

## REGULATION AND SELF-REGULATION ON ADVERTISING DIRECTED AT MINORS - Ireland

### DEFINITIONS

<b>Child</b>	"Child" is defined, for the purposes of the Education (Welfare) Act 2000, as a person resident in the State who has reached the age of six years but has not reached the age of sixteen years or has not completed three years of post-primary education, whichever occurs later, but does not include a person who has reached the age of eighteen years.
<b>Minor</b>	
<b>Civilian majority</b>	Section 2 of the Age of Majority Act, 1985 states that a person attains full age when he attains the age of eighteen years or upon his marriage.
<b>Civilian minority</b>	
<b>Legal entitlement to contract</b>	The general rule at common law is that a minor's contract is voidable, however there are exceptions to this rule.
<b>Youth protection</b>	The Childcare Act, 1991 imposes a statutory duty on health boards to identify children, up to the age of eighteen, who are not receiving adequate care and protection and the promotion of their welfare, through the provision of childcare and family support services. Child Trafficking and Pornography Act, 1998 provides that any person who knowingly produces, distributes, prints or publishes any child pornography, knowingly imports, exports, sells or shows any child
<b>Sex offences</b>	or shows any child pornography, encourages or knowingly facilitates any activity mentioned above or knowingly possesses any child pornography for the purposes of distributing, publishing, exporting, selling or showing it shall be guilty of an offence.
<b>Moral protection</b>	
<b>Advertising</b>	

## LEGAL PROVISIONS

### GENERAL PROVISIONS

#### 1. In general

The Minister for Arts, Heritage, Gaeltacht and the Islands made the first revision to the codes on the 7th October, 1999. The revision was made to implement certain provisions of Directive 97/36/EC (Television Without Frontiers) relating to the new definition of advertising and the application of restrictions applying to advertising to teleshopping.

#### Deceitful advertising

Section 8 states that it is an offence to publish or cause to be published misleading advertisements in relation to the promotion of goods.

#### 2. Through media

##### PRESS

##### RADIO

#### Principles

Codes of standards, practice and prohibitions in advertising, sponsorship and other forms of commercial promotion in broadcasting services drawn up by the Minister for Arts, Heritage, Gaeltacht and The Islands under Section 4 of the Broadcasting Act 1990 state that the general principle which govern all broadcasting is that it should be legal, honest, decent and truthful.

More specifically, advertising should not

- (i) prejudice respect for human dignity
  - (ii) include any discrimination on grounds of race, sex or nationality
  - (iii) be offensive to religious or political beliefs, or
  - (iv) encourage behaviour prejudicial to the protection of the environment.
- Furthermore, advertising shall not be misleading or shall not prejudice the interest of consumers.
- Advertising on other television stations and all radio stations must comply with the following:
- (i) Section 10 of the Radio and Television Act, 1988
  - (ii) Codes drawn up by the Minister for Arts, Heritage, Gaeltacht and The Islands
  - (iii) The provisions of Articles 10 to 16 inclusive and Article 18(3) of Directive 89/552/EEC
  - (iv) Additional restrictions imposed by statute on various types of advertising.

##### TELEVISION

#### Principles

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#### Art. 10 TVWF

Both national television stations and other television stations must comply with the provisions of articles 10 to 16 inclusive and art. 18(3) of Dir 89/552/EEC

