

Regulation on Advertising Aimed at Children in Europe  
The Legal Framework Provided for by Overarching European Rules  
and the Laws of 22 European Countries

## LV - Latvia

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### I. Definitions

Latvian laws provide general legal definitions of the terms “child”, “minor”, as well as sector-specific definitions of “adolescent”, but not for “children’s programme”, “children’s movie”, “products for children” or “advertisement aimed at children”.

#### 1. Child

The notion of the “Child” (*bērns*) is defined in the Protection of the Rights of the Child Law, Paragraph 1 of Section 3:

“A child is a person who has not attained 18 years of age, excepting such persons who have been declared to be of legal age in accordance with the law or have entered into marriage before attaining 18 years of age.”

As this is a general definition, it would apply uniformly to all media (TV, cinema, etc.), provided that the relevant sector-specific laws do not provide otherwise.

#### 2. Minor

The Protection of the Rights of the Child Law also uses the term “minor” (*nepilngadīgais*) interchangeably with the term “child” (Paragraph 1 of Section 57 indicates that the “child” may be hereinafter referred to as a “minor”). The general definition of the term “minor” is provided by the Civil Law, Family Law Part. Sections 219 to 221 provide the following definitions (emphasis by the author):

“**219.** The minority of persons of both genders continues until they attain *the age of eighteen*.

**220.** *In exceptional circumstances and for especially good cause*, when the guardians and closest kin of a minor attest that the behaviour of the minor is irreproachable, and he or she are able to independently protect and defend his or her rights and perform his or her duties, the minor may be declared as being of age of majority even before he or she have attained the age of eighteen, but not earlier than before he or she fully attain *the age of sixteen*.

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**221.** The granting of majority before term (Section 220) shall be by the appropriate Orphan's court, and its decision is subject to being confirmed by a court.

A person who, pursuant to the procedures established by law, has *married before attaining the age of eighteen, shall be deemed to be of age of majority.*"

As this is a general definition, it would apply uniformly to all media (TV, cinema, etc.), provided that the relevant sector-specific laws do not provide otherwise.

### **3. Adolescent**

The Protection of the Rights of the Child Law and the Civil Law does not contain a general definition of an "adolescent". However, sector-specific laws may provide the definition for adolescent. For example, Paragraph 4 of the Section 37 of the Labour Law envisages that "Within the meaning of this Law, an adolescent shall mean a person between the ages of 15 and 18 who is not to be considered a child within the meaning of Paragraph one of this Section." There is no definition of an "adolescent" in the Latvian rules governing audiovisual media.

### **4. Other Definitions**

Several Latvian laws and regulations use such terms as "children's programme" (Radio and Television Law, Paragraph 5 of Section 23) and "advertisement aimed at children" (Radio and Television Law, Paragraph 6 of Section 20; Advertising Law, Section 5; Code of Ethics of the Latvian Advertising Professionals, Section 8.3.). However, none of these rules provide a definition of these terms. Most likely, these terms have been considered as self-explanatory by the law-makers. Up to now, there has not been any publicly known court practice providing a more detailed explanation and application of these terms.

## **II. Content of the Relevant Rules**

### **1. General Rules**

In Latvia, there are general laws that apply to all media, TV and new media included. As to TV there are also specific rules that apply along side the general obligations. Section 5 of the Advertising Law provides the following rules:

"(1) Advertising directed to children or advertising which has been created with the participation of children shall not threaten the rights or interests of children and in its creation, regard shall be had to the perception and psyche of children.

(2) Exploiting the natural credulity or lack of experience of children in advertising is prohibited.

(3) Exploiting children in alcoholic beverage and tobacco product advertising, and aiming alcoholic beverage and tobacco product advertising at children, are prohibited.

(4) In advertising directed to children, it is prohibited:

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- 1) to include assertions, or visual or audio information, which could cause moral or physical harm to them or create feelings of inferiority;
- 2) to include encouragement for or encourage aggressiveness and violence, and discredit the authority of parents, guardians or teachers;
- 3) to draw attention to the fact that the acquisition of specific goods or services creates physical, social or psychological advantages over peers or that the lack of the relevant good creates the opposite result;
- 4) to unmistakably indicate that the acquisition of the good or service to be advertised is possible for any family, irrespective of its budget;
- 5) to directly invite children themselves or invite children to encourage their parents or other persons to purchase goods or use services; and
- 6) to portray children in dangerous situations.”

