



**The Knesset
Research and
Information Center**

**IMPLEMENTATION AND ENFORCEMENT
OF THE LAW FOR RESTRICTING WEIGHT
IN THE MODELING INDUSTRY, 5772-2012**

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This document was written at the request of MK Nurit Koren. It deals with the implementation and enforcement of the **Law for Restricting Weight in the Modeling Industry, 5772-2012**,¹ commonly known as 'The Modeling Law', or 'The Photoshop Law', which entered into force on January 1, 2013.²

Summary

- The goal of the Law for Restricting Weight in the Modeling Industry, 5772-2012 (hereinafter: the Law), as written in the explanatory notes to the Bill, is **"to diminish the ramifications of exposure to advertising that presents male and female models, as well as known and famous persons, who are exceptionally thin, on the creation of a low body image and the development of eating disorders in Israel"**, and this on the basis of the assumption that the modeling industry is one of the social-cultural factors that are liable to contribute to the development of eating disorders. Upon the enactment of the Law the State of Israel turned into the first country in the world, which restricted the modeling industry by means of legislation, with the goal of fighting eating disorders.
- The Law includes two main components. **The first** is a requirement that a medical certificate is to be provided, according to which the model appearing in the advertisement is not underweight (the certificate is to be provided by the model to the advertising agent producing the advertisement, and the advertiser who presents the advertisement), as a condition for its production or presentation. **The second** is a requirement to include a clarification in an advertisement to which graphic editing was applied, in order to reduce body measurement, to that effect (that will be included in the advertisement by the advertising agent producing the advertisement, and its inclusion is a condition for the presentation of the advertisement by the advertiser). **The Law did not determine sanctions that should apply to those in breach of the Law's provisions**, and it was laid down that the Minister responsible for its implementation is the **Minister of Industry, Trade and Employment**, who is entitled to issue regulations regarding any matter connected to its implementation.
- From the research literature it transpires that the media is one of the social-cultural risk factors for the development of eating disorders among those exposed to the contents broadcast by it, and that due to its contribution to the creation of a beauty model that sanctifies thinness by providing enhanced representation of skinny women. Nevertheless the various studies had difficulties in establishing a clear causal

¹ [The Law for Restricting Weight in the Modeling Industry, 5772-2012](#) (Hebrew). Retrieved: December 16, 2016.

² Ibid. Article 7 of the Law.



connection between exposure to the media and the development of eating disorders among those exposed to the content broadcasted by it, and pointed out the differing effect upon this exposure on the viewers. The researchers have noted the need to continue studying this connection.

- In the deliberations held in the Knesset in the course of the enactment of the Law, as well as in articles published after its enactment, the advantages and disadvantages of regulating this issue by legislation were discussed. Thus, while there are those who believe that the legislation draws public attention to the issue, and lays down clear requirements that are binding on everyone, others felt that imposing restrictions by means of legislation, is liable to harm rights such as freedom of occupation - harm that was discussed throughout the legislative process of the Law.
- In an effort to estimate the extent of the Law's enforcement in Israel, we tried to find out **whether there is today a factor that actively supervises the implementation of the Law, and to what manner and extent it actually does so.** In the deliberations held towards the enactment of the Law it was explained that the **Minister of Industry, Trade and Employment**, rather than the **Ministry of Health**, which ought to be in charge of implementing the Law, since the Law focuses on employment. **The Ministry of Health** supported this position, and indeed, in the law finally adopted, responsibility was assigned to the **Minister of Industry, Trade and Employment (whose name was later changed to the Ministry of Economy and Industry)**. Within the framework of Government Resolution 1754 of July 31, 2016, **the employment** sphere was transferred to the Ministry of Economy and Industry to the Ministry of Welfare and Social Services. **In response to our approach to the Ministry of Labor, Welfare and Social Services (hereinafter: the Ministry of Labor and Welfare), we were informed that the issue is not under the authority of the Ministry, but belongs to the Ministry of Economy and Industry.**
- **The Ministry of Economy and Industry informed the Knesset Research and Information Center that no one in the Ministry was appointed to be in charge of the enforcement of the Law for Restricting Weight in the Modeling Industry, 5772-2012. According to the Ministry of Economy, in light of the transfer of the employment sphere from the Ministry of Economy and Industry to the Ministry of Labor and Welfare, including the transfer of the unit for the enforcement of labor laws, there is no practical possibility of enforcing the law since the Ministry has no enforcement arm. Nevertheless, the law came into force in January 2013 and the splitting of the Ministry occurred only in July 2016, and therefore one may ask why this responsibility was not assigned to the enforcement unit by July 2016.**
- The Ministry of Economy and Industry also said that **in terms of the purpose of the Law there is no professional and essential reason why the Ministry of Economy -**



that is responsible for Industry in the State of Israel - should be the home or the responsible factor for the Law for Restricting Weight, whose purpose is to prevent illnesses connected to weight. The Ministry added that the implementation and responsibility for the Law, for the enforcement and the regulations must (emphasis in the origin) be referred to another Ministry. On the other hand, the Ministry of Health informed the Knesset Research and Information Center that the enforcement of the Law must be implemented in the commercial-economic sphere and that therefore the matter is not within the Ministry of Health sphere of authority. In other words, there is a dispute among the Ministries as to which of them ought to be responsible for the implementation of this law.

- The Knesset Research and Information Center approached the Israeli Medical Association (IMA), the four health funds and the 'Yuli' modeling agency to receive information on the number of medical certificates regarding levels of BMI issued to models since the law came into force, but from the answers received it emerged that there is no information on the subject (for a discussion of the question of the medical certificates see chapter 4.2.).
- The Knesset Research and Information Center also requested information on the implementation of the requirement to write a clarification on publications in which digital processing was applied for purposes of reducing body measurements. The administration of the clinic for social legislation in the Interdisciplinary Center in Herzliya reported that a brief study of the catalogues and the websites of dozens of companies, carried out by students - no clarifications that fulfill the requirements of the Law were found. The *Yediot Aharonot* group, the *Jerusalem Post* (Ma'ariv), and *Yisrael Hayom* reported that **none of them had come across the said clarifications** (the *Jerusalem Post* (Ma'ariv) - digital activity, *Yediot Aharonot*); **It is rare that ads are received with clarifications** (the *Jerusalem Post* group); **or that they do not hold the required data** (*Yisrael Hayom*).
- **The Bill as submitted for preliminary debate included fines as a sanction, and in the Bill as submitted for First Reading this was replaced** with the option of submitting a class action on the basis of the Class Action Law, 5766-2006, **but as stated above, in the final reckoning the Law does not include sanctions.** Nevertheless, even in the absence of sanctions in the Law, it is possible to enforce it by means of civil procedures such as a claim resulting from the violation of an enacted requirement, or a request for succor, which the court of law is authorized to provide: a mandatory order, a prohibitory order, and a declaratory order. In addition, public bodies, such as the Second Authority for Television and Radio, that are obliged to act in accordance with



the rules of the body or according to the rules of any law, are able to require through the regulations of the Authority, or in its contacts those with whom contacts are established, including those advertising through them - to act in accordance with these instructions. The Knesset Research and Information Center approached the **Courts Administration** for information on the number of claims submitted to the courts since the Law came into force to the present day, **but we were informed that there is no possibility to produce the requested data.**

- **The Knesset Research and Information Center sought information on how many complaints, if any, had been submitted to the various factors resulting from the violation of this Law. The Ministry of Economy reported that no complaints had been received in this matter in any of the existing Ministry units. The Second Authority for Television and Radio reported that "The Authority was not called upon to deal with the issue, except for 11 cases of petitions by the public in connection with seven advertisements... following which the Authority checked the BMI of the models (doctor certificate) or the non-performance of Photoshop editing, and it was found that the advertisements conform with the Law".** We have no information as to when these complaints were submitted, what their content was, or how they were dealt with by the Authority.
- **A Private Members' Bill has been submitted to the current 20th Knesset "The Weight Restriction in the Modeling Industry (amendment - various provisions) Bill, 5776-2016", which seeks to enhance the enforcement of the law, *inter alia* by laying down sanctions. The Bill does not include any mention of the absence of a body which supervises the implementation of the law, and of the disagreement among the Ministries regarding which of them should be responsible for implementing this Law. It seems that unless solutions are provided for these issues, the difficulties in its implementation are likely to continue.**

1. Introduction³

The goal of the Law for Restricting Weight in the Modeling Industry, 5772- 2012⁴ (hereinafter: the Law), as written in the explanatory notes to the Bill, is "to diminish the ramifications of exposure to advertising that presents male and female models, as well as known and famous persons, who are exceptionally thin, on the creation of a low body image and the development

³ We should like to thank the legal advisor of the Knesset Labor, Welfare and Health Committee, attorney Noa Ben-Shabat, for her comments on this document.

