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CHAMBERS GLOBAL PRACTICE GUIDES

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# Advertising & Marketing 2023

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comparative analysis from top-ranked  
lawyers

**Greece: Law & Practice  
and Trends & Developments**

Asterios Syssilas and Elena Nikolarea  
A & K Metaxopoulos & Partners Law Firm



# GREECE



## Law and Practice

### Contributed by:

Asterios Syssilas and Elena Nikolarea

**A & K Metaxopoulos & Partners Law Firm**

## Contents

### 1. Legal Framework and Regulatory Bodies p.5

- 1.1 Primary Laws and Regulation p.5
- 1.2 Enforcement and Regulatory Authorities p.5
- 1.3 Liability for Deceptive Advertising p.6
- 1.4 What Is Advertising? p.6
- 1.5 Pre-approvals p.6
- 1.6 Intellectual Property and Publicity Rights p.7
- 1.7 Self-Regulatory Authorities p.7
- 1.8 Private Right of Action for Consumers p.7
- 1.9 Regulatory and Legal Trends p.8
- 1.10 Taste and Cultural Concerns p.8
- 1.11 Politics, Regulation and Enforcement p.8

### 2. Advertising Claims p.8

- 2.1 Deceptive or Misleading Claims p.8
- 2.2 Regulation of Advertising Claims p.10
- 2.3 Substantiation of Advertising Claims p.10
- 2.4 Product Demonstrations p.10
- 2.5 Endorsements and Testimonials p.10
- 2.6 Disclosures p.11
- 2.7 Representation and Stereotypes in Advertising p.11
- 2.8 Environmental Claims p.11
- 2.9 Dark Patterns p.12
- 2.10 Children p.13
- 2.11 Sponsor ID and Branded Content p.13
- 2.12 Other Regulated Claims p.14

### 3. Comparative Advertising and Ambush Marketing p.14

- 3.1 Specific Rules or Restrictions p.14
- 3.2 Competitor Copyrights and Trade Marks p.14
- 3.3 Challenging Comparative Claims Made by Competitors p.15
- 3.4 Ambush Marketing p.15

## **4. Social/Digital Media p.15**

- 4.1 Special Rules Applicable to Social Media p.15
- 4.2 Liability for Third-Party Content p.17
- 4.3 Disclosure Requirements p.17
- 4.4 Requirements for Use of Social Media Platforms p.18
- 4.5 Special Rules for Native Advertising p.18

## **5. Social Media Influencer Campaigns and Online Reviews p.18**

- 5.1 Special Rules/Regulations on Influencer Campaigns p.18
- 5.2 Advertiser Liability for Influencer Content p.19
- 5.3 Consumer Reviews p.19
- 5.4 Liability for Consumer Reviews p.20

## **6. Privacy and Advertising p.20**

- 6.1 Email Marketing p.20
- 6.2 Telemarketing p.21
- 6.3 Text Messaging p.21
- 6.4 Targeted/Interest-Based Advertising p.21
- 6.5 Marketing to Children p.22
- 6.6 Other Rules p.22

## **7. Sweepstakes and Other Consumer Promotions p.23**

- 7.1 Sweepstakes and Contests p.23
- 7.2 Contests of Skill and Games of Chance p.23
- 7.3 Registration and Approval Requirements p.24
- 7.4 Free and Reduced-Price Offers p.24
- 7.5 Automatic Renewal/Continuous Service Offers p.24

## **8. Artificial Intelligence p.25**

- 8.1 AI & Advertising Content p.25
- 8.2 AI-Related Claims p.25
- 8.3 Chatbots p.25

## **9. Web 3.0 p.25**

- 9.1 Cryptocurrency and Non-fungible Tokens (NFTs) p.25
- 9.2 Metaverse p.26

## **10. Product Compliance p.26**

- 10.1 Regulated Products p.26
- 10.2 Product Placement p.27
- 10.3 Other Products p.28

**A & K Metaxopoulos & Partners Law Firm** is considered a top Media, IP and TMT expert law firm in Greece. With 65 years of expertise in the field of Intellectual Property and TMT, the firm has handled a vast variety of cases in many industry sectors, by representing key international and domestic clients as for example major film studios, publishers and record companies as well as MPAA for many years. Kriton Metaxopoulos has also served as a BoD

member of Warner Music for more than 20 years. The firm is the only Greek member of the Global Advertising Lawyers Alliance (GALA), a global network of law firms with expertise in advertising and media law issues. In view of the GALA membership, foreign major corporations request from the firm “clearance” for advertising directed to the Greek market. The TMT team consists of five legal experts (two partners and three associates).

## Authors



**Asterios Syssilas** is an attorney-at-law accredited to the Supreme Court, member of the Athens Bar Association and Salaried Partner at A & K Metaxopoulos and Partners. He

holds an LLM in Civil Law and specialises in copyright law, advertising law, TMT law, consumer protection and data protection law. He has advised many international and domestic clients in advertising law issues. Asterios is the contact person with Global Advertising Lawyers Alliance (GALA) and has participated in many advertising law conferences in Greece and abroad.



**Elena Nikolarea** is an attorney-at-law accredited to the Court of Appeals, a member of the Athens Bar Association and an associate at A & K Metaxopoulos and Partners.

She holds an LLB (2016) and an LLM in Civil Law and New Technologies (2019) from the University of Athens, both with the highest distinction. Elena mainly specialises in civil law, dispute resolution, data protection, media law and consumer protection issues. She is a valued member of the litigation and TMT teams of A & K Metaxopoulos, and since 2016, has represented and advised leading Greek and international entities in various and complex legal matters.

## A&K Metaxopoulos & Partners Law Firm

54 Vasilissis Sofias Avenue  
115 28 Athens  
Greece

Tel: +30 2107257614  
Fax: +30 2107297610  
Email: metaxopoulos@metaxopouloslaw.gr  
Web: www.metaxopouloslaw.gr



## 1. Legal Framework and Regulatory Bodies

### 1.1 Primary Laws and Regulation

#### Primary Laws

The main statutes that govern advertising practices in Greece are the following:

- Law No 2251/1994 on Consumer Protection (which has transposed EU Directives on Consumer Protection into Greek Law), as recently amended by Law No 5019/2023;
- Law No 146/1914 on Unfair Competition, regulating illegal advertising in B2B relationships; and
- Law No 4779/2021 regulating advertising through audiovisual media (which has transposed the EU Audiovisual Media Services Directive into Greek Law).

Other laws may also have an impact on specific advertising practices, such as Law No 2121/1993 on Copyright, Law No 4679/2020 on Trademarks and the laws for the protection of personal data, namely Regulation EU 2016/679 (GDPR), Law No 4624/2019 (implementing certain provisions of the GDPR) and Law No 3471/2006 (which has

transposed the E-Privacy Directive into Greek Law).

#### Specific Provisions

The above primary statutes are supplemented by a great number of special provisions which regulate advertising of specific products and services (tobacco, alcohol, medicines, credit products, gambling services, etc).

#### Self-Regulation

The main regulatory tool for advertising self-regulation is the Hellenic Code of Advertising and Communication Practice (HCACP), the structure and content of which is almost identical to the ICC Consolidated Code of Advertising and Communication Practice. HCACP covers both non-broadcast and broadcast advertising, including online advertising and social media.

### 1.2 Enforcement and Regulatory Authorities

#### Main Regulatory Authorities

The main regulatory authorities which enforce advertising laws in Greece are as follows:

- The Ministry of Development and Investments through the General Secretariat for Consum-



ers is the state authority which imposes the administrative sanctions on those who infringe the consumer protection legislation. If the state authority intervenes, either ex officio or following a complaint, it may address a recommendation or impose a monetary fine varying from EUR5,000 to EUR1,500,000. Sanctions may get stricter for repeat infringers.

- The Greek National Council for Radio and Television (NCRTV) is an independent administrative authority which monitors compliance with the specific regulations of advertising in audiovisual media and is empowered to impose sanctions for infringement, such as addressing a recommendation or imposing monetary fines (for infringing TV channel the fine is varying from EUR14,673 to EUR1,467,351 for radio stations the range of the fine is from EUR2,935 to EUR29,350 and for video sharing platforms the fine varies from EUR1,000 to EUR500,000).

## Other Authorities

With regard to more specific legislation containing advertising regulations, other authorities may also be charged with enforcement such as:

- the Hellenic Organisation for Medicines regarding advertising of medicines/medical devices/nutritional supplements;
- the Ministry of Agricultural Development and Food through the Hellenic Food Authority regarding advertising of food products;
- the Hellenic Capital Market Commission regarding marketing communications of investment products;
- the Hellenic Gaming Commission regarding the commercial communication of gambling services; and
- the Municipal and Regional Health Services regarding advertising of tobacco products.

## 1.3 Liability for Deceptive Advertising

In principle, the advertisers have the overall responsibility for the advertisements they provide and may be held liable in the event that they violate advertising laws and regulations on misleading advertising. In addition, anyone taking part in the planning, creation or execution of a misleading advertisement may also have a degree of responsibility. Under Greek law, the audiovisual media owners can also be held accountable if the infringing advertisements have been broadcasted through their media.

## 1.4 What Is Advertising?

Under the Greek Consumer Protection Law, the definition of advertising is very broad: “advertising” means the making of a representation in any form in connection with a trade, business, craft or profession in order to promote the supply of goods or services, including immovable property, rights and obligations.