Art. 11 TVWF: insertion of advertising	Both national television stations and other television stations must comply with the provisions of articles 10 to 16 inclusive and art. 18(3) of Dir 89/552/EEC
Art. 12 TVWF: human dignity	<p>Codes of standards, practice and prohibitions in advertising, sponsorship and other forms of commercial promotion in broadcasting services drawn up by the Minister for Arts, Heritage, Gaeltacht and The Islands under Section 4 of the Broadcasting Act 1990. More specifically, advertising should not</p> <ul style="list-style-type: none"> <li>(i) prejudice respect for human dignity</li> <li>(ii) include any discrimination on grounds of race, sex or nationality</li> <li>(iii) be offensive to religious or political beliefs, or</li> <li>(iv) encourage behaviour prejudicial to the protection of the environment.</li> </ul> <p>Furthermore, advertising shall not be misleading or shall not prejudice the interest of consumers.</p>
Art. 13 TVWF: tobacco	Both national television stations and other television stations must comply with the provisions of articles 10 to 16 inclusive and art. 18(3) of Dir 89/552/EEC
Art. 14 TVWF: medicinal products	Both national television stations and other television stations must comply with the provisions of articles 10 to 16 inclusive and art. 18(3) of Dir 89/552/EEC
Art. 15 TVWF: alcohol	Both national television stations and other television stations must comply with the provisions of articles 10 to 16 inclusive and art. 18(3) of Dir 89/552/EEC
<b>Special protection of minors</b>	<p>Art. 16 TVWF: advertising and minors</p> <p>Both national television stations and other television stations must comply with the provisions of articles 10 to 16 inclusive and art. 18(3) of Dir 89/552/EEC</p>
<b>Sponsoring (Art. 17 TVWF)</b>	<p>Art. 22 TVWF: protection of minors and public order</p> <p>Part III of the Tobacco Products (Control of Advertising, Sponsorship and Sales Promotion) Regulations, 1991 state that a person engaged in the manufacture, importation, distribution or sale of tobacco products shall not incur expenditure on sponsorship unless such expenditure has been approved by the Minister for Health and Children and shall not exceed an amount as determined, from time to time, by the Minister.</p> <p>Sponsored events shall be advertised only</p> <ul style="list-style-type: none"> <li>(i) in newspapers, magazines or other similar publications, other than comics, comic supplements or any other publications or material directed primarily at persons under the age of 18 years.</li> <li>(ii) at the place where the event or activity is taking place but not on or along a public road, and</li> <li>iii) internally in premises which are points of retail sale of tobacco products.</li> </ul> <p>The Regulations go on to state that a person engaged in the manufacture, importation, distribution or sale of tobacco products shall not engage in the sponsorship of events or activities in which the participants are mainly under eighteen years of age or where the members of the audience are likely to be predominantly under that age.</p> <p>Sponsorship of Radio/television Programmes</p>

**Teleshopping (Art. 19 TVWF)**

INTERNET

CINEMA

POSTERS

The Codes of standards, practice and prohibitions in advertising, sponsorship and other forms of commercial promotion in broadcasting services drawn up by the Minister for Arts, Heritage, Gaeltacht and  
with a view to promoting its name, its trademark, its image, its activities or its product.”

Under the Code, it is the broadcaster’s responsibility to ensure that editorial integrity is not influenced by the presence of sponsorship. A sponsor

- (i) must not be involved in the manufacture, supply or provision of a product which is listed as unacceptable by this Code
- (ii) must not be associated with a programme which addresses an audience to which its commercials are not permitted to appeal (e.g. alcoholic drink
- (iii) Should not have an involvement in the editorial content of the programme or appear to do so.

The new Broadcasting Bill, 1999 contains provisions which will govern teleshopping. This Bill is expected to have passed all stages of the Oireachtas (Parliament) in March 2001. However, as of yet there are no specific provisions in this regard in Irish law.

## SPECIFIC LEGAL PROVISIONS

<b>3.1 ALCOHOL</b>	
<b>3.1.1 General rules</b>	<p>holders shall not permit the consumption of alcohol by persons under the age of eighteen on the licensed premises or off the licensed premises other than in a private residence.</p> <p>Section 32 prohibits the provision by other persons of intoxicating liquor for persons under the age of eighteen. Section 33 prohibits the purchase and consumption (in any other place other than a private residence) of intoxicating liquor by persons under the age of eighteen.</p>
<b>3.1.2 Advertising</b>	
<b>3.1.2.1 In general</b>	<p>be held on the premises of a registered club.</p> <p>by way of sound broadcasting or television or by inclusion in a cable programme service.</p>
<b>3.1.2.2 Per media</b>	
<b>Television</b>	
<b>Radio</b>	
<b>Print</b>	
<b>Posters</b>	
<b>Cinema</b>	
<b>Internet</b>	
<b>3.2 TOBACCO</b>	
<b>3.2.1 General Rules</b>	<p>person under the age of 16 years, whether for his own use or otherwise. It is also an offence to sell to any person, acting on behalf of a person under the age of 16 years, any tobacco products.</p>
<b>3.2.2 Advertising</b>	
<b>3.2.2.1 In general</b>	<p>The Tobacco Products (Control of Advertising, Sponsorship and Sales Promotion) Regulations, 1991 govern the advertising of tobacco generally and consequently are also applicable to minors.</p> <p>Article 8 states that tobacco products may not be advertised save in the following places :</p> <p>(i) internally in premises which are points of retail sale of tobacco products, provided that such advertising is not by means of visual electronic media or by sound;</p> <p>(ii) in duty free zones at airports and ferryboats by means of permanent signs; and</p> <p>(iii) on packages of tobacco products.</p> <p>Article 10 limits what may appear on an advertisement for a tobacco product, where such advertisement is permitted.</p>

