

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

DEFINITIONS

Child	
Minor	Article 1:233 of the Civil Code: minor is a person who has not reached the age of 18 years, nor is registered as a partner or who has not been declared to have reached the age of majority on the basis of article 1:253 ha Civil Code.
Civilian majority	As of 18 years. At 16 years a minor woman with parental authority can request the juvenile court to declare her to have reached the age of majority (article 1:253ha Civil Code)
Civilian minority	Until 18 years (Article 1:233 Civil Code)
Legal entitlement to contract	With the permission of his legal representative, a minor has the capacity to act, unless the law stipulates otherwise (Article 1: 234 Civil Code). Otherwise; with respect to employment agreements and a minor given his age usually performs in our society independently, permission will be assumed. Article 486 Code of Criminal Procedure stipulates that nobody can be prosecuted because of a fact before he has reached the age of 12 years.
Youth protection	The Child Care and Protection Board (Act of 13 June 1996, Stb 328) has several task and competences. The main competence is the capacity to act in legal proceedings in case the Board is of the opinion that a minor is brought up in a way his mental, moral and/or physical health is endangered. The Board can ask the juvenile judge to place the minor under family supervision. The Board can, on its own initiative or upon request, give information or advice with respect to the protection of minors (Article 1: 238 a.f. Civil Code).
Sex offences	
Moral protection	Minors are not allowed in casino's (Article 27 The Act on the Games of Chance). The Act on the Public Performance of Films forbids to broadcast films in cinema's to minors under the age of 12 years, respectively under the age of 16 years, if the films are not been accepted in relation to the mentioned age category by the Film Evaluation Board . It is a crime to offer or show a picture or a object which may be harmful for a person under the age of 16 years or of who one can reasonably assume that he is younger than 16 years (article 240a Criminal Code).

Advertising

No legal definition. Advertising is considered to be all public communications, aiming directly or indirectly to promote the sale of products or services, irrespective of the media used (TV, Radio, Print, Internet, sponsoring, direct mail, teleshopping (Article 6:194 Civil Code). Article 1 of the Media Act sets out the meaning of:

opinion being influenced in a positive manner as regards a specific business, branch of industry or institution in a way which promotes the sale of products or the use of services.

manner as regards a specific undertaking, branch of industry or establishment in order to promote the sale of product or the use of services. Article 1 of the (self-regulatory) Dutch Advertising Code: advertisement is any form of public commendation of goods, services or ideas.

A "message" is a subset of an "expression". Teleshopping is considered as an "expression"

Tele-shopping has to be considered as advertisement.

LEGAL PROVISIONS

GENERAL PROVISIONS

Deceitful advertising	The advertising may not be deceitful or misleading for the consumer as regards the product or the service (Article 6:194 Civil Code).
2. Through media	
PRESS	
	No specific rules apply.
RADIO	
Principles	<p>The Media Act and the Media Decree make in principle no distinction between the rules, which apply, to broadcasting of advertisement on radio or on television. The rules for broadcasting of advertisement on radio are the same as the rules that apply to the broadcasting of advertisement on television</p> <p>National broadcasters are not allowed to broadcast (clandestine) advertising messages (Article 26 & 52 section 2 Media Act). The Radio and Television Advertising Foundation (STER) is allowed to broadcast recognizable advertising messages without subliminal techniques (Article 50 section 8 Media Act). Commercial broadcasters are allowed to broadcast advertising messages which have to be clearly recognizable from other programs and subliminal techniques are not allowed (Article 52c Media Decree).</p> <p>No legal provisions with respect to the content and quality of advertising. The self-regulatory Dutch Advertising Code contains 12 articles with the requirements as to the quality of advertisements irrespective of the media used.</p> <p>Avoidable advertising messages in programmes of public broadcasters are not allowed in programs predominantly targeted to minors under the age of 12 years (Article 28 section 2 Media Decree). On the public network programs mainly targeted at minors under the age of 12 years, may not be interrupted by advertising (Article 11 Media Decree). On the commercial networks a program aimed at minors under the age of 12 years may only be interrupted if the program last mote than 30 minutes (Article 52 e section 3 Media Decree). Programs aimed at minors under the age of 12 may not be sponsored (Article 52 a section 3 under b Media Act).</p>
Special protection of minors	
TELEVISION	
Principles	<p>The Media Act contains a dualistic system of public and commercial broadcasting</p> <p>The Media Act ("Mediawet", Stb 1987, 249) and The Media Decree ("Media Besluit", Stb 1987, 249), both updated several times, allow a limited advertising regime in line with the regulations about the quantity of advertising of the Directive "Television without Frontiers" (89/552/EEG of 3/10/1989, L 298/23).</p> <p>Public broadcasters:</p> <p>The national public broadcasters are not allowed to broadcast advertising-messages or advertising-expressions, except for required identifications of the sponsor and unavoidable advertising expressions</p> <p>Only the Radio and Television Advertising Foundation (STER) is allowed to broadcast advertising-messages (article 26 and 52 section 1 Media Act). Non-national public broadcasters (regional and local) may broadcast advertising-messages (according to the same regulations as apply to the STER).</p> <p>Commercial broadcasters are allowed to broadcast advertising messages, if they are members of the Advertising Code Foundation.</p>

