

CHILDREN'S RIGHTS AND COMMERCIAL COMMUNICATION
IN THE DIGITAL ERA

CHILDREN'S RIGHTS
AND COMMERCIAL
COMMUNICATION IN
THE DIGITAL ERA

Towards an empowering
regulatory framework for
commercial communication

Valerie VERDOODT

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Plymouth, PL6 7 PP
United Kingdom
Tel.: +44 1752 202 301 | Fax: +44 1752 202 331
Email: orders@nbninternational.com

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Intersentia Publishing nv
Groenstraat 31
2640 Mortsel
Belgium
Tel.: +32 3 680 15 50 | Fax: +32 3 658 71 21
Email: mail@intersentia.be

Distribution for the USA and Canada:

Independent Publishers Group
Order Department
814 North Franklin Street
Chicago, IL60610
USA
Tel.: +1 800 888 4741 (toll free) | Fax: +1312 337 5985
Email: orders@ipgbook.com

Children's Rights and Commercial Communication in the Digital Era. Towards an empowering regulatory framework for commercial communication
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Cover image: by Annelien Hofmans

ISBN 978-1-78068-868-8 (hardcover)
ISBN 978-1-78068-941-8 (PDF)
D/2020/7849/15
NUR 822



British Library Cataloguing in Publication Data. A catalogue record for this book is available from the British Library.

PREFACE

On 20 November 2019 the United Nations Convention on the Rights of the Child celebrates its 30th anniversary. In 1989, when the Convention was adopted, children came across advertising on television, on billboards in the street, in shops and through leaflets in their mailbox. Over the past 30 years, the way in which children are targeted by advertisers and the formats that are used have changed significantly. Think of advergames, influencer marketing, and behavioural targeted advertising. The specific features of these formats, such as their immersive, interactive and personalised nature, make it difficult for children to understand the commercial and persuasive intent of the commercial messages directed at them.

Valerie Verdoodt's doctoral research presents an original and timely fundamental rethinking of the regulatory framework of commercial communication from a children's rights perspective. Offering a carefully considered, well-documented overview and in-depth evaluation of several legislative frameworks, policy documents, self- and co-regulatory initiatives and literature from a variety of disciplines, she has worked towards the development of children's rights-inspired recommendations for an empowering regulatory framework for online commercial communication aimed at children. It is a subject with great societal relevance which contributes to the further realisation of children's rights in the digital environment.

Dr. Verdoodt convincingly concludes that the children's rights framework requires a balance between *empowering* children to cope with advertising (i.e. by educating them and providing them with the necessary opportunities to practice their commercial decision-making skills) and *protecting* them against harmful or misleading advertising and advertising that processes their personal data in an opaque manner (i.e. by recognizing the limitations to advertising literacy and providing additional protections). She found that, at present, the regulatory framework puts too much emphasis on empowerment with much of the responsibility resting on the shoulders of children and their parents, thereby tipping the empowerment-protection scales out of balance. She helpfully suggests that combining all the elements of the regulatory toolbox is the only way to restore that balance. This toolbox includes *inter alia* the enhanced enforcement of the regulatory framework, stimulating the collaboration between regulatory bodies, improving the structure and enforcement of advertising Alternative Regulatory Instruments and carrying out children's rights impact assessments

that respect the multi-dimensionality of rights, when developing advertising and marketing campaigns.

The author's research did not only result in this book but was also published in reputable journals and edited volumes and presented at an impressive number of conferences and expert fora around the world, contributing to the international and national visibility of her work on children's rights in the digital environment. At a time when Member States of the Council of Europe are in the process of implementing the 2018 Recommendation on Guidelines to respect, protect and fulfil the rights of the child in the digital environment and the United Nations Committee on the Rights of the Child is drafting a new General comment on this issue, Valerie Verdoodt's research in this field will undoubtedly inspire many actors, including fellow scholars, policymakers, regulators, advertisers and the public.

