



E-TAIL / RETAIL IN EUROPE AND NORTH AMERICA

Do's and Don'ts when
performing on-line sales

ERA European Conference

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A comparative overview from the
European Advertising Lawyers Alliance
(EALA EEIG) - www.eala.net





The European Advertising Lawyers Association is an organization of lawyers located throughout the European Union and in Canada and the United States wishing to enhance their ability to give advice to clients involved in cross-border commercial communications. It was one of the first of the so called "European Economic Interest Groupings" to be formed after they became EC recognized corporate entities in July 1989. Since then, EALA members have assisted local, multinational and global advertisers in producing, publishing and distributing advertising that adheres to differing international legal standards. EALA is also part of the Global Advertising Lawyers' Alliance ("GALA"), a resource partner which has members throughout the world, thereby enabling the combined groups to better meet advertisers' international legal service needs.

Among the services EALA is able to offer are access to the world's pre-eminent practitioners of advertising, marketing and media law and "one stop" international marketing clearance advice, ensuring that marketing material in all categories -- from radio, TV and print to the Internet -- conforms to local legal and code requirements.



Welcome to GALA, the Global Advertising Lawyers Alliance. The Global Advertising Lawyers Alliance is an alliance of lawyers located throughout the world with expertise and experience in advertising, marketing, and promotion law.

The Global Advertising Lawyers Alliance provides a worldwide resource to individuals and corporations interested in answers to questions and solutions to problems involving the complex legal issues affecting advertisers and marketers.

To contact experienced legal counsel in a particular country, simply visit the GALA website at www.gala-marketlaw.com and click on that country's name or flag.



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Cannes, France - June / July 2002



INTRODUCTION

Seminar on E-Tail / Retail in Europe

DO's and DON'Ts when performing on-line sales

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This introduction sets out the key issues behind European Union Directives affecting businesses supplying goods or services to consumers by 'distance' measures. 'Distance' includes, for example, mail order, Internet and telesales.

1. Council Directive on the protection of the consumer in respect of contracts negotiated away from places of business (85/577/EC) (the 'Doorstep Selling Directive')

AIM: The Doorstep Selling Directive aims to protect the consumer where contracts are negotiated away from a place of business.

MAIN APPLICATION: It applies primarily to contracts between traders and consumers for the supply of goods or services that are concluded either:

- a) while the trader is away from his place of business; or
- b) during an unwelcome visit by a trader to the consumer's home (or another consumer's home) or to the ; or to the consumer's place of work;
- c) during visits requested by the consumer if the consumer did not know that the supply of those other goods or services were a part of the trader's commercial or professional activities when the visit was requested.

EXCLUSION: Certain kinds of contract are excluded from the Directive, such as those relating to the sale or rental of land or premises, or insurance contracts etc.

MAIN REQUIREMENTS: The main requirements of the Directive are as follows:

- a) The Directive requires traders to give consumers written notice of their right of rejection or repudiation.
- b) Consumers may exercise their right within a period of seven days from the notice.
- c) If this right of repudiation or rejection is exercised, the effects of the rejection will be governed by national law.
- d) The Directive also says that consumers may not give up their right to repudiation and that the Member States may adopt or keep in force legislation which is more sympathetic to consumers than the Directive.

2. Council Directive on consumer protection re distance contracts (97/7/EC) (the ‘Distance Selling Directive’)

AIM: This Directive aims to protect the consumer in respect of distance selling contracts by harmonising national laws concerning distance selling contracts between consumers and traders (or suppliers).

MAIN APPLICATION: The Directive applies to contracts between traders and suppliers for the supply of goods or services and which are concluded without a face to face meeting. It takes into account the different and new technologies available and aims to cover sales by radio, telephone, television, fax and home computer, as well as junk mail and press advertising.

EXCLUSION: It does not apply to contracts relating to financial services (as specified in and listed in the Directive).

MAIN REQUIREMENTS: The Directive requires the trader to provide information to the consumer in good time prior to the conclusion of the contract. This information includes cost, delivery and performance obligations. The Directive also gives the consumer the right to cancel the contract by notice (cancellation periods are specified in the Directive). If the consumer does cancel the contract, there is a duty on the consumer to return any goods.

3. Council Directive on television broadcasting activities in member states (89/552/EC) (‘TV Without Frontiers Directive’)

AIM: The aim of this Council Directive is the co-ordination of certain provisions laid down by law, guidelines or governmental (executive) action in Member States concerning television broadcasting activities. This co-ordination should allow and ensure the creation of a pan-European market for programme production and distribution and establish conditions of fair competition.

APPLICATION: The provisions of the Directive cover the promotion, distribution and production of television programmes, advertising, sponsorship, protection of children and young people and the right of reply. The Directive was supplemented by Directive 98/27/EC on the Protection of Consumers Interests that required the Member States to set up effective remedies where consumer rights protected under this Directive were infringed.

EXCLUSIONS: This Directive lays down the minimum rules needed to guarantee freedom of transmission in broadcasting and provides for no restrictions as to where this Directive applies.

MAIN REQUIREMENTS: The Directive aims to ensure that all television broadcasts transmitted by broadcasters (whether under jurisdiction or not being under the jurisdiction of a Member State), who make use of a frequency or a satellite capacity granted by a Member State,

comply with the law applicable to broadcasts intended for the public in that Member State. Further, Member States should ensure that broadcasters reserve a majority proportion of their transmission time for European works, excluding the time appointed to news, sports events, games, advertising and teletext services.

4. Council Directive amending (97/36/EC) ('TV Without Frontiers' Directive)

AIM: This Directive amends Council Directive 89/552/EC and deals with the co-ordination of certain provisions laid down by law, guidelines or governmental (executive) action in Member States concerning the pursuit of television broadcasting activities. It aims to clarify definitions and duties on Member States under the earlier TV without Frontiers Directive. It is also intended to modernise some parts of the earlier Directive in line with developments in television broadcasting and to provide more legal safety measures in the European audio-visual arena. It further seeks to make the Directive more practical. It includes new rules on the transmission of major sporting events and advertising, particularly in relation to children.

MAIN APPLICATION: This Directive applies to the content of audio-visual services and the growth in this sector opened up by new technologies.

EXCLUSION: None of the provisions of this Directive that concern the protection of minors and public order require that the measures in question be implemented through the prior control of television broadcasts.

MAIN REQUIREMENTS: The Directive seeks to achieve language policy goals and to protect the public's interest in terms of television's role as provider of information, education and other sources as listed in the Directive. The need to safeguard the media and information industry is also expressed, together with the protection of competition with a view to avoiding the abuse of a dominant position.

5. Council Directive on legal aspects of information society services (2000/31/EC) ('THE ELECTRONIC COMMERCE DIRECTIVE')

AIM: The Directive seeks to assist with the correct functioning of the Internal Market by ensuring the free movement of information society services (ISS) between the Member States.

MAIN APPLICATION: In order to achieve that objective it combines and brings together certain national provisions, including ISS relating to the Internal Market, the establishment of service providers and commercial communications (other affected services are listed in the Directive).

EXCLUSION: This Directive has not yet been implemented in the United Kingdom.

MAIN REQUIREMENTS: The Directive states that the Commission should aim to submit to the European Parliament, the Council and the Economic and Social Committee, a report on the manner in which this Directive will work. This report is to be accompanied by (where necessary) proposals for adjusting it to legal, technical and economic developments in the field of information technology services. The real purpose behind the report is for crime prevention, the protection of children and consumer protection.

6. Sixth Council Directive on the harmonisation of the laws of the Member States relating to turnover taxes. (77/388/EC)

AIM: This Directive provides that the following shall be subject to value added tax:

- a) the supply of goods and services where there is consideration within the territory or the country by a taxable person acting as such; and
- b) the importation of goods.

