

**NORWAY**

**STUDY ON THE IMPACT  
OF ADVERTISING AND TEleshopping  
ON MINORS**

**I. INTRODUCTION**

**II. SUMMARY**

**III. REPORT**

## 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**, 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 Norway the study was carried out by the Law firm **Selmer DA, Oslo**.

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.

## II. SUMMARY

The Norwegian Act n° 127 of 4 December 1992 relating to broadcasting was modified in order to implement the TVWF Directive (28 February 1997). Current proposals to modify the legislation relating to this issue concern programming that is potentially harmful to minors.

### **1. Definitions**

Under Section 50 of the Constitution and the Act on guardianship of persons who are legally incapable, a minor is an individual who is under 18 years.

There is no general definition of advertising but the Act on broadcasting of 4 December 1992 (section 1-1 subsection 4) defines “advertising” as any form of promotion of a product or service in return for payment or any other form of remuneration.

### **2. Regulation**

#### **a. General**

The *Marketing Control Act* of 1972 lays down the general rules concerning advertising that is meant for the Norwegian market. The provisions apply to advertising in newspapers, broadcasting, the Internet and through other media. The Act contains no specific provisions concerning marketing directed towards minors.

The Royal Ministry of Cultural Affairs stated however that Article 16 of the “Television Without Frontiers” Directive, concerning minors and advertising, will be a guideline when interpreting the *Marketing Control Act*.

#### **b. Media**

The Act relating to broadcasting includes special provisions regarding advertisements and children. These provisions generally prohibit advertisements specifically directed towards minors. However, all advertising must take into account that it may be seen or heard by children and advertisers must show particular sensitivity to the fact that children may be easily influenced..

Under this Act, broadcasting an advertisement that stars people or characters known from programmes that are directed towards children and regularly broadcast in Norway is also prohibited. There is also a general ban on advertisements 10 minutes before and after a programme meant for children.

There is no specific regulation for the Internet; the Market Control Act applies generally to advertising on the Internet.

Direct marketing is subject to the Marketing Control Act as well as the Act relating to personal data filing system.

Sponsorship is generally considered as advertising, and is therefore subject to the Marketing Control Act. The same Act applies to teleshopping.

### **c. Specific provisions**

The sale of alcoholic drinks to persons under 18 or 20 years is strictly regulated by the *Act on the sale of alcoholic beverages*. The same Act lays down a general ban on advertisements for alcoholic beverages containing more than 2,5 per cent alcohol, applying to all media.

The sale of tobacco is prohibited to persons under the age of 18 (*Act relating to the prevention of the harmful effects of tobacco*). The same Act prohibits all forms of advertising for tobacco products.

### **d. Other advertising techniques**

Direct marketing is regulated by the Marketing Control Act, as well as the Act relating to personal data filing systems. Sponsoring is regulated in the same Marketing Control Act.

## **3. Proposals of law**

There is a proposal for a law concerning programmes that may cause harm to children or youth, stating that such programmes should carry a warning by either an acoustic signal or a visual signal. Another proposal proposes the establishment of a time period during which all non-coded television programmes that may cause harm to children or youth would be banned.

A special committee has recently been set up in Norway to evaluate different measures to reduce the commercial pressure on children and youth, and to make them better aware of the commercial influence they are subject to. A report is expected by the first half of the year 2001.

## **4. Self regulation**

The Nordic Consumer Ombudsmen published together a "General attitude towards commerce and advertising on the Internet and similar communication systems". The statements made in this document may have an impact on the interpretation of the Marketing Control Act.

Different private business associations have also created their own ethical rules that can play an important role in determining what is acceptable in relation with the

general standards of the Marketing Control Act. The member companies are obligated to act in compliance with the codes.

Regarding advertising, the *Norwegian Association of Advertising Agencies* has laid down an ethics code for their activities. It includes provisions such as:  
all advertising should follow a high professional and ethical standard;  
all advertising should take into consideration the society as a whole and also the environment;  
etc.

Norway's largest IT organisation has also created a set of ethical rules concerning advertising on the Internet.

## **5. Handling of complaints**

### **Authorities**

If the same case is submitted to the *Consumer Ombudsman's Office* (established by the *Marketing Control Act*), the *Committee* will not consider the complaint until the *Ombudsman's Office* has finished its hearing. The *Consumer Ombudsman* is an independent administrative body. Appeals against the *Consumer Ombudsman's* decisions are heard by the *Market Council*. A ban on a specific television advertisement can be imposed. Violations of the Act can also be punished with fines or imprisonment of up to three months.