Art. 10 TVWF	<p>Public Broadcasters: Section 1 and 3 of article 10 of the Directive are adapted in article 50 paragraph 8 of the Media Act and stipulate in respect of the public broadcasters: “ the programmes of the Radio and Television Advertising Foundation (STER) shall be recognisable as such and must clearly be discernible from the programmes of the other establishments which have obtained broadcasting time. Subliminal techniques shall not be used in the programmes of the STER.”</p>
Art. 11 TVWF: insertion of advertising	<p>Commercial broadcasters: advertising or teleshopping messages of commercial broadcasters shall also be recognizable as such, and be clearly discernible from other programs. Subliminal techniques are not allowed</p> <p>Public Broadcasters:</p> <p>Programmes mainly targeted at minors under the age of twelve may not be interrupted by programmes of the STER</p> <p>National broadcasting time may not be interrupted more frequently, by a programme of the STER, than once every 45 minutes in the case of TV and every 30 minutes in the case of radio broadcasting;</p> <p>The length of the programme to be interrupted is more than 90 minutes in the case of TV broadcasting and more than 45 minutes in the case of Radio broadcasting and the programme continues for at least 20 minutes after the break;</p> <p>The interruption lasts at least 2 minutes for television and 1 minute for radio;</p> <p>Commercial broadcasters: advertising or teleshopping messages of commercial broadcasters shall also be recognizable as such, and be clearly discernible from other programs. Subliminal techniques are not allowed</p> <p>As to interruption rules for commercial broadcasting article 52 e Media Decree decides that programmes shall only be interrupted by advertising messages if the interruption does not affect the integrity, nature or coherence of the relevant programme or infringe the rights of the programme right holder</p> <p>The following programmes may, according to article 52 e section 3 Media Decree, only be interrupted by advertising if they last more than 30 minutes: news or news commentaries, religious or ideological nature other than as referred to in the second paragraph, programmes aimed at minors under the age of twelve and non-dramatised documentaries</p> <p>frequently than once per 45 minutes. If a film has a remaining length of more than 20 minutes after two full segments of 45 minutes, the film may be interrupted once more</p> <p>In case a television programme is interrupted by more than one advertising break, the intervals between the advertising breaks should be at least 20 minutes. However, television programmes consisting of a performance or event or between separate parts of the performance or event</p> <p>Transmission time of advertising by the Radio and Television Advertising Foundation (STER) and non-national public broadcasters will be maximally (including the “separation frame work”): per year: 6,5 % of the broadcast time on television and radio; per 24 hours: 15 % per day and per network of the broadcast time; per hour: 12 minutes; and (including the “separation frame work”) the television broadcasting time of the STER shall be scheduled with a minimum length of two minutes per block (article 12 Media Decree).</p>
Art. 12 TVWF: human dignity	<p>Ban on advertising for tobacco on radio and television (Article 4 Tobacco Act). Self-regulation - Advertising Code General of Tobacco Products regulates other forms of advertising. Rules regarding young people</p>
Art. 13 TVWF: tobacco	
Art. 14 TVWF: medicinal products	<p>The Bill of 8 June 2000 (Stb. 252) and the Order in Council of 7 December 1999 (Stb. 545) has cancelled (as of 21 June 2000) the sponsoring ban by medical sector of programmes broadcast by the commercial broadcaster</p>
Art. 15 TVWF: alcohol	<p>Art. 16 TVWF: advertising and minors:</p> <p>Public broadcasters: Avoidable advertising expressions by way of displaying or referring to a product or service (“product placement”), are never allowed for programmes which are predominantly targeted at minors under the age of 12</p>
Special protection of minors	

Art. 22 TVWF: protection of minors and public order

A general provision stipulates that a program shall not contain program parts that might impair seriously the physical, mental or moral developments of a person younger than 16 years. Harmful programmes are only possible in case a broadcast organization is member of an organization approved by the Minister, as mentioned below, and will be subject to the –self - regulations of this organization (Bill of 14.12.2000)

Article 53 Media Act (new): The Minister of Culture can acknowledge an independent organization that satisfies the further requirements of this new article. Amongst others the organization has to provide a rating system with respect to the broadcasting of programs, which might impair minors in the way as mentioned above. This organization has to supervise the compliance with the regulation

Article 1 under II of the Media Act contains a more restrictive definition of sponsorship of a programme than the Directive “Television without Frontiers” (no. 97/36/EG, 30 June 1997 (Pb. EG. L 202) allows: “The provision of financial or other contributions by a government institution or private company not normally involved in broadcasting activities or in the making of audio-visual productions, towards the production or purchase of a program for the purpose of facilitating or enabling its broadcast.”