MAIN APPLICATIONS: The Directive gives details on taxable transactions and where Value Added Tax is to apply. Taxable persons, taxable dealings and the taxable amount and rates are listed in the Directive.

EXCLUSION: States, regional and local government authorities and other bodies governed by public law shall not be considered taxable persons, even where they collect fees. However, when they engage in activities or transactions, they should be considered taxable persons where treatment as non-taxable persons would lead to distortions of competition. Exemptions within the territory of the country for certain activities in the public interest (and without prejudice to other Community provisions) are also exempted. Exemptions (listed in more detail in the Directive) also apply on imports and exports.




MAIN REQUIREMENTS: The Directive sets out the application of a common rate of tax on a basis of assessment determined in a uniform manner according to Community rules. This should give rise to the effective removal of restrictions on the movement of persons, goods, services and capital and the integration of national economies. The Directive seeks to impose the objective of ridding the Member States of tax on the importation and the remission of tax on exportation of trade between Member States.




EU Member States



Data source: country members of the European Advertising Lawyers' Association (EALA EEIG) www.eala.net





A = Austria, **B** = Belgium, **CZ** = Czech Republic *, **E** = Spain, **F** = France, **G** = Germany, **GR** = Greece, **IR** = Ireland, **I** = Italy, **S** = Sweden, **SF** = Finland, **UK** = United Kingdom (2 members)


******** *The Czech Republic is not yet a member state of the European Union; nevertheless, it's been considered together with the member countries, as it has already spontaneously implemented the Directives with respect to its application for membership.*

EU Directive (D) or Proposal (P) No. 	89/552 & 97/36 TV without Frontiers (D)	85/577 Doorstep Selling (D)	97/7 Distance Selling (D)	2000/31 Electronic commerce (D)	Council Dir. amending Dir. 77/388 VAT arrang'nts applicable to services sup'lied by electronic means (P)
<i>Implemented? YES / NO</i>					
Country	<i>By the following national provisions : No. & Date</i>				
A 	YES	YES	YES	YES	NO
	<i>Privatfernsehgesetz (Fassung BGBl. I. Nr. 84/2001) Rundfunkgesetz (Fassung BGBl. I. Nr. 83/2001)</i>	<i>Konsumentenschutzgesetz (Fassung BGBl. I. Nr. 48/2001)</i>	<i>Konsumentenschutzgesetz (Fassung BGBl. I. Nr. 48/2001)</i>	<i>E-Comm. Gesetz (BGBl. I. Nr. 152/2001)</i>	<i>but already subject to VAT according to ordinary tax regulations in force</i>
B 	YES	YES	YES	NO	NO
	<i>Flemish Community: Coordinated Acts of 25 January 1995 & Decree Flemish Gov. September 20th, 1995 concerning Code for Advert'ng&Spons'ng on Radio and TV, B.S., November 29th, 1995,</i>	<i>The Consumer Protection Act of July 14th, 1991, B.S., 29 August 1991</i>	<i>Act of May 25th, 1999, B.S., June, 23rd, 1999, replacing chapter 9 on distance contracts of the Consumer Protection Act of 1991.</i>		<i>but already subject to VAT according to ordinary tax regulations in force</i>

	<i>French Community: Act of July 7th, 1987, B.S. August 22nd, 1987 Bilingual Region Brussels-Capital: Act of March 30th, 1995, B.S. February 22nd, 1996);</i>				
CZ **** 	YES	YES	YES	No	No
	<i>Media Act No. 231/2001</i>	<i>Directive's principles are totally implemented by Civil Act No. 40/1964</i>	<i>Directive's principles are totally implemented by Civil Act No. 40/1964</i>		<i>even if subject to VAT according to existing tax regulations, such application does not work in practice due to lack/difficulties in control</i>
E 	YES	YES	YES	NO	NO
	<i>- Ley (Act) 25 of July 12th, 1994. - Ley (Act) 22 of June 7th, 1999.</i>	<i>- Ley (Act) 26 of November 21st, 1991. - Court Decisions of December 13th, 2001 & of the 22nd April 22nd, 1999; see also Decision of March 17th, 1998. - Act on Protection of Consumers and Users, Ley 26/1984.</i>	<i>- Regulation of Retail Trade, Ley 7 of 1996 (articles 38-49). - Royal Decree 1133 of July 11th, 1997 (as to authorisation & registration requirements). - Royal Decree 1906 of December 17th, 1999 (on electronic and telephonic commerce & with reference to article 5.3 of Ley 7 of April 13th, article 5.3.. - Royal Decree 14 of September 17th, 1999 (on electronic signatures). - Act on Protection of Consumers & Users.</i>		<i>but acc'ing to ordinary tax rules Ley 37 of December 28th, 1992: - <u>goods</u> are subject to VAT, - <u>services</u> are not subject to VAT</i>
F 	YES	YES	YES	NO	NO
	<i>- Law n° 2000-719 of August 1st, 2000</i>	<i>Laws n° 89-421 of June 23rd, 1989, n° 93-949 of</i>	<i>Ordonnance dated August 23rd, 2001</i>		<i>but already subject to</i>

	<p>(modifying Law n° 86-1067 of September 30th, 1986 on audio-visual communication).</p> <p>- Decree n° 2001-1331 of December 28th, 2001 modifies Decree n° 92-280 of March 27th, 1992 (on TV advertising, sponsorship & tele-shopping).</p>	<p>July 26th, 1993 & n° 95-96 of February 1st, 1995 (provisions codified into the “Code de la Consommation”, sections L. 121-21 to L. 121-33 and L. 122-8 and L.122-9).</p>	<p>(enacted by Govern’t further to Law of January 3rd, 2001).</p> <p>This ordonnance modifies sections L 121-16 et seq. of the French «Code de la Consommation» on distance contracts.</p>		<p>VAT ac’ding to ordinary tax regul’ns in force</p> <p>Certain specifics apply, e.g.: - supply of software without material would be cons’red as “service” (taxable only under certain conditions, different from the ones applicable to supply of products.</p>
<p>G</p> 	YES	YES	YES	YES	NO
	<p>“Rundfunkstaatsvertrag - RStV“ of August 31st, 1991 (last amendment by § 22 „Staatsvertrages“ of January 1st, 2001)</p> <p>Relevant articles in the RStV:</p> <ul style="list-style-type: none"> - 44 Teleshopping, - 45 Duration of advertising, - 45 a Windows for Tele-shopping <p>Administrative guidelines (see appendix to § 7 of the RStV)</p>	<p>Inserted into the “Bürgerliches Gesetzbuch - BGB” by “Schuldrechtsmodernisierungsgesetz” since January 1st, 2002</p>	<p>Inserted into the “Bürgerliches Gesetzbuch - BGB” by “Schuldrechtsmodernisierungsgesetz” since January 1st, 2002</p>	<p>EGG (Elektronisches Geschäftsverkehrsgesetz) in force since December 21st, 2001</p>	<p>but already subject to VAT according to ordinary tax regulations in force</p>
<p>GR</p> 	YES	YES	YES	NO	NO
	<p>Presidential Decree no. 100/2000 (on harmonisation of broadcasting & TV legislation with EU-Directives no. 89/552 & 97/36</p>	<p>Law n. 2251/1994 on Consumer Protection</p>	<p>Law n. 2251/1994 on Consumer Protection (article 3)</p>		<p>but already subject to VAT according to ordinary tax regulations in force</p>
IRL	YES	YES	YES	NO	NO

