

Greece

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1. Overview of the legal and regulatory regime for advertising

The applicable regulatory framework for advertising in Greece is outlined below.

1.1 The Consumer Protection Law

Law 2251/1994 (as codified by Ministerial Decision 5338/2018) on Consumer Protection and Unfair Commercial Practices (hereinafter the Consumer Protection Law) is the main legislative text in this field, implementing the relevant EU consumer protection directives referenced 93/13/EEC (unfair contract terms), 2011/83 of the European Parliament and of the Council, amending 93/13/EEC and repealing 97/7/EC (distance selling) and 2005/29/EC (unfair commercial practices). The Consumer Protection Law includes rules on advertising and unfair business practices. The definition of 'business practices' in this context includes all kinds of commercial communication, including advertisements, and all marketing practices that are linked to the promotion or sale of a product or service.

The Consumer Protection Law rules on advertising include detailed guidelines on comparative advertising, and prohibit TV broadcasting of commercials for children's toys from 7:00am to 10:00pm every day. Unfair marketing/promotional practices include misleading and/or aggressive advertising that distorts consumers' economic behaviour and impairs their ability to make informed decisions. Examples include the provision of untrue information regarding the specifications or price of a product, the psychological pressure on children to buy a product and the use of threatening or abusive language.

Article 13A of the Consumer Protection Law provides for fines for breaches of the legislation, which start at €1,500 and may reach €1 million for suppliers (including advertisers). For repetitive offenders, further sanctions include the doubling of these fines as well as the temporary suspension of business operations for up to one year. The Consumer Protection Law also provides for a right of consumers or consumer groups to request from the court the discontinuance of unfair marketing/promotion practices. Furthermore, consumers can claim for damages, and class actions are also envisaged if the relevant legal requirements are met.

1.2 Regulation of television/video broadcasting

With regard to traditional television broadcasting and video-on-demand services, according to Presidential Decree 109/2010 implementing EU directives 2010/13/EC and 2007/65/EC (on audiovisual media services including audiovisual commercial communication, sponsorships and product placement), audiovisual commercial communications provided by media service providers in Greece:

- -must be readily recognisable as such – surreptitious audiovisual commercial communications are prohibited;
- -must not use subliminal techniques;
- -must not prejudice respect for human dignity nor include or promote any discrimination based on sex, racial or ethnic origin, nationality, religion or belief, disability, age or sexual orientation; and
- -must not encourage behaviour that is prejudicial to health or safety or grossly prejudicial to the protection of the environment.

1.3 The Unfair Competition Law

Law 146/1914 on Unfair Competition defines as unfair "any act made in commercial, industrial or agricultural transactions for purposes of competition which is contrary to moral principles". The provisions of this law are often applicable with regard to advertising, since advertising practices may qualify as unfair (especially comparative and/or misleading advertising).

The law provides for a series of rights and remedies for claimants, such as the filing of a preliminary injunction – which can be followed by a main action (regular lawsuit) – requesting a 'cease and desist' order for any future

occurrence of the unfair practice. Further sanctions of a criminal/penal nature are also predicted in the Unfair Competition Law, but their application often depends on the filing of a complaint on behalf of an injured party.

1.4 Greek Code of Advertising and Communication

The Greek Code of Advertising and Communication is a self-regulatory code (and therefore not legally binding) that is nonetheless enforced by the Council for Communication Control. The code is the main self-regulatory mechanism in this field, applying to all industries.

According to the principles included in the code, marketing communication must:

- -be lawful, decent, truthful, candid and in line with the principles of fair competition and proper commercial practices;
- -have a sense of social responsibility and be based on the principles of good faith; and
- -not be immoral or undermine human decency and integrity.

Apart from these general good-practice guidelines, the code includes sector-specific rules.

1.5 Supervision

The competent regulatory authorities for monitoring compliance with the Consumer Protection Law are the Hellenic Consumers' Ombudsman (an independent authority) and the General Secretariat for Trade and Consumer Protection (under Greece's Ministry of Development). The National Council for Radio and Television (NCRTV), which is an independent authority, oversees and regulates the radio and television market. The Council for Communication Control is competent for the application of the Greek Code of Advertising and Communication.

2. Comparative advertising

The definition and the conditions of admissibility of comparative advertising are stipulated in Article 9(2) of the Consumer Protection Law. Defined as "any advertisement that aims at or implies, directly or indirectly, a specific competitor or the products and/or services that such competitor offers", comparative advertising is permissible only if:

- -it is not misleading;
- -it compares products or services corresponding to the same needs or the same purposes;
- -it objectively compares one or more characteristics that are substantial, relevant, verifiable and representative of the compared goods and services, for which the price may also be included;
 - -it does not result in the discrediting or denigration of a competitor's trademarks, trade names, other distinctive signs, products, services, activities or circumstances;
 - -in relation to products with a specific designation of origin, it only compares products with the same designation of origin;
 - -it does not take unfair advantage of the reputation of a competitor's trademark, trade name or other distinctive sign, or of the designation of origin of the competitive products;
 - -it does not present goods or services as imitations or replicas of goods or services bearing a trademark or a trade name; and
 - -it does not create confusion among traders, between an advertiser and a competitor, or between the advertiser's trademarks, trade names, other distinctive signs, products or services and those of a competitor.

