

# **Sexist advertisement in the Nordic countries**

– An evaluation of regulations and implementation

**SWEDISH  
WOMEN'S LOBBY**  
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## Introduction

In a consumerist society, advertisements and marketing contribute to defining and formulating people's dreams, ideals and motivation.

Therefore if we are to become a society that is in line with its citizens' interests and social values, it is vital that we address the field of media and advertising. One such value is gender equality. For as long as stereotypical depictions of women and men within media and advertisements are reproduced, it is impossible to achieve equality between the sexes.

Sexist advertising has been on the political agenda in the Nordic countries since the 1970s. During this period, each Nordic country – except Sweden – introduced regulations in this area. Since then, there has been an exponential increase in the frequency of advertisements alongside digital development and the increased selection of media.

In this report, the Swedish Women's Lobby, in collaboration with the *Reklamér* and *Reklamere* [Ad Watch] campaigns in Denmark and Norway respectively, has analysed the content of Nordic regulations to counteract sexist advertising and how they are implemented. To conclude, we propose recommendations for improved procedures.

We hope that this analysis will contribute to better regulations and more active work to combat sexist advertising and sexualisation of the public sphere. To achieve an equal society, it is crucial that discrimination and images of gender stereotypes are counteracted in the media and advertising.

### What is sexist advertising?

There is no universally established definition of sexist advertising. However one common description is of advertising that insults a person's gender or that include general gender stereotyping. Advertisements are also deemed to be discriminatory when women or men are reduced to sex objects and when their bodies are used to draw attention towards a service or product that is completely unrelated to the human body.<sup>1</sup>

### Why is sexist advertising a problem?

The stereotypical portrayal of women and men in advertising is a problem for both the individual and society. For the individual, sexist advertising can lead to mental health problems. Advertisements containing beauty ideals and objectification can create distorted body image, increased self-objectification, lower self-confidence and even a reduced initiative and desire to lead.<sup>2</sup>

In 2013, the Swedish Women's Lobby conducted a survey with 1,000 people (ages 13-30). 9 out of 10 young women that responded stated that advertisements had made them want to change something about themselves. 9 out of 10 also stated that advertisements had

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<sup>1</sup> Svensson, Eva-Maria (2014) Nordic regulation of gender discriminatory advertisements, *Making change. Nordic Examples of Working Towards Gender Equality in the Media*, Göteborg, NORDICOM, p.99.

<sup>2</sup> Fredrickson, B. L., & Roberts, T. (1997). "Objectification theory: Toward understanding women's lived experiences and mental health risks". *Psychology of Women Quarterly*, 21, 173-206.

made them feel bad about their appearance or their weight. 50 % of the women described how they were affected negatively as often as every day or every week.

Sexist advertising is also a social problem, where objectification and stereotypical images of women and men create and maintain unequal norms and power structures.

### **European and international measures against sexist advertising**

There is broad consensus that sexist advertising obstructs the work to ensure women's rights and equality within the EU and UN. A range of international and European agreements have established that countries should use all available measures, including legislation, to counteract sexist advertising.

Article five of the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) states: "*Parties shall take all appropriate measures: (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women*".<sup>3</sup>

Furthermore, the UN action plan for women's rights (the Beijing Platform) states that UN member states shall promote "*a balanced and non-stereotyped portrayal of women in the media*".<sup>4</sup>

The EU has addressed the problem of sexist advertising on several occasions. The EU Parliament has established that the "*media should favour a more balanced and non-stereotyped representation of women and men in the media and promote the gender equality dimension in their regulatory and self-regulatory authorities and training programmes*".<sup>5</sup> In their strategy for equality between women and men and in several resolutions, European Parliament has also addressed the importance of counteracting gender stereotypes in advertising and the media.<sup>6</sup>

### **Sexist advertising in the Nordic countries**

We will now present how Nordic legislation has been formulated and is observed in practice. To conclude, we propose recommendations for improvements.

To examine how regulations and supervision are formed and adhered to, we have primarily addressed the following questions for each country:

1. Are there laws against sexist advertising?
2. Does legislation clearly define "sexist advertising"?
3. Does legislation apply to those responsible for *publishing* the advertisements?
4. Has a government authority with supervisory responsibility been appointed?
5. Does the authority have the means to implement sanctions?

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<sup>3</sup> UN CEDAW, Article 5.

<sup>4</sup> UN's action plan for women's rights (Beijing Platform) Strategic goal J.2.

<sup>5</sup> EU Parliament report, *Combating sexist stereotypes in the media*, Committee on Equal Opportunities for Women and men, Parliamentary Assembly Doc. 12267, 26 May 2010.

<sup>6</sup> See references European Parliament and EU Commission.

6. Have national efforts been made to raise awareness of legislation and possibility to report cases of sexist advertising?
7. Are the public aware of legislation/Is the possibility to report sexist advertisements being utilised?