					
	<i>Statutory Instrument No 252 of 1991, Statutory Instrument No. 313 of 1999, Broadcasting Act, 1990, Broadcasting (Major Events TV Coverage) Act, 1999</i>	<i>EC (Cancellation of Contracts Negotiated Away from Business Premises) Regulations, 1989</i>	<i>EC (Protection of Consumers in respect of Contracts made by means of Distance Communication) Regulations 2001</i>		<i>but already subject to VAT according to ordinary tax regulations in force</i>
I 	YES	YES	YES	NO	NO
	<p><i>- Law n° 223, of August 6th, 1990, (Private and Public Radio & TV Broadcasting) as completed by Decree of the President of the Republic n° 255, of December 17th, 1992,</i></p> <p><i>- Ministerial Decree n° 439, of July 4th, 1991 (as amended by Decree n° 581, dated December 9th, 1993 on Teleshopping and Sponsoring,</i></p> <p><i>- Law n° 422, dated December 29th, 2000</i></p> <p><i>- Resolution of the Communications Authority (AGCOM) n° 538, dated July 26th, 2001 on TV Advertising & Teleshopping</i></p>	<i>Legislative Decree n° 50 dated January 15th, 1992.</i>	<i>Legislative Decree n° 185 dated May 22nd, 1999</i>		<i>but already subject to VAT according to ordinary tax regulations in force</i>
S 	YES	YES	YES	NO	NO
	<p><i>- Radio- and television Act (SFS 1998:1713)</i></p> <p><i>- Marketing Practices Act (SFS 1995:450)</i></p> <p><i>- Alcohol Act (SFS 1994:1738)</i></p> <p><i>- Tobacco Act (SFS 1993:581)</i></p>	<i>SFS 1981:1361 Unsolicited goods act, substituted by the distance contracts and unsolicited goods contracts Act (SFS 2000:274).</i>	<p><i>- Act on consumer protection in connection with contracts negotiated by distance (SFS 2000:274),</i></p> <p><i>- Consumer Credit Act (SFS 1992:830),</i></p> <p><i>- Marketing Practices Act (SFS 1995:450),</i></p> <p><i>- Contracts Act (SFS 1915:218)</i></p>		<i>but already subject to VAT according to ordinary tax regulations in force</i>
SF 	YES	YES	YES	NO	NO

	<ul style="list-style-type: none"> - Act (744/1998) on Television and Radio Operations, - Amendment on the Act to Diminish Smoking (765/1994) - Alcohol Act 1143/1994, - Act on Pharmaceuticals 395/1987, as amended 	<ul style="list-style-type: none"> - Statute on home and postal sales 1601/1993, - Amendment to the Consumer Protection Act 84/1993 	<ul style="list-style-type: none"> - Amendment to the Consumer Protection Act 1072/2000, - Amendment to Article 2 of the Unfair Trade Practices Act 1073/2000 		<p><i>but already subject to VAT according to ordinary tax regulations in force</i></p>
<p>UK</p> 	YES	YES	YES	NO	NO
	<p>1. Broadcasting Act of 1990 as to the following sections:</p> <ul style="list-style-type: none"> - The regulation by the Commission of provision of television services [section 2]; - Satellite television services [section 43]; - Licensable programme services [section 46]; - Regulation of delivery of programmes provided by licence holder and foreign satellite programmes [section 79]; - Orders providing unacceptable foreign satellite services [section 177]; - General interpretation of the Act. <p>2. Broadcasting Act of 1996 as to the following sections:</p> <ul style="list-style-type: none"> - Conditions attached to multiplex licence [section 12]; - Categories of service [section 98]; - Contract for exclusive right to televise listed event to be void [section 99]; - Events in relation to other EEA states and restriction on televising an event designated by other EEA state [section 101A and 101B]. <p>3. Statutory Instruments:</p> <ul style="list-style-type: none"> - Television and Broadcasting 	<p>The Consumer Protection (Cancellation of Contracts Concluded Away from Business Premises) Regulations 1987 (SI 1987/2117).</p> <p>Its effect was to amend the Consumer Credit Act 1974 in order to protect the consumer in respect of contracts made at the doorstep or otherwise concluded away from business premises.</p>	<p>The Consumer Protection (Distance Selling) Regulations 2000</p>		<p><i>but already subject to VAT according to ordinary tax regulations in force</i></p>

	<i>Regulations 2000 (amending The Broadcasting Act 1996; sporting and other events of national interest); - Television Broadcasting Regulations 1998 (amending The Broadcasting Act 1990 and the Broadcasting act 1996); - Satellite Television Service Regulations 1997 (amendments of the Broadcasting Act 1990)</i>				
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Non EU Countries

Data source: associated country members of the European Advertising Lawyers' Association (EALA) www.eala.net

C = Canada, CH = Switzerland, H = Hungary, US = United States

Country **Provisions specifically affecting electronic retailing or on-line sales**

Statute Law or Self-Regulation or Other Provisions

C



YES

- The federal Competition Act governs misleading advertising, and price claims regardless of the medium used (broadcast, print, electronic etc). Claims as to a sale price vs. the "ordinary selling price" must be substantiated by a volume or a time test and there are accompanying interpretative guidelines.

Advertising Standards Canada ("ASC"), an industry self-regulatory body, has similar provisions in its Canadian Code of Advertising Standards (the "Code").

Penalties under the Competition Act include civil "administrative" penalties (administrative penalty correction, notice and/or cease/desist order) or, for serious offences (done knowingly/recklessly), criminal penalties of fines and/or imprisonment.

CH



YES

YES

YES

H



YES

- Act CVIII of 2001 on E-Commerce & Services regarding Information Society,
- Act I of 1996 on Radio and TV Broadcasting;
- Act XL of 2001 on Communications;
- Act CXIX of 1995 on the Use of Personal Data for purposes of research and Direct Marketing;
- Act CLV of 1997 on Consumers protection;
Government Decree 17/1999 on Distant Contracts.

Hungarian Code of Advertising Ethics

US



YES

- *FTC Mail and Telephone Order Merchandise Rule & FTC Telemarketing Sales Rule, promulgated by the Federal Trade Commission ("FTC") to implement federal statutes,*
- *FCC Telephone Consumer Protection Act, promulgated by the Federal Communications Commission ("FCC") to implement a federal statute,*
- *U.S. Postal Inspection Service Mail Fraud Statute, U.S. Postal Inspection Service False Representation Statute, and Deceptive Mail Prevention and Enforcement Act are federal statutes,*
- *Various state telemarketing, spam, and home solicitations sales statutes are state statutes*




- *DMA Guidelines for Telephone Marketing,*
- *DMA Guidelines for Ethical Business Practice,*
- *DMA Guidelines for Mailing List Practices,*
- *ERA Guidelines for Telemarketing,*
- *ERA Online Marketing Guidelines,*
- *BBB Code of Online Business Practices,*
- *ECCPG Guidelines for Merchant-To-Consumer Transactions and Commentary, are industry self-regulation*





- *FTC's Advertising and Marketing on the Internet: Rules of the Road and FTC's Dot Com Disclosures: information About Online Advertising are FTC publications explaining its position about online advertising.*








EU Member States
EU Directives N° 89/552 & 97/36 (TV & broadcasting)










