

REGULATION AND SELF-REGULATION ON ADVERTISING DIRECTED AT MINORS - Denmark

DEFINITIONS

Child	Not defined in general, in criminal law a person under the age of 15 years
Minor	A minor is an individual who is not married and who has not yet reached the age of 18 at which age one is capable of all actions of civilian life
Civilian majority	As of 18 years or marriage
Civilian minority	Until 18 years
Legal entitlement to contract	<p>Minors are not capable of undertaking liabilities towards others according to the Danish Act on Guardianship section 1.</p> <p>According to section 42 of the Danish Guardianship Act minors can without the consent of the guardian dispose of self-acquired funds when above the age of 15 years and always of free gifts and inheritance hereto according to a will. It should not be possible to have an overdrawn bank account for a minor as this would be a liability for the minor which the minor cannot legally assume.</p>
Youth protection	
Sex offences	<p>Selling immoral pictures or objects to children under the age of 16 may be subject to punishment according to the Criminal Code section 234.</p> <p>Selling, distributing or possessing immoral photos, films etc. of children under the age of 15 years may be punished according to the Criminal Code section 235.</p>
Moral protection	<p>Access to public facilities (Act of 15 July 1960 for the moral preservation of youth):</p> <p>All persons are not allowed in restaurants and other catering premises where strong alcoholic beverages are sold according to the Catering Act section 29 but persons under 18 years of age are not allowed to purchase alcoholic beverages such places.</p> <p>The access to gambling houses is prohibited to minors younger than 18 according to section 8 of the Gambling Act.</p>
Advertising	Marketing is any action undertaken by way of trade and consequently a very broad concept including almost any commercial business. Advertising and sponsoring are only two of many types of actions falling within the scope of the marketing concept.

LEGAL PROVISIONS

GENERAL PROVISIONS

1. In general	The Marketing Act does not contain special rules on marketing towards children and young people.
Misleading advertising	Private and corresponding public marketing activities shall be carried out in accordance with good marketing practices. considered consumers. When indicating the price of offered goods for retail sale the trader shall comply with the consolidated Danish Price Marking and Display Act
2. Through media	the media in conjunction with the columnist or advertiser.
RADIO	
Principles	The rules for TV also apply for radio, however, advertisements in radio may be broadcast at any time within the broadcasting period, i.e. also as breaks in other programmes, see section 5 of the EXECUTIVE ORDER
TELEVISION	
Principles	Advertising in radio and TV is primarily regulated in the Danish Broadcast-ing Act Additional provisions are contained in Executive Order no 489 of 11 June 1997 concerning Radio and Television Advertising and Programme Sponsorships (The "EXECUTIVE ORDER" implements parts of the Council Directive 89/552/EEC of 3 October 1989 on the co-ordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities as amended by the European Parliament and the Council Directive 97/36/EC of 30 June 1997 (The "TVWF Directive"). The only Danish Public Broadcaster broadcasting commercials, TV2, has through the practice of its advertising company TV2 Reklame A/S interpreted the provisions of the Act and the EXECUTIVE ORDER which should be considered as a supplementary source of law to the application of the Act
Art. 10 TVWF	Advertisements must be clearly identifiable as such according to section 64 of the Broadcasting Act and subliminal methods are prohibited. On television the beginning and end of a block of advertisements shall be see EXECUTIVE ORDER, Section 11. This includes any method or tech-nique which the receiving part cannot be aware of
Art. 11 TVWF: insertion of advertising	Television advertisements may only be transmitted in blocks, to be inserted between the programmes. Advertisements may occupy 15 pct of the daily transmission time and maximum 12 minutes per hour. Where proportionally. Any television advertisement in the form of direct offers to viewers for the sale, purchase or rental of products or services may not exceed one hour per day in total, and shall appear within the advertising time stated in subsection. (section 6 Executive Order)
Art. 12 TVWF: human dignity	certain safety precautions, this shall be clearly stated in the advertisement (section9 Executive Order)
Art. 13 TVWF: tobacco	The Ministry for Health has in 1991 negotiated an agreement (the "Agreement") with the member organisations of the tobacco industry. It is prohibited to advertise tobacco products, or goods primarily used in connection with smoking on television and radio, see the Danish Broad-casting Act Chapter 8 and Executive Order concerning Radio and Televi-sion Advertising and Programme Sponsorship section 13