## **Iceland**

### **Legislation**

Iceland regulates sexist advertisements in its Act on Equal Status and Equal Rights of Women and Men. Article 29, Section 24 of the Icelandic Act on Equal Status and Equal Rights of Women and Men, 10/2008 orders businesses, advertisers and companies that publish advertisements to ensure that advertisements do not discriminate against any gender and are in no way contrary to equality between women and men. The law states:

“Advertisers and those who design or publish advertisements shall ensure that the advertisements are not belittling or disrespectful towards either sex and that they do not run contrary to gender equality in any way. Such advertisements may not be published in the media or any other public venue”.

Violation of this act will be penalised. Article 31 of the Act states: “*Anyone who, deliberately or through negligence, violates this Act, shall be liable to pay compensation*”. The responsible advertiser can be liable to pay compensation to the person subject to damage for both non-financial and financial losses.

### **Supervision**

The Icelandic Centre for Gender Equality (Jafnréttisstofa) is the agency responsible for supervising this act. The Centre can both receive reports from the public and issue the reports themselves.

When the Centre suspects that a law has been violated, they first contact the advertiser and inform them that their advertisement breaks legislation. The Centre aims for the problem to be solved *voluntarily*, i.e., the advertiser withdraws the advertisement. If the advertiser does *not* withdraw the advertisement, the Centre for Gender Equality can pursue the matter further through the Gender Equality Complaints Committee (Kærunefnd Jafnréttismála). The Authority issues a written verdict that is binding. The affected parties can appeal the result in the courts.

Individuals can report cases of sexist advertising directly to the Committee, the police and the courts.

### **Practice**

Since 2010, the Centre for Gender Equality has received 25 complaints. In each of these cases, the Centre has contacted the businesses and requested that they remove the advertisements from circulation. The Icelandic Centre for Gender Equality generally initiates contact with the company when a complaint has been submitted. Of those businesses contacted and asked to remove their advertisements, all of them have complied with the request. As legislation also includes businesses that are responsible for *publishing* sexist

advertisements, the Centre for Gender Equality also contacts these companies and informs them they may have broken the law.

Since 2010, the Centre for Gender Equality has passed on one case to the Committee. This matter was pursued further as it dealt with an advertisement that had previously been withdrawn but later re-entered circulation. However the Committee felt that too much time had passed since the advertisement was first published and due to technical reasons, the case could not be addressed.

So far, the Icelandic police have only received one complaint regarding sexist advertising. A private individual made the complaint, but the matter never went to court. The fact that so few people report their complaints directly to the courts or Committee may be due to the fact that they cannot remain anonymous, unlike if they report sexist advertising directly to the Centre.

### **Analysis and recommendations**

Iceland has a law against sexist advertising and there is an authority with clear supervisory responsibility. The complaints process is simple; the Centre for Gender Equality receives complaints via telephone, their website or email. The Centre's processing times are short and they contact the company almost immediately after an individual or organization has contacted them.

Despite the fact that legislation is yet to be sent through the courts (after the law's most recent tightening in 2008), the Icelandic law against sexist advertising is believed to work well. The public is well aware that they can contact the Centre for Gender Equality to report advertisements. The Centre have noted that they receive many calls as soon as a sexist advert has been published, whereupon the Centre can contact the company and inform them that they may have broken the law. The company almost always withdraws its advertisement immediately. There have only been a few cases where the company has not withdrawn their advertisement. In these cases, the Centre for Gender Equality has chosen to pursue the matter further through the Gender Equality Complaints Committee.

Sexist advertising is not believed to be a widespread problem in Iceland. Where there have been cases of sexist advertising, public reaction has been strong and measures immediately taken by the Centre for Gender Equality that have resulted in the withdrawal of the advertisement. Companies in Iceland are well aware that it is "bad form" to use stereotypes and sexist marketing.

The Centre for Gender Equality holds extensive knowledge about sexist advertising. It is also positive that Icelandic law applies to companies publishing the advertisements, i.e., television channels, magazines and advertising in the public sphere, and that the Centre takes responsibility for contacting these companies and informing them that they may be in breach of legislation. Icelandic law also means that foreign companies using sexist advertising can be prevented from publishing their adverts in Iceland.

However according to the Centre for Gender Equality, legislation should include a clearer definition of "sexist advertising" and information about the possibility to report sexism can be made clearer.

## In brief:



- There are laws against sexist advertising.
- The law embraces those responsible for publication.
- There is a government authority with supervisory responsibility.
- The authority is able to report complaints themselves.
- The authority has the means to implement sanctions.
- The complaints process is simple.
- The public are aware of the possibility to report advertisements and this possibility is utilised.



- As yet, no fines have been imposed on companies for sexist advertising.
- No information drives about the legislation have been conducted.
- The law needs to be clearer. The definitions “unfavourable to either gender” and “contrary to gender equality” need to be clarified to facilitate the supervisory authority’s work.

## Sweden

### Legislation

Sweden is the only Nordic country where there is no law against sexist advertising. This matter was last raised in a government public inquiry, which was presented in January 2008. The inquiry concluded that legislation against sexist advertising was needed.<sup>7</sup>

The inquiry proposed the following formal requirements be introduced in Sweden:

Advertising may not be sexist. “Sexist” refers to a depiction of gender characteristics or roles, which may generally be viewed as offensive to women or men.

