

To the Office of the High Commissioner for Human Rights
Att: The Special Rapporteur on the field of cultural rights, Farida Shaheed.

Dear Farida Shaheed

Please find the answer form the Danish Government to the questionnaire on cultural rights below. The answer has been collected by the Ministry of Culture on the basis of input from the relevant authorities (The Danish Business Authority and the Danish Tax Authority, SKAT).

Ad 1-3)

The Danish Marketing Practices Act contains several provisions that protect specific categories of the population.

According to the general clause in Section 1, advertising and other marketing must be non-discriminatory in relation to race, nationality, religion, gender or age. E.g. advertisements should not denigrate or be contemptuous towards women or men because of their gender. Advertisements must not in a derogatory or contemptuous manner depict women or men. Advertisements must not reduce people to sexual objects.

Section 8(1) requires businesses targeting children and young people to take special care not to exploit the natural credulity of these age groups and their lack of experience and critical sense, which makes them very susceptible to influence.

This provision means that a violation of any of the other provisions is all the more aggravating when it comes to children and young people. When assessing the infringing aspects of misleading advertising in relation to this age group, it should be taken into consideration that children are more likely to take the commercial message at face-value. Descriptions of products and its size, value, nature, durability and performance must therefore be presented more accurately than in advertising directed at adults.

Another implication of the provision is that businesses and trades are neither allowed to involve children and young people in sales and marketing activities as staff - nor as intermediaries in friend recruitment schemes. To use children as sales staff and intermediaries is to exploit their natural credulity and loyalty. However, children and young people should not be restrained from earning money after school in shops etc. or to participate in conventional sales, marketing and fund raising activities in their local sports club or other associations.

Marketing concepts should not employ means such as unrealistic and distorted beauty or body ideals. The use of such means in commercial communication directed at children and young people is likely to have a very negative influence on their self-confidence and self-respect. Display of sex and sexual undertones must also be avoided. It may affront the natural modesty of these age groups and introduce them to a whole new social world which they are not qualified to navigate.

Section 8(2) makes it an offence to incite violent behavior, directly or indirectly, the use of drugs, including alcohol, or other dangerous or reckless behavior in marketing activities. The provision also sets out that marketing targeted to this group should not employ means such as fear, violence or superstition in an improper manner.

Violations of the ban set out in section 8(2) are punishable by fine unless more severe penalties have been incurred under other legislation. See section 30(3) of the Marketing Practices Act.

The new provision in subsection 2 is aimed at rooting aggravating and intrusive forms of marketing. Visual marketing media depicting children and young people playing on railway tracks or leaping on a carriage at full speed is not legal. Such depictions could inspire children and young people to do similar or other dangerous things.

The implications of the ban are that alcohol marketing should not be targeted to children and young people. Magazines whose primary target group is children and young people should not contain advertisements featuring alcohol; nor should alcoholic beverages be promoted in connection with children's films in the cinema. Finally, alcohol should not appear in conjunction with marketing campaigns for other products. Booze is not an acceptable means to boost the sales of e.g. youth travels.

Section 8 of the Marketing Practices Act does not establish an absolute definition regarding age criteria and children and young people. The explanatory notes refer to children and young people as a group of people below 18 years of age. The trader must assess the scope and target group of individual marketing campaigns: commercial communication directed to small children is subject to a different evaluation than advertising targeted at teenagers.

Article 14 of the International Code of Advertising Practices remains a suitable vantage point when determining the scope of the principles of good marketing practices with regard to children.

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Ad 5)

The Danish Business Authority under the Ministry of Business and Growth.

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Ad 8)

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Ad 9)

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Ad 10)

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Ad 11)

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Ad 12)

Various tax incentives with the intend of encouraging private sponsorship of artistic creation do exist.

According to the so-called “afskrivninglov” (§§44A and 44B) companies can deduct their purchases of art from their tax bill. This measure is intended to make it more attractive for businesses to support the arts and culture scene in Denmark. The legislation distinguishes between works of art that are movable and can be displayed by the businesses and works of art that are in some way incorporated into a building or its surroundings. With regards to the first kind of art, companies can write of 25 percent of the artistic purchase a year. If the sum of the purchase is less than 12.300 DKK, the company purchasing the art can deduct the whole amount at once. In regards to works of art that are in some way incorporated into a company’s building or surroundings, the company will be able to write of five percent a year, which is the same rate as the building itself. A work of art is defined as an original graphic or sculptural (or other kind of installation etc.) production. The art is only deductible insofar as it is the first time it is sold and that it is sold directly by the artist or the gallery of the artist. The artist and the management in the purchasing company cannot be related or in another kind of close relationship.

According to the so-called “ligningslov” (§85) both companies and private tax payers can write of presents to cultural institutions. For companies it is possible to write of both monetary presents and works of art or objects of natural-historic significance. For private tax payers, only presents in the form of artistic or natural-historic objects can be written of their taxes. A gift is defined as a donation or present – monetary or otherwise – given without an expectation of a returned compensation or other such conditions. A cultural institution is defined as cultural institutions (such as museums, musical venues, theatres, cinemas, zoological gardens, aquariums, exhibition halls, orchestras and citizen-halls etc.) that have received governmental funding for their daily operations in the calendar year before the donation is given. Institutions such as churches, “Folk-high schools”, sports-organizations or local television or radio channels are exempt from the possibility of tax deduction via presents. The deductible amount

from an art or natural historic object equals the purchasing value of the given object, though it must be more than 500 DKK. The value will be determined by an appraiser appointed by the Ministry of Culture. Expenses from the appraisal shall be covered by the cultural institution.

With Kind Regards

Jakob Strandgaard