Complementarily to the foregoing, the provisions of the Unfair Competition Law are also applicable in the context of consumer protection, given that comparative advertising may qualify as unfair if, for example, it features or refers to a competitor's products or services (even without explicitly naming the competitor) in a way that denigrates or discredits them, or in a way that demonstrates an intention to denigrate them, in order to maximise the features and/or quality of the advertised products or services.

Moreover, the relevant provisions of the Greek Code of Advertising and Communication stipulate that comparisons included in advertisements should be presented in a non-misleading way and according to the principles of fair competition – i.e., any comparison should be based on elements that can be proven and that have not been chosen in order to be used in bad faith and/or in a biased way.

According to the provisions on comparative advertising within the Consumer Protection Law, the use of a competitor's trademark, trade name, distinctive title etc is in principle permissible. As a rule, a registered trade mark confers on the proprietor exclusive rights therein, entitling thus the proprietor to prevent all third parties not having

his consent from using in the course of trade. Nevertheless, the right on a trade mark does not entitle the proprietor to prohibit a third party from using, in the course of trade, provided (among others) that any third party uses it in accordance with honest practices in industrial or commercial matters. Particularly as to the issues of misleading and comparative advertising, such (comparative) advertising is, as far as the comparison is concerned, permitted when a) it does not create confusion in the market place between the advertiser and a competitor or between the advertiser's trademarks, trade names, other distinguishing marks, goods or services and those of a competitor; b) it does not discredit or denigrate the trademarks, trade names, other distinguishing marks, goods, services, activities, or circumstances of a competitor; c) it does not take unfair advantage of the reputation of a trade mark, trade name or other distinguishing marks of a competitor or of the designation of origin of competing products; d) it does not present goods or services as imitations or replicas of goods or services bearing a protected trade mark or trade name. Therefore, the inclusion of a competitor's trademark in a comparative advert, which meets the conditions referred to above in relation to Article 9 of that law, is not considered use of such trademark without permission, as defined in the Trademark Law (Law 4679/2020), which would create a right of action for the trademark owner. If, however, a comparative advertisement uses a competitor's trademark in order to mislead consumers or in a way that enhances or establishes risk of confusion and/or of presenting products and/or services imitating the ones designated by a competitor, the provisions regarding the protection of rights derived from the trademark will come into play, along with additional provisions regarding the infringer's civil and criminal liability – especially if the comparison includes elements that lead to the competitor's discredit. Furthermore, any such unlawful use of a trademark, right holder of which is a third (competitor) party, will entail liability under the Unfair Competition Law and under the respective provisions on unfair competition included in the Trademark Law, given that the infringer is likely to gain unfair profit from the competitor's economic and promotional business efforts and/or from the trademark's reputation (in cases where a notorious trademark is involved).

3. Online behavioural advertising

There is currently no specific legislation in Greece addressing online behavioural advertising as such. However, the general principles of advertising laid down under the Consumer Protection Law and the Greek Code of Advertising and Communication apply, along with the general provisions and sanctions of the General Data Protection Regulation 2016/679 (hereinafter the GDPR) and Law 4624/2019, which has introduced supplemental measures for the application of the GDPR (hereinafter the Data Protection Law).

Guidelines from the Hellenic Data Protection Authority (DPA) will also be relevant here. The DPA Guidelines basically adopt Opinion 2/2010 dated June 22 2010 of the Article 29 Working Party¹ for online behavioural advertising, and also Opinion 16/2011 dated December 8 2011 of the EASA²/IAB³ Best Practice Recommendation on Online Behavioural Advertising. According to the guidelines, advertising network providers should comply with the obligations that arise from Greece's data protection legislation, notably with respect to rights of access, rectification, erasure and retention. In addition, and taking into account that publishers may share certain responsibility for the data processing that takes place in the context of behavioural advertising, the guidelines call upon publishers to share with advertising network providers the responsibility for providing the required information to individuals.

Although there is currently no legislation in Greece which addresses online behavioural advertising specifically, the use of cookies for the purposes of, among other things, online behavioural advertising, is regulated. The use of cookies is regulated by Law 3471/2006 Article 4 (as amended by Law 4070/2012), which has transposed the Cookies Directive⁴ of the European Union, according to which, broadly speaking, the storage of information on or the access to information already stored (eg, through the use of a cookie) on the device of a user is permitted only if the user has provided his informed consent. Article 4 also states that such consent can be expressed by using the appropriate settings of a browser or other application. Note that the foregoing requirements do not apply to the use of cookies that are necessary for the provision of an online service; however, it is unlikely that this exception would apply to any cookies used for the purposes of online behavioural advertising.

The DPA Guidelines on this matter (published in July 2012 and have not been updated since) make special reference to 'web analytics' cookies and 'online advertising' cookies, clarifying that prior consent is required for their

¹ The Article 29 Working Party is an independent body made up of representatives of the various European data protection regulators.

² EASA is the European Advertising Standards Alliance.

³ IAB is the Interactive Advertising Bureau Europe.