The general rules on judicial proceedings apply.

### **Self-regulation**

The *Norwegian Association of Advertising Agencies* has established a *Committee* that handles complaints in connection with possible violations of its rules. Anyone can file a complaint. The company in question can be sanctioned by a fine or even be expelled from the association.

There are no numbers of complaints known.

**III. REPORT**  
**STUDY ON THE IMPACT**  
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## I. DEFINITIONS

### **Minors**

Act of 22 April 1927 on guardianship for persons who are legally incapable, section 1: A minor is an individual who has not yet fully reached the age of 18 years.

**Enclosure no. 1:** Act of 22 April 1927 on guardianship for persons who are legally incapable (In Norwegian).

### **Civilian majority**

Section 50 of the Constitution and Act of 22 April 1927 on guardianship for persons who are legally incapable, section 1: As of 18 years.

**Enclosure no. 2:** Section 50 of the Constitution.

### **Civilian minority**

Section 50 of the Constitution and section 1 in Act of 22 April 1927 on guardianship for persons who are legally incapable: Until 18 years.

### **Legal entitlement to contract**

Section 2 in Act of 22 April 1927 relating to guardianship for persons who are legally incapable: Minors are incapable of contracting.

There are however some minor exemptions from this rule.

### **Sex offences**

Civil Penalty Code section 211 subsection 1 d: The section sanctions the possession and import of pictures, films, videos, or the like in which any person who is or must be considered to be or is presented as being under 16 years of age, is shown in an indecent or pornographic manner.

**Enclosure no. 3:** Civil Penalty Code section 211.

Civil Penalty Code section 211 subsection 1 c: The delivery of indecent or pornographic writings, pictures, films, videos, or the like to persons under 18 years of age.

### **Advertising**

The term is not generally defined. All kinds of communication paid or free of charge, aiming directly or indirectly to promote the sale of products or services will be considered as advertising.

In the Act on broadcasting of 4 December 1992 section 1-1 subsection 4 “advertising” is defined as any form of promotion of a product or service in return for payment or any other form of remuneration.

**Enclosure no. 4:** Act relating to broadcasting of 4 December 1992.

## II. LEGAL PROVISIONS

### 1. Provisions : classification by support

#### The Marketing Control Act in general

The Marketing Control Act of 16 June 1972 lays down the general rules concerning advertising that is meant for the Norwegian market. The provisions apply for advertising in newspapers, broadcasting, the Internet and through other media.

**Enclosure no. 5:** The Marketing Control Act of 16 June 1972.

The Marketing Control Act contains no specific provisions or regulations concerning marketing directed towards minors. There is no prohibition against directing advertising towards minors.

However, the Marketing Control Act lays down rules that indirectly will have an effect concerning marketing directed towards minors. The Marketing Control Act states in section 1 that in the conduct of business no act may be performed which is unfair in relation to consumers or which is otherwise in conflict with good marketing practice. The fact that an advertisement is directed towards minors is a substantial element in the assessment of what is to be considered as unfair or in conflict with good marketing practice. Advertising in relation to children will normally be subject to stricter assessments.

The fact that the advertisement is directed towards minors, will also be an important element in the assessments in connection with the other provisions found in the Marketing Control Act. This is especially true for the provisions concerning misleading business methods, insufficient guidance and enticements. The act further prohibits the use of premiums and lotteries seeking to promote the sale or purchase of goods.

In connection with section 1 of the act, one can also add that the preparatory legislative works contain references to the EU directive 89/552. The Royal Ministry of Cultural Affairs states that art. 16 in the said directive will be a guideline when interpreting the Market Control Act section 1. The ministry also states that the directive will play an important role not only for advertising through television, but for other media as well. In the preparatory works there is also a reference to the International Chamber of Commerce's International Code of Advertising Practice. Through these references the directive and the ICC rules will play an important role in the interpretation of the Marketing Control Act.

**Enclosure no. 6:** International Chamber of Commerce's International Code of Advertising Practice.

The main relevant provisions of the marketing control act

- 1) Section 1: Actions that are unfair on consumers or otherwise in conflict with good marketing practice.
- 2) Section 2: Misleading representation.
- 3) Section 3: Insufficient guidance.
- 4) Section 4: The use of enticements.

Examples of conflict with section 1 to 4 of the marketing control act

Misleading design, insufficient labelling:

In several cases the Consumer Ombudsman has found advertisements to be in conflict with the act because they may mislead or have actually misled minors as to the size, value, durability etc. of the product that has been advertised.