### 3.2.2.2 Per media

#### Television

Codes of standards, practice and prohibitions in advertising, sponsorship and other forms of commercial promotion in broadcasting services drawn up by the Minister for Arts, Culture and the Gaeltacht in the exercise of his powers under Section 4(1) of the Broadcasting Act, 1990.

Section 13 of the current Code, drawn up by the Minister on 11 May 1995 prohibits all forms of advertising for cigarettes, cigars and other tobacco products. All television and sound broadcasters must comply with this code. The ban is general and therefore also applies to minors.

#### Radio

Codes of standards, practice and prohibitions in advertising, sponsorship and other forms of commercial promotion in broadcasting services drawn up by the Minister for Arts, Culture and the Gaeltacht in the exercise of his powers under Section 4(1) of the Broadcasting Act, 1990.

Section 13 of the current Code, drawn up by the Minister on 11 May 1995 prohibits all forms of advertising for cigarettes, cigars and other tobacco products. All television and sound broadcasters must comply with this code. The ban is general and therefore also applies to minors.

#### Print

The Minister for Health and Children, in the Tobacco Products (Control of Advertising, Sponsorship and Sales Promotion) (Amendment) (No 2) Regulations 2000, prohibited the publication in the State any newspaper, periodicals or magazines, containing any advertisement for tobacco products. It is also prohibited to distribute in the State, whether by wholesale, by retail, or gratuitously, newspapers, periodicals or magazines which contain advertisements for tobacco products. Notwithstanding this overall ban, a press distributor may apply to the Minister for a written exemption from these provisions in

under 18 years of age.

#### Posters

#### Cinema

#### Internet

#### Sponsorship

unless such expenditure has been approved by the Minister and shall not exceed an amount as determined, from time to time, by the Minister. Furthermore, section 20 provides that a person engaged in the manufacture, importation, distribution or sale of tobacco products shall not engage in the sponsorship of events or activities in which the participants are mainly under eighteen years of age or where the members of the audience are likely to be predominantly under that age. Where such sponsorship takes place, the sponsored events and activities shall be advertised only :-

(i) in newspapers, magazines or other similar publications, other than comics, comic supplements or any other publications or material directed primarily to persons under the age of 18 years,

(ii) at a place where the event or activity is taking place but not on or along a public road and

(iii) internally in premises which are points of retail sale of tobacco products.

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**3.3 DRUGS AND HEALTH**

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**3.3.1 General rules****3.3.2 Advertising****3.3.2.1 In general**

There are no specific legislative provisions regarding the sale of medical preparations to minors.

**DRUGS FOR HUMAN CONSUMPTION :**

the medical preparation by presenting it objectively and without exaggerating its properties and the advertisement shall not be misleading.

Section 5 goes on to provide that a person shall not advertise any medical preparation which may not be sold without a prescription or is a controlled drug under the Misuse of Drugs Act 1977.

Furthermore, section 6 states that a person shall not publish or take any part in the publication of an advertisement referring to any medical preparation in a manner which might lead to the use of such preparation in the diagnosis, prevention or treatment in human beings of an ailment, infirmity, injury or defect set out in the Schedule to the act.

