

Legal Extranet



Greece

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National Association:

Hellenic Association of Advertising-Communications Agencies (HAACA)

Web link: <http://www.edee.gr/>

General Legal Overview:

CHAPTER 1
 GENERAL LEGAL OVERVIEW OF ADVERTISING IN GREECE

In addition to EC/EEC legislation, Greece's national laws are supplemented with Laws, Decrees, Presidential Decrees and Ministerial Decisions. The major EU legislation covering misleading advertising, broadcasting and distance contracts is already in place. In addition, the Law on Consumer Protection contains constraints on a wide range of products, services and advertising and marketing techniques, including comparative advertising.

Relevant legislation covers unfair competition, alcohol, tobacco, motoring, medicines, toys, broadcasting, private television stations, mass media. Under consumer protection law companies using the phone, fax, e-mail or other electronic means of communication for direct marketing purposes must invite consumers to opt-in.

The advertising of the following categories are prohibited by Law:

Tobacco products on TV and radio
 Prescription-only medicines advertised to the public
 Medical centres, clinics, dental surgeries

Much of the advertising industry in Greece is becoming self-regulated. It is governed by the Greek Self-Regulatory Code but also supplemented by Greek Law.

The EDEE/SDE have developed the Greek Code from the ICC Code finally implemented after 3 years of negotiations. It was last updated in June 2001.

(The text of the Greek Self-Regulatory Code is included below.)

Following the entry into force of Law No. 2863/2000 in the year 2000, both the Hellenic Association of Advertising Companies (HAAC = EDEE) and the Hellenic Advertised Union (HAU = SDE) undertook to establish a civil law corporation, which will be responsible for the upholding of a uniform and unified Code of Conduct in the advertising field. Both unions have proceeded to the adoption of the New Code of Advertising Conduct. The aforementioned Code of Conduct has been officially endorsed by 12 TV broadcasting stations and 34 radio stations so far, and is expected to be endorsed by the vast majority of media nationwide, the latest until the end of 2003.

The newly enforced system provides for a swift, flexible, economic and effective solution in the hands of the consumers for the successful ethical control of advertising. This system is of course modeled after its successful "counterparts" in other EU-States, thereby ensuring transparency, effectiveness and adequate consumer protection. The system operates via two different-level Committees:

a. First Instance Committee

It accepts petitions and complaints by consumers, organizations, institutions and advertising companies. It comprises of 2 members of the HAAC and 2 members of the HAU. Its powers allow it to demand amendment of a certain advertisement or even its withdrawal.

b. Second Instance Committee

It is chaired by a Ministry of Commerce representative, whereas it is comprised of both HAAC and HAU members, as well as media and consumers' organizations' representatives. Appeals to decisions of the First Instance Committee are the main work frame. Decisions by the Second Instance Committee are legally binding and obligatory; all Greek media have vowed to contribute to that extent.

The general rules of the Greek Code are: In addition to describing the structure and functions of the self-regulatory committees, the Greek Code contains rules on: basic principles; decency; honesty; social responsibility; truthful presentation; comparisons; testimonials; denigration; protection of privacy; exploitation of goodwill; imitation; identification of advertisements; safety; children and young people; responsibility; scope; substantiation. The Code also sets out its scope, requirements for compliance with the self-regulatory body and implementation.

Article 13 of the Code contains the general requirements that advertisements should not exploit the natural credulity of children or the lack of experience of young people. Advertising addressed to or likely to influence

children or young people should not contain any statement or visual presentation that might result in harming them mentally, morally or physically.

Sector-specific rules: Children and advertising; advertising and the environment; advertising for tobacco products; political advertising (the political parties have not agreed to subscribe to the Code).

Areas not covered: The internet

SELF REGULATORY BODIES:

As of October 2002, Law 2863/2000 (Article 9) specifies that EDEE (Hellenic Association of Advertising Communications Agencies) and SDE (Greek Advertiser's Association), as well as all other representative trade associations, are authorised to fund a non profit self-regulatory organisation, which will take over all advertising self regulatory functions. In former times those functions were being fulfilled by EDEE and SDE.

EDEE/SDE functions were to oversee the current restructuring of the self-regulatory system, to compile and implement the Code, to provide administrative services to the First and Second Degree Committees which adjudicate on complaints and to monitor new ads.