Marketing in conflict with other rules and regulations:

It is a substantial element in the assessment of whether the advertisement is in conflict with section 1 of the Marketing Control Act if an advertisement is in conflict with consumer protection provisions included in special legislation.

In the Market Council case 17/93 Consumer Ombudsman vs. TV 2 AS and Nordisk Kellogg AS the question was if Nordisk Kellogg could be prohibited from using a commercial for Kellogg's Smacks on television. The Consumer Ombudsman considered the commercial to be specifically directed at children and therefore in conflict with the Broadcasting Act section 2-1, paragraph 2. If the commercial constituted a breach of the Broadcasting Act, the Consumer Ombudsman decided that the commercial would also be in conflict with the Marketing Control Act, section 1, paragraph 1.

Lack of documentation

In the Consumer Ombudsman case 95-0855 Midelfart & CO AS, the Ombudsman found that special requirements had to be placed on clarity and documentation for promotion claims when the advertisement is directed towards minors.

Safety precautions, violence etc.

In 1999 the Market Council banned a television commercial for crisp bread in the so-called Ideal Wasa case, case no. 1.99.

The Market Council found that the commercial presented situations showing a lack of respect for safety precautions to be observed when dealing with fire and inflammable liquids, as well as lack of precautions in connection with the use of electric appliances. The defendant argued, however, that this was humorous. The Market Council agreed with the defendant that the commercial had a humorous expression, but that this was not sufficient to meet the conditions in the Marketing Control Act. The Market Council stated that the humour was primarily directed at adults. Many children would however not be able to understand the humour in the advertisement.

The ruling also emphasised that the situations presented in the advertisements were recognisable to children. The council feared that there was a risk that children would try to copy the actions shown in the commercial after having watched it. The Market Council found that the advertisement could not be shown before 9 p.m. when many children watch television. If the advertisement was shown at an earlier time, it would be an unfair act and in conflict with good marketing practice.

The Market Council imposed a prohibition against showing the commercial before 9 p.m. and set an enforcement charge of NOK 100,000 for each repeated offence against the decision.

#### Effects that may create an unreasonable pressure to buy

The use of enticements and other effects that may create an unreasonable pressure to purchase will easily be in conflict with the Marketing Control Act section 1.

#### Marketing that may create fear or anxiety

Advertisements that create fear or anxiety can be in conflict with section 1 of the act. Both the “message” of the advertisement and the effects used in it are relevant in the assessment.

In one case, the Consumer Ombudsman found the advertisement of a life insurance to be in conflict with section 1. The ombudsman emphasised that the commercial substantiates a child’s fear of losing one parent or both parents. The advertiser had used a picture of a young boy and a headline that read “My daddy can never die, because we’ve got life insurance.”

#### Effects such as sex, violence

According to the Consumer Ombudsman, “commercials that play on violence, sex or the use of intoxicants should neither be shown in association with children’s presentations at the cinema nor on television when it must be expected that children make up a significant part of the audience.”

In the Consumer Ombudsman case 97-2423 Egmont Film AS, the Ombudsman found the advertisement to contain an “incitement to violence” and in conflict with the Marketing Control Act section 1. The commercial was for Sony Playstation and showed a picture of a bloody Santa Clause lying in the snow. Beneath the picture of Santa Clause was written: “General warning: Do not underestimate a Christmas without Playstation.”

### **1.1. Radio and television**

Section 3-1 subsection 2 and 3 in the Act relating to broadcasting, and section 3-6 in the provisions to the Act relating to broadcasting, include special provisions regarding advertisement and children.

**Enclosure no. 7:** Act no. 127 of 4 December 1992 relating to broadcasting.

**Enclosure no. 8:** Provisions to the Act relating to broadcasting passed by the Royal Norwegian Ministry of Cultural Affairs on 28 February 1997 (In Norwegian).

While the advertiser is responsible for securing that his advertisements are in accordance with the Marketing Control Act, the broadcaster is subject to the regulations in the Act relating to broadcasting. The provisions generally prohibit advertisements especially directed towards minors. However, all advertising must take into account that it may be seen or heard by children, and advertisers must show particular sensitivity to the fact that children may be easily influenced and that they lack experience.

It is also prohibited to broadcast an advertisement that stars people or characters known from programmes that are directed towards children, if the person or character regularly or over a long period of time has been a prominent program element and if the program can be generally received in Norway. There is also a general ban on advertisements 10 minutes before and after a program destined for children.

