning particular brands unless it is clearly specifically aimed at providing information intended to reduce the harmful effects of the use of tobacco.
4. The distribution of product samples to consumers.

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. Nevertheless, in 1987 the Supreme Court in Iceland ruled that a magazine article with a general description of tobacco products was permissible.¹ In view of the amendments made to the Act on the Prevention on the Use of Tobacco, it is unclear if the Supreme Court would render the same judgement now.

3. Medicines

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.

¹ HRD. 1987:394.

All forms of general public advertising for drugs or medical treatment, which are unavailable without prescription in Iceland, is prohibited. Non-prescription drugs can be promoted and advertised to the general public, but television advertising is prohibited.

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. In addition, 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.

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 Broadcast 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.

4. Cars

Regulations regarding advertising;

There are no specific provisions about advertising and vehicles, either with regard to minors or adults. However, the general rules for advertising stipulated both in the Competition Act and the Radio Act are appropriate. Moreover, the Traffic Council of Iceland has vast discretionary power stipulated in Article 112 of the Act, to implement enhanced traffic routine through advertisements, education and co-operation with both county traffic committees and interested parties. The Traffic Council has daily cautionary broadcasts on the National Public Radio and is influential in all forms of media. For example, through co-operations with various organisations in Iceland, advertisement cautioning about driving without seatbelts, driving intoxicated and speeding have appeared in radio, television, and newspapers and on traffic signs.

5. Media;

There are no specific rules on television advertising for the media.

6. Religion, politics and parties, social issue and groups;

According to Article 5 on the *Suspension of retransmissions of television broadcasts from EEA States* of the Broadcasting Act, notwithstanding the fact, provisions of Article 2 and the obligation of the Icelandic State to ensure freedom of reception of television broadcasts from other EEA

States, the Broadcast Licensing Committee may suspend television broadcasts from other EEA States if the following conditions are fulfilled:

The broadcast manifestly, seriously and gravely infringes the provisions of Article 14 of the Act or is believed otherwise to have the potential to seriously impair the physical, mental or moral development of minors, in particular programmes that involve pornography or gratuitous violence, or the broadcast is considered to be a potential incitement to hatred on grounds of race, sex, religion or nationality;

C. Self-regulation

Any relevant self-regulation in this subject matter has been mentioned under subject B. Regulation for Specific Products.

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.

1.2. SIA Ethics Committee

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 warrantee 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 District's 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.

II. Teleshopping

A. General regulation

1. General law on consumer protection containing rules on distance sale;

The Icelandic Act on Door-to-Door and Distance Contracts;

The conditions laid forth in Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the Protection of Consumers in respect of Distance Contracts was fully implemented and adopted in a new Icelandic Act. Door-to-Door and Distance Contracts No. 46/2000. This act implements most of the provisions of the Directive 97/7/EC. Moreover the Broadcasting Act also contains detailed provisions on teleshopping as will be demonstrated below.

Teleshopping is defined in the Directive as an order placed by a consumer with a supplier, typically by telephone, without the parties meeting at any time. Technically, teleshopping is a clear example of distance selling since the consumer's decision to purchase is often based exclusively on the product information provided by the supplier in a teleshopping spot on television.

2. Specific audiovisual regulation

a. Definition;

a. '*Teleshopping*' is specifically defined in the Broadcasting Act No. 53/2000 under the definition in article 1. It is defined as a direct offer televised 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. It is not defined in any other relevant domestic legislation.

Articles 16, 17, 18 and 19 of the Broadcasting Act contain various conditions regarding teleshopping. Consequently, the *General Principles* under Article 16 require that advertising shall be readily recognisable as such and kept quite separate from other parts of the programme service by optical and/or acoustic means. The same rule shall apply to teleshopping spots. Surreptitious advertising shall be prohibited, as shall surreptitious teleshopping spots. Advertising and teleshopping spots shall not use subliminal techniques. It is quite evident that the rules specifically for advertising are similar to those if not identical in many respects to those of teleshopping.

b. Authorisation;

not applicable.

c-d. General Rules on Content, Duration and Insertion in and Between Programmes:

Article 17 of the Broadcasting Act entitled; *Broadcast time reserved for advertising and teleshopping spots* states that, as general rule advertising shall be broadcast in separate general advertising slots between programmes. The same rule shall apply to teleshopping spots. There are no stipulated conditions regarding teleshopping programmes. Isolated advertising and teleshopping spots shall remain the exception. 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, 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.
- 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.
- 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.

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. Nevertheless, news related programmes may be interrupted if their scheduled duration is 30 minutes or longer.