Sponsoring (Art. 17 TVWF)

public broadcasters may not be sponsored in case the programmes are specially aimed at minors under the age of 12

An exception is made for programmes of cultural nature, a report or coverage of sport-events or competitions, or an event in connection with idealistic purposes

No sponsoring by tobacco industry

Public broadcasters have to draw up a Programme Service Statute, which must in any event safeguard the editorial independence of those of their employees charged with the editorial aspects of the programmes against interference by sponsors. For commercial broadcasters the same is stipulated in article 52h section 1 of the Media Decree.

Rules for public broadcasters:

* The names of all sponsors shall be mentioned either at the beginning and/or end of the programme in question for the information of the public;

* In case of sponsored television programmes, the names of the sponsors shall appear for a maximum of 5 seconds. The appearance may be in the shape of a name, trademark, logo or image brand. In so far

criteria of the definition of advertising messages;

* None of the sponsor’s products or services may be mentioned or shown in a sponsored programme if the sponsorship consists of a financial contribution

Almost the same conditions apply to the programmes of commercial broadcasters except, that they are allowed to refer to or display products and services of sponsors, provided that the public is not, by way of specific recommendations or otherwise, encouraged to purchase or hire such products or services. The mentioning of the sponsors name is not bound to a maximum length but can be as long as necessary to mention or to show the name

Teleshopping (Art. 19 TVWF)

The Media Act ("Mediawet" Stb 1987, 249, according to the last review of the Act of 8 June 2000, Stb 252) defines "teleshopping message" as an advertising expression on a television programme, which consists of a direct offer to the audience in order to sell the products or services against payment

Only commercial broadcasters are allowed to broadcast teleshopping messages. During a programme exclusively devoted to teleshopping it is also allowed to broadcast other advertising messages. According to article 52d paragraph 2, 3 and 4 Media Decree no more than 20% of the total length of the entire programmes of a commercial broadcaster in one day or 12 minutes per hour, shall consist of teleshopping messages or a combination of advertising messages and teleshopping messages. No more than 8 blocks of teleshopping messages a day are allowed and the entire length of one block should be at least 15 minutes without interruption. The entire length shall be no more than 3 hours a day No specific provisions in the Media Act refer to minors

Teleshopping is not allowed on the public network, neither by the public broadcaster nor the STER

According to the explanatory note of the Dutch Advertising Code advertising includes tele-shopping:a television program in which offers are made directly to the public with intention to supply products for profit. The Dutch Advertising Code will be applicable to tele-shopping.Dutch Advertising Code: tele-shopping that it shall not encourage minors to conclude agreements for purchasing or renting products (Article 13.3). As advertising on television in relation with minors teleshopping shall satisfy with the following criteria:

- it shall not encourage minors to buy a particular product by taking advantage of their inexperience or credulity;
- it shall not directly encourage minors to persuade their parents or others to buy advertised products;
- it shall not take advantage of the special confidence which minors have in parents, teachers or others;
- It shall not, without reason, depict minors in dangerous situations.

INTERNET

No specific rules apply.

CINEMA

POSTERS

No specific rules apply.

SPECIFIC LEGAL PROVISIONS

3.1 ALCOHOL	
3.1.1 General rules	Ban to sell alcoholic beverages (of 0,5% alcohol or more) to minors till the age of 16. Ban to sell strong liquor (of 15% alcohol or more except wine) to minors under the age of 18 years (Article 20 Licensing - and Catering Act).
3.1.2 Advertising	
3.1.2.1 In general	Ban on all misleading advertising in general and to use medical claims with respect to alcoholic beverages (Article 6:195 Civil Code / Article 19 en 20 Commodities Act)
3.1.2.2 Per media	
Television	Television/radio - Code for Alcoholic Beverages: (self-regulation) than 25 % minors (Article 15). It may not be broadcast on radio and television immediately before or after or during programs which are listened to or viewed by more than 25 % minors (Article 16). Youth broadcasting stations may not carry any advertising for alcoholic beverages (Article 17).
Radio	Television/radio - Code for Alcoholic Beverages: (self-regulation) than 25 % minors (Article 15). It may not be broadcast on radio and television immediately before or after or during programs which are listened to or viewed by more than 25 % minors (Article 16). Youth broadcasting stations may not carry any advertising for alcoholic beverages (Article 17).
Print	no specific rules
Posters	no specific rules
Cinema	no specific rules
Internet	no specific rules