The provisions to the Act relating to broadcasting passed by the Royal Norwegian Ministry of Cultural Affairs on 28 February 1997 section 3-4 subsection 1, further prohibits advertising for weapons, weapon models and toy weapons. There is also a ban on clandestine subliminal advertising and on religious or political views in television broadcasts. There is however no ban on advertising on political or religious views on radio broadcasts.

Further, it is illegal to broadcast advertisements containing a trade mark or logo which are used in advertising for products or services that are illegal to advertise for under Norwegian law.



## **1.2. Internet**

There are no specific regulations and thus, general provisions will apply. The Market Control Act will be applicable for advertising through the Internet if the marketing is directed towards Norwegian consumers.

The Nordic Consumer Ombudsmen have together published a “General attitude towards commerce and advertising on the Internet and similar communication systems.” The statements found may have an impact on the interpretation of the Marketing Control Act and work as a guideline.

### Section 10:

The recommendations expressed in sections 1 to 9 of this common position apply to marketing directed at children and young persons subject to the more rigorous rules contained in this section. Moreover, specific provisions of the country in question applies.

The marketing should be elaborated in such a way that it is obvious to that age group - which is the target group - that it is a question of marketing.

The businessman should take into account the development stage of the target group and therefore should not take advantage of children's and young persons' credulity and lack of experience. If entertainment features form part of the marketing - in the form of, e.g., play, games and the like - this entertainment should not be combined with or interrupted by advertising features.

Children and young persons should not be encouraged to give information about themselves, the household or about any other persons. Giving information may not be made a condition of gaining access to contents.

Children/young persons should not be offered rewards (money, gifts or anything else of a monetary value) for staying on or participating in activities on the Internet. This rule does not prevent the holding of prize competitions that neither directly nor indirectly have the effect that the child/young person stays longer on the businessman's homepage.

Businessmen should use the techniques available at any time for allowing parents to limit the material to which their children have access via the Internet.

Children and young persons should not be encouraged to buy goods or conclude contracts via the Internet, and appropriate precautions

should be taken to ensure that children and young persons do not make purchases or conclude contracts via the Internet.

Businessmen, whose marketing is directed at children and young persons should not use hyperlinks to places containing material that is not suited for children and young persons, or which do not comply with existing legislation.

Interactive marketing on the Internet is especially problematic in relation to children and young persons. Interactive advertising is more than just product presentation and product orientation. It is sophisticated forms of advertising such as games, play instruments and competitions where animal figures, dolls and other images and trade marks affiliated with the products typically form part of the marketing. This marketing method has a tendency to be hidden to the child, and trade marks etc are thus played into the child's subconsciousness. Businessmen should not use techniques fit for affecting children's and young persons' subconsciousness.

Businessmen should bear in mind that marketing targeted to adults may also be of the interest to children. Furthermore, contracts entered by minors are prima facie not valid.

The ICC Revised Guidelines on Advertising and Marketing on the Internet will also play an important role in the interpretation of the Marketing Control Act. Different private business unions have also created their own ethical rules that can play an important role in determining what is acceptable in relation with the general standards of the Marketing Control Act. The member companies are obligated to act in compliance with the codes.

Norway's largest IT organisation has also formed a set of ethical rules concerning advertising on the Internet. This may have a self-regulating effect on the advertisers.

The Consumer Ombudsman is further assessing the question of joint liability of a service provider that displays links to other companies's pages that are in conflict with the Marketing Control Act.

## **2. Special provisions : classification by sector**

### **2.1. ALCOHOL**

#### **2.1.1. General rules**

##### ALCOHOLIC BEVERAGES :

Act on the sales of alcoholic beverages of June 2 1989:

- Section 1-5 states that spirits must not be sold, served or passed on to anyone under the age of 20. Other alcoholic beverages containing more than 0,7 per cent alcohol must not be sold, served or passed on to anyone under the age of 18;
- Section 1-4a of the act states that a licence is required to legally sell, serve and manufacture alcoholic beverages;
- Section 1-5 subsection 3 states that a person who sells or serves spirits must be at least 20 years of age. A person who sells or serves other alcoholic beverages containing more than 0,7 per cent alcohol must be 18 years of age. Some minor exemptions may apply;
- The provisions to the act states that persons who do not fulfil the age requirements for drinking alcoholic beverages must not have access to alcohol through other guests at the establishment where alcohol is being served;
- Local restrictions may also apply, e.g. not giving children under the age of 15 access to establishments where there is dancing after 10 p.m. unless they are accompanied by adults.