The inquiry suggested that the Consumer Ombudsman be appointed as the supervisory authority and that sexist advertisements result in a fine. The law and additional suggestions

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<sup>7</sup> SOU 2008:05 *Sexist advertising – offensive formation of commercial messages* [Könsdiskriminerande reklam - kränkande utformning av kommersiella meddelanden]

in the inquiry were deemed to be potentially significant for equality between women and men in Sweden.

However the inquiry did not result in such a law being passed. The then Minister for Gender Equality, Nyamko Sabuni (Liberal Party) dismissed the proposal, arguing that legislation against sexist advertising may contravene the Fundamental Law on Freedom of Expression and the Freedom of the Press Act. This is despite the fact that the leader of the inquiry and professor in legal philosophy Eva-Maria Svensson had reached the opposite conclusion; it is beyond the scope of Freedom of the Press Act and the Fundamental Law on Freedom of Expression to protect a trader's financial interests.

Eva-Maria Svensson believes that the Swedish stance on legislation against sexist advertising is paradoxical. The Swedish constitution (the Instrument of Government, the Freedom of the Press Act and the Fundamental Law on Freedom of Expression) opens up for limitations regarding commercial messages (it was these permissions that provided the basis for the introduction of the Swedish Marketing Act). Hence preventing gender stereotypes in professional commercial messages should not be viewed as contravening freedom of expression. Svensson further stated that gender stereotypes in advertising should be seen as such a serious problem that they are a threat to the democratic value of equality. When freedom of expression is placed head-to-head with the fundamental value of gender equality, the latter should be the priority.

It should also be added that the Swedish Marketing Act could, in principle, already be used to tackle sexist advertising. One ruling issued by the Swedish Market Court (Marknadsdomstolen) 1976 (MD 1976:8) has however made this impossible. Marknadsdomstolen maintained that the Marketing Act does not include sexist advertising, as the advertisements are offensive to women based on their gender and not their role of consumer. Since this decision made by Marknadsdomstolen in 1976, an array of motions, opinions and reports have addressed sexist advertising and several parties have continued to push proposals for the introduction of a law against sexist advertising.

CEDAW has repeatedly criticised Sweden for widespread sexualisation in the public sphere and its lack of legislation against sexist advertising. In their most recent investigation examining how Sweden meets CEDAW, Sweden is criticised for the continued widespread stereotyped and sexualised images of women in advertising and the media. CEDAW states that the media and the advertising sector's self-regulation does not sufficiently address the issue and Sweden should promote a non-stereotyped portrayal of women in media and advertising.<sup>8</sup> The Swedish Government must respond with a report including the measures that have been taken on the matter, by no later than 2020.

### **The Board of the Swedish Advertising Ombudsman – the advertising industry's self-regulatory organization**

In Sweden, just as in Finland, there is a self-regulatory organization that is financed by, and comprises the advertising industry itself. The Board is appointed by the Association of Swedish Advertisers; Näringslivets Delegation för Marknadsrätt; Swedish Association of Communication Agencies; ICC Sweden; Tidningsutgivarna and the Swedish Direct Marketing Association.

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<sup>8</sup> Committee on the Elimination of Discrimination against Women's Concluding observations on the combined eighth and ninth periodic reports of Sweden, CEDAW/C/SWE/CO8, 7 March 2016.

Companies, organizations and individuals can contact the Swedish Advertising Ombudsman (RO) and report advertisements deemed to be sexist.

RO reviews the sexist advertisement based on the following criteria:

1. Advertising that portrays men or women as sex objects that can be considered offensive (objectifying).
2. Advertising that portrays men or women in a stereotypical way in terms of gender roles and where men or women are represented in a degrading way (stereotyping).
3. Advertising that is degrading in any other way that it is evidently sexist towards women or men.

Around 500 complaints are made to the Swedish Advertising Ombudsman each year, with approximately half of them referring to sexist advertising. It takes approximately three months to process a complaint. If the Advertising Ombudsman believes that an advertisement is sexist, the Board will contact the company and inform them of their judgement. The company then has the opportunity to issue a statement about the advertisement. A copy of the complaint and statements by the Advertising Ombudsman and the relevant company are then published on the RO website.

The Advertising Ombudsman does not have the means to issue sanctions or demand that the advertising campaign be withdrawn. The only consequence of an advertisement being found to be sexist is negative publicity. A number of companies respond by withdrawing their advertisement, whereas others ignore the complaint or do not appear to be affected by the decision.<sup>9</sup> The Advertising Ombudsman also runs educational programmes about the self-regulation and the criteria RO use for companies and advertising agencies.

### **Analysis and recommendations**

The many hundreds of complaints being sent to the Swedish Advertising Ombudsman each year show that sexist advertising is a large problem in Sweden. There is widespread consensus within the advertising branch that a company is negatively affected if they have been reported to the Advertising Ombudsman for sexist advertising and have then been found to be guilty of this. However as there is no way for sanctions to be issued, the use of sexist advertising does not result in any consequences for the company.