Meeting the European Commission's challenge to provide more effective self-regulation across the Single Market, the Greek advertising industry launched an independent Self-Regulatory Organisation in Athens on the 19th of February 2004. The Greek Self-Regulatory Council (SRC), supported by the European Advertising Standards Alliance (EASA), is a further demonstration of its industry's responsibility and willingness to actively 'police' commercial Communications to ensure they remain legal, decent, honest and truthful. This Step safeguards consumer rights in Greece concerning advertising and also across the Single Market in terms of cross-border Communications.

EDEE (Hellenic Association of Advertising Communications Agencies)

The Hellenic Advertising Association is a non-profit organization founded in 1968. It promotes the advertising profession in Greece. The association has established the Greek Code of Advertising Practice.

Since 1986 it organizes the Advertising Conference. It launches the first Greek Advertising Festival in 1989. HAAA (=EDEE) are planning to extend their membership to marketing communication agencies, public relation agencies, media and direct marketing agencies.

SDE (Hellenic Advertiser's Association)

STATUTORY BODIES:

The EDEE/SDE/SRC do not have or seek statutory powers and the decisions of the present self-regulatory system are not legally binding; these decisions have not been the subject of litigation.

The National Broadcasting Council is responsible for TV and Radio.

The Ministry of the Press and the Media is responsible for all media.

The Ministry of Commerce also covers all media and consumer protection.

The Ministry of the Environment and Public Works, as well as the Culture Ministry, regulate on outdoor advertising.

TRIPARTITE BODIES:

Institute of Consumer's

INKA/General Consumers' Federation of Greece is a non-profit, non-governmental organization (NGO) in line with the Greek Consumer Protection Law (N. 2251/1994).

INKA/GCFG is the oldest and biggest network of consumer organizations in Greece. While INKA, the first Consumer Organization in the country, was established in the year 1970, INKA/GCFG, the Federation, was founded in 1995 and is now counting 46 member organizations all over Greece, forming the widest network of consumer organizations in the country and representing 94% of all citizens-consumers that are actively participating in the Greek Consumer Movement.

While being independent from industrial, commercial and political interests, and effectively claiming for consumers' rights, INKA/GCFG actively supports dialogue procedures with the social partners as well as with all political parties and the government and is being significantly appreciated for its steady and effective work towards the protection of consumers.

It is worth mentioning that on 13 March 2001, INKA was quoted the Award of the City of Athens (Municipality of Athens) for its contribution to the protection of Consumers since 1970.

CHAPTER 2
GENERAL LEGAL OVERVIEW OF ADVERTISING IN GREECE RELATING SPECIFICALLY TO CHILDREN

LEGAL OVERVIEW:

Child/minor:

The Greek Civil Code defines a minor as a person under 18. The Penal Code defines minors as those between seven and 17 (must have completed 17 years of age, therefore in essence under 18), children as those under 12 and adolescents as those between 13 and 17.

Legislation:

In practice, the legislation that impinges on advertising generally also governs what may be directed at children. In addition, consumer protection law establishes general principles governing advertising and prohibits misleading or deceptive product claims, also making special mention regarding advertising to children:

- Advertising which creates an image of an extremely tempting offer, especially to children, young people and to more susceptible categories of the population, is unlawful.
- Special legislation for radio and TV may provide in other instances for stating that an advertisement is unlawful for the protection of childhood and for the protection of other 'susceptible to the media' categories of the population. (Examples of this latter category could be the elderly, or visual images offensive to some sections of the population).

There is also a decree classifying transmissions in different categories according to the impact they are likely to have on minors, and the National Broadcasting Council's rules on advertising also refer specifically to minors.

There are no specific regulations for advertising in the press, posters or the Internet; cinema is subjected to control and classification imposed by the Ministry of the Press and Media.

Relevant legislation covers:

Alcohol; tobacco; pharmaceuticals; toys; cars

Presidential Decree 100 stipulates that:

TV advertising should not harm minors morally or physically and should therefore abide by the following criteria for their protection:

- It should not directly prompt minors to buy a product or service, taking advantage of their lack of experience and their credulous nature.
- It should not directly prompt minors to persuade their parents or third parties to buy the advertised products or services.
- It should not take advantage of the particular trust that minors have towards their parents, teachers or other people.
- It should not present minors in precarious and unsafe conditions without a reason.

TV advertising of alcoholic drinks should not particularly be addressed to minors nor, especially, portray them consuming such drinks.