**COSMETICS:**

Advertising in relation to Cosmetics is governed by the European Communities (Cosmetic Products) Regulations, 1997, which state that a person shall not place a cosmetic product on the market if the text, names, trade marks, pictures, and figurative and other signs employed in the labeling, presentation for sale and advertising of the product suggest a characteristic which the product in question does not possess. Any reference to testing on animals which is included with or appears on the container or packaging of a cosmetic product or which appears in any advertising or promotional material relating to a cosmetic product must state clearly whether or not such tests have been carried out and, if they have, whether they relate to the cosmetic product itself, to any of its ingredients or to both.

**CONTRACEPTIVES:**

The Health (Family Planning) Regulations, 1992 govern the advertising and display of contraceptives. They state that a person may only advertise contraceptives, other than contraceptive sheaths, or may only display contraceptives where such relates to family planning services, is arranged by or on behalf of the Minister or is reasonably necessary for informing healthcare professionals. A person may

notice in relation to contraceptive sheaths if:

- (i) the publication of the advertisement or notice is conducted only through a printed publication, and
- (ii) the publication of the advertisement or notice is such only as is reasonably necessary to informing persons about the benefits of the product, and
- (iii) the publication does not appear in a publication apparently directed primarily to persons under 17 years of age.

**3.3.2.2 Par support**  
**Television/radio**

**Others**

**Print**  
**Posters**  
**Cinema**  
**Internet**

**HEALTH AND SAFETY**

Section 11 of the current Codes of standards, practice and prohibitions in advertising, sponsorship and other forms of commercial promotion in broadcasting services drawn up by the Minister for Arts, Culture and the Gaeltacht in the exercise of his powers under Section 4(1) of the Broadcasting Act, 1990 states that advertisements should not encourage behaviour prejudicial to health or safety. Advertisements should not without justifiable reason depict or describe situations which show dangerous practises or a disregard for safety. Special care should be taken in advertisements directed towards or depicting children. This code applies to all television and radio broadcasters.

**FOOD STUFFS**

to children.

**DRUGS FOR HUMAN CONSUMPTION :**

is intended solely as a reminder, that person so advertising the medical preparation shall include, in the case of advertising by way of sound recording, sound broadcasting or television

- (i) the name of the product and
- (ii) advice to read carefully the information notice accompanying the medical preparation.

**DRUGS FOR HUMAN CONSUMPTION :**

In the case of an advertisement to the general public which is intended solely as a reminder, that person so advertising the medical preparation shall include, in the case of a written advertisement

- (i) the number of the product authorisation and
- (ii) the name and address of the holder of the product authorisation.



<b>3.4 VEHICLES</b>	
<b>3.4.1 General rules</b>  <b>3.4.2 Advertising</b> <b>3.4.2.1 In general</b> <b>3.4.2.2 Per media</b> <b>Television</b> <b>Radio</b> <b>Print</b> <b>Posters</b> <b>Cinema</b> <b>Internet</b>	<p>The Road Traffic (Licensing of Drivers) Regulations, 1989 implement EC Directive 80/1263/ EEC under which vehicles are categorised for driver licensing purposes and the minimum age of the licensee is prescribed.</p> <p>There are no specific provisions regarding advertising for vehicles targeting minors.</p>
<b>3.5 EDUCATION</b>	
<b>3.5.1 General rules</b>  <b>3.5.2 Advertising</b> <b>3.5.2.1 In general</b>  <b>3.5.2.2 Per media</b> <b>Television</b> <b>Radio</b> <b>Print</b> <b>Posters</b> <b>Cinema</b> <b>Internet</b>	<p>Section 17 of the Education (Welfare) Act, 2000 provides that the parent of a child shall cause the child to attend a recognised school on each school day.</p> <p>primary education, whichever occurs later, but does not include a person who has reached the age of eighteen years.</p> <p>Department of Education Circular 38/91</p> <p>The Minister for Education has issued to the Management Authorities and Principals of National Schools in Ireland, three circulars relating to the marketing and promotion of commercial products through schools. Describing such marketing and promotion as “undesirable practice”, the Minister requests that school authorities to take whatever steps may be necessary to eliminate such activities. The Minister also requests that schools formulate agreed school policies in relation to commercial promotions.</p>

