



ADVERTISING & MARKETING TO CHILDREN  
**GLOBAL REPORT**

NOVEMBER 2016

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# INTRODUCTION

UNICEF is committed to helping companies and governments adopt best practice in relation to all aspects of children's rights. This includes both the ways in which products and services are marketed and advertised to children and the use of children in advertising or marketing, and ultimately extends to any related laws, policies or practices that impact children as consumers.

The objective of the 'Advertising and Marketing to Children' project is to capture as much information as possible about the regulatory framework within which companies and their marketing and advertising agencies operate. This is both from a legislative perspective and where voluntary codes apply.

DLA Piper has been commissioned by UNICEF to conduct research across thirty seven jurisdictions and to produce this report which has been done with the support of UNICEF, lawyers from DLA Piper offices and associate firms around the world.

DLA Piper's involvement in this project forms part of the partnership between DLA Piper and UNICEF which to the end of September 2016 has seen the firm undertake over 13,000 hours of pro bono assistance to an estimated value of some £3.3 million towards UNICEF's global child justice programme.

This report is the result of an analysis of the regulatory framework with respect to advertising and marketing to children in the following jurisdictions:

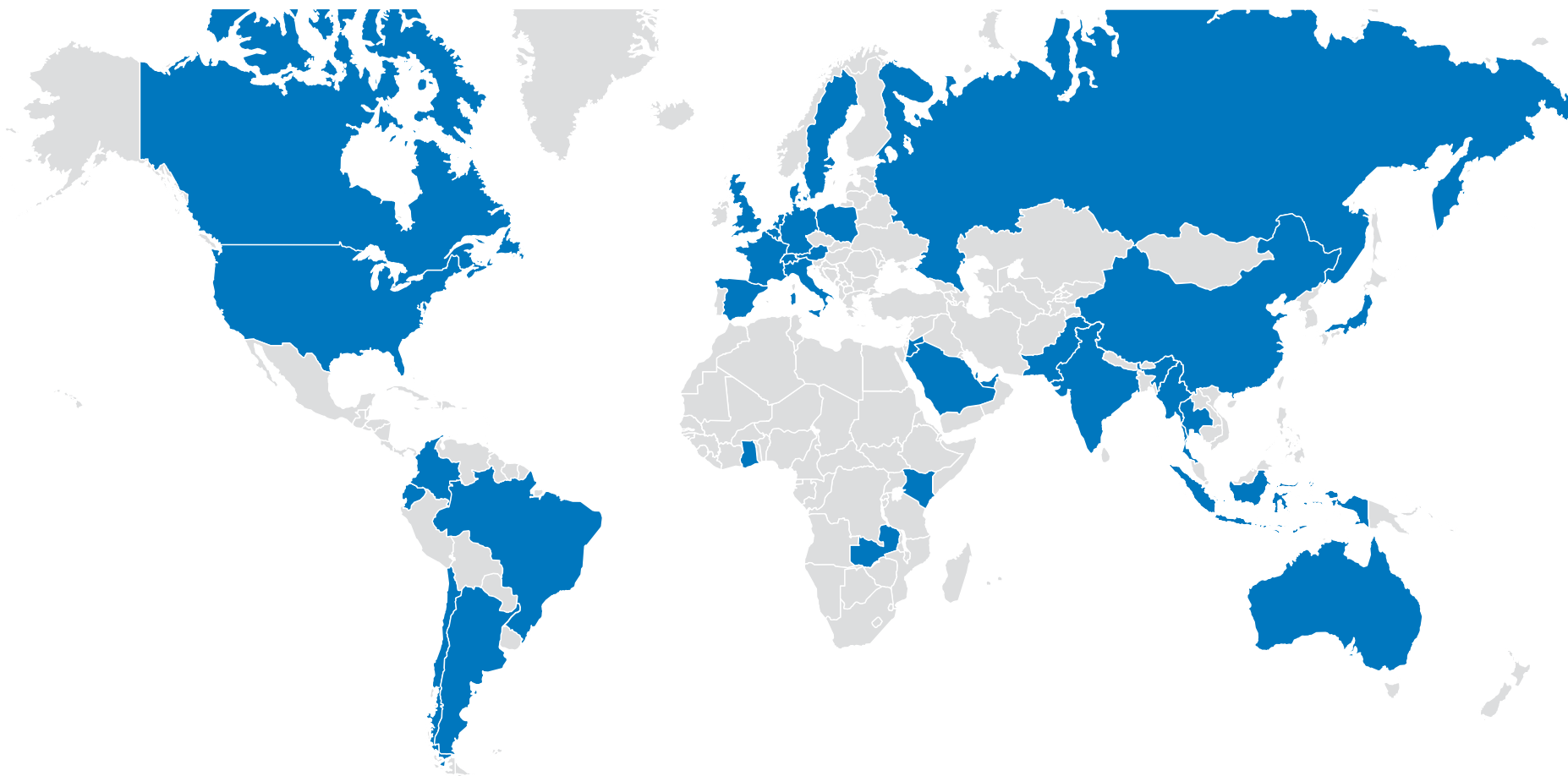
- |               |                     |                   |                                      |
|---------------|---------------------|-------------------|--------------------------------------|
| 1. Argentina; | 11. Ecuador;        | 21. Jordan;       | 31. Sweden;                          |
| 2. Australia; | 12. European Union; | 22. Kenya;        | 32. Switzerland;                     |
| 3. Austria;   | 13. France;         | 23. Myanmar;      | 33. Thailand;                        |
| 4. Belgium;   | 14. Germany;        | 24. Netherlands;  | 34. United Arab Emirates;            |
| 5. Brazil;    | 15. Ghana;          | 25. Pakistan;     | 35. United Kingdom;                  |
| 6. Canada;    | 16. Hong Kong;      | 26. Poland;       | 36. United States of<br>America; and |
| 7. Chile;     | 17. India;          | 27. Qatar;        | 37. Zambia.                          |
| 8. China;     | 18. Indonesia;      | 28. Russia;       |                                      |
| 9. Colombia;  | 19. Italy;          | 29. Saudi Arabia; |                                      |
| 10. Denmark;  | 20. Japan;          | 30. Spain;        |                                      |

The report demonstrates the diversity of legislative and self-regulatory frameworks that govern advertising and marketing to children internationally. There are also commonalities across the jurisdictions covered. The executive summary explores the themes and patterns that emerge from this initial analysis, both in terms of best practice and areas that require a strengthened regime and a greater focus. The full research table in relation to each jurisdiction covered in this research stage are included as appendices to this report. We would like to thank all our contributors for their assistance and commitment in helping us to complete the report.

We have tried to make the report as comprehensive as possible but it should not be regarded as exhaustive. Our researchers, whose names and contact details are listed at the end of the report, have endeavoured to access the most up to date versions of legislation but this has not always been possible. In some jurisdictions, DLA Piper has conducted online research which has been reviewed by local counsel; in the case of Saudi Arabia, this local review has not yet been completed. As such this publication is intended and should be understood as a general overview and should not be relied on or used as a substitute for taking legal advice in any specific situation. DLA Piper UK LLP will accept no responsibility for any actions taken or not taken on the basis of this publication.

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# REPORT MAP



# COMPARISON TABLE

		Argentina	Australia	Austria	Belgium	Brazil	Canada	Chile	China	Colombia	Denmark	Ecuador	France	Germany	Ghana	Hong Kong	India	Indonesia	Italy	Japan	Jordan	Kenya	Myanmar	Netherlands	Pakistan	Poland	Qatar	Russia	Saudi Arabia	Spain	Sweden	Switzerland	Thailand	UAE	UK	USA	Zambia	
1	Legal age of majority	18	18	18	18	18	18 - 19	18	18	18	18	18	18	18	18	18	18	18	18	20	18	18	18	18	18	18	18	N/A	18	18	18	18	18	18	18	18	18	
2	National legislation regulating marketing and/or advertising generally	Green	Green	Green	Green	Red	Green	Yellow	Green	Yellow	Green	Green	Green	Green	Red	Yellow	Green	Red	Green	Green	Yellow	Red	Yellow	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	
2.1	Explicitly addresses marketing and advertising to children	Green	Yellow	Green	Green	Red	Red	Red	Yellow	Yellow	Green	Green	Green	Green	Red	Red	Red	Red	Red	Red	Yellow	Red	Red	Red	Yellow	Yellow	Red	Red	Red	Red	Red	Red	Red	Yellow	Green	Green	Yellow	Red



## COMPARISON TABLE

		Argentina	Australia	Austria	Belgium	Brazil	Canada	Chile	China	Colombia	Denmark	Ecuador	France	Germany	Ghana	Hong Kong	India	Indonesia	Italy	Japan	Jordan	Kenya	Myanmar	Netherlands	Pakistan	Poland	Qatar	Russia	Saudi Arabia	Spain	Sweden	Switzerland	Thailand	UAE	UK	USA	Zambia
3	State or regional legislation regulating marketing and/or advertising	Red	Yellow	Red	Green	Red	Green	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Green	Red	Red	Red	Red	Yellow	Red	Red	Red	Red	Green	Red	Yellow	Red	Red	Yellow	Red	Red
3.1	Explicitly addresses marketing and/or advertising to children	Red	Red	Red	Green	Red	Yellow	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Yellow	Red	Red	Red	Red	Yellow	Red	Red	Red	Red	Red	Red	Red	Yellow	Red	Red	Yellow	Red
4	Industry code of practice regulating marketing and/or advertising	Green	Green	Green	Green	Green	Green	Green	Yellow	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Red	Green	Red	Green	Green	Green	Red	Red	Yellow	Green	Green	Green	Red	Red	Green	Green	Red
4.1	Explicitly addresses marketing and/or advertising to children	Yellow	Green	Green	Green	Green	Green	Green	Red	Green	Yellow	Green	Green	Yellow	Green	Green	Green	Green	Green	Red	Red	Green	Red	Yellow	Yellow	Yellow	Red	Red	Red	Green	Green	Green	Red	Green	Green	Green	Red



No provisions



Some Provisions



Relevant Provisions  
(Substantial or Complete)



Not addressed

## COMPARISON TABLE

	Argentina	Australia	Austria	Belgium	Brazil	Canada	Chile	China	Colombia	Denmark	Ecuador	France	Germany	Ghana	Hong Kong	India	Indonesia	Italy	Japan	Jordan	Kenya	Myanmar	Netherlands	Pakistan	Poland	Qatar	Russia	Saudi Arabia	Spain	Sweden	Switzerland	Thailand	UAE	UK	USA	Zambia	
5	Restrictions on advertising alcohol	Green	Green	Green	Red	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Yellow	Green	Green	Green	Green	Red	Green	Yellow	Green	Red	Green	Green	Green	Green	Green	Green	Green	Green	Yellow	Red	
6	Restrictions on advertising tobacco	Green	Green	Green	Red	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Yellow	Green	Green	Green	Green	Green	Red	Green	Yellow	Green	Green	Green	Green	Green	Green	Green	Green	Green
7	Restrictions on advertising drugs/ pharmaceuticals	Green	Green	Green	Red	Green	Green	Green	Yellow	Yellow	Yellow	Red	Green	Red	Green	Green	Yellow	Red	Green	Green	Yellow	Red	Green	Green	Green	Red	Green	Yellow	Green	Green	Green	Yellow	Red	Green	Yellow	Green	
8	Restrictions on advertising HFSS products	Red	Yellow	Green	Yellow	Red	Green	Red	Yellow	Yellow	Green	Green	Green	Red	Yellow	Yellow	Green	Red	Red	Red	Red	Red	Green	Red	Yellow	Red	Red	Red	Green	Red	Yellow	Red	Red	Yellow	Yellow	Red	
9	Restrictions on the timing/ placing of advertisements:	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey
9.1	In publications aimed at children	Yellow	Yellow	Yellow	Red	Yellow	Yellow	Green	Green	Red	Yellow	Green	Red	Yellow	Red	Red	Red	Yellow	Red	Green	Yellow	Red	Red	Yellow	Red	Yellow	Red	Red	Red	Red	Green	Yellow	Red	Green	Yellow	Red	



No provisions



Some Provisions



Relevant Provisions  
(Substantial or Complete)



Not addressed

## COMPARISON TABLE

		Argentina	Australia	Austria	Belgium	Brazil	Canada	Chile	China	Colombia	Denmark	Ecuador	France	Germany	Ghana	Hong Kong	India	Indonesia	Italy	Japan	Jordan	Kenya	Myanmar	Netherlands	Pakistan	Poland	Qatar	Russia	Saudi Arabia	Spain	Sweden	Switzerland	Thailand	UAE	UK	USA	Zambia
9.2	Around entertainment programmes aimed at children	Green	Green	Green	Yellow	Yellow	Yellow	Green	Yellow	Green	Yellow	Green	Green	Green	Green	Green	Red	Yellow	Green	Green	Red	Green	Yellow	Yellow	Red	Green	Red	Green	Red	Yellow	Green	Green	Red	Green	Yellow	Red	
9.3	Online, through websites aimed at children	Red	Yellow	Yellow	Yellow	Red	Yellow	Green	Green	Red	Yellow	Yellow	Yellow	Yellow	Red	Red	Red	Red	Red	Green	Yellow	Red	Red	Yellow	Red	Yellow	Red	Red	Yellow	Yellow	Yellow	Red	Yellow	Green	Yellow	Red	
10	Restrictions on advertising and/or marketing in schools/ children's clubs/ places children regularly visit	Yellow	Yellow	Yellow	Yellow	Red	Yellow	Yellow	Green	Yellow	Yellow	Yellow	Green	Yellow	Red	Yellow	Red	Yellow	Red	Yellow	Yellow	Yellow	Red	Yellow	Red	Green	Red	Red	Yellow	Red	Green	Red	Yellow	Green	Yellow	Red	
11	Restrictions on using advertising or marketing techniques to appeal to children	Yellow	Green	Red	Yellow	Green	Yellow	Yellow	Red	Yellow	Yellow	Yellow	Yellow	Yellow	Red	Green	Red	Yellow	Green	Yellow	Red	Yellow	Red	Yellow	Red	Red	Red	Yellow	Red	Green	Green	Red	Yellow	Green	Yellow	Red	
12	Restrictions on the use of children in advertising	Yellow	Yellow	Yellow	Red	Red	Red	Green	Yellow	Yellow	Green	Green	Yellow	Yellow	Yellow	Yellow	Red	Green	Red	Yellow	Red	Red	Red	Green	Red	Red	Red	Yellow	Red	Yellow	Green	Yellow	Red	Yellow	Yellow	Red	





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		Argentina	Australia	Austria	Belgium	Brazil	Canada	Chile	China	Colombia	Denmark	Ecuador	France	Germany	Ghana	Hong Kong	India	Indonesia	Italy	Japan	Jordan	Kenya	Myanmar	Netherlands	Pakistan	Poland	Qatar	Russia	Saudi Arabia	Spain	Sweden	Switzerland	Thailand	UAE	UK	USA	Zambia	
13	Specific product labelling requirements relevant to children	Some Provisions	Some Provisions	Relevant Provisions (Substantial or Complete)	Relevant Provisions (Substantial or Complete)	Relevant Provisions (Substantial or Complete)	Some Provisions	Some Provisions	Relevant Provisions (Substantial or Complete)	Some Provisions	Some Provisions	Relevant Provisions (Substantial or Complete)	Relevant Provisions (Substantial or Complete)	Relevant Provisions (Substantial or Complete)	No provisions	Relevant Provisions (Substantial or Complete)	No provisions	Relevant Provisions (Substantial or Complete)	Relevant Provisions (Substantial or Complete)	No provisions	No provisions	Some Provisions	Some Provisions	No provisions	Some Provisions	Some Provisions	No provisions	Some Provisions	Relevant Provisions (Substantial or Complete)	Relevant Provisions (Substantial or Complete)	Some Provisions	Some Provisions	No provisions	Relevant Provisions (Substantial or Complete)	Relevant Provisions (Substantial or Complete)	No provisions		
14	Body which monitors compliance with government legislation/ regulation on advertising and/ or marketing	Relevant Provisions (Substantial or Complete)	Relevant Provisions (Substantial or Complete)	Relevant Provisions (Substantial or Complete)	Relevant Provisions (Substantial or Complete)	Relevant Provisions (Substantial or Complete)	Relevant Provisions (Substantial or Complete)	Relevant Provisions (Substantial or Complete)	Relevant Provisions (Substantial or Complete)	Relevant Provisions (Substantial or Complete)	Relevant Provisions (Substantial or Complete)	Relevant Provisions (Substantial or Complete)	Relevant Provisions (Substantial or Complete)	Relevant Provisions (Substantial or Complete)	Relevant Provisions (Substantial or Complete)	Relevant Provisions (Substantial or Complete)	Relevant Provisions (Substantial or Complete)	Relevant Provisions (Substantial or Complete)	No provisions	Relevant Provisions (Substantial or Complete)	Some Provisions	No provisions	Relevant Provisions (Substantial or Complete)	Relevant Provisions (Substantial or Complete)	Relevant Provisions (Substantial or Complete)	Some Provisions	Relevant Provisions (Substantial or Complete)	Relevant Provisions (Substantial or Complete)	No provisions	Relevant Provisions (Substantial or Complete)	Relevant Provisions (Substantial or Complete)	Relevant Provisions (Substantial or Complete)	Relevant Provisions (Substantial or Complete)	Relevant Provisions (Substantial or Complete)	Relevant Provisions (Substantial or Complete)	Relevant Provisions (Substantial or Complete)	Relevant Provisions (Substantial or Complete)	
14.1	Specific mandate in relation to issues around marketing and/ or advertising to children	Relevant Provisions (Substantial or Complete)	Relevant Provisions (Substantial or Complete)	Some Provisions	No provisions	Relevant Provisions (Substantial or Complete)	No provisions	Some Provisions	No provisions	No provisions	No provisions	No provisions	No provisions	Relevant Provisions (Substantial or Complete)	No provisions	No provisions	No provisions	No provisions	No provisions	Some Provisions	No provisions	No provisions	No provisions	No provisions	No provisions	Some Provisions	No provisions	No provisions	No provisions	No provisions	Relevant Provisions (Substantial or Complete)	No provisions	Some Provisions	No provisions	No provisions	No provisions	Some Provisions	No provisions



## COMPARISON TABLE

		Argentina	Australia	Austria	Belgium	Brazil	Canada	Chile	China	Colombia	Denmark	Ecuador	France	Germany	Ghana	Hong Kong	India	Indonesia	Italy	Japan	Jordan	Kenya	Myanmar	Netherlands	Pakistan	Poland	Qatar	Russia	Saudi Arabia	Spain	Sweden	Switzerland	Thailand	UAE	UK	USA	Zambia
15	Body which monitors compliance with industry regulations on marketing or advertising	Green	Green	Red	Green	Green	Green	Green	Red	Green	Green	Red	Green	Green	Green	Green	Green	Green	Green	Yellow	Red	Green	Red	Green	Green	Yellow	Red	Red	Red	Red	Green	Green	Green	Red	Green	Green	Red
15.1	Specific mandate in relation to issues around marketing and/or advertising to children	Red	Red	Red	Red	Green	Red	Yellow	Red	Red	Red	Red	Red	Green	Red	Red	Green	Red	Red	Red	Red	Green	Red	Red	Red	Yellow	Red	Red	Red	Green	Red	Red	Red	Red	Green	Green	Red
16	Pre-clearance of advertisements before publication or broadcast	Yellow	Not addressed	Red	Red	Red	Green	Red	Yellow	Red	Red	Yellow	Green	Red	Yellow	Red	Green	Yellow	Red	Red	Yellow	Yellow	Green	Yellow	Yellow	Yellow	Red	Red	Green	Red	Red	Yellow	Yellow	Green	Yellow	Yellow	Red

 **No provisions**

 **Some Provisions**

 **Relevant Provisions (Substantial or Complete)**

 **Not addressed**



# EXECUTIVE SUMMARY

The purpose of this report is to understand the international statutory and regulatory landscape with regards to marketing and advertising to children. We have assessed countries with developed regulatory regimes, as well as those countries that are in the process of developing their statutory and/or regulatory frameworks.

The report analyses each jurisdiction by reference to a number of specific questions. Inevitably, there have been a range of approaches taken by our researchers in providing answers to those questions. However, the focus of the questions posed and answers provided are such that the production of a detailed comparison table has been possible.


When taken together with the appendices, which contain the detailed responses in relation to each jurisdiction, the comparison table provides a useful tool. It allows interested stakeholders to build a preliminary picture of the international regulatory framework. It is hoped that this will be a resource which facilitates further comparative cross-jurisdictional analysis and interrogation of national rules on marketing and advertising to children.

This report examines the legal and regulatory regimes in thirty seven jurisdictions that are highly diverse in terms of their geographic, economic and socio-cultural environments. Despite this, there are some commonalities in terms of the frameworks governing advertising and marketing to children:

- Thirty of the thirty seven jurisdictions have an industry code of practice that regulates marketing and/or advertising to children. In countries such as France and Kenya these national codes are, to a greater or lesser degree, based upon the International Code of

Advertising Practice prepared by the International Chamber of Commerce. Whilst the existence of an industry code of practice is common amongst the jurisdictions surveyed, the codes themselves vary widely in terms of their coverage and content.

- Some form of restriction on the advertising and/or marketing of alcohol exists in thirty three of the thirty seven countries surveyed. Significantly, restrictions on advertising and/or marketing tobacco products can be found in all but two of the thirty five surveyed. Certain jurisdictions have had such provisions for a generation, whilst others have only more recently introduced limitations on the ability to advertise and market tobacco and alcohol products.
- Another commonality across the majority of the jurisdictions covered by the report is the lack of any specific regulation of online spaces such as websites aimed at children. Only twenty of the countries surveyed had even limited regulation of advertising and marketing online. The lack of regulation of online platforms was apparent in countries with mature online advertising as well as those where this with a less developed sector.
- The absence of a requirement to pre-clear advertisements before publication or broadcast is prevalent. Just seven of the countries surveyed had an unambiguous and comprehensive legislative or regulatory obligation for advertisements to undergo pre-clearance. In contrast, in fifteen of the countries surveyed, our research confirms that there is no such requirement for pre-clearance. Some jurisdictions, such as the UK and Ghana, have a pre-clearance requirement for advertisements set to be broadcast on television and radio, but not print advertisements.

- 
- While many of the countries surveyed have bodies which monitor and ensure compliance with government legislation/regulation and industry self-regulatory codes in relation to marketing and/or advertising, it is rare for these bodies to have a specific mandate in relation to issues concerning marketing and/or advertising to children. Indeed, Brazil and Germany are the only countries surveyed in which the regulatory bodies have a mandate to ensure compliance with both government legislation/regulation and industry regulations.

There are also significant differences in the regimes across the countries covered by this pilot report. Four of the jurisdictions (Brazil, Ghana, Indonesia and Kenya) have no national legislation governing advertising and marketing generally. However, in each case there are substantial industry codes regulating marketing and advertising that explicitly address marketing and advertising to children. Other jurisdictions have comprehensive and far reaching national legislation, most notably France. Some of the countries covered by the report, such as Australia, Belgium, Canada, Japan, Pakistan, Spain, Switzerland, the United Arab Emirates and the United States of America have an additional level of state or regional legislation governing advertising and marketing to children.

This report also offers a preliminary assessment as to the effectiveness of existing laws and regulations in the jurisdictions covered. In all but two jurisdictions where our local researches considered the question, laws and/or codes currently in place were considered to be broadly effective. In the jurisdictions where this was not to be considered the case (India and Japan), this was because: (i) in India the absence of uniform legislation and a single regulator has made it difficult to effectively implement and enforce advertising related laws, especially as the majority of the regulatory codes are issued by industry bodies and are contractually binding only, having no force of law; or (ii) in Japan, there are no

laws or regulations specifically made to protect children from inappropriate advertising or marketing, except for advertising and marketing in relation to harmful products.

In several jurisdictions, including Belgium, Brazil, Italy, Sweden and the UK, our researchers found that the majority of advertisers seek to comply with the laws and codes which regulate their activity. Significantly, these are all countries with established statutory and/or regulatory regimes. In the case of the UK in particular, the ability to “name and shame” advertisers who are found to be in breach of the regulations is a particularly useful deterrent.

The majority of our researchers also identified the existence of consumer-led pressure groups in their respective jurisdictions. In Ghana, Indonesia, Kenya and elsewhere, pressure groups exist which are specifically concerned with the rights of children. In Ghana, active organisations are an international charity and an entity affiliated to an international charity, whereas those listed for the other jurisdictions have a national focus. In other jurisdictions, such as Sweden and Spain, there were no identifiable consumer rights associations specifically or exclusively concerned with the rights of children, but there did exist a general culture of compliance.

It is hoped that this report will provide a picture of the diversity of national approaches taken, which is essential to further international collaboration and co-operation and support the development of best practice.

# SECTION I

# REGULATION SUMMARY

## I. ARGENTINA

**Legal age of majority:** 18

**Regulator definition of children:** Various<sup>1</sup>

### I.1 Statutes and codes regulating advertising/marketing:

- The Civil and Commercial Code (“**CC Code**”) contains general provisions regarding advertising and marketing material addressed to consumers.
- The Fair Trade Law (No 22.802) (“**Law 22.802**”) prohibits inaccurate or misleading advertising, and the Audiovisual Communication Law (No 26.522) (“**Law 26.522**”) regulates audiovisual communications and services.
- The Code of Ethics and Self-Regulation of Advertisements (“**CESRA**”) is a voluntary initiative and regulates ethical considerations relating to advertising.

### I.2 Regulator’s position with regards to advertising/marketing to children:

- Law 26.522 states that all audiovisual communications advertising must comply with The Protection of Children’s Rights Law (No 26.061) (“**Law 26.061**”).
- Law 26.061 does not impose any explicit regulation regarding advertising and marketing aimed at children, however it preserves children’s rights such as image, reputation and dignity. Law 26.061 therefore prohibits the exposure, distribution or dissemination of data, information or images to identify any child through any media publication against their will.
- CESRA states that no advertisement addressed to children should create anxiety and that circumstances should be clearly identified in the communication when marketing products that are unsuitable for children.

### I.3 Restrictions on advertising/marketing products that are harmful to children:

- Law 26.687 prohibits the advertising/marketing of tobacco products, with an exception for advertising through direct communication with an individual over 18 years old.
- Law 24.788 prohibits the advertising/marketing of alcoholic beverages targeted at individuals under the age of 18).
- Law 16.463 prohibits the advertisement of products that require a medical prescription, and prohibits advertising in violation of the interests of public health or professional ethics.

### I.4 Timing/placement of advertising in publications aimed at children:

- Law 26.522 states that all advertising on the television between 0600hrs and 2200hrs must be ‘suitable for all ages’. Advertising may therefore contain adult content between the hours of 2200hrs and 0600hrs and children under the age of 12 cannot participate in live broadcasts during this time.
- Law 26.522 also lists content, for example unjustified verbal and physical violence, that is not suitable for children.

### I.5 Advertising/marketing in places children frequently visit e.g. schools:

- Restrictions relating to advertising/marketing in places children frequently visit are distinct in each municipal region.
- For example, in the city of Buenos Aires, Law 2936 states that advertising in open public spaces must not violate the dignity of individuals. In addition, a number of municipalities have issued regulations in relation to the placement of adult magazines in shops.

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<sup>1</sup> No regular definition of a child, but The Civil and Commercial National Code of Argentina foresees that a teenager is an individual between 13 and 18 years of age.

### **1.6 Restrictions on using advertising/marketing techniques to appeal to children:**

- Law 26.522 states that advertisements aimed at children cannot incite or encourage the purchase of products exploiting a child's innocence or inexperience.

### **1.7 Use of children in advertising/marketing:**

- Law 24.788 bans individuals under the age of 18 advertising alcoholic beverages.
- Subject to the relevant child labour laws.

### **1.8 Product labelling relevant to children:**

- The Argentine Food Code (No 18.284) ("**Law 18.284**") contains requirements relating to food labelling.
- The Sale of Drugs and Pharmaceutical Products Code (No 16.463) ("**Law 16.463**") contain requirements relating to describing labels, leaflets and the contents of pharmaceutical products.

### **1.9 Administrative bodies overseeing compliance of regulations:**

- The National Communication Entity oversees compliance with government regulations on marketing and advertising under Law 26.522.
- The Federal Council of Audiovisual Communication and Infancy is responsible for monitoring the overall welfare of children as a result of audiovisual communication.
- The NMC's Media Content Management ("**MCM**") is responsible for ensuring compliance with the applicable laws and covers all advertisement audiences with no specific mandate on children.

### **1.10**

#### **(a) Do advertisements require clearance before publication:**

- Generally, advertisements do not require pre-clearance before publication. Although certain exceptions exist in connection with particular health issues and gambling.

#### **(b) Sanctions for breaches of codes or regulations:**

- Sanctions include warnings, fines, suspension and/or cancellation of licences.

#### **(c) Mechanisms for children and their representatives to file complaints:**

- In relation to Law 26.522, complaints should be filed against the National Communication Entity (ENACOM) submitted directly to the NMC, however no specific mechanisms exist for children or their representatives to file complaints in relation to advertisements.

## 2. AUSTRALIA

Legal age of majority: 18

Regulator definition of children: under 14<sup>2</sup>

### 2.1 Statutes and codes regulating advertising/marketing:

- Statutes: Competition and Consumer Act 2010 (“**CCA Act**”), Broadcasting Services Act 1992 (“**BSA Act**”), and each State and Territory has enacted its own Food Act.
- Co-regulatory codes: the Children’s Television Standards (“**Standards**”), the Commercial Television Industry Code of Practice (“**Commercial TV Code**”) and the Australian Subscription Television and Radio Association Codes of Practice (“**ASTRA Code**”).
- Self-regulatory codes: the Code for Advertising and Marketing Communications to Children (**AANA Children Code**), the AANA Food and Beverages Advertising and Marketing Communications Code (**AANA Food Code**), the ABAC Responsible Alcohol Marketing Code (**ABAC Alcohol Code**), the Responsible Children’s Marketing Initiative of the Food and Beverage Industry (**RCM Initiative**) and the Quick Services Restaurant Industry Initiative for Responsible Advertising and Marketing to Children (**QSR Initiative**).

### 2.2 Regulator’s position with regards to advertising/marketing to children:

- The CCA Act imposes a heavier standard where the conduct is aimed at uneducated or unsophisticated classes of persons e.g. children, in determining whether an advertisement is misleading or deceptive.
- The BSA Act aims to protect children from exposure to harmful program material and unsuitable online content, both of which may also include advertising material.
- The Standards imposes different levels of prohibition and restrictions on programmes according to their target age group.
- Several self-regulatory codes addresses specifically to advertising and marketing to children.

### 2.3 Restrictions on advertising/marketing products that are harmful to children:

- Tobacco advertising is banned in all mediums, with limited exceptions such as anti-smoking advertisements (**Tobacco Advertising Prohibition Act 1992**).
- Advertisements in relation to alcohol products or companies are prohibited in certain age-classified programmes and in newspapers and magazines where more than 30% of the audience is reasonably expected to be children. Alcohol marketing is also restricted in content to protect minors.
- Advertisement for therapeutic goods must not be directed to minors, with some exceptions for products such as tampons and sunscreens.
- Advertising interactive gambling services is prohibited to all individuals. Promotion of gambling to children and portraying children participating in betting or gambling in advertisements are also banned.
- Advertisement for food or beverages directed to children should not encourage or promote “unhealthy eating or drinking habits”<sup>3</sup> or contain any misleading or incorrect information about the nutritional value of the product.
- Advertisement or marketing to children should not depict unsafe uses of a product or products which have been officially declared unsafe or dangerous by an authorised Australian body.

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<sup>2</sup> Except under the BSA Act, where a child is defined as a person who is under the age of 18.

<sup>3</sup> Under the Commercial TV Code



#### **2.4 Timing/placement of advertising in publications aimed at children:**

- Advertisements directed at children may not be placed in print media which is unsuitable for children; The ANNA Children Code prohibits the placing of such advertisements in media (including online) in close proximity to content that is unsuitable for children.
- The Standards regulates the timing and length of advertisements during programmes aimed at children.

#### **2.5 Advertising/marketing in places children frequently visit e.g. schools:**

- Participants in the RCM initiative are committed not to advertise in schools unless agreed with the school for educational purposes or supervised by school administration for healthy lifestyle activities.
- Under the Outdoor Media Association Code of Ethics: Alcohol Advertising Guidelines, alcohol cannot be advertised within 150 metres from schools except where there is an establishment selling alcohol products within the vicinity.

#### **2.6 Restrictions on using advertising/marketing techniques to appeal to children:**

- The Standards prohibits the use of popular characters and personalities to endorse, recommend or promote commercial products or services during programmes that are targeted at children.
- The Commercial TV Code prohibits the host or any other regular presenter or character in a children's programme to sell or promote products or services.
- The offer of prizes during programmes targeted at children is restricted under the Standards.

#### **2.7 Use of children in advertising/marketing:**

- Subject to the relevant child labour laws.

#### **2.8 Product labelling relevant to children:**

- The State and Territory Food Acts prohibit misleading conduct in relation to the sale of food and false descriptions of food.
- The labelling of food is regulated by the Australia New Zealand Food Standards Code.
- The Australian Consumer Law (contained within the CCA Act) regulates product safety and in particular the labelling and safety of various children's products.





## 2.9 Administrative bodies overseeing compliance of regulations:

- The Australian Communication and Media Authority oversees compliance with the BSA Act, the Standards, the Commercial TV Code and the ASTRA Code.
- The Australian Competition and Consumer Commission oversees compliance with the CCA Act.
- The Australian Association of National Advertisers self-regulates its members by overseeing compliance with codes including the AANA Children Code and the AANA Food Code.
- The Australian Food and Grocery Council monitors compliance with the RCM Initiative.

### 2.10

#### (a) Do advertisements require clearance before publication:

- Some advertising does need to receive clearance before publication or broadcast, however this is not specific to advertising aimed at children.

#### (b) Sanctions for breaches of codes or regulations:

- If an advertisement does not comply with an applicable code, the ASB can make a request for the advert to be removed or amended. Failure to fulfil a request will be reported in a public case report, posted on the ASB website. This can then be referred to the appropriate government agency.
- If an advertisement does not comply with the Standards, ACMA may investigate the broadcaster. If a breach is discovered, the ACMA may accept enforceable undertakings for the purpose of securing future compliance, issue remedial directions, revoke a licence or pursue a civil penalty.
- Non-compliance with codes of practice generally result in expulsion from the applicable industry body. However, there are some codes of practice (generally those applicable to food and health) with which non-compliance can lead to financial penalties.

#### (c) Mechanisms for children and their representatives to file complaints:

- A member of the public can bring court proceedings under the ACL, complain to the ASB regarding taste or decency issues or breaches of the AANA Children's Code or complain to ACMA regarding breaches of the Standards.

### 3. AUSTRIA

**Legal age of majority: 18**

**Regulator definition of children: Various<sup>4</sup>**

#### 3.1 Statutes and codes regulating advertising/marketing:

- Statutes: The Austrian Unfair Competition Act (“**UWG**”), Austrian Media Act, Austrian Private Radio Act, Austrian Audiovisual Media Services Act (“**AMD-G**”), and ORF-Act.
- Self-regulatory codes: HFSS-Code, and the Austrian advertising standards authority self-regulation code (“**Selbstbeschränkungskodex**”).

#### 3.2 Regulator’s position with regards to advertising/marketing to children:

- Cif 28 of the UWG prohibits a direct invitation to children to purchase advertised products.
- The ORF-Act includes specific rules relating to the advertising of tobacco and alcohol.
- Article 36 of AMD-G states that advertisements should not harm children in any way.
- Both self-regulatory codes address specifically to advertising and marketing to children.

#### 3.3 Restrictions on advertising/marketing products that are harmful to children:

- Article 13 ORF-Act states that advertisements concerning alcoholic products must not be addressed to children and may not display children consuming alcoholic products.
- Tobacco advertising is prohibited by Art. II Sec. I of the Austrian Tobacco Act, with limited exceptions for advertisements in magazines which are not directed to the EU market.
- The advertising and marketing of medical products is prohibited.
- Audiovisual commercial communication for unhealthy foods must never mislead the trust of the children in the quality of the products nor suggest inactivity instead of physical exercise.

#### 3.4 Timing/placement of advertising in publications aimed at children:

- No legislation exists on the time/placement of advertising in publications aimed at children.
- Advertisements directly aimed at children are not allowed to be shown directly before and after children’s programs, and product placement is prohibited in children’s programs.

#### 3.5 Advertising/marketing in places children frequently visit e.g. schools:

- There are no restrictions on the placement of advertisements in schools, other than for alcohol and tobacco, so long as the proper operation of the school is not hindered.

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<sup>4</sup>No regular definition of a child, but generally children are 0–7 years of age, underage minors are 7–14 years of age, and minors are 14–18 years of age. However, the Austrian Supreme Court held that when advertising to children, ‘children’ includes all individuals under 14. Additionally, the Austrian self-regulation code for advertising standards defined children as all individuals under 12.



### **3.6 Restrictions on using advertising/marketing techniques to appeal to children:**

- The use of cartoon characters in advertisements is generally not restricted in Austria, except for when an advertisement has the potential to exploit the special trust of children to their idols (HFSS-Code).

### **3.7 Use of children in advertising/marketing:**

- The use of children under the age of 15 (or until the completion of compulsory education) in ads is restricted by the Austrian Children and Youths Employment Act.

### **3.8 Product labelling relevant to children:**

- There are various restrictions in different regions with regards to labelling of children's products.

### **3.9 Administrative bodies overseeing compliance of regulations:**

- The Federal Chamber of Labour, Federal Economic Chamber, Austrian Trade Union Federation, Federal Competition Authority and Consumer Information Association can file claims for cease and desist orders with the courts.
- KommAustria is responsible for complaints regarding the ORF-G.

### **3.10**

#### **(a) Do advertisements require clearance before publication:**

- No pre-clearance of advertisements is necessary in Austria.

#### **(b) Sanctions for breaches of codes or regulations:**

- Sanctions issued include cease and desist order and fines up to EUR 36,000.

#### **(c) Mechanisms for children and their representatives to file complaints:**

- Complaints should be submitted directly to the Federal Chamber of Labour, however no specific mechanisms exist for children or their representatives to file complaints in relation to advertisements.

## 4. BELGIUM

**Legal age of majority: 18**

**Regulator definition of children: Under 18s**

### 4.1 Statutes and codes regulating advertising/marketing:

- Advertising/marketing key binding regulations include, the Book VI of the Belgian Code of Economic law and the Belgium Criminal Code.
- Self-regulatory industry codes include but are not limited to, Advertising Code for Food, Advertising Code for Cosmetics, Covenant concerning Advertising for and Marketing of Alcoholic Beverages and Code for Ethics during Fundraising.

### 4.2 Regulator's position with regards to advertising/marketing to children:

- Rules exist which govern the regulator's position with regards to advertising/marketing to children.

### 4.3 Restrictions on advertising/marketing products that are harmful to children:

- Advertisements for tobacco is prohibited with the exception of shops selling tobacco products.
- Several restrictions surrounding alcohol related advertisements exist for instance targeting any advertisements at minors or inciting minors to purchase alcoholic beverages.
- Medicinal advertisements are forbidden in magazines aimed at children and advertisements for the general public cannot be focused exclusively or mainly on children.
- Commercial communications may not encourage the excessive consumption of "HFSS" foods.

### 4.4 Timing/placement of advertising in publications aimed at children:

- Alcohol related adverts are forbidden directly before or after children's' programmes.
- Adverts may not interrupt children's radio and TV programmes.
- Adverts deemed unsuitable are not allowed to commence five minutes before or after children's' programmes.

### 4.5 Advertising/marketing in places children frequently visit e.g. schools:

- Advertising in schools is allowed under certain conditions in the Flemish community.

### 4.6 Restrictions on using advertising/marketing techniques to appeal to children:

- Alcohol related advertisements cannot use drawings/marketing techniques which refer to popular figures.



#### 4.7 Use of children in advertising/marketing:

- No prohibition exists surrounding the use of children in advertisement or as brand ambassadors. General principles to consider are those within civil and employment law.

#### 4.8 Product labelling relevant to children:

- Toys must carry a CE mark.
- Provisions in the EU Toy Directive must be complied with.

#### 4.9 Administrative bodies overseeing compliance of regulations:

- The Jury of Ethical Practices in Advertising (“**JEP**”) is the administrative self-regulatory body.
- The JEP has no legal authority and its decisions are not binding.

#### 4.10

##### (a) Do advertisements require clearance before publication:

- No.

##### (b) Sanctions for breaches of codes or regulations:

- Sanctions for breaches include: change or halting of advertisement, issue of warnings, reputational damage.

##### (c) Mechanisms for children and their representatives to file complaints:

- Children and their representatives can file complaints with the JEP, the VRM, the CSA and the Media Council.

## 5. BRAZIL

**Legal age of majority: 18**

**Regulator definition of children: Under 18s**

### 5.1 Statutes and codes regulating advertising/marketing:

- The Brazilian Code of Advertising Self-Regulation (“**the Self-regulatory Code**”) regulates advertising/marketing.
- The Self-regulatory Code is enforced by the National Council of Advertising Self-Regulation (“**CONAR**”).

### 5.2 Regulator’s position with regards to advertising/marketing to children:

- Article 37 of the Self-regulatory Code addresses advertising/marketing with regards to children.

### 5.3 Restrictions on advertising/marketing products that are harmful to children:

- It is illegal to associate children with illegal, dangerous or socially reprehensible situations.
- Children are forbidden from featuring in advertisements that promote the consumption of inappropriate products e.g. firearms or alcohol.

### 5.4 Timing/placement of advertising in publications aimed at children:

- Product placement in children’s programmes is forbidden.
- It is forbidden to present advertisements to children in a journalistic format.

### 5.5 Advertising/marketing in places children frequently visit e.g. schools:

- No specific restrictions exist surrounding the use of advertising/marketing in places children frequently visit.

### 5.6 Restrictions on using advertising/marketing techniques to appeal to children:

- The use of imperative expressions is forbidden in advertisements directed at children.
- Advertisement content must not compete with moral values or racial, religious and social prejudices.

### 5.7 Use of children in advertising/marketing:

- No restrictions exist.

### 5.8 Product labelling relevant to children:

- Toys intended for use by children of up to 14 years of age require an INMETRO seal.

### 5.9 Administrative bodies overseeing compliance of regulations:

- The Public Prosecution Office Consumer’s Protection Bureau (“**PROCON**”) and CONAR oversee regulation in the advertising/marketing industry.

### 5.10

#### (a) Do advertisements require clearance before publication:

- No.

#### (b) Sanctions for breaches of codes or regulations:

- Sanctions for breaches include: issue of warning, amendment to the advertisement, suspension of transmission, withdrawal of advertisement and legal proceedings.

#### (c) Mechanisms for children and their representatives to file complaints:

- Children and their representatives can file complaints with CONAR and PROCON.

## 6. CANADA

**Legal age of majority:** 18

**Regulator definition of children:** Various<sup>5</sup>

### 6.1 Statutes and codes regulating advertising/marketing:

- Statutes: The Competition Act is the main federal statute governing marketing and advertising. Other statutes include: the Consumer Packaging and Labelling Act, Precious Metals Marking Act, Textile Labelling Act, Broadcasting Act, Criminal Code, and various Provincial Consumer Protection Acts.
- Codes: the Canadian Code of Advertising Standards (“**CCAS**”), the Canadian Marketing Association Code of Ethics, the Broadcast Code for Advertising to Children (“**BCAC**”), and the Quebec Consumer Protection Act (“**QCPA**”).

### 6.2 Regulator’s position with regards to advertising/marketing to children:

- The CCAS contains section 12 (stating that advertising directed at children must not exploit their credulity and lack of experience) and section 13 (stating that products which cannot be sold to children must not be advertised in a way to appeal to children).
- The BCAC contains several requirements and prohibitions with regards to advertising to children, including the requirement to not portray values that are inconsistent with the moral, ethical or legal standards of contemporary Canadian society.
- Section 248 of the QCPA prohibits any commercial advertising directed at individuals under 13 years of age (except under prescribed conditions).

### 6.3 Restrictions on advertising/marketing products that are harmful to children:

- The Tobacco Act prohibits advertising tobacco products, although it permits ‘information advertising’ in publications that are mailed to adults and in places where young persons are not permitted by law.
- Several provincial restrictions relate to the advertising/marketing of alcoholic products.
- BCAC and QCPA prohibit advertising of drugs to children.
- The federal Food and Drugs Act (“**FDA**”) prohibits advertising HFSS products in a manner that is false, misleading or deceptive.

### 6.4 Timing/placement of advertising in publications aimed at children:

- BCAC contains a number of scheduling restrictions in relation to the timing and placement of publications.
- CCAS also contains restrictions in relation to the timing of advertisements aimed at children. No legislation exists on the time/placement of advertising in publications aimed at children.

### 6.5 Advertising/marketing in places children frequently visit e.g. schools:

- No.

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<sup>5</sup> The Broadcast Code for Advertising to Children defines a child as an individual under 12, whereas the Quebec Consumer Protection Act defines a child as under 13.



## **6.6 Restrictions on using advertising/marketing techniques to appeal to children:**

- BCAC and QCPA contain restrictions relating to the use of cartoon characters in connection to advertising alcoholic beverages, and restriction in other techniques that appeal to children (such as the word ‘new’).

## **6.7 Use of children in advertising/marketing:**

- No specific legislation regarding the use of children in advertising/marketing.

## **6.8 Product labelling relevant to children:**

- The Canada Consumer Product Safety Act prohibits manufacturing, importing, advertising or selling children’s toys that are a danger to human health.

## **6.9 Administrative bodies overseeing compliance of regulations:**

- The Competition Bureau is responsible for the enforcement of the Competition Act, the Consumer Packaging and Labelling Act, Precious Metals Marking Act, and Textile Labelling Act.
- Advertising Standards oversees the CCAS and BCAC.
- The Office de la Protection du Consommateur oversees the QCPA.

## **6.10**

### **(a) Do advertisements require clearance before publication:**

- Advertisements directed at children require preclearance from the Children’s Committee of Advertising Standards Canada.

### **(b) Sanctions for breaches of codes or regulations:**

- Sanctions include removal of the advertisements alongside fines.

### **(c) Mechanisms for children and their representatives to file complaints:**

- Advertising Standards Canada accepts and responds to consumer complaints relating to children’s advertising.



## 7. CHILE

**Legal age of majority: 18**

**Regulator definition of children: Under 18**

### 7.1 Statutes and codes regulating advertising/marketing:

- Statutes: Chilean legislation does not have a statute that regulates marketing and advertising in general, but rather it regulates advertising of specific products through particular laws.
- Self-regulatory codes: Council for Advertising and Self Regulation and Ethics (“**CONAR**”), alongside the Sanitary Code DFL 725 and Sanitary Regulation on Food DL 977.

### 7.2 Regulator’s position with regards to advertising/marketing to children:

- There is no state legislation that regulates advertising/marketing to children.
- CONAR’s ethics code states a number of principles and rules with regards to advertising/marketing to children.

### 7.3 Restrictions on advertising/marketing products that are harmful to children:

- Act No. 19.419 prohibits the advertising of tobacco products, either directly or indirectly, to the public. Moreover, the appearance of individuals smoking on television is prohibited during the children’s protected schedule times.
- Act No. 19.925 prohibits the advertising of alcoholic products to children and generally within 100 metres from a school.
- The advertising of drugs is prohibited in all media.
- The advertising of drinks and food aimed to children under 14 years old must follow the general rules set in Article 21 of CONAR. In addition, Act No. 20.606 prohibits the advertising in any form of HFSS products to children under 14 years old in any context.

### 7.4 Timing/placement of advertising in publications aimed at children:

- Article 21 of CONAR states that advertising addressed to minors shall not be located in places or spaces in which the environment or editorial context is not appropriate for minors.
- The General Rules of Contents in Television Emissions issued by the Chilean National Television Council (CNTV) states that there is a protected TV schedule between 0600 and 2200hrs.

### 7.5 Advertising/marketing in places children frequently visit e.g. schools:

- Act No. 19.925 and Act No. 19.419 state that alcoholic drinks and tobacco, respectively, cannot be sold or advertised within a 100 meter radius from schools.
- Article 6 of Act No. 20.606 prohibits the commercialization, promotion and advertisement of HFSS products inside primary and middle school education facilities.

### 7.6 Restrictions on using advertising/marketing techniques to appeal to children:

- CONAR states that the advertising of food and drinks through animations and cartoon characters should not exploit the naivety of children in such a way that it might confuse or induce them into error about the benefits of such products



### **7.7 Use of children in advertising/marketing:**

- Article 22 of CONAR states that children should not be used in adverts that do not correspond or are inappropriate for their age.
- Article 21 of CONAR also rules that advertising should avoid any sexualisation, especially in circumstances in which images portray children in seductive or erotic attitudes.

### **7.8 Product labelling relevant to children:**

- Act No. 20.606 regulates the labelling of HFSS products, specifically aimed towards children.

### **7.9 Administrative bodies overseeing compliance of regulations:**

- The Chilean Ministry of Health oversees compliance with Acts No. 19.419 and No. 20.606.
- The Chilean National Television Council (CNTV) restrict the TV schedule.
- Compliance with CONAR's ethic code is overseen by CONAR's Ethical Court.

### **7.10**

#### **(a) Do advertisements require clearance before publication:**

- No regulation establishes the need of pre-clearance for advertising before publication.

#### **(b) Sanctions for breaches of codes or regulations:**

- Sanctions issued include fines from 200USD to 6.800USD.

#### **(c) Mechanisms for children and their representatives to file complaints:**

- Complaints can be submitted to CONAR's Ethical Court or the Sanitary Authority. In addition, it is possible to file complaints before the National Consumers Service (SERNAC) although this body has no sanctioning powers, only mediation.

## 8. CHINA

**Legal age of majority: 18**

**Regulator definition of children: Under 18**

### 8.1 Statutes and codes regulating advertising/marketing:

- Statutes: The Advertisement Law, The Anti-Unfair Competition Law, and The Regulation on the Administration of Advertisements.
- Codes: Interim Measure for the Supervision and Administration of Internet Advertisements.

### 8.2 Regulator's position with regards to advertising/marketing to children:

- The Advertisement Law prohibits misleading adverts to children and regulates the content of advertisements.
- The Anti-Unfair Competition Law, Regulation on the Administration of Advertisements, and Interim Measure for the Supervision and Administration of Internet Advertisements regulate the content of advertisements.

### 8.3 Restrictions on advertising/marketing products that are harmful to children:

- The Advertisement Law establishes restrictions in relation to tobacco advertisements – in particular that no tobacco advertisements must be sent or displayed to minors.
- General restrictions relating to alcohol are set out in the Advertisement Law and the Measures for Administration of Alcohol Advertisements – in particular that alcohol advertisements are prohibited from targeting children. In addition, the timing of alcohol advertisements on the television, radio, and in newspapers has various restrictions.
- In relation to drugs: narcotic drugs, psychoactive drugs, toxic drugs for medical prescription, radioactive drugs, pharmaceutical precursor chemicals, and drugs used for drug abuse treatment must not be advertised.

### 8.4 Timing/placement of advertising in publications aimed at children:

- Under the Advertisement Law, the broadcasting of advertisements for medical products and services, drugs, healthcare products, medical equipment, cosmetics, alcohol, beauty products, and online games which are harmful to the physical and mental health of minors are prohibited.
- In addition, the placement of advertisements relating to the above in teaching materials, practice books, stationery, or on the school uniforms or school buses is also prohibited.

### 8.5 Advertising/marketing in places children frequently visit e.g. schools:

- The marketing of alcohol, tobacco and drugs in secondary schools, primary schools and kindergarten is strictly prohibited.

### 8.6 Restrictions on using advertising/marketing techniques to appeal to children:

- Under the Advertisement Law, the advertisement of goods or services which target children aged under 14, must not include content which encourages or induces parents to purchase the goods or services or unsafe behaviour which may be imitated.



### **8.7 Use of children in advertising/marketing:**

- No specific legislation regarding the use of children in advertising.
- Children aged under 10 shall not be appointed as brand ambassadors.

### **8.8 Product labelling relevant to children:**

- Under the Regulations for the Management of Food Labelling, food for children must be labelled with nutritional information.
- Under the Protection for the Minors Law, if minors need to take safety precautions in using food products, drugs, toys, equipment or entertainment facilities, such precautions must be labelled on the product.

### **8.9 Administrative bodies overseeing compliance of regulations:**

- The State Administration for Industry and Commerce is responsible for overseeing compliance with the Advertisement Law.

### **8.10**

#### **(a) Do advertisements require clearance before publication:**

- Advertisements for medical products, drugs, medical equipment, pesticide, veterinary drugs, and health food must be approved by the State Administration for Industry and Commerce before they can be published or broadcasted.

#### **(b) Sanctions for breaches of codes or regulations:**

- Sanctions issued include: fines, revocation of the business licence and other civil/criminal sanctions.

#### **(c) Mechanisms for children and their representatives to file complaints:**

- Complaints should be submitted directly to the State Administration for Industry and Commerce in relation to any non-compliance under the Advertisement Law.

## 9. COLOMBIA

**Legal age of majority: 18**

**Regulator definition of children: less than 12  
(12 – 17 are considered adolescents)**

### 9.1 Statutes and codes regulating advertising/marketing:

- Law 140 of 1994 regulates “Visual Outdoor Advertising”.
- Law 16 of 1991 and Law 182 of 1995 set out rules on official television and radio broadcasting services.
- Law 1098 of 2006 sets out rules regarding the media’s responsibilities towards children.
- Law 1335 of 2009 sets out rules on the advertising of cigarettes.
- The Columbian Code of Advertising Self-Regulation (“**CCAS**”) is a private set of rules created by the advertising industry setting out the ethical standards, responsibilities and consequences for those who join the initiative.

### 9.2 Regulator’s position with regards to advertising/marketing to children:

- Article 47 of Law 47 of 2006 states certain principles that the media must fulfil during the execution of their activities e.g. to promote the rights and freedoms of children and adolescents.
- The CCAS prohibits the promotion of dangerous use or disregard for safety of the product being advertised. It also prohibits advertisement of medicines and other health related products to children or adolescents, and the use of children and adolescents in advertisements for alcohol, tobacco and its derivatives. It sets out principles for and restricts the content of “commercial messages aimed at children and adolescents”.

### 9.3 Restrictions on advertising/marketing products that are harmful to children:

- Article 47 of Law 1098 of 2006 prohibits advertising of cigarettes and alcohol in broadcasting television during child schedules.
- Law 1335 of 2009 prohibits tobacco advertisement in all media content addressed to the general audience.
- Law 30 of 1986 provides that any alcohol advertising must include the phrase “excessive drinking is harmful to health”.
- Articles 32 of the CCAS prohibits the use of children or adolescents, or their image or voice, in advertising messages of alcoholic beverages, tobacco and its derivatives and similar products. The use of any situation or activity usually performed by or associated with children or adolescents is also prohibited.
- Article 46 of the CCAS provides that the promotion of HFSS products to children and adolescents must encourage a healthy lifestyle, and must not mislead or exaggerate the benefits of eating or attribute consequences regarding status, superiority or inferiority, popularity or social acceptance.

### 9.4 Timing/placement of advertising in publications aimed at children:

- Article 44 of the CCAS prohibits adverts aimed exclusively at adults to be released or displayed in any media, space or time schedule which is freely accessible to children and adolescents.
- Article 25 of the agreement 002, issued by the National Television Commission, regulates that content outside 22.00 – 05.00 must be suitable for children and adolescents.
- Article 47 of Law 1098 of 2006 states that no alcohol or tobacco adverts may be broadcasted on a children’s television schedule.
- Article 51 of the CCAS provides that websites dedicated to products or services subject to restrictions e.g. alcoholic beverages, tobacco and gambling, should take measures to restrict access by children and adolescents to such sites.

### 9.5 Advertising/marketing in places children frequently visit e.g. schools:

- Article 43 of the CCSA prohibits the reference to violence, pornography, discrimination or consumption of drugs, alcohol, tobacco and its derivatives in any site of games or services aimed at children and adolescents.

### 9.6 Restrictions on using advertising/marketing techniques to appeal to children:

- Article 13 of Law 1335 of 2009 provides that the packaging of tobacco products cannot be designed to be especially appealing to minors.

### 9.7 Use of children in advertising/marketing:

- Article 44 of the CCAS provides that children and adolescents may not appear on any ads regarding products which by law are exclusive for adult consumption.

### 9.8 Product labelling relevant to children:

- Resolution 003388 of 2008 regulates safety requirements of toys, their components and accessories e.g. products which are too small cannot be addressed to children under three years of age.

### 9.9 Administrative bodies overseeing compliance of regulations:

- The National Commission of Advertising Self-Regulation (NCAS) is in charge of ensuring compliance with the CCAS. Although it cannot impose any judicial sanction, it can impose ethical sanctions and “concepts”.
- The Superintendence of Industry and Commerce and the Attorney General’s Office oversee compliance of the regulations on marketing and advertising.
- There is no specific mandate to an enforcement body.

### 9.10

#### (a) Do advertisements require clearance before publication:

- No, as it would go against the right of free speech.

#### (b) Sanctions for breaches of codes or regulations:

- Depending on the breach, different economic sanctions may be imposed. The NCAS may also impose ethical sanctions which may affect the image of the person or company being sanctioned.

#### (c) Mechanisms for children and their representatives to file complaints:

- Article 65 of the CCSA provides that any Colombian citizen can file complaint regarding advertising issues to the NCAS. A citizen can also file complaint that his or her fundamental rights are being breached through an expedite procedure called “tutela”.

## 10. DENMARK

Legal age of majority: 18<sup>6</sup>

Regulator definition of children: N/A<sup>7</sup>

### 10.1 Statutes and codes regulating advertising/marketing:

- Statutes: Marketing Practices Act 2013, Executive Order No. 1084 on unfair business-to-consumer commercial practices (2007), Gambling Act 2016, Radio and Television Act 2014, Executive Order No. 801 on Radio and Television Advertising (2013), Medicines Act 2013, Act on Advertising of Healthcare Services 2003, Executive Order No. 828 on Advertising, etc of Medicinal Products (2013), Executive Order No. 1153 on Advertising of Medical Devices, Act on prohibition on tobacco advertisement 2016, Act on Food 2016.
- Co-regulatory codes: Consolidated ICC Code of Advertising and Marketing Communication Practice (**ICC Code**).
- Self-regulatory codes: the code of responsible food marketing communication to children; guidelines on alcoholic beverages, guidelines for marketing of soft drinks in Denmark, guideline on advertising etc. of medicinal products, guideline on advertising etc of medical devices.

### 10.2 Regulator's position with regards to advertising/marketing to children:

- Commercial communications must be clearly identifiable as marketing by the targeted age group, and should take account of the fact that children are readily influenced and easy to impress; they should not incite violence or other dangerous or inconsiderate behaviour, nor be designed in a way to inflict physical or moral damage. In particular, marketing must not undermine children's trust in parents, teachers and others in positions of authority.
- Advertising must not undermine social values – e.g. by suggesting that the possession, use or consumption of a product will itself give the child physical, social or other psychological advantages over others.
- Advertisements that include a direct exhortation to children to buy advertised products, or to persuade their parents or other adults to buy advertised products on their behalf is considered to be an unfair business-to-consumer practice and hence is prohibited.

### 10.3 Restrictions on advertising/marketing products that are harmful to children:

- Under the Act on the Prohibition on Tobacco Advertisement 2016, subject to a few very limited exceptions, all forms of advertisement for tobacco products are banned. Sponsorship, and any other form of distribution having the purpose of promoting a tobacco product, is also prohibited.
- Marketing directed at children must not mention or include images of or references to intoxicants, including alcohol.
- Advertisements for medicinal products must not be directed exclusively or principally at children.
- Marketing for gambling activities should not be aimed at children.
- Advertising or sponsoring of foods with a high content of sugars, fats or salt in media or parts of media where the target audience is children under the age of 13 is not allowed. Equally, soft drinks must not be advertised directly to children below the age of 13.

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<sup>6</sup> Or when the individual is married, if younger.

<sup>7</sup> Although note that the ICC Code refers to "Children" as 12 and under.

#### 10.4 Timing/placement of advertising in publications aimed at children:

- Advertisements for products unsuitable for children must not be contained within media targeting those under 18 years of age.
- If a television program is aimed at children, the declaration of sponsorship must take the form of non-moving pictures, and must not be accompanied by any special sound connected with the sponsor. If the product is aimed at those under 14 in particular, prices must not be shown, and the advertisement may only provide information that is considered “neutral” in its nature.
- Websites devoted to products or services that are subject to age restrictions such as alcohol, gambling and tobacco products should take measures to restrict access to such websites by minors. This also applies to marketing content which social media users are able to share.

#### 10.5 Advertising/marketing in places children frequently visit e.g. schools:

- The Consumer Ombudsman may consider it a violation of good marketing practice if a communication not directed at children but which contains images or statements that might harm children mentally or morally is shown publicly in places frequented by children. However, there are no specific provisions on advertising and sponsorships in schools or clubs. The decision of whether marketing is permitted rests with the particular school or day-centre in question.

#### 10.6 Restrictions on using advertising/marketing techniques to appeal to children:

- Figures, dolls, etc. which are essential and continuous elements in programs aimed at children under 14 years must not be used in advertisements for products of special interest to children. Equally, persons associated with programmes aimed at such children must not appear in adverts of the same nature.

#### 10.7 Use of children in advertising/marketing:

- Generally, traders must not use children and young people in their sales and marketing activities, include for purposes of friend to friend solicitation. However, this is assessed on a case by case basis as special circumstances may warrant derogation from this rule.
- Children under 14 must only appear in television advertisements either where it is a natural element of the depicted environment or it is necessary to explain or demonstrate the use of products involving children. Where this is satisfied, traders should obtain consent from the child’s parents in advance. Children under 14 must not recommend or provide testimonies for products or services of any kind.

#### 10.8 Product labelling relevant to children:

- There are no specific legislative provisions for product labelling, although the ICC Code does state that children should be shown to be under adult supervision whenever a product or an activity involves a safety risk.

#### 10.9 Administrative bodies overseeing compliance of regulations:

- The Consumer Ombudsman enforces the provisions of the Marketing Practices Act. The Ombudsman may (i) bring the action to court; or (ii) issue an order himself, if the practice in question is clearly in violation of the Act and cannot be changed by negotiation. If the matter is referred to the courts, the court has the power to grant injunctions, award damages and order restitution.
- The Radio and Television Board enforces the provisions of the Radio and Television Broadcasting Act and Executive Order on Radio and Television Advertising.
- The Danish Health Authority enforces the provisions of the Medicines Act.



- The Alcohol Advertising Council enforces the guidelines on advertising of alcoholic beverages, and has the power to issue critiques against non-compliant businesses.
- Members of the Forum of Responsible Food Marketing communications monitor food commercials and check if the code of Responsible Food Marketing Communication is observed.
- The Ethical Committee for the Pharmaceutical industry verifies that the connected pharmaceutical companies comply with the rules.

## 10.10

### (a) Do advertisements require clearance before publication:

- No.

### (b) Sanctions for breaches of codes or regulations:

- Non-observance of an order imposed by the Consumer Ombudsman or a prohibition and order imposed by the court incurs liability to a fine or imprisonment of up to four months. The same is true under the Medicines Act, unless the offences carries a more severe penalty under any other legislation.
- Breaches of the Executive Order on Radio and Television Advertising can also be punished by a fine.

### (c) Mechanisms for children and their representatives to file complaints:

- Complaints may be filed with the Consumer Ombudsman on the basis of contravention of the Marketing Practices Act. Complainants do not have to be resident in Denmark.
- Complaints may be filed on the grounds of contravention of the Radio and Television Ac provisions. In cases concerning compliance with the Medicines Act and the Act on Advertising of Healthcare Services, the Board shall obtain a prior opinion from the Danish Medicines Agency and the National Board of Health respectively.

## 10.11 How effective are the laws and codes

- Research by the Forum for responsible food marketing communication has shown that the number of commercials in children's schedules on TV2 (a member to the Forum) fell drastically after the Code for responsible food marketing communication to children was signed. During the test period, no violations of the code were seen in printed media, and indeed, the sample checks showed that there was not a single advertisement for food products in children's magazines.
- Unfortunately, there is no similar data to show how effective the laws and codes are in relation to other sectors.

## 10.12 Are there any consumer lead pressure groups or lobbyists?

- **Børns vilkår** – a private political independent organisation that fights to ensure children in Denmark get a safe childhood.
- **Danmarks aktive forbrugere** – independent consumer led organisation with focus on a better and sustainable consumption.
- **Forbrugerrådet Tænk** – membership organisation that takes care of the consumer interests of its 71,000 members.
- **Red Barnet** – the Danish branch of “Safe the Children”, the independent organisation that fights to ensure children's rights.
- Amendments to the Marketing Practices Act have previously been submitted to each of these groups for consultation.

## II. ECUADOR

**Legal age of majority: 18**

**Regulator definition of children: Under 18s<sup>8</sup>**

### II.1 Statutes and codes regulating advertising/marketing:

- There are various statutes regulating advertising and marketing, including: the Ecuadorian Constitution; Communication Law and Regulation; Consumer Defence Regulation; Regulations for Control of Advertising of Processed Food; Regulations for the Broadcast of Advertising in whose Production Involves or is intended for Children and Adolescents; Regulation of Labelling of Processed Food for Human Consumption; Regulation of Promotion, Support and Protection of Breastfeeding; and System of Quality Control and Values on Messages of Radio and TV.
- The Code of Childhood and Adolescence is the key self-regulatory code in this area.
- The Code of Ethics and Advertising Self-Regulation is a voluntary initiative.

### II.2 Regulator's position with regards to advertising/marketing to children:

- Rules exist which govern the regulator's position with regards to advertising/marketing to children. Regulations protecting children, or particular age groups are: Communication Law and Regulation; Regulations for Control of Advertising of Processed Food; the Code for Childhood and Adolescence; and the Regulations for the Broadcast of Advertising in whose Production Involves or is intended for Children and Adolescents.

### II.3 Restrictions on advertising/marketing products that are harmful to children:

- All kinds of advertising aimed at children and adolescents must not contain child pornography, alcohol, cigarettes, narcotics and psychotropic substances.
- Advertisements for tobacco and alcohol are only permitted if they are within a place where the product is sold and adults have exclusive access. The packaging of each product must also bear a clear health warning, citing the fact that it is forbidden to sell to children in Ecuador.
- Manufacturers, importers or distributors of cigarettes or products derived from tobacco are prohibited from sponsoring sporting events unless at least 75% of the audience are adults and all participating athletes are over 18.
- Companies producing alcoholic beverages cannot sponsor shows whose content is aimed at children under 18, and cannot promote or sponsor underage artists.
- Advertising should not encourage unhealthy eating habits; advertising processed foods to children is prohibited. Marketing of energy drinks or similar products must also contain a health warning. Food with a high content of nutrients that are indicators of excess cannot be advertised or given away in educational institutions. Advertising food for infants under the age of six months is also forbidden.

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<sup>8</sup> Whilst there is no exact definition, the Regulations for the Broadcast of Advertising whose Production Involves or is Intended for Children or Adolescents defines a child audience as those from zero to twelve years old, and an adolescent audience as those from twelve to eighteen years old.

#### 11.4 Timing/placement of advertising in publications aimed at children:

- Tobacco products and alcohol cannot be advertised in print media.
- With regard to television programs, a message indicating the start and end of the advertising space is mandatory for all kinds of publicity aimed at children and teenagers. In programs for children and adolescents it is prohibited to announce violent advertising with content leading to discrimination, racism, drug abuse, sexism, that encourage the illegitimate use of violence or any illegal act, trafficking, exploitation, sexual abuse, advocacy of war or racial or religious hatred.
- Advertising of pharmaceutical products, or the use of games or war toys, is prohibited between the hours of 7am to 9am, and 3pm to 6pm, Monday to Friday.
- The internet is considered to be an alternative channel for advertising broadcasting, and the same restrictions apply as to radio and television.

#### 11.5 Advertising/marketing in places children frequently visit e.g. schools:

- HFSS foods cannot be advertised or given away at education institutions.

#### 11.6 Restrictions on using advertising/marketing techniques to appeal to children:

- Benefits attributed to the product or service must be inherent in its use. Advertisements must not suggest that the purchase and use of the product will provide to the user prestige, skills and the qualities of the characters in the ad.
- Advertising must not encourage unattainable expectations: fictional characters should be clearly identified as such.

#### 11.7 Use of children in advertising/marketing:

- Children and adolescents cannot participate in programs, advertisements or other shows which contain content inappropriate for their age. Furthermore, advertisements must not use the image of a child of 15 or older without their express permission. For children under that age, consent must be given by a legal representative.
- Advertising using the image of children and adolescents, especially those with disabilities, serious or catastrophic illness should avoid exaggeration, manipulation and exploitation related to their health status, social status, family, economic or any form of discrimination.
- Advertising using images of children and adolescents may not promote violence, sexual content, racist, sexist or any that affects their dignity, self-esteem, honour, reputation and image.
- If the advertising is aimed at children or adolescents, a number of other rules must be observed – for example, the advert must not stimulate unrealistic expectations about the qualities or performance of the product, must not pressure the parents to purchase the products, and must not discredit the authority of parents and educators.

#### 11.8 Product labelling relevant to children:

- Various criteria apply to the labelling on the packaging of nursing baby products.
- Goods that may represent a danger to the health or safety of consumers or users, or requiring some expertise for handling must have information for their safe use and warning. If the goods are intended for children, this warning must be made to the parents or those with custody of the child.
- Products containing caffeine, taurine and/or glucuronolactone must also contain a warning to the effect that they are not suitable for children.
- In labelling processed foods for human consumption, using images of children and adolescents with images, texts or messages inappropriate for their development is prohibited.



### 11.9 Administrative bodies overseeing compliance of regulations:

- The Administration of Justice specialised in Children and Adolescents is responsible for the protection, defence and enforcement of the Childhood and Adolescence Code.
- The Regulation and Development of Information and Communication Council reviews advertising broadcasted in children's programs.
- The Direction of Control of Health controls advertising that is approved by the National Health Authority.

### 11.10

#### (a) Do advertisements require clearance before publication:

- Advertising broadcasted in children's programs must be cleared by the Regulation and Development of Information and Communication Council. Advertising products for health and food will be subject to controls by the National Health Authority.

#### (b) Sanctions for breaches of codes or regulations:

- Adverts will be suspended if they are deemed to induce violence, discrimination, racism, drug abuse, sexism, religious or political intolerance and all acts that violate the rights recognised in the Constitution.
- Broadcasting content violating the rights of children and adolescents are sanctioned with a fine of 5 to 10 basic salaries, without prejudice of criminal sanctions.

#### (c) Mechanisms for children and their representatives to file complaints:

- Complaints can be addressed to the Superintendence of Information and Communication, the Ombudsman or the Health Authority as relevant.

### 11.11 How effective are the laws and codes?

- The rules regarding advertising are enforced and their compliance is strictly monitored.

### 11.12 Are there any consumer lead pressure groups or lobbyists?

- Complaints from consumer groups must be directed through the Ombudsman.

## 12. EUROPEAN UNION

**Legal age of majority:** Various<sup>9</sup>

**Regulator definition of children:** 12<sup>10</sup>

### 12.1 Statutes and codes regulating advertising/marketing:

- Statutes: Treaty on the Functioning of the European Union (“**TFEU**”), Unfair Commercial Practices Directive (2005/29/EC) (“**UCP Directive**”), Audiovisual Media Services Directive (2010/13/EU) (“**AVMS Directive**”).
- Co-regulatory codes: Recommendation on the Protection of Minors and Human Dignity and the Right to Reply (the “**Recommendation**”).
- Self-regulatory codes: the EU Pledge on Advertising to Children (the “**EU Pledge**”) and the European Advertising Standards Alliance (“**EASA**”).

### 12.2 Regulator’s position with regards to advertising/marketing to children:

- UCP Directive explicitly acknowledges that children-consumers are deserving of special protection.
- The AVMS Directive provides, as a general principle that “*audiovisual commercial communications shall not cause moral or physical detriment to minors*”. The Directive also seeks to limit the exposure of children to marketing and advertising, and its rules vary depending on the marketing technique at stake.

### 12.3 Restrictions on advertising/marketing products that are harmful to children:

- Tobacco: all forms of audiovisual commercial communications for cigarettes and other tobacco products are prohibited under the AVMS Directive.
- Alcohol: The AVMS Directive also states that audiovisual communications for alcoholic beverages shall not be aimed specifically at minors and shall not encourage immoderate consumption of such beverages.
- Drugs: audiovisual commercial communications for medicinal products and medical treatments available only on prescription in a Member State within whose jurisdiction the media service provider falls are prohibited.

### 12.4 Timing/placement of advertising in publications aimed at children:

- Children’s<sup>11</sup> programmes (including online programming if the communication is deemed to be television, or a “television-like” service) of less than 30 minutes may not be interrupted by television advertising or teleshopping. Programmes scheduled for thirty minutes or longer may be interrupted once for each scheduled period of at least thirty minutes.
- Product placement is prohibited in all children’s television programmes.
- Member states have the option to prohibit the showing of sponsorship logos during children’s programmes.

### 12.5 Advertising/marketing in places children frequently visit e.g. schools:

- Communications related to products are prohibited in primary schools, except where specifically requested by, or agreed with, the school administration for educational purposes.

<sup>9</sup> Set by each individual member state.

<sup>10</sup> The EU Pledge on Advertising to Children applies to children under the age of 12.

<sup>11</sup> The AVMS Directive does not define “children” or “children’s programmes”. It is left to member states to define these terms at a national level.



## **12.6 Restrictions on using advertising/marketing techniques to appeal to children:**

- No relevant provisions.

## **12.7 Use of children in advertising/marketing:**

- Television advertising and teleshopping for alcoholic beverages shall not depict minors consuming alcohol.

## **12.8 Product labelling relevant to children:**

- The Toy Safety Directive (2009/48/EC) requires that any toy sold or manufactured in the EU must: (a) satisfy the safety requirements set out in Directive; (b) be properly marked to ensure traceability; (c) bear the CE mark, which must be visible at the point of sale, be easily legible and in an indelible form; and (d) be accompanied by instructions for use and warnings where necessary.
- This is supported by European standard EN 71-1:2011, which sets out over twenty labelling warnings to be used where applicable.

## **12.9 Administrative bodies overseeing compliance of regulations:**

- Member States are responsible for enforcing their implementing regulations. The EU provides no specific mandate that Member States should focus on children's issues.
- The EU Pledge is a self-regulatory body, specifically concerned with marketing and advertising to children.

### **(a) Do advertisements require clearance before publication:**

- This is not within the competence of the EU.

### **(b) Sanctions for breaches of codes or regulations:**

- This is not within the competence of the EU.

### **(c) Mechanisms for children and their representatives to file complaints:**

- This is not within the competence of the EU.

## 13. FRANCE

**Legal age of majority: 18**

**Regulator definition of children: Under 18s**

### 13.1 Statutes and codes regulating advertising/marketing:

- The French Consumer Code prohibits (i) misleading, (ii) aggressive and (iii) unfair commercial practices and advertisements and regulates advertising.

### 13.2 Regulator's position with regards to advertising/marketing to children:

- There are several provisions that address marketing and advertising to children specifically.

### 13.3 Restrictions on advertising/marketing products that are harmful to children:

- Advertising of tobacco products is forbidden, subject to few exceptions.
- Alcohol related advertisements are allowed but are subject to strict regulation.
- Gambling advertisements are prohibited in publications, audio/visual programmes and online communications aimed at minors.

### 13.4 Timing/placement of advertising in publications aimed at children:

- Advertising may not exploit children's credulity or lack of experience and contain anything that may cause physical, mental or moral harm.
- Restrictions on timing and placement of advertisements around children's programmes exist.

### 13.5 Advertising/marketing in places children frequently visit e.g. schools:

- In principle, any form of commercial advertising or marketing in public schools is prohibited.

### 13.6 Restrictions on using advertising/marketing techniques to appeal to children:

- Advertisements using imaginary characters in children's entertainment should not promote behaviours which are opposite to healthy eating behaviours and lifestyles.

### 13.7 Use of children in advertising/marketing:

- Adverts may not feature children in situations that are diminishing or harmful to their physical or moral integrity.

### 13.8 Product labelling relevant to children:

- Toys must carry the CE mark.
- Labels must contain the manufacturer's information.



### **13.9 Administrative bodies overseeing compliance of regulations:**

- The ARPP is a private self-regulatory organisation.
- The CSA oversees compliance of audio-visual advertising.
- The French National Agency for Medicines and Safety of products (“**ANSM**”) oversees compliance of drugs advertising.
- The Directorate General for Competition, Consumer Policy and Repression of Fraud (“**DGCCRF**”) oversees compliance to the general legal framework applicable to advertising.

### **13.10**

#### **(a) Do advertisements require clearance before publication:**

- It is not a requirement, but in practice television advertisers usually seek clearance from the ARPP before broadcast.

#### **(b) Sanctions for breaches of codes or regulations:**

- Sanctions for breaches include: prevention of broadcasting, requiring modification.

#### **(c) Mechanisms for children and their representatives to file complaints:**

- Children’s representatives can file complaints with the DGCCRF or the JDP (i.e., the advertising jury, which is an entity affiliated to the ARPP).



## 14. GERMANY

Legal age of majority: 18<sup>12</sup>

Regulator definition of children: 18

### 14.1 Statutes and codes regulating advertising/marketing:

- German statutes and codes governing advertising and marketing include The Act Against Unfair Competition, Youth Protection Act, the Interstate Broadcasting Agreement, Interstate Treaty on the Protection of Human Dignity and the Protection of Minors in Broadcasting and Telemedia, Law on the Advertising of Medicines, School Laws of the federal states and the Interstate Treaty on Gambling.
- Voluntary initiatives include the Codes of Conduct of the German Standards Advertising Council (which incorporates the Rules of Conduct on Advertising with and for Children on radio and television of the German standards advertising council, the Code of Conduct of the German Advertising Standards Council on Commercial Communication for Foods and Beverages, and the Code of Conduct on Commercial Communication for Alcoholic Beverages), the Press Code, and the EU Pledge Nutrition criteria.

### 14.2 Regulator's position with regards to advertising/marketing to children:

- Rules exist which govern the regulator's position with regards to advertising/marketing to children. For example, the Rules of Conduct on Advertising with and for Children on radio and television restrict the content of advertisements for and with children, the Interstate Treaty on the Protection of Human Dignity and the Protection of Minors in Broadcasting and Telemedia seeks to protect children and adolescents in advertising and shopping, the Interstate Broadcast Agreement restricts advertising in children's programmes and the Interstate Treaty on Gambling prohibits advertising for gambling that addresses minors.

### 14.3 Restrictions on advertising/marketing products that are harmful to children:

- Alcohol advertising should not be aimed at children or adolescents nor specifically appeal to adolescents through their presentation. The Interstate Treaty on the Protection of Human Dignity and the Protection of Minors in Broadcasting and in Telemedia requires an age gate to be put on online advertisements and sales of alcoholic drinks, and the Code of Conduct on Commercial Communication for Alcoholic Beverages provides that such drinks should not be advertised on social media.
- The Law on the Advertising of Medicines prohibits advertisements for drugs and pharmaceuticals addressing mainly children below the age of 14.
- Commercial communications for foods and beverages should not suggest that consumption of a particular product is irreplaceable in a complete and balanced meal (Code of Conduct of the German Advertising Standards Council on Commercial Communication for foods and beverages). In addition, under the EU Pledge Nutrition Criteria, participating companies must cease to advertise food and beverage products to children under 12, or must only advertise products that meet specific nutrition criteria.

### 14.4 Timing/placement of advertising in publications aimed at children:

- The Youth Protection Act provides that commercials and advertising programmes for tobacco products and alcoholic drinks can only be shown after 6pm.
- The Media Broadcasting Agreement prohibits interruption of children's programmes by advertisement, product placement and the placement of logos of sponsors in children's programmes.

### 14.5 Advertising/marketing in places children frequently visit e.g. schools:

- As a general rule, only food and (non-alcoholic) beverages may be distributed in schools. The laws of the federal states strongly restrict advertising in schools.

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<sup>12</sup> Minors are persons below 18 years of age; children are persons below the age of 14 years. Adolescents are persons between the ages of 14 and 18.

#### 14.6 Restrictions on using advertising/marketing techniques to appeal to children:

- Although there are no specific rules, the Interstate Treaty on the Protection Human Dignity and Protection of Minors in Broadcasting and in Telemedia forbids: (i) causing moral or physical detriment to children or adolescents; (ii) directly exhorting children/adolescents or encouraging them to persuade their parents to purchase a product; (iii) to exploit trust; and/or (iv) to unreasonably show children or minors in dangerous situations.
- Furthermore, the Rules of conduct of Advertising with and for Children on Radio and Television contain restrictions regarding: (i) statements made by children; (ii) exploitation or abuse of special trust; (iii) aleatory advertising (free raffles, prize competitions etc); and (iv) direct requests for purchase or consumption.

#### 14.7 Use of children in advertising/marketing:

- As above, children or minors should not be unreasonably shown in dangerous situations. Advertising must also not contain statements by children about the special advantages and features of a product which do not conform to the natural utterances of the child.

#### 14.8 Product labelling relevant to children:

- Products that are potentially dangerous for children must be labelled as such or marked with warnings.
- Food and drinks containing caffeine or other specific chemical ingredients must be marked to state that they are not recommended for children.
- Toys must be labelled with (CE), and manufacturers must specify appropriate user limitations in order to ensure the safe use of the toy (e.g. minimum age/weight).

#### 14.9 Administrative bodies overseeing compliance of regulations:

- Compliance is overseen by competent authorities, regulatory agencies and the courts.
- The Commission for Protection of Minors in the Media and Federal Review Board for Media harmful to Young Persons have a specific mandate to focus on children's issues.

#### 14.10

##### (a) Do advertisements require clearance before publication:

- No.

##### (b) Sanctions for breaches of codes or regulations:

- Sanctions include injunctive relief, orders for deletion or removal, public reprimand, orders to provide information, revocation or destruction, fines or damages, and imprisonment.

##### (c) Mechanisms for children and their representatives to file complaints:

- Anyone may submit complaints, which may be addressed to the German Advertising Council, the Agency to Combat Unfair Competition, the Consumer Advice Centres, the media authorities of the federal states and the German Press Council.

#### 14.11 How effective are the laws and codes?

- In general, the laws and codes are very effective and do get enforced.

#### 14.12 Are there any consumer lead pressure groups or lobbyists?

- The two largest pressure groups are the Consumer Advice Centre and the Agency to Combat Unfair Competition.

## 15. GHANA

**Legal age of majority: 18**

**Regulator definition of children: Under 18s**

### 15.1 Statutes and codes regulating advertising/marketing:

- Advertising/marketing is regulated by guidelines and rules set by the National Media Commission (“**NMC**”) and the Advertising Association of Ghana (“**AAG**”).
- The Food and Drugs Authority contains guidelines applicable to food related advertising/marketing.

### 15.2 Regulator’s position with regards to advertising/marketing to children:

- The NMC guidelines contain explicit requirements in relation to advertising/marketing to children stating advertisements should not exhort children to purchase, exploit their credulity and cause distress or harm.

### 15.3 Restrictions on advertising/marketing products that are harmful to children:

- Advertisements for products that are potentially harmful to children must not be broadcast during or in juxtaposition to children’s programmes.
- Tobacco: Advertising of tobacco products is forbidden in almost all cases.

### 15.4 Timing/placement of advertising in publications aimed at children:

- No restrictions in relation to the placement of advertisements in children’s publications.
- No information regarding the timing of advertising.

### 15.5 Advertising/marketing in places children frequently visit e.g. schools:

- No restrictions in relation to advertising/marketing in places children frequently visit.

### 15.6 Restrictions on using advertising/marketing techniques to appeal to children:

- Advertisements must not take advantage of children’s credulity, inexperience and susceptibility and compel them to purchase or ask their parents to purchase the advertised product.

### 15.7 Use of children in advertising/marketing:

- The NMC state that children portrayed in advertisements must be well mannered and behaved.
- No restrictions in relation to appointing children as brand ambassadors.

### 15.8 Product labelling relevant to children:

- There are no specific requirements relevant to children in relation to product labelling.
- The Ghana Standards Board states food or pharmaceuticals should not be sold, distributed or packaged unless the product is marked with the relevant label.



### **15.9 Administrative bodies overseeing compliance of regulations:**

- The National Communications Authority (“**NCA**”) and the NMC are the administrative bodies that regulate the advertising/marketing industry.

### **15.10**

#### **(a) Do advertisements require clearance before publication:**

- There are no general regulations regarding the pre-clearance of an advertisement.

#### **(b) Sanctions for breaches of codes or regulations:**

- Sanctions for breaches include: fine and conviction.

#### **(c) Mechanisms for children and their representatives to file complaints:**

- Children and their representatives can file complaints to the Commission.

## 16. HONG KONG

**Legal age of majority: 18**

**Regulator definition of children: N/A**

### 16.1 Statutes and codes regulating advertising/marketing:

- There are a number of statutes and codes regulating advertising and marketing in Hong Kong. Relevant statutes include: the Trade Descriptions Ordinance (Cap 362), the Broadcasting Ordinance (Cap 562) and the Personal Data (Privacy) Ordinance (Cap 486). Codes include the Generic Code of Practice on Television Advertising Standards (issued by the Communications Authority); the Radio Code of Practice on Advertising Standards of Ancillary Visual Service; and the Code of Practice of the Association of Accredited Advertising Agencies of Hong Kong.

### 16.2 Regulator's position with regards to advertising/marketing to children:

- There are no statutory provisions that apply specifically to children, and no definition of a child in the context of advertising. However, each of the codes identified above do provide specific regulation in relation to particular age groups.

### 16.3 Restrictions on advertising/marketing products that are harmful to children:

- Tobacco adverts cannot be displayed or published/distributed for display or broadcast, by radio or visual images, film or on the internet. Where tobacco adverts can be shown, they should bear appropriate health warnings, and should not be shown in close proximity to children's programmes or in programmes that target those under the age of 18.
- Alcohol adverts should only be directed to an adult audience and cannot be shown in close proximity to children's programmes or in programmes that target those under the age of 18.
- Specific claims for the nutritional value of food must be supported by sound scientific evidence and not give a misleading impression of the nutritional or health benefits of food as a whole.

### 16.4 Timing/placement of advertising in publications aimed at children:

- Alcoholic beverage advertisements should not be broadcasted on radio or television in proximity to children's programmes or programmes targeted at those under the age of 18 between the hours of 4.00 and 8.30pm.
- Advertisements for material which are not considered suitable for children, or which are frightening, provoke anxiety, or contain depictions of violent, dangerous or anti-social behaviour should also not be shown on television within or with close proximity to programmes targeting children, or at times when a large number of children are expected to be watching.

### 16.5 Advertising/marketing in places children frequently visit e.g. schools:

- Advertising must not be inserted in school programmes within the Educational Television time slot.

### 16.6 Restrictions on using advertising/marketing techniques to appeal to children:

- Adverts must not contain any suggestion that in not buying a product they will be failing some duty or lacking loyalty towards some person or application.

