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No 1189

Cross-Border Injunctions Act

Helsinki, 21 December 2000

By decision of Parliament, the following is hereby enacted:

Section 1

Scope

This Act prescribes:

- 1) the right of foreign authorities and organisations to bring actions for injunctions under Directive 98/27/EC of the European Parliament and of the Council on injunctions for the protection of consumers' interests, hereinafter referred to as the *Injunctions Directive*, if an activity originating in Finland is in infringement of the Directives listed in paragraph 2, as transposed in the national law applicable,
- 2) the right of Finnish authorities and associations to bring actions for injunctions in another State in the European Economic Area, hereinafter referred to as an EEA State, if an activity originating in the State in question is in infringement of the Directives listed in paragraph 2, as transposed in the national law applicable.

The Directives referred to in paragraph 1 are:

- 1) Council Directive 84/450/EEC relating to the approximation of the laws, regulations and administrative provisions of the Member States concerning misleading advertising,
- 2) Council Directive 85/577/EEC to protect the consumer in respect of contracts negotiated away from business premises,
- 3) Council Directive 87/102/EEC for the approximation of the laws, regulations and administrative provisions of the Member States concerning consumer credit,
- 4) Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities, Articles 10-21,
- 5) Council Directive 92/28/EEC on package travel, package holidays and package tours,
- 6) Council Directive 92/28/EEC on the advertising of medicinal products for human use,
- 7) Council Directive 93/13/EEC on unfair terms in consumer contracts,
- 8) Directive 94/47/EC of the European Parliament and of the Council on the protection of purchases in respect of certain aspects of contracts relating to the purchase of the right to use immovable properties on a timeshare basis,

- 9) Directive 97/7/EC of the European Parliament and of the Council on the protection of consumers in respect of distance contracts,
- 10) Directive 99/44/EC of the European Parliament and of the Council on certain aspects of the sale of consumer goods and associated guarantees,
- 11) Directive 2000/31/EC of the European Parliament and of the Council on certain legal aspects of information society services, in particular electronic commerce, in the internal market ("Directive on electronic commerce").

Section 2

The right of foreign authorities and organisations to bring actions in Finland

Foreign authorities and organisations, as indicated in the list under Article 4.3 of the Injunctions Directive, are entitled to ask for an activity under Section 1, paragraph 1 (1) to be prohibited if the activity harms the general consumer interests protected by the authority or organisation in question.

The demand referred to in paragraph 1 is handled by the Market Court. A demand relating to prohibition of an activity which is an infringement of Article 14 of the Directive in Section 1, paragraph 2 (4) or the Directive in Section 1, paragraph 1 (6) is, however, handled by the National Agency for Medicines, as laid down in the Medicines Act (395/1987), and prohibition of an activity in infringement of Article 7 of the Directive in Section 1, paragraph (5) is handled by the National Consumer Administration, as laid down in the Package Travel Act (1080/1994).

The consumer ombudsman may represent a foreign authority or organisation when a demand under paragraph 1 is taken to the Market Court.

Section 3

Prohibition and rectification

If it is necessary in order to protect the consumer, the Market Court may, at the request of a foreign authority or organisation, prohibit an operator from continuing or repeating an activity under Section 1, paragraph 1 (1) or prohibit a comparable activity. The prohibition will be combined with a fine unless there are special circumstances which make this unnecessary. The prohibition may, under special circumstances, apply to an employee or other person working for the operator.

The prohibition may also be temporary, in which case the prohibition remains in force until the matter has finally been settled.

In imposing a prohibition, the Market Court may oblige the operator to whom it applies to rectify the illegal procedure, if this is regarded as necessary because of obvious inconvenience to consumers. The injunction may be reinforced by a fine.

The provisions of the Market Court Act (41/1978) apply to such cases.

Section 4

The right to bring an action in another EEA State

The consumer ombudsman, the National Agency for Medicines, the National Product Control Agency for Welfare and Health, the National Consumer Administration, the Telecommunications Administration Centre and the Financial Inspection Authority are entitled, in a case which falls under their jurisdiction to have an activity under Section 1, paragraph 1 (2) prohibited if the activity harms consumer interests which are protected in Finland.

If the consumer ombudsman declines to bring an action in connection with a case within his/her jurisdiction, a Finnish registered association responsible for protecting consumers' interests is entitled to do so.