Provisions set by Directives







	<i>Easy identification (Art. 10)</i>	<i>Limits for insertions (Art. 11)</i>	<i>Safety and Ethical Criteria (Art. 12)</i>	<i>Tobacco products (Art.13)</i>	<i>Pharmaceutical products (Art.14)</i>	<i>Alcoholic Beverages (Art.15)</i>
	TV ad and T'shopping must be readily recognizable as such and kept separated by optical / acoustic means	T'shopping only between programs & during intervals, not allowed dur'g news & current affairs programs docum'ries, religious & children's programs	T'shopping shall not prejudice respect of human dignity, health or safety, religious or political beliefs, protection of the environment	TV ad and T'shopping for cigarettes and other tobacco products shall be prohibited.	TV ad and T'shopping for medicinal products and medical treatment shall be prohibited	TV ad and T'shopping for alcoholic beverages <u>shall not</u> : be aimed to minors, link alcohol to enhance physical performance or to driving, attribute to alcohol promises for social or sexual success, claim alcohol's therapeutic qualities, encourage immoderate alcohol use.
A 	No Significant Additional Provisions	No Significant Additional Provisions	No Significant Additional Provisions	No Significant Additional Provisions	No Significant Additional Provisions	No Significant Additional Provisions
B 	No Significant Additional provisions	<u>Flemish C:</u> dur'g audiovisual adv only each 45 min. <u>French and Bilingual C:</u> no significant, additional provisions	No significant, additional provisions	No significant, additional provisions	No significant, additional provisions	No significant, additional provisions
E 	No significant, additional provisions	Adv space must be trans.ed in a grouped together format dur'g time for adv. and only exceptionally separately	Adv with a political content or achieving said goal is banned on TV. Adv inciting cruelty to or abuse of persona or animal or destroy cultural	No significant, additional provisions	Sponsoring by pharmaceutical laboratories is authorised albeit with restriction	Direct or indirect adv as well as t'shopp'g of drinks with an alcoholic content of over 20% is prohibited

			or natural asset is illegal			
F 	No significant, additional provisions	T'shopping prohibited on Wedn'days and Sat.days afternoon, and on Sundays and allowed only between 00.00 a.m. and 11.a.m.and during one hour between 2p.m. and 4.p.m.	No significant, additional provisions	No significant, additional provisions	No significant, additional provisions	More strict provisions: adv and t'shopping for alcoholic beverages with more than 1.2. alcohol's degrees are prohibited.
G 	No Significant Additional Provisions	No Significant Additional Provisions	No Significant Additional Provisions	No Significant Additional Provisions	No Significant Additional Provisions	No Significant Additional Provisions
GR 	No Significant Additional Provisions	T'shopping are allowed only at late hours (1.00-4.00 am)	No Significant Additional Provisions	No Significant Additional Provisions	No Significant Additional Provisions	No Significant Additional Provisions
I 	In addition: - precise description of goods & services as to quality & quantity, - faithful & unambiguous reprod'tion as to features weight, dimensions, price, guarantees & conditions of delivery. During ad or t'shopping broadcasting companies are required to insert on the screen specific signs such as "advertisement" or "teleshopping". The AGCOM (Italian Communication's Authority) must ensure that existing codes of conduct will adopt an identical signal for ad or	As in the Directives, also not allowed during cartoons except for those destined to adults. A period of at least 20min. must elapse between each successive adv break within the programme. In case of broadcasting of sport events, adv and t'shopping may be inserted during the breaks foreseen by the official regulation of the sport being broadcast or during its pauses insofar as the ad does not interrupt the sport action.	As in the Directives	As in the Directives	As in the Directives	Alcoholic and super alcoholic drinks advertisement is banned: during TV programs for children as well as during the 15 minutes precedent and following their broadcasting, when it assures, without any express indication by Italian Ministry of Safety therapeutic benefits from alcoholic drinks, when it shows children consuming alcoholic drinks, when it. Any direct or indirect adv of alcoholic is banned when performed in any place where children mainly use to go,





	t'shopping for all channels during programs destined to minors					Super alcoholic drinks adv is banned from programmes broadcast on TV and radio from 4.00 a.m. to 7.00 p.m.
IR 	No Significant Additional Provisions	For ads in general 7.5% limit of daily transm'ion time and a special 5 min. per hour must be obs'ved	No Significant Additional Provisions	No Significant Additional Provisions	No Significant Additional Provisions	No Significant Additional Provisions
NL 	No Significant Additional Provisions	No Significant Additional Provisions	No Significant Additional Provisions	No Significant Additional Provisions	No Significant Additional Provisions	No Significant Additional Provisions
S 	Government licence may establish restrictions for advertisement in general.	No Significant Additional provisions	No Significant Additional provisions	No Significant Additional provisions	No Significant Additional provisions	Adv for alcoholic beverages is prohibited.
SF 	Use of persons acting regularly news or current affairs programs on TV or radio is prohibited on TV or radio t'shoppin	No Significant Additional provisions	No Significant Additional Provisions	No Significant Additional provisions	No Significant Additional provisions	Adv for light alcohol beverages if deemed improper, unfair or contrary to good practice or containing false or misleading information.
UK 	No Significant Additional Provisions	No Significant Additional provisions	No Significant Additional provisions	No Significant Additional provisions	No Significant Additional provisions	No Significant Additional provisions
***CZ 	No Significant Additional Provisions	No Significant Additional provisions	No Significant Additional provisions	No Significant Additional provisions	No Significant Additional provisions	No Significant Additional provisions
EU Member States EU Directives N°89/552 & 97/36 (TV & broadcasting) 						
Provisions set by Directives						
	<i>Protection of minors (Art. 16)</i>	<i>Windows devoted to T'shopping (Art. 18a)</i>	<i>Channels Exclusiv'lydevoted to T'shop'ng (Art. 19)</i>	<i>T-shop'ng directed to national territory (Art.20)</i>	<i>Prerequisites comp'ies performing T.shop'ng</i>	<i>TV- auctions</i>

	T'shopping shall not exhort to contract for sale or rental	Minimum duration of 15 min. without interruption, max 3 hours per day, wind's cannot exceed the number of 8 per day	All above - mentioned provisions shall apply to channels exclusively devoted to t'shopping	Member States may lay down special provisions for broadcasts limited to national territory.	No provisions.	No provisions.
A 	No Significant Additional Provisions	No Significant Additional Provisions	No Significant Additional Provisions	No Significant Additional Provisions	No requirements	Not regulated
B 	<u>Flemish C.</u> Adv for weapons or toys that look like weapons and induce racist or violent behaviour is prohibited. <u>French and Bilingual C.:</u> no significant additional provisions.	<u>Flemish C.:</u> t'shopping time l.ted to 15% of the total time with max. 20% per hour. Channels not exclusively devoted to T'shopping may group the broadcasts in time blocks. They can be max. 8, each lasting at least 15 min. for a max. total of 3 hours. For t'shopping and regional channels see sub art. 19. <u>French and Bilingual C.</u> no additional provisions	<u>Flemish C.:</u> adv time may not exceed 15% daily broadcast'g time <u>French and Bilingual C.</u> no additional provisions	The territory is limited to the Com.ty or region, but no national territory. <u>Flemish C.:</u> adv and t'shopping l.ted to 15% of the broadcasting time max. 600 h. <u>French C.:</u> different provisions for RTBF (State channe) <u>Bilingual C.:</u> no special provisions.	No requirements	Not regulated
E 	Adv with porno or violent photos may be run only from 10 p.m. to 6 a.m. and must be warned by visual and acoustic means. Toys' adv and T'shopping must be true as to toy's features, safety, child's aptitude required for using it. Programme starting or recommencing after an adv or t'shopping adv must be recognizable	Adv time may not exceed 12 min. within any period of an hour.	Telesales are considered distinct from adv and the tendency is to make more flexible and less onerous the conditions required to adv t'shopp'g's operators	No Significant Additional provisions	No requirements	Not regulated

	by audio visual sign and warn viewers of suitability for under age persons.					
F 	T'shopping May not Include Minors under Age of 16	T'shopping Prohibited on Wedn'days and Sat'days afternoon, and on Saturdays, allowed only between 00.00 a.m. and 11 a.m. and during one hour between 2.00 p.m. and 4.00 p.m.	More flexible rules applied even to those channels devoting at least 50% to t'shopping, as long as those channel are'nt broadcast in others EU countries	More flexible rules provided for channels devoted to t'shopping (see precedent column) apply just to broadcasts limited to the national territory	No requirements	Strictly regulated in general, no special provisions for TV, Law 10.07.2000 for on – line auctions.
G 	No Significant Additional Provisions	No Significant Additional provisions	No special provisions	No Significant Additional provisions	No requirements	Not regulated by law, but only by court's decision
GR 	T'shopping for children products it's expressly prohibited.	No Significant Additional provisions	No special provisions	No Significant Additional provisions	Companies must be registered in the Suppliers Register of Commerce's Direction of the Ministry of Development and meet quality standard provided by commercial law.	Auctions are regulated by consumers' protection provisions and TV laws.
I 	As in the Directives. In addition T'shopping shall not cause moral or physical detriment to minors.	Other provisions: if broadcasted by channels not dev'ted exclus'ly to T'shopping, a minimum duration of 3 min. (incl. opening & ending signs) is required.	No special provisions	Law 30.04.98, n°122 provides dur'g sport t'shopping ads only between autonomous parties or during break, any interruption for a t'shopping may follow no less than 20 min. the precedent, t'shopping and adv prohibited dur'g religious program'. TV news, children program' cannot be interrupted if their duration is less than 30 min.	Companies must enrol in a special register held by the Chamber of Commerce of the place of their business seat.	They are totally banned by law by Decree 31.03.1998, n°114, on TV as well as on other's communication means.