Art. 14 TVWF: medicinal products

It is prohibited to advertise pharmaceutical and health products on television. However, the Danish Medicines Agency may lay down rules for special cases where advertising of pharmaceutical products shall be permitted, cf. section 27a (2) of the Danish Pharmaceuticals Act

Art. 15 TVWF: alcohol

Television and radio advertisements for beverages with an alcohol content of 2.8 pct. by volume and for any tobacco products are prohibited, see section 12 and 13 of the EXECUTIVE ORDER

For alcoholic beverages with an alcohol content of less than 2.8 per cent by volume, the following applies:

- * They may not be particularly targeted at minors, and especially not show minors drinking such beverages
- * They may not associate the consumption of alcohol with improved physical performance or driving
- * They may not create the impression that the consumption of alcohol promotes success in the social or sexual area
- * They may not suggest that alcohol has any therapeutic properties, stimulating or sedating effect, nor that it may be used to solve personal conflicts.
- * They may not incite to excessive consumption of alcohol or present temperance or moderation in a negative light

Special protection of minors

Art. 16 TVWF: advertising and minors:

indication of the toy's actual size. Where the use of the product requires an extra attachment (e.g. batteries), this shall clearly be stated. Where a product forms part of a series, this shall be clearly indicated, as to how to obtain the series

by any family

child in the age group for which the product is designed

* Figures, puppets and similar which are important and regular elements in children's programmes may not appear in advertisements for products of particular interest to children. Persons affiliated with children's programmes may not advertise products of particular interest to children

* Advertisements for chocolate, sweets, soft drinks, snacks and similar may not indicate that the product may replace regular meals

products associated with children. Children under the age of 14 may not recommend or provide testimonials endorsing products or services of any kind

confidence in parents, teachers or others, see section 17 of the EXECUTIVE ORDER

* Advertisements should be presented in such a way that it does not effect the safety of children and young people by showing minors in unnecessary dangerous situations or areas or using dangerous products

* Social values may not be undermined by conveying the impression that the possession, use or consumption of a product in itself will give children or young people physical, social or psychological advantages. It is not permitted for advertisements to be designed to give children and young people the impression that their failure to own, use or consume the relevant product will expose them to contempt or ridicule, section 19

* Advertisements may not directly appeal to children and young people with the effect to persuade others to buy a product, or promise prizes as a reward for winning new purchasers, section 18

* In relation to children and young people the general provisions on misleading marketing are interpreted so that advertisements may not mislead children and young people as to the size, value, type, durability, performance or the degree of skill required to use the product. Statements of price may not give children and young people an unrealistic idea of the value of the products

Art. 22 TVWF: protection of minors and public order

Sponsoring (art. 17 TVWF)

Definition (Executive Order): any direct or indirect contribution to the financing of programmes from a natural or legal person not engaged in the broadcasting or production of radio or television programmes, films, phonograms, etc., with a view to promote the name, trademark, image, activities or products of that person

* The sponsor may not have influence on the content and scheduling of the sponsored programme to the prejudice of the radio or television broad-caster's responsibility and editorial integrity in respect of the programmes

* Sponsored programmes shall be clearly identified as such by appropriate neutral credits appearing at the beginning, or end, or both, of the programme. Credits may not appear in the programme itself. The programme may not incite purchase or rental of the products or services

* Not everyone may sponsor a programme. Anyone selling alcohol beverages (above an alcohol content of 2.8 pct. by weight), tobacco and goods connected with smoking and pharmaceutical products are banned from sponsoring except for satellite, cable or local radio. The same applies to political parties, employer organisations, trade unions and religious movements

* Some programmes may not be sponsored, i.e. news programmes and current affairs programmes except current affairs programmes transmitted by satellite, cable and local radio. Current affairs programmes are defined as programmes directly concerning news of significance in politics or society such as programmes in the form of commentary on news, review of the development in news or political attitudes to news, current events, etc

The Consumer Ombudsman has aimed special focus on sponsoring schools and sport clubs and issued Guidelines trying to interpret the broad general rule of good marketing practice

Teleshopping (art. 19 TVWF)

PRESS

No specific rules

POSTERS

No specific rules

CINEMA

According to the Executive order n°3 of 16 January 1993 on the Media Council for Children and young People advertising films should include guidance on the required age for children

INTERNET

Principles

Special protection for minors

The Consumer Ombudsman has issued guidelines

* 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 form part of the marketing – in the form of e.g. play, games, and anything similar – 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.

competitions that either directly or indirectly have the effect that the child/young person stays longer on the businessman's home page.