### 16.7 Use of children in advertising/marketing:

- Except in advertisements designed specifically and only to promote safety, children should not be shown in dangerous situations.
- No regulations or guidelines exist in relation to children as brand ambassadors, although employment law restrictions still apply.

### 16.8 Product labelling relevant to children:

- All pre-packaged food must be labelled with the product's energy content and nutrition levels. Certain drugs also require product labelling in relation to children.
- Toys and Children's Product Safety Ordinance (Cap 424) and Toys and Children's Products Safety (Additional Safety Standards or Requirements) Regulation (Cap 424C) regulate the safety of toys and children's products.

### 16.9 Administrative bodies overseeing compliance of regulations:

- The Communications Authority, Broadcasting Authority, and respective Associations of specific industries enforce legislation and codes in relation to advertising issues. The Labour Department enforces issues around the employment of children. The Customs and Excise Department deals with issues around product safety and labelling.
- None of these bodies have a specific mandate to focus on children's issues.

### 16.10

#### (a) Do advertisements require clearance before publication:

- No.

#### (b) Sanctions for breaches of codes or regulations:

- The Communications Authority may issue advice or a warning, require the advertiser to issue a correction and/or apology, impose financial penalties and/or suspend or revoke licences.

#### (c) Mechanisms for children and their representatives to file complaints:

- Complaints can be made to the Communications Authority or Director-General of Communications through telephone, fax, mail or online compliant form.

### 16.11 How effective are the laws and codes?

- The Communications Authority enforces regulations against infringing parties; Associations monitor their members behaviour and will impose penalties in accordance with the Associations own rules.

### 16.12 Are there any consumer lead pressure groups or lobbyists?

- No specific group has campaigned for more stringent regulations targeted at/for children in relation to marketing/advertising, although the Hong Kong Children's Council has proposed that the government take action both to minimise the negative influence of irresponsible media on the physical and mental development of children and to protect children from the adverse influence of offensive materials on the internet.

## 17. INDIA

**Legal age of majority: 18**

**Regulator definition of children: Under 18**

### 17.1 Statutes and codes regulating advertising/marketing:

- Statutes: Consumer Protection Act 1986, Cable Television Networks (Regulations) Act 1995, Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act 2003, Drugs and Magical Remedies (Objectionable Advertisements) Act 1954 (“**DMRA**”), the Young Persons (Harmful Publications) Act 1956 and the Food Safety and Standards Act 2006.
- Self-regulatory codes: Cable Television Networks Rules 1994 (“**CTNR**”)
- Voluntary Initiatives: The ASCI Code, Doordarshan Code, All India Radio Advertisement Code (“**AIR Code**”), and the “Norms of Journalistic Conduct”.

### 17.2 Regulator’s position with regards to advertising/marketing to children:

- The Young Persons (Harmful Publications) Act 1956 and the ASCI code prohibit advertisements that may harm the young person’s physical, mental or moral health.
- Self-regulatory codes and voluntary initiatives, such as the CTNR, Doordarshan Code and AIR Code also include specific sections in regards to advertising to children.

### 17.3 Restrictions on advertising/marketing products that are harmful to children:

- Advertising tobacco products is prohibited in all media under the Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act 2003.
- The production, promotion, sale or consumption of alcohol is prohibited under the CTNR, the Doordarshan Code, the AIR Code and the Norms for Journalistic Conduct.
- There are no limitations specifically in relation to children and HFFS products, although in October 2015, the Food Safety and Standards Authority of India published draft guidelines relating to children’s food in school in India.

### 17.4 Timing/placement of advertising in publications aimed at children:

- There are no restrictions of advertising in publications aimed at children.

### 17.5 Advertising/marketing in places children frequently visit e.g. schools:

- There are no restrictions on the placement of advertisements in places children frequently visit.

### 17.6 Restrictions on using advertising/marketing techniques to appeal to children:

- There are no statutory restrictions on using advertising/marketing techniques to appeal to children.

### 17.7 Use of children in advertising/marketing:

- There are no restrictions on the use of children in advertising/marketing, although section 11 of the Indian Contract Act 1872 prohibits a minor from entering into a contract. However the legal guardian or parents of the minor may enter into a contract on behalf of the minor.



### **17.8 Product labelling relevant to children:**

- There are no currently restrictions on product labelling.

### **17.9 Administrative bodies overseeing compliance of regulations:**

- The Indian Broadcasting Foundation and Broadcasting Content Complaints Council (BCCC), The Ministry of Information and Broadcasting, The ASCI's Consumer Complaints Council, The Electronic Media Monitoring Centre, and The Food Safety and Standards Authority.
- However, none of the above have a specific mandate to focus on children's issues.

### **17.10**

#### **(a) Do advertisements require clearance before publication:**

- There is no requirement for pre-clearance.

#### **(b) Sanctions for breaches of codes or regulations:**

- Sanction include expulsion, fines and imprisonment.

#### **(c) Mechanisms for children and their representatives to file complaints:**

- Under the ASCI Code, complaints can be made by any person who considers an advertisement to be false, misleading, offensive or unfair.



## 18. INDONESIA

**Legal age of majority:** 18/21

**Regulator definition of children:** Under 12s

### 18.1 Statutes and codes regulating advertising/marketing:

- The advertising/marketing activities are operated under 15 different codes and regulations.

### 18.2 Regulator's position with regards to advertising/marketing to children:

- The Indonesian Advertising Code of Ethics (“**the Advertising Code**”) explicitly addresses requirements for advertising/marketing aimed at children.
- Alcoholic beverage advertisements must not display or target children under the age of 21.
- Tobacco related advertisements are prohibited from being placed in media directed at children under 18.

### 18.3 Restrictions on advertising/marketing products that are harmful to children:

- Alcohol: Alcohol products not produced in Indonesia must not encourage the public to start consuming alcoholic beverages.
- Tobacco: The Advertising Code stipulates certain requirements for tobacco related advertisements.
- Food products: Advertisements for products that contain high amounts of materials that may be harmful to children are prohibited from being placed in media specific for children.

### 18.4 Timing/placement of advertising in publications aimed at children:

- Tobacco related advertisements may only be broadcast through TV and radio at certain times.

### 18.5 Advertising/marketing in places children frequently visit e.g. schools:

- Advertising/marketing of tobacco products is prohibited in places children regularly visit.

### 18.6 Restrictions on using advertising/marketing techniques to appeal to children:

- The Advertising Code and other regulatory codes provide restrictions in relation to advertisements on electronic media that use characters/animations well-known to children.

### 18.7 Use of children in advertising/marketing:

- The use of children for tobacco related advertising/marketing is forbidden.
- The Advertising Code prohibits the use of children in advertisements for products not suitable for children, displaying children in dangerous and inappropriate situations, and in advertisements that exploit children's inexperience.

### 18.8 Product labelling relevant to children:

- The Indonesian National Standard requires children's' toys meet certain regulations.
- The Regulation on Supervisory Claims on Labels and Advertisements provides regulation for children's food.



### **18.9 Administrative bodies overseeing compliance of regulations:**

- The Ministry of Health, the Ministry of Industry, the Indonesian Broadcasting Commission and the Advertisements Supervisory Board oversee compliance of regulations.

### **18.10**

#### **(a) Do advertisements require clearance before publication:**

- Medical equipment related advertisements can only be published after clearance from the Ministry of Health.
- Food related advertisements are only allowed in print media after clearance from the Ministry of Health.

#### **(b) Sanctions for breaches of codes or regulations:**

- Sanctions include: advertisement withdrawal, warning letters, temporary suspension from broadcast.

#### **(c) Mechanisms for children and their representatives to file complaints:**

- Children and their representatives can file complaints to the Advertising Council of Indonesia.

## 19. ITALY

**Legal age of majority: 18**

**Regulator definition of children: Under 12s**

### 19.1 Statutes and codes regulating advertising/marketing:

- Statutes: Advertising/marketing regulated by the Legislative Decree of 6 September 2005, which aims to ensure fair practice and protection of consumers from misleading advertisements.
- Codes: The Code of Advertising Self-regulation (“**Self-regulatory Code**”) is a voluntary code that only binds enterprises which have opted to adhere to the self-regulatory system.

### 19.2 Regulator’s position with regards to advertising/marketing to children:

- The Self-regulatory Code and Legislative Decree of 6 September 2005 state that care should be taken when advertising to children and content that may cause physical, mental or physical harm is prohibited.

### 19.3 Restrictions on advertising/marketing products that are harmful to children:

- Alcohol: Advertising of alcoholic beverages should promote a model of moderated consumption, fair behaviour and responsibility.
- Tobacco: Outright ban on the advertising/marketing of tobacco exists.
- Pharmaceuticals: The Code of Marketing Communications states that pharmaceutical advertisements must not directly invite children to use the product without appropriate supervision.
- Infant feed: It is forbidden to advertise infant feed in any manner and advertisements regarding this matter are only permitted in scientific publications.

### 19.4 Timing/placement of advertising in publications aimed at children:

- The Self-regulatory Code provides restrictions on the timing/placement of advertisements during certain time periods with the aim of protecting children.

### 19.5 Advertising/marketing in places children frequently visit e.g. schools:

- Any advertising/marketing activities must comply with the provisions on adverts towards minors.

### 19.6 Restrictions on using advertising/marketing techniques to appeal to children:

- The Self-regulatory Code prevents misleading, harmful or offensive advertising.

### 19.7 Use of children in advertising/marketing:

- No specific provisions for the use of children in advertising/marketing, however the use of teenagers or children in advertisements must avoid abuse of the natural sentiments of the adults towards children.



### **19.8 Product labelling relevant to children:**

- Toys must carry a CE mark to demonstrate the product meets all the relevant requirements.
- Toys not aimed at children under 3 years must contain the relevant warning message.

### **19.9 Administrative bodies overseeing compliance of regulations:**

- Compliance of the Self-regulatory Advertising Code is supervised by the Jury of Advertising.
- The Italian Antitrust Authority also oversees compliance of regulations.
- No specific body oversees advertising/marketing in relation to children.

### **19.10**

#### **(a) Do advertisements require clearance before publication:**

- No.

#### **(b) Sanctions for breaches of codes or regulations:**

- Sanctions imposed by the Jury include: withdrawal of advertisement, issuance of injunction and awards for damages.

#### **(c) Mechanisms for children and their representatives to file complaints:**

- Children and their representatives can file complaints with the Jury against those carrying out activities that break the Self-regulatory Code.

## 20. JAPAN

**Legal age of majority: 20**

**Regulator definition of children: Various<sup>13</sup>**

### 20.1 Statutes and codes regulating advertising/marketing:

- Statutes: Act Against Unjustifiable Premiums and Misleading Representations 1962 (“AUPMR”)
- Co-regulatory codes: various prefectural ordinances for the protection of minors, alongside specific requirements from the National Tax Agency (in relation to alcohol), the Ministry of Finance (in relation to tobacco) and the Code of Fair Practices in the Advertising of Drug and Related Products as published by the Ministry for Health, Labour and Welfare (in relation to drugs/pharmaceuticals).
- Self-regulatory codes: many industry groups have their own fair competition codes in relation to the AUPMR.

### 20.2 Regulator’s position with regards to advertising/marketing to children:

- AUPMR does not specifically regulate marketing or advertising to children, but does prohibit advertisements that may be misleading to consumers.
- The various Prefectural Ordinances prohibit advertisements that may be harmful to minors (e.g. those that are obscene or violent).

### 20.3 Restrictions on advertising/marketing products that are harmful to children:

- Tobacco: Caution messages must be displayed on 30% of each tobacco package under the WHO Framework Convention on tobacco control. In addition, the Ministry for Finance has implemented measures to exclude children from being targeted by tobacco advertisements – e.g. by requiring that tobacco can only be advertised in magazines where 75% or more of the readers are adults.
- Alcohol: Packaging and advertisements of alcohol must contain the caution message that alcohol cannot be consumed by anyone under the age of 19 according to requirements of the National Tax Agency and standards adopted by the alcohol industry group. These must be displayed in a minimum font size.
- Drugs: The Code of Fair Practices in the Advertising of Drug and Related Product published by the Ministry of Health, Labour and Welfare requires that advertisements in radio/TV programmes for children must not cause children’s false understanding of drugs or related products. In addition, the guidelines published by the self-medication industry group require that children cannot appear in TV commercials of bug-killers and that children cannot appear to be using or holding OTC drugs in TV commercials.

### 20.4 Timing/placement of advertising in publications aimed at children:

- Advertisements of tobacco and alcohol are prohibited in all publications, entertainment programmes or online platforms aimed at children.

### 20.5 Advertising/marketing in places children frequently visit e.g. schools:

- Advertisements of alcohol are prohibited within a 100 metre radius of schools.

### 20.6 Restrictions on using advertising/marketing techniques to appeal to children:

- Using cartoon characters in tobacco or alcohol advertising is prohibited.

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<sup>13</sup> No regulator definition of a child, but various definitions in prefectural ordinances (e.g. The Prefectural Ordinance of Tokyo defines a “juvenile” as a person under the age of 18).



### **20.7 Use of children in advertising/marketing:**

- Guidelines published by the self-medication industry group require that children cannot appear in TV commercials of bug-killers. Otherwise, there are no specific requirements.

### **20.8 Product labelling relevant to children:**

- No specific requirements.

### **20.9 Administrative bodies overseeing compliance of regulations:**

- The Consumer Agency enforces the AUPMR.
- The Ministry of Finance oversees compliance with regulations regarding tobacco, the National Tax Agency oversees compliance with regulations regarding alcohol, and the Ministry of Health, Labour and Welfare oversees regulations relating to drugs and medications.
- Compliance is also overseen by local governments.

#### **(a) Do advertisements require clearance before publication:**

- No.

#### **(b) Sanctions for breaches of codes or regulations:**

- The Prefectural Ordinances contain sanctions in relation to obscene and violent advertisements, and the sanctions are different between prefectures. For example, under the Prefectural Ordinance of Tokyo, a fine of up to JPY 300,000 is imposed on any offender who does not amend the contents of their advertisements after the Tokyo Metropolitan Governor has issued an order against them.

#### **(c) Mechanisms for children and their representatives to file complaints:**

- No mechanism available.

## 21. JORDAN

**Legal age of majority: 18**

**Regulator definition of children: N/A**

### 21.1 Statutes and codes regulating advertising/marketing:

- Health Law No. 47 of 2008 relates to the marketing of tobacco products.
- Press and Publication Law No. 8 of 1998 (amended by law No.27 of 2007) and the Law Amending the Press and Publications Law of 2012 requires all publications to comply with the values of the Arab and Islamic nation.
- Audio-visual Media Law No. 26 of 2015 requires licensees to comply with the rules on advertising and promotions as designated by the Audio-visual Commission.

### 21.2 Regulator's position with regards to advertising/marketing to children:

- It is prohibited to sell tobacco, alcoholic beverages, narcotic drugs or psychotropic substances to juveniles.

### 21.3 Restrictions on advertising/marketing products that are harmful to children:

- Advertisements for tobacco products are prohibited, as is the production, importation and distribution of any tobacco product.
- Stores selling alcohol and/or drugs must display a visible sign to let those under 18 know that they are prohibited from attempting to purchase alcohol.

### 21.4 Timing/placement of advertising in publications aimed at children:

- Adverts for tobacco or alcohol are prohibited in publications aimed at children.
- Care must be considered in preparing and presenting commercials during children's programming.
- The law does not address the sale of tobacco products via the internet although laws banning tobacco advertising in print and broadcast media could be interpreted to extend to internet communications.

### 21.5 Advertising/marketing in places children frequently visit e.g. schools:

- Alcohol may not be sold within 250 metres of a place of worship, university, other institution, college, school or kindergarten..

### 21.6 Restrictions on using advertising/marketing techniques to appeal to children:

- N/A.

### 21.7 Use of children in advertising/marketing:

- N/A.

### 21.8 Product labelling relevant to children:

- N/A.

### 21.9 Administrative bodies overseeing compliance of regulations:

- The Audio-visual Media Commission of Jordan regulates the audio-visual sector in Jordan.

### 21.10

#### (a) Do advertisements require clearance before publication:

- All advertising material intended for transmission is subject to censorship by Jordan Television.

#### (b) Sanctions for breaches of codes or regulations:

- Depending on the breach, fines may be imposed or the broadcaster's licence may be suspended for up to two months, or withdrawn completely. Individuals can face imprisonment of between one to five years.

#### (c) Mechanisms for children and their representatives to file complaints:

- N/A.

## 22. KENYA

Legal age of majority: 18

Regulator definition of children: 18

### 22.1 Statutes and codes regulating advertising/marketing:

- Statutes: No statutes specifically regulates advertising/marketing, however various consumer protection legislation exists:
  - (i) The Alcoholic Drinks Act prohibits the promotion of alcoholic drinks and is administered by the National Authority for the Campaign Against Alcohol and Drug Abuse (“**NACADA**”).
  - (ii) The Tobacco Control Act, administered by the Tobacco control board, prohibits the promotion of tobacco products.
- Codes: The Code of Advertising Practice (“**the Advertising Code**”) is a self-regulatory code and is binding on advertisers who subscribe to the authority of the Advertising Standard Board (“**ASB**”). A self-regulatory code also exists governing the advertisement of alcoholic beverages.

### 22.2 Regulator’s position with regards to advertising/marketing to children:

- The legislation does not have specific provisions relating to advertising/marketing to children.
- The self-regulatory codes do address advertising/marketing to children and state that advertisements must not exploit children’s’ credulity or contain content which may physically, mentally or morally harm.

### 22.3 Restrictions on advertising/marketing products that are harmful to children:

- Alcohol: The Alcoholic Drinks Control Act contains the restrictions that apply in relation to the advertising/marketing of alcoholic beverages.
- Tobacco: Strict restrictions exist in relation to advertising/marketing of tobacco outlined in the Tobacco Control Act.
- HFSS: No restrictions exist in relation to advertising/marketing of high fat/salt/sugar (“**HFSS**”) products.
- Pharmaceuticals: The advertisement of pharmaceuticals is strictly prohibited without authorisation from the Pharmacy and Poisons Board but no specific provisions relating to children exist.
- The Advertising Code also contains provisions regarding the restrictions on advertising/marketing of alcohol, tobacco and pharmaceuticals.

### 22.4 Timing/placement of advertising in publications aimed at children:

- Tobacco related advertisements are prohibited from appearing on TV, radio and social media platforms.
- Alcohol related advertisements may only appear after 20:30 pm on TV and not before 13:00 pm on radio.

### 22.5 Advertising/marketing in places children frequently visit e.g. schools:

- No tobacco products may be advertised in the vicinity of primary of secondary schools.
- No license for the sale of alcoholic beverages is to be granted in institutions of basic education or residential areas.





## 22.6 Restrictions on using advertising/marketing techniques to appeal to children:

- The use of fictional characters or cartoons in advertising will be seen as an endorsement of a product and is not permitted.

## 22.7 Use of children in advertising/marketing:

- No restrictions on the use of children as brand ambassadors.
- Partial restrictions exist with regards to the use of children in advertisements.

## 22.8 Product labelling relevant to children:

- All products (e.g. toys) manufactured in Kenya must carry the Kenya Bureau of Standards (“**KEBS**”) mark.
- The non-mandatory IS Mark is a mark of quality awarded by KEBS to imported products.
- Various labelling requirements exist for products including tobacco, alcohol, pharmaceuticals and food.

## 22.9 Administrative bodies overseeing compliance of regulations:

- The Advertising Standards Body for Kenya (“**ASBK**”) enforces compliance of the Advertising Code.
- The National Beverage Association of Kenya (“**NBAK**”) oversees compliance of advertising in relation to alcohol.
- The Pharmacy and Poisons Board (“**PPB**”) oversees compliance of advertising in relation to pharmaceuticals.
- Authorised offices, appointed by ministers oversee the compliance of the Tobacco Control Act.

## 22.10

### (a) Do advertisements require clearance before publication:

- Pharmaceutical advertisements must be cleared by the Pharmacy and Poisons Board.
- Broadcasters have a responsibility to ensure that advertisements fulfil the relevant requirements.

### (b) Sanctions for breaches of codes or regulations:

- Sanctions imposed by the ASBK include: withdrawal of advertisement, adverse publicity, withhold advertising space and disciplinary hearings.

### (c) Mechanisms for children and their representatives to file complaints:

- Children and their representatives can file complaints before the relevant authorities.

## 23. MYANMAR

**Legal age of majority: 18**

**Regulator definition of children: Various<sup>14</sup>**

### 23.1 Statutes and codes regulating advertising/marketing:

- Statutes: no laws specifically governing marketing and/or advertising, the Consumer Protection Law 2014 establishes a number of prohibitions related to advertising.
- There are no codes or voluntary initiatives regulating advertising/marketing.

### 23.2 Regulator's position with regards to advertising/marketing to children:

- No laws specifically governing marketing/advertising with regards to children.

### 23.3 Restrictions on advertising/marketing products that are harmful to children:

- The Control of Smoking and Consumption of Tobacco Products Law 2007 prohibits tobacco advertisement and prohibits sale of tobacco products to and by children under the age of 18.
- There are no restrictions in relation to alcohol, drugs, or HFFS products.

### 23.4 Timing/placement of advertising in publications aimed at children:

- No legislation exists in relation to advertising in publications aimed at children.
- The Law on Broadcasting 2015 establishes a number of obligations for broadcasting programs aimed at young children which protects children's rights.

### 23.5 Advertising/marketing in places children frequently visit e.g. schools:

- There are no restrictions in advertising in schools, children's clubs or other places children regularly visit.

### 23.6 Restrictions on using advertising/marketing techniques to appeal to children:

- No specific legislation regarding the use of advertising/marketing techniques to appeal to children.

### 23.7 Use of children in advertising/marketing:

- No specific legislation regarding the use of children in advertising/marketing.

### 23.8 Product labelling relevant to children:

- There are a number of restrictions with regards to labelling of children's products in notification No. 22/2014 of the Myanmar Food and Drugs Administration.
- In addition, specific information must be provided on the label of children's food detailing the contents.

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<sup>14</sup> No regular definition of a child. According to the Child Law 1993, "Child" means a person who has not attained the age of 16 years and "Youth" means a person who is between 16 and 18 years of age. Pursuant to the Majority Act, majority is reached at the age of 18 years.



### **23.9 Administrative bodies overseeing compliance of regulations:**

- The Ministry of Information oversees marketing, advertising, and broadcasting in Myanmar.

### **23.10**

#### **(a) Do advertisements require clearance before publication:**

- According to the Advertisement Policy of Socially Responsible Media 2015, advertisements must be pre-cleared before publication or broadcast.

#### **(b) Sanctions for breaches of codes or regulations:**

- Sanctions issued include fines of up to 5 million MMK and/or imprisonment for up to 3 years.

#### **(c) Mechanisms for children and their representatives to file complaints:**

- Complaints should be submitted to the Broadcasting Council or the court.

## 24. NETHERLANDS

**Legal age of majority: 18**

**Regulator definition of children: N/A**

### 24.1 Statutes and codes regulating advertising/marketing:

- The Dutch Civil Code contains general rules on misleading advertising, comparative advertising and unfair commercial practices.
- The Dutch Advertising Code is a self-regulatory code and sets out the main advertising rules – eg. Advertising should not be misleading and should be decent. There are also various industry specific codes.

### 24.2 Regulator's position with regards to advertising/marketing to children:

- There are no specific rules in the Civil Code relating to Children. However, the Children and Youth Advertising Code (part of the Dutch Advertising Code) provides additional protection for those under the age of 12.

### 24.3 Restrictions on advertising/marketing products that are harmful to children:

- Tobacco advertising is prohibited.
- Alcohol can only be advertised to those over 18.
- Public advertisements for medicine may not be addressed to children under 12.
- Advertising for food addressed to children under 12 is prohibited, although there are limited exceptions.

### 24.4 Timing/placement of advertising in publications aimed at children:

- No current provisions other than as above.

### 24.5 Advertising/marketing in places children frequently visit e.g. schools:

- Advertisements for food (including sampling) is prohibited in primary schools and kindergartens (with the exception of educational advertisements approved by the authorities). In secondary schools, it is prohibited to organise promotional campaigns that show or encourage excessive consumption of the food advertised and only regular sized packages may be sold.

### 24.6 Restrictions on using advertising/marketing techniques to appeal to children:

- Alcohol advertising may not contain teenage idols, teenage language, or promotional items appealing to teenagers.
- Children's idols must not be used in advertisements addressed to children under 12.

### 24.7 Use of children in advertising/marketing:

- Alcohol advertisements, and advertisements for other products where scripts/models are used, may not show minors that are, or that look younger than, 18.



## 24.8 Product labelling relevant to children:

- No current regulations.

## 24.9 Administrative bodies overseeing compliance of regulations:

- The Civil courts enforce the civil code. The Authority Consumers and Markets also oversees matters relating to unfair commercial practices.
- The Advertising Code Committee ensures compliance with the Dutch Advertising Code. The Authority Consumers and Markets can act in the event of repeat violations.
- There is no specific mandate to focus on children's issues.

## 24.10

### (a) Do advertisements require clearance before publication:

- No – other than television advertisements for alcohol.

### (b) Sanctions for breaches of codes or regulations:

- Under the Civil Code, advertisers can be subject to prohibitions, penalties, orders for rectification, etc. The Authority Consumers and Markets can impose fines of up to €920,000.
- In respect of breaches of the Dutch Advertising Code, the Advertising Code Committee can issue recommendations not to advertise in a similar way in future. After a final negative decision, advertisers need to confirm they will comply – failure to do so will result in their being placed on a black list.

### (c) Mechanisms for children and their representatives to file complaints:

- Anyone can file a complaint with the Advertising Code Committee.

## 25. PAKISTAN

Legal age of majority: 18

Regulator definition of children: N/A

### 25.1 Statutes and codes regulating advertising/marketing:

- Pakistan's laws are generally divided between federal and provincial laws. Federal legislation regulating advertising and marketing include: The Pakistan Electronic Media Regulations Authority (“**PEMRA**”) Ordinance, which regulates electronic media in Pakistan; the Indecent Advertisement Prohibition Act 1963; and the Pakistan Penal Code. These are supported by Federal consumer protection laws.
- In terms of codes, the Pakistan Electronic Media Regulatory Rules provide that the contents of programmes and advertisements must conform with the Electronic Media Code of Conduct and the Pakistan Media (Programmes and Advertisements) Code of Conduct (“**PEMRA Code**”).
- Outside of the statutory framework, the Pakistan Advertisers' Society (“**PAS**”), a self-regulated, non-statutory body, has also established a Code of Advertising Practice for its members (“**PAS Code**”).

### 25.2 Regulator's position with regards to advertising/marketing to children:

- The PEMRA Code provides specific provisions relating to advertisements intended for children. In particular, such adverts must not be presented in a way which may be disturbing or distressing for children, be frightening or contain violence, or be deceptive or misleading or against commonly accepted social values.
- Under the Pakistan Penal Code, it is illegal to sell, let to hire, distribute, exhibit or circulate any obscene object to a person under the age of 20. The code contains a list of objects that are viewed as obscene.
- The PAS Code states adverts should not show or encourage unsafe practices, unless in the context of promoting safety.

### 25.3 Restrictions on advertising/marketing products that are harmful to children:

- Advertisements for alcohol, tobacco or illegal drugs or narcotics are prohibited in electronic media. Adverts for tobacco or tobacco products are also prohibited in print.
- Health related advertisements must not be aired without prior permission of the Federal or Provincial government. Further, only “household remedies” such as aspirin, paracetamol, antiseptics and analgesics may be authorised to be advertised.
- There are currently no restrictions in relation to HFSS products.

### 25.4 Timing/placement of advertising in publications aimed at children:

- No current restrictions.

### 25.5 Advertising/marketing in places children frequently visit e.g. schools:

- No current restrictions.

### 25.6 Restrictions on using advertising/marketing techniques to appeal to children:

- No current restrictions.



### 25.7 Use of children in advertising/marketing:

- Adverts should not show or encourage unsafe practices unless in the context of promoting safety. Otherwise there are no restrictions.

### 25.8 Product labelling relevant to children:

- The Province of Punjab has implemented the Punjab Food Authority Act 2011, which regulates the safety and standards of food to protect public health. Advertisements and food packaging and labelling must not falsely describe food products.
- Health warnings must be printed on packets of cigarettes.

### 25.9 Administrative bodies overseeing compliance of regulations:

- The PEMRA and PAS each oversee compliance with their respective codes. Various governmental bodies oversee the other statutes governing advertising regulations in Pakistan. None of these have a specific mandate to focus on children's issues.

## 25.10

### (a) Do advertisements require clearance before publication:

- No, other than those which relate to health, which must be cleared by the Federal or Provincial Government.

### (b) Sanctions for breaches of codes or regulations:

- Councils of Complaints have the power to summon any licensee against whom a complaint has been made to call for an explanation. They may recommend appropriate action to the Authority – either a fine or a censure. The Authority may also revoke or suspend the licence of a broadcast media or distribution service if the licensee has contravened provision of the PEMRA Ordinance or PEMRA Code.
- Complaints received by PAS were handled via a Code of Advertising Practice Standing Committee which may either reject the complaint or make recommendations to the PAS Council for further action. Continued breaches may result in a suspension from PAS.

### (c) Mechanisms for children and their representatives to file complaints:

- Councils of Complaints deal with any complaints made by any member of the general public in relation to breaches of the PEMRA Code. Under the PAS Code, only members of PAS may make a complaint against another member.

## 26. POLAND

Legal age of majority: 18

Regulator definition of children: N/A

### 26.1 Statutes and codes regulating advertising/marketing:

- There are a number of statutes that regulate marketing and advertising in Poland which aim to: (i) protect the rights of consumers; (ii) regulate various distribution platforms such as broadcasting; and (iii) regulate specific products that are seen as harmful such as alcohol, tobacco and pharmaceuticals.
- Poland also follows the ICC Code of Advertising and Marketing Communication Practice.
- A number of voluntary initiatives also exist, such as the Polish Consumer Federation (which protects consumer rights), the Association of Polish Consumers (which aims to develop consumers' awareness of their various legal rights) and the Advertising Council (which has established its own Code of Ethics in Advertising).

### 26.2 Regulator's position with regards to advertising/marketing to children:

- The Act on Broadcasting and the Act on Combatting Unfair Commercial Practices both contain some restrictions concerning children which are aimed at protecting them from Advertising. Apart from these provisions, there are no statutory restrictions addressing marketing and advertising to particular age groups of children.

### 26.3 Restrictions on advertising/marketing products that are harmful to children:

- Tobacco products may not be advertised, and tobacco companies are prohibited from sponsoring sporting, cultural and community activities as well as healthcare and education.
- Advertising for alcoholic products is also prohibited (with the exception of beer, which is permitted with some restrictions but is not permitted in media aimed at young people and children, or with the participation of minors).
- Advertising for medicinal products cannot be directed at children or contain any element directed at them. More generally, it is forbidden to advertise products which: (i) are available on prescription only; (ii) contain psychotropic or narcotic substances; or (iii) can be dispensed over the counter. Any advertising of other products cannot be misleading and should present the product objectively.
- TV programmes for children must not be accompanied by commercial communications for foods or beverages containing ingredients, the excessive intake of which in the everyday diet is not recommended.

### 26.4 Timing/placement of advertising in publications aimed at children:

- Children's programmes cannot: (i) be interrupted by advertising or teleshopping; (ii) be accompanied by commercial communications for foods or beverages containing ingredients for which excessive intake is not recommended; or (iii) contain product placement. In addition, adverts promoting beer can only be shown between 8pm and 6am (with the exception of sporting events).

### 26.5 Advertising/marketing in places children frequently visit e.g. schools:

- Tobacco products, tobacco accessories (or imitations thereof) and symbols related to tobacco cannot be advertised or promoted in schools, educational establishments, sporting and recreational facilities and other public places.





## 26.6 Restrictions on using advertising/marketing techniques to appeal to children:

- No specific regulations.

## 26.7 Use of children in advertising/marketing:

- No specific regulations.
- Product labelling relevant to children:

**26.8** The packaging of tobacco products must contain certain warnings e.g. about the harmful effects of smoking tobacco. Beer advertisements on billboards or posters must also contain information about the harmful effect of alcohol consumption.

**26.9** Toys must be accompanied by instructions and safety information in a language or languages easily understood by consumers. Toys which may be dangerous for children under 36 months must carry an appropriate warning. Labels on toys must also indicate the minimum or maximum age of the user and where appropriate, the abilities of the user and their maximum or minimum weight.

## 26.10 Administrative bodies overseeing compliance of regulations:

- The Office of Competition and Consumer Protection (UOKiK), is the central government administration body responsible for implementing consumer protection policies and acting in the public interest, initiates administrative proceedings concerning infringements of collective consumer interests.
- The National Broadcasting Council is the supreme state body charged with broadcasting matters.
- The Ombudsman for children has a remit to focus on marketing and advertising.

## 26.11

### (a) Do advertisements require clearance before publication:

- Yes.

### (b) Sanctions for breaches of codes or regulations:

- Criminal and financial sanctions.

### (c) Mechanisms for children and their representatives to file complaints:

- Children's representatives can file actions with courts or administrative authorities.

## 27. QATAR

**Legal age of majority: 18**

**Regulator definition of children: N/A**

### 27.1 Statutes and codes regulating advertising/marketing:

- Qatar Law No. 1/2012 governs the process for obtaining advertisement licences.
- Press and Publication Law No. (8) of 1979 is the legislation which regulates advertisements in newspapers, magazines and other items in print.
- Radio and Television Law No. (18) of 2009 regulates adverts broadcast on radio and television.

### 27.2 Regulator's position with regards to advertising/marketing to children:

- None found.

### 27.3 Restrictions on advertising/marketing products that are harmful to children:

- None found.

### 27.4 Timing/placement of advertising in publications aimed at children:

- This is a discretionary issue for the Ministry of Culture.

### 27.5 Advertising/marketing in places children frequently visit e.g. schools:

- This is a discretionary issue for the Ministry of Culture.

### 27.6 Restrictions on using advertising/marketing techniques to appeal to children:

- None found.

### 27.7 Use of children in advertising/marketing:

- According to Qatari labour law, children are prohibited from working unless consent from parents is obtained and/or special approval from the Department of Labour.
- If the child is a Qatari national, they must also get approval from Minister of Education in Qatar.

### 27.8 Product labelling relevant to children:

- None found



### **27.9 Administrative bodies overseeing compliance of regulations:**

- Qatar Media Corporation
- Ministry of Culture

### **27.10**

#### **(a) Do advertisements require clearance before publication:**

- In order to print any newspaper individuals must obtain a license in advance.
- In order to be able to advertise on the streets, under the Organising and Controlling the instrument No. (I) of 2012 individuals must get approval from the Ministry of Municipality and Environment.

#### **(b) Sanctions for breaches of codes or regulations:**

- Depending on the breach, different sanctions, including fines and imprisonment, may be applied.

#### **(c) Mechanisms for children and their representatives to file complaints:**

- Complaints should be referred to the Qatar Media Corporation and/or Ministry of Culture.

## 28. RUSSIA

**Legal age of majority: 18**

**Regulator definition of children: 18**

### 28.1 Statutes and codes regulating advertising/marketing:

- Law No.38-FZ “On Advertisement” (the “**Advertising Law**”) is applicable to the advertisements wherever they are displayed in the Russia Federation.
- Certain specific rules also exist for marketing and advertising to children under Law No. 436-FZ “On Protection of Children From Information Causing Harm to Their Health and Development” (the “**Child Protection Law**”).

### 28.2 Regulator’s position with regards to advertising/marketing to children:

- The Advertising Law imposes certain content prohibitions, such as undermining children’s confidence in parents or teachers, making children feel inferior if they do not possess the goods advertised, etc.
- The Child Protection Law requires use of a symbol indicating the suitability of the age of children to be exposed to an information product.

### 28.3 Restrictions on advertising/marketing products that are harmful to children:

- Tobacco products cannot be sold to anyone under 18 and there are restrictions on the labelling, display and marketing of such products.
- Advertising for certain other types of goods and services such as alcohol, weapons, gambling and betting, drugs and pharmaceuticals cannot be targeted at minors.

### 28.4 Timing/placement of advertising in publications aimed at children:

- There is a limit of 2-6 minutes of advertising per programme on children’s television and radio, and the adverts must not be repeated more than twice. Adverts are prohibited entirely in programmes that are shorter than 15 minutes.

### 28.5 Advertising/marketing in places children frequently visit e.g. schools:

- Advertising or marketing of harmful products is not allowed within 100 metres of schools or other places children regularly visit. It is also prohibited to advertise on school educational materials and stationary.

### 28.6 Restrictions on using advertising/marketing techniques to appeal to children:

- Although not specific to children, live or animated characters cannot be used to advertise alcohol products, weapons or gambling. Images of health care workers are also not permitted.



### **28.7 Use of children in advertising/marketing:**

- It is prohibited to use images of children (or any person, live or animated) in the advertising of alcohol, weapons, or gambling and betting. Using children in advertisements for other products which cannot be marketed to children may, in some circumstances, be considered as an attempt to indirectly market towards children.

### **28.8 Product labelling relevant to children:**

- Children orientated products must meet sanitary-epidemiological standards.

### **28.9 Administrative bodies overseeing compliance of regulations:**

- The Federal Antimonopoly Service (and its local divisions) is primarily responsible for enforcing advertising laws. It does not have a specific mandate to focus on children's issues.

### **28.10**

#### **(a) Do advertisements require clearance before publication:**

- No.

#### **(b) Sanctions for breaches of codes or regulations:**

- Sanctions vary, but as a general rule, administrative fines of up to RUB 500 000 can be imposed.

#### **(c) Mechanisms for children and their representatives to file complaints:**

- Children's representatives or other interested persons can file complaints with FAS Russia.

## 29. SAUDI ARABIA

Please note that the report for Saudi Arabia has been drafted from our own research based on materials available online. At the date of publication local Saudi Arabian counsel have not yet reviewed the relevant content of the report. It is included for the sake of completeness, but should not be relied upon to give a definitive position of the local laws and regulations in Saudi Arabia.

**Legal age of majority: N/A**

**Regulator definition of children: N/A**

### 29.1 Statutes and codes regulating advertising/marketing:

- Basic Law, adopted by Royal decree of King Fahd in March 1992.
- Press and Publications Act 2003 adopted by Saudi Arabia Cabinet Decision No. 211/421.
- Rules regulating advertising boards approved by Saudi Arabia Cabinet Decision No. 177/1410 issued on 29/5/1990.
- Rules regulating advertisement of price reductions of goods in commercial stores approved by Saudi Arabia Ministerial Decision No. 757/3/49/33/1405.
- Law on Practice of Health Professions approved by Saudi Arabia Cabinet Decision No. 276/1426 issued on 20/04/2005.
- Regulations on Web publishing (Feb 2011).
- Guide on licensing of medical devices & products advertisements issued by the Saudi Food and Drug Authority.

### 29.2 Regulator's position with regards to advertising/marketing to children:

- No information found.

### 29.3 Restrictions on advertising/marketing products that are harmful to children:

- Advertisement of tobacco in newspapers and magazines are prohibited. Advertisement of tobacco products at the point of sale is prohibited.
- Alcohol advertisements are completely illegal.
- There are significant limits on the advertisement of drugs/pharmaceuticals. All such advertisements have to be approved by the Saudi Food and Drug Authority.
- HFSS product advertisements are not restricted.

### 29.4 Timing/placement of advertising in publications aimed at children:

- None found.

### 29.5 Advertising/marketing in places children frequently visit e.g. schools:

- None found.

### **29.6 Restrictions on using advertising/marketing techniques to appeal to children:**

- None found.

### **29.7 Use of children in advertising/marketing:**

- No information found.

### **29.8 Product labelling relevant to children:**

- None found.

### **29.9 Administrative bodies overseeing compliance of regulations:**

- Ministry of Culture and Information<sup>15</sup> – parent government body overseeing compliance.
- General Authority for Audio and Visual Media – government body overseeing compliance for all audio-visual content.
- Saudi Food and Drug Authority (SFDA) – government body overseeing compliance for all drugs/pharmaceuticals/cosmetics advertisements.

### **29.10**

#### **(a) Do advertisements require clearance before publication:**

- All publications and advertisements in films, tapes (or their like) need prior approval by the Ministry of Information.
- All drugs and pharmaceutical advertisements need to be approved by the Saudi Food and Drug Authority.

#### **(b) Sanctions for breaches of codes or regulations:**

- Violation of the Press Act can result in lifetime professional bans and fines of up to 5,000 riyals (10,000 riyals in the case of a double violation).
- A violation of the web publishing regulations results in the licensee (or the person who the licensee designates) being subject to fines up to 100,000 riyales, obligatory publishing of corrections, compensation for infringement against private rights and total blocking.

#### **(c) Mechanisms for children and their representatives to file complaints:**

- No special mechanisms exists for children.

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<sup>15</sup> A 2005 royal decree transferred jurisdiction over the media from the court system to the Ministry of Culture and Information, which is authorized to shut down any outlet that it finds to have violated the press law.

## 30. SPAIN

**Legal age of majority: 18**

**Regulator definition of children: Various ages**

### 30.1 Statutes and codes regulating advertising/marketing:

- Statutes: The General Advertising Act (“**GAA**”) and the Unfair Competition Act (“**UCA**”) regulates advertising/marketing. Specific legislation also exists in relation to certain products e.g. tobacco.
- Codes: Self-regulatory codes exist for advertising/marketing in general and also for specific industries.

### 30.2 Regulator’s position with regards to advertising/marketing to children:

- Self-regulatory codes including the Advertising Code of Food and Beverages Addressed to Children and the Toys Advertising Code address advertising to children of varying ages.
- Each code categorises children differently with regards to age.

### 30.3 Restrictions on advertising/marketing products that are harmful to children:

- Outright ban on advertising/marketing tobacco and alcohol above 20% ABV with restrictions on the advertising of alcohol under 20% ABV.
- Prescription medicines cannot be advertised to general public and restrictions exist in relation to advertising/marketing non-prescription medicines to the general public.
- The Advertising Code of Food and Beverages Addressed to Children contains specific provisions in relation to the advertising of high fat/sugar/salt (“**HFSS**”) products to children.

### 30.4 Timing/placement of advertising in publications aimed at children:

- The GAA states advertisements addressed to children must not exploit their credulity or inexperience.
- The Spirits Advertising Code states that alcohol advertisements cannot be broadcast on TV, radio, cinema during, immediately before and immediately after children’s programmes.
- Online advertisements are regulated by the same GAA principles.

### 30.5 Advertising/marketing in places children frequently visit e.g. schools:

- The GAA prohibits advertising products in areas in which they are forbidden.
- Regional regulations also exist in relation to the advertising/marketing of alcohol.

### 30.6 Restrictions on using advertising/marketing techniques to appeal to children:

- Under the GAA, special consideration must be taken in relation to the advertising of toys to children.
- The Toy Advertising Code states that advertisements of toys must not exploit children’s trust.
- The Advertising Code of Food and Beverages Addressed to Children contains the restriction on the use of fictional characters in advertising to children.



### **30.7 Use of children in advertising/marketing:**

- The GAA prohibits the use of advertisements containing children in dangerous situations.
- The Spirits Advertising Code prohibits the inclusion of under 25s in alcoholic drinks advertisements.

### **30.8 Product labelling relevant to children:**

- Toys must comply with all the relevant legislative safety regulations.
- Toys must carry a CE mark to demonstrate the product meets all the relevant requirements.

### **30.9 Administrative bodies overseeing compliance of regulations:**

- The regulatory body, Autocontrol, ensures the compliance of advertising codes.

### **30.10**

#### **(a) Do advertisements require clearance before publication:**

- Advertisers can opt to seek pre-launching advice with Autocontrol to ensure legality of an advertisement.

#### **(b) Sanctions for breaches of codes or regulations:**

- Sanctions include: removal of advertisement and fines of up to 600,000 Euros depending on severity.

#### **(c) Mechanisms for children and their representatives to file complaints:**

- Children and their representatives can file complaints before Autocontrol or other relevant authorities.

## 31. SWEDEN

**Legal age of majority:** 18

**Regulator definition of children:** Various ages

### 31.1 Statutes and codes regulating advertising/marketing:

- Statutes: The Marketing Act regulates advertising/marketing via legislation and statutes along with consumer protection legislation.
- Codes: The ICC Code is considered examples of accepted marketing practice under the Marketing Act. The Swedish Consumer Agency provides guidance on advertising/marketing directed at children.

### 31.2 Regulator's position with regards to advertising/marketing to children:

- No specific legislation regarding advertising/marketing to children in the Marketing Act.
- The ICC Code contains rules concerning advertising/marketing to children.
- ICC Code recommends the use of local definitions to define 'children'. ICC Code refers to 'children' as under 12, the Parental Code as under 18. With respect to direct advertising aimed at children, the Swedish Market Court interprets children as under 16.

### 31.3 Restrictions on advertising/marketing products that are harmful to children:

- Partial restriction on advertisement of tobacco.
- Alcohol advertisements must not be directed at or feature people who appear under the age of 25.
- Pharmaceutical advertisements must provide certain information and cannot be targeted at children.
- No specific regulation regarding products high in fat, sugar/salt ("HFSS").

### 31.4 Timing/placement of advertising in publications aimed at children:

- ICC Code states marketing should not contain content that could harm children mentally, morally or physically.
- Children's advertisements should not be placed in publications in which they are not the target audience.
- Radio/TV advertisements during programmes directed at children under 12 is forbidden.
- No outright ban on advertising/marketing to children online exists.

### 31.5 Advertising/marketing in places children frequently visit e.g. schools:

- No legislation exists with regards to the use of advertising/marketing in places children frequently visit.

### 31.6 Restrictions on using advertising/marketing techniques to appeal to children:

- ICC Code states advertisements must not exploit children's credulity.



### 31.7 Use of children in advertising/marketing:

- Advertising is prohibited if it impairs a child's ability to distinguish between reality and fantasy.

### 31.8 Product labelling relevant to children:

- The Toy Safety Act sets out the requirements that toys must adhere to, such as the requirement of a CE mark, to demonstrate that a product meets all the relevant requirements.

### 31.9 Administrative bodies overseeing compliance of regulations:

- The Swedish Broadcasting Authority (“**SBA**”) monitors radio, TV and on-demand, and the Swedish Broadcasting Commission (“**SBC**”), a separate body within the SBA, ensures compliance of regulations.
- The Swedish Consumer Agency (“**SCA**”) oversees compliance of the Marketing Act.
- The Advertising Ombudsman assesses whether an advertisement adheres to the ICC Code.
- No specific mandate exists to monitor advertising/marketing issues surrounding children.

### 31.10

#### (a) Do advertisements require clearance before publication:

- No requirements exist regarding the pre-clearance of advertisements.

#### (b) Sanctions for breaches of codes or regulations:

- Sanctions include: injunctions, fines, liable for damages, removal/amendment to advertisement.

#### (c) Mechanisms for children and their representatives to file complaints:

- Individuals can file complaints to the Advertising Ombudsman or Consumer Agency against advertisements that breach the ICC Code or the Marketing Act.

## 32. SWITZERLAND

Legal age of majority: 18

Regulator definition of children: Various<sup>16</sup>

### 32.1 Statutes and codes regulating advertising/marketing:

- Unfair Competition Act 1986 (“**UC Act**”), Radio and Television Act 2006 (“**RTV Act**”), Radio and Television Ordinance 2007 (“**RTV Ordinance**”), Foodstuffs and Consumer Products Act 1992 (“**FCP Act**”), Foodstuffs and Consumer Products Ordinance 2005 (“**FCP Ordinance**”), Labelling and Advertising of Foodstuffs Ordinance 2005 (“**LAF Ordinance**”), Tobacco Products Ordinance 2004 (“**TP Ordinance**”), Alcohol Act 1932, Alcoholic Beverages Ordinance 2013 (“**AB Ordinance**”), Therapeutics Products Act 2000 (“**TP Act**”) and Advertising of Drugs Ordinance 2001 (“**AD Ordinance**”).
- Consolidated ICC Advertising and Marketing Communication Practice Code (“**AMC Code**”).
- Voluntary initiatives: Swiss Pledge Charter (“**SP Charter**”), Swiss Cigarette Agreement (“**SC Agreement**”) and the Actionsante Initiative.

### 32.2 Regulator’s position with regards to advertising/marketing to children:

- The FCP and TP Ordinances impose different levels of prohibition on advertising of alcohol and tobacco products according to the target age group.
- The RTV Act and RTV Ordinance aim to protect children from exposure to harmful program material, which may also include advertising material.

### 32.3 Restrictions on advertising/marketing products that are harmful to children:

- Tobacco advertising is banned on television and radio broadcasts, whilst advertising that suggests tobacco products have any health benefits is banned in all mediums.
- Advertisements in relation to alcohol products are prohibited from (i) certain mediums (television and radio broadcasts), (ii) public transport, (iii) buildings for public use, and (iv) sporting events.
- Advertisements for certain therapeutic goods are banned on television and radio broadcasts. Advertising of prescription-only medicinal products is permitted provided that the advertising is directed exclusively at those individuals who prescribe or dispense such products.

### 32.4 Timing/placement of advertising in publications aimed at children:

- The TP Ordinance and FCP Ordinance prohibit advertisements relating to tobacco products and alcoholic beverages respectively being placed in print media which is principally directed at children.
- Children’s television and radio programmes may not be interrupted by any advertising. Advertisements relating to alcoholic beverages may not be broadcast immediately before during or after television and radio programmes principally directed towards children.
- Product placement and sponsorship exposure is prohibited during children’s television programmes.

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<sup>16</sup> No regulator definition of a child, but statutory restrictions are usually applicable in relation to “children”, “minors”, “adolescents” or “young people”.

### 32.5 Advertising/marketing in places children frequently visit e.g. schools:

- Under the TP Ordinance, tobacco products cannot be advertised (i) in places frequented principally by young people (i.e. schools), (ii) during cultural, sporting and other events visited principally by young people, and (iii) on school materials, toys, advertising materials distributed to children (e.g. t-shirts, caps, flags etc.). With regard to point (iii), a similar prohibition exists in relation to alcoholic beverages under the FCP Ordinance.
- Under the Federal Act on Alcohol, advertising of distilled beverages is prohibited during events (i) in which predominantly children or adolescents participate, and (ii) which are organised principally for such individuals. A similar prohibition exists in relation to alcoholic beverages under the Ordinance on Foodstuffs and Consumer Products.

### 32.6 Restrictions on using advertising/marketing techniques to appeal to children:

- No such restrictions exist.

### 32.7 Use of children in advertising/marketing:

- As a general rule, Swiss labour laws prohibit the employment of young people under the age of 15. There is an exception to this law permitting the employment of young people for advertising, provided that such employment must not be harmful to a child's health, safety, physical and psychological development, school attendance and academic performance.

### 32.8 Product labelling relevant to children:

- The Products Safety Act 2009 and the LAF Ordinance regulate the labelling of food and product safety and in particular the labelling and safety of various children's products.

### 32.9 Administrative bodies overseeing compliance of regulations:

- In the context of television and radio broadcasting, the Federal Office of Communications is the competent authority which oversees compliance with the RTV Act and RTV Ordinance.
- In the context of drugs, the Swiss Institute for Therapeutic Products is the competent authority which oversees compliance with TP Act and TP Ordinance.
- The State Secretariat for Economic Affairs is the competent authority which oversees compliance with the UC Act.

### 32.10

#### (a) Do advertisements require clearance before publication:

- Some advertising (e.g. for pharmaceutical products) does need to receive clearance before publication or broadcast, however this is not specific to advertising aimed at children.

#### (b) Sanctions for breaches of codes or regulations:

- If an advertisement does not comply with the applicable federal statute, the statute usually provides that fines (criminal sanctions) or financial sanctions (administrative sanctions) may be imposed.

#### (c) Mechanisms for children and their representatives to file complaints:

- A member of the public can bring court proceedings (by way of a judicial review action) before a court or competent administrative body (if any).

## 33. THAILAND

**Legal age of majority:** 18

**Regulator definition of children:** Under 18<sup>17</sup>

### 33.1 Statutes and codes regulating advertising/marketing:

- Consumer Protection Act 1979 (“**CP Act**”), Food Act 1979 (“**Food Act**”), Tobacco Products Control Act 1992 (“**TPC Act**”), Child Protection Act 2003 (“**CP Act**”), Broadcasting and Television Business Act 2008 (“**BTB Act**”), Alcohol Beverage Control Act 2008 (“**ABC Act**”) and Drug Act 1967 (“**Drug Act**”).
- There are no codes that specifically regulate marketing and/or advertising.
- Voluntary initiatives: The main broadcasters cooperate to consider and verify the appropriateness of any advertisement prior to it being broadcast.

### 33.2 Regulator’s position with regards to advertising/marketing to children:

- There is no specific definition of a child in the context of advertising. According to the notification of the product labelling committee of the Consumer Protection Board, child means a person under 14 years of age.
- The Notification of NBTC provides for age-appropriate ratings which are applicable to broadcasting content.

### 33.3 Restrictions on advertising/marketing products that are harmful to children:

- Tobacco advertising is banned on television and radio broadcasts and printed media (unless such advertising has been transmitted from outside of Thailand where Thailand is not the target market).
- Any alcohol advertising that induces a person to drink is prohibited (unless such advertising has been transmitted from outside of Thailand where Thailand is not the target market).
- Advertisement for therapeutic goods must not exaggerate or overstate their therapeutic properties.
- There are additional advertising restrictions on certain foodstuffs (such as formula milk).

### 33.4 Timing/placement of advertising in publications aimed at children:

- Advertisement of tobacco in any form is banned.
- Advertisement of food or beverages containing alcohol is only permitted through radio and television broadcasts between 10pm – 5am.
- There are certain permissions required in relation to the text, sounds or pictures used in order to advertise therapeutic drugs.
- Any broadcast advertisement deemed to be unsuitable for children under 13 years of age may only be shown between 8pm and 5am.
- Any broadcast deemed to be unsuitable for children under 18 years of age may only be shown between 10pm and 5am.

### 33.5 Advertising/marketing in places children frequently visit e.g. schools:

- No such restrictions.

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<sup>17</sup> Unless married.



### **33.6 Restrictions on using advertising/marketing techniques to appeal to children:**

- Under the MR of the CP Act, advertizing alcohol using cartoon character is restricted.

### **33.7 Use of children in advertising/marketing:**

- It is an offence to use, employ or ask a child to work or act in a way that may (i) be physically or mentally harmful to that child, (ii) affect the child's growth, or (iii) hinder the child's development.
- For the advertising of foodstuffs containing milk, jelly or gelatine which are suitable for children, any child who is featured in the advertisement must be over the age of 3.

### **33.8 Product labelling relevant to children:**

- The CP Act regulates the labelling of food and product safety and in particular the labelling and safety of various children's products (e.g. toys).

### **33.9 Administrative bodies overseeing compliance of regulations:**

- The Committee on Advertisement oversees compliance with the CP Act, the Food Commission oversees compliance with the Food Act, the Minister of the Ministry of Public Health oversees compliance with the TPC Act, and the Ministry of Social Development oversees compliance with the CP Act.

### **33.10**

#### **(a) Do advertisements require clearance before publication:**

- In general there is no pre-clearance requirement for advertisements.

#### **(b) Sanctions for breaches of codes or regulations:**

- The sanctions will depend on the offence committed under the relevant legislation. This will either be a fine, imprisonment or both.

#### **(c) Mechanisms for children and their representatives to file complaints:**

- A member of the public can complain to the relevant authority.

## 34. UNITED ARAB EMIRATES

Legal age of majority: 18

Regulator definition of children: N/A

### 34.1 Statutes and codes regulating advertising/marketing:

- Statutes: The UAE National Media Council (“**NMC**”) passed a resolution applying to all advertisements (“**the Advertising Standards**”) which determines the standards and controls of advertisement content. All print, audio and visual media institutions must abide by the Publications & Publishing law.
- Codes: No advertising/marketing code of conduct current exists.

### 34.2 Regulator’s position with regards to advertising/marketing to children:

- Advertising that may be ‘offensive’ to children is prohibited.
- The Advertising Standards does not include an age definition for children.

### 34.3 Restrictions on advertising/marketing products that are harmful to children:

- The Advertising Standards prohibits the advertising/marketing of alcohol, narcotic substances and tobacco products (likely to also include e-cigarettes).

### 34.4 Timing/placement of advertising in publications aimed at children:

- No legislation exists on the time/placement of advertising in publications aimed at children.
- Restrictions exist in relation to the publishing of prohibited “materials” which violate public discipline, insult teenagers or include phrases/pictures that are inconsistent with public conduct.

### 34.5 Advertising/marketing in places children frequently visit e.g. schools:

- Restrictions on the placement of advertisements in residential areas.
- The placement of advertisements on government buildings, which would include government schools, is prohibited.

### 34.6 Restrictions on using advertising/marketing techniques to appeal to children:

- No specific legislation regarding the use of advertising/marketing techniques to appeal to children.

### 34.7 Use of children in advertising/marketing:

- No specific legislation regarding the use of children in advertising/marketing.

### 34.8 Product labelling relevant to children:

- No restrictions with regards to labelling of children’s products.
- The Gulf Committee Council Standardization Organisation (“**GSO**”) has guidelines for pre-packaged food labelling.





### **34.9 Administrative bodies overseeing compliance of regulations:**

- The NMC oversees regulation for various forms of media, including print and broadcast advertising.
- The NMC's Media Content Management (“**MCM**”) is responsible for ensuring compliance with the applicable laws and covers all advertisement audiences with no specific mandate on children.

### **34.10**

#### **(a) Do advertisements require clearance before publication:**

- No advertisement can be shown in the cinema without prior approval from the film censorship committee.
- All specialised advertisements in relation to pharmaceuticals, food, promotional campaigns, educational institutions, securities and financial services, and real estate require approval from the relevant authorities before publication.
- All other advertisements are submitted to the NMC for approval.

#### **(b) Sanctions for breaches of codes or regulations:**

- Sanctions issued by the NMC include: advertisement withdrawal, issue of public apology, financial compensation, closure of the establishment and suspension of media license.

#### **(c) Mechanisms for children and their representatives to file complaints:**

- Complaints should be submitted directly to the NMC, however no specific mechanisms exist for children or their representatives to file complaints in relation to advertisements.

## 35. UNITED KINGDOM

**Legal age of majority: 18**

**Regulator definition of children: 16 & below**

### 35.1 Statutes and codes regulating advertising/marketing:

- Statutes: Consumer protection legislation.
- Codes: The Committee of Advertising Practice (“**CAP**”) and the Broadcast Committee of Advertising Practice (“**BCAP**”) self-regulatory codes for advertising.

### 35.2 Regulator’s position with regards to advertising/marketing to children:

- CAP and BCAP codes address advertising/marketing to children as a whole and of specific age groups.

### 35.3 Restrictions on advertising/marketing products that are harmful to children:

- Outright ban on tobacco.
- Restrictions on alcohol, pharmaceuticals and products that are high in fat/sugar/salt (“**HFSS**”) exist with varying age restrictions.

### 35.4 Timing/placement of advertising in publications aimed at children:

- Products advertised must be age appropriate and compliant with the CAP code.
- Strict regulations exist for placement of advertisements around programmes aimed at children of different age groups.
- Regulations extend to electronic media.

### 35.5 Advertising/marketing in places children frequently visit e.g. schools:

- Advertising must comply with the CAP code, be age appropriate reflecting the children’s abilities and add educational value.

### 35.6 Restrictions on using advertising/marketing techniques to appeal to children:

- Advertising must comply with the CAP code.
- The CAP code prohibit the use of licensed characters (e.g. Shrek, Scooby doo) for certain age groups.

### 35.7 Use of children in advertising/marketing:

- Subject to the relevant CAP code e.g. ensuring children’s credulity is not exploited, the use of children in advertising/marketing is permitted.



### 35.8 Product labelling relevant to children:

- Children's products must meet the Toys (Safety) Regulations 1995, which require toys to carry the CE mark demonstrating the product satisfies safety requirements.

### 35.9 Administrative bodies overseeing compliance of regulations:

- The Advertising Standards Authority (“**ASA**”) is the administrative body overseeing the compliance of advertising/marketing regulatory bodies.
- Trading Standards is the ASA's legal backstop for non-broadcast advertising.
- The Office of Communication (“**Ofcom**”) is the ASA's regulatory partner for broadcast adverts.

### 35.10

#### (a) Do advertisements require clearance before publication:

- Yes, the BCAP codes regulate TV and radio advertisements.

#### (b) Sanctions for breaches of codes or regulations:

- Sanctions include: advertisement withdrawal, refusal of advertisement placement, adverse publicity, withdrawal of trading privileges and legal proceedings.

#### (c) Mechanisms for children and their representatives to file complaints:

- The ASA's parent port is a mechanism for children and their representatives to file complaints.
- Any consumer can file a complaint with the ASA.

## 36. USA

**Legal age of majority: 18 in most states**

**Regulator definition of children: 12**

### 36.1 Statutes and codes regulating advertising/marketing:

- There are a number of federal and state laws that regulate advertising. At a federal level, these include the Federal Trade Commission Act, and the Lanham Act.
- The Federal Trade Commission (“**FTC**”) and Federal Communications Commission (“**FCC**”) have both adopted regulations relating to advertising. Various trade associations also have their own advertising related codes.

### 36.2 Regulator’s position with regards to advertising/marketing to children:

- The Children’s Advertising Review Unit (“**CARU**”) has a self-regulatory guide that contains general guidelines on children’s advertising, defining a child as a person under the age of 12.
- The Children’s Television Act imposes commercial limits in children’s programmes.

### 36.3 Restrictions on advertising/marketing products that are harmful to children:

- Tobacco products cannot be sold to any person under 18; there are restrictions on the labelling, marketing and advertising of these products.
- At a federal level, alcohol advertising is generally self regulated and governed by industry codes. However, a number of states have laws that restrict alcohol advertising that is targeted at minors.
- There are no specific regulations in relation to the sale of drugs and pharmaceuticals, although the Food and Drug Administration (“**FDA**”) and industry groups have both indicated that advertising for such products should not be aimed at children.
- Whilst there are state and federal regulations that restrict the use of trans fats in food, this is primarily subject to self-regulation under The Children’s Food and Beverage Advertising Initiative (“**CFBAI**”).

### 36.4 Timing/placement of advertising in publications aimed at children:

- There are no specific regulations regarding publications.
- FCC regulations limit the amount of commercial matter that can be aired in certain children’s television programming to 10.5 minutes per hour on weekends and 12 minutes per hour on week days.
- The California Privacy Rights for California Minors in the Digital World Act prohibits websites that are directed at under 18s from advertising a variety of products that are deemed to be harmful to children.

### 36.5 Advertising/marketing in places children frequently visit e.g. schools:

- Advertising in schools is generally regulated at the state or local level; advertising for alcohol and tobacco are generally prohibited.

### 36.6 Restrictions on using advertising/marketing techniques to appeal to children:

- CARU states that program personalities should not be used to advertise products or services in or adjacent to television programmes primarily directed at those under 12. Products derived from or associated with those television shows should also not be advertised during or adjacent to that programme.



### **36.7 Use of children in advertising/marketing:**

- As above, CARU would apply to use of children in product advertising adjacent to TV shows or other media in which they are featured. It would also violate industry codes and general unfair trade practice laws to feature children using products that would be illegal or dangerous for them to use.

### **36.8 Product labelling relevant to children:**

- The Consumer Products Safety Commission has specific tracking and warning label requirements for products targeted at children. Children's products (i.e, those aimed at those under 12) are also subject to a set of federal safety rules, with specific labelling and disclosure requirements.

### **36.9 Administrative bodies overseeing compliance of regulations:**

- The FTC is primarily responsible for enforcing advertising laws on a federal level. State Attorney Generals are primarily responsible for enforcing advertising laws at the state level. CARU is charged with reviewing and deciding issues relating to children's advertising.
- The FTC has periodically investigated the advertising of products to children, which has resulted in industry self-regulation..

### **36.10**

#### **(a) Do advertisements require clearance before publication:**

- Generally no although television networks may require pre-clearance in certain situations.

#### **(b) Sanctions for breaches of codes or regulations:**

- Sanctions vary depending on the law or regulation in question. The FTC has broad investigatory powers, and can seek injunctive relief, restitution, civil penalties and corrective advertising, amongst other remedies.

#### **(c) Mechanisms for children and their representatives to file complaints:**

- Children and their representatives can file complaints through the FTC. State Attorney Generals usually have similar complaint mechanisms in place.

## 37. ZAMBIA

**Legal age of majority: 18**

**Regulator definition of children: N/A**

### 37.1 Statutes and codes regulating advertising/marketing:

- Statutes: The Competition and Consumer Protection Act of 2010 (“**CCPA**”) regulates advertising.

### 37.2 Regulator’s position with regards to advertising/marketing to children:

- The CCPA statute does not address advertising/marketing with regards to children.

### 37.3 Restrictions on advertising/marketing products that are harmful to children:

- No restrictions on advertising products known to cause harm to children (e.g. alcohol, tobacco, high fat/sugar/salt (“**HFSS**”)).
- Restrictions with regards to advertising pharmaceutical products to children do exist however.

### 37.4 Timing/placement of advertising in publications aimed at children:

- No restrictions regarding timing or placement of advertising in publications aimed at children.
- Advertising restrictions exist for entertainment programmes and programmes must be classified to protect the integrity of minors.

### 37.5 Advertising/marketing in places children frequently visit e.g. schools:

- No restrictions on advertising/marketing in places children frequently visit.

### 37.6 Restrictions on using advertising/marketing techniques to appeal to children:

- No restriction on using advertising/marketing techniques to appeal to children.

### 37.7 Use of children in advertising/marketing:

- No restrictions on the use of children in advertising/marketing.
- Children taking part in entertainment require a licence granted by a Juveniles Inspector.

### 37.8 Product labelling relevant to children:

- No specific requirements relevant to children in relation to product labelling.
- The CCPA states that products sold must conform to the mandatory consumer protection information.

### 37.9 Administrative bodies overseeing compliance of regulations:

- The Competition and Consumer Protection Commission (“**CCPC**”) oversees compliance with government regulations relating to advertising/marketing.
- The CCPA also oversees compliance of regulations.

### 37.10

#### (a) Do advertisements require clearance before publication:

- No requirements exist regarding the pre-clearance of advertisements.

#### (b) Sanctions for breaches of codes or regulations:

- A party who breaches the provisions outlined may be subject to fines or imprisonment.

#### (c) Mechanisms for children and their representatives to file complaints:

- No specific mechanisms exist for children or their representatives to file complaints in relation to advertisements.

# SECTION 2

## IN DEPTH REGULATION ANALYSIS



### I. ARGENTINA

<p>I</p>	<p><b>Regulation</b></p> <p><b>Are there statutes or codes, including voluntary initiatives (e.g., industry codes of conduct), that specifically regulate marketing and/or advertising? Please list and briefly describe key statutes, codes and initiatives.</b></p>	<p><b>Statutes:</b></p> <p><b>Civil and Commercial Code:</b> It contains general provisions regarding advertising and marketing material addressed to consumers, stating that the following advertising is prohibited:</p> <ul style="list-style-type: none"> <li>a) that containing false indications or indications of such nature that lead or could mislead the consumer in connection with the essential elements of the product or service;</li> <li>b) that make comparisons of goods or services when they are of a nature to lead to mislead the consumer;</li> <li>c) it is abusive, discriminatory or induces consumers to behave harmfully or dangerously to their health or safety.</li> </ul> <p><b>Law 22.802 (Fair Trade Law):</b> It prohibits inaccurate or misleading advertisement, which is considered to exist when by inaccuracies or concealments the customer is misled, deceived or confused about the characteristics or properties, nature, origin, quality, purity, mixing, quantity, use, price, marketing conditions or production techniques chattels, real estate or services.</p> <p><b>Law 26.522 (Audiovisual Communication Law):</b> This law regulates audiovisual communications and services, and contains specific regulation on advertising in audiovisual means.</p> <p>It specifies that advertising should not encourage or promote discriminatory treatment based on race, color, sex, sexual orientation, language, religion, political or other opinion, national or social origin, property, birth, physical appearance, presence of disabilities or undermine human dignity or induce behaviors harmful to the environment or the health of people and the integrity of children or adolescents.</p> <p>It also states that advertising aimed at children must not encourage the purchase of products by exploiting their inexperience and gullibility.</p> <p>This law also specifies that advertising must comply with the terms of Law N° 23.344 that regulates advertising of tobacco (now replaced by Law 26.687); Law N° 24.788 that fights alcoholism; Law N° 25.280 that approves the Inter American Convention on the Elimination of All Forms of discrimination against Persons with disabilities; Law N° 25.926 that establishes guidelines for the dissemination of issues related to health; Law N° 26.485 that aims to prevent, punish and eradicate violence against women; and Law N° 26.061 that protects children and teenagers rights.</p>
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		<p>It prohibits the issuance of subliminal advertisements.</p> <p>Advertisements that promote esthetical treatments and/or activities related to professional practice in the field of health or gambling must have the authorization of the competent authority to be broadcasted and must be in full compliance with the legal restrictions that affect those products.</p> <p>Advertisements must have a symbol that identify and separate it from the rest of the programming.</p> <p>It sets forth that advertising must comply with general timing and placement restrictions contained in the law, addressed to protect minors.</p> <p>Advertisements must comply with the professional incumbencies.</p> <p><b>Voluntary Initiatives</b></p> <p><b>Code of Ethics and Self-Regulation of Advertisement:</b> This Code was issued by the Self Regulation Advertising Council (CONARP) (which comprises the Argentine Advertising Association and the Argentine Chamber of Advertisers) and regulates the ethics on advertising activity in an integral way, including procedures to order suspension of advertising and to apply sanctions to those advertisements that do not comply with the principles of the Code.</p>
<p><b>2</b></p>	<p><b>Regulations protecting children</b></p> <p><b>Do any standards listed above explicitly address marketing and advertising to children as a whole and/or to particular age groups of children? What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?</b></p>	<p><b>Legal age of majority</b></p> <p>The Civil and Commercial National Code of Argentina specifies that the legal age of majority is 18 years old. It also foresees that a Teenager is the child in-between 13 and 18 years old.</p> <p>There is no different definition of a child in advertising context.</p> <p><b>Marketing and Advertising to Children</b></p> <p><b>Statutes:</b></p> <p>As mentioned in point 1 above, Law 26.522 on Audiovisual Communications contains certain provision on advertising addressed to children.</p> <p>In particular, Law 26.522 specifically mentions that all advertising in audiovisual communications must comply with Law 26.061, which provides an integral protection of the rights of children and teenagers.</p> <p>In fact, any advertising or marketing addressed to children, even if there is no specific statute applicable to such kind of advertising, should comply with principles contained in Law 26.061, as well as other principles contained in the National Constitution, the Convention of the Rights of the Child (which has constitutional rank) and other laws concerning protection of children's rights (including international treaties to which Argentina is a party).</p>





**Law 26.061 (Protection of Children's Rights)** does not contain any explicit regulation regarding marketing or advertisement aimed to children, but it contains general principles regarding treatment of minors that are essential for such purposes.

Law 26.061 protects all children's rights in an integral way and is aimed to ensure the effective, full exercise and enjoyment of children's rights such as: life, freedom, dignity, integrity, health, education, no discrimination and higher interest of the infant.

It also foresees that the children's image, reputation and dignity must be respected and preserved. In this sense the law prohibits the exposure, distribution or dissemination of data, information or images to identify, directly or indirectly any child through any media or publication against his/her will and his/her parents or legal representatives' will.

For this purpose, it is relevant to consider that under Argentine Civil and Commercial Code, children are considered to have a progressive capacity according to their age and maturity. Legal rights of minors are exercised through their parents or legal representatives; however, based on the concept of progressive capacity minors have the right to be involved and their consent is required in matters concerning its body and person, particularly, in the case of teenagers.

Also, principles contained in the Argentine Civil and Commercial Code should be considered when advertising. In addition to those principles specifically described regarding advertising in point I above, it must be pointed out that the Code sets forth that it does not protect the abusive exercise of a right. Among others, it is considered that the exercise of a right is abusive when it is against morals or good customs.

### **Voluntary Initiatives**

The Code of Ethics and Self-Regulation of Advertisement sets forth that:

- The performance of children will only be acceptable if it is not harmful to their health and moral formation.
- No message addressed to minors should create anxiety or suggest that their parents or relatives do not fulfill their duties if not satisfied.
- When marketing products that are inconvenient for children, such circumstance should be clearly identified as such in the communication.



<p><b>3</b></p>	<p><b>Specific product restrictions</b></p> <p><b>What, if any, restrictions are there on advertising products that are known to be or are potentially dangerous or harmful to children, including but not limited to: Tobacco, Alcohol, Drugs/pharmaceuticals, HFSS (high in fat sugar, salt) products?</b></p>	<p><b>Tobacco</b></p> <p>Law 26.687 bans all advertising of tobacco products. One exception of this law is that advertising is allowed through direct communication to an individual who is older than 18 years old.</p> <p><b>Alcohol</b></p> <p>Law 24.788 bans all advertising of alcoholic beverages that are targeted at individuals under the age of 18 or use of individuals under e age of 18 to advertise alcoholic beverages.</p> <p><b>Drugs/Pharmaceuticals</b></p> <p>Law 16.463 rules the sale of drugs and pharmaceutical products. It bans the following conducts: (i) adds inducing to self medication of over the counter medications; (ii) any form of public advertising of products that require a medical prescription; (iii) advertising in violation of the interests of public health or professional ethics; and (iv) advertising in violation of any other requirement of Law 16.643 or any regulation thereof.</p>
<p><b>4</b></p>	<p><b>Timing and placement of restrictions</b></p> <p><b>What, if any, restrictions are there on the timing and/or placement of advertisements in:</b></p> <p><b>(a) Publications aimed at children (e.g., magazines, books)?</b></p> <p><b>(b) Around entertainment programmes aimed at children (e.g., radio, television, movies, video games)?</b></p> <p><b>(c) Online through websites or communications platforms, including social media, aimed at or used by children?</b></p>	<p>Law 26.522 (Audiovisual communications) foresees that all television programing and advertising from 6:00 to 22:00hs must be “suitable for all ages” and from 22:00 hs to 06:00hs the programming and advertising may include adult content. It also foresees that children under 12 years old cannot participate in live programs broadcasted from 22:00hs to 08:00hs.</p> <p>Law 26.522 does not consider to be suitable for all ages, the following contents:</p> <ul style="list-style-type: none"> <li>a) The messages that lead to the use of psychoactive substances;</li> <li>b) The scenes containing unjustified verbal and/or physical violence;</li> <li>c) The material previously edited that emphasizes the gruesome, morbid or sordid;</li> <li>d) The explicit representations of sexual acts which are not for educational purposes. Nudity and adult language out of context;</li> <li>e) The systematic use of obscene language, without a narrative purpose to support it;</li> <li>f) The broadcasting of films that have been qualified by the competent authority not to be suitable for all publics.</li> </ul>



<p><b>5</b></p>	<p><b>Advertising placement restrictions</b></p> <p><b>What, if any, restrictions are there on advertising or marketing in schools, children’s clubs or other places children regularly visit?</b></p>	<p>Authority in what concerns placement of advertising in public spaces, as well as other issues related to public exhibitions, in general corresponds to the municipal authorities. So it is necessary to research each municipal regulation to determine restrictions that may be applicable.</p> <p>As an example, in the city of Buenos Aires Law 2936 rules the placement of advertising in open public spaces. It states that advertising must not violate the dignity of persons and/or violate the rights and guarantees recognized in the National Constitution and Constitution of the City of Buenos Aires and it entitles the enforcement authority to order the immediate removal of any sign or</p> <p>Also, several municipalities have issued regulation concerning the placement of magazines with adult content in stands offering this kind of publications.</p>
<p><b>6</b></p>	<p><b>Restrictions on targeting children</b></p> <p><b>What, if any, restrictions are there on using advertising or marketing techniques to appeal to children (e.g., licensing of popular cartoon characters)?</b></p>	<p>Law 26.522 foresees that advertisements aimed to children cannot incite or encourage the purchase of products exploiting children’s inexperience and credulity.</p>
<p><b>7</b></p>	<p><b>Restrictions on the use of children in ads</b></p> <p><b>What, if any, restrictions are there on the use of children in advertising, including peer-to-peer marketing and the appointment of children as brand ambassadors?</b></p>	<p><b>Labor laws in Argentina</b></p> <p>Argentine labor law forbids work of children under 16 years old. Teenagers between 16 and 18 years old can work if they have their parents/tutors permission. An exception to this regulation is contained in Law 27.203 regarding actors’ activity, which establishes that children under 16 years old may make artistic representations under the terms of the Convention Nr. 138 of the International Labour Organization.</p> <p><b>Use in specific advertising</b></p> <p>Law 24.788 bans the use of individuals under the age of 18 in advertising alcoholic beverages.</p> <p>Law 26.522 foresees that children under 12 years old cannot participate in live programs broadcasted from 22:00hs to 08:00hs.</p>



8

### Product labelling and children's safety

**In relation to product labelling, are there any specific requirements relevant to children with regard to health, safety or other concerns?**

**Law 24.240 (Consumer Protection Law):** It sets forth that those who produce, import, distribute or market things should provide consumers or users with information about the essential characteristics of their products, in a certain and objective, accurate, detailed, effective and sufficient way.

It also specifies that products and services must be supplied or provided in a form that used in a normal or ordinary way, present no danger to the health or safety of consumers or users.

Based on this principle, the Consumer Protection Authority issues from time to time resolutions containing certain product labeling requirements.

As an example, Resolution SCT 163/05 describes labeling requirements for toys.

**Law 18.284 (Argentine Food Code):** The Code and additional regulation issued by ANMAT (Food and Drug Administration Authority) contain labeling requirements for food. It provides the obligation to include specific labeling requirements in products that are not suitable for children or that are not suitable for children under certain ages, or indicate those products that include a toy. Also products specifically designed for babies or small children are required to contain specific labeling requirements.

**Law 16.463 (Sale of Drugs and Pharmaceutical Products):** Within the authority granted by this law to ANMAT (Food and Drug Administration Authority), regulation is issued describing labels, leaflets and inserts contents. As an example, Disposition 753/12 of Anmat sets forth content of labels and leaflets to be included in over the counter medication, which must include specific warnings about keeping the product out of the reach of the children.

Other labelling requirements may exist. It should be particularly considered on a product to product basis.





<p><b>9</b></p>	<p><b>Enforcement body</b></p> <p>(a) Which administrative body or bodies oversee compliance with government regulations or industry standards on marketing and advertising?</p> <p>(b) Do any of these have a specific mandate to look at issues around marketing and advertising to children?</p>	<p><b>Enforcement body</b></p> <p>The 267/2015 decree creates the National Communication Entity (ENACOM), and is in charge of oversee compliance with government regulations on marketing and advertising under Law 26.522.</p> <p>Law 26.522 also creates the Federal Council of Audiovisual Communication and Infancy which is responsible among others responsibilities of:</p> <ul style="list-style-type: none"> <li>■ Improve children’s programing on TV and Radio.</li> <li>■ Establish criteria and diagnosis of all audiovisual content and then select what content is inconvenient or harmful for children.</li> <li>■ Monitor the fulfillment of all children’s work laws.</li> <li>■ Agree on and establish basic criteria for publicity and advertising in order to avoid negative impact on infancy and youth.</li> </ul>
<p><b>10</b></p>	<p><b>Pre-clearance, sanctions and complaints</b></p> <p>(a) Do advertisements need to be pre-cleared before publication or broadcast?</p> <p>(b) What sanctions can be imposed for breaches of codes or regulations?</p> <p>(c) Are there mechanisms for children or their representatives to file individual complaints?</p>	<p><b>Pre-clearance</b></p> <p>As a general principle, advertisements do not need to be pre-cleared before publication or broadcast. Certain exceptions may exist in connection with advertisement regarding health issues or gambling.</p> <p><b>Sanctions</b></p> <p>Sanctions include warnings, fines, suspension and/or cancellation of licences or authorization to carry out business.</p> <p><b>Complaints</b></p> <p>In what concerns Law 26.522, any complaints must be filed against ENACOM personally or through specific forms that the ENACOM have prepared.</p>
<p><b>11</b></p>	<p><b>Effectiveness</b></p> <p>How effective are the laws and codes? Are they respected/do they get enforced?</p>	<p>The laws and codes are respected and enforced in Argentina.</p>
<p><b>12</b></p>	<p><b>Pressure Groups</b></p> <p>Are the consumer led pressure groups/lobbying, and if so, how effective are they?</p>	<p>There are several consumer led pressure groups/lobbying in different areas, such as tobacco or alcohol and in consumer protection.</p>



## 2. AUSTRALIA

I

### Regulation

Are there statutes or codes, including voluntary initiatives (e.g., industry codes of conduct), that specifically regulate marketing and/or advertising? Please list and briefly describe key statutes, codes and initiatives.

In Australia, marketing and advertising is regulated by a combination of legislation and co-regulatory and self-regulatory codes of practice.

#### Statutes

##### *Competition and Consumer Act 2010 (Cth) (CCA Act)*

- Under the Australian Consumer Law (ACL), which is contained within the CCA Act, marketing and advertising materials must not mislead or deceive consumers.

##### *Broadcasting Services Act 1992 (Cth) (BSA Act)*

- The BSA Act provides the legislative framework for the co-regulation of broadcasting services (i.e. services which deliver television or radio programs) in Australia.
- The BSA Act provides a framework through which standards for programming, including advertising and marketing, may be developed by the industry and approved by the Australian Communications and Media Authority (ACMA), and through which ACMA may investigate complaints and take enforcement action which may include imposing restrictions on broadcasting licences.
- Schedules 5 and 7 of the BSA Act regulate online content.

#### Food Acts

- Each State and Territory in Australia has enacted its own Food Act, which primarily regulates the safe handling and preparation of food.
- The Food Acts also prohibit misleading and deceptive conduct in relation to the advertising and labelling of food, and false descriptions of foods. The Food Acts give force to the *Australian New Zealand Food Standards Code*, which includes provisions relating to the labelling of food.

#### Co-regulatory and self-regulatory codes

There are several codes of practice which regulate radio and television broadcasting, and also advertising in other mediums, some of which are enforceable by government departments such as ACMA and others which provide mechanisms for complaints and encourage voluntary compliance. These codes include:

Co-regulatory:

- Children's Television Standards (Standards);
- Commercial Television Industry Code of Practice (Commercial TV Code); and
- Australian Subscription Television and Radio Association Codes of Practice (ASTRA Code);



		<p>Self-regulatory:</p> <ul style="list-style-type: none"> <li>• Code for Advertising and Marketing Communications to Children (<b>AANA Children Code</b>);</li> <li>• AANA Food and Beverages Advertising and Marketing Communications Code (<b>AANA Food Code</b>);</li> <li>• ABAC Responsible Alcohol Marketing Code (<b>ABAC Alcohol Code</b>);</li> <li>• Responsible Children’s Marketing Initiative of the Food and Beverage Industry (<b>RCM Initiative</b>); and</li> <li>• Quick Services Restaurant Industry Initiative for Responsible Advertising and Marketing to Children (<b>QSR Initiative</b>).</li> </ul>
2	<p><b>Regulations protecting children</b></p> <p><b>Do any standards listed above explicitly address marketing and advertising to children as a whole and/or to particular age groups of children? What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?</b></p>	<p>Unless otherwise stated, a child is defined as a person under the age of 14 in each of the below standards.</p> <p><b>CCA Act</b></p> <p>The CCA Act does not expressly deal with the protection of children, however, the age of a child will be relevant in determining whether an advertisement is misleading or deceptive. In determining whether conduct has been misleading or deceptive, a court will look at the class or group to whom the conduct is directed and a heavier standard is likely to be placed on those whose conduct is aimed at uneducated or unsophisticated classes of persons (e.g. children).</p> <p><b>BSA Act</b></p> <p>Under the BSA Act, a child is defined as a person who is under the age of 18.</p> <p>The objectives of the BSA Act specifically address marketing to children, including ensuring that broadcasting service providers prioritise the protection of children from exposure to program material, including advertising material, which may be harmful to them and protecting children from exposure to unsuitable online content, which may also include advertising material.</p> <p>Under section 122 of the BSA Act, ACMA must develop standards in relation to programming and advertising for children, and the BSA Act gives force to the Children’s Television Standards (<b>Standards</b>).</p>



### Standards

While under the Standards, a child is defined as a person under the age of 14, for the purpose of classifying programs, the Standards differentiate between:

- C classified programs for children under 14; and
- P classified programs aimed at preschool age children.

Advertising is strictly prohibited during P classified programs.

Advertising during C classified programs must:

- be G classified (for general exhibition);
- be clearly distinguishable as advertising to a child viewer;
- not mislead or deceive children, including that claims in advertisements must not be ambiguous, the sizes of the product must be clear or made clear by reference to something which a child can clearly recognize, prices must be accurately presented in a way that is clear to children and disclaimers must be conspicuously displayed;
- not demean individuals or groups of people on the basis of their ethnicity, gender, sexual preference, disability etc;
- not depict unsafe uses of products or unsafe situations which may encourage children to engage in activities dangerous to them;
- not make more than a merely incidental reference to “premium offers” (i.e. items that are offered in addition to an advertised product as they are intended to induce the purchase of an advertised product); and
- not put undue pressure on children to ask their parents or another person to purchase an advertised product or service.

### Commercial TV Code

The Commercial TV Code states that commercials directed to children must exercise special care and judgment and comply with the Standards.

### AANA Children Code

The AANA Children Code applies to all advertising and marketing communications “directed primarily to children”. An objective test is applied to determine whether an advertisement or marketing communication is directed primarily to children. Factors taken into account include the nature of the product, the age of the actors and characters, the language and storyline employed together with the visuals used.





Under the AANA Code, advertising or marketing communication to children must:

- meet the “prevailing community standards” which are determined by the Advertising Standards Board at the relevant time;
- not mislead or deceive children or be ambiguous;
- fairly represent, in a manner that is clearly understood by the children, the advertised product and its features, and the need for any accessory parts;
- present prices accurately in a way that is clearly understood by children and not qualified by words such as “only” or “just”;
- not depict unsafe uses of a product or portray unduly frightening or distressing images;
- not contain appeals to children to urge their parents to buy the advertised product or state or imply that a product makes children who own it superior to their peers; and
- ensure that disclaimers are conspicuously displayed and clearly explained to children.

#### **AANA Food Code**

The AANA Food Code contains specific rules on food and beverage advertising to children including that such advertising must:

- not be misleading or deceptive in relation to any nutritional or health claims;
- not improperly exploit children’s imagination in ways which might reasonably be regarded as being based upon an intent to encourage those children to consume what would be considered, acting reasonably, excessive quantities of the food or beverage; and
- not aim to undermine the role of parents or carers in guiding diet and lifestyle choices.

#### **RCM Initiative**

This voluntary initiative specifically addresses marketing to children, who are defined as persons under 12 years of age. The RCM Initiative prohibits marketing food and beverages to children unless the products represent healthy choices consistent with established scientific or Australian government standards through messaging that encourages good dietary habits and physical activity.



