

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

DEFINITIONS

Minor

year old may purchase light alcoholic beverages (< 22 %). Not before the age of 20 may a person purchase strong alcoholic beverages (> 22 %). A person is not entitled to adopt a child before the age of 25.

Legal entitlement to contract

to § 5 of the Act of 30 April 1970 on Employment Contracts a minor who has reached the age of 15 may enter into an employment contract.

Protection of children

own health or development, the local social authority is under an obligation to act in accordance with the closer provisions described in this act.

Juvenile delinquency

are severe for a young person. A person aged 15 but not yet 21, is considered a young criminal. A sentence may always be conditional for a young criminal (Act on Young Criminals §7).

Criminal offences

Morally offensive marketing

Marketing which is morally offensive is criminally sanctioned (Criminal Code, chapter 17 §20)

Consumer Marketing

Information targeted at consumers regarding consumer goods and companies regardless of the marketing medium.

Advertising

connection with a trade, business, craft or profession in order to promote the supply of goods or services, including immovable property or rights and obligations, or in order to promote its own operations

LEGAL PROVISIONS

GENERAL PROVISIONS

The general provisions

The Consumer Protection Act of 20 January 1978 contains general provisions on consumer marketing. They can be applied to all kind of marketing regardless of the marketing method.

Inappropriate marketing

the economy of the consumer is always to be considered inappropriate (chapter 2 §1). The appropriateness is evaluated according to the group to which the marketing is targeted.

Misleading marketing

Also false or misleading information may not be contained in marketing (chapter 2 §2)

Free gifts and combined offers

When products are offered at a combined price or buyers of the product are offered a second item free of charge or at a discount, the products offered must have an obvious connection (Consumer Protection Act, chapter 2, §4).

Marketing lotteries

Marketing must not use promises of fortuitous gain which require purchase of a product or an offer to buy it (Consumer Protection Act, chapter 2, § 5)

The Guidelines of the Consumer Ombudsman

The Finnish Consumer Ombudsman is an authority responsible for monitoring the enforcement of consumer legislation. Statements of the Ombudsman are published in guidelines of non-binding nature.

The ICC 1997 International Code of Advertising Practice

Case law is influenced by the International code

TELEVISION

Principles

The Directive "Television without Frontiers" 89/552/CE, as amended by the Directive 97/36/CE, has been implemented through provisions of the Act on Television and Radio Operations (744/1998).

The Consumer Ombudsman has issued the following "Children and marketing" guidelines concerning television commercials

The Nordic Consumer Ombudsmen's Position Paper to Television Advertising

Art. 10 TVWF

of the programme service by optical or acoustic means. Advertising and teleshopping shall not use subliminal techniques. Surreptitious advertising and teleshopping is also prohibited

Art. 11 TVWF: insertion of advertising

concerned, they shall not, when scheduled duration is less than 30 minutes, be interrupted by advertising and or by tele-shopping

Art. 12 TVWF: human dignity

grounds of race, sex or nationality

Art. 13 TVWF: tobacco

All forms of advertising, including indirect advertising, and sale promotion of tobacco products are prohibited

Art. 14 TVWF: medicinal products

Agency for Medicines)

Art. 15 TVWF: alcohol

All advertising, indirect advertising included, and sale promotion of strong alcoholic beverages is in general prohibited

Special protection of minors

Art. 16 TVWF: advertising and minors:

Television and radio advertising shall not cause moral or physical detriment to minors. Television and radio advertising shall not:

- 1) exhort minors to buy a product or service by exploiting their inexperience or credulity
- 2) directly encourage minors to persuade their parents or others to purchase the goods or services being advertised
- 3) exploit the special trust minors place in parents, teachers or other persons
- 4) unreasonably show minors in dangerous situations

Art. 22 TVWF: protection of minors and public order

Sponsoring (Art. 17 TVWF)

There are no general laws or regulations applicable to sponsorship or sponsoring

In the “Children and marketing” -guidelines of the Consumer Ombudsman concerning the technical realisation of television commercials it is said that commercials may not be sponsored

The Guidelines of the Consumer Ombudsman concerning sponsorship and other marketing in schools. These sponsorship guidelines aim to define, on a basis of statutory provisions and legal praxis, how sponsorship can be carried out in schools without violating the marketing provisions of the Consumer Protection

Teleshopping (Art. 19 TVWF)

Teleshopping refers to direct offers broadcast to the public with a view to the supply of goods or services, including immovable property, rights and obligations, in return of payment

Teleshopping spots shall correspondingly comply with the above explained provisions. In addition, they shall not exhort minors to conduct for the sale or rental of goods and services

The “Children and marketing” –guidelines of the Consumer Ombudsman include the following provision concerning teleshopping: “Do not sell products to children on TV shopping programmes. They are often broadcast at hours when children are alone at home and may purchase the product without their parents’ knowledge.”