The proportion of transmission time devoted to advertising spots with regard to television programmes shall not exceed 15 % of the daily transmission time, according to Article 18 on *restrictions on advertising time on television*. This proportion may however be increased to 20 % if time devoted to teleshopping spots is included, with the exception of teleshopping windows within the meaning of Article 19. The proportion of advertising and teleshopping spots within a given clock hour shall not exceed 20 %. 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.

Article 19 sets out the special provisions regarding *teleshopping windows* broadcast by a channel not exclusively devoted to teleshopping:

- a. These windows shall be of a minimum uninterrupted duration of 15 minutes.

- b. The maximum number of windows per day shall be eight. Their overall duration shall not exceed three hours per day. They must be clearly identified as teleshopping windows by optical and acoustic means.

Article 18 on *restrictions on advertising time on television* with regard to television programmes,

All provisions of this Act 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, except that points (a) and (b) shall not apply.

B. Regulation for Specific Products

There are no specific rules on teleshopping with regard to cars, alcohol, tobacco, medicinal products, cars, media, religions, politics and parties or social issues or groups. Consequently, the rules concerning television advertisements in the Broadcasting Act and the Competition Act are implied as covering teleshopping spots and programmes in this respect.

III. Sponsorship

A. General regulation

1. General law on consumer protection

The general rules on consumer protection in relation to advertising sponsorship are to be found in the Competition Act and the Broadcasting Act.

2. Specific audiovisual regulation

a. Definition

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;”

Article 21 of the Broadcasting Act stipulates that sponsored programmes must be clearly identified as such by an introduction, the name and/or trade mark of the sponsor at the beginning and/or at the end of the programme.

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

b. Authorisation

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.

c. General rules on the content

In accordance with Article 21 of the Broadcasting Act, Broadcasters may seek sponsorship for the production of individual programmes, provided the sponsor does not influence the content and style of the sponsored programme nor affect the responsibility and editorial independence of the broadcaster.

News and current affairs programmes may not be sponsored.

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. A regulation laying down special rules for programmes sponsored by charitable or humanitarian organisations may be issued.

B. Regulation for Specific Products

1. Alcohol, Tobacco and Medicinal Products

Sponsoring by parties who are unauthorised to advertise their goods or services is prohibited, e.g. tobacco brands. But, drug-manufacturers and retailers can introduce the name and image of their company with sponsorship if it does not cause the promotion of an individual product or medical treatment.

As sponsorship is considered equal to other forms of advertising presentations in Icelandic laws, 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.

4.–6. Cars, media, religions, politics and parties or social issues or groups

There are no specific rules regarding sponsorship for these items.

IV. Self-Promotion

a. Definition

The definition of 'Advertising in Article 1 of the Broadcasting Act ' 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. There are no relevant provisions concerning the regulation specifically of self promotion however the term advertising itself lends itself impliedly to include self promotional purposes and thus the provisions on advertising in the act serve to cover self promotional activities also.

In this respect therefore, Iceland has not yet implemented the amendments to the *Television without Frontiers Directive*.

V. Other Promotion Techniques

a. Product placement and inevitable advertising

The Broadcasting Act does not allow surreptitious advertising as mentioned in article 16 of the Act. Article 21 of the Broadcasting Act states that 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. A regulation laying down special rules for programmes sponsored by charitable or humanitarian organisations may be issued.

b. Co production and Co financing with promotional intent.

This is included in the definition of sponsorship in the Broadcasting Act under article 1. The broad definition on sponsorship also includes these aspects.

c. Merchandising.

This is not applicable in Iceland..

VI. New Advertising Techniques

At present, only one privately owned television- broadcasters in Iceland is using new advertising techniques such as split screen techniques. Other, advertising techniques such as interactive advertising, virtual advertising etc. are not in use by television- or radio broadcasters. On the part of legislators or the Radio and Television Board, there are no plans to introduce any particular regulations in this area.

RADIO

I. Advertising

A. General regulation

1. General law on consumer protection containing rules on advertising (misleading advertising)

See section A.1. of this report entitled Television, as these definitions also concern radio. Also Chapter VI of the Competition Act on Control with Respect to Unfair Trade Practices, appended, contains the regulations concerning consumers specifically within the field of advertising for all types of media.

