

### Which state consumer protection laws may protect kids from junk food marketing?

The Tennessee Consumer Protection Act (“TCPA”) prohibits unfair or deceptive acts or practices affecting the conduct of any trade or commerce. Tenn. Code Ann. § 47-18-104(a). Unfair or deceptive acts include:

- “Causing likelihood of confusion or of misunderstanding as to the source, sponsorship, approval or certification of goods,” Tenn. Code Ann. § 47-18-104(b)(2);
- “Representing that goods . . . have sponsorship, approval, characteristics, ingredients, uses, benefits or quantities that they do not have.” Tenn. Code Ann. § 47-18-104(b)(5);
- “Representing that goods . . . are of a particular standard, quality or grade . . . if they are of another,” Tenn. Code Ann. § 47-18-104(b)(7);
- “Using statements or illustrations in any advertisement which create a false impression of the grade, quality, quantity, make, value . . . or which may otherwise misrepresent the goods . . . in such a manner that later, on disclosure of the true facts, there is a likelihood that the buyer may be switched from the advertised goods . . . to other goods. . .” Tenn. Code Ann. § 47-18-104(b)(21).

The TCPA also contains a catch-all provision that prohibits “[e]ngaging in any other act or practice which is deceptive to the consumer or to any other person.” Tenn. Code Ann. § 47-18-104(b)(27).

### Does Tennessee law have any special protections for child consumers?

The TCPA authorizes an award of treble actual damages for violations committed willfully or knowingly. When determining whether to award treble damages, a court may consider, among other things, “the competence of the consumer or other person.” Tenn. Code Ann. § 47-18-109(a)(4)(A). The reduced competence of child consumers could, therefore, play an important role in determining an award of treble damages.

#### **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.