## 1.5 Pre-approvals

Pre-clearance of advertisements by the government or sector-specific authorities is not obligatory in Greece, with some exceptions:

- Firstly, advertising of over-the-counter medicines must be submitted to the Hellenic Organisation for Medicines for monitoring before publication or broadcast.
- Television advertisements for plant protection products must also be submitted to the competent Directorate of the Ministry of Agricultural Development and Food prior to their broadcasting.
- Furthermore, every commercial communication for gambling services must be submitted for prior approval to the Hellenic Gaming Commission.

## 1.6 Intellectual Property and Publicity Rights

### Intellectual/ Industrial Property Rights

In case the advertiser wishes to use a third party's (either individual or legal entity) intellectual and/or industrial property in a marketing communication, this is permissible only if the legitimate right holder of the copyright, trademark, logo, etc, has given its written consent.

### Publicity Rights

Under Greek legal theory and jurisprudence, publicity right involves two aspects: a positive one, permitting the person to commercially exploit (namely to license) aspects of its identity and a negative one, entitling the person to forbid any unauthorised commercial use of its name, image, voice, likeness, etc.

The basic rule is that marketing communications should not portray or refer to any persons, whether in a private or a public capacity, unless prior permission has been obtained. Advertisers must be aware that the content of publicity right is very broad in Greece and that it is recognised to everyone (not only to famous people). The publicity right is protected as per the provisions of Articles 57–59 of the Greek Civil Code, which also serve to protect the personality right.

## 1.7 Self-Regulatory Authorities

In Greece, the national system of advertising self-regulation is mainly handled by an independent non-profit association called the “Advertising Self-Regulation Council (SEE)”. The SEE was created in 2003 by the Hellenic Association of Advertising and Communication Agencies (EDEE) and the Hellenic Advertisers Association (SDE), which means that the major advertising agencies and advertisers are part of the self-regulatory system. The SEE is a member

of the European Advertising Standards Alliance (EASA).

SEE may be activated either after an ex officio monitoring or after submission of a written complaint. Both consumers and competitors are entitled to file complaints claiming that a marketing communication (printed or broadcast) breaches the Hellenic Code of Advertising and Communication Practice (HCACP).

If a complaint is upheld, the SEE committee of first instance may address a recommendation for the cessation or modification of the advertisement. This recommendation is immediately binding for the parties and enforceable, although there is a right to an appeal before the committee of second instance. If the infringer fails or unjustifiably delays to comply with the recommendation, the SEE can enforce the adjudication by requesting in writing that all media immediately interrupt the broadcasting or publication of the advertisement in question. If the infringer remains uncooperative, the SEE may issue an “ad-alert”, warning the whole advertising market of the infringer’s activities.

## 1.8 Private Right of Action for Consumers

In the case of a commercial communication which constitutes an unfair commercial practice (eg, misleading or aggressive), Greek consumer protection law permits any consumer and/or any consumer association:

- to request the court to issue a cease-and-desist order;
- to request compensation for the material and/or moral damages suffered by reason of the unfair commercial practice;
- to demand, where relevant, a price reduction or the termination of the contract which was

- concluded as a result of the unfair commercial practice; and
- to demand that the court's judgment is published to the media and/or that a corrective advertisement is published.

Consumers and/or consumer associations may also file a complaint to the SEE challenging an advertisement for violating the self-regulatory Code (HCACP). The filing of a complaint to the SEE does not exclude the possibility of also taking legal action before court.

Finally, in cases of illegal commercial practices, consumers may address a complaint to the Hellenic Consumers' Ombudsman which is an independent authority of extrajudicial dispute resolution in the area of consumer disputes.

### Consumers' Collective Action

Consumer associations that have been registered in the consumer associations' registry for more than a year are entitled to file a class action for the protection of collective interests of consumers. With regard to class actions, the remedies include:

- a provisional or definitive measure to cease or prohibit an illegal market practice; and
- a request that the consumers concerned are provided with compensation, repair, replacement, price reduction, contract termination or reimbursement of the price paid.

### 1.9 Regulatory and Legal Trends

The most important legal trends in the past 12 months regarding (deceptive) advertising have been the following:

- the entry into force of Law No. 4933/2022 which implements into Greek law the Omnibus Directive (Directive EU 2019/216 on the

better enforcement and modernisation of EU consumer protection rules); and

- The enactment of Law No. 5019/2023 which implements into Greek law the Directive (EU) 2020/1828 on representative actions for the protection of the collective interests of consumers.

### 1.10 Taste and Cultural Concerns

Advertisers should keep in mind that LGBTQ+ representation is not very usual in Greek advertisements, even though it seems to be increasing. In very recent years there have been some gay couples and LGBTQ+ people appearing in a few advertising campaigns. Many people and organisations have applauded these campaigns for their progressive social stance and for accurately representing LGBTQ+ people. At the same time, some people also expressed extremely negative opinions because they stand against LGBTQ+ representation in media and advertising.

Religion is another "sensitive" issue for a significant part of the Greek audience since the Greek Orthodox Church has a strong presence; therefore, religious advertising is not common.

### 1.11 Politics, Regulation and Enforcement

No changes in the political climate or administration have impacted the regulation of advertising and/or the enforcement of advertising regulations.

## 2. Advertising Claims

### 2.1 Deceptive or Misleading Claims

**Misleading Commercial Practices in General**  
Greek Consumer Protection Law prohibits misleading commercial practices (either through



action or omission). This prohibition covers misleading advertising practices and claims.

## Misleading Acts

According to the general clause provided in Article 9c of the Consumer Protection Law, a commercial practice (eg, an advertisement) should be considered as misleading if it contains inaccurate information or in any way, including by its overall presentation, is likely to deceive the consumers in relation to one or more of the elements mentioned below and is likely to cause them to make a transactional decision that they would not otherwise have made.

List of elements:

- the existence or nature of the product;
- the main characteristics of the product, such as its availability, benefits, risks, execution, composition, accessories, after sale customer assistance 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;
- 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;
- the price or the manner in which the price is calculated, or the existence of a specific price advantage;
- the need for a service, part, replacement or repair;
- 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; and
- the consumer's rights.

## Misleading Omissions

An advertisement shall also be regarded as misleading if, 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 consumer to take a transactional decision that he would not otherwise have taken.

## Black-list of Misleading Practices

The above general clauses on misleading acts and omissions are supplemented by a blacklist of 23 commercial practices that are considered misleading under all circumstances, some of which include particular advertising practices and claims (eg, falsely claiming that a product will only be available for a very limited time, in order to make the consumer decide immediately, falsely claiming that a product can cure diseases, defects or malformations).

## Aggressive Commercial Practices

Similar to the rules on misleading commercial practices, Greek Consumer Protection Law also includes a general clause prohibiting aggressive commercial practices supplemented by a blacklist of eight commercial practices that are considered per se as aggressive (eg, it classifies as an aggressive advertising practice to create the false impression that the consumer has already won, will win or upon doing a particular act, will win a prize or gain other equivalent benefit when in fact the possibility to claim the prize or such equivalent benefit is subject to the consumer paying money or it incurs a cost).

## 2.2 Regulation of Advertising Claims

All objective (verifiable) advertising claims, either express or implied, must be substantiated and are subject to regulation. There is however an exception for claims or statements which obviously exaggerate (puffery). Greek law does not define the criteria under which puffery is distinguished from the advertising claims that require substantiation. Some guidance on this issue can be found in the Recommendation issued by the SEE. According to the Recommendation, advertising claims which can be verified and which the average consumer is likely to regard as objective require substantiation. On the contrary, puffery is a claim that the average consumer cannot treat seriously. An example of this difference is provided in the Recommendation: the claim that a glass cleaning liquid “is the most economic in its category” is verifiable and requires substantiation, while the claim that “it makes glass invisible” is obvious puffery.

## 2.3 Substantiation of Advertising Claims

The type of proof required to support objective (verifiable) advertising claims depends on the type of the advertising claim and the characteristics of the advertised product. The Best Practice Recommendation on claims substantiation (the Recommendation) issued by the SEE indicatively stipulates the following means of proof:

- statistical surveys;
- market shares;
- sales data;
- certificates/accreditations issued from the competent public authorities; and
- scientific studies and testimonials.

According to the same Recommendation, the advertiser has the burden to prove the truth/accuracy of the advertising claim; therefore, before publishing or broadcasting an advertise-

ment, the advertiser must have evidence available in order to substantiate the objective (verifiable) advertising claims. According to Article 6 of the self-regulatory Code (HCACP), such substantiation should be available without delay and upon request of the SEE Committee which will examine any complaint challenging the advertisement.

## 2.4 Product Demonstrations

No special standards apply to the use of product demonstrations in advertising. In the framework of the general rule of truthful advertising, any such demonstration must present the actual qualities of the advertised product without exaggerating its performance. In light of this, it is advisable that the demonstration is performed with samples of the product already available to consumers (or prototypes that perform no differently than the actual product) and no mock-ups, modifications or alterations should be employed.

With regard to demonstrations of cosmetics' performance, specific guidance is provided by the Guiding Principles on Responsible Advertising and Marketing Communication of Cosmetics issued by Cosmetics Europe.

## 2.5 Endorsements and Testimonials

Under Greek law, the use of endorsements and testimonials in advertising is in principle permitted with the exception of over-the-counter medicines. In addition, there are certain restrictions in relation to endorsements of food supplements.