2. Specific audiovisual regulation

In accordance with Article 1. of the Broadcasting Act, authority is granted to broadcast audiovisual programmes, within the definition of advertising. This is evident in the fact that the definition of broadcasting is implied to include the meaning of audio visual and thereafter its application and reference in this act falls under the term broadcasting.

a. Definition

“Radio advertising f a. *'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 un-encoded form; and thus falls within the same definition as television.”

b. Authorisation to distribute advertising

According to article 6 of the Broadcasting Act, broadcasts originating in Iceland are subject to a license issued by the Broadcast Licensing Committee unless otherwise provided by Icelandic legislation, in particular the Icelandic National Broadcasting Service Act.

c. General rules on the content of radio advertising

The rules regarding the content of radio advertising are also in accordance with those regulations for television in the Broadcasting Act. See part 1. A 2.c. of this report under Television.

d. Rules on duration of advertising and insertion in or between programmes

As mentioned under Article 16 of the Broadcasting Act entitled *General principles*, advertisements must be easily recognisable as such and kept quite separate from other parts of the programme service by optical and/or acoustic means. The same rule shall apply to teleshopping spots. This definition also includes radio and other media representations although not specifically detailed in this section.

As the definition of 'Broadcasting', in Article 1 of the Broadcasting Act covers both radio or television, it is therefore implied that the conditions specified in Article 17 of the Act on Broadcast time reserved for advertising and teleshopping spots implies radio as well as television. There are no specific provisions concerning the duration of advertising time for radio other than this article, in other Icelandic regulations. See Article 17 of the Act. However there are specific provisions, which concern only television in which case radio will not be included which concerns restrictions on advertising time on television under Articles 18 and 17 paragraph b. This concerns the transmission of films including films made for television.

B. Regulation for Specific Products

1. Alcohol

See the reference made to this subject under section 1. B.1. of this report under Television concerning the Alcohol Control Act no. 75/1998.

2. Tobacco

Reference is made to this subject under section 1. B2. of this report regarding the Icelandic Act on the Prevention of the Use of Tobacco No. 74/1984, cf. Act No. 101/1996, cf., Act No 95/2001.

3. Medicinal Products

See Section 1. B.3 of this report.

4. Cars

This subject is referred to under section 1. B.4. of this report. Advertising under the heading of Television above.

5. Media

No specific rules apply.

6. Religions, politics and parties, social issues and groups

This is discussed under section 1. B.6 of this report.

II. Shopping

Teleshopping is not represented in the same manner on radio as it is on television. It is therefore defined under the Broadcasting Act as a direct offer televised to the public with a view to the supply of goods or services in return for payment and therefore does not have any direct application to radio media in this act.

The Competition Act, which is the main regulation with regard to the protection of consumers does not specifically refer to shopping nor teleshopping. It is therefore implied that the broad provisions of Chapter VI of the Act must be used to infer shopping via radio media advertising.

There are no other specific references to teleshopping or shopping and radio in this connection under Icelandic regulations.

A. General regulation

1. General law on consumer protection containing rules on distance sale

See Section 2, A 1. under Television of this report.

2. Specific audiovisual regulation

There is no specific definition for radio shopping in Icelandic regulations on advertising or consumers in this field in Iceland. Radio is in general covered by the definition on broadcasting in the Broadcasting Act and the general rules concerning advertising in both the Broadcasting Act and the Competition Act mentioned previously in this report.

B. Regulation for specific products

No specific regulation exists for specific products in relations to the subject of shopping nor teleshopping.

III. Sponsorship

The rules concerning radio sponsorship and television sponsorship are the same under the Broadcasting Act, therefore see section 3 on Television Sponsorship in this report.

B. Regulation for specific products

1. Alcohol

See section 1. B1 on Sponsorship under the heading of Television above.

2. Tobacco

See section 1. B2. on Sponsorship under the heading of Television above.

3.-5. Medicinal Products, Cars, Media

See section 1. B.3.

6. Religions, politics and parties, social issues and groups

See chapter on Radio section 1. B.6. of this report.

IV. Self-Promotion

See section 4 under Television in this report.

V. Other Promotion Techniques

a. Product placement and inevitable advertising,

See section 5 under the heading of Television above.

b. Co-production or co-financing with promotional intent

See section 5 item a. and b. under the heading of Television above.

c. Merchandising

Reference is made to section 5 item c. under the heading of Television above.

VI. New Advertising Techniques

See section 6 under the heading Television above.

CINEMA

I. Advertising

There is no special legislation concerning film advertising in Iceland thus we look to those provisions already mentioned in this report particularly general rules on advertising:

A. General regulation on advertising

Like radio, film advertising falls under the general definition under Chapter VI of the Competition Act on *Control with Respect to Unfair Trade Practices* and the definition of *broadcasting* in article 1. of the Broadcasting Act.