3.2 TOBACCO

3.2.1 General Rules

Ban on smoking in public places amongst others schools and ban to sell in institutions of health care, social services, education and indoor sports (article 9, 10, 11 of The Tobacco Act juncto Decree Limitation of Offer and Use of Tobacco Products).

3.2.2 Advertising

3.2.2.1 In general

Ban on advertising for tobacco on radio and television (Article 4 Tobacco Act). Self-regulation - Advertising Code General of Tobacco Products regulates other forms of advertising. Rules regarding young people (Article 12 / 17):

Advertising messages relating to tobacco products shall not be intended to influence young people to form a favorable impression of the commended product. Advertising messages shall contain no representations and/or commendations which appeal specially to young people.

Advertising messages shall depict no persons under the age of 30 years. Advertising messages shall not establish any connection between smoking and maturity or immaturity, i.e., creates no impression that smoking is a sign of maturity and not smoking a sign of immaturity.

Advertising messages shall not be shown in: - places which are intended primarily for meeting young people; discotheques; educational establishments. Advertising messages shall not be shown at events which are intended for, or expected to be attended primarily by young people (attendance of young people will exceed 25%). The attendance of young people will be based on experiences and surveys of record sales or research material provided by the organizers of the event. Advertising messages shall not be conveyed by audiovisual media in areas which are intended primarily for use by families and at

objects be aimed specifically at persons under the 18 years.

advertising, a connection between health, sports, youth and tobacco may not be mentioned or suggested in advertising.

3.2.2.2 Per media

Television

Ban on advertising for tobacco on radio and television (Article 4 Tobacco Act).

Radio

Ban on advertising for tobacco on radio and television (Article 4 Tobacco Act).

Print

of advertising, a connection between health, sports, youth and tobacco may not be mentioned or suggested in advertising.

Posters

of advertising, a connection between health, sports, youth and tobacco may not be mentioned or suggested in advertising.

Cinema

of advertising, a connection between health, sports, youth and tobacco may not be mentioned or suggested in advertising.

Internet

of advertising, a connection between health, sports, youth and tobacco may not be mentioned or suggested in advertising.

3.3 DRUGS AND HEALTH	
3.3.1 General rules	
3.3.2 Advertising	
3.3.2.1 In general	Foodstuffs/ Non foodstuffs: prohibition to use medical claims for foodstuffs and misleading claims for non foodstuffs (Articles 19 and 20 of the Commodities Act). Medicine: public advertising is only allowed for medicine which are available without prescription (Article 3 Medicines Advertising Decree). Advertising for medicine may not be directed to children (Article 10 under e Medicines Advertising Decree). Advertising for medicine is subject to a system of self regulatory preventive examination.
3.3.2.2 Per media	
Television	Candy: The Advertising Code for Confectionery applies to advertising for confectionery. Advertising on television for confectionery shall show a stylized image of a toothbrush approved by the Advertising Code Committee (Article 6).
Radio	no specific rules
Print	Candy: Article 7 of The Advertising Code for Confectionery states that advertising in printed matter intended for, or which may be assumed will be read primarily by children under the age of 14 years or in articles specially intended for children under the age of 14 years shall show the toothbrush emblem (measure 1 cm X 1.5 cm A4 and A5 formats and proportionally larger or smaller for others formats).
Posters	no specific rules
Cinema	no specific rules
Internet	no specific rules
3.4 VEHICLES	
3.4.1 General rules	18 years : cars and motorcycles (article 110 Road Traffic Act 1994, Stb 475)
3.4.2 Advertising	
3.4.2.1 In general	
3.4.2.2 Per media	
Television	The advertising for motorised vehicles must not be founded on speed, acceleration and/or engine power (selfregulatory Code for Passenger Cars)
Radio	The advertising for motorised vehicles must not be founded on speed, acceleration and/or engine power (selfregulatory Code for Passenger Cars)
Print	no specific rules
Posters	no specific rules
Cinema	no specific rules
Internet	