RADIO

The provisions in the Act state whether applicable to television and/or radio. If silent on the matter it shall be considered to apply to both forms of media

PRINT

mentioned in section 3.1.1 apply

CINEMA

mentioned in section 3.1.1 apply

POSTERS

mentioned in section 3.1.1 apply

INTERNET

Net marketing means marketing to customers of products, which are offered, ordered, produced or distributed in an electronic way, for example through a telephone net, the Internet, cable-TV or any similar communication system. It is recognised by the Consumer Ombudsman, that net marketing is comparable to mail order sale

The "Children and marketing" -guidelines of the Consumer Ombudsman includes the following provisions regarding Internet:

always there to keep a watchful eye. It is very easy for an advertiser to reach vulnerable target groups through the Internet. Therefore, they must exercise special caution when posting ads on the Internet

- * Children must not be asked to give personal information, nor may their user pro-files be handed over to third parties for commercial purposes
- * Mark clearly which ads are meant for children and separate them from the rest of the material
- * Do not link commercial home pages to other Web-sites intended for children
- * Avoid direct interaction between characters in commercials and children
- * Do not ask children to place an order through the Internet

SPECIFIC LEGAL PROVISIONS

3.3.1 ALCOHOL	
General rules	<p>% may not be sold to persons under the age of 18 (16 §) (Act of 8 December 1994 on alcoholic beverages)</p> <p>Alcoholic beverages – regardless of the tenure - may not be served to persons under 18 years (24 §).</p>
Strong alcoholic beverages (> 22 %):	<p>All advertising, indirect advertising included, and sale promotion of strong alcoholic beverages is in general prohibited (Act of 8 December 1994 on alcoholic beverages, 5 chapter 33 § 1 subsection).</p> <p>accordance with the provisions of the Ministry of Social Affairs and Health or performed in licensed, retail or manufacture premises.</p>
Light alcoholic beverages (>1,2 % < 22 %):	<p>Advertising, indirect advertising included, and sale promotion of light alcoholic beverages, is as a general rule permitted (5 chapter 33 § 2 subsection).</p> <p>The advertising of alcoholic beverages aimed at minors is banned. Also the use of minors in the advertising of alcoholic beverages is banned</p> <p>Also some advertising or sale promotion measures are prohibited.</p>
3.3.2 TOBACCO	
General rules	<p>intended in the premises intended for common or public use, indoors in public means of transportation.</p> <p>Tobacco products and smoking utensils may not be sold or otherwise delivered to persons under the age of 18 (Act of 13 August 1976 on measures to reduce smoking, § 10)</p> <p>foreign printed works.</p> <p>price, contents, characteristics and production of the tobacco product in question (4 chapter 8 § 3 subsection).</p>
3.3.3 GROCERIES	
General rules	<p>not allowed to make any reference to health or medicine in information about food products (Act of 17 March 1995 on Food Products, § 6).</p> <p>There are no other specific rules regarding advertising and sale promotion contained in the Act on Food Products. Neither are there any specific provisions regarding minors.</p>

<p>Other rules</p> <p>Case law</p> <p>The Guidelines of the Consumer Ombudsman</p>	<p>food products.</p> <p>Decree of 10 May 1991 on marking of packages for food products, Decision of 10 May 1991 of the Ministry of Trade and Industry on marking of packages for food products</p> <p>display of the package might suffice for the advertisement to be considered inappropriate</p> <p>purchased in advance.</p>
<p>3.3.4 MEDICINES AND HEALTH</p>	
<p>Medicines</p> <p>General rules</p> <p>Other rules</p> <p>Natural products</p> <p>Cosmetics</p> <p>Chemicals</p>	<p>Sale of medicines is licensed in Finland (Act of 10 April 1987 on Medicines, § 21)</p> <p>The general rules on marketing and advertising included in the Consumer Protection Act apply.</p> <p>Only the marketing of medicines for which a sale permit has been issued is allowed.</p> <p>(Act of 10 April 1987 on Medicines, § 91)</p> <p>Advertising of other than licensed medicines is prohibited. Likewise, the advertising of medicines, for which a prescription is required, is prohibited.</p> <p>effects.</p> <p>There are no separate provisions relating to marketing or advertising of cosmetics. The general rules on marketing and advertising included in the Consumer Protection Act apply.</p> <p>There are no separate provisions relating to marketing or advertising of chemicals. The general rules on marketing and advertising included in the Consumer Protection Act apply.</p>
<p>3.3.5 EDUCATION</p>	
<p>General rules</p> <p>The Guidelines of the Consumer Ombudsman</p>	<p>after 10 years.</p> <p>Act apply to the advertising and sale promotion in day-care centers, schools etc. as well.</p> <p>Advertisements and other publicity material may not be distributed at schools and day-care centers unless the consent of the parents has been obtained in advance for example at parent-teacher meetings.</p> <p>Teaching material must not contain ads.</p>

