1. **Has your country adopted specific regulations on advertising and marketing**

**methods and contents aimed at protecting human rights? If so, please specify the**

**content of such regulation. Does the regulation apply both to off-line and on-line**

**advertising?**

**Act No. 147/2001 Coll. on Act on Advertising and amending and supplementing certain acts**

This act regulates general requirements for advertising of certain products, protection of consumers and entrepreneurs against the effects of deceptive advertising and inadmissible comparative advertising and the controlling powers of state authorities related to observance of this act.

The act defines basic terms such as advertising, product and propagator, whereas the advertising shall mean a presentation of products in any form with the intention to introduce them on the market. The act also contains a negative definition of the advertising. Pursuant to the above, for example the following shall not be considered as the advertising: designation of letter-heads or envelopes with the business name or trademark, marking of seat of a legal entity or permanent address of a natural person, designation of operation unit or branch office of a legal entity or natural person by its business name, etc. The product shall mean goods, services, real estates, business name, trademark, designation of origin and other rights and liabilities related to business.

The act stipulates general requirements for advertising, according to which the advertising has to be, inter alia, in compliance with good manners and rules of economic competition cannot be deceptive or hidden. In addition to the above, the act is a consumer protective by prohibition of certain types of advertising, protects human dignity, equality of human beings and human health. The advertising cannot contain any kind of sex, race and social origin discrimination, nor propagate violence, vandalism, or vileness, and entice to illegal acts, or agree with such acts.

The advertising cannot be circulated by an automatic call system, telefax and electronic mail without a prior consent of the user of such appliance which receives such advertising. The advertising cannot be addressed to a particular person, if the person has rejected delivery of such advertising in advance.

Under certain conditions, the act admits the comparative advertising. The comparative advertising shall mean the advertising, which directly or indirectly mentions another competitor or its products. The comparative advertising needs to avoid the deceptive and degrading activities targeting the competitor and its product.

Regarding the right to ownership, the Slovak Republic implemented the EU Directives defining the protection of the investors and consumers on the financial market. In order to protect the rights of ownership, these regulations set forth norms of the promotion and advertising in respect to investment in these financial products, emphasizing the existence of objective higher risk of investment, especially when investing in financial products with no guarantee of earnings or returns on investment. Regarding the deceptive and hidden advertising on financial products, the abovementioned regulations were implemented.

The marketing activities are, inter alia, set forth in the Act No. 250/2007 Coll. on the Consumer Protection, which implemented the EU Directive 2005/29/EC concerning unfair business-to-consumer commercial practices in the internal market, which encompasses prohibited advertising practices.

The other legislation defining the advertisement in Slovakia includes:

The Act on Advertising

The Broadcasting and Transmission Act

The Consumer Protection Act

The Audiovisional Act

The Personal Data Protection Act

The Medicine and Medical Devices Act

The Copyright Act

1. **Please indicate whether specific categories of the population are protected by**

**such regulation, such as children, women, minorities and indigenous peoples.**

**The Act on Advertising and amending and supplementing certain acts (par. 3 (5))**

* Letter c) The Advertising shall not include anything what is against the human dignity, offends the national feelings or the religion, as well as promote any kind of discrimination on the grounds of sex, race and social background
* Letter n) The Advertising shall not abuse the trust of the infants

**The Broadcasting and Transmission Act (par. 31a(7))**

* The commercial communication in media shall not violate the liberty and equality in the human dignity of all people
* The commercial communication in media shall not promote discrimination on the ground of race, sex, race, colour of skin, age, sexual orientation, disability, religion or faith, national or social background or the ethnicity and nationality

**Ethical Codex of the Council on Advertising (art.13)**

* Par.5 The Advertising shall not include anything which would offend the race, national or religious feeling of the consumers
* Par.6 The Advertising shall not promote any form of discrimination, especially on the grounds of race, nationality, religion, political affinity, sex and age.

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

The general provisions on freedom of expression are covered by the Slovak fundamental law, the Slovak Constitution Third Chapter: Political Rights: Art. 26:

The freedom of speech and the right to information are guaranteed.