* 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.

legislation

SPECIFIC LEGAL PROVISIONS

3.1 ALCOHOL	
3.1.1 General rules	<p>Serving of alcoholic beverages requires a permission from the local municipality according to the Catering and Restaurant Act section 10</p> <p>According to the Catering and Restaurant Act section 29, it is prohibited to sell strong alcoholic beverages to anyone under the age of 18 years.</p> <p>Sale by retail of alcoholic beverages to children under 15 is prohibited according to the Act on Measures against Abuse of Alcohol section 2a</p>
3.1.2 Advertising	
3.1.2.1 In general	<p>The advert should not be obtrusive, provoking or in any other way extraordinarily persuasive. The marketing may not give the impression that consumption of alcohol is healthy, gives success or improves the consumer's mental or physical ability.</p> <p>No advertising may be aimed at children and young people</p> <p>Marketing of alcohol may not be connected in any way with sport including sport clubs, magazines, sport stars, sport clothing etc.</p>
3.1.2.2 Per media	
Television	and Executive Order concerning Radio and Television Advertising and Programme Sponsorship section 12.
Radio	8 and Executive Order concerning Radio and Television Advertising and Programme Sponsorship section 12.
Print	
Posters	
Cinema	
Internet	
3.2 TOBACCO	
3.2.1 General Rules	
3.2.2 Advertising	<p>Agreement between The Ministry of Health and the member organisations of the Tobacco Industry</p> <p>All advertising must include a standard health warning text in addition with another changing warning used with equal frequency</p> <p>Advertising may only take place in some papers, in some periodicals and magazines and on points of sale.</p>
3.2.2.1 In general	The marketing must not use replicas of children, young people or other persons appearing to be under the age of 30 years, famous people or health care people.
3.2.2.2 Per media	
Television	It is prohibited to advertise tobacco products, or goods primarily used in connection with smoking on television and radio, see the Danish Broadcasting Act Chapter 8 and Executive Order concerning Radio and Television Advertising and Programme Sponsorship section 13.
Radio	It is prohibited to advertise tobacco products, or goods primarily used in connection with smoking on television and radio, see the Danish Broadcasting Act Chapter 8 and Executive Order concerning Radio and Television Advertising and Programme Sponsorship section 13.
Print	
Posters	
Cinema	
Internet	
3.3 DRUGS AND HEALTH	
3.3.1 General rules	Pharmaceuticals are defined in section 1(1) of the Pharmaceuticals Act as products which are intended to be consumed by human beings or animals to prevent, diagnose, alleviate, treat or cure diseases, symptoms of disease or pain, or to affect body functions.

3.3.2 Advertising	allowed.
3.3.2.1 In general	Advertising of pharmaceuticals may not be directed exclusively or primarily at children The compliance with the Act is subject to supervision by the Danish Medicines Agency.
	diseases.
	or is better than or as good as the effect of another treatment, including a different pharmaceutical, that general health can be improved by use of the pharmaceutical etc.
	of this Act, hereunder name, address, position, opening hours, waiting list and prices.
3.3.2.2 Per media	In pursuance of section 28(1) of the Pharmaceuticals Act free samples of pharmaceuticals to the general public are banned.
Television	It is prohibited to advertise on television - whether the products are on prescription or not cf. section 27 a of the Act. Ban on advertising on television but not on radio under certain conditions cf. section 14 of the Executive Order concerning Radio and Television Advertising and Programme Sponsorship.
Radio	
Print	
Posters	
Cinema	
Internet	
3.4 VEHICLES	
3.4.1 General rules	Driving licences may be issued to persons above the age of: <ul style="list-style-type: none"> · 16 years for motorised bicycles (under 50 cubic centimetre) and special vehicles with a maximum speed of 30 km/h, i.e. tractors etc., · 18 years generally (cars, motorbikes, trucks etc.), and · 21 years for busses (8 persons plus driver).
3.4.2 Advertising	
3.4.2.1 In general	It is a condition that adverts comply with the legislation in general. Hence, the Road Traffic Act may not be violated, e.g. by not using safety belts or speeding in adverts.
	The Danish Consumer Ombudsman has in November 1989 after negotiations with relevant organisations issued Guidelines for advertising for driving education, hereunder prices and other terms. The Guidelines should be considered as reflecting the general rule of good marketing practice within this sector.
3.4.2.2 Per media	
Television	
Radio	
Print	
Posters	
Cinema	

