

The Unfair Business-To-Consumer Commercial Practices Law of 2007 is promulgated by publication in the Government Gazette of the Republic of Cyprus in accordance with Article 52 of the Constitution.

Law 103(I) of 2007

THE UNFAIR BUSINESS-TO-CONSUMER COMMERCIAL PRACTICES LAW

Preamble
Official journal
of the European
Communities L
149, 11.6.2005,
p. 22

For the purposes of harmonisation with the legislation of the European Community entitled:
Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council (Unfair commercial practices directive)

The House of Representatives hereby enacts the following provisions:

PART I – INTRODUCTORY PROVISIONS

Short title 1. This act shall be cited as the Second General System for the Unfair Business-To-Consumer Commercial Practices Law of 2007.

Interpretation 2. In this Law, save where the text stipulates otherwise:

Transactional decision means any decision taken by a consumer concerning whether, how and on what terms to purchase, make payment in whole or in part for, retain or dispose of a product or to exercise a contractual right in relation to the product, whether the consumer decides to act or to refrain from acting;

Republic means the Republic of Cyprus;

Court means the court with competent jurisdiction;

Trader means any natural or legal person who, in commercial practices covered by this Law, is acting for purposes relating to his trade, business, craft or profession and anyone acting in the name of or on behalf of a trader;

Commercial practice means any act, omission, course of conduct or representation, commercial communication including advertising and marketing, by a trader, directly connected with the promotion, sale or supply of a product to consumers;

Authorised Service means the Director of the Competition and Consumer Protection Service of the Ministry of Commerce, Industry and Tourism and any officer of that Service authorised in writing by the Director to act on his behalf;

Professional diligence means the standard of special skill and care which a trader may reasonably be expected to exercise towards consumers, commensurate with honest market practice and/or the general principle of good faith in the trader's field of activity;

Code owner means any entity, including a trader or group of traders, which is responsible for the formulation and revision of a code of conduct and/or for monitoring compliance with the code by those who have undertaken to be bound by it;

Consumer means any natural person who, in commercial practices covered by this Law, is acting for purposes which are outside his trade, business, craft or profession;

Undue influence means exploiting a position of power in relation to the consumer so as to apply pressure, even without using or threatening to use physical force, in a way which significantly limits the consumer's ability to make an informed decision;

Member State means a Member State of the European Union including the Member States of the European Economic Area;

Code of conduct means an agreement or set of rules not imposed by law, regulation or administrative provision of a Member State which defines the behaviour of traders who undertake to be bound by the code in relation to one or more particular commercial practices or business sectors;

Member of Authorised Service means all members of the Competition and Consumer Protection Service of the Ministry of Commerce, Industry and Tourism;

Average consumer means a consumer who is reasonably well-informed and reasonably observant and circumspect, taking into account social, cultural and linguistic factors, as well as characteristics of consumers which make them particularly vulnerable to unfair commercial practices;

Regulated profession means a professional activity or a group of professional activities, access to which or the pursuit of which, or one of the modes of pursuing which, is conditional, directly or indirectly, upon possession of specific professional qualifications, pursuant to laws, regulations or administrative provisions;

Material distortion of the economic behaviour of consumers means use of a commercial practice to appreciably impair the consumer's ability to make an informed decision, thereby causing the consumer to take a transactional decision that he would not have taken otherwise;

Directive 2005/29/EC means Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Directive 84/450/EEC, Directive 97/7/EC Directive

98/27/EC, and Directive 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council, as this may be from time to time amended.

Product means any goods or service including immovable property, rights and obligations;

Invitation to purchase means a commercial communication which indicates characteristics of the product and the price in a way appropriate to the means of the commercial communication used and thereby enables the consumer to make a purchase;

Person means a natural person and/or legal entity;

European Economic Area Agreement means the European Economic Area Agreement signed in Porto on 2 May 1992 and adjusted by Protocol signed in Brussels on 17 March 1993 and that Agreement as amended therein after;

Minister means the Minister of Commerce, Industry and Tourism.

Scope

3.-(1) This Law shall apply to unfair business-to-consumer commercial practices, as laid down in Article 4 hereof, before, during and after a commercial transaction in relation to a specific product.

(2) This Law shall apply without prejudice to contract law and, in particular, to the rules on the validity, formation or effect of a contract.