Sexist advertising is permitted on the pretence of freedom of expression. This is despite the fact a public inquiry established that a law against sexist advertising would not contravene freedom of expression; freedom of expression exists to protect expressions and opinions, not commercial interests. Sweden already has laws against advertising tobacco and alcohol and advertising aimed at children – notwithstanding the Fundamental Law on Freedom of Expression. It should not be possible to hide behind freedom of expression to justify discrimination and oppression of women's rights.

Sweden is one of the world's most advertising-dense countries.<sup>10</sup> It is absurd that there are no regulations against gender inequality in advertising, particularly as gender equality is viewed as having great value and as being of general interest to the Swedish public.

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<sup>9</sup> As testimony of this, one company had repeatedly been found guilty by the Advertising Ombudsman and nevertheless continued to operate sexist advertising.

<sup>10</sup> IRM Institute for Advertising and Media Statistics, Sweden (2013)

## In brief:



- The general public are committed to the cause against sexist advertising.



- There are no laws against sexist advertising.
- There is no government authority responsible for supervising and disseminating information about the legislation.
- There are no means to impose sanctions against companies using sexist advertising.

## Denmark

### Legislation

Denmark regulates sexist advertising in the Danish Marketing Practices Act. Article 1 of the Danish Marketing Practices Act states that companies shall exercise “good marketing practice”. “Good marketing practice” has not been specified in legislation, but has been defined by the Danish Consumer Ombudsman, an independent public authority that supervises compliance with Danish marketing law.

The Danish Consumer Ombudsman has stated that advertising should take general public interests into consideration – of which gender equality is one.<sup>11</sup> The Danish Consumer Ombudsman has its own guidelines that define sexist advertising. They state that advertising is sexist when:

- A gender is portrayed unfavourably
- Nudity and erotic imagery are displayed in such a way that they are condescending to the depicted gender.
- One gender is portrayed as socially, economically or culturally subordinate to the other.
- One gender is portrayed as less knowledgeable, talented or capable to perform tasks that, physiologically, can be carried out just as well by both genders.

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<sup>11</sup> Ministry of Business and Growth Denmark, ACT no. 1460 of 17/12/2013

- One gender is unfavourably portrayed as having particularly negative personality traits or characteristics.<sup>12</sup>

The Danish Act on Equality has also been applied to approach sexist advertising in Denmark. The Act does not specifically define "sexist advertising", however the purpose of the Act is to "prevent direct and indirect discrimination based on gender and prevent harassment and sexual harassment",<sup>13</sup> hence the Act can be deemed relevant to matters of sexist advertising.

### **Supervision**

The Danish Consumer Ombudsman has the supervisory responsibility for the Danish Marketing Practices Act. Individuals and organizations can report advertisements deemed to be sexist via a form on the Danish Consumer Ombudsman website.

If the Consumer Ombudsman believes that an advertisement is sexist, they contact the company and request that it be withdrawn. If the company does not comply, the Consumer Ombudsman can take the matter to the courts and the company can be fined. The Ombudsman is unable to issue fines against sexist advertisements itself.<sup>14</sup>

The Danish Board of Equal Treatment has supervisory responsibility for the Danish Act on Equality. Here, individuals and organizations are able to report matters of discrimination. For a complaint to be approved, the person submitting the complaint needs to be *directly discriminated* against, i.e., that the advertisement discriminates against the individual and not women in general.

In the event of a conviction, the Board can demand that the company/advertiser pays compensation to the complainant/the party affected.

### **Practice**

The Danish Consumer Ombudsman receives approximately 6,000 complaints each year. Since 2014, the Ombudsman has received around 60 complaints regarding sexism. Only one has been convicted.

Seldom does the Ombudsman take the matter further to the courts, the most recent event was in 1982<sup>15</sup>.

The Consumer Ombudsman does not prioritise sexist advertising and they have limited resources for working with such matters.

### **Analysis and recommendations**

Sexist advertising is a widespread problem in Denmark and it is difficult to say whether current legislation and its implementation have any effect.

A review of the Danish Consumer Ombudsman's report showed that the organization does not follow its own guidelines on sexist advertising.

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<sup>12</sup> Förbrukerombudsmannens riktlinjer ang. könsdiskriminerande reklam, from 1 April 2012.

<sup>13</sup> Danish Act on Equality LBK, Danmark, nr 1678 af 19/12/2013:

<sup>14</sup> Email with representative from the Danish Consumer Ombudsman, 19 April 2016.

<sup>15</sup> Ibid.