Further, section 50 of the Protection of the Rights of the Child Law includes a broad prohibition with respect to promotion of cruel behaviour, violence, erotica and pornography:

- “(1) It is prohibited to show, sell, give as a gift, rent or promote to a child toys and video recordings, computer games, newspapers, magazines and other types of publications, in which cruel behaviour, violence, erotica and pornography are promoted and which pose a threat to the psychological development of a child.  
(2) Materials, which promote cruel behaviour, violence, erotica and pornography and which pose a threat to the psychological development of a child may not be accessible to a child, irrespective of the form of expression, devices for showing and location thereof.”

## 2. Rules Applicable to Television

Advertising in television potentially viewed or directed to children is specifically regulated by the Radio and Television Law<sup>26</sup>. Paragraph 4 of the Section 20 provides a general requirement for advertisements:

- “(4) Commercials may not cause moral or physical harm to minors, and they shall comply with the criteria for the protection of minors. They shall not:
- 1) directly convince minors to purchase the advertised goods or to utilise the advertised services by exploiting their inexperience or credulity;
  - 2) directly encourage minors to persuade their parents or other persons to purchase the advertised goods or to utilise the advertised services;
  - 3) exploit the special trust minors place in parents, teachers or other persons;
- or
- 4) show minors in dangerous situations without a serious reason for doing so.”

Further, Paragraph 6 of the same section provides a special rule for advertisements addressed to or involving participation of children: “(6) Commercials addressed to or using children may not harm the interests of children, and their production shall have regard to the special susceptibilities and psyche of children.”

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<sup>26</sup> It is arguable whether or not the Radio and Television Law will apply to new media as well. But as mentioned before, the Advertising Law is deemed applicable.

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In addition, advertising in television must comply with the general requirements provided by the Advertising Law (see below).

provides a special rule for advertisings addressed to or involving participation of children:

Some of the advertising rules mentioned above and below are elaborated in more detail by the Code of Ethics of the Latvian Advertising Professionals, adopted by the Latvian Advertising Association (non-governmental association). However, this Code is binding only on the members of the Latvian Advertising Association, and the severest sanction for its violation is a non-binding suggestion to the advertising media not to publish the relevant advertisement.

### **3. Qualitative Restrictions**

#### *1) Alcohol*

Paragraph 2 of the Section 24 of the Radio and Television Law provides a special rule with respect to advertising of alcoholic beverages:

“(2) Commercials and teleshops for beer and wine are permitted, but commercials and teleshops for other alcoholic beverages are prohibited. Commercials and teleshops for alcoholic beverages shall comply with the following provisions:

- 1) they may not be aimed at minors, and minors shall not participate in them;”

#### *2) Tobacco*

As noted above, the Advertising Law expands this prohibition also to tobacco advertising.

#### *3) Medicines*

According to paragraph 18.5. of the Regulations of the Cabinet of Ministers No. 167 “Order of Advertisement of Medicines” the advertisement of medicines may not include information, which is directed solely or principally to attract the attention of children.

#### *4) Gambling*

The Code of Ethics of the Latvian Advertising Professionals provides that children may not participate in gambling advertising and that such advertising may not be directed towards them. However, this provision is of limited use, because according to the Gambling and Raffling Law the advertising of gambling is generally prohibited (it is only allowed to indicate the name and trade mark of the organiser of gambling within the premises where the gambling takes place, such as casinos, special restaurants, etc.).

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#### 4. Quantitative Restrictions

Paragraph 5 of the Section 23 of the Radio and Television Law provides that the advertising may be inserted only in children' programmes whose length exceeds 30 minutes:

“(5) [...] Commercials and teleshops also may not be inserted in [...] children's programmes, if the length of such broadcast or programme does not exceed 30 minutes. If its length is 30 or more minutes, the provisions of Paragraphs one, two and four of this Section shall apply.” (Provisions of Paragraphs one, two and four regulate the general length and frequency of advertising breaks).

In addition, because advertisements may come within the scope of the definition of broadcasts, provided for by Paragraph 4 of Section 18 of the Radio and Television Law the following time limitations apply to advertisements falling within special categories of broadcasts:

“(4) Broadcasting organisations may not distribute programmes and broadcasts with such content as may be harmful to the normal physical, mental and moral development of children and adolescents, except in cases when a specific broadcasting time is designated for such broadcasts (between the hours of 22.00 and 7.00) or technical blocking devices are used (coding of broadcasts). Such programmes and broadcasts shall be specially noted both when distributing them and when publishing broadcast schedule listings (in a programme of broadcasts).

(5) Between the hours of 7:00 and 22:00, broadcasts containing physical or psychological violence (in visual or verbal form), bloody or horror scenes, as well as scenes relating to the use of narcotics, may not be distributed. The text may not contain vulgar or rude expressions and must not refer to sexual acts. This provision is not applicable to cable television if technical blocking devices are used.”