(3) This Law shall apply without prejudice to Community or national rules relating to the health and safety aspects of products.

(4) In the case of conflict between the provisions of this Law and other laws regulating specific aspects of unfair commercial practices, the latter shall prevail and apply to those specific aspects.

(5) This law shall apply without prejudice to any conditions of establishment or of authorisation regimes, or to the deontological codes of conduct or other specific rules governing regulated professions in order to uphold high standards of integrity on the part of the professional, imposed in conformity with Community law, on professionals.

(6) This Law shall not apply to matters relating to the certification and indication of the standard of fineness of articles of precious metal.

PART II – UNFAIR COMMERCIAL PRACTICES

Prohibition of unfair commercial practices

4.-(1) Unfair commercial practices shall be prohibited.

(2) A commercial practice shall be unfair if:

(a) it is contrary to the requirements of professional diligence and

(b) it materially distorts or is likely to materially distort the economic behaviour with regard to the product of the average consumer whom it reaches or to whom it is addressed, or of the average member of the group when a commercial practice is directed to a particular group of consumers, and/or

(c) it is misleading as set out in Articles 5 and 6 and/or

(d) it is aggressive as set out in Articles 7 and 8.

Commercial practices which are likely to materially distort the economic behaviour only of a clearly identifiable group of consumers who are particularly vulnerable to the practice or the underlying product because of their mental or physical infirmity, age or credulity in a way which the trader could reasonably be expected to foresee, shall be assessed from the perspective of the average member of that group:

provided however that shall apply without prejudice to the common and legitimate advertising practice of making exaggerated statements or statements which are not meant to be taken literally.

(4) Annex I contains the list of those commercial practices which shall in all circumstances be regarded as unfair.

Annex I

PART III – MISLEADING COMMERCIAL PRACTICES

Misleading practices

5.-(1) A commercial practice shall be regarded as misleading when it contains false information and is therefore untruthful or when, in any way, including overall presentation, deceives or is likely to deceive the average consumer, in relation to one or more of the elements cited in indent (2), even if the information is factually correct, and in either case causes or is likely to cause him to take a transactional decision that he would not have taken otherwise.

(2) The elements referred to in indent (1) relate to:

(a) The existence or nature of the product;

(b) The main characteristics of the product, such as its availability, benefits, risks, execution, composition, accessories, after-sale assistance to consumers and complaint handling, method and date of manufacture or provision, delivery, fitness for purpose, usage, quantity, specification, geographical or commercial origin or the results to be expected from its use, or the results and material features of tests or checks carried out on the product;

(c) the extent of the trader's commitments, the motives for the commercial practice and the nature of the sales process, any statement or symbol in relation to direct or indirect sponsorship or approval of the trader or the product;

(d) the price or the manner in which the price is calculated, or the

existence of a specific price advantage;

(e) the need for a service, part, replacement or repair;

(f) the nature, attributes and rights of the trader or his agent, such as his identity and assets, his qualifications, status, approval, affiliation or connection and ownership of industrial, commercial or intellectual property rights or his awards and distinctions;

(g) the consumer's rights, including the right to replacement or reimbursement under the Certain Aspects of Sale of Consumer Goods and Associated Guarantees Law or the risks the consumer may face.

7(l) of 2000

(3) A commercial practice shall also be regarded as misleading if, in its factual context, taking account of all its features and circumstances, it causes or is likely to cause the average consumer to take a transactional decision that he would not have taken otherwise, and it involves:

(a) Any marketing of a product, including comparative advertising, which creates confusion with any products, trade marks, trade names or other distinguishing marks of a competitor;

(b) Non-compliance by the trader with commitments contained in codes of conduct by which the trader has undertaken to be bound, where:

(i) The commitment is not aspirational but is firm and is capable of being verified and

(ii) The trader indicates in a commercial practice that he is bound by the code.

Misleading omissions

6.-(1) A commercial practice shall be regarded as misleading if, in its factual context, taking account of all its features and circumstances and the limitations of the communication medium, it omits material information that the average consumer needs, according to the context, to take an informed transactional decision and thereby causes or is likely to cause the average consumer to take a transactional decision that he would not have taken otherwise.