Marketing communications should not contain or refer to any testimonial or endorsement unless it is genuine, verifiable and authorised by the person making the endorsement. Any claim that a trader or a product has been approved, endorsed or authorised by a public authority or private body, when they actually have not, is for-

bidden as this is considered misleading advertising practice (Article 9f of Consumer Protection Law). Testimonials or endorsements which have become obsolete or misleading through passage of time should not be used.

Finally, according to the Recommendation of the SEE, testimonials themselves are not considered substantiation and impartial evidence is required.

## 2.6 Disclosures

Specific industries are obliged by law to include warning messages and other disclosures to their marketing communications (eg, advertisements of over-the-counter medicines, food supplements, gambling services and credit and investment products).

Disclosures voluntarily used by advertisers (such as disclaimers, footnotes, etc) are permitted to the extent that they do not mislead the average consumer. They are used to clarify the advertising claim and must not contradict or alter the general impression created by the main body of the advertisement.

Another important rule is that the disclosures and any other superimposed text in advertising should be legible. To this end, the SEE has issued a Best Practice Guide relating to the size and timing of the superimposed text in audiovisual marketing communications.

## 2.7 Representation and Stereotypes in Advertising

The basic principle relating to the issues of inclusion and diversity in advertising is that marketing communications should respect human dignity and should not incite or condone any form of discrimination, including that based upon ethnic or national origin, religion, gender, age, disability

or sexual orientation (Article 2a of the self-regulatory Code HCACP).

In relation to audiovisual marketing communications, Law No. 4779/2021 (incorporating Directive EU 2010/13 as amended by Directive EU 2018/1808) prohibits any incitement to violence or hatred based on people's race, skin colour, ethnic or national origin, genetic features, religion, disability, sexual orientation, gender identity or gender characteristics (Article 8 of Law No. 4779/2021). In addition, video-sharing platforms that fall under the Greek jurisdiction should take appropriate measures against content and audiovisual marketing communications that contain such incitement to violence or hatred (Article 32 of Law No. 4779/2021).

Advertisers should be aware that female stereotyping in advertising is not appreciated by Greek society. What is more, the respective advertisements may be monitored by a regulatory authority or the SEE for offending the dignity of women.

## 2.8 Environmental Claims

There are currently no Greek laws dealing specifically with environmental claims in advertising with the exception of a special law which forbids the use of the term "ecologic" or "eco" in the packaging and advertising of products unless such products are granted the EU Ecolabel (according to EC Regulation No 66/2010).

In the field of advertising self-regulation, Chapter D of the Code (HCACP) is dedicated to the environmental claims in advertising. The basic principles introduced with HCACP are the following:

- Marketing communications should not contain any statement or visual treatment likely to mislead consumers in any way about the environmental aspects or advantages of

products, or about actions being taken by the marketer in favour of the environment. Overstatement of environmental attributes, such as highlighting a marginal improvement as a major gain, or use of statistics in a misleading way (“we have doubled the recycled content of our product” when there was only a small percentage to begin with) are examples.

- Vague or non-specific claims of environmental benefit, which may convey a range of meanings to consumers, should be made only if they are valid, without qualification, in all reasonably foreseeable circumstances. If this is not the case, general environmental claims should either be qualified or avoided. In particular, claims such as “environmentally friendly”, “ecologically safe”, “green”, “sustainable”, “carbon friendly” or any other claim implying that a product or an activity has no impact – or only a positive impact – on the environment, should not be used without qualification unless a very high standard of proof is available. As long as there are no definitive, generally accepted methods for measuring sustainability or confirming its accomplishment, no claim to have achieved it should be made.
- Marketing communications should use technical demonstrations or scientific findings about environmental impact only when they are backed by reliable scientific evidence.

## 2.9 Dark Patterns

### Consumer Protection Legislation

“Dark patterns” or “deceptive design patterns” may first of all, depending on the circumstances, constitute infringements of Consumer Protection Legislation (in particular, Greek Law 2251/1994), whereby unfair commercial practices, including misleading and aggressive practices (see 2.1 **Deceptive or Misleading Claims**), are expressly prohibited. For example, a design which, by

“hiding” certain information, leads consumers to believe that a service can be provided with a single payment, but, in fact, more payments are later needed in order to continue using the service, may constitute a misleading practice. Another example may be a design which falsely states that a product will only be available for a very limited period of time, so that consumers are “pushed” to take a quick decision instead of an informed choice, which would constitute a misleading practice expressly prohibited in Article 9f of Law 2251/1994.

### Data Protection Legislation

Dark patterns may also violate Data Protection rules, and in particular the General Data Protection Regulation (the “GDPR” – EU Regulation 2016/679), which is directly enforceable in Greece. More specifically, depending on the case, dark patterns may violate privacy rules such as, indicatively, fulfilling the conditions for legitimately obtaining a user’s informed consent for data processing, as well as the privacy-by-design and privacy-by-default principles. In this context, the European Data Protection Board (“EDPB”) has also adopted Guidelines 03/2022 (dated 14 February 2023) on deceptive design patterns in social media platform interfaces.

### Digital Services Act

For cases not covered by legislation on Consumer Protection or Data Protection, Article 25(1) of the “Digital Services Act” (the “DSA” – EU Regulation 2022/2065), which shall apply from 17 February 2024 and shall be directly enforceable in Greece, expressly sets a “ban” on dark patterns, by prohibiting online platforms from designing, organising or operating their online interfaces in a way that deceives or manipulates or otherwise materially distorts or impairs the ability of the users to make free and informed choices.

Recital 67 of the DSA mentions that online “dark patterns” may include, indicatively: giving more prominence to certain choices when users are asked to make a decision, repeatedly requesting users to make a choice even though the choice has already been made by the users, making the process for cancelling a service significantly more difficult than subscribing to it, etc. As per Article 25(3) of the DSA, the European Commission may issue guidelines on specific practices that constitute dark patterns, in which case these guidelines are expected to be followed in Greece as well.

## 2.10 Children

Greek laws and the self-regulatory Code (HCACP) set out some basic principles regarding advertising to children such as:

- products which are illegal for children or teens to purchase or are unsuitable for them should not be advertised in media targeted to them (eg, tobacco, alcohol or gambling services);
- marketing communications should not contain any statement or visual treatment that could have the effect of harming children or teens mentally, morally or physically;
- children and teens should not be portrayed in unsafe situations or engaging in actions harmful to themselves or others, or be encouraged to engage in potentially hazardous activities or inappropriate behaviour.

Advertising Self-regulation also deals with the issue of food and beverage advertisements to children. The “Greek Pledge” is a voluntary initiative by of the Federation of Hellenic Food Industries to improve the way they advertise to children under 13 years of age. It aims at tackling childhood obesity and non-communicable diseases. It was developed in the context of the

“EU Pledge” and the commitments are identical to those of the EU Pledge.

To be specific, Greek Pledge members have committed:

- not to advertise food and beverages to children under 13 years, except for products which fulfil the common nutrition criteria of the EU pledge; and
- not to engage in food and beverage advertising in primary schools, except where specifically requested by, or agreed with, the school administration for educational purposes.

## Audiovisual Marketing Communications Addressed to Children

Specific rules apply in relation to audiovisual marketing communications addressed to children. According to art. 14 of Law No. 4779/2021 these communications should not:

- directly induce minors to buy or hire a product or service by exploiting their inexperience or credulity;
- encourage them to persuade their parents or others to purchase the goods or services being advertised;
- exploit the special trust minors place in parents, teachers or other persons; and
- unreasonably portray minors in dangerous situations.

It is forbidden to advertise toys on TV from 07.00 to 22.00 hours and war toys at any time.

## 2.11 Sponsor ID and Branded Content

The basic rules related to sponsor identification and branded content are the following:



- Marketing communications should be clearly distinguishable as such, whatever their form and whatever the medium used.
- The identity of the advertiser should be transparent. Marketing communications should, where appropriate, include contact information to enable the consumer to get in touch with the advertiser without difficulty.

In the field of digital marketing communications, advertisers should take appropriate steps to ensure that the commercial nature of the content of a social network site or profile under the control or influence of an advertiser is clearly indicated and that the rules and standards of acceptable commercial behaviour in these networks are respected.

Hidden marketing communications are specifically prohibited in audiovisual media, according to the provision of Article 14(1)(a) of Law No. 4779/2021.

## 2.12 Other Regulated Claims Claims Regarding Geographic Origin

Advertising that includes misleading information regarding the geographic origin of a product is specifically prohibited both by the Law on Consumer Protection (Article 9d of Law 2251/1994) and by the legislation on Unfair Competition (Articles 3-4 of Law 146/1914).

### Claim That a Product is “Free/Without Charge”

The claim that something is offered for free/without charge (or similar expressions), is permissible only if the consumer does not have to pay anything other than the unavoidable cost of responding to the commercial practice and of collecting or paying for delivery of the item (Article 9f of the Consumer Protection Law). Advertising a product as offered for free if another

one is purchased (“buy one, get one free”) is accepted only if the consumer will pay nothing for the one item and no more than the regular price for the other.

## 3. Comparative Advertising and Ambush Marketing

### 3.1 Specific Rules or Restrictions

Comparative advertising is permissible under Greek law (Article 9 paragraph 2 of Law No. 2251/1994 on Consumer Protection), provided that the following conditions are met:

- it is not misleading;
- it objectively compares one or more material, relevant, verifiable and representative features of those goods and services, which may include price;
- it compares goods or services meeting the same needs or intended for the same purpose; and
- for products with designation of origin, it relates in each case to products with the same designation.