⁴ Directive 2009/136/EC.

use. According to the guidelines, prior consent can be provided via pop-ups or using a web browser that by default rejects all third-party cookies and requires the active acceptance of cookies by the user ('opting in'). Implied consent is not acceptable in this context.

4. Sales promotions

In Greece, the 'sales promotion' umbrella term mainly covers sales, combined sales, discounts, gifts, incentive offers, prize draws and competitions. The legal framework for sales promotions includes statutory and self-regulatory provisions.

Focusing mainly on the Unfair Competition Law, the Consumer Protection Law and Law 4177/2013 (as well as Ministerial Decisions 56885/2014 and 91354/2017) setting out merchandise purchase price regulations, the legal framework for sales promotions is completed and reinforced by the Greek Code of Advertising and Communication. Depending on the types of products or services on offer, specific legislative provisions may also be found relevant, such as the legislation regarding the promotion of games of chance, the promotion of sales etc.

In the absence of specific legislative definition and though not expressly defined in the Greek Code of Advertising and Communication, all marketing methods and techniques that render products more attractive via the provision of an additional profit to the consumer or that create the expectation of receiving such profit are considered 'sales promotions' in Greece. Moreover, the Greek Code of Advertising and Communication specifically defines the term 'offer' as "any presentation or promotion of products with the intent to sell [them]".

As derived from the applicable legislation, and also enriched and confirmed by the Greek Code of Advertising and Communication, all sales promotions practices should be fair towards consumers and other competitors, be conducted in avoidance of unnecessary disappointment to consumers, be administrated promptly and efficiently (also with regard to the obligations arising from them) and be transparent to participants. Furthermore, promoters, intermediaries or other parties should be vigilant not to bring sales promotions into disrepute.

Prize draws and skill-based competitions used in combination with sales promotion practices are further defined by the Greek Code of Advertising and Communication as 'promotion incentives'. Despite being in principle permitted, such advertising practices shall, according to that code, be considered:

- -misleading in the event that consumers are not clearly informed that no purchase is needed for their participation; and
- -unfair if, for example, consumer participation in such prize draws or competitions entails the purchase of a specific product, therefore altering consumers' choice/purchase criteria, and/or if the prize draw's or the competition's gains are disproportionately high in comparison with the price of the advertised product, consumers being therefore exaggeratingly enticed to participate.

With regard to incentive offers, consumers must be fully informed and able easily and clearly to detect and understand the conditions of each offer, including the terms that may finally lead them against the purchase of a product, and in addition the presentation of any incentive offer or sales promotion should be in a non-misleading way. Furthermore, the value of the supplementary offered product should not be magnified, hidden or covered in relation to the main product's value, and the use of words such as 'free' or 'gift' ('δωρεάν' or 'δώρο' in Greek) shall be used only if no obligation and no disproportionate delivery/transport charges are entailed and on condition that the price of the main product has not been increased in order to cover all or part of the cost of the offer.

Being one of the most popular sales promotion practices, price discounts are also considered to have the most elevated chances for misleading consumers in Greece. Untrue or non-existent promotional material regarding the duration of the discount offers or regarding the quantity and availability of products within the advertised time frame for the duration of the discount is therefore likely to be considered misleading and unfair under the respective provisions of the Consumer Protection Law and the Unfair Competition Law.

In addition to latter's provisions regarding sales promotions, the concept is further regulated by the provisions of Law 4177/2013 (as well as the provisions of Ministerial Decisions 56885/2014 and 91354/2017) on merchandise purchase price regulations – in which, for example, there is a requirement for an indication on written labels of the items that are subject to a sales promotion (via a price discount) and of their prices before and after the reduction. For 'outlet' or 'stock' stores there is a similar requirement to indicate the price before the discount in a way that shows it is deleted, and the price after the reduction, in a way that shows the clear distinction between these two prices.

Non-compliance with the applicable provisions for sales promotion entails liability as provided for by the Consumer Protection Law and the Unfair Competition Law (see section 1 for the penalties involved). Furthermore,

illegal actions with regard to sales promotions may entail liability in accordance with the basic provisions of the Greek Civil Code (mainly regarding torts) and the Greek Penal Code.

5. Ambush marketing

There is currently no legislation in Greece regulating ambush marketing, apart from Law 2598/1998 relating to the Olympic Games (see below). However, the general principles of advertising laid down under the Consumer Protection Law and the Greek Code of Advertising and Communication apply for ambush marketing, along with the provisions and sanctions of trademark and unfair competition legislation.

The specific legislation that has been enacted with regard to ambush marketing is Law 2598/1998 on the organization of the Olympic Games in Athens in 2004. This legislation regulates unauthorised commercial association with the Athens 2004 Olympic Games. Article 3 addresses the protection and registration of the various names, marks, slogans and symbols associated with the Athens 2004 Olympic Games, and it specifies the penalties and enforcement procedures for infringing uses of the Olympic symbols, which include a fine of not less than €586.94 and a minimum of three months' imprisonment.