IR 	No Significant Additional Provisions	No Significant Additional provisions	No special provisions	No Significant Additional provisions	No requirements	Not specifically regulated, but prior licence from the District Court is required for running auctions.
NL 	No Significant Additional Provisions	No Significant Additional provisions	No special provisions	No Significant Additional provisions	No requirements	Not regulated.
S 	TV must not aim to attract the interest of children under the age of 12. Said ads must not be broad'sted before or after progr'ms addressed to children.	No Significant Additional provisions	No special provisions	No Significant Additional provisions	No requirements	Not regulated.
SF 	No Significant Additional provisions	No Significant Additional provisions	No Significant Additional provisions	No Significant Additional provisions	No special requirements. General provisions on marketing apply regardless medium used	Not regulated.
UK 	No Significant Additional provisions	No Significant Additional provisions	No special provisions	No Significant Additional provisions	No requirements	There are auction channels regulated by the Independent TV Commission and its codes (ITC Code of ADV Standards & Practice and ITC Code of Programme Sponsorship.
***CZ 	No Significant Additional provisions	No Significant Additional provisions	No special provisions	No Significant Additional provisions	No requirements	Not regulated.
<u>Non EU Countries</u>						
<i>Special national provisions</i>						

YES/NO

<p>CH</p> 	<p>Specific provisions aimed to regulate t'shopping have been provided by Law.</p>	<p>No special controls on companies performing t'shopping have been provided.</p>
<p>H</p> 	<p>Specific provisions aimed to regulate adv and T'shopping have been provided: by Statute Laws: (Act I of 1996: Radio and TV Broadcasting, Act CLV of 1997 on Consumer Protection, Act XL of 2001 on Communications). By Self- Regulation (Hungarian Code of Advertisement Ethics).</p>	<p>Special provisions referring to safety and producer's or retailer's liability: Only safe goods may be placed on the market. Manufacturers shall take measures to ensure and maintaining said safety. Distributors shall cooperate with producers in order to provide consumers with information about the eventual risk linked to the use of the sold product and to adopt all measures aimed to prevent safety hazards.</p> <p>According to the Hungarian Code of Advertisement Ethics, and ad may not refer to a guarantee or warranty that does not provide more rights to the consumer than statutory regulations.</p>
<p>CDN</p> 	<p>Federal Competition Act governs misleading advertisement and price claims regardless of the medium used. The Canadian Code of Advertisement Standards Canada (ASC), an industry self- regulatory body, is regulating advertisement media</p>	<p>The Code provides that ads shall not contain deceptive price claims as to worth or value. Specific Prescriptions: Alcohol: Provincial alcohol legislation prohibits sale/advertisement of alcohol to persons below legal drinking age (varies from 18 to 19 from province to province), along with other restrictions. Pharmaceutical Products: the Federal Food and Drugs Act ("FDA"), regulating the sale of food, drugs, cosmetics and medical devices, limits adv to the drug's name, price and quantity. No comparative claims concerning the medicinal aspects of over the counter drugs are permitted. Protection of minors: Adv of products/services to children below 13 years of age is prohibited in the Province of Quebec, whatever mean is used. Some exceptions may be allowed for labelling, displays and certain children's magazines.</p>
<p>USA</p> 	<p>Sales performed via television are governed by Section 5 of the Federal Trade Commission ("FTC") Act (15 U.S.C. pr.34 (a)).</p>	<p>No specific provisions. The FTC generally prohibits unfair or deceptive acts or practices in or affecting commerce</p>

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EU MEMBER STATES
EU Directive N°85/577 (contracts away from business premises)



Provisions set by the Directive

	<i>Goods or services excluded Specific Additional exclusions set by Member States? (Art.3)</i>	<i>Directive's principles specifically referred to teleshopping by the implementing national law?</i>	<i>Right of withdrawal – more favourable provisions (Articles 5, 6, 8)</i>
	<p>The Directive shall not apply to the contracts for:</p> <ul style="list-style-type: none"> (a) Construction, sale, rental of immovable property and related rights, (b) supply of foodstuff, beverages or goods for consumption in house-hold & supplied by regular roundsmen, (c) supply of goods or services if: - they are concluded on trader's catalogue, there is a continuity of contacts between the trader and the consumer, the consumer is informed of his right of withdrawal (d) insurance, (e) securities. <p>Possible additional exclusions by Member States.</p>		<p>The consumer shall have the right to renounce by notice within a period of no less than 7 days. It is sufficient the dispatch of said notice. With the notice the consumer is released from any obligations. Consumers may not waive rights conferred them by the Directive. Member States can adopt or maintain more favourable provisions.</p>
<p>A</p> 	No additional exclusions.	No specific provisions.	<p>YES</p> <p>Right of withdrawal applies also for real estate contracts, insurance contracts and contracts for other products and services exempted from the Directive.</p>
<p>B</p> 	<p>YES</p> <p>The following additional contracts are excluded:</p> <ul style="list-style-type: none"> - sales in consumer's house (on consumer's request with negotiating purpose), - foodstuff, house-hold products by fixed rounds of sellers, - public sales, - distance sales, - charity sales (till max. amount € 50), - sales gov'd by consumer credit rules. 	No specific provisions	<p>YES</p> <ul style="list-style-type: none"> - The contract is void if it doesn't result in written agreement, - Specific withdrawal's form required: the registered letter, - no prepayment possible, its acceptance is not allowed

E 	YES The following additional contracts are excluded: - contracts below € 50, - shares' and stocks' contracts, - contracts executed before a notary	No specific provisions	YES - no specific withdrawal form is required, - any contract breaching the provision aimed to grant said withdrawal right, may be annulled by the consumer
F 	No additional exclusions.	No specific provisions	No specific additional provisions
G 	No additional exclusions.	No specific provisions	No specific additional provisions
GR 	No additional exclusions.	No specific provisions	No specific additional provisions
I 	No additional exclusions.	YES Law by Decree n°50/1992 (Art.9), states that Directive's principles apply to contracts performed by TV-offers or negotiated on line.	YES Withdrawal in general, within 7 days from: - the signature purchase's order or receipt of explanatory catalogue, - the receipt of purchased goods in absence of distributor or different from catalogue. More favourable conditions for said right may be provided. If information have been incomplete or erroneous, withdrawal term is 60 days from the day of contract's conclusion or goods' receipt.
IR 	YES Contracts below € 50,78 are excluded.	No specific provisions	No specific additional provisions
NL 	No additional exclusions.	No specific provisions.	YES In case of installment sale, a written contract is required.
S 	No additional exclusions.	No specific provisions.	YES In certain cases the consumer is entitled to: - keep the delivered goods as security for refund money paid, - remuneration for costs of returning goods, - keep the delivered goods without any obligation to pay for them (when the seller is obliged by the law to collect the goods from the consumer, - cancel the agreement if the seller is in delay. The seller shall inform him of said right.
SF 	YES additional exclusions: - purchase of less than € 15, - financial services including loans and deposits,	No specific provisions. Law treats TV in the same way and in the same context as it does mail, phone internet or other such	YES Withdrawal right within 14 days from receipt of the product, the home sales document or the confirmation.

