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Nos 561–570

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No 561

Act

amending Chapter 2 of the Consumer Protection Act

Helsinki, 29 August 2008

As per the decision of the Parliament,

Chapter 2 of the Consumer Protection Act of 20 January 1978 (No 38/1978) *shall be amended* as follows:

Chapter 2	Inappropriate conduct shall also be prohibited in customer relations.
Marketing and procedures to be followed in customer relations	Section 2
Section 1	<i>Unfair marketing</i>
<i>Prohibition of unfair marketing and inappropriate practices</i>	Marketing that clearly contradicts generally accepted public morals shall be deemed unfair especially if:
No conduct that is inappropriate or otherwise unfair from the point of view of consumers shall be allowed in marketing.	1) it offends human dignity or a religious or political conviction;

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2) it discriminates on the basis of sex or gender, age, ethnic or national origin, nationality, language, health, disability, sexual orientation or any other personal circumstance; or

3) it endorses activity that is dangerous to health, public safety or the environment without any justifiable reason associated with the marketed goods.

Marketing targeted at underaged persons or marketing that is generally accessible to underaged persons shall be deemed unfair especially if it exploits the inexperience or gullibility of an underaged person, if it is capable of jeopardising the balanced development of an underaged person or if it aims to circumvent the possibility of parents to properly exercise parental guidance relative to their child. Unfairness shall be assessed relative to the age, developmental stage and other circumstances of the underaged persons to whom the marketing measure in question is generally accessible.

Section 3

Inappropriate practices

A practice shall be deemed inappropriate if :

1) it contradicts a generally acceptable commercial practice; and

2) it is capable of clearly impairing a consumer's ability to make an informed purchase decision or another decision relating to a product and of leading a consumer to make a decision that he or she would not have made in the absence of the practice in question.

A practice shall be deemed inappropriate especially if it contradicts Sections 4–14.

If the practice is targeted at a specific group of consumers, the inappropriateness of the practice shall be assessed from the perspective of said consumer group. If the practice is capable of impairing the ability of

consumers who are particularly impressionable due to their age, disability or credulity to make an informed decision in a manner that the trader in question could reasonably be expected to foresee, the inappropriateness of the practice shall be assessed from the perspective of said consumer group.

Section 4

Recognisability of marketing

Marketing must clearly show its commercial purpose and on whose behalf marketing is carried out.

Section 5

Danger of confusion

Comparative advertising or other marketing must not cause confusion between the trade marks, trade names or other distinguishing marks or goods of the trader in question and a competitor of the same, if this confusion is capable of leading a consumer to make a purchase decision or another decision relating to a product that he or she would not have made in the absence of the marketing practice in question.

Section 6

False or misleading information

A marketing or customer relations practice shall be deemed misleading if it is capable of leading a consumer to make a purchase decision or another decision relating to a product that he or she would not have made in the absence of the marketing practice in question.

False or misleading information may not be given, especially as regards :

1) the existence, availability, type, quality, quantity or other fundamental characteristic of the product;

- 2) the origin, the method and date of manufacture, usage and benefits, and the results of tests carried out on a product;
- 3) the price of a product or the manner in which the price is calculated, or the existence of a specific price advantage and payment terms;
- 4) the delivery time of a product and other terms and conditions of delivery;
- 5) the nature of the sales practice, after-sale customer service and complaint handling;
- 6) the need and availability of servicing, repairs and parts;
- 7) the identity, contact details, attributes and status of the trader or the trader's agent, and awards and distinctions of the same;
- 8) the rights and responsibilities of the trader in question, including compliance with commitments contained in codes of conduct that the trader has undertaken to follow; and
- 9) the rights and responsibilities of a consumer and the risks that a consumer may face.

Section 7

Misleading omissions

A marketing or customer relations practice shall be deemed misleading if, in its factual context, it omits essential information that a consumer needs to make an informed purchase decision or another decision relating to a product if this omission is capable of leading a consumer to make a purchase decision or another decision relating to a product that he or she would not have made had sufficient information been available.

The sufficiency of information shall be assessed relative to the clarity, comprehensibility and timeliness of the information, the limitations of the chosen

communication medium, and other action taken by the trader in question to provide consumers with essential information.

Information pertaining to the health and safety of consumers must always be provided.