In case the name/trademark of a competitor is used in the course of comparative advertising, additional restrictions apply (see 3.2 Competitor Copyrights and Trade Marks).

### 3.2 Competitor Copyrights and Trade Marks

Identifying a competitor by its name or by its trademark/packaging in the course of comparative advertising is permitted in Greece, provided that any such advertisement:

- does not discredit or denigrate the trademarks, trade names, other distinguishing

marks, goods, services, activities or circumstances of a competitor;

- does not take unfair advantage of the reputation of a trade mark, trade name or other distinguishing marks of a competitor or of the designation of origin of competing products;
- does not create confusion between the advertiser and a competitor or between the advertiser's trademarks, trade names, other distinguishing marks, goods or services and those of a competitor; and
- does not present goods or services as imitations or replicas of goods or services bearing a protected trade mark or trade name.

### 3.3 Challenging Comparative Claims Made by Competitors

In case the comparative claims made by a competitor are illegal (ie, they infringe the rules mentioned above in **3.1 Specific Rules or Restrictions** and **3.2 Competitor Copyrights and Trade Marks**), the advertiser who is directly affected by the claims may initiate court action to challenge them.

In such cases, the advertiser may request the court:

- to issue a cease-and-desist order;
- to order that the court judgment is published to the media and/ or that a corrective advertisement is published; and
- to award material damages (including loss of profit) and/or moral damages.

Alternatively to court proceedings, the advertiser may follow the route of advertising self-regulation. In such case, a complaint may be filed before the Advertising Self-Regulation Council (SEE) requesting the comparative claims to be checked for compliance with the Hellenic

Code of Advertising & Communication Practice (HCACP).

### 3.4 Ambush Marketing

Greek legislation does not include any legal provisions prohibiting or dealing in specific with ambush marketing, with the exception of the special legislation relating to the Olympic Games (Law No. 2598/1998 as amended) which protects the Olympic symbol (Olympic Rings) and the "Olympic" term from any unauthorised use.

The official sponsor which is affected by ambush marketing may raise a claim against the offender relying primarily on the provisions of Law No 146/1914 on Unfair Competition and perhaps of Trademark Law (if there is also a trademark infringement).

In cases of ambush marketing activity which involves misleading advertising practices (eg, a false claim that a product has been approved or authorised by a public or private body), Law No 2251/1994 on Consumer Protection may also be invoked.

At a self-regulatory level, it is noted that the Hellenic Code of Advertising & Communication Practice (HCACP) prohibits ambushing of sponsored properties (Chapter B, Sponsorships, Article B4).

## 4. Social/Digital Media

### 4.1 Special Rules Applicable to Social Media

#### All Advertisements and Advertisers Should Be Clearly Identifiable

A basic principle in Greek advertising law, which is especially applicable in the field of online and social media advertising, is that all advertise-

ments should be clearly identifiable as such. The identity of the advertised entity should also be clear in all marketing communications.

The above are specifically stipulated with regard to online commercial communications in Article 5 of Presidential Decree 131/2003, which transposed Article 6 of Directive 2000/31/EC (e-Commerce Directive) into Greek Law.

In the field of self-regulation, Article 7 and 8 of the HCACP (regarding the HCACP, see **1.1 Primary Laws and Regulation** and **1.7 Self-Regulatory Authorities**), also sets the basic rules that all advertising communications should be clearly identifiable as such, whatever their form and whatever the medium used, and also that the identity of the promoter should be visible to the consumers.

## Digital Services Act

The “Digital Services Act” (EU Regulation 2022/2065), which shall be directly enforceable in Greece, also sets rules in relation to advertising on online platforms according to which, indicatively:

- Online platforms shall clearly and unambiguously label all advertisements as such, and shall let the users know who the advertised entity is and who paid for the advertisement.
- Online platforms shall let users/promoters declare whether the content they provide is or contains commercial communications, and when a user submits such a declaration, the platform shall ensure that other users can identify clearly and unambiguously that such content is or contains commercial communications.
- Online platforms shall inform the users about the parameters based on which they are presented with a specific advertisement and,

where applicable, about how the users may change these parameters.

- Targeted advertising based on profiling that uses special categories of personal data (such as racial or ethnic origin, political opinions, religion, sexual orientation, etc) is banned. Targeted advertising based on profiling of minors is also banned.

## Other Laws

Moreover, advertising in online or social media in Greece is also governed by all laws applicable to advertising in general (see **1.1 Primary Laws and Regulation** above), ie, mainly the Greek Consumer Protection Law, which prohibits unfair commercial practices, as well as the Laws on Data Protection, Intellectual and Industrial Property, Unfair Competition, prohibition of defamation, etc.

Generally, all rules mentioned in Chapters 1, 2 and 3 are applicable to advertising in social/digital media as well.

Also, the advertising of specific products in online and social media may fall under certain restrictions and prohibitions, as described under **10.1 Regulated Products**.

## Self-Regulation

Self-regulatory rules (see **1.7 Self-Regulatory Authorities**) are also directly applicable to advertising in online and social media. Advertisers should always comply with the general principles of legal, decent, honest, truthful, non-defamatory and socially responsible advertising.

Additionally, the HCACP contains a special set of rules (HCACP Chapter C) on Direct Marketing and Digital Marketing Communications, which is applicable to social media advertising.

The SEE has also published a Digital Marketing Best Practice Guide based on EASA's Digital Marketing Communications Best Practice Recommendation.

It is worth noting that in all of the SEE's decisions regarding any disputed marketing communication, it is always mentioned that its rulings are valid and applicable to all media where each disputed advertising content is present, including in all digital media and social media channels of the promoter.

## 4.2 Liability for Third-Party Content

User Generated Content ("UGC"), such as comments, posts, photos, videos, podcasts, etc, created by independent internet users, which has not been commissioned, distributed or later approved or adopted by the advertiser would not, in principle, be considered to be a marketing communication of the advertiser. The Digital Marketing Best Practice Guide issued by the SEE also stipulates that independent UGC is normally (unless certain conditions are met) out of the scope of advertising self-regulation.

Under Article 6 of the Digital Services Act (and also under the similar regime of Article 13 of Presidential Decree 131/2003 which transposed Article 14 of the E-Commerce Directive), a service provider, such as an advertiser who hosts websites or social media channels, would, in principle, not be held liable for content posted by others (UGC) provided that the service provider:

- does not have actual knowledge of illegal activity or illegal content and, as regards claims for damages, is not aware of facts or circumstances from which the illegal activity or illegal content is apparent; or

- upon obtaining such knowledge or awareness, acts expeditiously to remove or to disable access to the illegal content.

If the above conditions are not met (eg, if upon obtaining awareness of illegal third-party content on its own channel, the promoter does not act to remove such illegal content), then the advertiser could be held liable.

UGC could be considered as a digital marketing communication of the promoter under specific conditions, in which case the advertiser would be liable for its content. As per the Digital Marketing Best Practice Guide, issued by the SEE, if the advertiser has commissioned, adopted, approved, recognised, accepted, distributed or actively promoted the UGC (examples of adopting/approving/accepting UGC are "liking", "retweeting", "sharing" or re-using it in other media), the advertiser could be held liable for it.

Also, in cases where a promoter agrees with users, in exchange for any kind of compensation (monetary or otherwise), to create UGC, this would have to clearly be labelled as marketing communication. In cases such as the above, the advertiser would have liability for such UGC.

## 4.3 Disclosure Requirements

Both Greek law and self-regulatory guidance provide that all marketing communications in any form or medium should be clearly identifiable as such. The disclosure can be made by various means, as long as it is easily and clearly understandable to consumers that the content is an advertisement. In social media, keywords or "hashtags" are often used in marketing posts, in order to label them as advertisements of a specific promoter.

Specific identifiers/tags to be used are not yet provided in Greek legislation or official guidance. In Greek market practice, the Greek equivalent of the term “Advertisement” (in Greek, *Διαφήμιση*) or of the term “Sponsored” (*Χορηγούμενο*) are often used as a tag/label for promotional content. The label should not be “hidden” (eg, among other unrelated tags or at the end of the post) but should be obvious and visible at first glance for consumers.

#### 4.4 Requirements for Use of Social Media Platforms

All major social media platforms are available in Greece (Facebook, X/Twitter, YouTube, Instagram, TikTok, Snapchat, etc).

In relation to the use of social media by children, minors under 15 years of age need the consent of their parents/legal guardians in order to participate in “information society services” such as social media platforms – as per Article 21 of Law 4624/2019 implementing art. 8 of the GDPR.

Regarding the rules applicable for advertising in social media platforms, see **4.1 Special Rules Applicable to Social Media**.

#### 4.5 Special Rules for Native Advertising

Native advertising falls under the basic principle that all marketing communications should be clearly identifiable as such, and it should also comply with all other general laws and regulations (see also **4.1 Special Rules Applicable to Social Media**).

Under Article 9f point k of the Greek Consumer Protection Law, it is a misleading and forbidden commercial practice, considered as “disguised advertising”, to use editorial content in the media for the promotion of a product where the trader has paid for such promotion, without clarifying in

the content itself, or by images or sounds clearly identifiable by consumers, that this is a paid promotion.