6. Direct marketing

In Greece, direct marketing must broadly speaking comply with the general provisions of the GDPR, the Data Protection Law, also with Article 11(3) of Law 3471/2006 on the protection of personal data and privacy in the electronic telecommunications sector⁵ and with the decisions and guidelines from the DPA, the Greek data protection regulator. Article 6 (on unsolicited commercial communication) of Presidential Decree 131/2003⁶ and Article 4 (on distance selling) of the Consumer Protection Law are also applicable in this context.

Direct marketing by e-mail and text messaging requires opt-in consent. An exception applies (as above) when the recipient's contact details have been lawfully obtained in the course of a sale of a product or a service or other "transaction" – in which case emails and text messages can be sent for direct marketing of own similar products or services, even when the recipient has not provided his prior consent but provided that the recipient is given a clear and simple means, without charge, to object (opt out) to such collection and use of his electronic contact details when the electronic contact details are being collected and on the occasion of each further relevant communication;

The GDPR has reinforced the requirement that consent must be informed. Providing information to recipients prior to obtaining their consent is essential in order to enable them to make informed decisions, understand what they are agreeing to, and for example exercise their right to withdraw their consent. Provision of at least the following information is required in order for marketers to obtain valid consent:

- i. the controller's identity;
- ii. reference to the purpose of the data processing operations for which consent is sought, i.e. marketing activities;
- iii. what (type of) data will be collected and used;
- iv. the existence of the right to withdraw consent;
- v. as applicable, information about the use of the data for automated decision-making;
- vi. information on the possible risks of data transfers due to absence of an adequacy decision and of appropriate safeguards.

With regard to item (i) and (iii), the Article 29 Working Party has noted that in a case where the consent sought is to be relied upon by multiple (joint) controllers or if the data is to be transferred to or processed by other controllers who wish to rely on the original consent, these organisations should all be named. It is noted that the rest of the information that must be provided to data subjects according to the GDPR (Article 13), while not typically needed for the validity of consent, will still need to be provided, e.g. by reference to a relevant privacy notice.

When proving the above information, marketers should ensure that clear and plain language is being used. Consent must be clear and distinguishable from other matters and provided in an intelligible and easily accessible form. That said, a declaration by the user that s/he has been informed (e.g. by ticking a relevant box) will not be

⁵ Implementing EU Directive 2002/58/EC.

⁶ Implementing the EU E-Commerce Directive 2000/31/EC.

sufficient when notice is not actually easily accessible (e.g. this would be the case when the notice is accessible only via a hyperlink leading to another page). According to the Article 29 Working Party, layered and granular information can be an appropriate way to deal with the two-fold obligation of being precise and complete on the one hand and understandable on the other hand; same applies for mobile interfaces. Further, according to DPA guidance, when consent is provided via a website, notice can be provided for instance (a) making/ "forcing" the user to read the notice (via a pop-up window) before being able to provide consent, or (b) placing notice on a special field of adequate size and making/ "forcing" the user to scroll down the text before being able to provide consent. Javascript code can be used in order for marketers to be able to control and prove that the user has actually read the notice prior to provision of consent.

The GDPR clearly outlines the explicit obligation of the controller (the marketer in this case) to demonstrate the data subject's consent; the burden of proof will be on the controller. It is up to controller to prove that valid consent has been obtained from the data subject and to this end controller is free to develop methods to comply with this provision in a way that is fitting in its daily operations. According to WP29, as long as a data processing activity (marketing in our case) lasts, the obligation to demonstrate consent exists. After the processing activity ends, proof of consent should be kept no longer than strictly necessary for compliance with a legal obligation or for the establishment, exercise or defence of legal claims. According to DPA, consent declaration (and withdrawal of consent) must be retained up to 6 months as of last communication activity or withdrawal of consent.

Postal marketing (via printed promotional material) can be addressed only to recipients:

- -who have provided their prior consent (via a so-called 'opt-in') to such kind of communication; or
- -where the marketer has obtained the recipient's contact details in the course of a previous business transaction with the recipient; or
- -where the recipient's contact details have been collected from a legitimate source (eg, telephone directories).

In both the second and third cases above, the marketer must ensure that the recipient has not previously objected to such communication (ie, the recipient is not included in a so-called 'Robinson list' or 'Article 13 registry', which is an 'opt-out' list of people who do not wish to receive postal marketing communication).

Direct marketing by telephone (with human intervention) is permitted unless the recipient has opted out from such communication. However, direct marketing by telephone without human intervention (via automated calls) requires prior informed opt-in consent.

Given the absence of specific penalties for breaches of the direct marketing provisions, the provisions and sanctions set out in the GDPR and the Data Protection Law will apply. Those penalties will depend on the severity and particular circumstances of each case.

7. Product placement

Presidential Decree 109/2010 (see section 1.2 above) establishes in its Article 12 the conditions regarding the admissibility of product placements. The provisions of that presidential decree are further complemented by the NCRTV Guidelines (reference Directive 1/12.07.2011).

'Product placement' is defined in Article 2(13) of the presidential decree as "any presentation of or reference to a product, service or trademark featured within a specific programme, in return for payment or for similar consideration". Product placements are permitted in cinematographic works, films and series made for audiovisual media services, sports programmes and light entertainment programmes (ie, music programmes, music videos, comedies, reality shows, travel programmes etc) but only if the following requirements are all met:

- -their content and, in the case of television broadcasting, their scheduling shall in no circumstances be influenced in such a way as to affect the responsibility and editorial independence of the media service provider;
- -they shall not directly encourage the purchase or rental of goods or services, in particular by making special promotional references to those goods or services; and
- -they shall not give undue prominence to the product in question.

