



GLOBAL ADVERTISING LAWYERS ALLIANCE

24-Hour Home Shopping Channels: An International Vision

Presented by the members of the
Global Advertising Lawyers Alliance (GALA)

www.gala-marketlaw.com

Electronic Retailing Association
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INTRODUCTION

Home Shopping Channels

Direct consumer sales over home shopping channels has become a major means of distribution. In the United States alone, there are at least four national television networks that offer consumers direct means to purchase products while watching television from the comfort of their home. Home shopping has become a major competitor to catalog and retail locations.

Home shopping is not extending to networks all over the world. Similar to the United States, however, such activities are highly regulated and, in some jurisdictions, entirely prohibited. This survey provides readers with an overview of how 25 countries regulate home shopping. Reviewing it provides excellent guidance to companies considering international distribution.


Of course, a survey cannot substitute for direct legal advice that addresses the specific issues inherent in a particular offer or format. As such, readers are urged to consult expert legal counsel in they are embarking into home shopping.

Global Advertising Lawyers Alliance



The Global Advertising Lawyers Alliance is a network of 44 independent law firms, all of whom have a concentration in representing advertising and marketing companies and ventures. Since 2000, GALA has had a alliance with the Electronic Retailing Association and participated in many of ERA's association efforts.

GALA can be located at www.gala-marketlaw.com. The website provides visitors with invaluable information just a click away. Most importantly it gives you entrée into leading lawyers throughout the world who know the advertising and marketing industry.


24 - HOUR HOME SHOPPING CHANNELS: AN INTERNATIONAL VISION

| | Does your country allow home shopping networks? Is it permitted in Television, Radio & Internet? | Is home shopping regulated on a federal or regional level? | What are the major regulatory requirements for companies performing home shopping sales? | Are there any restrictions on using private information on customers for future sales? What are they? | Are there any products or services that cannot be offered via home shopping? | Are there any products or services which, from a regulatory standpoint, pose unique problems on home shopping? | Are auctions permitted via home shopping? What are the major regulatory restrictions on auctions? | Are home shopping transactions subject to sales or VAT taxes? What is the rate? | Is there any general advice or cautions you would give home shopping networks operation in your country? | In terms of enforcement priorities of regulatory authorities, does home shopping receive significant attention of regulators? |
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| Argentina  | Yes Television: Yes Radio: Yes Internet: Yes | Federal There are no specific regulations for home shopping sales, but some basic and general rules are to be obtained from other federal regulations connected to this subject, like contract law, consumer protection law and others. | There are no special regulatory requirements for companies conducting home shopping sales. Their only need is to comply with the general rules of contract law & advertising law, being one of the most important that any condition or special quality promoted on an ad will be assumed as included in the contract with the consumers and will obligate the offerer. | Yes There are no big restrictions related to data treatment besides the need that the information has to be obtained from public documents or provided by the own customers or with their consent. The companies must allow each member of the database to have free access to their own private information contained on it for the purpose of verification and correction, being that the consumers are also capable of requiring the Company to withdraw their names from the database if they want to. | Prescription drugs, medical treatments. | Alcohol and tobacco. They can only be offered out of minor protection hours (after 22 hrs). Despite this permission, the companies dedicated to home shopping sales do not usually offer these kinds of products, because they have very specific and delicate regulations. | Yes There are no special regulation in place for home shopping auctions. | Yes They must face the usual VAT taxes established for every good or service purchased in the country, which is of 21%. | In case of home shopping, customers are allowed to revoke the acceptance of the contract during the term of 5 days counted from the day the good was delivered or the contract was celebrated, whatever happened last. The referred faculty cannot be renounced or dispensed. | No |


24 - HOUR HOME SHOPPING CHANNELS: AN INTERNATIONAL VISION

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| <p>Australia</p>  | <p>Yes</p> <p>Television: Yes Radio: Yes Internet: Yes</p> | <p>Both</p> <p>Home Shopping is generally regulated by the Federal Trade Practices Act 1974 as well as the State and Territory Fair Trading Acts and to some degree the Broadcasting Services Act 1992. More specific regulation occurs through voluntary codes of practice.</p> | <p>Do not engage in conduct that is likely to mislead or deceive consumers.</p> <p>Do not make false or misleading representations.</p> <p>Ensure supply or the goods or services being promoted.</p> | <p>Yes</p> <p>The Privacy Amendment (Private Sector) Act 2000 and the National Privacy Principles limit the use of personal and sensitive information unless the express consent of the consumer has been obtained.</p> | <p>Tobacco</p> | <p>Slimming products generally have a bad reputation in Australia and are treated by the regulatory authorities with suspicion.</p> | <p>No</p> | <p>Yes</p> <p>If there is a taxable supply in Australia, then the value of the transaction is subject to a 10% Goods and Services Tax or GST.</p> | <p>Avoid fine print disclaimers.</p> | <p>The use of infomercials in the home shopping industry has recently been subject to review by the NSW Department of Fair Trading. The Department's Advisory Council has released a report on the "Infomercial Inquiry" which can be located at www.fairtrading.nsw.gov.au/pdfs/secondarymemos/Infomercialreport.pdf</p> |
| <p>Austria</p>  | <p>Yes</p> <p>Private television and radio: Yes State owned television and radio: No Internet: Yes</p> | <p>There are federal laws in Austria, which contain specific regulations for the state owned television and radio organization (ORF) and for the private television and radio operators.</p> | <p>Regulations particularly include the following:</p> <ul style="list-style-type: none"> - teleshopping must not be misleading and must not adversely affect the interest of the consumer; - subliminal messages and similar practices are forbidden; -no persons may appear in teleshopping, who present news on radio or television; -teleshopping has to be broadcast in blocks between other pro-grams; interruptions of programs are restricted; - religious programs, children's programs, news and documentaries must not be interrupted by teleshopping at all. | <p>Yes</p> <p>Processing of data is subject to the Data Protection Act. The Data Protection Act contains restrictions as to the use of data depending on the type of information and also on the nature of the business.</p> | <p>Tobacco products, spirits and prescription drugs.</p> | <p>No</p> | <p>Yes</p> <p>There are no specific legal requirements for auctions via teleshopping.</p> | <p>Yes</p> <p>The applicable rate depends on the kinds of products and services. The most common rate is 20%.</p> | <p>Home shopping networks in Austria must obey the legal regulations in the Private Television Act, the Telecommunication Act and must also meet the requirements imposed by the EC (protection of consumers in respect of contracts made by means of distance communications) which have been implemented in Austrian law.</p> | <p>There is no specific regulator controlling the activity of home shopping networks. Control is executed by consumer protection organizations and competitors who may start court action on the basis of the Unfair Competition Act, in case that regulations are violated.</p> |

24 - HOUR HOME SHOPPING CHANNELS: AN INTERNATIONAL VISION

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| <p>Belgium</p>  | <p>Yes</p> <p>Television: Yes Radio: Yes Internet: Yes</p> <p><u>Remark:</u> not permitted on the official Flemish television broadcast station (Dutch-speaking) and quite restricted on the official French community television broadcast station</p> | <p>Regional</p> <p>For audiovisual media (not internet), we have a set of regulations in the Flemish community, the French community and the German community; the rules as they pertain to home shopping are very much the same, but not entirely.</p> | <p>There exists no special regulatory/licensing/registration requirement. Companies conducting home shopping activities basically first have to comply with all rules as they pertain to audiovisual advertising;</p> | <p>Yes</p> <p>There is the information requirement for any treatment of data; there is the requirement to give access for purpose of verification and correction; there is the requirement to file databases in particular circumstances with the Privacy Commission</p> | <p>Tobacco, prescription drugs, medical treatments</p> <p><u>Remark:</u> extensive list of products or services that cannot be offered via home shopping on the official French community television channel</p> | <p>The same ones as those that are regulated for advertising generally such as pharmaceuticals.</p> | <p>Yes</p> <p>There is no special regulation in place for home shopping auctions.</p> | <p>Yes</p> <p>Depends on the products or services, mostly 20.5 %;</p> <p><u>Remark::</u> prices are always all-in, inclusive of VAT.</p> | <p>(a) - Home shopping is allowed with licensed Flemish radio and television broadcasters, not with the official Flemish television station and in a limited way only with the official French television station</p> <p>(b) - home shopping may not entice minors to buy or lease products or services</p> <p>(c) - home shopping is always in uninterrupted blocks, clearly announced as such; there exist maximum limits per hour and per day and they are prohibited if they come too close in time to children programs.</p> <p>(d) - cost price for orders or requests for additional information has to be clearly mentioned, unless these tariffs are the normal minimum tariffs for the particular communication technique</p> <p>(e) - Home shopping can be further</p> | <p>No</p> |
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24 - HOUR HOME SHOPPING CHANNELS: AN INTERNATIONAL VISION