<p>Case law</p>	<p>In the “Sponsorship and other marketing in schools” -guidelines the Ombudsman has adopted rules relating to identification of marketing and unsolicited marketing.</p> <p>The consent of the teacher does not suffice to allow marketing and advertising measures in day-care centers and schools. The consent of the parents is required in each case.</p>
<p>3.3.6 TOYS AND CHILDREN'S THINGS</p>	
<p>General rules</p>	<p>There are no provisions concerning advertising or marketing contained in the Act of 26 March 1997 on the Safety of Toys.</p> <p>The general rules concerning advertising, contained for example in the Consumer Protection Act, apply to the advertising and sale promotion of toys as well.</p>
<p>Case Law</p>	<p>The Consumers' Ombudsman has found the advertising of a hamburger meal together with toys inappropriate, since there was no relevant connection between the meal and the toys.</p>
<p>3.7 BANKING SERVICES</p>	
<p>General rules</p>	<p>A person aged 15 may enter into a deposit agreement with a deposit bank (Act of 31 December 1996 on Credit Institutions Operations, § 52) In the case of a younger person the consent of the legal guardian is required</p> <p>A cash card may be given to a minor aged 15-17 on the same grounds.</p> <p>According to the practice of the deposit banks cash cards are given to 11 years old, provided the consent of the legal guardian is given.</p> <p>When marketing their products, credit institutions are under an obligation to give their customers all necessary information, i.e. information which might be of relevance for the customers in making decisions</p> <p>There are no specific rules regarding advertising targeted at minors.</p>
<p>Other rules</p>	<p>According to the general rule bonds may not be marketed by presenting false or misleading information or by using bad manners or otherwise unfair practices (Act of 26 May 1989 on Bond Markets, chapter 2 §1</p>
<p>3.8 LEISURE</p>	
<p>General rules</p>	
<p>Package tours</p>	<p>Act of 28 November 1994 on Package Tours contains provisions on what information need to given when marketing package tours. There are no specific rules relating to minors.</p>
<p>Films and videos</p>	<p>State Film Inspection Authority decides, in advance, on the approval of all films, with the exception of certain productions financed or produced by the state itself.</p> <p>videotapes.</p>
<p>Sport events</p>	<p>There are no specific laws or regulations dealing regarding advertising of sports events targeting minors.</p>

3.3.9 VEHICLES	
General rules	<p>The different categories of vehicles are defined in The Decree of 7 September 1990 on Drivers' Licenses (§5). The required age to drive different categories of vehicles varies</p> <p>There are no specific provisions regarding marketing or advertising of vehicles.</p>
3.3.10 ARMS	
Cutting weapons	<p>According to the Act and Decree of Cutting Weapons the manufacture for the purpose of sale and the trade of dangerous cutting weapons is prohibited.</p>
Guns	<p>old. Providing the gun shall be used for hunting purposes or sports activities, a permission may be given to a person who is 15 with the consent of the legal guardian.</p>
3.3.11 MISCELLANEOUS	
Apartments	<p>Decree of 18 November 1983 on information required in connection with marketing apartments.</p>

PROPOSALS OF LAW

There are no proposals of law regarding marketing, advertising or sale promotion targeting minors pending at the moment, nor are any such law reforms under work.

The Consumer Authority is preparing a check-list to be applied on commercial offers on co-operation. This check-list will, when finished, be distributed to schools.

The implementation of Directive 97/7/EC of the European Parliament and the Council 20 May 1997 on the Protection of Consumers in respect of distance contracts is pending at the moment.

A proposal has been given for the amendment of the different laws and regulations relating to the inspection and films and video-tapes.

SELF-REGULATION

GENERAL RULES

The Board of Business Manners of the Central Chamber of Commerce

Gives its decisions within a short period of time to marketing disputes between companies. The decisions are opinions. The Board may not give any binding decisions, but they are in general followed.

A company may request an advance opinion on whether an intended marketing measure is in conformity with good business manner or, for example, the ICC 1997 international Code of advertising practice.

Rules issued by the Finnish Direct Marketing Association (DMA)

Fair Play Rules

Aim at covering the legislation and rulings on direct marketing, as well as defining the fair treatment of customers required by the commercial practice.