Prof. dr. Eva LIEVENS
Professor in Law & Technology
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14 November 2019, Ghent

CONTENTS

<i>Preface</i>	v
<i>Abbreviations</i>	xv
Introduction	1
1. Background	1
2. Delineation	4
3. Structure and methodology of the research	5
PART I.	
CHILDREN'S RIGHTS AND ADVERTISING LITERACY IN THE DIGITAL ERA	9
Chapter I.	
Setting the Scene	11
Section I. Clarification of the constitutive elements	11
1. Children, commercial communication and advertising literacy	11
1.1. Definition of a child	11
1.2. Commercial communication	14
1.3. Advertising literacy	15
2. Emerging trends in the area of commercial communication and children... ..	17
2.1. Advertising in the digital era	17
2.2. Integration	19
2.3. Interaction	21
2.4. Personalisation	22
2.5. Emotional appeal	25
3. Concluding remarks	27
Section II. The need for a future-proof regulatory framework in light of children's rights	28
1. Evolving regulatory context in the digital environment	28
1.1. A fragmented legal framework for commercial communication in the EU	28
1.2. The rise of alternative regulatory instruments	30
2. Children and new forms of commercial communication in policy documents	33
2.1. International policy documents	34

2.1.1.	OECD Recommendation on the protection of children online	34
2.1.2.	Council of Europe	35
	A. Declaration of the Committee of Ministers on protecting the dignity, security and privacy of children on the Internet	35
	B. Strategy on the Rights of the Child	35
	C. Recommendation CM/Rec(2018)7 of the Committee of Ministers to member States on Guidelines to respect, protect and fulfil the rights of the child in the digital environment.	36
2.2.	EU policy documents.	37
2.2.1.	European Parliament Resolution of 15 December 2010 on the impact of advertising on consumer behaviour	38
2.2.2.	European Parliament Resolution of 22 May 2012 on a Strategy for Strengthening the Rights of Vulnerable Consumers	40
2.2.3.	Opinion of the European Economic and Social Committee on a framework for advertising aimed at young people and children (September 2012).	41
2.2.4.	European Parliament Resolution of 20 November 2012 on protecting children in the digital world	42
2.2.5.	European Commission Communication on a European Strategy for a Better Internet for Children (2012).	43
2.2.6.	European Commission Green Paper: Preparing for a Fully Converged Audiovisual World: Growth, Creation and Values (2013).	44
2.2.7.	European Commission Communication on A Digital Single Market Strategy for Europe (2015)	46
3.	New forms of commercial communication call for future-proof regulation.	47
3.1.	Effects of commercial communication on children’s development and advertising literacy	47
3.2.	Precautionary principle.	48
4.	Taking a children’s rights approach	51
	Section III. Interim conclusion	53

Chapter II.

**The Role of Children’s Rights in Regulating New Forms of Commercial
Communication 55**

Section I. Introducing the children’s rights framework 55

1. Children’s rights at international level 55

- 1.1. From subject of protection to active rightsholders 55
- 1.2. The United Nations Framework. 57
- 2. European children’s rights law. 62
 - 2.1. Fundamental human rights for all, including children 62
- 3. Children’s rights and new forms of commercial communication 65
- Section II. Children’s rights and principles in the context of commercial communication 66
 - 1. Overarching principles that underpin a child rights perspective. 67
 - 1.1. Children’s development lies at the heart of the framework. 67
 - 1.2. Non-discrimination in advertising or marketing. 72
 - 1.3. The best interests of the child as a primary consideration for regulators, policymakers, advertisers and parents 76
 - 1.4. Offering children a voice in the decision-making process 78
 - 2. Children’s rights reconfigured by new forms of commercial communication. 79
 - 2.1. Freedom of expression and access to information (article 13 UNCRC, article 10 ECHR, article 11 CFEU) 80
 - 2.2. Freedom of thought (article 14 UNCRC) 83
 - 2.3. Freedom of association (article 15 UNCRC) 84
 - 2.4. Right to privacy (article 16 UNCRC, article 8 ECHR, articles 7 and 8 CFEU) 86
 - 2.5. Right to have a diversity of mass media sources to choose from (article 17 UNCRC) 91
 - 2.6. Right to education and (advertising) literacy (articles 28 and 29 UNCRC). 94
 - 2.7. Right to engage in play and recreational activities (article 31 UNCRC). 95
 - 2.8. Protection against economic exploitation (article 32 UNCRC) 98
 - 2.9. Procedural rights (articles 6 and 13 ECHR, article 47 CFEU) 99

Conclusion.

An Analytical Framework for the Regulatory Framework for Commercial Communication. 101

PART II.

ASSESSMENT OF THE REGULATORY FRAMEWORK FOR COMMERCIAL COMMUNICATION IN LIGHT OF CHILDREN’S RIGHTS. 105

Chapter I.