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| | | | | | | | | | restricted during special days or hours of the day by the French Community Government | |
| | | | | | | | | | (f) - important is the provision in the French Region legislation that home shopping video's may not directly or indirectly show known or recognizable sales points. | |
| <p>Brazil</p>  | <p>Yes</p> <p>Television: Yes Radio: Yes Internet: Yes</p> | <p>Federal</p> <p>On 5 December 2001, the Brazilian Government officially launched the Brazilian Public Key Infrastructure, ICP-Brazil. ICP-Brazil was created by Provisional Measure 2200 to guarantee the legal validity and integrity of e-documents through digital certification. Companies wishing to provide digital certification services will have to fulfill the minimum standards established by the government in order to be considered duly accredited certifying companies under ICP-Brazil</p> | <p>Under Brazilian Law, there are several forms of organizing a business. The following steps shall be taken in order to get a new company ready for operation in Brazil:</p> <ol style="list-style-type: none"> 1. Firstly, it is necessary to register the company's corporate charter or by-laws before the Commercial Registry; 2. After the registration of the company's corporate charter or by-laws, the following documents have to be presented to the Secretariat of Finance: (i) copy of the articles or incorporation, duly | <p>Yes</p> <p>The Constitution of the Federative Republic of Brazil is very protective of individual's rights and privacy and intimacy. In its Chapter I ("Individual and Collective Rights and Duties"), the Federal Constitution determines that the privacy, private life and image of persons are inviolable, being the right to compensation for property or moral damages resulting from the violation ensured (article 5, item X).</p> | <p>Law No. 10.167, of December 27, 2000 provides for restrictions to the use of and publicity referring to smoking products, alcoholic beverages, medicines, therapeutic treatments and pesticides. The law in question, in its article 3, determines that sales advertising material referring to the above-mentioned products shall be restricted to</p> | N/A | <p>Yes</p> <p>The major regulatory restriction is that an official auctioneer is mandatory for the auction to be legally done.</p> | <p>Yes</p> <p>ICMS is the Brazilian equivalent of VAT, and in inter-states operations, should be divided between the producer and the consumer states.</p> <p>The applicable rate is 18% in Rio de Janeiro, São Paulo, Minas Gerais and Rio Grande do Sul. In the other</p> | <p>To adopt a strict privacy policy guideline in view of the fact that sites with privacy policies attract a higher number of visitors and to invest on logistic.</p> | <p>The federal government, the states, the Federal District and the municipalities shall monitor and control the production, manufacture, distribution, advertising of products and services, and the consumer market, in order to maintain the consumer's life, health, safety, information, and well-being, issuing any guidelines that may be necessary therefore, according to the Brazilian Advertising Self-Regulation Code.</p> |


24 - HOUR HOME SHOPPING CHANNELS: AN INTERNATIONAL VISION

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| | | <p>It is important to point out the fact that the III Brazilian Advertising Self-Regulation Congress that was held in the City of São Paulo in 1978 unanimously approved the Brazilian Advertising Self-Regulation Code, which establishes rules for the advertising industry.</p> <p>The Code in question is a self-regulatory tool of the advertising industry and is also destined to be used in Courts and by authorities as a reference document and a subsidiary source in the context of advertising legislation and other laws, decrees, directives, rules or instructions that may directly or indirectly affect or be affected by advertising.</p> <p>The referred Code states that the advertiser, advertising agency and media shall be liable towards consumers for all advertisements, which shall conform to the generally accepted commercial principles of fair competition and to the purposes of</p> | <p>registered with the Commercial Registry, (ii) temporary entrance document of the General Taxpayer's Number, signed by the manager of the company and (iii) copy of the Taxpayer Registration Number (CPF/MF) of the manager of the company;</p> <p>3. Municipal Authorities' Inscription/Business License;</p> <p>4. State Tax Authorities' Inscription.</p> | | <p>posters, panels and placards, within the internal part of the sales outlets for such products.</p> <p>Moreover, the article 3-A of the same law establishes that following are prohibited: (i) sales of the product by post, (ii) distribution of any sample or gift, (iii) advertising through the electronic media, including the internet, (iv) the carrying out of any promotional visit or free distribution in any place of learning or in any public building, (v) sponsorship of any culture or sporting activity, (vi) advertising material, whether fixed or temporary, in stadiums, tracks, on podiums or in similar places,</p> | | | <p>states, the applicable rate is 17%.</p> <p>In inter-states transactions, the following rates shall apply: → 12% in sales between the South and Southeast Region; → 7% in the sales from South and Southeast to North and Northeast Regions; → 12% in any other transaction.</p> | |
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24 - HOUR HOME SHOPPING CHANNELS: AN INTERNATIONAL VISION

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| | | <p>national economic, educational and cultural development.</p> <p>According to the Code under analysis, the general principles applicable to advertising are the following:</p> <p>(i) respect of the human being;</p> <p>(ii) decency on statements or visual or audio presentations;</p> <p>(iii) honesty, i.e., not to exploit the consumers' credulity;</p> <p>(iv) truthful presentation of the product being offered;</p> <p>(v) advertising identification, which means that advertiser shall always be clearly identified, either by trademark, by manufacturer, distributor's or supplier's name;</p> <p>(vi) comparative advertising; (vii) safety and accidents, disapproval of disregard for safety and fails to mention special care for preventing accidents;</p> <p>(viii) protection of privacy; (ix) pollution and ecology, advertises may not disregard problems related to life</p> | | | <p>(vii) any contracted indirect advertising also know as merchandising, in programmes produced in this country at any time night or day and (viii) selling in education and health establishments.</p> | | | | | |
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24 - HOUR HOME SHOPPING CHANNELS: AN INTERNATIONAL VISION

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| | | <p>quality and environment protection; (x) children and teenagers, special attention must be given to the psychological aspects of the target audience;</p> <p>(xi) copyright and plagiarism, all activities shall respect any copyrights .</p> <p>Finally, it is important to say that article 49 of the Brazilian Consumer Code (Law No. 8078, of September 11, 1990) establishes that <u>the consumer may withdraw from a contract within seven days as from execution thereof or from the act of receipt of the product or service, if the product and service supply contracting occurs outside the commercial establishment, particularly by telephone or home delivery.</u></p> | | | | | | | | |
| <p>Columbia</p>  | <p>Yes</p> <p>Television: Yes Radio: Yes Internet: Yes</p> | <p>Home shopping is regulated on a national level and is subject to general advertising media regulations.</p> | <p>Companies performing home shopping sales are subject to general advertising media regulations. There are no particular regulatory requirements for any</p> | <p>No</p> | <p>Products such as alcohol, tobacco or condoms may be advertised via home shopping</p> | <p>The before mentioned products may be object of regulatory problems if general legal considerations of the advertising of this products are not taken</p> | <p>Yes</p> <p>No restrictions.</p> | <p>Yes</p> <p>16%</p> | <p>The general advice will be to consider legal revision on home shopping when dealing with products subject to particular advertising rules.</p> | <p>We have information that the National Television Commission will present this year to Congress a bill that will regulate home shopping sales on National Television.</p> |

24 - HOUR HOME SHOPPING CHANNELS: AN INTERNATIONAL VISION

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| | | | media. As for Television, home shopping sales have been broadcasted in Colombia as “TV programs” on national public television channels and are publicly known by the name of “infomerciales” – short for commercial information. | | programming provided that they abide to regulations covering particular advertising rules for this kind of products. | into consideration. | | | | |
| Czech Republic  | Yes Television: Yes Radio: Yes Internet: Yes | There is only one law in the Czech Republic | As per EU directive on distance contracts and personal data protection | Yes The customer must express his / her approval for such data processing (but name and address solely can be used for marketing purposes without such approval). | Pharmaceutical products (both OTC and Rx) | Yes, usually semi-pharmaceutical products (like “The miracle from Asian flower...”). | Yes So far, to my knowledge there has not been such an auction on TV but, there is general law on auctions which could bring many problems, when organised on TV. | Yes 5% or 22% according to the kind of goods. | There is problem of unfair competitors, parasiting operator’s campaigns now. They sell totally similar products, claiming “you know this from TV...” | No. Three main operators occupy substantial part of the market and they follow the legal rules strictly. |
| Finland  | Yes Television: Yes Radio: Yes Internet: Yes | Laws of Finland apply. | The provisions of the Consumer Protection Act regulating distance selling (based on the respective EU Directive) apply. E.g.: - Detailed provisions on obligation to inform the consumer of the product and the terms of contract. - Obligation to deliver | The provisions of the Personal Data Act implementing the EU Directive on Data Protection apply. | Products subject to specific restrictive legislation, such as tobacco, alcohol, medicine, etc. | Nothing special deviating from other means of sales and marketing. | Yes N/A | Yes 22% | In addition to what is mentioned herein, nothing particular deviating from other means of sales and marketing. | No. Home shopping has been remote and not subject to special attention in Finland. |