Shall be applied in the spirit and to the letter of the rules.

Direct marketing is evaluated by the general impression created in the target group.

All direct marketing shall be honest and truthful as well as in accordance with the law and prevailing standards of decency

Applicable to all direct marketing directed to consumers regardless of the means of communication or form of marketing.

The rules contain the following provisions relating to marketing targeted at children and young people:

*Marketing to children and young people shall be subject to special care and consideration.

*The gullibility of limited experience of children and young people shall not be taken advantage of. Appealing to emotional feelings or to a child's relationship with his parents or friends is not acceptable.

*The guardian's approval must always be acquired before accepting orders from minors."

Rules for Electronic Consumer Trade

The rules contains the following provisions concerning advertising aimed at children and the young:

*All the advertising aimed at children and the young will be appraised according to criteria that is stricter than usual.

*When the order is being submitted, it is advisable to make sure that the guardian has approved of the order made by the minor.

The MTV Principles and Guidelines on Television Commercials

The guidelines includes provision concerning Children and TV-commercials both from the point of view of the children as a watcher and the children as an actor.

OTHER ADVERTISING TECHNIQUES (LEGISLATION AND SELF - REGULATION)

DIRECT MARKETING

The second chapter of the Consumer Protection Act apply.

The provisions of the Person Information Act have to be applied.

Advertiser has to take into consideration both the characteristics of the product marketed and the situation of the addressee, i.e. customer.

The direct marketing has to include information of the intention to sell, what kind of a product is offered and who is offering

The "Children and marketing" - guidelines of the Consumer Ombudsman include the following provisions:

*Direct-mail advertisements must not be addressed to children. Even if such mail is addressed to the children's parents it is forbidden to print cartoon characters on such mail or to include invitations for a child to open the letter or buy the product in question.

*If the target group of your mail-order advertising are children or youngsters, make sure to state that if the client is under 18 years of age the order form must be signed by his parents.

*Do not sell products to children on TV shopping programMEs. They are often broadcast at hours when children are alone at home and may purchase the product without their parents' knowledge.

MAIL ORDER SALE

Mail order sale means offering products to the consumer through a leaflet, catalogue or advert.

Chapter 6 of the Consumer Protection Act contains provisions concerning home and mail order sale and the minimum requirements, which a company engaged in home or mail order sale must meet with in its operations.

(chapter 6 § 3 and 6).

The Consumer Ombudsman requires mail order forms to carry an entry requiring those under 18 to gain permission from their guardian for mail order purchases (1159/41/80). Otherwise, the marketing may be considered inappropriate.

HOME SALE

Home sales means offering products to the consumer by phone or in person in some other place than the place of business of the company.

The general rules applicable to direct marketing apply.

the legal guardian is required in all other cases. A contract with a minor including a consumer credit cannot be considered usual and, consequently, always requires the consent of the legal guardian.

NET MARKETING

Net marketing means marketing to customers of products, which are offered, ordered, produced or distributed in an electronic way, for example through a telephone net, the Internet, cable-TV or any similar communication system.

It is recognized by the Consumer Ombudsman, that net marketing is comparable to mail order sale.

There are no specific laws or regulations applicable to net marketing. The rules contained in the second chapter of the Consumer Protection Act, apply

Other rules

The “Children and marketing” -guidelines of the Consumer Ombudsman includes the following provisions regarding Internet:

- *Children must not be asked to give personal information, nor may their user pro-files be handed over to third parties for commercial purposes.
- *Mark clearly which ads are meant for children and separate them from the rest of the material.
- *Do not link commercial home pages to other Web-sites intended for children
- *Avoid direct interaction between characters in commercials and children.
- *Do not ask children to place an order through the Internet.

The Nordic Consumer Ombudsmen’s position paper to trading and marketing on the internet and in similar communication systems

The common position include the following chapter concerning marketing directed at children and young persons:

- *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.
- *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.
- *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

and the young.

MARKETING AGENTS

According to the “Home Sales” – guidelines of the Consumer Ombudsman marketing by agents is a form of home sales.

The “Children and marketing” – guidelines of the Consumer Ombudsman contain the following provisions relating to marketing by agents:

- *If you use underage agents to market your products to other children, do not tie their earnings to the number of orders placed.
- See to it that the underage agent’s guardian agree to have the child represent your products.

PROMOTIONAL SALES PRACTICES

The Guidelines of the Consumer Ombudsman (“Children and marketing”):

Children’s clubs

- *If you form a “children’s club” to promote the image of your company or the sales of your product, request the parents’ consent before letting a child join.
- *The membership bonuses of a “children’s club” set up for commercial purposes may be subjected to the free gift provision of the Consumer Protection Act if a bonus is contingent on the purchase of a product.