The Minister of the Press and Media can also place more specific obligations on TV broadcasters, such as time zones during which they are not allowed to transmit advertising for goods or services directed to minors.

Specific prohibitions:

Toy advertising on television between 07.00hrs and 22.00hrs and all war toys; tobacco on TV and radio in schools or sports stadiums used by young people, and relevant cinema programmes; tele-sales directed at children.

SELF-REGULATED OVERVIEW:

Child/minor:

The Code annex on children defines persons under 14 as children.

Specific requirements:

These are contained in the Annex to the Code and cover: basic principles; behaviour of children; promises; safety issues.

In addition, the Annex for the advertising of tobacco products states:

- The advertising and promotion of tobacco products will continue to target adult consumers. To this end, the advertising of tobacco products will not target persons under 18.
- The advertising and promotion of tobacco products will not use or present persons who are or look under 25.
- Measures will be taken, in a logical context, to ensure that the advertising of tobacco products will not appear on posters or other permanent showcases which are close to - and are clearly visible and recognisable from - schools and other educational institutions frequented by persons under 18.
- There will be no advertising and promotion of tobacco products in print material which especially targets and concerns persons under 18.
- Promotional items which advertise some kind of tobacco product will not be produced or distributed in shapes, kinds or sizes especially designed for persons under 18.
- The sampling of tobacco products will only target adult consumers.

The text of the Annex of the Greek Self-Regulatory Code is included below.

CHAPTER 3 THE GREEK SELF-REGULATORY CODE FOR ADVERTISEMENT AND COMMUNICATION (SUMMARY)

Art.1

Contents and goal

This code concerns advertisements of all kinds of goods, products and services, as well as everything which concerns communication in the trade. The rules are intended for the professional ethics and the good behaviour all those, which are active opposite the citizen and consumer in the range of the advertisement (solicitors, clients and all in the advertising industry transact persons).

Art.2

Application

The most important and last criterion, which is certain, whether the advertisement offends against the professional ethics, as far the certain advertisement the consumer tempted behave itself in a completely determined way it to thus be deceptive, even if this is the consequence of the left and survivor of impressions. With advertisement advertisement is meant in the broad sense, i.e. in addition both all words count (spoken or written) and numbers, optical representations, music, melodies, noises in any form. In the sense of this code:

- the word advertisement (in the broadest sense) contains concerning any form independently of advertisement and communication, goods/products and services of it, which means was used, as well as slogans on packing, price tags etc.
- the word commodity/product also means services
- the word consumer describes each citizen, to which the advertisement addresses itself or who notices the advertisement (it hears or sees), either as a customer in the trade or consumer or as a user
- the sentence "the one who is recruited by the advertisement" contains all clients for the planning and execution/conversion of the advertisement or other communication

Art.3

General Principles

All advertisements must be legally, morally and in accordance with law and must correspond the truth.

No advertisement may place in question the confidence of the citizens in relation to the advertisement.

RULES

Art.4

Moral

The advertisements may not contain any material, which offends against the moral.

Art.5

Social Responsibility

The advertisements may not pull use from the fears and the superstition of humans, i.e. thus they may not use such characteristics, may not recruit for force (neither directly nor indirectly) or use of force or cause such, may not use the religious faith, the customs or holy writings for their purposes.

Art.6
Honesty

It is not permitted to use wrong or invalid information in particular concerning the characteristics of the goods, like kind, composition, method and time of the production, origin, value, warranty, etc.
No scientific results may be used in order to convince the citizens more easily from the product.

Art.7
Comparisons

Comparisons may not deceive the consumers.

Art.8
Protection of the Intimate Sphere

Persons or their property may be shown without their agreement in no case.

Art.9
Utilization of the Good Reputation

It is forbidden to show the name or the symbols of societies etc. without using permission.

Art.10
Imitation

The advertisements may copy other advertisements in no case (e.g. which concerns texts, slogans, music etc.)

Art.11
Acknowledgment of the Advertisements

If it concerns advertisements they must have to be recognized clear and clear.

Art.12
Security Respect

No dangerous actions may be shown (exceptionally for school and screen end of purposes). Special caution is required, if it concerns children or young people.

Art.13
Children or Young People

The inexperience and the circumstance of easily affection of the children may not be used.
Advertisements, which address themselves to children or young people, may not negatively (psychologically or physically) impair these.