⁴ The Law for Restricting Weight in the Modeling Industry, 5772-2012. See footnote 1.



of eating disorders in Israel".⁵ In other words, the goal of the Law is to protect the public in Israel against the development of eating disorders,⁶ and the assumption on which the Law is based is that the modeling industry is one of the social-cultural factors that are liable to contribute to the development of these disorders.⁷ Thus, the State of Israel turned into the first country in the world to have enacted a law that places restrictions on the modeling industry, with the goal of fighting eating disorders.⁸

The law includes two central limitations on an advertising agent, who produces an advertisement for payment for an advertiser, and on an advertiser, who initiates an advertisement for a product that he supplies, a service that he provides, or his brand.⁹ **The first limitation** lays down that an advertising agent shall not produce an advertisement in which a model appears, and the advertiser shall not present such an advertisement, unless the model¹⁰ has provided a doctor's certificate to the effect that he is not underweight, in accordance with the calculation of the Body Mass Index (BMI), and on the basis of an examination performed by the doctor in the course of the three months prior to the date of the shots of the model were taken for the advertisement. The Body Mass Index is calculated as the ratio between the body weight of a person in kilos and the square of his height in meters.¹¹ According to the definitions of the Law, underweight in the case of an adult is a BMI value that is less than 18.5. while in the case of a minor additional details were added regarding BMI values adapted to ages 13-17, and anyone whose BMI is lower than the said values is considered underweight.¹² In addition the law stipulates that anyone who has been provided with a doctor's certificate, must keep a copy of it until the end of the limitation period.¹³

⁵ [Knesset Bill for Restricting Weight in the Modeling Industry, 5771-2011](#) (Hebrew).

⁶ [The Knesset Record, plenum sitting held on March 19, 2012, debate on the Law for restricting Weight in the Modeling Industry, 5772-2012 in Second Reading and Third Reading](#) (Hebrew).

⁷ Galya Hildesheimer & Hemda Gur-Arie, "Just Modeling?: The Modeling Industry, Eating Disorders, and the Law", *International Journal of Feminist Approaches to Bioethics* 8(2), University of Toronto Press, Fall 2015, p. 108-110. <https://muse.jhu.edu/article/592297>.

⁸ Sarah Budow, ["Role-Modeling: How the Americans with Disabilities Act Blocks BMI-Based Hiring Bans in the United States"](#), *Cardozo Journal of Law and Gender* 20, November 2013, p. 140. Retrieved: December 22, 2016.

Galya Hildesheimer & Hemda Gur Arie, op. cit. See footnote 7.

⁹ According to the definitions of the Law, an advertisement is a "photographed advertisement for a product, a service or a brand, in print, by electronic means, or by some other technological means, which intended for or accessible to the public". Article 1 of The Law. See footnote 1.

¹⁰ A model is "a person who has been photographed so that his image may be used for the purpose of advertising, promotion or presentation of a product, service or brand". Article 1 of the Law. See footnote 1.

¹¹ [World Health Organization, Body Mass Index – BMI](#). Retrieved: December 16, 2016.

¹² Article 1 of the Law. See footnote 1.

¹³ Article 2(b) of the Law. See footnote 1.



The second limitation in the law lays down that an advertising agent, who produces an advertisement that presents the image of a person that has undergone graphic editing, including a computer program, for the reduction of body measurements, will include in the advertisement that he has produced a clarification, as elaborated in article 3(b), to the effect that in its preparation graphic editing was applied for the purpose of reducing body measurements, as stated,¹⁴ and he must preserve the original photographs until the end of the limitation period.¹⁵ Article 3(b) of the Law lays down that the clarification shall appear in the advertisement in a prominent place, and in a size and color that are clearly visible, on an area that is no smaller than at least 7% of the area of the publication, including the advertisement.¹⁶ The publisher is prohibited from presenting an advertisement to which graphic editing was applied as stated, without the required clarification being included.¹⁷

According to the Law, the two limitations mentioned above shall not apply in two situations: **the one**, when the purpose of the advertisement is not commercial - if the advertiser has shown that there is a distinct public interest in the advertisement, as long as the publication was executed as required, and on the basis of the provisions of all laws, **and the second**, when one is speaking of an advertisement that is not intended for a public in Israel.¹⁸

The Law does not provide for sanctions that shall apply to those in violation of the provisions of the law. The Minister responsible for the implementation of the Law is **the Minister of Industry, Trade and Employment**,¹⁹ and he is entitled to issue regulations for every matter connected to its implementation,²⁰ in accordance with the Law.

Regulations regarding the wording of the valid medical certificate, the wording of the clarification and the manner of its presentation, and the performance of an examination to calculate the BMI, require the approval of the Knesset Labor, Welfare and Health Committee. This Committee has stated that the said regulations have not been submitted to it.²¹

¹⁴ Article 3(a) of the Law. See footnote 1.

¹⁵ Article 3(c) of the Law. See footnote 1.

¹⁶ Article 3(b) of the Law. See footnote 1.

¹⁷ Article 3(a) of the Law. See footnote 1.

¹⁸ Article 4 of the Law. The Knesset Record, plenum sitting held on 19 March 2012, debate on the Law for restricting Weight in the Modeling Industry, 5772-2012 in Second Reading and Third Reading (Hebrew).

¹⁹ Article 1 of the Law. See footnote 1.

²⁰ Article 6(a) of 5the Law. See footnote 1.

²¹ Phone conversation with the secretariat of the Knesset Labor, Welfare and Health Committee on December 19, 2016.



1. Background

Before we discuss the implementation of the Law and its enforcement, in this chapter we shall briefly present the background to the enactment of the Law, which is designed to struggle against the effects of the media on the development of eating disorders, by placing restrictions on the modeling industry.

From the deliberations that took place in the Knesset in the course of the enactment of the law, and from articles in scientific journals that survey this issue, it transpires that there are several possible risk factors for the development of eating disorders, including biological, psychological and socio-cultural factors.²² One of the of the socio-cultural factors is the media²³ and this due to its contribution to creating a model of beauty that sanctifies thinness by granting enhanced media representation to skinny women.²⁴ From articles in scientific journals it transpires that the exposure to this content in the media is liable to influence viewers in various ways, since it is not only the degree of exposure that determines its influence, but social and personality factors of the viewers as well.²⁵ Thus, for example, studies point to the fact that the media has greater influence on adolescent girls compared to older viewers.²⁶ Nevertheless, the various studies had difficulty pointing to a clear causal connection between the exposure to the media and the development of eating disorders among

²² Sharlene Hesse-Biber, Patricia Leavy, Courtney E. Quinn & Julia Zoino: "[The mass marketing of disordered eating and Eating Disorders: The social psychology of women, thinness and culture](#)", *Women's Studies International Forum* 29, 2006, p. 209. Retrieved: March 15, 2017.

Galya Hildesheimer, Hemda Gur-Arie, op. cit. p. 108. See footnote 7.

Chen Zilberman, "[Fashion Victims](#)" (Hebrew) *Hukim*, Vol 5, 2013 pages 244-5. Retrieved: December 22, 2016.

²³ [Minutes of the Knesset Labor, Welfare and Health Committee](#) meeting held on May 16, 2011, p. 2; and [Knesset Record, plenum sitting](#) held on May 24, 2011. p. 2.

Galya Hildesheimer, Hemda Gur-Arie, op. cit. p. 108.

²⁴ Nicole Paraskeva, Helene Lewis-Smith, Phillipa C. Diedrichs, "Consumer opinion on social policy approaches to promoting positive body image: Airbrushed media images and disclaimer labels", *Journal of Health Psychology*, 2015, p. 2.

Sharlene Hesse-Biber, Patricia Leavy, Courtney E. Quinn & Julia Zoino op. cit. p. 208. See footnote 22.