24 - HOUR HOME SHOPPING CHANNELS: AN INTERNATIONAL VISION

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| | | | the product within 30 days of the order. - Consumer's right to cancel the deal within 14 days of delivery/confirmation of contract. | | | | | | | |
| <p>France</p>  | <p>Yes</p> <p>Television: Yes (<i>télé-achat</i>) Radio: Yes (although it is not customary in practice)</p> <p>Internet: Yes (through plain distance sales)</p> | <p>National</p> <p>-Television: the matter of home shopping (<i>Télé-achat</i>) used to be regulated by two decrees: one applicable to "normal" television and the other applicable to cable TV. However, since a decree dated December 28, 2001, the same rules apply to the two matters and may be found in the Decree of March 27, 1992.</p> <p>- Radio: to our knowledge, there is no specific regulation applicable to home shopping on the radio, and therefore no restriction other than the general rules applicable to distance sales. However, it should be noted that home shopping is not customarily offered on the radio in France.</p> <p>-Internet: similarly, there is no specific regulation on home shopping on the Internet. However, the</p> | <p>All TV programs dedicated to home shopping should be clearly advertised as such. Specific rules apply to the maximum and minimum duration of the show, with exceptions in favor of cable and satellite TV channels specialized in home shopping (<i>i.e.</i>, TV channels which broadcast over 50% of home shopping programs). The programs may not be interrupted by advertising.</p> <p>Children under 16 may not participate to home shopping programs.</p> <p>The trademark and/or name of the manufacturer may not be mentioned during the program. This rule, however, does not apply to TV channels specialized in home shopping.</p> <p>The hosts should ensure that the</p> | <p>Yes</p> <p>A law dated January 6, 1978 provides a general protective system for the collection, processing and use of personal data.</p> <p>For instance, it is important to note that all documents through which personal data are collected should warn French residents of their rights regarding the use of their personal data (right of access and modification of their data, indication of the name of the person or the service where such right can be exercised by the participant).</p> <p>The participants should be given the possibility to oppose any commercial treatment of the data or the sale or transfer the data to other</p> | <p>The basic rule is that home shopping is not allowed to offer the products and services the advertising of which is prohibited on the media used.</p> <p>For instance :</p> <p>On all media: advertising and home shopping is prohibited for tobacco products, for prescription drugs and for firearms, except if the media is specialized in the field of hunting or sport shooting.</p> <p>On television: advertising and home shopping is prohibited for further products, such as tobacco products, alcoholic beverages,</p> | <p>No</p> | <p>Yes</p> <p>The regulations applicable to home shopping on TV do not refer to auctions. We do not know of TV home shopping via auctions in France.</p> <p>In practice, distance sales through auctions are more frequent on the Internet.</p> | <p>Yes</p> <p>Subject to the exceptions applicable to certain international sales (outside the EU), the normal applicable rate is of 19.6%. A reduced rate of 5.5% applies to certain products and services, such as most foodstuffs, books; hotel rooms, etc.</p> | <p>No</p> | <p>Home shopping, since it involves sales to consumers, is subject to control by the DGCCRF (the French authorities responsible for consumer protection).</p> <p>In the case of <i>télé-achat</i> (home shopping on TV), the program is subject to the control of the CSA, as any other TV program. However, the CSA used to have the power to enact the rules applicable to <i>télé-achat</i>, whereas since a law dated August 1, 2000, these rules are now enacted by the Government in the form of decrees.</p> |

24 - HOUR HOME SHOPPING CHANNELS: AN INTERNATIONAL VISION

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| | | <p>regulations on distance sales apply, especially since they have been recently modified by an <i>ordinance</i> of August 23, 2001 in order to implement the applicable EU Directives and to include the Internet in the distance sales techniques: Directive 97/7/EC of May 20, 1997 on the protection of consumers in respect of distance contracts.</p> | <p>presentation of the products and services, of their prices and of the ordering and delivery conditions does not mislead the consumers.</p> <p>Regarding radio and Internet home shopping sales, as well as TV home shopping sales, all regulations on distance sales apply (<i>e.g.</i>, right of withdrawal, etc.).</p> | <p>entities for purposes other than administration of the sale.</p> <p>Participants from the European Union should also be informed that their data are going to be transferred outside the EU, if applicable.</p> <p>Further, the information technologies raise new issues which are not dealt with yet. For instance, the use of personal data for commercial purposes through e-mail (spamming) or mobile phone SMS raise difficulties and should only be used with care, especially since the EU recently required “opt-in” methods to be used in most instances, whereby commercial information may only be sent to a customer if he/she has given his/her prior consent (EU Directive of July 12, 2002).</p> | <p>books, cinema, newspapers, distribution (supermarkets).</p> | | | | | |
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24 - HOUR HOME SHOPPING CHANNELS: AN INTERNATIONAL VISION

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| <p>Germany</p>  | <p>Yes</p> <p>Television: Yes Radio: Yes Internet: Yes</p> | <p>Federal</p> <p>There is a contract between the "Länder" regulating these questions</p> | <p>The EU - Distance selling directive is implemented into German law</p> | <p>Yes</p> <p>N collection, storing, transferring of "sensible" data without the prior consent of the person involved.</p> | <p>Prescription drugs</p> | <p>Prescription drugs</p> | <p>No</p> <p>Certain conditions have to be fulfilled.</p> | <p>Yes</p> <p>No special rate for home shopping, normally 16 % depending from the product (books e.g. 7 %).</p> | <p>- Distance Selling Law ("Fernabsatzgesetz") after a certain period of time the consumer can cancel the order.</p> | <p>No</p> |
| <p>Hungary</p>  | <p>Yes</p> <p>Television: Yes Radio: Yes Internet: Yes</p> | <p>National</p> | <p>When performing Home shopping sales through telecommunications instruments - such as phone, radio, videophone, videotext, email, fax, TV (I will nor refer to on door-to-door sales activities, which are subject to special regulatory requirements)-, some of the major requirements shall be:</p> <ul style="list-style-type: none"> - information to consumers (e.g. denomination, registered office, name of the representative or the organisation, registration number, tax number, phone number and email address of the business organisation; properties of the object of the contract; price and | <p>Yes</p> <ul style="list-style-type: none"> - Prior to commencement of data processing activity (collection, recording and storage, process, use, transfer, disclosure, and deletion of personal data, regardless of the procedure employed) the data controller shall notify the Data Protection Ombudsman, for registration, of <ul style="list-style-type: none"> a) the purpose of the data processing; b) the type of processed data and the legal basis therefore; c) the range of data subjects; d) the source of data; e) the type of | <p>Advertisements popularising and describing tobacco goods, weapons, ammunition, explosives, medicines available only on a doctor's prescription and therapeutic processes cannot be broadcasted via TV or radio.</p> <p>There are restrictions regarding advertising of alcoholic drinks.</p> <p>Regarding direct medicinal supply of the public, depending on</p> | <p>TV shopping may not encourage children to acquire goods (buy or rent) or to request services. Advertisements cannot directly suggest to minors that they encourage their parents or other adults to buy or use toys and other goods or services. The advertisement cannot be misleading in respect of the actual nature and possibilities of the toy.</p> | <p>Yes</p> <p>There are no special regulations applicable to auctions via home shopping.</p> | <p>Yes</p> <p>The general rate is 25%. Special rates (12%, 0%) apply to certain products and services.</p> | <p>The number of TV shopping windows may not be over 8 per day and their duration may not exceed 2 hours. This restriction does not apply to specialised broadcasting dedicated only to TV shopping nor to TV-screen texts.</p> | <p>No</p> |

24 - HOUR HOME SHOPPING CHANNELS: AN INTERNATIONAL VISION

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| | | | <p>payment conditions, including supplementary services, shipping costs; right of withdrawal; if the contract must be concluded for a minimum period of time; warranties; post-sale services; conditions for ending the contract; according to the type or products or services, registrations or licence; indication of professional or ethic rules that may apply; membership to professional bodies).</p> <ul style="list-style-type: none"> - Goods should be delivered in 30 days (except diverse agreement between the parties). - If the seller is not able to deliver the goods because he has no such goods in stock, he must inform the consumer immediately and send him back the payment. - The express consent of the consumer is required to contact him by fax or using automatic callers. - Sale prices shall be indicated as the price of goods and service placed on the consumer market (indicating if taxes, | <p>transferred data, the recipients of such data, and the legal basis of transfer;</p> <p>f) the deadlines for deletion of certain types of data;</p> <p>g) the name and address of data controller and of data processor, the actual place of data processing (including technical processing), as well as any activity of data processor related to the processing of personal data.</p> <ul style="list-style-type: none"> - Personal data shall not be processed unless as consented to by data subject. Special categories of data shall not be processed unless as consented to in writing by data subject. - Data subject shall be informed of the purpose of processing, as well as of who are the data controllers and data processors. - Data controller shall inform the data subject, at his or her request, of the | <p>prescription classification, medicinal products may only be dispersed by parties holding a license. Any operations concerning the placing on the market, retail and wholesale of narcotic and psychotropic medicinal products, are also subject to licensing.</p> <p>Sale of excise products (mineral oils, alcohol and alcoholic beverages, beers, wines, sparkling wines, intermediate alcoholic products, tobacco products) may only be performed according to the regulations on excise products provided by the Act on Excise Taxes (e.g. licensing).</p> | | | | | |
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24 - HOUR HOME SHOPPING CHANNELS: AN INTERNATIONAL VISION

