

Which state consumer protection provisions could be used to protect consumers from junk food marketing?

California's Consumer Legal Remedies Act ("CLRA"), Unfair Competition Law ("UCL"), and Cal. Bus. & Prof. Code § 17200 *et seq.* protect consumers from deceptive and unfair trade practices and unfair business competition. While most claims involving deceptive trade practices will contain claims under at least two of the statutes, this profile will focus on the Consumer Legal Remedies Act ("CLRA"), Cal. Civ. Code § 1770(a), as it is the most relevant to claims brought by consumers to limit food marketing to children. The CLRA lists a number of prohibited trade practices including:

- Misrepresenting the source, sponsorship, approval, or certification of goods or services. Cal Civ Code § 1770(a)(2).
- Misrepresenting the affiliation, connection, or association with, or certification by, another. Cal Civ Code § 1770(a)(3).
- Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which he or she does not have. Cal Civ Code § 1770(a)(5).

Does California law provide any special protections for child consumers?

The CLRA does not contain any special protections for child consumers.

Who can bring a lawsuit?

Individual consumers, and classes of consumers may file suit under the CLRA. Cal. Civil Code § 1781.

What needs to be shown to make out a claim?

To make out a claim under the CLRA, the plaintiff must allege (1) the defendant engaged in an act proscribed under Cal. Civ. Code § 1770(a), (2) that she relied upon the representation (*Cattie v. Wal-Mart Stores, Inc.* 504 F.Supp.2d 939, 946 (S.D. Cal. 2007)), (3) causation, and (4) damages were suffered "as a result" of the unlawful acts (*Chamberlan v. Ford Motor Co.*, 369 F.Supp.2d 1138, 1145 (N.D. Cal. 2005)).

Using State Consumer Protection Law to Limit Junk Food Marketing to Children

This project conducted a 50-state survey of existing state consumer protection law and the potential role it might play to limit junk food marketing to children. Each State legal summary describes the most relevant existing consumer protection statute and identifies provisions that might be invoked to protect children from junk food marketing. Procedural provisions and criminal penalties are not discussed.



at Northeastern University School of Law
102 The Fenway
Cushing Hall, Ste. 117
Boston, MA 02115

Phone: 617-373-2026
E-mail: cp@phaionline.org



Contact Us!

•
•
• **What are the powers of the Attorney General to protect kids from junk food marketing?**

• The CLRA in particular does not grant the Attorney General any statutory powers.

•
• **How does the law compensate consumers?**

• Damages under a CLRA claim include actual and punitive damages, restitution of property, injunctive relief, and any other damages the court deems appropriate. Cal. Civil Code § 1780(a). In a class action, a prevailing class must be awarded a minimum of \$1,000 in damages. Id.

•
• **Who is liable for attorney's fees?**

• The CLRA allows prevailing plaintiffs to recover attorney's fees. Cal. Civ. Code § 1780 (e). Attorney's fees may also be awarded to a prevailing defendant if the plaintiff's action was not brought in good faith. Id.

DISCLAIMER: This legal summary is for informational purposes only. Please consult an attorney for legal advice. All information reflects legal research conducted in 2010.

THANKS: Many thanks for research assistance provided by Northeastern University School of Law Public Health Legal Clinic students Bill Mostyn, Alexandra Geiger and Jordan Barringer. Thanks also to Jennifer Roberston.

FUNDING: This Project is funded by the Robert Wood Johnson Foundation's Healthy Eating Research Program.

Prepared by Cara Wilking, J.D.