3.5 EDUCATION	
3.5.1 General rules	Compulsory education as of 5 years till the age of 18 years (Article 3 Compulsory Education Act).
3.5.2 Advertising	
3.5.2.1 In general	Advertising shall not be misleading (Article 6:195 and Special Advertising Code on Courses). Recognized Educational Institutions have to recruit its students in a proper way and may not give away gifts (Article 10 Act on the Recognized Educational Institutions). On the basis of a voluntary agreement sponsoring is allowed. This Agreement prescribes that teaching material shall not contain advertising.
3.5.2.2 Per media	
Television	
Radio	
Print	
Posters	
Cinema	
Internet	
3.6 TOYS AND CHILDRENS THINGS	
3.6.1 General rules	Obligation to add warning signs or precautions for usage. Mentioning of the name and address of the manufacturer and /or importer (Article 16, 18 , 20 a.f. The Toys (Commodities Act) Decree).
3.6.2 Advertising	
3.6.2.1 In general	
3.6.2.2 Per media	
Television	
Radio	
Print	
Posters	
Cinema	
Internet	

3.7 FINANCIAL SERVICES	
3.7.1 General rules 3.7.2 Advertising 3.7.2.1 In general 3.7.2.2 Per media Television Radio Print Posters Cinema Internet	<p>The ability for a minor to open a checking account or a savings account is allowed with the content of a parent/guardian and depends on the internal regulations of each bank, generally with parental approval.</p> <p>No misleading advertising (Article 6:195 Civil Code). Several different internal codes of conducts with no references to minors. Obligation to provide sufficient and clear information about amongst others credits (Decree Credit Offers).</p>
3.8 LEISURE	
3.8.1 General rules 3.8.2 Advertising 3.8.2.1 In general 3.9.2.2 Par support Television Radio Print Posters Cinema Internet	<p>Casino's : Minors are not allowed in Casino's (article 27 Act on the Game of Chance. The Act on the Public Performance of Films forbids to broadcast films in cinema's to minors under the age of 12 years, the age of 16 years and the supply of strong liquor (other than free of charge) is not allowed to persons under the age of 18 years (Article 20 Licensing - and Catering Act). Only with the supervision of a person of 21 years or older, a minor under the age of 16 years is allowed in a liquor store (Article 20 Licensing - and Catering Act).</p> <p>The self regulatory Advertising Code for Casino and Slot Machines:</p> <p>shall be places in the vicinity of minors (Article 7.2), no advertisement round or in relation with media specially aimed at minors (Article 8).</p> <p>Radio and television programs intended wholly or partly for minors shall not be sponsored by Holland Casino and its branches or by operators of slot machines (Article 7.4).</p> <p>Radio and television programs intended wholly or partly for minors shall not be sponsored by Holland Casino and its branches or by operators of slot machines (Article 7.4).</p>

3.9 ARMS/VIOLENCE	
3.9.1 General rules 3.9.2 Advertising 3.9.2.1 In general 3.9.2.2 per media Television Radio Print Posters Cinema Internet	The Weapon Act prohibits acts with all kinds of weapons without a license. Only under strict conditions a license will be granted.
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 Radio 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 Internet	Services providing information which is implicitly or explicitly of an erotic, sexual or pornographic nature shall not be aimed at, or make use of minors. Advertising shall not incite minors directly or indirectly by implicit or explicit means to make use of these information services, nor shall such advertising contain a reference to minors (Article 7.3 Code for Telephone Information Services)

PROPOSALS OF LAW

The Bill of 14 December 2000 with respect to the review of the Media Act and the Criminal Code and the Act on Public Performance of Films (“Wijzigingen van de Mediawet en het Wetboek van strafrecht als mede de intrekking van de Wet op de filmvertoningen”) establishes a more effective protection of minors against audio-visual media products which are considered harmful. This Act came into force on 22 February 2001.

The Tobacco Act I Bill (1998/99 26472 of 10 April 1999) is a result of the official policy of discouraging smoking and anticipates the Tobacco Advertising Directive (98/43/EG of 6 July 1998, Pb EG 30 July 1998, L 213/9). The Tobacco Act I Bill contains amongst others a prohibition of all the outdoor advertising for tobacco products in order to protect minor.

SELF-REGULATION

GENERAL RULES

by the parties involved, which are amongst others: Consumer Association, Union of Advertisers, printed media and broadcasters. These parties co-operate in the Advertising Code Foundation (“Stichting Reclame Code”) who has established the Dutch Advertising Code (“de Nederlandse Reclame Code”) which contains a body of rules to which all forms of advertising are subject to.

Under minors the Dutch Advertising Code understands: children under the age of 12 years.

Under youth the Dutch Advertising Code understands: person who not have reached the age of 18 years.

Article 2 determines that advertising shall conform to the law, the truth and the requirements of good taste and decency.

Article 3 determines that advertising shall not contravene the public interest, public order or morality.