<b>3.6 TOYS AND CHILDRENS THINGS</b>	
<b>3.6.1 General rules</b>	less than 14 years of age other than a product or material specified in Annex I of the Council Directive 88/378/EEC which is set out in the First Schedule.
<b>3.6.2 Advertising</b>	
<b>3.6.2.1 In general</b>	<p>other forms of commercial promotion in broadcasting services, states generally under the heading of “Advertising and Children’s Programmes” that:</p> <p>(i) Advertisers must exercise the utmost care and discrimination with regard to the content and presentation of advertisements transmitted during breaks within or near</p> <p>(ii) Advertisements shall not exhort children to buy a product or service by exploiting their inexperience or credulity.</p> <p>(iii) Advertising shall not exploit the special trust minors place in parents, teachers or other persons.</p> <p>(iv) Advertisements shall not directly encourage minors to persuade their parents or others to purchase or make enquiries about the goods or services being advertised.</p> <p>Advertisements shall not unreasonably show children in dangerous situations.</p>
<b>3.6.2.2 Per media</b>	
<b>Television</b>	
<b>Radio</b>	
<b>Print</b>	
<b>Posters</b>	
<b>Cinema</b>	
<b>Internet</b>	
<b>3.7 FINANCIAL SERVICES</b>	
<b>3.7.1 General rules</b>	ability to contract would apply. According to the Institute of Bankers in Ireland , a minor may open an account, deposit and withdraw money . A deposit account may be maintained at any stage for a customer who is a minor. Withdrawals can also take place once the customer has the capacity to understand the nature of the transaction.
<b>3.7.2 Advertising</b>	
<b>3.7.2.1 In general</b>	<p>under statute, together with certain exempted bodies, may advertise for deposits. Under EU legislation, credit institutions authorised in other Member States may also advertise for deposits provided the Central Bank has been notified of their intention to do so.</p> <p>Advertisements for deposits and other savings products should, under Central Bank requirements contain the following details</p> <p>(i) the equivalent annual rate for each interest rate quoted</p> <p>(ii) the minimum term and the minimum amount required for a specific rate of interest.</p>

(ii) whether the rate quoted is inclusive or exclusive of Deposit Interest Retention Tax.

Irish legal tender notes are protected by the Copyright Act 1963, the Forgeries Act 1913 and the Central Bank Acts, 1942-1998. No Irish Legal Tender notes may be reproduced in whole or in part in any advertisements without prior permission in writing of the Central Bank.

CONSUMER CREDIT

The Consumer Credit Act, 1995 governs the advertising of credit services. Part II of the act deals with “Advertising and Offering of Financial Accommodation”. In general, an advertisement in which a person offers to provide or arrange the provision of credit shall, if mentioning a rate of interest, contain a clear and prominent statement of the APR (Annual percentage rate of charge)

and no other rate of interest shall be included in the advertisement. Also where such is applicable the advertisement shall specify any conditions the offer of credit is subject to, state any security requirements and indicate any restrictions which may apply.

In relation to minors, section of the Consumer Credit Act states that a person shall not knowingly, with a view to financial gain, send to a minor any document inviting the minor to:

- (i) borrow credit,
- (ii) obtain goods on credit or hire
- (iii) obtain services on credit, or
- (iv) apply for information or advice on borrowing credit or otherwise obtaining credit or hiring goods.

**3.7.2.2 Per media**

**Television**

**Radio**

**Print**

**Posters**

**Cinema**

**Internet**

**3.8 LEISURE**

**3.8.1 General rules**

work to be fit for viewing unless he is of opinion that the work is unfit for viewing because

(a) the viewing of it

(i) would be likely to cause persons to commit crimes, whether by inciting or encouraging them to do so or by indicating or suggesting ways of doing so or of avoiding detection, or

community or sexual orientation, or

(iii) would tend, by reason of the inclusion in it of obscene or indecent matter, to deprave or corrupt persons who might view it, or

(b) it depicts acts of gross violence or cruelty (including mutilation and torture) towards humans or animals.