Permission is also granted where there is no payment but only the provision of certain goods or services free of charge (such as production props and prizes) with a view to their inclusion in a programme, but only provided the three conditions given immediately above are also met.

Product placement is prohibited:

- -in the event that any of the aforementioned programmes, works etc are addressed to minors;
- -for tobacco products or cigarettes, and from undertakings whose principal activity is the manufacture or sale of cigarettes and other tobacco products;
- -for specific medicinal products or medical treatments that are available in Greece only on prescription;
- -for products, services or trademarks of entities the main activity of which is organising and conducting gambling activities or games of chance;
- -in any other case where, under Greek law, televised advertising is prohibited (eg, news, political programmes, documentaries, or programmes with religious content); and
- -between 7:00am and 10:00pm with regard to the placement of children's toys.

Viewers must be clearly informed of the existence of product placement. Programmes containing product placement must be appropriately identified at the start and end of the programme and when a programme resumes after an advertising break, in order to avoid any confusion on the part of the viewer, with the exception of programmes that have neither been produced nor commissioned by the media service provider itself or a company affiliated to the media service provider.

Product placement should therefore take effect in a uniform way for all broadcasters as follows:

- -At the beginning of a programme, and for at least 10 consecutive seconds, the phrase "This programme contains product placement" should appear (in Greek) on the screen; such phrase should, in addition, be aurally reproduced.
- -During a programme, the Greek letters 'ΤΠ' (standing for Τοποθέτηση Προϊόντος– product placement in Greek) should clearly appear on the upper or lower side part of the screen for at least 10 consecutive seconds after every advertisement or other break of a programme. This indication should also appear throughout the duration the transmission of a music video with product placement.
- -At the end of a programme and for at least 10 consecutive seconds, the phrase "This programme contained product placement", along with the names of the products and/or services placed, should appear (in Greek) on the screen.

The initials 'ΤΠ' should also be placed next to the respective programmes that are indicated in electronic programme guides. Inclusion of those letters (for five consecutive seconds) is also obligatory at the beginning of any trailer by a broadcaster if some of the trailed programmes contain product placement.

The following practices with regard to product placement are also prohibited:

- -surreptitious product placement;
- -thematic placement of products or services, upon which the contents of a programme depend;
- -direct promotion or incitement to buy a product or hire a service (eg, by promoting the product's price or availability); and
- -excessive promotion of a product and/or service (eg, by insisting on the service's advantages or the product's characteristics).

As highlighted by the European Court of Justice (ECJ)⁷, according to Audiovisual Media Services Directive (AVMS Directive), sponsorship is one of the forms of audiovisual commercial communication and the means by which natural or legal persons other than a supplier of audiovisual media services or producer of audiovisual works contribute to the financing of audiovisual media services or programmes with a view to promoting their name, trade mark, image, activities or products. The AVMS Directive sets out the conditions that any sponsorship must meet, states in particular, that viewers are to be clearly informed of the existence of a sponsorship agreement and that sponsored programmes are to be clearly identified as such by means of symbols of the sponsor, references to its products or services or other distinctive signs. It may be deduced from those provisions taken together that, since a sponsor's involvement consists exclusively in contributing to the financing of a service or programme, the symbols, references or other distinctive signs relating to sponsorship must be strictly linked to the service or programme

7 Decision C-314/14, Sanoma Media Finland - Nelonen Media, 17 February 2016

financed or partly financed by that sponsor. As noted by the NCRTV⁸, also in relevant case law⁹, sponsorship is a means of promoting businesses but also a means of their communication policy; ultimate goal of the sponsor is to promote his commercial activity. For this reason, the editorial independence of the programs that receive sponsorship should not be affected and sponsorship of news and current affairs programs is not allowed.

The correct application and control of the legal provisions relating to product placement lie with the NCRTV, the competent authority under the law in this context. The NCRTV, ex officio or following a complaint, will rule on an alleged infringement of product placement legislation. It may accordingly proceed to impose sanctions of an administrative, civil and/or penal nature for any proved offence, mainly in line with Law 2328/1995 (regarding private television and local radio) or Law 2644/1998 (regarding pay-TV).

Presidential Decree 109/2010 (see section 1.2 above) also provides for the establishment of self-regulatory means, such as the possibility for broadcasters to draft or adhere to certain codes of conduct.

8. Native advertising and social media influencers

There is currently no legislation in Greece specifically addressing native advertising and advertising by social media influencers. However, the general principles of advertising under the Consumer Protection Law and the Greek Code of Advertising and Communication apply, along with the Presidential Decree 131/2003 (article 5) and in particular rules on product placement and sponsoring. Covert advertising is prohibited. Importantly, such commercial communications must be clearly identifiable as such clearly distinguished from other (editorial) content, to avoid engaging in misleading conduct; sponsors should also be identified. Most prominent social media platforms have introduced and enforce rules regarding promotion by influencers.