Section 8

Material information to be disclosed in connection with the provision of specific products

The following information shall be regarded as material in connection with the provision of specific products at a fixed price:

- 1) the main characteristics of a product, to an extent appropriate to the chosen medium and the product in question;
- 2) the name and geographical address of the trader in question and, where applicable, the same information regarding the trader on whose behalf the trader in question is acting as an agent;
- 3) the price inclusive of taxes, or where the nature of the product in question means that the price cannot be reasonably calculated in advance, the manner in which the price is calculated;
- 4) the arrangements for payment, delivery, performance and the complaint handling policy, if they depart from the requirements of professional diligence; and
- 5) the existence of a right of withdrawal or cancellation, where appropriate.

Section 9

Aggressive commercial practices

Aggressive commercial practices must not be employed in marketing or customer relations.

A practice shall be deemed aggressive if, by harassment, coercion or undue influence, it is capable of leading a consumer to make a purchase decision or another decision relating to a product that he or she would not have made in the absence of the practice in question.

The aggressiveness of a practice shall be assessed relative to the following, in particular:

- 1) the timing, location, nature and persistence of the practice in question;
- 2) the use of threatening or abusive language or behaviour;
- 3) the exploitation by the trader in question of any specific misfortune or circumstance of such gravity as to impair a consumer's judgment;
- 4) any onerous barriers imposed by the trader in question where a consumer wishes to exercise rights under the relevant contract or law; and
- 5) any threat to take any action that cannot legally be taken.

Section 10

Supplying products without an order

Products must not be marketed by delivering them to consumers without an express order and by then requiring that consumers pay for said products, return them, safekeep them or take any other action in respect of said products.

Section 11

Advertising discounted prices

Traders must not advertise a discount larger than the amount by which the price of a product has in fact been reduced relative to the price charged previously by said trader.

Section 12

Tying and bundling

If products are offered for sale at a combined price or if when one product is purchased another is offered at a discount or the purchase gives rise to another specific benefit, the following information must be clearly specified in marketing:

- 1) the contents and value of the offer and the individual prices of the products in the package unless the price of each individual product is less than EUR 10; and
- 2) the conditions of the offer and in particular the duration of the offer and any quantitative and other restrictions.

Section 13

Clarity of raffle conditions

If raffles, competitions or games are used in marketing, the terms and conditions of taking part must be clear, unambiguous and easily accessible.

Section 14

Gratuitousness of raffles

Marketing materials must not promise a chance benefit that can only be obtained against a consideration, a purchase or a commitment to purchase.

The provisions of the first paragraph shall not apply to conventional competitions organised for leisure through newspapers or magazines.

Section 15

More detailed provisions

More detailed provisions can be issued by Government Decree on the following:

1) attaching labels and instructions for use to products and including other information on the quality, properties and use of products in marketing;

2) disclosing the price of products in marketing; and

3) the transposition of Annex 1 to Directive 2005/29/EC of the European Parliament and of the Council concerning unfair business-to-consumer commercial practices in the internal market.

Section 16

Prohibitions

If deemed necessary in order to protect the rights of consumers, a trader may be prohibited from continuing or repeating the use of any practice that violates the provisions of this chapter or any decrees issued on the basis of the same, or a practice comparable to the same. Prohibitions shall be reinforced by a penalty unless this is deemed unnecessary for special reasons.

If a particular reason for this exists, prohibitions may also be imposed on a person employed by a trader as per the first paragraph or on an agent of the same.

Section 17

Imposing prohibitions

Prohibitions under Section 16 shall be imposed by the Market Court. The Market Court may also impose temporary prohibitions, which remain in force until the matter has been resolved.

The Consumer Ombudsman may impose prohibitions under Section 16 or temporary prohibitions under Section 6 of the Consumer Agency Act (No 1056/1998).

Section 18

Prohibitions imposed by State Provincial Offices

State Provincial Offices may impose prohibitions under Section 16 in matters involving practices that are in violation of the provisions governing the disclosure of the price of a property or a product, if the illegality of the practice is manifest and the practice of compliance with said provisions has been established in similar cases. Decisions of the State Provincial Offices are not open to appeal.

Traders may lodge appeals against prohibitions imposed under the first paragraph with the Market Court within fourteen days of being informed of the decision. After this time, the decision becomes final.

The State Provincial Offices may reinforce prohibitions by a penalty. The level of penalties to be paid shall be determined by the Market Court.

