**04/03/2014**

**REPLY OF THE REPUBLIC OF LITHUANIA TO THE QUESTIONAIRE ON THE IMPACT OF ADVERTISING AND MARKETING PRACTICES ON THE ENJOYMENT OF CULTURAL RIGHTS**

1. *Has your country adopted specific regulations on advertising and marketing methods and contents aimed at protecting human rights? If so, please specify the content of such regulation. Does the regulation apply both to off-line and on-line advertising?*

The general requirements on advertising have been established under the Law on Advertising of the Republic of Lithuania. The said Law provides that advertising shall be prohibited when it:

1. violates public and moral principles;
2. degrades human honour and dignity;
3. incites national, racial, religious, gender-related or social hatred and discrimination as well as defames or misinforms;
4. promotes violence and aggression, gives rise to panic;
5. promotes behaviour which presents a threat to health, security and environment;
6. abuses superstitions, people’ s trust, and their lack of experience or information;
7. mentions the name and surname of a natural person without his/her permission, his/her opinion, information about his/her private or public life, property, and when his/her physical picture is used;
8. uses special subliminal measures and technologies in advertising dissemination;
9. uses advertising material which has been prepared in violation of authors’ rights in literature, art, science and (or) related rights;
10. expresses disdain with regard to religious symbols of the religious communities registered in Lithuania.

Such prohibitions apply for all types and means of advertising (both off-line and on-line advertising).

1. *Please indicate whether specific categories of the population are protected by such regulation, such as children, women, minorities and indigenous people.*

Apart from the above-said prohibitions on advertising, which are imposed seeking to protect the society, including any group of population, Part 1 of Article 7 of theLaw on Advertising states, that “Prohibitions and restrictions of use of the advertising which might have a negative impact on children are established in the Law of Advertising and the Law on protection of minors from the negative impact of the public information“, and the part 2 of the above mentioned Article establishes that it is prohibited in advertising seeking to protect children from adversely affecting advertising:

1. to cause morally or physically detrimental influence to children by exploiting children’s trust in parents, guardians (providers), teachers or other adults;
2. directly exhorting children to buy advertised products or persuade their parents or other adults to buy advertised products for them;
3. forming children’s opinion linking consumption of certain goods or services with the enhancement of their physical, psychological or social advantages before the members of their peer group;
4. unreasonably showing children in situations which pose danger to their health and life.

Considering all that, it is possible to state that Article 7 of the Law on Advertising establishes children as vulnerable consumer group’s protection.

1. *Is advertising covered by the general provisions on freedom of expression and/or does your country differentiate between commercial speech and non-comercial speech? Do specific regulations distinguish between advertising and other contents, and if so, which are the criteria used to make this distinction?*

The requirements of the Law on the State Language shall apply to the written and sound text of advertising just like to any other public information. The Authority supervises how provisions of the Law on Advertising concerning the information related to the personal commercial, financial or professional activity, promoting to purchase goods or services, including non-movable property, takeover of the interest and obligations, but at the same time the Authority is not entitled to control non-commercial information.

1. *Please provide a brief summary of any important decisions relating to advertising/ marketing/ sponsoring and human rights adopted by judicial authorities in your country over the last ten years.*

Practice related to the advertising and violations of human rights is not very numerous. During past few years the Supreme Court of Lithuania has adopted several decisions and rulings in civil cases concerning the right to an image: on the right to an image as the element of right to private life, on terms of using personal image for commercial purpose and on the State Child Rights Protection Service role in the cases concerning the offences to the right to an image of a child.

1. *Which authority (governmental and/or self-regulatory body) monitors the advertising sector? Are specific mechanisms in place to receive complaints from citizens on advertising methods and content?*

The monitoring of advertising is carried out by public authorities and self-regulatory bodies. Supervision of the advertising in Lithuania is conducted by the governmental body. No specific mechanism is in place to receive complaints from citizens on advertising methods or contents.

1. *Has your country adopted legislation on certain advertising or marketing practices such as neuromarketing or behavioural targeting? What challenges have been encountered in doing so?*

Point 8 of paragraph 2 of Article 4 of the Law on Advertisingestablishes that the advertising is prohibited if it uses special subliminal measures and technologies in advertising dissemination. The Authority performing the supervision of the implementation of this provision faces problems identifying these special means or technologies, because of the lack of technical tools.

1. *Is the use of private data for commercial purposes regulated in your country? If so, please describe briefly such regulation.*

In Lithuania, the use of private personal data in advertising is regulated. Point 7 of paragraph 2 of Article 4 of the Law on Advertising states that mentions the name and surname of a natural person, his opinion, or presents information about his private or public life or property, or his physical picture is used without his permission.

1. *Does your country have regulations on marketing research standards? How is this sector regulated in particular for marketing research involving human beings?*

## There are no legal acts, regulating marketing research standards in Lithuania.

## *Please describe rules regulating outdoor advertising including the use of billboards or screens in your country. Have enforcement mechanisms been established in this respect? Please indicate whether other forms of communication, such as public interest messages and artistic creation, can also be displayed outdoors, including on billboards and screens, and how these are regulated.*

## Outdoor commercial advertising requires authorisation to be issued by the executive body of the municipality, in the territory of which the outdoor advertising will be placed. The outdoor advertising must follow the requirements laid down in the legislation which regulates design, construction, the protection of cultural heritage objects and landscape, territorial planning and the use of the national language. Also, the outdoor advertising may contain public interest messages.

## *Does national legislation regulate advertising, sponsoring and commercial practices in public and private schools (including on school buses and within the school’s immediate surroundings)? Do companies engaging in sponsorship of schools enjoy a tax deduction?*

In Lithuania, the national legislation regulates the use of advertising and commercial practices in educational establishments.Part 5 of Article 14 theLaw on Advertising states, that it is prohibited to indicate energy drinks as sponsors’ goods or to advertise them in other ways at education institutions, during the concerts, sport or charity and (or) support events, during theatre plays, movies and cinema demonstration places, in mass media, actions, competitions and their advertising intended for persons under the 18 years. Following the Law on Alcohol Control, alcohol advertising shall be prohibited at education, science and training establishments. The sale of alcoholic beverages and tobacco products shall be also prohibited in education establishments and areas thereof.

## *Does national legislation regulate advertising in Universities as well as cooperation between research institutes / universities and business, in particular regarding research sponsorship?*

## Legal acts do not regulate advertising in Universities as well as cooperation between research institutes/ universities and business, in particular regarding research sponsorship.

## *Are there specific measures such as inter alia, tax incentives to encourage private sponsorship of artistic creation? Please provide a brief description of these measures. Is the private sponsorship for cultural institutions receiving public funding regulated and if so please provide details. Do such regulations also apply to monuments and national heritage buildings?*

## There are no specific measures.