

## Advertising Law Update – February 2007

### Consumer Protection Bill Announced:

The first draft of the new Consumer Protection (National Consumer Agency) Bill has been published. When brought into force the Act will establish a new National Consumer Agency which will be funded by the Government to act on behalf of consumers. This will replace the Office of the Director of Consumer Affairs. The Act will also prohibit a number of practices such as pyramid selling, prize draw scams, making false or misleading claims about products and persistent cold calling of consumers. In total the Act will list 31 practices which will be forbidden in all circumstances. Persons acting in breach of the new laws will face fines of up to €150,000 and/or up to 5 years imprisonment depending on the offence. The Act will also implement the EU Unfair Commercial Practices Directive and is due to be in force later in 2007.

### Challenge to Tobacco Act Abandoned:

A decision by several tobacco companies and others to abandon a lengthy legal challenge over the Public Health (Tobacco) Act, 2002 has cleared the way for a full introduction of the act including an outright ban on point of sale tobacco advertising. The High Court challenge had sought to prevent full implementation of the act on the grounds that it was unconstitutional, in breach of EU law and the European Convention on Human Rights, and would involve significant financial losses for them if they came into effect. However days before the challenge was due to be heard in court the tobacco companies indicated to the High court that they were withdrawing their challenge. This will now clear the way for an outright ban on any point of sale advertising with the ultimate objective being “under the counter” tobacco sales only. At present most tobacco products are sold with prominent displays behind the counter.

### Health Labelling on Soft Drinks Imminent:

The Beverage Council of Ireland has stated that the main soft drinks manufacturers and bottlers have agreed to provide information on percentage “guideline daily amounts” (GDA) of salt, sugar, fat and saturated fats on the labels of all of their products. This will be implemented on a voluntary basis by the companies. They have however indicated that they will not implement a “traffic light” system which would colour code products green, orange or red depending on their nutritional value as this would have a negative impact on products that might normally be considered healthy but were given a red light.