(2) It shall also be regarded as a misleading omission when, taking account of the matters described in indent (1), a trader hides or provides in an unclear, unintelligible, ambiguous or untimely manner such material information as referred to in that indent or fails to identify the commercial intent of the commercial practice if not already apparent from the context, and where, in either case, this causes or is likely to cause the average consumer to take a transactional decision that he would not have taken otherwise.

(3) Where the medium used to communicate the commercial

practice imposes limitations of space or time, these limitations and any measures taken by the trader to make the information available to consumers by other means shall be taken into account in deciding whether information has been omitted.

(4) In the case of an invitation to purchase, the following information shall be regarded as material, if not already apparent from the context:

(a) The main characteristics of the product, to an extent appropriate to the medium and the product;

(b) The geographical address and the identity of the trader, such as his trading name and, where applicable, the geographical address and the identity of the trader on whose behalf he is acting;

(c) The price inclusive of taxes, or where the nature of the product means that the price cannot reasonably be calculated in advance, the manner in which the price is calculated, as well as, where appropriate, all additional freight, delivery or postal charges or, where these charges cannot reasonably be calculated in advance, the fact that such additional charges may be payable;

(d) The arrangements for payment, delivery, performance and the complaint handling policy, if they depart from the requirements of professional diligence;

(e) For products and transactions involving a right of withdrawal or cancellation, the existence of such a right.

Annex II (5) Information requirements in relation to commercial communication including advertising or marketing, a non-exhaustive list of which is contained in Annex II, shall be regarded as material.

PART IV – AGGRESSIVE COMMERCIAL PRACTICES

Aggressive commercial practices

7. A commercial practice shall be regarded as aggressive if, in its factual context, taking account of all its features and circumstances, by harassment, coercion, including the use of physical force, or undue influence, it significantly impairs or is likely to significantly impair the average consumer's freedom of choice or conduct with regard to the product and thereby causes him or is likely to cause him to take a transactional decision that he would not have taken otherwise.

Use of harassment, coercion and undue influence

8. In determining whether a commercial practice uses harassment, coercion, including the use of physical force, or undue influence, account shall be taken of:

(a) Its timing, location, nature or persistence;

(b) The use of threatening or abusive language or behaviour;

(c) The exploitation by the trader of any specific misfortune or circumstance of such gravity as to impair the consumer's

judgement, of which the trader is aware, to influence the consumer's decision with regard to the product;

(d) Any onerous or disproportionate non-contractual barriers imposed by the trader where a consumer wishes to exercise rights under the contract, including rights to terminate a contract or to switch to another product or another trader;

(e) Any threat to take any action that cannot legally be taken.

PART V: DUTIES – COMPETENCES AND POWERS OF THE AUTHORISED AGENCY

Powers of
Authorised
Service
to
investigate
and
inspect

9.-(1) The Authorised Service and each member thereof shall have the following powers for the purpose of implementing the provisions of this Law:

(a) To enter, inspect, investigate and carry out checks at any premises or other place where he has reasonable grounds for believing that there is a breach of this Law or failure to comply with it;

(a) To intercept, inspect, investigate and carry out checks on any means of land, sea or air transport where he has reasonable grounds for believing that there is a breach of this Law or failure to comply with it;

(c) To examine any data entered in a mechanical, electrical or electronic data system and any books and records at premises or other place or on a means of transport where he has reasonable grounds for believing they/it contain any information or entries concerning possible breaches and to obtain copies, photocopies and extracts thereof, provided however that in the case of extracts that he has reasonable grounds for believing that the extracts will be needed as evidence of any breach of this law or failure to comply with it;

(d) To enter any premises or other place or means of transport:
(i) accompanied by any other person whose presence is considered necessary for any purpose in order to exercise the powers under this Article;
(ii) accompanied by any equipment or materials considered necessary for any purpose in order to exercise the powers under this Article;
(iii) to take samples of products which are considered necessary for any purpose in order to exercise the powers under this Article.

(2) Notwithstanding indent (1), entry to a home, or exercise of any other power granted under indent (1) at a home is not permitted without a court warrant.