Also, as per the HCACP (regarding the HCACP see **1.1 Primary Laws and Regulation** and **1.7 Self-Regulatory Authorities**), marketing communications must not be misleading as to their promotional purpose and should not be “disguised”, for example as market research, consumer survey or as user generated content, private social media posts, private blogs or independent reviews, etc.

The HCACP also stipulates that when an advertisement appears in any medium containing news or editorial material (“native advertising”) it must be presented in such a way so that it is immediately recognisable as an advertisement and, where necessary, should be clearly labelled such.

As per the Self-Regulatory Digital Marketing Best Practice Guide issued by the SEE, the distinction in social media between marketing communications and editorial content should be clear. The easy identification of an advertising communication can be shown in various ways, eg, from the design, the content, the position within the website or through an identifier, depending on the specific characteristics of each advertising communication, as long as it is obvious to the consumers that it is an advertisement.

## 5. Social Media Influencer Campaigns and Online Reviews

### 5.1 Special Rules/Regulations on Influencer Campaigns

Influencer campaigns fall under the same rules as other online and social media marketing



communications. All rules outlined in Chapter 4 above are applicable to influencer campaigns as well (see 4.1 **Special Rules Applicable to Social Media**, 4.2 **Liability for Third Party Consent**, 4.3 **Disclosure Requirements** and 4.5 **Special Rules for Native Advertising**).

Most importantly, as provided by both the law and Self-Regulatory rules, all marketing communications, including sponsored influencer campaigns, must be clearly identifiable as being advertisements, should state which the advertised entity is and should abide by the general principles of legal, decent, honest, truthful, non-defamatory and socially responsible advertising.

Also, in Chapter C.1 of the HCACP (on Direct Marketing and Digital Marketing Communications) it is specifically stipulated that where a marketer has paid for a product review or endorsement, the commercial nature of the communication should be transparent. In such cases, it should not be stated or implied that the product review or endorsement came from an individual consumer or from another independent entity.

It is noted that under certain legal conditions, influencers may be considered as “media service providers” who shall therefore comply with the obligations of Law 4779/2021 (which has transposed into Greek Law the EU Audiovisual Media Services Directive).

## 5.2 Advertiser Liability for Influencer Content

As a general principle under Article 23 of the HCACP and also as specifically provided in Chapter C.20 of the HCACP, overall responsibility for all digital marketing communications, whatever their kind and regardless of the medi-

um used – and therefore including influencer content – rests with the marketer.

Apart from the advertiser, influencers themselves also have to abide by the rules on marketing communications, as specifically mentioned in the HCACP.

See also 4.2 **Liability for Third-Party Content**, regarding advertiser liability for user-generated content.

## 5.3 Consumer Reviews

Article 9e paragraph 6 of the Consumer Protection Law, which was added following the implementation of the Omnibus Directive, provides that when a trader provides access to consumer reviews of products, it is of material importance to provide information about whether and how the trader ensures that the published reviews originate from consumers who have actually used or purchased the product. Failure to provide such information may be considered as a misleading omission, and thus a prohibited, unfair commercial practice.

Also, according to Article 9f of the Consumer Protection Law, as amended after the transposition on the Omnibus Directive, the following specifically constitute misleading commercial practices, which are prohibited:

- if marketers state that product reviews have been submitted by consumers who really purchased or used that product, when no reasonable and proportionate steps had been taken by the marketers to ensure that such reviews indeed originate from such consumers; and
- if marketers submit or commission another person to submit “fake” consumer reviews or endorsements, or if they misrepresent

consumer reviews or endorsements, for the purposes of product promotion.

## 5.4 Liability for Consumer Reviews

See 5.3 Consumer Reviews, as well as 4.2 Liability for Third-Party Consent regarding advertiser liability for UGC content.

## 6. Privacy and Advertising

### 6.1 Email Marketing

#### General Rules

All direct marketing communications via email must be clearly identifiable as such, must clearly state the identity of the sender and of the advertised entity and must always provide the receiver with a clear and easy way to object to receiving further such emails.

All direct marketing communications should always comply with Data Protection rules (most importantly, the GDPR), and can only be sent in the below cases:

#### “Opt-in” System

As provided in Article 11(1) of Law 3471/2006, which transposed Directive 2002/58/EC (the E-Privacy Directive) into Greek Law, direct marketing communications via emails require, in principle, the express prior consent of the consumers to receive such communications (opt-in system). All communications should provide an easy way to “unsubscribe” from further emails.

#### “Soft Opt-In” System

As an exception to the above strict “opt-in” rule, Article 11(3) of Law 3471/2006 stipulates that in cases where email addresses have been legally obtained in the context of a purchase of products or services to customers, the customers’ emails may be used for direct marketing of

similar products or services, under certain conditions.

Most importantly, in order for this “soft opt-in” rule to apply, the customers need to be clearly informed (as per the GDPR) when their email is first collected about the trader’s intention to use it for marketing purposes and also the customers need to be clearly provided with a free and easy way to object (“opt-out”) to receiving such marketing emails. The opt-out possibility needs to be provided both at the moment when the email address is first collected as well as within every marketing communication that will be sent.

#### Liability for Unsolicited Marketing Communications

Promoters that infringe the above rules may bear administrative, civil and penal liability in Greece.

#### Administrative liability

The Hellenic Data Protection Authority may impose administrative penalties (such as monetary fines) if it finds that GDPR or E-Privacy rules have been infringed.

#### Civil liability

The recipients of unsolicited marketing communication have the right to claim compensation for any material damages as well as moral damages. According to the law, in cases of unsolicited marketing communications moral damages of at least ten thousand euros (EUR10,000) shall be adjudicated.

#### Penal liability

When personal data are used, collected, stored, exploited or otherwise illegally processed contrary to the above-mentioned rules, the infringer may also face penal liability under Greek law.

## 6.2 Telemarketing

Under the Greek legal framework (specifically Article 11 of Law 3471/2006, which transposed into Greek law the E-Privacy Directive), a distinction has to be made between calls without human intervention (automatic calling systems) and phone calls conducted with human intervention (ie, when an employee is making the call).

### Calls Without Human Intervention (Automated): “Opt-In” System

It is necessary to have the prior express consent (opt-in) of the called persons to receive such automated communications.

### Calls With Human Intervention: “Opt-Out” System

There is a right to opt-out from receiving direct marketing phone calls, and promoters should always make sure that the receivers of the calls have not “opted-out”. The “opt-out” right of telephone subscribers can be exercised in either one of two ways:

- With a declaration of telephone subscribers to their phone provider, that they wish to opt-out from advertising/marketing calls in general, from any promoter. Each Greek telecommunications provider holds an “opt-out registry” with these phone numbers and advertisers should receive up-to-date copies of these registries at least every month, so that they do not call the numbers that have opted-out.
- If an initial contact has been made with potential customers, they may declare directly to the calling promoter that they do not wish to receive further promotional phone calls from this promoter (even if their number is not included in the general “opt-out registries”).

## General Rules for Marketing Phone Calls

All GDPR rules apply. The caller should always inform the consumers at the beginning of the call about the identity of the promoter and should also let them know that they have the right to object to further communications.

Chapter C.21 of the HCACP also contains a set of detailed self-regulatory guidelines for the lawful conduction of marketing phone calls.

### Liability for Unsolicited Marketing Communications

The same liability rules apply as mentioned under 6.1 Email Marketing.

## 6.3 Text Messaging

All rules mentioned under 6.1 Email Marketing apply also to text messaging, which is treated the same as email marketing.

## 6.4 Targeted/Interest-Based Advertising

All GDPR rules, which are directly applicable in Greece, as well as consumer protection rules banning misleading and aggressive practices should be respected in the context of targeted advertising.

Under the Digital Services Act, targeted advertising on online platforms shall be identifiable as such and users should be informed about the parameters based on which they are presented with a specific advertisement and, where applicable, about how they may change these parameters.

In addition, the DSA bans targeted advertising on online platforms based on profiling that uses special categories of personal data (such as racial or ethnic origin, political opinions, religion, sexual orientation, etc).

Regarding targeted advertising of minors see **6.5 Marketing to Children**.

Chapter C.22 of the HCACP also contains a set of detailed self-regulatory guidelines for the lawful conduction of interest-based advertising (“IBA”). As a basic rule, marketers participating in IBA should comply with principles of transparency of data processing and shall ensure that consumers are clearly informed and are able to choose whether to share their data for IBA purposes or not.

Regarding the use of Cookies, see also **6.6 Other Rules**.

## 6.5 Marketing to Children

### Prohibition of Profiling/Targeted Advertising to Minors

The processing of personal data of minors by media service providers and video-sharing platforms for commercial purposes (such as for direct marketing, profiling and behaviorally targeted advertising) is prohibited under Greek Law 4779/2021, which transposed the Audiovisual Media Services Directive.

The Digital Services Act (EU Regulation 2022/2065) also specifically prohibits targeted advertising on online platforms based on profiling of minors.

### Marketing Communications to Children

In addition, under Article 21 of Law 4624/2019 (implementing Article 8 of the GDPR) only minors who are above the age of 15 years can consent (if all other GDPR conditions are met) to participate in “information society services”, such as to receive marketing communications. Younger children need the consent of their parents/legal guardians.