(2) Everyone has the right to express his views in word, writing, print, picture, or other means as well as the right to freely seek out, receive, and spread ideas and information without regard for state borders. The issuing of press is not subject to approval procedures. Enterprise in the fields of radio and television may be subject to the awarding of an approval from the state. The conditions shall be laid down by law.

(3) Censorship is banned.

(4) The freedom of speech and the right to seek out and disseminate information may be restricted by law, if such a measure is necessary in a democratic society to protect the rights and freedoms of others, state security, public order, or public health and morals.

(5) Public authority bodies are obliged to provide information on their activities in an appropriate manner and in the state language. The conditions and manner of execution shall be laid down by law.

The more specific regulations concerning Advertising are included in the Act on Advertising and amending and supplementing certain acts.

Regarding commercial and non-commercial advertising, there is no special regulations defining the non-commercial advertising in Slovak Republic, the commercial advertising is, on the other hand defined in the Act on Advertising and amending and supplementing certain acts.

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

The Centre does not posses the information about the judicial decisions concerning the advertising or marketing. However in the past 10 years there were made changes in both of the Acts – In the Broadcasting and Transmission Act where the last change was made in 2012 and Act on Advertising and amending and supplementing certain acts (the last change was made in 2011).

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

The Council for broadcasting and retransmission which was established by the Broadcasting and Retransmission Act is the authority monitoring advertising sector.

The one of the main duties of the Council is to deal with the complaints of the citizens on the breach of the Broadcasting and Retransmission Act according to Art. 14a. Besides the duty to monitor advertising sector belongs also to

* 1. Official Food Control Authority
  2. State Institute for Drug Control
  3. The Institute for State Control of Veterinary Biologicals and Medicaments
  4. Public Health Authority of the Slovak Republic and the Regional Public Health Authorities
  5. National Labor Inspectorate of the Slovak Republic

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

In accordance with the Act No. 147/2001 Coll. on Advertising and amending and supplementing certain acts it is forbidden to use sense-perception that influences memory of the person without his/her realization (subliminal techniques). According to this act also neuromarketing is forbidden as a media commercial communication that uses subliminal techniques.

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

The rights of the data subjects are content of the separate chapter of the protection of the private data. Act No. 122/2013 Coll. on Protection of Personal Data and on changing and amending of other acts is dealing with the protection of private data, concretely in Art. 28. We can divide the rights of the persons concerning the personal data into several categories (the division is based on the Act No. 122/2013 Coll.):

1. The right of the person to require the access to data – Upon a written application the data subject shall be entitled to request from the controller (free of charge)
   1. confirmation whether his personal data are or are not being processed.
   2. information about the state of processing of his personal data in the filing system in a generally intelligible form and in the extent under Section 15 Paragraph 1 Points a) to e) Numbers 1to 6; if a decision under Paragraph 5 is issued, the data subject shall be entitled to familiarize himself with the procedure of the processing and evaluating of operations,
   3. exact information, in a generally intelligible form, about the source from which the controller obtained his personal data for their processing,
   4. list of his personal data, in a generally intelligible form, which constitute the subject of the processing,
   5. rectification or erasure of his inaccurate, incomplete or not updated personal data, which constitute the subject of the processing,
   6. erasure of his personal data, if the purpose of their processing was fulfilled; if any official documents containing personal data constitute the subject of the processing the may request their returning,
   7. erasure of his personal data which constitute the subject of processing if there was a violation in the Law,
   8. blocking of his personal data due to the cancelation of the consent for personal data processing before its expiration if controller processes personal data based on the consent of the data subject.
2. The data subject shall be entitled to object to the controller upon a written application, to the following
   1. processing of his personal data, in respect of which he expects that they are or would be processed for the purposes of direct marketing without his consent and he shall be entitled to request for their erasure,
   2. use of the personal data referred to in Section 10 Paragraph 3 Point d) for the purposes of direct marketing in the mail correspondence; or
   3. provision of personal data referred to in Section 10 Paragraph 3 Point d) for the purposes of direct marketing.