(3) The owner and manager of any premises, other place or means of transport and the owner of any product being investigated for breach and the person offering or providing a service being investigated for breach and any person employed at the premises,

other place or means of transport entered by a member of the Authorised Service under indent (1) shall each be obliged to provide the member of the Authorised Service with any information held by them and all assistance which the member of the Authorised Service may reasonably request and the member of the Authorised Service shall be empowered to require and receive any such information and assistance.

(4) Each member of the Authorised Service shall be obliged to present, where requested before or during exercise of any powers granted under this Article, a certificate proving his office.

(5) In the case where, under this Article, a member of the Authorised Service:

(a) takes a sample of a product and/or

(b) takes a copy, photocopy or extract of data, books or entries and/or

(c) withholds or impounds a means of transport or products or part thereof

he shall inform the person whose interests are affected by the said act or decision, or the person who at the time the items referred to in paragraphs (a), (b) and (c) are impounded or held who is responsible for the premises or means of transport, and in the case cited in paragraph (c), the member of the Authorised Service shall also inform the said person in writing or using other suitable means under the circumstances as soon as practicable about the reasoning underlying the said act or decision.

(6) In the case cited in indent (5)(c) the member of the Authorised Service shall also inform the person cited in the same indent:

(a) of the right of that person to challenge the act or decision by appealing to the Minister in accordance with the provisions of Article 12(2), and

(b) the deadline within which the said right may be exercised, which is laid down in the same indent of Article 12.

Failure to provide information and hindering members of the Authorised Service

10.-(1) Any person shall be guilty of an offence in the case where:

(a) he conceals, destroys or falsifies information, data, books or entries, or provides a member of the Authorised Service with false, incomplete, inaccurate or misleading information, data, books or entries or refuses to provide a member of the Authorised Service with information, data, books or entries where such information, data, books or entries are required by the member of the Authorised Service while exercising powers granted to him by this law or

(b) moves, changes or interferes in any manner with any means of transport or product which the member of the Authorised Service withheld or impounded under Article 9(5)(c), without permission from the member of the Authorised Service.

(c) fails to comply with an order from the Authorised Service under Article 11(2)(g).

(2) Any person guilty of an offence under indent (1) shall, where convicted, be punished with a fine not exceeding £50 000 or imprisonment of no more than 6 months or both.

(3) Notwithstanding the criminal liability or criminal prosecution of any such person, the Authorised Service may impose an administrative fine in accordance with Article 11(2)(d) on:

(a) The manufacturer or distributor (as appropriate) when the necessary documents or information relating to the specific product are not provided to it within the deadline set or they hinder procedures in any manner or provide false or misleading information;

(b) Any person who deliberately hinders a member of the Authorised Service from implementing the provisions of this Law;

(c) Any person who fails to comply with an order from the Authorised Service under Article 11(2)(g).

(4) Where the breach continues the Authorised Service may impose a fine in accordance with Article 11(2)(e) for each day that the breach continues depending on its seriousness.

Examination of breaches, imposition of administrative fines and issuing prohibitive decrees or direct orders

11.-(1) The Authorised Service shall be obliged to examine and responsible for examining any breaches of the provisions of this Law following complaints submitted or acting on own initiative.

(2) During the investigation of a complaint or investigation on own initiative cited in indent (1), if the Authorised Service ascertains a breach of this Law, it shall be empowered to take the following steps:

(a) to order or recommend that the party concerned, or any person who in its view is involved in or responsible for the breach, or any person who in its view, where an unfair commercial practice has yet to be implemented but where in the reasonable view of the Authorised Service will soon be implemented even if actual loss or damage, or deliberate acts or negligence by the trader are not proven, to terminate the breach within a set deadline and avoid repeating it in the future;

(b) to publish or require the perpetrator to publish its decisions in whole or in part, in the format and the manner it considers suitable;

(c) to require in addition that the perpetrator publish a corrective statement within a set deadline in the format and the manner it considers suitable;

(d) to impose an administrative fine depending on the nature, seriousness and duration of the breach, the level of which shall be up to 5% of the perpetrator's turnover during the year preceding the breach or a fine of up to £150 000; provided however that in relation to a foundation or organisation

deemed not to have turnover, in order to calculate the said administrative fine the basis for calculation shall be 5% of its assets instead of its turnover;

provided further that in relation to an insurance company, the basis for calculating the said administrative fine shall be the value of its gross premiums during the previous year instead of turnover, which includes all monies collected and to be collected under insurance policies which have been collected by the insurance company or on its behalf, including premiums which have been assigned to reinsurers, after the VAT and other tax deduction directly associated with turnover;

and further provided that under no circumstances may the administrative fine exceed £150 000;