Article 4 determines that advertising shall not be gratuitously offensive or constitute a threat to mental and/or physical public health.

Article 5 determines that the form and content shall not undermine confidence in the advertising.

Article 6 determines that without justifiable cause, advertising shall not arouse feelings of fear or superstition.

Article 8 determines that testimonials, commendations or statement by experts that are used in advertising shall be based on the truth and tally with the latest accepted scientific views.

As to advertising to minors, irrespective of the media, article 13.1 prescribes: when advertising is aimed wholly or partly at children, that is, minors up to the age of 12, it shall contain no speech, sound or pleasure” and performance of the product

RULES PER MEDIA

Television

Article 10 of the Dutch Advertising Code prescribes that advertising shall be recognisable as such by virtue of its layout, presentation, content and so forth, taking account of the public for which it is intended.

The use of subliminal techniques in audio-visual advertising is also prohibited according article 10 of the Dutch Advertising Code. The use is likewise prohibited of elements from a broadcast programme in advertising on radio and television if it can be reasonably assumed that the viewers or listeners would be misled or confused by it.

Advertising on television shall cause no mental or physical harm to minors and for their protection, shall therefore satisfy the following criteria:

(Advertising Code)

Article 13.3 of the Dutch Advertising Code stipulates that teleshopping shall meet the requirements stipulated in article 13.2 and moreover, shall not encourage minors to conclude agreements for purchasing or renting products.

It is prohibited to feature persons who are known to the public and who can influence the public by virtue of the confidence instilled upon them

Radio

same rules apply as for television

Print

Advertising directed to minors shall print the word "advertisement" in 12 point letters over every advertisement (including the so-called "advertorial" in (children's) magazines, with a range exceeding 25% of the children of 11 years old and under. The percentage being measured yearly by means of ratings-research is, generally accepted in the market (article 10 Dutch Advertising Code).

Posters

no specific rules

Internet

no specific rules

Cinema

no specific rules

RULES PER SECTOR PER MEDIA

ALCOHOL

Advertising Code on Alcoholic Beverages: Advertising of alcoholic beverages may not be aimed specially at minors. This applies to all media, cinemas theatres, concert, events and the like (Article 14). It may not reach a public that consist of more than 25 % minors (Article 15).

It may not be broadcast on radio and television immediately before or after or during programs which are listened to or viewed by more then 25 % minors (Article 16). Youth broadcasting stations may not carry any advertising for alcoholic beverages (Article 17).

Recommendation by promotion teams may not be aimed at minors. It is not permitted in places where over 25 % of the public consist of minors at that point of time. Offering alcoholic beverages free of charge (or at less than half the normal retail price) is not permitted during promotions. (Article 18).

It is not permitted on billboards, posters, bus shelters and display panels located in sight of schools, drug rehabilitation clinics or along roads and highways outside built-up areas. (Article 19)

It may not show any person aged under 25 consuming alcoholic beverages (Article 20).

It may not make any use of illustrations, cartoons, symbols or idols intended to reach minors in particular (Article 21).

It may not suggest that consumption is a sign of adulthood, and abstinence is a sign of immaturity (Article 22).

Object bearing advertisements for alcoholic beverages may not be provided free of charge (or half the normal retail price) to persons who have not yet reached the legal age for purchasing the alcoholic beverage (Article 23).

TOBACCO

Articles 12 / 17 of the Code of Tobacco Products (Reclame Code voor Tabaksproducten):

Advertising messages relating to tobacco products shall not be intended to influence young people to form a favorable impression of the commended product.

Advertising messages shall contain no representations and/or commendations which appeal specially to young people.

Advertising messages shall depict no persons under the age of 30 years.

Advertising messages shall not establish any connection between smoking and maturity or immaturity, i.e., creates no impression that smoking is a sign of maturity and not smoking a sign of immaturity.

Advertising messages shall not be shown in: - places which are intended primarily for meeting young people;- discotheques;- Educational establishments.

Advertising messages shall not be shown at events which are intended for, or expected to be attended primarily by young people (attendance of young people will exceed 25%).

The attendance of young people will be based on experiences and surveys of record sales or research material provided by the organizers of the event.

Advertising messages shall not be conveyed by audiovisual media in areas which are intended primarily for use by families and at pop festivals.

With respect to tobacco products, the industry shall refrain from offering advertising object or causing them to be offered to persons obviously under the age of 18 years. Nor shall advertising objects be aimed

DRUGS/HEALTH

The Code of for Public Medicine Advertising sees to advertising to the public for medicines available without medical prescriptions. Contains more or less the same rules of the Medicine Advertising Decree: prohibition that advertising of medicine may not be directed to children, wholly or partly (age limit depends of the nature of the product, standard an age of 12 years). This Code provides for a regularization of preventive examination.