Dial-it services

- *Do not encourage children and youngsters to order a product by calling a telephone number subject to a charge, especially if the price of the product is to be included in the ordinary telephone bill. Phone bills are paid by the subscriber, usually the parents. Besides, teleselling constitutes a transaction on credit and according to the Guardianship Act, persons under the age of 18 may only make cash purchases.
- *If you offer the possibility to order products from a dial-it service, do make it clear at the same time that products can also be ordered free of charge.

SPONSORSHIP – SPONSORING

General rules

*Do not invite children to participate in a marketing lottery through a dial-it service

There are no general laws or regulations applicable to sponsorship or sponsoring.

Other rules

The Guidelines of the Consumer Ombudsman concerning sponsor-ship and other marketing in schools:

*Sponsorship should be decent and truthful

*Sponsorship should not play on the fear, credulity, loyalty or inexperience of children and young people

*Sponsorship materials or activities should not include any explicit encouragement to buy the sponsor's goods or services.

*The authority of the teachers or of the school should not be exploited in a way that make pupils or their parents believe that pupils will attract unfavourable attention or are given a disadvantage at school, if they do not buy or use the sponsor's products.

*Pupils and teachers should be allowed to be critical of the sponsor or its products.

*Sponsorship should not encourage children to persuade their parents to buy the sponsor's products.

*Sponsorship should not include claims that particular goods or services are superior or inferior to others, unless documentary evidence is available to that effect

HANDLING OF COMPLAINTS

ADMINISTRATIVE PROCEEDINGS

The Ombudsman

There is no general censorship concerning marketing or advertising in Finland.

The general supervision of all consumer related marketing and advertising, i.e. the application of the provisions in the Consumer Protection Act, is the responsibility of the Consumer Ombudsman.

The Ombudsman may act on his own initiative or due to a complaint made by a private person.

The Ombudsman will primarily try to solve any conflicts through negotiations (The Consumer Protection Act chapter 2 § 8 subsection 2).

In case no result is achieved from negotiations, the Ombudsman is entitled to issue a marketing ban on the infringing party.

of Justice.

Market Court of Justice or not.

The National Product Control Agency for Welfare and Health

Health.

In the event alcoholic beverages are unlawfully advertised, the STTV may prohibit the continuation of such unlawful marketing.

There is a right of appeal to the Market Court of Justice for the infringing party.

The supervision of advertising relating to tobacco products is also the responsibility of the STTV.

The Food Products Authority

The supervision of the marketing provisions included in the Act on Food Products is the responsibility of the Food Products Authority.

However, the general supervision of the conformity of any marketing and advertising measures concerning groceries with the Consumer Protection Act is the responsibility of the Consumer Ombudsman.

The National Agency for Medicines

The supervision of the marketing and advertising provisions contained in the Act on Medicines is the responsibility of the National Agency for Medicines

The Agency is entitled to prohibit a marketing measure found to be unlawful.

The Agency may order rectification, if this is considered necessary from the point of view of the medical safety having been endangered.

The general supervision of the conformity of any marketing and advertising measures concerning medicines with the Consumer Protection Act is the responsibility of the Consumer Ombudsman.

The Finance Inspection

The supervision of the Act on Bond Markets and the Act on Credit Institutions is the task of the Finance Inspection.

The general supervision of the conformity of any marketing and advertising measures concerning products mentioned in the said acts with the Consumer Protection is the responsibility of the Consumer Ombudsman

JUDICIAL PROCEEDINGS

The Market Court of Justice

The Market Court of Justice has jurisdiction to decide in cases based on the provisions concerning marketing and advertising contained in the Consumer Protection Act.

chapter 8 § 1 subsection, The Act on the Market Court of Justice 6 §).

In the event an infringement is established, the Market Court of Justice is entitled to demand the infringing party to cease its unlawful practice, i.e. the marketing or advertising measure in question. A ban to this effect will consequently be rendered by the court.

The Market Court of Justice is also entitled to demand rectification by the infringing party, if considered necessary with respect to the obvious damage caused by the marketing or advertising measure.

It is the discretion of the Market Court of Justice to decide how the rectification shall be done in practice.

higher penalty will be issued.

The decision of the Market Court of Justice is final. Only as far as the amount of the penalty is concerned there is a right of appeal.

The District Courts

jurisdiction to award damages.

In the event of a breach of the provisions contained in the Criminal Code, the District Court will have jurisdiction to decide on the case after the preliminary investigation has been performed.

The question of damages will also be decided by the District Court.