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| | | | <p>shipping costs or any other costs are included or not).</p> <p>- If more than one sale price or service fee is indicated, the lowest indicated sale price or service fee shall be considered to be the sale price or the service fee of the goods.</p> | <p>processing of his or her personal data performed either by the data controller or by a data processor, the purpose of the processing, its legal basis and duration, the name and address and activity in connection with the data processing of a data processor, as well as of who received or will receive data and for what purpose.</p> <p>- Personal data shall be processed only for a specified purpose, in exercise of a right or in compliance with an obligation.</p> <p>- No personal data shall be processed other than those indispensably required for satisfying the purpose of processing and only in a way compatible with that purpose. Data shall not be used excessively and longer than is required for that purpose.</p> <p>- Data shall not be</p> | <p>A licence or registration is required for the sale of several other products (precious metals and jewelry, weapons, explosives, etc.).</p> | | | | | |
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24 - HOUR HOME SHOPPING CHANNELS: AN INTERNATIONAL VISION

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| | | | | <p>transferred and files shall not be connected unless consented to by data subject or provided for by law.</p> <p>- Data Transfer Abroad: personal data shall not be transferred from the country to a data controller abroad, whatever the data medium or the mode of transmission is, except when consented to by data subject or permitted by law, provided that the same principles of data protection shall be obeyed by the foreign controller in respect of each data.</p> <p>- Data Security: Data controller and within its competence the data processor shall ensure data security and shall take all technical and organisational measures and develop rules of procedure, required to the enforcement of the Act on Data Protection and other regulations concerning data</p> | | | | | | | |
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24 - HOUR HOME SHOPPING CHANNELS: AN INTERNATIONAL VISION

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| | | | | protection and secrecy. | | | | | | |
| Ireland  | Yes Television: Yes Radio: Yes Internet: Yes | N/A While there is no statute which specifically targets home shopping, it is regulated on a statutory basis by various pieces of legislation which will be discussed below. | There is no special legislation directed at home shopping. However, companies running home shopping networks need to be aware of the EC (Protection of Consumers in respect of Contracts made by means of Distance Communication) Regulations, 2001 which were implemented in Ireland earlier this year which introduce quite stringent regulations in relation to distance sales including home shopping. Companies offering credit to customers also need to be aware of the Consumer Credit Act, 1995 which regulates credit facilities offered to consumers. | Yes Companies holding private information on customers may need to register as a data controller with the Data Protection Commission to comply with the requirements of the Data Protection Act, 1988 depending on the type of information they hold and the nature of the business they operate. Companies holding such private information would also be advised to seek legal advice on the EC (Data Protection) Regulations, 2001 which have been recently introduced into Irish law. | Products which are regulated specifically such as tobacco, alcohol, prescription medicines etc. | The same problems as generally occur in the advertising industry such as products aimed at children or tobacco. | Only if a license is obtained from the District Court in advance. Auctioneers and House Agents Acts, 1947-1963 | Yes 21% | Operators of home shopping networks would need to be aware of the requirements imposed by the EC (Protection of Consumers in respect of Contracts made by means of Distance Communication) Regulations, 2001 which are quite stringent and must be adhered to in order for a valid contract to be entered into with the consumer. Operators should take Irish law advice before proceeding. | The Office of the Director of Consumer Affairs has been the subject of criticism in the past because of the low amount of prosecutions. Home Shopping would not generally be listed as one of the main subjects of complaint. However prosecutions may also be taken in the courts by a consumer should they feel their rights have been breached. |
| Italy  | Yes Television: Yes Radio: Yes (but usually other media is preferred) Internet: Yes | Both N.B.: the local system is different: there are no Federal Laws, but only National Laws, frequently implementing the principles set by the Directives of the European Union. The "Regions" – i.e. | Companies must enter a special Register administered by the Chamber of Commerce of the place where said company has its business seat. Furthermore, distance sales and teleshopping, must be notified to local – i.e. municipal – | Yes As a general principle, which applies also to this particular sector, processing (i.e. collection, storage & transfer) of personal data is subject to EU regulation as well as to national | <u>EU Directive no. 89/552, article:</u> - 10 prohibits surreptitious teleshopping and the use of subliminal techniques, - 11 sets limits for inserting of | All products subject to special limitations and bans as to their advertising (e.g.: drugs, pharmaceuticals, alcoholics, tobacco products) or targeted to a specific audience, covered by special provision (e.g. children, minors. In addition, financial | In principle No. According to article 18 of Law by Decree n° 114 dated 31st March 1998 auctions performed on television as well as those performed by any other mean | Yes [Currently there is no specific regulation as to the taxing aspect of e-commerce, on-line sales or services in general or home | In a "digital age" with business more and more going on-line, companies operating in the sector of home shopping should pay maximum attention to when they become subject to foreign laws (e.g. by using a foreign service provider or by using | Yes In the context of the provisions aimed at granting consumer protection. |


24 - HOUR HOME SHOPPING CHANNELS: AN INTERNATIONAL VISION

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| | | <p>Districts, comprehending a particular geographic area as Tuscany, Lombardy, etc., with an administration independent from Central Government, have a limited legislative competence for additional ruling of specific aspects. Sometimes even local, i.e. municipal, regulations may become relevant. Prescriptions to be considered when performing “home shopping” can be found in:</p> <ul style="list-style-type: none"> - EU Directives no. 89/552 and no. 97/36, so called “TV and Broadcasting Directives, - Law no. 223 dated August 6th, 1990 (with successive amendments and modifications), implementing the EU principles, Ministerial Decrees nos. 439/1991 and 581/1993 concerning Teleshopping and Sponsoring, - EU Directive no. 85/577 on contracts negotiated away from business premises (local implementation through Legislative | <p>administration and can start only after 30 days from the moment of said notification. A special license has to be obtained by companies performing such kind of sales and TV or Broadcasting stations are held to check – before airing the respective programs - if such requirements have been duly fulfilled. Finally, persons bankrupt, punished for certain crimes or with imprisonment up to a certain extent, are not permitted to perform commercial activities, before acquiring discharge. For companies performing sales of food products, staff is required to follow specific training courses and must enroll in a special register.</p> | <p>implementing provisions set for data protection (Law n° 675, dated 31.12.1996, successively amended). According to said Law, it’s required to preliminarily inform the “data subjects” (in the specific case the customers, which data are processed of) as to:</p> <ul style="list-style-type: none"> - the purposes and modalities of their personal data’s processing, - the subjects, which the data can be communicated to, - the area where said data may be disseminated. <p>Furthermore, in many cases customer’s prior consent for collecting and processing personal data has to be obtained. Generally, collection is permitted as to data simply identifying a natural person (e.g. name, address, e-mail address, etc.), so called “sensitive data” are excluded]</p> | <p>teleshopping and its advertising during the broadcasting time,</p> <ul style="list-style-type: none"> - 13 bans teleshopping for tobacco products, - 14 establishes an identical ban with respect to pharmaceuticals and medical treatment, - 15 sets limits for teleshopping of alcoholic beverages, - 18a contain a specific regulation of broadcasting time reserved to teleshopping, - 19 extends all the above-mentioned provisions to channels exclusively devoted to teleshopping, - 20 admits exceptions by national ruling for broadcasts intended solely for the national territory, which | <p>services/products would raise particular problems.</p> | <p>of communication are totally banned. As to this point, in June 2002 the Ministry for Production has issued an opinion according to which the above-mentioned ban should be considered limited to B2C relations, while B2B would not be affected (being therefore allowed to perform auctions).</p> | <p>shopping. Therefore, general provisions do apply. The Ministry of Finance - through a memorandum - has expressly clarified that sales of products entirely performed on-line (so called “direct e-commerce”) must be considered as a services’ supply. Therefore the ordinary VAT rate provided for services supply, becomes relevant]</p> <p>[The ordinary VAT rate is 20%; there are also special rates for certain products or services (e.g. 4% for</p> | <p>technical equipment located in a foreign country]. In national legislations significant differences may be found as to the ruling of certain aspects of home shopping.</p> |
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24 - HOUR HOME SHOPPING CHANNELS: AN INTERNATIONAL VISION