State Provincial Offices must reserve traders an opportunity to be heard before imposing prohibitions under the first paragraph.

State Provincial Offices must issue written decisions of any prohibitions imposed under the first paragraph and ensure that the interested parties are informed of said decisions.

Section 19

Rectifying violations

Upon imposing prohibitions under Section 16, the Market Court may order the trader on whom the prohibition is imposed or the trader who commissioned or carried out the illegal marketing practice to rectify the violation by a set deadline if the practice is deemed to cause obvious harm to consumers. The order may be reinforced by a penalty.

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Section 20

Supervision

The Consumer Ombudsman is responsible for supervising marketing and customer relations practices as regards consumer protection.

The Consumer Ombudsman and the State Provincial Offices are responsible for

supervising the disclosure of prices of products in marketing materials.

The Market Court and proceedings in the same are governed by the Act on the Market Court (No 1527/2001) and the Act on Certain Proceedings before the Market Court (No 1528/2001).

This act shall take effect on 1 October 2008.

Helsinki, 29 August 2008

President of the Republic

TARJA HALONEN

Tuija Brax, Minister of Justice

No 562

Act

amending the Unfair Business Practices Act

Helsinki, 29 August 2008

As per the decision of the Parliament,

the third paragraph of Section 2 of the Unfair Business Practices Act of 22 December 1978 (No 1061/1978) as it appears in the amended act No 1073/2000 *shall be repealed*, and a new section, 2 a, *shall be added* as follows:

Section 2 a

Any marketing practice that directly or indirectly identifies a competitor or a product marketed by a competitor (*comparative advertising*) shall be deemed permissible, as far as the comparison is concerned, when the following conditions are met:

- 1) it is not false or misleading;
- 2) it compares products meeting the same needs or intended for the same purpose;
- 3) it objectively compares one or more material, relevant, verifiable and representative features of the products in question, which may include price;
- 4) it does not create confusion between the advertiser and a competitor or between the advertiser's trade marks, trade names, other distinguishing marks or goods and those of a competitor;
- 5) it does not discredit or denigrate the trade marks, trade names, other distinguishing

marks, goods, activities or circumstances of a competitor;

6) 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; and

7) it does not present goods as imitations or replicas of goods bearing a protected trade mark.

Furthermore, any comparative advertising of special offers must clearly indicate the duration of the offer and, if the offer is valid only while stocks last, an indication of the same.

As regards aspects other than the comparison, comparative advertising shall be governed by the provisions on advertising and other marketing found elsewhere in legislation.

This act shall take effect on 1 October 2008.

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No 562

Helsinki, 29 August 2008

President of the Republic
TARJA HALONEN

Tuija Brax, Minister of Justice

No 563**Act****amending Section 125 of the Act on Credit Institutions**

Helsinki, 29 August 2008

As per the decision of the Parliament,

Section 125 of the Act on Credit Institutions of 9 February 2007 (No 121/2007) *shall be amended* as follows:

Section 125*Marketing*

Any marketing by credit institutions must provide customers with all the information that may be necessary for the customer to make decisions concerning the marketed goods.

Credit institutions must not include false or misleading information in their marketing or use practices that are otherwise

inappropriate or unfair. Practices that are inappropriate or unfair to consumers are also governed by Chapter 2 of the Consumer Protection Act (No 38/1978).

Any marketing that omits information that is necessary for the financial future of customers shall always be deemed inappropriate.

This act shall take effect on 1 October 2008.

Helsinki, 29 August 2008

President of the Republic**TARJA HALONEN***Tuija Brax*, Minister of Justice

Government proposal No 32/2008

Report by the Government's Finance Committee No 11/2008

Parliament's response No 67/2008

Directive 2005/29/EC of the European Parliament and of the Council (305L0029); OJEC L 149 of 11 June 2005, p. 22

No 564

Act

amending the Securities Markets Act

Helsinki, 29 August 2008

As per the decision of the Parliament,

Section 1 of Chapter 2, Section 36 of Chapter 3, Section 10 of Chapter 3 a and Section 1 of Chapter 4 of the Securities Markets Act of 26 May 19 89 (No 495/1989) *shall be incorporated* as they are into Section 1 of Chapter 2 of Act No 522/1998, and Section 36 of Chapter 3, Section 10 of Chapter 3 a and Section 1 of Chapter 4 *shall be amended* in Act No 923/2007 as follows:

Chapter 2

Marketing and issuance of securities, and duty of disclosure*Marketing securities*

Section 1

Securities shall not be marketed or acquired in business by giving false or misleading information or by using a practice that is inappropriate or otherwise unfair. Practices that are inappropriate or unfair to consumers are also governed by Chapter 2 of the Consumer Protection Act (No 38/1978).

