

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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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

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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