**Enclosure no. 9:** Act on the sales of alcoholic beverages of 2 June 1989.

#### **2.1.2. Regulations regarding advertising**

Act on the sales of alcoholic beverages of 2 June 1989 states that:

- Section 9-2 lays down a general ban on advertisements for alcoholic beverages containing more than 2,5 per cent alcohol;
- Section 9-1 states that one must obtain permission from the Royal Norwegian Ministry of Health and Social Affairs to advertise for items meant to or that can be used in the production of alcoholic beverages;
- Following a Supreme Court ruling on 21 January 2000, advertisements for breweries producing mainly alcoholic beverages may be considered as advertisements for alcoholic beverages and therefore illegal;

The general ban on advertising applies to all media.

## **2.2 TOBACCO**

### **2.2.1. General rules**

Act relating to the prevention of the harmful effects of tobacco of 9 March 1973:

- Section 5 prohibits the sale of tobacco to persons under the age of 18;
- Section 6 lays down a ban on smoking on indoor premises and means of transportation that are generally available to the open public.

**Enclosure no. 10:** Act relating to the prevention of the harmful effects of tobacco of 9 March 1973.

### **2.2.2. Advertising**

Section 2 prohibits all forms of advertising for tobacco products.

The ban is general and therefore applies also to minors.

## **2.3. DRUGS AND HEALTH**

### **2.3.1. General rules**

Act relating to pharmacies of 21 June 1963, section 3, and Act relating to pharmaceutical drugs of 4 December 1992 section 14 both include provisions stating that pharmaceutical drugs may only be sold through pharmacies.

**Enclosure no. 11:** Act relating to pharmacies of 21 June 1963.

**Enclosure no. 12:** Act relating to pharmaceutical drugs of 4 December 1992 (In Norwegian).

### **2.3.2. Advertising**

Act relating to pharmaceutical drugs of 4 December 1992 section 19:

- Advertisements for pharmaceutical drugs must be objective, to the matter-of-fact and true.
- The provisions to the Act relating to pharmaceutical drugs passed by the Royal Norwegian Ministry of Health and Social Affairs of 25 August 1994 section 5 lays down a general ban on advertising for prescription drugs towards the general public.

**Enclosure no. 13:** The provisions to the Act relating to pharmaceutical drugs passed by the Royal Norwegian Ministry of Health and Social Affairs of 25 August 1994 (in Norwegian).

Provisions to the Act relating to the supervision and control of food and similar products passed by the Royal Norwegian Ministry of Health and Social Affairs on 21 December 1993 section 5 states that the presentation of food articles must not mislead the customers with regard to its properties.

**Enclosure no. 14:** Provisions to the Act relating to the supervision and control of food and similar products passed by the Royal Norwegian Ministry of Health and Social Affairs on 21 December 1993 (in Norwegian).

Provisions to the Act relating to pharmaceutical drugs passed by the Royal Norwegian Ministry of Health and Social Affairs of 21 December 1994 section 4 provides a general ban on advertisements for pharmaceutical drugs on television.

## **2.4. VEHICLES**

### **2.4.1. General rules**

Act relating to road traffic of 18 June 1965 section 24 states that a driver's licence is required to operate motorised vehicles.

**Enclosure no. 15:** Act relating to road traffic of 18 June 1965.

Provisions to the act relating to road traffic, passed by the Royal Norwegian Ministry of Transport and Communications on 21 February 1979 section 4 state that:

- One must be at least 16 years of age to operate moped, small motorbikes, scooters and tractors (subsection 1a);
- One must be at least 18 years of age to operate cars and mid-size motorcycles, small trucks (subsection 1b);
- One must be at least 21 years of age to operate motorcycles, buses, large trucks and trailers (subsection 1c).

**Enclosure no. 16:** Provisions to the act relating to road traffic, passed by the Royal Norwegian Ministry of Transport and Communications on 21 February 1979 (in Norwegian).

### **2.4.2. Advertising**

The advertising of vehicles is subject to the general provisions regarding advertising.



## **2.5. EDUCATION**

### **2.5.1. General rules**

#### ACCESS OF MINORS TO SCHOOLS :

Act relating to Primary and Secondary Education of 17 July 1998 states that:

- The minor is subject to schooling during a period of 10 years, from the age of 6 (section 2-1 subsection 4);
- The public schools are free of charge and the local municipality is obligated to supply books and writing, drawing and other educational materials.

**Enclosure no. 17:** Act relating to Primary and Secondary Education of 17 July 1998

### **2.5.2. Advertising**

Advertising is subject to the general provisions regarding advertising.