Any information that is found to be false or misleading under the first paragraph retrospectively insofar as this information may be of material importance to investors shall be corrected or supplemented in an appropriate manner without delay.

Chapter 3

Public trading

Section 36

Marketing of public trading

The public trading of securities shall not be marketed by giving false or misleading

information or by using a practice that is inappropriate or otherwise unfair. Practices that are inappropriate or unfair to consumers are also governed by Chapter 2 of the Consumer Protection Act.

Chapter 3 a

Multilateral trading

Section 10

Marketing of trading

Multilateral trading shall not be marketed by giving false or misleading information or by using a practice that is inappropriate or otherwise unfair. Practices that are inappropriate or unfair to consumers are also governed by Chapter 2 of the Consumer Protection Act.

Chapter 4

Securities trading and provision of investment services

Section 1

Fair practice in securities trading and the provision of investment services

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Directive 2005/29/EC of the European Parliament and of the Council (305L0029); OJEC L 149 of 11 June 2005, p. 22

Unfair or otherwise inappropriate practices may not be employed in securities trading or in the provision of investment services and associated services. Practices that are inappropriate or unfair to consumers are also governed by Chapter 2 of the Consumer Protection Act.

Investment services and associated services may not be marketed by giving false or misleading information. Marketing must clearly show its commercial purpose.

The Financial Supervision Authority shall issue further provisions necessary for the implementation of Commission Directive

2006/73/EC implementing Directive 2004/39/EC of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive, hereinafter *Commission Directive*, on the charges and other benefits paid to and payable by a third party in connection with the provision of investment services and associated services as well as on requirements set on the information to be given to a customer.

This act shall take effect on 1 October 2008.

Helsinki, 29 August 2008

President of the Republic

TARJA HALONEN

Tuija Brax, Minister of Justice

No 565

Act

amending Section 31(1) of the Insurance Companies Act

Helsinki, 29 August 2008

As per the decision of the Parliament,

Section 1 of Chapter 31 of the Insurance Companies Act of 18 July 2008 (No 521/2008) *shall be amended* as follows:

Chapter 31

**Other provisions governing the activities
of insurance companies**

Marketing, representation and agency

Section 1

Marketing insurance companies

Any marketing by insurance companies must provide customers with all the information that may be necessary for the customer to make decisions concerning the marketed goods.

Insurance companies must not include false or misleading information in their marketing

or use practices that are otherwise inappropriate or unfair. Practices that are inappropriate or unfair to consumers are also governed by Chapter 2 of the Consumer Protection Act (No 38/1978).

Any marketing that omits information that is necessary for the financial future of customers shall always be deemed inappropriate.

The information that insurance companies must disclose to insurance applicants before concluding the contract shall be governed by separate provisions.

This act shall take effect on 1 October 2008.

Helsinki, 29 August 2008

President of the Republic

TARJA HALONEN

Tuija Brax, Minister of Justice

No 566

Act**amending Section 22 of the Act on Insurance Mediation**

Helsinki, 29 August 2008

As per the decision of the Parliament,
Section 22 of the Act on Insurance Mediation of 15 July 2005 (No 570/2005) *shall be amended* as follows:

Section 22

Marketing

Any marketing by insurance intermediaries must provide customers with all the information that may be necessary for the customer to make decisions concerning the insurance mediation service and the available insurance policies .

Insurance intermediaries must not include false or misleading information in their marketing or use inappropriate insurance or insurance brokerage practices or practices that are otherwise unfair to customers. Practices that are inappropriate or unfair to consumers are also governed by Chapter 2 of the Consumer Protection Act (No 38/1978).

Any marketing that omits information that is necessary for the financial future of

customers shall always be deemed inappropriate.

Any marketing by insurance intermediaries must specify the name(s) of the insurance provider(s) whose products he/she represents. Insurance intermediaries must not present themselves as representatives of a specific insurance provider.