However special provision is made for film under Article 17 b. of the Broadcasting Act with regard to duration where 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. See section 1. A1. of this report.

B. Rules on Specific Products

Iceland does not have any specific regulations or legislation outlining advertising and alcohol, tobacco, medicinal products, cars or media applicable for advertising in Cinemas. Instead the guidelines regarding advertising in general in the Competition Act Chapter VI, the Broadcasting Act as mentioned above and the Act on the Inspection of Films and Prohibiting Films of Violence are used in this respect. However the provisions with regard to Broadcasting in general which implies film media does cover this subject and are detailed in section 1. B.4 on alcohol, section 1. B.5 on media and section 1.B6. on religion, politics, social issues and groups.

C. Inspection of Films

The Act on the inspection of films and prohibiting of films of violence, No. 47/1995 imposes a general ban on the production or importing of films of violence, article 1. In addition, it is prohibited to show, distribute or sell such films. What constitutes as film of violence is defined in the second paragraph of article 1 as: *“any film, which especially emphasises the depiction of any type of physical maltreatment or brutal and abhorrent methods of killing people or animals.”* Films intended for public exhibition or distribution are subject to examination by the Film Inspectorate.

The Inspection rules whether the film is considered to be a film of violence, as defined by the Act and whether the film is suitable for children. If a film is assumed to have harmful influence on the mental or moral health of minors the authority can decide that the film is unsuitable to view for minors younger than 16 years of age or of a specific younger maturity in accordance with specific provisions of Regulation (article 3). Whenever a film is shown in a cinema it is the responsibility, of the cinema owner enforcing the ban is on the cinema owner and parents or guardians cannot waive those restrictions on behalf of their minors.

Article 9 of the Act states that child welfare committees and law enforcement officers shall regularly check to ensure that the rulings of the Film Inspectorate are enforced and that only films bearing the markings of the Film Inspectorate are exhibited or distributed.

The Customs and Film Inspection shall reach an agreement on the procedures designed to forestall the importation of films of violence as defined in the Act.

Television stations handle the examination of films that are intended for their program in co-operation with the inspection authorities.

II. Sponsorship

A. General regulation

Iceland does not have any specific rules on sponsorship with regard to cinema advertising and this subject falls within the general provisions of the Broadcasting Act and the Competition Act.

B. Rules on Specific Products

There are currently no specific rules that apply to sponsorship in cinema advertising.

III. Self-Promotion

Self-promotion, here falls under the general regulation described above in section 1. of this report concerning advertising under the subject of Television.

IV. Other advertising techniques

We would define these subjects as including both surreptitious advertising and product placement methods as previously discussed in this report at section 1. A1.c., and section 1.A.1.e. of this report. Also see article VI and VII of the Competition Act covering *Control with Respect to Unfair Trade Practices* which as mentioned previously specifically concerns comparative advertising techniques, and methods of influencing the market surreptitiously etc. under Article 20 and specifically Article 20.a and onward.

INTERNET

There is no specific legislation concerning the internet and advertising in this respect. However the general provisions of the Competition Act and the Broadcasting Act will apply.

More importantly the Distance Selling Directive No. 97/7/EEC has been fully implemented into Icelandic law under the Act on Door to Door Sales and Distance Selling 46/2000, as has been previously mentioned in this report. Most of the provisions are identical to those of the Directive however in part they more specifically conform to the Icelandic legal environment.

The general purpose of the Act is to impose certain duties on distance contractors in the field of telecommunications-media. This area includes the use of the Internet, telephone services, fax, teleshopping and other printed material, which is telecommunicated between business and consumer. It therefore does not include face-to-face contracting.

By means of a written confirmation to information received it is contingent to the conditions of the Act that the consumer actually receive information in good time during the performance of the contract and at the latest at the time of delivery where the goods not for delivery to third parties are concerned, unless the information has been given to the consumer prior to conclusion of the contract in writing or on another durable medium available and accessible to him.

The consumer has the right of withdrawal from the distance contract within fourteen working days from contracting without penalty and without reason.

Inertia Selling resulting from aggressive advertising is prohibited in the act.

The presentation of information via electronically interactive methods and telecommunicated methods impliedly includes advertising with the intent to sell to the consumer or contracting party although it is not specifically defined as such in the Act itself. It is such that the Competition Act

would be used in harmony with this Act should there be violations of the consumer's rights in internet advertising.

MOBILE TELEPHONY:

Iceland does not have any specific rules with regard to mobile telephony advertising and therefore, this subject falls within the general provisions of the Competition Act. and the Act on Door-to-Door and Distance Contracts, No 46/2000.