9. Industry-specific regulation

9.1 Gambling

The advertising of gambling is addressed by Law 4002/2011 on gambling (the Gambling Law). Article 35 of that law provides for specific restrictions on the 'commercial communication' relating to gambling¹⁰. Such communications (including advertising communications) must include reference to participation requirements (ie, individuals must be over the age of 21 and hold an 'individual player card') and also make reference to hotlines and support services for rehabilitation from excessive gambling; direct or indirect reference to offer of credit to players for participating in games of chance is prohibited. Such commercial communications must not advertise the provision of gambling services by unlicensed providers and entities that provide credit to players. Furthermore, the content of such communications must comply with the principles laid down in the Regulation for Gaming Operation and Control (at the time of writing drafting for such Regulation is pending).

Further guidance is provided in the Decision 163/2015¹¹ of the Hellenic Gaming Commission (HGC) and also in the relevant HGC Directive 1/2017, according to which:

- Commercial communications of games of chance are permitted only based on relevant approval by the HGC. The provider of games of chance must file with the HGC a specific Commercial Communication Plan for approval¹²;
- The provider of advertising services¹³ must – before taking any of the above mentioned actions – examine and confirm whether the provider of games of chance services in question is a lawful provider¹⁴;

8 Decision 164/2019

9 Council of State, Decisions 4598/2015, 1955/2015, 335/2017

10 "commercial communication" means "(a) any form of communication for the direct or indirect promotion of products, services or image of undertakings, organisations or any person conducting activity relevant with games, (b) any information enabling direct access to activity relevant with games, (c) communications regarding products or services of an undertaking operating in the field of games"

11 ("Regulation of Issues of Commercial Communication of Games of Chance", as in force and also supplemented by the HGC Decision 251/2017)

12 Guidance regarding the drafting of a Commercial Communication Plan has been published by the HGC.

13 meaning the person who is appointed to organise and/or perform and/or promote and/or present actions of commercial communication for games of chance

- Special provisions are in place for the protection of minors, including a prohibition of promotion of games of chance on websites targeting minors;
- Covert advertising or indirect advertising is prohibited. Commercial communication must be clearly identified as such, regardless of any form they have or the means used for the promotion;
- Commercial communication on websites via pop-up windows is prohibited;
- Every commercial communication must include a minimum information/ content (e.g. reference to the Regulator, age limit, hotlines, etc.). In case of insufficient space to fit all required information, use of pop-up window is possible (however, age restriction will still need to be included in the main communication body).

According to Article 52(2) (on penal sanctions) of the Gambling Law, a marketer can be found liable for advertising games of chance that are carried out by non-licensed entities. Penal sanctions include a minimum two years' imprisonment (up to five years) and a fine ranging from €100,000 to €200,000.

9.2 Alcohol

The advertisement of alcohol should conform to the general principles of advertising laid down under the Consumer Protection Law (see section 1.1 above) and the relevant provisions of Presidential Decree 109/2010 (see section 1.2 above).

According to Article 10(4) of that presidential decree, audiovisual commercial communications for alcoholic beverages must not be aimed specifically at minors and must not encourage immoderate consumption of such beverages.

Furthermore, under Article 22 of the decree, television advertising and teleshopping for alcoholic beverages must comply with the following criteria:

- -it must not be aimed specifically at minors or, in particular, depict minors consuming these beverages;
- -it must not link the consumption of alcohol to enhanced physical performance or to driving;
- -it must not create the impression that the consumption of alcohol contributes towards social or sexual success;
- -it must not claim that alcohol has therapeutic qualities or that it is a stimulant, a sedative or a means of resolving personal conflicts;
- -it must not encourage the immoderate consumption of alcohol or present abstinence or moderation in a negative light; and
- -it must not place emphasis on high alcoholic content as being a positive quality of the beverages.

The sanctions that can be imposed by the Council for Communication Control for breach of the decree include:

- -a warning, with an order to comply;
- -a fine ranging from €14,673.54 to €1,467,354.14; and/or
- -temporary or permanent prohibition to broadcast.

Moreover, the general sanctions for breach of the Consumer Protection Law (as described in section 1.1 above) could also be applicable in this case.

Further to the above legislative framework, the following self-regulation texts apply: the Greek Code of Advertising and Communication (Annex VI); and the Code of Self-Regulation of the Union of Alcoholic Drinks Enterprises (UADE).

The first of these includes an Annex dealing with alcoholic beverages. It is expressly mentioned in the code that all commercial communication relating to alcoholic drinks (which includes promotion, sponsoring, and all media, including the internet) must be in conformity with the provisions of the code, which basically means that a commercial communication relating to alcoholic beverages must:

- -be lawful, decent, truthful, candid and in line with the principles of fair competition and proper commercial practices;

14 Sufficient proof of the legality is the existence of an HGC Decision approving a Commercial Communication Plan of the provider (previously filed for approval by the HGC). Upon the advertiser's request, the provider must promptly provide such approved Commercial Communication Plan to the advertiser. In case of doubt regarding the legality of the provider, the advertiser can file relevant inquiry with the HGC.