The Ombudsman weighs in the advertisement in question in a wider context and compares the advertisement with the “overall” portrayal of women and men in Danish advertising. This particularly applies to evaluations of advertisements containing nudity or eroticism. Despite the fact that Consumer Ombudsman guidelines state that advertisements are sexist if “nudity and erotica are included in such a way that they are condescending to the affected gender,” complaints are rejected on the grounds that the advertisement does not significantly differ from “the usual type” of advertising or images in the media. As a large portion of advertisements and media messages use erotic imagery and nudity, the Consumer Ombudsman subsequently believes that the advertisement does not significantly differ from other advertising and so dismisses the complaint.<sup>16</sup>

In their evaluations, the Consumer Ombudsman also evaluates the extent to which the advertisement has used *humour*, which they believe “softens” the circumstances. One example of an advertisement that was accepted on grounds of humour was an advertisement for the sports betting site Oddset that joked about women's lack of knowledge about football terminology, under the slogan, “There's so much that women don't understand”. As the advertisement portrays one gender as less knowledgeable, this could be viewed as meeting the Consumer Ombudsman's own criterion stating that “advertising may not depict one gender as being less knowledgeable, talented or capable to perform tasks that, physiologically, can be carried out equally well by both genders”. However, in reference to the advertisement's humour and irony, the Consumer Ombudsman dismissed the complaint.<sup>17</sup>

There is also a relative lack of awareness about legislation against sexist advertising amongst the general public, and the Consumer Ombudsman has no clear information about the law or the ability to submit complaints via their website. Nor have there been any information drives about the legislation or their possibility to report cases of sexist advertising.

Above all, it is a problem that the Consumer Ombudsman guidelines state that even if an advertisement meets the criteria to be considered sexist, it is to be deemed to be inappropriate *if it undoubtedly aims to cause offence*. In practice this means that an advertisement can meet the criteria for sexism. However if it is not viewed to be aimed at causing offence, it can be permitted.

Furthermore, each advertisement is assessed based on how it can be interpreted by “a person in general”. If the Consumer Ombudsman finds that the advertisement would not generally cause offence with the majority of the public, the Ombudsman does not deem the advertisement to be sexist. Due to a lack of guidelines, the evaluation of whether a person would find the advertisement sexist is left to the judgement of a single employee at the Consumer Ombudsman.

A review of the Consumer Ombudsman's evaluations has shown it is clear that the Ombudsman does not assume its responsibility to counteract sexist advertising. The Consumer Ombudsman's own guidelines and, most of all their interpretation, have made it practically impossible to penalise sexist advertisements in Denmark.

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<sup>16</sup> Guidelines from the Consumer Ombudsman against sexist advertising.

The Consumer Ombudsman's cases and practices, [*Forbrukerombudsmandens ärenden och praksis*], Ombudsman's website.

<sup>17</sup> *Ibid.*

Above all, the Ombudsman contributes to the constant expansion of the boundaries of sexist imagery. Sexualisation and objectification of women in Danish media is increasing. Instead of assuming their responsibility to counteract this development and contribute to positive social change, the authority contributes to the situation's deterioration.

To be able to tackle the problem of sexist advertising in Denmark, there must be a definition of "sexist advertising" stipulated in legislation. Working with "good marketing practices" is not enough. By ratifying CEDAW, Denmark has committed itself to working against sexist advertising and gender stereotyping. This requires active work; not just holding the companies that use sexist advertising to account and enforcing sanctions, but also by contributing to such development leading to a decline sexist advertising until it eventually vanishes. As it stands, development is heading in the opposite direction.

### **In brief:**



- There are laws against sexist advertising.
- The law embraces those responsible for publication.
- There is a government authority with supervisory responsibility.
- The complaints procedure is simple (form on website)



- Legislation does not clearly define "sexist advertising".
- The guidelines for interpreting sexist advertising that the supervisory authority has established are worded in such a way that in practice it is impossible to penalise companies.
- The authority does not prioritise the issue of sexist advertising.
- The authority lacks expert knowledge of gender discrimination and equality.
- The authority does not have the means to implement sanctions.
- No information drives have been conducted to inform the public of the possibility to report cases of sexist advertising.

## Finland

### Legislation

The Finnish Consumer Protection Act stipulates that advertising is not permitted if it is contrary to "good marketing practices". The Act states that an advertisement breaks "good marketing practices" if it:

"... involves discrimination based on gender, age, ethnic or national background, nationality, language, state of health, disability or sexual orientation, or any other form of discrimination based on a person".

The Finnish Competition and Consumer Authority has further developed the definition of sexist advertising, as they are the authority with supervisory responsibility:

"Presenting a naked or scantily-clad person in an advertisement does not necessarily constitute sexism. However, demeaning a certain gender or presenting it in a sexist and derogatory manner is forbidden. Advertising goes against good practices when it relies excessively on sexuality for its impact, and its presentation method is demeaning to either men or women."<sup>18</sup>

### Supervision

The Finnish Competition and Consumer Authority has supervisory responsibility for the Consumer Protection Act. Here, individuals, organizations and government agencies can report cases of sexist advertising. The Finnish Competition and Consumer Authority can also report matters.

If the Authority believes that a company has used sexist advertising, their goal is to see that the company voluntarily stops their sexist marketing. If they are unsuccessful, the Authority can implement coercive measures or take the matter further to the Market Court. The Market Court may issue a ban with a fine for companies who are found guilty of using sexist advertising. The Market Court's judgement can later be appealed at the Finnish Supreme Court.

In addition to their task of processing reports of sexist advertising, the Competition and Consumer Authority conducts consumer training and provide information. However the Authority has not conducted any public campaigns about the law against sexist advertising and the possibility to report it.<sup>19</sup>

### Self-regulation

The Council of Ethics in Advertising is Finland's self-regulatory body. Finland is the only Nordic country with both legislation and a self-regulatory system.