Internet	
3.5 EDUCATION	
3.5.1 General rules	
3.5.2 Advertising	<p>The rules on school sponsorship and other marketing in schools and daycare institutions for children and young people are subject to the provisions in section 1 of the Danish Marketing Practices Act.</p> <p>The Consumer Ombudsman has the general competence to determine what can be considered proper marketing practices in relation to school sponsorship etc cf. the guidelines of The Consumer Ombudsman.</p>
3.5.2.1 In general	<p>In general school sponsorship is allowed as the school boards are responsible for the educational material, including the material offered by companies and organisations.</p> <p>The name, logo, trademark etc. of the sponsor should to the least possible extent be applied to educational material, toys and other sponsored materials.</p> <p>Similarly the name, logo, trademark etc. should to the least possible extent be mentioned and used in connection with education and other activities such as games, competitions etc.</p>
3.5.2.2 Per media	
Television	
Radio	
Print	
Posters	
Cinema	
Internet	
3.6 TOYS AND CHILDRENS THINGS	
3.6.1 General rules	
3.6.2 Advertising	<p>the Marketing Practices Act.</p> <p>In the determination of proper marketing practices in relation to children and young people, the Consumer Ombudsman's guidelines and article 14 of the ICC International Code of Advertising Practice is applied.</p> <p>The marketing must not be presented in such a way that it exploits the inexperience or natural credulity of children and young people, or the fact that children and young people are easily influenced.</p> <p>The marketing must not abuse the feeling of loyalty of children and young people and must not be presented in such a way that it could harm the children and young people, morally or physically.</p>
3.6.2.1 In general	
3.6.2.2 Per media	
Television	<p>Sections 16-23 of Executive Order no. 489 of 11 June 1997 of the Ministry of Culture, on Radio and Television Advertising and Programme Sponsorship contain special rules relating to the protection of children in case of television and radio advertisements</p> <p>Sections 16-23 in all repeat Article 14 of the International Chamber of Commerce International Code of Sponsorship.</p> <p>Section 21 provides that figures, puppets etc. , which are important and regular elements in children's programme may not appear in advertisements for products of particular interest to children.</p> <p>Further, section 21 provides that persons affiliated with children's programmes may not advertise products of particular interest to children.</p> <p>Further, section 22 provides that advertisements for chocolate, sweets, soft drinks, snacks etc. may not indicate that the product may replace regular meals.</p>
Radio	idem

Print
Posters
Cinema
Internet

The Consumer Ombudsman has in his guidelines laid down rules concerning marketing aimed at children and young people on the internet.

3.7 FINANCIAL SERVICES

3.7.1 General rules

Children and young people may open a bank account. According to section 42 of the Danish Guardianship Act minors can without the consent of the guardian dispose of self-acquired funds when above the age of 15 years and always of gifts and inheritance free hereto according to a will.

It should not be possible to overdraw a bank account for a minor as this would be a liability for the minor which the minor cannot legally assume.

The Danish Consumer Ombudsman has issued Guidelines for young people and bank accounts/debit cards and net/home banking after negotiations with the Danish Bankers' Association, the Department of Private Law, the Children Council and the Danish Consumer Council and Guidelines for ethics in banking business in general.

3.7.2 Advertising

3.7.2.1 In general

3.7.2.2 Per media

Television

Radio

Print

Posters

Cinema

Internet

<p>3.8 LEISURE</p> <p>3.8.1 General rules</p> <p>3.8.2 Advertising</p> <p>3.8.2.1 In general</p> <p>3.9.2.2 Per Media</p> <p>Television</p> <p>Radio</p> <p>Print</p> <p>Posters</p> <p>Cinema</p> <p>Internet</p>	<p>Any film which is shown in public or commercially sold, leased or lent to children under 12 and 16 shall in advance be approved by the Media Council to such age groups except when the child is accompanied by an adult according to the Danish Act on Films section 20.</p> <p>Access to casinos is not allowed for anyone under 18 years.</p> <p>Assess to discotheques and other dancing places is not regulated specifically. Sale of alcoholic beverages to anyone under 18 years is prohibited.</p> <p>Advertising for films should include guidance on the required age for children according to special rules set out in the Executive Order no. 30 of 16 January 1998 on the Media Council for Children and Young People by the Ministry of Culture according to the Danish Act on Films section 21.</p>
<p>3.9 ARMS/VIOLENCE</p> <p>3.9.1 General rules</p> <p>3.9.2 Advertising</p> <p>3.9.2.1 In general</p> <p>3.9.2.2 Per media</p> <p>Television</p> <p>Radio</p> <p>Print</p> <p>Posters</p> <p>Cinema</p> <p>Internet</p>	<p>Firearms may not be sold to people younger than 18 years according to the Act on Arms and Explosives. Exception is made for young people above 16 years of age with a hunting license or a membership in a rifle club according to section 16 of Circular no. 8 of 26 January 2000 regarding arms and ammunition.</p>
<p>3.10 POLITICS</p> <p>3.10.1 General rules</p> <p>3.10.2 Advertising</p> <p>3.10.2.1 In general</p> <p>3.10.2.2 Per media</p> <p>Television</p> <p>Radio</p> <p>Print</p> <p>Posters</p> <p>Cinema</p>	