		<p><b>QSR Initiative</b></p> <p>This voluntary initiative provides that advertising for food and beverage products to children must represent healthier choices as defined by a specified set of nutrition criteria, and represent a healthy lifestyle designed to appeal to the intended audience through messaging that encourages healthier food choices and physical activity.</p>
<p><b>3</b></p>	<p><b>Specific product restrictions</b></p> <p><b>What, if any, restrictions are there on advertising products that are known to be or are potentially dangerous or harmful to children, including but not limited to: Tobacco, Alcohol, Drugs/pharmaceuticals, HFSS (high in fat sugar, salt) products?</b></p>	<p><b>Tobacco</b></p> <p>In Australia, tobacco advertising is banned in all mediums including television, publications and online, with only certain limited exceptions such as anti-smoking advertisements (<i>Tobacco Advertising Prohibition Act 1992 (Cth)</i>).</p> <p><b>Alcohol</b></p> <p>The AANA Children Code prohibits advertising directed to children that relates to alcohol products or draws any association with companies that supply alcohol products. The Standards prohibit the advertisement of alcohol during C and P classified programs, and the Commercial TV Code prohibits the advertisement of alcohol during C classified programs.</p> <p>The ABAC Alcohol Code outlines standards for the content of alcohol advertisements on television, radio, print, billboard, cinema and the internet and for the naming and packaging of alcohol beverages with the predominate aim of ensuring that alcohol is marketed in a responsible manner. Pursuant to 3(b) of the Code, alcohol marketing must not have a strong or evident appeal to minors (i.e. persons under the age of 18). Strong or evident appeal to minors includes conduct that:</p> <ul style="list-style-type: none"> <li>■ is likely to appeal strongly to minors;</li> <li>■ is specifically targeted at minors;</li> <li>■ is more attractive to a minor than a regular adult;</li> <li>■ uses imagery, designs, motifs, animations or cartoon characters that are likely to appeal strongly to minors or that create confusion with confectionary or soft drinks; or</li> <li>■ uses brand identification, including logos, on clothing, toys or other merchandise for use primarily by minors.</li> </ul> <p>The Publishers' Advertising Advisory Bureau's Guiding Principles for Alcohol Beverages, which regulates newspaper and magazine publishers, provides that alcohol may only advertised where at least 70% of the audience is reasonably expected to be over the age of 18.</p>



### **Drugs/Pharmaceuticals**

Advertisements for therapeutic goods in Australia are subject to the requirements of the *Therapeutic Goods Act 1989* (Cth) and *Therapeutic Goods Regulations 1990* (Cth) together with the Therapeutic Goods Advertising Code. The Code ensures that the marketing and advertising of therapeutic goods is conducted in a manner that is socially responsible and does not mislead or deceive consumers. Under provision 4(2)(j), an advertisement for therapeutic goods must not be directed to minors.

There are some exceptions to this provision, including advertising products such as tampons, acne preparations, sunscreens, condoms and bandages.

### **Gambling**

The Commercial TV Code prohibits the promotion of gambling to children and portraying children participating in betting or gambling in advertisements.

Advertising interactive gambling services is prohibited to all individuals, including children, with only limited exceptions such as anti-interactive gambling advertisements (*Interactive Gambling Act 2001* (Cth)).

Each state and territory in Australia has specific legislation relating to the regulation of gambling, including the advertising of gambling. Most states and territories prohibit advertising interactive gambling, and some specifically prohibit advertising of gambling directed at children or depicting children gambling.

### **HFSS products**

Under the Standards, advertisements for a food product may not contain any misleading information about the nutritional value of a product.

Under the Commercial TV Code, advertisements directed to children for food or beverages should not encourage or promote “unhealthy eating or drinking habits” (defined to be excessive or compulsive consumption of food and beverages) or contain any misleading or incorrect information about the nutritional value of the product.

The AANA Food Code provides that advertising for food and beverage products to children must accurately present all information including nutritional values or health benefits, and not encourage what would reasonably be considered as excess consumption through the representation of products or portions disproportionate to the setting portrayed.



		<p><b>Dangerous products</b></p> <p>The Commercial TV Code provides that advertising or marketing to communications to children must not:</p> <ul style="list-style-type: none"> <li>■ portray images or events which depict unsafe uses of a product or unsafe situations which may encourage children to engage in dangerous activities or create an unrealistic impression in the minds of children or their parents or carers about safety; and</li> <li>■ advertise products which have been officially declared unsafe or dangerous by an authorised Australian body.</li> </ul>
<p><b>4</b></p>	<p><b>Timing and placement of restrictions</b></p> <p><b>What, if any, restrictions are there on the timing and/or placement of advertisements in:</b></p> <p><b>(a) Publications aimed at children (e.g., magazines, books)?</b></p> <p><b>(b) Around entertainment programmes aimed at children (e.g., radio, television, movies, video games)?</b></p> <p><b>(c) Online through websites or communications platforms, including social media, aimed at or used by children?</b></p>	<p><b>(a) Publications aimed at children</b></p> <p>Under the AANA Children Code, advertisements which are directed at children may not be placed in print media which is unsuitable for children according to “prevailing community standards”.</p> <p><b>(b) Entertainment programming</b></p> <p>The Standards restrict the timing and length of advertisements during programs aimed at children.</p> <p>The Standards prescribe certain broadcasting times for P and C classified programs.</p> <p>P classified programs can only be shown between 7 am – 4.30 pm Monday to Friday. During P classified programming, advertising is strictly prohibited.</p> <p>C classified programs can be shown between:</p> <ul style="list-style-type: none"> <li>■ 7 am – 8.30 am Monday to Sunday and school holidays; and</li> <li>■ 4 pm – 8.30 pm Monday to Friday.</li> </ul> <p>For most C classified programs, there may not be more than 5 minutes of advertisements for each 30 minutes of broadcasting. Further to this, a broadcaster is prohibited from repeating advertisements more than once during any 30 minutes.</p> <p><b>(c) Online</b></p> <p>Under the AANA Children Code, advertisements aimed at children must not be placed in media (including online) in close proximity to material or content that is unsuitable for children according to prevailing community standards.</p> <p>The BSA Act provides a mechanism for individuals to report offensive content, which may include advertising aimed at children to ACMA.</p>





<p><b>5</b></p>	<p><b>Advertising placement restrictions</b></p> <p><b>What, if any, restrictions are there on advertising or marketing in schools, children’s clubs or other places children regularly visit?</b></p>	<p><b>Schools</b></p> <p>Participants in the RCM Initiative have committed to not advertising in schools unless agreed with school administration for educational purposes, or when related to healthy lifestyle activities under the supervision of school administration or appropriate adults.</p> <p>Under the Outdoor Media Association Code of Ethics: Alcohol Advertising Guidelines, alcohol cannot be advertised within 150 metres from schools. However, there is an exception where a school is in the vicinity of an establishment selling alcohol products.</p> <p><b>Clubs</b></p> <p>No specific provisions.</p>
<p><b>6</b></p>	<p><b>Restrictions on targeting children</b></p> <p><b>What, if any, restrictions are there on using advertising or marketing techniques to appeal to children (e.g., licensing of popular cartoon characters)?</b></p>	<p><b>Cartoon/imaginary characters</b></p> <p>The Standards prohibit the use of popular characters and personalities (e.g. well known sports or music personalities, cartoon characters, movie characters etc.) to endorse, recommend or promote commercial products or services during C or P classified programs. There is an exception where the character providing the endorsement is represented in the toy or product being advertised.</p> <p>The Commercial TV Code provides that in any program mainly directed to children, the host or any other regular presenter or character in the program must not sell or promote products or services.</p> <p>Companies participating in the RCM Initiative have committed to not using popular personalities or licensed characters or paying for product placement in advertising primarily directed at children under 12 unless it promotes healthy dietary choices.</p> <p><b>Other</b></p> <p>The Standards prohibit the offering of prizes during P rated programs and, if a prize is offered in a C rated program, the presenter may not recommend or endorse a product or service which is presented as a prize, or encourage children to buy it.</p>
<p><b>7</b></p>	<p><b>Restrictions on the use of children in ads</b></p> <p><b>What, if any, restrictions are there on the use of children in advertising, including peer-to-peer marketing and the appointment of children as brand ambassadors?</b></p>	<p>There are no prohibitions on children appearing in advertising or acting as brand ambassadors. However, child labour laws must be complied with in relation to any such use of children.</p>



8

### Product labelling and children's safety

**In relation to product labelling, are there any specific requirements relevant to children with regard to health, safety or other concerns?**

### Health

The State and Territory Food Acts prohibit:

- misleading conduct in relation to the sale of food, including a broad requirement not to engage in conduct that is likely to mislead or deceive in relation to advertising the sale of food; and
- false descriptions of food, where this may cause physical harm to a person relying on the description.

The Food Acts give force to the *Australia New Zealand Food Standards Code*, which contain provisions regarding labelling of food (including provisions regarding “diet” labelling, nutritional information and disclosing the content of food).

The Code of Practice on Nutrient Claims is administered by the Australian Food and Grocery Council and applies to all Australian food organisations that are signatories. The Code establishes the conditions under which claims can be made in relation to fat, saturated fat, sugar, fibre, cholesterol and salt.

### Safety

The ACL includes product safety laws that apply generally to all consumer products. There are also numerous specific regulations and standards regarding the labelling and safety of various children's products such as children's nightwear, children's toys, prams and cots. One example is the *Trade Practices (Consumer Product Safety Standards) (Children's Nightwear and Paper Patterns for Children's Nightwear) Regulations 2007 (Cth)* which provides that nightwear must be labelled according to the fire hazard level of the fabric used.



<p>9</p>	<p><b>Enforcement body</b></p> <p><b>(a) Which administrative body or bodies oversee compliance with government regulations or industry standards on marketing and advertising?</b></p> <p><b>(b) Do any of these have a specific mandate to look at issues around marketing and advertising to children?</b></p>	<p><b>(a) Enforcement body</b></p> <p>The Australian Communication and Media Authority (<b>ACMA</b>) oversees compliance with the BSA Act, the Standards, the Commercial TV Code and the ASTRA Code, including handling complaints. Complaints under the Commercial TV Codes can also be referred to Free TV Australia.</p> <p>The Australian Competition and Consumer Commission oversees compliance with the CCA Act.</p> <p>The Australian Association of National Advertisers is an association of advertisers which self-regulates its members by overseeing compliance with various codes including the AANA Children Code and the AANA Food Code. Complaints under these codes can be made to the Advertising Standards Bureau, which does not have direct enforcement powers, but publishes its decisions.</p> <p>The RCM Initiative and QSR Initiative are voluntary initiatives developed by the Australian Food and Beverage Industry and the Australian Quick Service Restaurant Industry respectively. Numerous food and beverage companies have agreed to comply with the terms of the initiatives. While it does not have direct enforcement powers, complaints made pursuant to the initiatives are assessed by the Advertising Standards Bureau. The Australian Food and Grocery Council monitors compliance with the RCM Initiative, while the QSR Initiative relies on participants to monitor their own compliance.</p> <p><b>(b) Specific mandate to focus on children's issues?</b></p> <p>ACMA has a specific mandate under the BSA Act and Standards to look at issues relating to marketing to children. Under the BSA Act, ACMA must develop standards in relation to programs (including advertising) for children. It also has the power to implement a standard that requires that before advertising programs are broadcast, the advertising programs or a sample must be approved by ACMA. ACMA must act in line with the objectives of the BSA Act, which include ensuring that broadcasting service providers prioritise the protection of children from exposure to program and advertising material which may be harmful to them and to protect children from exposure to unsuitable online content, including advertising.</p>
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### 3. AUSTRIA

<p><b>I</b></p> <p><b>Regulation</b></p> <p><b>Are there statutes or codes, including voluntary initiatives (e.g., industry codes of conduct), that specifically regulate marketing and/or advertising? Please list and briefly describe key statutes, codes and initiatives.</b></p>	<p><b>Statutes – Codes – Voluntary Initiatives</b></p> <p>Marketing and advertising are regulated in a variety of statutes and codes in Austria.</p> <p>The Austrian Unfair Competition Act (<i>Gesetz gegen den unlauteren Wettbewerb – “UWG”</i>) contains fundamental regulations in this field. Being the basic Act for advertising it states rules to combat any form of anti-competitive behavior and to ensure a fair and performance-oriented competition.</p> <p>Depending on the type of advertising special statutes are applicable, among others:</p> <ul style="list-style-type: none"> <li>■ Austrian Media Act (<i>Mediengesetz</i>) – this Act states the rights and obligations of print media, and therefore includes rules about advertising.</li> <li>■ Austrian Private Radio Act (<i>Privatradiogesetz – “PrR-G”</i>) – this Act regulates advertising in private analog terrestrial radio programs, as well as in cable or satellite radio programs. It contains several absolute bans on advertising, time restrictions, rules regarding the separation of advertisements and programs and surreptitious advertising.</li> <li>■ Austrian Audiovisual Media Services Act (<i>Audiovisuelle Mediendienste-Gesetz – “AMD-G”</i>) – this Act states rules for advertising in television which are similar to those laid down in the Private Radio Act, however including additional rules and regulations. Principles laid down are that television advertisement may neither infringe human dignity nor be discriminating nor infringe religious and political beliefs nor endanger health or environment nor support unlawful practices.</li> <li>■ ORF-Act (<i>ORF-Gesetz – “ORF-G”</i>) – ORF as Austria’s public broadcaster is separately regulated and contains some particularities, like ban on teleshopping and that one Austrian-wide radio program has to be advertising for free.</li> </ul> <p>Additionally the Austrian advertising standards authority (<i>Werberat</i>) has implemented a self-regulation code (<i>Selbstbeschränkungskodex</i>), which contains rules of conduct, including among others rules regarding advertising to children.</p> <p>Furthermore, the HFSS-Code (<i>Verhaltenskodex unangebrachter audiovisueller kommerzieller Kommunikation für Kindersendungen</i>), is a code of conduct containing rules concerning inappropriate communication in children’s TV and radio programs regarding food and drinks. The HFSS-Code has been introduced based on Art. 13 Sec. 8 ORF-G and Art. 36 Sec. 3 AMD-G).</p>
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### Regulations protecting children

**Do any standards listed above explicitly address marketing and advertising to children as a whole and/or to particular age groups of children? What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?**

### Legal age of majority

Due to the fragmentation of advertising law in Austria no consistent definition of “child” exists that is specifically addressed to advertising.

In Austria the legal age of majority is 18. All persons under the age of eighteen are divided into three groups. There are children (0-7 years), underage minors (7-14 years) and minors (14-18 years).

### Definition of legal age

The Austrian Unfair Competition Act (UWG) also contains rules regarding advertising addressed to children but without any age definitions. The Austrian Supreme Court held in the context of cases of advertising addressed to children that the term “children” includes at least all persons until the age of the 14th birthday.

In the self-regulation code of the Austrian advertising standards authority children are defined as any persons until the age of the 12th birthday.

### Regulations protecting children/particular age groups

Pursuant to Cif 28 of the [Annex to the Austrian Unfair competition Act \(UWG\) about misleading commercial practices](#), a direct invitation addressed to children to buy advertised products or to persuade their parents to buy these products for them is prohibited. Several Supreme Court decisions are already available regarding the scope of this prohibition.

The [ORF-Act](#) includes specific rules to protect minors. These are stated in Article 13 Sec. 5, 6 and 8, as well as Article 14 Sec 2 (see below).

Additionally the ORF (Austrian Public Broadcasting company) has issued [General Terms and Conditions regarding advertisements of the ORF Enterprise](#) (*Allgemeine Geschäftsbedingungen für Werbesendungen der ORF Enterprise*), which also targets the protection of minors (see below).

The [Austrian Audiovisual Media Services Act \(AMD-G\)](#) contains similar regulations to those of the ORF-Act. These are stated in Articles 33 to 36, 39 and 42 (see below).

The fundamental statement on advertising to children is, that advertisements should not harm children in any way, neither physically nor mentally. This rule is stated in Art. 13 Sec. 6 ORF-G, in Item 4.f. of the General Terms and Conditions of the ORF-Enterprise and in Art. 36 AMD-G.



To achieve this goal various restrictions are applicable. At first children may not be shown in dangerous situations. Advertisements shall not invite children to buy a product or service or to influence their parents to buy these for them. Furthermore the advertisement may not exploit the trust of children in their parents, teachers or other persons of trust.

Furthermore, advertisements for products not suitable for children (e.g. alcohol, tobacco, medical products, weapons...) may not be addressed to them.

Additionally the [self-regulation Code of the Austrian advertising standards authority](#) contains detailed restrictions, especially regarding children.

In general the advertisement may not contain among others violent, aggressive or anti-social behavior or harm children in any way, neither physically nor mentally nor morally. Dangerous, unhealthy or frivolous behavior or educational measures, which are likely to affect the physical or mental well-being of a child and hurt the dignity of the child is prohibited in advertisements. Children are not allowed to be displayed in a discriminating manner.

Advertisements directly aimed at children have to consider their age and maturity and may never be gender discriminating. The advertisement has to include all relevant information in a plain and simple way and may not be misleading. It is not allowed to show children asking their parents or other persons to buy a specific product. Furthermore advertisement directly aimed at children has to be marked as such, so that the possibility of confusion with a program can be excluded.

The [HFSS-Code](#) includes a voluntary commitment of broadcasters, regarding audiovisual commercial communication concerning unhealthy food and drinks, that accompany or are contained in children's programs. Such unhealthy food and drinks contain nutrients substances with a nutritional or physiological effect, in particular fats, trans-fatty acids, salt/sodium and sugars, of which an excessive consumption is not recommended in the overall diet (Details below).



3

### Specific product restrictions

**What, if any, restrictions are there on advertising products that are known to be or are potentially dangerous or harmful to children, including but not limited to: Tobacco, Alcohol, Drugs/pharmaceuticals, HFSS (high in fat sugar, salt) products?**

### Alcohol

In principle, advertising of alcohol is permitted, but spirits may not be advertised. Additionally, there are some restrictions for advertising alcohol, some of them are specifically addressed to protect children.

The ORF-Act states that advertisements concerning alcoholic products may not be addressed to children and may not display children consuming alcoholic products (Article 13 Sec 5 ORF-G).

The AMD-G states in Article 35 the same restrictions as the ORF-Act.

Furthermore Item 4.e. of the General Terms and Conditions of the ORF Enterprise prohibits any advertisement of alcohol in connection with children, youths and drivers. Advertisement of alcohol shall not be specifically aimed at minors, show minors drinking alcohol or encourage immoderate consumption of such beverages. The consumption of alcohol may not be shown as therapeutic or helpful at solving problems.

The self-regulation Code of the Austrian advertising standards authority contains similar rules.

### Tobacco

An absolute ban of tobacco advertising is stated in Art. II Sec. I of the Austrian Tobacco Act (*Tabakgesetz*), Art. 13 Sec 4 ORF-G, Art. 33 AMD-G and in Item 3.g. of the General Terms and Conditions of the ORF Enterprise.

A few exceptions from the absolute ban are made in Art. II Sec. 4 Tobacco Act, e.g. advertisements from tobacconists or advertisements in magazines, which are not directed to the EU market.

Due to the absolute ban of tobacco advertisements specific rules applying to tobacco advertising to children are not needed and therefore do not exist.



### Drugs/Pharmaceuticals

In general there is a ban on advertising medication and medical products subject to prescription.

Commercial communication about all other drugs and medical products and therapeutic services has to be identifiable, honest, truthful and verifiable. It shall never harm anyone (Art. 13 Sec. 4 ORF-G and Art. 34 AMD-G).

According to Art. 34 Sec. 3 AMD-G teleshopping of drugs and medical products is prohibited.

Furthermore the Austrian Drug Act (*Arzneimittelgesetz*) and Medical Products Act (*Medizinproduktegesetz*) contain provisions about which products can be advertised, to whom they may be advertised and what details have to be included.

Specific rules for advertising drugs/pharmaceuticals to children do not exist in Austria.

### HFSS products

Detailed regulations concerning HFSS products can be found in the HFSS-Code.

Audiovisual commercial communication for unhealthy foods shall neither mislead the trust of the children in the quality of the products nor suggest inactivity instead of physical exercise. The consumption of fresh fruits and vegetables shall not be devaluated and a balanced diet shall be recommended by the advertisement.

The suggestion of performance improvement, of support in gaining popularity or of a therapeutic effect shall not be made in an advertisement for unhealthy foods.

Furthermore, the audiovisual commercial communication shall not directly invite minors to buy these unhealthy foods.

Audiovisual commercial communication regarding unhealthy foods may not be shown right before, during or after children's programs.



4

#### Timing and placement of restrictions

What, if any, restrictions are there on the timing and/or placement of advertisements in:

- (a) Publications aimed at children (e.g., magazines, books)?
- (b) Around entertainment programmes aimed at children (e.g., radio, television, movies, video games)?
- (c) Online through websites or communications platforms, including social media, aimed at or used by children?

#### Publications

Regarding publications the Austrian legislation does not provide for any restrictions on the timing and/or placement of advertisements regarding children.

But according to Art. 1a UWG aggressive commercial practices are prohibited. A commercial practice is regarded as aggressive, if it is able to significantly impair the market participant's freedom of choice or conduct with regard to the product by harassment, coercion or undue influence, and to cause him to take a transactional decision that he would not have taken otherwise.

Cif 28 of the Annex to the UWG provides, that the inclusion of a direct invitation to children in an advertisement to buy advertised products or to persuade their parents or other adults to buy advertised products for them, is deemed as an aggressive commercial practice.

The Austrian courts have already decided several cases, in which they clarified this provision.

An aggressive commercial practice is apparent, if the invitation to purchase has been directly aimed at the child (OGH 9.7.2013, 4 Ob 95/13v – Videospiel D-Universe).

The usage of an imperative (e.g. Buy!) indicates the realization of Cif 28 and therefore results in an aggressive commercial practice (OGH 18.9.2012, 4 Ob 110/12 y – Stickersammelbuch).

According to the Austrian Regional Court of Graz (Landesgericht Graz) an advertisement in children books is a prohibited aggressive commercial practice, if the advertisement is made within an apparent objective story (LG ZRS Graz 20.8.2015, 10 Cg 44/15d).

#### Entertainment programmes

Timing and placement restrictions in entertainment programs are regulated in the ORF-G and AMD-G.

Advertisements directly aimed at children are not allowed to be shown right before and after children's programs (Art. 14 Sec. 2 ORF-G).

Children's programs may be interrupted for advertisements once for each scheduled period of at least 30 minutes, but only if the total duration of the program is more than 30 minutes (Art. 15 Sec. 3 ORF-G and Art. 44 Sec. 3 AMD-G).

Product placement is prohibited in children's programs.





		<p><b>Online</b></p> <p>The Austrian legislation does not provide specific regulations concerning online advertisements.</p> <p>However the UWG will definitely be applicable and therefore the above stated decisions regarding aggressive commercial practices should be kept in mind.</p>
<p><b>5</b></p>	<p><b>Advertising placement restrictions</b></p> <p><b>What, if any, restrictions are there on advertising or marketing in schools, children’s clubs or other places children regularly visit?</b></p>	<p><b>Schools</b></p> <p>According to Art. 46 Sec. 3 Austrian School Education Act (<i>Schulunterrichtsgesetz – “SchuG”</i>) advertisements are generally allowed, if the proper operation of school duties will not be hindered. For example, teachers are not allowed to market products. The principal of every school has the power to decide if advertising will be allowed at his/her school.</p> <p>Obviously alcohol and tobacco related advertisements are forbidden as well as product placement.</p> <p>The UWG does also apply at cases of advertising in schools, because aggressive commercial practice can also occur there. In this case the market participants are the students, their parents and legal guardians.</p> <p>Advertising has to be immediately recognizable for students. Thus, the Regional Higher Court of Vienna (Oberlandesgericht Wien) has determined the distribution of a communication issue with advertising to primary school children by their teachers as an aggressive commercial practice. This because children of this age perceive the communication issue as a school utensil rather than an advertising campaign, regardless of the intensity of the advertisement (OLG Wien 29.10.2014, I R 134/14d).</p> <p><b>Other</b></p> <p>The Austrian legislation does not provide specific regulations concerning children’s clubs or other places children regularly visit. But it should be noted, that the UWG will also be applicable at those places.</p>
<p><b>6</b></p>	<p><b>Restrictions on targeting children</b></p> <p><b>What, if any, restrictions are there on using advertising or marketing techniques to appeal to children (e.g., licensing of popular cartoon characters)?</b></p>	<p><b>Cartoon/imaginary characters</b></p> <p>The use of cartoon characters or similar to children appealing characters in advertisements is generally not restricted in Austria.</p> <p>The HFSS-Code provides a rule, which states that an advertisement may not exploit the special trust of children to their idols, such as famous personalities or virtual characters, and therefore harm them at entering a healthy life.</p> <p>Even though this provision only targets advertisements of unhealthy food, it should be taken into account when using children’s idols.</p>



<p><b>7</b></p>	<p><b>Restrictions on the use of children in ads</b></p> <p><b>What, if any, restrictions are there on the use of children in advertising, including peer-to-peer marketing and the appointment of children as brand ambassadors?</b></p>	<p><b>Use in advertising</b></p> <p>The use of children in ads is restricted by the Austrian Children and Youths Employment Act (<i>Kinder – und Jugendlichen-Beschäftigungsgesetz</i>).</p> <p>This Act defines “Children” as minors below the age of 15 or until they finish compulsory education. All minors, that already finished compulsory education and work as an apprentice or complete an internship are defined as “Youths” (§ 2).</p> <p>According to this Act the governor or regional administrative authority has to authorize the use of children in photos, films, television and audio recordings. For repeated productions the working hours of children have to be approved by the work inspectorate. Of course, a written consent of the parents is also a necessary requirement (§ 6).</p> <p>Additionally children are only allowed to participate in such recordings, if their health will not be endangered by this and they will still be able to attend school (§ 7).</p> <p>No specific requirements are being stated by this Act relating to the use of youths in ads.</p> <p>The Self-regulation Code of the Austrian advertising standards authority states, that children are not allowed to be shown in an erotic or sexualized manner or in a degrading manner. In advertising of non-child-friendly products or services children may not be used as an actor, this includes advertisement for weapons, plastic surgery, gambling, tobacco or alcohol.</p> <p><b>Use as brand ambassadors</b></p> <p>These regulations will also be applicable when children are used as brand ambassadors. But there are no explicit rules concerning these cases.</p>
<p><b>8</b></p>	<p><b>Product labelling and children’s safety</b></p> <p><b>In relation to product labelling, are there any specific requirements relevant to children with regard to health, safety or other concerns?</b></p>	<p><b>Health &amp; Safety</b></p> <p>Product labelling is regulated in various laws in Austria. The requirements of correct product labelling depend on the product. Therefore only a brief overview can be given.</p> <p>According to the Austrian Product Safety Act (<i>Produktsicherheitsgesetz</i>) a product is safe, when there is no or only a slight danger in use, which is acceptable for the health and safety of persons. In assessing the safety the specific consumer, e.g. children, have to be taken into account.</p> <p>The Austrian Toy Order (<i>Spielzeugverordnung</i>) states in Article 13, that specific warnings have to be included on the toy, if it is necessary for a safe use.</p>



<p>9</p>	<p><b>Enforcement body</b></p> <p>(a) Which administrative body or bodies oversee compliance with government regulations or industry standards on marketing and advertising?</p> <p>(b) Do any of these have a specific mandate to look at issues around marketing and advertising to children?</p>	<p><b>Enforcement body</b></p> <p>In connection with violations of the UWG besides the competitors the Federal Chamber of Labour, the Federal Economic Chamber, the Austrian Trade Union Federation, Federal Competition Authority and Consumer Information Association (VKI) can file claims for cease and desist orders with the courts.</p> <p>The Austrian regulatory authority KommAustria is responsible for complaints regarding the ORF-G. Complaints can be made from persons that are directly harmed by the breach of regulations or entities, whose legal and economic interests are affected. A request for a complaint can also be made from the state or one of the countries, of the VKI or of the Public Council (<i>Publikumsrat</i>). Additionally KommAustria has the right to take action ex officio (Article 36 ORF-G).</p> <p>The breach of Art. 13 ORF-G results in an administrative offence with a fine of up to EUR 36,000.</p> <p>According to Section 10 of the AMD-G the Austrian regulatory Authority KommAustria is also responsible to supervise compliance with this Act. Any persons that suffered a damage by the violation of the regulation may file a complaint, as well as the Consumer Information Association or other stakeholders. The violation of the provisions about audio-visual commercial communication is an administrative offence causing a fine of up to EUR 8,000.</p> <p><b>Specific mandate to focus on children's issues?</b></p> <p>The National Youth Council (Bundesjugendvertretung) is an interest group for all children and adolescents in Austria.</p> <p>Every province in Austria has its own Children's and Youth Advocate (<i>Kinder – und Jugendanwaltschaft</i>). This is an independent ombudsman institution, which campaigns for the interests of children and adolescents.</p> <p>Unfortunately none of those organizations is actively involved in monitoring advertising law, even though it would be included of their responsibilities.</p>
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<p><b>10</b></p>	<p><b>Pre-clearance, sanctions and complaints</b></p> <p>(a) Do advertisements need to be pre-cleared before publication or broadcast?</p> <p>(b) What sanctions can be imposed for breaches of codes or regulations?</p> <p>(c) Are there mechanisms for children or their representatives to file individual complaints?</p>	<p><b>Pre-clearance</b></p> <p>No, a pre-clearance of advertisements is not necessary in Austria.</p> <p><b>Sanctions &amp; Complaints</b></p> <p>See answer to question 9.</p>
<p><b>11</b></p>	<p><b>Effectiveness</b></p> <p>How effective are the laws and codes? Are they respected/do they get enforced?</p>	<p>The Austrian laws concerning advertising are effective.</p>
<p><b>12</b></p>	<p><b>Pressure Groups</b></p> <p>Are the consumer led pressure groups/lobbying, and if so, how effective are they?</p>	<p>The Austrian advertising standards authority (Werberat) is an association for self-regulation in advertising. Its main responsibilities are the ongoing development of the Self-regulation Code and processing of complaints.</p> <p>The authority is only responsible for complaints concerning promotional activities of all companies operating in Austria and advertisements, which are published in Austria regardless of the media. If the Austrian advertising standards authority is not responsible for a specific complaint, it has the right to pass the complaint on to the responsible organisation, such as Association against Unfair Competition.</p> <p>Everyone can file such complaints, but the Austrian advertising standards authority can also proceed ex officio.</p>



## 4. BELGIUM

I

### Regulation

**Are there statutes or codes, including voluntary initiatives (e.g., industry codes of conduct), that specifically regulate marketing and/or advertising? Please list and briefly describe key statutes, codes and initiatives.**

Yes, regulations can be found in different acts and codes, both of statutory and non-statutory nature, with some of the regulations tailored to marketing and advertising via a specific medium (e.g. written press, internet, text message, movie theatre, billboards, television, etc.)

■ Key (binding) regulations can be found in:

- (i) Belgian Criminal Code;
- (ii) The Book VI of the Belgian Code of Economic law which regulates misleading and comparative advertising. It aims to ensure the protection of consumers by prohibiting all sorts of misleading advertising;
- (iii) Chapter 4 of Book XII of the same Code and the Royal Decree of 4 April 2003 concerning the regulation of the sending of advertising via electronic mail both govern advertising in the context of information society services. These rules stipulate that in principle prior consent is necessary for the sending of advertising via electronic mail.

■ Besides, some (sector specific) acts specifically regulate the advertising for certain types of products:

- (iv) the Act of 24 January 1977 concerning the protection of the health of the users with respect to food and other products and the Royal Decree of 17 April 1980 concerning advertising for food regulate advertising of food products and prohibit advertising for tobacco products;
- (v) the Royal Decree of 7 April 1995 concerning the information and advertising relating to medicinal products for human use regulate the advertising of medicinal products for human use.

■ Due to Belgium's federal structure each Community has its own act concerning audio-visual media services:

- (vi) The Flemish Community Decree of 27 March 2009 on radio and television broadcasting;
- (vii) the French Community Decree of 26 March 2009 on audio-visual media services;
- (viii) the German speaking Community Decree of 27 June 2005 on audio visual media services and cinema shows.



These rules prohibit *inter alia* clandestine advertising, advertising inciting violent, unhealthy, violent or discriminatory behaviour and contain rules on the interruption of television programmes for advertising.

- Further, there are some self-regulatory Industry Codes of Conduct (sectorial codes)<sup>18</sup>:
  - (ix) Covenant concerning Advertising for and Marketing of Alcoholic Beverages;
  - (x) Advertising Code for Food (“**FEVIA**” code);
  - (xi) Advertising Code for Cosmetics and Hygiene Products (DETIC code);
  - (xii) Code concerning Advertising for Motor Vehicles, their Parts and Accessories (“**Febiac**” code);
  - (xii) Code for Ethics during Fund-raising (“**VEF**” code);
  - (xiv) National Lottery Ethical and Responsible Advertising Code;
  - (xv) GSM Operators’ Forum Directives for SMS/MMS services;
  - (xvi) Code of Conduct for Banks.

To a large extent the rules contained in these Codes of Conduct repeat and further explain legal requirements which are applicable to the sector or products concerned. The Jury on Ethical Practices in Advertising (“JEP”) takes these Codes of Conduct into account when assessing advertisements.

- An inter-sectorial Environmental Advertising Code was adopted;
- The Council for Consumption adopted a recommendation on 27 June 2000 concerning the advertising periods for children’s festivities (for more information, see answer to question 2);
- Another self-regulation instrument is the Code of Conduct of the Belgian Direct Marketing Association<sup>19</sup> (for more information, see answer to question 2);
- In the French Community an Ethical Code for Audio-visual Advertising focused on Children was adopted<sup>20</sup> (for more information, see answers to questions 2 and 4);
- The Flemish government adopted on 20 September 1995 a Code on Advertising and Sponsoring on Radio and Television (for more information, see answers to questions 2, 3 and 4).

This overview of statutes and codes aims to provide an overview of how marketing and advertising can be regulated in Belgium but is not necessarily exhaustive (especially with respect to sector specific legislation).

<sup>18</sup> They can be consulted here: [http://www.jep.be/nl/codes-regels/\(Dutch\)](http://www.jep.be/nl/codes-regels/(Dutch)) and [http://www.jep.be/fr/codes-regels/\(French\)](http://www.jep.be/fr/codes-regels/(French)).

<sup>19</sup> <http://www.bdma.be/fckeditor/userfiles/file/code%20version%202012%2009%2006.pdf>.

<sup>20</sup> <http://www.csa.be/documents/558>.



2

### Regulations protecting children

**Do any standards listed above explicitly address marketing and advertising to children as a whole and/or to particular age groups of children? What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?**

Yes, the following instruments contain specific rules concerning advertising and minors/children:

- The Criminal Code prohibits inter alia advertising for sexual services which is specifically targeted at minors;
- The Book VI of the Belgian Code of Economic law regulates misleading and comparative advertising. It aims at the protection of consumers by prohibiting all sorts of misleading advertising. It explicitly prohibits advertising which directly incites children to buy the advertised products or incites children to persuade their parents or other adults to buy such products;
- The Royal Decree of 7 April 1995 concerning the information and advertising relating to medicinal products for human use regulates the advertising of medicinal products for such human use (see question 3 for more information);
- The Council for Consumption recommendation of 27 June 2000 concerning the advertising periods for children festivities asks 'professionals' to limit the advertising periods with respect to Saint Nicholas (6 December), Christmas and Easter.

In concrete terms it is recommended to limit commercial practices such as:

- (xvii) the use of persons dressing up as Saint Nicholas, Santa Claus or Easter bunny and
- (xviii) direct references to these festivities in advertising specifically addressed to children in nursery school and primary education on posters outside their premises, in the press, by audio-visual media and in emails to a period of 5-8 weeks (depending on the festivity concerned) before the festivity takes place;
- The Code of Conduct of the Belgian Direct Marketing Association<sup>21</sup> states that:
  - (xix) products which are not suited for children or youngsters should not be advertised in media directed at such persons and
  - (xx) advertising targeted at children and youngsters should not appear in media where the content is not suited for such persons.

Furthermore, it states that products which are not suitable for children should be clearly identifiable and that direct marketing messages should not take advantage of the inexperience, credulity or good faith of such persons. The Code also repeats the prohibition to directly incite children to buy the advertised products or to incite children to persuade their parents or other adults to buy such products;

<sup>21</sup> <http://www.bdma.be/fckeditor/userfiles/file/code%20version%202012%2009%2006.pdf>.



- There is also a Covenant concerning Advertising for and Marketing of Alcoholic Beverages (see question 3 for an overview of some relevant rules mentioned in this Covenant);
- The FEVIA code *inter alia* repeats the prohibition on misleading advertising (e.g. with respect to certain advantages related to the product such as popularity among peers), states that the conditions for promotional sales aimed at children should be explained in a language which is understandable for children and provides that advertising for food should not undermine the role of parents and other adults;
- National Lottery Ethical and Responsible Advertising Code:  
Pursuant to this Code advertising of the National Lottery should not incite minors to participate in its lotteries nor give the impression that minors are allowed to participate. Advertising for the National Lottery shall not be targeted at minors and no advertisements are permitted to feature minors or people looking like minors participating in lotteries;
- Code of Conduct for Banks:  
In this Code the bank sector has *inter alia* committed itself not to target advertising at persons younger than twelve years old.  
The different Community Decrees concerning audio-visual media services mentioned above also contain specific rules relating to advertising to children and minors on radio and television:
- The Flemish Community Decree of 27 March 2009 on Radio and Television Broadcasting and the Code of Conduct of the Flemish Government of 20 September 1995 on Advertising and Sponsoring on Radio and Television (which, since 2007, contains a chapter on children and advertising) make a distinction between ‘children’ (i.e. persons of 12 years or younger) and ‘youngsters’ (i.e. persons of 16 years or younger).  
Some provisions concern both children and youngsters, others provisions only relate to children for example stricter norms on misleading advertising and price minimisation. The importance of the dignity of children and youngsters is highlighted in the legislation. Most of the provisions contain similar rules as those already mentioned or further mentioned under question 3 and 4;
- The French Community Decree of 26 March 2009 on audio-visual media services contains specific rules on timing and product placement which are detailed under question 4;
- French Community Ethical Code for Audio-visual Advertising focused on Children<sup>22</sup>.

This Code, which is only legally binding for the official regional broadcast, also contains some restrictions on the timing of advertising which are detailed under question 4.

In Belgium the legal age of majority is 18 years.

<sup>22</sup> <http://www.csa.be/documents/558>.





3

### Specific product restrictions

**What, if any, restrictions are there on advertising products that are known to be or are potentially dangerous or harmful to children, including but not limited to: Tobacco, Alcohol, Drugs/pharmaceuticals, HFSS products**

#### Tobacco

There is a prohibition on advertising tobacco products with an exception for shops selling tobacco goods (Act of 10 December 1997 establishing a prohibition on advertising for tobacco products).

#### Alcohol

Pursuant to the Covenant concerning Advertising for and Marketing of Alcoholic Beverages, advertisements cannot:

- be targeted at minors, neither by content, nor by means of communication;
- incite or encourage irresponsible, heavy or illegal consumption;
- portray minors or people who seem to be minors;
- represent the consumption of alcoholic beverages as a sign of adulthood;
- incite minors to buy alcoholic drinks by taking advantage of their lack of information, their inexperience or their trustfulness;
- incite minors to persuade their parents or other people to buy alcoholic drinks;
- use drawings or marketing techniques:
  - which refer to popular or fashionable figures for minors; or
  - with images or statements which mainly belong to the culture of minors;
- incite minors to persuade their parents or other people to buy products or services being recommended by advertising;
- take advantage of the special confidence minors have in their parents, teachers or other persons in a position of power;
- portray alcoholic drinks as a means to overcome dangerous situations;
- appear in newspapers and magazines for children;
- feature in commercials during a period of 5 minutes before and 5 minutes after a broadcast focused on an audience consisting of minors;
- feature in newspapers and magazines which are mainly focused on minors;
- be shown in movie theatres during movies which are mainly focused on minors; or
- feature in digital media which is mainly focused on minors.



		<p>Some of these prohibitions are also contained in the Flemish Community Decree of 27 March 2009 on radio and television broadcasting and the German speaking Community Decree of 27 June 2005 on audio-visual media services and cinema shows. Furthermore, requirements regarding the timing of such advertisements (immediately before or after children’s TV programmes) are foreseen in article 22 of the Flemish government’s Code of Conduct.</p> <p><b>Medicines (non-prescription only)</b></p> <p>Pursuant to the Royal Decree of 7 April 1995 concerning the information and advertising relating to medicinal products for human use it is forbidden to advertise medicines in magazines for children and advertisements for the general public cannot be focused exclusively or mainly on children.</p> <p><b>HFSS food</b></p> <p>The Flemish Community Decree of 27 March 2009 on radio and television broadcasting stipulates that commercial communications for children and young people may not encourage or condone excessive consumption of HFSS food. This is confirmed in the Code of Conduct of the Flemish Government (article 23).</p>
<p><b>4</b></p>	<p><b>Timing and placement of restrictions</b></p> <p><b>What, if any, restrictions are there on the timing and/or placement of advertisements in publications aimed at children (e.g., magazines, books)?</b></p> <p><b>a) Around entertainment programmes aimed at children (e.g., radio, television, movies, video games)?</b></p> <p><b>b) Online through websites or communications platforms, including social media, aimed at or used by children?</b></p>	<ul style="list-style-type: none"> <li>■ The Flemish Community Decree of 27 March 2009 on Radio and Television Broadcasting does not allow any interruption of children’s programmes for the purpose of television advertising. It further prohibits the broadcasting of advertising concerning alcoholic beverages immediately before, or immediately after, children’s programmes. This is further specified in the Flemish Government’s Code of Conduct as mentioned above.</li> </ul> <p>As mentioned above, on 27 June 2000 the Council for Consumption adopted a recommendation on advertising periods for children’s festivities.</p> <p>The French Community Decree of 26 March 2009 on audio-visual media services and the French Community Ethical Code for Audio-visual Advertising focused on Children both forbid product placement in television programmes aimed at children, the interruption of such children programmes for advertising and the broadcasting of certain types of advertising (such as publicity for television programmes or games which are not suited for children) from occurring five minutes before and five minutes after children’s programmes.</p> <ul style="list-style-type: none"> <li>■ The Covenant concerning Advertising for and Marketing of Alcoholic Beverages prohibits advertising for alcoholic beverages in digital media which are mainly focused on minors.</li> </ul>



<p><b>5</b></p>	<p><b>Advertising placement restrictions</b></p> <p><b>What, if any, restrictions are there on advertising or marketing in schools, children’s clubs or other places children regularly visit?</b></p>	<p>In the Flemish Community advertising in schools is allowed under certain conditions and under the supervision of the governing body of the school.</p>
<p><b>6</b></p>	<p><b>Restrictions on targeting children</b></p> <p><b>What, if any, restrictions are there on using advertising or marketing techniques to appeal to children (e.g., licensing of popular cartoon characters)?</b></p>	<p>Pursuant to the Covenant concerning Advertising for and Marketing of Alcoholic Beverages advertisements for alcohol cannot use drawings or marketing techniques which refer to popular or fashionable figures for minors or use images or statements which mainly belong to the culture of minors.</p> <p>Furthermore, the specifications as set forth in the Flemish Government’s Code of Conduct are to be complied with.</p>
<p><b>7</b></p>	<p><b>Restrictions on the use of children in ads</b></p> <p><b>What, if any, restrictions are there on the use of children in advertising, including peer-to-peer marketing and the appointment of children as brand ambassadors?</b></p>	<p>There is no prohibition as such on children appearing in advertising or acting as brand ambassadors. The general principles to take into account are found in:</p> <ul style="list-style-type: none"> <li>■ civil law: with respect to the duty for parents to represent minors for any legal actions (e.g. if the minor is to sign an agreement with the marketing agency), and</li> <li>■ employment law: the principles on child labour must be complied with (although individual exemptions can be requested for children participating in advertisements – provided certain conditions are met this will not be considered as child labour).</li> </ul>
<p><b>8</b></p>	<p><b>Product labelling and children’s safety</b></p> <p><b>In relation to product labelling, are there any specific requirements relevant to children with regard to health, safety or other concerns?</b></p>	<p>Children’s toys in Belgium must carry a CE mark which is a declaration by the manufacturer that the product satisfies European minimum safety requirements.</p> <p>Apart from that, the provisions as foreseen by the EU ‘Toy’ Directive (2009/48/EC) – as transposed by the Royal Decrees of 19 January 2011 – must be complied with.</p> <p>Furthermore, EU Directive 2008/112/EC, as transposed on 30 December 2009, with respect to labelling requirements for chemicals (in toys), must also be complied with.</p>





<p><b>9</b></p>	<p><b>Enforcement body</b></p> <p>a) Which administrative body or bodies oversee compliance with government regulations or industry standards on marketing and advertising? b) Do any of these have a specific mandate to look at issues around marketing and advertising to children?</p>	<p>The most well-known controlling body is the Jury on Ethical Practices in Advertising (“JEP”). It handles complaints and gives pre-launch advice about advertising campaigns. The JEP is a self-regulatory body of the advertising sector set up by the Council of Advertising in 1974. The JEP has no legal authority and its decisions are not binding as it only publishes advice and recommendations. Any compliance with sanctions imposed by the JEP relies on the goodwill of the sanctioned member, and the latter may decide to not comply with such sanctions. Decisions of the JEP typically are only made a long time following the advertising campaign concerned.</p> <p>Each Community has its own enforcing body relating to radio and television broadcasting. Their respective media acts are enforced by:</p> <ul style="list-style-type: none"> <li>■ the VRM (Flemish Regulator for the Media) in the Flemish Community;</li> <li>■ the CSA (High Council for the Audio-visual Sector) in the French Community;</li> <li>■ the Media Council in the German Community.</li> </ul>
<p><b>10</b></p>	<p><b>Pre-clearance, sanctions and complaints</b></p> <p>(a) Do advertisements need to be pre-cleared before publication or broadcast?</p> <p>(b) What sanctions can be imposed for breaches of codes or regulations?</p> <p>(c) Are there mechanisms for children or their representatives to file individual complaints?</p>	<p>(a) No, advertisements do not need to be pre-cleared.</p> <p>(b) The JEP can ask the advertiser to change or stop the advertisement. In case of non-compliance with this decision it contacts the media or the sector federation to ask the cancellation of the contested advertisement.</p> <p>The VRM, CSA and the Media Council can (i) issue warnings and order to put an end to the violation, (ii) order to broadcast the decision, (iii) impose publication of the decision in dailies and weeklies and/or (iv) impose administrative penalties, etc.</p> <p>(c) Yes, natural persons can file complaints with the JEP, the VRM, the CSA and the Media Council.</p>
<p><b>11</b></p>	<p><b>Effectiveness</b></p> <p>How effective are the laws and codes? Are they respected/do they get enforced?</p>	<p>The Jury of Ethical Practices in Advertising (“JEP”), the administrative self-regulatory body, takes breaches of the several codes and regulations it oversees seriously. In addition, each Community has its own enforcing body relating to radio and television broadcasting. Some regulations set forth criminal sanctions. The codes and other regulations are effective and the majority of advertisers seek to comply.</p>
<p><b>12</b></p>	<p><b>Pressure Groups</b></p> <p>Are the consumer led pressure groups/lobbying?</p>	<p>There are a number of consumer led pressure groups that have taken an interest in making sure that children are protected from misleading advertising, e.g. “Test-Aankoop”/”Test-Achats”. At Community level, official independent children’s rights commissioners exist which, <i>inter alia</i>, provide guidance and policies with respect to compliance with, and the application of, children’s rights in their respective Communities.</p>



## 5. BRAZIL

<p><b>1</b></p>	<p><b>Regulation</b></p> <p><b>Are there statutes or codes, including voluntary initiatives (e.g., industry codes of conduct), that specifically regulate marketing and/or advertising? Please list and briefly describe key statutes, codes and initiatives.</b></p>	<p>There is the Brazilian Code of Advertising Self-Regulation, enforced by National Council of Advertising Self-Regulation (“<b>CONAR</b>”), a civil self-regulation association that has as its members the most important Brazilian advertising agencies.</p>
<p><b>2</b></p>	<p><b>Regulations protecting children</b></p> <p><b>Do any standards listed above explicitly address marketing and advertising to children as a whole and/or to particular age groups of children? What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?</b></p>	<p>Article 37 of the Brazilian Code of Advertising Self-Regulation, addresses marketing and advertising to children as a whole.</p> <p>Law 8.069/90 defines children as anyone under 12 years old. The legal age of majority, under the Brazilian Civil Code, is 18 years old.</p>
<p><b>3</b></p>	<p><b>Specific product restrictions</b></p> <p><b>What, if any, restrictions are there on advertising products that are known to be or are potentially dangerous or harmful to children, including but not limited to: Tobacco, Alcohol, Drugs/pharmaceuticals, HFSS products</b></p>	<p>It is forbidden to associate children and adolescents with any illegal, dangerous or socially reprehensible situations.</p> <p>Children and teenagers shall not figure as advertising models in any adverts that promote the consumption of goods and services such as firearms, alcohol, cigarettes, fireworks and lotteries, and all others types of activities similarly prohibited by legal restriction.</p> <p>The legal age to smoke or drink alcohol in Brazil is 18 years old.</p>



<p><b>4</b></p>	<p><b>Timing and placement of restrictions</b></p> <p><b>What, if any, restrictions are there on the timing and/or placement of advertisements in publications aimed at children (e.g., magazines, books)?</b></p> <p><b>(a) Around entertainment programmes aimed at children (e.g., radio, television, movies, video games)?</b></p> <p><b>(b) Online through websites or communications platforms, including social media, aimed at or used by children?</b></p>	<p>According to the Brazilian Code of Advertising Self-Regulation:</p> <ul style="list-style-type: none"> <li>■ You cannot do product placement in programmes for children or use childhood characters to attract the attention of the public.</li> <li>■ It is forbidden to use a journalistic format to present advertisements to children.</li> </ul>
<p><b>5</b></p>	<p><b>Advertising placement restrictions</b></p> <p><b>What, if any, restrictions are there on advertising or marketing in schools, children’s clubs or other places children regularly visit?</b></p>	<p>There are no specific rules with regards to clubs and schools, however, they will most likely not allow any advertisements that they consider immoral, socially reprehensible or harassment of any kind. Any advertisement should follow CONAR’s guidelines.</p>
<p><b>6</b></p>	<p><b>Restrictions on targeting children</b></p> <p><b>What, if any, restrictions are there on using advertising or marketing techniques to appeal to children (e.g., licensing of popular cartoon characters)?</b></p>	<p>The use of imperative expressions (such as ‘buy it’, ‘ask your parents’, etc.) is forbidden when the advert is directed at children.</p> <p>Furthermore, the content of the advertisement must not go against family and moral values, school, healthy habits (especially eating habits) and must not contain any kind of racial, religious or social prejudices.</p> <p>It is also forbidden to spread any type of fear amongst children, as well as exposing them to any type of dangerous or embarrassing situations as a result of not being able to acquire the product/ service being advertised.</p> <p>You cannot do product placement in programmes for children or using childhood characters to attract the attention of the public.</p>



7	<p><b>Restrictions on the use of children in ads</b></p> <p>What, if any, restrictions are there on the use of children in advertising, including peer-to-peer marketing and the appointment of children as brand ambassadors?</p>	<p>Children can be used in advertising (they can star in it or feature in it), however, the Brazilian law lacks regulation with regard to children being appointed as brand ambassadors and the possibility of peer-to-peer marketing.</p>
8	<p><b>Product labelling and children's safety</b></p> <p>In relation to product labelling, are there any specific requirements relevant to children with regard to health, safety or other concerns?</p>	<p>Toys must have an INMETRO (federal agency responsible for monitoring the quality and safety of certain products) seal. The seal must be on any toys intended for children up to 14 years of age. The seal is designed to protect children from objects that can cut, choke or cause any kind of harm to their health. Children's toys must meet a series of requirements with regard to health, safety and physical integrity of children and must have a visible mark on their label specifying the age group for which they are suitable.</p>
9	<p><b>Enforcement body</b></p> <p>(a) Which administrative body or bodies oversee compliance with government regulations or industry standards on marketing and advertising?</p> <p>(b) Do any of these have a specific mandate to look at issues around marketing and advertising to children?</p>	<p>(a) Public Prosecution Office, Consumer's Protection Bureau ("PROCON") and CONAR.</p> <p>(b) The Public Prosecution Office and CONAR.</p>
10	<p><b>Pre-clearance, sanctions and complaints</b></p> <p>(a) Do advertisements need to be pre-cleared before publication or broadcast?</p> <p>(b) What sanctions can be imposed for breaches of codes or regulations?</p> <p>(c) Are there mechanisms for children or their representatives to file individual complaints?</p>	<p>(a) Advertisements do not need to be pre-cleared.</p> <p>(b) CONAR can issue a warning, can recommend an alteration of any advertisement, can recommend the communication vehicles to stop airing that specific advertisement, and can suspend the transmission of the advertisement. Also, the Public Prosecution Office and PROCON can initiate legal proceedings against any abusive kind of advertisements, requesting them to be removed from transmission and seek judicial compensation against the infringer.</p> <p>(a) Any individual can file a complaint with CONAR, Public Prosecution Office and/or the PROCON.</p>



<b>11</b>	<b>Effectiveness</b> <b>How effective are the laws and codes? Are they respected/do they get enforced?</b>	The laws and codes are respected and enforced in Brazil. The majority of advertisers comply with the rules. In case a complaint is filed against an advert, CONAR and/or PROCON will investigate it and take measures that could result in fines and/or the termination of the advert. Moreover, the public prosecution office could start legal proceedings against the advertisers in more extreme cases.
<b>12</b>	<b>Pressure Groups</b> <b>Are the consumer led pressure groups/lobbying?</b>	There are a number of organizations that taken an interest in making sure that children are protected from misleading advertising e.g. Criança e Consumo and Milc – Movimento Infância Livre de Consumismo.





## 6. CANADA



I

### Regulation

Are there statutes or codes, including voluntary initiatives (e.g., industry codes of conduct), that specifically regulate marketing and/or advertising? Please list and briefly describe key statutes, codes and initiatives.

The following are the key statutes and codes in Canada relating to marketing or advertising:

#### Statutes

(a) **Competition Act**

The *Competition Act* is the main federal statute in Canada which governs marketing and advertising. It prohibits advertising and marketing that is misleading, deceptive or unfair, and it imposes both civil and criminal remedies.

(b) **Consumer Packaging and Labelling Act; Precious Metals Marking Act; Textile Labelling Act**

These federal statutes are similar to the *Competition Act*, but they apply to specific sectors, i.e., prepackaged consumer products; precious metal products; and consumer textile products.

(c) **Criminal Code**

The *Criminal Code* is Canada's criminal law. It is relevant to advertising because it prohibits certain contests and promotions, such as those which: (i) require consideration, and (ii) contain an element of chance, and (iii) offer a prize. Contests are also regulated by the *Competition Act* (described above) which requires various disclosures regarding contests (such as the chances of winning, how prizes will be awarded, etc.).

(d) **Broadcasting Act**

The federal *Broadcasting Act* regulates broadcasting in Canada. It includes restrictions on advertisements of alcoholic beverages, tobacco, and devices regulated by the *Food and Drugs Act*.

(e) **Provincial Consumer Protection Acts**

In addition to the above Federal legislation, most Canadian provinces have consumer protection legislation. Typically this legislation prohibits advertisers from making false, misleading or deceptive representations.

#### Codes

(a) **Canadian Code of Advertising Standards**

This code applies to members of Advertising Standards Canada (ASC). ASC apparently has over 190 members (including many large, international companies). The code aims to ensure that advertisements maintain standards of honesty, truth, accuracy, fairness and propriety. If a complaint is made that the Code has been violated, there is an independent volunteer body (Standards Council) which reviews the matter. If the Council determines the ad does contravene the Code then they will ask the advertiser to remove or amend it.



		<p>(b) <b>Canadian Marketing Association Code of Ethics</b></p> <p>The Canadian Marketing Association (CMA) has a Code of Ethics that applies to all of its members. The Code provides guidance to advertisers regarding advertising best practices. If a member contravenes the Code of Ethics, there is an internal procedure which can result in various remedies including expulsion.</p>
<p><b>2</b></p>	<p><b>Regulations protecting children</b></p> <p><b>Do any standards listed above explicitly address marketing and advertising to children as a whole and/or to particular age groups of children? What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?</b></p>	<p>In Canada, the age of majority is 18 in the provinces of Alberta, Manitoba, Ontario, Prince Edward Island, Quebec and Saskatchewan. The age of majority is 19 in the remaining provinces and territories.</p> <p><b>Definition of a Child in Advertising Context</b></p> <p>The <i>Broadcast Code for Advertising to Children</i> defines a child as a person under the age of 12.</p> <p>The Quebec <i>Consumer Protection Act</i> defines a child as a person under the age of 13.</p> <p>The Federal <i>Tobacco Act</i> defines a young person as a person under the age of 18.</p> <p><b>Regulations Protecting Children</b></p> <p>(a) <b>Canadian Code of Advertising Standards</b></p> <p>The <i>Canadian Code of Advertising Standards</i> applies to advertising generally, as described in section 1 above. However, it also contains two sections which specifically relate to children.</p> <p>Section 12 states that advertising directed to children must not exploit their credulity, lack of experience or their sense of loyalty, and must not present information or illustrations that might result in their physical, emotional or moral harm.</p> <p>Section 13 states that products which cannot be sold to minors must not be advertised in such a way as to appeal to minors; and people featured in advertisements for those products must clearly be adults.</p> <p>(b) <b>Broadcast Code for Advertising to Children</b></p> <p>The <i>Broadcast Code for Advertising to Children</i> supplements the <i>Canadian Code of Advertising Standards</i> and federal laws regarding advertising. It contains several requirements and prohibitions for children’s advertising, including the following:</p> <ul style="list-style-type: none"> <li>■ The advertising must not employ any device or technique that attempts to transmit messages below the threshold of normal awareness.</li> <li>■ Written, sound, photographic and other visual presentations must not exaggerate service, product or premium characteristics.</li> </ul>





- The relative size of the product must be clearly established.
- When advertising shows results from a drawing, construction, craft, etc., the results should be reasonably attainable by an average child.
- The words “new”, “introducing”, “introduces” or similar words may be used for no more than one year.
- Products that are not intended for use by children cannot be advertised through promotions that are primarily child-oriented.
- Drugs, medicines and vitamins cannot be advertised to children, with the exception of children’s fluoride toothpastes.
- Children’s advertising must not urge children to make purchases or ask their parents to make inquiries or purchases.
- There can be no more than one commercial message for the same product each hour.
- No station or network may carry more than four minutes of commercial messages in any one half-hour of children’s programming.
- Puppets and characters well-known to children must not be used to endorse or personally promote products, premiums or services.
- Price and purchase terms, when used, must be clear and complete.
- Commercial messages must not make comparisons with a competitor’s product or service when the effect is to diminish the value of other products or services.
- Commercial messages, except specific safety messages, must not portray adults or children in clearly unsafe acts or situations.
- Children’s advertising must not encourage or portray a range of values that are inconsistent with the moral, ethical or legal standards of contemporary Canadian society.
- Children’s advertising must not imply that possession or use of a product makes the owner superior or that without it the child will be open to ridicule or contempt.
- Where measurable claims are made regarding specific products, the advertiser must be prepared to supply evidence supporting the claims.



(c) **Quebec Consumer Protection Act**

Section 248 of the Quebec Consumer Protection Act prohibits any commercial advertising directed at persons under 13 years of age, except under prescribed conditions. To determine whether or not an advertisement is directed at this audience, account must be taken of the context of the presentation of the advertisement and, in particular, of: (i) the nature and intended purpose of the goods advertised, (ii) the manner of presenting the advertisement; and (iii) the time and place it is shown.

There are some exceptions, such as for advertising that appears in magazines or inserts directed at children and published at intervals of not more than three months if the advertisement meets the requirements of section 91 of the Regulations. Those Regulations contain various prohibitions, including that advertisements directed at children must not:

- exaggerate the nature, characteristics, performance or duration of goods or services;
- minimize the degree of skill, strength or dexterity or the age necessary to use goods or services;
- use a superlative to describe the characteristics of goods or services or a diminutive to indicate its cost;
- use a comparative or establish a comparison with the goods or services advertised;
- directly incite a child to buy or to urge another person to buy goods or services or to seek information about it;
- portray reprehensible social or family lifestyles;
- advertise goods or services that, because of their nature, quality or ordinary use, should not be used by children;
- advertise a drug or patent medicine;
- advertise a vitamin in liquid, powdered or tablet form;
- portray a person acting in an imprudent manner;
- portray goods or services in a way that suggests an improper or dangerous use thereof;
- portray a person or character known to children to promote goods or services, except in certain permitted instances;
- use an animated cartoon process except to advertise a cartoon show directed at children;
- use a comic strip except to advertise a comic book directed at children;
- suggest that owning or using a product will develop in a child a physical, social or psychological advantage over other children his age, or that being without the product will have the opposite effect; or
- advertise goods in a manner misleading a child into thinking that, for the regular price of those goods, he can obtain goods other than those advertised.



3

### Specific product restrictions

**What, if any, restrictions are there on advertising products that are known to be or are potentially dangerous or harmful to children, including but not limited to: Tobacco, Alcohol, Drugs/pharmaceuticals, HFSS products**

#### Tobacco

The federal *Tobacco Act* generally prohibits advertising tobacco products, although it permits “Information advertising” or “brand-preference advertising” in publications that are provided by mail to named adults, and on signs in places where young persons are not permitted by law. However, those advertisements must not depict “lifestyle” or advertising that could reasonably be appealing to young persons. They must also not advertise an offer to deliver a tobacco product from one province to another or to mail a tobacco product.

#### Alcohol

Advertising relating specifically to alcohol is primarily regulated on a provincial level in Canada. In generally, the laws of many provinces state that alcohol advertising must not:

- suggest that consumption of alcoholic beverages will lead to social acceptance or personal success;
- contain endorsements by known personalities;
- claim health benefits;
- target minors;
- show the consumption of alcoholic beverages in connection any activity that requires care or skill or involves elements of danger; or
- depict illegal consumption or use of alcoholic beverages.

There is also a federal *Code for Broadcast Advertising of Alcoholic Beverages*. It contains similar restrictions to those described above, but also specifically notes that alcohol advertisements should be overtly directed to persons who are of the legal drinking age in the province where the message is broadcast, and should not depict children, children’s toys, children’s clothing, playground equipment, or wading pools. Also, mythical or fairy tale characters appealing to children, such as Santa Claus, the Tooth Fairy, the Easter Bunny or Halloween characters and symbols, should not be depicted in such messages under any circumstance.

#### Drugs/Pharmaceuticals

As mentioned above, the *Broadcast Code for Advertising to Children* and the *Quebec Consumer Protection Act* restrict the advertising of drugs to children. Further restrictions are discussed below.

#### HFSS Products

The federal *Food and Drugs Act* (“FDA”) and the Canadian Food Inspection Agency’s *Guide to Food Labelling & Advertising* prohibit advertising that presents food and drugs in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its character, value, quantity, composition, merit or safety. In addition, there are restrictions regarding claims that can be made regarding quality, nutrient content, low fat claims, and health claims.



<p><b>4</b></p>	<p><b>Timing and placement of restrictions</b></p> <p><b>What, if any, restrictions are there on the timing and/or placement of advertisements in publications aimed at children (e.g., magazines, books)?</b></p> <p>a) <b>Around entertainment programmes aimed at children (e.g., radio, television, movies, video games)?</b></p> <p>b) <b>Online through websites or communications platforms, including social media, aimed at or used by children?</b></p>	<p>The <i>Broadcast Code for Advertising to Children</i> contains the following scheduling restrictions:</p> <ul style="list-style-type: none"> <li>■ The same commercial message, or more than one commercial message promoting the same product, cannot be aired more than once in a half-hour children’s program. In children’s programs of longer duration, the same commercial message or more than one commercial message promoting the same product must not appear more than once in any half-hour period.</li> <li>■ No station or network may carry more than four minutes of commercial messages in any one half-hour of children’s programming or more than an average of eight minutes per hour in children’s programs of longer duration.</li> <li>■ In children’s programs, only paid commercial messages are included in the four minutes per half-hour limitation.</li> <li>■ Commercial messages scheduled for viewing during the school-day morning hours should be directed to the family, parent or an adult, rather than to children, and should have the requisite ASC clearance number if appearing in or adjacent to a child-directed program.</li> </ul> <p>The <i>Canadian Code of Advertising Standards</i> states that products which cannot be sold to minors must not be advertised in such a way as to appeal particularly to persons under legal age. This would include advertising that is timed or placed in such a way as to appeal to children.</p>
<p><b>5</b></p>	<p><b>Advertising placement restrictions</b></p> <p><b>What, if any, restrictions are there on advertising or marketing in schools, children’s clubs or other places children regularly visit?</b></p>	<p>There do not appear to be any restrictions relating specifically to the location of advertising in Canada; however, as mentioned above, there are restrictions on targeting advertising to children in certain circumstances. Displaying advertisements in places children regularly visit could violate these restrictions.</p>
<p><b>6</b></p>	<p><b>Restrictions on targeting children</b></p> <p><b>What, if any, restrictions are there on using advertising or marketing techniques to appeal to children (e.g., licensing of popular cartoon characters)?</b></p>	<p>As mentioned above, the <i>Broadcast Code for Advertising to Children</i> and the <i>Quebec Consumer Protection Act</i> both contain restrictions on the use of cartoon characters in connection with advertising.</p> <p>The <i>Broadcast Code for Advertising to Children</i> also contains restrictions on other techniques that appeal to children, such as subliminal advertising, exaggerated presentations, the use of the word “new”, repetition of the same advertisement, etc.</p>





<p><b>7</b></p>	<p><b>Restrictions on the use of children in ads</b></p> <p>What, if any, restrictions are there on the use of children in advertising, including peer-to-peer marketing and the appointment of children as brand ambassadors?</p>	<p>There do not appear to be any restrictions in Canada on the use of children in advertisements.</p>
<p><b>8</b></p>	<p><b>Product labelling and children's safety</b></p> <p>In relation to product labelling, are there any specific requirements relevant to children with regard to health, safety or other concerns?</p>	<p>The <i>Canada Consumer Product Safety Act</i> applies to a wide variety of consumer products, including children's toys. It prohibits manufacturing, importing, advertising or selling a product that is a danger to human health or safety, and it prohibits packaging or labeling a product in a manner that reasonably may be expected to create an erroneous impression regarding the fact that it is not a danger to human health or safety. The Act also requires manufacturers, importers and sellers to report safety incidents to Health Canada, and to comply with product recalls issued by Health Canada.</p>
<p><b>9</b></p>	<p><b>Enforcement body</b></p> <p>a) Which administrative body or bodies oversee compliance with government regulations or industry standards on marketing and advertising? b) Do any of these have a specific mandate to look at issues around marketing and advertising to children?</p>	<p><b>Enforcement Bodies</b></p> <p>The Competition Bureau is responsible for the administration and enforcement of the <i>Competition Act</i>, the <i>Consumer Packaging and Labelling Act</i>, the <i>Textile Labelling Act</i> and the <i>Precious Metals Marking Act</i>.</p> <p>Advertising Standards Canada oversees the <i>Canadian Code of Advertising Standards</i> and the <i>Broadcast Code for Advertising to Children</i>.</p> <p>The <i>Office de la Protection du Consommateur</i> oversees the <i>Quebec Consumer Protection Act</i>.</p> <p><b>Mandate</b></p> <p>The above enforcement bodies do not appear to have a specific mandate regarding children, although they do enforce regulations relating specifically to children.</p>



<p><b>10</b></p>	<p><b>Pre-clearance, sanctions and complaints</b></p> <p>(a) <b>Do advertisements need to be pre-cleared before publication or broadcast?</b></p> <p>(b) <b>What sanctions can be imposed for breaches of codes or regulations?</b></p> <p>(c) <b>Are there mechanisms for children or their representatives to file individual complaints?</b></p>	<p><b>Pre-Clearance</b></p> <p>Children’s advertising and advertisements that are directed at children require preclearance from the Children’s Committee of Advertising Standards Canada.</p> <p><b>Sanctions</b></p> <p>If the advertiser does not remove the advertisement as ordered, then the broadcasters generally do. Broadcasters in Canada (excluding Quebec) must comply with the <i>Broadcast Code for Advertising to Children</i> as a condition of their licences with the broadcast regulator (the Canadian Radio-television and Telecommunications Commission).</p> <p><b>Complaints</b></p> <p>Advertising Standards Canada does accept and respond to consumer complaints, including in respect of children’s advertising. If the ASC determines that any children’s advertising violates the <i>Code</i>, then broadcasters are prohibited from running the advertisement.</p>
<p><b>11</b></p>	<p><b>Effectiveness</b></p> <p><b>How effective are the laws and codes? Are they respected/do they get enforced?</b></p>	<p>The laws and codes appear to be at least somewhat effective and enforced. However, there are different perspectives.</p> <p>According to Advertising Standards Canada, “there is a comprehensive and respected body of regulatory standards applicable to all advertising, including food, that are designed to safeguard the public, and additional standards in place in regard to advertising to children. ..[T]he industry will continue to keep our social values reflected strongly in the various advertising codes, and will stringently uphold these values and standards for the benefit of all Canadians, especially children.”</p> <p>In contrast, the Heart and Stroke Foundation of Canada, in its <i>Policy Statement regarding Restricting the Marketing of Unhealthy Foods and Beverages to Children in Canada</i> states that “The current voluntary, industry self-regulated and ineffective system of restricting the marketing and advertising of foods and beverages fails to protect Canadian Children and thereby contributes to the rising rates of childhood obesity and the likelihood of premature death and disability in our children’s and future generations.”</p>
<p><b>12</b></p>	<p><b>Pressure Groups</b></p> <p><b>Are the consumer led pressure groups/lobbying?</b></p>	<p>We are not aware of consumer-led groups in Canada which focus on children’s advertising.</p>



## 7. CHILE



I

### Regulation

**Are there statutes or codes, including voluntary initiatives (e.g., industry codes of conduct), that specifically regulate marketing and/or advertising? Please list and briefly describe key statutes, codes and initiatives.**

### Statutes

Chilean legislation does not contemplate a statute that regulates marketing and advertising in general, but rather it regulates advertising of specific products through particular laws such as:

- (i) Act No. 20.606 about nutritional composition of food;
- (ii) Act No. 19.419 about tobacco consumes; and
- (iii) Act No. 19.925 about marketing and consumption of alcoholic drinks.

These particular laws have been reviewed and are key to this questionnaire.

### Codes

The Council for Advertising and Self Regulation and Ethics (CONAR), has its own Code of Ethics (Code) that regulates advertising and commercial communications; the code is followed by advertising agencies and TV channels associated with CONAR.

Additionally, the Sanitary Code DFL 725 and Sanitary Regulation on Food DL 977, both rule important aspects concerning advertising aimed to minors.

### Voluntary Initiatives

CONAR is a corporation of private law that advocates and promotes an ethical advertising, specifically ruling advertising focused on minors.

The Chilean Association of Advertisement Agencies (ACHAP), a union association, has a good practice guidance that sets the general principles for a correct development of such activity within the market, but thus not specifically addresses advertising aimed to children.

Additionally, the above mentioned regulations tend to compel parental authority, teachers, public authorities and the community in general to use advertisement in a positive way to form responsible citizens and conscious consumers.





2

### Regulations protecting children

**Do any standards listed above explicitly address marketing and advertising to children as a whole and/or to particular age groups of children? What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?**

### Legal age of majority

The legal age of majority in Chile is 18 years old according to Article 16 of Civil Code. All those children under 18 years old are considered minors for all law purposes.

### Definition of a child in advertising context (if different)

There is no different definition of a child in advertising context than the legal one.

CONAR's ethic code defines as underage any person below the age of 18; and distinguishes between i) children, any underage below the age of 12 and ii) adolescents, any underage between 12 and 18 years old.

Act No. 20.606 of Nutritional Composition and Advertisement of Food defines, for that particular law, as underage any person below the age of 14.

### Regulations protecting children/particular age groups

There is no state legislation that either regulates or protects underage in relation to marketing and advertising.

CONAR's ethic code (keep in mind it is a private code product of a voluntary initiative) specifically addresses the advertisement directed to underage, setting a series of rules and principles to do so. It defines advertisement to minors as that one that promotes products and services intended preferentially to minors and which is designed in such a way that because of its content, language and images, tries to reach and attract in a special way the attention or interest of minors (Article 21).

It also contemplates that advertising intended to minors must take into account the psychological characteristics of the audience and shall take great care in assessing the level of knowledge, sophistication and maturity of the underage audience. This Code also indicates that the advertising directed to young children, because of their children's condition and lack of insight and experience with advertising messages, this advertising should be careful.

Advertising should also avoid the use of violence and unjustified aggressiveness, and the use of elements that cause fear or could disturb minors.

This advertisement should use language, visual elements and symbols that can be understood by minors, avoiding promises that might create unreasonable expectations of the products offered regarding its characteristics such as quality, lasting, price and benefits that they might obtain.



3

### Specific product restrictions

**What, if any, restrictions are there on advertising products that are known to be or are potentially dangerous or harmful to children, including but not limited to: Tobacco, Alcohol, Drugs/pharmaceuticals, HFSS (high in fat sugar, salt) products?**

#### Tobacco

Act No. 19.419 regulates all matters concerning the consumption of tobacco and derivative products, including advertising. For this purpose it defines advertising as all forms of promotion, communication or propaganda with the purpose of promoting any product made with tobacco or for its consumption.

Advertising of tobacco and elements related to this product is completely prohibited, even the indirect advertising. Moreover the appearance of people smoking on TV, movies or advertisement and the addressing of favorable characteristics to tobacco consumption, is prohibited by this law during minors protected schedule.

#### Alcohol

CONAR's ethic code rules that advertisement of alcoholic products shall first of all follow legal regulation referring to law 19.925. Advertising shall not promote in minors the consumption of this product, nor shall these be advertised in events, means, spaces or schedules directed to minors. This kind of advertisement cannot recreate minor's own situations or associated to them, nor can it use mediums or spaces directed to minors.

Act No. 19.925 prohibits the commercialization and advertising of alcoholic drinks in a radius of 100 meters from schools. Moreover, this act also establishes penalties to the owner of locals where alcoholic beverages are sold, when inducing minors to consumption of these products, directly or through advertising.

#### Drugs/Pharmaceuticals

It is absolutely prohibited in any media, either TV, online, publications, magazines, the advertising of drugs declared illegal.

Regarding pharmaceutical products, CONAR's code establishes that advertising shall not be express in any such way that it might induce the consumption pharmaceutical products by children without the supervision of a responsible adult.

#### HFSS products

According to CONAR's ethic code, advertising of drinks and food aimed to children under 14 years old must follow the general rules set in Article 21 of such body. Advertising shall avoid creating false expectations regarding the nutritional benefits of food and drinks and shall not undermine parental authority in the guidance of a healthy lifestyle.

Recently approved Act No. 20.606 about Nutritional Composition and Advertising of Food regulates specifically the marketing of high in fat, salt and sugar products (HFSS) in general and establishes strict rules for the labelling of such products in Sanitary Regulation on Food. It is prohibited the advertising in any form of HFSS products to minors under 14 years old in any context and the free offering and marketing of such products.



<p><b>4</b></p>	<p><b>Timing and placement of restrictions</b></p> <p><b>What, if any, restrictions are there on the timing and/or placement of advertisements in:</b></p> <ul style="list-style-type: none"><li><b>(a) Publications aimed at children (e.g., magazines, books)?</b></li><li><b>(b) Around entertainment programmes aimed at children (e.g., radio, television, movies, video games)?</b></li><li><b>(c) Online through websites or communications platforms, including social media, aimed at or used by children?</b></li></ul>	<p><b>Publications</b></p> <p>Advertising addressed to minors shall not be located in places or spaces in which the environment or editorial context is not appropriate for minors (Article 21 of CONAR’s Code).</p> <p><b>Entertainment programmes</b></p> <p>The General Rules of Contents in Television Emissions issue by the Chilean National Television Council (CNTV) establishes as a protect TV schedule for minors that between 06:00 and 22:00 hours, prohibiting explicitly the advertising of alcoholic drinks during such period, being possible only to mention those brands when these are part of a sponsorship of a cultural, sport or other type of event.</p> <p>Sanitary Regulation of Food DL 977 understands advertising of food aimed to minors under the age of 14 as that carry out in programs and websites directed to that particular audience, or when those programs or web sites capture an audience superior to a 20% of that group. These products cannot be advertised during, in between or after the diffusion of programs or websites.</p> <p><b>Online</b></p> <p>All marketing and advertising of tobacco is prohibited on any web site ending in domains “point cl”.</p> <p>Additionally, remit to question 4 b).</p>
<p><b>5</b></p>	<p><b>Advertising placement restrictions</b></p> <p><b>What, if any, restrictions are there on advertising or marketing in schools, children’s clubs or other places children regularly visit?</b></p>	<p><b>Schools</b></p> <p>According to act No. 19.925, alcoholic drinks cannot be sold or advertised within a 100 meters radius from schools.</p> <p>Article 6 of act No. 20.606 prohibits the commercialization, promotion and advertisement of HFSS products inside primary and middle school education facilities.</p> <p>Article 4 of act No. 19.419 prohibits the commercialization of tobacco and its elements within a 100 meters radius to schools. Moreover, it is prohibited the commercialization of these products inside hospitals.</p> <p><b>Clubs</b></p> <p>No mention is done specifically to the regulation of clubs. Nevertheless, no minors under 18 years old are allowed into nightclubs.</p> <p><b>Other</b></p> <p>According to CONAR’s Code the exhibition, diffusion or presence of alcohol advertising shall be avoided in cultural, social, sports or any kind of events, addressed to minors.</p> <p>The marketing and commercialization of tobacco products cannot be install in establishments, sites or venues where underage have access; or can these products be sold under a 100 meters radius from schools.</p>



<p><b>6</b></p>	<p><b>Restrictions on targeting children</b></p> <p><b>What, if any, restrictions are there on using advertising or marketing techniques to appeal to children (e.g., licensing of popular cartoon characters)?</b></p>	<p><b>Cartoon/imaginary characters</b></p> <p>CONAR’s ethic code states that even thou fantasy (including animations and cartoon characters) is an appropriate resource to address minors under 14 years old in communications, the advertising of food and drinks shall not exploit the naivety of children in such a way that it might confuse or induce them into error about the benefits of such products.</p> <p>Article 110 bis of the Sanitary Regulation of Food DL 977 defines advertising addressed to children under the age of 14 as that one that uses elements, animations, cartoon characters, toys or child music to capture the attention and interest of that particular group. It will also be considered advertising appealing to children if it contains declarations or fantasy arguments about the product and its effects, child voices, language and expressions proper of minors or situations that represent the daily life in school or child games. In this kind of advertising, it is prohibited the use of interactive applications, games or contests.</p> <p><b>Other</b></p> <p>In general, advertising shall not exploit the naivety, immaturity, inexperience or natural credibility of children nor abuse of their sense of loyalty, as well as their imagination.</p> <p>Act No. 20.606 specifically prohibits advertising to induce the consumption of HFSS products by minors or the use of means that take advantage of minor’s naivety. Advertising should not use commercial hooks that are not related to the marketing of that specific product, such as gifts, games, accessories, stickers or any other element attractive to minors.</p>
<p><b>7</b></p>	<p><b>Restrictions on the use of children in ads</b></p> <p><b>What, if any, restrictions are there on the use of children in advertising, including peer-to-peer marketing and the appointment of children as brand ambassadors?</b></p>	<p><b>Use in advertising</b></p> <p>Article No. 22 of CONAR’s ethic code regulates the participation of children in advertising setting that their participation shall avoid promoting situations and behaviours that do not correspond or are inappropriate for their age. Minors shall not appear in dangerous situations or behave in a risky or irresponsible way, except on those advertising with educational purposes. Article 21 of this Code rules that advertising should avoid any kind of attitude that appeals to sexuality, specially situations and images that portray children in seductive or erotic attitudes.</p> <p>Advertising shall not present or use minors or images of them that, because of their psychological or physical characteristics might affect their dignity or the imitation by other peers might result prejudicial.</p> <p>In advertising and marketing of alcoholic products, the participation of minors is prohibited, including the use of underage, images of them, child voices or any other means.</p>





		<p><b>Use as brand ambassadors</b></p> <p>There is no mention in the legislation or codes that have been studied of any prohibition, restriction or regulation referred to minors being used as brand ambassadors. Nevertheless, in accordance to our Constitutional Law and International Treaties subscribed by Chile, especially the Convention on the Rights of the Child, the protection and well being of the minor must be assured.</p>
<p><b>8</b></p>	<p><b>Product labelling and children's safety</b></p> <p><b>In relation to product labelling, are there any specific requirements relevant to children with regard to health, safety or other concerns?</b></p>	<p><b>Health</b></p> <p>Advertising, in general, shall try to avoid the promotion of behaviours that might results dangerous to mental or physical health of people or the care of animals. (Article 24 of CONAR's code); and must not present as role models anorexia, obesity or any other condition that affects health and the normal development of children. In any case, it should never mock or undermine the image of any minor that has a condition of physical or mental limitation.</p> <p>Act No. 20.606 has ruled the obligation of producers to label HFSS products with certain specific characteristics contained in the Sanitary Regulation of Food DL 977. Specifically, HFSS products must contained a warning according to the following stickers:</p> <div data-bbox="667 1151 1430 1301" data-label="Image"> </div> <p>The advertising of those products that in its nutritional composition contains calories, sodium, sugars or saturated fat superior to the accepted levels, is prohibited to minors under the age of 14.</p> <p><b>Safety</b></p> <p>In general, CONAR's ethic code promotes that advertising does not disturb safety norms, pursuing to avoid the dangerous use of the product.</p> <p><b>Other</b></p> <p>Act No. 20.606 and DL 977 regulate the labelling of HFSS products. In reference to labelling products aimed specifically to children, these must follow the general rules set in those legal bodies. Nevertheless, when advertised in mass media communications, a message promoting a healthy lifestyle must be accompany.</p>



<p><b>9</b></p>	<p><b>Enforcement body</b></p> <p>(a) Which administrative body or bodies oversee compliance with government regulations or industry standards on marketing and advertising?</p> <p>(b) Do any of these have a specific mandate to look at issues around marketing and advertising to children?</p>	<p><b>Enforcement body</b></p> <p>Chilean Ministry of Health through the Sub secretary of Public Health and the Sanitary Authority, are the administrative bodies that oversee the compliance of the state legislation mentioned above, specifically act No. 19.419 and No. 20.606.</p> <p>Chilean National Television Council (CNTV) created by act No. 18.838 is an independent body created by constitutional mandate with the competence to oversee the correct functioning of television services, by supervising the content of the emissions. In this concern, it has competence to restrict the schedule and diffusion of TV programs and advertising aimed to minors that are inappropriate for these or contravenes the law.</p> <p>The compliance of CONAR's ethic code is overseen by CONAR's Ethical Court. This Court is honorific courts, whose opinion has no legal bidding but are widely fulfilled by private companies related to the advertising industry.</p> <p><b>Specific mandate to focus on children's issues?</b></p> <p>Chilean Ministry of Health and its entities do not have a specific mandate to look at issues around marketing addressed to children, but it is implicitly included as part of the compliance with the national legislation and the Convention on Rights of the Child subscribed by Chile, specifically Article 3 of such legal body.</p>
<p><b>10</b></p>	<p><b>Pre-clearance, sanctions and complaints</b></p> <p>(a) Do advertisements need to be pre-cleared before publication or broadcast?</p> <p>(b) What sanctions can be imposed for breaches of codes or regulations?</p> <p>(c) Are there mechanisms for children or their representatives to file individual complaints?</p>	<p><b>Pre-clearance</b></p> <p>No regulation establishes the need of pre-clearance for advertising before its publication or broadcast. All of Chilean measures implicate a corrective mandate rather than a prior control.</p> <p><b>Sanctions</b></p> <p>The Chilean Sanitary Authority and municipal inspectors oversees the fulfilment of law No. 19.419. Infractions are complaint before the local judge that can apply fines that go from 3 to 100 UTM (approximately 200USD to 6.800USD)</p> <p>Act No. 20.606 remits to the Sanitary Code to impose sanctions to infractions committed under this particular law. The Sanitary Code establishes fines that can go from one tenth of a UTM up to 1.000 UTM, and double in case of relapse (approximately 7USD to 67.500USD)</p> <p>Municipal and state inspectors as well as police officers are in charge of overseeing the fulfilment of law No. 19.925, with wide competences such as in-site inspections and even closure of the establishment.</p>



		<p><b>Complaints</b></p> <p>CONAR’s Ethical Court is an instance where private individuals, voluntarily can turn to seeking for protection in case of advertising infractions. This voluntary instance can be accessed by individuals without need of legal representation and the compliance with its final opinions is binding for those associated to such entity and those who submit to its authority.</p> <p>Before the Sanitary Authority, complaints can also be made by individuals through an administrative process regulated in that legal body and the administrative statute Act. 18.834. If not satisfied with the decision, individuals can take their allegation to the ordinary justice, for a final decision.</p> <p>According to Act. 19.496, of protection of consumer’s rights, it is possible to file complaints before the National Consumers Service (SERNAC), even those related to, for example, <a href="#">misleading advertising</a>. Nevertheless, this body has not sanctioning powers, but only mediation faculties.</p>
<p><b>11</b></p>	<p><b>Effectiveness</b></p> <p><b>How effective are the laws and codes? Are they respected/do they get enforced?</b></p>	<p>We haven’t had access to any study or authority’s report that can give us an idea of the effectiveness and enforcement of the legislation.</p> <p>Act No. 20.606 has been in force recently, thus, there is no public statistic in relation to its fulfilment. Nevertheless, the Sanitary Authority has been very strict in this matter and constant in-site inspections are conducted in supermarkets and food commercialization centres.</p> <p>Most of the regulation mentioned above appeals to schools, parents, marketing agencies to compel and develop programs that reinforce a healthy lifestyle including sports, a healthy diet and the avoidance of alcohol and drug consumptions. Specifically in schools, such program must be compelling as part of the Ministry of Education regulation.</p>
<p><b>12</b></p>	<p><b>Pressure Groups</b></p> <p><b>Are the consumer led pressure groups/lobbying, and if so, how effective are they?</b></p>	<p>There are no particular pressure groups or lobby in advertising as in other industries. As mentioned before ACHAP is a union association that unites advertising agencies with the purpose of setting good standards in the advertising industry.</p> <p>As mentioned before, Act No. 19.496 creates the National Consumers Service (SERNAC), administrative body that oversee the fulfilment of the law in relation to consumer’s rights and advocates for the protection of these. Even thou it does not specifically address advertising nor is a pressure group, it does represent consumers in when trespassed in their consumer’s rights.</p>





## 8. CHINA

<p><b>1</b></p>	<p><b>Regulation</b></p> <p><b>Are there statutes or codes, including voluntary initiatives (e.g., industry codes of conduct), that specifically regulate marketing and/or advertising? Please list and briefly describe key statutes, codes and initiatives.</b></p>	<p><b>Statutes</b></p> <p>Advertisement Law</p> <ul style="list-style-type: none"> <li>■ Prohibition of misleading advertisements</li> <li>■ Regulation of the content, target recipients of advertisements for specific products (e.g. tobacco and pharmaceutical products)</li> <li>■ Regulation of acts relating to advertisements</li> </ul> <p>Anti-Unfair Competition Law</p> <ul style="list-style-type: none"> <li>■ Prohibition of misleading advertisements</li> </ul> <p>Regulation on the Administration of Advertisements</p> <ul style="list-style-type: none"> <li>■ Regulation of the content of advertisements</li> <li>■ Establishing administrative procedures relating to administration of advertisements (e.g. the procedures for approving specific advertisements)</li> </ul> <p><b>Codes</b></p> <p>Interim Measures for the Supervision and Administration of Internet Advertisements (with effect from September 2016)</p> <ul style="list-style-type: none"> <li>■ Regulation of the content, forms and format of internet advertisements</li> </ul> <p>The State Administration for Industry and Commerce has also published several measures in relation to advertising of particular types of products or institutions (e.g. cosmetics, alcohol, medical institutions).</p> <p><b>Voluntary Initiatives</b></p> <p>/</p>
<p><b>2</b></p>	<p><b>Regulations protecting children</b></p> <p><b>Do any standards listed above explicitly address marketing and advertising to children as a whole and/or to particular age groups of children? What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?</b></p>	<p><b>Legal age of majority</b></p> <p>The legal age of majority is 18 years old under the Civil Code.</p> <p><b>Definition of a child in advertising context (if different)</b></p> <p>Same as above; although some protections listed in the Advertisement Law are available to children of particular age groups only.</p> <p><b>Regulations protecting children/particular age groups</b></p> <p>The Advertisement Law.</p>



3

### Specific product restrictions

**What, if any, restrictions are there on advertising products that are known to be or are potentially dangerous or harmful to children, including but not limited to: Tobacco, Alcohol, Drugs/ pharmaceuticals, HFSS (high in fat sugar, salt) products?**

#### Tobacco

- General restrictions for tobacco advertisements are set out in the Advertisement Law.
- The publication of tobacco advertisements on public media and in public places, public transportation or outdoor is prohibited.
- No tobacco advertisement shall be sent or displayed to minors.
- Advertising the names, trade marks, packaging, decoration or similar contents of tobacco products in advertisements for other products or services (including charity advertisements) are prohibited.
- Any announcements (e.g. recruitment notices) published by tobacco producers shall not contain the names, trade marks, packaging, decoration or similar contents of tobacco products.
- The draft of the Regulations on the Control of Smoking in Public Places has been submitted for review by the State Council. The draft Regulations would impose a complete ban on advertisements, marketing or sponsorship of tobacco products. It is uncertain when the Regulation will come into effect.