The Council receives complaints from the public but can also issue reports themselves. Of all the complaints received by the Council in 2015, 32 per cent were about sexist advertising.

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<sup>18</sup> The Finnish Competition and Consumer Authority, information and guidelines for good marketing practises, available online from the Competition and Consumer Authority website: <http://www.kkv.fi/sv/information-och-anvisningar/marknadsforing-och-kundrelationer/god-sed-i-marknadsforing/>

<sup>19</sup> Ibid.

Just as other self-regulatory bodies, the Council follows ICC rules for good marketing practices. ICC rules state that:

1. An advertisement breaks good marketing practice when:
  - a. a woman or a man are utilised as a way to attract attention or as sex objects; gender is used to humiliate, deprecate or insult;
  - b. a woman or man are indecently utilised to attract attention or as sex objects and this bears no relation to the product or service in question; or
  - c. the advertisement makes sexual allusions or makes promises that are unrelated to the product in question.
2. An advertisement also breaks good marketing practice if it claims – or explicitly suggests – that one sex has a lower social, financial or cultural value than the other or if the advertisement presents a stereotypical portrayal of typical or characteristic signs of women or men, or their personalities or work.
3. However advertisements do not break good marketing practices based solely on an advertisement including scantily clad or naked people, unless the people in question are portrayed in a derogatory, deprecating or insulting manner.

### **Practice**

Each year the Finnish Competition and Consumer Authority receives around 20 reports of sexist advertising. The Authority is unable to process all cases; instead it chooses those cases deemed to be particularly noteworthy. This may be an advertisement that has been reported by a large number of individuals or that occur on a large scale or are viewed to be particularly damaging to consumers in any other way. In the past two years, the Authority has taken up two cases of sexist advertising.<sup>20</sup> The last time a report was taken to the Market Court was in 2001.<sup>21</sup>

### **Analysis and recommendations**

Sexist advertising is a widespread problem in Finland. A large portion of the advertisements depict gender stereotypes of men and women. Women are often objectified and used as “attention grabbers” to sell products.<sup>22</sup>

The way in which the Finnish Competition and Consumer Authority manages matters of sexist advertising should be improved. The Authority only processes a small number of the complaints received. Contact has never been made with the person responsible for *publishing* a reported advertisement. The Authority lacks sufficient resources to work against sexist advertising.

The Competition and Consumer Authority should be given better devices to react against companies that break the law. The Authority currently has the possibility to issue fines, however to be able to utilise this possibility, the Authority must apply to the Market Court. In turn the company is only liable to pay the fine if they *repeatedly* break the law.

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<sup>20</sup> Interview with a representative from the Finnish Competition and Consumer Authority (KKV), 3 June 2016.

<sup>21</sup> Finnish Market Court MD:2001:006

<sup>22</sup> Interview with representative from Finnish Feminist Association Unioni RF, 16 April 2016.

The fact that the Competition and Consumer Authority only handed over a small number of cases to the Market Court and the most recent case examined by the Court was in 2001 is not a sign that legislation in Finland is unsuccessful. The task of the Competition and Consumer Authority is to examine the cases where voluntary correction does *not* take place. The Authority believes that the majority of companies adhere to their challenges. Previous judgements issued by the Market Court also indicate an awareness of the problem of the objectification of women in the public sphere.<sup>23</sup>

Nevertheless, it has been noted that only a few advertisements are reported in Finland, and due to a lack of resources, the Authority can process even fewer cases. To remedy the problem of sexist advertising, the Finnish Competition and Consumer Authority should receive increased resources to be able to counteract sexist advertising; to be able to react more quickly and issue sanctions and introduce information drives about the legislation so awareness increases amongst the general public.

#### **In brief:**



- There are laws against sexist advertising.
- There is a government authority with supervisory responsibility.
- The complaints procedure is simple (submission form on the Finnish Competition and Consumer Authority's website).
- The authority is able to report complaints themselves.
- The authority has the means to implement sanctions.



- The law does not provide a definition of sexist advertising.
- The Finnish Competition and Consumer Authority do not process all the complaints they receive.
- The process available to the Authority to impose sanctions against companies is complicated.
- A case has not come before the courts since 2001.
- The Authority's website does not contain any clear information about the possibility to report cases of sexist advertising.

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<sup>23</sup> Finnish Market Court MD:2001:006

## Norway

### Legislation

Norway regulates sexist advertising in the Norwegian Marketing Control Act (09.01.2009, Section 2) and states the following:

“The marketer and the designer of the marketing shall ensure that the marketing does not conflict with the equality of the sexes and that it does not exploit the body of one of the sexes or convey an offensive or derogatory appraisal of women or men.

In determining whether the first or second paragraphs have been infringed, emphasis shall be given to whether the marketing stands out as particularly intrusive by reason of its design, format or scope, or other means employed.”

### Supervision

The Consumer Ombudsman and the Market Council in Norway oversees Norwegian marketing legislation.