- -have a sense of social responsibility and be based on the principles of good faith; and
- -not be immoral or undermine human decency and integrity.

The UADE Code has been signed by the legal representatives of the enterprises that are members of the UADE and has been witnessed by representatives of the Greek Ministry of Health. The basic principles of the UADE Code include:

- -the avoidance of alcohol advertisements addressed to minors;
- -the avoidance of minors' and celebrities' participation in alcohol promotion campaigns;
- -the dissociation of advertisements from any sexual or social and/or professional success;
- -the discouragement of uncontrollable alcohol consumption, especially connected with activities requiring high levels of concentration such as driving; and
- -the prohibition of alcohol advertisements during sports events involving the participation of minors.

Special provisions apply for online commercial communication, e.g. such advertisements should not be placed on online media where at least 70% of the visitors is "reasonably expected" to be over 18 years old.

9.3 Pharmaceuticals

Over and above the general legal framework set by the Consumer Protection Law, there are other regulations affecting medicinal products. The legal framework applying, and the implications for manufacturers, advertisers and consumers, are described below.

In general, medicinal products cannot be advertised before a marketing authorisation has been obtained. Furthermore, all parts of the advertising of a medicinal product must comply with the particulars listed in the summary of product characteristics. In addition, under Legislative Decree 96/1973 on the marketing of pharmaceutical dietary and cosmetic products, advertising is prohibited for medicinal products that are available on medical prescription only, or that contain psychotropic or narcotic substances.

According to Ministerial Decree 22261/2002 on the advertisement of non-prescription medicinal products, and Joint Ministerial Decision 32221/2013 implementing Directive 2001/83/EC on the Community code relating to medicinal products for human use, advertising to the general public of a medicinal product must be set out in such a way that it is clear that the message is an advertisement and that the product is clearly identified as a medicinal product and must contain a minimum amount of information regarding the specific product; more specifically (a) the name of the medicinal product, as well as the common name if the medicinal product contains only one active substance; (b) the information necessary for correct use of the medicinal product; (c) an express, legible invitation to read carefully the instructions on the package leaflet or on the outer packaging, as the case may be.

Moreover, advertising to the general public of a medicinal product should not contain any material that:

- -gives the impression that a medical consultation or surgical operation is unnecessary, in particular by offering a diagnosis or by suggesting treatment by mail;
- -suggests that the effects of taking the medicine are guaranteed, are unaccompanied by adverse reactions or are better than, or equivalent to, those of another treatment or medicinal product;
- -suggests that the health of the subject can be enhanced by taking the medicine;
- -suggests that the health of the subject could be affected by not taking the medicine (this does not apply to vaccination campaigns);
- -is directed exclusively or principally at children;
- -refers to a recommendation by scientists, health professionals or persons who are neither of the foregoing but who, because of their fame, could encourage the consumption of medicinal products;
- -suggests that the medicinal product is a foodstuff, cosmetic or other consumer product;
- -suggests that the safety or efficacy of the medicinal product is due to the fact that it is natural;
- -could, by a description or detailed representation of a case history, lead to erroneous self-diagnosis;
- -refers in improper, alarming or misleading terms to claims of recovery;
- -uses in improper, alarming or misleading terms pictorial representations of changes in the human body caused by disease or injury, or of the action of a medicinal product on the human body or parts thereof; or
- -mentions that the medicinal product has been granted a marketing authorisation.

For the purposes of ensuring that the foregoing regulatory framework is followed by regulated entities, the National Organisation for Medicines may take any necessary action to prohibit an advertisement, impose fines or

other sanctions provided by law (Law 1316/1983 on the creation and competences of the National Organisation for Medicines).

In addition to the above legislative framework, there exists a Code of Practice on the Promotion of Prescription-only Medicinal Products, a self-regulatory code drafted by the Hellenic Association of Pharmaceutical Companies, which is a professional non-profit association of legal entities involved in the manufacture, trade and promotion of medicinal products in Greece. This code of practice sets a framework of rules relating to the promotion of pharmaceutical products for human use, based on professional responsibility, ethics and transparency. It must be highlighted that the code includes a procedure (of first and second degree) for the overseeing of its implementation, and the relevant review committees can impose certain sanctions for non-compliance, which include fines up to €50,000.

9.4 Financial products and services

The advertising of financial products and services is basically addressed by Joint Ministerial Decision Z1-699/2010, implementing EU Directive 2008/48/EC.

According to Article 4 of this decision, any advertising concerning credit agreements which indicates an interest rate or any figures relating to the cost of the credit to the consumer must include standard information, including (among other things) the borrowing rate, the total amount of credit, the annual percentage rate of charge, the total amount payable by the consumer and the amount of the instalments.

Article 20 of the decision, referring to credit intermediaries, imposes an obligation on any such intermediary to indicate, in advertising and documentation intended for consumers, the extent of his powers and in particular whether he works exclusively with one or more creditors or as an independent broker.

Joint Ministerial Decision Z1-699/2010 also refers to the provisions in the Consumer Protection Law relating to unfair trade practices. The provisions in Article 4A of the Consumer Protection Law, on the distance-selling of financial services, refer to the provisions of Article 11 of Law 3471/2006 on electronic communications, as described in detail in section 6 above.