Above mentioned Codes are not incorporated in the Dutch Advertising Code. However, article II a. of the Dutch Advertising Code regulates that:

Advertising for medicines aimed at the general public shall be provided with a valid entrance stamp issued by the Inspection Board for the Public Commendation of Registered Drugs (KOAG) in conformity to its articles.

VEHICLES

Code for Passenger Cars: advertising shall not use speed, acceleration and engine power as argument to promote sale. Any mentioning of engine power shall be in kilowatts (kW)(Article 1). Advertising shall not appeal to, or elicit aggressive, environmentally unfriendly or unsafe traffic behavior (Article 3).

EDUCATION

The Special Advertising Code on Courses: use of faithful picture of the institution and under whose auspices the course is given. Advertising shall omit suggestion of results which can not reasonably be expected awarding of non recognized degrees Voluntary Agreement Sponsoring rules in relation with primarily and secondary educational sponsoring.

LEISURE

machines.

FINANCIAL SERVICES

ENTERTAINMENT

ARMS/VIOLENCE

POLITICS

TELECOMMUNICATIONS

such advertising contain a reference to minors (article 7.3 of this Code).

SCHOOLS

OTHER ADVERTISING TECHNIQUES (LEGISLATION AND SELF-REGULATION)

DIRECT MARKETING

legislation

Advertising may not be deceitful or misleading. According to the Explanatory Memorandum, the measurement for judgement is the cleverness and the capacity of understanding of an average public, although in some cases the special circle of persons should be taken into account, such as children. The minor has to be considered as a consumer. Article 6: 195 of the Civil Code prescribes a reverse burden of proof; the burden of proof falls upon the advertiser to establish that his claims are correct and complete (Article 6: 194 – 196 Civil Code (“Burgerlijk Wetboek”); General provision regarding advertising)

self-regulation

The **Box Advertising, Door-to-Door sampling and Direct Response Advertising Code** (“Code Brievenbusreclame, Huissampling en Direct Response Advertising”) allows door-to door advertising and direct mail directed to minors

This Code knows two provisions with respect to advertisement to children:

No direct mail of dangerous samples: samples and other material which may constitute a danger to physical health in the event of internal or external use. Such samples should be handed personally by the distributor to adults only (Article 16).

No advertising material shall be distributed (or caused to be distributed) door to door or by direct mail to young people which of can reasonable be assumed to cause damage to their mental health

Article 12 of the Advertising Code for Tobacco Products already forbids advertising intended to influence young people (under 18 years), which means no direct mail to young people is allowed. In general the Code stipulates no direct mail or unaddressed mail actions without prior consent. The industry has to refrain from sending or distributing (or causing to be distributed) unsolicited door-to-door samples and/or printed matter which solely or primarily contains advertising for tobacco products (article 25).

The **Telemarketing Code** contains rules for telephone conversations between telemarketeer and consumers. Article 9 of this Code stipulates that a telemarketing agency shall make no offer to a consumer of whom the telemarketeer knows or could reasonably have known the consumer is a minor.

Promotional Sales Practices

Legislation

The Act on Games of Chance (“De wet op de Kansspelen”) prohibits the organization of a draw, but allows the organization of a competition. A competition is a game in which the participant must be able to have a considerable influence on his chance of winning the prize himself. There must be a feat that can be judged and the prize may not exceed the amount of NLG 5,000,= . There is no age-limit, so the contest can be organized for minors.

An obligation to purchase is allowed since the Limitation of Gifts Act has been abolished in 1997. Promotional actions with gifts are not allowed for certain products, amongst others: tobacco products, medicines and educational courses.

Self-regulation

The Advertising Committee allows advertising accompanied by a sweepstake, which, according to article 1 of the Code for Sweepstakes (“Code voor Sweepstakes”), is a promotional campaign by which one ore more prizes are made available free of charge by the drawing of predetermined entities, such as number, names or other numbers/letter combinations or objects having a unique identity. Distribution of these prizes only requires a response on the part of the recipient. The Code makes no reference to minors.

Pursuant to the Advertising Code for Alcoholic Beverages it is not allowed to offer alcoholic beverages to persons free of charge or for a symbolic payment for the purpose of promoting them. Offering of samples is not allowed. During fairs it is not allowed to offer alcoholic beverages on an unsolicited basis

As to minors the code determines in article 25 that members of the sector refrain from offering alcoholic beverages or causing them to be offered to minors free of charge or for a symbolic payment. The sector also has to refrain from supplying objects carrying advertising for alcoholic beverages or causing them to be supplied to minors free of charge or for a symbolic payment

The Advertising Code for Tobacco Products prohibits price-cutting actions with respect to tobacco products aimed at the general public. The industry has to refrain from offering tobacco products for coupons, advertisements and the like (article 24 of the Advertising Code for Tobacco Products).