There is a on-going discussion of whether one should allow sponsoring of school books and other means of educational material.

## **2.6. TOYS AND OBJECTS FOR CHILDREN**

### **2.6.1. General rules**

Provisions to the act relating to control with products and consumer services, passed by the Royal Norwegian Ministry of Children and Family Affairs 4 January 1996 section 16:

- Definition of a toy: A product that is conceived, produced or sold with the intention to be used for play by children under the age of 14;
- If the use of a toy is connected with special hazards or risks, the toy shall be accompanied by suitable and easily read warnings. Toys that appeal especially to children under the age of 36 months and that may be dangerous for them, shall have distinctive markings.

**Enclosure no. 18:**Provisions to the act relating to control with products and consumer services, passed by the Royal Norwegian Ministry of Children and Family Affairs 4 January 1996 (in Norwegian).



### **2.6.2. Advertisement**

Provisions to the act relating to broadcasting, passed by the Royal Norwegian Ministry of Cultural Affairs on 28 February 1997 section 3-4 subsection 2 ban advertising for weapons, models of weapons and toy weapons.

## **2.7. FINANCIAL SERVICES**

### **2.7.1. General rules**

A licence from the Banking, Insurance and Securities Commission of Norway (BISC) is required to market financial products and services. Such marketing is surveilled by the BISC and the Consumer Ombudsman.

Banking access for minors: A minor may in general open an account, deposit and withdraw money.

### **2.7.2. Regulations regarding advertising**

The advertising of financial products and services is subject to the Marketing Control Act.

## **2.8. LEISURE**

### **2.8.1. General rules**

#### **ACCESS OF MINORS TO CERTAIN PUBLIC FACILITIES**

Act regarding film and video of 15 May 1987 section 5: The act lays down rules for the categorisation of films and videos and age restrictions regarding access to watch films in the different categories.

**Enclosure no. 19:** Act regarding film and video of 15 May 1987.

The act relating to alcohol also lays down certain regulation regarding minors' access to public facilities.

### **2.8.2. Regulations regarding advertising**

Advertising is subject to the rules of the Marketing Control Act.

## **2.9. ARMS - VIOLENCE**

### **2.9.1. General rules**

Act relating to firearms, ammunition etc. of 9 June 1961 section 7 states that:

- There is a ban on selling firearms to persons without a licence;
- The licence may not be given to persons under the age of 16, and can only in exceptional cases be given to persons under the age of 18. Minors must obtain a

concent from their legal guardians. The local police has the authority to issue a weapons licence.

**Enclosure no. 20:** Act relating to firearms, ammunition etc. of 9 June 1961

Provisions to the act relating to control with products and consumer services, passed by the Royal Norwegian Ministry of Children and Family Affairs of 17 July 1988 section 2:

- Definitions: A violent product is a product that is constructed or can be reconstructed in a manner in which it can be used in a violent context and easily result in health damage. The product has primarily no practical purpose, and is produced for commercial sale or private use.
- There is a ban on producing, importing, marketing, selling, using or carrying violent products.

**Enclosure no. 21:** Provisions to the act relating to control with products and consumer services, passed by the Royal Norwegian Ministry of Children and Family Affairs of 17 July 1988 (In Norwegian)

The Civil Penal Code section 382 subsection 2 includes a ban on gross violence in television broadcasts and cinema films.

**Enclosure no. 22:** The Civil Penal Code section 382.

## **2.10. POLITICS**

### **2.10.1. General rules**

Advertising for political views is allowed in general.

Provisions to the act relating to broadcasting, passed by the Royal Norwegian ministry of Cultural Affairs of 28 February 1997 section 3-4 subsection 3 states that advertising for religious or political views through television is prohibited.

## **2.11. TELECOMMUNICATIONS**

### **2.11.1. General rules**

Telecommunication services include access to for example horoscopes, dating lines, erotic lines, telephone games, information services etc. that cost an additional fee to use and has a certain prefix to the telephone number. In Norway these prefixes are 820 and 829.

### **2.11.2. Advertising**

Provisions to the Telecommunications Act, passed by the Royal Norwegian Ministry of Transport and Communications of 3 March 1994 section 10 state that telecommunication services may not be primarily directed towards people under the age of 16. The services are also subject to the Marketing Control Act.

**Enclosure no. 23:**Provisions to the Telecommunications Act, passed by the Royal Norwegian Ministry of Transport and Communications of 3 March 1994 (in Norwegian).