(e) to decide in the case where the breach continues to impose an administrative of up to £1 000 for each day that the breach continues, depending on its seriousness;

(f) in a petition to the court lodged in accordance with the provisions of Article 13 of this Law, to request that a prohibitive decree or direct order be issued including, any interim decree, against any person who in its view is involved in the breach or is responsible for the said breach and/or;

(g) to order suppliers of remote media and any persons who published or arrange for the publication of advertisements to terminate, where they are able to do so, those practices which have been declared unfair commercial practices under a court ruling in line with Article 13 of this Law or commercial practices which the Authorised Service has found to be unfair commercial practices.

(3) During the investigation of any breach pursuant to Indent (1), the Authorised Service may, where it considers this necessary, take into account any undertakings made to consumers by the perpetrator in relation to breach and the prospects of how and at what time it can be redressed or removed.

(4) The Authorised Service shall be obliged to provide full reasoning for its decision in relation to the exercise of any powers cited in Article 10(3) and (4) and indent (2)(d) and (e) of this Article.

Imposition of
administrative
fines and
lodging of
appeal

12.-(1) The administrative fines cited in Article 10(3) and (4) and Article 11(2)(d) and (e) shall be imposed on perpetrators by means of reasoned decision of the Authorised Service where it has heard or given an opportunity to the perpetrator concerned or its representative to be heard orally and/or in writing.

(2) An appeal may be lodged to the Minister against the decision imposing a fine in accordance with indent (1) and in the case of Article 9(5)(c), within a deadline of 30 days from notification of the decision to the perpetrator.

(3) The Minister shall examine the appeal and having heard the parties concerned or given them the opportunity to set forth their views and shall decide in accordance with indent (4) of this Article.

(4) The Minister may take one of the following decisions:

- (a) To approve the decision challenged;
- (b) To annul the decision challenged;
- (c) To amend the decision challenged;
- (d) To issue a new decision to replace the one challenged.

(5) The administrative fine shall be collected by the Authorised Service when the deadline for appeal to the Supreme Court of 75 days expires, which begins to run from notification of the decision imposing the administrative fine, or where an appeal is lodged to the Minister in accordance with indent (2) of this Article, from notification of the decision of the Minister on the appeal against the decision of the Authorised Service.

(6) Administrative fines imposed under Articles 10 and 11 shall be collected as cash fines imposed by the court in the exercise of its criminal jurisdiction.

Issuing
decrees

Ch. 6
11 of 1965
161 of 1989
51(I) of 1999
58(I) of 2003
66(I) of 2004
138(I) of 2006
14 of 1960
50 of 1962
11 of 1963
8 of 1969
40 of 1970
58 of 1972
1 of 1980
35 of 1982
29 of 1983
91 of 1983
16 of 1984
51 of 1984
83 of 1984
93 of 1984
18 of 1985
71 of 1985
89 of 1985
96 of 1986
317 of 1987
49 of 1988
64 of 1990
136 of 1991
149 of 1991
237 of 1991
42(I) of 1992
43(I) of 1992
102(I) of 1992
26(I) of 1993

of 13.-(1) The court which hears any petition under Article 11(2)(f) and Article 17 of this Law shall be empowered, without prejudice to the provisions of the Civil Procedure Law, the Courts Law and the Civil Procedure Rules of Procedure and any other laws or regulations which amend or replace them, to issue a prohibitive decree or direct order including any interim decree which may order:

82(I) of 1995
102(I) of 1996
4(I) of 1997
53(I) of 1997
90(I) of 1997
27(I) of 1998
53(I) of 1998
110(I) of 1998
34(I) of 1999
146(I) of 1999
41(I) of 2000
32(I) of 2001
40(I) of 2002
80(I) of 2002
140(I) of 2002
206(I) of 2002
17(I) of 2004
165(I) of 2004
268(I) of 2004
21(I) of 2006

(a) immediate cessation and/or non-repetition of the breach which has occurred;

(b) corrective measures within a deadline set, required in the view of the court to redress the unlawful situation generated by the breach;

(c) publication of all or part of the court ruling, or publication of a corrective notice to remove any ongoing repercussions of the breach and/or

(d) any other measure or action considered necessary or reasonable under the circumstances of the specific case.

