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# A model *business*

K&L Gates' Savannah Hardingham and Zara Lim get the skinny on new laws.

**I**N DECEMBER LAST year, laws regulating the fashion industry and its impact on citizens' body image were passed by the parliament in France, home to the world's fashion capital. The laws, which will come into force by January 2017, are part of a campaign to combat negative body image and eating disorders such as anorexia nervosa.

The new laws require models to present a medical certificate confirming that their health "assessed in particular in terms of body mass index (BMI), is compatible with the practice of the [modelling] profession" before being cast for a modelling job. BMI is calculated by dividing an individual's weight in kilograms by their height in metres squared and is supposed to indicate whether someone is underweight, healthy or overweight. However, critics argue that a low BMI is not necessarily indicative of an eating disorder and the laws may be unfair to naturally thin models.

France is not the first country to identify negative body image and its connection with the fashion and media industries as an area requiring regulation. The new laws are similar to Israel's Act Limiting Weight in the Modelling Industry, known as the "Photoshop Law", implemented in January 2013, but differ in that the Photoshop Law imposes a minimum BMI requirement of 18.5 for models. Whilst Israel's Photoshop Law carries only civil penalties, under France's new laws, people or businesses in breach could face jail sentences of up to six months and fines of up to 75,000 euros.

"Photoshopping", a common method of digitally editing images featured in fashion magazine spreads and advertising campaigns to make models appear slimmer or more aesthetically attractive, is also targeted by these laws. Under Israel's Photoshop Law, photoshopped images are required to display a clear statement covering 7% of the surface area of the photo disclosing that the image has been edited and why this was done. France's new laws require that images edited to narrow or widen a model's silhouette display the caption "touched up". Advocates for the laws say that media images depicting unhealthily thin models can influence young women to believe the images depict reality and may in turn make them more susceptible to developing poor body image or eating disorders.

While Israel's Photoshop Law only applies to materials intended to be viewed by Israel's public, this includes digital and print campaigns produced outside of Israel which are then disseminated in Israel. The laws also apply to images on swing tags attached to clothing sold within Israel and promotional photos displayed in stores in Israel. The new French laws are likely to have similar application.

Australian brands advertising and selling products in Israel and France will therefore risk breaching these laws if their campaigns utilise images that do not accord with the relevant country's regulations.

## The position in Australia

Australia is yet to follow suit. In 2009, a National Advisory Group on Body Image was appointed by the Australian government to put forward recommendations for improving the body image of Australians. A voluntary code of conduct aimed at improving public body image (which is relied on in Italy and Spain) was implemented for the fashion, media and advertising industries but appears to have had little impact.

Projecting a healthy body image is an important issue for public health and for social reasons, but there is a also potentially a significant impact on businesses.

If Australia were to introduce laws similar to those in France, this would impact on fashion brands in a number of ways – businesses would need to carefully consider who they choose to model their designs, and keep the photoshopping of images to a minimum (or display appropriate disclaimers). Brands would also need to be mindful of the use of images on their social media accounts, which represent an increasingly powerful platform for marketing in the fashion space. ■

*For more information, please contact Savannah Hardingham, Senior Associate at K&L Gates (savannah.hardingham@klgates.com). This article is for informational purposes and does not contain or convey legal advice. The information herein should not be used or relied upon in regard to any particular facts or circumstances without first consulting a lawyer.*