Shelly Grabe, L. Monique Ward, Janet Shibley Hyde, "[The Role of the Media in Body Image Concerns Among Women: A Meta-Analysis of Experimental and Correlational Studies](#)", *Psychological Bulletin* 134(3) 2008. p. 460. Retrieved: March 15, 2017.

²⁵ Sharlene Hesse-Biber, Patricia Leavy, Courtney E. Quinn & Julia Zoino op. cit. pp. 209, 214, & 216-18. See footnote 22.

²⁶ Anne E. Becker "[Television, Disordered eating, and young women in Fiji: Negotiating body image and identity during rapid social change](#)", *Culture, Medicine and Psychiatry* 28, 2004. pp. 533-536. Retrieved: March 15th 2017.



those exposed to the content broadcast by it,²⁷ and researchers have noted the need to continue to study this connection.²⁸ To this one should add that there are additional industries to the modeling industry (such as the sports industry and the toys industry) that also nurture the skinny female beauty model.²⁹

In the deliberations held in the course of the enactment of the Law, former MK Rachel Adato, who initiated the Law, pointed out that the Law **does not pretend to solve all the problems connected to eating disorders, but is an important step, as part of the battle against this phenomenon.**³⁰ She added that the Law provides an additional and different vantage point to the problem of eating disorders in that it focuses on the connection between the media and body image,³¹ and focuses on the modeling sector, which, according to her, has much greater influence on young girls than do other sectors.³²

In face of the identification of the modeling sector and the media as factors that are liable to contribute to the development of eating disorders, and in face of the desire to limit these influences, the question was raised as to what policy tools may be used to attain this goal, and at the same time whether this issue ought to be dealt with by means of legislation, and if it is, what the advantages and disadvantages of this tool compared to other tools are.³³

²⁷ Sharlene Hesse-Biber, Patricia Leavy, Courtney E. Quinn & Julia Zoino op. cit pp. 215-18. See footnote 22. Anne E Becker, Rebecca A., Burwell, David B. Herzog, Paul Hamburg, Stephen E Gilman., "[Eating behaviors and attitudes following prolonged exposure to television among ethnic Fijian adolescent girls](#)", *The British Journal of Psychiatry*, 2002, pp. 509 & 513. Retrieved: March 15, 2017.

Amy Slater, Marika Tiggerman, Bonny Firth, Kimberley Hawkins, "[Reality Check: An Experimental Investigation of the Addition of Warning Labels to Fashion Magazine Images on Women's Mood and Body Dissatisfaction](#)", *Journal of Social and Clinical Psychology* 2, 2012, pp. 106-108. Retrieved: March 15th 2017.

Shelly Grabe, L. Monique Ward, Janet Shibley Hyde, op. cit. pp. 460-2. See footnote 24.

²⁸ Anne E Becker, Rebecca A. Burwell, David B. Herzog, Paul Hamburg, Stephen E. Gilman op.cit. p 513. See footnote 27.

²⁹Sharlene Hesse-Biber, Patricia Leavy, Courtney E. Quinn & Julia Zoino op. cit. pp. 213-14.

Galya Hildesheimer, Hemda Gur-Arie op.cit. pp. 108-10. See footnote 7.

³⁰ The Knesset Record, plenum sitting held on June 16, 2010, [debate on the Law for restricting Weight in the Modeling Industry, 5770-2010 in Preliminary Reading](#). p. 52 (Hebrew).

³¹Minutes of the Labor, Welfare and Health Committee held on May 16, 2011, p. 2.

³² The Knesset Record, plenum sitting held on June 16, 2010. See footnote 30.

³³ See, for example, Chen Zilberman op. cit pp. 250-54& 260-62. See footnote 22.

Galya Hildesheimer, Hemda Gur-Arie op.cit. p. 106. See footnote 7.



In articles, and in deliberations held in the Knesset it was argued that regulating the issue by means of legislation contributes to raising the issue to public awareness,³⁴ and indeed, the Israeli Association of Eating Disorders, stated that the Law had indeed raised the awareness of the general population to the dangers of weight loss, but that it does not do away with the phenomenon.³⁵ An additional advantage of regulating the issue by means of legislation is that this regulation is not dependent on the will of the various factors to take upon themselves restrictions, but that the law lays down clear requirements that apply to everyone.³⁶ At the same time, as argued in articles written after the law was enacted - restriction through legislation are liable to also harm other rights.³⁷ Already in the course of the enactment of the law, there was a good deal of discussion around the need to balance between the enactment of an effective law, which can be enforced, and possible damage to basic rights, including the freedom of occupation³⁸ of models, of modeling agencies, or the advertisers who employ them.³⁹ In view of these deliberations several amendments were introduced in the Bill,⁴⁰ even though there were those who argued that amendments reduced the effectiveness of the Law.⁴¹

In scientific articles written after the law has been enacted, it was argued that there might be less offensive, and possibly more effective ways of contending with the development of eating disorders, including the implementation of programs on the educational level (such as programs for encouraging healthy eating habits, implemented by the Ministry of Education

³⁴ Galya Hildesheimer, Hemda Gur-Arie op.cit. p. 129. See footnote 7.

[Minutes of the Labor, Welfare and Health Committee meeting](#) held on March 5, 2012 (Hebrew) p.6.

³⁵ Telephone conversation with Prof. Eitan Bechar, chairman of the Israeli Association of Eating Disorders, on December 21, 2016.

³⁶ Sarah Budow, op. cit. p. 141. See footnote 8.

³⁷ Chen Zilberman, op. cit. pp. 263-64. See footnote 22.

Galya Hildesheimer, Hemda Gur-Arie op.cit. p. 106. See footnote 7.

Julie Gladstone, "The Skinny on BMI-Based Hiring: An assessment of the Legality and Effectiveness of Israel's Weight Restriction Law", *Washington University Global Studies Law Review* 15(3), 2016, pp. 504-506.

Sarah Budow, op. cit. p. 142. See footnote 8.

Allison Clyne Tschannen, "[An Argument for Incentivizing Voluntary Regulation of the Fashion and Modeling Industries](#)", *Washington University Jurisprudence Review*, 2014, pp. 429-30. Retrieved: December 22, 2016.

³⁸ [Basic Law: Freedom of Occupation](#). (English translation).

³⁹ The Knesset Record, plenum sitting held on June 16, 2010, p. 56. See footnote 30.

Minutes of the Labor, Welfare and Health Committee meeting held on May 16, 2011 (Hebrew), pp. 13-14.

Minutes of the Labor, Welfare and Health Committee meeting held on March 5, 2012, pp. 2, 6 & 12-14. See Footnote 34.

⁴⁰ Minutes of the Labor, Welfare and Health Committee meeting held on March 5, 2012), p. 40. See footnote 34. Galya Hildesheimer, Hemda Gur-Arie op. cit. pp. 119-22. See footnote 7.

⁴¹ Ibid. pp. 126-9.



and the Ministry of Health),⁴² by means of voluntary regulation of modeling agencies,⁴³ or by encouraging a cultural change in the way the presentation of women is perceived.⁴⁴ For example, in one of the studies it was suggested that one ought to present a large variety of characters with different body structures in the media, or alternatively place greater emphasis on health and less on appearance.⁴⁵ Nevertheless, both in articles and the Knesset deliberations reservations were raised regarding the suitability of these tools. For example, regarding voluntary regulation several articles noted that the effectiveness of this tool is controversial, since its implementation depends on the good will of factors concerned in the application of this regulation.⁴⁶ The initiator of the Law, MK Adato, mentioned during the deliberations that the Law does not exempt additional factors, such as the education system, the parents, or the Ministry of Health from acting to reduce the phenomenon,⁴⁷ and according to her, not only is there no contradiction among the various means, but one ought to combine them.⁴⁸

In the end the Law was enacted, and as presented in the introduction, it includes two central components: the one, a requirement to provide a medical certificate (to be provided by the model and presented to the advertising agent, who produces an advertisement and the advertiser, who presents an advertisement) on which we shall elaborate in chapter 4.4., **and the second**, by means of the requirement of including a clarification on advertisements to which graphic editing was applied for the purpose of reducing body measurements (which shall be included in the advertisement by the advertising agent producing the advertisement, and as a condition to its being presented by the advertiser). With regards to the second requirement, we should point out that it underwent changes along the Law's enactment process, since in the original Bill submitted for preliminary debate it was proposed to apply a complete prohibition on the use of graphic editing for the purpose of reducing the body

⁴² These programs were mentioned already in the Knesset deliberations held before the enactment of the Law. The Knesset Record, plenum sitting held on June 16, 2010, p. 52. See footnote 30.