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| | | through Legislative Decree no. 50/1992), - EU Directive no. 97/7 on distance contracts (local implementation through Legislative Decree no. 185/1999), - EU Directive no. 2000/31 on Electronic Commerce, - Law by Decree no 114/1998 regulating commerce in general | | | cannot be received by the public in other member states. Those prescriptions are confirmed by national rules. | | | books, 10% on certain food products] | | |
| <p>Japan</p>  | <p>Yes</p> <p>Television: Yes Radio: Yes Internet: Yes</p> | National and municipal | <p>There exists no special regulatory/licensing/registration requirement. Companies conducting home shopping activities must however comply with all rules pertaining to audiovisual advertising;</p> | <p>Yes</p> <p>While there is not yet a unified national legislation on the topic (although one is expected soon), various governmental authorities have developed regulations which impede the ability of home shopping operators to use private customer information for future sales without the approval of the consumer.</p> <p>There is a list of products and services for which there is a 'cooling off' period.</p> | <p>There are any number of goods and services which may not be offered via home shopping; all of which are otherwise regulated. Tobacco, liquor, prescription drugs, medical treatments and the like can be and are advertised, but may not be sold without special license.</p> | <p>The same ones as those that are regulated for advertising generally such as pharmaceuticals</p> | <p>Yes</p> <p>Auctioneers of second hand goods must be licensed by the Police authority.</p> | <p>Yes</p> <p>5%</p> | <p>Localization is a major issue for foreign producers, so is distribution.</p> <p>Home shopping is regulated as in Question 5 above.</p> <p>There are a number of significant penalties for breach of the various laws and regulations which govern Home shopping by internet, television, or radio.</p> | No |

24 - HOUR HOME SHOPPING CHANNELS: AN INTERNATIONAL VISION

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| | | | | <p>As well, various provisions of Japanese law specify the manner in which goods and services may be presented including:</p> <ul style="list-style-type: none"> • Specification of price • terms of payment and method of payment • time of delivery of the goods and or performance of the services • Clear presentation of special terms and conditions <p>together with a number of other specific requirements. As well there is a general prohibition against making exaggerated claims for these goods and services and various regulations against persistent sales behavior.</p> | | | | | | |
| <p>Mexico</p>  | <p>Yes</p> <p>Television: Yes Radio: Yes Internet: Yes</p> | <p>Federal.</p> <p>All commercial activities are regulated by Federal Laws, primarily, the Commercial Code, as well as the Federal</p> | <p>To refrain from deceitful methods that may attempt against the consumers security in what they purchase, or consume, and repress any possible manipulation in the</p> | <p>Yes</p> <p>Gathering or collecting personal information must be limited to the purpose of home shopping or direct</p> | <p>Alcohol, tobacco, prescription drugs, pornography, weapons, or any other products prohibited for</p> | <p>No, just the mentioned above, and those that in general terms have a special treatment in advertising regulation.</p> | <p>Yes</p> <p>Just the ones regulated by the Federal Law for Games and Raffles.</p> | <p>Yes, the rate is mostly 30%, but it can be increased to 35% depending the product</p> | <p>To adopt strict security measurements on the personal information given to him and follow the Ethic Code precepts and policies established by the</p> | <p>Yes, in general terms the Consumer Protection Office (PROFECO), which mostly attends to guarantee the quality of products and services commercialized in Mexico, by any means. It</p> |

24 - HOUR HOME SHOPPING CHANNELS: AN INTERNATIONAL VISION

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| | | Consumer Protection Law. | cashing or selling transactions. | marketing, and just limited information can be used for such purpose, and most remained as confidential information. | minors. | | | or services in sale. | Mexican Direct Marketing Association, which should advice the marketer on local laws, regulations and norms that must be followed in Mexico in order to commercialize products or services. e.g. the mandatory information established in the Mexican Official Standards. | also regulates the false advertising, and attends to guarantee and provides the consumer security against untrue and misleading advertising. However such authority tends to regulate disputes between consumers and suppliers, but not between competitors. is true, real and exempt to descriptions that may induce the consumer to error or confusion. The Ministry of Commerce also represents another instance that in general terms regulates the marketing of services and products governed by legal standards known as "Mexican Official Standards", which set forth and imposes different requirements to be followed to market any kind of product or service, thus protecting the consumer in his purchase. |
| New Zealand  | Yes Television: Yes Radio: Yes Internet: Yes | Television, radio and internet shopping in New Zealand is governed by the laws of New Zealand. All marketers must comply with the laws of New Zealand and all appropriate industry | All organisations involved in direct marketing must comply with the Consumer Guarantees Act 1993, Fair Trading Act 1986, Door to Door Sales Act 1967 and the Telecommunications | Yes The collection, storage and use of personal information about identifiable individuals is governed by the Privacy Act 1993 | There does not appear to be any particular products or services that cannot be offered via home shopping other than | The purchasing of products over the internet such as plants or seeds from other countries will need the consent of the Ministry of Agriculture and Fisheries prior to the goods being brought | Yes Home shopping auctions are permitted in New Zealand although they are currently not particularly | Yes New Zealand Goods and Services Tax ("GST") is charged pursuant to | Home shopping networks in New Zealand should be aware that they are governed by the same legislation as those selling goods from a physical shop. | As home shopping networks are governed by the same legislation as those selling from a physical shop, they receive similar attention from the regulatory authorities. The Ministry of Consumer Affairs, the |

24 - HOUR HOME SHOPPING CHANNELS: AN INTERNATIONAL VISION

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| | | <p>codes of practice. Overseas based companies, including those trading on the internet, that provide goods or services in New Zealand may be covered by consumer laws but it may prove difficult for a consumer to enforce their rights. A consumer may have more luck contacting the relevant consumer affairs authority in the country where the company is located.</p> | <p>Act 1987 all of which include consumer rights provisions. Marketers must also comply with various codes of practice. For those advertising products, the Advertising Standards Authority's Codes of Practice must be complied with. The sale of liquor and pharmaceuticals is also regulated. Liquor advertisements require a liquor advertising pre-vetting service (LAPS) code number and any product making a therapeutic claim requires a therapeutic advertising pre-vetting service (TAPS) code number. A Code of Practice for Direct Marketing in New Zealand has also been developed by the New Zealand Direct Marketing Association (DMA), the Advertising Standards Authority (ASA) and the eMarketing Standards Authority (eMSA) and this is supported by the Ministry of Consumer Affairs and the Consumers' Institute.</p> | <p>("the Act"). It does not cover companies or other organisations and therefore principally affects consumer marketing. The Act contains 12 privacy principles. A summary of these principles are as follows: <i>Principle 1: Purpose of collection of personal information.</i> This principle ensures that personal information can only be collected for a lawful purpose which is relevant to the organisation collecting it. It must also be information necessary for the required purpose. <i>Principle 2: Source of personal information.</i> Information must be collected directly from the individual concerned except where the information is publicly available or the individual has authorised the collection. <i>Principle 3: Collection of information directly from the individual concerned.</i> Reasonable steps</p> | <p>indecent publications, offensive goods or services and various other prohibited goods (see examples below).</p> | <p>into New Zealand. New Zealand is a signatory to various international treaties, for example, an international treaty banning the sale and importation of ivory in any form. Other products from endangered species such as sea turtle meat, ground rhino horn and cat skin coats are also prohibited in New Zealand and would be subject to inspection by the New Zealand Customs Service.</p> | <p>common. Online auctions are usually regarded as private sales, which are not covered by the Consumer Guarantees Act 1993. The Fair Trading Act 1986 applies as far as placing a responsibility on auctioneers not to mislead or deceive bidders as to the service they offer or the goods for sale. Goods bought at an auction may be subject to the Sale of Goods Act 1906 requirement of "merchantable quality". In certain cases auctioneers may be required.</p> | <p>section 8(1) of the New Zealand Goods and Services Tax Act 1985, on any supply (excluding exempt supplies) of goods and services made in New Zealand by a GST registered person in the course or furtherance of a taxable activity carried on by that person. Imported Goods and GST The ordering of physical goods from overseas via the internet constitutes the importation of goods for GST purposes. The New Zealand Customs Service is responsible for collecting</p> | <p>Consumers' Institute and the Commerce Commission, as well as enforcing the relevant legislation, take a proactive role in advising the public of their rights as consumers. New Zealand is also a member of <i>econsumer.gov</i>, an international network established to enhance consumer protection and confidence in e-commerce cross-border transactions.</p> |
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24 - HOUR HOME SHOPPING CHANNELS: AN INTERNATIONAL VISION

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| | | | | <p>must be taken to make the individual aware that the information is being collected, the purpose for which the information is being collected, who is going to receive the information, name and address of organisation collecting and holding the information and the individual's right to access and correct any information.</p> <p><i>Principle 4: Manner of collection of personal information.</i></p> <p>Information must not be collected by unlawful or unfair means and must not intrude to an unreasonable extent upon the personal affairs of an individual.</p> <p><i>Principle 5: Storage and security of personal information.</i></p> <p>Information must be protected against loss, unauthorised access, misuse and modification. The Act requires every organisation holding personal information to appoint a privacy officer who is</p> | | | | <p>GST on any imported goods. Section 12(1) of the Goods and Services Tax Act 1985 provides that GST is levied (not charged) on goods imported into New Zealand. An import entry form is issued by the Customs Service to the importer who is required to pay GST together with any customs duty. The entry form constitutes an invoice for GST purposes and triggers the time of supply rules enabling the importer to claim an input tax deduction for the GST expense.</p> | |
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24 - HOUR HOME SHOPPING CHANNELS: AN INTERNATIONAL VISION

