



**SCREENING CHAPTER 28
CONSUMER AND HEALTH PROTECTION**

**AGENDA ITEM XII: MISLEADING AND COMPARATIVE
ADVERTISING**

**Country Session: The Republic of TURKEY
6-7 July 2006**



LEGAL BASIS

- **LAW NO. 4077 ON CONSUMER PROTECTION AMENDED BY LAW NO. 4822 (OG No: 25048, 14 March 2003)**

Came into force on 14 June 2003

- **BY-LAW ON RULES AND PROCEDURES REGARDING COMMERCIAL ADVERTISING AND NOTICES (OG No: 25138, 14 June 2003)**

Came into force on 14 June 2003

- **BY-LAW CONCERNING BOARD OF ADVERTISEMENT (OG No: 25186, 1 August 2003)**

Came into force on 1 August 2003

(Law and By-law cover the minimum requirements of Directive 84/450/EEC on Misleading Advertising)



COMPETENT AUTHORITY

MINISTRY OF INDUSTRY AND TRADE

DG FOR PROTECTION OF CONSUMER AND COMPETITION



LAW ON CONSUMER PROTECTION (ARTICLE 16)

GENERAL PRINCIPLE

Commercial advertisement and notices must be fair and correct and must comply with:

- laws(*),
- principles adopted by the Board of Advertisement,
- public morality,
- public order and
- individual rights.

(*) The list of the legislation regarding advertisements will be provided as an hand out



LAW ON CONSUMER PROTECTION (ARTICLE 16)

PROHIBITED ADVERTISEMENTS AND NOTICES

- deceptive or misleading the consumer,
- abusing lack of experience or knowledge,
- threatening the life of consumer and safety of his property,
- encouraging violence or crime,
- endangering public health,
- abusing the elderly, children or disabled people,
- hidden advertisements.



LAW ON CONSUMER PROTECTION (ARTICLE 16)

BURDEN OF PROOF

Reversal of burden of proof:

The advertiser has to prove the material claims made in the commercial advertisement or notice.



By-Law on Rules and Procedures Regarding Commercial Advertising and Notices

DEFINITIONS (Article 4)

- **Good**
- **Service**
- **Advertiser**
- **Advertising Agency**
- **Media Organisation**
- **Media**
- **Commercial Advertisement and Notices**



By-Law on Rules and Procedures Regarding Commercial Advertising and Notices

Commercial Advertisement and Notices:

**For the purpose of marketing communication, any notices published/
broadcasted on media, in order to introduce goods, services or brands, to
inform and persuade the target group, to enable and promote their selling
or hiring.**



By-Law on Rules and Procedures Regarding Commercial Advertising and Notices

Advertisement Types Regulated in the By-Law

- **Hidden advertisements (Art. 5),**
- **Advertisements promoting sales (Art. 8),**
- **Advertisements for direct marketing (Art. 9),**
- **Comparative advertisements (Art. 11),**
- **Experts appearing in Advertisements (Art. 12),**
- **Advertisements for children and minors (Art. 18),**
- **Advertisements regarding environment (Art. 19).**



By-Law on Rules and Procedures Regarding Commercial Advertising and Notices

COMPARATIVE ADVERTISEMENTS (Article 11)

Comparative advertisements may only be allowed, if

- **the compared goods or services have the same quality or features, or correspond to the same demands and needs,**
- **it respects the principles of fair competition and does not mislead consumers.**



By-Law on Rules and Procedures Regarding Commercial Advertising and Notices

DENIGRATION (Article 14)

Advertisements may not degrade or ridicule or, in any way, dispraise any firm, institution or organisation, any industrial, commercial or similar activity or profession, any good or service.

IMITATION (Article 16)

Advertisements may not imitate general layout, text, slogans, visual presentation, theme and sound effects and other similar features of advertisements, where consumers are misled or confused.



By-Law on Rules and Procedures Regarding Commercial Advertising and Notices

TAKING UNFAIR ADVANTAGE OF COMMERCIAL REPUTATION (Article 15)

In advertisements,

- **name or emblem, logo or other corporate identity elements of another company or organisation may not be used in a misleading way**
- **benefits may not be derived from name of a person or another company/organisation, or a reputation reserved under intellectual property rights or obtained through an advertisement campaign.**



CONTROL OF ADVERTISEMENTS

- **LAW NO. 4077 ON CONSUMER PROTECTION AMENDED BY LAW NO. 4822 (OG No: 25048, 14 March 2003)**
- **BY-LAW CONCERNING BOARD OF ADVERTISEMENT (OG No: 25186, 1 August 2003)**



CONTROL OF ADVERTISEMENTS

- **VOLUNTARY CONTROL**

Advertising Self-Regulatory Board

- **ADMINISTRATIVE CONTROL**

Board of Advertisement



ADVERTISING SELF-REGULATORY BOARD

- **Since 1994, the Advertising Self-Regulatory Board has been requesting the correction of advertisements that infringe the International Code of Advertising Practice.**
- **Advertisers Self-Regulatory Board comprises 16 members from advertisers, advertising agencies, private and national media.**



LAW ON CONSUMER PROTECTION (ARTICLE 17)

BOARD OF ADVERTISEMENT

**29 members from public institutions,
universities, professional chambers and consumer
organizations,**

- **Representatives from public organisations and NGOs,**
- **Majority of members from NGOs,**
- **Convenes at least once a month,**



BOARD OF ADVERTISEMENT (Article 17)

- **Sets up the principles for commercial advertisements and notices,**
- **Examines and monitors commercial advertisements and notices,**
- **During examinations, written information or opinions may be requested from relevant persons, authorities and institutions, universities.**
- **In cases of infringement;**
 - **issues precautionary suspension of the advertisements and notices for a three-month period and/or**
 - **suspends and/or**
 - **takes corrective measures and/or**
 - **imposes administrative fines and penalties.**



LAW ON CONSUMER PROTECTION

BOARD OF ADVERTISEMENT (Article 17)

- The decisions of the Board are published in the Ministry's website for the purposes of informing, enlightening and protecting economic interests of consumers*,
- The objection against the decision of Board can be filed with the competent Court (Article 26).

* Selected 10 decisions of the Board of Advertisement is provided as hand out



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STATISTICS ON THE ACTIVITIES OF THE BOARD OF ADVERTISEMENT (1996-2006)

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	May.06	TOTAL
Number of Applications Arrived to the Board	188	363	115	183	474	488	170	235	398	642	478	3734
The number of advertisements inspected	167	287	85	163	475	430	168	185	230	346	214	2750
The number of advertisements that are not taken under inspection	46	100	28	19	22	46	20	50	47	103	132	613
The number of advertisements not found contradictory to the Law	65	107	22	19	18	72	49	43	41	63	35	534
The number of advertisement imposed administrative penalty	56	182	75	100	271	217	118	89	179	312	103	1702



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AGENDA ITEM XIII: UNFAIR COMMERCIAL PRACTICES

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COMPETENT AUTHORITY

MINISTRY OF INDUSTRY AND TRADE

DG FOR PROTECTION OF CONSUMER AND COMPETITION



UNFAIR COMMERCIAL PRACTICES

- Although there are some provisions in the “Turkish Code of Commerce” under the articles related with unfair competition, and “By-Law on Principles and Implementation Rules on Commercial Advertisements and Notices” which covers the some provisions of Directive on Unfair Commercial Practices, technical studies for alignment still continue.
- It is expected that relevant legislation will be enacted by the end of 2007.



THANK YOU FOR YOUR ATTENTION