⁴³ Sarah Budow, *op. cit.* p. 171. See footnote 8.

Julie Gladstone *op. cit.* p. 512. See footnote 37.

⁴⁴ Sharlene Hesse-Biber, Patricia Leavy, Courtney E. Quinn & Julia Zoino *op. cit.* pp. 218-19. See footnote 22.

⁴⁵ Nicole Paraskeva, Helene Lewis-Smith, Phillippa C. Diedrichs, *op. cit.* p. 8. See footnote 24.

⁴⁶ Sarah Budow, *op. cit.* p. pp. 141-2. See footnote 8.

Chen Zilberman *op. cit.* p., 252. See footnote 22.

⁴⁷ Minutes of the Labor, Welfare and Health Committee meeting held on March 5, 2012, p. 5. See footnote 34.

⁴⁸ Minutes of the Labor, Welfare and Health Committee meeting held on May 16, 2011 (Hebrew) p. 2.



measurements of the model, whose image has been used in any publication designated for the public.⁴⁹ The initiator of the Law pointed out during the debate, which took place in the Knesset that following negotiations with the Minister of Industry, Trade and Employment it was decided not to prohibit the use of digital processing, but to enable it, subject to the presentation of a label clarifying that digital processing was applied to the advertisement for the purpose of reducing body measurements.⁵⁰

The effectiveness of imposing this obligation in the Law was discussed in studies and articles that reviewed the subject, but it is difficult to estimate the degree of effectiveness of these clarifications.⁵¹ In a particular article a comparison was made between the duty to include a clarifications in an advertisement regarding digital intervention for the purpose of reducing body measurements, and the obligation to write health warnings on cigarette packs and tobacco products.⁵² We should note that in the 2003 **World Health Organization Framework Convention on Tobacco Control (FCTC)**, and the accompanying guidelines to it, there is a clear reference to the location of the warning on tobacco products, its size (at least 30% of the surface of the pack, with a recommendation for over 50% of it), and there is an additional requirement to relate to the health hazards of the use of tobacco products.⁵³ As to clarifications in advertisements regarding graphic editing, as already mentioned, according to the Law the clarification shall appear on the advertisement in a prominent place and in a clearly visible color and size on a surface which is no smaller than 7% of the total surface of the advertisement.⁵⁴ It transpires from the article that in order that the warnings on the cigarette packs should be effective, they must be prominent and catch the eye. Nevertheless,

⁴⁹ [Article 4 of the Bill for the Restriction of weight in the Modeling Industry, 5770-2010 \(Private Members' Bill 2057/18\)](#). (Hebrew).

⁵⁰ Minutes of the Labor, Welfare and Health Committee meeting held on May 16, 2011 (Hebrew), pp. 4-5.

⁵¹ See for example: Marika Tiggemann, Amy Slater, Veronica Smyth, "Retouch Free!: The effect of labelling media images as not digitally altered on women's body dissatisfaction", *Body Image*, 2013, pp. 1-3.

Nicole Paraskeva, Helene Lewis-Smith, Phillippa C, Diedrichs, op. cit. p, 10. See footnote 24.

Amy Slater, Marika Tiggerman, Bonny Firth, Kimberley Hawkins, op. cit. p 120. See footnote 27.

Carolyn Black Becker, Maribel Plasencia, Lisa Smith Kilpela, Morgan Briggs, Tiffany Stewart, "[Changing the Course of comorbid eating disorders and depression: What is the role of public health interventions in targeting shared risk factors?](#)" *Journal of Eating Disorders*, May 2014, p. 7. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4049372/>. Retrieved: December 22, 2016.

⁵² Allison Clyne Tschannen, op. cit. pp. 436-44. See footnote 37. This comparison was mentioned in the Knesset plenum sitting held on May 24, 2011, p. 3.

⁵³ World Health Organization, "[Guidelines for implementation of Article 11: Packaging and labelling of tobacco products](#)", November 2008. Retrieved: February 21, 2017.

⁵⁴ Allison Clyne Tschannen, op. cit. pp. 438-41. See footnote 37.



it is more difficult to cause clarifications regarding graphic editing in advertisements to stand out, since they are applied to advertisement that include models, and by the nature of such advertisements they are colorful, and draw attention. As to health hazards, in the clarifications regarding graphic editing it is required only to point out the mere fact that such processing took place, and not the danger that might be caused as a result of exposure to these advertisements, as in the case of warnings on tobacco products.⁵⁵

In another article an additional aspect of these clarifications was discussed, according to which the mere ability of the advertisers to reduce the body measurements of models in advertisements by means of digital processing, side by side with the said clarifications, leaves the public message in place, and is even liable to create legitimation for the adjustment of the body to the presented model.⁵⁶ Nevertheless, in this case as well, researchers pointed to the need to continue to study the effectiveness of these clarifications.⁵⁷

The choice to regulate this issue by means of legislation, the restrictions included in this Law, and the discussion on its effectiveness, also include a debate regarding the absence of sanctions in the Law. From a review of the minutes of the plenum and the Labor, Welfare and Health Committee in the course of the enactment of the Law it emerges that the possibility of including sanctions in the Law was not discussed in the deliberations. Nevertheless, even in the absence of sanctions in the Law, it is possible to enforce the Law by means of civil procedures such as civil claim due to the breach of a legislated duty,⁵⁸ or a request for succor that the court is authorized to provide: a mandatory order, a prohibitory order, and a declaratory order.⁵⁹ In addition, public bodies, such as the Second Authority for Television and Radio, that are obliged to act in accordance with the rules of the body or according to the rules of any law,⁶⁰ are able to require through the regulations of the Authority, or in its contacts those with whom contacts are established, including those advertising through them, to act in

⁵⁵Allison Clyne Tschannen, op. cit. pp. 438-41. See footnote 37.

⁵⁶Galya Hildesheimer, Hemda Gur-Arie, op. cit. p. 127. See footnote 7.

⁵⁷Amy Slater, Marika Tiggerman, Bonny Firth, Kimberley Hawkins, op. cit. p. 120. See footnote 27.

Marika Tiggerman, Amy Slater, Veronica Smyt, op. cit. pp. 1-3. See footnote 51.

Nicole Paraskeva, Helene Lewis-Smith, Phillippa C. Diedrichs, p. 10. See footnote 24.

⁵⁸ [Article 63\(a\) of the Civil Wrong Ordinance \(new version\) \(Hebrew\)](#). Retrieved: March 16, 2017.

⁵⁹ [Article 75 of the Courts Law \(combined version\). 5744-1984. \(Hebrew\)](#). Retrieved: May 15, 2017.

⁶⁰ [Article 46\(a\) of the Second Authority for Television and Radio Law, 5750-1990](#). Retrieved: March 16, 2017.
Email from Ofir Bitan, Deputy CEO of the Second Authority for Television and Radio, on March 14, 2017.



accordance with these instructions.⁶¹ Nevertheless, one may question whether this Law is implemented in fact, and if it is, how and what the difficulties are in its enforcement.

2. Supervision, implementation and enforcement of the Law in Israel

In order to try to evaluate the extent to which the Law is enforced in Israel we tried to find out **whether there is a factor that supervises the implementation of the Law in practice and in what manner and scope it does so.** In this connection we turned, *inter alia*, to the Ministry of Labor and Welfare, and to the Ministry of Health. In addition, we tried to find out whether both aspects of the Law are actually implemented - first of all in relation to the requirement that models provide a medical certificate concerning normal BMI, and secondly in connection with the requirement to present a clarification in an advertisement which has undergone digital processing for the purpose of reducing body measurements.

2.1. The factor responsible for enforcing the law

As mentioned above, according to the Law, the minister responsible for the implementation of the Law is "the Minister of Industry, Trade and Employment". In the deliberations towards the enactment of the Law, the initiator of the Law, MK Rachel Adato, explained that the Ministry of Industry, Trade and Employment and not the Ministry of Health is the suitable ministry, because the Law focuses on employment.⁶² The Ministry of Health also pointed out in the course of the deliberations that it believes that the ministry that should be responsible for the Law is the Ministry of Industry, Trade and Employment.⁶³ Nevertheless, it should be noted that in earlier versions of the Bill submitted to the 16th Knesset⁶⁴ and 17th Knesset⁶⁵ it was proposed that the person responsible for the implementation of the Law should be the

⁶¹ Meeting with attorney Noa Ben Shabat, legal advisor to the Knesset Labor, Welfare and Health Committee, held on March 23, 2017.