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| | | | | <p>responsible for compliance with the privacy principles within that organisation. Access to information should only be made available to people who need to use that information.</p> <p><i>Principle 6: Access to personal information.</i> Individuals are entitled to obtain confirmation of whether or not personal information is being held and to access the information about themselves from an organisation.</p> <p><i>Principle 7: Correction of personal information.</i> Individuals have the right to request correction of their personal information.</p> <p><i>Principle 8: Accuracy of personal information.</i> Organisations holding personal information must not use that information without taking steps to ensure it is accurate, up to date, complete, relevant and not misleading.</p> <p><i>Principle 9: Retention of information.</i></p> | | | | <p>No GST is levied on goods valued at \$400 or less if the goods are for domestic use. The majority of private purchases, for example books, clothing, etc, will fall below this threshold. The Customs and Excise Act 1996 interfaces with the Goods and Services Tax Act 1985 in that the provisions of the Customs and Excise Act 1996 apply to the importation of goods for GST purposes. Note that even if the supplier is a non-resident, goods will be deemed to be supplied</p> | |
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24 - HOUR HOME SHOPPING CHANNELS: AN INTERNATIONAL VISION

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| | | | | <p>Personal information must not be kept for longer than required for its lawful use.</p> <p><i>Principle 10: Limits on use of personal information.</i></p> <p>Personal information must not be used for any purpose unrelated to that for which it is obtained unless the source of the information is publicly available or the use of the information is for another purpose and has been authorised by the individual concerned.</p> <p><i>Principle 11: Disclosure</i></p> <p>Personal information must not be disclosed unless the disclosure is directly related to the reason for which the information was originally collected, or the source of the information is a publicly available document (for example, the telephone directory). Personal information can be disclosed if authorised by the individual concerned.</p> <p><i>Principle 12: Unique identifiers</i></p> <p>A unique identifier</p> | | | | <p>in New Zealand if they are in New Zealand at the time of supply.</p> <p>Imported Services and GST</p> <p>In brief, imported services fall outside of the GST net. However, where a non-resident supplier performs the services in New Zealand, that supplier is deemed to be a resident for GST purposes if it has "a fixed or permanent place of business" in New Zealand. If such place of business exists and a New Zealand resident purchaser receives the</p> | | |
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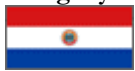

24 - HOUR HOME SHOPPING CHANNELS: AN INTERNATIONAL VISION

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| | | | | <p>must not be assigned to an individual unless it is necessary to carry out the lawful functions of the business. A unique identifier (for example a customer number) is acceptable where there is a large customer base. However, the same unique identifier must not be applied to an individual by more than one organisation.</p> | | | | <p>services in the course of the supplier's taxable activity, no GST will be payable unless the parties agree otherwise.</p> <p>The New Zealand Inland Revenue Department acknowledges that the supply of online services by a non-resident supplier does not fall within the definition of a fixed or permanent place of business in New Zealand and therefore does not trigger GST. This, however, does not cover situations where a non-resident provides</p> | | |
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24 - HOUR HOME SHOPPING CHANNELS: AN INTERNATIONAL VISION

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| | | | | | | | | <p>services in New Zealand via a server. The issue of downloading computer software over the internet is currently a problematic one. The Inland Revenue Department has proposed that copies of computer programmes are "goods" for GST purposes, while the supply of copyright in relation to computer programmes is a "service" for GST purposes. The provisions contained in the Goods and Services Tax Act 1985 are complex and requires some thought.</p> | | |
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24 - HOUR HOME SHOPPING CHANNELS: AN INTERNATIONAL VISION

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| | | | | | | | | The above information, therefore, only provides the reader with a general overview of how GST is treated in relation to home shopping transactions. It is therefore recommended that further tax advice be sought. | | |
| Paraguay  | Yes Television: Yes Radio: Yes Internet: Yes | Legislation applies on a national basis. Home shopping is not regulated as such but is subject to the regulations concerning advertising/sales in the Sanitary Code and laws on consumer defence, tobacco & liquor advertising and promotion, health products, etc. | Home shopping sales/advertising will be subject to relevant registration requirements for the media to take their advertisements. | Yes Information on customers is allowed for strictly private use, may not be shared outside the company, and must be accessible for persons to determine accuracy and make corrections. | Prescription drugs. | Health products, tobacco & liquor. | Yes No specific regulation in place regarding auctions. | Yes 10% | Home shopping should observe regulations concerning consumer defence, and restrictions on tobacco & liquor advertising and health products. | No |
| Portugal  | Yes Television: Yes Radio: Yes Internet: Yes | National level. There are some provisions, namely the Portuguese Publicity Code (Decree Law 330/90 that provides some general guidelines on the issue) and | The first requirement for companies performing home shopping sales concerns, like other means of publicity, consumer protection. The use of means of distance | Yes The directive 95/46/EU and the Law 67/98 foreseen the protection of individuals with regard to the processing of | There are some restrictions that apply to advertising in general, and not only to home shopping. These restrictions refer to: | There are some products that, for their characteristics do not allow the right of withdrawal. This is the case of: the supply of goods and services, which price is dependent on | Yes There are no regulatory specific issues applicable. Therefore we apply the standard model | Yes 19% | The main issues that should concern anyone who develops such an activity are the regulations on distance contracts and personal data protection matters. | No |


24 - HOUR HOME SHOPPING CHANNELS: AN INTERNATIONAL VISION

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| | | <p>Decree- law 143/2002 on distance contracts. Recommendations of the Publicity Counsel, a consulting and pedagogic entity that reflects the concrete action of advertisers, must also be taken into account.</p> | <p>communication must not lead to a reduction in the information provided to the consumer. Portuguese Decree 143/2001 establishes a group of information that must be provided to the consumer prior to the conclusion of the contract such as the information on the identity of the supplier, the price of goods and services including taxes, delivery costs, the existence of a right of withdrawal, the period for which the offer of the price remains valid, inter alia. The information must be provided in a precise and clear manner with respect for the principles of good faith in commercial transactions. Furthermore Portuguese and European regulations foreseen restrictions on the use of certain means of communication (fax and automatic calling machine) that require the prior consent of the consumer. In general, Portuguese regulations faithfully transpose EU Directive 97/7.</p> | <p>personal data. It is guaranteed to the data's titleholder the right to object at any time to the processing of data relating to him for marketing purposes. Furthermore, we can say that the processing of data can only be made if the data subject has given his agreement. The personal data must be treated with respect for the principles of good faith, and must be adequate to the intended purposes.</p> | <ul style="list-style-type: none"> - Publicity of alcohol drinks - Law is however much more severe in what is related to tobacco publicity, absolutely forbidden through national media supports or with main head offices in Portugal. - Medicines, can only be purchased through medical receipt - Gambling | <p>fluctuations in the financial market and cannot be controlled by the supplier; the supply of goods made as per the consumer's specifications or clearly personalized or which by its nature cannot be returned or are liable to deteriorate or expire rapidly; the supply of newspapers, periodicals and magazines, and gaming and lottery services</p> | <p>rules for auctions.</p> | | | |
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24 - HOUR HOME SHOPPING CHANNELS: AN INTERNATIONAL VISION

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| <p>Puerto Rico</p>  | <p>Yes</p> <p>Television: Yes Radio: Yes Internet: Yes</p> <p><u>Remark:</u> must comply with local and US federal regulations. Regulated industries (e.g. prescription drugs) will require license to offer/sell.</p> | <p>US Federal Regulations apply, as well pertinent FTC and FCC regulations and guidelines. Local regulations protecting consumers from deceitful advertising apply as well.</p> | <p>There exists no special regulatory/licensing/registration requirement specifically for home shopping sales. Local regulations on truthful advertising, including provisions regulating pricing information, warranties, audiovisual representations and disclaimers will apply.</p> <p>Special attention should be paid to Puerto Rico's Dealership Law (Law 75), to avoid violating principal-dealership agreements when performing sales into Puerto Rico. Law 75 is quite stringent.</p> | <p>Yes</p> <p>Same as US Federal Laws and Regulations.</p> | <p>Cigarettes/Tobacco, Alcoholic Beverages, Regulated Products</p> | <p>Insurance, Pharmaceuticals. Regulated Products such as these will require licenses. There is a controversy at this time as to whether prescription retailer (not physically located in PR) will be required a local license.</p> | <p>Yes</p> <p>There is no special regulation in place for home shopping auctions.</p> <p>Auctions that are regulated: governmental auctions; judicial auctions.</p> | <p>Most consumer goods entering Puerto Rico are charged 6.6% of excise tax upon pick up at port or air carrier delivery to the purchaser (there are exceptions, E.g. Plastic items, books). There is no sale tax in Puerto Rico, except on: jewellery</p> <p>Depends on the products or services, mostly: 6.6 %; jewellery (included pearls & jewellery cases) & watches: 5%</p> | <p>– Be cautious pertaining any and all US federal and local protective laws and regulations pertaining minors. Be aware that the legal age in Puerto Rico is that of 21 yrs of age.</p> <p>– State clearly all conditions pertaining prices, shipping, taxes, warranties and any other extra costs pertaining delivery to Puerto Rico</p> | <p>Average. Most monitored if targeted to minors or when addressing food, health, diet products and regulated products.</p> |
| <p>Spain</p>  | <p>Yes</p> <p>Television: Yes Radio: Yes Internet: Yes</p> | <p>National and regional level.</p> | <p>They must comply with specific rules prescriptions such as the prohibition of the use of subliminal techniques and in general with consumer protection rules.</p> | <p>Yes</p> <p>Non-public personal data may be processed only if the subject of the data has unambiguously given his consent;</p> | <p>Tobacco products, alcohol (drinks with an alcoholic content of over 20%), medicines or</p> | <p>Yes.</p> <p>The purchasing of toys via television should not cause any misunderstanding as regards to characteristics of the</p> | <p>Yes</p> <p>The company which organizes an auction via home shopping (auction on line, etc) must</p> | <p>Yes</p> <p>It depends on the type of goods. Luxury goods such as alcoholic</p> | <p>We urgently recommend the obtaining of legal advice from local lawyers.</p> | <p>Yes, in the last few years various Acts concerning teleshopping, distance sales, and advertising have been passed by the Spanish Parliament.</p> |