## **3. Projects and proposals of law**

### **3.1. Changing the definition of advertisement**

There is a proposal to change the definition of "advertisement" in the act relating to broadcasting, so that it also includes self-promoting activities from the broadcaster (Ot. Prp. No. 2 for the 1999-2000 parliamentary session)

(Ot. Prp. = Proposition to the Odelsting. The "Odelsting" is one of the two chambers in the Norwegian national assembly. The proposition is a law proposal.)

### **3.2. Regulations regarding broadcast programmes containing violence or pornography**

There is a proposal to make it possible by provision to ban broadcasting programmes that may cause serious harm to young viewers, especially programmes that contain pornography or explicit violence. (Ot. Prp. No. 2 for the 1999-2000 parliamentary session.)

### **3.3. Warnings in connection**

There is a proposal which will request that programmes that may cause harm to children or youths should be carry a warning by either an acoustic signal or a visual signal. (Ot. Prp. No. 2 for the 1999-2000 parliamentary session.)

### **3.4. The banning of certain programmes during a certain time period**

There is a proposal on making it possible by provision to set a time period during which all non-coded television programmes that may cause harm to children or youth will be banned.

(Ot. Prp. No. 2 for the 1999-2000 parliamentary session.)

### **3.5. Rules concerning advertisement through e-mail, telefax, etc...**

There is a proposal to prohibit businesses to send email, telefax, SMS messages etc. to the consumer without expressed prior consent from the consumer. Minors cannot give a valid consent according to general rules. (Ot. Prp. No. 62 for the 1999-2000 parliamentary session.)

### **3.6. The appearance and design of advertising**

There is a proposal to expressively manifest by law the principle that advertising should appear as such. (Ot. Prp. No. 62 for the 1999-2000 parliamentary session.)

### **3.7. Committee on pressure on children and youths**

A special committee is recently set up to evaluate different measures to reduce the commercial pressure on children and youth, and to better make them aware of the commercial influence they are subject to. A report is expected submitted by the first half of the year 2001.

### **3.8. Project concerning advertising in schools**

The Consumer Ombudsman is working on a project concerning advertising in schools. The report is expected to be ready in September 2000.

### III. AUTO-REGULATION

#### 1. Codes of conduct

Norwegian broadcasters follow a self-imposed principle of not broadcasting pornographic or violent scenes before 9 p.m.

The Norwegian Association of Advertising Agencies (Reklamebyråforeningen) has laid down an ethics code for their activities.

**Enclosure no. 24:** The Norwegian Association of Advertising Agencies' code of ethics (in Norwegian).

Excerpt from the ethics code for advertising drafted by the Norwegian Association of Advertising Agencies includes provisions such as:

- All advertising should follow a high professional and ethical standard, and be in accordance with Norwegian law;
- All advertising should take into consideration the society as a whole and also the environment;
- Advertising must not enfeeble the confidence towards the advertising industry, and should be honourable and honest;
- Advertising should not be based on fear or encourage violence;
- Advertising must not be misleading to the consumer. All advertising should be presented as such advertising.
- Advertisements should not picture or describe dangerous situations or actions, or lack of respect towards security measurements. Special considerations should be made when the advertisement is directed towards, or is picturing children and youths;
- Advertisements must not exploit children's gullibility or young people's lack of experience, nor must their natural loyalty be exploited.

The ethics code of the Norwegian Association of Advertising Agencies states that all advertising must be in compliance with the ICC International code of advertising practice.

The ICC International code of advertising practice also plays a role in the interpretation of the Marketing Control Act.

## **IV. SPECIAL TECHNIQUES**

### **1. Direct Marketing**

Direct marketing is subject to the Marketing Control Act as well as the Act relating to personal data filing systems etc of 9 June 1978.

The Market Council and the Consumer Ombudsman has dealt with a number of direct mail cases involving several mail order companies. In case 10/75 the Market Council stated that “the use of personally addressed offers can obviously not in it self be regarded as illegal.” The council stated however that there is a limit on how far the advertiser may go and that requirements will be stricter when assessing marketing addressed to minor than similar marketing directed towards adults.

The Consumer Ombudsman and the Market Council has further stated that special care must be shown when collecting personal data from children when this information is collected for use in marketing.

One of the cases the Consumer Ombudsman has handled is case 91-2814 – Bokklubben Nye Bøker. The company had mailed personally addressed advertising material to a seven year old girl, among others. The offer was sent out on the basis of the member register of the children’s club of Bokklubben Nye Bøker. The Consumer Ombudsman confronted the company with this. The company alleged however that the mailing was a result of a mistake. There were not taken further steps.