The general sanctions included in the Consumer Protection Law (see section 1.1 above) will apply in cases of breach of the provisions of Joint Ministerial Decision Z1-699/2010.

In addition to the above legislative framework, also applicable is the Code of Banking Ethics, a self-regulatory code prepared by the Hellenic Banking Association, which is a non-profit legal entity of private law representing Greek and foreign credit institutions operating in Greece. The Code of Banking Ethics includes a chapter on the promotion of banking services and outlines the basic rules that should apply to the promotion and marketing of banking products and services, as follows:

- -All bank advertising must be lawful, decent, true and within the limits of fair competition.
- -Uniform banking terminology should be used, if possible, to allow customers to compare similar products or services that are offered by different banks.
 - -Comparative data should be based on accurate facts that can be established and are as complete as good faith and business ethics dictate, in order to provide accurate and objective information to the target public.
 - -Consumers should be encouraged to search for additional information on each product or service advertisement from the credit institution, to make it clear that the advertisement does not include all the information needed.

9.5 Food

Further to the general legal framework set by the Consumer Protection Law, and with regard to food in particular, the main regulatory text applicable is Ministerial Decision 1100/1987 on the Code of Foodstuffs, Beverages and Objects of Common Use (commonly known as 'the Food Code'), which includes general and product-specific provisions. Articles 10 and 11 of that code specifically refer to food advertising and labelling.

Breaches of the advertising provisions of the Food Code will be treated as misleading advertising and the sanctions included in the Consumer Protection Law could be enforced.

Moreover, EU Regulation 1924/2006 is also applicable and provides that nutrition and health claims included in advertisements should not:

- -be false, ambiguous or misleading;
- -give rise to doubt about the safety and/or the nutritional adequacy of other foods;

- -encourage or condone excessive consumption of a food;
- -state, suggest or imply that, in general, a balanced and varied diet cannot provide appropriate quantities of nutrients; or
- -refer to changes in bodily functions which could give rise to or exploit fear in the consumer.

According to Article 10(3) of Presidential Decree 109/2010 (see section 1.2 above) audiovisual commercial communications addressed to minors should not encourage them to excessively consume foods or beverages containing nutrients and substances such as fat, trans-fatty acids, salt/sodium or sugars. Reference should also be made to Annex V of the Greek Code of Advertising and Communication, which specifically refers to food advertising in relation to the protection of minors.

9.6 Tobacco

Further to the general legal framework set by the Consumer Protection Law and the Greek Code of Advertising and Communication, with regard to tobacco products certain additional regulations apply. These are described below.

As a general rule and in accordance with Ministerial Decree 81348/2005, the advertising of tobacco products in printed media and in so-called 'information society' services is not permitted. An exception applies for printed advertising included in publications intended exclusively for professionals in the tobacco trade and in publications that are published in third countries where those publications are not principally intended for the European Community market. Such exception is also extended to online advertising.

That same ministerial decree introduces a total ban on the radio advertising of tobacco, and Law 1730/1987 specifies a total ban on the TV advertising of tobacco. Article 10 of Presidential Decree 109/2010 (see section 1.2 above) provides for a total ban of all forms of audiovisual commercial communications for cigarettes and other tobacco products. Law 3730/2008 prohibits the projection of tobacco product advertising in cinemas.

Moreover, Article 2 of Law 3730/2008 introduces a ban on the outdoor advertising of tobacco, and it also prohibits indoor advertising of tobacco products, including in cinemas, theatres, military units, court rooms, hotels, other accommodation units, trade stores, educational institutions and health institutions. However, certain exceptions apply.

Annex II of the Greek Code of Advertising and Communication deals specifically with tobacco products and introduces best-practice guidelines, including a ban on advertisements for tobacco products on television and radio.

Breach of the provisions of Article 2 of Law 3730/2008 could lead to a fine ranging from €500 to €10,000. Ministerial Decree 81348/2005 provides for penal sanctions for breaches of the tobacco advertising regulations, combining up to six months' imprisonment with fines of up to €29,300. The sanctions imposed by the Council for Communication Control for breach of Presidential Decree 109/2010 include:

- -a warning, with an order to comply;
- -a fine ranging from €14,673.54 to €1,467,354.14; and
- -a temporary or permanent prohibition to broadcast.

9.7 e-Cigarettes and refill containers

Law 4419/2016 has implemented Directive 2014/40/EU of the European Parliament and of the Council (on the manufacture, presentation and sale of tobacco and related products) and regulate inter alia commercial communications of electronic cigarettes and refill containers.

According to Article 18 of Law 4419/2016, commercial communications on the Internet, in the press and in other printed publications with the aim or direct or indirect effect of promoting electronic cigarettes and refill containers are prohibited (exceptions apply); same applies for television and the radio. Also prohibited is any form of public or private contribution to radio and television programmes with the aim or direct or indirect effect of promoting electronic cigarettes and refill containers is prohibited. Audiovisual commercial communications to which the Presidential Decree 109/2010 (implementing Directive 2010/13/EU) applies, are also prohibited for electronic cigarettes and refill containers.