

CONSUMER PROTECTION

From the variety of aspects which are relevant for the protection of consumers the table sheds light on the specific question of unsolicited offers of commercial sales in European countries. Those offers might be made by telephone, e-mail or television.

In several countries unsolicited offers by e-mail are not regulated – what often means: not yet or not yet finally regulated.

Commercial sales by telephone or television are in all countries regulated. The control of unsolicited offers by telephone is rather diverse and ranges

from outright prohibition (Austria, Netherlands), prohibition with exceptions (Denmark, Finland), permission if registered or commercial purpose is openly declared (Spain, Sweden), permission except for repeat calls (United Kingdom) to no regulation at all (Greece). In Germany telephone sales are allowed if they are approved before the call, i.e. they are practically forbidden.

By contrast, commercial sales and advertising by television are regulated in a rather similar way in Europe. Tele-shopping is generally allowed (except for the Flemish part of Belgium), but the commercial intention must be made clear. Non-subliminal advertising is allowed but must be separated from the program.

R.O.

Consumer Protection Against Unsolicited Offers

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	Unsolicited offers by		
	Telephone	E-mail	Television
Austria	Prohibited. Considered unfair in accordance with the Law Against Unfair Competition (UWG).	Not regulated.	Subliminal advertising prohibited. Considered as unfair. Media laws apply. Tele-shopping allowed.
Belgium	Allowed if identity of the caller and commercial purpose is made explicit at the beginning of the call.	Allowed if the sales purpose is clearly identifiable as such.	French part: Tele-shopping allowed. Flemish part: Tele-shopping prohibited
Denmark	Prohibited, but allowed for offers for books, magazines and insurance.	Not regulated.	Subliminal advertising prohibited. Tele-shopping and advertising allowed if sales intention is clearly identifiable.
Finland	Allowed, but specific provisions when addressed to older people.	Not regulated.	Subliminal advertising prohibited. Tele-shopping and advertising allowed if sales intention is clearly identifiable. Basis: self-regulation.
France	n.a.	Not regulated.	Subliminal advertising prohibited. Tele-shopping and advertising allowed if sales intention is clearly identifiable.
Germany	Allowed if explicitly approved before the call.	Not definitively regulated. Different court rulings.	Advertising must be separate from program.
Greece	Not regulated.	Not regulated.	Strict separation of program and advertising.
Italy	Allowed if identity and commercial purpose of the caller is made at beginning of the call.	Not regulated.	Advertising and tele-shopping allowed if commercial intention is clear. Auctions prohibited.
Netherlands	Prohibited.	Prohibited.	No subliminal advertising. No advertising on public TV for "avoidable" products.
Spain	Phone sales must be registered.	Same as for telephone sales. Self-regulation.	Advertising separate from program.
Sweden	Allowed if identity and commercial purpose of the caller is made at beginning of the call.	Not regulated.	No subliminal advertising. Sales intention must be clearly identifiable.
United Kingdom	Permissible except for repeat calls. Automated calls allowed.	Not regulated.	Comprehensive regulation.

Source: Institut für Europäisches Wirtschafts- und Verbraucherrecht, Study of the Feasibility of a General Legislative Framework on Fair Trading, November 2000.