#### Alcohol

- General restrictions are set out in the Advertisement Law and the Measures for Administration of Alcohol Advertisements.
- The Advertisement Law states that the content of advertisements for alcoholic products must not: (i) induce or encourage alcoholic beverage consumption or excessive drinking; (ii) contain scenes of drinking alcoholic beverages; (iii) contain scenes of driving cars or controlling ships or planes; (iv) expressly or impliedly suggest that drinking may help alleviating nervousness or anxiety or improving one's stamina.
- The Advertisement Law also prohibits the broadcasting of alcohol advertisements on public media whose target audience are minors.
- The Measures for Administration of Alcohol Advertisements provides further restrictions on the content of alcohol advertisements. The content of the advertisements must not: (i) involve any minors; (ii) expressly or impliedly connect drinking to any personal, commercial, social or other success; (iii) present any result of comparison or assessments between different alcoholic beverage products; (iv) otherwise violate good social norms or present any unscientific or false claims.
- The Measures also limit the frequency of alcohol advertisements on public media.
- Alcohol advertisements on TV channels shall not be shown more than twice within the period of 7:00 pm to 9:00 pm and shall not be shown more than ten times within the other periods each day.
- Alcohol advertisements shown on radio channels shall not be broadcast more than twice per hour.



- For newspapers or magazines, no more than two alcohol advertisements shall be inserted in each publication and these advertisements shall not appear on the first page or the cover of the newspaper or magazine.

#### **Drugs/Pharmaceuticals**

- General restrictions are set out in the Advertisement Law.
- Narcotic drugs, psychoactive drugs, toxic drugs for medical prescription, radioactive drugs, pharmaceutical precursor chemicals, and drugs used for drug abuse treatment must not be advertised.
- Any other drugs which are not stated above but are required to be prescribed by doctors can only be advertised in specific professional medical or pharmaceutical journals as approved by the relevant authorities.
- The content of pharmaceutical advertisements must not:
  - (i) represent or warrant its medical effect or safety; (ii) indicate that it is effective or indicate its success rate in treatments;
  - (iii) compare the advertised pharmaceutical with other pharmaceutical products on its effectiveness or safety; (iv) use an endorser (i.e. those who recommend or guarantee the quality of goods and services in their own names and with their own reputation) to recommend or guarantee the quality of the product; (v) include any other content which is prohibited by law.
- The content of the advertisement must be consistent with the instructions approved by the relevant authorities; any negative effect of the drug must be clearly stated.
- For advertisements of medical prescribed drugs, a clear statement that the advertisement is targeted solely at medical professionals must be included. For non-medical prescribed drugs, a clear statement that the drugs should be bought and used according to instructions or professional guidance must be inserted.
- Advertisements for drugs must not be included in health information broadcasted on public media.
- The broadcasting of drug advertisements on public media whose target audience are minor is prohibited.

#### **HFSS products**

/



<p><b>4</b></p>	<p><b>Timing and placement of restrictions</b></p> <p><b>What, if any, restrictions are there on the timing and/or placement of advertisements in:</b></p> <p>(a) <b>Publications aimed at children (e.g., magazines, books)?</b></p> <p>(b) <b>Around entertainment programmes aimed at children (e.g., radio, television, movies, video games)?</b></p> <p>(c) <b>Online through websites or communications platforms, including social media, aimed at or used by children?</b></p>	<p><b>Publications</b></p> <ul style="list-style-type: none"> <li>■ Under the Advertisement Law, the broadcasting of advertisements for medical products and services, drugs, healthcare products, medical equipment, cosmetics, alcohol, beauty products, and online games which are harmful to the physical and mental health of minors on public media whose target audience are minors are prohibited.</li> <li>■ Tobacco advertisements are also prohibited as stated above.</li> <li>■ Placement of advertisements in the teaching materials, practice books, stationery, or on the school uniforms or school buses are also prohibited.</li> </ul> <p><b>Entertainment programmes</b></p> <ul style="list-style-type: none"> <li>■ Other than the restrictions on the frequency of alcohol advertisements as set out above, there are no restrictions in this regard.</li> </ul> <p><b>Online</b></p> <ul style="list-style-type: none"> <li>■ The same restrictions under the Advertisement Law apply.</li> <li>■ Advertisements for medical products and services, drugs, healthcare products, medical equipment, cosmetics, alcohol, beauty products, and online games which are harmful to the physical and psychological health of minors are prohibited on online media whose target audience are minors.</li> <li>■ Tobacco advertisements are also prohibited as stated above.</li> </ul>
<p><b>5</b></p>	<p><b>Advertising placement restrictions</b></p> <p><b>What, if any, restrictions are there on advertising or marketing in schools, children’s clubs or other places children regularly visit?</b></p>	<p><b>Schools</b></p> <ul style="list-style-type: none"> <li>■ Marketing activities in secondary schools, primary schools and kindergartens are prohibited.</li> </ul> <p><b>Clubs/Other</b></p> <p>/</p>
<p><b>6</b></p>	<p><b>Restrictions on targeting children</b></p> <p><b>What, if any, restrictions are there on using advertising or marketing techniques to appeal to children (e.g., licensing of popular cartoon characters)?</b></p>	<p><b>Cartoon/imaginary characters/Other</b></p> <ul style="list-style-type: none"> <li>■ For advertisements of goods or services which target children aged under 14, the advertisement must not include (i) content which encourages or induces parents to purchase the goods or services; or (ii) unsafe behaviour which may be imitated.</li> <li>■ In general, advertisements must not be harmful to minors’ physical and mental health.</li> </ul>



<p><b>7</b></p>	<p><b>Restrictions on the use of children in ads</b></p> <p><b>What, if any, restrictions are there on the use of children in advertising, including peer-to-peer marketing and the appointment of children as brand ambassadors?</b></p>	<p><b>Use in advertising/Use as brand ambassadors</b></p> <ul style="list-style-type: none"> <li>Children aged under 10 shall not be appointed as brand endorsers (i.e. those who recommend or guarantee the quality of goods and services in their own names and with their own reputation).</li> <li>Whether children participating in advertisements will be classified as “endorser” will depend on the terms under which they are employed to participate in the advertisement.</li> </ul>
<p><b>8</b></p>	<p><b>Product labelling and children’s safety</b></p> <p><b>In relation to product labelling, are there any specific requirements relevant to children with regard to health, safety or other concerns?</b></p>	<p><b>Health</b></p> <ul style="list-style-type: none"> <li>Under the Regulations for the Management of Food Labelling, food for infants and kids shall be labelled with nutritional information.</li> <li>The Standard for Labelling of Pre-packaged Food for Special Dietary Uses applies to infant food, follow-up infant food and infant food for special medical purposes.</li> <li>Apart from the general requirements below, The Standard requires that infant food for 0-6 months old infants must not be labelled with a representation as to the functions and content of the core ingredients contained in the infant food.</li> <li>In general, the Food Safety Law, Rules for Labelling Pre-packaged Food and Regulations for the Management of Food Labelling apply to all food products in China.</li> <li>The general requirements under these laws and regulations include requirements to provide clearly the name of the food, ingredients, name and addresses of manufacturer and distributor, best before date and storage methods, etc.</li> </ul> <p><b>Safety</b></p> <ul style="list-style-type: none"> <li>Under the Protection for the Minors Law, if minors need to take safety precautions in using food products, drugs, toys, equipment or entertainment facilities, such precautions must be labelled on the product.</li> <li>Specific standards applicable to certain consumer products are published in the Instructions for Use of Products of Consumer Interest.</li> <li>Part 5 of the Instructions for Use of Products of Consumer Interest (Standard GB5296.5 – 2006) applies to toys.</li> </ul>



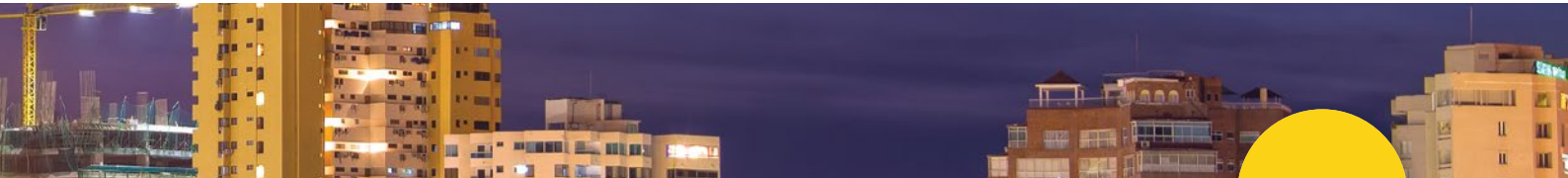


		<ul style="list-style-type: none"> <li>■ The Instructions require that the materials used to manufacture the toy, the appropriate age groups for using the products, the instructions for using the product and the methods for maintenance of the products shall be labelled.</li> <li>■ The Instructions further stipulate that safety precautions must be included on the appropriate products or their packaging, according to Standard GB6675.1 – 2014. These precautions may include, for example, precautions that a particular toy product is unsuitable for children under certain age.</li> <li>■ These precautions must be permanently attached to the product or the packaging.</li> </ul> <p><b>Other</b></p> <p>/</p>
<p><b>9</b></p>	<p><b>Enforcement body</b></p> <p>(a) <b>Which administrative body or bodies oversee compliance with government regulations or industry standards on marketing and advertising?</b></p> <p>(b) <b>Do any of these have a specific mandate to look at issues around marketing and advertising to children?</b></p>	<p><b>Enforcement body</b></p> <ul style="list-style-type: none"> <li>■ The State Administration for Industry and Commerce is responsible for overseeing compliance with the Advertisement Law.</li> <li>■ For advertisements on public media, the State Administration of Press, Publication, Radio, Film and Television will also be responsible for oversight.</li> </ul> <p><b>Specific mandate to focus on children’s issues?</b></p> <p>No specific mandate.</p>
<p><b>10</b></p>	<p><b>Pre-clearance, sanctions and complaints</b></p> <p>(a) <b>Do advertisements need to be pre-cleared before publication or broadcast?</b></p> <p>(b) <b>What sanctions can be imposed for breaches of codes or regulations?</b></p> <p>(c) <b>Are there mechanisms for children or their representatives to file individual complaints?</b></p>	<p><b>Pre-clearance</b></p> <ul style="list-style-type: none"> <li>■ Contents of advertisements for medical products, drugs, medical equipment, pesticide, veterinary drugs, and health food must be approved by the State Administration for Industry and Commerce (including Internet advertisements) before they can be published or broadcasted.</li> </ul> <p><b>Sanctions</b></p> <ul style="list-style-type: none"> <li>■ Depending on the nature of the offence and the gravity, the State Administration for Industry and Commerce may order the institution to rectify the situation, impose fines and revoke the business licenses of the offenders.</li> <li>■ Civil proceedings may also be issued against the offender by the offended person.</li> <li>■ Personnel who are directly at fault in leading to the offence being committed may also face civil and criminal punishment, including but not limited to restrictions in acting as directors of a company for three years.</li> </ul>





		<p><b>Complaints</b></p> <ul style="list-style-type: none"> <li>■ Any person or unit may file a complaint to the State Administration for Industry and Commerce in relation to any non-compliance under the Advertisement Law.</li> <li>■ As stated above, proceedings may be issued in courts against the offender for civil remedies such as damages.</li> </ul>
<p><b>11</b></p>	<p><b>Effectiveness</b></p> <p><b>How effective are the laws and codes? Are they respected/do they get enforced?</b></p>	<p>According to the data published by the State Administration for Industry and Commerce, from the publication date to the effective date of the new Law, a reduction of 70% of the amount of unlawful advertisements and 87% of the air time of unlawful advertisements were recorded. After the effective date of the Law, these two figures continued to decrease by 50%. The Administration took a strong stance on the enforcement of the new Advertisement Law and investigated 3973 cases and imposed fines amounting to more than \$50 million RMB within the above period.</p>
<p><b>12</b></p>	<p><b>Pressure Groups</b></p> <p><b>Are the consumer led pressure groups/lobbying, and if so, how effective are they?</b></p>	<p>There are certain commentaries published on the Internet by individuals in relation to the new Advertisement Law. However, systematic effort in lobbying or organizing pressure groups have not been observed.</p>



## 9. COLOMBIA

<p><b>1</b></p>	<p><b>Regulation</b></p> <p><b>Are there statutes or codes, including voluntary initiatives (e.g., industry codes of conduct), that specifically regulate marketing and/or advertising? Please list and briefly describe key statutes, codes and initiatives.</b></p>	<p>There are several rules that regulate marketing and advertising in Colombia. On one hand the Colombian Code of Advertising Self-Regulation (CCAS), issued on 2013, is a private set of rules created by the advertising industry. The CCAS sets rules and ethical standards regarding the content of the advertising messages and establish responsibilities and consequences for those who decide to join the initiative. The National Commission of Advertising Self-Regulation (NCAS) is in charge of ensuring the compliance with the rules contained in the CCAS. In Colombia there are approximately 50 advertising agencies, over 27 of these agencies are affiliated to NCAS, representing 97% of all advertising content in Colombia.</p> <p>Furthermore, there are certain laws that regulate specific aspects of this industry. On one hand, the law 140 of 1994 regulates the Visual Outdoor Advertising. And law 16 of 1991 and law 182 of 1995, sets rules on official television and radio broadcasting services. Law 1098 of 2006 establishes certain rules regarding the media’s responsibilities towards children. Law 1335 of 2009 establishes specific rules regarding the advertising of cigarettes.</p>
<p><b>2</b></p>	<p><b>Regulations protecting children</b></p> <p><b>Do any standards listed above explicitly address marketing and advertising to children as a whole and/or to particular age groups of children? What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?</b></p>	<p>Article 3 of Law 1098 of 2006 establishes that the legal age of majority is 18 years old. Additionally, the definition of a child is a person younger than 12 years old; and adolescents are those people between the age of 12 and 18 years old.</p> <p>Article 47 of the same law states certain principles that the media must fulfil during the execution of their activities, such principles are:</p> <ol style="list-style-type: none"> <li>1. Promote, through diffusion of information, the rights and freedoms of children and adolescents, as well as their social well-being and their physical and mental health.</li> <li>2. Respect the freedom of expression and the right to information of children and adolescents.</li> <li>3. Adopt policies for the diffusion of information on rights of children and adolescents.</li> <li>4. Abstain from transmitting discriminatory messages against childhood and adolescence.</li> <li>5. Abstain from broadcasting any content that that disrupt the moral, psychological or physical integrity of children; that encourages violence or criminal actions; or contains morbid or pornographic descriptions.</li> </ol> <p>Furthermore, the CCAS establish specific rules regarding advertising and children, the articles of the code that refer to children are the following:</p> <ul style="list-style-type: none"> <li>■ <b>Article 25:</b> Commercial messages may not promote or encourage the dangerous use of the advertised product nor show disregard for safety or health effects due to the use of the product.</li> </ul>



Whenever a product or an activity involves any type of security risk, there should be an illustrated prohibition for the use or consumption by children and adolescents, or the need of the supervision of an adult.

- **Article 31:** The advertising of medicines and other health related product, must fulfil with the following rules:

(...)

5. It cannot be addressed to children or adolescents.

- **Article 32:** Advertising messages of alcoholic beverages, tobacco and its derivatives and similar products, may not:

(...)

2. Use children or adolescents, their image or voice. Every person that appears in such advert must be and look of majority of age. It is also prohibited to use any situation or activity usually performed by children or adolescents, or activities that are associated with them.

- **Article 38:** The commercial messages aimed at children and adolescents, or any product aimed for their use or consumption, should comply with the principles of decency, truthfulness and honesty set out in this Code.

Advertising messages should clearly indicate when the content is not suitable for children and adolescents.

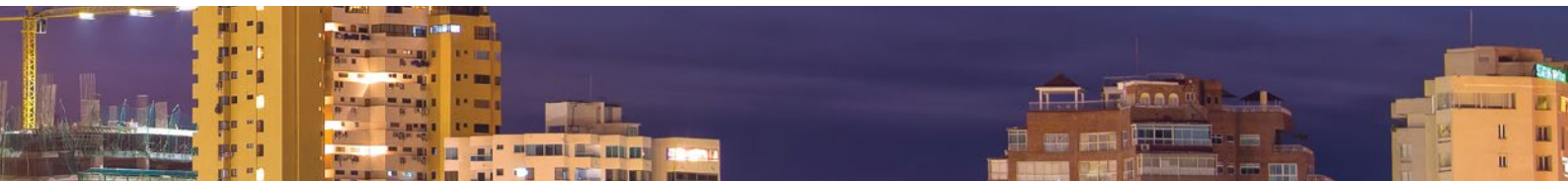
A commercial message aimed at children and adolescents, is the one that promotes a product or service for which they are the only consumers or form a substantial part of the market, additionally, the message is presented in a way that is mostly oriented towards them.

- **Article 39:** Any commercial message which children and adolescents are exposed to, must contain accurate, clear and transparent information of the promoted product. In order for it not be misleading with respect to the product characteristics, conditions of use and expectations that a child or adolescent can generate in relation to it.

- **Article 40:** Adverts should respect the feelings of gullibility, trust and loyalty of children and adolescents and cannot use the manipulation of their emotions in such way that it has as a purpose or effect the creation of habits of excessive or compulsive consumption or the development of behaviours that can threaten their lives, their safety, their health and integrity.

- **Article 41:** Commercial messages aimed at children and adolescents should respect the accepted social behaviours, healthy life styles and habits and positive attitudes.

- **Article 42:** Commercial messages addressed to children and adolescents cannot:

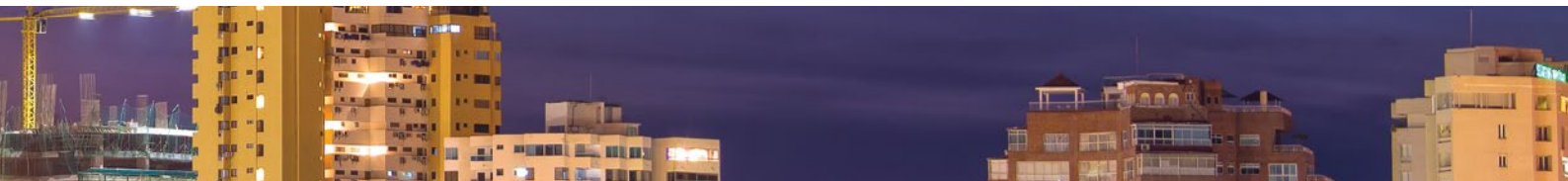


		<ol style="list-style-type: none"> <li>1. Use phrases or imperative expressions that orders, constricts or compel to the acquisition, use or consumption of the promoted products; or use pressures addressed to parents or adults to buy the product for the child.</li> <li>2. Use images, text, visual and auditory expressions involving, direct or indirect judgments with respect to the act or omission on the purchase, possession, use, enjoyment or consumption of a product.</li> <li>3. Show boys or girls in hazardous or unsafe conditions, or that disrupt their moral, psychic or physical integrity; nor represent dangerous uses of a product or situations that may induce children to imitate or participate in risky activities.</li> <li>4. Stage, display, perform or suggest any acts with sexual content, eroticism or seduction; or situations that incite violence or justify criminal acts, or that encourage children to associate with strangers or go to dangerous or strange places.</li> <li>5. Encourage boys or girls to acquire products or obtain profit through the Internet or by phone, without the company of a responsible adult.</li> <li>6. Encourage abstention of a balanced consumption of food and beverages.</li> <li>7. Discredit the authority and responsibility of parents.</li> </ol>
<p><b>3</b></p>	<p><b>Specific product restrictions</b></p> <p><b>What, if any, restrictions are there on advertising products that are known to be or are potentially dangerous or harmful to children, including but not limited to: Tobacco, Alcohol, Drugs/ pharmaceuticals, HFSS (high in fat sugar, salt) products?</b></p>	<p>Law 1098 of 2006 on its article 47, establishes that media must: “refrain from broadcasting television advertising of cigarettes and alcohol in child schedules”</p> <p>Law 1335 of 2009 prohibits any tobacco advertisement on television, radio, movies, billboards, banners or any media content addressed to the general audience. Furthermore it incentivises the mass distribution of advertisement regarding negative consequences of smoking.</p> <p>Law 30 of 1986 establishes that any alcohol advertising must include the phrase: “excessive drinking is harmful to health”</p> <p>Furthermore, article 32 of the CCAS states that advertising messages of alcoholic beverages, tobacco and its derivatives and similar products, may not use children or adolescents, their image or voice. Every person that appears in such advert must be and look of majority of age. It also prohibits using any situation or activity usually performed by children or adolescents, or activities that are associated with them.</p> <p>On another hand, regarding HFSS products, article 46 of the CCAS establishes that: “The advertising of products promoting food and beverages to children and adolescents, which purpose is to promote healthy life habits, must encourage a healthy lifestyle and nutritional quality, with relevant statements such as “eat healthy”, “perform physical activities”, and “eat fruits and vegetables” among others.</p> <p>These messages must not mislead or exaggerate the benefits of eating or attribute consequences regarding status, superiority or inferiority, popularity or social acceptance.</p>



<p><b>4</b></p>	<p><b>Timing and placement of restrictions</b></p> <p><b>What, if any, restrictions are there on the timing and/or placement of advertisements in:</b></p> <p><b>(a) Publications aimed at children (e.g., magazines, books)?</b></p> <p><b>(b) Around entertainment programmes aimed at children (e.g., radio, television, movies, video games)?</b></p> <p><b>(c) Online through websites or communications platforms, including social media, aimed at or used by children?</b></p>	<p>Regarding this subject the CCAS establishes the following:</p> <p>Article 44: Adverts aimed exclusively at adults cannot be released or displayed in any media, space or time schedule which is freely accessible to children and adolescents.</p> <p>Adverts aimed exclusively to adults is considered to be one that promotes products or services which use or consumption by children and adolescents is prohibited by law, and also when such adverts, due to its exclusive adult content, should not be seen or heard by children and adolescents.</p> <p>On another hand, the National Television Commission issued on 2011 the agreement 002, which regulates the content of public television. Article 25 of the agreement determines the different television schedules. Only content between 22.00 and 05.00 can be addressed to adults. . Any other content outside this schedule must be suitable for children and adolescents, however, it may state that the supervision of an adult is advised.</p> <p>Article 47 of law 1098 of 2006 states that no advertisement addressed to the consumption of alcohol or tobacco may be broadcasted on a children’s television schedule.</p> <p>Regarding online content, article 51 of CCAS provides the following: “Websites dedicated to products or services that are subject to restrictions, such as alcoholic beverages, gambling and tobacco products should take measures to restrict access by children and adolescents to such sites.”</p>
<p><b>5</b></p>	<p><b>Advertising placement restrictions</b></p> <p><b>What, if any, restrictions are there on advertising or marketing in schools, children’s clubs or other places children regularly visit?</b></p>	<p>Article 43 of CCSA states that: “There cannot be any reference to violence, pornography, discrimination or consumption of drugs, alcohol, tobacco and its derivatives in any site of games or services aimed at children and adolescents and in any programming made by any media aimed at them.”</p> <p>Furthermore, all advertisement must be in compliance with the principles stated in article 3 of law 1098 of 2006, (see on section 2).</p> <p>Additionally, it is important to remember the fact that it is prohibited to advertise tobacco on any media content that might be available to the general audience, such as radio, television or billboards.</p>
<p><b>6</b></p>	<p><b>Restrictions on targeting children</b></p> <p><b>What, if any, restrictions are there on using advertising or marketing techniques to appeal to children (e.g., licensing of popular cartoon characters)?</b></p>	<p>Article 13 of law 1335 of 2009, states that the pack of tobacco products may not be addressed to children and cannot be designed to be especially appealing to minors.</p>





<p><b>7</b></p>	<p><b>Restrictions on the use of children in ads</b></p> <p><b>What, if any, restrictions are there on the use of children in advertising, including peer-to-peer marketing and the appointment of children as brand ambassadors?</b></p>	<p>Law 1098 of 2006 states that the media must refrain from interviewing, give the name or disclose information that may lead to the identification of children and adolescents, without the parent’s authorization.</p> <p>Furthermore, article 44 of the CCAS establishes that children and adolescents may not appear on any ads regarding products which by law are exclusive for adult consumption. The appearance of children and adolescent may not be insinuated, not even with the company of adults.</p>
<p><b>8</b></p>	<p><b>Product labelling and children’s safety</b></p> <p><b>In relation to product labelling, are there any specific requirements relevant to children with regard to health, safety or other concerns?</b></p>	<p>Resolution 003388 of 2008 establishes the technical regulations on the health requirements of toys, their components and accessories, which are sold in Colombia. This resolution dictates several rules, especially regarding the packaging of the products when it is destined for a target of a determined age, for example products which are too small must not be addressed to children under three (3) years old.</p> <p>Additionally, as mentioned in section 6 above, the pack of tobacco products may not be addressed to children and it cannot be designed for them to be especially appealing to minors.</p>
<p><b>9</b></p>	<p><b>Enforcement body</b></p> <p><b>(a) Which administrative body or bodies oversee compliance with government regulations or industry standards on marketing and advertising?</b></p> <p><b>(b) Do any of these have a specific mandate to look at issues around marketing and advertising to children?</b></p>	<p>In relation with all the rules set on the CCSA, the competent enforcement body is the National Commission of Advertising Self – Regulation (NCAS). Even though such commission cannot impose any judicial sanction, it can impose ethical sanctions and can issue concepts regarding the violation, which can result in negative consequences on the industry. Furthermore, it can provide such concept to the relevant authorities according to the Colombian legal system.</p> <p>Other authorities who are in charge of overseeing the compliance of the regulations on marketing and advertising are the Superintendence of Industry and Commerce and the Attorney General’s Office.</p> <p>There is no specific mandate to an enforcement body to look at issues around marketing and advertising addressed to children.</p>





10

**Pre-clearance, sanctions and complaints**

- (a) Do advertisements need to be pre-cleared before publication or broadcast?**
- (b) What sanctions can be imposed for breaches of codes or regulations?**
- (c) Are there mechanisms for children or their representatives to file individual complaints?**

There is no pre-clearance procedure in Colombia; as such requirement would go against the right of free speech, protected by the Colombian constitution.

As it was stated, the NCAS can impose ethical sanctions, which might affect the image of the person or company who was sanctioned in the industry.

Depending on the breach, the different judicial authorities can impose different economic sanctions.

Article 65 of the CCSA, establishes the procedure whereby any Colombian citizen can file any complain regarding advertising issues toward the NCAS. Furthermore, if a citizen considers that his/ hers fundamental rights have been breached, there is an expedite procedure in Colombia called “*tutela*” which can be filed by any citizen, without the need of a lawyer, towards any judge of the country, and a decision by the judge must be issued within the next 10 labour days after it was filed.



## 10. DENMARK

I

### Regulation

Are there statutes or codes, including voluntary initiatives (e.g., industry codes of conduct), that specifically regulate marketing and/or advertising? Please list and briefly describe key statutes, codes and initiatives.

### Statutes

- **Marketing Practices Act, cf. consolidated act No. 1216 of 25 September 2013 with subsequent amendments in act no. 1460 of 17 December 2013**
- **Executive Order No. 1084 of 14 September 2007 on unfair business-to-consumer commercial practices**
- **Gambling Act, cf. consolidated act no 119 of 22 January 2016 with subsequent amendments**
- **Radio and Television Broadcasting Act, cf. Consolidated Act no. 255 of 20 March 2014 with subsequent amendments**
- **Executive Order No. 801 of 21 June 2013 on Radio and Television Advertising**
- **Medicines Act, cf. consolidated act no 506 of 20 May 2013 with subsequent amendments**
- **Act on Advertising of Healthcare Services, cf. Consolidated Act no. 326 of 6 May 2003 with subsequent amendments**
- **Executive Order No. 828 of 26 June 2013 on Advertising, ect. of Medicinal Products**
- **Executive Order No. 1153 of 22 October 2014 on Advertising, etc. of Medical Devices**
- **Act on the prohibition on tobacco advertisement, etc. cf. Consolidated Act no. 608 of 7 June 2016**
- **Act on Food, cf. Consolidated Act no. 43 of 12 January 2016**

### Voluntary Initiatives

- **Consolidated ICC Code of Advertising and Marketing Communication Practice**, issued by International Chamber of Commerce (for members of ICC) from August 2011. The Consumer Ombudsman uses the ICC code in connection with the general clause on good marketing practice, section 1 of Marketing Practices Act – which says that traders subject to this act shall exercise good marketing practice with reference to consumers, other traders and public interests, and may use it in the interpretation of section 8(1) of the Marketing Practices Act;



- **Code of responsible food marketing communication to children** of 2008, issued by **Forum of Responsible Food Marketing** comprised by Danish Food and Drink Federation in The Confederation of Danish Industries, The Danish Chamber of Commerce, The Federation of Retail Grocers in Denmark, TV2 | DANMARK, Danish Brewers' Association, Danish Newspaper Publishers' Association, Association of Danish Advertisers, Association of Danish internet medias, Danish Association of Advertising and Relationship Agencies, Danish Magazine Publishers' Association) – self-regulation organisation, formally non-binding;
- **Guidelines on advertising of alcoholic beverages** issued by **Alcohol Advertising Council** – self-regulation organization, set up by business and consumers' organizations, formally non-binding.
- **Guidelines for marketing of soft drinks in Denmark** issued by Soft Drinks Advertising Board – self-regulation organization, formally non-binding.

**Other:**

- **The Consumer Ombudsman's guidance on children, young people and marketing of 1 July 2014** – issued on the basis of article 24 (1) of Marketing Practices Act. Constitutes an overview of how the Consumer Ombudsman interprets the provisions of the Marketing Practices Act relevant in relation to children and young people and show what is taken into consideration when enforcing the provisions.
- **Position of the Nordic Consumer Ombudsmen on social media marketing of October 2015** – issued by the Nordic consumer ombudsman institutions from Denmark, Sweden, Norway, Finland, Iceland, Faroe Islands. Formally non-binding, however might be taken into account by consumer protection authorities in enforcing consumer protection law.
- **Guideline on Advertising of etc. of Medicinal Products** of 29 December 2014, issued by **Danish Health and Medicines Authority**, formally non-binding but might be taken into account by consumer protection authorities in enforcing consumer protection law.
- **Guideline on Advertising, etc. of Medical Devices** of 29 December 2014, issued by **Danish Health and Medicines Authority**, formally non-binding, formally non-binding but might be taken into account by consumer protection authorities in enforcing consumer protection law.



2

### Regulations protecting children

Do any standards listed above explicitly address marketing and advertising to children as a whole and/or to particular age groups of children? What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?

### Legal age of majority

- In accordance with § 1, stk. 1 in the Guardianship Act, cf. Consolidated Act no. 1015 of 20 August 2007 with subsequent amendments, the legal age of majority is achieved when the child reaches the age of eighteen or when the child enters into marriage, if younger than eighteen and the State Administration has not set conditions of minority.

### Definition of a child in advertising context (if different)

No specific definitions in the statutory regulations concerning advertising.

- **Consolidated ICC Code of Advertising and Marketing Communication Practice:**

Refers to the definition of children in accordance with local definitions. However for the purpose of all privacy-related sections of ICC Code, including sections on online behavioural advertising, and in the absence of relevant local regulatory or self-regulatory definitions, the ICC Code refers to “children” as 12 and under.

### Regulations protecting children/particular age groups

#### Children below 18 years:

- **§ 8 of Marketing Practices Act:**

§ 8: Marketing directed at children and young people shall be designed with specific reference to their natural credulity and lack of experience and critical sense, as a result of which they are readily influenced and easy to impress.

Stk. 2: Marketing directed at children and young people under the age of 18 must not directly or indirectly incite them to violence or other dangerous or inconsiderate behaviour, nor make unwarrantable use of violence, fear or superstition in order to influence them.

Stk. 3: Marketing directed at children and young people under the age of 18 must not mention or include images of or references to intoxicants, including alcohol.



- **§ 16 of Executive Order No. 801 of 21 June 2013 on Radio and Television Advertising**

Advertisements aimed at minors must not be designed in a way to inflict physical or moral damage. They must not be designed in such a way that they exploit the natural credulity and loyalty of the minors as well as their special trust in parents, teachers and others. They must not undermine these people's authority and responsibility.

- **§ 17 of Executive Order No. 801 of 21 June 2013 on Radio and Television Advertising**

Advertisements must not without reason show minors in dangerous situations or encourage or provide incentive for minors to stay or enter dangerous places, use dangerous products or altogether put themselves in dangerous situations.

- **§ 19 of Executive Order No. 801 of 21 June 2013 on Radio and Television Advertising**

Advertisement must not undermine social values e.g. by providing the view that possession, use or consumption of a product by itself will give the minor physical, social or other psychological advantages over other minors, or that not owning, using or consuming such a product can have the opposite effect. It is also not allowed to advertise in such a way that the minor gets the impressions that they in any way will have a disadvantage to other minors or will be exposed to contempt or ridicule if they do not own, possess or consume the product in question.

- **point 28 of Black List of unfair practices included in Executive Order No 1084 of 14 September 2007 on unfair business-to-consumer commercial practices:**

Including in an advertisement a direct exhortation to children to buy advertised products or persuade their parents or other adults to buy advertised products for them. This provision is without prejudice to Article 16 of Directive 89/552/EEC on television broadcasting.

- **sec. 4 of the Position of the Nordic Consumer Ombudsman on social media marketing:**

The requirements and recommendations contained in the Position paper (sec. 1-3, and 5) are subject to the more stringent requirements stated in sec. 4. in case of marketing directed at children and young people. The exemplary rules laid down in sec. 4 are as follows:



- the commercial communication must be clearly identifiable as marketing by the age group targeted by the trader (sec. 4.1.),
- traders must frame their marketing with specific reference to the natural credulity and lack of experience and critical sense of children and young people, as a result of which they are readily influenced and easy to impress (sec. 4.2.),
- traders must not directly exhort or invite children to buy or persuade their parents or other adults to buy the traders' products. Marketing containing text such as: 'go buy the book' or 'ask your mum to pick up the product in the nearest shop' will be a direct exhortation to buy (sec. 4.4.),
- traders must not directly or indirectly incite children and young people to violence, use of intoxicants (including alcohol) or other dangerous or reckless behaviour, nor make other use of violence, fear or superstition in order to influence them (sec. 4.5.),
- traders should not use children and young people for sales and marketing purposes, including as a sales channel, such as friend recruitment schemes and the like (sec. 4.7.).

■ **article 18 and D5 of Consolidated ICC Code of Advertising and Marketing Communication Practice:**

**art. 18**

Requires special care in marketing communications directed to or featuring children or young people as defined in national laws and regulations relevant to such communications:

- such communications should not undermine positive social behaviour, lifestyles and attitudes;
- products unsuitable for children or young people should not be advertised in media targeted to them, and advertisements directed to children or young people should not be inserted in media where the editorial matter is unsuitable for them.
- material unsuitable for children should be clearly identified as such.

Other exemplary rules provided in article 18 of the Code prohibit marketing communication which:

- exploits inexperience or credulity of children and young people for example:
- minimises the degree of skill or understate the age level generally required to assemble or operate products;
- exaggerates the true size, value, nature, durability and performance of the product;
- fails to disclose information about the need for additional purchases, such as accessories, or individual items in a collection or series, required to produce the result shown or describe,
- makes it difficult for children or young people to distinguish between reality and fantasy,





- suggests that possession or use of the promoted product will give a child or young person physical, psychological or social advantages over other children or young people, or that not possessing the product will have the opposite effect
- undermines the authority, responsibility, judgment or tastes of parents, having regard to relevant social and cultural values,
- implies that the product being promoted is immediately within the reach of every family budget.

#### **art. D5**

Digital marketing communications directed at children in a particular age group should be appropriate and suitable for such children.

#### **Children below 13 years:**

##### **■ § 2 of Code of responsible food marketing communication to children:**

Advertising or sponsoring of foods with a high content of sugar, fats or salt in media or parts of media, where the target audience is children under the age of 13 years, is not allowed.

#### **Children below 12 years:**

##### **■ article 19 and D7 of Consolidated ICC Code of Advertising and Marketing Communication Practice:**

#### **art. 19**

Provides for stricter rules concerning the collection of personal data of children at 12 years or younger on in the course of marketing activities. For example:

- when personal information is collected from persons known or reasonably believed to be children 12 and younger, guidance should be provided to parents or legal guardians about protecting children's privacy if feasible,
- data collected from children should not be used to address marketing communications to the children's parents or other family members without the consent of the parent.

#### **art. D7**

Provides for that segments specifically designed to target children 12 and younger for online behavioural advertising (OBA) purposes should not be created.



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### Specific product restrictions

What, if any, restrictions are there on advertising products that are known to be or are potentially dangerous or harmful to children, including but not limited to: **Tobacco, Alcohol, Drugs/ pharmaceuticals, HFSS (high in fat sugar, salt) products?**

### Tobacco

■ §§ 3 – 5 of the act on the prohibition on tobacco advertisement etc.:

#### § 3

All forms of advertisement of tobacco products is banned

Stk. 2: The prohibition does not include:

- 1) Communications intended exclusively for professionals in the tobacco trade.
- 2) The indication of their prices at tobacco products on tobacco sales outlets
- 3) Signs in association with tobacco sales outlets with the text “tobacco”.
- 4) Advertising aimed at purchasers in establishments specialising in the sale of tobacco products and on their shop-fronts.
- 5) Use of a name that before 13 December 2013 has been used both for tobacco products and other goods or services to advertise such other products, where the name appears in a form in which it differs clearly from the appearance of the name on the tobacco product.
- 6) Use of a name known from the tobacco product in an advertisement for other goods or services if the other good or service is only advertised in a limited geographical area.

Stk. 3: The prohibition does furthermore not apply for a neutral placement of tobacco products in connection to checkouts, bars et cetera. Tobacco products shall only be placed

- 1) On shelves and in cabinets behind or under the checkout, the counter, the bar or similar places.
- 2) In boxes hanging over the checkout, the bar or similar places
- 3) In special machines that uses cards only available and payable at the checkout.

Stk. 4: The shelves, cabinets and boxes shall not have a size or shape which provides a promotional effect.



#### § 4

Sponsorship of tobacco products is banned.

#### § 5

All forms of distribution having the purpose of promoting a tobacco product is banned.

### Alcohol

#### ■ § 8, stk. 3 of Marketing Practices Act:

Marketing directed at children and young people under the age of 18 must not mention or include images of or references to intoxicants, including alcohol.

#### ■ § 12, no. 1 of Executive Order No. 801 of 21 June 2013 on Radio and Television Advertising

§ 12. Advertisements in radio and television for beverages with alcohol must comply with the following rules:

1) They must not be aimed at minors or show minors drinking alcohol.

#### ■ Guidelines on advertising of alcoholic beverages:

§ 6, stk. 1: The advertisement of alcoholic beverages must, no matter what form it takes, never be directed at children and adolescents.

§ 6, stk. 4: Advertisement must furthermore never take place in media, where over 30 % of the audience is reasonably believed to be children or young people.

### Drugs/Pharmaceuticals

#### ■ § 10, stk. 1, no. 6 of Executive Order on Advertising of Medicinal Products

An advertisement must not be directed exclusively or principally at children.

#### ■ § 5 of Executive Order on Advertising, etc. of Medical Devices

Advertisement of medical devices directed at children or young people must not exploit their credulity or lack of experience.

### Gambling

#### ■ § 36, stk. 1, no. 3 of Gambling Act:

The marketing of gambling activities shall not aim at children and young people under the age of 18, neither in its communication form nor in the choice of media.



### HFSS product

#### ■ § 2 and § 5 of Code of responsible food marketing communication to children:

##### § 2

Advertising or sponsoring of foods with a high content of sugar, fats or salt in media or parts of media, where the target audience is children under the age of 13 years, is not allowed.(§. 2)

##### § 5

Media or parts of media directed towards children are for example:

- Children programs in television or radio, or programs that specifically appeal to children.
- Webpages on the internet directed towards children for example gamesites, chat rooms, or pages with children products such as toys or computer games directed towards children, regardless of whether the homepage comes from a third party or from the company itself.
- Text messaging services, content rated services or other cell phone marketing directed towards children.
- Printed media, such as magazines, comic books et cetera, or pages in printed media that are directed towards children.

### Soft drinks

#### ■ § 8 of Guidelines for marketing of soft drinks in Denmark

§ 8. There must not be advertised directly to children below the age of thirteen. Advertisements for soft drinks must for example not be placed in media or in TV-broadcasts specifically aimed at children.



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#### Timing and placement of restrictions

What, if any, restrictions are there on the timing and/or placement of advertisements in:

- (a) Publications aimed at children (e.g., magazines, books)?
- (b) Around entertainment programmes aimed at children (e.g., radio, television, movies, video games)?
- (c) Online through websites or communications platforms, including social media, aimed at or used by children?

#### General rules:

- **sec. 3.7. of Consumer Ombudsman's guidance on children, young people and marketing:**

Marketing Practices Act and the Consumer Ombudsman guidance apply irrespective of which medium is used for the marketing activity.

- **sec. 3.5. of Consumer Ombudsman's guidance on children, young people and marketing of 1 July 2014**

The Consumer Ombudsman may consider as a violation of section 1 and section 8(1), of the Marketing Practices Act if traders advertise products unsuitable for children in media addressing this group such as products potentially harmful or products which, when used, pose a safety risk for children or young people – e.g. an advertisement for dietary supplements must not appear in an online doll or fashion universe targeting children and young people.

- As results from the Executive Order on Advertising, ect. of Medicinal Products, Executive Order on Advertising, ect. of Medical Devices, and Guideline on Advertising of Medical Devices, the prohibition of advertising the products in question, which is directed exclusively or principally at children, means that it is not permitted to advertise for such products on a website for children or in a children's magazine.
- The same applies to the advertising of alcohol and other intoxicants on the grounds of section 8 (3) of the Marketing Practices Act, which prohibits mentioning or including the images of such products in marketing directed at children and young people under 18.

#### Publications

No specific provisions.

#### Entertainment programmes

- **§ 26, stk. 5, pkt. 2 of Executive Order No. 801 of 21 June 2013 on Radio and Television Advertising**

If a program on the television is aimed at children in particular, the declaration of sponsorship must take the form of non-moving pictures. The declaration must not be accompanied by a special sound connected with the sponsor of its products.

- **§ 28, stk. 3 of Executive Order No. 801 of 21 June 2013 on Radio and Television Advertising**

If a product on television, cf. stk. 2, is aimed at children under 14 years in particular, sponsored prices must not be shown, but only but only provide neutral information regarding their nature.



### Online

- **article D5 of Consolidated ICC Code of Advertising and Marketing Communication Practice:**

Websites devoted to products or services that are subject to age restrictions such as alcoholic beverages, gambling and tobacco products should undertake measures to restrict access to such websites by minors

- **sec. 4 of Position of the Nordic Consumer Ombudsman on social media marketing:**

Provides for restrictions regarding marketing communications in the social media. The **social media** are understood for the purposes of the paper as online services allowing private individuals to create profiles and communicate with each other, including sharing information and content, such as text, images and sound files. A social medium may be a chat room, a game or a social network:

- traders must not advertise products for which children cannot enter into any purchase agreement under national legislation, such as alcohol and cigarettes (sec. 4.6)

However the marketing of such products may take place under following conditions:

- to the extent that marketing rules prohibit the marketing of specific products to children and young people, traders are obliged, on a continuous basis, to apply the best possible technical measures capable of checking the age of the social media users to whom the marketing is shown. (sec. 4.9)
- If, for example, traders want to market alcoholic products through a social medium, they must take every possible precaution to ensure that the marketing is only aimed at users over the age of 18. This also applies to traders' marketing content which the social media users are able to share. (sec. 4.9.1.).





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### Advertising placement restrictions

What, if any, restrictions are there on advertising or marketing in schools, children's clubs or other places children regularly visit?

### General rules:

■ **sec. 2.4.2., sec. 3.2. and sec. 3.3. Consumer Ombudsman's guidance on children, young people and marketing:**

Consumer Ombudsman may consider as a violation of good marketing practice stipulated in sec. 1 of Marketing Practices Act a marketing communication even not directed at children or young people when it contains images or statements that might harm children mentally or morally and is shown publicly in **places frequented particularly by children**, e.g. in close proximity to schools, day-care centres or playgrounds.

This rule refers in particular to:

- the marketing communication containing sexual references. In particular shops where children go with their parents and perhaps sometimes alone – no magazines, newspapers, films, etc. may be displayed the front pages of which are pornographic in a way which will be immediately seen by children (sec. 3.3.).
- marketing communication mentioning or showing or containing references to intoxicants, including alcohol. This also applies to websites frequented in particular by children and young people, e.g. online social media (3.2.)

### Schools

No specific provisions on advertising and sponsorships in schools in the legislation on schools.

■ **sec. 3.14. of Consumer Ombudsman's guidance on children, young people and marketing:**

It is only possible for traders to use schools and day-care centres, whether independent or municipal, for marketing purposes if the school or day-centre in question has permitted such use. The school board or the parents' committee of the individual school or day-care centre may determine whether advertisements or other marketing activities are allowed in the school or day-care centre.

### Clubs

No specific provisions.

### Other

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<p><b>6</b></p>	<p><b>Restrictions on targeting children</b></p> <p>What, if any, restrictions are there on using advertising or marketing techniques to appeal to children (e.g., licensing of popular cartoon characters)?</p>	<p><b>General rules</b></p> <ul style="list-style-type: none"><li>■ <b>sec. 3.12 of Consumer Ombudsman’s guidance on children, young people and marketing:</b></li></ul> <p>Consumer Ombudsman considers that traders must generally not use children and young people in their sales and marketing activities, including for purposes of friend-to-friend solicitation. However, this should always be assessed on a case-by-case basis, as special circumstances may warrant derogation from the general rule.</p> <p><b>Cartoon/imaginary characters</b></p> <ul style="list-style-type: none"><li>■ <b>§ 20, stk. 1 of Executive Order No. 801 of 21 June 2013 on Radio and Television Advertising</b></li></ul> <p>Figures, dolls et cetera which are essential and continuous elements in programs aimed at children under 14 years on the program venture concerned must not be used in advertisements broadcasted by the program venture for products of special interest to children.</p> <p><b>Other</b></p> <ul style="list-style-type: none"><li>■ <b>§ 20, stk. 2 of Executive Order No. 801 of 21 June 2013 on Radio and Television Advertising</b></li></ul> <p>Stk. 2: Persons associated with programmes aimed at children under 14 years on the program venture concerned must not appear on advertisements broadcasted by the program venture for products of special interests to children under 14 years.</p>
<p><b>7</b></p>	<p><b>Restrictions on the use of children in ads</b></p> <p>What, if any, restrictions are there on the use of children in advertising, including peer-to-peer marketing and the appointment of children as brand ambassadors?</p>	<p><b>Use in advertising</b></p> <ul style="list-style-type: none"><li>■ <b>§ 22, stk. 1 of Executive Order No. 801 of 21 June 2013 on Radio and Television Advertising</b></li></ul> <p>§ 22: Children under 14 years must only appear in television advertisements where the appearance either appears as a natural element of the depicted environment or it is necessary to explain or demonstrate the use of products involving children.</p> <ul style="list-style-type: none"><li>■ <b>sec. 3.6. of Consumer Ombudsman’s guidance on children, young people and marketing:</b></li></ul> <p>Consumer Ombudsman considers as violation of good marketing practice stipulated in section 1 of Marketing Practices Act, a practice when trader enter into an agreement with a minor under which the minor is to market the business and/or its products if the trader has not obtained consent from the parents in advance.</p> <p>Children and young people do not have the same experience as adults enabling them to understand the commercial objective of the agreement.</p>



		<p>In the assessment whether is allowed to use children in advertising, the Consumer Ombudsman takes into account factors such as the child's age, the marketing communication contents and design, the procedure used and whether the child receives any form of payment.</p> <ul style="list-style-type: none"> <li>■ <b>article art. D7 Consolidated ICC Code of Advertising and Marketing Communication Practice</b> Prohibits of creating segments specifically designed to target children 12 and younger of <b>online behavioural advertising (OBA)</b>.</li> <li>■ <b>sec. 3.13 of Consumer Ombudsman's guidance on children, young people and marketing:</b> Traders must generally not use children or young people for <b>friend-to-friend solicitation</b>, as this may be considered an unfair practice exploiting the natural credulity and susceptibility of children and young people.</li> </ul> <p><b>Use as brand ambassadors</b></p> <ul style="list-style-type: none"> <li>■ <b>§ 18 of Executive Order No. 801 of 21 June 2013 on Radio and Television Advertising</b> Advertisements must not contain a direct appeal to minors to persuade other people to buy the advertised product. Advertisement with prizes to minors as a reward for providing new buyers is not allowed.</li> <li>■ <b>§ 22, stk. 2 of Executive Order No. 801 of 21 June 2013 on Radio and Television Advertising</b> Stk. 2: Children under 14 years must not recommend or provide testimonies for products or services of any kind.</li> </ul>
8	<p><b>Product labelling and children's safety</b></p> <p><b>In relation to product labelling, are there any specific requirements relevant to children with regard to health, safety or other concerns?</b></p>	<p><b>Health and Safety</b></p> <p>No specific provisions in the statutory law. Provisions concerning these issues may be found in the self-regulation codes. Issues of health and safety are also addressed by the Consumer Ombudsman in the Guidance on children, young people and marketing of 1 July 2014.</p> <ul style="list-style-type: none"> <li>■ <b>article 17 and article 18 of Consolidated ICC Code of Advertising and Marketing Communication Practice:</b></li> </ul> <p><b>art. 17</b></p> <p>Marketing communications should not, without justification on educational or social grounds, contain any visual portrayal or any description of potentially dangerous practices, or situations which show a disregard for safety or health, as defined by local national standards. Instructions for use should include appropriate safety warnings and, where necessary, disclaimers. Children should be shown to be under adult supervision whenever a product or an activity involves a safety risk.</p>



		<p><b>art. 18</b></p> <p>Marketing communications should not contain any statement or visual treatment that could have the effect of harming children or young people mentally, morally or physically. Children and young people should not be portrayed in unsafe situations or engaging in actions harmful to themselves or others, or be encouraged to engage in potentially hazardous activities or behaviour.</p> <ul style="list-style-type: none"> <li>■ <b>sec. 3.5. of Consumer Ombudsman’s guidance on children, young people and marketing:</b></li> </ul> <p>Consumer Ombudsman considers as a violation of section 1 and section 8(1) of the Marketing Practices Act, if marketing communications directed at children and young people contain initiatives involving potentially harmful conduct for children and young people or conduct which could put children or young people in danger.</p>
<p><b>9</b></p>	<p><b>Enforcement body</b></p> <p>(a) <b>Which administrative body or bodies oversee compliance with government regulations or industry standards on marketing and advertising?</b></p> <p>(b) <b>Do any of these have a specific mandate to look at issues around marketing and advertising to children?</b></p>	<p><b>Enforcement body</b></p> <ul style="list-style-type: none"> <li>■ <b>Courts</b> – enforce the provisions of Marketing Practices Act. Under § 20 of Marketing Practices Act may prohibit actions in contravention with Marketing Practices Act, award damages under the general rules of Danish law, as well as order the restitution of the states of affair existing before the unlawful action.</li> <li>■ <b>The Consumer Ombudsman</b> – enforces the provisions of Marketing Practices Act: <ul style="list-style-type: none"> <li>– may bring action to the court under § 20 and 27 of Marketing Practices Act,</li> <li>– may issue order, if action is clearly in conflict with the Marketing Practices Act and cannot be changed by negotiation.</li> </ul> </li> <li>■ <b>Radio and Television Board</b> – enforces the provisions of Radio and Television Broadcasting Act, cf. Consolidated Act <b>No. 801 of 21 June 2013</b> and Executive Order on Radio and Television Advertising.</li> <li>■ <b>Danish Health Authority</b> – enforces the provisions of <b>Medicines Act</b>. May require that advertising which is in conflict Medicines Act provisions concerning advertising must be stopped (§ 69, stk. 1) of Medicines Act).</li> </ul>



		<p><b>Enforcement bodies of self-regulation organisations:</b></p> <ul style="list-style-type: none"> <li>■ <b>Alcohol Advertising Council</b> – enforces the Guidelines on advertising of alcoholic beverages. Issues critique against a business if it finds that the business’ marketing communications do not comply with the guidelines.</li> <li>■ <b>Members of Forum of Responsible Food Marketing Communication</b> – monitors the food commercials, and checks if the Code of Responsible Food Marketing Communication is observed.</li> <li>■ <b>Ethical Committee for the Pharmaceutical industry</b> – verifies that the connected pharmaceutical companies comply with the rules</li> </ul> <p><b>Specific mandate to focus on children’s issues?</b></p>
<p><b>10</b></p>	<p><b>Pre-clearance, sanctions and complaints</b></p> <p>(a) <b>Do advertisements need to be pre-cleared before publication or broadcast?</b></p> <p>(b) <b>What sanctions can be imposed for breaches of codes or regulations?</b></p> <p>(c) <b>Are there mechanisms for children or their representatives to file individual complaints?</b></p>	<p><b>Sanctions</b></p> <ul style="list-style-type: none"> <li>■ <b>finer – § 30, stk. 3 of Marketing Practices Act:</b> Infringement of § 8, stk. 2 – 3 of Marketing Practices Act entails liability to fine, unless it carries higher penalty according to other legislation.</li> <li>■ <b>finer and imprisonment – § 30, stk. 1 of Marketing Practices Act:</b> Non-observance of the order imposed by the Consumer Ombudsman or a prohibition and orders imposed by court results in liability to fine or imprisonment of up to four months.</li> <li>■ <b>finer and imprisonment – § 104, stk. 1, no. 1 of Medicines Act:</b> Infringement of indicated provisions regulating advertising of medicines products may entail liability to fine or imprisonment for up to four months unless the offence carries a more severe penalty under any other legislation.</li> <li>■ <b>finer – § 39, stk. 1 in Executive Order No. 801 of 21 June 2013 on Radio and Television Advertising</b> Infringement of the provisions in chapter 2, 3 and 4 may entail liability to fine</li> </ul> <p><b>Complaints</b></p> <ul style="list-style-type: none"> <li>■ <b>The Consumer Ombudsman:</b> <ul style="list-style-type: none"> <li>– complaints may be filed on grounds of contravention of Marketing Practices Act. The complaints may be filed by traders and consumers that are not resident in Denmark, if they come across misleading marketing activities emanating from Denmark or for example receive unsolicited commercial communication.</li> </ul> </li> </ul>



		<ul style="list-style-type: none"> <li>■ <b>Radio and Television Board:</b> <ul style="list-style-type: none"> <li>– complaints may be filed on the grounds of contravention of the Radio and Television Act provisions, including provisions concerning advertising. In cases concerning compliance with the Medicines Act and the Act on Advertising of Healthcare Services, the Board shall obtain a prior opinion from the Danish Medicines Agency and the National Board of Health respectively (§. 44, no. 2 of Radio and Television Act).</li> </ul> </li> </ul>
<p><b>II</b></p>	<p><b>Effectiveness</b></p> <p><b>How effective are the laws and codes? Are they respected/do they get enforced?</b></p>	<p><b>HFSS</b></p> <p><b>Conclusions from Research conducted by Forum for responsible food marketing communication:</b></p> <ul style="list-style-type: none"> <li>■ The number of commercials in children schedules on TV2 (a member to Forum) show a drastic fall in the number of commercials after the Code of responsible food marketing communication to children was signed: <ul style="list-style-type: none"> <li>“Whereas there were nearly 1500 commercials aimed at children in 2007, there were only eight in 2013. (...) A closer examination of the eight commercials shown shows that they were broadcast immediately before the adult schedules and are the result of different definitions of children schedules by TV2 and Gallup TV-meter. The consequence is that there has not been any advertising of food products covered by the Code of Responsible Food Marketing Communication.”</li> </ul> </li> <li>■ “The trade association Danish Media carry out sample surveys of food advertisements in Danish newspapers and children’s magazines. In the autumn half-term holiday in 2013 they did not find a single violation of the code in the printed media.”</li> <li>■ “The sample checks showed that there was not a single advertisement for food products in children’s magazines.”</li> <li>■ “Both the Association of Danish Media and the Food and Drink Federation in the Confederation of Danish Industry have examined the spread of food advertisements on the Internet. In the autumn of 2013, the Association of Danish Media looked at websites related to specific children’s magazines or specific children’s games sites, while in 2012 the Food and Drink Federation examined the food producers’ own websites and related games sites. In four cases, advertisements were found where it was questionable whether they were in accordance with the Code. Subsequent contact with the companies resulted in the advertisements being removed.”</li> </ul>





12

### Pressure Groups

**Are the consumer led pressure groups/lobbying, and if so, how effective are they?**

**Børns vilkår** – a private political independent organisation that fights to ensure children in Denmark get a safe childhood.

- Amendments to the marketing practises act have previously been submitted to the organisation for consultation.
- **Danmarks aktive forbrugere** – independent consumer led organisation with focus on a better and sustainable consumption
- Amendments to the marketing practises act have previously been submitted to the organisation for consultation.

**Forbrugerrådet Tænk** – membership organisation that takes care of the consumer interests of its members

- Amendments to the marketing practises act have previously been submitted to the organisation for consultation.
- The organisation has 71.000 personal members

**Red Barnet** – the Danish branch of “Safe the Children”, the independent organisation that fights to ensure children’s rights.

- Amendments to the marketing practises act have previously been submitted to the organisation for consultation.



## II. ECUADOR



<p><b>1</b></p>	<p><b>Regulation</b></p> <p>Are there statutes or codes, including voluntary initiatives (e.g., industry codes of conduct), that specifically regulate marketing and/or advertising? Please list and briefly describe key statutes, codes and initiatives.</p>	<p><b>Statutes:</b></p> <ul style="list-style-type: none"> <li>■ Constitution</li> <li>■ Communication Law And Regulation</li> <li>■ Consumer Defense Regulation</li> <li>■ Regulations for Control of Advertising of Processed Food</li> <li>■ Regulations for the Broadcast of Advertising in whose Production Takes Part or is intended for Children And Adolescents</li> <li>■ Regulation of Labelling of Processed Food For Human Consumption</li> <li>■ Regulation of Promotion, Support And Protection of Breastfeeding</li> <li>■ System of Quality control and values on messages of radio and tv.</li> </ul> <p><b>Codes</b></p> <p>Code Of Childhood and Adolescence</p> <p><b>Voluntary Initiatives</b></p> <p>Code of Ethics and advertising self-regulation</p>
<p><b>2</b></p>	<p><b>Regulations protecting children</b></p> <p>Do any standards listed above explicitly address marketing and advertising to children as a whole and/or to particular age groups of children? What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?</p>	<p><b>Legal age of majority</b></p> <p>According to the Civil Code, majority is attained at 18 years.</p> <p><b>Definition of a child in advertising context (if different)</b></p> <p>There is not an exact definition of “child” in advertising regulations, however, the Regulations for the Broadcast of Advertising in whose Production Takes Part or is intended for Children And Adolescents defines the child and adolescent audience as follows:          Child audience: people from zero to twelve years old. Adolescent audience: people from twelve to eighteen years old.</p> <p><b>Regulations protecting children/particular age groups</b></p> <p>Communication Law And Regulation.</p> <p>Regulations for Control of Advertising of Processed Food.</p> <p>Code Of Childhood And Adolescence.</p> <p>Regulations for the Broadcast of Advertising in whose Production Takes Part or is intended for Children And Adolescents.</p>



### 3 Specific product restrictions

**What, if any, restrictions are there on advertising products that are known to be or are potentially dangerous or harmful to children, including but not limited to: Tobacco, Alcohol, Drugs/pharmaceuticals, HFSS (high in fat sugar, salt) products?**

#### Tobacco

All kinds of advertising of cigarettes is forbidden, however, advertising and promotion of cigarettes is allowed only within the places where the product is sold and adults have exclusive access.

Free delivery of cigarettes and other products derived from tobacco is forbidden, except if that supply is made as samples in areas in which access is prohibited to people under 18.

All kinds of advertising aimed at children and adolescents must not contain child pornography, alcohol, cigarettes, narcotics and psychotropic substances.

Manufacturers, importers or distributors of cigarettes or products derived from tobacco sponsorship of sporting events by is forbidden, except those in which the adult audience represents at least 75% and participating athletes are over 18; However, this shall respect the prohibition of advertising of cigarettes and alcohol aforementioned

The packaging material or cigarette wrappers and other products derived from tobacco shall bear the warning: "SALE FORBIDDEN TO CHILDREN AND ADOLESCENTS, MINISTRY OF PUBLIC HEALTH OF ECUADOR" legibly, clearly, and using high-contrast colours against a white background.

#### Alcohol

All kinds of public advertising of alcohol is forbidden, however, advertising and promotion will be allowed only within the places where the product is sold and adults have exclusive access.

Soft drinks advertising is allowed only through alternative channels (not radio and Tv). Alcohol advertising can be communicated on foreign television channels, through audio and video systems by subscription.

No samples of alcoholic beverages will be given to people under 18 as a form of promotion.

All kinds of advertising aimed at children and adolescents must not contain child pornography, alcohol, cigarettes, narcotics and psychotropic substances.

The companies that produce alcoholic beverages will not put their trademarks on any product for people under 18;

The companies that produce alcoholic beverages will not sponsor shows whose content is aimed at children under 18 years of age, and not promote or sponsor underage artists either.

All alcohol advertising should include the phrase: "WARNING. EXCESSIVE ALCOHOL CONSUMPTION LIMITS THEIR ABILITY TO DRIVE OR OPERATE MACHINERY, CAN DAMAGE YOUR HEALTH AND YOUR FAMILY HURTS. MINISTRY OF PUBLIC HEALTH OF ECUADOR. SALE PROHIBITED TO UNDER 18.



### **Drugs/Pharmaceuticals**

The broadcast of advertising that induces violence, discrimination, racism, drug abuse, sexism, religious or political intolerance and all those who violate the rights is prohibited.

All kinds of advertising aimed at children and adolescents must not contain child pornography, alcohol, cigarettes and narcotics and psychotropic substances.

Children and adolescents must be protected against the participation in the production, marketing and/or advertising of alcohol, tobacco, narcotics and psychotropic substances;

### **HFSS products**

Advertising should not encourage unhealthy eating habits.

In the advertising of processed foods is prohibited the use of underage people.

The health authority shall apply restrictions on advertising of processed foods with high levels of fat, sugar and salt, in order not to influence on consumers, especially underage.

Advertising of energy drinks or other similar products must include the warning: "PRODUCT NOT RECOMMENDED FOR DIABETICS, CHILDREN, PREGNANT WOMEN, CAFFEINE SENSITIVE, ELDERLY, CARDIOVASCULAR AND PEOPLE WITH GASTROINTESTINAL DISEASES".

Food with high content of nutrients that are indicators of excess cannot be advertised or given at (free distribution, gifts or other incentives for the purchase) in educational institutions.

Advertising of food for infants under 6 months of age is forbidden.

The promotion (advertising, free distribution, gifts or other incentives for the purchase) of food for babies under six months of age is prohibited.

The promotion of breastfeeding must include the following message: "BREAST MILK IS THE BEST FOOD FOR THE HEALTH AND NUTRITION OF THE INFANT, BEING THE ONLY COMPLETE, ACCESSIBLE AND IRREPLACEABLE FOOD. THIS PRODUCT SHOULD NOT BE THE ONLY SOURCE FOR NURSING" and the information of the correct handling of baby food, its preparation and specific care before consumption.

Government events will not be sponsored by companies that commercialize products for infants.



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### Timing and placement of restrictions

What, if any, restrictions are there on the timing and/or placement of advertisements in:

- (a) Publications aimed at children (e.g., magazines, books)?
- (b) Around entertainment programmes aimed at children (e.g., radio, television, movies, video games)?
- (c) Online through websites or communications platforms, including social media, aimed at or used by children?

### Publications

No advertising of cigarettes or tobacco derived products, or alcohol should appear on magazines, newspapers or other printed publications of public circulation.

It is prohibited the circulation of publications, videos and recordings aimed at children and adolescents, with images, texts or messages inappropriate for their development. The government must prevent the diffusion of inadequate information for children and adolescents in family time.

It is forbidden the use of messages or images generating social rejection if the product offered is not purchased.

Advertising with sexual content that have no educational purpose is prohibited.

### Entertainment programmes

It is prohibited the circulation of publications, videos and recordings aimed at children and adolescents, with images, texts or messages inappropriate for their development. The government must prevent communicating inadequate information for children and adolescents in family time.

A message indicating the start and end of the advertising space in the media is mandatory for all kinds of publicity aimed at children and teenagers.

In programs for children and adolescents it is prohibited to announce violent advertising with content leading to discrimination, racism, drug abuse, sexism, that encourage the illegitimate use of violence or any illegal act, trafficking, exploitation, sexual abuse, advocacy of war or racial or religious hatred..

It is forbidden the use of messages or images that generate social rejection if the product offered is not purchased.

Advertising with sexual content with no educational purpose is prohibited

The advertising of pharmaceutical products in the period of Monday to Friday from 07h00 to 09h00 and from 15h00 to 18h00 is forbidden

The advertising promoting the use of games or war toys in the range of Monday to Friday: 07h00 to 09h00 and from 15h00 to 18h00 is prohibited.

### Online

According to the Communication Regulation, the internet is considered as an alternative channel for advertising broadcast, and the announcers have the same rights and obligations as those who advertise on radio and television.





<p><b>5</b></p>	<p><b>Advertising placement restrictions</b></p> <p><b>What, if any, restrictions are there on advertising or marketing in schools, children’s clubs or other places children regularly visit?</b></p>	<p><b>Schools</b></p> <p>Food with high content of nutrients that are indicators of excess, cannot be advertised or given at educational institutions. (free distribution, gifts or other incentives for the purchase).</p> <p><b>Clubs</b></p> <p><b>Other</b></p>
<p><b>6</b></p>	<p><b>Restrictions on targeting children</b></p> <p><b>What, if any, restrictions are there on using advertising or marketing techniques to appeal to children (e.g., licensing of popular cartoon characters)?</b></p>	<p><b>Cartoon/imaginary characters</b></p> <p><b>Other</b></p> <p>Benefits attributed to the product or service must be inherent in their use. Advertisements must not suggest that the purchase and use of the product will provide to the user prestige, skills and the qualities of the characters in the ad.</p> <p>Advertising must not encourage unattainable expectations: fictional characters should be clearly identified as such. Fantasy, including cartoons, will be suitable for both children and adolescents depending on age category.</p>
<p><b>7</b></p>	<p><b>Restrictions on the use of children in ads</b></p> <p><b>What, if any, restrictions are there on the use of children in advertising, including peer-to-peer marketing and the appointment of children as brand ambassadors?</b></p>	<p><b>Use in advertising</b></p> <p>The participation of children and adolescents in programs, advertisements, pornographic productions and shows with content inappropriate for their age is prohibited.</p> <p>Even where permitted by law, advertisement must not use the image of an adolescent of fifteen years or older without their express permission; or a child or adolescent under that age without the authorization of their legal representative, who only is given if, it does not injure the rights of the child.</p> <p>The use of the image of a child or adolescent in any media or publicity without authorization shall pay a fine of \$ 100 to \$ 500 for each infringement.</p> <p>Children and adolescents have the right to their own image, therefore, they can lend their image as long as the following conditions are met:</p> <ol style="list-style-type: none"> <li>1. The image is not used in detriment of honor, personal privacy, good name, independence and individuality of children and adolescents.</li> <li>2. If advertising seeks to capture, reproduce or publish images of children or adolescents in places or moments of their private life, those responsible for their production, design and broadcasting should have authorization and whenever it does not affect the physical, psychological or sexual integrity of the child.</li> </ol>





3. The opinion of children and adolescents will be taken into account for the use of their image.

Provisions for the use of the image of children and adolescents in advertising:

1. Advertising using the image of children and adolescents, especially those with disabilities, serious or catastrophic illness should avoid exaggeration, manipulation and exploitation related to their health status, social status, family, economic or any form of discrimination.
2. Advertising using images of children and adolescents may not promote violence, sexual content, racist, sexist or any that affects their dignity, self-esteem, honor, reputation and image.
3. Advertising must not display images allowing the identification of a child or adolescent who has been the victim of abuse, sexual abuse or other violation of their rights, neither the environment in which the child develops.

The criteria and conditions set forth in the present articles shall be respected even for advertising that use caricatures of children and adolescents.

If the advertising is aimed at children or adolescents, the following rules must be followed:

1. Advertising shall not, directly or indirectly, stimulate unrealistic expectations about the qualities or performance of the product.
2. Advertising shall not pressure the parents to purchase the product for the child or adolescent, or refer to their feelings of affection for their children.
3. Advertising shall not contain scenes where moral, psychological or physical integrity of children and adolescents is violated, or incites violence or justify criminal acts.
4. Advertising aimed at children and adolescents cannot have sex or sexuality connotations.
5. Advertising aimed at children and adolescents should not discredit the authority of parents and educators.
6. The advertising of products like snacks, candy, gum and drinks with artificial components should not allude that they supply basic nutrition.
7. Advertising may not imply or develop feelings of inferiority to the child or teenager who does not consume the advertised product.
8. The advertising aimed at children and adolescents should encourage healthy eating and discourage unhealthy.

Non-commercial advertising are exempted from these rules, when their purpose is to prevent or fight acts that may violate rights.

#### **Use as brand ambassadors**



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### **Product labelling and children's safety**

**In relation to product labelling, are there any specific requirements relevant to children with regard to health, safety or other concerns?**

### **Health**

The advertising aimed at children and adolescents should encourage healthy eating and discourage unhealthy.

Manufacturers and/or distributors of breast milk substitutes should print on each package clearly, visible and easy to understand information in Spanish, and include the following warning:

**“IMPORTANT ANNOUNCEMENT: BREAST MILK IS THE BEST FOR BABY’S HEALTH AND THIS PRODUCT WILL BE USED ONLY WHEN THE MOTHER CAN NOT BREASTFEEDING HER CHILD IN SPECIAL PATHOLOGICAL SITUATIONS.**

The label on the packaging of nursing baby products, must not contain:

- a) Images, photos, graphics, drawings of children and mothers, which may idealize the use of infant formula.
- b) The terms “humanized” or similar terms;
- c) Comparisons with breast milk; and,
- d) Messages that discourage breastfeeding.

The label must contain the instructions for proper preparation and use of the product as well as for conservation and elimination after preparation, and include a warning about the health hazards that may derived from storage, preparation or improper use.

### **Safety**

Goods that may represent a danger to health or safety of consumers or users, or requiring some expertise for handling must have information of their safe use and warning. If goods or services are intended for children, the warning must be made to parents or those who hold the custody of the child.

The following message shall be included in the labelling of energy drinks containing caffeine, taurine and/or glucuronolactone,:"PRODUCT NOT RECOMMENDED FOR INFANTS, CHILDREN, ADOLESCENTS, PREGNANT WOMEN, LACTATING WOMEN, ELDERLY PEOPLE, DIABETICS, PEOPLE SENSITIVE TO CAFFEINE, PEOPLE WITH CARDIOVASCULAR AND GASTROINTESTINAL DISEASES";



		<p>In wrappers bottles, pacifiers and other utensils must be included in clear and visible manner, the following legends:</p> <ul style="list-style-type: none"> <li>a) The affirmation of the superiority of breast milk to feed the baby;</li> <li>b) The statement that feed cup and spoon or dropper are safer than bottle feeding;</li> <li>c) The warning about possible health risks when bottle is used, the risks of infections and inadequate tooth formation; and</li> <li>d) The warning about the negative consequences of bottle feeding because it interferes with natural practice</li> </ul> <p>Regarding the Rules for Strained, Cut and Packaged Foods for Infants and Children, the label must include the warning that it should not be consumed by children under six months old, and must indicate the age at which the product can be included in the child diet. The label should also contain the following sentence “THIS MUST NOT BE THE ONLY SOURCE OF FEEDING” and “THIS PRODUCTS ARE NOT BREASTMILK SUBSTITUTES AND SHOULD NOT BE PRESENTED AS SUCH.”</p> <p>If the product contains beet (beetroot) or spinach, it should be indicated on the label</p> <p>If the product contains egg white, milk and dairy unmodified in their protein composition and fat, should indicate: “Important Notice: It is recommended from twelve months of age”</p> <p>If the product contains more than 3 g of total fiber amounts, indicate: “Important Notice: Recommended from twelve months of age”</p> <p><b>Other</b></p> <p>In labelling of processed foods for human consumption, using images of children and adolescents with images, texts or messages inappropriate for their development is prohibited.</p>
<p><b>9</b></p>	<p><b>Enforcement body</b></p> <p><b>(a) Which administrative body or bodies oversee compliance with government regulations or industry standards on marketing and advertising?</b></p> <p><b>(b) Do any of these have a specific mandate to look at issues around marketing and advertising to children?</b></p>	<p><b>Enforcement body</b></p> <p>Regulation and Development of Information and Communication Council (CORDICOM)</p> <p>The Administration of Justice specialized in Children and Adolescents.</p> <p>Cantonal Councils for Children and Adolescents.</p> <p>Ministry of Health</p>



		<p><b>Specific mandate to focus on children’s issues?</b></p> <p>The Childhood and Adolescence Code establishes that the Administration of Justice specialized in Children and Adolescents is responsible for the protection, defense and enforceability of rights.</p> <p>The Communication Law and Regulation establishes that the advertising broadcasted in children’s programs will be duly qualified by the Regulation and Development of Information and Communication Council.</p> <p>The Direction of Control of Health will control that advertising will correspond to those approved by the National Health Authority,</p>
<p><b>10</b></p>	<p><b>Pre-clearance, sanctions and complaints</b></p> <p>(a) <b>Do advertisements need to be pre-cleared before publication or broadcast?</b></p> <p>(b) <b>What sanctions can be imposed for breaches of codes or regulations?</b></p> <p>(c) <b>Are there mechanisms for children or their representatives to file individual complaints?</b></p>	<p><b>Pre-clearance</b></p> <p>The Communication Law and Regulation establishes that the advertising broadcasted in children’s programs will be duly qualified by the Regulation and Development of Information and Communication Council.</p> <p>Advertising products for food and health will be subject to control by the National Health Authority.</p> <p><b>Sanctions</b></p> <p>The suspension of advertising shall proceed when it induces to violence, discrimination, racism, drug abuse, sexism, religious or political intolerance and all those acts that violate the rights recognized in the Constitution.</p> <p>The broadcasting of content violating the rights of children and adolescents, shall be sanctioned with a fine of 5 to 10 basic salaries, without prejudice of criminal responsibility and its reparation.</p> <p><b>Complaints</b></p> <p>Complaint to the Superintendence of Information and Communication.</p> <p>Complaint to the Office of the Ombudsman.</p> <p>Complaint to the Health Authority.</p>
<p><b>11</b></p>	<p><b>Effectiveness</b></p> <p><b>How effective are the laws and codes? Are they respected/do they get enforced?</b></p>	<p>The rules regarding advertising are enforced and their compliance is strictly monitored.</p>
<p><b>12</b></p>	<p><b>Pressure Groups</b></p> <p><b>Are the consumer led pressure groups/lobbying, and if so, how effective are they?</b></p>	<p>Complaints from consumer groups must be directed through the Ombudsman.</p>





## 12. EUROPEAN UNION

I

### Regulation

**Are there statutes or codes, including voluntary initiatives (e.g., industry codes of conduct), that specifically regulate marketing and/or advertising? Please list and briefly describe key statutes, codes and initiatives.**

### Statutes

EU institutions are required to take the principle of the best interests of the child as a primary consideration in the development of the core area of internal market policy, as mandated by the European Commission communication of 4 July 2006, by Article 24 of the EU Charter and by Article 3 of the Treaty of European Union.

Most EU consumer legislation is based on Article 114(1) of the Treaty on the Functioning of the European Union (“TFEU”), which provides for the obligation on EU institutions to ensure a high level of consumer protection when adopting harmonised measures on the basis of Article 114(1).

#### Unfair Commercial Practices Directive (2005/29/EC)<sup>23</sup>

The Unfair Commercial Practices Directive (“UCP Directive”) introduced an EU-wide ban on all unfair business-to-consumer commercial practices.

The key provision in the UCP Directive is Article 5, which prohibits all unfair business-to-consumer commercial practices and provides that a practice will be considered “unfair” if it:

- is contrary to the rules of professional diligence; and
- materially distorts, or is likely to materially distort, the economic behaviour of a consumer.

#### Audiovisual Media Services Directive (2010/13/EU)<sup>24</sup>

The Audiovisual Media Services Directive (“AVMS Directive”), which replaced the Television without Frontiers Directive, upholds the free movement of audiovisual media services within the common market and establishes minimum regulations that should be commonly applied across the EU.

The AVMS Directive regulates television and “television-like” services. The definition of “television-like” centres on editorial responsibility and competition with television for audience. Therefore, whilst the AVMS Directive does regulate online “on demand” services, it would not apply to services offering online platforms for user-generated content or other forms of video sharing.

The AVMS Directive is a measure of minimum harmonisation, and therefore member states are entitled to apply stricter requirements for audiovisual service providers established on their territories. It is the case that regulatory frameworks differ widely across the EU.<sup>25</sup>

<sup>23</sup> Unfair Commercial Practices Directive (2005/29/EC), <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:149:0022:0039:en:PDF>.

<sup>24</sup> Audiovisual Media Services Directive (2010/13/EU) Article 9(1)(g), available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:095:0001:0024:en:PDF>.

<sup>25</sup> See, for example, del Valle, A.G, ‘A Reflection on European Regulation of Television Advertising to Children’, *Communication Research Trends*, Vol. 32 No. 2 (2013), p 20.



## Codes

### Recommendation on the Protection of Minors and Human Dignity and the Right to Reply<sup>26</sup>

The Recommendation on the Protection of Minors and Human Dignity and the Right to Reply (the “Recommendation”) calls for action from member states, companies and the European Commission in order to ensure that the “*the content of audiovisual and information services stays within the law, respects the principle of human dignity and does not impair the development of minors*”, whilst respecting the right to freedom of expression.

The Recommendation on the Protection of Minors and Human Dignity and the Right to Reply (the “Recommendation”) was issued by the European Parliament and European Council on 20 December 2006, and superseded an earlier recommendation.

The Recommendation requires action at the following levels:

- Member state level – The Recommendation asks member states to consider introducing measures regarding the right of reply, to promote a responsible attitude amongst professionals, intermediaries and users and to combat illegal activity that is likely to be harmful to minors.
- Industry level – The Recommendation encourages exchange of best practices amongst regulatory, self-regulatory and co-regulatory bodies. It also asks industry to introduce technical measures to prevent information offending against human dignity from passing through the Internet and combat discrimination in audiovisual and online information services.
- European Commission – The Recommendation states that the Commission will take on a number of initiatives to protect minors and human dignity, including the introduction of a European free phone number providing information on the issue and the creation of a network of self-regulatory bodies in order to exchange information.

## Voluntary Initiatives

### EU Pledge on Advertising to Children

The EU Pledge on Advertising to Children (the “EU Pledge”) is, in its own words, a “*voluntary initiative by leading food and beverage companies to change food and beverage advertising to children under the age of twelve in the European Union*”.<sup>27</sup>

<sup>26</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV:i24030a>.

<sup>27</sup> <http://www.eu-pledge.eu/content/about-eu-pledge>.





The EU Pledge consists of two core commitments:

1. No advertising for food and beverage products to children under the age of twelve on TV, print and internet, except for products which fulfil common nutritional criteria; and
2. No communication related to products in primary schools, except where specifically requested by, or agreed with, the school administration for educational purposes.

Prominent members of the EU Pledge include Burger King, Coca Cola, Mondelez, Mars, McDonald's Europe and Nestle. In 2014, EU Pledge member companies accounted for over 80% of food and beverage advertising spend in the EU.<sup>28</sup>

The EU Pledge organisation is supported by the World Federation of Advertisers ("WFA").

Each year a third party organisation is commissioned to carry out independent monitoring of implementation of the EU Pledge and an independent reviewer then assesses whether that monitoring was carried out with an appropriate methodology, resources and diligence. Results are then published on an annual basis on the EU Pledge's website.

### European Advertising Standards Alliance

The European Advertising Standards Alliance ("EASA") describes itself as "*the single authoritative voice on advertising self-regulation issues and promotes high ethical standards in commercial communications by means of effective self-regulation, while being mindful of national differences of culture, legal and commercial practice*".

EASA brings together national advertising self-regulatory organisations ("SROs") and organisations representing the advertising industry in Europe and beyond.

EASA recommends to SROs the International Chamber of Commerce Consolidated Code of Advertising and Marketing Communication Practice (2006), which contains specific rules regarding advertising to children. The majority of European SROs have incorporated the ICC Code into their national self-regulatory codes, and some have adopted additional rules of their own regarding advertising to children.<sup>29</sup>

<sup>28</sup> [http://www.eu-pledge.eu/sites/eu-pledge.eu/files/reports/EU\\_Pledge\\_2014\\_Monitoring\\_Report.pdf](http://www.eu-pledge.eu/sites/eu-pledge.eu/files/reports/EU_Pledge_2014_Monitoring_Report.pdf)

<sup>29</sup> 'Issue Brief – Advertising to children', European Advertising Standards Alliance website, available at <http://www.easa-alliance.org/page.aspx/96>



## 2 Regulations protecting children

**Do any standards listed above explicitly address marketing and advertising to children as a whole and/or to particular age groups of children? What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?**

### Legal age of majority

No general legal age of majority is set by the EU. This is within the competence of member states.

### Definition of a child in advertising context (if different)

The EU Pledge applies to children under the age of 12.

### Regulations protecting children/particular age groups

[Unfair Commercial Practices Directive](#) explicitly recognises that children constitute a group of particularly vulnerable consumers deserving of special protection.

In EU consumer law, the benchmark used to assess the economic behaviour of a ‘consumer’ has traditionally been that of the ‘average’ consumer (as set out in Article 5(2) of the Directive). However, to recognise the particular vulnerability of certain types of consumer, Article 5(3) of the UCP Directive introduces the benchmark of the average member of a group of particularly vulnerable consumers. Age is explicitly listed, alongside mental or physical infirmity and credulity, as a criterion for determining the impact of a commercial practice on a consumer. Therefore, the UCP Directive explicitly acknowledges that children-consumers are deserving of special protection.

Point 28 of Annex I to the UCP Directive provides that “*including in an advertisement a direct exhortation to children to buy advertised products or persuade their parents or other adults to buy advertised products for them*” is an unfair commercial practice and should be prohibited.<sup>30</sup>

### Audiovisual Media Services Directive (2010/13)

Article 9(1)(g) of the AVMS Directive provides that, as a general principle, “*audiovisual commercial communications shall not cause moral or physical detriment to minors*”.

Article 9(1)(g) goes on to state audiovisual commercial communications:

- shall not directly exhort minors to buy or hire a product or service by exploiting their inexperience or credulity;
- shall not directly encourage minors to persuade their parents or others to purchase the goods or services being advertised;
- shall not exploit the special trust minors place in parents, teachers or other persons; and
- shall not unreasonably show minors in dangerous situations.

The rules in the AVMS Directive that seek to limit the exposure of children to marketing and advertising vary depending on the marketing technique at stake.

<sup>30</sup> Some commentators have criticised the provisions of the Unfair Commercial Practices Directive as “*so restrictive that it does not support the argument that the UCP Directive upholds the best interests of the child*” (Garde, A. “Advertising Regulation and the Protection of Children-Consumers in the European Union: In the Best Interests of...Commercial Operators?”, *International Journal of Children's Rights* 19 (2011)).



3

### Specific product restrictions

**What, if any, restrictions are there on advertising products that are known to be or are potentially dangerous or harmful to children, including but not limited to: Tobacco, Alcohol, Drugs/ pharmaceuticals, HFSS (high in fat sugar, salt) products?**

#### Tobacco

Under Article 9(1)(d) of the AVMS Directive, “*all forms of audiovisual commercial communications for cigarettes and other tobacco products shall be prohibited*”.

#### Alcohol

Under Article 9(1)(e) of the AVMS Directive, “*audiovisual commercial communications for alcoholic beverages shall not be aimed specifically at minors and shall not encourage immoderate consumption of such beverages*”.

Article 22 of the AVMS Directive states that television advertising and teleshopping for alcoholic beverages shall comply with the following criteria:

- it may not be aimed specifically at minors or, in particular, depict minors consuming these beverages;
- it shall not link the consumption of alcohol to enhanced physical performance or to driving;
- it shall not create the impression that the consumption of alcohol contributes towards social or sexual success;
- it shall not claim that alcohol has therapeutic qualities or that it is a stimulant, a sedative or a means of resolving personal conflict;
- it shall not encourage immoderate consumption of alcohol or present abstinence or moderation in a negative light; and
- it shall not place emphasis on high alcohol content as being a positive quality of the beverage.

#### Drugs/Pharmaceuticals

Under Article 9(1)(f) of the AVMS Directive “*audiovisual commercial communication for medicinal products and medical treatment available only on prescription in the Member State within whose jurisdiction the media service provider falls shall be prohibited*”.