	<ul style="list-style-type: none"> - agreements on time share housing, - agreement made in an auction, if participation is possible also by other means than remote media. 	media, as means that enable contracting lacking the simultaneous presence of both parties.	
UK 	YES additional exclusions: <ul style="list-style-type: none"> - land –contracts (as listed in Regulations of 1988), - contracts below £35. 	No specific provisions.	No specific additional provisions.
CZ*** 	NO additional exclusions.	No specific provisions.	No specific additional provisions.
<u>Non EU Countries</u>			
Special national provisions YES/NO			
CH 	No specific provisions.	No specific provisions for teleshopping.	No specific provisions.
H 	General rules on consumer's protection apply. (see Template on Distance Sales)	Government Decree n°17/1999 on Distant Contracts applies to sales performed through telecommunications means (i.e. TV)	General rules on consumer's protection apply (see Template on Distance sales Directive)
CDN 	Provincial/territorial consumer protection or direct seller legislation regulates "Direct selling" (i.e. sales made away from retail business premises). Some legislation contains financial thresholds below which legislation does not apply.	The Federal Competition Act governs misleading advertisement as well as price claims regardless to the medium used (broadcast, print, electronic)	<p>Seller is required to grant buyers with the withdrawal's right. Usually, in a written contract, he must state that:</p> <ul style="list-style-type: none"> - there is a 10 day cooling off period, - the refund is payable within 15 days of the cancellation, - the buyer must give written notice of cancellation. <p>Some legislation allows sellers to give statement separately if there is an oral contract and/or certain financial threshold apply.</p>
USA 	Various State Home Solicitation Sales Statutes applies to home solicitations sales and may vary in each State..	Section 5 of the Federal Trade Commission ("FTC") Act is specifically governing sales performed via TV. It prohibits unfair or deceptive acts or practices in or affecting commerce.	No specific provisions.

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EU Member States
EU Directive N°97/7 (Distance Sales)












Provisions set by the Directive

	<i>Sectors not regulated and contracts not covered from the Directive (Art.3)</i>	<i>Prior info to consumers on goods/services, supplier, terms and conditions (Art.4)</i>	<i>Right of withdrawal (Art.6)</i>	<i>Performance of contract by supplier (Art .7)</i>	<i>More stringent provisions by Member States (Art. 14)</i>
	<p>The Directive shall not apply to contracts:</p> <ul style="list-style-type: none"> - relating financial services (listed in the Annex II), - concluded by automatic selling means or premises, - concluded with telecomm'unications operators through the use of public payphones, - concluded for immovable property sale or construction or relating to other immovable property rights, except rental, - concluded at an auction, <p>Artt. 4,5,6,7 shall not apply to contracts for:</p> <ul style="list-style-type: none"> - supply of foodstuff, beverages or other goods intended for everyday consumption supplied by regular roundsmen to 	<p>Prior to the conclusion of the contract consumers shall be clearly informed about:</p> <ul style="list-style-type: none"> - supplier's identity and address, - goods'/services main characteristics, - goods'/services price (all taxes included), - delivery costs, - paym't's, delivery's and performance's modalities, - right of withdrawal, costs of used means if there are additional to the basic rate, - the offer's period, - minimum contract's duration in case of contract for permanent or recurrent supply. 	<p>Without penalty & giving reasons, in general 7 working days from receipt of goods or conclusion of contract (for services).</p> <p>If supplier fails to give written confirmation & information laid down by art. 5 said Directive, term of withdrawal is extended to 3 months.</p> <p>Consumer has to return goods on his own charge, supplier must reimburse payments received within 30 days.</p> <p>Unless special agreement, withdrawal not allowed for:</p> <ul style="list-style-type: none"> - services already in performance (before end of 7 working days), - goods or services with price subject to fluctuation, - perishable or 	<p>Unless special agreement, supplier has to execute within 30 days from receipt of order.</p> <p>In case of failure, supplier must refund payments asap and however within 30 days.</p> <p>Member States may allow to provide goods or services of equivalent quality & price, if so agreed previously or in the contract. Clear notice about this possibility is necessary.</p> <p>In case of withdrawal, costs of return are on the supplier.</p>	<p>In the area covered by the Directive, Member States may introduce or maintain more stringent provisions (e.g. for higher level of consumer protection, bans for marketing particular goods or services via distance contracts).</p>

	<p>the consumer's, home residence or workplace,</p> <ul style="list-style-type: none"> - provision of accommodation, transport, catering or leisure services, where the supplier undertakes to provide these services on a specific date or within a certain period. 		<p>personalized goods,</p> <ul style="list-style-type: none"> - audio, video, recording or computer software (if un-sealed), - news-papers, magazines, periodicals, gaming & lottery services. 		
<p>A</p> 	<p>YES</p> <p>Distance Sales regulations shall not apply also to contracts concluded by public phones</p>	NO specific additional provisions.	NO specific additional provisions.	NO specific additional provisions	The use of an automatic means as a discourse partner, needs the prior consumer's consent.
<p>B</p> 	<p>Distance Sales regulations shall not apply to those financial services listed in the Consumer Protection Act of 1991 (as amended and clarified by Royal Decree).</p>	No specific additional provisions.	<p>The withdrawal usual period (7 days) as well as the extended one (3 months) shall begin,</p> <p>for goods: from the day after the delivery,</p> <p>for services: from the contract's conclusion of from the day of the written confirm fulfillment.</p>	Goods and services are always dispatched at supplier's risk.	<p>In general, provisions with formal written requirements for contracts and clear & distinct notices to consumers. The use of automated communication system and fax are subject to opt in. The use of other communication means are subject to opt-out.</p>
<p>E</p> 	<p>Distance sales regulations shall not apply also to:</p> <ul style="list-style-type: none"> - employment contracts, - contracts for companies' incorporation, - contracts governing family relations and agreements on succession, - contracts relating to general conditions of International Conventions of 	<p>In all transaction proposals, it must be clearly stated that the same is a commercial proposal.</p> <p>In compliance with privacy and minors' protection's provisions, only the name, surnames and address of persons appearing on the electoral census shall be considered data available to the public.</p> <p>As to this purpose consumers shall be granted as the opportunity of refusing the receipt of commercial correspondence.</p>	<p>The consumer may exercise said right within seven days from the date of receipt of the product.</p> <p>This right is not exercisable with respect to:</p> <ul style="list-style-type: none"> - transactions relating stocks, - contracts executed before a public official (e.g. notary), - contracts referring to objects that 	Payment may only be requested prior to delivery of the product when the product has been prepared with specific characteristics at client's request.	No specific provisions.