Without prejudice to the fourth paragraph, insurance intermediaries registered in another Member State of the European Economic Area than Finland must, where necessary, disclose the name of any provider whose products he/she represents exclusively in order to provide a clear picture of the insurance mediation services that he/she provides and to establish whether the intermediary has provided information on the basis of an unprejudiced analysis as per the second paragraph of Section 25.

This act shall take effect on 1 October 2008.

Helsinki, 29 August 2008

President of the Republic**TARJA HALONEN***Tuija Brax, Minister of Justice*

Government proposal No 32/2008

Report by the Government's Finance Committee No 11/2008

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Directive 2005/29/EC of the European Parliament and of the Council (305L0029); OJEC L 149 of 11 June 2005, p. 22

No 567

Act

amending Section 4 of the Act on Estate Agents and Lettings Agencies

Helsinki, 29 August 2008

As per the decision of the Parliament,
Section 4 of the Act on Estate Agents and Lettings Agencies of 15 December 2000
(No 1075/2000) *shall be amended* as follows:

Section 4 <i>Fair estate agency practice</i>	unfair to consumers are also governed by Chapter 2 of the Consumer Protection Act (No 38/1978).
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Estate agents must follow fair estate agency
practices. Practices that are inappropriate or

This act shall take effect on 1 October 2008.

Helsinki, 29 August 2008

President of the Republic

TARJA HALONEN

Tuija Brax, Minister of Justice

No 568

Act

amending Section 4 of the Debt Collection Act

Helsinki, 29 August 2008

As per the decision of the Parliament,
Section 4 of the Debt Collection Act of 22 April 1999 (No 513/1999) *shall be amended* as follows:

Section 4

Fair debt collecting practice

Debt collectors must not employ debt collection practices that are inappropriate or otherwise unfair to debtors. Practices that are inappropriate or unfair to consumers are also governed by Chapter 2 of the Consumer Protection Act (No 38/1978).

Debt collectors shall not:

- 1) give false or misleading information on the consequences of non-payment;
 - 2) cause unreasonable or unnecessary costs or unnecessary harm to debtors; or
 - 3) endanger debtors' right to privacy.
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This act shall take effect on 1 October 2008.

Helsinki, 29 August 2008

President of the Republic

TARJA HALONEN

Tuija Brax, Minister of Justice

Government proposal No 32/2008

Report by the Government's Finance Committee No 11/2008

Parliament's response No 67/2008

Directive 2005/29/EC of the European Parliament and of the Council (305L0029); OJEC L 149 of 11 June 2005, p. 22

Act**amending Section 5 of the Advocates Act**

Helsinki, 29 August 2008

As per the decision of the Parliament,

Section 5 of the Advocates Act of 12 December 1958 (No 496/1958) *shall be incorporated* as it is into Act No 31/1993 as follows:

Section 5

An advocate shall honestly and conscientiously fulfil the tasks entrusted to him/her, and he/she shall at all times observe the rules of proper professional conduct for advocates. Practices that are inappropriate or unfair to consumers are also governed by Chapter 2 of the Consumer Protection Act (No 38/1978).

The practice of advocacy in a company is not allowed, except with another advocate, unless the Board of the Bar Association grants a permit based upon specific grounds. The practice of advocacy in the form of a limited liability company is allowed only by a permit granted by the Board of the Bar Association and upon the specific conditions set forth therein. The by-laws of such a limited company may be amended only if a similar permit has been obtained. A shareholder of such a company shall be liable for all the obligations emanating from a mandate jointly and severally with the

company. If a mandate is handled by someone who is not an advocate/shareholder, or if it is not known who is responsible for the mandate, every advocate/shareholder shall be jointly and severally with the company responsible for an obligation that has emanated while he/she held such a position in the company. An advocate is not allowed to practice law abroad, outside the Member States of the European Economic Area, without the permission of the Board of the Bar Association.

An advocate must keep any funds and other assets of his/her clients separate from his/her own assets.

The obligation of an advocate to assist or represent someone in a trial, if ordered by a court of law, shall be governed by separate provisions.

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This act shall take effect on 1 October 2008.

Helsinki, 29 August 2008

President of the Republic

TARJA HALONEN

Tuija Brax, Minister of Justice

Government proposal No 32/2008

Report by the Government's Finance Committee No 11/2008

Parliament's response No 67/2008

Directive 2005/29/EC of the European Parliament and of the Council (305L0029); OJEC L 149 of 11 June 2005, p. 22