Recital 38 of the GDPR states that “children merit specific protection with regard to their personal data, as they may be less aware of the risks, consequences and safeguards concerned and their rights in relation to the processing of personal data. Such specific protection should, in particular, apply to the use of personal data of children for the purposes of marketing or creating personality or user profiles and the collection of personal data with regard to children when using services offered directly to a child.” Also, as per Recital 58 and Article 12(1) of the GDPR, where processing is addressed to a child, all information provided by the data controller should be in such a clear and plain language that the child can easily understand.

Regarding advertising to children, see also **2.10 Children**.

## 6.6 Other Rules

Generally, any personal data processing, for marketing purposes or otherwise, shall always comply with the GDPR, which is directly enforceable in Greece, as well as with Law 3471/2006 transposing into Greek Law the E-Privacy Directive.

### Cookies

Under the applicable legal framework, the use of “cookies” (except only for absolutely necessary cookies) is allowed only when users have been specifically informed and have actively granted their valid prior consent about them (“opt-in” system). Privacy-by-default and privacy-by-design principles also apply. The default option in all websites should be to not use cookies, except if users actively choose to accept them. Also, cookie banners and pop-ups should not make it more difficult to reject cookies than to accept them.

## 7. Sweepstakes and Other Consumer Promotions

### 7.1 Sweepstakes and Contests General Conditions for Promotional Sweepstakes and Contests

Promotional sweepstakes and contests should be clearly identifiable as such.

In principle, they are permissible in Greece provided that no wager/stake is involved (otherwise they may be considered to constitute illegal lotteries or gambling). The entrants and the winners shall not assume any financial risk or cost in order to claim/receive the prize.

The promotions shall also not fall under the prohibitions of aggressive or misleading commercial practices (see **2.1 Deceptive or Misleading Claims** and **2.12 Other Regulated Claims**).

The HCACP also contains a special set of provisions on Sales Promotion (HCACP Chapter A), setting the basic rules for the presentation of promotional activities, including sweepstakes and contests, to consumers.

#### Terms and Conditions

For any promotional sweepstakes and contests, the Terms and Conditions (T&Cs) and the Privacy Policy should be presented clearly and be easily accessible to consumers. The entrants should actively accept the T&Cs (eg, via an opt-in check-box with a direct link to the full text of the rules), prior to participating.

The T&Cs should be very clear regarding all necessary details regarding the promotion, including indicatively the nature, the rules, the mechanism, the duration, the conditions of participation, the conditions of winning, etc.

The number, value and nature of the prize(s) to be awarded should be clearly stated in the T&Cs and in the promotional materials. The prizes/gifts themselves need to be lawful in Greece.

The T&Cs, the Privacy Policy and all materials associated with the promotion must be provided in the Greek language.

#### Purchase-Linked Promotions

In addition to the above, in the event that a promotion is linked to purchasing a main product, there should be no mark-up to the price of the product and also the value of the prize should not be so high as to excessively entice the consumers to buy the product (otherwise it may be deemed as an unlawful commercial practice).

Sponsors of purchase-linked promotions tend to also provide an alternative no-purchase route for participation, given that, under certain conditions, purchase-linked promotions could be considered as unfair.

### 7.2 Contests of Skill and Games of Chance

The Consumer Protection Law and the self-regulatory framework do not make a clear distinction between contests of skill and games of chance/prize draws, to the extent that they are conducted with promotional/marketing purposes and do not fall within the field of gambling law (ie, provided that they do not constitute illegal gambling, betting or illegal lotteries – which are all heavily regulated in the Gambling Law).

The principles described above, under **7.1 Sweepstakes and Contests**, are applicable to both promotional contests of skill and promotional games of chance/prize-draws.



## 7.3 Registration and Approval Requirements

For promotional sweepstakes and contests, there is no requirement for administrative/official registration or approval, provided of course that the promotional sweepstake or contest does not fall within the definitions of gambling law, which is very strict, heavily regulated and requires special licences.

A market practice followed by some sponsors when running promotional sweepstakes and contests in Greece is to voluntarily file the T&Cs with a Notary Public.

## 7.4 Free and Reduced-Price Offers

In general, all communications on offers should be complete, clear, truthful and in the Greek language, and must not create misleading impressions to the consumers regarding the specific terms of the offers.

### Special Offers and Reduced-Prices

Article 9(3) of Consumer Protection Law 2121/1994 stipulates that any comparative advertising referring to a “special offer” is permitted only if it clearly indicates the date on which the offer ends or, where appropriate, that the special offer is subject to the availability of the products and services. If the special offer has not yet begun, the advertisement must clearly indicate the start date of the period during which the special price or other specific conditions shall apply.

Furthermore, specifically regarding “reduced-price offers” according to the rule set in Article 15(2a) of Law 4177/2013 (as recently amended by Law 5039/2023), each communication regarding a price reduction shall indicate the previous price applied by the trader for a specified period of time prior to the application of the

price reduction. The previous price shall be considered the lowest price applied during the 30 days prior to the price reduction. Where the price is progressively reduced during the 30 days prior to the price reduction, the previous price shall mean the price in force prior to the first of the successive price reductions.

In addition, the “Code of Conduct for Communications of Price Reductions” has also been recently ratified by Ministerial Decision no. 35935/2023 (Gov. Gaz. B’ 2640/2023), containing extensive guidelines for the lawful communication of reduced-price offers to consumers, based mainly on the principles of fair advertising and the prohibition of unfair (misleading and aggressive) commercial practices (see 2.1 **Deceptive or Misleading Claims**).

The HCACP also contains a special set of provisions on Sales & Promotions (HCACP Chapter A). A Best Practice Guide on Discounts & Offers has also been issued by the SEE containing basic guidelines for the fair communication of offers to consumers.

### Free

See 2.12 **Other Regulated Claims** regarding claims that a product is “free” or “without charge”.

## 7.5 Automatic Renewal/Continuous Service Offers

Any automatic renewal/continuous service offers under which a marketer can continue to bill for products and services on a recurring basis (until the consumer cancels), are first of all regulated by the basic principles that marketing communications shall be honest, clear, truthful and shall not fall under prohibited misleading or aggressive commercial practices.

Consumers should be provided in writing with the specific terms of such offers, which shall be clear and easy to understand, prior to agreeing to them.

The process for cancelling a service shall not be significantly more difficult than subscribing to it (see also **2.9 Dark Patterns**).

In cases of “free trials” or “special offers”, which are later converted to paid subscriptions or where the cost is increased at the end of the offer period, Article 10 of the HCACP specifically stipulates that the T&Cs of such transactions should be disclosed clearly, distinctly and unambiguously before the consumer accepts the offer.

The ICC has also published a guideline with “Principles on Automatic Subscription Renewals” (March 2023), which is expected to be followed by the Greek Self-Regulation body (SEE) as well.

Also, under Article 2(7d) of the Greek Consumer Protection Law, general commercial terms that result in the extension or renewal of a contract for an excessively long period of time unless the consumer terminates it within a certain time-frame, are abusive, and therefore illegal.

## 8. Artificial Intelligence

### 8.1 AI & Advertising Content

Currently, there is no specific framework regarding content, such as advertisements, created by Artificial Intelligence (AI). AI-generated material still remains a grey legal area, especially regarding the issue of the existence or not of “copy-rights” on such content.

All rules and regulations applicable to any marketing communications (as such rules are described in all chapters) shall apply to AI-generated advertisements as well.

Special attention, *inter alia*, shall be given so that content created by AI does not result in misleading or otherwise unlawful advertisements and so that it does not infringe existing IP or other rights of third parties.

### 8.2 AI-Related Claims

There are currently no specific regulations for advertising claims related to AI (eg, that a product is developed through AI or that it offers possibilities related to AI). All general rules regarding advertising claims shall be followed, especially regarding the substantiation of such claims (see **2.3 Substantiation of Advertising Claims**).

### 8.3 Chatbots

Chatbots are not yet specifically regulated, but all general rules regarding lawful marketing communications as well as regarding personal data protection shall apply to the use of chatbots as well.

Appropriate measures need to be taken by advertisers in order to ensure GDPR compliance and also in order to avoid misleading or otherwise unfair commercial practices towards consumers because of the use of chatbots.

## 9. Web 3.0

### 9.1 Cryptocurrency and Non-fungible Tokens (NFTs)

#### Crypto-assets

The Markets in Crypto-Assets Regulation (“MiCA” – EU Regulation 2023/1114) shall set the new basic regulatory framework on the issu-

ance and marketing of crypto-assets and related services across the EU. MiCA shall apply, and shall be directly enforceable across the EU, from 30 December 2024.

The Regulation, inter alia, contains rules on marketing communications related to crypto-assets, with the basic principles being that marketing communications should be clearly identifiable as such, should be fair, clear and not misleading and be consistent with the crypto-asset white paper. Depending on the type of crypto-assets, specific disclosures may also have to be included in the marketing communications.

## NFTs

MiCA exempts unique and non-fungible crypto-assets (ie, NFTs that often represent digital art and collectibles) from its regulatory framework. Therefore, currently there are no specific rules in Greece or in the EU regarding NFTs. The general advertising rules described in all previous chapters shall be deemed to apply also for the marketing of NFTs.

## 9.2 Metaverse

Currently, there is no special regulation regarding the Metaverse.

The rules described in all previous chapters shall be deemed to be appropriately applicable also for advertising within the Metaverse.

The Self-Regulatory Advertising Code (the HCACP) also specifically mentions that its provisions are “technology neutral”, ie, they are applicable regardless of the means and the technology used.

