

LIECHTENSTEIN

**STUDY ON
THE IMPACT OF ADVERTISING AND TELE-SHOPPING
ON MINORS**

I. INTRODUCTION

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I. INTRODUCTION

The study on the impact of TV advertising and teleshopping on minors was carried out by International Research Associates (**INRA**) in collaboration for legal issues with the lawfirm **Bird & Bird Brussels** , for the 18 Member States of the European Union and the European Economic Area, and, for each country, in collaboration with a national lawfirm (a complete list is annexed to the study). For Lichtenstein the study was carried out by the lawyers office **Wanger**.

The aim of the study was to identify and describe the national provisions on advertising provided in legislation, regulation and self-regulatory codes, which are applied to advertising in each State for the protection of minors. In addition, the national system for the handling of complaints was described fully, covering administrative, legal and self-regulatory measures.

For most countries it was possible to identify and to comment upon official proposals of law. In this respect, the information received from professional associations in the advertising sector was very helpful, as were the comments made by national authorities, who had been sent the draft reports by the Directorate General Education and Culture.

Finally in each national report the consultants indicated the way in which the provisions of the TVWF Directive (unofficial consolidated version), have been implemented in national legislation concerning TV advertising and teleshopping directed at minors. Nevertheless, in view of the objectives of the Commission and to enable comparison, the reports also cover other media such as radio, press, outdoor advertising, cinema, and Internet.

The study was carried out, realised and presented using an identical layout for each of the countries studied to achieve a harmonised readable approach, and facilitate comparison .

Therefore, as well as the main definitions and general rules in the field of advertising and teleshopping directed at minors, each national report contains the regulation by sector and by media, as well as an identification of specific marketing techniques. Moreover, each national report is preceded by a summary which gives the essential characteristics of the country in question. An Excell table has been drawn up, using the same layout for each country, as well as a comparative table for the 18 States studied.

Finally a report has been drawn up on European and international regulation and self-regulation concerning advertising directed at minors.

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II. SUMMARY

The Television and Radio Act implements the TVWF Directive. There are no current proposals to change the existing legislation.

1. Definitions

Under the Juvenile Procedure Act, a minor is a person under the age of 18. The Children and Young persons Act uses the term “child” for a person under the age of 14 years and the term “young person” to designate a person who has attained the age of 14 and is under the age of 18.

2. Regulation

a. General

In general, advertising may not be misleading, or aggressive. The consumer has to decide by himself whether he wants to buy the advertised product or not.

b. Media

The Radio and Television Act and its decree implement the TVWF Directive (consolidated version) and in particular Articles 10 etc. All advertising taking advantage of the inexperience or the credulity of minors or abusing their loyalty is prohibited. The Children and Young Persons Act also contains provisions regarding television, press, outdoor advertising and cinema: programmes, books, and video cassettes that might harm minors may not be released for publication.

c. Specific Provisions

There are no specific rules on advertising for **tobacco** products and **alcohol**. Liechtenstein law forbids minors from consuming these products.

The advertising for **medicinal products** may not be misleading. No advertising for medicinal products available on prescription is allowed on television or radio.

d. Other marketing techniques

There are no specific rules on advertising regarding other marketing techniques.

3. Proposal

There are no proposals to change the existing legislation.

4. Self regulation

There is no self-regulatory code regarding advertising and minors. The Media Commission is appointed to control the respect of the rules found in the Television and Radio Act.

5. Handling of complaints

Authorities

If any regulation is infringed the respective public body in charge of the enforcement may file an action before the Administrative Court.

When a civil or a criminal provision is infringed, an action can be filed before the Princely Country Court.

No information is available about complaints concerning advertising and minors.

Self-regulation

All complaints are to be filed before the Special Media Commission.

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III.REPORT

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I. DEFINITIONS

Minors

§ 2 of the Juveniles Procedure Act (Jugendgerichtssgesetz): A minor is an individual who has not yet fully reached the age of 19.

Art. 9 of the Children and Young Persons Act: children are individuals who have not yet fully reached the age of 15, and youth are individuals who have not yet fully reached the age of 19.

Majority

A major is an individual who has reached the age of 19.

Legal entitlement to contract

§ 151 par 1 of the Civil Code: A child (=a minor until the age of 7) is incapable of contracting without the express or implied consent of his legal representative.

Art. 151 par 2 of the Civil Code: A minor who has reached the age of 14 may contract with regard to things left at his disposal or with regard to personally gained income, as long as his personal needs are not affected.

Art. 151 par 3 of the Civil Code: A child concluding a contract which is usually concluded by children his age, and which refers to a matter of minor importance, is legally bound by this contract regardless of the requirements of par 2.

Protection of youth

General

According to Art. 1 and Art 8 of the Children and Young Persons Act, children and juveniles are assisted with regard to their physical, personal, social, cultural and religious formation and are protected against any harm caused to their development. In general children and juveniles do get assistance (Jugendhilfe).

Art 11 of the Children and Young Persons Act states in general that an employer as well as an organiser have to point out the restrictions to the protection originating from this Act and the decree, and inform the children and juveniles of employer's and organiser's responsibility to observe these restrictions.