	<p>which Spain is a party,</p> <p>- contracts which refer to conditions regulated specifically by legal or administrative provisions which are compulsory for the parties.</p>		<p>can be reproduced or copied immediately or which affect personal hygiene or which because to their nature cannot be returned.</p>		
<p>F</p> 	No specific additional provisions.	No specific additional provisions.	No specific additional provisions	No specific additional provisions	No specific provisions.
<p>G</p> 	No specific additional provisions.	No specific additional provisions.	No right to withdrawal shall be granted if the price is not higher than € 20	No specific additional provisions	No specific provisions.
<p>GR</p> 	Financial agreements (Art. 3 case 1, said Directive) are not included among sectors not covered by the implementing regulation.	No specific additional provisions.	No specific additional provisions.	No specific additional provisions	No specific provisions.
<p>I</p> 	No specific additional provisions.	Specific additional provisions: when means for an individual communication are used, information included in art. 4 n°1 shall be provided in Italian on consumer's request. In this case the order's receipt as well as all other information ex art. 4 shall be in Italian too.	Conform to the Directive, <u>except</u> : consumers may withdraw within 10 working days.	Additional provisions: where a supplier fails to perform the contracts since the goods or services ordered are unavailable, the supplier is not allowed to provide consumer with different goods or services of equivalent quality except when the consumer has given his prior consent. The supplier that fails to perform correctly the contract is punished by an administrative fine from € 516,46 to € 5.164,57	Additional provisions: the consumer may not waive the rights granted by the Directive. Therefore any agreement contrasting with said provision is null and void. Even parties have chosen to apply a foreign law, consumer must be protected in compliance with measures provided by the implementing law.
<p>IR</p> 	No specific additional provisions.	No specific additional provisions.	No specific additional provisions.	No specific additional provisions	No specific provisions.
<p>NL</p>	No specific additional provisions.	No specific additional provisions.	No specific additional provisions.	No specific additional provisions	No specific provisions.

					
S 	No specific additional provisions.	No specific additional provisions.	YES In certain cases consumer: <ul style="list-style-type: none"> - has the right of retaining goods till when payment is refunded, - may ask for remuneration of return shipping costs, - shall be entitled to keep goods without any payment (if seller is obliged to collect said goods for return). 	YES In case of delivery's delay, consumer may cancel the contract. Consumer must be properly noticed about this right.	No specific provisions.
SF 	YES Distance Sale regulations shall not apply to agreements <ul style="list-style-type: none"> - on time share housing - on securities 	No specific additional provisions.	Conform to the Directive <u>except</u> : withdraw within 14 days.	No specific additional provision.	No additional provisions except for the higher withdrawal allowed term.
UK 	No specific additional provisions.	No specific additional provisions.	No specific additional provisions.	No specific additional provisions	No specific provisions.
CZ*** 	No specific additional provisions.	No specific additional provisions.	No specific additional provisions.	No specific additional provisions	No specific provisions.
<u>Non EUCountries</u>					
Special national provisions YES/NO					
	General Rules	<i>Information to consumers</i>	<i>Guarantees/Rights offered to consumers</i>	<i>Safety and producer's/retailer's liability</i>	<i>Jurisdiction and applicable law</i>
CH 	Distance Sale Contracts are regulated by legislative and Self-Regulation provisions.	YES specific provisions refer to information due to consumers.	YES specific provisions have been introduced.	No specific provisions.	No specific provisions.
H 	Distance Sale Contracts are regulated by Government	YES When offering to conclude distant contracts, consumers must also be	YES Consumers may withdraw from the contract within 8	YES Manufacturers and distributors shall take measure	YES Out-of-court dispute resolution

	Decree 17/1999 applying to sales performed through telecommunications means.	informed about: <ul style="list-style-type: none"> - basic contract's properties, - payment conditions, shipping conditions and costs, - right of withdrawal, - term of offer's validity, - minimum contract's duration if required. 	working days. The 8 days term starts the day the consumer receives the good (in case of services, the day of contract's conclusion), provided the consumer has been informed of this right. In case consumer has not been informed about it, the term for exercising this right shall be 3 months.	to ensure the goods' safety.	system is available for consumers.
CDN 	Distant Contracts are regulated by Provincial/territorial consumer protection or direct seller legislation.	YES specific provisions refer to information due to consumers.	YES Basic conditions/warranties are implied in consumer transactions regardless of agreements to the contrary (e.g. goods: - are of merchantable quality except for described defects, <ul style="list-style-type: none"> - are new and unused unless otherwise described, - seller has right to sell goods and the goods are not encumbered. 	No specific provisions.	YES specific provisions have been introduced.
USA 	Distance Sale Contracts are regulated by: <ul style="list-style-type: none"> - Federal Trade Commission Act ("FTC"), U.S. Postal Inspection Service Mail Fraud Statute, Deceptive mail Prevention and Enforcement Act, Various State Home Solicitation Sales Statutes, DMA legislative - Self-Regulation provisions: DMA Guidelines for Ethical Business Practice, ERA Guidelines for Telemarketing 	YES specific provisions refer to information due to consumers.	YES specific provisions have been introduced.	YES specific provisions have been introduced.	YES specific provisions have been introduced

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EU MEMBER STATES
EU Directive N° 2000/31 (Electronic Commerce)









Provisions set by the Directive

	<i>Internal market: freedom to provide information society services (Art.3)</i>	<i>Information applicable to commercial communication (Art.6)</i>	<i>On-line contracts and sectors excluded (Art.9)</i>	<i>Information requirements for service providers (Art.10)</i>	<i>Provider's liability In case of "mere conduit" (Art.12)</i>	<i>Drawing up of codes of conduct (Art.16)</i>	<i>Adoption of out-of court dispute settlement System (Art.17)</i>
	Member States may not restrict the freedom to provide information society service from another Member state. Derogatory measures may be taken.	Member states shall ensure that commercial communications referring to information society service, comply with the following conditions: -it shall be clearly identifiable as such, as well as, the natural or legal person on whose behalf the commercial communication is made, -promotional offers & competitions/games shall be clearly identifiable & their provided conditions easily accessible & unambiguously presented.	Member States shall ensure that local contractual regulation apply even to on-line contracts. Member states may exclude all or some of the following contracts: contracts creating or transferring rights in real estate, except for rental rights , requiring by law involvement of courts, public authorities or professions exercising public authority, -suretyship & on collateral securities furnished by persons acting for their purposes outside their trade, business or profession, -governed by family law or by the law of succession.	Prior to the order being placed by the recipient of the service, the service provider shall clearly inform consumer about: technical steps for concluding the contract, whether the contract will be filed by the serv'provider and if it will be accessible, technical means for identifying and correcting input errors prior to place the order, languages allowed for contract's conclusion. Par. 4.: article 10 shall not apply to contracts concluded exclusively by e-mail exchange or by equivalent individual communications .	Server providers when transmitting in a communication network, information provided by a service's recipient, shall not be liable for transmitted information as long as: does not initiate the transmission, does not select the transmission's recipient, does not select or modify information contained in the transmission.	The Directive invites member States to promote: codes of conduct, transmission of draft's code to the Community's Commission, accessibility of said code by electronic means, communication to Member states and Commission of consumers' and professional organizations assessment of their code's application to e-commerce, codes of conduct for the protection of minors & human dignity	The Directive calls Member states to adopt out-of-courts for dispute solution even through appropriate electronic means. Members shall encourage bodies competent for said out-of-court settlement to inform Commission about significant decision & any practice or use as to e-commerce.
A 	No significant differences	No significant differences or additional	No sectors are excluded	No significant difference or additional rules.	No significant differences or additional	No information available	No legislative action has

