

# Advertising to children in Switzerland

**Peter Hofer** and **Jeannette Bieri**, Frick Hofer Hunziker describe the legal environment in Switzerland

**I**N SWITZERLAND THERE is a patchwork of several federal and self-regulatory codes to regulate advertising. Switzerland is not member of the European Community, so European Law does not apply directly, but it does have a significant influence.

The most important law regulating advertising in Switzerland is the Federal Law Against Unfair Competition (*Bundesgesetz über den unlauteren Wettbewerb (UWG)*), which bans any unfair and wrong behaviour or business conduct that is deceptive or in any way contravenes the principle of good faith. Self-regulation plays an important role in Switzerland. The Swiss advertising industry has adopted its own canons of professional ethics in the Principles of the Swiss Commission for Integrity in Advertising. Also the International Chamber of Commerce's International Code of Advertising Practice (ICC Code) is relevant.

The constitution protects the physical, mental and moral development of children. However, Switzerland has no specific law that deals with advertising to children. There is legislation covering advertising to children in certain media and for specific products. Television and radio advertising in particular is subject to special regulation designed to protect children and young people. The self-regulation of the advertising industry includes rules for advertising to children but they are basically identical to the relevant legislation.

## Restrictions on specific media and products

### Television and radio

The federal law concerning television and radio regulates advertising aimed at children and adults. For the protection of all, the advertising of alcoholic beverages and tobacco products is prohibited on television and radio.

Advertising to children has to avoid anything that might harm their interests and must not take advantage of their deficiency of judgement and experience. The Federal Council is empowered to issue further regulations to protect children. So far it has not exercised this right.

### Cinema

To protect children, the tobacco industry bans advertising in cinemas before 7 pm and commercials are limited to two per movie. The advertising of alcohol is generally permitted unless the majority of viewers are children.

### Tobacco

Tobacco advertising is regulated by the federal law concerning foodstuffs (*Lebensmittelgesetz*), the federal law concerning television and radio (*Radio- und Fernsehgesetz*) and federal directives about tobacco (*Tabakverordnung*). Tobacco advertising is generally allowed if the advertising is socially responsible and does not encourage excessive smoking. It is prohibited to create ads for tobacco products aimed at children under

the age of 18. As mentioned previously the advertising of tobacco is banned from television and radio. Besides the legislation there exists a contract between the Swiss Commission for Integrity in Advertising and the tobacco industry where the industry promises to follow certain restrictions – for instance, not to employ models for tobacco advertisement that look younger than 25 years, or in relation to number, size and placement of the advertisement in the media.

#### Alcohol

Alcohol advertising is generally allowed if the advertising is socially responsible and does not encourage excessive drinking. Advertisements that are aimed at children under the age of 18 are prohibited by the Federal Law of Foodstuffs (Lebens-mittelgesetz). As mentioned before the advertising of alcohol is prohibited on television and radio.

#### Medicine

Advertising to the public of prescription-only pharmaceuticals is prohibited in Switzerland. Advertising for pharmaceuticals that can be sold over the counter is restricted. The advertising should not lead to excessive, wrong or inappropriate use of pharmaceuticals, but there is no specific legislation concerning young people.

#### Books and magazines

There is no specific legislation in this area except that the advertising of tobacco and alcoholic beverages is prohibited in books and magazines for the young. Additionally, the Swiss Penal Code bans books and magazines that contain pornography and violence.

#### Toys

There is no special law relating to toy advertising, except that alcohol and tobacco advertising is prohibited on toys. Apart from that, general legislation must be respected – for example, the advertising must not be misleading.

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#### Summary

Advertising to children is very liberal in Switzerland. Apart from the small amount of legislation mentioned, advertising to children has not been a topic of much interest for the industry or politicians. Because the Swiss advertising industry has adopted its professional ethics (Principles of the Swiss commission for Integrity in Advertising [www.lauterkeit.ch](http://www.lauterkeit.ch)) and the Swiss Commission for Integrity in Advertising controls the advertising and punishes infringements of the rules, the system of self-regulation works well. Therefore there is no discussion in Switzerland to release further restrictions with regard to advertising to children. As a result of this self-regulation there are rarely any judgments by the Swiss courts concerning advertising.

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