

EN  
E-009285/2015  
Answer given by Ms Jourová  
on behalf of the Commission  
(2.9.2015)

Direct exhortations to children are a black-listed practice according to Annex I No 28 of the Unfair Commercial Practices Directive<sup>1</sup>. The Directive applies to all unfair business-to-consumer commercial practices, including all forms of marketing. It defines commercial practices broadly, as any act, omission, course of conduct or representation, commercial communication including marketing and advertising, by a trader, directly connected with the promotion, sale or supply of a product to consumers.

The Directive protects vulnerable consumers by banning all unfair commercial practices which are contrary to professional diligence and that are likely to distort the economic behaviour of the average consumer. Indeed the Directive foresees that marketing that is likely to materially distort the economic behaviour of a "clearly identifiable group of consumers who are particularly vulnerable" (such as children) shall be assessed from the perspective of the average member of that group (i.e. an average child). The impact of the practice should be "reasonably foreseen" by the trader.

National enforcement authorities are in charge with assessing, on a case-by-case basis, whether a commercial practice is in breach with the Directive. Hence, the honourable member is invited to bring any relevant fact to the attention of the competent authorities. Should the practice at stake be used by EU-wide operators, the case could be brought to the attention of the CPC network members, in order to allow for a stepped-up enforcement at EU level, similarly to what has been recently decided for on-line games<sup>2</sup> and the car rental sector<sup>3</sup>.

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<sup>1</sup> Directive 2005/29/EC concerning unfair business-to-consumer commercial practices, OJ L 149, 11.6.2005, p22

<sup>2</sup> EC - Press Release "In-app purchases: Joint action by the European Commission and Member States is leading to better protection for consumers in online games". Brussels, 18 July 2014. Available at: [http://europa.eu/rapid/press-release\\_IP-14-847\\_en.htm](http://europa.eu/rapid/press-release_IP-14-847_en.htm)

<sup>3</sup> EC- Press Release "Commission works with European consumer authorities to better enforce consumer rights in the car rental sector". Brussels, 13 July 2015. Available at: [http://europa.eu/rapid/press-release\\_IP-15-5334\\_en.htm](http://europa.eu/rapid/press-release_IP-15-5334_en.htm)