Art.14
Responsibility

The advertisement operator and the publishers of all kinds of advertisements have the responsibility for the conversion of the regulations of this code.
The one who recruits generally has the responsibility for the advertisement.

Art.15
Competence

The society created by this law for control of the advertisements in accordance with the law 2863/2000 is responsible for the conversion of the regulations of this code.

Art.16
Legal and Moral Obligation

All who are active in the advertising industry and in the communication nature transacting are legal and morally obligated for the conversion of these regulations.

Art.17

The Profile of the Society for Control of the Communication

This society was established of the combination of the societies who are active in the advertising industry and the association of the in Greece recruiting in accordance with the article 9 of the B' chapter based of the law 2863/2000 and published in the sheet A262/29/11/2000 of the Greek government sheet.

Annex

In addition to the provisions of Article 14 of the ICC Code, the Greek Code contains the following Annex, adopted in 1993:

Introduction

Persons under 14 years of age are regarded as children.

This Annex covers communications for products that are directly addressed to children, as well as communications for all other products that are primarily and, according to common sense, used by children.

This Annex covers all advertising and any kind of product or service according to their definition in this Code.

Basic Principles

Advertising that encourages children to buy products by phone or mail order is prohibited. As far as advertorials and editorials are concerned, it should be made clear when those constitute advertising. The same applies for all forms of indirect communication.

Behaviour of Children

The behaviour of children taking part in advertisements should be in agreement with commonly considered proper behaviour.

Advertisements should not undermine the authority and responsibility of parents nor question their judgement. Children should not be shown to consume alcoholic drinks, nor should they be shown to approve in any way of the consumption of alcoholic drinks.

Promises

Advertisements for children should not make the child believe that happiness, social acclaim, or success will be brought about by the possession of any particular product.

No advertisement should promise children that the possession of a product will make them superior to other children, or the opposite.

Advertisements should not include any direct appeal to children to persuade others to buy advertised products for them.

Special care should be taken to ensure that, in any form of advertising, the size and attributes of the advertised products are properly appraised, especially regarding the natural condition and operation of the product.

Where price is mentioned, the advertising must not mislead by using words such as only etc, or by implying that the product can be acquired by everyone.

Safety Issues

Advertisements should not contain any statement or visual presentation of children in dangerous activities or of children consorting with strangers or being in an unsuitable environment.

Advertisements should not portray children driving mechanical engines which are dangerous to them, or using dangerous/electrical appliances.

Advertisements should not portray children in dangerous situations (such as climbing stairs, crossing bridges etc) without supervision/protection.

Advertisements should not portray children in possession of medicines without parental presence/guidance and should not show them using matches, gas or petrol, without supervision.

When children are portrayed in roads, special care should be given to the provisions of the Code of Road Safety.

CHAPTER 4

UPCOMING CHANGES IN GREECE

Web & Data Protection/Privacy:

The Greek Parliament has come close to agreeing to a final text of what would be a Presidential Decree, by virtue of which EU Directive Nr. 2000/31 will be transcribed in the Greek legal system.

Main points of the new system, do not defer much of those of other EU-States:

a. Commercial on-line communication (B2B, B2C):

- all commercial communication must be clearly presented as such and the sender's identity should be immediately recognizable.
- provisions concerning data protection apply to every kind of commercial communications and distance contracts (not only unsolicited ones). Consumers will be preliminary informed as to the purposes and the modalities of their personal data processing and their prior consent to such treatment is required. All communications must render the consumer the right to opt-out (removed from mailing list) from receiving future communication of such kind.

b. Information to be provided:

- general information concerning the identity of the person on behalf of whom commercial communication is being conducted.
- contractual information (prior to the order sending) such as: procedural steps for conclusion of contract, technical means for identifying and correcting input error prior to placing of order and legal disclaimer and dispute settlement provisions.

c. Providers' liability:

Generally they are not required to monitor all transmitted or stored information. Only if providers are aware of illegal activities must they inform competent public authorities, providing them with all necessary data. However, there are -up to the present- no clear intentions of what direction the fine and penalty system of the Decree should move.

Basic Guide to
Intellectual
Property rights in
the Territory:

There are also like most of European countries three principal areas of intellectual property rights in Greece. These are copyright, trade marks and passing off.

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Personal Contact: Mr George PAPAZISSIS

The National Broadcasting Council

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SDE (Hellenic Advertiser's Association)

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