⁶² Minutes of the Labor, Welfare and Health Committee meeting held on May 16, 2011, pp. 3-4.

⁶³ Ibid. p. 5.

⁶⁴ [Bill for the Requirement for Medical Examinations for Models 5750-2004 \(Private Members' Bill 2933/16\)](#), submitted by MK Inbal Gavrieli and others Did not go beyond preliminary debate.

⁶⁵ [Bill for the Requirement for Medical Examinations for Models and Dancers, 5758-2008 \(Private Members' Bill 3869/17\)](#), submitted by MKs Esterina Tartman, Orit Noked and others. Did not go beyond preliminary debate.



Ministry of Health.⁶⁶ However, in the Law finally adopted he is not mentioned as the person responsible.⁶⁷

In 2015 the name of the Ministry of Industry, Trade and Employment was changed to the Ministry of Economy and Industry.⁶⁸ Within the framework of Government Decision No. 1754 of July 31, 2016, **the whole sphere of employment** was moved from the Ministry of Economy and Industry to the Ministry of Welfare and Social Services, and following this the name of the Ministry was changed to the Ministry of Labor and Welfare.⁶⁹ Within the framework of the decision the laws that were transferred from the responsibility of the Ministry of Economy and Industry to the Ministry of Labor and Welfare were listed, and **the Law for Restricting Weight in the Modeling Industry, 5772-2012, is not included in this list.** Also in response to the approach of the Knesset Research and Information Center **to the Ministry of Labor and Welfare**, it was reported that after checking in the Ministry - including the labor sphere that was moved from the Ministry of Economy to the united Ministry of Labor and Welfare - it transpired that **the issue is not under the authority of the Ministry, but belongs to the Ministry of Economy.**⁷⁰

The Ministry of Economy and Industry reported that no factor has been appointed who is responsible for the enforcement of the Law for Restricting Weight in the Modeling Industry, 5772-2012. According to the Ministry of Economy and Industry **there is no practical possibility to enforce the law, since the Ministry does not have an enforcement arm.** It added that in the past the Ministry of Economy and Industry had a unit for enforcing labor laws, which could have been made responsible for the Law, but upon the division of the Ministry and the transfer of responsibility in the sphere of employment to the Minister of Welfare, the Ministry does not have an enforcement arm.⁷¹ It should be recalled that the Law went into force in January 2013, while the division of the Ministry occurred only in July 2016. In other words, since the Law came into force in January 2013 and until July 2016 the

⁶⁶ Private Members' Bill 2933/16, and Private Members' Bill 3869/17. See footnotes 64 & 65.

⁶⁷ Article 1 of the Law. See footnote 1.

⁶⁸ The Ministry of Economy and Industry, "About the Ministry" (Hebrew). <http://economy.gov.il/about/Pages/default.aspx>.

⁶⁹ Prime Minister's Office, Government [Decision No. 1754](#) of July 31, 2016. Retrieved: January 16, 2017.

⁷⁰ Email from Anath Segev, the Knesset-Government Liaison Center, the Ministry of Labor, Welfare and Social Services, on December 22, 2016.

⁷¹ Email from Mercedes Zarfati, the advisor to the CEO and person responsible for the Freedom of Information Law in the Ministry of Economy and Industry, on January 16, 2017.



Ministry of Economy had an enforcement arm, and therefore, if it believes that it was possible to use the unit for the enforcement of labor laws in this case, the question is why this responsibility was not assigned to it until July 2016.

Furthermore, the Ministry of Economy and Industry pointed out to the Knesset Research and Information Center that **in terms of the purpose of the Law there are no professional or essential reasons why the Ministry of Economy - which is responsible for Industry in the State of Israel - should be the home or the responsible factor over a law dealing with weight restriction.** According to the Ministry, the essence of the Law is, *inter alia*, to prevent illnesses connected with weight such as Bulimia, Anorexia, problems of body image, etc. - spheres that are not the responsibility of the Ministry, and with regards to which it has no professional saying. Therefore, **according to the Ministry of Economy and Industry, the implementation and responsibility for the Law, the enforcement and the regulations must (emphasis in origin) be moved to another government ministry.**⁷² **The Ministry of Economy and Industry did not name the Ministry to which this responsibility ought to be moved.**

The Ministry of Health informed the Knesset Research and Information Center that the enforcement of this Law must be implemented in the commercial-economic sphere, and therefore it is not within the mandate of the Ministry of Health. According to the Ministry we learn from reality that one may perform 'manipulations' opposite the family doctor, and the Ministry of Health does not think that it is appropriate to expect doctors to bear responsibility for the manipulations of fashion companies, photographers, or models. Therefore, in its reply the Ministry of Health stated that there is place to carry out surprise visits at fashion productions by an expert team, on behalf of the Ministry of Economy.⁷³

We should point out that in the State Comptroller Report for 2012 and for Accounts of the Financial Year 2011, which examined the issue of treatment of eating disorders on the eve of the entry into force of the Law, the State Comptroller noted that after the Law has been enacted it is necessary to introduce greater supervision of the manner in which

⁷² Email from Mercedes Zarfati, the advisor to the CEO and person responsible for the Freedom of Information Law in the Ministry of Economy and Industry, on January 16, 2017.

⁷³ It was further reported that even though the Ministry is not directly involved in the issue, an internal discussion took place, with the participation of professional factors in the Ministry including the Mental Health Section and the Nutrition Department. Letter from the Senior Section Director of Rescue Services and First Aid in the Ministry of Health, Miri Cohen, dated January 10, 2017.



it is implemented in fact.⁷⁴ It appears as though the first step to achieve this is to create an agreement regarding the factor that should be responsible for implementing the Law - an agreement that does not appear to exist today.

In this connection we should like to note that in 2015 France introduced two restrictions that are similar to those in the Israeli Law, in two separate laws: the requirement to note in a clarification in publications in cases in which digital processing is applied was laid down in the Public Health Code,⁷⁵ and the requirement to present a medical certificate - in the Labor Code.⁷⁶ We have no information regarding the factor responsible for supervising the laws in France. Nevertheless, the fact that the issue is dealt with in two separate laws raises the question whether this results, *inter alia*, from questions regarding different responsibility spheres by different factors, and in general from questions connected with the manner in which the laws should be enforced.

2.2. Implementing the requirement to provide medical certificates regarding normal BMI

In order to examine the implementation of the Law regarding the requirement to provide medical certificates concerning the normal BMI of models, the Knesset Research and Information Center approached the Israeli Medical Association (IMA), the four health funds and the 'Yuli' modeling agency **and from the answers we received we gathered that there is no information regarding the number of medical certificates regarding normal BMI issued since the Law went into force.**

The IMA reported that from an inquiry held by the Association for family medicine in the IMA following our approach, it transpires that **they do not know of any family doctors requested to issue such certificates.** The Israeli Association of Midwives and Gynecology in the IMA and the Society for Adolescent Medicine in the IMA also had no information on the subject.⁷⁷

⁷⁴ [The State Comptroller Report for 2012, Annual Report 63c, Ministry of Health](#), (Hebrew) pp. 914-15.

⁷⁵ [Legifrance, L. 2133-2 du code de la sante](#). Retrieved: January 17, 2017.

⁷⁶ [Legifrance, L. 7123-2-1 du code du travail](#). Retrieved: January 17, 2017.

⁷⁷ Letter from attorney Chen Shmilo, head of the Public Policy Section, the Israel Medical Association of December 29, 2016.



The Clalit Health Services, the Maccabi Health Services and the Me'uhedet Health Fund reported that they do not have information on the number of certificates provided in this spheres.⁷⁸ **The Le'umit Health Fund** reported that from an investigation among the medical directors in the fund, and among the family doctors - it transpires that no one remembers a request of this sort, or difficulties in implementing the Law.⁷⁹

The CEO of the 'Yuli' Modeling Agency, which is one of the large modeling agencies in Israel, reported that even though when the Law came into force there was a requirement that the fashion firms, the advertising offices etc. present certificates, today almost no one demands such a certificate. According to her, in general, the responsibility for the requirement of medical certificates is not imposed on the modeling agency, but on the clients - including fashion firms, advertising offices and public relations offices.⁸⁰

2.3. Implementing the requirement for a clarification on publications in which digital processing has taken place for the purpose of reducing body measurements

In this chapter we seek to examine the implementation of the requirement to write a clarification on publications in which digital processing has taken place for the purpose of reducing body measurements.