## 10. Product Compliance

### 10.1 Regulated Products

#### Alcohol

The advertising of alcoholic beverages must not:

- be aimed specifically at minors or depict persons below the age of 25 consuming alcohol;
- encourage immoderate consumption of alcoholic beverages or show negatively the abstinence from their consumption or their moderate consumption;
- link the consumption of alcohol to enhanced mental or physical performance or to driving;
- create the impression that alcohol consumption contributes towards social or sexual success; or
- imply that alcoholic beverages have therapeutic properties.

Alcohol advertisements should only be placed in media for which at least 70% of the audience are reasonably expected to be 18 years or older. All alcohol advertisements should include the tag line “enjoy responsibly”.

#### Tobacco/Vaping

All forms of tobacco advertising (including e-cigarette advertising) are prohibited, except for advertisements inside tobacco stores.

#### Cannabis Products

Under Greek law, products (not specifically foods) deriving from the cultivation of Cannabis Sativa L which contains THC (tetrahydrocannabinol) at a concentration of less than 0.2% are not considered to be illegal narcotic drugs. However, this does not mean that foods and food supplements containing THC under that level are legal, per se. The legality of the circulation/advertising of such products in the Greek market is doubt-

ful, since there are still a lot of grey legal areas in this field.

## Medicines

It is illegal to advertise medicines which are available on medical prescription only. Advertising of over-the-counter medicines is in principle permitted but certain restrictions apply, eg, said advertisements must disseminate particular minimum information, along with the warning message: “The Ministry of Health and the National Organisation for Medicines advise you to read the instructions carefully and consult your doctor or pharmacist”.

## Foodstuff/Food supplements

Regulation (EC) 1924/2006 “on nutrition and health claims made on foods” is applicable in Greece and introduces specific restrictions on advertising, presentation and labelling of food (eg, that the advertisements concerned should not induce excessive consumption of food, that nutrition and health claims shall be based on and substantiated by generally accepted scientific evidence, etc). Furthermore, certain restrictions are also imposed on advertisements of nutritional supplements and food products intended for use in energy-restricted diets for weight reduction.

## Gambling

Under Law No 4002/2011, the advertising of gambling services in Greece is permitted only to entities licensed by the Hellenic Gaming Commission (HGC). Said Law and the Guidelines of HGC set out the general principle of responsible advertising along with a number of specific restrictions safeguarding a high level of consumer protection (eg, these advertisements should include a warning message on gambling harm, etc).

## Plant Protection Products

In Greece it applies the Regulation (EC) 1107/2009 concerning the placing of plant protection products on the market which imposes certain rules and restrictions on advertising of authorised plant protection products. For example, all such advertisements should include the warning notice “Use plant protection products safely. Always read the label and product information before use”.

## Cosmetics

Claims on cosmetic products must comply both with the Regulation (EU) No 655/2013 and with Annex VII of the Self-Regulatory Code (HCACP) which incorporates the Guiding Principles on Responsible Advertising and Marketing Communication of Cosmetics.

## Cars

Advertisements related to passenger cars should disclose information on CO2 emissions and fuel consumption.

## Firearms and weapons

It is illegal to advertise firearms and weapons in audiovisual media.

## 10.2 Product Placement

Product Placement in audiovisual media is permitted under Greek law (Article 16 of Law No 4779/2021 incorporating Directive EU 2010/13 as amended by Directive EU 2018/1808) provided that the following rules are respected:

- product placement is not permitted in news and current affairs programmes, consumer affairs programmes, religious programs and children’s programmes;
- product placed programmes must not directly encourage the purchase or rental of goods or

- services by making special promotional references to those goods or services;
- they must not give undue prominence to the products in question;
- the editorial autonomy of the media service provider must be respected; and
- viewers must be clearly informed of the existence of product placement by an appropriate identification at the start and at the end of the programme, and when a programme resumes after an advertising break.

Product placement of the following is prohibited:

- cigarettes and other tobacco products, including electronic cigarettes and refill containers;
- medicines that are available only on medical prescription; and
- any other product or service which is illegal to be advertised.

### 10.3 Other Products

The advertising of certain professional services (such as those of lawyers, doctors, etc) is strictly regulated by Professional Codes of Conduct which impose several restrictions on the respective marketing communications.

## Trends and Developments

### Contributed by:

Asterios Syssilas and Elena Nikolarea

**A & K Metaxopoulos & Partners Law Firm**

**A & K Metaxopoulos & Partners Law Firm** is considered a top media, IP and TMT expert law firm in Greece. With 65 years of expertise in the field of intellectual property and TMT, the firm has handled a vast variety of cases in many industry sectors, by representing key international and domestic clients, for example major film studios, publishers and record companies as well as MPAA for many years. Kriton Metaxopoulos has also served as a BoD member

of Warner Music for more than 20 years. The firm is the only Greek member of the Global Advertising Lawyers Alliance (GALA), a global network of law firms with expertise in advertising and media law issues. In view of the GALA membership, foreign major corporations request from the firm “clearance” for advertising directed to the Greek market. The TMT team consists of five legal experts (two partners and three associates).

## Authors



**Asterios Syssilas** is an attorney-at-law accredited to the Supreme Court, member of the Athens Bar Association and Salaried Partner at A & K Metaxopoulos and Partners. He

holds an LL.M. in Civil Law and specialises in copyright law, advertising law, TMT law, consumer protection and data protection law. He has advised many international and domestic clients in advertising law issues. Asterios is the contact person with Global Advertising Lawyers Alliance (GALA) and has participated in many advertising law conferences in Greece and abroad.



**Elena Nikolarea** is an attorney-at-law accredited to the Court of Appeals, a member of the Athens Bar Association and an associate at A & K Metaxopoulos and Partners.

She holds an LL.B. (2016) and an LL.M. in Civil Law and New Technologies (2019) from the University of Athens, both with the highest distinction. Elena mainly specialises in civil law, dispute resolution, data protection, media law and consumer protection issues. She is a valued member of the litigation and TMT teams of A & K Metaxopoulos, and since 2016, has represented and advised leading Greek and international entities in various and complex legal matters.



## A&K Metaxopoulos & Partners Law Firm

54 Vasilissis Sofias Avenue  
115 28 Athens  
Greece

Tel: +30 2107257614  
Fax: +30 2107297610  
Email: metaxopoulos@metaxopouloslaw.gr  
Web: www.metaxopouloslaw.gr



### New Penalties for Infringements of Consumer Protection Law

Under Directive (EU) 2019/2161 on the better enforcement and modernisation of EU consumer protection rules (the “Omnibus Directive”), which has been transposed into Greek legislation with Law 4933/2022, various amendments were introduced to existing Greek laws, and mainly to Law 2251/1994 on Consumer Protection.

Inter alia, a new penalties regime has been introduced for infringements of consumer protection law (including, for example, for unfair commercial practices, such as misleading or aggressive marketing communications), with amendments and additions made to Articles 9i and 13a of Law 2251/1994 on Consumer Protection.

Some of the main points of the new rules, are the following:

- Marketers who infringe Consumer Protection Law provisions (including those on unfair marketing practices, misleading advertisements, etc) shall be subject to one or more of the following penalties (if the competent administrative authorities intervene either following a consumer’s complaint or ex officio):

- (a) a warning to cease and desist the infringement;
- (b) a fine ranging from EUR5,000 up to EUR1,500,000. In the event that within the past five years, the same marketer has been imposed with more than one other fines for violating Consumer Protection Law, the maximum amount of the new fine is EUR3,000,000.
- Aggravating or mitigating factors which are taken into account for the imposition of penalties, depending on the circumstances of each case, are in particular (indicatively) the following:
  - (a) the nature, gravity, scale and duration of the infringement;
  - (b) actions of the marketer aiming at mitigating or restoring the damage suffered by consumers;
  - (c) previous violations of the marketer;
  - (d) the financial benefits gained or the losses avoided by the marketer due to the infringement; and
  - (e) the penalties imposed on the marketer for the same infringement in other EU member states in cross-border cases, where such information is available via the mechanism established by Regulation

(EU) 2017/2394;

- In cases that, in accordance with Article 21 of Regulation (EU) 2017/2394, sanctions are to be imposed due to widespread infringements, the maximum amount of the fine is at least equal to 4% of the annual turnover of the marketer in the member state(s) concerned. If there is no information on the annual turnover, the maximum amount of the fine is EUR5,000,000;
- A summary of the decision imposing a fine (including the full name and registered seat of the offender, a description of the offense and the imposed fine) can be published on the website of the Greek Ministry for Development, in certain cases.

To supplement the above, the following are also provided specifically in cases of unfair (misleading or aggressive) commercial practices, such as unfair advertising communications:

- Every consumer and/or consumer association has the right to request from the courts to issue a cease-and-desist decision, as well as the right to claim compensation for damages suffered due to the unfair commercial practice.
- Consumers also have the right to request a price reduction or to terminate the contract, in case there was an unfair (misleading or aggressive) commercial practice/marketing communication.
- The court may also order the publication of the decision ordering the cessation of the unfair practice, in whole or in part, as well as the publication of a related “remedy” statement by the offender.

In the above cases, the marketer is obliged to provide the court with evidence supporting the factual accuracy of the contested commercial

practice (eg, substantiation of marketing claims). If such evidence is not provided or is deemed insufficient, the allegations of the consumers are presumed to be true.