According to Art 12 par 1 of this Act the police and the youth welfare office have to control the observance of these restrictions and draft a report if necessary.

The Liechtenstein Children and Young Persons Act contains also regulations regarding different sectors such as outlet, public movies, theatre, variety, cabaret, television programs, alcohol, tobacco, drugs, all kinds of morally dangerous documents or other dangerous objects.

Criminal Law

The Liechtenstein Criminal Code protects minors in various ways. Among the most important offences are the following:

- § 195: removing of a minor from his parents
- § 198: lack of care for, education or surveillance of a minor
- § 206 sexual abuse of minors
- § 207 moral endangerment of minors
- § 212 abuse of a position of authority

In addition to that the Criminal Procedure Act provides for the protection of minors as well:

- § 24 par.2: representation in criminal proceedings
- § 218 par.4: entitlement to enter an appeal

Beyond this a special Juveniles Procedure Act (Jugendgerichtsgesetz) regulates the criminal proceedings for minors. There are also some interesting protection such as for example § 5 JGG which states that juveniles are exempt from punishment if for special reasons they are not mature enough to see the injustice of their offence (verzögerte Reife).

§ 6 par.2 JGG: a minor can only be condemned to a prison sentence which is half as long as for an adult.

There are special proceeding provisions for minors such as a reprimand instead of a punishment, or a conditional sentence.

- § 22 JGG: assistance by the legal representative or the youth welfare office
- § 28 JGG: exclusion of the public

II. LEGAL PROVISIONS

1. Provisions: classification by support

1.1. All supports: commercial practices

The general way in which advertising is regulated in Liechtenstein is stated in the Act against Unfair Competition. Art 3 lit. a, b, c, e, f, bans all kinds of incorrect, unnecessary and misleading trade practices which also include advertising practices. According to Art. 3 lit. h of the Act against Unfair Competition advertising must not be aggressive avoiding individuals from being influenced in their decisions to buy products or services. Art. 3 lit. e of this Act lays down the requirements for comparative advertising.

Minors have to be considered as consumers. They are protected by the general regulations of the Act against Unfair Competition.

1.2. Radio and television

All regulatory matters regarding television and radio are contained in the Radio and Television Act and its decrees.

Art. 23 of the Radio and Television Act contains restrictions for advertising which are possible requirements for the obtaining of the television or radio licence. Several rules of the Decrees deal with technical requirements for advertising which have to be met in order to get the licence such as for example the regulation of time. Advertising must at least take the requirement for acoustical or optical warning of advertisement into account during the entire broadcast of the programme. Art. 32 of the Decree for obtaining a licence for television and radio states the possibility of the governmental censorship of special programs.

Art. 16 of the Decree of Television and Radio contains the requirements regarding the content of advertising in general and in lit. e) the protection of minors in particular:

According to this regulation advertising is prohibited

- a) if it is religious or politically
- b) for alcohol or tobacco
- c) for medicine requiring a doctor's prescription and medical treatment
- d) if it is incorrect, misleading or unfair
- e) if it takes advantage of the gullibility of children and the inexperience of the juveniles, or if it abuses their loyalty.
- f) if it is subliminal.

Moreover masked advertising is also prohibited.

Moreover, the Children and Young Persons Act contains several regulations concerning movies, television programmes, theatre or other objects.

Art. 14 par. 1, 3, Art 16 of the Children and Young Persons Act states: public movies especially broadcasting advertising being qualified to endanger minors' development may not be released for publication. As a consequence par. 2 prohibits minors to visit and see such programs and advertising.

Art. 14 par. 4: The organiser of movies needs the governmental consent to diffuse public programs and can therefor be asked to make the film material available.

Art. 14 par.5: Movies for minors have to be scheduled in time zones which makes it possible to take the regulations concerning the prohibition for minors into account.

Art. 14 is also applicable to other public events such as theatre, variety, cabaret, revue or similar events.

According to Art. 22 of this Act other objects such as books, publications, illustrations, placards, films, tape- recordings, records, video cassettes or other objects which can be detrimental to the moral development of minors, may not be offered, left to or shown. on top of this such objects may not be published, exposed, placarded or announced.

2. Special Provisions: classification by sector

2.1. ALCOHOL AND TOBACCO

2.1.1. General Rules

Art. 20 of the Children and Young Persons Act:

Par. 1: Children and juveniles must not drink spirits.

Par. 2 Children and juveniles under the age of 17 must not drink alcoholic beverages and consume tobacco.

Par. 3: Children and Juveniles may not even be given alcoholic beverages and tobacco, if these are destined to someone else.

Par. 4: Children and Juveniles may not be induced to break this rule.

Beyond the trade of spirits and alcoholic beverages the retail trade of alcoholic beverages also requires a licence. The decree dated 30.11.1964 contains the requirements for such retail trade. According to Art. 4 lit. c) of this decree alcoholic

beverages may not be given to persons under the age of 18 years. It has to be pointed out that the requirements of this regulation and Art. 20 par. 2 of the Children and Young Persons Act do not correspond.