The Code for Public Advertising of Medicines prohibits providing the public with free samples or organising refund actions, to give away vouchers, special promotions and contests or games which contain the obligation to buy goods (article 5).

HANDLING OF COMPLAINTS

Self-regulatory: Advertising Code Committee

Supervises the compliance of the Dutch Advertising Code

The Committee has, beside two general chambers, two specific chambers: audio-visual chamber and direct marketing chamber

Procedure/Sanctions

Any member of the public, including companies and competitors, can lodge a written complaint with the (secretariat) of the Advertising Code Committee, motivating to which advertisement the complaint relates and which rules of the Dutch Advertising Code, including the specific Codes, are violated.

The Committee's Chair carries out an initial assessment of the complaint in order to examine if the complaint lends itself for handling by the Committee

In case the Chair of the Committee rejects the complaint, the complaining party will be informed. An Appeal can be lodged with the plenary Advertising Code Committee.

Complaints that are judged suitable for handling by the Committee are subject to a procedure in which the two parties to the conflict will be heard. The advertiser is sent a copy of the complaint and is allowed a period of 14 days to submit its response of which a copy will be forwarded to the complaining party.

After a period of 4 weeks in general the Advertising Code Commission issues its written ruling. Short-term proceedings are possible in urgent matters.

The losing party has two weeks to appeal against the ruling with the Board of Appeal. The Board of Appeal knows the same proceeding.

The Advertising Code Committee may rule the complaint to be unjustified and reject it. In case it decides that the complaint is justified, the Committee will recommend the advertiser to stop using the advertisement concerned.

The private and public recommendations, including the names of the parties involved, are available for the public.

The case law of the Advertising Code Committee with regard to minors shows a distinction between advertising which is aimed wholly or partly at minors and which is aimed at the general public. If aimed at the general public the Advertising Code Committee does not apply the provisions that specifically relate to children. However, she does take children into consideration when the advertisement is broadcasted before 20.00 hours and 20.30 hours.

Self-regulatory body: The Inspection Board of the Foundation Code of Medicines

With respect to advertising directed at the profession everyone can file a complaint at Section I of the Board of the Foundation Code of Medicines.

Public advertising for medicines (available without prescription) is subject to preventive examination by section II of the Board. The member advertisers may lodge a complaint about the rejection of the preventive approval or

After the notification of a written complaint the defendant has 6 weeks to file written observations. The observations will be sent to the complainant and then oral pleadings are possible. Summary proceedings within 4 or 5 weeks

Dutch Media Authority

3 tasks:

* Supervision whether broadcasters act in compliance with the Media Act and Media Decree

* Allocation broadcasting time/permission for commercial broadcasting;

* Financial control

It does not handle complaints.

The Media Authority can impose financial sanctions. It may also withdraw the broadcasting time of public broadcasters for a maximum period of 12 weeks if the broadcasters fail to comply with the obligations of the Media A

Civil Proceedings

As to misleading or unfair advertising consumers, competitors and general interest organisations can start legal proceedings. The so-called summary proceedings before the President of a District Court are considered to be the Summary proceedings exist of an oral hearing. The arguments are summarised in a memorandum, which will be submitted to the President and the other party after the hearing. In standard cases the hearing will take place with The claimant in summary proceedings can ask for a preliminary relief such as an injunction, a recall of promotional documents or a rectification, on forfeit of a penalty to be paid to the claimant in the event of default. In general An appeal is possible within two weeks after the judgement.

against an approved advertising of another member at the Board of Appeal KOAG/KAG. In case a consumer wants to complain about advertising of medicines, the Advertising Code Committee is the competent authority
eks are possible. Appeal is possible within 3 weeks after the decision in normal proceedings and within 7 days in case of summary proceedings.

.ct. As the commercial broadcasters the Media Authority may withdraw the permission to broadcast in case violating the rules.

most efficient. However, proceedings on the merit of the case are possible. Proceedings on the merit of the case cost more time, at least between one and a half to two year. These kinds of proceedings can be desirable in case the plaintiff wants to claim compensation or damages in two to four weeks after the claimant has asked for a date to schedule a hearing and has issued a summons. If the defendant does not appear at the hearing, compensation of the damages cannot be claimed.

ages. In the event the case has no urgent interest summary proceedings are not possible.