Section 4 of the Act was amended in 1996 and now reads as follows:

(1) When granting a supply certificate the Official Censor shall determine, and shall include in the certificate a statement indicating, to which of the following classes the video work concerned belongs:

(a) fit for viewing by persons generally,

(b) fit for viewing by persons generally but, in the case of a child under the age of 12 years, only under parental guidance,

- (bb) fit for viewing by persons aged 12 years or more,
- (c) fit for viewing by persons aged 15 years or more,
- (d) fit for viewing by persons aged 18 years or more,

in this Act to classification or higher classification or lower classification shall be construed accordingly.

whole of such picture is fit for exhibition in public.

that such picture or some part thereof is unfit for general exhibition in public by reason of its being indecent, obscene or blasphemous or because the exhibition thereof in public would tend to inculcate principles contrary to public morality or would be otherwise subversive of public morality

age-group.

likely to make use of such place for public dancing.

Order 102 of the District Court Rules provides for the granting of Public Dancing Licences subject to certain conditions including the following:

“That no child or young person within the meaning of the Children Acts, 1908 to 1989, shall be permitted to be present at any dance in the said place save in the case of a Dance for Children, and for a Dance for Children the permitted hours shall be from 2 p.m. to 9 p.m.”

Section 14 of the Gaming and Lotteries Act, 1956 states that gaming carried on at an amusement hall or funfair shall not be unlawful gaming if, among other things, no person under sixteen years of age is permitted to play.

Section 29 of the Betting Act, 1931 provides that it shall not be lawful for any person to send or bring into any registered betting office any person under the age of eighteen years other than persons ordinarily resident in such premises and officers of the Minister for Posts and Telegraphs entering such premises in the course of their duty as such officers.

Section 23 provides that no licensed bookmaker shall make a bet or engage in a betting transaction with a person under the age of eighteen years whether such person is acting on his own behalf or as agent for another person.

### **3.8.2 Advertising**

#### **3.8.2.1 In general**

##### **3.9.2.2 Per media**

There are no specific provisions in this regard.

Television  
Radio  
Print  
Posters  
Cinema  
Internet

**3.9 ARMS/VIOLENCE**

**3.9.1 General rules**

possession, use, or carriage is authorised by a firearm certificate granted under this Act and for the time being in force.

**3.9.2 Advertising**

Section 8 declares that certain persons are to be disentitled to hold a firearm certificate and this includes any person under the age of fifteen years.

**3.9.2.1 In general**

There are no provisions relating specifically to advertising of firearms.

**3.9.2.2 per media**

Television  
Radio  
Print  
Posters  
Internet

**3.10 POLITICS**

**3.10.1 General rules**

**3.10.2 Advertising**

**3.10.2.1 In general**

**3.10.2.2 Per media**

**Television**

Section 65 of the Broadcasting Bill, 1999 states " nothing in section 20(4) of the Act of 1960 (Broadcasting Authority Act, 1960) or section 10(3) of the Act of 1988 (including either of those sections as applied by this Act) shall be construed as preventing the broadcasting of a notice of the fact:

\* that a particular religious newspaper, magazine or periodical is available for sale or supply, or

\* that any event or ceremony associated with any particular religion will take place

if the contents of the notice do not address the issue of the merits or otherwise of adhering to any religious faith or belief or of becoming a member of any religion or religious organisation".

**Radio**

Section 65 of the Broadcasting Bill, 1999 states " nothing in section 20(4) of the Act of 1960 (Broadcasting Authority Act, 1960) or section 10(3) of the Act of 1988 (including either of those sections as applied by this Act) shall be construed as preventing the broadcasting of a notice of the fact:

\* that a particular religious newspaper, magazine or periodical is available for sale or supply, or

\* that any event or ceremony associated with any particular religion will take place

if the contents of the notice do not address the issue of the merits or otherwise of adhering to any religious faith or belief or of becoming a member of any religion or religious organisation".

**Print**

**Posters**

**Cinema**

**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**

## PROPOSALS OF LAW

when transmitted will consist of a direct offer to the public for sale or supply of goods or other property, whether real or otherwise, or services". It also provides that the Minister for Arts, Heritage, Gaeltacht and The Islands may issue codes and standards relating to teleshopping. The Bill is due to go before the Dail Committee in October 2000.

her within one year. The Broadcasting Commission of Ireland will be able to take into account any relevant instrument made by or relevant guidelines issued by any body in which are vested functions in and sponsorship and other forms of commercial promotion which relate to matters likely to be of direct or indirect interest to children.