First of all, we must emphasize that we did not carry out a survey of the publications published in the various media outlets in the course of a certain period - such as advertisements broadcasted on television, publications in newspapers, catalogues, websites, municipal bulletin boards, billboards, etc. **Secondly**, from merely looking at a publication, one cannot tell whether the provisions of the Law have been violated, since by observing the photograph of a model one cannot determined whether she provided a medical certificate as required, and alternatively one cannot conclude from the absence of a written clarification on an advertisement whether a reduction of body measurements has or has not taken place, if this

⁷⁸ Letter from Dr. David Mosinson, Medical Deputy CEO, Medical Section, Me'uhedet Health Fund of December 29, 2016; Email from Michal Zagon-Rogel, Spokesman's and Government Liaison Department, Maccabi Health Services, of December 22, 2016; Letter from Dr. Yair Birenboim, chief Doctor, Clalit health Services, of January 29 2017.

⁷⁹ Email from Orit Haim, the Secretary of the Medical Section, Le'umit Health Fund, on January 2, 2017.

⁸⁰ Telephone conversation with Ziva Michael, the CEO of the 'Yuli' modeling agency, held on January 19, 2017.



has not been mentioned.⁸¹ In addition, in cases where a clarification has been inserted, one must examine whether it complies with the Law.⁸²

For the purpose of examining the requirement to write a clarification on the publications in which digital processing has taken place for the reduction of body measurements we used data received from the director of the Social Legislation Clinic at the Interdisciplinary Center in Herzliya, and approached the 'Yediot Aharonot' group, the 'Jerusalem Post' (Ma'ariv) and 'Yisrael Hayom' to examine the implementation of the requirement in the printed and digital media.

The Director of the Social Legislation Clinic at the Interdisciplinary Center in Herzliya reported that the students in the clinic had examined dozens of companies - Israeli and foreign - that import cloths and advertise in Israel, by means of surfing through the internet and the regulations that are published in them, and looking through catalogues. According to him no clarifications concerning graphic processing for the purpose of reducing body measurements were found, except in one case, but the clarification was printed in small letters, at the bottom of the website, and did not comply with the requirements of the Law.⁸³ The Knesset Research and Information Center was not informed when this examination took place.

We were also informed by the 'Jerusalem Post' (Ma'ariv) - digital activity, that they do not remember having come across such clarifications, or models with an unnatural appearance in terms of its body dimensions, and therefore they did not approach the advertisers on this matter,⁸⁴ while the CEO of the group reported that it is rare that they receive an ad that mentions that a photoshop program was used to reduce body measurements.⁸⁵ According to the 'Yediot Aharonot' Group sample examinations carried out in the group's papers did not

⁸¹ It is possible that a photograph has been retouched or processed without reducing the body measurements of the model, in which case, according to the Law, there is no need to mention the fact.

⁸² Article 3(b) of the Law elaborates on the requirements of the clarification's characteristics, according to which the clarification will appear in the advertisement in a prominent place, and in a color and size that are clearly visible, on an area that is no smaller than at least 7% of the size of the publication, including the advertisement. See footnote 1.

⁸³ Telephone conversation with attorney Ilan Yonash, the director of the Social Legislation Clinic at the Interdisciplinary Center in Herzliya, on January 11, 2017, and an email from Attorney Yonash on January 16, 2017.

⁸⁴ Telephone conversation with the Deputy CEO - digital activity, Ma'ariv, Jerusalem Post Group, Yaron Aher on January 8, 2017. Telephone conversation with Sraya Kerner Deputy CEO Trade, Ma'ariv, Jerusalem Post Group, on January 8, 2017.

⁸⁵ Email from, Ronit Hasin-Hochman, the CEO of the Jerusalem Post Group on January 19, 2017.



uncover any advertisements including such clarifications, and an examination held with those engaged in receiving ads and their placement uncovered that they do not remember advertisements that included such clarifications in the last year.⁸⁶ 'Yisrael Hayom' reported that they do not have the requested data, and therefore they are unable to assist in this matter.⁸⁷

2.4. Enforcement of the law in the absence of sanctions

As presented in the previous chapter there is, in fact, no factor that supervises the implementation of the Law. To this one must add the fact that the Law does not include sanctions, which can be applied to those who are in violation of it. We note that in the wording of the Bill in preliminary reading (prohibition of the presentation in an advertisement of an underweight model; prohibition of employing or representing an underweight model and prohibition of connection with him in a contract for modeling work; prohibition of applying graphic processing to reduce body measurements in a publication intended for the public), a criminal sanction of a fine for violation of the Law's provisions was included. In the Bill as presented for First Reading the provision regarding a criminal offence was removed, and instead it was proposed to enable the submission of a class action on grounds of violating the provisions of the Bill. In the Bill as presented for Second reading and Third Reading the option of a class action was removed as well, and as already mentioned, no sanction was included in it.⁸⁸

In the deliberations that took place in the course of the enactment of the Law the issue of sanctions was not deliberated,⁸⁹ even though, to the best of our knowledge, this issue came up in the background deliberations that took place.⁹⁰ Nevertheless, as mentioned above, it is possible to enforce the Law by means of civil procedures such as a claim resulting from the violation of an enacted duty,⁹¹ or a request for succor, which the court of law is authorized to

⁸⁶ Email from Ya'acov Netzer, the Deputy Management Chairman of the Magazine Group (including LaIsha, Blazer, Menta, GO, Rosh1) to Yinon Engel, the CEO of 'Yediot Aharonot' on January 12, 2017; Email from Yinon Engel, the CEO of 'Yediot Aharonot', on January 17, 2017.

⁸⁷ Email from Liron Vardi-Geller, the Spokesperson of Yisrael Hayom, on January 19, 2017.

⁸⁸ Email from Attorney Noa Ben Shabat, the Legal Advisor to the Knesset Labor, Welfare and Health Committee, on April 2, 2017. Bill on the Restriction of Weight in the Modeling Industry, 5770-2010. Bill on the Restriction of Weight in the Modeling Industry, 5772-2012.

⁸⁹ Meeting with Noa Ben Shabat. See footnote 61.

⁹⁰ Chen Zilberman op. cit. p. 263. See footnote 22; Article 63(a) of the Civil Wrong Ordinance (new version) op. cit. See footnote 58; Meeting with Noa Ben Shabat. See footnote 61.

⁹¹ Article 63(a) of the Civil Wrong Ordinance (new version) op. cit. See footnote 58.



provide: a mandatory order, a prohibitory order, and a declaratory order.⁹² In addition, public bodies, such as the Second Authority for Television and Radio, that are obliged to act in accordance with the rules of the body or according to the rules of any law,⁹³ are able to require through the regulations of the Authority, or in its contacts those with whom contacts are established, including those advertising through them, to act in accordance with these instructions.⁹⁴

The Knesset Research and Information Center approached the **Courts Administration** in order to receive information on the number of claims submitted to the courts since the Law came into force to the present day, **but we were informed that it is not possible to produce these data.**⁹⁵ In the absence of these data it is impossible to estimate the enforcement of the Law by the legal system.

In articles written after the enactment of the law it was argued that in the absence of sanctions this law is primarily declaratory.⁹⁶ We should point out that during the deliberations on the preparation of the Bill for Second and Third Readings, the proposing MK, Rachel Adato, explained that the value of the Law is in the public discussion that it raises, and the commitment of the modeling agencies to the norms laid down in it.⁹⁷ In other words, from the words of the initiator of the Law it transpires that even if the Law does not include sanctions, it is beneficial, since it raises public awareness to the issue, on the basis of the binding norm laid down in it. **The Israeli Association of Eating Disorders** suggested to us the possibility that this awareness contributes to the enforcement of the Law since it is possible that the Law is enforced at a certain level, when citizens or members of the Association warn the municipalities that advertising posters have been put up on bulletin boards throughout the city, which include pictures of models who look excessively thin, and thus lead to the removal of these posters.⁹⁸

⁹² [Article 75 of the Courts Law \(combined version\) 5744-1984](#). (Hebrew). Retrieved: May 15, 2017.