2.1.2. Rules regarding advertising

A. General rules

B. Per medium

2.1.2.1. Television/radio

As already mentioned Art. 16 of the Television and Radio Act bans any advertising for alcoholic beverages and tobacco without exception.

2.2. DRUGS AND HEALTH

2.2.1. General Rules

2.2.2. Rules regarding advertising

A. General Rules

Medicine Act (Heilmittelgesetz):

Art. 9 par. 1 HMG: Public boosting of medicine (Publikumsreklame) may not be illegal or misleading. According to par. 2 the public boosting “Publikumsreklame” must be admitted by the IKS (Interkantonale Kontrollstelle). Par. 3 defines public boosting as each kind of advertising in books, newspapers, prospects, placards, movies, film, radio and television as well as performances.

Narcotic Act: Art. 2 par. 1 defines narcotics as preparations which lead to addiction and contain substances of Morphine, Cocaine and Cannabis.

Art. 18 par. 3 of the Narcotic Act as well as Art. 31 par. 1 of the Decree bans the boosting of narcotics with regard to the consumers (Publikumsreklame).

According to Art. 31 par 2 of the Decree the boosting of narcotics with regard to medical professionals (Fachreklame) may not be incorrect or misleading and the preparation must be marked as a narcotic.

B. Per media

2.2.2.1. Television/radio

Art. 16 of the Television and Radio Act bans without exception all advertising for medicine requiring a doctor's prescription.

2.3. VEHICLES

2.3.1. General Rules

The Road Traffic Act (Strassenverkehrsgesetz)

The Road Traffic Act protects minors by requiring them to have a certain age for a certain license:

Art. 5. par. 1 of the "Verkehrszulassungsverordnung (VZV)" is the most fundamental provision in this regard requiring the applicant to be 18 years old to obtain a license in class B (cars) and A (motor cycles) and 21 years to obtain a license in class D (cars over 3500 kg).

2.3.2. Rules regarding advertising

A. General Rules

The Road Traffic Act

Advertising which can be mistaken for a traffic signal or traffic marking, or which can influence the traffic security is prohibited on public roads.

2.4. EDUCATION

2.4.1. General Rules

Schulgesetz Art. 74 requires all children who are residents of Liechtenstein to attend school.

2.4.2. Rules regarding advertising

A. General Rules

B. Per media

2.5. TOYS AND OBJECTS FOR CHILDREN AND JUVENILES

2.5.1. General Rules

According to Art. 22 of the Children and Young Persons Act other objects such as books, publications, illustrations, placards, films, tape-recordings, records, video

cassettes or other objects which can be detrimental to the moral development of minors, may not be offered, left to or shown to minors. Moreover such objects may not be published, exposed, placarded or announced.

According to Art. 23 par. 1 of this Act it can be prohibited by governmental decree that juveniles visit public games of chance, use gaming machines, visit gambling facilities and similar places with regard to the protection of juveniles.

Art. 23 par. 2: The Liechtenstein government can prohibit the use of dangerous products such as for example pyrotechnic articles.

In correspondence with these regulations Art. 4 of the “Verordnung über die gewerbsmässige Verwendung von Spielapparaten” prohibits juveniles under the age of 16 years to visit such gambling facilities and consequently to use gaming machines.

Several games of chance are forbidden in Liechtenstein.

2.5.2. Rules regarding advertising

- A. General rules
- B. Per media

2.6. FINANCIAL SERVICES

2.6.1. General Rules

The Liechtenstein Banking Act (Bankengesetz) regulates all matters with regard to banks and their business.

2.6.2. Rules regarding advertising

- A. General rules

According to Art. 13 of the Banking Act the banks and financial companies may not use misleading or importunate advertising in Liechtenstein and in foreign countries especially for their Liechtenstein establishment.

- B. Per media

2.7. LEISURE

2.7.1. General rules

Art 13 of the Children and Young Persons Act: children may not without important reason be present in public facilities or other arrangements between 21.00 and 5.00, juveniles who have not fully reached the age of 17 between 23.00 and 5.00 and juveniles above 17 years between 24.00 and 5.00, except if the child or juvenile is accompanied by an adult.

see above

2.7.2. Rules regarding advertising

- A. General Rules
- B. Per media

2.8. ARMS/VIOLENCE

2.8.1. General Rules

All matters related to arms are regulated by the Arms Act (Waffengesetz). It sets out the various requirements for the lawful possession of arms.

Art 9 par 1 of the Arms Act deals with juveniles and makes it impossible for them to be in possession of arms or ammunition. There is a certain exception for minors dealing with arms while being trained for a profession. Beyond this juveniles who are reliable and mature enough to see the danger and to deal with it, can get a governmental permission. This is not applicable for “Faustfeuerwaffen”.

2.8.2. Rules regarding advertising

A. General Rules

B. Per media

3. Controlling

In Liechtenstein a special media commission (Medienkommission) is appointed to control the observance of the rules of the Television and Radio Act. According to Art. 35 par. 3 of this Act the media commission decides whether a special program is detrimental to the physical, mental or moral development of minors or not.

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