24 - HOUR HOME SHOPPING CHANNELS: AN INTERNATIONAL VISION

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| | | | Moreover companies must also comply with the provisions concerning distance contracts, such as giving prior product information to the consumer, sending written confirmation of sale, or giving detailed information about the retailer. | that means that the use of private information relating to consumers for future sales is forbidden, except the case where the customer has given specific consent. | pharmaceutical treatments which can only be obtained on prescription. | same, or as regards to their safety or the capacity and aptitude required by children for utilising the same without causing harm to himself or to others. | comply with some provisions such as giving clear and general information to the consumer. They should further provide data relating to the organiser i.e. name, address, etc. as well as information about the characteristics of the products' to be sold in the auction. They should also mention some sort of caution whereby less than 5% of the starting price of goods to be auctioned can be claimed by the company organising such auction. | beverages and most regular goods such as furniture are taxed at a rate of 16%. Other regular goods such as sodas or vegetable seeds are taxed at a rate of 7% rate. Also a lower rate of 4% is applied to basic goods such as bread, etc. | | |
| <p>Sweden</p>  | <p>Yes</p> <p>Television: Yes Radio: Yes Internet: Yes</p> | Federal | Television/radio: requires a license from the government. To my knowledge the Swedish government has not yet granted a license to home shopping networks. One must bear in mind that advertising in television is only allowed in national television | <p>Yes</p> <p>All collection use of personal data, i.e. data that can be linked to a living person, must be in accordance with the Personal Data Act, 1998.</p> | Television and to some extent radio advertising for alcohol beverages, tobacco, prescription drugs and advertising directed to children (TV only) under the | No | <p>Yes</p> <p>General marketing law and practices apply to auctions as well as the law on distant selling and the law on contracts negotiated on</p> | <p>Yes</p> <p>25%</p> | <p>Even if transmitted from another country a Swedish advertiser can be held liable if the advertising is in violation of the marketing act.</p> | <p>Since Sweden has a very strict policy on advertising in radio and television home shopping is currently not a hot topic in Sweden.</p> |


24 - HOUR HOME SHOPPING CHANNELS: AN INTERNATIONAL VISION

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| | | | <p>channel. Therefore most home shopping directed to Sweden is transmitted via satellite from outside of Sweden.</p> <p>Internet: general marketing legislation applies if the site is directed to Swedish consumers.</p> | | <p>age of twelve is not allowed according to Swedish legislation. Home shopping networks are not allowed to sell pharmaceuticals or medical services.</p> <p>Internet: advertising for prescription drugs, alcohol beverages and tobacco is not allowed according to Swedish legislation.</p> | | distance. | | | |
| <p>Switzerland</p>  | <p>Yes</p> <p>Television: Yes Radio: Yes Internet: Yes</p> | <p>Federal</p> <p>The Swiss Law on Radio and TV does permit home shopping in general. No specific limitations apply except some time limits in relation to the normal program (max. 20 % of daily program and max. one hour per day)</p> | <p>No specific regulations. Anybody can offer home shopping.</p> | <p>Yes</p> <p>Swiss Law on Data Protection applies. Customer must be informed about the type of data and purpose of use beforehand.</p> | <p>Alcohol, tobacco, prescription drugs.</p> | <p>No</p> | <p>Yes</p> <p>No specific regulatory restrictions. The conditions that apply must be clear</p> | <p>Yes</p> <p>7.6%</p> | <p>Switzerland has a small market but very liberal regulations and a high buying power. There no possibility for a home shopping channel in Switzerland, but we receive the international programs such as HOT and others. Include special telephone numbers for Swiss customers.</p> | <p>No</p> |

24 - HOUR HOME SHOPPING CHANNELS: AN INTERNATIONAL VISION

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| <p>Taiwan</p>  | <p>Yes Television: Yes Radio: Yes Internet: Yes</p> | <p>National There is no law specifically aimed at regulating home shopping. However, along with the advertising laws, the Consumer Protection Law indirectly regulates home shopping on the national level. The advertising laws aim to regulate the advertising of certain products and services via certain media. The Consumer Protection Law is aimed at protecting consumer interests in various aspects, including the purchase of products via home shopping networks. The main implication of the Consumer Protection Law in the context of home shopping is that consumers/purchasers are given the right to return the product and receive a refund within 7 days of the delivery.</p> | <p>There are no regulatory requirements aimed specifically at companies or distributors performing home shopping sales.</p> | <p>Yes The Law for Protection of Personal Data Processed by Computer regulates the collection, processing, distribution and use of personal data by certain enterprises, including the media and telecommunication enterprises, and such enterprises are not allowed to engage in the above-mentioned activities unless certain requirements have been met. Such requirements include that the data subject's written consent has been obtained, that there exists a contractual or similar relationship between the data subject and the data holder and no damage may be caused to the interests of the former, or that the data is already open to the public and the processing of such data is not harmful to the data subject's material interests,</p> | <p>There is no restriction directly aimed at home shopping. However, it is necessary to obtain governmental approval for the advertisement of certain products, e.g., tobacco, alcohol, prescription drugs, cosmetics, and so forth. This is not unique to home shopping. Governmental approval is required for the advertisement of such products via any media or network. Similarly, the advertising of such products is regulated. These regulations are scattered in several laws and regulations.</p> | <p>Products and services offered or advertised on the Internet may be problematic, as many laws make no specific reference to the Internet. However, statutory amendments, e.g., the draft amendment of the Consumer Protection Law, and administrative rulings are expanding the scope of regulation to include the Internet.</p> | <p>Yes There is no specific regulation on auctions via home shopping networks. However, advertising laws impose certain standards and requirements for the offer and advertising of products. Such standards and requirements include no false or misleading advertising.</p> | <p>Yes 5%</p> | <p>Generally, advertising laws are applicable to the operation of home shopping networks and it is recommended to pay attention to these laws. Moreover, there are many products or services whose sale is regulated/restricted. It is recommended that prior inquiry be made in relation to the specific products or services to be offered/advertised.</p> | <p>No</p> |
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24 - HOUR HOME SHOPPING CHANNELS: AN INTERNATIONAL VISION

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| | | | | <p>and so forth. Moreover, such enterprises are required to register with the government prior to engaging in the above-mentioned activities. Nevertheless, the regulatory authority seldom enforces the Law.</p> <p>With regard to enterprises not regulated by the said Law, the Civil Code and the Criminal Code, which contain general provisions on the infringement of privacy, may become applicable.</p> | | | | | | |
| <p>United Kingdom</p>  | <p>Yes</p> <p>Television: Yes Radio: Yes Internet: Yes</p> | National level | <p><u>Consumer Protection (Distance Selling) Regulations 2000</u></p> <p>The Regulations protect consumers who obtain goods and services under a contract concluded without a face-to-face meeting with the supplier. They will, therefore, almost always apply to home shopping sales. To comply with the Regulations, a supplier must provide the consumer with certain basic information</p> | <p>Yes</p> <p>The use of personal information by any person or business established in the UK is regulated by the Data Protection Act 1998. The Act requires that personal data is processed fairly and lawfully.</p> <p>In essence, this requires the data controller (i.e. the person or business making use of the information) to identify himself and</p> | <p>a) breath-testing devices and products that purport to mask the effects of alcohol;</p> <p>b) betting tips;</p> <p>c) betting and gaming (exceptions permitted under the National Lottery etc Act 1993 and the Lotteries and Amusements Act 1976 as amended);</p> <p>d) all tobacco</p> | <p>In addition to those products and services which are deemed unacceptable, products and services relating to the following are likely to pose unique problems: Children, politics, religion, sex (including obscene material and sexual services), medicines, medical treatments (including dietary supplements and slimming products), financial and investment services and charities.</p> | <p>Yes</p> <p>In addition to UK criminal, consumer and contract law (including the Sale of Goods Act 1979, Unfair Contract Terms Act 1977, Unfair Terms in Consumer Contracts Regulations and Misrepresentation Act 1967), televised auction</p> | <p>Yes</p> <p>VAT at 17.5%</p> | <p>It is far more sensible to take legal advice well in advance of going live, rather than wasting on money on creative, production and media costs, only to discover that these are flawed. If that happens, there will be a waste of existing costs, additional costs to achieve compliance and, potentially legal costs and fines.</p> | <p>Most regulation is likely to be via the ITC on the media owners, who require compliance by the advertiser as a result.</p> |