(2) The decree issued pursuant to indent (1) may relate not only to specific acts, omissions or conduct of the perpetrator but to similar future acts, omission or conduct thereof as well.

(3) The provisions of the Civil Procedure Law, the Courts Law and the Civil Procedure Rules of Procedure which apply to petitions for the issuing of decrees in civil cases shall apply by analogy in relation to the form, drafting, registration and hearing of the petition specified in Article 11(2)(f).

Service of the decision

14.-(1) Each decision of the Authorised Service or the Minister issued under this law may be served on any person concerned:

(a) by delivery by hand or by leaving the decision at the proper address or dispatch of the decision by registered mail or

(b) if that person is a legal entity, by serving the decision in accordance with paragraph (a) of the secretary or director or nay managing director or

(c) in the case of a general or limited partnership, by serving the document in line with paragraph (a) on one of the partners or a

person who has control of or manages the work of that company.

(2) For the purpose of indent (1) the proper address of any person on whom a decision under this Law may be served is the last known address, excluding the following cases:

(a) In the case of service on a legal entity, or the secretary, director or managing director thereof, the proper address is the address of the register or head offices of the legal entity;

(b) in the case of service on a general or limited partnership, or on a partner or person who has control of or management of that company's business, the proper address is the central offices of that company.

(3) For the purpose of indent (2) the central offices of a legal entity registered outside the Republic or a company which may engage in business outside the Republic shall be its central offices in the Republic.

Administrative
authorities.
Documentation
of claims

15.-(1) When hearing the appeal cited in Article 12, the Minister may:

(a) request that the trader submit within a reasonable deadline under the circumstances proof of the accuracy of the claims which relate to a commercial practice, where that is considered necessary, based on the circumstances of the specific case and taking into account the legitimate interests of the trader and other persons affected, and/or;

(b) consider the claims made inaccurate where the evidence requested in line with paragraph (a) is not submitted in due time or is considered inadequate by the Minister.

Right of appeal
by
organisations

16.-(1) Persons who have a legitimate interest may:

(a) Make a complaint to the Authorised Service about a commercial practice which they reasonably suspect could breach the provisions of this Law;

(b) Lodge a petition to the Court for a decree in line with the provisions of Article 13 in the case where the provisions of this Law are breached.

(2) The following parties have a legitimate interest for the purpose of indent (1):

(a) Consumers directly affected by an unfair commercial practice;

(b) Lawfully established organisations or associations which under law or their Articles of Association have a sufficient legitimate interest to combat unfair commercial practices;

(c) Competitors of the party complained about in respect of whom a

decree is requested.

Power of the Authorised Service to disseminate information.	17. The Authorised Service shall ensure that such information and advice, including decisions relating to the implementation of this Law, apart from information deemed confidential, which it considers useful for consumers or their information and all persons who may be affected by the provisions of this Law are disseminated.
Liability of officers, employees of legal entities	18. When any breach of this law is committed by a legal entity or a person acting on behalf of a legal entity and it is proven that that breach was committed with the consent, abetment or approval or has been facilitated by proven negligence of a director, manager, secretary or any other officer of a legal entity or any other natural person who appears to act in such capacity, that natural person shall also be guilty of the aforementioned breach.
Issuing decrees	19. By means of decrees published in the Government Gazette of the Republic the Minister may amend any Annexes to this Law and regulations issued pursuant to it.
Regulations	20. The Ministerial Council shall be empowered to issued regulations to ensure better implementation of the provisions of this Law.
Entry into force of this law	21. This Law shall enter into effect on 12 December 2007.