Piecing Together the Regulatory Puzzle 107

Section I. The consumer protection context 108

- 1. Unfair Commercial Practices Directive 108

1.1. Scope and definitions.	110
1.2. Substantive requirements for commercial practices, including advertising.	111
1.2.1. Unfair commercial practice	111
1.2.2. Misleading commercial practice	112
1.2.3. Aggressive commercial practice	113
1.3. Refit exercise	114
2. Self-regulation: ICC-Code	115
2.1. Scope and definitions.	116
2.2. Substantive requirements for all advertising formats.	117
2.3. Specific protections for children	117
Section II. The audiovisual media services context	118
1. Definitions.	122
1.1. Audiovisual media service	122
1.2. Audiovisual commercial communication	123
1.3. Media service provider	127
2. Substantive requirements for audiovisual commercial communications . .	128
2.1. General principles and provisions.	129
2.1.1. The principle of identification and other requirements for all forms of audiovisual commercial communication . . .	130
2.1.2. The principle of separation and other requirements for television advertising.	131
2.2. Protection of minors in relation to audiovisual commercial communication.	133
3. Self-regulation.	135
Section III. The e-commerce context	135
1. The e-Commerce Directive.	135
1.1. Definitions.	136
1.1.1. Information society service	136
1.1.2. Commercial communication.	138
1.1.3. Information society service provider	138
1.2. Substantive requirements for commercial communications.	139
2. Self-regulation: FEDMA Code of Conduct on E-Commerce & Interactive Marketing	140
2.1. Scope.	142
2.2. Substantive requirements for commercial communications.	142
Section IV. The data protection context.	143
1. The General Data Protection Regulation	144
1.1. Definitions.	146
A. Personal data and processing	146
B. Controller, processor and data subject	147
1.2. Principles for the processing of (children’s) personal data	150
1.3. Specific protections for children under the GDPR	151

1.3.1.	Definition of a child.	152
1.3.2.	The age threshold for consent	153
1.3.3.	Verification	156
1.3.4.	Transparent information	158
1.3.5.	Direct marketing	160
1.3.6.	Profiling.	161
1.3.7.	Right to erasure ('right to be forgotten').	163
1.4.	Other provisions with a potential impact on children.	163
2.	Processing children's electronic communications data – ePrivacy framework	165
2.1.	ePrivacy Directive	165
2.2.	Proposal for an ePrivacy Regulation.	166
3.	Self-regulation.	169
3.1.	ICC Code	169
3.2.	EASA Best Practice Recommendation on Online Behavioural Advertising	170
3.2.1.	Concept and definition	171
3.2.2.	Recommendations for best practices	172
3.3.	IAB Europe EU Framework for Online Behavioural Advertising.	172
3.3.1.	Aim and scope of the Framework.	173
3.3.2.	Principles for OBA.	173
3.4.	FEDMA Codes of conduct	175
3.4.1.	FEDMA European Code of Practice for the Use of Personal Data in Direct Marketing.	175
A.	Scope and definitions.	176
B.	Principles regarding children's privacy and data protection.	176
B.1.	Direct Marketing – offline and online	176
B.2.	Direct marketing – online.	177
C.	Complaint-handling	179
3.4.2.	FEDMA Code of Conduct on E-Commerce & Interactive Marketing	179
Section V.	Interim conclusion	181
Chapter II.		
Evaluation of the Current Regulatory Framework.		
183		
Section I. Advergaming.		
184		
1.	Integration, interaction, emotional appeal and personalisation may all be part of the game	185
1.1.	Persuasive tactics and children's rights implications	185
1.2.	Blurred lines, mixed emotions and the existing regulatory framework	187

1.2.1. The mixing of commercial and non-commercial content and advergames' emotional appeal	187
1.2.2. Deception, personalisation and influenced decision making . .	192
2. Identified gaps or overlaps	194
Section II. Targeting children with personalised advertising.	196
1. Personalisation: Tracking, profiling and targeting, three different steps. . .	196
1.1. Persuasive tactics and children's rights implications	198
1.2. Personalised advertising in the current regulatory framework	200
1.2.1. Collecting and processing of children's personal data under the GDPR and the proposed ePrivacy Regulation	200
1.2.2. Personalised advertising in the Unfair Commercial Practices Directive?	205
1.2.3. Relevant protection for children in the revised AVMS Directive	205
1.2.4. Self-regulation and targeting children with personalised advertising.	206
2. Identified gaps or overlaps	208
Section III. Digital influencers and vlogging advertising	209
1. Integration: product placement, sponsorships, editorials and other forms of vlogging advertising.	211
1.1. Persuasive tactics and children's rights implications	211
1.2. Digital influencers and the current regulatory framework.	212
1.2.1. Vlogging advertising: audiovisual or commercial communication?	213
A. Scoping the applicable legal framework and untangling the vlogging advertising chain	213
B. Broadening the audiovisual playground.	218
1.2.2. Vlogging advertising in the Unfair Commercial Practices Directive.	221
A. Unfair commercial practices by digital influencers and third-party traders	221
B. Unfair commercial practices by the video-sharing platform	224
1.2.3. Further guidance for vloggers in self- and co-regulation – National best practices.	225
2. Identified gaps or overlaps	231
Conclusion	
Gaps and Overlaps in the Current Regulatory Framework for Commercial Communication Aimed at Children	233