Under the provisions of the Broadcasting Bill 1999, responsibility for drawing up codes and standards, practices and prohibitions in advertising, sponsorship and other forms of commercial promotion in broadcasting services will devolve to the Independent Radio and Television Commission (to be renamed the Broadcasting Commission of Ireland).

The Children Bill, 1999 is a blueprint for the development of a new juvenile justice system. It was prepared with the co-operation of the Department of Justice, Equality and Law Reform, the Department of Health and Children and the Department of Education and Science. If passed, the Bill will raise the age of criminal responsibility from seven years of age to twelve years.

The Constitutional Review Group is a group set up to make suggestions in relation to possible amendments of our Constitution. Their Report recommends that in line with the UN Convention on the Rights suggested that an express guarantee of certain rights of the child related to family life should be included in any revision of the relevant provisions of the Constitution. These recommendations are being considered by an All Party (Oireachtas) Committee which has been set up by the Houses of Parliament to undertake a full review of the Constitution to establish those areas where constitutional change may be desirable or necessary.



## SELF-REGULATION

### GENERAL RULES

advertising and sales promotion through the Code of Advertising Standards and the Code of Sales Promotion Practice. Both codes are modelled on the corresponding ICC Codes. The Principles of the ASAI

observing the Code rests with advertisers. Others involved in the preparation and publication of advertisements such as agencies and media also accept an obligation to abide by the Code. Any unreasonable delay in responding to ASAI's enquiries may be considered a breach of the Code.

The Authority will observe advertisers' requests to treat any material they supply in strict confidence unless the Courts or an official agency acting within its statutory powers to compel its disclosure.

#### Special Provisions relating to Specific Categories

##### Vulnerable Persons

Advertisements which portray or refer to persons with disabilities or to persons who are vulnerable by reason of age or other condition or circumstance -

- (i) should fully respect the dignity of such persons and not undermine their confidence or independence;
- (ii) should avoid stereotyping or other insensitive approaches which could promote negative images or prove hurtful or distressing to such persons or their families;
- (iii) should not subject such persons to ridicule or offensive humour;
- (iv) should not exploit disability, age or other condition for unrelated commercial purposes.

##### Honesty

Advertisers should not exploit the credulity, inexperience or lack of knowledge of consumers.

##### Children

An advertisement should contain nothing that is likely to result in physical, mental or moral harm to children:

- (i) Children should not be portrayed in a manner that offends against accepted standards of good taste and decency.
- (ii) They should not be encouraged to enter strange places or talk to strangers e.g. for the purpose of making collections or accumulating labels, wrappers, coupons and the like.
- (iii) They should not be shown in hazardous situations or behaving dangerously in the home or outside. Children should not be shown unattended in street scenes unless they are old enough to take responsibility for their own safety.
- (iv) They should not be portrayed engaging in anti-social behaviour; where they appear as pedestrians or cyclists they should be seen to observe the Rules of the Road.
- (v) They should not be shown using or in close proximity to dangerous substances or equipment without direct adult supervision. Examples include matches, petrol, gas, medicines, certain household substances as well as certain electrical appliances and machinery, including agricultural equipment.
- (vi) An open fire in a domestic scene should always have a fireguard clearly visible when a child is included in the scene.

An advertisement should not exploit the loyalty, vulnerability or lack of experience of children:

- (i) They should not be made to feel inferior or unpopular for not buying the advertised product.
- (ii) They should not be made to feel that they are lacking in courage, duty or loyalty if they do not buy or do not encourage others to buy a particular product.
- (iii) They should not be encouraged to make a nuisance of themselves to parents or others with the aim of persuading them to buy the advertised product.

An advertisement addressed to children:

- (i) should not feature products that are unsuitable for children;
- (ii) should make it easy for them to judge the actual size, characteristics and performance of any product advertised;
- (iii) should not exaggerate what is attainable by an ordinary child using the product.