Section 5

Notification obligation

The Ministry of Justice shall inform the Commission of the European Communities of the authorities and associations under Section 4 and their duties, in accordance with the list laid down in Article 4.3 of the Injunctions Directive.

Section 6

Entry into force

This Act enters into force on 1 January 2001.

President of the Republic

TARJA HALONEN

Minister of Justice Johannes Koskinen

No 1190

Act amending the Market Court Act

Helsinki, 21 December 2000

By decision of Parliament,

Section 1 (9) and (10) (as worded in Act 516/1999), Section 14 (in part in Act 392/1982) and Section 15, paragraph 4 (as worded in Act 707/1993) of the Market Court Act (41/1978) of 20 January 1978 *are amended*,

Section 1 (as worded in Act 516/1995) *is extended*,

a new sub-paragraph (11), a new Section 6 i and a new Section 7 b to replace the present Section 7 b (which is rescinded through Act 458/1997), *are added* as follows:

Section 1

The Market Court, in its capacity as a special court, handles and settles matters which come within its jurisdiction under the following Acts:

- 9) Alcohol Act (1143/1994);
- 10) Collection of Debts Act (513/1999);
- 11) Cross-Border Injunctions Act (1189/2000).

Section 6 i

A case to be dealt with under the Cross-Border Injunctions Act is taken to the Market Court, on application by a foreign authority or organisation.

Section 7 b

The Market Court shall immediately inform the consumer ombudsman, the National Product Control Agency for Welfare and Health, the Telecommunications Administration Centre or the Financial Inspection Authority of applications under Section 6 i concerning matters which come under their respective jurisdictions. The authority which, for information, also receives the application shall be given an opportunity to be heard, as long as this does not unduly delay the case.

Section 14

A person who is heard as a witness or expert in a case under Section 6 and 6 i shall be paid by the State in accordance with the rules laid down in the State Compensation to Witnesses Act (666/1972).

In its decision the Market Court may instruct a party other than the consumer ombudsman or a foreign authority or organisation under Section 6 i to compensate the State for the costs paid by the State under paragraph 1.

Section 15

The parties themselves are responsible for legal costs in cases under Section 6 and 6 i taken to the Market Court.

This Act enters into force on 1 January 2001.

President of the Republic
TARJA HALONEN

Minister of Justice Johannes Koskinen

No 1191

Act

amending the Medicines Act

Helsinki, 21 December 2000

By decision of Parliament

new Sections 93a and 93b *are added* to the Medicines Act (395/1997) of 10 April 1987 as follows:

Section 93a

The National Agency for Medicines may also take measures under Section 93, paragraphs 1 and 2, at the request of a foreign authority or organisation under Section 2 of the Cross-Border Injunctions Act (1189/2000), if an activity originating in Finland is in infringement of the provisions of Council Directive 92/28/EEC on the advertising of medicinal products for human use or Article 14 of Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities, as transposed in the national law applicable

A fine to reinforce a prohibition under paragraph 1 is imposed by the provincial government on application by the National Agency for Medicines or a foreign authority or organisation.

Section 93b

The Cross-Border Injunctions Act governs the right of the National Agency for Medicines to bring actions for injunctions in another State in the European Economic Area.

This Act enters into force on 1 January 2001.

Helsinki, 21 December 2000

President of the Republic
TARJA HALONEN

Minister of Justice Johannes Koskinen

No 1192

Package Tours Operators Act

Helsinki, 21 December 2000

By decision of Parliament,
Section 18, paragraph 1 of the Package Tour Operators Act (1080/1994) of 28 November 1994 *is rescinded* and
new Sections 14a and 14b *are added* to the Act as follows:

Section 14a

Enforcement in certain cross-border cases

The National Consumer Administration may also take the measures indicated in Section 14, on application by a foreign authority or organisation under Section 2 of the Cross-Border Injunctions Act (1189/2000) if an activity originating in Finland is in infringement of the Article 7 of Council Directive 90/314/EEC, on package travel, package holidays and package tours, as transposed in the national law applicable.

Section 14b

Bringing actions abroad

The Cross-Border Injunctions Act governs the right of the National Consumer Administration to bring actions for injunctions in another State in the European Economic Area.

This Act enters into force on 1 January 2001.

Helsinki, 21 December 2000

President of the Republic
TARJA HALONEN

Minister of Justice *Johannes Koskinen*