- Unfair commercial practices can also be controlled through entities imposing relevant Codes of Conduct. For example, the Hellenic Advertising Self-Regulation Council (SEE), created by the Hellenic Association of Advertising and Communication Agencies (EDEE) and the Hellenic Advertisers Association (SDE), is the main self-regulatory entity that monitors advertising communications in Greece (either ex officio or following a complaint by a consumer or competitor). SEE monitors compliance with the Hellenic Code of Advertising and Communication Practice (HCACP), the structure and content of which is almost identical to the Consolidated Code of Advertising and Communication Practice of the ICC.

## Announcements/Communications of Price Reductions

### *Main legal rule*

Regarding announcements of price reductions by marketers in Greece, the relevant Article 15(2a) of Law 4177/2013 was recently amended by Greek Laws 4933/2022 and 5039/2023, in order to incorporate the provisions of Article 2(1) of Directive (EU) 2019/2161 (the Omnibus Directive) which inserted Article 6a into Directive 98/6/EC.

The current provision of Article 15(2a) of Law 4177/2013 reads as follows:

“Any announcement of a price reduction shall indicate the prior price applied by the trader for a determined period of time prior to the application of the price reduction. The prior price

means the lowest price applied by the trader during a period of time of thirty (30) days prior to the application of the price reduction. When the product has been on the market for less than thirty (30) days, the prior price means the lowest price applied by the trader during the time that the product has been on the market. When the price is progressively reduced during the thirty (30) days prior to the application of the price reduction, the prior price shall mean the price in force prior to the application of the first of the successive price reductions.”

### *New code of conduct for communications of price reductions*

In addition, Article 15(7) of Law 4177/2013, as amended, provides that by decision of the Minister for Development, a Code of Conduct is issued regarding consumer protection during offers, sales and promotional actions, especially with regard to the information provided to the consumers, the listed prices, the duration of the offers, the quantity and characteristics of the items offered, the imposition of administrative sanctions for the violation of its provisions and any other relevant issue.

Based on the above, the “Code of Conduct for Communications of Price Reductions” has been recently ratified by Ministerial Decision no. 35935/2023 (Gov. Gaz. B’ 2640/21.04.2023). The Code of Conduct is mainly based on the principles of fair advertising, as provided in the Greek Consumer Protection Law 2251/1994 which has transposed EU Directives on Consumer Protection into Greek law and bans misleading and aggressive commercial practices. The new Code of Conduct contains extensive guidelines for the lawful communication of reduced-price offers to consumers, with multiple examples of best and worst practices for price-reduction announcements.

### *High monetary fines for infringers imposed in 2023*

Article 21(2) of Law 4177/2013 (which was amended by Law 4933/2022 in order to implement Article 2(2) of the Omnibus Directive, amending Article 8 of Directive 98/6/EC) provides that:

“If the discounts, offers or any announcement of a price reduction is inaccurate or misleading as to the percentage of the discount or as to the prices or as to the quantity of the products offered at a discount or on offer or involves any form of concealment or deception, a fine of up to two percent (2%) of the trader’s annual turnover, and in any case not less than twenty thousand (20,000) euros, is imposed on the trader. If the trader is fined a second time for the same violation within a period of five (5) years, the maximum amount of the fine is increased to four percent (4%) of the trader’s annual turnover.”

In July and August 2023, the competent authorities of the Greek Ministry for Development, imposed very high monetary fines amounting to a total of approximately EUR2.4 million on eight leading retail-chain companies in Greece, due to misleading price reduction announcements.

Among these fines, the highest were imposed on three of the biggest and most popular electronics and media retail chains in Greece, amounting to EUR720,000, EUR560,000 and EUR520,000 to each of them respectively.

The fines were imposed for infringements of the above-mentioned Article 15(2a) of Law 4177/2013 (as recently amended) in conjunction also with the newly enacted Code of Conduct for Communications of Price Reductions, and they have gained much publicity in Greece through the ministry’s press releases which specifically

named the very well-known companies that were found to infringe the price-reductions rules.

## “Dual Quality Products”

Article 3(3) of Directive (EU) 2019/2161 (the Omnibus Directive) introduced a new specific case of an unfair, misleading commercial practice in relation to products that have a significantly different quality within different member states of the EU but are, misleadingly, marketed as being identical (“dual quality” products).

The new rule was transposed in Greece with the amendment (by Law 4933/2022) of Article 9d(2) of Law 2251/1994 on Consumer Protection, which now reads as follows:

“2. 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 this practice involves:

(...)

(c) any marketing of a good as being identical to a good marketed in other Member States of the European Union, while that good has significantly different composition or characteristics, unless justified by legitimate and objective factors.”

The scope of the provision concerns goods and does not extend to services.

If the concerned “dual quality” products are “foods” (within the meaning of Article 2 of Regulation (EC) 178/2002), the competent authority in Greece for monitoring this unfair practice and for

imposing the relevant penalties is the Hellenic Food Authority (EFET).

The practice may not be misleading if the material difference in the composition or characteristics of the goods between member states is “justified by legitimate and objective factors”. According to the “explanatory memorandum” of Law 4933/2022, Recital 53 of the Omnibus Directive shall apply in order to clarify this provision. Recital 53 mentions that possible “legitimate and objective factors” which could justify the differentiation of products within the EU could be: national legal provisions, the availability or seasonality of raw materials, voluntary strategies to improve access to healthy and nutritious foods, or also the right of each trader to offer goods in packages of different weight or volume in different geographical markets.

## Advertising of “HFSS” Foods and Beverages

HFSS means food and beverage products which are “High in Fat, Salt and Sugar”.

### Legal provisions

In Greece, under the current Law, ie, Articles 14(6) and 32(4) of new Law No. 4779/2021 (transposing into Greek law Articles 9 and 28b of Dir. 2010/13/EU, as amended by Dir. (EU) 2018/1808 – the EU Audiovisual Media Services Directive) it is provided that advertising of HFSS in audiovisual media services and video-sharing platform providers shall be covered by Self-Regulatory Codes of Conduct.

### Self-regulation

The Hellenic Code of Advertising and Communication Practice (HCACP), which is monitored by the Hellenic Advertising Self-Regulation Council (SEE), provides in Article 3 of Annex 5, that food and beverage marketing communications should not encourage or condone excess consumption,

and portion sizes should be appropriate to the setting portrayed. Also, marketing communications should not undermine the importance of a balanced and healthy diet.

As an example of implementation of the above rule, the SEE has ruled in a past decision that the slogan “you can eat as many as you want”, used for a product falling into the category of snacks, was in breach of Article 3 of Annex 5 of HCACP which prohibits the encouragement of excessive consumption. The severity of the breach was considered to be more serious taking into account that a large number of the consumers of this category of products are children.

### *The Greek Pledge*

An important development recently is that the local food industry has introduced the “Greek Pledge”, a voluntary initiative of the Federation of Hellenic Food Industries supported by the Hellenic Advertisers Association. It aims to improve compliance in the field of HFSS advertising, especially towards children younger than 13 years old, with the purpose of tackling childhood obesity and non-communicable diseases.

The “Greek Pledge” was adopted in May 2022 and, within one year from the beginning of this initiative, 20 member companies were participating as of June 2023. The commitments are identical to the “EU Pledge” commitments, namely:

- Not to advertise food and beverages to children under 13 years of age, except for products which fulfil the “EU Pledge” common nutrition criteria (“advertising to children under 13 years of age” was defined as advertising to media audiences with a minimum of 30% of children under 13 years of age).
- Not to engage in food and beverage advertising in primary schools, except where specifi-

cally requested by, or agreed with, the school administration for educational purposes.

The companies’ compliance is monitored independently. In June 2023, it was announced that within one year from the adoption of the Pledge, the level of compliance that was monitored was very high. In particular, compliance was measured at 98% for TV adverts (out of 21,658 spots that were checked, only 2% were shown to an audience that consisted of more than 30% children under the age of 13), 100% compliance for influencers (ten influencer profiles were checked), 92% for social media communications (31 brand-related pages on Facebook, YouTube and Instagram were checked) and 90% for company websites (out of nine websites checked).

### **CBD Foods and Food Supplements**

Currently in the Greek market, Cannabis-derived products, including foodstuffs and food supplements, are advertised online and are available for purchase in a growing number of stores. However, the legality of the circulation of such food products in the Greek market is doubtful, since there are still a lot of grey legal areas in this field.

### *“Novel foods”*

Foods and food supplements containing CBD (cannabidiol) which do not have a history of consumption in the EU prior to 1997, may fall under the category of “novel foods”. This means that their circulation needs first to be authorised according to the relevant EU Novel Foods Regulation (Regulation (EU) 2015/2283), and they cannot be put in the market until a safety assessment has been completed.

In June 2022, the European Food Safety Authority (EFSA) issued a statement noting that the safety of CBD as a novel food (not as a medicine)

cannot currently be determined. More data will be needed in order to complete the assessment.

On the other hand, some products gathered from natural parts of the plant *Cannabis Sativa* L (eg, hemp seeds or seed oil), which have been consumed in the EU prior to 1997 according to the EU novel food catalogue, would not, in that case, fall under the Novel Foods Regulation – as long as they do not have “novel food” ingredients, eg, CBD. However, even in that case, relevant legal requirements (eg, the appropriate THC concentration levels), regulated at a national and EU level, need still to be met in order to legitimately put any such products in the Greek market.



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