## RULES PER SECTOR

### ALCOHOL

Advertisements for alcoholic drinks (i.e. those that exceed 1.2% alcohol by volume) should be socially responsible and should not exploit the young or the immature. They should neither encourage excessive drinking nor present abstinence or moderation in a negative way. An advertisement may refer to the social dimension or refreshing attributes of a drink but

- (i) should not emphasise the stimulant, sedative or tranquillising effects of a drink or imply that it can improve physical performance,
- (ii) should not imply that drinking is necessary to social or business success or distinction or that those who do not drink are less likely to be acceptable or successful than those who do,
- (iii) should not suggest that any drink can contribute towards sexual success or make the drinker more attractive to the opposite sex.

Advertisements should not portray drinking as a challenge nor should it be suggested that those who drink are brave or daring. Advertisements should not be directed at young people or in any way encourage them to start drinking. Accordingly:

- (i) Anyone depicted in an alcohol advertisement should appear to be over twenty five.
- (ii) Advertisements should not feature real or fictitious characters who are likely to appeal particularly to people under eighteen in a way that would encourage them to drink.

The social consequences of drinking should be recognised:

- (i) Advertisements should not suggest that a product can mask the effects of alcohol in tests on drivers; advertisements for breath testing devices should include a prominent warning on the dangers of drinking and driving.
- (ii) Immoderate drinking and regular solitary drinking should not be encouraged. Buying of large rounds should not be depicted or implied.
- (iii) Advertisements should not depict activities or locations where drinking alcohol would be unsafe or unwise. In particular,  
to be done safely.
- (v) Factual information can be given about the alcoholic strength of a particular drink but it should not be the principal theme of any advertisement. Drinks should not be promoted as being more intoxicating or presented as preferable because of their higher alcohol content.

Advertisers should ensure that low alcohol drinks (i.e. those that contain 1.2% alcohol by volume or less) are not promoted in a way that encourages their inappropriate consumption.

### TOBACCO

### DRUGS/HEALTH

### VEHICLES

### EDUCATION

### LEISURE

### FINANCIAL SERVICES

### ENTERTAINMENT

### ARMS/VIOLENCE

**POLITICS**  
**TELECOMMUNICATIONS**  
**SCHOOLS**

no specific provisions in the self-regulatory codes of the ASAI. The Code of Advertising standards does however provides that advertisements should not be encouraged to make a nuisance of themselves to parents or others with the aim of persuading them to buy the advertised product.

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## OTHER ADVERTISING TECHNIQUES (LEGISLATION AND SELF-REGULATION)

### **DIRECT MARKETING**

The ASAI Code contains sections relating to Direct Response / Mail Ordering . The provisions are general and therefore apply to minors. The Code states that advertisers when using youth media should not promote products that are unsuitable for children. They should take particular care when packaging products that may fall into the hands of children.

## HANDLING OF COMPLAINTS

### **ASAI complaints procedure**

It is a condition of membership of ASAI that a Member shall not publish an advertisement or undertake a promotion that does not comply with Code requirements.

The thirteen-member board of ASAI is empowered to exercise a disciplinary function over members of ASAI. The Complaints Committee is appointed by the Board and comprises persons involved in advertising and persons independent of advertising including members nominated by the Director of Consumer Affairs. The Committee is responsible for considering and dealing with complaints submitted by the public, by a Member of ASAI, by a Government Department or by any other person or body of persons. The Committee may initiate corrective action where necessary and may issue appropriate directives. Where such corrective action or directive is not complied with the Complaints Committee may submit a report in the matter to the Board for consideration of disciplinary action.

### **Director of Consumer Affairs**

where the Director considers that, in the public interest, such examinations are proper.

### **Office of the Ombudsman**

The Ombudsman Act 1980 provides for the establishment of the Office of Ombudsman and sets down the procedures and conditions governing the Appointment of the Ombudsman. The Act also delineates the powers of the Ombudsman as regards the examination and investigation of complaints made to him and defines the Ombudsman's reporting relationship with the Dail (Parliament) and Seanad (Senate).

### **Broadcasting Complaints Commission**

Section 18B of the Broadcasting Authority Acts, 1960 to 1999 sets out the complaints procedure relating to advertisements which appear on radio or television. Under this section the Broadcasting Complaints Commission may investigate and decide:-

“a complaint that an advertisement so specified contravened the Codes of standards, practice and prohibitions in advertising, sponsorship and other forms of promotion in broadcasting services or the broadcast in particular circumstances of advertising”.