24 - HOUR HOME SHOPPING CHANNELS: AN INTERNATIONAL VISION

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| | | | <p>before any contract is concluded. Elements of this information must be confirmed in writing unless the information was provided to the consumer before the purchase order was placed.</p> <p>One such element is the consumer's right to cancel the contract. The Regulations provide a 'cooling off' period (usually 7 days) during which the consumer may cancel the contract and return the goods.</p> <p>The Regulations also impose an obligation on the supplier to deliver the goods within 30 days (beginning the day after the consumer places his order with the supplier), unless the parties agree otherwise.</p> <p>Any home shopping sale concluded without face-to-face contact between the supplier and the consumer, whether via digital television, the internet or radio broadcast, must comply with these Regulations.</p> | <p>state the purpose or purposes for which the data is intended to be processed (in most cases at the time the data is collected).</p> <p>Unless the processing is necessary for the performance of a contract or to fulfill a legal obligation, the customer's consent must be obtained, although, in many cases, such consent may be inferred. However, 'sensitive' personal data, such as health, religious beliefs or political opinions, cannot lawfully be processed without explicit consent.</p> <p>Furthermore, the Act states that personal data should not be processed in any manner incompatible with the purpose or purposes for which it was obtained; it should be adequate, relevant and not excessive; accurate and up to date and kept only for so long as necessary. Data controllers are also obliged to have</p> | <p>products;</p> <ul style="list-style-type: none"> e) private investigation agencies; f) guns and gun clubs; g) escort agencies; h) pornography ; i) the occult etc.; j) commercial services offering individual advice on personal or computer problems; k) bodies with political objectives; l) prescription only medicines; m) products for the treatment of alcohol and substance dependence; n) hypnosis-based procedures, psychiatry, psychology, psychoanalysis and psychotherapy; o) remote medical prescription or treatment; p) homeopathic medicines | | <p>sales are also regulated by the ITC and its Codes on Advertising Standards and Programme Sponsorship.</p> | | |
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24 - HOUR HOME SHOPPING CHANNELS: AN INTERNATIONAL VISION

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| | | | <p><u>Television</u> (“Teleshopping?”) Home shopping services broadcast on UK television must comply with the Independent Television Commission (ITC) Advertising and Programme Codes and Rules on Amount and Scheduling of Advertising (the “Rules”).</p> <p>The ITC Code of Advertising Standards apply in full to teleshopping spots, teleshopping windows (see below) or channels devoted to teleshopping.</p> <p>The Rules give effect to the requirements laid down in the EU Directive on Television and Broadcasting 89/552/EEC (as amended by Directive 97/36/EC) and the 1989 Council of Europe Convention on Transfrontier Television.</p> <p>Strict limits are imposed on the duration of transmission time devoted to advertising</p> | <p>adequate security measures in place to protect the information from unlawful processing.</p> <p>Finally, the Act prohibits the transfer of personal data to countries outside the EEA unless that country has adequate security measures in place to protect the information (such as the Safe Haven system in the USA).</p> | <p>without UK registration;</p> <p>q) advertisements for the issue of shares or debentures;</p> <p>r) advertisements recommending the acquisition or disposal of an investment in any specific company other than an investment trust company listed on the London Stock Exchange;</p> <p>s) some bodies subject to the rules on religion, faith and systems of belief;</p> <p>t) most 0909 premium rate phone services;</p> <p>u) some home working schemes;</p> <p>v) some instructional courses.</p> <p>Advertisements for products or services coming within the recognised character of, or specifically concerned with,</p> | | | | | |
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24 - HOUR HOME SHOPPING CHANNELS: AN INTERNATIONAL VISION

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| | | <p>spots, teleshopping spots and teleshopping windows (extended features with a minimum uninterrupted duration of 15 minutes). The Rules vary according to the channel and, in the case of Channels 3 – 5, to different periods during the day (essentially peak and off-peak periods). It is important to note that teleshopping offers of any kind must contain the direct offer for sale to the public within the teleshopping transmission itself (s 8.1 RASA).</p> <p><u>Radio</u> Home shopping services broadcast on UK radio must comply with the Radio Authority Advertising and Sponsorship Code. The Code deals with standards for the presentation and content of advertisements and sponsored programmes.</p> <p><u>Internet</u> The Advertising Standards Authority (ASA) regulates all advertisements and</p> | | <p>the following are not acceptable on the radio (Appendix 3 Radio Authority Advertising and Sponsorship Code):</p> <p>a) Those who practice or advocate illegal or harmful behaviour;</p> <p>b) Betting and gaming (excluding, among other, football pools and lotteries permitted under the National Lottery etc Act 1993 and the Lotteries and Amusements Act 1976 as amended;</p> <p>c) Tobacco and tobacco products, currently excluding cigars and pipe tobacco;</p> <p>d) Firearms and other weaponry;</p> <p>e) Obscene and restricted material, prostitution and other sexual services;</p> | | | | | |
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24 - HOUR HOME SHOPPING CHANNELS: AN INTERNATIONAL VISION

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| | | | <p>promotions in non-broadcast media, including all 'paid for' advertisements on the internet (such as banners, pop-ups etc.), by applying the British Codes of Advertising and Sales Promotion. The ASA has, however, disclaimed any jurisdiction over advertisers' own websites.</p> <p>In August 2002, the Electronic Commerce (EC Directive) Regulations 2002 came into force, implementing for the most part the EU E-Commerce Directive. The Regulations establish the so-called country of origin principle which states that, as a general rule, the laws of the country in which the website operator is established shall apply to the operation of the website. The Regulations also introduce some long awaited provisions regulating the online ordering process and imposing certain minimum information requirements with which website owners must comply in the</p> | | <p>f) Bodies whose rites and other forms of collective observance are not generally accessible to the public; g) Advertisements of a political nature h) Prescription only medicines.</p> | | | | | |
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24 - HOUR HOME SHOPPING CHANNELS: AN INTERNATIONAL VISION

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| | | | future. | | | | | | | |
| United States  | <p>Yes</p> <p>Television: Yes Radio: Yes Internet: Yes</p> | <p>Both</p> <p>The Federal Trade Commission (“FTC”) has jurisdiction to regulate advertising on home shopping channels. In addition, the FTC may coordinate such efforts with other government agencies (e.g., the Food and Drug Administration) when appropriate. On a regional level, the attorneys general of the various states take the lead in enforcing state laws prohibiting false advertising and unfair competition. Also, with respect to industry self-regulation, the Electronic Retailing Association has been very active in formulating extensive marketing guidelines applicable to home shopping, including guidelines for telemarketing, advance consent marketing, general practices, and marketing to children.</p> | <p>The regulatory requirements for home shopping are generally the same as for traditional advertising. All advertising claims must be truthful and substantiated. The difficulty in applying these concepts arises from the fact that a substantial portion of home shopping programming is comprised of live, spontaneous discussion, which - although outlined and reviewed for claims in advance - is not thoroughly scripted. This is especially true with respect to the customer telephone calls included in many segments. All claims made during these live segments must be truthful and substantiated. For example, when a customer calls and endorses a product with unsubstantiated claims, the program host needs to either qualify the claim or disclaim it on-air.</p> | <p>Yes</p> <p>The major home shopping channels have developed comprehensive privacy policies regarding use of personally identifiable information which permit them to share such information with affiliated companies and vendors, but which provide that such information shall not generally be shared with unaffiliated third parties. The FTC has expressed its intention to enforce such privacy policies.</p> | <p>Alcohol, tobacco, prescription drugs</p> | <p>Dietary supplement advertising is carefully scrutinized by the FTC in all advertising venues. In the home shopping context, the risk is significant because it is difficult to control all of the product claims made live on-air and to qualify or correct improper claims. Dietary supplements on home shopping channels have been the subject of a number of regulatory actions.</p> | <p>No</p> | <p>Yes</p> <p>Sales tax rate varies based on the purchaser’s place of residence.</p> | <p>All product claims should be thoroughly reviewed by legal counsel - and as scripted as possible - before going on-air. Product presenters should clearly understand the parameters for permissible product claims and the means for correcting inaccurate statements on-air.</p> | <p>Absolutely. Significant penalties have been imposed by the FTC.</p> |

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