#### HFSS products

Article 9(2) of the AVMS Directive states that “*Member States and the Commission shall encourage (emphasis added) media service providers to develop codes of conduct regarding inappropriate audiovisual commercial communications, accompanying or included in children’s programmes, of foods and beverages containing nutrients and substances with a nutritional or psychological effect, in particular those such as fat, trans-fatty acids, salt/sodium and sugars, excessive intakes of which in the overall diet are not recommended*”.

In relation to HFSS products, there is no duty to ensure that such codes of conduct are adopted or that to monitor that they are sufficiently effective.



<p><b>4</b></p>	<p><b>Timing and placement of restrictions</b></p> <p><b>What, if any, restrictions are there on the timing and/or placement of advertisements in:</b></p> <ul style="list-style-type: none"><li><b>(a) Publications aimed at children (e.g., magazines, books)?</b></li><li><b>(b) Around entertainment programmes aimed at children (e.g., radio, television, movies, video games)?</b></li><li><b>(c) Online through websites or communications platforms, including social media, aimed at or used by children?</b></li></ul>	<p><b>Publications</b></p> <p>The general provisions of the UCP Directive apply to publications aimed at children.</p> <p><b>Entertainment programmes</b></p> <p>Article 20 of the AVMS Directive provides that children’s programmes of less than thirty minutes may not be interrupted by television advertising or teleshopping. If the programmes’ scheduled duration is thirty minutes or longer, they may be interrupted once for each scheduled period of at least thirty minutes.</p> <p>Article 11 of the AVMS Directive prohibits product placement in all children’s television programmes, irrespective of their duration.</p> <p>Article 10(4) of the AVMS Directive provides members states with the <i>option</i> to prohibit the showing of sponsorship logos during children’s programmes.</p> <p>The AVMS Directive does not define “children” or “children’s programmes” for its purposes. As a measure of partial harmonisation, it is left to member states to define at a national level those terms which have been left undefined at EU-wide level.</p> <p><b>Online</b></p> <p>The AVMS Directive applies to online communications aimed at or used by children as it does to children’s programmes, provided that the online communications fall within the definition of scope of television and “television-like” services (see above for explanation of this definition).</p>
<p><b>5</b></p>	<p><b>Advertising placement restrictions</b></p> <p><b>What, if any, restrictions are there on advertising or marketing in schools, children’s clubs or other places children regularly visit?</b></p>	<p><b>Schools</b></p> <p>In terms of industry initiatives, one of the two key commitments made by EU Pledge members is that they place no communication related to products in primary schools, except where specifically requested by, or agreed with, the school administration for educational purposes.</p> <p><b>Clubs</b></p> <p>No information found.</p> <p><b>Other</b></p> <p>No information found.</p>



<p><b>6</b></p>	<p><b>Restrictions on targeting children</b></p> <p><b>What, if any, restrictions are there on using advertising or marketing techniques to appeal to children (e.g., licensing of popular cartoon characters)?</b></p>	<p><b>Cartoon/imaginary characters</b></p> <p>No information found.</p> <p><b>Other</b></p> <p>No information found.</p>
<p><b>7</b></p>	<p><b>Restrictions on the use of children in ads</b></p> <p><b>What, if any, restrictions are there on the use of children in advertising, including peer-to-peer marketing and the appointment of children as brand ambassadors?</b></p>	<p><b>Use in advertising</b></p> <p>Article 22 of the AVMS Directive states that television advertising and teleshopping for alcoholic beverages shall not depict minors consuming alcohol.</p> <p><b>Use as brand ambassadors</b></p> <p>No information found.</p>
<p><b>8</b></p>	<p><b>Product labelling and children's safety</b></p> <p><b>In relation to product labelling, are there any specific requirements relevant to children with regard to health, safety or other concerns?</b></p>	<p><b>Health</b></p> <p>No information found.</p> <p><b>Safety</b></p> <p>Some commentators have suggested that in connection with the protection of minors, the EU is most concerned with toy safety.<sup>31</sup></p> <p><b>Toy Safety Directive<sup>32</sup></b></p> <p>The Toy Safety Directive 2009/48/EC (the “Toy Safety Directive”) came into force on 20 July 2011. The requirements of the Directive apply to all toys that are “placed on the market”, and as such it applies to both toys which are imported into an EU country or those manufactured in an EU country.</p> <p>The Toy Safety Directive defines the different obligations imposed on four categories of economic operator: manufacturers, importers, distributors and authorised representative.</p> <p>Under the Toy Safety Directive, a toy must:</p> <ul style="list-style-type: none"> <li>■ satisfy the ‘essential safety requirements’ set out in the Directive;</li> <li>■ be properly marked to ensure traceability;</li> <li>■ bear the CE mark, which must be visible at the point of sale, be easily legible and in an indelible form; and</li> <li>■ be accompanied by instructions for use, and warnings where necessary.</li> </ul>

<sup>31</sup> See, for example, del Valle, A.G, ‘A Reflection on European Regulation of Television Advertising to Children’, *Communication Research Trends*, Vol. 32 No. 2 (2013), p 20.

<sup>32</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:170:0001:0037:en:PDF>.





		<p>It is an offence for a manufacturer, authorised representative or importer to supply toys which do not carry to CE mark or apply it incorrectly or which do not carry the required safety warnings or addresses.</p> <p>The CE marking is not a European safety mark or quality symbol intended for consumers. It indicates to enforcement authorities that the toy is intended for sale in the European Economic Area (EEA).</p> <p><b>EN71-1:2011</b></p> <p>European standard EN 71-1:2011 supports the requirements of the Toy Safety Directive.</p> <p>EN71-1:2011 sets out over twenty labelling/warnings to be used where applicable. For example, toys intended for children over three years, and that can be dangerous for children under three years must be accompanied by a warning that is preceded by the word “Warning”, such as “Warning. Not suitable for children under three years”. This age warning must be clearly legible at the point of sale and must appear either on the toy itself or on the packaging.</p> <p><b>Other</b></p> <p>No information found.</p>
9	<p><b>Enforcement body</b></p> <p>(a) Which administrative body or bodies oversee compliance with government regulations or industry standards on marketing and advertising?</p> <p>(b) Do any of these have a specific mandate to look at issues around marketing and advertising to children?</p>	<p><b>Enforcement body</b></p> <p>Government regulations – This is not within the competence of the EU. Member states enforce their implementing regulations.</p> <p>Industry standards – The EU Pledge is a self-regulatory body.</p> <p><b>Specific mandate to focus on children’s issues?</b></p> <p>Government regulations – This is not within the competence of the EU. Member states enforce their implementing regulations.</p> <p>Industry standards – The EU Pledge is specifically concerned with marketing and advertising to children.</p>
10	<p><b>Pre-clearance, sanctions and complaints</b></p> <p>(a) Do advertisements need to be pre-cleared before publication or broadcast?</p> <p>(b) What sanctions can be imposed for breaches of codes or regulations?</p> <p>(c) Are there mechanisms for children or their representatives to file individual complaints?</p>	<p><b>Pre-clearance</b></p> <p>This is not within the competence of the EU.</p> <p><b>Sanctions</b></p> <p>This is not within the competence of the EU.</p> <p><b>Complaints</b></p> <p>This is not within the competence of the EU.</p>





<p><b>11</b></p>	<p><b>Effectiveness</b></p> <p><b>How effective are the laws and codes? Are they respected/do they get enforced?</b></p>	<p><b>Statutes</b></p> <p>As EU directives do not have horizontal direct effect, it is the responsibility of member states to both implement and enforce the AVMS Directive and UCP Directive. As such, effectiveness and implementation should be assessed at a member state-level.</p> <p>It is important to note that the EU permits more detailed and onerous rules to be introduced by individual member states when they implement EU directives in their countries legislation. Some EU member states have done this in respect of the policy areas covered by the AVMS Directive.</p> <p><b>Voluntary initiatives</b></p> <p>There is some evidence that would suggest that voluntary initiatives such as the EU Pledge have been successful.</p> <p>Independent data from Accenture Media Management shows that the world’s biggest food brands have significantly changed the way they advertise products to children on TV since 2005 in the EU.</p> <p>In March 2014 it was reported that children across the EU today were exposed to 31% fewer advertisements for EU Pledge products on TV across all programming than they had been in 2004. Children saw 47% fewer ads for products that do not meet the nutrition criteria and 82% fewer for products not meeting the criteria in and around children’s programmes than in 2004.<sup>33</sup></p>
<p><b>12</b></p>	<p><b>Pressure Groups</b></p> <p><b>Are the consumer led pressure groups/lobbying?</b></p>	<p>As well as numerous consumer led pressure groups in each member state, there is some EU-wide collaboration between such organisations. For example, the European NGO Alliance for Child Safety Online (“eNACSO”) is a network consisting of 27 children’s rights NGOs from across the EU working for a safer online environment for children. Members include Save the Children, Child Focus and NSPCC. The impact of advertising on children is one of eNACSO’s key areas of focus.<sup>34</sup></p>

<sup>33</sup> European children exposed to less food advertising on TV, EurActiv website, available at <http://www.euractiv.com/health/european-children-exposed-food-a-news-534185>.

<sup>34</sup> <http://www.enacso.eu/>.



### 13. FRANCE

<p><b>I</b></p>	<p><b>Regulation</b></p> <p>Are there statutes or codes, including voluntary initiatives (e.g., industry codes of conduct), that specifically regulate marketing and/or advertising? Please list and briefly describe key statutes, codes and initiatives.</p>	<p>Yes, there are general provisions as well as product/industry and medium-specific provisions. Key general provisions include:</p> <p>the French Consumer Code, which prohibits misleading advertising and regulates comparative advertising;</p> <ul style="list-style-type: none"> <li>■ the self-regulatory standards issued by the French advertising self-regulatory authority (“<b>ARPP</b>”), based on the International Code of Advertising Practice published by the International Chamber of Commerce; and</li> <li>■ Law No. 94-665 of 4 August 1994 (“<b>Toubon Law</b>”), which requires the use of French language for any information intended for French residents.</li> </ul> <p>Key product/industry-specific provisions include:</p> <ul style="list-style-type: none"> <li>■ the French Public Health Code, which regulates notably advertising for alcohol, tobacco and foodstuffs; and</li> <li>■ Law No. 2010-476 of 12 May 2010 which regulates online gambling.</li> </ul> <p>Key medium-specific provisions include:</p> <ul style="list-style-type: none"> <li>■ Law No. 86-1087 of 30 September 1986 on freedom of communications and its implementing decrees (Decree No. 92-280 of 27 March 1992 and Decree No. 87-239 of 6 April 1987);</li> <li>■ the decisions and recommendations of the French audio-visual authority (“<b>CSA</b>”);</li> <li>■ Law No. 86-897 of 1st August 1986 on the reform of the press, which regulates print advertising; and</li> <li>■ Law No. 2004-575 of 21 June 2004 on confidence in the digital economy, which regulates digital advertising.</li> </ul>
<p><b>2</b></p>	<p><b>Regulations protecting children</b></p> <p><b>Do any standards listed above explicitly address marketing and advertising to children as a whole and/or to particular group of children? What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?</b></p>	<p>Standards apply either to “children” as a whole, to “minors”, or to a particular age group of children. There is no clear definition of “children” for the purposes of advertising and marketing.</p> <p>The French Civil Code sets the legal age of majority at 18.</p> <p>The following provisions address marketing and advertising to children as a whole:</p> <ul style="list-style-type: none"> <li>■ Section 7 of Law No. 2010-476, and the related ARPP’s and CSA’s recommendations regarding gambling;</li> <li>■ Section 7 of Decree No. 92-280;</li> <li>■ Section 6 of Decree No. 87-239; and</li> <li>■ ARPP’s recommendation on “Children”.</li> </ul>



		<p>The following provisions address marketing and advertising to children of various age groups:</p> <ul style="list-style-type: none"> <li>■ ARPP’s recommendation on food advertising for children under 3;</li> <li>■ ARPP’s recommendation on food behaviour for young children;</li> <li>■ CSA’s recommendation of 4 July 2006 on TV adverts on films, video games, websites and communication services subject to restrictions based on children’s age; and</li> <li>■ CSA’s deliberation of 22 July 2008 for the protection of children under 3 against the effects of television.</li> </ul>
<p><b>3</b></p>	<p><b>Specific product restrictions</b></p> <p><b>What, if any, restrictions are there on advertising products that are known to be or are potentially dangerous or harmful to children, including but not limited to: Tobacco, Alcohol, Drugs/pharmaceuticals, HFSS products</b></p>	<p><b>Tobacco</b></p> <p>All forms of advertising of tobacco products are prohibited, subject to a few exceptions. Product display and limited advertising are currently allowed at sale points. However, the law allows the direct broadcast of motorsport competitions that take place in a country where tobacco advertising is permitted.</p> <p><b>Alcohol</b></p> <p>Alcohol advertising is allowed, subject to strict restrictions in terms of media and content.</p> <p><b>Gambling</b></p> <p>Gambling advertising is prohibited in publications, audio-visual programmes and online communications aimed at minors, and in cinemas playing children’s movies. In respect of audio-visual programmes, the CSA has established criteria for determining whether a programme is aimed at minors, including: broadcasting hours, theme of the show (e.g., cartoons), etc.</p> <p><b>Food products and behaviours</b></p> <p>The ARPP’s Recommendation on Children provides that food advertising should not encourage unhealthy eating behaviours. For instance, advertising should not promote excessive consumption of food or snacking all day long. Moreover, adverts should not undermine the role of parents in educating children to have a balanced diet and be healthy individuals.</p> <p>Pursuant to the ARPP’s Recommendation on food behaviours, children should not be led to think that food can change their daily life (e.g., artistic activities, school and sport) by exceptional performances. The use of humour, original and unusual situations, or the reference to an imaginary world, is possible if it stays in a fantasy world and doesn’t risk being understood by children as real achievements which could result from food consumption. Moreover, an advert using imaginary characters well-known in children’s broadcasted entertainment and encouraging children to consume a product, should not promote behaviours which are contrary to healthy eating behaviours and lifestyles.</p>



		<p>Pursuant to the ARPP's Recommendation on Nutrition for children under 3, advertising for general consumer products should not suggest that these products are suitable for children under 3.</p> <p>Pursuant to section L. 121-51 of the French Consumer Code, advertising for baby food is only authorised in publications aimed at health professionals and is subject to specific health messages defined by decree.</p> <p><b>Children television programmes</b></p> <p>Advertising the educational or healthy nature of television programmes for the under 3's is prohibited (CSA's deliberation of 22 July 2008 for the protection of the under 3's against television effects).</p>
<p><b>4</b></p>	<p><b>Timing and placement of restrictions</b></p> <p><b>What, if any, restrictions are there on timing and or placement of advertisements in publications aimed at children (e.g., magazine books)?</b></p> <p><b>a) Around entertainment programmes aimed at children (e.g., radio, television, movies, video games)?</b></p> <p><b>b) Online through websites or communications platforms, including social media aimed at or used by children?</b></p>	<p>Pursuant to the ARPP's Recommendation on Children, advertising should not exploit children's credulity or lack of experience or contain anything that is likely to cause their physical, mental or moral harm. Furthermore, advertising targeting children should notably be clearly identifiable as such, and be truthful, decent, compliant with human dignity, and free of any scenes of violence. Advertising should not discriminate based on race, sex or nationality nor encourage unhealthy behaviours.</p> <p>(a) Restrictions on timing and/or placement of advertisements around entertainment programmes (e.g., radio, television, movies, video games):</p> <p>Section 15 of Decree No. 92-208: Advertising must not be inserted in any television broadcast of children's programmes, when their duration is less than 30 minutes.</p> <p>Section 7 of Law No. 2010-476: Gambling advertising is prohibited on television or radio programmes presented for minors. It is also forbidden to advertise less than 30 minutes before and after the television or radio programmes presented as for minors. For more information, see CSA's Deliberation of 22 January 2013 on audio-visual gambling advertising</p> <p>CSA's Recommendation of 4 July 2006 on television adverts presenting films, video games, websites and communication services contains restrictions regarding to distribution or access based on children's age:</p> <ul style="list-style-type: none"> <li>■ Television advertising for videogames is forbidden, or not recommended for children under, or video games aimed at children over: <ul style="list-style-type: none"> <li>– 12 should not be inserted in any youth programmes and within 10 minutes before and after such programmes;</li> <li>– 16 should not be broadcasted before 8.30 pm;</li> </ul> </li> </ul>





		<ul style="list-style-type: none"> <li>– 18 should not be broadcasted, only as regards video games, before 10.30 pm, provided there is no pornographic content. With respect to videograms and video games with pornographic content, advertising is only allowed on authorised services and between 12 am and 5 am.</li> </ul> <p>In any case, advertising may not contain any violent scenes.</p> <ul style="list-style-type: none"> <li>■ Television advertising for adult content services should only be broadcasted between 12 am and 5 am.</li> <li>■ Content rating applicable to any films or video games must be clearly shown on the television advertising for such videograms or video games.</li> </ul> <p>(b) Restriction on timing and/or placement of online advertisements through websites or communications platforms, including social media aimed at or used by children:</p> <p>Section 7 of Law No. 2010-476: Online gambling advertising is prohibited through public communication services aimed at minors.</p>
<p><b>5</b></p>	<p><b>Advertising placement restrictions</b></p> <p><b>What, if any, restrictions are there on advertising or marketing in schools, children’s clubs or other places children regularly visit?</b></p>	<p>In accordance with the principle of neutrality of public services, any forms of commercial advertising or marketing in schools is prohibited. Nevertheless, school brochures may contain advertising, provided that such advertising is of public interest or supplements the public service of education (e.g., advertising for extracurricular activities; advertising for companies hiring interns, provided that such advertising emphasis the impact on the student’s training). Moreover, partnerships are allowed under certain conditions. For more information, please see Ministerial circular No. 2001-53 of 28 March 2001 establishing a code of good conduct.</p> <p>Pursuant to section 7 of Law No. 2010-476, gambling advertising is prohibited in theatres playing films authorised for children.</p>
<p><b>6</b></p>	<p><b>Restrictions on targeting children</b></p> <p><b>What, if any, restrictions are there on using advertising or marketing techniques to appeal to children (e.g., licensing of popular characters)?</b></p>	<p>Pursuant to the ARPP’s Recommendation on Food Behaviours, an advert using imaginary characters well-known in children’s broadcasted entertainment and encouraging children to consume a product, should not promote behaviours which are opposite to healthy eating behaviours and lifestyles.</p> <p>The ARPP’s Recommendation on Gambling provides that any oral, written, visual or audio features which would make the advert attractive to children, should not be used.</p>



<p><b>7</b></p>	<p><b>Restrictions on the use of children in ads</b></p> <p><b>What, if any, restrictions are there on the use of children in advertising, including peer-to-peer marketing and the appointment of children as brand ambassadors ?</b></p>	<p>According to the ARPP’s Recommendation on Children, child actors may feature in adverts. However, adverts may not feature children in situations that are diminishing or harmful to their physical or moral integrity. Where adverts involve child nudity, care must be taken to ensure that the children’s behaviours in these adverts are as natural as possible.</p> <p>Decree No. 87-239 provides that children may not be the “prescribers” of the advertised products or services. Children may only act as the main characters of an advert if there is a direct link between them and the advertised product or service.</p> <p>According to the ARPP’s Recommendation on Gambling, children may never be featured in gambling advertising, even with adults.</p> <p>According to the ARPP’s Recommendation on Toys, care must be taken to avoid featuring children in dangerous or reckless situations.</p>
<p><b>8</b></p>	<p><b>Product labelling and children’s safety</b></p> <p><b>In relation to product labelling, are there any specific requirements relevant to children with regard to health, safety or other concerns?</b></p>	<p>Labelling regarding children’s products (toys): Toys must fulfil the requirements of Decree No. 2010-166 of 22 February 2012 regarding toys safety. It is required that (i) these products carry a CE mark which is a declaration by the manufacturer that the product satisfies essential safety requirements and that (ii) the related labelling, operating instructions and warnings be in French. Labels and instructions for use must draw the attention of users or their supervisors to the inherent hazards and risks of harm involved in using the toys, and to the ways of avoiding such hazards and risks. Labels must also contain the following information: (i) name and address of the manufacturer, and (ii) any user limitations, including at least the minimum or maximum age of the user and, where appropriate, the abilities of the user, the maximum or minimum weight of the user and the need to ensure that the toy is used only under adult supervision. Some toys are subject to specific warnings as defined by decree (e.g., toys not suitable for children under 36 months, aquatic toys, etc.)</p> <p>Labelling regarding video games: Video games must fulfil the requirement of the Decree No. 96-360 of 23 April 1996 regarding warnings for video games. These products must carry a CE mark which is a declaration by the manufacturer that the product satisfies essential safety requirements as well. A warning notice must be inserted within the packaging. The labelling must also contain a warning defined by decree as well.</p>





<p><b>9</b></p>	<p><b>Enforcement body</b></p> <p>(a) Which administrative body or bodies oversee compliance with government regulations or industry standards on marketing and advertising?</p> <p>(b) Do any of these have a specific mandate to look issue around marketing and advertising to children?</p>	<p>(a) Three administrative bodies oversee the compliance with the advertising and marketing rules and codes of conducts in France:</p> <ul style="list-style-type: none"> <li>– The Directorate General for Competition, Consumer Policy and Repression of Fraud (“<b>DGCCRF</b>”) which oversees compliance to the general legal framework applicable to advertising. It notably ensures that advertising is fair and not misleading;</li> <li>– The CSA which oversees compliance of audio-visual advertising; and</li> <li>– The French National Agency for Medicines and Safety of products (“<b>ANSM</b>”) which oversees compliance of drugs advertising.</li> </ul> <p>The ARPP is a private self-regulatory organization ensuring that the self-regulatory standards are well-known and applied by professionals.</p> <p>(b) None of these bodies have a specific mandate to look issue around marketing and advertising to children.</p>
<p><b>10</b></p>	<p><b>Pre-clearance, sanctions and complaints</b></p> <p>(a) Do advertisements need to be pre-cleared before publication or broadcast?</p> <p>(b) What sanctions can be imposed for breaches of codes or regulations?</p> <p>(c) Are there mechanisms for children or their representative to file individual complaints?</p>	<p>(a) Yes. Television adverts are pre-cleared before they go on air. In order to ensure their compliance with the highest possible legal and ethical standards and practices, audio-visual service providers have entrusted the ARPP with the task of clearing all final ads. An advert may only go on air if the ARPP clears it for broadcasting. The ARPP may request that modifications be made to the advert prior to its broadcasting, or, if it is truly in breach of the codes, it will bar the broadcasting of the advert.</p> <p>Drugs advertising is also subject to the prior control of the ANSM.</p> <p>(b) Section L. 121-6 of the French Consumer Code provides for a fine up to EUR 300,000 and up to two year’s imprisonment for individuals, and up to EUR 1,500,000 for legal entities, in case of misleading or unfair advertising.</p> <p>Pursuant to sections L. 3351-7 and L. 3512-2 of the French Public Health Code, any violation of the rules applicable to alcohol or tobacco advertising is punishable by a fine up to EUR 75,000 for individuals and EUR 375,000 for legal entities as regards to alcohol, and EUR 100,000 for individuals and EUR 500,000 for legal entities as regards to tobacco, or 50 % of the advertising expenses in both cases. In addition, the judge may order the withdrawal or destruction of the infringing advertising at the advertiser’s expenses.</p> <p>The ARPP may take hold of a breach noticed after the broadcast and contact the advertiser directly in order to:</p> <ul style="list-style-type: none"> <li>■ obtain justifications;</li> <li>■ make the advertiser make some modifications; and</li> <li>■ prevent the broadcasting of the infringing advertising.</li> </ul>



		<p>The same range of sanctions can be imposed by the Advertising Jury (“<b>JDP</b>”) (which is an entity affiliated to the ARPP) on the basis of a complaint lodged by an identified consumer.</p> <p>With respect to audio-visual advertising, section 42 of Law No. 86-1067 provides that the CSA may give prior notice to audio-visual service providers to comply with any applicable legal requirement. If, further to such prior notice, the latter does not comply with such requirements, the CSA may impose, pursuant to section 42-1 of Law No. 86-1067, one of the following administrative sanctions, depending on the seriousness of the breach: (i) suspension of service for one (1) month maximum, (ii) reduction, limited to one (1) year, of the authorization duration, (iii) financial fine up to 3 % (5 % in case of repeat violation) of the company’s turnover excluding taxes derived during the preceding financial year, potentially with suspension of service, or (iv) withdrawal of the authorization.</p> <p>(C) Children’s representatives, as consumers, may file individual complaints either with the DGCCRF or the JDP.</p>
<p><b>11</b></p>	<p><b>Effectiveness</b></p> <p><b>How effective are the laws and codes? Are they respected/do they get enforced?</b></p>	<p>The various authorities (CSA, DGCCRF, ARPP, ANSM) take breaches of the laws and codes seriously, investigating complaints, publishing sanctions regularly and enforcing the applicable laws and codes. The codes are backed up by criminal offences, which are punishable by imprisonment and/or fines. The laws are effective and the majority of advertisers seek to comply.</p>
<p><b>12</b></p>	<p><b>Pressure Groups</b></p> <p><b>Are the consumer led pressure groups/lobbying?</b></p>	<p>Yes. There are a number of consumer led pressure groups that taken an interest in making sure that children are protected from misleading advertising e.g., UFC Que Choisir.</p>



## 14. GERMANY

I

### Regulation

Are there statutes or codes, including voluntary initiatives (e.g., industry codes of conduct), that specifically regulate marketing and/or advertising? Please list and briefly describe key statutes, codes and initiatives.

### Statutes/Codes, in particular

- **The Act Against Unfair Competition** (*Gesetz gegen den unlauteren Wettbewerb, UWG*): This law seeks to protect competitors, consumers and other market participants against unfair commercial practices and the interest of the public in undistorted competition. To achieve these goals the Act in particular forbids unfair advertisement/marketing.
- **Youth Protection Act** (*Jugendschutzgesetz, JSchG*): This law seeks to protect children and adolescents in public; within this context it also addresses advertising and marketing (especially in relation to the topics alcohol and tobacco, games and movies, public events and gambling).
- **Interstate Broadcasting Agreement** (*Rundfunkstaatsvertrag*): This agreement restricts the content and duration and frequency of advertising in broadcasting.
- **Interstate Treaty on the Protection of Human Dignity and the Protection of Minors in Broadcasting and in Telemedia** (*Jugendmedienschutz-Staatsvertrag, JMStV*): This act provides for the consistent protection of children and adolescents against content – including advertising content – in electronic information and communication media which impairs or harms their development or education, and for the protection against content in electronic information and communication media which violate human dignity or other legal goods protected under the German Criminal Code.
- **Law on the advertising of medicines** (*Heilmittelwerbegesetz*): restricts advertising of medicines to reduce in particular the risk of improper self-medication.
- **School laws of the federal states** (*Schulgesetze der Länder*): These laws restrict (amongst others) advertisement and marketing in schools.
- **Interstate Treaty on Gambling** (*Glücksspielstaatsvertrag*): restricts advertising for gambling.

### Voluntary Initiatives, in particular

- **Codes of Conduct of the German Standards Advertising Council** (*ZAW*): A set of self-regulatory rules on advertising that applies for all sectors of industry and all media and desires to counteract any conduct in competition that violates the principles of fair competition or the effectiveness of same and to encourage conduct that conforms to these principles.



		<ul style="list-style-type: none"> <li>– The set includes the <b>Rules of Conduct on Advertising with and for Children on radio and television of the German standards advertising council</b> (<i>Verhaltensregeln des Deutschen Werberats für die Werbung mit und vor Kindern in Hörfunk und Fernsehen</i>): These rules restrict the content of advertisement for and with children.</li> <li>– It further includes the <b>Code of Conduct of the German Advertising Standards Council on Commercial Communication for Foods and Beverages</b> as well as the <b>Code of Conduct on Commercial Communication for Alcoholic Beverages</b>.</li> <li>■ <b>Press Code of the German Press Council</b> (<i>Pressekodex des Deutschen Presserats</i>): separation of advertising and editorial content.</li> <li>■ <b>EU Pledge Nutrition Criteria</b>: a voluntary initiative by leading companies to change food and beverage advertising to children under the age of twelve on TV, print and internet in the European Union.</li> </ul>
<p><b>2</b></p>	<p><b>Regulations protecting children</b></p> <p>Do any standards listed above explicitly address marketing and advertising to children as a whole and/or to particular age groups of children?</p> <p>What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?</p>	<p><b>Legal age of majority</b></p> <p>Minors are persons below the age of 18 years.          Children are persons below the age of 14 years.          Adolescents are persons as of 14 but below the age of 18 years.</p> <p><b>Definition of a child in advertising context (if different)</b></p> <p>No difference.</p> <p><b>Regulations protecting children/particular age groups</b></p> <ul style="list-style-type: none"> <li>■ <i>Rules of Conduct on advertising with and for children on radio and television</i> of the German Standards Advertising Council, see above.</li> <li>■ <i>EU Pledge Nutrition Criteria</i>, see above.</li> <li>■ The <i>Interstate Treaty on the Protection of Human Dignity and the Protection of Minors in Broadcasting and in Telemedia</i> seeks to protect children and adolescents in advertising and teleshopping.</li> <li>■ The <i>Interstate Broadcasting Agreement</i> restricts advertising in children's programmes.</li> <li>■ <i>School laws</i>, see above.</li> <li>■ The <i>Interstate Treaty on Gambling</i> prohibits advertising for gambling that addresses minors.</li> </ul>





3

### Specific product restrictions

What, if any, restrictions are there on **advertising products** that are known to be or are potentially dangerous or harmful to children, including but not limited to: Tobacco, Alcohol, Drugs/ pharmaceuticals, HFSS (high in fat sugar, salt) products?

### Tobacco/Alcohol, in particular

- *Youth Protection Act*, § 11 (5)): Time restrictions for showing commercials and advertising programmes for tobacco products and alcoholic drinks (allowed only after 6 p.m.).
- *Interstate Treaty on the Protection of Human Dignity and the Protection of Minors in Broadcasting and in Telemedia*, Art. 6 (5): Advertising for alcoholic beverages shall not be aimed at children or adolescents nor specifically appeal to children and adolescents through its presentation, nor show them consuming alcohol. “Targeting” is to be evaluated on the basis of the content and the design and presentation of the advertisement (such as youth-oriented music, trendy colours, embedding in the webpage), speech style (such as youth slang, use of the imperative etc.) the nature of the product (such as “Alcopops”) and the content itself.
- Sect. 4(2) sentence 2, 6 *Interstate Treaty on the Protection of Human Dignity and the Protection of Minors in Broadcasting and in Telemedia* and Sect. 9 *Youth Protection Act*: age gate requirement regarding online advertising and sales of such products.
- *Code of Conduct on Commercial Communication for Alcoholic Beverages of the German Standards Advertising Council*, no. 2: absence of advertising for alcoholic beverages in the social environment of minors.

### Drugs/Pharmaceuticals, in particular

- *Law on the advertising of medicines*, § 11 (1) no. 12: Outside of specialist circles, advertisement which addresses mainly children below the age of 14 is forbidden.

### HFSS products, in particular

- *Code of Conduct of the German Advertising Standards Council on Commercial Communication for foods and beverages*: commercial communication for foods and beverages should not suggest to children that the consumption of a particular product is irreplaceable in a complete and balanced meal and it should not deter children from acquiring a healthy, active lifestyle as well as balanced, healthy dietary habits.
- *EU Pledge Nutrition Criteria*: the participating companies will cease to advertise food and beverage products to children under 12 or to only advertise products that meet specific nutrition criteria.



<p><b>4</b></p>	<p><b>Timing and placement of restrictions</b></p> <p>What, if any, restrictions are there on the timing and/or placement of advertisements in:</p> <p>(a) Publications aimed at children (e.g., magazines, books)?</p> <p>(b) Around entertainment programmes aimed at children (e.g., radio, television, movies, video games)?</p> <p>(c) Online through websites or communications platforms, including social media, aimed at or used by children?</p>	<p><b>Broadcasting and telemedia</b></p> <ul style="list-style-type: none"> <li>■ <i>Interstate Treaty on the Protection of Human Dignity and the Protection of Minors in Broadcasting and in Telemedia</i>, Art. 6 (3): Advertising the content of which is suited to impair the development of children or adolescents into self-responsible and socially competent personalities shall be transmitted separately from content directed at children or adolescents.</li> <li>■ General rules apply</li> </ul> <p><b>Publications aimed at children</b></p> <ul style="list-style-type: none"> <li>■ General rules apply.</li> </ul> <p><b>Entertainment programmes</b></p> <ul style="list-style-type: none"> <li>■ <i>Youth Protection Act</i>, § 11 (5): Time restriction for showing commercials and advertising programmes for tobacco products and alcoholic drinks at film events (only after 6 p.m.)</li> <li>■ <i>The Media Broadcasting Agreement</i> (§ 7a (1)) prohibits interruption of children programmes by advertisement, product placement and the placement of logos of sponsors in children's programmes.</li> <li>■ General rules apply</li> </ul> <p><b>Online</b></p> <ul style="list-style-type: none"> <li>■ General rules apply and see above</li> </ul>
<p><b>5</b></p>	<p><b>Advertising placement restrictions</b></p> <p>What, if any, restrictions are there on advertising or marketing in schools, children's clubs or other places children regularly visit?</p>	<p><b>Schools</b></p> <p>Besides the general rules (see above), the following apply:</p> <p><b>Marketing</b></p> <p><i>School laws</i> of the federal states: As a general rule, only food and (non-alcoholic) beverages may be distributed in schools.</p> <p><b>Advertisement</b></p> <p>The <i>school laws</i> of the federal states strongly restrict advertising in schools.</p> <p><b>Clubs/Other</b></p> <p>General rules apply.</p>





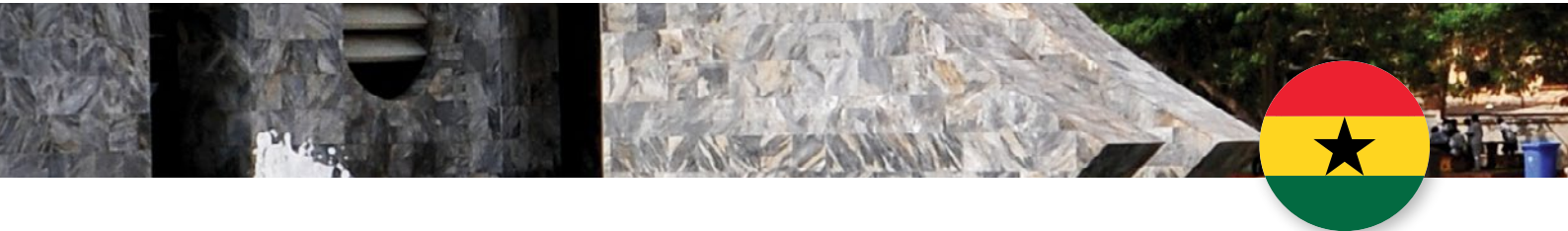
<p><b>6</b></p>	<p><b>Restrictions on targeting children</b></p> <p>What, if any, restrictions are there on using advertising or marketing techniques to appeal to children (e.g., licensing of popular cartoon characters)?</p>	<p><b>Cartoon/imaginary characters</b></p> <p>No specific rules/general rules apply, in particular</p> <p>The <i>Interstate Treaty on the Protection of Human Dignity and the Protection of Minors in Broadcasting and in Telemedia</i> forbids</p> <ul style="list-style-type: none"> <li>■ to cause moral or physical detriment to children/adolescents</li> <li>■ to directly exhort children/adolescents or to encourage them to persuade their parents to purchase a product</li> <li>■ to exploit trust</li> <li>■ to unreasonably show children or minors in dangerous situations</li> </ul> <p>The <i>Rules of conduct on advertising with and for children on radio and television</i> of the German Standards Advertising Council contain restrictions regarding:</p> <ul style="list-style-type: none"> <li>■ statements made by children</li> <li>■ direct requests for purchase or consumption</li> <li>■ exploitation or abuse of special trust</li> <li>■ aleatory advertising (free raffles, prize competitions etc.)</li> <li>■ presentation of penal offences/misconduct.</li> </ul>
<p><b>7</b></p>	<p><b>Restrictions on the use of children in ads</b></p> <p>What, if any, restrictions are there on the use of children in advertising, including peer-to-peer marketing and the appointment of children as brand ambassadors?</p>	<p><b>Use in advertising, in particular</b></p> <p><i>Youth Protection Act:</i></p> <ul style="list-style-type: none"> <li>■ Children or minors shall not be unreasonably shown in dangerous situations.</li> </ul> <p><i>Rules of conduct on advertising with and for children on radio and television of the German standards advertising council:</i></p> <ul style="list-style-type: none"> <li>■ Advertising shall not contain statements by children about the special advantages and features of a product that do not conform to the natural utterances of the child.</li> </ul> <p><b>Use as brand ambassadors</b></p> <ul style="list-style-type: none"> <li>■ general rules apply</li> </ul>
<p><b>8</b></p>	<p><b>Product labelling and children's safety</b></p> <p>In relation to product labelling, are there any specific requirements relevant to children with regard to health, safety or other concerns?</p>	<p><b>Health/Safety</b></p> <p>Products that are potentially dangerous for children have to be labelled as such or marked with warnings. This already follows from the general legal duty to maintain safety: a manufacturer has to take all efforts in order to ensure that his products are safe and can be used in a safe way which means that he has to comprehensively inform the consumer about risks etc. There are, however, also several explicit requirements in relation to product labelling (relating to respective products and thus cannot be listed all), e.g.:</p>



		<p><b>Food/beverages</b></p> <p><i>Regulation (EU) no. 1169/2011:</i></p> <ul style="list-style-type: none"> <li>■ Products with caffeine content have to be labelled with a statement saying that they are not recommended for children.</li> <li>■ Food with specific chemical ingredients (e.g. phytosterols) as well have to be marked with a statement saying that they are not recommended for children.</li> </ul> <p><i>Regulation (EC) no. 1333/2008:</i></p> <ul style="list-style-type: none"> <li>■ Food or beverages that contain food colour have to be marked with a statement indicating that the product may have an adverse effect on activity and attention in children.</li> </ul> <p><b>Toys</b></p> <p><i>(German) Regulation on the safety of toys (Zweite Verordnung zum Produktsicherheitsgesetz/Verordnung über die Sicherheit von Spielzeug) in conjunction with the Directive 2009/49/EC on the safety of toys:</i></p> <ul style="list-style-type: none"> <li>■ Toys must be labelled with a (CE) conformity marking which proves that they fulfil all necessary health and safety requirements and passed the relevant controls.</li> <li>■ Manufacturers shall mark warnings on the toy which specify appropriate user limitations in order to ensure the safe use of the toy (e.g. specification of a minimum age or weight).</li> <li>■ Specific warnings and indications of precautions that have to be taken when using certain categories of toys.</li> </ul> <p><b>Other</b></p> <p><i>Youth Protection Act:</i> movies, film and play programmes have to be marked with age restrictions.</p>
<p><b>9</b></p>	<p><b>Enforcement body</b></p> <p>(a) Which administrative body or bodies oversee compliance with government regulations or industry standards on marketing and advertising?</p> <p>(b) Do any of these have a specific mandate to look at issues around marketing and advertising to children?</p>	<p><b>Enforcement body</b></p> <ul style="list-style-type: none"> <li>■ competent authorities/regulatory agencies</li> <li>■ courts</li> </ul> <p><b>Specific mandate to focus on children's issues, in particular</b></p> <ul style="list-style-type: none"> <li>■ Commission for the Protection of Minors in the Media (Kommission für Jugendmedienschutz)</li> <li>■ Federal Review Board for Media harmful to Young Persons (Bundesprüfstelle für jugendgefährdende Medien)</li> </ul>



<p><b>10</b></p>	<p><b>Pre-clearance, sanctions and complaints</b></p> <p>(a) Do advertisements need to be pre-cleared before publication or broadcast?</p> <p>(b) What sanctions can be imposed for breaches of codes or regulations?</p> <p>(c) Are there mechanisms for children or their representatives to file individual complaints?</p>	<p><b>Pre-clearance</b></p> <p>./.</p> <p><b>Sanctions</b></p> <ul style="list-style-type: none"> <li>■ Injunctive relief/deletion/removal</li> <li>■ public reprimand</li> <li>■ information/revocation/destruction (e.g. advertising flyer etc.)</li> <li>■ fines/damages</li> <li>■ imprisonment</li> </ul> <p><b>Complaints</b></p> <p>Anyone may submit complaints, in particular to</p> <ul style="list-style-type: none"> <li>■ the German Advertising Council</li> <li>■ the Agency to Combat Unfair Competition (Wettbewerbszentrale)</li> <li>■ the Consumer Advice Centres (Verbraucherzentralen)</li> <li>■ the media authorities of the federal states</li> <li>■ the German Press Council.</li> </ul>
<p><b>11</b></p>	<p><b>Effectiveness</b></p> <p>How effective are the laws and codes? Are they respected/do they get enforced?</p>	<p>In general, the laws and codes are very effective and do get enforced. However, companies try to bypass them, in particular with regard to school law restricting advertising to children: companies attempt to address children in their school environment for example through so called teaching/education materials or initiating/sponsoring competitions. Also, the self-restraints of the EU Nutrition Pledge might be disregarded.</p> <p>The self-restraints of the German Standards Advertising Council are well respected as the Council may publicly pillory the advertiser. Also, a violation might be regarded as an violation of the German Act against Unfair Competition.</p> <p>In case the German Standards Advertising Council contests an advertising campaign, it requests the respective company to stop or change the campaign; this request is followed in 96% of the cases (according to the information given by the Council). The remaining 4% usually act accordingly after they have been publicly reprimanded.</p>
<p><b>12</b></p>	<p><b>Pressure Groups</b></p> <p>Are there consumer led pressure groups/lobbying, and if so, how effective are they?</p>	<p><b>Consumer led pressure groups:</b></p> <p>There are several mostly smaller pressure groups and the following bigger ones:</p> <ul style="list-style-type: none"> <li>■ Consumer Advice Centres (Verbraucherzentralen)</li> <li>■ Agency to Combat Unfair Competition (Wettbewerbszentrale)</li> </ul> <p>They are quite active and bring many cases to court.</p> <p><b>Lobbying:</b></p> <p>There are strong lobbies trying to advertise their products, especially “unhealthy” products. Lobbying is not really restricted in Germany, only the general rules apply. Thus lobbies can be quite effective.</p>



## 15. GHANA

<p><b>1</b></p>	<p><b>Regulation</b></p> <p><b>Are there statutes or codes, including voluntary initiatives (e.g., industry codes of conduct), that specifically regulate marketing and/or advertising? Please list and briefly describe key statutes, codes and initiatives.</b></p>	<p>The marketing and advertising practice is regulated by guidelines and rules set by the National Media Commission (“<b>NMC</b>”) and the Advertising Association of Ghana (“<b>AAG</b>”) to regulate the standards of advertising and marketing material. The Food and Drugs Authority has operational guidelines for the sale, manufacture and distribution of pre-packaged food which is applicable to marketing practice.</p>
<p><b>2</b></p>	<p><b>Regulations protecting children</b></p> <p><b>Do any standards listed above explicitly address marketing and advertising to children as a whole and/or to particular age groups of children? What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?</b></p>	<p>The NMC’s guidelines recommend that the following standards shall apply in the preparation, presentation and transmission of advertising material on any broadcasting station transmitting:</p> <ul style="list-style-type: none"> <li>(a) When children are likely to be viewing or listening, no product or service may be advertised in a manner that takes advantage of their natural credulity and susceptibility.</li> <li>(b) Advertisements should not exhort children to purchase or to ask parents to purchase.</li> <li>(c) Advertisements for alcoholic drinks, medicines, contraceptives, trailers of films with adult content or any other items that could pose a danger to children should not be transmitted during children’s programmes or adjacent to them.</li> <li>(d) Advertisements which may frighten or cause distress to children should be subject to appropriate restrictions on time of transmission.</li> <li>(e) Raffles and lotteries should not be advertised in or juxtaposed to children’s programmes, and advertisements for such events should not be targeted at them.</li> </ul> <p>A child is not defined under the NMC’s guidelines.</p> <p>A child is defined under section 1 of the Children’s Act, 1998 (Act 560), as a person below the age of eighteen years.</p>



<p><b>3</b></p>	<p><b>Specific product restrictions</b></p> <p><b>What, if any, restrictions are there on advertising products that are known to be or are potentially dangerous or harmful to children, including but not limited to: Tobacco, Alcohol, Drugs/ pharmaceuticals, HFSS products</b></p>	<p>Advertisements for items that are potentially harmful to children, including alcoholic drinks, medicines and trailers of films with adult content are not to be transmitted during or in juxtaposition to children’s programmes</p> <p>Advertising of tobacco products is generally unacceptable.</p>
<p><b>4</b></p>	<p><b>Timing and placement of restrictions</b></p> <p><b>What, if any, restrictions are there on the timing and/or placement of advertisements in publications aimed at children (e.g., magazines, books)?</b></p> <p><b>a) Around entertainment programmes aimed at children (e.g., radio, television, movies, video games)?</b></p> <p><b>b) Online through websites or communications platforms, including social media, aimed at or used by children?</b></p>	<p>There are no specific restrictions relating to the placement of advertising in children publications. The NMC’s guidelines generally recommends in relation to school programming that:</p> <p>(a) advertising in school programmes should be in conformity with the theme of the programme and should give useful and relevant information with credit for the sponsors.</p> <p>(b) the integrity of school programmes must not be compromised or influenced by sponsorship or advertising.</p> <p>Sponsors’ advertisements are acceptable only at the beginning and at the end of school programmes.</p>
<p><b>5</b></p>	<p><b>Advertising placement restrictions</b></p> <p><b>What, if any, restrictions are there on advertising or marketing in schools, children’s clubs or other places children regularly visit?</b></p>	<p>There are no specific restrictions on advertising and marketing in schools, children’s clubs or other places children regularly visit.</p>





<p><b>6</b></p>	<p><b>Restrictions on targeting children</b></p> <p><b>What, if any, restrictions are there on using advertising or marketing techniques to appeal to children (e.g., licensing of popular cartoon characters)?</b></p>	<p>Advertisements should generally not take advantage of children's natural vulnerability and susceptibility and compel them to purchase or ask their parents to purchase the advertised products.</p>
<p><b>7</b></p>	<p><b>Restrictions on the use of children in ads</b></p> <p><b>What, if any, restrictions are there on the use of children in advertising, including peer-to-peer marketing and the appointment of children as brand ambassadors?</b></p>	<p>The NMC's guidelines generally prescribe that children in advertisements are to be well mannered and well behaved. There are no restrictions or guidelines on the appointment of children as brand ambassadors.</p>
<p><b>8</b></p>	<p><b>Product labelling and children's safety</b></p> <p><b>In relation to product labelling, are there any specific requirements relevant to children with regard to health, safety or other concerns? Children's products (toys) in UK must meet the requirement of</b></p>	<p>There are no specific requirements relevant to children in relation to product labelling. The Ghana Standards Board (Food, Drugs and Other Goods) General Labelling Rules, 1992 (L.I. 1541) generally requires that food or drugs should not be sold, distributed or packaged unless the food is marked or labelled with:</p> <ul style="list-style-type: none"> <li>(a) the name of the food or drug,</li> <li>(b) list of ingredients in the food or drug,</li> <li>(c) an indication of the minimum, durability,</li> <li>(d) any special storage conditions and handling precautions that may be necessary,</li> <li>(e) instructions or directions for use or warnings and precautions that may be necessary,</li> <li>(f) instructions for use in respect of food, if it would be difficult to make appropriate use of the food in the absence of such instructions,</li> <li>(g) an indication of the net contents,</li> <li>(h) code marks or numbers indicating the batches of the production or packaging to which the food or drug belongs,</li> <li>(i) country of origin of the food or drug,</li> <li>(j) the name, address of the producer and manufacturer, distributor or seller of the food or drug.</li> </ul>





<p><b>9</b></p>	<p><b>Enforcement body</b></p> <p>(a) Which administrative body or bodies oversee compliance with government regulations or industry standards on marketing and advertising?</p> <p>(b) Do any of these have a specific mandate to look at issues around marketing and advertising to children?</p>	<p>The National Communications Authority (“NCA”) and the NMC are administrative bodies that generally regulate the marketing and advertising industry. The NCA and NMC do not have specific mandates to look at issues around marketing and advertising to children. The NCA generally monitors the implementation of national communications standards and ensures compliance. The NMC generally ensures the establishment and maintenance of journalistic standards in the mass media.</p>
<p><b>10</b></p>	<p><b>Pre-clearance, sanctions and complaints</b></p> <p>(a) Do advertisements need to be pre-cleared before publication or broadcast?</p> <p>(b) What sanctions can be imposed for breaches of codes or regulations?</p> <p>(c) Are there mechanisms for children or their representatives to file individual complaints?</p>	<p>(a) There are no general laws requiring pre-clearing for all forms of publication and broadcasting. The laws provide for pre-clearing television and film advertising. The Cinematograph Act 1961 prescribes that a person desiring to exhibit a film shall first submit the film to the Board of Control for examination and the Board may having viewed and examined the film pass and grade the film with a specified rating or refuse to pass the film. A film is defined under Act 76 as a cinematograph film. A cinematograph means the presentation of moving pictures, whether with or without a form of sound reproduction.</p> <p>(b) A person who contravenes a provision under Act 76 commits an offence and is liable on conviction to a fine not exceeding one hundred penalty units; and in the case of a continuing offence to a further penalty of fifty penalty units for each day during which the offence continues. A penalty unit is equivalent to GHC12.</p> <p>(c) Section 13 of the National Media Commission Act, 1993 (Act 449), allows for a person aggrieved by a publication or by the act or omission of journalist, newspaper proprietor, publisher or any other person in respect of a publication in the media to lodge a complaint before the Commission against the editor, publisher, proprietor or any other person.</p>



<p><b>11</b></p>	<p><b>Effectiveness</b></p> <p><b>How effective are the laws and codes? Are they respected/do they get enforced?</b></p>	<p>Any person can make a complaint to the Settlement Committee of the National Media Commission (NMC) in respect of any publication or the act or omission of any publisher in the media. There are no specific provisions for making complaints on advertising material in television and film. The Settlement Committee would conduct further investigations into the complaint as it considers necessary and is to be guided by rules of natural justice. The Cinematograph Act 1961 (Act 76) creates a criminal liability for any person who contravenes any provision of the Act or any condition of a licence and is liable on conviction to a fine and in the case of a continuing offence, a further fine for each day during which the offence continues.</p> <p>There are limited reports on complaints made to the NMC and the NMC's ruling in such cases.</p>
<p><b>12</b></p>	<p><b>Pressure Groups</b></p> <p><b>Are the consumer led pressure groups/lobbying?</b></p>	<p>There are few pressure groups protecting children from advertising material. Two of such groups are Plan Ghana and Child Rights International, non-profit organizations that are committed to the protection and welfare of the dignity of children. Child Rights has on occasion spoken out against the violation of children rights in the film and advertising industry.</p>



## 16. HONG KONG

<p>1</p>	<p><b>Regulation</b></p> <p><b>Are there statutes or codes, including voluntary initiatives (e.g., industry codes of conduct), that specifically regulate marketing and/or advertising? Please list and briefly describe key statutes, codes and initiatives.</b></p>	<p><b>Statutes</b></p> <p>Trade Descriptions Ordinance (Cap 362)</p> <ul style="list-style-type: none"> <li>prohibits false trade descriptions, false, misleading or incomplete information, false marks and misstatements in respect of goods provided in the course of trade or suppliers of such goods</li> <li>confers powers to require information or instruction relating to goods to be marked on or to accompany the goods or to be included in advertisements</li> <li>confers powers to require any services to be accompanied by information or instruction relating to the services or an advertisement of any services to contain or refer to information relating to the services</li> </ul> <p>Broadcasting Ordinance (Cap 562)</p> <ul style="list-style-type: none"> <li>regulates the provision of broadcasting services by licensees</li> </ul> <p>Personal Data (Privacy) Ordinance (Cap 486)</p> <ul style="list-style-type: none"> <li>protects the privacy of individuals in relation to personal data</li> </ul> <p><b>Codes</b></p> <p>Generic Code of Practice on Television Advertising Standards</p> <ul style="list-style-type: none"> <li>issued by Communications Authority</li> </ul> <p>Radio Code of Practice on Advertising Standards of Ancillary Visual Service</p> <ul style="list-style-type: none"> <li>issued by Communications Authority</li> </ul> <p>Code of Practice of the Association of Accredited Advertising Agencies of Hong Kong</p> <p><b>Voluntary Initiatives</b></p> <p>/</p>
<p>2</p>	<p><b>Regulations protecting children</b></p> <p><b>Do any standards listed above explicitly address marketing and advertising to children as a whole and/or to particular age groups of children? What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?</b></p>	<p><b>Legal age of majority</b></p> <p>18 years old (Age of Majority (Related Provisions) Ordinance, Cap 410)</p> <p><b>Definition of a child in advertising context (if different)/ Regulations protecting children/particular age groups</b></p> <p>Generic Code of Practice on Television Advertising Standards (issued by Communications Authority)</p> <p>Radio Code of Practice on Advertising Standards of Ancillary Visual Service (issued by the Communications Authority)</p> <p>Code of Practice of the Association of Accredited Advertising Agencies of Hong Kong</p>



3

### Specific product restrictions

**What, if any, restrictions are there on advertising products that are known to be or are potentially dangerous or harmful to children, including but not limited to: Tobacco, Alcohol, Drugs/ pharmaceuticals, HFSS (high in fat sugar, salt) products?**

#### Tobacco

- General compliance with Smoking (Public Health) Ordinance (Cap 371)
- Tobacco advertisements should bear appropriate health warning.
- No tobacco advertisements can be displayed or published/ distributed for display or broadcast, by radio or visual images, by film or on the Internet.
- Presentation of tobacco products as prizes or gifts for television contests should not be permitted.
- No children or juvenile can participate in presentation of tobacco advertisements.
- In relation to tobacco related products, advertisements should not be shown in close proximity to children's programmes or in programmes which target young persons under the age of 18.

#### Alcohol

- General compliance with Dutiable Commodities Ordinance (Cap 109)
- Alcohol advertisements should not associate drink with driving or dangerous machinery; should not suggest drinking has therapeutic benefits or is a prerequisite to relaxation; should not imply drinking as a desirable new experience or that drinking is closely associated with social success or popularity or that refusal is a sign of weakness.
- Alcohol advertisements should be directed only to an adult audience.
- No children or juvenile can participate in the presentation of alcohol advertisements, unless they form part of the natural background.
- Alcohol advertisements should not be shown in close proximity to children's programmes or in programmes which target young persons under the age of 18.
- Presentation of alcohol as prizes for contests in isolation from other prizes is not permitted.
- Alcoholic products should not be advertised as similar to or equated with non-alcoholic products, or suggest that a drink is more preferable because of higher alcohol content or intoxicating effect.
- Alcohol advertisements should not promote the misuse or abuse of alcoholic beverages or encourage, challenge, or dare non-drinkers or young persons under the age of 18 to drink.



### Drugs/Pharmaceuticals

- General compliance with Undesirable Medical Advertisements Ordinance (Cap 231) and the Code of Practice of the Hong Kong Association of the Pharmaceutical Industry
- Reference made to Pharmacy and Poisons Ordinance (Cap 138), Medical Registration Ordinance (Cap 161), Antibiotics Ordinance (Cap 137) and Dangerous Drugs Ordinance (Cap 134).
- Advertisements included in Part I of the Schedule to the Poisons List Regulations (Cap 138B) or Schedule I to the Antibiotics Regulations (Cap 137A) are not permitted.
- Quotations from laboratory data statistics and containing scientific terms should be taken from competent sources.
- Testimonials by medical doctors and medical technologists should not be used.
- Advertisements within the recognised character of or specifically concerned with the following are not permitted: smoking cessation, prevention or treatment for disease of hair or scalp, pregnancy testing services, clinical laboratory tests services, cosmetic surgery, weight reducing measures involving the use of medical preparations, and procurement of miscarriage or abortion.
- Alcohol advertisements should not be shown in close proximity to children's programmes or in programmes which target young persons under the age of 18.

### HFSS products

- No specific regulations for HFSS products but for general nutritional or dietary products, see below.
- General compliance with Public Health and Municipal Services Ordinance (Cap 132)
- Specific claims for the nutritional value of food must be supported by sound scientific evidence and not give misleading impression of nutritional or health benefits of food as a whole.
- Advertisements for dietary supplements should not state or imply that they are necessary as additions to a balanced diet or that they are the only means to enhance normal good health.
- No advertisements should encourage patterns of behaviour which are prejudicial to health.





<p><b>4</b></p>	<p><b>Timing and placement of restrictions</b></p> <p><b>What, if any, restrictions are there on the timing and/or placement of advertisements in:</b></p> <ul style="list-style-type: none"><li>(a) <b>Publications aimed at children (e.g., magazines, books)?</b></li><li>(b) <b>Around entertainment programmes aimed at children (e.g., radio, television, movies, video games)?</b></li><li>(c) <b>Online through websites or communications platforms, including social media, aimed at or used by children?</b></li></ul>	<p><b>Publications/Entertainment programmes</b></p> <ul style="list-style-type: none"><li>■ Advertisements for products or services, films and any material which are considered not suitable for children may not be shown within or in close proximity to radio or television programmes targeting children or, in the case of domestic free television programme services, at times when a large number of children are expected in the audience.</li><li>■ Advertisements which are frightening or provoke anxiety, or contain depictions of violent, dangerous or anti-social behaviour are not allowed to be shown within or with close proximity to programmes targeting children or at times when a large number of children are expected to be watching.</li><li>■ Alcoholic beverage advertisements should not be broadcasted on radio or on television in proximity to children’s programmes or programmes targeted at young persons under the age of 18 between the hours of 4:00 and 8:30pm.</li></ul> <p><b>Online</b></p> <p>/</p>
<p><b>5</b></p>	<p><b>Advertising placement restrictions</b></p> <p><b>What, if any, restrictions are there on advertising or marketing in schools, children’s clubs or other places children regularly visit?</b></p>	<p><b>Schools</b></p> <ul style="list-style-type: none"><li>■ Advertising must not be inserted in school programmes within the Educational Television (ETV) time slot.</li></ul> <p><b>Clubs</b></p> <ul style="list-style-type: none"><li>■ No advertisement dealing with the activities of a club is allowed without the submission of satisfactory evidence that the club is carefully supervised in the matter of the behaviour of children and the company they keep and that there is no suggestion of the club being a secret society.</li></ul> <p><b>Other</b></p> <ul style="list-style-type: none"><li>■ Children should not appear unattended in street scenes unless they are obviously old enough to be responsible for their own safety; should not be playing in the road unless it is clearly shown to be a play-street or other safe area; should not be shown stepping carelessly off the pavement or crossing the road without due care; should be seen to use zebra crossings in crossing the road in busy street scenes; and to behave in accordance with the Road Users Code as published by the Transport Department in general as pedestrians, cyclists or passengers.</li></ul>





		<ul style="list-style-type: none"> <li>■ Children should not be seen leaning dangerously out of windows or over bridges, climbing cliffs or playing in or near water unaccompanied by adults; or playing irresponsibly on escalators.</li> <li>■ Small children should not be shown climbing up to high shelves or reaching up to take things from a table above their heads.</li> <li>■ Children must not be shown using fire, matches or any gas, paraffin, petrol, mechanical or mains-powered appliance. When children are shown engaging in activities potentially dangerous to them, such activities should be seen being carried out under parental supervision.</li> </ul>
<p><b>6</b></p>	<p><b>Restrictions on targeting children</b></p> <p><b>What, if any, restrictions are there on using advertising or marketing techniques to appeal to children (e.g., licensing of popular cartoon characters)?</b></p>	<p><b>Cartoon/imaginary characters/Other</b></p> <ul style="list-style-type: none"> <li>■ No advertisement for a commercial product or service is allowed if it contains any appeal to children which suggests in any way that unless the children themselves buy or encourage other people to buy the product or service they will be failing in some duty or lacking in loyalty towards some person or organisation whether that person or organisation is the one making the appeal or not.</li> <li>■ In an advertisement offering a free gift, a premium or a competition for children, the main emphasis of the advertisement must be on the product with which the offer is associated. The values of prizes and the chances of winning any competition must not be exaggerated. The true size of the product advertised and any free gift for children should be made easy to judge.</li> </ul>
<p><b>7</b></p>	<p><b>Restrictions on the use of children in ads</b></p> <p><b>What, if any, restrictions are there on the use of children in advertising, including peer-to-peer marketing and the appointment of children as brand ambassadors?</b></p>	<p><b>Use in advertising</b></p> <ul style="list-style-type: none"> <li>■ Appearance of children in advertisements should be carefully considered from the point of view of safety.</li> <li>■ Advertising and products advertised must be consistent with generally recognised safety standards. Demonstrations may not depict harmful or dangerous use of products.</li> <li>■ Except in advertisements designed specifically and only to promote safety it may be acceptable to show children, for that purpose, in dangerous situations.</li> </ul> <p><b>Use as brand ambassadors</b></p> <p>No regulation/guideline as to children being brand ambassadors. However, employment laws may be relevant in the context of employing children (under 15) or young persons (above 15 but under 18) in non-industrial establishments, as regulated under the Employment Ordinance (Cap 57).</p>



<p><b>8</b></p>	<p><b>Product labelling and children's safety</b></p> <p><b>In relation to product labelling, are there any specific requirements relevant to children with regard to health, safety or other concerns?</b></p>	<p><b>Health</b></p> <ul style="list-style-type: none"> <li>■ Food and Drugs (Composition and Labelling) Regulations (Cap.132W) requires all pre-packaged food sold in Hong Kong to label the product's energy content and nutrient levels.</li> <li>■ Specific guidance notes are issued for labelling of infant formula, follow-up formula and pre-packaged food for infants and young children.</li> <li>■ Pharmacy and Poisons Ordinance (Cap 138) also stipulates labelling requirements for certain drugs in relation to children.</li> </ul> <p><b>Safety</b></p> <ul style="list-style-type: none"> <li>■ Toys and Children's Products Safety Ordinance (Cap 424) and Toys and Children's Products Safety (Additional Safety Standards or Requirements) Regulation (Cap 424C) regulate the safety of toys and children's products.</li> <li>■ Children's products not listed in the classes of products in Schedule 2 of the above Ordinance shall be regulated by the Consumer Goods Safety Ordinance (Cap 456).</li> </ul> <p><b>Other</b></p> <p>/</p>
<p><b>9</b></p>	<p><b>Enforcement body</b></p> <p><b>(a) Which administrative body or bodies oversee compliance with government regulations or industry standards on marketing and advertising?</b></p> <p><b>(b) Do any of these have a specific mandate to look at issues around marketing and advertising to children?</b></p>	<p><b>Enforcement body</b></p> <p>Communications Authority, Broadcasting Authority, respective Associations of specific industries for advertising issues.</p> <p>Labour Department for employment of children issues.</p> <p>Customs and Excise Department for product safety and labelling issues.</p> <p><b>Specific mandate to focus on children's issues?</b></p> <p>No specific mandate focusing on children's issues.</p>



<p><b>10</b></p>	<p><b>Pre-clearance, sanctions and complaints</b></p> <p>(a) Do advertisements need to be pre-cleared before publication or broadcast?</p> <p>(b) What sanctions can be imposed for breaches of codes or regulations?</p> <p>(c) Are there mechanisms for children or their representatives to file individual complaints?</p>	<p><b>Pre-clearance</b></p> <p>Materials do not need to be pre-cleared and are not pre-censored before publication or broadcast.</p> <p><b>Sanctions</b></p> <p>Depending on the gravity and duration of the breach, Communications Authority may issue advice or warning, require the advertiser to issue a correction and/or apology, impose financial penalties and/or suspend or revoke licenses.</p> <p><b>Complaints</b></p> <p>Complaints can be made to the Communications Authority or Director-General of Communications through telephone, facsimile, mail or online complaint form.</p>
<p><b>11</b></p>	<p><b>Effectiveness</b></p> <p>How effective are the laws and codes? Are they respected/do they get enforced?</p>	<p>The Communications Authority adopts a complaint-respond approach and will enforce regulations against infringing parties with relevant fines and/or licence suspension upon investigating a complaint. Associations will also monitor its members' activities and will impose penalties in accordance with the Association's own rules.</p>
<p><b>12</b></p>	<p><b>Pressure Groups</b></p> <p>Are the consumer led pressure groups/lobbying, and if so, how effective are they?</p>	<p>The Hong Kong Children's Council had advocated for more stringent regulations towards materials available to children:</p> <ul style="list-style-type: none"> <li>■ In 2006, Motion Paper 3 "The government should take action to minimize the negative influence of irresponsible media on the physical and mental development of children"</li> <li>■ In 2007, Motion Paper 3 "The government should protect children from the adverse influence of offensive materials on the Internet by enforcing regulation and education"</li> </ul> <p>No specific group has campaigned for regulations targeted at/for children in relation to marketing or advertising.</p>



## 17. INDIA

I

### Regulation

Are there statutes or codes, including voluntary initiatives (e.g., industry codes of conduct), that specifically regulate marketing and/or advertising? Please list and briefly describe key statutes, codes and initiatives.

### Statutes

There are a number of statutes in India that relate to advertising. Of these, the most important are:

- Consumer Protection Act 1986 – grants consumers the right to be informed about the quality, quantity, standard and price of goods or services. This legislation also prohibits “unfair trade practices”, including false advertisements and misrepresentations.
- Cable Television Networks (Regulations) Act 1995 (“**CTNR Act**”) – this Act provides that no person shall transmit or re-transmit through a cable service any advertisement that does not conform with the advertisement code, currently encapsulated in the Cable Television Networks (Amendment) Rules 2006 (see further below).
- Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 – this legislation prohibits both direct and indirect advertisement of tobacco products in all forms of audio, visual and print media.
- Drugs and Magical Remedies (Objectionable Advertisements) Act, 1954 (“**DMRA**”) has been enacted with a view to control the advertisements of drugs in certain cases. The DMRA prohibits advertisements of drugs that claim to treat or correct certain conditions such as menstrual disorder; that might create a false impression about the drug or that professes magical remedies. Food Safety and Standards Act, 2006 prohibits misleading or deceiving advertisements relating to food, in particular by (i) falsely representing that the foods are of a particular standard, quality, quantity or grade-composition; (ii) falsely representation the need for, or usefulness of the food; and (iii) giving the public any guarantee of efficacy that is not based on an adequate or scientific justification.

### Codes

- Cable Television Networks Rules 1994 (as amended) (“**CTNR**”) – as mentioned above, these Rules lay down the “Advertising Code” for cable services. Providers must ensure that advertisements do not offend morality, decency and religious susceptibilities of subscribers. The Rules also make it mandatory for all advertisements carried by cable services to be compliant with the Advertising Standard Council of India Code (“**ASCI**”) (see further below).



		<p><b>Voluntary Initiatives</b></p> <ul style="list-style-type: none"> <li>■ The ASCI (registered as a not-for-profit company under the India Cos. Act) produces a voluntary and self-regulatory Code (“<b>ASCI Code</b>”). The ASCI Code claims to achieve the acceptance of fair advertising practices in the best interests of the ultimate consumer. The ASCI also lays down similar codes for advertisements in specific sectors or industries from time to time. However, the codes themselves are self-imposed and are in no way mandatory.</li> <li>■ Doordarshan Code and All India Radio (AIR) Advertisement Code (“<b>AIR Code</b>”). The Doordarshan and All India Radio services are both under the control of Prasar Bharati (a statutory body) and follow comprehensive codes for commercial advertisements.</li> <li>■ The Advertising Agencies Association of India has issued approved Standards of Practice for Advertising Agencies.</li> <li>■ The Press Council of India (“<b>PCI</b>”) publishes a code entitled “Norms of Journalistic Conduct”, which contains a section on advertising.</li> <li>■ The Department of Pharmaceuticals, run by the Ministry of Chemicals and Fertilizers has developed a Voluntary Code of Marketing Practices, aimed at regulating promotional material and information circulated by pharmaceutical companies, such that the information is accurate, up-to-date, balanced, fair and objective.</li> </ul>
2	<p><b>Regulations protecting children</b></p> <p><b>Do any standards listed above explicitly address marketing and advertising to children as a whole and/or to particular age groups of children? What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?</b></p>	<p><b>Legal age of majority</b></p> <p>The Age of Majority Act 1875 sets the legal age of majority at 18.</p> <p><b>Definition of a child in advertising context (if different)</b></p> <p>The ASCI Code defines minors as a person below the age of 18.</p> <p><b>Regulations protecting children/particular age groups</b></p> <p>The Young Persons (Harmful Publications) Act 1956 prohibits advertisements relating to harmful publications – i.e. any publication that tends to corrupt a person under 18 by inducing him or her to commit offences or acts of violence or cruelty or in any other manner whatsoever.</p>





		<p>Under the ASCI Code, adverts addressed to minors must not contain anything, whether in illustration or otherwise, which might result in their physical, mental, or moral harm, or which exploits their vulnerability. For example, advertisements may not:</p> <ul style="list-style-type: none"> <li>■ Encourage minors to enter strange places or to converse with strangers in an effort to collect coupons, wrappers, labels or the like;</li> <li>■ Feature dangerous or hazardous acts which are likely to encourage minors to emulate such acts in a manner which could cause harm or injury;</li> <li>■ Show minors using or playing with matches or any inflammable or explosive substance; or playing with or using sharp knives, guns, or mechanical or electrical appliances, the careless use of which could lead to their suffering cuts, burns, shocks or other injury; and</li> <li>■ Feature minors for tobacco or alcohol-based products.</li> <li>■ Feature personalities from the field of sports, music or cinema for products which, by law, either require a health warning in their advertising or cannot be purchased by minors.</li> </ul> <p>The CTNR provides that no advertisement which endangers the safety of children or creates in them any interest in “unhealthy practices” or shows them begging or in an undignified or indecent manner shall not be shown on any cable service.</p> <p>Finally, the Doordarshan Code and the AIR Code both also contain a specific section regarding advertising to children. Specifically, adverts shall not be accepted if they suggest that in not buying a product, a child will</p> <ul style="list-style-type: none"> <li>(i) be failing their duty or lacking in loyalty to a person or organisation; or</li> <li>(ii) be inferior in some way to other children or that they are liable to be condemned or ridiculed for not owning or using it.</li> </ul>
<p><b>3</b></p>	<p><b>Specific product restrictions</b></p> <p><b>What, if any, restrictions are there on advertising products that are known to be or are potentially dangerous or harmful to children, including but not limited to: Tobacco, Alcohol, Drugs/pharmaceuticals, HFSS (high in fat sugar, salt) products?</b></p>	<p><b>Tobacco</b></p> <p>The advertising of tobacco products is prohibited in all media under the Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act 2003.</p> <p>Advertisements that promote, directly or indirectly, the production, sale or consumption of tobacco products are also prohibited under the CTNR.</p> <p><b>Alcohol</b></p> <p>Advertisements that promote, directly or indirectly, the production, sale or consumption of wine, alcohol, liquor or other intoxicants are prohibited under the CTNR, the Doordarshan Code, the AIR Code and the Norms for Journalistic Conduct.</p> <p>Some states do allow advertising through billboards, but these are generally subject to many restrictions.</p> <p>The ASCI Code also prohibits the use of minors in advertising alcohol products.</p>





### Drugs/Pharmaceuticals

The DMRA has been enacted with a view to control the advertisements of drugs in certain cases. The DMRA prohibits advertisements of drugs that claim to treat or correct certain conditions such as menstrual disorder; that might create a false impression about the drug or that professes magical remedies.

### HFSS products

The ASCI gives the following advice in relation to foods and beverages: “Advertising can have a positive influence by encouraging a healthy, well balanced diet, sound eating habits and appropriate physical activity. Caution and care should therefore be observed in advertising of foods and beverages, especially ones containing relatively high Fat, Sugar and Salt”.

There are no limitations specifically in relation to children, but the ASCI Code does contain the following guidelines:

- Advertisements should not undermine the importance of healthy lifestyles or mislead as to the nutritive value of the food or beverage;
- Advertisements should not undermine the role of parental care and guidance in ensuring proper food choices are made by children.
- Claims in advertisements should not be inconsistent with information on the label or packaging.
- Advertisements for food or beverages unless nutritionally designed as such should not be promoted or portrayed as a meal replacement.

In October 2015, the Food Safety and Standards Authority of India published draft guidelines for Making Available Wholesome, Nutritious, Safe and Hygienic Food to School Children in India. These draft guidelines contain the recommendation that the Government advise the ASCI (or any other relevant body) to consider developing frameworks to :

- Regulate advertisements of HFSS foods to school children. This should include age group, print/electronic media timing.
- Limiting the reach of such advertisements in electronic media where school children are the key audience;
- Regulating celebrity endorsements for HFSS Foods; and
- Regulating promotional activities of HFSS Foods targeted at children.<sup>35</sup>

<sup>35</sup> These guidelines were issued by the Food Authority on direction of the Supreme Court as an interim order in an ongoing PIL. The Food Authority has now been directed to issue Regulations in place of these guidelines which is currently underway.



<p><b>4</b></p>	<p><b>Timing and placement of restrictions</b></p> <p>What, if any, restrictions are there on the timing and/or placement of advertisements in:</p> <p>(a) Publications aimed at children (e.g., magazines, books)?</p> <p>(b) Around entertainment programmes aimed at children (e.g., radio, television, movies, video games)?</p> <p>(c) Online through websites or communications platforms, including socialmedia, aimed at or used by children?</p>	<p><b>Publications</b></p> <p>No current restrictions.</p> <p><b>Entertainment programmes</b></p> <p>No current restrictions, other than the provisions of the ASCI Code detailed in question (2) above, as “advertising to children” is interpreted to mean advertising during and immediately before and after children’s programming.</p> <p><b>Online</b></p> <p>No current restrictions.</p>
<p><b>5</b></p>	<p><b>Advertising placement restrictions</b></p> <p>What, if any, restrictions are there on advertising or marketing in schools, children’s clubs or other places children regularly visit?</p>	<p><b>Schools</b></p> <p>No current restrictions.</p> <p><b>Clubs</b></p> <p>No current restrictions.</p> <p><b>Other</b></p> <p>No current restrictions.</p>
<p><b>6</b></p>	<p><b>Restrictions on targeting children</b></p> <p>What, if any, restrictions are there on using advertising or marketing techniques to appeal to children (e.g., licensing of popular cartoon characters)?</p>	<p><b>Cartoon/imaginary characters</b></p> <p>No statutory restrictions.<sup>36</sup></p> <p><b>Other</b></p> <p>No current restrictions.</p>

<sup>36</sup> Please note that the use of proprietary images may be subject to contractual restrictions.



<p><b>7</b></p>	<p><b>Restrictions on the use of children in ads</b></p> <p><b>What, if any, restrictions are there on the use of children in advertising, including peer-to-peer marketing and the appointment of children as brand ambassadors?</b></p>	<p><b>Use in advertising</b></p> <p>No current restrictions.</p> <p><b>Use as brand ambassadors</b></p> <p>No current restrictions.</p> <p>However, please note that Section 11 of the Indian Contract Act, 1872 expressly forbids a minor, i.e. a person who has not attained the age of majority, from entering into a contract. However, the legal guardian of the minor may enter into a contract on behalf of the minor. The legal guardian will have to be actively involved in all decision making processes.</p>
<p><b>8</b></p>	<p><b>Product labelling and children's safety</b></p> <p><b>In relation to product labelling, are there any specific requirements relevant to children with regard to health, safety or other concerns?</b></p>	<p><b>Health</b></p> <p>No current restrictions.</p> <p><b>Safety</b></p> <p>No current restrictions.</p> <p><b>Other</b></p> <p>No current restrictions.<sup>37</sup></p>
<p><b>9</b></p>	<p><b>Enforcement body</b></p> <p><b>(a) Which administrative body or bodies oversee compliance with government regulations or industry standards on marketing and advertising?</b></p> <p><b>(b) Do any of these have a specific mandate to look at issues around marketing and advertising to children?</b></p>	<p><b>Enforcement body</b></p> <ul style="list-style-type: none"> <li>■ The Indian Broadcasting Foundation and Broadcasting Content Complaints Council (BCCC) is an independent council set up by the Indian Broadcasting Foundation to examine complaints about television programs (including advertisements at an industry level – i.e. complaints received from viewers or other sources.</li> <li>■ The Ministry of Information and Broadcasting addresses complaints regarding content carried on TV channels in accordance with the CTNR.</li> <li>■ The ASCI's Consumer Complaints Council (ASCI's CCC) serves to redress consumer complaints and grievances.</li> <li>■ The Electronic Media Monitoring Centre (EMMC) was established by the Ministry of Information and Broadcasting to monitor the content of various FM and TV channels beaming over Indian territory for any violation of (amongst other things) the Advertisement Code.</li> <li>■ The PCI is a quasi-judicial body set up under the Press Council Act 1978 which acts as a watchdog of the press. Whilst a complaint against a newspaper should be taken up with the editor or other representative of the publication in the first instance, if it is not resolved satisfactorily then it may be referred to the PCI.</li> <li>■ The Director Generals of AIR and Doordarshan regulate the functioning of each body. Complaints or reports of contraventions of the codes may in the first instance be referred to the Advertiser's Association concerned. If they cannot be resolved satisfactorily, the Director General will take suitable action.</li> </ul>

<sup>37</sup> Please note that under the Food Safety and Standards, 2006 (Packaging and Labelling) Regulations, 2011, there are specific provisions on labelling for infant foods.



		<p>The Food Safety and Standards Authority of India in association with State Food Authorities are responsible for implementation and enforcement of the Food Safety and Standards Act, 2006.</p> <p><b>Specific mandate to focus on children’s issues?</b></p> <p>No.</p>
<p><b>10</b></p>	<p><b>Pre-clearance, sanctions and complaints</b></p> <p>(a) <b>Do advertisements need to be pre-cleared before publication or broadcast?</b></p> <p>(b) <b>What sanctions can be imposed for breaches of codes or regulations?</b></p> <p>(c) <b>Are there mechanisms for children or their representatives to file individual complaints?</b></p>	<p><b>Pre-clearance</b></p> <p>There is no pre-clearance agency for advertisements although the advertisers have to take permission from the local municipal corporation if they want to publicise their products through billboards or posters. The content of the advertisement should however be in accordance with the ASCI Code and other applicable laws, if any.</p> <p><b>Sanctions</b></p> <ul style="list-style-type: none"> <li>■ Any directive issued from the BCCC to the IBF is binding and must be implemented with immediate effect. In the case of non-adherence, the BCCC may initiate actions to expel the concerned member and to recommend to the Ministry of Information and Broadcasting for appropriate action. The Ministry of Information and Broadcasting can impose the following penalties on a company which does not adhere with the advertisement code contained in the CTNR and also every person who was in charge and responsible to that company for the conduct of the business of that company: (i) for the first offence, an imprisonment term which may extend to up to two years or a fine that may extend to one thousand rupees or both; and (ii) for every subsequent offence, imprisonment for a term which may extend to five years and a fine that may extend to five thousand rupees. The ASCI’s CCC functions as its examining body which considers the complaints raised as well as the response of the advertiser before giving its recommendation as to whether the advertisement in question is violating the provisions of the ASCI Code for Self-Regulation in advertising or not. All CCC recommendations are published on the ASCI website and reported in ASCI’s Annual Report. There are three types of complaints against advertising content which are received by ASCI; (i) complaints from the general public (including Government Regulators, Consumer Groups; (ii) Intra Industry complains; (iii) Suo Moto complaints Noncompliant advertisements are published in ASCI’s Media quarterly. The ASCI CCC will also inform the concerned Regulatory Authority or Government Department such as Ministry of Information and Broadcasting, and the Press Council of India of breaches of the ASCI code in relation to television advertisements and press advertisements respectively.</li> </ul>



		<ul style="list-style-type: none"> <li>■ If the PCI is prima facie satisfied that a complaint has sufficient grounds for inquiry, it will issue a show cause notice to the respondents and then consider the matter through its Inquiry Committee. If on inquiry, PCI has reason to believe the respondent newspaper or news agency has violated journalistic norms, the PCI may, after giving the newspaper or news agency concerned an opportunity of being heard, hold an inquiry and if it is satisfied that it is necessary to do so, it may, for reasons to be recorded in writing, warn, admonish or censure the newspaper, the news agency, the editor or the journalist or disapprove the conduct of the editor or journalist, as the case may be. The Director Generals of the AIR and Doordarshan will, if necessary, draw the attention of an offending party to the complaint, and take suitable action if necessary.</li> </ul> <p><b>Complaints</b></p> <p>Under the ASCI Code, complaints can be made by any person who considers an advertisement to be false, misleading, offensive or unfair. The CCC will then consider and rule on the complaint.</p>
<p><b>11</b></p>	<p><b>Effectiveness</b></p> <p><b>How effective are the laws and codes? Are they respected/do they get enforced?</b></p>	<p>As there are over 150 TV channels and over 82,000 registered newspapers in India.</p> <p>The absence of a uniform legislation and a single regulator also makes it difficult to effectively implement and enforce advertising related laws, especially as the majority of the regulatory codes are issued by industry bodies and are contractually binding only, having no force of law.<sup>38</sup></p>
<p><b>12</b></p>	<p><b>Pressure Groups</b></p> <p><b>Are the consumer led pressure groups/lobbying?</b></p>	<p>No.<sup>39</sup></p>

<sup>38</sup> Although voluntary codes are widely complied with by advertisers in India. Additionally, please note that non-compliance could open advertisers to other claims of breach of law such as defamation, etc.

<sup>39</sup> Please note that there are several consumer led pressure groups such as VOICE in India but they are usually fragmented in their lobbying/advocacy efforts.