⁹³ Article 46(a) of the Second Authority for Television and Radio Law 5750-1990. Email from Ofir Bitan. See footnote 60.

⁹⁴ Meeting with Noa Ben Shabat. See footnote 61.

⁹⁵ Email from Kobi Mashmush, Director of Statistics and Research Activity in the Courts Administration, on December 20, 2016.

⁹⁶ Galya Hildesheimer, Hemda Gur-Arie, op. cit. p. 127. See footnote 7.

⁹⁷ Minutes of the Labor, Welfare and Health Committee meeting held on March 5, 2012. See footnote 34.

⁹⁸ Telephone conversation with, Professor Eitan Bechar. See footnote 35.



Nevertheless, it is not clear to what extent there are, indeed, complaints from the public, since **the Ministry of Economy informed the Knesset Research and Information Center that no complaints have been received on this matter in any of the existing units in the Ministry.**⁹⁹

In order to learn of the existence of complaints on this issue, the Knesset Research and Information Center also approached the Second Authority for Television and Radio. The Authority reported that in general certain advertisements (for example, advertisements in which children participate, advertisements that include a suspicion of violence and sex, health etc., or other broadcasts according to the discretion of those responsible for broadcasts) come up for prior approval to the Advertisements Committee of the Authority. Advertisements that do not require prior approval face the self-regulation of those responsible for broadcasts, by their regulatory departments. In addition, it was reported, that "when there is a suspicion that a broadcasted advertisement does not comply with the rules of the Second Authority or any law, the Authority carries out an "examination after broadcasting", in which it demands confirmations and documents, and if necessary acts to correct/change the broadcasts in accordance with the rules and the law".¹⁰⁰

As to the said Law, the Authority did not state explicitly whether this issue requires prior approval by the Authority, or whether it is exclusively in the hands of the broadcasting bodies. The Authority reported that on December 30, 2012, the Second Authority sent those responsible for broadcasting a letter informing them of the entry into force of the Law, and the requirement to enforce the Law. According to the Authority "in light of the letter that was sent, and in light of the broadcasts requiring prior approval by the Authority, the Authority was not called upon to deal with the issue, except for 11 cases of public approaches regarding seven broadcasts (there are frequently several approaches regarding the same broadcast), following which the Authority checked the BMI of the models (doctor's certificate), or the non-existence of photoshop editing, and it was found that the broadcasts all complied with the Law".¹⁰¹ We have no information as to when these complaints were submitted, what their content was, and how they were examined by the Authority.

⁹⁹ Email from Mercedes Zarfati. See footnote 71.

¹⁰⁰ Email from Ofir Bitan. See footnote 60.

¹⁰¹ Ibid.



We should point out that unlike the Law in Israel, **in the French law, that as mentioned above includes similar restrictions to those existing in the Israeli Law, it was laid down that sanctions shall be applied to those in violation of the law**, where in the case of each of the two main restrictions in the law a different sanction applies: with regards to the requirement to present a medical certificate it was laid down that the punishment for employing models without such a certificate, is imprisonment and a fine.¹⁰² With regards to the duty to write a clarification when digital processing has been applied to the photograph, the punishment for violating this article is a fine.¹⁰³ We have no information regarding the degree to which the law is enforced, or on the ramifications of including these sanctions.

3. Aspects in the issue of strengthening the enforcement of the law

The information presented above, according to which the **Ministry of Economy and Industry, which is responsible for this Law**, believes that responsibility for it must be moved to another Ministry,¹⁰⁴ **opposite the position of the Ministry of Health** according to which the enforcement of this Law should be implemented in the commercial-economic sphere, and therefore is not within its own terms of reference,¹⁰⁵ demonstrates that there is a dispute regarding the factor that should be responsible for the Law. In addition, as shown - since the Law came into force to the present day no factor responsible for the enforcement of the Law for Restricting Weight in the Modeling Industry, 5772-2012 has been appointed in the Ministry of Economy and Industry. This dispute, as well as the absence of sanctions in the Law, raises questions regarding the degree of implementation of this law, and regarding ways to increase its implementation.

In this chapter we shall present various aspects of the issue of increasing the enforcement of the Law as they emerge from **the Bill for Restricting Weight in the Modeling Industry (amendment - various provisions), 5776-2016**¹⁰⁶ - a Bill, which was laid on the Knesset table towards Preliminary Debate on March 21, 2016, at the initiative of MK Nurit Koren and 42

¹⁰² [Legifrance, L. 7123-2-1 du code du travail](#). Retrieved: January 17, 2017.

¹⁰³ [Legifrance, L. 2133-2 du code de la sante](#). Retrieved: January 17, 2017.

¹⁰⁴ Email from Mercedes Zarfati. See footnote 71.

¹⁰⁵ From the Ministry of Health it was reported that an internal discussion took place, with the participation of professional factors in the Ministry, including the Mental Health Section, and the Nutrition Department.

Email from Mercedes Zarfati. See footnote 71.

¹⁰⁶ [Bill for Restricting Weight in the Modeling Industry \(amendment - various provisions\), 5776-2016. \(Private Members' Bill 2825/20\)](#) (Hebrew). Retrieved: January 5, 2017.



additional MKs. This Bill seeks to strengthen the enforcement of the Law by means of several amendments: one of them, conditioning the provision of a medical certificate on a physical examination, with which we shall deal in subchapter 4.2., as well as amendments that relate to other aspects of enhancing enforcement, that will be dealt with in the next subchapter. We should point out that this chapter does not seek to survey all the tools and measures to strengthen the enforcement of this Law, but focuses on issues that are included in the Bill, and especially those connected to the duty to present a medical certificate.

3.1. Means to strengthen the enforcement and supervision included in the Bill

In the explanatory notes to the Bill for Restricting Weight in the Modeling Industry (amendment - various provisions), 5776-2016, it was written that "despite the fact that Israel is a pioneer in this sphere of legislation, it is still behind in terms of the standards that are developing in the world, since it has not yet enacted means to enforce and supervise the Law, and has thus left it as a dead letter in the Israeli law book".¹⁰⁷ The Bill seeks to enhance the supervision and enforcement by amending the Law as follows:

In article 2 of the Bill it is proposed, according to the explanatory notes, "to enable the State to enforce its laws upon its own branches, by means of laying down a norm that prevents statutory associations from participating, directly or indirectly, in a publication that does not comply with the provisions of the Law. In addition, it is proposed to enable whoever has been injured, to seek amends from the violating body in accordance with the provisions of the Civil Wrong Ordinance [new version]. Furthermore, it is proposed to impose a financial sanction (a fine) for violations of the Law, and to enable the indictment of position holders in associations...".¹⁰⁸

In article 3 of the Bill it is proposed that "for a period of 12 months, the website of the Ministry of Economy and Industry will publish the details of anyone against whom a civil verdict was issued on the basis of this Law, or who was convicted of an offence on the basis of this Law". In addition, it is proposed to set up a fund in the Ministry of Health that will act

¹⁰⁷[Bill for Restricting Weight in the Modeling Industry \(amendment - various provisions\), 5776-2016. \(Private Members' Bill 2825/20\)](#) (Hebrew). Retrieved: January 5, 2017.