### **2. Sponsorship**

Sponsorship is generally considered as advertising, and is therefore subject to the Marketing Control Act.

Provisions to the act relating to broadcasting, passed by the Royal Norwegian Ministry of Cultural Affairs on 28 February 1997 section 3-10 state:

If a broadcast programme is sponsored, information to this effect shall be given at the introduction and the conclusion of the programme. Information concerning the sponsor may be given in the form of the name, trademark or logo of the sponsor, further information about the sponsor is not allowed. Identification of the sponsor can last up to 10 seconds, although when several sponsors are sponsoring one programme, the total time cannot exceed 30 seconds.

The content and form of presentation of a sponsored programme must be such as to maintain the full editorial integrity of the broadcasting company. Sponsored programmes shall not promote the purchase or rental of any of the sponsor's products or services or those of a third party, and may not contain specific promotional references to such products or services. News or current affairs programmes may not be sponsored.

Broadcasting may not be sponsored by any natural or legal person whose principal activity is to manufacture, sell or rent out products or services the advertising of which is prohibited by Norwegian legislation or rules issued pursuant to Norwegian legislation. Political parties or organisations may not sponsor broadcast programmes. When a sponsor is sponsoring prizes in a programme, the presentation of the prize must not exceed what is reasonable to orient the viewing or listening audience about the prize. There is a ban on sponsoring programmes directed primarily towards children or youths.

### **3. Teleshopping**

The Marketing Control Act is general applicable also in relation to teleshopping.

In the Consumer Ombudsman case 96-1961 a company had through telephone sales addressed itself directly towards minors to sell subscriptions. The Consumer Ombudsman stated that strict requirements had to be placed on marketing measures directed at minors. One also emphasised that telemarketing is an especially obtrusive form of marketing and that special care had to be shown. The company chose to comply with the assessments made by the Consumer Ombudsman.

### **4. Invitation to enter into agreements etc...**

In accordance with the Act of 22 April 1928 relating to guardianship for persons who are legally incapable section 2, a minor can not legally enter into a contract. The Consumer Ombudsman has stated that acting as is the minor is obligated to pay money, is to be regarded as an unfair action in conflict with the Marketing Control Act section 1.

The Consumer Ombudsman has in several cases found that marketing containing invitation to minors to enter into contracts must be regarded as unfair action in conflict with the Marketing Control Act.

Sending goods with or without an invoice or simply an invoice to a consumer without prior agreement, while at the same time giving the impression that the recipient must respond in a certain way not to be bound by the offer, is also in conflict with the Marketing Control Act, section 1, paragraph 1.



In the Consumer Ombudsman case 97-2379 World Wildlife Fund, it was decided that the negative marketing technique used was in conflict with the Marketing Control Act. The children had received a personally addressed letter with an offer that declared: “To you who took part in the children’s bamboo bear competition...If you want to become a Panda Friend, you can make a payment to this giro account. You will then receive a welcome gift with stickers, a certificate and a forest poster with animals you can move, and more. As a Panda Friend you are playing your part in saving nature and the animals that live there. Welcome to the WWF.”

## V. HANDLING OF COMPLAINTS

### 1. Self - discipline

The Norwegian Association of Advertising Agencies has established a committee that handles complaints in connection with possible violations of rules and regulations its members are subject to. Anyone may file a complaint. The committee may impose a fine on the member company that has violated the applicable rules and regulations, and may also expel the company from the association.

If the same case is submitted to the Consumer Ombudsman's office, the committee will not take the complaint under consideration until the Ombudsman's office has finished its hearing. The committee consists of four members, one attorney and three representatives from the member companies.

### 2. Administrative proceedings

The Marketing Control Act was established in 1972 by the Market Authorities. The authorities consist of the Consumer Ombudsman and the Market Council. The Consumer Ombudsman is an independent administrative body. Marketing acts of local nature are dealt with by the regional offices of the Norwegian Competition Authority.

The task of the Market Authorities is to ensure that the Marketing Control Act is observed. The rules laid down by the Marketing Control Act are, among other things, meant to prevent unreliable, irrelevant or otherwise unfair measures in marketing.

Section 1 to 5 of the Marketing Control Act are enforced by the Consumer Ombudsman with appeals being heard by the Market Council. If a business party does not act in compliance with the Marketing Control Act, the Consumer Ombudsman may decide i.e. to impose a ban on a specific television advertisement.

Section 17 of the Marketing Control Act states that violations of the act can be punished with fines or imprisonment of up to three months.

### 3. Judicial proceeding

The general rules on procedure applies.

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