## 18. INDONESIA

<p><b>1</b></p>	<p><b>Regulation</b></p> <p><b>Are there statutes or codes, including voluntary initiatives (e.g., industry codes of conduct), that specifically regulate marketing and/or advertising? Please list and briefly describe key statutes, codes and initiatives.</b></p>	<p>The marketing and/or advertising activities in Indonesia are operated under 15 different codes and regulations, being (i) the Indonesian Advertising Code of Ethics and Practice (<i>EPI/Etika Pariwara Indonesia</i>)<sup>40</sup>; (ii) Broadcasting Law<sup>41</sup>; (iii) Guidelines for the Implementation of No-Smoking Areas<sup>42</sup>; (iv) Restrictions of Cigarettes and Tobacco Product Outdoor Media Advertisement<sup>43</sup>; (v) Regulation on Food Labels and Advertisement<sup>44</sup>; (vi) Regulation on Advertisement Implementation<sup>45</sup>; (vii) Regulation on the Implementation of Broadcast of Private Broadcasting Institution<sup>46</sup>; (viii) Regulation on Health Protection over Materials Containing Addictive Substances in Forms of Tobacco Products<sup>47</sup>; (ix) Health Law<sup>48</sup>; (x) Consumers Protection Law<sup>49</sup>; (xi) Media Law<sup>50</sup>; (xii) Food Law<sup>51</sup>; (xiii) Guidelines for Advertisement of Medicines, Traditional Medicines, Medical Equipment, Cosmetics, Household Supplies, Food and Beverage<sup>52</sup>; (xiv) Regulation on Advertisement of Medical Equipment and Household Supplies<sup>53</sup>; and (xv) Regulation on Advertisement and Publication of Health Service<sup>54</sup>.</p>
<p><b>2</b></p>	<p><b>Regulations protecting children</b></p> <p><b>Do any standards listed above explicitly address marketing and advertising to children as a whole and/or to particular age groups of children? What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?</b></p>	<p>Under its “Child Audience” section, the Indonesian Advertising Code of Ethics and Practice<sup>55</sup> explicitly address certain requirements for marketing/advertisements targeted to children as a whole (no particular age groups). Particular age groups are specifically addressed for marketing/advertisements of alcohol and tobacco products, i.e. under the Various Advertisements for Alcohol Products section, the Indonesian Advertising Code of Ethics and Practice stipulates that alcohol products not produced in Indonesia is prohibited from using advertisements that display or target children under the age of <b>21 years old</b><sup>56</sup>. Whereas for Cigarettes and Tobacco Products, the Indonesian Advertising Code of Ethics and Practice targeted specific age groups, in which it stipulates restriction not to place advertisements for cigarettes and tobacco products in media with main target of children below <b>18 years old</b><sup>57</sup>.</p>

<sup>40</sup> Issued by the Advertising Council of Indonesia (DPI/Dewan Periklanan Indonesia)

<sup>41</sup> Law No. 32 of 2001

<sup>42</sup> Joint Regulation of the Minister for Health and the Minister for Home Affairs No. 188/Menkes/PB/I/2011

<sup>43</sup> Regulation of the Governor of DKI Jakarta No. 1 of 2015

<sup>44</sup> Government Regulation No. 69 of 1999

<sup>45</sup> Regulation of DKI Jakarta No. 9 of 2014

<sup>46</sup> Government Regulation No. 50 of 2005

<sup>47</sup> Government Regulation No. 109 of 2012

<sup>48</sup> Law No. 36 of 2009

<sup>49</sup> Law No. 8 of 1999

<sup>50</sup> Law No. 40 of 1999

<sup>51</sup> Law No. 8 of 2012

<sup>52</sup> Ministry of Health Decree No. 386/Menkes/SK/IV/1994

<sup>53</sup> Regulation of the Ministry of Health No.76 of 2013

<sup>54</sup> Regulation of the Ministry of Health No. 1787 of 2010

<sup>55</sup> Point 1.28

<sup>56</sup> Point 2.1

<sup>57</sup> Point 2.2





		<p>The Indonesian Advertising Code of Ethics and Practice defines “child” as a person or a group of people below the age of 12 years old, unless stated otherwise<sup>58</sup>.</p> <p>Note however that in Indonesia, a “child” is defined differently under different laws and regulations. While Civil Code of the Republic of Indonesia defines a child as “<i>a person cannot be considered as adult if such person is not yet <b>21 years old</b>, unless that person is already married before reaching 21 years of age</i>”<sup>59</sup>, the Laws on Child Protection on the other hand defines a child as “<i>a person not yet <b>18 years old</b>...</i>”<sup>60</sup>.</p>
<p><b>3</b></p>	<p><b>Specific product restrictions</b></p> <p><b>What, if any, restrictions are there on advertising products that are known to be or are potentially dangerous or harmful to children, including but not limited to: Tobacco, Alcohol, Drugs/pharmaceuticals, HFSS products</b></p>	<p>For <b>tobacco products</b>, in addition to the restriction stipulates restriction not to place advertisements for cigarettes and tobacco products in media with main target of children below <b>18 years old</b>, the Indonesian Advertising Code of Ethics and Practice also stipulates that cigarettes and tobacco products advertisements must meet certain requirements, including but not limited to the requirements that such advertisements shall not encourage people to smoke, must not suggest that smoking has any health benefits, must not targeting or displaying child, teenagers and/or pregnant woman in forms of images and/or texts and must include information regarding the danger of smoking<sup>61</sup>.</p> <p>Advertising of tobacco products is also regulated under the Regulation on Health Protection over Materials Containing Addictive Substances in Forms of Tobacco Products, where it stipulates that the government undertakes control over the advertisements of tobacco product on prints, broadcasting, information and technology media and outdoor media<sup>62</sup>. Some of the controls defined in such regulation are the requirements to include a health warning in a form of images and texts covering at least 10% of the total advertisement duration and/or 15% of the total advertisement space, the requirement to include the “18+” on the advertisement, the requirement that the advertisement must not target or display child, teenagers and/or pregnant woman in forms of images and/or texts and must not suggest that smoking has any health benefits<sup>63</sup>.</p>

<sup>58</sup> Amendment 2014

<sup>59</sup> Article 330 paragraph (1)

<sup>60</sup> Article 1(1)

<sup>61</sup> Point 2.2

<sup>62</sup> Article 26(2)

<sup>63</sup> Article 27



		<p>For <b>alcohol products</b>, in addition to the prohibition from using advertisements that display or target children under the age of <b>21 years old</b>, the Indonesian Advertising Code of Ethics and Practice also stipulates that alcohol products not produced in Indonesia must not encourage the public to start consuming alcohol beverages, must not suggest that consuming alcohol is normal and must not show alcohol consumptions on activities that may be dangerous to safety<sup>64</sup>.</p> <p>In addition to the restrictions on tobacco and alcohol products above, under its Food Products section, the Indonesian Advertising Code of Ethics and Practice also stipulates that advertisements for <b>processed</b> food containing high concentrate materials that may be dangerous and/or interfere with children’s development is prohibited to be placed in media specific for children<sup>65</sup>.</p>
<p><b>4</b></p>	<p><b>Timing and placement of restrictions</b></p> <p><b>What, if any, restrictions are there on the timing and/or placement of advertisements in publications aimed at children (e.g., magazines, books)?</b></p> <p>a) <b>Around entertainment programmes aimed at children (e.g., radio, television ,movies, video games)?</b></p> <p>b) <b>Online through websites or communications platforms, including social media, aimed at or used by children?</b></p>	<p>Regulation on the Implementation of Broadcast of Private Broadcasting Institution stipulates that tobacco products advertisements can only be broadcasted through television and radio between the hours of 21.30pm to 05.00am local time. The regulations on the Restrictions of Cigarettes and Tobacco Product Outdoor Media Advertisement stipulate measures about the control of tobacco product advertisements on various mediums, including prints, broadcast, information technology and outdoor. The regulation specifically prohibits displaying child, teenagers and/or pregnant woman in forms of images and/or texts.</p>
<p><b>5</b></p>	<p><b>Advertising placement restrictions</b></p> <p><b>What, if any, restrictions are there on advertising or marketing in schools, children’s clubs or other places children regularly visit?</b></p>	<p>Advertising or marketing for tobacco products are strictly prohibited in places children regularly visit. The Guidelines for the Implementation of No-Smoking Areas defines “No Cigarette Area” (KTR/<i>Kawasan Tanpa Rokok</i>) as rooms or spaces where smoking is prohibited, including prohibitions to produce, sell, advertise and/or produce tobacco products. Some of the areas that are considered as KTR is the learning and education areas and children’s playground<sup>66</sup>.</p>

<sup>64</sup> Point 2.1

<sup>65</sup> Point 2.4

<sup>66</sup> Article 3



<p><b>6</b></p>	<p><b>Restrictions on targeting children</b></p> <p><b>What, if any, restrictions are there on using advertising or marketing techniques to appeal to children (e.g., licensing of popular cartoon characters)?</b></p>	<p>The Indonesian Advertising Code of Ethics and Practice specifically prohibit advertisements on electronic media that use characters or certain animations well-known to a child audience, from being aired right before, during or right after the program in which such characters is aired<sup>67</sup>. Media print targeted to children is also prohibited to use children’s idol as a model for any medicine products<sup>68</sup>. The Regulation on Health Protection over Materials Containing Addictive Substances in Forms of Tobacco Products further prohibits the use of cartoon characters on tobacco product advertisements<sup>69</sup>.</p>
<p><b>7</b></p>	<p><b>Restrictions on the use of children in ads</b></p> <p><b>What, if any, restrictions are there on the use of children in advertising, including peer-to-peer marketing and the appointment of children as brand ambassadors?</b></p>	<p>The use of children as models for advertisement, marketing tools or brand ambassador is specifically prohibited for cigarettes or tobacco products, both in images or in writing<sup>70</sup>. The Indonesian Advertising Code of Ethics and Practice<sup>71</sup> further prohibits using children (i) in advertisements for products not suitable for children consumption; (ii) in advertisements displaying children in dangerous, misleading or inappropriate manner; (iii) where the children are recommending products not suitable for children consumption; and (iv) in advertisements exploiting children’s pester power.</p>
<p><b>8</b></p>	<p><b>Product labelling and children’s safety</b></p> <p><b>In relation to product labelling, are there any specific requirements relevant to children with regard to health, safety or other concerns?</b></p>	<p>Labelling and its relation with the safety and security is specifically regulated under the Indonesian National Standard (<i>SNI/Standar Nasional Indonesia</i>). The SNI has make it a requirement that children toys meet the SNI Regulations on Toys<sup>72</sup>. Labelling for infant/children’s food is further regulated under the Regulation on Supervisory Claims on Labels and Advertisements for Processed Food Products<sup>73</sup>.</p>
<p><b>9</b></p>	<p><b>Enforcement body</b></p> <p><b>a) Which administrative body or bodies oversee compliance with government regulations or industry standards on marketing and advertising?</b></p> <p><b>b) Do any of these have a specific mandate to look at issues around marketing and advertising to children?</b></p>	<p>The Ministry of Health, the Ministry of Industry, the Indonesian Broadcasting Commission (<i>Komisi Penyiaran Indonesia</i>) and the Advertisement Supervisory Board (<i>Badan Pengawas Periklanan</i>) are the administrative bodies that oversee compliance with marketing and advertising of industry in Indonesia.</p>

<sup>67</sup> Article 1.28.6 of Indonesian Advertising Code of Ethics and Practice

<sup>68</sup> Article 1.1.4 of Indonesian Advertising Code of Ethics and Practice

<sup>69</sup> Article 27 Government Regulation No. 109 of 2012

<sup>70</sup> Article 27 of Government Regulation No. 109 of 2012

<sup>71</sup> Article 3.1

<sup>72</sup> Ministry of Industry Regulation No. 55/M-Ind/Per/11/2013 on the Amendment of Ministry of Industry Regulation No. 24/M-Ind/Per/4/2013

<sup>73</sup> National Agency for Drugs and Food Control No. Hk.03.1.23.11.11.09909 Year 2011



<p><b>10</b></p>	<p><b>Pre-clearance, sanctions and complaints</b></p> <p>a) Do advertisements need to be pre-cleared before publication or broadcast?</p> <p>b) What sanctions can be imposed for breaches of codes or regulations?</p> <p>c) Are there mechanisms for children or their representatives to file individual complaints?</p>	<p>(a) Advertisements specific for medical equipment and household supplies can only be broadcasted upon receipt of approval from the Ministry of Health. Food product advertisements for infant to 1 year-old is also only allowed in print media only after receiving approval from the Ministry of Health.</p> <p>(b) Regulation on Health Protection over Materials Containing Addictive Substances in Forms of Tobacco Products regulates that any party broadcasting and/or promoting tobacco products not in accordance with its regulations shall be imposed with administrative sanctions in forms of advertisement withdrawal and/or amendment; warning letters; and/or temporary suspension to broadcast the advertisement. 2-times warning and/or instruction to stop the broadcasting or recommendation for sanctions are also given to any party who breaches the Indonesian Advertising Code of Ethics and Practice.</p> <p>(c) While there is no specific mechanism for complaints filed by children, for the purposes of advertising/marketing, the public may file objections to the Advertising Council of Indonesia for any advertisements that the public perceived to have violated the provisions under the Indonesian Advertising Code of Ethics and Practice.</p>
<p><b>11</b></p>	<p><b>Effectiveness</b></p> <p>How effective are the laws and codes? Are they respected/do they get enforced?</p>	<p>The laws and codes in Indonesia are effective, respected and enforceable. We have seen cases where advertisements being withdrawn due to violation of the prevailing laws and codes. Very recently, due to public protest, a well-known local brand cigarette has taken down all billboards and stopped the broadcasting of a certain advertisement that was considered by the public to have contained pornographic element.</p>
<p><b>12</b></p>	<p><b>Pressure Groups</b></p> <p>Are the consumer led pressure groups/lobbying?</p>	<p>There are a few consumer led pressure groups in Indonesia, such as the Komisi Nasional Perlindungan Anak (National Commission of Child Protection) and Koalisi Masyarakat Sipil Untuk Perlindungan Anak dari Zat Adiktif (Civil Society Coalition for Child Protection against Addictive Substance).</p>





## 19. ITALY

<p><b>1</b></p>	<p><b>Regulation</b></p> <p><b>Are there statutes or codes, including voluntary initiatives (e.g., industry codes of conduct), that specifically regulate marketing and/or advertising? Please list and briefly describe key statutes, codes and initiatives.</b></p>	<p>Marketing and advertising activities are mainly regulated in Italy by the Legislative Decree of 6 September 2005, no. 206, as amended by the Legislative Decree of 2 August 2007, no. 146, (“<b>Consumers’ Code</b>”) and the Code of Advertising Self-regulation (“<b>Self-regulation Code</b>”).</p> <p>The Consumers’ Code is aimed to ensure fairness of commercial practices and advertising, as well as to protect consumers against misleading and aggressive commercial practices.</p> <p>The Self-Regulation Code has a voluntary basis and binds only the enterprises and media which decided to adhere to the self-regulatory system.<sup>74</sup> In practice, the Self-Regulation Code has a very broad application, as all the main TV channels, radio and other media have expressly accepted it and are bound to remove advertisings found in breach of the Code.</p>
<p><b>2</b></p>	<p><b>Regulations protecting children</b></p> <p><b>Do any standards listed above explicitly address marketing and advertising to children as a whole and/or to particular age groups of children? What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?</b></p>	<p>In Italy, the legal age for majority is 18, but – for the purposes of advertising – the definition of child is up to 12 years of age.</p> <p>The main general provisions addressing explicitly marketing and advertising to children are listed below:</p> <p><b>Article 11, Self-Regulation Code:</b> provides that special care should be taken in messages directed to children (i.e. less than 12 years of age) and young people. Such messages should avoid causing psychological, moral or physical harm, and should not exploit the credulity, inexperience or sense of loyalty of children or young people.</p> <p><b>Article 20, paragraph 3 Consumer Code:</b> provides that the fairness of commercial practices addressed to a clearly identifiable and more vulnerable group of consumers shall be evaluated from the perspective of such a group.</p> <p><b>Article 31 Consumer Code:</b> provides that teleshopping shall not exhort minors to enter into contracts for the sale or hire of goods or services. Teleshopping shall not cause moral or physical detriment to minors and shall comply with the following criteria for their protection: a) it shall not exhort minors to purchase a product or service by exploiting their inexperience or credulity; b) it shall not exhort minors to persuade their parents or others to purchase the goods or services being advertised; c) it shall not exploit the special trust that minors place in their parents or others to purchase the goods or services being advertised; d) it shall not show minors in dangerous situations.</p>

<sup>74</sup> <http://www.iap.it/about/the-code/?lang=en>



3

### Specific product restrictions

**What, if any, restrictions are there on advertising products that are known to be or are potentially dangerous or harmful to children, including but not limited to: Tobacco, Alcohol, Drugs/pharmaceuticals, HFSS products**

#### Tobacco

There is an outright prohibition on advertising tobacco products in Italy. Law 52 of 22 February 1983 has generally prohibited the advertisement of smoking products, without distinguishing between direct or indirect advertisement. The Ministerial Decree 425/1991, Legislative Decree 581/1993 and Legislative Decree 300/2004 have subsequently prohibited also television advertising and the sponsorship of programmes by persons whose main activity is to produce and sell cigarettes or smoking products.

#### Alcohol

Advertising alcohol and highlighting its characteristics and qualities is not completely banned. Law 125 of 30 March 2001 prohibits advertisements attributing therapeutic effectiveness or indications that are not expressly recognised by the Ministry of Health. On this point, Article 22, Self-Regulation Code provides that marketing communications regarding alcoholic beverages should promote a model of consumption inspired by moderation, fair behaviour and responsibility, with the intent to protect infants and teenagers from the consequences of abuse of alcoholic beverages.

#### Food supplements and health foods

Marketing communication relating to food supplements and health foods should not claim to have properties that do not correspond to the actual characteristics of the products. Furthermore, such marketing communication should not encourage consumers to make nutritional errors and should avoid referring to recommendations or statements of a medical nature. These rules also apply to infant formula and baby foods, products designed to wholly or partially substitute mother's milk, products used for weaning and food supplements for children.

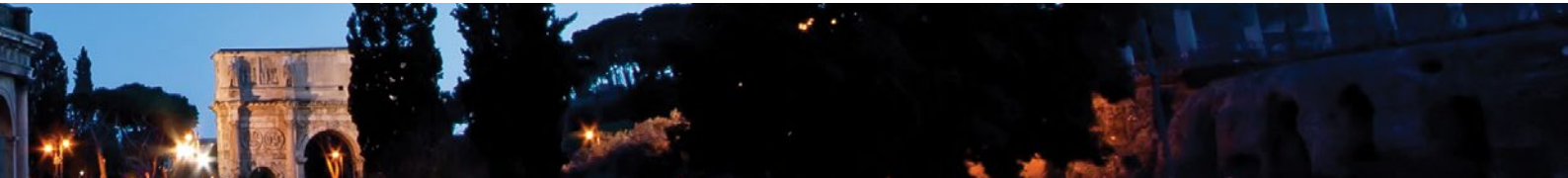
#### Medical products and therapeutic treatments

Commercial communication related to medical products and therapeutic treatments shall take into account the importance of the subject, complying with the requirements of Article 25 of the Code of Marketing Communication and shall not directly invite children or minors to use the product without an appropriate supervision.





		<p><b>New-born and infant feed</b></p> <p>The Ministerial Decree of 9 April 2009, No. 82 regulates the advertising of new-born and infant feed, specifically distinguishing between infant age groups, namely 0-6 months and over 6 months in age. It is forbidden to advertise infant feed for babies up to the age of 6 months in any manner or form and through any channel, including hospitals, family advisory bureaus, day nurseries, medical doctors' practices, as well as at conferences, congresses and exhibitions. Advertising of this type of foodstuff is only permitted in scientific publications directed at professionals in the paediatric and nutritional fields, provided that the advertisements are limited to scientific information based on documented evidence and that they do not imply or support the notion that breast-milk substitutes are better than or equivalent to breast-feeding.</p>
<p><b>4</b></p>	<p><b>Timing and placement of restrictions</b></p> <p><b>What, if any, restrictions are there on the timing and/or placement of advertisements in publications aimed at children (e.g., magazines, books)?</b></p> <p><b>(a) Around entertainment programmes aimed at children (e.g., radio, television, movies, video games)?</b></p> <p><b>(b) Online through websites or communications platforms, including social media, aimed at or used by children?</b></p>	<p>The Self-Regulation Code of TV and Minors of 5 November 2002 provides restrictions on the timing and/or placement of advertisements during certain time bands, with the aim to protect children.</p> <p>The general level of protection applies in every time band. A strengthened level of protection applies from 0700 to 1600 and from 1900 to 2230. An even stronger level of protection is due from 4 pm to 7 pm. In the latter time-band, advertisements cannot advertise inter alia alcoholic beverages, telephone services with entertainment character and contraceptives.</p>
<p><b>5</b></p>	<p><b>Advertising placement restrictions</b></p> <p><b>What, if any, restrictions are there on advertising or marketing in schools, children's clubs or other places children regularly visit?</b></p>	<p>Any advertising or marketing activities must comply with the provisions on adverts towards minors.</p>



<p><b>6</b></p>	<p><b>Restrictions on targeting children</b></p> <p>What, if any, restrictions are there on using advertising or marketing techniques to appeal to children (e.g., licensing of popular cartoon characters)?</p>	<p>The standards of the Consumers' Code and the Code of Advertising Self-Regulation apply to all marketers and prevent misleading harmful or offensive advertising. To see the relevant provisions, please refer to question 2 above.</p>
<p><b>7</b></p>	<p><b>Restrictions on the use of children in ads</b></p> <p>What, if any, restrictions are there on the use of children in advertising, including peer-to-peer marketing and the appointment of children as brand ambassadors?</p>	<p>Pursuant to the Code of Advertising Self-Regulation the use of teenagers or children in advertisements shall avoid any abuse of the natural sentiments of the adults towards children. Representations of sexual behaviours or attitudes are not allowed.</p> <p>No specific provision is included for peer-to-peer marketing, which should be clearly recognisable as advertising and should follow the general provisions.</p>
<p><b>8</b></p>	<p><b>Product labelling and children's safety</b></p> <p>In relation to product labelling, are there any specific requirements relevant to children with regard to health, safety or other concerns?</p>	<p>In Italy toys must meet the safety requirements of the Legislative Decree 54/2011. Every toy must carry the CE mark which certifies that the toy satisfies essential safety requirements. The CE mark can be issued following a conformity assessment that can be done by the manufacturer, if it has followed harmonised rules regarding the safety requirements. If the toys are not aimed at children under three years old, they must carry the warning "It is not suitable for children under 36 months of age" or the appropriate symbol.</p>
<p><b>9</b></p>	<p><b>Enforcement body</b></p> <p>a) Which administrative body or bodies oversee compliance with government regulations or industry standards on marketing and advertising? b) Do any of these have a specific mandate to look at issues around marketing and advertising to children?</p>	<p>Compliance with the Advertising Self-Regulation Code is supervised by the Jury of Advertising. Proceedings before the Jury can be started by the Jury's own motion or upon request of consumers or undertakings.</p> <p>Compliance with the Consumers' Code is overseen by the ordinary court or the Italian Antitrust Authority ("<b>AGCM</b>").</p> <p>There is no a specific body with a mandate to look at marketing and advertising to children.</p>

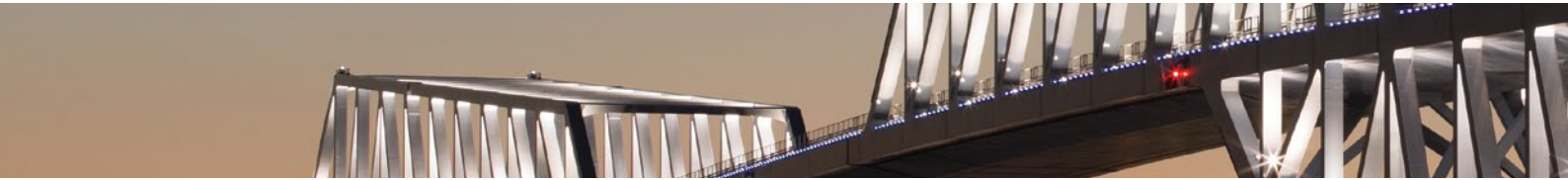


<p><b>10</b></p>	<p><b>Pre-clearance, sanctions and complaints</b></p> <p>(a) <b>Do advertisements need to be pre-cleared before publication or broadcast?</b></p> <p>(b) <b>What sanctions can be imposed for breaches of codes or regulations?</b></p> <p>(c) <b>Are there mechanisms for children or their representatives to file individual complaints?</b></p>	<p>Advertisements do not need to be pre-cleared before publication or broadcast.</p> <p>Should a commercial communication be found in breach of one or more sections of the Advertising Self-Regulation Code, the Jury may order the marketer to desist from further spreading it. Should the Italian Competition Authority or the Court find the commercial communication in breach of the provisions of the Consumer Code, they can issue a cease and desist injunction. Courts may also award damages and the AGCM may issue high monetary sanctions.</p> <p>Anyone may request the intervention of the Jury against those carrying out activities in breach of the Self-Regulation Code. This includes also committees for the protection of certain categories of consumers, like children.</p>
<p><b>11</b></p>	<p><b>Effectiveness</b></p> <p><b>How effective are the laws and codes? Are they respected/do they get enforced?</b></p>	<p>The Italian Advertising Self-Organization is very effective to enforce the advertising provisions regarding children. The laws are effective and the majority of advertisers seek to comply.</p>
<p><b>12</b></p>	<p><b>Pressure Groups</b></p> <p><b>Are the consumer led pressure groups/lobbying?</b></p>	<p>There are a number of consumer led pressure groups that taken an interest in making sure that children and consumers are protected from misleading advertising e.g. Codacons.</p>



## 20. JAPAN

<p><b>1</b></p>	<p><b>Regulation</b></p> <p>Are there statutes or codes, including voluntary initiatives (e.g., industry codes of conduct), that specifically regulate marketing and/or advertising? Please list and briefly describe key statutes, codes and initiatives.</p>	<p><b>Statutes</b></p> <p>The Act against Unjustifiable Premiums and Misleading Representations (“<b>AUPMR</b>”) prohibits advertisements that may be misleading to consumers.</p> <p><b>Codes</b></p> <p>Almost all local governments in Japan prohibit advertisements that may be harmful to minors (for example, obscene or violent advertisements) under prefectural ordinances for the protection of minors (“<b>Prefectural Ordinance</b>”). In addition, there are standard regulations against harmful products as discussed in section 3 below.</p> <p><b>Voluntary Initiatives</b></p> <p>Many industry groups have their own fair competition codes in relation to the AUPMR. In addition, as discussed in section 3 below, some industry groups relating to the sale of harmful products have established industry standards.</p>
<p><b>2</b></p>	<p><b>Regulations protecting children</b></p> <p>Do any standards listed above explicitly address marketing and advertising to children as a whole and/or to particular age groups of children? What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?</p>	<p><b>Legal age of majority</b></p> <p>Under the Civil Code: 20 years old.</p> <p><b>Definition of a child in advertising context (if different)</b></p> <p>There is no definition of a child, but each of the Prefectural Ordinances contains its own definition of a “juvenile”. For example, a “juveniles” means a person under the age of 18 in the Prefectural Ordinance of Tokyo.</p> <p><b>Regulations protecting children/particular age groups</b></p> <p>The AUPMR does not regulate marketing or advertising to children. The Prefectural Ordinances prohibit obscene and violent advertisements as noted above. In addition, there are standard regulations against harmful products as discussed in section 3 below.</p>
<p><b>3</b></p>	<p><b>Specific product restrictions</b></p> <p>What, if any, restrictions are there on advertising products that are known to be or are potentially dangerous or harmful to children, including but not limited to: Tobacco, Alcohol, Drugs/ pharmaceuticals, HFSS (high in fat sugar, salt) products?</p>	<p><b>Tobacco</b></p> <p>Caution messages are required to be displayed on more than 30% of each tobacco package under the WHO Framework Convention on Tobacco Control, which Japan has signed in 2004. In addition, policies implemented by the Ministry of Finance and standards adopted by tobacco industrial groups establish measures in order to exclude children from being targeted in tobacco advertisements, such as requiring that tobacco can only be advertised in magazines whose readers are 75% or more adults.</p>



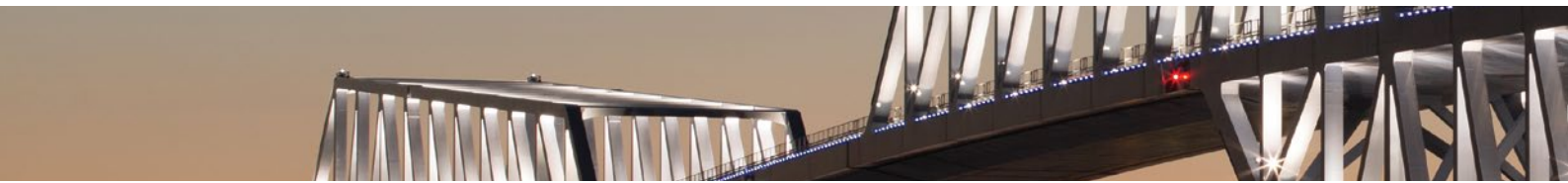
		<p><b>Alcohol</b></p> <p>Packaging and advertisements of alcohol must contain the caution message that alcohol cannot be consumed by anyone under the age of 19 according to requirements of the National Tax Agency and standards adopted by the alcohol industry group. There is also a minimum requirement of font size so that minors can easily notice the caution message.</p> <p><b>Drugs/pharmaceuticals</b></p> <p>The Code of Fair Practices in the Advertising of Drug and Related Product published by the Ministry of Health, Labour and Welfare requires that advertisements in radio/TV programmes for children must not cause children's false understanding of drugs or related products. In addition, the guidelines published by the self-medication industry group require that children cannot appear in TV commercials of bug-killers and that children cannot appear to be using or holding OTC drugs in TV commercials.</p> <p><b>HFSS products</b></p> <p>Not applicable.</p>
<p><b>4</b></p>	<p><b>Timing and placement of restrictions</b></p> <p><b>What, if any, restrictions are there on the timing and/or placement of advertisements in:</b></p> <ul style="list-style-type: none"> <li><b>(a) Publications aimed at children (e.g., magazines, books)?</b></li> <li><b>(b) Around entertainment programmes aimed at children (e.g., radio, television, movies, video games)?</b></li> <li><b>(c) Online through websites or communications platforms, including social media, aimed at or used by children?</b></li> </ul>	<p><b>Publications</b></p> <p>Advertisements of tobacco and alcohol are prohibited in all publications aimed at children under standards established by industry groups.</p> <p><b>Entertainment programmes</b></p> <p>Advertisements of tobacco and alcohol are prohibited in all entertainment programmes aimed at children under standards established by industry groups.</p> <p><b>Online</b></p> <p>Advertisements of tobacco and alcohol are prohibited in all online platforms aimed at children under standards established by industry groups.</p>



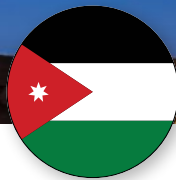


<p><b>5</b></p>	<p><b>Advertising placement restrictions</b></p> <p>What, if any, restrictions are there on advertising or marketing in schools, children’s clubs or other places children regularly visit?</p>	<p><b>Schools</b></p> <p>Advertisements of alcohol are prohibited within 100-metre radius of schools under standards established by the alcohol industry group.</p> <p><b>Clubs</b></p> <p>Not applicable.</p> <p><b>Other</b></p> <p>Not applicable.</p>
<p><b>6</b></p>	<p><b>Restrictions on targeting children</b></p> <p>What, if any, restrictions are there on using advertising or marketing techniques to appeal to children (e.g., licensing of popular cartoon characters)?</p>	<p><b>Cartoon/imaginary characters</b></p> <p>Using cartoon characters in tobacco or alcohol advertising is prohibited under standards established by industry groups.</p> <p><b>Other</b></p> <p>Not applicable.</p>
<p><b>7</b></p>	<p><b>Restrictions on the use of children in ads</b></p> <p>What, if any, restrictions are there on the use of children in advertising, including peer-to-peer marketing and the appointment of children as brand ambassadors?</p>	<p><b>Use in advertising</b></p> <p>The guidelines published by the self-medication industry group require that children cannot appear in TV commercials of bug-killers.</p> <p><b>Use as brand ambassadors</b></p> <p>Not applicable.</p>
<p><b>8</b></p>	<p><b>Product labelling and children’s safety</b></p> <p>In relation to product labelling, are there any specific requirements relevant to children with regard to health, safety or other concerns?</p>	<p><b>Health</b></p> <p>Not applicable.</p> <p><b>Safety</b></p> <p>Not applicable.</p> <p><b>Other</b></p> <p>Not applicable.</p>





<p><b>9</b></p>	<p><b>Enforcement body</b></p> <p>(a) Which administrative body or bodies oversee compliance with government regulations or industry standards on marketing and advertising?</p> <p>(b) Do any of these have a specific mandate to look at issues around marketing and advertising to children?</p>	<p><b>Enforcement body</b></p> <p>The Consumer Agency is the enforcement body of the AUPMR. For the advertising of products discussed in section 3 above, the competent authority of each product is a law enforcement body: the Ministry of Finance for Tobacco; the National Tax Agency for alcohol; and the Ministry of Health, Labour and Welfare for drugs and medications. In addition, local governments also oversee compliance.</p> <p><b>Specific mandate to focus on children’s issues?</b></p> <p>The local governments are responsible for children’s issues under the Prefectural Ordinances.</p>
<p><b>10</b></p>	<p><b>Pre-clearance, sanctions and complaints</b></p> <p>(a) Do advertisements need to be pre-cleared before publication or broadcast?</p> <p>(b) What sanctions can be imposed for breaches of codes or regulations?</p> <p>(c) Are there mechanisms for children or their representatives to file individual complaints?</p>	<p><b>Pre-clearance</b></p> <p>No.</p> <p><b>Sanctions</b></p> <p>The Prefectural Ordinances contain sanctions in relation to obscene and violent advertisements, and the sanctions are different between prefectures. For example, under the Prefectural Ordinance of Tokyo, a fine of up to JPY 300,000 is imposed on any offender who does not amend the contents of their advertisements after the Tokyo Metropolitan Governor has issued an order against them.</p> <p><b>Complaints</b></p> <p>No.</p>
<p><b>11</b></p>	<p><b>Effectiveness</b></p> <p>How effective are the laws and codes? Are they respected/do they get enforced?</p>	<p>As noted above, there are no laws or regulations specifically made to protect children from inappropriate advertising or marketing, except for advertising and marketing in relation to the harmful products discussed in section 3 above.</p>
<p><b>12</b></p>	<p><b>Pressure Groups</b></p> <p>Are the consumer led pressure groups/lobbying?</p>	<p>There are several consumer groups who work with the Consumer Agency. These consumer groups are working on consumer issues such as unexpected charges in relation to children’s use of social media and online videogames.</p>



## 21. JORDAN

<p><b>1</b></p>	<p><b>Regulation</b></p> <p>Are there statutes or codes, including voluntary initiatives (e.g., industry codes of conduct), that specifically regulate marketing and/or advertising? Please list and briefly describe key statutes, codes and initiatives.</p>	<p><b>Statutes</b></p> <ul style="list-style-type: none"> <li>■ Health Law No. 47 of 2008 in relation to the marketing of tobacco products.</li> <li>■ Press and Publication Law No. 8 of 1998 as amended by Law No. 27 of 2007 and the Law Amending the Press and Publications Law of 2012 requires all publications to comply with the values of the Arab and Islamic nation.</li> <li>■ Audio-visual Media Law No. 26 of 2015 requires licensees to comply with the rules on advertising and promotions as designated by the Audio-Visual Commission.</li> </ul> <p><b>Codes</b></p> <p><b>Voluntary Initiatives</b></p>
<p><b>2</b></p>	<p><b>Regulations protecting children</b></p> <p>Do any standards listed above explicitly address marketing and advertising to children as a whole and/or to particular age groups of children? What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?</p>	<p><b>Legal age of majority</b></p> <p>18</p> <p><b>Definition of a child in advertising context (if different)</b></p> <p>The Jordanian law does not define a child specifically for advertisement purposes, however Article No. (43) of the Jordanian Civil Law of 1976 states that the age of majority is 18.</p> <p><b>Regulations protecting children/particular age groups</b></p> <p>Article 4 of the Monitoring Juveniles' Behaviour Law No. (37) of 2006 stipulates that the following actions are prohibited:</p> <ol style="list-style-type: none"> <li>1. Selling tobacco, alcoholic beverages, narcotic drugs or psychotropic substances to juveniles. This restriction includes inhalants.</li> <li>2. Permitting juveniles to enter nightclubs and bars.</li> <li>3. Serving alcoholic beverages or hookah to juveniles in coffee shops, restaurants or similar establishments.</li> </ol> <p>Additionally, Article 5 states that anyone responsible for supervising any store that sells tobacco or alcoholic beverages, or pharmacists responsible for dispensing narcotic drugs and psychotropic substances, or anyone responsible for the management of a nightclub, bar, coffee shop or restaurant or any similar establishment must verify the age of anyone who goes there if s/he seems to be underage by checking his/her civil ID or any other official documents that verify their age.</p>



		<p>Furthermore Article 4 of the Regulations for Executing the Juveniles' Monitoring Law 2006 states that the owners and managers of night clubs, hotels, coffee shops and restaurants must display visible signage on the entrance to the premises to let juveniles (and others) know what the law prohibits. Such signage shall state the following:</p> <p>Nightclubs or bars inside and outside or hotels:</p> <ul style="list-style-type: none"> <li>■ <i>“With adherence to the provisions of the Monitoring Juveniles’ Behaviour Law, it is prohibited for anyone under the age of 18 to enter such places or to work at them.”</i></li> </ul> <p>Hotels, coffee shops, restaurants and similar places:</p> <ul style="list-style-type: none"> <li>■ <i>“With adherence to the provisions of the Monitoring Juveniles’ Behaviour Law, it is prohibited to serve anyone who is under the age of 18 hookah or alcoholic beverages, whether he/she is with his/her parents or not.”</i></li> </ul>
<p><b>3</b></p>	<p><b>Specific product restrictions</b></p> <p><b>What, if any, restrictions are there on advertising products that are known to be or are potentially dangerous or harmful to children, including but not limited to: Tobacco, Alcohol, Drugs/pharmaceuticals, and HFSS (high in fat sugar, salt) products?</b></p>	<p><b>Tobacco</b></p> <p>The Public Health Law No. 47 of 2008 prohibits the advertisement of tobacco products including in the media and the production, importation and distribution of any imitation tobacco products. Furthermore, those who produce, import or market tobacco products in Jordan must put on a visible place on the packages of the tobacco products, words approved by the Ministry of Health or a decision of the minister which warn of the health risks of smoking.</p> <p>Moreover, according to Article 8(d) of the Regulation of Licensing Advertisements in the Greater Amman Municipality Area No. (26) 2015: <i>“The following matters constitute a violation of the provisions of this Regulation: Advertising cigarettes, tobacco, their derivatives and all types of alcoholic beverages...without obtaining the approval of the Ministry of Health.”</i></p> <p>Furthermore, all store owners and managers display a visible sign on the store entrance to let juveniles and others know what the law prohibits. The sign shall state the following: <i>“With adherence to the provisions of the Monitoring Juveniles’ Behaviour Law, anyone under the age of 18 shall be prohibited from attempting to purchase tobacco or cigarettes or any of their derivatives –whether for his/her own use or someone else’s.”</i></p>



### Alcohol

In accordance with Article 3(b) of the Regulations for Executing the Juveniles' Monitoring Law 2006, all liquor store owners and managers shall display a visible sign on the store entrance to let juveniles and others know what the law prohibits. The sign shall state the following: *"With adherence to the provisions of the Monitoring Juveniles' Behaviour Law, anyone under the age of 18 shall be prohibited from attempting to purchase alcoholic beverages or any of their derivatives –whether for his/her own use or someone else's. The law also prohibits selling any of the above to minors."*

Additionally, Article 6(a)(2) of the Regulations for Liquor Store Permits and Their Amendments 2010 states the following: *"Stores that have a permit are prohibited from the following: Selling alcoholic beverages to anyone under the age of 18."*

### Drugs/Pharmaceuticals

Pursuant to Sub-Articles 3(c) and 3(d) of the Regulations for Executing the Juveniles' Monitoring Law 2006 all store owners and managers shall hang up a visible sign on the store entrance to let juveniles and others know what the law prohibits. The signs shall state the following for stores that sell inhalants:

*"With adherence to the provisions of the Monitoring Juveniles' Behaviour Law, anyone under the age of 18 shall be prohibited from asking the store to purchase inhalants or any of their derivatives –whether for his/her own use or someone else's. The law also prohibits selling any of the above to minors."*

The signs shall state the following for pharmacies:

*"With adherence to the provisions of the Monitoring Juveniles' Behaviour Law, it is prohibited to sell any pharmaceutical drugs or medications that contain drugs or chemicals that may affect the brain to anyone is under the age of 18."*

### HFSS products

Jordanian law is silent on this matter.



<p><b>4</b></p>	<p><b>Timing and placement of restrictions</b></p> <p>What, if any, restrictions are there on the timing and/or placement of advertisements in:</p> <p>(a) Publications aimed at children (e.g., magazines, books)?</p> <p>(b) Around entertainment programmes aimed at children (e.g., radio, television, movies, video games)?</p> <p>(c) Online through websites or communications platforms, including social media, aimed at or used by children?</p>	<p><b>Publications</b></p> <ul style="list-style-type: none"> <li>Prohibited to advertise tobacco products or alcohol.</li> </ul> <p><b>Entertainment programmes</b></p> <ul style="list-style-type: none"> <li>Care must be considered in preparing and presenting commercials during children’s programming.</li> </ul> <p><b>Online</b></p> <ul style="list-style-type: none"> <li>The law does not specifically address the sale of tobacco products via the internet. However the law prohibits printing, broadcasting and publishing of any advertisement that promotes tobacco products. This may be interpreted as banning tobacco advertising via internet communications.</li> </ul>
<p><b>5</b></p>	<p><b>Advertising placement restrictions</b></p> <p>What, if any, restrictions are there on advertising or marketing in schools, children’s clubs or other places children regularly visit?</p>	<p>According to Article 4(b) of the Regulations for Liquor Store Permits and Their Amendments 2010, all places that sell alcoholic beverages must be a minimum distance of 250 metres from places of worship, universities, institutions, colleges, schools and kindergartens. The distance shall be measured by the walking distance from the said places to the site.</p>
<p><b>6</b></p>	<p><b>Restrictions on targeting children</b></p> <p>What, if any, restrictions are there on using advertising or marketing techniques to appeal to children (e.g., licensing of popular cartoon characters)?</p>	<p><b>Cartoon/imaginary characters</b></p> <p>Jordanian law is silent on this matter.</p>
<p><b>7</b></p>	<p><b>Restrictions on the use of children in ads</b></p> <p>What, if any, restrictions are there on the use of children in advertising, including peer-to-peer marketing and the appointment of children as brand ambassadors?</p>	<p>Jordanian law is silent on this matter.</p>





<p><b>8</b></p>	<p><b>Product labelling and children's safety</b></p> <p>In relation to product labelling, are there any specific requirements relevant to children with regard to health, safety or other concerns?</p>	<p>Jordanian law is silent on this matter.</p>
<p><b>9</b></p>	<p><b>Enforcement body</b></p> <p>(a) Which administrative body or bodies oversee compliance with government regulations or industry standards on marketing and advertising?</p> <p>(b) Do any of these have a specific mandate to look at issues around marketing and advertising to children?</p>	<p><b>Enforcement body</b></p> <p>The Audio-visual Media Commission of Jordan regulates the audio-visual sector in Jordan.</p> <p><b>Specific mandate to focus on children's issues?</b></p> <p>No special mandates regarding advertising to children or minors/juveniles.</p>
<p><b>10</b></p>	<p><b>Pre-clearance, sanctions and complaints</b></p> <p>(a) Do advertisements need to be pre-cleared before publication or broadcast?</p> <p>(b) What sanctions can be imposed for breaches of codes or regulations?</p> <p>(c) Are there mechanisms for children or their representatives to file individual complaints?</p>	<p><b>Pre-clearance</b></p> <p>Jordan Television only allows transmission of programs, products, services and advertising material it deems acceptable. All advertising material intended for transmission is subject to censorship by Jordan Television which reserves the right to accept or reject any material.</p> <p><b>Sanctions</b></p> <p>Depending on the specific breach, fines may be imposed or there may be suspension of a broadcaster's license (maximum duration of two months) or complete withdrawal of their licence or even imprisonment of between one to five years.</p> <p><b>Complaints</b></p>
<p><b>11</b></p>	<p><b>Effectiveness</b></p> <p>How effective are the laws and codes? Are they respected/do they get enforced?</p>	<p>The law is firm regarding the above matters, as there are many provisions that protect minors/juveniles from harmful substances, however, they do not seem to be respected by everyone.</p> <p>In practice a lot of bars, nightclubs, hotels and pubs allow the entrance of minors/juveniles. In some cases these individuals may be younger than 15 years old. It is rare for most places that serve alcoholic beverages and/or hookah or liquor stores or stores that sell tobacco to ask for civil ID. In practice most minors/juveniles can easily purchase the above-mentioned without being asked to show proof of age and sadly, few store owners actually care about adhering to the laws in this respect.</p>





12	<b>Pressure Groups</b> <b>Are there consumer led pressure groups/lobbying, and if so, how effective are they?</b>	Unaware of any in respect of advertising/marketing standards as relating to children.
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## 22. KENYA

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### Regulation

Are there statutes or codes, including voluntary initiatives (e.g., industry codes of conduct), that specifically regulate marketing and/or advertising? Please list and briefly describe key statutes, codes and initiatives.

No statute specifically regulates marketing and/or advertising in Kenya.

Legislation such as the Alcoholic Drinks Control Act, 2010 (the “**Alcoholic Drinks Act**”), Tobacco Control Act, 2007 (the “**Tobacco Control Act**”) and the Food, Drugs and Chemical Substances Act (Chapter 244, Laws of Kenya) regulate advertising and marketing in relation to foods, drugs, cosmetics, devices and chemical substances. Other statutes such as the Competition Act (No. 12 of 2010) (the “**Competition Act**”), the Consumer Protection Act (No. 46 of 2012) (the “**Consumer Protection Act**”) and the Trade Descriptions Act (Chapter 505, Laws of Kenya) have general provisions on false representations on products and/or services that are made to the members of the public.

The Alcoholic Drinks Act regulates the production, sale and consumption of alcoholic drinks. It expressly prohibits the promotion of alcoholic drinks or alcohol-related brand elements. The Act is administered by the National Authority for the Campaign Against Alcohol and Drug Abuse (“**NACADA**”) which is established under the National Authority for the Campaign Against Alcohol and Drug Abuse Act, 2012.

The Tobacco Control Act was enacted to control the production, manufacture, sale, labelling, advertising, promotion and sponsorship of tobacco products. It also expressly prohibits the promotion of a tobacco product or a tobacco-related brand element. The intended objective of the Act is to *inter alia* protect the health of persons **under the age of eighteen** by preventing their access to tobacco products. It is administered by the Tobacco Control Board which is established under Section 4 thereof.

The Food, Drugs and Chemical Substances Act provides for the prevention of adulteration of food, drugs and chemical substances. It expressly prohibits any person who labels, packages, treats, processes, sells or advertises any food, drugs, cosmetics, devices or chemical substances in contravention of any regulations made thereunder, or in a manner that is false, misleading or deceptive as regards its character, nature, value, substance, quality, composition, merit or safety.

The Consumer Protection Act prohibits any person from engaging in unfair practices by making a false, misleading or deceptive representation and proceeds to list the types of conduct construed to be an unfair practice.



Under the Competition Act, it is an offence for a person when, in trade in connection with the supply or possible supply of goods or services or in connection with the promotion by any means of the supply or use of goods or services, to falsely represent that:-

- (i) the goods are of a particular standard, quality, value, grade, composition, style or model or have had a particular history or particular previous use;
- (ii) the services are of a particular standard, quality, value or grade;
- (iii) the goods are new;
- (iv) a particular person has agreed to acquire goods or services;
- (v) goods or services have sponsorship, approval, performance characteristics, accessories, uses or benefits they do not have; or
- (vi) the product has a sponsorship, approval or affiliation it does not have.

It is also an offence for a person to make a false or misleading representation: –

- (i) with respect to the price of goods or services;
- (ii) concerning the availability of facilities for the repair of goods or of spare parts for goods;
- (iii) concerning the place of origin of goods;
- (iv) concerning the need for any goods or services; or
- (v) concerning the existence, exclusion or effect of any condition, warranty, guarantee, right or remedy.

The Trade Descriptions Act was enacted to *inter alia* prohibit mis-description of goods, services, accommodation and facilities provided in the course of trade, false or misleading indications as to the price of goods, confer powers to require information or instructions relating to goods to be marked on or to accompany the goods or to be included in advertisements. It is an offence for any person to apply a false trade description to any good in an advertisement. An advertisement is defined in section 2 of the Trade Descriptions Act as including a catalogue, a circular and a price list.



		<p>The Code of Advertising Practice and Direct Marketing (“<b>the Advertising Code</b>”) is a self-regulatory code which seeks to regulate advertising in the Kenyan market. The Code establishes an Advertising Standards Body for Kenya (“<b>ASBK</b>”) whose principal organ is the Advertising Standards Board (“<b>ASB</b>”). The Code is based on the International Code of Advertising Practice, prepared by the International Chamber of Commerce. It is binding on the advertisers who subscribe to the authority of the Advertising Standard Board and is regularly enforced by the ASB whenever there has been a breach of the standards prescribed in it.</p> <p>The Guidelines on Alcohol Industry Advertising: Advertising rules for Alcohol Companies (the “<b>Guidelines on Advertising of Alcohol</b>”) is a self-regulatory code governing the advertisement of alcoholic beverages, including the hours of the broadcast of such advertisements, and has specific provisions concerning children and advertisements. These Guidelines were developed by the National Alcoholic Beverages Association of Kenya (“<b>NABAK</b>”) in conjunction with the Ministry of Trade and Industry and the Ministry of Information and Communications.</p>
<p><b>2</b></p>	<p><b>Regulations protecting children</b></p> <p><b>Do any standards listed above explicitly address marketing and advertising to children as a whole and/or to particular age groups of children? What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?</b></p>	<p><b><i>Do any standards listed above explicitly address marketing and advertising to children as a whole and/or to particular age groups of children?</i></b></p> <p>The statutes outlined above do not have specific provisions relating to the marketing, advertisement or promotion to children as a whole or particular age groups of children.</p> <p>However, Section 46 of the Alcohol Control Act provides that no person shall promote an alcoholic drink at any event or activity associated with persons under <b>eighteen years</b> or use such things or materials that are associated with persons under the age of <b>eighteen years</b>.</p> <p>Section 16 of the Tobacco Control Act also requires every retailer to post, in the prescribed place and manner, signs in the prescribed form and with the prescribed content, that inform the public that the sale or the provision of a tobacco product to a person <b>under the age of eighteen is prohibited by law</b>.</p> <p>The Advertising Code explicitly addresses advertising aimed at children under Section 21. Because of the credulity and lack of experience of a child, the interpretation of the Code is meant to be interpreted much more narrowly when used to regulate advertising targeted at children. Under Section 21.2, advertisements addressed to or targeted towards children or that are likely to influence children should not contain any statements or visual presentations which might result in harming them mentally, morally, physically or emotionally. Section 21.2.1 requires advertisements not to exploit the natural credulity or gullibility of children or their lack of experience and strain their sense of loyalty. Special care should be taken in advertisements directed towards or depicting young people.</p>



		<p>The Guidelines on Advertisement of Alcohol has express provisions on advertising schedules and the Under 18 (Legal Drinking Age) Consideration.</p> <p><b>What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?</b></p> <p>The definition of Children in the Advertising Code refers to the Children Act, 2001 (the “<b>Children Act</b>”), which defines “<b>Children</b>” as “<i>any human being under the age of 18</i>”. In addition, for the purposes of the Advertising Code, Children also means “<b>persons who are portrayed as, or who appear to be under the age of 18</b>”.</p> <p>The Advertising Code states that for the purposes of interpreting section 21 (which specifically regulates advertisements aimed at Children) the word “children” also includes “young people”. However, young people/young person is not a defined term.</p> <p>Under the Guidelines on Advertisement of Alcohol, the Alcohol Beverages Industry is under an obligation to ensure that the content of advertising and marketing materials should never be designed or constructed in a way that appeals primarily to individuals below the legal drinking age, i.e. 18 years.</p>
<p><b>3</b></p>	<p><b>Specific product restrictions</b></p> <p><b>What, if any, restrictions are there on advertising products that are known to be or are potentially dangerous or harmful to children, including but not limited to: Tobacco, Alcohol, Drugs/pharmaceuticals, HFSS products</b></p>	<p><b>Alcohol:</b></p> <p>a) The advertising and marketing of alcoholic drinks is regulated under Part VI of the <b>Alcoholic Drinks Control Act</b> which provides that:</p> <ul style="list-style-type: none"> <li>– the promotion of an alcoholic drink by any means that is false, misleading or deceptive or that is likely to create a false impression about the characteristics, health effects and social effects of that alcoholic drink is prohibited;</li> <li>– no person shall promote an alcoholic drink to create a false impression that : (i) a link exists between consumption of that drink and social or sexual success, (ii) consumption of that drink is acceptable before or whilst engaging in driving, operating machinery, sports or other activities requiring concentration to be carried out safely, (iii) alcohol has a therapeutic value or the ability to prevent, treat or cure any human disease or (iv) that it is wrong or foolish to refuse that drink;</li> <li>– no person shall promote an alcoholic drink at any event or activity associated with persons under eighteen years or use such things or materials that are associated with persons under the age of eighteen years;</li> <li>– no person shall promote an alcoholic drink in such a manner as to encourage more consumption of an alcoholic drink in order to win an award or prize; and</li> </ul>





- no person shall, by means of a publication that is published outside Kenya or a broadcast originating outside Kenya or any other communication originating outside Kenya, promote any product the promotion of which is regulated by this Act.

b) **The Advertising Code** states that:

- alcohol advertising should not be directed at persons below 18 years of age;
- no-one associated with the act of alcohol consumption in an advertisement shall be below 25 years of age or appear to be below that age; and
- persons under the age of 18 years shall not be depicted in alcohol adverts except where it would be usual for them to appear, for instance in background scenes or family crowds. If persons under that age are depicted in alcohol adverts, they will not be shown drinking alcoholic beverages nor will it be implied that they are drinking such beverages.

c) **The Guidelines on Alcohol Advertising** requires the alcohol beverages industry to ensure that persons under the legal drinking age are not included in market research and/or consumer planning while the content of advertising and marketing materials should never be designed nor constructed in a way that appeals primarily to individuals below the legal drinking age. It also prohibits the use of cartoons and fairy tale characters in advertisements or sponsorships of children only events.

**Tobacco:**

- a) The Tobacco Control Act prohibits almost all forms of advertising, promotion and sponsorship of tobacco products. Section 22 of that Act states that “**no person shall promote a tobacco product or a tobacco-related brand element except in accordance with the provisions of the Act**”.

It prohibits promotion of tobacco or a tobacco product by any means including:-

- (i) packaging, that is false, misleading or deceptive or that is likely to create an erroneous impression about the characteristics, health effects, health hazards or social effects of the tobacco product or its emissions;





- (ii) testimonials or endorsements, however displayed or communicated, that is misleading or incapable of fully informing consumers of the hazards of tobacco, without evoking a conflicting message or impression;
- (iii) an advertisement that depicts, in whole or in part, a tobacco product, its package or a brand element or one that evokes a tobacco product or element;
- (iv) on any medium of electronic, print or any other form of communication;
- (v) by means of lifestyle advertising.

Advertising and marketing of tobacco products aimed at children is not expressly dealt with by the Tobacco Control Act.

b) **The Advertising Code** states that:

- Advertising and marketing of tobacco products should [not] be created or targeted for young people specifically those below 18 years of age”. *(Please note, however, that there is a typographical error and the word “not” is omitted).*
- no person who is below 25 years of age shall be depicted in cigarette advertising, except in a crowd or other scenes where the background is not under the control of the advertisers;
- cigarette advertisements must not depict family scenes of a father and/or mother handling cigarettes in front of children;
- no cigarette products may be advertised on posters, bulletin boards or billboards located in the immediate vicinity of primary or secondary schools; and
- cigarette advertisement must not depict or use as endorsers celebrities in the sporting or entertainment world nor any other person who shall particularly appeal to those below 18 years of age.

The Code is expressly clear that tobacco products should not be advertised near primary or secondary schools.

As for alcoholic products, under section 12 of the Alcohol Control Act, no licence is to be granted to sell alcoholic drinks in any institution of basic education including primary and secondary schools or any residential area as have been demarcated by or under the relevant written laws.



### High Fat Salt and Sugar (“HFSS”) Products:

No restrictions have been found. Interested Kenyan commentators have argued that “*regulation regarding advertising to children and their access to junk foods needs a comprehensive framework in Kenya*”.<sup>75</sup> From enquiries at the Ministry of Health it appears that the National Guidelines for Healthy Diets and Physical Activity are yet to be formulated.

### Drugs/pharmaceuticals:

a) The Pharmacy and Poisons Act (Chapter 244, Laws of Kenya) expressly prohibits the advertisement of any drugs, medicine or medicinal substances without the authorised consent of the Pharmacy and Poisons Board (the “**Board**”). Section 36(1) thereof provides that “*subject to the provisions of this Act, no person shall advertise any drug or poison except with the written permission of the Board.*”

The Pharmacy and Poisons Act does not, however, have specific provisions relating to the advertisement and marketing of pharmaceutical products to children.

b) The Guidelines on Advertisement of Medicine (2012) state that no person may advertise any medicine except with the written permission of the Board. Advertisements for such products must comply with the Guidelines on Advertisement of Medicine, which constitute a set of minimum requirements. One of these requirements is that advertisements/promotions should not be aimed principally or exclusively at children under the age of 12. Additionally, advertisements should not show children using, or within reach of, health products without adult supervision. A failure to comply with the Guidelines constitutes an offence under the Pharmacy and Poisons Act.

c) **The Advertising Code** states that:

- advertisements for medicines should not encourage or likely lead to unsafe practices by children (or other inexperienced persons) to create the perception that such practices are desirable; and
- advertisements for medicines or products the make-up and/or packaging of which resemble medicine:
  - should not be directed at children or be devised to appeal particularly to children;
  - should not feature children taking such products unless administered by an adult; and
  - should not be based on endorsements by or be associated with exaggerated or superhuman characters.

<sup>75</sup><http://allafrica.com/stories/201402200595.html>



<p><b>4</b></p>	<p><b>Timing and placement of restrictions</b></p> <p><b>What, if any, restrictions are there on the timing and/or placement of advertisements in publications aimed at children (e.g., magazines, books)?</b></p> <p>a) <b>Around entertainment programmes aimed at children (e.g., radio, television, movies, video games)?</b></p> <p>b) <b>Online through websites or communications platforms, including social media, aimed at or used by children?</b></p>	<p><b>Tobacco:</b></p> <p>The Advertising Code states that “television cigarette advertisements...should preferably be aired during adult programmes viewership” – after 9 p.m. However, Section 25 of the Tobacco Control Act prohibits the advertisement of any tobacco product on an “<i>any medium of electronic, print or any other form of communication</i>”. The term “electronic communication” is defined in Section 2 thereof as including communication through the radio, television, telephone or the internet. Accordingly, advertisements of tobacco or tobacco related products cannot be advertised on television or radio programmes or even through the social media platform.</p> <p><b>Alcohol:</b></p> <p>The Alcoholic Drinks Act is silent on the preferred timings and/ or placement of advertisements in publications aimed at children either radio, television, movies and videos games and websites or communication platforms. However, the Guidelines on Alcohol Industry Advertising stipulates that all alcohol and beverage advertising on television must be past 8:30 pm on all days of the week. Radio advertising should be past 1:00 pm on all days of the week. The objective is to reduce exposure of such advertisements to children.</p> <p>b) There are no restrictions on the timing/placement of advertisements. This may reflect the fact that the online segment advertisement industry in Kenya is less mature than in other aspects of the advertising industry.<sup>76</sup></p>
<p><b>5</b></p>	<p><b>Advertising placement restrictions</b></p> <p><b>What, if any, restrictions are there on advertising or marketing in schools, children’s clubs or other places children regularly visit?</b></p>	<p><b>Tobacco:</b></p> <p>The Tobacco Control Act is silent on the restrictions to be placed on advertisements in schools, children’s clubs or other places children regularly visit. It does, however, require every retailer to post, in the prescribed place and manner, signs in the prescribed form and with the prescribed content, that inform the public that the sale or the availing of a tobacco product to a person under the age of eighteen years is prohibited by law, and that contain any of the prescribed health messages. Any such sign must:</p> <p>(i) be displayed on a surface measuring not less than 12 inches by 8 inches in size;</p> <p>(ii) bear the word “WARNING” in capital letters followed by the prescribed health warning which shall appear in conspicuous and legible type and shall be black on a white background or white on a black background and enclosed by a rectangular border that is the same colour as the letters of the statement; and</p> <p>(iii) be in English or Kiswahili or in the predominant language of the area within which the sign is posted.</p>

<sup>76</sup> <http://www.humanipo.com/news/2336/online-advertising-yet-to-catch-up-in-kenya/>



For the purposes of this section, a “retailer” is defined in section 2 thereof as a person who is engaged in a business that includes the sale of any tobacco product to consumers.

The Advertising Code states that no cigarette products may be advertised on posters, bulletin boards or billboards located in the immediate vicinity of primary or secondary schools.

The Advertising Code also states that tobacco companies that provide sponsorship to events that involve majority participation by persons below 18 years of age shall be required to adhere to the following conditions:

- refrain from any kind of public display of their brand name, brand logo by way of posters, billboards, banners, flyers or any mode of outdoor advertising;
- refrain from advertising campaign of the event under the auspices of the companies name, slogan and brand logo;
- only incorporating, in the advertisement of the event, the colours that represent the sponsor company and only mentioning the name of the event of the sponsor company;
- only including the company name and the name of the event on any items issued as gifts during the event and refraining from using colours that represent the sponsor colours or any numbers, livery or insignia that may be associated with an advertising campaign of the company or any of its brands; and
- refraining from conducting any promotional activities or sales of any tobacco products of the company at the venue of the event.

### Alcohol

Under Section 12 of the Alcohol Control Act, no licence is to be granted for the sale of alcoholic drinks in any institution of basic education including primary and secondary schools or any residential area as have been demarcated by or under the relevant written laws.

Section 46 of the Alcoholic Drinks Act expressly forbids the promotion of alcoholic drinks at any event or activity associated with persons under the age of eighteen or using such things or materials associated with persons under the age of eighteen.

In addition, the manager or owner of a place where an alcoholic drink is sold is required to display, clear and prominent notices in English or Kiswahili stating that drinking of alcoholic drinks is prohibited for persons under the age of eighteen and the prescribed penalty thereof (Section 49).





<p><b>6</b></p>	<p><b>Restrictions on targeting children</b></p> <p><b>What, if any, restrictions are there on using advertising or marketing techniques to appeal to children (e.g., licensing of popular cartoon characters)?</b></p>	<p><b>Tobacco:</b></p> <p>Section 24 of the Tobacco Control Act prohibits the promotion of a tobacco product by means of a testimonial or endorsement. Section 25 states that the depiction of “a person, character or animal, whether real or fictional, including literary, dramatic, musical, cinematographic, educational or artistic works, productions or performances that use or depict a tobacco product or a tobacco-product related brand element, shall be considered to be a testimonial for or endorsement of the product”. This would cover the use of popular cartoon characters and other real or fictional characters likely to appeal to children.</p> <p><b>Alcohol:</b></p> <p>The Alcohol Control Act does not have any provisions regarding the use of advertisement or marketing techniques to appeal to children. However, Guideline 5 of the Guidelines on Alcohol Industry Advertising prohibits the use of cartoons and fairy tale characters in advertisements or sponsorships of children only events.</p>
<p><b>7</b></p>	<p><b>Restrictions on the use of children in ads</b></p> <p><b>What, if any, restrictions are there on the use of children in advertising, including peer-to-peer marketing and the appointment of children as brand ambassadors?</b></p>	<p>No restrictions found in respect of appointment of children as brand ambassadors.</p> <p>As for peer-to-peer marketing, the Advertising Code specifically prohibits the use/depiction of persons under the age of 18 in alcohol related advertisements except where it would be usual for them to appear, for instance in background scenes or in family crowds and in the case of cigarette advertisements, persons below the age of 25 except in a crowd or other scenes where the background is not under the control of the advertisers.</p>
<p><b>8</b></p>	<p><b>Product labelling and children’s safety</b></p> <p>In relation to product labelling, are there any specific requirements relevant to children with regard to health, safety or other concerns?</p>	<p>Toys are regulated products under the Pre-Export Verification of Conformity to Standards programme and require a certificate of conformity to be imported into Kenya.<sup>77</sup> All appliances (including toys) shall have a marking of “Country of Origin” (KS 1829)<sup>4</sup>.</p> <p>All products manufactured in Kenya (including but not limited to toys) must carry the Kenya Bureau of Standards’ (“<b>KEBS</b>”) Mark. KEBS continuously monitors certified products through regular factory and market surveillance visits. KEBS is established under the Standards Act CAP 496, and is a member of the International Organisation for Standardisation (“<b>ISO</b>”).</p> <p>The non-mandatory IS Mark is a mark of quality that KEBS awards to imported products with impact on Health and Safety (including toys)<sup>5</sup>. KEBS, as the organisation from Kenya, is a member of the ISO Technical Committee ISO/TC 181 which is currently drafting new standards for the safety of toys.</p>

<sup>77</sup> [http://www.ctnno.com/download/kenya\\_coc\\_product\\_need.pdf](http://www.ctnno.com/download/kenya_coc_product_need.pdf)

<sup>78</sup> <http://www.intertek.com/toys/import-export/>

<sup>79</sup> <http://www.kebs.org>



### **Tobacco**

Section 21 of the Tobacco Control Act contains directives on the packaging of tobacco. The package should:

- (i) have at least two warning labels of the same health messages, in both English and Kiswahili, comprising not less than 30% of the total surface area of the front panel and 50% of the total surface area of the rear panel, and both located on the lower portion of the package directly underneath the cellophane or other clear wrapping;
- (ii) bear the word “WARNING” appearing in capital letters and all text shall be in conspicuous and legible 17-point type, unless the text of the label statement would occupy more than seventy per cent of such area;
- (iii) bear text that is black on a white background or white on a black background in a manner that contrasts by typography, layout or colour with all other printed material on the package; and
- (iv) bear such statement as to the tar, nicotine and other constituents.

### **Alcohol:**

Section 32 of the Alcohol Control requires every package containing an alcoholic drink to:-

- (i) bear a statement as to its content; and
- (ii) have at least 2 of the health warning messages prescribed in the Second Schedule in English or Kiswahili as follows:-
  - (a) excessive alcohol consumption is harmful to your health;
  - (b) excessive alcohol consumption can cause liver cirrhosis;
  - (c) excessive alcohol consumption impairs your judgment; do not drive or operate machinery; and/or
  - (d) not for sale to persons under the age of 18 years.

### **Medicines and Medical Devices**

The Guidelines for Advertisement of Medicines requires all packaging and labelling materials to provide information which is consistent with that approved during the registration of the product.





		<p><b>Food, Drugs and Chemical substances</b></p> <p>Regulations 4 and 5 of the Food, Drugs and Chemical Substances (Food Labelling, Additives and Standard) Regulation, 1978 require declarations on food labels to bear:-</p> <ul style="list-style-type: none"> <li>(i) brand or trade name of that food;</li> <li>(ii) common name of that food;</li> <li>(iii) a declaration by name of any preservatives;</li> <li>(iv) declaration of permitted food colour added;</li> <li>(v) declaration of any artificial or imitation flavouring ; and</li> <li>(vi) any other statement required under the provisions of these Regulations to be declared.</li> </ul> <p>As you will note, none of these statutes have specific provisions on any specific requirements relevant to children with regard to health, safety or other concerns.</p>
<p><b>9</b></p>	<p><b>Enforcement body</b></p> <p><b>(a) Which administrative body or bodies oversee compliance with government regulations or industry standards on marketing and advertising?</b></p> <p><b>(b) Do any of these have a specific mandate to look at issues around marketing and advertising to children?</b></p>	<p>(a) The Advertising Standards Body for Kenya (“<b>ASBK</b>”) is an industry body established to foster a process which culminated in the adoption the Advertising Code. The ASBK now enforces compliance with the Code.</p> <p>(b) The ASBK enforces compliance with the Code, section 21 of which deals specifically with advertisement and marketing to children. To this extent, the ASBK has a specific mandate to look at issues around marketing and advertising to children.</p> <p>National Alcohol Beverage Association of Kenya is a self-regulating body that oversees among other things compliance with The Guidelines on Alcohol Industry Advertisement. Their objective is to promote self-regulation and minimise alcohol-related harm by advocating for responsible consumption of alcohol. As discussed above, the Guidelines on Alcohol Industry Advertisement have provisions touching on advertisement to children which effectively becomes part of their mandate to ensure compliance.</p> <p>The Pharmacy and Poisons Board (the “<b>Board</b>”) ensures the adherence to the guidelines for Advertisement and Promotion of Medicines and Medical Devices in Kenya. The objective of the Pharmacy and Poisons Act and by extension the Board is to control of the profession of pharmacy and the trade in drugs and poisons. No person can advertise a drug or a poison without the express written permission of the Board. It is clear from the foregoing that the Board therefore has a specific mandate to look into the issues around marketing and advertisement of drugs and pharmaceutical products to children.</p>



		<p>The Tobacco Control Act under section 36 gives the Minister powers to from time to time appoint ‘Authorised Officers’ for purpose of enforcing the provisions of the Act. One of the methods of ensuring compliance is that an authorised officer may, at any reasonable time, enter, search and inspect any place in which the officer believes on reasonable grounds that there is anything used in the production, manufacture, testing, packaging, labelling, promotion or sale of a tobacco products; or there is information relating to the production, manufacture, testing, packaging, labelling, promotion or sale of tobacco product. To this extent, the authorised officers appointed under the Tobacco Control Act have a specific mandate to look at issues around marketing and advertising to children.</p> <p>Under the Food, Drugs and Chemical Standards Act, section 27 establishes the Public Health Standards Board which makes requisite regulations and ensures enforcement of the provisions thereunder.</p>
<p><b>10</b></p>	<p><b>Pre-clearance, sanctions and complaints</b></p> <p><b>a) Do advertisements need to be pre-cleared before publication or broadcast?</b>  <b>b) What sanctions can be imposed for breaches of codes or regulations? c) Are there mechanisms for children or their representatives to file individual complaints?</b></p>	<p>Under section 46L of the Kenya Information and Telecommunications Act (Chapter 411A) (“<b>KICA</b>”), broadcasters have a responsibility of ensuring that advertisements, either in terms of content, tone or treatment, are not deceptive or are not repugnant to good taste. Otherwise, they risk a revocation of their licences by the Communications Authority of Kenya (the “<b>CAK</b>”), that regulates telecommunication, radio-communication and postal services. A person who is aggrieved by any broadcast or who alleges that a broadcaster is not complying with the KICA may file a complaint with the subject broadcaster. If that person is not satisfied with the remedy offered or action taken by the broadcaster, he may appeal to the CAK for determination of the compliant.</p> <p>a) Pharmaceutical/drugs advertisements need to be pre-cleared by the Pharmacy and Poisons Board (as set out in the Guidelines for Advertisement and Promotion of Medicines and Medicinal Devices in Kenya). Once an advert has been approved, no change (however small) can be made to it without the approval of the Pharmacy and Poisons Board. A breach of the Pharmacy and Poisons Act and the Guidelines for Advertisement and Promotion of Medicines and Medicinal Devices in Kenya may result if convicted, to a fine not exceeding 1,000,000 Kenyan Shillings or to imprisonment for a term not exceeding two (2) years, or to both.</p> <p>Advertisements do not need to be pre-cleared by the self-regulating Advertising Standards Board under the Advertising Code.</p>



		<p>b) Under the Advertising Code, the ASBK may impose the following sanctions on offending advertisers:</p> <ul style="list-style-type: none"> <li>■ order the withdrawal of an advertisement in its current format;</li> <li>■ direct the advertiser to pre-publication advice in respect of future advertisements for a specified period;</li> <li>■ publish adverse publicity, including the publication of names of defaulters in the local media;</li> <li>■ require media member of the ASBK to withhold advertising space from the respondent; and/or</li> <li>■ refer the advertiser to a disciplinary hearing with one of the umbrella associations.</li> </ul> <p>c) Under the Advertising Code, “a consumer or member of the public” may lodge a complaint regarding an advertisement, its content and/or the advertising industry in general.</p>
<p><b>11</b></p>	<p><b>Effectiveness</b></p> <p><b>How effective are the laws and codes? Are they respected/do they get enforced?</b></p>	<p>The Tobacco Control Act has been successfully enforced in Kenya since manufacturers and retailers are tasked with ensuring that they comply with the law in default of which the applicable sanctions apply.</p> <p>The National Authority for the Campaign Against Alcohol and Drug Abuse (“NACADA”) has spearheaded initiatives and campaigns in enforcing the provisions of the Alcoholic Drinks Act with relatively good success.</p> <p>The various codes have also been implemented fairly successfully.</p>
<p><b>12</b></p>	<p><b>Pressure Groups</b></p> <p><b>Are the consumer led pressure groups/lobbying?</b></p>	<p>Yes – there are a few consumer led pressure/lobbying groups such as the Campaign for Tobacco Free Kids and The Students’ Campaign Against Drugs (SCAD)</p>



## 23. MYANMAR

<p><b>1</b></p>	<p><b>Regulation</b></p> <p>Are there statutes or codes, including voluntary initiatives (e.g., industry codes of conduct), that specifically regulate marketing and/or advertising? Please list and briefly describe key statutes, codes and initiatives.</p>	<p><b>Statutes</b></p> <p>While there are no laws specifically governing marketing and/or advertising, the Consumer Protection Law (2014) sets forth a set of prohibitions related to advertising.</p> <p>Essentially, a businessperson must not engage in false advertising of any kind; advertising which fails to warn of potential danger from using a good or service; advertisements which exploit any person or situation without the permission of the relevant person; and advertisements which breach provisions or social ethics.</p> <p><b>Codes</b></p> <p>N/A</p> <p><b>Voluntary Initiatives</b></p> <p>N/A</p>
<p><b>2</b></p>	<p><b>Regulations protecting children</b></p> <p>Do any standards listed above explicitly address marketing and advertising to children as a whole and/or to particular age groups of children? What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?</p>	<p><b>Legal age of majority</b></p> <p>According to the Child Law (1993), “Child” means a person who has not attained the age of 16 years. “Youth” means a person who has attained 16 years, but not 18 years of age.</p> <p>Pursuant to the Majority Act, within the meaning of the Code of Civil Procedure, majority is reached at the age of 18 years.</p> <p>Under the Contract Law, every person is competent to contract who is of the age of majority according to the Majority Act.</p> <p>Further, certain laws set forth age limitations on child workers. For example, according to the Factories Act (1951), A child who is between the ages of 13 and 15 may work for a maximum of four hours per day and shall not be permitted to work between the hours of 6 p.m. and 6 a.m.</p> <p>The Oilfield (Labour and Welfare) Act provides that a child is a person below the age of 15, and a minor is defined as a person between the ages of 15 and 18. The Mines Act defines a child as a person who has not completed his 15<sup>th</sup> year. The Shops and Establishments Act (1951) provides that children under the age of 13 years shall not be permitted to work in any shop, commercial establishment, or establishment for public entertainment.</p> <p>The Child Law prohibits employing or permitting a child to perform work which is hazardous to the life of the child or which may cause disease to the child or which is harmful to the children’s moral character.</p> <p><b>Definition of a child in advertising context (if different)</b> N/A, other than as below related to tobacco advertising.</p> <p><b>Regulations protecting children/particular age groups</b></p> <p>N/A</p>





<p><b>3</b></p>	<p><b>Specific product restrictions</b></p> <p>What, if any, restrictions are there on advertising products that are known to be or are potentially dangerous or harmful to children, including but not limited to: Tobacco, Alcohol, Drugs/pharmaceuticals, HFSS (high in fat sugar, salt) products?</p>	<p><b>Tobacco</b></p> <p>The Control of Smoking and Consumption of Tobacco Products Law (2007) prohibits all forms of tobacco advertisement and prohibits sale of tobacco products to and by minors under the age of 18.</p> <p><b>Alcohol</b></p> <p>N/A</p> <p><b>Drugs/Pharmaceuticals</b></p> <p>N/A</p> <p><b>HFSS products</b></p> <p>N/A</p>
<p><b>4</b></p>	<p><b>Timing and placement of restrictions</b></p> <p>What, if any, restrictions are there on the timing and/or placement of advertisements in:</p> <p>(a) Publications aimed at children (e.g., magazines, books)?</p> <p>(b) Around entertainment programmes aimed at children (e.g., radio, television, movies, video games)?</p> <p>(c) Online through websites or communications platforms, including social media, aimed at or used by children?</p>	<p><b>Publications</b></p> <p>N/A</p> <p><b>Entertainment programmes</b></p> <p>The Law on Broadcasting (2015) sets forth obligations for broadcasting programs for young children and youth to be programs which protect and raise their rights. In broadcasting such special programs, what kind of audience it is for should be described.</p> <p>The law also sets forth functional moral duties to be followed with respect to production norms and programming. These include protection of children.</p> <p><b>Online</b></p> <p>N/A</p>
<p><b>5</b></p>	<p><b>Advertising placement restrictions</b></p> <p>What, if any, restrictions are there on advertising or marketing in schools, children’s clubs or other places children regularly visit?</p>	<p><b>Schools</b></p> <p>N/A</p> <p><b>Clubs</b></p> <p>N/A</p> <p><b>Other</b></p> <p>N/A</p>



<p><b>6</b></p>	<p><b>Restrictions on targeting children</b></p> <p>What, if any, restrictions are there on using advertising or marketing techniques to appeal to children (e.g., licensing of popular cartoon characters)?</p>	<p><b>Cartoon/imaginary characters</b></p> <p>N/A</p> <p><b>Other</b></p> <p>N/A</p>
<p><b>7</b></p>	<p><b>Restrictions on the use of children in ads</b></p> <p>What, if any, restrictions are there on the use of children in advertising, including peer-to-peer marketing and the appointment of children as brand ambassadors?</p>	<p><b>Use in advertising</b></p> <p>N/A</p> <p><b>Use as brand ambassadors</b></p> <p>N/A</p>
<p><b>8</b></p>	<p><b>Product labelling and children's safety</b></p> <p>In relation to product labelling, are there any specific requirements relevant to children with regard to health, safety or other concerns?</p>	<p><b>Health</b></p> <p>According to Notification No. 22/2014 of the Myanmar Food and Drugs Administration, producers and distributors of food shall follow the prescriptions below:</p> <p>(a) The following information, proper use, and related facts should be included:</p> <ol style="list-style-type: none"> <li>1. kind of food</li> <li>2. appropriate age for consumption</li> <li>3. compound materials</li> <li>4. analysis of nutrition value</li> <li>5. instructions for proper preparing and discarding</li> <li>6. expiration data or best before date according to the package size, pack date, batch number and conditions for storing.</li> <li>7. health dangers which may occur due to improper preparation and storage.</li> </ol> <p><b>Safety</b></p> <p>With respect to special health foods, specific information must be provided within the label providing the health conditions the food is for, the age of the children it is for, and a statement that it is to be used under the supervision of a doctor.</p> <p><b>Other</b></p> <p>Producers and distributors of food shall follow other regulations, including making their labels in the Myanmar language.</p>





<p><b>9</b></p>	<p><b>Enforcement body</b></p> <p>(a) Which administrative body or bodies oversee compliance with government regulations or industry standards on marketing and advertising?</p> <p>(b) Do any of these have a specific mandate to look at issues around marketing and advertising to children?</p>	<p><b>Enforcement body</b></p> <p>The Ministry of Information is the administrative body for marketing, advertising, and broadcasting in Myanmar.</p> <p><b>Specific mandate to focus on children’s issues?</b></p> <p>N/A</p>
<p><b>10</b></p>	<p><b>Pre-clearance, sanctions and complaints</b></p> <p>(a) Do advertisements need to be pre-cleared before publication or broadcast?</p> <p>(b) What sanctions can be imposed for breaches of codes or regulations?</p> <p>(c) Are there mechanisms for children or their representatives to file individual complaints?</p>	<p><b>Pre-clearance</b></p> <p>According to the Advertisement Policy of Socially Responsible Media 2015, advertisements need to be pre-cleared before publication or broadcast.</p> <p><b>Sanctions</b></p> <p>Any person who breaches the provisions shall be punishable with imprisonment up to 3 years and/or a fine up to 5 million MMK.</p> <p><b>Complaints</b></p> <p>The Law on Broadcasting provides for a broadcasting Council organized under the law which has its own right of administration, free from influence of government authorities, judicial officers and service providers of broadcasting to perform by supervising and observing the matters and data on broadcasting. Complaints can be submitted to the Council, or to the Court.</p>
<p><b>11</b></p>	<p><b>Effectiveness</b></p> <p>How effective are the laws and codes? Are they respected/do they get enforced?</p>	<p>Myanmar continues to develop with respect to its regulatory regime and legislative framework. In certain sectors, the laws and codes are enforced, while in others, enforceability remains inconsistent.</p>
<p><b>12</b></p>	<p><b>Pressure Groups</b></p> <p>Are the consumer led pressure groups/lobbying, and if so, how effective are they?</p>	<p>N/A</p>



## 24. NETHERLANDS

<p><b>1</b></p>	<p><b>Regulation</b></p> <p>Are there statutes or codes, including voluntary initiatives (e.g., industry codes of conduct), that specifically regulate marketing and/or advertising? Please list and briefly describe key statutes, codes and initiatives.</p>	<p><b>Statutes</b></p> <p>In the Dutch Civil Code (“<i>Burgerlijk Wetboek</i>”) general rules can be found on misleading advertising, comparative advertising and unfair commercial practices.</p> <p><b>Codes</b></p> <p>The Dutch Advertising Code (“<i>Nederlandse Reclame Code</i>”) is a self-regulatory code and describes in general terms the main advertising rules, e.g. the fact that advertising should not be misleading, should be in decent, should mention the sender, etc.</p> <p>Attached to the general Advertising Code are several specific codes, concluded by industries, such as the alcohol code, the social media code, the e-mail code, the gambling code, etc.</p> <p><b>Voluntary Initiatives</b></p> <p>See above</p>
<p><b>2</b></p>	<p><b>Regulations protecting children</b></p> <p>Do any standards listed above explicitly address marketing and advertising to children as a whole and/or to particular age groups of children? What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?</p>	<p><b>Legal age of majority</b></p> <p>18 (by law)</p> <p><b>Definition of a child in advertising context (if different)</b></p> <p>There are no specific rules in the Civil Code. However, in the Children – and Youth Advertising Code (<i>Kinder – en Jeugd reclame Code</i>), part of the Dutch Advertising code, children under the age of 12 years old are additionally protected, e.g. additional rules regarding misleading advertising, recognisability of advertisement and the content of advertisement.</p> <p><b>Regulations protecting children/particular age groups</b></p> <p>see above;</p>
<p><b>3</b></p>	<p><b>Specific product restrictions</b></p> <p>What, if any, restrictions are there on advertising products that are known to be or are potentially dangerous or harmful to children, including but not limited to: Tobacco, Alcohol, Drugs/pharmaceuticals, HFSS (high in fat sugar, salt) products?</p>	<p><b>Tobacco</b></p> <p>Advertisement for tobacco products is prohibited in the Netherlands.</p> <p><b>Alcohol</b></p> <p>According to the Alcohol advertising Code, part of the Dutch Advertising code, advertising for alcohol may not particularly be addressed to children under the age of 18. This means for example that no teenager idols/teenager language/promotional items appealing to teenagers may be used. Also, no advertisements may be communicated in media with an audience with more than 25% minors under the age of 18.</p> <p>Advertisements may not show minors that are or that evidently look younger than 18. Advertisements whereby scripts/models are used, may not show minors that are or that evidently look younger than 18.</p>



### Drugs/Pharmaceuticals

Public advertisements for medicine is only allowed for certain medicine (only medicine available without prescription) and under strict circumstances.

With respect to children: public advertisements for medicine may not be addressed mainly addressed to children under the age of 12.

### HFSS products

The Advertising code for foods (*Reclamecode voor Voedingsmiddelen*), part of the Dutch Advertising Code, describes in very generic terms the rules for advertising for foods. It mainly refers to EU Regulation 1924/2006 (Claims Regulation).

With respect to children, it states that advertising for food addressed to children under the age of 12 is prohibited, with the exemption of a) advertisements in cooperation with the authorities, b) packaging and point of sale materials, and c) addressed to children between 7 and 12 that is in accordance with criteria set out by the government (regarding fat percentage, salt percentage, etc., all such under further restrictions (for example, no idols of those minors may be used).

Furthermore, the code states the following:

- Advertisement for food (including sampling) is prohibited in primary schools and kindergartens (with the exception of educational advertisements, approved by the authorities);
- On secondary schools, it is prohibited to organize promotional campaigns that aim to excessive use of the food advertised;
- On secondary schools, only regular sized packages may be sold (not: king size, maximum, etc.).
- With respect to sponsoring, schools, the industry and the government have entered into a voluntary agreement.



<p><b>4</b></p>	<p><b>Timing and placement of restrictions</b></p> <p>What, if any, restrictions are there on the timing and/or placement of advertisements in:</p> <p>(a) Publications aimed at children (e.g., magazines, books)?</p> <p>(b) Around entertainment programmes aimed at children (e.g., radio, television, movies, video games)?</p> <p>(c) Online through websites or communications platforms, including social media, aimed at or used by children?</p>	<p><b>Publications</b></p> <p>N/A, other than those described above under 3)</p> <p><b>Entertainment programmes</b></p> <p>N/A, other than those described above under 3)</p> <p><b>Online</b></p> <p>N/A, other than those described above under 3)</p>
<p><b>5</b></p>	<p><b>Advertising placement restrictions</b></p> <p>What, if any, restrictions are there on advertising or marketing in schools, children’s clubs or other places children regularly visit?</p>	<p><b>Schools</b></p> <p>The Advertising code for foods (<i>Reclamecode voor Voedingsmiddelen</i>), part of the Dutch Advertising Code, states the following:</p> <ul style="list-style-type: none"> <li>■ Advertisement for food (including sampling) is prohibited in primary schools and kindergartens (with the exception of educational advertisements, approved by the authorities);</li> <li>■ On secondary schools, it is prohibited to organize promotional campaigns that aim to excessive use of the food advertised;</li> <li>■ On secondary schools, only regular sized packages may be sold (not: king size, maximum, etc.).</li> <li>■ With respect to sponsoring, schools, the industry and the government have entered into a voluntary agreement.</li> </ul> <p><b>Clubs</b></p> <p>N/a</p> <p><b>Other</b></p> <p>N/A/</p>



<p><b>6</b></p>	<p><b>Restrictions on targeting children</b></p> <p>What, if any, restrictions are there on using advertising or marketing techniques to appeal to children (e.g., licensing of popular cartoon characters)?</p>	<p><b>Cartoon/imaginary characters</b></p> <p>According to the Alcohol advertising Code, part of the Dutch Advertising code, advertising for alcohol may not particularly be addressed to children under the age of 18. This means for example that no teenager idols/teenager language/promotional items appealing to teenagers may be used.</p> <p><b>Other</b></p> <p>The Advertising code for foods (<i>Reclamecode voor Voedingsmiddelen</i>), part of the Dutch Advertising Code, allows certain advertisements addressed to children under the age of 12, however, no idols of children may be used</p>
<p><b>7</b></p>	<p><b>Restrictions on the use of children in ads</b></p> <p>What, if any, restrictions are there on the use of children in advertising, including peer-to-peer marketing and the appointment of children as brand ambassadors?</p>	<p><b>Use in advertising</b></p> <p>Advertisements for alcohol products may not show minors that are or that evidently look younger than 18. Advertisements for those products whereby scripts/models are used, may not show minors that are or that evidently look younger than 18.</p> <p><b>Use as brand ambassadors</b></p> <p>n/a/</p>
<p><b>8</b></p>	<p><b>Product labelling and children's safety</b></p> <p>In relation to product labelling, are there any specific requirements relevant to children with regard to health, safety or other concerns?</p>	<p><b>Health</b></p> <p><b>Safety</b></p> <p><b>Other</b></p>
<p><b>9</b></p>	<p><b>Enforcement body</b></p> <p>(a) Which administrative body or bodies oversee compliance with government regulations or industry standards on marketing and advertising?</p> <p>(b) Do any of these have a specific mandate to look at issues around marketing and advertising to children?</p>	<p><b>Enforcement body</b></p> <p>Civil Code: civil court and Authority Consumers and Markets (with respect to unfair commercial practices)</p> <p>Dutch Advertising Code: Advertising Code Committee (and in case of repetitive violations, under circumstances also the Authority Consumers and Markets can act)</p> <p><b>Specific mandate to focus on children's issues?</b></p> <p>No</p>





<p><b>10</b></p>	<p><b>Pre-clearance, sanctions and complaints</b></p> <p>(a) Do advertisements need to be pre-cleared before publication or broadcast?</p> <p>(b) What sanctions can be imposed for breaches of codes or regulations?</p> <p>(c) Are there mechanisms for children or their representatives to file individual complaints?</p>	<p><b>Pre-clearance</b></p> <p>No, save from tv-advertisements for alcohol</p> <p><b>Sanctions</b></p> <p>Civil code:</p> <ul style="list-style-type: none"> <li>■ all civil actions, e.g. prohibition, penalties, rectification, etc.</li> <li>■ Authority Consumers and Markets can impose fines up to € 920,000</li> </ul> <p>Dutch Advertising Code:</p> <ul style="list-style-type: none"> <li>■ Advertising Code Committee can issue recommendations not to advertise in a similar way anymore. After a final negative decision, advertisers need to confirm that they will comply to the decision, failure to which they will be placed on a so-called black list.</li> </ul> <p><b>Complaints</b></p> <p>Anyone can file a complaint with the Advertising Code Committee (at no cost for consumers).</p> <p>There are no specific mechanisms in place for children.</p>
<p><b>11</b></p>	<p><b>Effectiveness</b></p> <p>How effective are the laws and codes? Are they respected/do they get enforced?</p>	<p>The mechanisms in place work quite well. Advertisers take the Dutch Advertising Code seriously. For example, 98% of the advertisers agreed to apply to a negative decision of the Advertising Code Committee.</p>
<p><b>12</b></p>	<p><b>Pressure Groups</b></p> <p>Are the consumer led pressure groups/lobbying, and if so, how effective are they?</p>	<p>Active groups are the Consumers' Association and Foodwatch. They use all kinds of tools in order to bring their message, e.g. lobbying, publicity, complaints with Advertising Code Committee.</p> <p>They have a certain influence, depending on the topic.</p>





## 25. PAKISTAN

I

### Regulation

**Are there statutes or codes, including voluntary initiatives (e.g., industry codes of conduct), that specifically regulate marketing and/or advertising? Please list and briefly describe key statutes, codes and initiatives.**

### Statutes

Pakistan is a federation, and its governing laws are generally divided into federal and provincial laws. The federal laws are applicable across Pakistan, whereas provincial laws are applicable in the province in which they have been promulgated. The four (4) provinces of Pakistan are namely: Punjab, Sindh, Khyber Pakhtunkhwa (the “KPK”) (previously known as the North West Frontier Province) and Baluchistan. The Islamabad Capital Territory (the “ICT”) is not covered by any of the aforesaid provincial laws, and is governed by its own laws. Furthermore, Pakistan also includes the Federally Administered Tribal Areas (the “FATA”); and the self-governing region of Gilgit-Baltistan. Federal and provincial laws become applicable to the FATA and the Provincially Administered Tribal Area, if the President of Pakistan or the governor of the respective province so directs.

- (1) The Pakistan Electronic Media Regulations Authority (“PEMRA”) Ordinance, 2002

The Pakistan Electronic Media Regulations Authority (“PEMRA”) Ordinance, 2002 (as amended by the PEMRA (Amendment) Act 2007) regulates electronic media in Pakistan. Under this legislation, licensees must ensure that all advertisements do not contain violence, terrorism, racial, ethnic or religious discrimination, sectarianism, extremism, militancy, hatred, pornography, obscenity, vulgarity or other material offensive to commonly accepted standards of decency.