PART III.
 ASSESSMENT OF NATIONAL ARIS IN THE AREA OF
 COMMERCIAL COMMUNICATION 237

Chapter I.
**The Interplay Between Alternative Regulatory Instruments and the
 Legal Framework for Commercial Communication** 239

Section I. The use of ARIs and the legal framework 241

1. Children’s rights 241

2. EU legislative instruments on commercial communication and ARIs... 246

Section II. Procedural and organisational elements for ARIs 249

1. Children’s procedural rights and the use of ARIs. 249

1.1. Right to a fair trial 249

1.2. Right to an effective remedy 251

2. General principles for self-and co-regulation at EU level 254

2.1. The EU Principles for Better Self- and Co-regulation 254

2.2. EASA Charter principles for self-regulation 255

Section III. Interim conclusion 256

Chapter II.
Functional Comparative Assessment of National ARIs 257

Section I. Selection of national ARIs and questions for the comparative
 analysis 257

Section II. Comparative study 258

1. Country reports 258

1.1. Belgium 258

1.1.1. Attribution of regulatory power 259

1.1.2. Complaint procedure and consumer awareness..... 260

1.1.3. Enforcement and procedural safeguards 261

1.2. The United Kingdom 263

1.2.1. Attribution of regulatory power 263

1.2.2. Complaint procedure and consumer awareness..... 266

1.2.3. Enforcement and procedural safeguards 267

1.3. The Netherlands 270

1.3.1. Attribution of regulatory power 270

1.3.2. Complaint procedure and consumer awareness..... 272

1.3.3. Enforcement and procedural safeguards 273

1.4. Table of comparison..... 275

2. Discussion 278

2.1. Characteristics of commercial communications that influence
 the structuring of ARIs 278

2.2. Structure, organisation and coverage of the ARIs 278
2.3. Effectiveness of the ARIs. 281

Conclusion

**Best Practices for the Structuring of ARIs in the Area of Commercial
Communication 283**

CONCLUDING REMARKS AND RECOMMENDATIONS FOR THE
FUTURE

Chapter I.

Retrospective of the research undertaken 289

Chapter II.

Conclusions 299

Chapter III.

Recommendations 301

Bibliography 305

ABBREVIATIONS

AC Authority	Advertising Code Authority
AC Committee	Advertising Code Committee
ACC	Audiovisual commercial communication
ARI's	Alternative regulatory instruments
ASA	Advertising Standards Authority
AVMS Directive/ AVMSD	Audiovisual Media Services Directive
BCAP	Broadcast Committee of Advertising Practice
BCAP Code	Code of Broadcast Advertising
BPRs	Best Practice Recommendations
CAHENF	Ad hoc Committee for the Rights of the Child
CAP	Committee of Advertising Practice
CAP Code	Code of Non-broadcast Advertising, Sales Promotion and Direct Marketing
CFREU	Charter of Fundamental Rights of the European Union
CJEU	Court of Justice of the European Union
Code on E-Commerce	Code of Conduct on e-Commerce and Interactive Marketing
COE	Council of Europe
CRBP	Children's rights and business principles
EASA	European Advertising Standards Alliance
EC	European Commission
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EDPS	European Data Protection Supervisor
EESC	European Economic and Social Committee
EP	European Parliament
FEDMA	Federation of European Direct Marketing
GDPR	General Data Protection Regulation
IAB Europe	Interactive Advertising Bureau Europe
ICC	International Chamber of Commerce
ICC Code	Consolidated ICC Code on Advertising and Marketing Communication Practice
JEP	Jury for Ethical Practices
OBA	Online behavioural advertising

OECD	Organisation for Economic Cooperation and Development
Ofcom	Office of Communications
OP	Optional Protocol on a Communications Procedure
Social Code: YouTube	Social Code: Guidelines for advertising in online video
SRC	Stichting Reclame Code
SRO	Self-regulatory organisation
TFEU	Treaty on the Functioning of the European Union
TWFD	Television Without Frontiers Directive
UCP Directive/ UCPD	Unfair Commercial Practices Directive
UNCRC	United Nations Convention of the Rights of the Child
UNCRC Committee	United Nations Committee on the Rights of the Child
VSPs	Video-sharing platform services
WHO	World Health Organisation