The Ombudsman can both submit its own reports of sexist advertising for assessment and receive complaints from the public. If an advertising campaign is found to be sexist, the Consumer Ombudsman attempts to make the offending party withdraw it. If the matter is not solved voluntarily, the case can be taken to the Market Council where fines can be issued.

The Ombudsman is also able to issue bans with fines if the matter is not resolved voluntarily. The Ombudsman believes that waiting for a decision from the Market Council results in inconvenience and damages. However this has never taken place.<sup>24</sup>

Furthermore, the Consumer Ombudsman may make decisions if the agency believes that marketing is essentially identical to previous advertising, which the Market Council has banned. Section 42 of the Marketing Control Act enforces a penalty if the decision is breached. Decisions made by the Consumer Ombudsman can be appealed through the Market Council. Thereafter, decisions made by the Market Council can be appealed in the district court.

The Market Council issues decisions for cases that breach the Norwegian Marketing Control Act. The Council processes approximately 20 decisions each year. Each instance takes around 3-3.5 months to process. In 2015, the Market Council processed two cases of sexist advertising.

Sections 32, 38 and 39 of the Norwegian Marketing Control Act state that the Market Council may prohibit actions that breach the decisions stipulated in legislation. The Market Council can impose sanctions.

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<sup>24</sup> Email from Norwegian Consumer Ombudsman representative, 23 June 2016

## Practice

Each year, the Norwegian Consumer Ombudsman receives approximately 30 complaints of sexist advertising. Approximately four or five of these cases are processed. The majority of companies comply with the Ombudsman's request to withdraw the advertisement in question. If the company does not comply, the Ombudsman can take the matter further to the Market Council. This happened twice in 2015, both times with the same company. In the first instance, the Norwegian Market Court issued a ban against the advertisement and fines should the company not adhere to the decision.<sup>25</sup> In the second instance, the company was fined NOK 100,000 as the Market Council believed that the company proprietors had violated the first ruling.<sup>26</sup>

In Norway, the responsible supervisory authority believes that it is not their duty to assume responsibility for sexist advertising; instead this should fall upon the Equality and Anti-Discrimination Ombudsman. The Consumer Ombudsman states that they do not have access to sufficient resources for combating sexist advertising. The Ombudsman believes that the authority focuses on the financial consumer perspective and not gender equality. Consequently, the Ombudsman does not have the necessary skills to cover matters of gender equality. The Consumer Ombudsman argues in favour of the supervisory responsibility being transferred to the Norwegian Equality and Anti-Discrimination Ombudsman (LDO).<sup>27</sup>

In turn, the LDO maintain that the supervisory responsibility should remain with the Consumer Ombudsman. LDO believes that Norway, just as the other countries who have ratified the UN CEDAW, must work towards gender equality integration; i.e., incorporate the gender equality perspective in all decision making, at all levels and in all areas; there would be no integration if all matters fell upon LDO. In this case, the matter relates to consumer issues and misleading advertising. Sexist advertising is a type of marketing gimmick, which the Consumer Ombudsman is obliged to counteract. The LDO takes it seriously that the Consumer Ombudsman does not take responsibility to counteract sexist advertising; instead it pushes its supervisory responsibility away.

A positive development in Norway can be seen in two of the country's municipalities that have surpassed national legislation for counteracting sexist advertising in the public sphere. In 2016, Trondheim introduced a ban on "scantily-clad" people in advertisements in public places. Reasoning was that politicians believed it to be a serious issue if the city's advertising spaces contribute to distorted body ideals and mental health problems amongst girls and women. The city of Bergen has also introduced a ban against advertising in public places. Trondheim and Bergen are two of Norway's biggest cities. However Oslo, Norway's capital city has great problems regarding sexist advertising and the sexualisation of women in the public sphere.

## Analysis and recommendations

Norwegian legislation against sexist advertising is good and explicit. The main reason that implementation of the law is flawed, is because the Consumer Ombudsman does not

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<sup>25</sup> Ibid.

<sup>26</sup> Market Council, cases MR-2015-309 and MR-2015-1272.

<sup>27</sup> Interview with a representative from the Norwegian Consumer Ombudsman, 11 April 2016. See also: Forbrukerombudet 19.01.2016, "Diskriminering er forbudt –også i reklame"

sufficiently exercise supervision. The Ombudsman does not prioritise the matter and only processes a few of the cases they receive each year.

The Consumer Ombudsman should assume its responsibility and prioritise the issue, as well as receive increased resources to counteract sexist advertising. Rather than upholding that the Ombudsman lacks the necessary skills – as is currently the case – it should obtain the required competence.

At present, few people are aware of the ban against sexist advertising and the possibility to report cases in Norway. To raise general awareness amongst the public, the Norwegian Government and Consumer Ombudsman should increase efforts to spread information about the legislation and the fact that it is possible to report cases of sexist advertising.

The political initiatives taken to reduce the sexualisation of the public sphere in Bergen and Trondheim are good examples of how politicians can react against sexist advertising.