- (2) The Indecent Advertisement Prohibition Act, 1963 (the “1963 Act”)

The 1963 Act extends to the whole of Pakistan and deals with prohibition of indecent advertisement. Under the 1963 Act, no person shall take any part in the publication of any advertisement which is indecent and no person having the ownership, possession or control of any property or public place shall knowingly allow any advertisement which is indecent to be displayed on such property or place, or to be announced (Section 3 of the 1963 Act).

- (3) The 1963 Act defines the term “indecent” to include whatsoever may amount to any incentive to sensuality and excitement of impure thoughts in the mind of an ordinary man of normal temperament, and has the tendency to deprave and corrupt those whose minds are open to such immoral influence, and which is deemed to be detrimental to public morals and calculated to produce pernicious effect, in depraving and debauching the minds of persons (Section 2(b) of the 1963 Act). The Competition Act, 2010 (the “2010 Act”)

The 2010 Act, the primary law in Pakistan governing free competition in all spheres of commercial and economic activity, prescribes inter alia that no undertaking shall enter into deceptive marketing practices, which include the distribution of false or misleading information to consumers (Section 10 of the 2010 Act).



#### (4) Consumer Protection Laws

##### (a) The Punjab Consumer Protection Act, 2005 (the “2005 Act”)

The 2005 Act is the primary law in the province of Punjab for the protection and promotion of the rights and interests of the consumers, speedy redress of consumer complaints, and for matters connected therewith.

Under the 2005 Act, no person shall, in trade, advertise or supply at a specified price products or services which that person (a) does not intend to offer for supply; or (b) does not have reasonable grounds for believing that they can be supplied at that price for a period that is, and in quantities that are, reasonable having regard to the nature of the market in which the person carries on business and the nature of the advertisement (Section 22(a) of the 2005 Act).

##### (b) The Sindh Consumer Protection Act, 2014 (the “2014 Act”)

The 2014 Act is the primary law in the province of Sindh for the protection and promotion of the rights and interests of the consumers, speedy redress of consumer complaints, and for matters connected therewith. The relevant provisions of the 2014 Act are substantially similar to the 2005 Act and have not been reproduced for the sake of brevity.

##### (c) The Islamabad Consumers Protection Act, 1995 (the “1995 Act”)

The 1995 Act is the primary law in the ICT for promotion and protection of the interests of consumers and for matters connected therewith and incidental thereto. Under the 1995 Act, no company, firm or person shall advertise in any manner not authorized by law for the sale or hiring of goods or services or any property, movable or immovable, or solicit deposits for repayment at higher rates of profits or interest and thereby causes loss to any consumer, whether financial or otherwise. The company, firm or a person making such advertisement shall be liable to pay such compensation as the relevant authority may direct for causing loss to the person affected by such advertisement (Section 7 of the 1995 Act).

##### (d) The Khyber Pakhtunkhwa Consumer Protection Act, 1997 (the “1997 Act”) and the [Baluchistan Consumer Protection Act, 2003 \(the “2003 Act”\)](#)

The 1997 Act is the primary law in the province of KPK and the [2003 Act is the primary law in the province of Baluchistan](#), for the promotion and protection of legitimate interests of consumers and speedy re-dressal of their complaints and matters arising out of or connected therewith, respectively.

The relevant provisions of the 1997 Act and the 2003 Act are substantially similar to the 1995 Act and have not been re-produced for the sake of brevity.



		<p>(5) The Pakistan Penal Code, 1860 (the “1860 Code)</p> <p>The 1860 Code is the primary law that provides a criminal code for all offences charged in Pakistan. Under the 1860 Act, <i>inter alia</i> whoever sells, lets to hire, distributes, publicly exhibits or in any manner puts into circulation, or for purposes of sale, hire, distribution, public exhibition or circulation, makes, produces or has in his possession any obscene book, pamphlet, paper, drawing, painting, representation or figure or any other obscene object, shall be punished with imprisonment of either description for a term which may extend to three (3) months, or with fine or with both (Section 292 of the 1860 Code. <b>Codes</b></p> <p>The Pakistan Electronic Media Regulatory Authority Rules 2009 provide that the contents of programmes and advertisements which are broadcast or distributed by the broadcast media must conform with the Electronic Media Code of Conduct.</p> <p>The Pakistan Electronic Media (Programmes and Advertisements) Code of Conduct 2015 (“PEMRA Code”) contains specific provisions relating to advertisements and to the protection of children.</p> <p><b>Voluntary Initiatives</b></p> <p>The Pakistan Advertisers’ Society (“PAS”), a self-regulated, non-statutory body, has established a Code of Advertising Practice (“PAS Code”) for its members (advertisers, advertising agencies and media owners) across all private media. The PAS Code considers that its primary task is to advise on behaviour and practice rather than rules and regulations.</p>
<p><b>2</b></p>	<p><b>Regulations protecting children</b></p> <p><b>Do any standards listed above explicitly address marketing and advertising to children as a whole and/ or to particular age groups of children? What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?</b></p>	<p><b>Legal age of majority</b></p> <p>The Majority Act, 1875 defines the legal age of majority as 18.</p> <p><b>Definition of a child in advertising context (if different)</b></p> <p>N/A</p> <p><b>Regulations protecting children/particular age groups</b></p> <p>(I) The PEMRA Code</p> <p>The PEMRA Code provides that advertisements intended for children shall not:</p> <ul style="list-style-type: none"> <li>(a) Be presented in a manner which may be disturbing or distressing to children or which may in any way adversely affect their general well-being;</li> <li>(b) Be frightening or contain violence; or</li> <li>(c) Be deceptive or misleading or against commonly accepted social values.</li> </ul>



		<p>Advertisements intended for children should not directly ask the children to buy the product.</p> <p>(2) The PAS Code</p> <p>The PAS Code states that advertisements should not show or encourage unsafe practices except in the context of promoting safety. It specifies that particular care should be taken in this respect with advertisements addressed to or depicting children and young people.</p> <p>(3) The Sindh Motion Picture Act, 2011 (the “2011 Pictures Act”)</p> <p>The 2011 Pictures Act extends to the province of Sindh only and it regulates censorship and exhibition of films. The Sindh Censorship of Films Rules, 2016 (the “2016 Rules”), made under the 2011 Pictures Act, provide <i>inter alia</i> that any person advertising a film for ages eighteen (18) and above or publishing such film by means of an insertion in a newspaper, poster etc., must indicate in such adverts/insertions the restricted age of the audience for such films (Rule 26 of the 2016 Rules).</p> <p>(4) The 1860 Code</p> <p>Under the 1860 Code, whoever sells, lets to hire, distributes, exhibits or circulates to any person under the age of twenty (20) years any obscene object referred to in Section 292 of the 1860 Code, or offers or attempts so to do, shall be punished with imprisonment of either description for a term which may extend to six (6) months, or with fine, or with both (Section 293 of the 1860 Code).</p>
<p><b>3</b></p>	<p><b>Specific product restrictions</b></p> <p><b>What, if any, restrictions are there on advertising products that are known to be or are potentially dangerous or harmful to children, including but not limited to: Tobacco, Alcohol, Drugs/pharmaceuticals, HFSS (high in fat sugar, salt) products?</b></p>	<p><b>Tobacco</b></p> <p>(1) The PEMRA Code</p> <p>The PEMRA Code states that advertisements of any alcoholic beverages, tobacco products, illegal drugs or narcotics shall not be aired.</p> <p>(2) The Prohibition of Smoking and Protection of Non-Smokers Health Ordinance, 2002 (the “2002 Ordinance”)</p> <p>The Statutory Notification 1086 (I)/2013, issued under the powers of the 2002 Ordinance , prohibits the advertising of tobacco or tobacco products on a wide range of media, including in print, cinema, and television or radio.</p> <p>Generally, the Prohibition of sale of Cigarettes to Minor Rules, 2010 (the “2010 Rules”), made under the 2002 Ordinance, prohibits the sale of cigarettes by or to children under the age of eighteen (18).</p>



		<p><b>Alcohol</b></p> <p>The PEMRA Code states that advertisements of any alcoholic beverages, tobacco products, illegal drugs or narcotics shall not be aired.</p> <p><b>Drugs/Pharmaceuticals</b></p> <p>(1) The PEMRA Code</p> <p>The PEMRA Code states that advertisements of any alcoholic beverages, tobacco products, illegal drugs or narcotics shall not be aired.</p> <p>The PEMRA Code also states that any health related advertisement shall not be aired without prior permission of the Federal or Provincial Government.</p> <p>(2) The Drugs Act, 1976 (the “1976 Act”)</p> <p>According to the Drugs (Licensing, Registering and Advertising) Rules 1976, made under the 1976 Act only “household remedies” such as aspirin and paracetamol, along with antiseptics and analgesics etc may be authorised for advertisement to the public.</p> <p><b>HFSS products</b></p> <p>No current restrictions.</p>
4	<p><b>Timing and placement of restrictions</b></p> <p><b>What, if any, restrictions are there on the timing and/or placement of advertisements in:</b></p> <p>(a) <b>Publications aimed at children (e.g., magazines, books)?</b></p> <p>(b) <b>Around entertainment programmes aimed at children (e.g., radio, television, movies, video games)?</b></p> <p>(c) <b>Online through websites or communications platforms, including social media, aimed at or used by children?</b></p>	<p><b>Publications</b></p> <p>No current restrictions.</p> <p><b>Entertainment programmes</b></p> <p>No current restrictions.</p> <p><b>Online</b></p> <p>No current restrictions.</p>





<p><b>5</b></p>	<p><b>Advertising placement restrictions</b></p> <p>What, if any, restrictions are there on advertising or marketing in schools, children’s clubs or other places children regularly visit?</p>	<p><b>Schools</b></p> <p>No current restrictions.</p> <p><b>Clubs</b></p> <p>No current restrictions.</p> <p><b>Other</b></p> <p>No current restrictions.</p>
<p><b>6</b></p>	<p><b>Restrictions on targeting children</b></p> <p>What, if any, restrictions are there on using advertising or marketing techniques to appeal to children (e.g., licensing of popular cartoon characters)?</p>	<p><b>Cartoon/imaginary characters</b></p> <p>No current restrictions.</p> <p><b>Other</b></p> <p>No current restrictions. Please see response on the 2010 Rules at Question 3 above.</p>
<p><b>7</b></p>	<p><b>Restrictions on the use of children in ads</b></p> <p>What, if any, restrictions are there on the use of children in advertising, including peer-to-peer marketing and the appointment of children as brand ambassadors?</p>	<p><b>Use in advertising</b></p> <p>The PAS Code states that advertisements should not show or encourage unsafe practices except in the context of promoting safety. It specifies that particular care should be taken in this respect with advertisements addressed to or depicting children and young people.</p> <p><b>Use as brand ambassadors</b></p> <p>No current restrictions.</p> <p><b>Other</b></p> <p>The Prevention of Electronic Crimes Act, 2016 (the “2016 Act”) extends to the whole of Pakistan and it provides for the prevention of electronic crimes. Under the 2016 Act, whoever intentionally produces, offers or makes available, distributes or transmits through an information system or procures for himself or for another person or without lawful justification possesses material in an information system that visually depicts</p> <ul style="list-style-type: none"> <li>(a) a minor engaged in sexually explicit conduct; or</li> <li>(b) a person appearing to be a minor engaged in sexually explicit conduct; or</li> <li>(c) realistic images representing a minor engaged in sexually explicit conduct; or</li> <li>(d) discloses the identity of the minor,</li> </ul> <p>shall be punished with imprisonment for a term which may extend to (7) seven years, or with fine which may extend to Rupees Five Million (Rs. 5,000,000) or with both (Section 22(1) of the 2016 Act).</p>





8

### Product labelling and children's safety

In relation to product labelling, are there any specific requirements relevant to children with regard to health, safety or other concerns?

Pakistan does not have a universal system for labelling or marking requirements on products, other than a few industry specific regulations (none of which are specifically relevant to children).

#### Health

(1) The Punjab Food Authority Act, 2011 (the "2011 Act")

The 2011 Act extends to the Province of Punjab only. Generally, the 2011 regulates the safety and standards of food to protect the public health.

Under the 2011 Act, any person, who for purposes of effecting or promoting the sale of any food, publishes or causes to be published, any advertisement which:

- (a) falsely describes any food, or
- (b) is contrary to any rules or regulations; or
- (c) is likely to deceive a purchaser with regard to the character, nature, value, substance, quality, strength, purity, composition, merit or safety, weight, proportion, origin, age or effects of any food or of any ingredient or constituent of the food,

shall be liable to imprisonment and fine (Section 25 of the 2011 Act).

Furthermore, under the 2011 Act, any person, who prepares, packages, labels any food which does not comply with the prescribed standard, shall be liable to imprisonment and fine. Any person, who labels any food in a manner which is false, misleading or deceptive as regards its character, nature, value, substance, quality, composition, merit or safety, strength, purity, weight, origin, age or proportion shall be liable to imprisonment and fine (Section 26 of the 2011 Act).

(2) The Punjab Protection of Breast-feeding and Child Nutrition (Amendment) Act, 2012 (the "2012 Act")

The 2012 Act extends to the province of Punjab only and it deals with the protection of breast-feeding and nutrition for infants and young children. The Punjab Protection of Breast-Feeding and Child Nutrition Rules, 2014 (the "2014 Rules"), made under the 2012 Act provide *inter alia* rules on the labelling of milk and infant products (Rule 9 and 10 of the 2014 Rules).



		<p>(3) The Cigarettes (Printing of Warning) Ordinance, 1979 (the “1979 Ordinance”)</p> <p>Generally, the 1979 Ordinance regulates the printing of health warning on a packet of cigarettes.</p> <p>(4) The Pakistan Standards and Quality Control Authority Act, 1996 (the “1996 Act”)</p> <p>The 1996 Act extends to the whole of Pakistan and provides for the standardization and quality control services. The 1996 Act, regulates <i>inter alia</i> labelling standards for industrial and processed goods (Section 8(vi) of the 1996 Act).</p> <p><b>Safety</b></p> <p>No current restrictions.</p> <p><b>Other</b></p> <p>No current restrictions.</p>
<p><b>9</b></p>	<p><b>Enforcement body</b></p> <p>(a) Which administrative body or bodies oversee compliance with government regulations or industry standards on marketing and advertising?</p> <p>(b) Do any of these have a specific mandate to look at issues around marketing and advertising to children?</p>	<p><b>Enforcement body</b></p> <p>(1) The PEMRA Code PEMRA oversees compliance with the PEMRA Code.</p> <p>(2) The PAS Code PAS oversees compliance with the PAS Code.</p> <p>(3) The 1963 Act The respective provincial governments oversee compliance with the 1963 Act.</p> <p>(4) The 2010 Act <b>The</b> Competition Commission of Pakistan oversees compliance with the 2010 Act.</p> <p>(5) Consumer Protection Laws <b>The respective</b> Provincial Consumer Protection Councils oversee compliance with respective consumer protection laws.</p> <p>(6) The 1996 Act The Pakistan Standards and Quality Control Authority oversees compliance with the 1996 Act.</p> <p>(7) The 2012 Act The Punjab Government oversees compliance with the 2012 Act.</p> <p>(8) The 1976 Act <b>The Drug Regulatory Authority of Pakistan oversees compliance with the 1976 Act.</b></p>



		<p>(9) The 2016 Act  <b>The</b> Pakistan Telecommunication Authority oversees compliance with the 2016 Act.</p> <p>(10) The 2011 Pictures Act  The Singh Government oversees compliance with the 2011 Pictures Act.</p> <p>(11) The 2011 Act  The Punjab Food Authority oversees compliance with the 2011 Act.</p> <p>(12) The 1979 Act  The Federal Government oversees compliance with the 1979 Act.</p> <p>(13) The 1860 Code  The courts of Pakistan oversee compliance with the 1860 Code</p> <p><b>Specific mandate to focus on children’s issues?</b>  No.</p>
<p><b>10</b></p>	<p><b>Pre-clearance, sanctions and complaints</b></p> <p>(a) <b>Do advertisements need to be pre-cleared before publication or broadcast?</b></p> <p>(b) <b>What sanctions can be imposed for breaches of codes or regulations?</b></p> <p>(c) <b>Are there mechanisms for children or their representatives to file individual complaints?</b></p>	<p><b>Pre-clearance</b></p> <p>No – other than if they relate to health, in which case they must be cleared by the Federal or Provincial Government.</p> <p><b>Sanctions</b></p> <p>So called Councils of Complaints have the powers to summon any licensee against whom a complaint has been made and call for his explanation. The Councils may recommend to the Authority an appropriate action – either a censure or a fine of up to ten million rupees. The Authority may also revoke or suspend the licence of a broadcast media or distribution service if the licensee has contravened any provisions of the PEMRA Ordinance or the PEMRA Code.</p> <p>Any complaint received by PAS will be handled via a Code of Advertising Practice Standing Committee which may either reject the complaint or make recommendations to the PAS Council for further action. Continued breaches of the PAS Code may result in a suspension from PAS.</p> <p><b>Complaints</b></p> <p>The Councils of Complaints deal with any complaints made in relation to breaches of the PEMRA Code. Complaints may be made by persons or organisations from the general public against any aspect of programmes broadcast or distributed by a station licenced by the Authority.</p> <p>Under the PAS Code, only complaints made by a member of PAS against another internal member will be dealt with.</p>



## 26. POLAND

I

### Regulation

**Are there statutes or codes, including voluntary initiatives (e.g., industry codes of conduct), that specifically regulate marketing and/or advertising? Please list and briefly describe key statutes, codes and initiatives.**

### Statutes

- (a) The Act of 16 April 1993 on Unfair Competition regulates the prevention and suppression of unfair competition in economic activity.
- (a) The Act of 16 February 2007 on the Protection of Competition and Consumers determines the conditions for furthering and protecting competition and the rules on protection extended in the public interest to the interests of enterprises and consumers.
- (b) The Act of 29 December 1992 on Broadcasting addresses the providing of information by radio and television and access to culture and art.
- (c) The Ordinance of 30 June 2011 by the National Broadcasting Council on advertising and telemarketing in radio and TV programmes contains details on advertising.
- (d) The Act of 30 May 2014 on Consumer Rights addresses the duties of enterprises that conclude agreements with consumers.
- (e) The Ordinance of 10 June 2002 on detailed rules of showing prices of products and services and the price marking of products intended to sale.
- (f) The Act of 9 November 1995 on the Protection of Public Health against the Effects of Tobacco Use contains a general ban on tobacco advertising.
- (g) The Act of 26 October 1982 on Upbringing in Sobriety and Preventing Alcoholism contains some rules on the advertising and selling of alcohol products.
- (h) The Act of 6 September 2001 – the Pharmaceutical Law regulates the advertising of medicinal products to the general public, persons authorized to write prescriptions, and persons that distribute medicinal products.
- (i) The Act of 23 August 2007 on Combating Unfair Commercial Practices defines unfair commercial practices in commercial and professional activity and the principles for combating such practices in the interest of consumers and in the public interest.
- (j) The Regulation of the Minister of Health dated 6 November 2003 concerns the content, size, model and way of putting information on beer advertisements about the harmfulness of drinking alcohol and about the prohibition on selling alcohol to minors.



### Codes

Children represent a huge target group for advertisers. For that reason, the International Chamber of Commerce published the Consolidated ICC Code of Advertising and Marketing Communication Practice.

<http://www.iccwbo.org/advocacy-codes-and-rules/areas-of-work/marketing-and-advertising/marketing-and-advertising-to-children/>

<https://ec.europa.eu/digital-single-market/en/content/consolidated-icc-code-advertising-and-marketing-communication-practice>

The Office of Competition and Consumer Protection (UOKiK), as the central government administration body responsible for implementing consumer protection policies and acting in the public interest, initiates administrative proceedings concerning infringements of collective consumer interests. Such practices are defined as the unlawful activities of a trader resulting in harm to the interests of an unspecified number of people, i.e. all potential (current and future) customers of a given company. This also includes marketing and advertising activities.

### Voluntary Initiatives

An individual consumer seeking redress may obtain free legal assistance from a local consumer ombudsman or a non-governmental consumer organization, choose mediation or arbitration (ADR – Alternative Dispute Resolution), or even file a court action.

At the local level, there are around 370 municipal and district consumer ombudsmen who provide free consumer advice, mediation, and legal assistance in court proceedings. **Consumer ombudsmen** are not subordinated to the President of the Office of Competition and Consumer Protection; however, these institutions cooperate closely.

[https://www.uokik.gov.pl/help\\_and\\_advice.php](https://www.uokik.gov.pl/help_and_advice.php)

**The Polish Consumer Federation** is an independent organization whose main aim is to protect consumer rights in Poland. It aspires to ensure that the opinions of consumers are carefully considered in cases important to them.

<http://www.federacja-konsumentow.org.pl>





		<p><b>The Association of Polish Consumers</b> aims to create and develop consumers' awareness of their rights concerning health and safety, the protection of economic interests, information and education, legal protection, representation, and to act to protect these rights.  <a href="http://www.beuc.eu/beuc-network/members/association-polish-consumers-skp">http://www.beuc.eu/beuc-network/members/association-polish-consumers-skp</a></p> <p><b>The Advertising Council</b> brings together associations and other organizations representing legal entities operating in the advertising market, such as advertising agencies. Its activity is focused on building, promoting and protecting the principles that should guide entities engaged in the advertising business. For example, it deals with individual complaints concerning unethical advertisements. It has established a Code of Ethics in Advertising.  <a href="https://www.radareklamy.pl/images/Dokumenty/CODE_OF_ETHICS_IN_ADVERTISING.pdf">https://www.radareklamy.pl/images/Dokumenty/CODE_OF_ETHICS_IN_ADVERTISING.pdf</a></p>
<p><b>2</b></p>	<p><b>Regulations protecting children</b></p> <p><b>Do any standards listed above explicitly address marketing and advertising to children as a whole and/or to particular age groups of children? What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?</b></p>	<p><b>Standards of marketing and advertising to children</b></p> <p>The Act of 29 December 1992 on Broadcasting contains some restrictions concerning children which are aimed at protecting them from the negative influence of advertising. Furthermore, the Act of 23 August 2007 on Combating Unfair Commercial Practices contains some restrictions on advertising addressed directly to children.</p> <p><b>Definition of a child in the context of advertising (if different)</b></p> <p>There is no clear definition of a child for the purposes of advertising and marketing. Article 2 (1) of the Act of 6 January 2000 on the Ombudsman for Children contains a definition of children, but only for the purposes of the act. According to that definition, a child is any person below the age of 18 years.</p> <p><b>Legal age of majority</b></p> <p>Under Polish civil law, the legal age of majority is 18 (Article 10 § 1 of the Polish Civil Code).</p> <p><b>Regulations protecting children/particular age groups</b></p> <p>Apart from the general restriction mentioned above, there are no statutory restrictions addressing marketing and advertising to particular age groups of children.</p>





3

### Specific product restrictions

**What, if any, restrictions are there on advertising products that are known to be or are potentially dangerous or harmful to children, including but not limited to: Tobacco, Alcohol, Drugs/pharmaceuticals, HFSS (high in fat sugar, salt) products?**

#### Tobacco

Pursuant to Article 8 of the Act on the Protection of Public Health against the Effects of Tobacco Use, it is prohibited:

- (a) to advertise any tobacco products, in particular on TV and radio, in cinemas, schools, children's newspapers, on posters, IT media etc.;
- (b) for tobacco companies to sponsor sporting, cultural, community and political activities, as well as health care and education;
- (c) to display at points of sale products that imitate the packaging of cigarettes or other tobacco products;
- (d) to use the label of a tobacco product to promote the use of other products.

#### Alcohol

It is not permitted to advertise alcohol products – except for beer, which is only permitted with some restrictions, e.g. if it is not directed at minors and does not depict minors. Newspapers for children and teenagers must not contain advertisements for beer and minors cannot take part in such advertisements. The Act of 26 October 1982 on the Upbringing in Sobriety and Preventing Alcoholism also allows for broadcasting of advertisements for and promotions of beer on television, radio and in cinemas only between 8.00 p.m. and 6.00 a.m.

#### Drugs/Pharmaceuticals

Pursuant to Article 57 of the Pharmaceutical Law Act, the advertising of certain medical products, which is addressed to the public, is prohibited. In particular it is forbid to advertise, products which:

- (a) are available on prescription only;
- (b) contain psychotropic or narcotic substances;
- (c) have been placed on a list of reimbursed medicines in accordance with separate regulations and can be dispensed over the counter.

Also, pursuant to Article 53 of the above act, the advertising of a medicinal product cannot be misleading, should present the medicinal product objectively, and should provide information on the rational use of the medicinal product.



In addition, under Article 53 of the abovementioned act, the advertising of a medicinal product cannot be directed at children or contain any element directed at them. Also, the advertising of a medicinal product cannot involve offering or promising any benefits for purchasing the product.

If it is possible to make an advertisement for a medicinal product in spite of the many regulations, there are still many restrictions on the content. In particular, the advertising of a medicinal product to the general public cannot involve:

- (a) the medicinal product being presented by well-known persons, scientists, or persons with a medical or pharmaceutical education or suggesting that they have such an education;
- (b) references to recommendations of well-known persons, scientists, or persons with a medical or pharmaceutical education or suggesting that they have such an education.

Moreover, the advertising of a medicinal product to the general public may not contain material which suggests that:

- (a) a medical consultation or surgical operation is unnecessary, in particular by offering a diagnosis or by suggesting treatment through the use of a means of distance communication,
- (b) even a healthy person's health can be enhanced by taking the medicinal product,
- (c) a person's health could be affected by not taking the medicinal product (this does not apply to the vaccinations referred to in Article 57 (2)),
- (d) the medicinal product is a foodstuff, cosmetic or other consumer product,
- (e) the safety or efficacy of the medicinal product is due to the fact that it is natural.

Also, the advertising of a medicinal product must not contain:

- (a) suggestions that the effects of taking the medicinal product are guaranteed, are unaccompanied by adverse reactions, or are better than or equivalent to those of another treatment method or treatment with another medicinal product;
- (b) information which could, by citing detailed descriptions of cases and symptoms of illness, lead to erroneous self-diagnosis;
- (c) information which refers, in improper, alarming or misleading terms, to therapeutic indications;
- (d) improper, alarming or misleading terms, pictorial representations of changes in the human body caused by disease or injury or of the action of a medicinal product on the human body or parts thereof.



		<p><b>HFSS products</b></p> <p>There are no specific regulations concerning HFSS products in Poland. However, there are some rules deriving from other legal acts, e.g. the Broadcasting Act of 29 December 1992. According to this act TV programmes for children must not be accompanied by commercial communications for foods or beverages containing ingredients, the excessive intake of which in the everyday diet is not recommended.</p> <p>After seeking the opinion of the Minister of Health, the National Broadcasting Council may, by way of a regulation, define:</p> <ul style="list-style-type: none"> <li>(e) types of foods or beverages containing ingredients, the excessive intake of which in the everyday diet is not recommended,</li> <li>(f) the manner of inserting commercial communications for these products in programme services so that they do not accompany children's programmes</li> </ul> <p>– in an effort to encourage broadcasters to counteract the promotion of an unhealthy diet for children and taking into account the nature of programme services, their impact on public opinion (Article 16b (3a),(3b) of the Broadcasting Act of 29 December 1992).</p>
<p><b>4</b></p>	<p><b>Timing and placement of restrictions</b></p> <p><b>What, if any, restrictions are there on the timing and/or placement of advertisements in:</b></p> <ul style="list-style-type: none"> <li>(a) <b>Publications aimed at children (e.g., magazines, books)?</b></li> <li>(b) <b>Around entertainment programmes aimed at children (e.g., radio, television, movies, video games)?</b></li> <li>(c) <b>Online through websites or communications platforms, including social media, aimed at or used by children?</b></li> </ul>	<p><b>Publications</b></p> <p>The advertising of tobacco products is entirely prohibited (Article 8 (1) of the Act on the Protection of Public Health against the Effects of Tobacco Use)</p> <p>According to Article 131 of the Act of 26 October 1982 on the Upbringing in Sobriety and Preventing Alcoholism, the advertising of alcoholic beverages is also prohibited in Poland, except for beer, which is subject to many restrictions. Beer may not be advertised or promoted in media aimed at young people and children or with the participation of minors.</p> <p><b>Entertainment programmes</b></p> <ul style="list-style-type: none"> <li>(a) It is prohibited to advertise tobacco products on television, radio and in the cinema (Art. 8 (1) of the Act on the Protection of Public Health against the Effects of Tobacco Use);</li> <li>(b) it is prohibited to interrupt children's programmes with advertising or teleshopping (Article 6a (6) of the Broadcasting Act of 29 December 1992);</li> <li>(c) children's programmes must not be accompanied by commercial communications for foods or beverages containing ingredients, the excessive intake of which in the everyday diet is not recommended (Article 16b (3a),(3b) of the Broadcasting Act of 29 December 1992);</li> <li>(d) children's programmes must not contain product placement (Article 17a (1) of the Broadcasting Act of 29 December 1992);</li> </ul>



		<p>(e) the Act of 26 October 1982 on the Upbringing in Sobriety and Preventing Alcoholism allows the broadcasting of advertisements and promotions of beer on the television, radio and in the cinema only between 8.00 p.m. and 6.00 a.m. (with the exception of sports events). It is also prohibited to advertise beer using videotapes and other media devices. Putting an advertisement for beer on billboards or other advertising spaces is not allowed unless 20% of the area of the advertisement contains information about the harmful effects of alcohol consumption or about the ban on selling alcohol to minors.</p> <p><b>Online</b></p> <p>It is forbidden to advertise or promote tobacco products and accessories on online information services. In some cases, materials posted on the Internet meet the definition of “the press” and have to abide by the relevant rules.</p>
<p><b>5</b></p>	<p><b>Advertising placement restrictions</b></p> <p><b>What, if any, restrictions are there on advertising or marketing in schools, children’s clubs or other places children regularly visit?</b></p>	<p><b>Schools</b></p> <p>It is forbidden to advertise or promote tobacco products, tobacco accessories or imitations of tobacco products and accessories, and symbols related to tobacco use in schools, educational establishments, sporting and recreation facilities and other public places. (Article 8 (1) of the Act of 9 November 1995 on the Protection of Public Health against the Effects of Tobacco Use).</p> <p>It is generally not permitted to advertise any kind of alcohol products, except for beer (which is subject to many restrictions).</p> <p><b>Clubs</b></p> <p>There are no specific regulations related to clubs – however, please see the information below.</p> <p><b>Other</b></p> <p>It is forbidden to advertise tobacco products in cinemas, healthcare establishments and other places. It is forbidden for tobacco companies to sponsor sporting, cultural, educational, health, social, and political activities.</p>
<p><b>6</b></p>	<p><b>Restrictions on targeting children</b></p> <p><b>What, if any, restrictions are there on using advertising or marketing techniques to appeal to children (e.g., licensing of popular cartoon characters)?</b></p>	<p><b>Cartoon/imaginary characters</b></p> <p>There are no specific regulations concerning the use of advertising and marketing techniques to appeal to children.</p> <p><b>Other</b></p> <p>None.</p>





<p>7</p>	<p><b>Restrictions on the use of children in ads</b></p> <p><b>What, if any, restrictions are there on the use of children in advertising, including peer-to-peer marketing and the appointment of children as brand ambassadors?</b></p>	<p><b>Use in advertising and as brand ambassadors</b></p> <p>There are no specific regulations concerning the use of children in advertising apart from these listed above (e.g. participation in beer commercials). The Polish Labour Code of 23 December 1997 regulates the performance of work by children. Work or other paid jobs may only be performed by a child under the age of 16 for the benefit of an entity conducting cultural, artistic, sporting or advertising activity, and only with the prior consent of a statutory representative or custodian of the child, as well as with the permission of the relevant labour inspectorate. (Art. 304[5] para. 1 of the Polish Labour Code of 23 December 1997).</p>
<p>8</p>	<p><b>Product labelling and children's safety</b></p> <p><b>In relation to product labelling, are there any specific requirements relevant to children with regard to health, safety or other concerns?</b></p>	<p><b>Health</b></p> <p><b>Tobacco.</b> Certain warnings must be placed on the packaging of tobacco products, e.g. about the harmfulness of smoking tobacco and the harmful substances contained in the products. Every individual packet of cigarettes introduced for sale in Poland must contain two warnings about the harmful effects of tobacco use, each of different content: one universal and one additional. They should be placed in a visible, readable and permanent manner (for example: “<i>Smoking seriously harms you, your children and your family</i>”). (Article 9 of the Act of 9 November 1995 on the Protection of Public Health against the Effects of Tobacco Use).</p> <p><b>Beer.</b> Beer advertisements on billboards or posters must contain information about the harmful effect of alcohol consumption, e.g. “1/2 litre of beer contains 25 grams of pure ethyl alcohol. Even this amount has harmful effects on the life of pregnant women and is dangerous for drivers” or “1/2 litre of beer contains 25 grams of pure ethyl alcohol. Alcohol sales to people under 18 years old is a crime” (Regulation of the Minister of Health dated 6 November 2003 concerning the content, size, model and way of putting on beer advertisements information about the harmfulness of drinking alcohol and about the prohibition on selling alcohol to minors)</p> <p><b>Safety</b></p> <p>The Regulation of the Minister of Economy of 5 April 2011 on the essential requirements for toys contains rules on the safety of toys. A toy must be accompanied by instructions and safety information in a language or languages easily understood by consumers. Toys must not constitute a dangerous flammable element in the child's environment. Toys which might be dangerous for children under 36 months of age must carry a warning such as ‘Not suitable for children under 36 months’ or ‘Not suitable for children under three years’. The label must indicate the minimum or maximum age of the user and, where appropriate, the abilities of the user and the maximum or minimum weight of the user.</p> <p><b>Other</b></p> <p>None.</p>



<p><b>9</b></p>	<p><b>Enforcement body</b></p> <p>(a) Which administrative body or bodies oversee compliance with government regulations or industry standards on marketing and advertising?</p> <p>(b) Do any of these have a specific mandate to look at issues around marketing and advertising to children?</p>	<p><b>Enforcement body</b></p> <p>The President of the Office of Competition and Consumer Protection together with the Office is the central authority of the state administration. They report directly to the Prime Minister, who appoints them from amongst candidates selected by way of an open and competitive contest. The President of the Office is responsible for shaping the antitrust policy and consumer protection policy.</p> <p>The National Broadcasting Council is the supreme state body charged with broadcasting matters and establishes the tasks it must implement as well as the legal instruments it may apply. The main task of the Council is to protect: freedom of speech and broadcaster independence, the interests of viewers and listeners, and the open and pluralistic character of radio and television.</p> <p>At the local level, consumer rights are protected by a so-called “consumers’ commissioner”. The tasks of the commissioner include: ensuring free consumer counselling and legal information to the extent necessary to ensure the protection of consumer interests; submitting motions concerning the making and amending of local laws to the extent necessary to ensure the protection of consumer interests etc.</p> <p><b>Specific mandate to focus on children’s issues?</b></p> <p>The only body with such a mandate is the Ombudsman for Children. The Ombudsman has many statutory duties and rights, including:</p> <p>(a) promoting the awareness and understanding of the rights of children and young people</p> <p>(b) reviewing laws, policies and practices to examine their effectiveness in respecting the rights of children and young people</p> <p>The Ombudsman also focuses on marketing and advertising aimed at children.</p>
<p><b>10</b></p>	<p><b>Pre-clearance, sanctions and complaints</b></p> <p>(a) Do advertisements need to be pre-cleared before publication or broadcast?</p> <p>(b) What sanctions can be imposed for breaches of codes or regulations?</p> <p>(c) Are there mechanisms for children or their representatives to file individual complaints?</p>	<p><b>Pre-clearance</b></p> <p>Advertisements do not have to be pre-cleared by relevant authorities. However, the TV broadcasters/publishers pre-clear themselves the ads as they are liable for the content of the broadcast (besides the liability of other entities involved in ad production). In addition, the Advertising Council (mentioned in question 1. above) performs pre-clearance at request of e.g. advertising agencies and certify that the ad is compliant with the Code of Ethics in Advertising. Such certificate is however more of an informative nature to the broadcaster/publisher.</p>





		<p>In addition, advertising on the radio, television and other media is being controlled by the National Broadcasting Council (yet not on a pre-broadcast/pre-publishing basis). The monitoring and reporting the TV advertising times is reviewed continuously (with the help of Nielsen Audience Measurement). The advertising of products and services that are restricted or prohibited is continuously monitored.</p> <p><b>Sanctions</b></p> <p>Infringement is subject to criminal sanctions (restriction of liberty) or financial sanctions.</p> <p><b>Complaints</b></p> <p>In general, children’s representatives can file actions with courts or administrative authorities.</p>
<p><b>11</b></p>	<p><b>Effectiveness</b></p> <p><b>How effective are the laws and codes? Are they respected/do they get enforced?</b></p>	<p>The Ombudsman for Children publishes annual reports on its activity, including comments on the state of compliance with laws concerning children. However, these reports do not address advertising or related issues.</p>
<p><b>12</b></p>	<p><b>Pressure Groups</b></p> <p><b>Are the consumer led pressure groups/lobbying, and if so, how effective are they?</b></p>	<p>There are a number of organizations that aim to represent children’s interests; however, they mainly concentrate on child abuse do not address issues related to advertising.</p> <p>Their activity seems to be effective as they tend to cooperate with the Ombudsman for Children, whose activity has a significant impact on any legislation concerning children.</p>



## 27. QATAR

1	<p><b>Regulation</b></p> <p>Are there statutes or codes, including voluntary initiatives (e.g., industry codes of conduct), that specifically regulate marketing and/or advertising? Please list and briefly describe key statutes, codes and initiatives.</p>	<p><b>Statutes</b></p> <ul style="list-style-type: none"> <li>■ <b>Qatar Law No. 1/2012</b> – submit an application to the Competent Municipality to obtain an advertisement licence. (billboards/signage and equivalent).</li> <li>■ <b>Press and Publication Law No. (8) of 1979</b> – newspapers, magazines and other items in print</li> <li>■ <b>Radio and Television Law No. (18) of 2009</b> – commercials broadcast on radio and television (available in Arabic only)</li> </ul> <p><b>Codes</b></p> <p>None.</p> <p><b>Voluntary Initiatives</b></p> <p>None.</p>
2	<p><b>Regulations protecting children</b></p> <p>Do any standards listed above explicitly address marketing and advertising to children as a whole and/or to particular age groups of children? What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?</p>	<p><b>Legal age of majority</b></p> <p>18 (under Labour Law).</p> <p>Also according to the Labour Law, children are prohibited from working unless consent from parents is obtained and/or special approval from the labour department.</p> <p>If the child is a Qatari national, they must also get approval from Minister of Education in Qatar (Article 86, Labour Law 14/2004)</p> <p><b>Definition of a child in advertising context (if different)</b></p> <p>None found.</p> <p><b>Regulations protecting children/particular age groups</b></p> <p>None found.</p>
3	<p><b>Specific product restrictions</b></p> <p>What, if any, restrictions are there on advertising products that are known to be or are potentially dangerous or harmful to children, including but not limited to: Tobacco, Alcohol, Drugs/pharmaceuticals, HFSS (high in fat sugar, salt) products?</p>	<p><b>Tobacco</b></p> <p>None found.</p> <p><b>Alcohol</b></p> <p>None found.</p> <p><b>Drugs/Pharmaceuticals</b></p> <p>None found.</p> <p><b>HFSS products</b></p> <p>None found.</p>



<p><b>4</b></p>	<p><b>Timing and placement of restrictions</b></p> <p>What, if any, restrictions are there on the timing and/or placement of advertisements in:</p> <p>(a) Publications aimed at children (e.g., magazines, books)?</p> <p>(b) Around entertainment programmes aimed at children (e.g., radio, television, movies, video games)?</p> <p>(c) Online through websites or communications platforms, including social media, aimed at or used by children?</p>	<p><b>Publications</b></p> <p>None found.</p> <p><b>Entertainment programmes</b></p> <p>None found.</p> <p><b>Online</b></p> <p>None found.</p>
<p><b>5</b></p>	<p><b>Advertising placement restrictions</b></p> <p>What, if any, restrictions are there on advertising or marketing in schools, children’s clubs or other places children regularly visit?</p>	<p><b>Schools</b></p> <p>None found.</p> <p><b>Clubs</b></p> <p>None found.</p> <p><b>Other</b></p> <p>Discretion of the Ministry of Culture in relation to anything relating to publication, books etc as there is no law on this.</p>
<p><b>6</b></p>	<p><b>Restrictions on targeting children</b></p> <p>What, if any, restrictions are there on using advertising or marketing techniques to appeal to children (e.g., licensing of popular cartoon characters)?</p>	<p><b>Cartoon/imaginary characters</b></p> <p>None found.</p> <p><b>Other</b></p> <p>None found.</p>

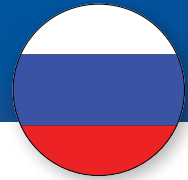


<p><b>7</b></p>	<p><b>Restrictions on the use of children in ads</b></p> <p>What, if any, restrictions are there on the use of children in advertising, including peer-to-peer marketing and the appointment of children as brand ambassadors?</p>	<p><b>Use in advertising</b></p> <p>None found.</p> <p><b>Use as brand ambassadors</b></p> <p>None found.</p>
<p><b>8</b></p>	<p><b>Product labelling and children's safety</b></p> <p>In relation to product labelling, are there any specific requirements relevant to children with regard to health, safety or other concerns?</p>	<p><b>Health</b></p> <p>None found.</p> <p><b>Safety</b></p> <p>Children are prohibited from working after sunset, on national holidays or overtime. They cannot remain at their place of work for more than 7 consecutive hours. They cannot work more than 63 hours in any given week and more than 24 hrs per week during Ramadan (maximum of 4 hrs per day). Children are entitled to a lunch break and a short break every 3 hours (breaks are not considered part of the working hours). Children cannot work unless a medical test and report confirming that child is fit (employer must conduct medical test every year). Children are prohibited from working in certain industries such mining, glass factories, petrochemical industries, carpentry and more.</p>
<p><b>9</b></p>	<p><b>Enforcement body</b></p> <p>(a) Which administrative body or bodies oversee compliance with government regulations or industry standards on marketing and advertising?</p> <p>(b) Do any of these have a specific mandate to look at issues around marketing and advertising to children?</p>	<p><b>Enforcement body</b></p> <p>Qatar Media Corporation (Emiri decree 33/2014) covers the scope of work this body)</p> <p>The Ministry of Culture oversees industry standards on marketing and advertising and the <i>Press and Publication Law No. (8) of 1979</i> on newspapers, magazines and other items in print governs its role.</p> <p><b>Specific mandate to focus on children's issues?</b></p> <p>None found.</p>



<p><b>10</b></p>	<p><b>Pre-clearance, sanctions and complaints</b></p> <p>(a) <b>Do advertisements need to be pre-cleared before publication or broadcast?</b></p> <p>(b) <b>What sanctions can be imposed for breaches of codes or regulations?</b></p> <p>(c) <b>Are there mechanisms for children or their representatives to file individual complaints?</b></p>	<p><b>Pre-clearance</b></p> <p>In order to print any newspaper individuals must obtain a license in advance.</p> <p>In order to be able to advertise on the streets, under the <i>Organising and Controlling the instrument No. (1) of 2012</i> individuals must get approval from the Ministry of Municipality and Environment (the “Municipality”).</p> <p><b>Sanctions</b></p> <p>Failure to obtain a license or approval from the Ministry before publishing will result in a 6 month imprisonment or a fine of 3,000 Qatari Riyal or both.</p> <p>In the case of signage, failure to obtain approval from the Municipality before proceeding with advertisements will attract a fine of 20,000 Qatari Riyals and the Court may issue a judgment to remove the advertisement and such costs will be borne by the perpetrator.</p> <p><b>Complaints</b></p> <p>Complaints in relation to anything relating to signage seen on the streets should be directed to the Qatar Media Corporation and/or the Ministry of Culture.</p>
<p><b>11</b></p>	<p><b>Effectiveness</b></p> <p><b>How effective are the laws and codes? Are they respected/do they get enforced?</b></p>	<p>Laws and codes are very effective in Qatar and so is anything that falls within the responsibility of the Municipality.</p> <p>Governing bodies take a very active approach to ensure that all laws are enforced.</p>
<p><b>12</b></p>	<p><b>Pressure Groups</b></p> <p><b>Are the consumer led pressure groups/lobbying, and if so, how effective are they?</b></p>	<p>There are no consumer led pressure groups/lobbying.</p>





## 28. RUSSIA

<p><b>1</b></p>	<p><b>Regulation</b></p> <p><b>Are there statutes or codes, including voluntary initiatives (e.g., industry codes of conduct), that specifically regulate marketing and/or advertising? Please list and briefly describe key statutes, codes and initiatives.</b></p>	<p>Marketing and advertising are generally regulated by the law No. 38-FZ “On Advertisement” (the “ Advertising Law”). The Advertising Law is applicable to the sphere of advertising, irrespective of where it is displayed, if the circulation takes place in the Russian Federation. Advertisement is defined as information distributed by any means, in any form and by any media which is addressed to a non-specific group of persons and aimed at drawing attention to or maintaining an interest in the object of advertising and at promoting it in the market.</p> <p>In addition to the Advertising Law, certain specific rules for marketing and advertising to children a contained in the law (No. 436-FZ) “On Protection of Children From Information Causing Harm to Their Health and Development” (the “Child Protection Law”).</p>
<p><b>2</b></p>	<p><b>Regulations protecting children</b></p> <p><b>Do any standards listed above explicitly address marketing and advertising to children as a whole and/ or to particular age groups of children? What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?</b></p>	<p><b>Legal age of majority</b></p> <p>Generally 18.</p> <p><b>Definition of a child in advertising context (if different)</b></p> <p>The Advertising Law refers to children as those under the general age of majority.</p> <p><b>Regulations protecting children</b></p> <ol style="list-style-type: none"> <li>1. Under the Advertising Law, certain content prohibitions are imposed, including: putting in disrepute parents and teachers or undermining children’s confidence in them; making children feel inferior if they do not possess the goods advertised; causing children to feel inferior in connection with their unattractive appearance, etc.</li> <li>2. The Advertising Law prohibits the advertising certain types of goods to children, including: alcohol; tobacco; weapons; gambling and betting; drugs and pharmaceuticals.</li> <li>3. The Child Protection Law requires use symbol indicating the suitability of the age of children to be exposed to an information product. This symbol on the restriction of information products distribution among children will vary depending on the category of information product from 0+ to 18+.</li> </ol>



<p><b>3</b></p>	<p><b>Specific product restrictions</b></p> <p><b>What, if any, restrictions are there on advertising products that are known to be or are potentially dangerous or harmful to children, including but not limited to: Tobacco, Alcohol, Drugs/pharmaceuticals, HFSS (high in fat sugar, salt) products?</b></p>	<p><b>Tobacco</b></p> <p>Russian law prohibits the sale of tobacco products to anyone younger than 18 years of age and imposes restrictions on the labelling, display and marketing of tobacco products. Advertising of tobacco products as well as smoking accessories is prohibited.</p> <p><b>Other products that are potentially dangerous to children</b></p> <p>Advertising or promotion of certain types of goods and services such as alcohol; weapons, gambling and betting, drugs and pharmaceuticals, tobacco products cannot be targeted at minors. There are also certain restrictions regarding other types of goods and services which may not be appropriate for children, such as:</p> <ul style="list-style-type: none"> <li>– Dietary supplements and nutritional supplements, baby foods;</li> <li>– Financial services and financial activities;</li> <li>– Securities;</li> <li>– Services involving annuities and life insurance; and</li> <li>– Mediators’ Activities.</li> </ul>
<p><b>4</b></p>	<p><b>Timing and placement of restrictions</b></p> <p><b>What, if any, restrictions are there on the timing and/or placement of advertisements in:</b></p> <p>(a) <b>Publications aimed at children (e.g., magazines, books)?</b></p> <p>(b) <b>Around entertainment programmes aimed at children (e.g., radio, television, movies, video games)?</b></p> <p>(c) <b>Online through websites or communication platforms, including social media, aimed at or used by children?</b></p>	<p><b>Publications</b></p> <p>There are no specific regulations regarding publications aimed at children, except that the general principles of the Law stated herein will apply to print publications.</p> <p><b>Entertainment Programs</b></p> <p>The Advertising Law limits the amount of advertising that can be aired in certain children’s television and radio programming to 2-6 minutes per programme depending on the program duration (in any event, not more than twice: in the beginning and before the end of the show). These requirements apply to television and radio broadcasters, cable operators, and satellite providers. Advertising is prohibited for programs that are shorter than 15 minutes in duration.</p> <p><b>Online</b></p> <p>There are no special regulations for placement of advertisements online. General rules for placement of advertisements apply.</p>



<p><b>5</b></p>	<p><b>Advertising placement restrictions</b></p> <p>What, if any, restrictions are there on advertising or marketing in schools, children’s clubs or other places children regularly visit?</p>	<p>Advertising in schools is restricted. Advertising or marketing of harmful products is not allowed in schools, children’s clubs or other places children regularly visit.</p> <p>A protective zone of 100 meters around schools, children’s clubs or other places children regularly visit is imposed.</p> <p>It is prohibited to place any advertisement on school educational materials and stationery.</p>
<p><b>6</b></p>	<p><b>Restrictions on targeting children</b></p> <p>What, if any, restrictions are there on using advertising or marketing techniques to appeal to children (e.g., licensing of popular cartoon characters)?</p>	<p>While not specifically directed as rule related to children, there are certain rules when using personalities (live or animated). Live or animated characters cannot be used to advertise alcohol products, weapons or gambling. Images of health care workers are not allowed.</p>
<p><b>7</b></p>	<p><b>Restrictions on the use of children in ads</b></p> <p>What, if any, restrictions are there on the use of children in advertising, including peer-to-peer marketing and the appointment of children as brand ambassadors?</p>	<p>Please see above. The basic principles is that it is prohibited to use images of children or any person, live or animated, to advertise alcohol products, weapons, gambling and betting. The law also prohibits the advertising of certain other types of goods to children, so using images of children in advertising products which cannot be marketed to children may, in some circumstances, be considered as an attempt to indirectly market toward children.</p> <p>The appointment of children as brand ambassadors is not directly regulated and will be regulated by the general rules.</p>
<p><b>8</b></p>	<p><b>Product labelling and children’s safety</b></p> <p>In relation to product labelling, are there any specific requirements relevant to children with regard to health, safety or other concerns?</p>	<p>There are certain specific product safety rules relevant to children with regard to health and safety or other concerns. In particular, children oriented products shall meet sanitary-epidemiological standards set by Russian and Custom Union’s legislative acts.</p>
<p><b>9</b></p>	<p><b>Enforcement body</b></p> <p>(a) Which administrative body or bodies oversee compliance with government regulations or industry standards on marketing and advertising?</p> <p>(b) Do any of these have a specific mandate to look at issues around marketing and advertising to children?</p>	<p><b>Enforcement body</b></p> <p>The Federal Antimonopoly Service (“FAS Russia”) and its local divisions is primarily responsible for enforcing advertising laws.</p> <p><b>Specific mandate to focus on children’s issues?</b></p> <p>No. FAS Russia is primarily responsible for enforcing all advertising rules, including those involving children.</p>



<p><b>10</b></p>	<p><b>Pre-clearance, sanctions and complaints</b></p> <p>(a) Do advertisements need to be pre-cleared before publication or broadcast?</p> <p>(b) What sanctions can be imposed for breaches of codes or regulations?</p> <p>(c) Are there mechanisms for children or their representatives to file individual complaints?</p>	<p><b>Pre-clearance</b></p> <p>Advertising does not have to be cleared by a regulatory agency.</p> <p><b>Sanctions</b></p> <p>The sanctions vary depending on the law or regulation in question. As a general rule, Article 14.3 of the Russian Code of Administrative Offences will apply, imposing an administrative fine up to RUB 500 000.</p> <p><b>Complaints</b></p> <p>Children’s representatives or other interested persons can file complaints with FAS Russia.</p>
<p><b>11</b></p>	<p><b>Effectiveness</b></p> <p>How effective are the laws and codes? Are they respected/do they get enforced?</p>	<p>The Law generally effective and enforceable by FAS Russia.</p>
<p><b>12</b></p>	<p><b>Pressure Groups</b></p> <p>Are the consumer led pressure groups/lobbying, and if so, how effective are they?</p>	<p>Yes, there are certain interest groups that actively lobby and file complaints relating to advertising. At the legislative level, the Russian State Duma’s Committee for Family, Women and Children is looking at children’s advertising issues and lobbying legislative and administrative initiatives to protect children from harming information</p>

## 29. SAUDI ARABIA

Please note that the report for Saudi Arabia has been drafted from our own research based on materials available online. At the date of publication local Saudi Arabian counsel have not yet reviewed the relevant content of the report. It is included for the sake of completeness, but should not be relied upon to give a definitive position of the local laws and regulations in Saudi Arabia.

<p><b>I</b></p>	<p><b>Regulation</b></p> <p><b>Are there statutes or codes, including voluntary initiatives (e.g., industry codes of conduct), that specifically regulate marketing and/or advertising? Please list and briefly describe key statutes, codes and initiatives.</b></p>	<p><b>Statutes</b></p> <p>Basic Law, adopted by Royal decree of King Fahd in March 1992<sup>80</sup></p> <p>Press and Publications Act 2003 (“<b>Press Act</b>”) adopted by Saudi Arabia Cabinet Decision No. 211/421, issued on 27/11/2000 – article 2<sup>81</sup></p> <p>Rules regulating advertising boards approved by Saudi Arabia Cabinet Decision No. 177/1410 issued on 29/5/1990 (the “<b>Advertising Boards Rules</b>”)<sup>82</sup></p> <p>Rules regulating advertisement of price reductions of goods in commercial stores approved by Saudi Arabia Ministerial Decision No. 757/3/49/33/1405 issued on 17/12/1984<sup>83</sup></p> <p>Law on Practice of Health Professions approved by Saudi Arabia Cabinet Decision No. 276/1426 issued on 20/04/2005<sup>84</sup></p> <p>Regulations on Web publishing (Feb 2011)<sup>85</sup></p> <p><b>Codes</b></p> <p>Guide on licensing of medical devices &amp; products advertisements issued by the Saudi Food and Drug Authority<sup>86</sup></p> <p><b>Voluntary Initiatives</b></p> <p><b>General Restrictions on Advertising</b></p> <ul style="list-style-type: none"> <li>■ Advertisements must be in line with the customs and traditions of Saudi Arabia.<sup>87</sup></li> <li>■ Advertisements must be consistent with good taste.<sup>88</sup></li> <li>■ Images and writings must be within the frame of Islamic morality and in compliance with the rules of the classical Arabic as well as with the Sharia controls issued by the relevant authorities.<sup>89</sup></li> </ul>
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<sup>80</sup> Article 39 – “Information, publication, and all other media shall employ courteous language and the state’s regulations, and they shall contribute to the education of the nation and the bolstering of its unity. All acts that foster sedition or division or harm the state’s security and its public relations or detract from man’s dignity and rights shall be prohibited. The statutes shall define all that”.

<sup>81</sup> Advertising has been made a licensed activity and a license can be obtained from the Ministry of Information and Culture.

<sup>82</sup> Article 15 (as amended by Cabinet decision No. 242 dated 27/10/1421 AH) – “Advertisements shall be in line with the customs and traditions of the relevant country. They shall also be consistent with good taste. Furthermore, the images and writings used therein shall be within the frame of Islamic morality and in compliance with the rules of the classical Arabic as well as with the Sharia controls issued by the relevant authorities with regard to advertisements.”

<sup>83</sup> Requires prior permission of the Commercial Chamber (under Ministry of Commerce) to give discounts (sell less than the marked price) on products in a shop. Advertisements restrictions are placed to when sales can be advertised and how they can be advertised.

<sup>84</sup> Healthcare professionals are prohibited to advertise unless such advertising is in accordance with these regulations.

<sup>85</sup> Regulates electronic advertising (advertising on the web) and advertisers need a license from the Ministry of Information and Culture

<sup>86</sup> Regulates advertisement of medical devices & products.

<sup>87</sup> the Advertising Boards Rules.

<sup>88</sup> the Advertising Boards Rules.

<sup>89</sup> the Advertising Boards Rules.



- Nudity is not allowed in any form. The Islamic culture is very conservative and showing any skin other than the face, hands or feet can be considered sexually arousing, therefore inappropriate for public display.
- No references to homosexuality can be made in advertisements.
- Any connotation to supernatural (witches, magicians, vampires or aliens) can be considered as another God-like force and is generally avoided.
- Drugs, alcohol (even champagne glasses) and pork cannot be shown in advertising which promotes their consumption.
- Advertisements for breakfast or other meals cannot show eggs.
- Any form of a cross (as a symbol) is considered offensive. Even Red Cross has rebranded itself as Red Crescent in Saudi Arabia. Other symbols like the David's star, US flag and five-pointed red star are also non-existent.
- Words like "enjoy" and "exciting" are interpreted as sexual descriptors so generally avoided.
- Words like "create" and "greatest" are believed to be associated with God, so generally avoided.
- Advertisements must not violate the provisions of the Sharia or the laws in force.<sup>90</sup>
- Advertisements must not call for the breach of the country's security or public order, or what serves foreign interests conflicting with the national interest.<sup>91</sup>
- Advertisements must not affect or harm the reputation or dignity of, offend, or personally insult, the Grand Mufti of the Kingdom, members of the Commission of Senior Ulema, the dignitaries of the State, any of the state employees or any standing physical or juristic personality.<sup>92</sup>
- Advertisements must not incite sectarianism and segregation between citizens.<sup>93</sup>
- Advertisements must not encourage or incite to criminality.<sup>94</sup>
- Advertisements must not harm the country's public affairs.<sup>95</sup>
- Advertisements must not relate to proceedings of investigations or trials without obtaining the permission of the legally authorized authority.<sup>96</sup>

<sup>90</sup> Article 9 of the Press Act.

<sup>91</sup> Article 9 of the Press Act.

<sup>92</sup> Article 9 of the Press Act.

<sup>93</sup> Article 9 of the Press Act.

<sup>94</sup> Article 9 of the Press Act.

<sup>95</sup> Article 9 of the Press Act.

<sup>96</sup> Article 9 of the Press Act.



<p>2</p>	<p><b>Regulations protecting children</b></p> <p>Do any standards listed above explicitly address marketing and advertising to children as a whole and/or to particular age groups of children? What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?</p>	<p><b>Legal age of majority</b></p> <p>The judges (in court) can decide when the person has reached majority, irrespective of whether the person is 18 years old or not.<sup>97</sup></p> <p><b>Definition of a child in advertising context (if different)</b></p> <p><b>Regulations protecting children/particular age groups</b></p>
<p>3</p>	<p><b>Specific product restrictions</b></p> <p>What, if any, restrictions are there on advertising products that are known to be or are potentially dangerous or harmful to children, including but not limited to: Tobacco, Alcohol, Drugs/pharmaceuticals, HFSS (high in fat sugar, salt) products?</p>	<p><b>Tobacco</b></p> <p>No subnational laws prohibiting tobacco advertising and promotion. While advertising in newspapers and magazines is prohibited, advertising in others forms (TV, radio, internet and billboards) is not explicitly prohibited. Advertisement at point of sale is prohibited.<sup>98</sup></p> <p><b>Alcohol</b></p> <p>Alcohol advertisements are completely illegal.<sup>99</sup></p> <p><b>Drugs/Pharmaceuticals</b></p> <p>Advertisement is allowed for:</p> <ul style="list-style-type: none"> <li>■ prescription-only registered products; and</li> <li>■ few (prescription-only) unregistered (innovative or new drugs) at scientific conferences.</li> <li>■ Advertisements cannot include:             <ul style="list-style-type: none"> <li>■ misleading information;</li> <li>■ phrases that can be misinterpreted; or</li> <li>■ statement that negatively affects other products.</li> </ul> </li> </ul> <p>All advertisements need to be reviewed and approved by the Saudi Food and Drug Authority<sup>100</sup>.</p> <p><b>HFSS products</b></p> <p>HFSS product advertisements are legal with no special regulatio<sup>s</sup>.<sup>101</sup></p>

<sup>97</sup> The question largely arises as to whether death penalty can be awarded to minors. The Government has not taken any definitive stand on the issue. No law has been found which provides for age of majority from an advertisement perspective.

<sup>98</sup> [http://www.who.int/tobacco/surveillance/policy/country\\_profile/sau.pdf](http://www.who.int/tobacco/surveillance/policy/country_profile/sau.pdf)

<sup>99</sup> [http://www.who.int/substance\\_abuse/publications/global\\_alcohol\\_report/profiles/sau.pdf](http://www.who.int/substance_abuse/publications/global_alcohol_report/profiles/sau.pdf)

<sup>100</sup> Oversees the regulatory system for the pharmaceutical sector:

<sup>101</sup> "Food advertising watched by adolescent girls in Saudi Arabia", Elham Al-Jaaly, 2 King Abdul-Aziz University, Saudi Arabia, and University College London (UCL), <http://www.sudanknowledge.org/download/food-advertising-watched-by-adolescent-girls-in-saudi-arabia-2/>.

<p><b>4</b></p>	<p><b>Timing and placement of restrictions</b></p> <p>What, if any, restrictions are there on the timing and/or placement of advertisements in:</p> <p>(a) Publications aimed at children (e.g., magazines, books)?</p> <p>(b) Around entertainment programmes aimed at children (e.g., radio, television, movies, video games)?</p> <p>(c) Online through websites or communications platforms, including social media, aimed at or used by children?</p>	<p>See General Restrictions on Advertising above</p> <p><b>Publications</b></p> <p><b>Entertainment programmes</b></p> <p><b>Online</b></p>
<p><b>5</b></p>	<p><b>Advertising placement restrictions</b></p> <p>What, if any, restrictions are there on advertising or marketing in schools, children’s clubs or other places children regularly visit?</p>	<p>See General Restrictions on Advertising above</p> <p><b>Schools</b></p> <p><b>Clubs</b></p> <p><b>Other</b></p>
<p><b>6</b></p>	<p><b>Restrictions on targeting children</b></p> <p>What, if any, restrictions are there on using advertising or marketing techniques to appeal to children (e.g., licensing of popular cartoon characters)?</p>	<p>See General Restrictions on Advertising above</p> <p><b>Cartoon/imaginary characters</b></p> <p><b>Other</b></p>



<p><b>7</b></p>	<p><b>Restrictions on the use of children in ads</b></p> <p>What, if any, restrictions are there on the use of children in advertising, including peer-to-peer marketing and the appointment of children as brand ambassadors?</p>	<p><b>Use in advertising</b></p> <p><b>Use as brand ambassadors</b></p>
<p><b>8</b></p>	<p><b>Product labelling and children's safety</b></p> <p>In relation to product labelling, are there any specific requirements relevant to children with regard to health, safety or other concerns?</p>	<p><b>Health</b></p> <p>Gulf Standard No. 654/1996 (General Requirements for Prepackaged Foods for Special Dietary Use)<sup>102</sup></p> <p><b>Safety</b></p> <p><b>Other</b></p>
<p><b>9</b></p>	<p><b>Enforcement body</b></p> <p>(a) Which administrative body or bodies oversee compliance with government regulations or industry standards on marketing and advertising?</p> <p>(b) Do any of these have a specific mandate to look at issues around marketing and advertising to children?</p>	<p><b>Enforcement body</b></p> <p>Ministry of Culture and Information<sup>103</sup> – parent government body overseeing compliance.</p> <p>General Authority for Audio and Visual Media – government body overseeing compliance for all audio-visual content.</p> <p>Saudi Food and Drug Authority (SFDA) – government body overseeing compliance for all drugs/pharmaceuticals/cosmetics advertisements.</p> <p><b>Specific mandate to focus on children's issues?</b></p>

<sup>102</sup> The procedures of preparation/use has to be indicated on the product (depending on the age of child).

<sup>103</sup> A 2005 royal decree transferred jurisdiction over the media from the court system to the Ministry of Culture and Information, which is authorized to shut down any outlet that it finds to have violated the press law.

<p><b>10</b></p>	<p><b>Pre-clearance, sanctions and complaints</b></p> <p>(a) <b>Do advertisements need to be pre-cleared before publication or broadcast?</b></p> <p>(b) <b>What sanctions can be imposed for breaches of codes or regulations?</b></p> <p>(c) <b>Are there mechanisms for children or their representatives to file individual complaints?</b></p>	<p><b>Pre-clearance</b></p> <p>All publications<sup>104</sup> and advertisements<sup>105</sup> in films, tapes (or their like) need prior approval by the Ministry of Information. Advertisements can be made only after an agreement with a local advertising institution.</p> <p>All drugs and pharmaceutical advertisements need to be approved by the Saudi Food and Drug Authority.</p> <p>All online newspapers and bloggers are required to obtain a special license from the Ministry of Information under the 2011 Web publishing regulations.</p> <p><b>Sanctions</b></p> <p>The violation of the Press Act can result in lifetime professional bans and fines of up to 5,000 riyals (10,000 riyals in case of double violation)<sup>106</sup></p> <p>A violation of the web publishing regulations results in the licensee (or the person who the licensee so designates) being subject to fines up to SR 100,000, obligatory publishing of corrections, compensation for infringement against private rights and total blocking.</p> <p><b>Complaints</b></p> <p>No special mechanisms exists for children.</p>
<p><b>11</b></p>	<p><b>Effectiveness</b></p> <p><b>How effective are the laws and codes? Are they respected/do they get enforced?</b></p>	<p>The laws are strictly enforced and v Government acts hastily if anything is reported. The publications and professionals tend to self-censor their content and adhere to a “red line”. The red line essentially follows the morals of the Saudi society and is fundamentally modelled on sharia law principles.</p>
<p><b>12</b></p>	<p><b>Pressure Groups</b></p> <p><b>Are the consumer led pressure groups/lobbying, and if so, how effective are they?</b></p>	

<sup>104</sup> Article 13 of the Press Act

<sup>105</sup> Article 17 of the Press Act

<sup>106</sup> Article 38 of the Press Act





## 30. SPAIN

<p><b>1</b></p>	<p><b>Regulation</b></p> <p><b>Are there statutes or codes, including voluntary initiatives (e.g., industry codes of conduct), that specifically regulate marketing and/or advertising? Please list and briefly describe key statutes, codes and initiatives.</b></p>	<p>In Spain advertising and marketing is regulated at a national level by the General Advertising Act (“<b>GAA</b>”) together with the Unfair Competition Act (“<b>UCA</b>”) which regulates, among other issues, misleading advertising. Furthermore, as Spain is divided into autonomous regions, some of them have their own advertising regulations. There are also specific pieces of legislation that regulate advertising of certain products, such as tobacco or drugs/ pharmaceuticals.</p> <p>In addition, there are some self-regulation codes of conduct that regulate advertising and marketing in Spain which are applicable to many advertisers, agencies and the media. There is a general advertising code of conduct as well as sectorial codes regulating specific fields (e.g. the Toys Advertising Code, the Advertising Code on Food and Beverages addressed to Children or the Spirits Advertising Code).</p>
<p><b>2</b></p>	<p><b>Regulations protecting children</b></p> <p><b>Do any standards listed above explicitly address marketing and advertising to children as a whole and/or to particular age groups of children? What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?</b></p>	<p>The Advertising Code of Food and Beverages addressed to Children as well as the Toys Advertising Code, address advertising to children of various age groups. The Advertising Code of Food and Beverages addressed to Children distinguishes between three age ranges: up to 7 years old, between 7 and 14 years old and between 15 and 18 years old. The Toys Advertising Code distinguishes between two age groups: 12 years old for broadcasted and printed media advertisement and 15 years old for advertisement on the Internet.</p> <p>The definition of a child is established in the Spanish Civil Code (article 315), being defined as every human being below 18 years of age, unless legal age is achieved earlier.</p>
<p><b>3</b></p>	<p><b>Specific product restrictions</b></p> <p><b>What, if any, restrictions are there on advertising products that are known to be or are potentially dangerous or harmful to children, including but not limited to: Tobacco, Alcohol, Drugs/pharmaceuticals, HFSS products</b></p>	<p><b>Tobacco</b></p> <p>Under the Spanish Act 42/2010, there is an outright prohibition on advertising tobacco products. The prohibition applies to all media and also prohibits broadcasting TV programmes or images in which anybody appears smoking. It is also forbidden to mention or display trademarks, trade names, logos or any other sign identifying or associated with tobacco products.</p> <p><b>Alcohol</b></p> <p>There is a total prohibition on advertising alcohol higher than 20% (article 5 GAA). In addition, according to the Advertising Spirits Code, advertising of alcoholic drinks shall not be specifically addressed to children and children should not appear in them.</p>



		<p><b>Drugs/pharmaceuticals</b></p> <p>Prescription medicines cannot be advertised to the general public (only to health professionals). Non-prescription medicines can be generally advertised with some limitations. However, none of the statutes or codes contain specific provision referring to children.</p> <p><b>HFSS products</b></p> <p>Regarding high sugar/fat content food/drinks the Advertising Code of Food and Beverages addressed to Children contains specific provisions applicable to advertising of this type of products. Among others issues, advertisements must not exploit childrens' inexperience or credulity and they must not persuade them to ask their parents to buy the promoted products.</p>
<p><b>4</b></p>	<p><b>Timing and placement of restrictions</b></p> <p><b>What, if any, restrictions are there on the timing and/or placement of advertisements in publications aimed at children (e.g., magazines, books)?</b></p> <p><b>(a) Around entertainment programmes aimed at children (e.g., radio, television ,movies, video games)?</b></p> <p><b>b) Online through websites or communications platforms, including social media, aimed at or used by children?</b></p>	<p>According to the Article 3.b of the GAA, advertising addressed to children must not encourage them to purchase a good or service by exploiting their inexperience or credulity, or persuading parents or guardians to do so. Furthermore, the characteristics of the products, as well as the ability and skills necessary for the child to use said product without injury to himself or others must be clearly indicated.</p> <p>(a) Under the Spirits Advertising Code, alcoholic drinks advertisements cannot be broadcast on TV, radio or cinema during, immediately before or immediately after programmes whose audience is mainly children.</p> <p>(b) Advertisements on the internet and new advertising formulas are regulated by the same principles of the GAA. Moreover, the Toys Advertising Code contains some provisions applicable to online advertising (among others, to online groups, online children's clubs forums or online chats).</p>
<p><b>5</b></p>	<p><b>Advertising placement restrictions</b></p> <p><b>What, if any, restrictions are there on advertising or marketing in schools, children's clubs or other places children regularly visit?</b></p>	<p>According to the article 5 of the GAA it is forbidden to place advertising where the sale and consumption of the advertised products is forbidden. It applies, for instance, to sports stadiums where the sale and consumption of alcohol is forbidden (and also advertising of alcoholic drinks).</p> <p>There are also regional regulations which contain applicable provisions. For example, the Spanish region of Navarra has regulated matters relating to the prevention of consumption of alcoholic beverages by children, alcohol advertising and its impact on children.</p>



<p><b>6</b></p>	<p><b>Restrictions on targeting children</b></p> <p><b>What, if any, restrictions are there on using advertising or marketing techniques to appeal to children (e.g., licensing of popular cartoon characters)?</b></p>	<p>Under the GAA, special precautions must be taken in the production and distribution of toy advertising addressed to children, in order to ensure that the advertisements do not mislead about the product or its features.</p> <p>In addition, according to the Toys Advertisement Code, toy advertising cannot exploit the special trust that minors place in their parents, teachers or others, such as children’s TV show presenters, or (real or fictional) characters in films or drama shows.</p> <p>Furthermore, according to the Advertising Code on Food and Beverages addressed to Children, characters particularly close to children under 12, such as fictional characters from films, should not appear in advertising of food or beverages to minors.</p>
<p><b>7</b></p>	<p><b>Restrictions on the use of children in ads</b></p> <p><b>What, if any, restrictions are there on the use of children in advertising, including peer-to-peer marketing and the appointment of children as brand ambassadors?</b></p>	<p>According to Article 3.b of the GAA, it is forbidden – without justification – to include in advertisements children in dangerous situations. In addition, under the Spirits Advertising Code, minors may not star or appear in advertising of alcoholic drinks. In any case, actors or models appearing in advertisements of this type of products shall not be under 25 years.</p>
<p><b>8</b></p>	<p><b>Product labelling and children’s safety</b></p> <p><b>In relation to product labelling, are there any specific requirements relevant to children with regard to health, safety or other concerns?</b></p>	<p>Children’s products (toys) in Spain must fulfil the requirements of the Royal Decree 1205/2011 approving safety regulations of toys. Furthermore, it is required that toys carry a CE mark which is a declaration by manufacturer that the product satisfies essential safety requirements.</p>
<p><b>9</b></p>	<p><b>Enforcement body</b></p> <p><b>(a) Which administrative body or bodies oversee compliance with government regulations or industry standards on marketing and advertising?</b></p> <p><b>(b) Do any of these have a specific mandate to look at issues around marketing and advertising to children?</b></p>	<p>(a) Autocontrol (the Spanish advertising self-regulatory body) oversees the compliance with most of the advertising codes of conduct managed by this association.</p> <p>(b) Yes, some sectorial codes which contains specific provisions connected with advertising to children have a specific mandate to look at issues around it. As an example, the Advertising Code of Food and Beverages addressed to Children establishes a “follow-up commission” in which Autocontrol participates, to ensure compliance with the code.</p>



<p><b>10</b></p>	<p><b>Pre-clearance, sanctions and complaints</b></p> <p>(a) Do advertisements need to be pre cleared before publication or broadcast?</p> <p>(b) What sanctions can be imposed for breaches of codes or regulations?</p> <p>(c) Are there mechanisms for children or their representatives to file individual complaints?</p>	<p>(a) Under the agreements made between Spanish TV channels and radio stations and Autocontrol, TV channels and radio stations can request that advertisers obtain pre-launching advice (so-called “copy-advice”) from Autocontrol when they have doubts about the legality of the advertisements to be broadcasted. As a matter of fact, most of the Spanish TV channels always request this “copy-advice” before broadcasting any advertisement.</p> <p>(b) Codes of conduct do not usually set forth economic penalties for breaching them (only the removal of infringing advertisement). Sanctions could be imposed by Spanish competent authorities when the advertisement in question could be considered as infringing the Spanish consumer protection regulations. In this case, minor infringement can be sanctioned with fines up to €3,000, serious infringements up to €15,000 and very serious infringements up to €600,000 (according to discretionary criteria of health risk, position in the market of the offender, amount of benefit earned, level of intention, severity of the social disruption caused or widespread infringement and repetition).</p> <p>(c) Yes, interested persons as well as consumer associations can file individual complaints before Autocontrol as well as before the Spanish consumer-protection authorities (if applicable).</p>
<p><b>11</b></p>	<p><b>Effectiveness</b></p> <p>How effective are the laws and codes? Are they respected/do they get enforced?</p>	<p>Autocontrol, the body in charge of supervising compliance with the self-regulatory regulations (code of conducts), is very active. It acts either (i) upon complaint filed (generally) by a given competitor or consumer association; (ii) or even ex officio. It is the usual channel for enforcement purposes (despite some cases arrive to court, normally unfair competition cases), as the advertising legislation in Spain is quite generalist.</p>
<p><b>12</b></p>	<p><b>Pressure Groups</b></p> <p>Are the consumer led pressure groups/lobbying?</p>	<p>Lobbying in Spain is an unregulated practice. For this reason, there are no legally recognized lobby groups. This role is assumed by a number of consumer associations with important institutional impact within our economic/constitutional system; in particular OCU (Organización de Consumidores y usuarios) and FACUA (Consumidores en acción). The aim of these organizations is to support consumers (both individuals and groups of users/consumer) that seek protection against corporate abuse in cases of unsafe products, predatory lending or false advertising, among others.</p>





### 31. SWEDEN

1	<p><b>Regulation</b></p> <p><b>Are there statutes or codes, including voluntary initiatives (e.g., industry codes of conduct), that specifically regulate marketing and/or advertising? Please list and briefly describe key statutes, codes and initiatives.</b></p>	<p>There are legislation and statutes that regulate marketing and advertising in Sweden. The Marketing Act (Sw. marknadsföringslagen (2008:486)) and the Advertising and Marketing Communication Practice (Consolidated ICC Code) specifically regulate marketing and advertising. The ICC Code is considered as generally accepted marketing practice under the Marketing Act. Provisions concerning marketing can also be found in specific consumer protection legislation. Furthermore, position papers and guidance from the Swedish Consumer Agency (Sw. Konsumentverket) also serve as guidance on questions concerning marketing and advertising directed to children.</p>
2	<p><b>Regulations protecting children</b></p> <p><b>Do any standards listed above explicitly address marketing and advertising to children as a whole and/or to particular age groups of children? What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?</b></p>	<p>There are no specific provisions in the Marketing Act concerning marketing or advertising to children. However, the ICC Code (article 18) contains rules concerning marketing and advertising to children.</p> <p>Since the definitions of the term “child” or young person vary widely, the provisions outlined in the ICC Code that apply to marketing communications addressed to children and young people recommend the use of local definitions. An exception is in the field of privacy where there is general consensus on the age at which rules relating to “children” apply. Hence, for the purpose of all privacy related sections, including sections on online behaviour advertising, and in the absence of relevant local regulatory or self-regulatory definitions, the ICC Code refers to “children” as 12 and under. According to the Parental Code (Sw. Föräldrabalken (1949:381)), a person under the age of 18 is defined as a minor. Furthermore, the Swedish Market Court has in its case law concluded that direct marketing targeting children under 16 years of age directly is a violation of so-called good market practice (Sw. god marknadsföringssed).</p>
3	<p><b>Specific product restrictions</b></p> <p><b>What, if any, restrictions are there on advertising products that are known to be or are potentially dangerous or harmful to children, including but not limited to: Tobacco, Alcohol, Drugs/pharmaceuticals, HFSS products</b></p>	<p><b>Tobacco</b></p> <p>There is a partial prohibition on advertising tobacco products in the Tobacco Act (Sw. Tobakslagen (1993:581)). A business operator who markets tobacco products to consumers may not make use of commercial advertisement in e.g. radio broadcasting or television programmes. According to the Swedish Consumer Agency’s recommendation KOVFS 2009:7, a commercial advertisement may not be directed towards people under the prescribed age limit, which is 18 years.</p>





### **Alcohol**

According to the Alcohol Act (Sw. Alkohollagen (1994:1738)) advertisements may not be directed at or feature people who appear to be under the age of 25. This is also stated in the Swedish Consumer Agency guidance, KOVFS 2009:6.

### **Pharmaceutical products (non-prescription only)**

According to the Medicinal Products Act (Sw. Läkemedelslagen (1992:859)) the industry is obliged to provide information, in connection with its marketing operations, about the effects, properties and appropriate applications of the medical products concerned. The information must be presented in such way that it gains credibility and good reputation. Information regarding pharmaceuticals may not be directed towards children. The age limit is not defined by law, but the trade association for the research-based pharmaceutical industry in Sweden (“LIF”) has explicitly stated that the marketing of pharmaceuticals directed at children under the age of 18 is prohibited.

Food and special health products (e.g. makeup or shampoo) must be marketed responsibly and meet all advertising codes.

Sweden does not have a specific regulation regarding products that are high in fat, salt or sugar.



<p><b>4</b></p>	<p><b>Timing and placement of restrictions</b></p> <p><b>What, if any, restrictions are there on the timing and/or placement of advertisements in publications aimed at children (e.g., magazines, books)?</b></p> <p><b>(a) Around entertainment programmes aimed at children (e.g., radio, television, movies, video games)?</b></p> <p><b>(b) Online through websites or communications platforms, including social media, aimed at or used by children?</b></p>	<p>In accordance with the ICC Code, marketing communications should not contain any statement that could have the effect of harming children or young people mentally, morally or physically. Children and young people should not be portrayed in unsafe situations or engaging in actions harmful to themselves or others. Products unsuitable for children should not be advertised in media targeted to them. Advertisements directed to children should not be inserted in media where the editorial matter is unsuitable for them.</p> <p>According to the Radio and TV Act (Sw. Radio- och tv lagen (2010:696)), advertising to children under the age of 12 is strictly prohibited. Radio or TV programmes primarily directed to children below the age of 12 may not be interrupted by advertising. In assessing whether the programme is aimed at children under the age of 12 the timing of the programme is of great importance.</p> <p>According to the ICC Code, websites devoted to products or services that are subject to age restrictions such as alcoholic beverages, gambling and tobacco products should undertake measures to restrict access to such websites by minors.</p> <p>According to an inquiry from the government, apps in phones that are directed to children and contain an invitation to purchase are defined as improper marketing and should therefore be prohibited.<sup>107</sup></p> <p>Digital marketing communications directed at children in a particular age group should be appropriate and suitable for such children.</p> <p>The Swedish Consumer Ombudsman has, in a position paper on trading and marketing on the internet<sup>108</sup>, stated that even though there is no outright prohibition on marketing and advertising directed to children online, it has to be clear if a message concerns marketing and advertising or not. Therefore, marketing may not be a part of games, social media or websites that are directed to children.</p>
<p><b>5</b></p>	<p><b>Advertising placement restrictions</b></p> <p><b>What, if any, restrictions are there on advertising or marketing in schools, children’s clubs or other places children regularly visit?</b></p>	<p>There are no statutes that specifically prohibit advertising or marketing in schools. The advertising should not be in conflict with the values and goals set out by the school administration, the Marketing Act and the ICC Code.</p>

<sup>107</sup> Ds 2012:31

<sup>108</sup> De nordiska konsumentombudsmännens ståndpunkt om handel och marknadsföring på Internet, 2010. De nordiska konsumentombudsmännens ståndpunkt om marknadsföring via sociala medier, den 3 maj 2012.



<p><b>6</b></p>	<p><b>Restrictions on targeting children</b></p> <p>What, if any, restrictions are there on using advertising or marketing techniques to appeal to children (e.g., licensing of popular cartoon characters)?</p>	<p>In accordance with the ICC Code, marketers must ensure that their marketing communications do not exploit children’s credulity. Marketing communications should not include any direct appeal to children to persuade their parents or other adults to buy products for them.</p>
<p><b>7</b></p>	<p><b>Restrictions on the use of children in ads</b></p> <p>What, if any, restrictions are there on the use of children in advertising, including peer-to-peer marketing and the appointment of children as brand ambassadors?</p>	<p>As set out above, advertisement and marketing communications may not exploit children’s inexperience or credulity. While the use of fantasy is appropriate for younger as well as older children, marketing and advertising is prohibited if it impairs the child’s ability to distinguish between reality and fantasy. Marketing communications that arise from peer-to-peer or brand ambassador activity must therefore not encourage peer pressure.</p>
<p><b>8</b></p>	<p><b>Product labelling and children’s safety</b></p> <p>In relation to product labelling, are there any specific requirements relevant to children with regard to health, safety or other concerns?</p>	<p>Toys must meet the requirement of the Toys Safety Act (Sw. Lag (2011:579) om leksakers säkerhet). Toys can only be sold if they are safe and contain the correct labelling and safety information. Under the named Act, it is required that the toys carry a CE mark which states that the product is assessed before being placed on the market and meets EU safety, health and environmental protection requirements. If a product is not legally prohibited the product should carry a marking specifying the age group for which it is suitable.</p>



9

### Enforcement body

- (a) Which administrative body or bodies oversee compliance with government regulations or industry standards on marketing and advertising?
- (b) Do any of these have a specific mandate to look at issues around marketing and advertising to children?

- (a) The Market Court is a specialised court that handles cases related to the Competition Act (Sw: Konkurrenslagen (2008:579)) as well as cases involving the Marketing Act and other consumer and marketing legislation. In cases related to marketing and advertising, the Market Court serves as the final court of appeal.

The Swedish Broadcasting Authority (Sw. Myndigheten för radio och tv) supervises radio and television programme services, on-demand services and teletext. The Swedish Broadcasting Commission (Sw. Granskningsnämnden för radio och tv) is a separate decision-making body within the Swedish Broadcasting Authority that monitors whether the content of radio and television programmes adheres to the broadcasting regulations.

The Swedish Consumer Agency (Sw. Konsumentverket) is the administrative body overseeing compliance with the Marketing Act. The Consumer Agency can take measures against misleading advertising and other types of marketing. The Consumer Ombudsman (Sw. konsumentombudsmannen) can represent consumer interests in relations with businesses and pursue legal action in the courts.

The Advertising Ombudsman (Sw. Reklamombudsmannen) is a self-regulatory organisation which handles complaints about advertising and also assesses if advertisements follow the ICC Code. Further, the Advertising Ombudsman provides information on ethical marketing and serves as an information organ as regards copy advice about specific campaigns for financiers.

- (b) No, but the Market Court, the Advertising Ombudsman and the Consumer Ombudsman are aware of the fact that children are placed in a special vulnerable position when it comes to marketing and advertisement communications addressed to children.



<p><b>10</b></p>	<p><b>Pre-clearance, sanctions and complaints</b></p> <p>(a) Do advertisements need to be pre-cleared before publication or broadcast?</p> <p>(b) What sanctions can be imposed for breaches of codes or regulations?</p> <p>(c) Are there mechanisms for children or their representatives to file individual complaints?</p>	<p>(a) There is no requirement for advertisements to be pre-cleared before publication or broadcast. Such a requirement would not be in accordance with the right of free speech pursuant to the Swedish Freedom of Expression Act (Sw. Yttrandefrihetsgrundlagen (1991:1469)).</p> <p>(b) Sanctions under the Marketing Act:</p> <ul style="list-style-type: none"> <li>– A trader whose marketing practices are unfair may be prohibited from continuing the practice or from adopting any other similar practice.</li> <li>– A trader who, in the course of its marketing, fails to provide material information may be ordered to provide such information.</li> <li>– An injunction shall be issued in conjunction with a conditional fine unless special reasons render such unnecessary. A trader may also be ordered to pay a special fine (fine for disruptive marketing practices).</li> <li>– A party who intentionally or negligently breaches an injunction or order can also be liable for damages.</li> <li>– It is also possible for the court to order that any misleading presentation be removed or altered so that is no longer misleading. If that objective cannot be achieved in any other manner, the court may order that the property be destroyed.</li> </ul> <p>(c) Individuals, adults as well as children, may file a complaint to the Advertising Ombudsman against advertising that might be in breach of the ICC Code. Furthermore, it is possible for any individual to file a complaint to the Consumer Agency.</p>
<p><b>11</b></p>	<p><b>Effectiveness</b></p> <p>How effective are the laws and codes? Are they respected/do they get enforced?</p>	<p>The Swedish Consumer Agency investigates breaches when several complaints have been made or if a breach is particularly severe. Although the Swedish Consumer Agency primarily tries to resolve breaches, laws and codes are backed up by various sanctions which the authority will seek if necessary. The Advertising Ombudsman investigates breaches as well, although it cannot enforce its decisions; instead they are published on the Advertising Ombudsman’s website. The laws are effective and the majority of advertisers seek to comply.</p>
<p><b>12</b></p>	<p><b>Pressure Groups</b></p> <p>Are the consumer led pressure groups/lobbying?</p>	<p>There are several consumer led pressure groups which act to promote consumer rights, e.g. the Swedish Consumers’ Association. To our knowledge, none of them exclusively work with advertising directed to children, however such subjects may from time to time be on the groups’ agenda.</p>





## 32. SWITZERLAND

I

### Regulation

**Are there statutes or codes, including voluntary initiatives (e.g., industry codes of conduct), that specifically regulate marketing and/or advertising? Please list and briefly describe key statutes, codes and initiatives.**

*[Please note that we have listed the main statutes at the federal level only. Cantonal statutes may also apply and contain provisions regulating advertising in areas where the Cantons remain competent such as the display of posters on the public domain. Other federal statutes may also contain provisions regulating advertising in general but such provisions are not specifically directed to children.]*

### Statutes

- Federal Act of 19 December 1986 on Unfair Competition, which regulates unfair methods of advertising and sales as well as other illicit behaviours.
- Federal Act of 24 March 2006 on Radio and Television (RTVA); this act regulates the broadcasting, processing, transmission and reception of radio and television programme services.
- Ordinance of 9 March 2007 on Radio and Television (RTVO) contains detailed rules on advertising and sponsoring.
- Federal Act of 9 October 1992 on Foodstuffs and Consumer Products; this act regulates, among other things, the offering, labelling and advertising of foodstuffs and consumer products. As a general rule, advertising of foodstuffs and their presentation and packaging must not mislead the consumer (Art. 18 para. 2).
- Ordinance of 23 November 2005 on Foodstuffs and Consumer Products and Ordinance of 23 November 2005 on Labelling and Advertising of Foodstuffs contains some rules on advertising of such products.
- Ordinance of 27 October 2004 on Tobacco Products and Products containing Tobacco Substitutes intended to be smoked (Ordinance on Tobacco).
- Federal Act of 21 June 1932 on Alcohol contains some rules on advertising of distilled beverages.
- Ordinance of 29 November 2013 on Alcoholic Beverages contains some rules on advertising of alcoholic beverages (i.e. wine, beer, etc.).
- Federal Act of 15 December 2000 on Medicinal Products and Medical Devices (Therapeutic Products Act).
- Ordinance of 17 October 2001 on Advertising of Drugs; this ordinance regulates advertising directed to professionals and advertising directed to the public with respect to drugs ready for use.