The data subject shall be entitled to object to the controller anytime upon a written

request or in person, provided that the matter cannot be postponed to the processing of personal data in the cases under Section 10 Paragraph 3 Points a), e), f) or g) by stating the legitimate reasons or by submitting evidence of infringement of his rights and legitimate interests that are or can be violated by the processing of personal data in a concrete case; if it is proved that the legitimate reasons do not prevent it and the objection of the data subject is valid, the controller shall be obliged to block the personal data, the processing of which was objected by the data subject without undue delay and erase them as soon as possible.

The data subject shall be further entitled anytime upon a written request or in person, provided that the matter cannot be postponed to object to the controller and refuse to submit to the controller’s decision, which would produce legal effects on him or significantly affect him, provided that such decision is based solely on the acts of the automatic processing of his personal data. The data subject shall be entitled to request the controller for examination of the issued decision by a method other than the automatic processing, whereas the controller shall be obliged to satisfy the request of the data subject in such manner that the entitled person shall have a decisive role in the examination of the decision; the controller shall inform the data subject about the manner of examination and the outcome of his finding in a period under Section 29 Paragraph 3. The data subject shall be deprived of the above right only if so stipulated by a special Act in which are regulated the measures for securing the legitimate rights of the data subject or if the controller issued a decision satisfying the request of the data subject during the pre-contractual relationship or in the course of existence of contractual relationship or if the controller adopted other adequate measures to ensure data subject ́s legitimate interests based on the contract.

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

Slovak Association of Research Agencies (SARA) is dealing with the marketing research standards working with the Ethical codex of ESOMAR (European Society for Opinion and Market Research). There are 6 members of the SARA which are present in the Slovak market. There is also another association of the companies using the Ethical codex of ESOMAR – SIMAR which was established in the Czech Republic but includes several companies operating in the Slovakia.

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

According to the Act No. 50/1976 Coll. each advertising equipment which can be seen from the public places has to have building permission:

Art. 71(1) Permission from the building office is required, unless it falls under the remit of other authorities under separate regulations, for the following operations:

c) Informational, advertising or promotional structures if they are placed in places visible from public places and if they are connected to a building or a plot of land.

Act No. 8/2009 Coll. on Road Traffic and on Modification and Amendment of Certain Acts also contains rules concerning advertising:

Art. 60 (9): On the road or near the road there can not be placed things which could be misplaced for traffic signs or cover them or that can distract or gather attention of the road user or dazzle him/her.

Special restrictions are given by Act No. 135/1961 Coll. on Roads:

in Art. 8 (12) Banners, material dumps or advertising, information or promotional material and other materials which are not used for road administration nor traffic management and operation of transport are forbidden to be placed on crossroads and in road users range of vision.

Art. 10 (3) On the highways, roads and international roads and in their protected areas besides stopping place it is forbidden to place advertising, information or promotional materials.

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

ActNo. 245/2008 Coll. on Upbringing and Education (School Act) amending and supplementing certain laws states:

(3) In schools the advertisement is not allowed if it is on the contrary with the principles and content of the education or other negative activities connected with education, advertisement and sale of the goods which have negative effects on health, psychical or moral development of children and pupils.

When talking about sponsoring, the Slovak legislation does not set forth this term; it only specifies it in the Broadcasting and Transmission Act where the definition of the term can be applied only for the purposes of the advertisement in media. The closest term to the “sponsoring” in Slovak legislation is “donating”. There are several laws dealing with the taxes and donation, mostly we can say that the private companies have to pay taxes, however they can allocate the 2% of their taxes to some NGOs, schools, non – profit organizations etc. Legislation in this regard does not help the non-profit sector because it does not allow deduction of expenditures of taxes that occurred because of the donation and therefore it narrows the options by which entrepreneurs are willing to support non-profit sector.

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

ActNo. 245/2008 Coll. on Upbringing and Education (School Act) and on amendments and supplements to certain laws states:

(3) In schools the advertisement is not allowed if it is in contrary with the principles and content of the education or other negative activities connected with education, advertisement and sale of the goods which have negative effects on health, psychical or moral development of children and pupils.

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