	or additional rules.	rules.			rules.		been taken to this effect.
B 	<u>Pre-Draft implementing provisions:</u> no significant difference or additional rules.	<u>Pre-Draft implementing provisions:</u> specific provisions for e-mail ad: service provider shall inform consumer about his right to oppose to e-mail ad & grants the efficient way to exert it Using third party's name or address shall be forbidden. The service provider must be able to prove prior consent to e-mail ad (opt-in). More stringent provisions for free professions (i.e.lawyers, notaries, doctors...).	<u>Pre-Draft implementing provisions:</u> no difference.	<u>Pre-Draft implementing provisions:</u> the exception of art. 10 pr.4 is not applicable.	<u>Pre-Draft implementing provisions:</u> no difference, except that the provider must inform the public prosecutor.	<u>Pre-Draft implementing provisions:</u> codes of conduct have not been issued.	<u>Pre-Draft implementing provisions:</u> _ Out-of court systems not already available.
CZ*** 	Not yet implemented	Not yet implemented	Not yet implemented	Not yet implemented	Not yet implemented	Not yet implemented	Not yet implemented
E 	<u>E-commerce Draft Bill:</u> as in the Directive, principle of freedom shall apply. Provisions aimed to grant information & clarity for e-mail communication	<u>E-commerce Draft Bill:</u> services providers shall be required to indicate clearly on web site basic details: name, address, product's price etc.	<u>E-commerce Draft Bill:</u> all required information shall be provide prior to begin the transaction. Supplier must indicate steps to be taken to complete purchase, he must confirm receipt of the order. The electronic format shall be made	<u>E-commerce Draft Bill:</u> suppliers shall be required to communicate their Internet domain & other web sites to the Registro Mercantil (Companies' Registry) or to other public registry.	<u>E-commerce Draft Bill:</u> provisions regulating infringements & sanctions distinguishes: minor, serious & very serious infring'ments Affected turnover, seriousness of caused loss and other circumstances Shall be taken	<u>E-commerce Draft Bill:</u> provisions aimed to strengthen self regulation trough codes of conduct or ethical codes drafted with assistance of consumers'/users's associations.	<u>E-com'ce Draft Bill:</u> provisions aimed to strengthen alternative dispute resolution by electronic means.

			comparable to written one. The contract shall be considered concluded when: the customer sends his acceptance (web site) or the acceptance has been received from the supplier (e-mail). For business to consumer's contracts, the contract shall be concluded in the place of consumer's residence.		into account in order to determine the fine's amount.		
F 	Not yet implemented	Not yet implemented	Not yet implemented	Not yet implemented	Not yet implemented	Not yet implemented	Not yet implemented
G 	No significant differences or additional rules.	No significant differences or additional rules.	No significant differences or additional rules.	No significant differences or additional rules.	No significant differences or additional rules.	Not relevant.	Not relevant.
GR 	Not yet implemented	Not yet implemented	Not yet implemented	Not yet implemented	Not yet implemented	Not yet implemented	Not yet implemented
I 	<u>Parliament's Guidelines provided to the Government for Directive's implementation</u> No differences or additional rules provided.	<u>Parliament's Guidelines provided to the Government for Directive's implementation</u> No differences or additional rules provided	<u>Parliament's Guidelines provided to the Government for Directive's implementation</u> No sectors excluded.	<u>Parliament's Guidelines provided to the Government for Directive's implementation</u> No differences or additional rules provided	<u>Parliament's Guidelines provided to the Government for Directive's implementation</u> It shall be provided that service provider is liable for its services if he has not promptly avoid the access to the service or aware of its illegal content has not followed the	<u>Parliament's Guidelines provided to the Government for Directive's implementation</u> : as in the Directive, codes of conduct drawings shall be encouraged.	<u>Parliament's Guidelines provided to the Government for Directive's implementation</u> Out of courts dispute settlement even through electronic means shall be provided.

					ordinary diligence.		
IR 	Not yet implemented	Not yet implemented	Not yet implemented	Not yet implemented	Not yet implemented	Not yet implemented	Not yet implemented
NL 	Not yet implemented	Not yet implemented	Not yet implemented	Not yet implemented	Not yet implemented	Not yet implemented	Not yet implemented
S 	Not yet implemented	Not yet implemented	Not yet implemented	Not yet implemented	Not yet implemented	Not yet implemented	Not yet implemented
SF 	Not yet implemented	Not yet implemented	Not yet implemented	Not yet implemented	Not yet implemented	Not yet implemented	Not yet implemented
UK 	<u>E-Commerce Draft Regulations:</u> shall not apply in respect to taxation, questions concerning information society services covered by EU Directive 95/46 (Data Protection) & agreements or practices governed by cartel law.	<u>E-Commerce Draft Regulations:</u> as in the Directive.	<u>E-Commerce Draft Regulations:</u> exclude regulated professions (subject to their compliance with professional rules) & contracts relating to the creation or transfer of rights in real estate.	<u>E-Commerce Draft Regulations:</u> as in the Directive.	<u>E-Commerce Draft Regulations:</u> provide: an action against the service provider for damages for breach of statutory duty, contract shall be unenforceable if the server has not provided acknowledgment of an order or correcting input errors. Draft regulations differentiate types of providers.	<u>E-Commerce Draft Regulations:</u> The Government is in process of encouraging & promoting said codes. In particular it is supporting the Alliance for Electronic Business & the Consumer's Association on Trust UK setting e-codes.	<u>E-Commerce Draft Regulations:</u> Out-of-courts dispute settlement system are already available: Financial Ombudsm an Service, National Association of Citizens Advice Bureaux. Others systems are including too arbitration and mediation.
<u>NON EU COUNTRIES</u>							
Special national provisions <u>YES/NO</u>							
CH 	Sales performed on line have been regulated only by Self-Regulations.			No specific provisions.			

<p>H</p> 	<p>Sales performed on line have been regulated by Act CVIII of 2001 on E-Commerce & Services regarding Information Society.</p>	<p>Parties providing electronic commercial services must inform in Hungarian language at least the following information:</p> <ul style="list-style-type: none"> - services provider's name, address, telephone, e-mail , - indication of the permit or registration number for performing the activity, whether required, - eventually membership of professional Chamber, - eventually, scientific or professional title, if connected with the service, - basic attributes and characteristics of goods and services, price, instructions to the use and any hazard associated with its use & basic info necessary for enforcing consumer's rights, - general contract's conditions, - technical steps for concluding the electronic contract, - instruments for securing the identification prior to sending the order's acceptance, - if the contract should be considered a written contract or not, - conclusion of the contract & contract's language.
<p>CDN</p> 	<p>Sales performed on line have been regulated by: Uniform Electronic Commerce Act, Internet Sales Contract Harmonization Template approved May 25th 2001. The Federal Government recently has issued a draft policy called "Staying On – Side While Advertisement On-Line".</p>	<p>All information about the transaction (full price, currency, any tax or charge, delivery terms, payment conditions, geographic or time limitations on the sale, contract's conditions: withdrawal, termination, return, exchange, cancellation, refund, product's warranties etc.) shall be available on the web site as well as the representations (text/picture) of products or services. As to electronic Documents it has been provided that offers, acceptance of offers and any other matter concerning contract's conclusion can be done by an electronic document, through electronic communication as long as it is likely to express said offer/acceptance. Exceptions include wills, powers of attorney and land transfer documents. Furthermore the Template, provides: Internet seller must:</p> <ul style="list-style-type: none"> - display his data before the buyers enters the contract providing him accurate description of goods/services offered, - provide buyer with copy of Internet sale contract within 15 days. <p>Buyers may accept/correct errors/ decline immediately before entering the contract. If the seller does not comply with the contract, the buyer may cancel the contract, recover funds or cancel credit charges.</p>
<p>USA</p> 	<p>Sales performed on line have been regulated by: Law: FTC's Advertisement and Marketing on the Internet: Rules of the Road and FTC's Dot Com Disclosures applies existing laws and regulations to online advertisement. Self- Regulation: Better Business Bureau (BBB) Code of Online Business Practices, Electronic Commerce and Consumer protection Group ("CCPG"): guidelines for Merchant –To-</p>	<p>FTC Mail &Telephone Order Merchandise Rule applies to the shipping of merchandise ordered on line and provides customers with the right to cancel in case of delay. Children's Online Privacy Protection Act applies to the online collection of personally identifiable information from children under 13 years of age. Health Insurance Portability and Accountability Act provides federal protection for the privacy of health information. Gramm-Leach-Bliley Act requires financial institutions to provide notice to its individual customers regarding</p>

	Consumer Transactions and Commentary, ERA Online Marketing Guidelines	its information collection and information sharing practices. Various State Spam Statutes applies to unsolicited advertisement e-mail.
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