## Codes

- Consolidated ICC [International Chamber of Commerce] Code on Advertising and Marketing Communication Practice provides guidelines regarding marketing communication addressed to children in order to ensure responsible marketing communications (self-regulation).

[http://www.iccwbo.org/advocacy-codes-and-rules/document-centre/2011/advertising-and-marketing-communication-practice-\(consolidated-icc-code\)/](http://www.iccwbo.org/advocacy-codes-and-rules/document-centre/2011/advertising-and-marketing-communication-practice-(consolidated-icc-code)/)

## Voluntary Initiatives *[non-exhaustive list]*

- Rules on fairness in commercial communication issued by the Swiss Commission for Fairness (Commission Suisse pour la Loyauté; Schweizerische Lauterkeitskommission); in substance, these rules are intended to ensure compliance with fair practices in commercial communication.

<http://www.faire-werbung.ch/fr/>

- Charter from Swiss Pledge is a voluntary initiative from several manufacturers of food and beverage with activities in Switzerland. The participating companies are Coca-Cola, Danone, Kellogg, McDonald's, Nestlé, PepsiCo (non-exhaustive list). The participating companies must renounce to advertising campaigns directed to children under age 12, except if the products advertised meet specific nutritional criteria. The prohibition applies in particular to TV spots, youth press, brands' websites and is also expected to apply to social media starting from the end of the year 2016.

<http://swiss-pledge.ch/?lang=fr>

- Since 1992, the Swiss cigarettes manufacturers agreed on certain restrictions to the advertisement in the cigarettes industry. In 2005, an agreement has been signed between Swiss Cigarette, representing Swiss cigarettes manufacturers (British American Tobacco Switzerland SA, Philip Morris SA, JT International AG Dagmersellen), and the Swiss Commission for Fairness regarding voluntary restrictions from the cigarettes industry for advertising. In substance, the purpose of this agreement is to ensure that the promotion and distribution of these products are directed to adult smokers and not to minors (i.e. under age 18). For instance, this agreement provides that posting on a board or wall or at a station located less than 100 meters from a school is prohibited. It is also prohibited to advertise on the web unless the manufacturer ensures that any person willing to have access to the website where the advertisement may be found must first prove that she is an adult.



		<p><a href="http://www.swiss-cigarette.ch/fr/themes/commission-suisse-pour-la-loyaute.html">http://www.swiss-cigarette.ch/fr/themes/commission-suisse-pour-la-loyaute.html</a></p> <ul style="list-style-type: none"> <li>– Initiative called “actionsanté”, launched by federal offices, supports companies that champion the promotion of a healthy lifestyle. More and more partners from private industry are committing themselves in the context of this initiative with voluntary campaign pledges, for instance by undertaking to limit the advertising and marketing of foods rich in salt, sugar or fat to children.</li> </ul> <p><a href="http://www.bag.admin.ch/themen/ernaehrung_bewegung/05245/index.html?lang=en">http://www.bag.admin.ch/themen/ernaehrung_bewegung/05245/index.html?lang=en</a></p>
<p><b>2</b></p>	<p><b>Regulations protecting children</b></p> <p><b>Do any standards listed above explicitly address marketing and advertising to children as a whole and/or to particular age groups of children? What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?</b></p>	<p><b>Legal age of majority</b></p> <p>Under Swiss law, the legal age of majority is 18 (Art. 14 of the Swiss Civil Code).</p> <p><b>Definition of a child in advertising context (if different)</b></p> <p>Statutory restrictions are usually applicable in relation to “children”, “minors”, “adolescents” or “young people”, without any clear definition.</p> <p><b>Regulations protecting children/particular age groups</b></p> <p>Statutory restrictions do not address marketing and advertising to particular age groups of children.</p>
<p><b>3</b></p>	<p><b>Specific product restrictions</b></p> <p><b>What, if any, restrictions are there on advertising products that are known to be or are potentially dangerous or harmful to children, including but not limited to: Tobacco, Alcohol, Drugs/ pharmaceuticals, HFSS (high in fat sugar, salt) products?</b></p>	<p><i>Please note that we have listed only some relevant provisions of the federal statutes (excluding cantonal statutes and rules resulting from voluntary initiatives)</i></p> <p><b>Tobacco</b></p> <ul style="list-style-type: none"> <li>– Any advertising suggesting any beneficial effect of tobacco on health is prohibited (Art. 17 para. 1 Ordinance on Tobacco).</li> <li>– It is prohibited to use on the packaging of tobacco products, text, names, figures or other marks and signs such as “light”, “ultra light” or “mild”, suggesting that a tobacco product is less harmful than others (Art. 17 para. 2 Ordinance on Tobacco).</li> <li>– Advertising of tobacco products especially directed to young people under age 18 in specific places or on specific goods is prohibited (Art. 18 Ordinance on Tobacco). [Please refer to answers 4 and 5]</li> <li>– Advertising of tobacco products on radio and TV is prohibited (Art. 10 para. 1 RTVA).</li> </ul>



### Alcohol

- Advertising of distilled beverages shall contain only indications or images directly linked to the product or its properties (Art. 42b para. 1 Federal Act on Alcohol).
- Advertising of distilled beverages is prohibited in certain places, such as on radio and TV (Art. 10 para. 1 RTVA), in and on buildings for public use, in and on public transportations, on sport places and during sporting events, during events to which essentially children or adolescents participate or which are organized principally for them, in shops or places where medicine is sold or which activity is mainly about safeguarding health (Art. 42b para. 2 Federal Act on Alcohol).
- Free distribution of distilled beverages for advertising purposes to an indefinite number of people is prohibited (Art. 41 para. 1 Federal Act on Alcohol).
- Advertising of alcoholic beverages specifically directed to young people under age 18 is prohibited. Such advertising is in particular prohibited in places or during events visited essentially by young people or on goods used by or freely distributed to young people (Art. 11 para. 3 Ordinance on Foodstuffs and Consumer Products). *[Please refer to answers 4 and 5]*
- Advertising of alcoholic beverages on radio and TV must not be specifically directed to minors nor involve anyone looking like a minor (Art. 16 para. 1 RTVO).

### Drugs/Pharmaceuticals

- Advertising of certain drugs on radio and TV is prohibited (Art. 10 para. 2 RTVA).
- It shall be permitted to (a) advertise all types of medicinal products if the advertising is directed exclusively at persons who prescribe or dispense them; (b) advertise non-prescription medicinal products to the general public (Art. 31 Therapeutic Products Act). Advertising is unlawful (a) if it is misleading or contrary to public order and morality; (b) if it may incite an excessive, abusive or inappropriate use of medicinal products; (c) if it is for medicinal products which may not be placed on the market in Switzerland (Art. 32 para. 1). Advertising directed to the general public shall be deemed unlawful for medicinal products which (a) may only be supplied on a prescription; (b) contain narcotic or psychotropic substances; (c) may not, on account of their composition and their intended use, be used without the intervention of a doctor for the necessary diagnosis, prescription or treatment; (d) are frequently the object of abuse or which lead to an addiction or dependence (Art. 32 para. 2 Therapeutic Products Act).





		<ul style="list-style-type: none"> <li>– Ordinance on Advertising of Drugs set out several detailed restrictions applicable to advertising directed to the public, such as the prohibition of advertising directed principally or exclusively to children or adolescents (Art. 22).</li> </ul> <p><b>HFSS products</b></p> <p>There is no specific statute under Swiss law regulating the advertising of these products. There are however some rules resulting from voluntary initiatives [please refer to box 1].</p>
<p><b>4</b></p>	<p><b>Timing and placement of restrictions</b></p> <p><b>What, if any, restrictions are there on the timing and/or placement of advertisements in:</b></p> <p><b>(a) Publications aimed at children (e.g., magazines, books)?</b></p> <p><b>(b) Around entertainment programmes aimed at children (e.g., radio, television, movies, video games)?</b></p> <p><b>(c) Online through websites or communications platforms, including social media, aimed at or used by children?</b></p>	<p><b>Publications</b></p> <ul style="list-style-type: none"> <li>– Any advertising of tobacco products especially directed to young people under age 18 in newspapers, magazines or other publications principally directed to young people is prohibited (Art. 18 Ordinance on Tobacco).</li> <li>– Any advertising of alcoholic beverages in publications aimed principally at young people is prohibited (Art. 11 para. 3 Ordinance on Foodstuffs and Consumer Products).</li> </ul> <p><b>Entertainment programmes</b></p> <ul style="list-style-type: none"> <li>– Programmes for children on TV and radio may not be interrupted by any advertising (Art. 13 para. 2 RTVA; 18 para. 3 and 22 para. 1bis RTVO).</li> <li>– No advertising of alcoholic beverages may be broadcast before, during or after programmes which are directed to children or young people (Art. 16 para. 2 RTVO).</li> <li>– Inserts of the sponsorship relationship (Art. 20 RTVO) as well as product placements (subject to certain exceptions) (Art. 21 RTVO) are not permitted in children’s programmes.</li> <li>– Offers for sale on TV and radio may not be directed to minors (Art. 13 para. 3 RTVA).</li> </ul> <p><b>Online</b></p> <p>To our knowledge, there are no federal statutory rules regulating expressly the advertising online with respect to children. The Ordinance on Advertising of Drugs provides some rules on advertising online in general. A new statute on tobacco products prohibiting advertising of tobacco online is in preparation. It will be submitted to the final vote of the Swiss Parliament at the end of the year 2016 and is anticipated to enter into force in 2018.</p>





<p><b>5</b></p>	<p><b>Advertising placement restrictions</b></p> <p><b>What, if any, restrictions are there on advertising or marketing in schools, children’s clubs or other places children regularly visit?</b></p>	<p><b>Schools</b></p> <ul style="list-style-type: none"> <li>– Any advertising of tobacco products especially directed to young people under age 18 in places frequented principally by young people is prohibited (Art. 18 Ordinance on Tobacco).</li> </ul> <p><b>Clubs</b></p> <p><i>[please see below]</i></p> <p><b>Other</b></p> <ul style="list-style-type: none"> <li>– Any advertising of tobacco products especially directed to young people under age 18 during cultural, sporting or other events visited principally by young people is prohibited (Art. 18 Ordinance on Tobacco).</li> <li>– Any advertising of tobacco products especially directed to young people under age 18 on school materials, toys, advertising materials distributed to them at no cost such as T-shirts, caps, flags, beach balls is prohibited (Art. 18 Ordinance on Tobacco). A similar rule is applicable to alcoholic beverages (Art. 11 para. 3 Ordinance on Foodstuffs and Consumer Products).</li> <li>– Advertising of distilled beverages is prohibited during events to which essentially children or adolescents participate or which are organized principally for them (Art. 42b para. 3 Federal Act on Alcohol). A similar rule is applicable to alcoholic beverages (Art. 11 para. 3 Ordinance on Foodstuffs and Consumer Products).</li> </ul>
<p><b>6</b></p>	<p><b>Restrictions on targeting children</b></p> <p><b>What, if any, restrictions are there on using advertising or marketing techniques to appeal to children (e.g., licensing of popular cartoon characters)?</b></p>	<p><b>Cartoon/imaginary characters</b></p> <p>To our knowledge, there is no federal statutory provision restricting specifically the use of advertising and marketing techniques to appeal children.</p> <p><b>Other</b></p>



<p><b>7</b></p>	<p><b>Restrictions on the use of children in ads</b></p> <p><b>What, if any, restrictions are there on the use of children in advertising, including peer-to-peer marketing and the appointment of children as brand ambassadors?</b></p>	<p>Principles applicable in this area may be found in general acts, such as the UN Convention on the Rights of the Child (entered into force in Switzerland on 26 March 1997), or the Federal Constitution of the Swiss Confederation. These principles aim at protecting children and their development in broad terms.</p> <p><b>Use in advertising &amp; Use as brand ambassadors</b></p> <p>As a general rule, employing young people under age 15 is prohibited by Swiss labour law, subject to certain exceptions (Art. 30 para. 1 of the Federal Act of 13 March 1964 on Work in the Industry, Crafts and Trade).</p> <p>One of these exceptions is the employment of young people for advertising, which is permissible provided that the activity is not harmful to their health, safety and physical and psychological development, school attendance and academic performance. In such case, when young people are under age 15, their employment must be notified to the competent cantonal authorities 14 days before the first day of work. In the absence of a contrary decision from the authority within 10 days, such work is allowed (Art. 4 para. 2 and Art. 7 para. 2 Ordinance Nr 5 of 28 September 2007 on Young Workers).</p>
<p><b>8</b></p>	<p><b>Product labelling and children's safety</b></p> <p><b>In relation to product labelling, are there any specific requirements relevant to children with regard to health, safety or other concerns?</b></p>	<p><i>[There are no general rules relevant to children. Below some examples of warnings that must be stated on label under Swiss law. Please also note that the European legislation may also apply here, but that we have limited our answers to some Swiss rules.]</i></p> <p><b>Health</b></p> <ul style="list-style-type: none"> <li>– Certain warnings must be inserted on the packaging of tobacco products, such as “Protect your children: do not smoke in their presence” or “Smoking during pregnancy is harmful to the health of your child” (Art. 12 para. 1 let. d and e Ordinance on Tobacco).</li> <li>– For products (beverages or foods) with a certain high caffeine content, the mention “high caffeine content, not recommended for children [...]” must be included on the label (Art. 34 para. 1 let c. of the Ordinance of 23 November 2005 on Soft Drinks (especially tea, herbal tea, coffee, juices, syrups, lemonades); Annex 8 to the Ordinance on Labelling and Advertising of Foodstuffs).</li> <li>– Alcoholic beverages cannot present any text or image directed specifically to young people under age 18 (Art. 11 para. 4 Ordinance on Foodstuffs and Consumer Products).</li> </ul>



		<p><b>Safety</b></p> <ul style="list-style-type: none"> <li>– A federal statute regulates the safety of products in general (Federal Act of 12 June 2009 on Products Safety). An ordinance regulates the labelling and advertising of foodstuffs and consumer products such as toys. Label and use instruction for toys for children under age 14 shall draw the attention on dangers and risks of damages inherent to the use of such toys and on how to avoid them (Art. 43 para. 4 Ordinance on Foodstuffs and Consumer Products). To ensure a safe use of certain toys, the insertion of several warnings may also be required notably on the label, in relation to, among others, the minimum age of the user, his minimum weight, the necessity to ensure that the toy is used under the supervision of an adult, etc. (Ordinance of 15 August 2012 on Toys Safety).</li> </ul> <p><b>Other</b></p>
<p><b>9</b></p>	<p><b>Enforcement body</b></p> <p><b>(a) Which administrative body or bodies oversee compliance with government regulations or industry standards on marketing and advertising?</b></p> <p><b>(b) Do any of these have a specific mandate to look at issues around marketing and advertising to children?</b></p>	<p><b>Enforcement body</b></p> <p><i>[Please note that there are also bodies created through voluntary initiatives; in the present case, we have mentioned only some federal authorities]</i></p> <ul style="list-style-type: none"> <li>– In the context of drugs, the competent authority is the Swiss Institute for Therapeutic Products.</li> <li>– In the context of TV and radio, the competent authority is the Federal Office of Communications; this Office ensures that the federal statute and its implementing provisions relating to advertising are complied with.</li> <li>– In the general context of fair advertising regulated by the Federal Act on Unfair Competition, complaints may be filed with the State Secretariat for Economic Affairs.</li> </ul> <p><b>Specific mandate to focus on children’s issues?</b></p> <p>To our knowledge, these authorities do not have any specific mandate focusing on marketing and advertising aimed to children.</p> <p>The Federal Office of Public Health is responsible for national programmes designed to reduce substance dependence (tobacco, alcohol, illegal drugs) and promote healthy lifestyles (nutrition and exercise, health and the environment). It takes into account the health of children and young people.</p>



<p><b>10</b></p>	<p><b>Pre-clearance, sanctions and complaints</b></p> <p>(a) <b>Do advertisements need to be pre-cleared before publication or broadcast?</b></p> <p>(b) <b>What sanctions can be imposed for breaches of codes or regulations?</b></p> <p>(c) <b>Are there mechanisms for children or their representatives to file individual complaints?</b></p>	<p><b>Pre-clearance</b></p> <p>Advertising on radio, television and cinema for specific drugs is subject to the authorization of the Swiss Institute for Therapeutic Products before initial release (Art. 23 Ordinance on Advertising of Drugs).</p> <p><b>Sanctions</b></p> <p>The various federal statutes usually provide that fines (criminal sanctions) or financial sanctions (administrative sanctions) may be imposed for breaches of their rules on advertising.</p> <p><b>Complaints</b></p> <p>The usual mechanism is to bring a judicial action before a court or the competent administrative authority (if any).</p>
<p><b>11</b></p>	<p><b>Effectiveness</b></p> <p><b>How effective are the laws and codes? Are they respected/do they get enforced?</b></p>	<p>We are not aware of major deficiencies in the application and enforcement of Swiss legislation in the context of advertising.</p>
<p><b>12</b></p>	<p><b>Pressure Groups</b></p> <p><b>Are the consumer led pressure groups/lobbying, and if so, how effective are they?</b></p>	<p>We are not aware of associations or pressure groups defending specifically children in the context of marketing and advertising directed to them. However, there are several consumer protection associations in Switzerland.</p>





### 33. THAILAND



<p>I</p>	<p><b>Regulation</b></p> <p><b>Are there statutes or codes, including voluntary initiatives (e.g., industry codes of conduct), that specifically regulate marketing and/or advertising? Please list and briefly describe key statutes, codes and initiatives.</b></p>	<p><b>Statutes</b></p> <ul style="list-style-type: none"> <li>■ <b>Consumer Protection Act B.E. 2522 (1979) (“CPA”)</b> Under the CPA, the advertisement shall not contain a statement which is unfair to consumers or which may cause adverse effect to the society as a whole, e.g. statement which is false or exaggerated, or statement which will cause misunderstanding in the essential elements concerning goods or services, etc.</li> <li>■ <b>Ministerial Regulation B.E. 2547 (2004) issued under CPA (“MR of CPA”)</b> This Ministerial Regulation sets out criteria of advertisement in relation to alcohols and caffeine.</li> <li>■ <b>Food Act B.E. 2522 (1979) (“FA”)</b> Under the FA, advertisement on quality or benefit of food is prohibited unless a prior approval from the Thai Food and Drug Administration is obtained.</li> <li>■ <b>Notification of the Food and Drug Administration re: Criteria on Food Advertisement B.E. 2551 (2008) (“Notification of FDA”)</b> This Notification of FDA sets out criteria of food advertisement.</li> <li>■ <b>Tobacco Products Control Act B.E. 2535 (1992) (“TPCA”)</b> Under the TPCA, advertising of tobacco products or exposing the name or mark of the tobacco products in printed matter via any advertiseable media is prohibited.</li> <li>■ <b>Child Protection Act B.E. 2546 (2003) (“CHPA”)</b> Under the CHPA, the child treatment in any case must be made with a view to maximize benefit of a child without unfairness and discrimination.  It is also specified that no person shall advertise to adopt or give a child to other persons other than relatives of such child.</li> <li>■ <b>Broadcasting and Television Business Act B.E. 2551 (2008) (“BTBA”)</b> Under the BTBA, broadcasting of programs (including advertisement) containing issues induced to overthrow the democratic regime of government with the Monarchy as Head of the State or having effects on the national security, peace and order or morality of the public or having the nature of obscene or serious deterioration of the physical or mental health of the people shall be prohibited.</li> </ul>
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- Notification of the National Broadcasting and Telecommunications Commission re: Criteria for Preparation of Broadcast Schedules for Radio or Television Broadcasting Services dated 7 February 2013 (“**Notification of NBTC**”)

According to the Notification of NBTC, any broadcasting contents shall be subject to ratings. The ratings are categorized into 6 categories:

- (i) for children of 3 to 5 years of age;
- (ii) for children of 6 to 12 years of age;
- (iii) for person of any age;
- (iv) for person with at least 13 years of age and those under 13 should be with recommendation;
- (v) for person with at least 18 years of age and those under 18 should be with recommendation; and
- (vi) for adult only.

- Notification of the Office of National Broadcasting and Telecommunications Commission re: Criteria for Preparation of Broadcast Schedules for Radio or Television Broadcasting Services dated 30 September 2013 (“**Notification of Office of NBTC**”)

This is a guideline to comply with the Notification of NBTC.

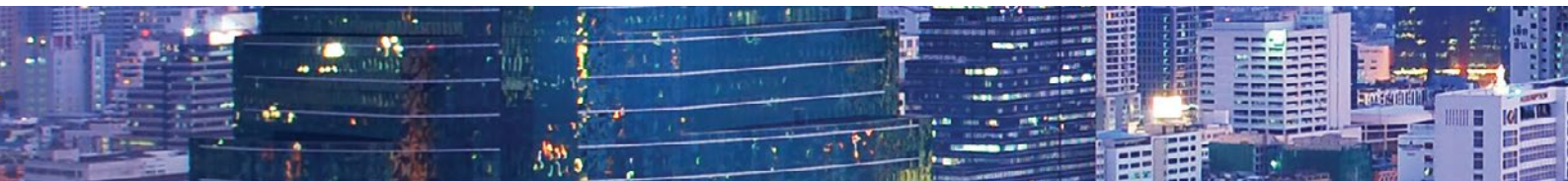
- Alcoholic Beverage Control Act B.E. 2551 (2008) (“**ABCA**”)

Under the ABCA, advertising, directly or indirectly, name or trademark of alcoholic beverage in a manner showing properties thereof or inducing other person to drink is prohibited.

- Drug Act 2510 (1967) (“**DA**”)

Under the DA, an advertisement for the sale of a drug shall :

- (1) not be boastful of its therapeutic properties or of its ingredients as being miraculously or completely capable of curing, mitigating, treating or preventing a disease or illness, nor shall any other wording of similar meaning be used;
- (2) not falsely or exaggeratedly show its therapeutic properties;
- (3) not cause to be understood that it has a substance as its chief or component ingredient, which in fact it has not or does have but less than the quantity as caused to be understood;
- (4) not cause to be understood that it is an abortifacient or a strong emmenagogue;



		<ul style="list-style-type: none"> <li>(5) not cause to be understood that it is an aphrodisiac or a birth control drug;</li> <li>(6) not show the therapeutic properties of a dangerous or a specially-controlled drug;</li> <li>(7) contain no certification or laudation of its therapeutic properties by any other person;</li> <li>(8) not show its therapeutic properties as being capable of curing, mitigating, treating or preventing disease or symptom thereof as notified by the Minister.</li> </ul> <p><b>Codes</b></p> <ul style="list-style-type: none"> <li>■ There are no codes that specifically regulate marketing and/or advertising.</li> </ul> <p><b>Voluntary Initiatives</b></p> <ul style="list-style-type: none"> <li>■ There is a cooperation among main broadcasters in Thailand being channels 3, 5, 7, 9 and 11 in considering and verifying an appropriateness of any advertisement before it can be broadcasted by one of these main broadcasters.</li> </ul>
<p><b>2</b></p>	<p><b>Regulations protecting children</b></p> <p><b>Do any standards listed above explicitly address marketing and advertising to children as a whole and/or to particular age groups of children? What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?</b></p>	<p><b>Legal age of majority</b></p> <ul style="list-style-type: none"> <li>■ Under the CHPA, “child” means a person under 18 years of age, but not include a person those become sui juris through marriage.</li> </ul> <p><b>Definition of a child in advertising context (if different)</b></p> <ul style="list-style-type: none"> <li>■ There is no specific definition of a child in the context of advertising.</li> <li>■ According to the notification of the product labelling committee of the Consumer Protection Board, child means a person of not more than 14 years of age.</li> </ul> <p><b>Regulations protecting children/particular age groups</b></p> <ul style="list-style-type: none"> <li>■ There are ratings applicable to the contents of any broadcasting according to the Notification of NBTC mentioned above.</li> <li>■ According to the Notification of FDA, there are specific requirements in relation to the advertisements of food, milk, and supplementary food for infant, baby, and children.</li> </ul>



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### Specific product restrictions

**What, if any, restrictions are there on advertising products that are known to be or are potentially dangerous or harmful to children, including but not limited to: Tobacco, Alcohol, Drugs/pharmaceuticals, HFSS (high in fat sugar, salt) products?**

#### Tobacco

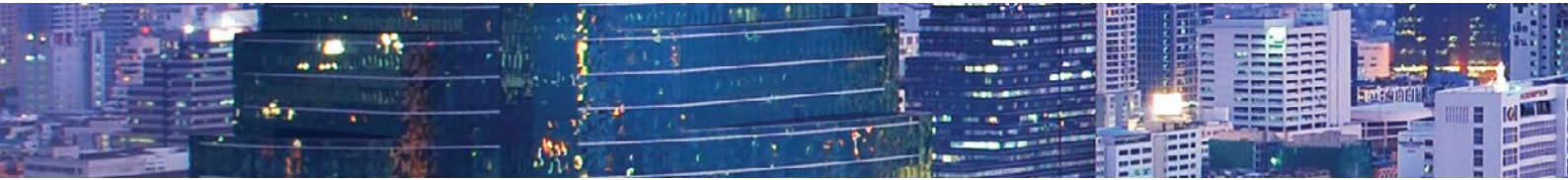
- According to Section 8 of TPCA, no person is allowed to advertise tobacco products, expose the name or mark of the tobacco products in printed matters, via radio broadcast, radio television, or any other advertisement media or to use the name or mark of tobacco products in activities where the objective is to let the public understand that the name or mark belongs to the tobacco products. This does not apply to live broadcast from abroad via radio or television, or advertisement of tobacco products in publications printed outside of Thailand that do not intend to sell them to Thailand specifically.
- According to Section 9 of TPCA, no person is allowed to advertise the good by using the name or mark of the tobacco products as mark of the good in a manner which makes the good seem like a tobacco product.

#### Alcohol

- According to Section 32 of ABCA, no person shall advertise or display, directly or indirectly, the name or trademark of a brand of alcoholic beverage in a manner that displays its properties or induces another person to drink. That said, advertisements that are broadcasted from outside of Thailand are permitted.

#### Alcohol and Caffeine

- According to the MR of CPA, the advertising contents in relation to alcohols, having certain wordings or characteristics as prescribed under the Ministerial Regulations, must include the warning wording, in particular “*Selling alcohols to the person under 18 years of age is illegal.*” For the advertising contents related to caffeine, certain warnings must be included, e.g. “*Do not drink for more than 2 bottles – children and pregnant women should not drink.*”
- The certain wordings or characteristics aforementioned in relation to the caffeine include where such advertisement performed by the actor/actress or the singer who is under 18 years of age.
- The restricted contents mentioned above must also be displayed in line with the requirements under this MR of CPA.



### Drugs/Pharmaceuticals

- According to Section 88 of DA, advertisement for the sale of drugs must not: falsely state or exaggerate its therapeutic properties or ingredients; create a misunderstanding that one substance is chief in the drug when it in fact it has less than the quantity suggested ; suggest that it is an abortifacient, emmenagogue, aphrodisiac or birth control drug; suggest the therapeutic properties of a dangerous or a specially-controlled drug; contain no certification or laudation of its therapeutic properties by another person; show its therapeutic properties as being capable of curing, mitigating, treating or preventing disease or symptoms thereof as notified by the Minister under section 77.

### HFSS products

- There is no restriction on advertisement of HFSS products.

### Others

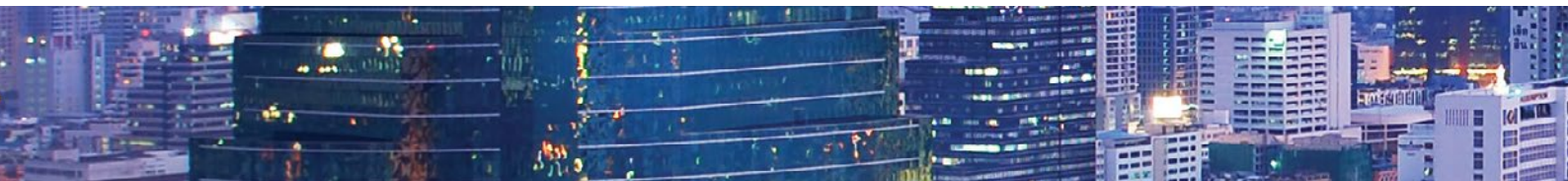
- According to the Notification of FDA, there are restrictions on the advertisement of specific food, stuff intended for infant consumption. The Notification of FDA prohibits: the advertisement of artificial milk for infants; artificial milk for infants and toddlers; food formula for infants and toddlers; and other food that is targeted at infants and toddlers. That said, this is permitted if this information is supported by a medical journal or advice given by a doctor, nurse, midwife or pharmacist. The information must not promote competition between breastfeeding or artificial milk
1. Food for infants and toddlers
    - i. Advertisement is prohibited for the following foodstuffs: formula milk for infants and toddlers, food intended for infant or toddler consumption with the exception of those providing testimony from doctors, midwives or pharmacists.
    - ii. Products cannot contain statements advertising them to be superior to breast milk, or use images of infants or toddlers in their advertisements.
  2. Supplements for infants and toddlers
    - i. Milk supplements must provide statements promoting breast milk, and asserting its superiority over artificial alternatives.
    - ii. Supplements must not give the impression that they provide all of the nutrients required by infants and toddlers as an alternative for food or milk.





		<p>3. Milk and Milk Products</p> <ul style="list-style-type: none"> <li>i. Advertisements must not indicate that the product is for a particular group, such as males, it must be advertised to all.</li> <li>ii. Children appearing in advertisements for milk or milk products must be older than three years of age, and possess the ability to speak properly and with clarity.</li> </ul> <p>4. Jelly, and foodstuffs containing gelatine</p> <ul style="list-style-type: none"> <li>i. Advertisements must provide a statement indicating that the product should not be consumed by children under three years of age.</li> <li>ii. Children appearing in advertisements must be older than three years of age.</li> </ul>
<p><b>4</b></p>	<p><b>Timing and placement of restrictions</b></p> <p><b>What, if any, restrictions are there on the timing and/or placement of advertisements in:</b></p> <ul style="list-style-type: none"> <li>(a) <b>Publications aimed at children (e.g., magazines, books)?</b></li> <li>(b) <b>Around entertainment programmes aimed at children (e.g., radio, television, movies, video games)?</b></li> <li>(c) <b>Online through websites or communications platforms, including social media, aimed at or used by children?</b></li> </ul>	<p><b>Publications/Entertainment programmes and Online</b></p> <p><b>Tobacco</b></p> <ul style="list-style-type: none"> <li>■ Advertisement of tobacco, in any form, is not allowed (Section 8, TCA).</li> </ul> <p><b>Alcohol</b></p> <ul style="list-style-type: none"> <li>■ According to the Notification by the Food and Drug Committee on Advertisement of Drinks that contains Alcohol B.E. 2546 (2003), advertisement of drinks that contains alcohol, through radio or television, is only permitted from 22.00 hours to 5.00 hours. All forms of advertisement that induce people to drink are prohibited (Section 32, ABCA).</li> </ul> <p><b>Drugs/Pharmaceuticals</b></p> <ul style="list-style-type: none"> <li>■ The advertisement to sell drugs through radio amplifier, television slides or motion picture or through printed matter must: receive permission for the text, sound or picture used in the advertisement from the licensor, and follow the conditions set by the licensor (Section 88 bis, DA). There is no limitation with regards to timing.</li> </ul> <p><b>High in fat, sugar, salt (HFSS) products</b></p> <ul style="list-style-type: none"> <li>■ There is no restriction on timing of advertisement of HFSS products.</li> </ul>

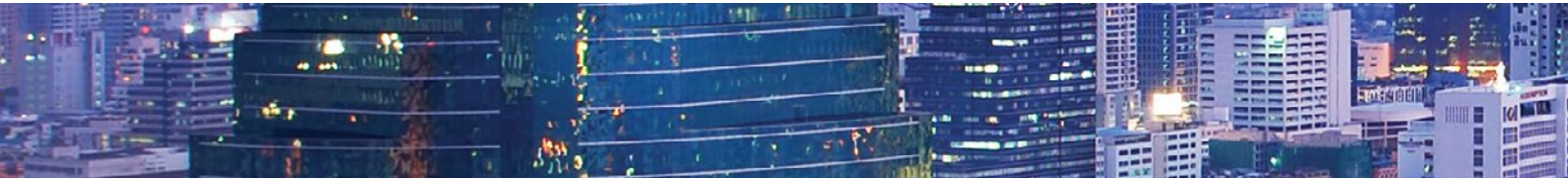




		<p>In general, according to the Notification of NBTC, timing for broadcasting of contents will be subject to the rating categories as follows:</p> <ul style="list-style-type: none"> <li>(i) the content for children of 3 to 5 years of age can be broadcasted any time;</li> <li>(ii) the content for children of 6 to 12 years of age can be broadcasted any time;</li> <li>(iii) the content for person of any age can be broadcasted any time;</li> <li>(iv) the content for person with at least 13 years of age and those under 13 should be with recommendation can be broadcasted after 20.30 hours to 5.00 hours;</li> <li>(v) the content for person with at least 18 years of age and those under 18 should be with recommendation can be broadcasted after 22.00 hours to 5.00 hours; and</li> <li>(vi) the content for adult only can be broadcasted after 24.00 hours to 5.00 hours.</li> </ul>
<p><b>5</b></p>	<p><b>Advertising placement restrictions</b></p> <p><b>What, if any, restrictions are there on advertising or marketing in schools, children’s clubs or other places children regularly visit?</b></p>	<p><b>Schools</b></p> <p>There are no restrictions as to advertising or marketing in schools.</p> <p><b>Clubs</b></p> <p>There are no restrictions as to advertising or marketing in clubs..</p> <p><b>Other</b></p>
<p><b>6</b></p>	<p><b>Restrictions on targeting children</b></p> <p><b>What, if any, restrictions are there on using advertising or marketing techniques to appeal to children (e.g., licensing of popular cartoon characters)?</b></p>	<p><b>Cartoon/imaginary characters</b></p> <ul style="list-style-type: none"> <li>■ Under the MR of CPA, the advertising content of alcohols using the cartoon characters is restricted. As a result, certain warning must be included, i.e. “<i>Selling alcohols to the person under 18 years of age is illegal</i>” and such content must be displayed in line with the requirements under this MR of CPA.</li> </ul>



<p><b>7</b></p>	<p><b>Restrictions on the use of children in ads</b></p> <p><b>What, if any, restrictions are there on the use of children in advertising, including peer-to-peer marketing and the appointment of children as brand ambassadors?</b></p>	<p><b>Use in advertising</b></p> <ul style="list-style-type: none"> <li>■ Section 26(6) CHPA also protects the child by making it an offence to, regardless of the child’s consent, to use, employ or ask a child to work or act in a way that might be physically or mentally harmful to the child, affect the child’s growth or hinder the child’s development.</li> <li>■ Section 27 of CHPA provides that no person shall advertise any information related to a child or guardian with an intention to cause damage to mental, reputation, or interest of a child or to acquire illegally commercial benefit for is or her own or for other persons.</li> <li>■ The Notification of FDA specifies that a child in the advertisement of milk, jelly and gelatine contained food for infant and toddlers, must be over 3 years of age and a child in the advertisement of jelly containing glucomannan, or konjac powder must be over 12 years of age .</li> </ul> <p><b>Use as brand ambassadors</b></p> <ul style="list-style-type: none"> <li>■ There is no specific restriction.</li> </ul> <p>* Our above comments were made based on our understanding that the child in this section is not employed under an employment contract (i.e. hire of services).</p>
<p><b>8</b></p>	<p><b>Product labelling and children’s safety</b></p> <p><b>In relation to product labelling, are there any specific requirements relevant to children with regard to health, safety or other concerns?</b></p>	<p><b>Health</b></p> <ul style="list-style-type: none"> <li>■ In general the CPA requires that there must be product labelling containing relevant information of the goods.</li> </ul> <p><b>Safety</b></p> <ul style="list-style-type: none"> <li>■ According to the CPA, there are notifications of the product labelling committee that certain products are label controlled products. This includes toys for children.</li> <li>■ According to the Notification of the Ministry of Public Health (No. 367) B.E. 2557 (2014) re: Labels of Food in a Containing Packages, it is required that an information on the using methods and other necessary for foods intended for an infant or a baby must be contained in a label.</li> </ul> <p><b>Other</b></p> <ul style="list-style-type: none"> <li>■ There is no other specific requirement.</li> </ul>



<p><b>9</b></p>	<p><b>Enforcement body</b></p> <p><b>(a) Which administrative body or bodies oversee compliance with government regulations or industry standards on marketing and advertising?</b></p> <p><b>(b) Do any of these have a specific mandate to look at issues around marketing and advertising to children?</b></p>	<p><b>(a) Enforcement body</b></p> <p>Generally, the enforcement authorities will be subject to the relevant legislation as follow:</p> <p><b>Consumer Protection Act B.E. 2522 (1979) (“CPA”)</b></p> <ul style="list-style-type: none"> <li>■ The Committee on Advertisement</li> </ul> <p><b>Food Act B.E. 2522 (1979) (“FA”)</b></p> <ul style="list-style-type: none"> <li>■ The Food Commission</li> <li>■ The Food and Drug Administration.</li> </ul> <p><b>Tobacco Products Control Act B.E. 2535 (1992) (“TPCA”)</b></p> <ul style="list-style-type: none"> <li>■ The Minister of the Ministry of Public Health</li> </ul> <p><b>Child Protection Act B.E. 2546 (2003) (“CHPA”)</b></p> <ul style="list-style-type: none"> <li>■ The Ministry of Social Development</li> <li>■ The National Child Protection Committee</li> <li>■ A Bangkok Metropolis Child Protection Committee</li> <li>■ Provincial Child Protection Committee</li> </ul> <p><b>Notification of the Office of National Broadcasting and Telecommunications Commission</b></p> <ul style="list-style-type: none"> <li>■ The National Broadcasting and Telecommunications Commission</li> </ul> <p><b>Alcoholic Beverage Control Act B.E. 2551</b></p> <ul style="list-style-type: none"> <li>■ National Alcoholic Beverage Policy Committee</li> <li>■ Alcoholic Beverage Control Committee</li> </ul> <p><b>Drug Act 2510 (1967) (“DA”)</b></p> <ul style="list-style-type: none"> <li>■ Drug Board</li> <li>■ The Food and Drug Administration.</li> </ul> <p><b>(b) Specific mandate to focus on children’s issues?</b></p> <ul style="list-style-type: none"> <li>■ The National Child Protection Committee</li> <li>■ A Bangkok Metropolis Child Protection Committee</li> <li>■ Provincial Child Protection Committee</li> </ul>
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### Pre-clearance, sanctions and complaints

- (a) Do advertisements need to be pre-cleared before publication or broadcast?
- (b) What sanctions can be imposed for breaches of codes or regulations?
- (c) Are there mechanisms for children or their representatives to file individual complaints?

### Pre-clearance

- This is subject to the type of advertisement. In general there is no pre-clearance requirement for broadcasted except for a broadcast of advertisement vis the main broadcasters (TV channels 3, 5, 7, 9 and 11) and the advertisement of foods which requires a prior approval from the FDA.

### Sanctions

As there is no specific legislation that specifically regulates advertising and marketing, the sanctions imposed will depend on the offence committed under the relevant legislation.

### Child Protection Act 2003

- Article 78 penalises any person who, regardless of a child's consent, harms a child's body and mind, such as in ways listed in Article 26, will be imprisoned for a term not exceeding three months, or fined not exceeding 30,000 baht, or both.
- Article 79 penalises any person who intends to cause damage to a child or a child's guardian for the benefit for oneself (Article 27), any child's guardian disclosing a child's or a child's guardian information (Article 50) or any carer or guardian who physically or mentally assaulting, detain, abandon or impose any harsh measures on a child (Article 61), to a term of imprisonment not exceeding six months or a fine not exceeding 60,000 Baht, or both.

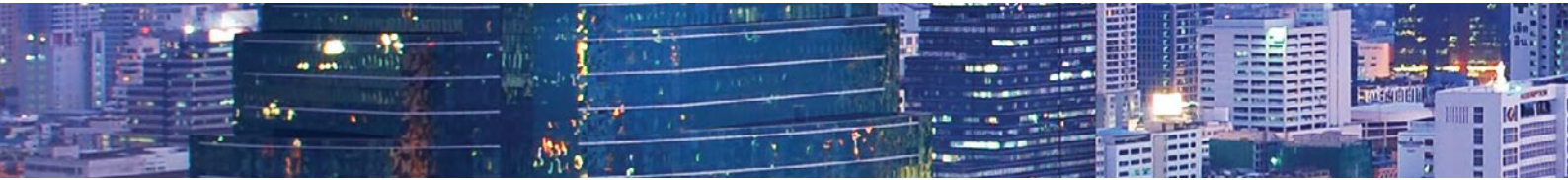
### Alcoholic Beverage Control Act 2008

- Section 43 penalises whoever advertises or displays name or trademark of alcoholic beverage in a manner that induces other person to drink (Section 32) will be liable to imprisonment for a term not exceeding one year or to a fine not exceeding five hundred thousand Baht, or to both

### Tobacco Products Control Act 1992

- Section 24 states that any person providing tobacco products to a person under eighteen (Section 4), selling tobacco products by vending machines (Section 5), selling or rendering services associated with tobacco products, offer benefits to considering buyer of tobacco products (Section 6), distribute tobacco products as a sample (Section 7), advertise tobacco products in printed manners (Section 8), advertise the goods in such a way it is understood as that of the tobacco products (Section 9), advertise in such a way it is understood as an imitation of such tobacco products (Section 10) or sell tobacco products without exhibition of the labels (Section 13), will be subjected to penalty twice that provided for such offenses.





### **Broadcasting and Television Business Act 2008**

- The licensee or any person who fail to arrange program chart in conformity with the objectives of the licensed undertaking (Section 34, paragraph 1), or to make available suitable services for the benefit of disabled and under privilege's right to access or learn and make use of the radio and television broadcasting programs (Section 36), or fail to publicly disclose contract for the network access or interconnection prescribed by the Commission (Section 45), will be fine for at least fifty thousand Baht but not exceeding give hundred thousand Baht.
- The licensee or any person who fails to make annual allocation into the Fund at a rate prescribed by the Commission (Section 22), or businesses that generate revenues from advertisements and business service provision exceeding twelve and a half minutes per hour or a total of ten minutes per hour a day, (Section 23), or failure to broadcast certain programs to protect children and juvenile prescribed by the Commission (Section 34, paragraph 2), or failure to allow licensees access to, or to interconnect network affecting the national security, will be liable for at least five hundred thousand Baht but not exceeding five million Baht.

### **Food Act B.E. 2522 (1979)**

- Pursuant to section 41 anyone wishing to advertise the qualities, usefulness or indication of a food by radio, television, film, newspapers or other printed matter or by other means for business purposes must submit the sound, pictures or films or text of the advertisement to the authority for consideration, and can be advertised after receiving permission.
- Whoever violates this section shall be liable to a fine a not more than five thousand Baht.
- In addition, section 70. penalties whoever advertises food by using false or deceptive advertising of the quality, usefulness or indication of a food shall be liable to imprisonment of not more than 3 years and a fine of not more than thirty thousand Baht or both.

### **Complaints**

- A complaint may be submitted to the relevant enforcement body mentioned above.





11	<b>Effectiveness</b> <b>How effective are the laws and codes? Are they respected/do they get enforced?</b>	<ul style="list-style-type: none"><li>■ It is quite effective especially for any advertisement that is broadcasted via the main TV broadcasters in Thailand as there is a committee voluntarily established among themselves to verify the appropriateness of such advertisement.</li><li>■ In addition, it is also effective when there is a complaint made to the relevant authority or when the matter goes into social media.</li></ul>
12	<b>Pressure Groups</b> <b>Are the consumer led pressure groups/lobbying, and if so, how effective are they?</b>	As there has not been negative issues with regards to advertising and marketing to children, there has not been news of consumer led pressure group, and thus it is very difficult to evaluate the effectiveness of the pressure group



## 34. UNITED ARAB EMIRATES



<p><b>1</b></p>	<p><b>Regulation</b></p> <p><b>Are there statutes or codes, including voluntary initiatives (e.g., industry codes of conduct), that specifically regulate marketing and/or advertising? Please list and briefly describe key statutes, codes and initiatives.</b></p>	<p>The UAE National Media Council (“<b>NMC</b>”) passed a resolution (Resolution No. (35) of 2012/1434 Hijri On the Standards of the Media Advertisements Content) (“<b>the Advertising Standards</b>”), which is applicable to marketing and advertising activities. The Advertising Standards “<i>determine the standards and controls of advertisement content ... [in the UAE]</i>” (Article 1(2)), and apply to “<i>all advertisements produced, broadcasted or distributed within the State and which are received from abroad (including Free Zones)</i>” (Article 1(1)).</p> <p>Article 3 of the Advertising Standards directly references the law on Publications &amp; Publishing (Fed. Law 15 of 1980) (“<b>Publications Law</b>”) and provides that “<i>all print, audio and visual media institutions in the State including the Free Zones shall comply with the standards of the [Publications Law] (and other applicable laws and regulations)</i>”.</p> <p>In addition to the above, various other laws also touch on advertising in specific settings. It should also be noted that, as the UAE is a federation of Emirates, each Emirate may have slightly differing laws on this topic that are subordinate to, and operate within the framework of, the Federal Laws mentioned above.</p> <p>There is currently no industry-wide code of conduct, though such a code has been mooted by various organisations in recent years.</p>
<p><b>2</b></p>	<p><b>Regulations protecting children</b></p> <p><b>Do any standards listed above explicitly address marketing and advertising to children as a whole and/or to particular age groups of children? What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?</b></p>	<p>Article 4 of the Advertising Standards prohibits the publication or broadcast of programming that may be offensive to children. Though exactly what may be deemed offensive is not defined, it should be construed in accordance with Islamic principles and Sharia Law. The word “children” is not defined by the Advertising Standards. Article 4 goes on to prohibit the publication or broadcast of:</p> <ul style="list-style-type: none"> <li>■ obscene photos or words;</li> <li>■ advertisements for alcoholic beverages or narcotic substances; and</li> <li>■ advertisements for tobacco and smoking of any kind.</li> </ul> <p>The law on Pharmaceutical Professions and Institutions (Fed. Law 15 of 1980) prohibits the advertising of certain children’s food (as determined by the Ministry of Health).</p>
<p><b>3</b></p>	<p><b>Specific product restrictions</b></p> <p><b>What, if any, restrictions are there on advertising products that are known to be or are potentially dangerous or harmful to children, including but not limited to: Tobacco, Alcohol, Drugs/pharmaceuticals, HFSS products</b></p>	<p>Article 4 of the Advertising Standards prohibits the advertising of alcoholic beverages, narcotic substances and tobacco products. As the law refers to “<i>smoking of any kind</i>” this may include electronic cigarettes.</p>



<p><b>4</b></p>	<p><b>Timing and placement of restrictions</b></p> <p><b>What, if any, restrictions are there on the timing and/or placement of advertisements in publications aimed at children (e.g., magazines, books)?</b></p> <p>a) <b>Around entertainment programmes aimed at children (e.g., radio, television, movies, video games)?</b></p> <p>b) <b>Online through websites or communications platforms, including social media, aimed at or used by children?</b></p>	<p>(a) The law on Combatting Tobacco (Cabinet Resolution 24 of 2013) prohibits the display or selling of tobacco products in the vicinity of places where food or health products, children’s products or sports equipment and clothes are sold or displayed.</p> <p>(b) There is no legislation that expressly addresses this topic. However, the Publications Law which applies to advertising by virtue of the Advertising Standards sets out specific “materials” which are prohibited to be published. There is no precise definition of “materials”, but this word is potentially broad enough to capture online content. Following the Publications Law, prohibited materials are those which violate public discipline and order, insult teenagers or include any phrases, expressions or pictures that are inconsistent with public conduct. As with all UAE laws these stipulations should be construed in accordance with Islamic principles and Sharia Law.</p>
<p><b>5</b></p>	<p><b>Advertising placement restrictions</b></p> <p><b>What, if any, restrictions are there on advertising or marketing in schools, children’s clubs or other places children regularly visit?</b></p>	<p>There are restrictions on the placement of advertisements in residential areas, with the placement of advertisements on government buildings (which would include government schools) being prohibited.</p>
<p><b>6</b></p>	<p><b>Restrictions on targeting children</b></p> <p><b>What, if any, restrictions are there on using advertising or marketing techniques to appeal to children (e.g., licensing of popular cartoon characters)?</b></p>	<p>The law in the UAE is unclear in this area as no specific legislation addresses this topic.</p>
<p><b>7</b></p>	<p><b>Restrictions on the use of children in ads</b></p> <p><b>What, if any, restrictions are there on the use of children in advertising, including peer-to-peer marketing and the appointment of children as brand ambassadors?</b></p>	<p>The law in the UAE is unclear in this area as no specific legislation addresses this topic.</p>



<p><b>8</b></p>	<p><b>Product labelling and children’s safety</b></p> <p><b>In relation to product labelling, are there any specific requirements relevant to children with regard to health, safety or other concerns?</b></p>	<p>The Standardization Organisation for the GCC (“<b>GSO</b>”) publishes guidelines for the labelling of pre-packaged food stuffs. These apply to all foodstuffs in the GCC countries which include the UAE. In addition the Consumer Protection Regulations (Cabinet Resolution No. (35) of 2012) require all goods to have clear, readable labels in meaningful Arabic that contain a variety of information including the type, nature and components/ingredients of the goods. The definition of goods is broad but does not cover children’s toys.</p> <p>There are no laws that apply exclusively to children’s products.</p>
<p><b>9</b></p>	<p><b>Enforcement body</b></p> <p><b>(a) Which administrative body or bodies oversee compliance with government regulations or industry standards on marketing and advertising?</b></p> <p><b>(b) Do any of these have a specific mandate to look at issues around marketing and advertising to children?</b></p>	<p>(a) The NMC is a federal government body established by UAE Federal Law (1) for 2006 and is the applicable regulator in the UAE for various forms of media, including print and broadcast advertising. The Council’s “Media Content Management” is responsible for ensuring compliance with the applicable laws.</p> <p>(b) The NMC’s mandate covers all forms of advertising in the UAE irrespective of audience. There is no other body that has a specific mandate to look at issues to do with marketing and advertising to children.</p>
<p><b>10</b></p>	<p><b>Pre-clearance, sanctions and complaints</b></p> <p><b>(a) Do advertisements need to be pre-cleared before publication or broadcast?</b></p> <p><b>(b) What sanctions can be imposed for breaches of codes or regulations?</b></p> <p><b>(c) Are there mechanisms for children or their representatives to file individual complaints?</b></p>	<p>(a) The Publications Law states (at Article 57) that no commercial advertisement may be shown in a cinema without the prior permission of the film censorship committee. Following Article 83, advertisements for medicines and pharmaceutical preparations require the approval of the appropriate authority within the Ministry of Health before being made.</p> <p>In addition, Article 5 of the Advertising Standards requires that all specialized advertising (such as those related to medicine, drugs, or food; or commercial advertising, promotional campaigns, special offers, advertising related to real estate, universities, educational institutions, preschools etc.) obtain prior approvals from the competent authorities before being published.</p> <p>(b) NMC may take the following action in case of violation of the applicable laws:</p> <ul style="list-style-type: none"> <li>– Issue a warning;</li> <li>– Stop the advertising activity and require a public apology;</li> <li>– Require compensation be paid for damage resulting from the violation;</li> <li>– Request the closure of the establishment or outlet;</li> <li>– Suspend the media license(s) of the establishment responsible for the violation for a duration considered appropriate by the NMC; and/or</li> <li>– Terminate the associated media license(s) issued.</li> </ul>



		<p>Other sanctions may apply to activities that breach other laws such as the Civil Code.</p> <p>(c) There are no mechanisms specifically set up for children or their representatives to file individual complaints. Such complaints should be directed to the municipality in which the advertising was observed or directly to the NMC in the same way as any other complaint.</p>
11	<p><b>Effectiveness</b></p> <p><b>How effective are the laws and codes? Are they respected/do they get enforced?</b></p>	<p>The National Media Council plays a very active and central role in the implementation and enforcement of UAE regulations surrounding advertising. The regulations and standards set out are strictly enforced. A high premium is placed on the right to privacy so ‘naming and shaming’ of non-compliant entities is rarely seen.</p>
12	<p><b>Pressure Groups</b></p> <p><b>Are the consumer led pressure groups/lobbying?</b></p>	<p>There are a number of NGO’s and unofficial social media based groups where parents share concerns and tips with one another with regards to the welfare of their children, but nothing exists that centers directly on the effect of advertising. Due to the socio-political structure of the UAE lobbying groups don’t exist, raise awareness or exert influence on the law/policy making process as you would see in other States.</p>





## 35. UNITED KINGDOM

<p><b>1</b></p>	<p><b>Regulation</b></p> <p><b>Are there statutes or codes, including voluntary initiatives (e.g., industry codes of conduct), that specifically regulate marketing and/or advertising? Please list and briefly describe key statutes, codes and initiatives.</b></p>	<p>Yes, there are Industry codes of Conduct for Advertising. The Code of Non-broadcast Advertising, Sales Promotions and Direct Marketing (“<b>CAP</b>”) and Broadcast Committee of Advertising Practice (“<b>BCAP</b>”) regulate advertising in the UK. These codes are self-regulatory and are underpinned by the UK Consumer Protection Regulations and reflect the EU Unfair Commercial Practices Directive, which covers advertising law in each of the twenty eight member states.. .</p>
<p><b>2</b></p>	<p><b>Regulations protecting children</b></p> <p><b>Do any standards listed above explicitly address marketing and advertising to children as a whole and/or to particular age groups of children? What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?</b></p>	<p>Section 5 of the CAP and BCAP codes address marketing and advertising to children as a whole. Section 32 (Scheduling) addresses advertising to children of various age groups. It also defines a child as anyone under the age of 16. The legal age of majority as the Family law reforms Act, 1969 is 18.</p> <p>The EU Unfair Commercial Practices Directive and UK Consumer Protection Regulations also both explicitly address marketing and advertising to children.</p>
<p><b>3</b></p>	<p><b>Specific product restrictions</b></p> <p><b>What, if any, restrictions are there on advertising products that are known to be or are potentially dangerous or harmful to children, including but not limited to: Tobacco, Alcohol, Drugs/pharmaceuticals, HFSS products</b></p>	<p><b>Tobacco:</b> There is an outright prohibition on advertising tobacco products.</p> <p><b>Alcohol:</b> The advertisements cannot feature people who are or seem to be under the age of 25. Adverts are required to be placed around programmes that are unlikely to be seen by an audience below the age of 18.</p> <p><b>Pharmaceutical products (non-prescription only):</b> may not be advertised in or adjacent to programmes commissioned for, principally directed at or likely to appeal particularly to persons below the age of 16</p> <p><b>High sugar/fat content food/drinks:</b> these products must be marketed responsibly and meet all general advertising codes</p>



4

#### Timing and placement of restrictions

**What, if any, restrictions are there on the timing and/or placement of advertisements in publications aimed at children (e.g., magazines, books)?**

- (a) Around entertainment programmes aimed at children (e.g., radio, television, movies, video games)?**
- (b) Online through websites or communications platforms, including social media, aimed at or used by children?**

Products targeted directly at or featuring children must contain nothing that is likely to result in their physical, mental or moral harm. Marketing communications addressed to, targeted directly at or featuring children must not exploit their credulity, loyalty, vulnerability or lack of experience. Products marketed or advertised to children must be age appropriate and in accordance with the CAP codes.

- (a) There are strict regulations for placement of adverts around programmes aimed at children of different age groups. Any product which is age inappropriate and any advertisement which is likely to affect the mental, physical and moral well-being of the child are not allowed to be advertised.

All radio adverts are pre-vetted in accordance with the BCAP codes before going on-air.

#### Under 18s:

- Alcoholic drinks containing 1.2% alcohol or more by volume;
- Gambling except lotteries, football pools and equal chance gaming;
- Betting tipster and
- Live premium-rate services.

#### Under 16s:

- HFSS Products;
- Computer or console games carrying an 18+, 16+ or 15+ rating, including those that have not yet been classified, but which are expected by the publisher to secure a 15, 16+ or 18-rating;
- Medicines, vitamins or other dietary supplements;
- Category D gaming machines, prize gaming, equal chance gaming, football pools, lotteries; and
- Trailers for films or videos carrying an 18+ or a 15+ certificates.

#### Under 10s:

- Sanitary protection products and condoms.

- (b) The scope of CAP codes extends to electronic media. All the online advertisements and marketing communications have to adhere to the codes of conduct prescribed by the ASA, failure of which could lead to imposing of sanctions.



<p><b>5</b></p>	<p><b>Advertising placement restrictions</b></p> <p><b>What, if any, restrictions are there on advertising or marketing in schools, children’s clubs or other places children regularly visit?</b></p>	<p>Any advertising or marketing in schools must comply with the CAP codes. Activities should be relevant to the ages and abilities of pupils and add educational value to teaching and learning.</p>
<p><b>6</b></p>	<p><b>Restrictions on targeting children</b></p> <p><b>What, if any, restrictions are there on using advertising or marketing techniques to appeal to children (e.g., licensing of popular cartoon characters)?</b></p>	<p>CAP standards for advertising to children apply to all marketers which prevents misleading harmful or offensive advertising. For communications or practices that fall outside the scope of the CAP code, marketers are encouraged to seek parental consent before engaging a child in the role of a brand ambassador. The CAP code only prohibits marketing using licensed characters, such as Shrek and Scooby doo for pre-school or primary school aged children, rather than under-16s.</p>
<p><b>7</b></p>	<p><b>Restrictions on the use of children in ads</b></p> <p><b>What, if any, restrictions are there on the use of children in advertising, including peer-to-peer marketing and the appointment of children as brand ambassadors?</b></p>	<p>CAP’s issued help note on the use of children in peer to-peer marketing and as brand ambassadors outlines the rules with which they need to comply. Marketers must ensure that their marketing communications do not exploit children’s credulity. It must be made easy for children to judge the size, characteristics and performance of advertised products and to distinguish between real-life situations and fantasy. Marketing communications that arise from peer-to-peer or brand ambassador activity must not encourage peer pressure. The CAP Code does not, however, cover live oral communications.</p>
<p><b>8</b></p>	<p><b>Product labelling and children’s safety</b></p> <p><b>In relation to product labelling, are there any specific requirements relevant to children with regard to health, safety or other concerns?</b></p>	<p>Children’s products (toys) in UK must meet the requirement of the Toys (Safety) Regulations 1995. It is required that these products carry a CE mark which is a declaration by the manufacturer that the product satisfies essential safety requirements. Products not intended and legally disallowed should carry a visible marking on the product specifying the age group for which it is suitable.</p>



<p><b>9</b></p>	<p><b>Enforcement body</b></p> <p>(a) Which administrative body or bodies oversee compliance with government regulations or industry standards on marketing and advertising?</p> <p>(b) Do any of these have a specific mandate to look at issues around marketing and advertising to children?</p>	<p>(a) Advertising Standard Authority (“<b>ASA</b>”) is the administrative body overseeing the compliance with the advertising and marketing codes of conduct. In exceptional circumstances where an advertiser has so seriously or repeatedly breached the codes for misleading advertising, ASA can refer to its legal backstops.</p> <p>The Trading Standards is ASA’s legal backstop for non-broadcast advertising and can initiate statutory interventions against advertisers that fail to co-operate with the self-regulatory system.</p> <p>Office of Communication (“<b>Ofcom</b>”) is ASA’s co-regulatory partner for broadcast adverts and the ASA can refer problem broadcasters to them for consideration of sanctions including fines and revoking licenses.</p> <p>(b) Parent Port is a collaboration between the ASA and UK’s media regulators, which sets and enforces standards across the media specifically to protect children from inappropriate material.</p>
<p><b>10</b></p>	<p><b>Pre-clearance, sanctions and complaints</b></p> <p>(a) Do advertisements need to be pre-cleared before publication or broadcast?</p> <p>(b) What sanctions can be imposed for breaches of codes or regulations?</p> <p>(c) Are there mechanisms for children or their representatives to file individual complaints?</p>	<p>(a) Yes, TV and radio ads are pre-cleared before they go on air in accordance with the BCAP codes. Clearcast is the pre-clearance authority for television ads and The Radio Advertising Clearance Centre (“<b>RACC</b>”) is the pre-clearance authority for radio ads.</p> <p>(b) Sanctions: the primary sanction is to comply with the advertising codes. On failure to do so, the various sanctions that could be imposed are :</p> <ul style="list-style-type: none"> <li>– <b>Withdrawal:</b> The ASA will first require the offending advertisements to be withdrawn and not repeated.</li> <li>– <b>Refuse an advertisement space/slot:</b> ASA can ask publishers and media owners to refuse advertising space for a particular Advert until it has been changed.</li> <li>– <b>Adverse publicity:</b> ASA publishes outcomes in relation to advertisements on the websites which will cause adverse publicity to certain advertisers.</li> <li>– <b>Withdrawal of trading privileges:</b> Financial discounts and other incentives can be withdrawn.</li> <li>– <b>Legal Proceedings:</b> ASA can refer persistent offenders to the Competition and Markets Authority (“<b>CMA</b>”) who can seek legal proceedings in order to obtain an injunction against an offending advertisement.</li> </ul> <p>(c) ASA’s Parent port is a mechanism for representatives of children to file an individual complaint. It offers a consolidated platform regarding information on laws protecting the interest of a child, helps to find the right regulator to make a complaint and to provide feedback on a particular issue.</p> <p>Any consumer can file a complaint with the ASA.</p>



11	<b>Effectiveness</b> <b>How effective are the laws and codes? Are they respected/do they get enforced?</b>	The Regulator, the Advertising Standards Authority, takes breaches of the code seriously, investigating complaints (it only takes a single complaint for an advert to be investigated!), and publishing adjudications every Wednesday to name and shame offenders. The codes are backed up by criminal offences and enforcement by a different body in extreme cases. The laws are effective and the majority of advertisers seek to comply.
12	<b>Pressure Groups</b> <b>Are the consumer led pressure groups/lobbying?</b>	There are a number of consumer led pressure groups that taken an interest in making sure that children are protected from misleading advertising e.g. Mumsnet.





## 36. USA

I

### Regulation

**Are there statutes or codes, including voluntary initiatives (e.g., industry codes of conduct), that specifically regulate marketing and/or advertising? Please list and briefly describe key statutes, codes and initiatives.**

### Statutes

Section 5 of the Federal Trade Commission Act (gives the Federal Trade Commission power to bring enforcement actions relating to unfair and deceptive trade practices). 15 U.S.C. §41.

Section 43(a) of the Lanham Act (prohibits false advertising and is generally enforced by competitors). 15 U.S.C. §1125(a).

Many states have false advertising and consumer protection laws. For example, California has Sections 17200 and 17500 of the Business & Professions Code that prohibit unfair and deceptive trade practices and false advertising. These laws can be enforced by consumers as well as by state prosecutors.

The Children's Television Act, 47 U.S.C. §303a, et seq., requires the Federal Communications Commission (FCC) to increase the amount of educational and informational broadcast television programming available to children.

California has the Privacy Rights for California Minors in the Digital World Act (Cal. Bus. & Prof. Code § 22580-22581) that restricts the advertising of certain products and services to minors through internet website, online service, online application or mobile application.

### Codes

The FTC has issued a number of regulations relating to advertising, such as guides against deceptive advertising, guides relating to use of testimonials, and guides relating to environmental marketing. See 16 C.F.R. Chapter I, Subchapter B.

Similarly, the FCC has adopted regulations limiting the amount of advertising that can be aired during children's programming. 47 C.F.R. 73.670.

### Voluntary Initiatives

Various trade associations have advertising related codes of conduct, including the Direct Marketing Association (see <https://thedma.org/accountability/ethics-and-compliance/dma-ethical-guidelines/>) and the American Advertising Federation ( see [https://www.aaf.org/\\_PDF/AAF%20Website%20Content/513\\_Ethics/IAE\\_Principles\\_Practices.pdf](https://www.aaf.org/_PDF/AAF%20Website%20Content/513_Ethics/IAE_Principles_Practices.pdf)).

The National Advertising Division (NAD) and the Children's Advertising Review Unit (CARU) of the Better Business Bureau are non-governmental agencies that will investigate and heard advertising disputes on a voluntary basis. CARU has specifically issued its Self-Regulatory Program for Children's Advertising that guidelines for children's advertising in the United States.

The Distilled Spirits Council of the United States ("DISCUS"), the Beer Institute ("BI"), and the Wine Institute ("WI") have issued voluntary guidelines for alcohol advertising.



<p><b>2</b></p>	<p><b>Regulations protecting children</b></p> <p><b>Do any standards listed above explicitly address marketing and advertising to children as a whole and/or to particular age groups of children? What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?</b></p>	<p><b>Legal age of majority</b></p> <p>Varies by state, but is 18 in most states.</p> <p><b>Definition of a child in advertising context (if different)</b></p> <p>The CARU guidelines define a child as a person under 12 years of age.</p> <p>The Children’s Online Privacy Protection Act defines a child as a person under 13 years of age.</p> <p>The Children’s Television Act covers advertising directed at children 16 years of age or younger.</p> <p>Alcohol and Tobacco advertising generally is restricted to persons age 21 or older (with some exceptions).</p> <p>The California Privacy Rights for California Minors in the Digital World Act is directed to persons under the age of 18.</p> <p>The Tobacco Control Act is directed to persons under the age of 18.</p> <p><b>Regulations protecting children/particular age groups</b></p> <p>Children’s Online Privacy Protection Act (restricting collection of personal information from persons under 13).</p> <p>Children’s Television Act and 47 CFR § 73.670 (imposing commercial limits in children’s programs).</p> <p>CARU Self-Regulatory Guide (general guidelines on children’s advertising).</p> <p>Privacy Rights for California Minors in the Digital World Act (Cal. Bus. &amp; Prof. Code § 22580-22581) (restricts the advertising of certain products on children-oriented websites).</p> <p>The Tobacco Control Act places restrictions on the sale and distribution of tobacco products. States have similar and in some cases more restriction provisions.</p>
<p><b>3</b></p>	<p><b>Specific product restrictions</b></p> <p><b>What, if any, restrictions are there on advertising products that are known to be or are potentially dangerous or harmful to children, including but not limited to: Tobacco, Alcohol, Drugs/pharmaceuticals, HFSS (high in fat sugar, salt) products?</b></p>	<p><b>Tobacco</b></p> <p>FDA regulations under the Tobacco Control Act prohibit the sale of cigarettes, e-cigarettes and smokeless tobacco to any person younger than 18 years of age, and impose restrictions on the labelling, marketing, and advertising of cigarettes, e-cigarettes and smokeless tobacco. Among other requirements, these regulations require retailers to verify a purchaser’s age by photographic identification; prohibit free samples of cigarettes and restrict distribution of free samples of smokeless tobacco to “qualified adult-only facilities”; prohibit the sale of cigarettes and smokeless tobacco products through vending machines and self-service displays, except in facilities where individuals under the age of 18 are not present, or permitted to enter at any time; prohibit the sale or distribution of brand-identified promotional non-tobacco items such as hats and tee shirts; and prohibit sponsorship of sporting and other events, teams, and entries in those events in the brand name of any cigarette or smokeless tobacco product.</p>



## Alcohol

A number of states have laws that restrict advertising or promotion of alcohol that is targeted at minors. For example, Delaware provides that: “No licensee shall sell or offer to sell alcoholic liquor by means of any advertisement or promotion including any statement, representation, symbol, depiction, or reference, directly or indirectly, which...[w]ould reasonably be expected to induce minors to purchase or consume alcoholic liquor.” (4 DE Admin Code Rule 27 [VI]).

At the federal level alcohol advertising is generally self-regulated and governed by industry codes. The FTC has also investigated alcohol advertising, particularly in connection with online and television. As a result of regulatory pressure, industry groups have issued self-regulations that television advertising regarding alcohol not be targeted to minors and be restricted to times/media where 70% of more of the audience consists of adults.

The following are self-regulatory guidelines from the Beer Institute that reflect these principles

“Consistent with that philosophy, Brewers will not approve product placement where the primary character(s) are below the legal drinking age or the primary theme(s) are, because of their content or presentation, specifically attractive to persons below the legal drinking age beyond the general attractiveness such themes have for persons of legal drinking age.”

“Brewers will not request or approve a product placement in any measured media unless the placement is consistent with the Buying Guidelines that accompany this Code and at least 71.6% of the audience is reasonably expected to be adults of legal drinking age.”

## Drugs/Pharmaceuticals

Both the FDA and industry groups have indicated that advertising of over the counter and prescription drugs should not be directed to children. The FDA has not specifically issued regulations regarding such advertising, but has been studying the issue. See <https://www.gpo.gov/fdsys/pkg/FR-2013-10-31/html/2013-25963.htm> (experimental study of Direct-to-Consumer (DTC) Promotion Directed at Adolescents).



		<p>At the industry level, the PHRMA Guiding Principles Direct to Consumer Advertisements About Prescription Medicines state the following: “In terms of content and placement, DTC television and print advertisements should be targeted to avoid audiences that are not age appropriate for the messages involved. In particular, DTC television and print advertisements containing content that may be inappropriate for children should be placed in programs or publications that are reasonably expected to draw an audience of approximately 90 percent adults (18 years or older).”</p> <p><b>HFSS products</b></p> <p>There are state and federal regulations that restrict the use of trans fats in foods. However, this is an area that is primarily subject to self-regulation. The Children’s Food &amp; Beverage Advertising Initiative (CFBAI) is a voluntary self-regulation program comprising 18 of the nation’s leading food and beverage companies and quick-serve restaurants. The Initiative was created in 2006 to shift the mix of foods advertised to children under age 12 to encourage healthier dietary choices and healthy lifestyles. See <a href="https://www.bbb.org/globalassets/local-bbbs/council-113/media/cfbai/enhanced-core-principles-fourth-edition-with-appendix-a.pdf">https://www.bbb.org/globalassets/local-bbbs/council-113/media/cfbai/enhanced-core-principles-fourth-edition-with-appendix-a.pdf</a></p>
<p><b>4</b></p>	<p><b>Timing and placement of restrictions</b></p> <p><b>What, if any, restrictions are there on the timing and/or placement of advertisements in:</b></p> <ul style="list-style-type: none"> <li><b>(a) Publications aimed at children (e.g., magazines, books)?</b></li> <li><b>(b) Around entertainment programmes aimed at children (e.g., radio, television, movies, video games)?</b></li> <li><b>(c) Online through websites or communication platforms, including social media, aimed at or used by children?</b></li> </ul>	<p><b>Publications</b></p> <p>There are no specific regulations regarding publications, except that regulators will more likely apply the principles stated herein to print publications that are primarily targeted at children. For example, CARU has stated that a character or personality associated with the editorial/content of the media should not be used to sell products, premiums or services in close proximity to the program/editorial content, unless the advertiser makes it clear, in a manner that will be easily understood by the intended audience, that it is an advertisement.</p> <p><b>Entertainment programmes</b></p> <p>FCC regulations limit the amount of commercial matter that can be aired in certain children’s television programming to 10.5 minutes per hour on weekends and 12 minutes per hour on weekdays. These requirements apply to television broadcasters, cable operators, and satellite providers. These limitations are prorated for programs that are shorter than one hour in duration. The programming at issue for the commercial time limits is programming originally produced and aired primarily for an audience of children 12 years old and younger.</p>





		<p><b>Online</b></p> <p>The California Privacy Rights for California Minors in the Digital World Act prohibits websites that are directed at persons under 18 from advertising the following: (1) Alcoholic beverages; (2) Firearms or handguns; (3) Ammunition or reloaded ammunition; (4) Handgun safety certificates; (5) Aerosol container of paint that is capable of defacing property; (6) Etching cream that is capable of defacing property; (7) Any tobacco, cigarette, or cigarette papers, or blunt wraps, or any other preparation of tobacco, or any other instrument or paraphernalia that is designed for the smoking or ingestion of tobacco, products prepared from tobacco, or any controlled substance;(8) BB device.(9) Dangerous fireworks; (10) Tanning in an ultraviolet tanning device; (11) Dietary supplement products containing ephedrine group alkaloids; (12) Tickets or shares in a lottery game; (13) Salvia divinorum or Salvinorin A, or any substance or material containing Salvia divinorum or Salvinorin; (14) Body branding; (15) Permanent tattoo; (16) Drug paraphernalia; (17) Electronic cigarettes; (18) Obscene matter; and (19) certain other weapons.</p> <p>Alcohol self-regulatory initiatives generally recommend age-gating requiring consumers to enter date of birth before they can enter a website advertising and promoting alcohol.</p>
<p><b>5</b></p>	<p><b>Advertising placement restrictions</b></p> <p><b>What, if any, restrictions are there on advertising or marketing in schools, children’s clubs or other places children regularly visit?</b></p>	<p><b>Schools</b></p> <p>Advertising in schools is generally regulated at the state or local level. Some laws permit schools to allow some billboard and even bus advertising, but generally prohibit alcohol, tobacco and political advertising.</p> <p><b>Clubs</b></p> <p>This is usually regulated by clubs themselves or falls under general laws restricting advertising to children (for example, it would likely violate state alcohol laws to have an alcohol ad placed in a children’s club).</p> <p><b>Other</b></p>
<p><b>6</b></p>	<p><b>Restrictions on targeting children</b></p> <p><b>What, if any, restrictions are there on using advertising or marketing techniques to appeal to children (e.g., licensing of popular cartoon characters)?</b></p>	<p><b>Cartoon/imaginary characters</b></p> <p>CARU states that program personalities, live or animated, should not be used to advertise products, premiums or services in or adjacent to a television program primarily directed to children under 12 years of age in which the same personality or character appears. CARU further states that products derived from or associated with a television program primarily directed to children under 12 years of age should not be advertised during or adjacent to that program.</p> <p><b>Other</b></p>





<p><b>7</b></p>	<p><b>Restrictions on the use of children in ads</b></p> <p><b>What, if any, restrictions are there on the use of children in advertising, including peer-to-peer marketing and the appointment of children as brand ambassadors?</b></p>	<p><b>Use in advertising</b></p> <p>The CARU regulations referenced above would apply to use of children in product advertising adjacent to the television program or other media in which they are featured. In addition, it would likely violate industry codes and even general unfair trade practice laws to feature children using products that would be illegal or dangerous for them to use (e.g. showing teenagers in a beer commercial).</p> <p><b>Use as brand ambassadors</b></p> <p>The same basic principles apply to the use of children as brand ambassadors.</p>
<p><b>8</b></p>	<p><b>Product labelling and children’s safety</b></p> <p><b>In relation to product labelling, are there any specific requirements relevant to children with regard to health, safety or other concerns?</b></p>	<p><b>Health</b></p> <p>The Consumer Products Safety Commission has specific tracking and warning label requirements for products targeted at children.</p> <p><b>Safety</b></p> <p>Children’s products are subject to a set of federal safety rules, called children’s product safety rules. The law defines a “children’s product” as a consumer product designed or intended primarily for children 12 years of age or younger. Such products are subject to certain labelling and disclosure requirements depending on the particular product in question.</p> <p><b>Other</b></p>
<p><b>9</b></p>	<p><b>Enforcement body</b></p> <p><b>(a) Which administrative body or bodies oversee compliance with government regulations or industry standards on marketing and advertising?</b></p> <p><b>(b) Do any of these have a specific mandate to look at issues around marketing and advertising to children?</b></p>	<p><b>Enforcement body</b></p> <p>The Federal Trade Commission is primarily responsible for enforcing advertising laws on a federal level; state Attorney Generals are primarily responsible for enforcing advertising laws at the state level. CARU is a self-regulatory body charged with reviewing and deciding issues relating to children’s advertising.</p> <p><b>Specific mandate to focus on children’s issues?</b></p> <p>Yes. The FTC has periodically investigated the advertising of products to children, which has resulted in industry self-regulation. See <a href="https://www.ftc.gov/tips-advice/business-center/advertising-and-marketing/children">https://www.ftc.gov/tips-advice/business-center/advertising-and-marketing/children</a>. The FTC has recently focused on children’s privacy and violence in video games.</p>



<p><b>10</b></p>	<p><b>Pre-clearance, sanctions and complaints</b></p> <p>(a) <b>Do advertisements need to be pre-cleared before publication or broadcast?</b></p> <p>(b) <b>What sanctions can be imposed for breaches of codes or regulations?</b></p> <p>(c) <b>Are there mechanisms for children or their representatives to file individual complaints?</b></p>	<p><b>Pre-clearance</b></p> <p>In general advertising does not have to be cleared by a regulatory agency. Television networks may require pre-clearance in certain situations.</p> <p><b>Sanctions</b></p> <p>The sanctions vary depending on the law or regulation in question. The FTC has broad investigatory powers in connection with children’s advertising. It has the power to seek injunctive relief, restitution, civil penalties and corrective advertising, among other remedies.</p> <p><b>Complaints</b></p> <p>Children and their representatives can file complaints with the FTC through its online complaint mechanism. <a href="https://www.ftc.gov/faq/consumer-protection/submit-consumer-complaint-ftc">https://www.ftc.gov/faq/consumer-protection/submit-consumer-complaint-ftc</a>. State Attorney Generals usually have similar complaint mechanisms in place.</p>
<p><b>11</b></p>	<p><b>Effectiveness</b></p> <p><b>How effective are the laws and codes? Are they respected/do they get enforced?</b></p>	<p>These codes are generally effective and will be enforced by state and federal regulators, as well as by public interest groups and through consumer class actions lawsuits.</p>
<p><b>12</b></p>	<p><b>Pressure Groups</b></p> <p><b>Are the consumer led pressure groups/lobbying, and if so, how effective are they?</b></p>	<p>Yes, there are many consumer interest groups that actively lobby and file complaints relating to advertising. The Campaign for a Commercial-Free Childhood, the Consumers Union and the Consumer Watchdog are active advocacy groups looking at children’s advertising issues.</p>



## 37. ZAMBIA

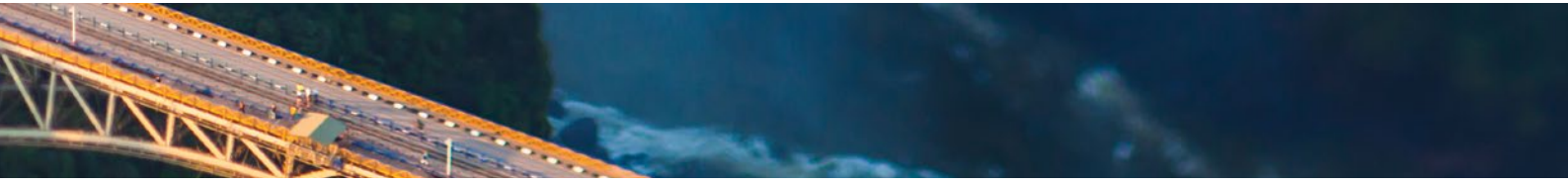
1	<p><b>Regulation</b></p> <p>Are there statutes or codes, including voluntary initiatives (e.g., industry codes of conduct), that specifically regulate marketing and/or advertising? Please list and briefly describe key statutes, codes and initiatives.</p>	<p>Yes, there is a statute that regulates marketing or advertising in Zambia. The Competition and Consumer Protection Act of 2010 (“<b>CCPA</b>”) regulates advertising. The CCPA is aimed at safeguarding and protecting competition. It protects against unfair trading practises.</p>
2	<p><b>Regulations protecting children</b></p> <p>Do any standards listed above explicitly address marketing and advertising to children as a whole and/or to particular age groups of children? What is the definition of a child for the purposes of advertising and marketing, or, if there is no clear definition, what is the legal age of majority?</p>	<p>The above statute does not address marketing and advertising to children. Therefore, the definition of a child is not specifically provided for in terms of this subject. However, the legal age of majority in Zambia is <i>eighteen</i> years. Common law is applied in instances where contractual capacity is likely to become a legal issue.</p>
3	<p><b>Specific product restrictions</b></p> <p>What, if any, restrictions are there on advertising products that are known to be or are potentially dangerous or harmful to children, including but not limited to: <b>Tobacco, Alcohol, Drugs/pharmaceuticals, HFSS products</b></p>	<p>There are no explicit restrictions on advertising products to children that are known to be potentially dangerous or harmful except with pharmaceutical products.</p> <p><b>Pharmaceutical products</b></p> <p>According to the guidelines provided by the Pharmaceutical Regulations Authority in 2008, advertising should not be aimed principally or exclusively at children. Advertising should not show children using, or within reach of, medicine without adult supervision.</p> <p><b>Alcohol</b></p> <p>The Liquor Licencing Act No. 20 of 2011 defines a child as a person below the age of eighteen years. The Act prohibits the sale or delivery of intoxicating liquor to a child. It further prohibits a holder of a liquor licence from allowing a child to consume intoxicating liquor in any bar or to allow such a child to enter or remain in a bar. However, the Act does not provide any restrictions or control on advertising alcohol to children.</p>



		<p><b>Tobacco</b></p> <p>Advertising tobacco products is prohibited altogether. This is by virtue of the fact that Zambia is a party to the WHO Framework Convention on Tobacco Control. There is a Tobacco Control Bill. One of the objectives of this Bill is to address the country's restrictions on advertising. However, it is yet to be enacted.</p> <p><b>High sugar/fat content food/drinks (HFSS Products)</b></p> <p>There are no specific guidelines or restrictions pertaining to children but these products ought to meet all general advertising regulations and must conform to the mandatory safety standard as provided for by the CCPA.</p>
<p><b>4</b></p>	<p><b>Timing and placement of restrictions</b></p> <p><b>What, if any, restrictions are there on the timing and/or placement of advertisements in publications aimed at children (e.g., magazines, books)?</b></p> <p><b>(a) Around entertainment programmes aimed at children (e.g., radio, television, movies, video games)?</b></p> <p><b>(b) Online through websites or communications platforms, including social media, aimed at or used by children?</b></p>	<p>There are no explicit restrictions on the timing and placement of advertisements in publications aimed at or used by children.</p> <p>In respect of print media (books, magazines, newspapers), the Ministry of Information and Broadcasting Services provides Media Policies that are to be adhered to by print media bodies regarding publications that include advertisements.</p> <p>(a) There are no specific restrictions around entertainment programmes aimed at children. However the Independent Broadcasting Authority Act of 2010 provides for minimum broadcasting standards that must, among other requirements, protect the integrity of minors by classifying and distributing programmes that may endanger the development of a child.</p> <p>(b) The restrictions pertaining to online advertising aimed at children are not express but the law prohibits the production, offer, distribution, procurement and possession of pornography through computer systems pursuant to the Electronic Communications and Transactions Act.</p>
<p><b>5</b></p>	<p><b>Advertising placement restrictions</b></p> <p><b>What, if any, restrictions are there on advertising or marketing in schools, children's clubs or other places children regularly visit?</b></p>	<p>There are no explicit restrictions on advertising or marketing in schools, children's clubs or other places children regularly visit.</p> <p>However, the Education Act provides for inspection of schools and hostels instigated by the Minister of Education.</p>

6	<p><b>Restrictions on targeting children</b></p> <p>What, if any, restrictions are there on using advertising or marketing techniques to appeal to children (e.g., licensing of popular cartoon characters)?</p>	<p>There are no explicit restrictions on advertising or marketing techniques to appeal to children.</p>
7	<p><b>Restrictions on the use of children in ads</b></p> <p>What, if any, restrictions are there on the use of children in advertising, including peer-to-peer marketing and the appointment of children as brand ambassadors?</p>	<p>There are no explicit restrictions on use of children in advertising especially not in peer to peer marketing.</p> <p>Considering the aspect of children being brand ambassadors, the rules of contract law which are governed by common law would apply. However, the Juveniles Act, Chapter 53 of the Laws of Zambia provides a restriction with regards to children taking part in entertainment except under licence granted by a Juveniles Inspector.</p>
8	<p><b>Product labelling and children's safety</b></p> <p>In relation to product labelling, are there any specific requirements relevant to children with regard to health, safety or other concerns?</p>	<p>There are no specific requirements relevant to children in relation to product labelling on health or safety. But, the CCPA provides that a product sold in Zambia shall conform to the mandatory consumer product information standard for the class of goods set by the Zambia Bureau of Standards.</p>
9	<p><b>Enforcement body</b></p> <p>(a) Which administrative body or bodies oversee compliance with government regulations or industry standards on marketing and advertising? (b) Do any of these have a specific mandate to look at issues around marketing and advertising to children?</p>	<p>(a) The main administrative body that oversees compliance with government regulations and industry standards on marketing and advertising is the Competition and Consumer Protection Commission (“CCPC”).</p> <p>(b) The other bodies overseeing such matters are the bodies or organs established by the respective statutes referred to in the above answers.</p>





10	<p><b>Pre-clearance, sanctions and complaints</b></p> <p>(a) Do advertisements need to be pre-cleared before publication or broadcast?</p> <p>(b) What sanctions can be imposed for breaches of codes or regulations?</p> <p>(c) Are there mechanisms for children or their representatives to file individual complaints?</p>	<p>(a) There are no specific regulations or policies in which advertisements have to be pre-cleared before publication or broadcast.</p> <p>(b) The sanctions to some of the provisions outlined in the answers above are that a party who breaches such regulations would be liable to a fine or imprisonment.</p> <p>(c) There are no specific mechanisms for children or their representatives to file individual complaints pertaining to marketing and advertising.</p>
11	<p><b>Effectiveness</b></p> <p>How effective are the laws and codes? Are they respected/do they get enforced?</p>	N/A
12	<p><b>Pressure Groups</b></p> <p>Are the consumer led pressure groups/lobbying?</p>	N/A

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