#### 5. Children in Advertisements

According to the Radio and Television Law and the Advertising Law, children may appear in advertisements subject to the following conditions (see above for the references to the respective sections.):

1. children may not appear in advertisements of alcoholic beverages and tobacco,
2. these advertisements may not harm or threaten the rights or interests of children,
3. production of such advertisements shall have regard to the special susceptibilities, perception and psyche of children,
4. these advertisements may not show minors in dangerous situations or may not do it without a serious reason for doing so.

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## 6. Enforcement

The National Broadcasting Council is responsible for the supervision of the compliance with the Radio and Television Law. Compliance with the Advertising Law is supervised by the Consumer Rights Protection Centre, the Competition Council, the State Pharmaceutical Inspection and the Radio and Television Council within the spheres of their competence. General competence for all issues involving children rights is provided also to the State Inspectorate for Protection of Children's Rights.

## 7. Convergence

So far the national legislation has not enacted any special rules with respect to media convergence. For the moment, only the Advertising Law and the Protection of the Rights of the Child Law are applicable across platforms. That partly explains the fact that there has not been any publicly known litigation or complaints with regard to discrepancies as regards the regulation of the new media. The National Concept for the Development of Latvian Electronic Media for years 2006 – 2008 adopted by the National Broadcasting Council notes the importance of the media convergence and points to the necessity of adoption of relevant rules. It also notes that the drafting of new rules is encumbered by the rapid changes caused by the convergence, as well as the prospective repealing of the Directive 97/36/EC (TVwF Directive). It should be noted that the National Broadcasting Council itself does not have right to initiate legislation.

The adoption of a new Broadcasting Law repealing the current Radio and Television Law and addressing *inter alia* the media convergence is on the political agenda at least since the year 2004. Several new draft laws have been proposed to *Saeima* (the Parliament), however, none of them has been adopted (one of the drafts was adopted in the 1<sup>st</sup> reading on 16 June 2005, however, it never reached the stage of the 2<sup>nd</sup> reading).

## III. Useful links

**National Broadcasting Council:** <http://www.nrtp.lv/>

**Ministry for Children and Family Affairs** (provides relevant national rules in English): [http://www.bm.gov.lv/eng/regulatory\\_enactment/](http://www.bm.gov.lv/eng/regulatory_enactment/)

**Translation and Terminology Centre** (provides translations of Latvian laws and regulations in English): <http://www.ttc.lv/>

**Competition Council** (provides relevant national rules in English): [http://www.kp.gov.lv/?object\\_id=605](http://www.kp.gov.lv/?object_id=605)

**Protection of the Rights of the Child Law** (*Bērnu tiesību aizsardzības likums*), adopted 19. June 1998, accessible at: <http://www.likumi.lv/doc.php?id=49096> The English

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translations of this and other laws mentioned in this questionnaire are available at the site of the Translation and Terminology Centre.

**Civil Law** (*Civillikums. Ģimenes tiesības.*) Adopted 28. January 1937. Available at: <http://www.likumi.lv/doc.php?id=90223&mode=DOC>

**Labour Law** (*Darba likums.*) Adopted 20 June 2001. Available at: <http://www.likumi.lv/doc.php?id=26019&mode=DOC>

**Radio and Television law** (*Radio un televīzijas likums.*) Adopted on 24 August 1995. Available at: <http://www.likumi.lv/doc.php?id=36673&mode=KDOC>

**Advertising Law** (*Reklāmas likums.*) Adopted on 20 December 1999. Available at: <http://www.likumi.lv/doc.php?id=163> Please note that the attached English translation does not incorporate the latest amendments of 27 September 2007.

**Code of Ethics of the Latvian Advertising Professionals** (*Latvijas reklāmas profesionāļu ētikas kodekss.*) Adopted on 7 September 2001. Available at: <http://www.lra.lv/?id=16>

**Regulations of the Cabinet of Ministers No. 167 “Order of Advertisement of Medicines”** (*Zāļu reklamēšanas kārtība un kārtība, kādā zāļu ražošanas uzņēmums ir tiesīgs nodot ārstiem bezmaksas zāļu paraugus.*) Adopted on 6 March 2007. Available at <http://www.likumi.lv/doc.php?mode=DOC&id=154195>

**Gambling and Ruffling Law** (*Azartspēļu un izložu likums.*) Adopted on 17 November 2005. Available at: <http://www.likumi.lv/doc.php?id=122941&mode=KDOC>

**National Concept for the Development of Latvian Electronic Media for years 2006 – 2008** (*Latvijas elektronisko sabiedrības saziņas līdzekļu attīstības nacionālā koncepcija 2006.-2008.gadam.*) Available at <http://www.nrtp.lv/info/index.php?mid=94>

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