Internet

3.11 TELECOMMUNICATIONS

3.11.1 General rules

3.11.2 Advertising

3.11.2.1 In general

3.11.2.2 Per media

Television

Radio

Print

Posters

Cinema

Internet

Providers of so-called 900-services (special services) shall in advertising and other kinds of marketing include information on the price for dialling the number and the name of the supplier. Detailed regulation is included in Executive Order no. 917 of 18 October 1996 on 900 Services.

PROPOSALS OF LAW

legislation It is expected that the bill will be tabled within the coming parliamentary year.

The Minister of Health has furthermore stated public that smoking in schools should be prohibited for children and young people and that she intends to table a bill in the coming parliamentary year.

The Minister has now entered into a dialogue with other commercial broadcasters in order to make a similar agreement with them. In practice we are talking about a network of local TV stations covering about 80% of the country. In addition, the Minister would like to make an agreement also with the UK based TV3 which can be viewed by about 70% of the Danes. If the Danish broadcasters – the network mentioned – are not willing to enter into an agreement, or if TV2 does not follow the rules, the Minister will issue binding rules

AUTO-REGULATION

GENERAL RULES

There are 2 self-regulatory bodies: The Reklame Forum and the Consumer Ombudsman. At present, the Ombudsman deals with most complaints, and the Reklame Forum is asked to provide opinions by lawyers, courts and the Ombudsman.

traffic safety.

The rules could be considered good marketing practise for anyone acting on the Danish market for alcoholic beverages

The Ministry of Health has negotiated an agreement with the member organisations of the Danish Tobacco Industry. The agreement represents a set of rules on marketing of tobacco.

The agreement represents a set of rules on marketing of tobacco. Hereafter the rules should be good marketing practise for all tobacco products produced or imported for sale in Denmark by the member organisations of the Tobacco Industry.

According to standards set by the Danish public broadcaster TV2's advertising company, TV2 Reklame A/S, this means that the text must be on the screen for minimum 2 seconds plus 0.2 seconds for every word and that the pitch size of the text should be minimum 1/20 of the text safe area of the screen. If a smaller pitch size is used the text must be on the screen correspondingly longer.

SPECIAL PROVISIONS & CODES OF CONDUCT

ALCOHOL	Voluntary rules for the marketing of beer, wine, spirits and other alcoholic beverages of over 2.8%
TOBACCO	Voluntary codes
DRUGS/HEALTH	Voluntary codes
VEHICLES	
EDUCATION	
LEISURE	
FINANCIAL SERVICES	
LEISURE	
ARMS/VIOLENCE	
POLITICS	
TELECOMMUNICATIONS	Voluntary code re advertising directed to children in the electronic media

OTHER ADVERTISING TECHNIQUES (LEGISLATION AND SELF-REGULATION)

DIRECT MARKETING

According to The Danish Marketing Act section 6a unsolicited calls using electronic mail, automated calling systems or telefax to customers are prohibited unless the particular customer has made a prior request for

System.

The Act on Processing of Personal Data no. 429 of 31 May 2000 section 6 and 36 describes for which purposes personal information may be processed and passed on for commercial use.

Marketing in the form of direct mail, where advertisers write to children and young people by mail, email etc., should not take place, unless the parents have consented thereto, or if it is a necessary or natural consequence of a contractual relationship, see the Consumer Ombudsman's Guidelines on Children, Young People and Marketing Practices.

consumers.

benefit of exactly the same kind as the principal benefit rendered shall be deemed not to be a collateral gift or similar inducement.

PUBLI-REPORTAGE

COMMERCIAL ACTIVITIES IN SCHOOLS

The Ombudsman has prepared guidelines, based on the ICC codes.