¹⁰⁸ Ibid.



to prevent eating disorders and caring for them, into which all the money from fines applied to those in violation of this Law shall be paid.¹⁰⁹

In article 4 of the Bill it is proposed to amend the Second Authority for Television and Radio Law, 7550-1990, so that it will include the violation of the Law for Restricting Weight in the Modeling Industry in the list of violations that are forbidden for broadcasting on the basis of the Second Authority for Television and Radio Law, and this in accordance with the explanatory notes to the Law, in view of the Authority's central role in the sphere to which this Law applies. Regarding this article, the Second Authority for Television and Radio reported that it considers the Law to be a worthy law. **Nevertheless, with regards to the Bill, the Authority believes that there is no need to amend the Second Authority Law for two reasons: the first**, article 46 of the Second Authority Law prohibits broadcasts that constitute a criminal offence or a civil wrong on the basis of all laws, and consequently there is no reason to make additions to this law in particular as an additional provision in article 46 of the Law. **Secondly**, the bill does not include a similar provision regarding other broadcasting bodies, that are not supervised by the Second Authority, such as the cable and satellite companies, the Broadcasting Authority etc., and therefore the Authority reported that "we believe that including this provision **only** (emphasis in the origin) with regards to broadcasting bodies, whose income emanates primarily from advertisements, is out of place".¹¹⁰ It was further reported from the Authority that they would like to emphasize "that the Second Authority is not a corporation that broadcasts like the Broadcasting Authority, and the provisions of the law apply, in fact, to the franchisees of the Authority for television in channel 2 and channel 10, as well as to the regional radio stations."¹¹¹

The proposed amendments present above, do indeed include the laying down of sanctions against those in violation of the Law, but they do not include any mention of the absence of an acting supervisory body to the Law, and to the dispute between the Ministries regarding the identity of the Ministry that should be responsible for it. **As stated, it appears that without a response to the issue of the supervisory factor, there could continue to be difficulties in implementing the Law.**

¹⁰⁹ [Bill for Restricting Weight in the Modeling Industry \(amendment - various provisions\), 5776-2016. \(Private Members' Bill 2825/20\)](#) (Hebrew). Retrieved: January 5, 2017.

¹¹⁰ Email from Ofir Bitan, Deputy CEO of the Second Authority for Television and Radio, March 19, 2017.

¹¹¹ Ibid.



3.2. The issue of the demand for a medical certificate

An additional aspect in the strengthening of the Law's enforcement is connected to the issue of the medical certificate. As mentioned above, the Law requires advertisers to employ within the framework of the advertising only models, who have provided a medical certificate that confirms that they are not underweight, in accordance with the calculation of the Body Mass Index, and on the basis of an examination performed by a doctor in the three months prior to the date of the advertisement.¹¹² Within the framework of the deliberations held in the course of the enactment of the Law, as well as in articles written after the Law was passed, questions were raised regarding the provision of a medical certificate based on the BMI, which is calculated as the ratio between the body weight of a person in kilos and the square of his height in meters. **On the one hand** it was argued that the BMI is an international index, which is not complicated to implement,¹¹³ and according to the World Health Organization it testifies on the nutritious condition of the patient.¹¹⁴ **On the other hand**, arguments were raised with regards to the reliability of this index,¹¹⁵ *inter alia* due to concern that it might be meddled with by forging the weight (by means of drinking water before the weighing, or the introduction of weights into the pockets).¹¹⁶ In addition, it was argued that there is doubt as to its accuracy and its ability to indicate a health problem, or the absence of a problem, since it does not weight parameters¹¹⁷ such as: age, physical fitness, muscle mass, and gender.¹¹⁸ Therefore, it is liable to be inaccurate, for example with regards to the elderly and athletes.¹¹⁹ For these reasons and others there are those who believe that one should reconsider the requirement for a medical certificate based on BMI, and replace it with other examinations that more accurately reflect the medical conditions of the model.¹²⁰ In addition, complaints are raised regarding the level of BMI laid down in the Law, since there are those who believe that it presents an overly severe ultimatum for those with a thin body structure.¹²¹

¹¹² The Law for Restricting Weight in the Modeling Industry, 5772-2012. See footnote 1.

¹¹³ Sarah Budow h, op. cit, p. 145. See footnote 8.

¹¹⁴ World Health Organization, op. cit. See footnote 11.

¹¹⁵ Telephone conversation with Ziva Michael. See footnote 80.

¹¹⁶ Chen Zilberman op. cil p. 124. See footnote 22.

¹¹⁷ Julie Gladstone op. cit. p. 506. See footnote 37.

¹¹⁸ World Health Organization, op. cit. See footnote 11.

¹¹⁹ Sarah Budow, op. cit, p. 145. See footnote 8.

¹²⁰ Telephone conversation with Ziva Michael. See footnote 80.

¹²¹ Minutes of the labor, Welfare and Helath Committee held on May 16, 2011. pp. 8-9.



From conversations we held with various factors in the course of writing this document several difficulties emerged connected with the requirement to present a medical certificate proving that the model is not underweight:

First of all, as mentioned above, according to the requirements of the Law, the certificate is to be issued by a doctor.¹²² Various factors we spoke to suggested that in order to take pressure off the bureaucracy additional professionals should be authorized to provide this certificate. According to **the IMA, the Me'uhedet Health Fund and the Le'umit health fund**, since we are talking of measuring height and weight, every member of a medical team, including nurses, can issue the certificate, and therefore the possibility should be examined to amend this article so that also nurses, and possibly also other professionals should be allowed to issue the certificate.¹²³ We should note that the Law does not define what sort of doctor is authorized to issue this certificate, and **the Le'umit health fund** suggested to us that one must insist that the examination should take place within the public health system, and not on behalf of the employer.¹²⁴

Secondly, the provision in the Law, according to which the certificate shall be provided on the basis of an examination performed by the doctor in the course of the three months prior to the date on which the photographs are shot is also in dispute. Therefore, **according to the IMA, the Society for Adolescent Medicine** believes that it is necessary to lay down a period of up to two weeks before the shooting of the photographs, and not three months, since persons who suffer from eating disorders are able to reduce many kilos of their weight within a short period.¹²⁵ On the other hand, the 'Yuli' modeling agency reported that much more thorough examinations should be performed, avoiding exclusive dependence on the IBM, and that these examinations should be performed less frequently - once a year or at most once every six months.¹²⁶

Thirdly, The question is asked whether the medical certificate should only be based on the BMI. In this connections we should note that in France it was laid down in the law that a **model shall be required to present a medical certificate, based on a comprehensive evaluation**

¹²² Article 2(a) of the Law. See footnote 1.

¹²³ Email from Orit Haim. See footnote 79.

¹²⁴ Ibid.

¹²⁵ Letter from Attorney Chen Shmilo. See footnote 77.

¹²⁶ Telephone conversation with Ziva Michael. See footnote 80.



of her medical condition, and especially on her compliance with the BMI.¹²⁷ The Weight Restriction in the Modeling Industry (amendment (amendment - various provisions) Bill, 5776-2016, seeks to leave the BMI as the basis for granting medical certificates, but to require the performance of a 'physical' examination as a condition for granting them since according to the explanatory notes to the Bill the doctor must examine the person requesting the certificate, and not make do with his acquaintance with him/her or a telephone conversation. It should be noted that in the deliberations of the law there was no mention of the need for a physical examination, but the Ministry of Health felt that within the framework of the regulations attached to the Law one should also lay down the requirement regarding a nutritionist's opinion.¹²⁸

In relation to the proposal to require a physical examination, the Ministry of Health reported that it is important that the certifying doctor actually examines the candidate for modeling, and weigh him/her,¹²⁹ since it is impossible to determine proper weight without physical weighing and measurement of height. At the same time, the Ministry pointed out that already today the burden on family doctors is great, and it is inappropriate that doctors should bear responsibility for manipulations by the fashion firms, photographers or models. The Ministry believes that an expert team on behalf of the Ministry of Economy should perform surprise checks at fashion productions. It was reported by the **IMA** that they **do not see any need to add the word 'physical', since from the wording of the Law today it transpires that the doctor must examine the person requesting the certificate ("on the basis of an examination carried out by the doctor** (emphasis in the origin) in the three months prior to the date on which the photographs of the model for the advertisement were taken...") Furthermore, according to the IMA a physical examination is liable to be viewed as a more general and comprehensive examination than the measuring of weight and height - an examination that, according to them, is not required by the Law.¹³⁰

The three health funds that related to this issue (Maccabi, Me'uhedet and Klalit), also believe that there is no need for adding the word 'physical', since every case should be examined on its merits, and one should not limit the medical discretion of the doctor, that is based on his acquaintance with the patient, and his medical condition. The Klalit Health

¹²⁷ [Legifrance, L. 7123-2-1 du code du travail](#). Retrieved: January 17, 2017.

¹²⁸ Minutes of the Knesset Labor, Welfare and Health Committee meeting held on March 5, 2012, p. 23.

¹²⁹ Letter from Miri Cohen. See footnote 73.

¹³⁰ Letter from Attorney Chen Shmilo. See footnote 77.



Fund, like the Ministry of Health, also mentioned the burden that falls on the family doctors today, and therefore suggested that the doctor should be able to provide a summary of the patient's medical condition that includes various details available to him.¹³¹

¹³¹ Letter from Dr. Yair Birenboim. See footnote 78.