ANNEX I
(Article 4(4))

**COMMERCIAL PRACTICES WHICH ARE IN ALL
CIRCUMSTANCES CONSIDERED UNFAIR**

- 1) Claiming to be a signatory to a code of conduct when the trader is not.
- 2) Displaying a trust mark, quality mark or equivalent without having obtained the necessary authorisation.
- 3) Claiming that a code of conduct has an endorsement from a public or other body which it does not have.
- 4) Claiming that a trader (including his commercial practices) or a product has been approved, endorsed or authorised by a public or private body when he/it has not or making such a claim without complying with the terms of the approval, endorsement or authorisation.
- 5) Making an invitation to purchase products at a specified price without disclosing the existence of any reasonable grounds the trader may have for believing that he will not be able to offer for supply or to procure another trader to supply, those products or equivalent products at that price for a period that is, and in quantities that are, reasonable having regard to the product, the scale of advertising of the product and the price offered (bait advertising)
- 6) Making an invitation to purchase products at a specified price and then:
 - (a) refusing to show the advertised item to consumers or
 - (b) refusing to take orders for it or deliver it within a reasonable time
 - (c) demonstrating a defective sample of it, with the intention of promoting a different product (bait and switch).
- 7) Falsely stating that a product will only be available for a very limited time, or that it will only be available on particular terms for a very limited time, in order to elicit an immediate decision and deprive consumers of sufficient opportunity or time to make an informed choice.
- 8) Undertaking to provide after-sales service to consumers with whom the trader has communicated prior to a transaction in a language which is not an official language of the Member State where the trader is located and then making such service available only in another language without clearly disclosing this to the consumer before the consumer is committed to the transaction.
- 9) Stating or otherwise creating the impression that a product can legally be sold when it cannot.
- 10) Presenting rights given to consumers in law as a distinctive

feature of the trader's offer.

11) Using publications in the media paid for by the trader to promote a product without that being made clear by the content of the publication or images or sounds clearly identifiable by the consumer (advertorial) without prejudice to the Radio and Television Station Law.

7(I) of 1998
88(I) of 1998
13(I) of 1999
159(I) of 1999
23(I) of 2000
55(I) of 2000
134(I) of 2000
18(I) of 2001
53(I) of 2001
65(I) of 2001
78(I) of 2001
126(I) of 2001
102(I) of 2002
186(I) of 2002
24(I) of 2003
97(I) of 2004
84(I) of 2006
85(I) of 2006
170(I) of 2006

12) Making a materially inaccurate claim concerning the nature and extent of the risk to the personal security of the consumer or his family if the consumer does not purchase the product.

13) Promoting a product similar to a product made by a particular manufacturer in such a manner as deliberately to mislead the consumer into believing that the product is made by that same manufacturer when it is not.

14) Establishing, operating or promoting a pyramid promotional scheme where a consumer gives consideration for the opportunity to receive compensation that is derived primarily from the introduction of other consumers into the scheme rather than from the sale or consumption of products.

15) Claiming that the trader is about to cease trading or move premises when he is not.

16) Claiming that products are able to facilitate winning in games of chance.

17) Falsely claiming that a product is able to cure illnesses, dysfunction or malformations.

18) Passing on materially inaccurate information on market conditions or on the possibility of finding the product with the intention of inducing the consumer to acquire the product at conditions less favourable than normal market conditions.

19) Claiming in a commercial practice to offer a competition or prize promotion without awarding the prizes described or a reasonable

equivalent.

20) Describing a product as "gratis", "free", "without charge" or similar if the consumer has to pay anything other than the unavoidable cost of responding to the commercial practice and collecting or paying for delivery of the item.

21) Including in marketing material an invoice or similar document seeking payment which gives the consumer the impression that he has already ordered the marketed product when he has not.

22) Falsely claiming or creating the impression that the trader is not acting for purposes relating to his trade, business, craft or profession, or falsely representing oneself as a consumer.

23) Creating the false impression that after-sales service in relation to a product is available in a Member State other than the one in which the product is sold

B. AGGRESSIVE COMMERCIAL PRACTICES

24) Creating the impression that the consumer cannot leave the premises until a contract is formed.

Ch. 149
22(I) of 1995

25) Conducting personal visits to the consumer's home ignoring the consumer's request to leave or not to return except in circumstances and to the extent justified, under national law, to enforce a contractual obligation.

14(I) of 2000
237(I) of 2004
98(I) of 2007
37(I) of 2003
112(I) of 2004
84(I) of 2005
149(I) of 2005
67(I) of 2006

26) Making persistent and unwanted solicitations by telephone, fax, e-mail or other remote media except in circumstances and to the extent justified under the Contract Law to enforce a contractual obligation. This is without prejudice to Article 14 of the Conclusion of Distance Consumer Contracts Law and the Processing of Personal Data (Protection of the Individual) Law and the Regulation of Electronic Communications and Postal Services Law.