- There are laws against sexist advertising.
- Legislation clearly defines "sexist advertising".
- Legislation encompasses those who publish the advertisement.
- There is a government authority with supervisory responsibility.
- The authority is able to report complaints themselves.
- The complaints procedure is simple (form on website)
- The authority has the means to implement sanctions.



- Sexist advertising is not a priority for the Ombudsman and they only process a small number of the cases they receive each year.
- There is a great obscurity between the authorities (that requires better management/directives from the Government)
- No information drives have been conducted to inform the public about the legislation or their possibility to report cases of sexist advertising.

## **Conclusion – the Nordic countries require improved measures against sexist advertising**

The Nordic countries are world leaders in matters of gender equality. Nevertheless, with the exception of Iceland, all the countries have problems with sexist advertising. To a great extent, this is due to the exemption from punishment that exists for sexist marketing.

Sweden completely lacks legislation in this area. In Norway and Finland, the responsible authorities do not prioritise this issue. Furthermore, the public are unaware of the legislation and the possibility to report cases of sexist advertising. In Denmark, the supervisory authority has established such high criteria that it is almost practically impossible to penalise sexist advertising. Iceland is the only country where legislation against sexist advertising has had the desired effect and supervision works well. It is the case that no public information drives about the possibility to report cases of sexist advertising have been conducted in any of the countries.

Based on our review of the legislation and supervision regarding sexist advertising in the Nordic countries, the Swedish Women's Lobby propose the following measures to the Nordic governments:

- 1. Introduce legislation against sexist advertising in Sweden.**
- 2. Review the supervision of legislation against sexist advertising in Denmark, Norway and Finland.**

Ensure that the responsible authorities implement supervision and actually work to counteract the presence of sexist advertising.

Provide the authorities with increased resources to prioritise and work with the issue.

- 3. Conduct information drives for members of the public in all Nordic countries.**

In order for legislation against sexist advertising to be successful, citizens must be aware of the law itself and their possibility to report such cases.

The Swedish Women's Lobby additionally want to present two proposals for measures to counteract the occurrence of sexist advertising, the objectification of women and sexualisation of the public sphere:

- 4. Introduce a ban on sexist advertising in the public sphere at a municipal level.**

London and Trondheim are two cities to have introduced a ban on scantily clad people and "body shaming" that can lead to negative body image. Trondheim's policy states, *"No advertising that promotes a false understanding of a model's appearance or contributes to negative body image may be permitted. At a minimum, airbrushed advertisements are to be labelled as such"*.<sup>28</sup>

- 5. Introduce compulsory training about gender equality on advertising courses and institutions.**

Development in the media branch plays a vital role in attaining gender equality. The media are a reflection of daily life and serve as a normative power through shaping a person's

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<sup>28</sup> NRK 2016-05-10 "Forbud mot reklame med bikinimodeller"

understanding of what women and men are and can be. At a time when marketing and advertising are on the increase and encroach on a growing number of areas in our lives, it is essential that governments in the Nordic countries do not just take measures against sexist advertising, but that they also actively work to create a policy moving in the opposite direction. To achieve gender equality, equal portrayals of women and men must be prioritised.

More active work to counteract media stereotypes in general is needed, for example within film, television and popular culture. Actively promoting equal portrayal within advertising and the media is fundamental for all societies that state the wish to achieve women's rights and equality between the sexes. All the Nordic governments have ratified CEDAW and the Beijing Platform. To meet their commitments, Sweden requires legislation against sexist advertising; supervision in Denmark, Norway and Finland must be tightened and policy in general must be more active in counteracting stereotypes within the Nordic media.

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### **Swedish Women's Lobby**

The Swedish Women's Lobby is an umbrella organization for women's organizations in Sweden. There are 43 member organizations. The organization is based on feminist grounds and works towards the full equal human rights of women. The foundations of our activities are the UN Convention of the Elimination of All forms of Discrimination Against Women (CEDAW) and the Beijing Platform for Action. The Swedish Women's Lobby is the Swedish coordination of the European Women's Lobby (EWL). The EWL is the European umbrella organization for women's organizations on both national and European level, with more than two thousand member organizations across Europe. Read more on [sverigeskvinnolobby.se](http://sverigeskvinnolobby.se).

### **Ad Watch:**

Ad Watch is a campaign against sexist advertising. We want Ad Watch to encourage people to react and show that there are many of us who have had enough. You can easily report any sexist advertising you come across to Ad Watch. The Swedish Women's Lobby reports the advertisement to the Swedish Advertising Ombudsman and contacts the company behind the advertising.

Follow the campaign:

FACEBOOK: [facebook.com/reklamera](https://facebook.com/reklamera).

INSTAGRAM: @reklamera

#reklamera

Ad Watch in Norway:

TUMBLR: [reklamere.tumblr.com](https://reklamere.tumblr.com)

INSTAGRAM: @reklamere

Ad Watch in Denmark:

FACEBOOK: [facebook.com/aktionreklamer](https://facebook.com/aktionreklamer)

### **Contact:**

Swedish Women's Lobby

[info@sverigeskvinnolobby.se](mailto:info@sverigeskvinnolobby.se)

[www.sverigeskvinnolobby.se](http://www.sverigeskvinnolobby.se)