27) Requiring a consumer who wishes to claim on an insurance policy to produce documents which could not reasonably be considered relevant as to whether the claim was valid, or failing systematically to respond to pertinent correspondence, in order to dissuade a consumer from exercising his contractual rights.

28) Including in an advertisement a direct exhortation to children to buy advertised products or persuade their parents or other adults to buy advertised products for them. This provision is without prejudice to Article 33(7) of the Radio and Television Stations Law.

29) Demanding immediate or deferred payment for or the return or safekeeping of products supplied by the trader, but not solicited by the consumer except where the product is a substitute supplied in conformity with Article 8(3) of the Conclusion of Distance Consumer

Contracts.

30) Explicitly informing a consumer that if he does not buy the product or service, the trader's job or livelihood will be in jeopardy.

31) Creating the false impression that the consumer has already won, will win, or will on doing a particular act win, a prize or other equivalent benefit, when in fact either:

- 1) there is no prize or other equivalent benefit or
- 2) taking any action in relation to claiming the prize or other equivalent benefit is subject to the consumer paying money or incurring a cost.

ANNEX II (Article 6(5))

PROVISIONS WHICH LAY DOWN ADVERTISING-RELATED RULES

14(I) of 2000 237(I) of 2004 93(I) of 2007	Articles 5 and 6 of the Conclusion of Distance Consumer Contracts Law.
51(I) of 1998 72(I) of 1999	Articles 4, 5, 6, 7 and 8 of the Package Trips, Holidays and Tours Law.
113(I) of 2001 127(I) of 2004	Articles 3, 8 and 9 of the Time-Share Agreements Law.
112(I) of 2000 119(I) of 2005 136(I) of 2005	Article 5 of the Display of Sale Price and Unit Price for Products offers to Consumers Law.
70(I) of 2001 83(I) of 2002 35(I) of 2004 78(I) of 2004 100(I) of 2004 263(I) of 2004 13(I) of 2005 28(I) of 2005 97(I) of 2005 122(I) of 2005 20(I) of 2006 75(I) of 2006 104(I) of 2006 20(I) of 2007 76(I) of 2007	Articles 60 to 76 of the Pharmaceuticals intended for Human Use (Quality, Supply and Price Control) Law.
156(I) of 2004 97(I) of 2007	Articles 8 and 9 of the Certain Aspects of Information Society Services and e-trade and Related Issues Law.
39(I) of 2001	Article 8(1)(e) of the Consumer Credit Law.

166(I) of 2001 34(I) of 2002 77(I) of 2002 33(I) of 2004	
242(I) of 2004	Articles 4, 5, 6, 7 and 8 of the Distance Trade in Consumer Financial Services Law.
200(I) of 2004	Article 2 of the Undertakings for Collective Investments in Transferable Securities (UCITS) and Related Issues Law.
35(I) of 2002 141(I) of 2003 69(I) of 2004 70(I) of 2004 136(I) of 2004 152(I) of 2004 153(I) of 2004 240(I) of 2004 17(I) of 2005 Government Gazette Supplement Three (I) 19.4.2002 3.10.2003 26.11.2004.	Article 144 of the Insurance Business and Related Issues Law and Regulations 26, 27 and 28 of the Insurance Business and Other Related Issues Regulations.
35(I) of 2002 141(I) of 2003 165(I) of 2003 69(I) of 2004 70(I) of 2004 136(I) of 2004 152(I) of 2004 153(I) of 2004 240(I) of 2004 17(I) of 2005 Government Gazette Supplement Three (I) 19.4.2002 3.10.2003 26.1.1.2004.	Article 182 of the Insurance Business and Related Issues Law and Regulation 50 of the Insurance Business and Other Related Issues Regulations.
Government Gazette Supplement Three (I) 19.4.2002 3.10.2003 26.11.2004.	Regulation 26 of the Insurance Business and Other Related Issues Regulations.
114(I) of 2005	Government Gazette – Supplement Three (I) 19.4.2002 3.10.2003 26.11.2004.

