

Alcohol Advertising

A Global Legal Perspective



November 2011

Global Advertising



Lawyers Alliance



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Table of Contents

	Page
Argentina	5
Australia	7
Austria	9
Bolivia	10
Brazil	11
Canada	13
Chile	15
Colombia	17
Costa Rica	19
Croatia	20
Czech Republic	21
Denmark	23
Dominican Republic	25
Finland	26
France	28
Germany	30



Alcohol Advertising

A Global Legal Perspective

Greece	32
Guatemala	34
Hungary	36
India	38
Ireland	40
Israel	42
Italy	43
Japan	47
Korea	49
Luxembourg	51
Malaysia	53
Mexico	55
Netherlands	57
New Zealand	59
Nicaragua	60
Nigeria	62
Norway	64



Alcohol Advertising

A Global Legal Perspective

Panama	65
Peru	66
Poland	68
Portugal	70
Romania	72
Russia	73
Singapore	75
South Africa	77
Spain	79
Sweden	81
Switzerland	83
Turkey	84
United Kingdom	86
United States	88
Venezuela	91
Zimbabwe	92

Global Advertising



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What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

In Argentina the advertising of alcoholic beverages is specifically regulated by Law 24.788 (National Law Against Alcoholism), which has legal effects in the whole territory of our country. Also, regulatory decree of the National Law against alcoholism (Decree 149/ 2009), modified by Decree 688/09, provides a number of rules relating to the advertising of alcohol.

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

The Code of ethics and self-regulation of CONARP (which is the advertising Self regulation body) refers to advertising of alcoholic beverages in its article 32, section 8, providing that alcoholic, tobacco and cigarette advertising must be oriented exclusively to adults, having particular concern that those messages do not appear in magazines for young people, and TV, radio, cinema, E-mail, internet, mobile phone and other alternative means during the time dedicated to children. People representing or appearing as minor must not participate in those messages and/or ads. The participation of minors shall only be acceptable when it would not harm its health and ethic principle, and/or when it does not imply an incitation to consume those products.

Moreover, the **Chamber of Beer Merchandisers in Argentina** has its own self-regulation rules to watch over the responsible consumption of beer. The Chamber applies its own criteria regarding the commercial communication, which includes advertising and promotional material, stating the following premises:

- Beer is a product for adult consumption only, thus:
 - Beer advertisements can only be placed in media when the audience is over the legal drinking age.
 - it's not allowed to feature anyone below the age of 23 in beer ads.
 - It is forbidden to use cartoon characters as spokespeople in beer ads
- Beer shall not be associated as part of a healthy lifestyle, in consequence:
- Advertising shall not create the impression that the consumption of alcohol contributes towards social or sexual success.
- Advertising shall not claim that alcohol has therapeutic qualities or that it is a stimulant, a sedative or useful for resolving personal conflicts
- Advertising shall not associate the consumption of alcohol to enhance physical performance or driving;

As long as the advertiser complies with these self-regulation premises, the self-regulation bodies will not challenge the ads.

What are the main principles of alcohol advertising regulation in your jurisdiction?

As stated before, the advertising of alcoholic beverages is specifically regulated by Law 24.788. Such law, in its Art 6, prohibits all advertising or incentive to consume alcoholic beverages that:

- (a) is aimed at young people under the age of 18 (eighteen)
- (b) includes young people under the age of 18 (eighteen) drinking alcohol.
- (c) suggest that the consumption of alcoholic beverages increases physical or intellectual performance;
- (d) uses alcoholic beverage consumption to stimulate sexuality and/ or violence in any way.
- (e) does not include in visible wording and place the inscription: **“Drink in moderation”** and **“It is illegal to sell this product to anyone under the age of eighteen”**.

Also, regulatory decree of the National Law against alcoholism (Decree 149/ 2009), modified by Decree 688/09, provides the following:

- The 18 years old banning is applicable to all kind of publicity –direct, indirect (non traditional) institutional, as well as to the incentive of alcoholic consumption in the programs that are broadcasted by massive means of communication (radio and television) during the time of protection to minors, when its main content is specially addressed to minors or children public; in cinematographic programs addressed to minors or children public, in public events (sport, cultural or artistic) whose main content is addressed to minors or children public; and in graphic media whose main content is specially addressed to children.
- It is forbidden to use minors of 18 years old drinking. This prohibition is applicable to all kind of publicity –direct, indirect (non traditional) institutional, that are broadcasted by massive means of communication (radio and television) or in cinematographic programs. It is a mandatory requirement for its broadcasting the presentation of sworn statement of the announcers certifying the non participation of minors, in drinking and/or consuming of alcohol roles.
- It is also forbidden any ad that suggests that the consumption of alcoholic beverages improve the physical or intellectual performance of the people.

This prohibition affects the ads or the incentive to drink endorsed by sportsman, intellectuals, scientific or famous professionals; or in general famous people or people having special skills when through its expressions or conducts suggest that the consumption of alcoholic beverages improve the physical or intellectual performance.

How would you assess the pressure for tighter regulation in your jurisdiction?

Please bear in mind that the advertising rules applying to alcohol products has not been tightened as other categories of products, such as tobacco.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

In December 2009 the “Isenbeck Beer” ad inviting consumers to swim in a pool full of beer was challenged by the CONARP. The self regulatory body understood that the idea of inviting people to swim in a pool full of beer, taking to its extreme, could mislead the consumers to an irresponsible consumption of alcohol. <http://www.youtube.com/watch?v=2PHec0Kzw-0>

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What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

Each State and Territory has enacted its own Liquor Act which regulates the sale, supply and in at least once instance, the promotion of alcohol beverages by licensees. In Queensland, it is illegal for a licensee to advertise externally to the licensed premises (excluding bottle shops) free drinks, multiple quantities of liquor, the sale price of liquor or any type of drinking promotion (see *Liquor Act (Qld) 1992*).

Other than the State and Territory Liquor Acts, the only other legislative restriction on the advertising of alcohol is the *Children's Television Standards 2009*, regulated by Australian Communications and Media Authority ("ACMA") which is the government body responsible for the regulation of broadcasting, the internet, radio communications and telecommunications.

CTS 36 (Advertising of Alcoholic Drinks) of the *Children's Television Standards 2009* provides that no advertisements for alcoholic drinks may be broadcast during children's television programs or periods. It also prohibits any advertisements that identify or refer to companies or organisations whose principal activity is in the alcoholic drinks industry.

Most of the regulation on alcohol advertising is through industry self-regulation (further detail below).

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

The main industry code which applies to the advertising and marketing of alcohol is the Alcohol Beverages Advertising (and Packaging) Code ("ABAC") which is administered by the Advertising Standards Bureau, and the scheme provides an Alcohol Advertising Pre-Vetting Service ("AAPS") which allows advertisers to assess compliance with the ABAC at an early stage of advertising.

ABAC has coverage over nearly all alcohol advertising taken by producers in Australia, and includes advertising online, at retail outlets, at events and to the naming and packaging of alcohol beverages. For example, the Outdoor Media Association, Free TV Australia, Australian Subscription Television and Radio Association have formally supported the AAPS and will not place advertisements that have not been pre-vetted by this service.

Alcohol advertising is also regulated by the Australian Association of National Advertisers' Code of Ethics ("AANA Code of Ethics") and Code for Advertising & Marketing Communications to Children ("AANA Children's Code"). It is also subject to specific advertising media codes of practice, such as Commercial Television Industry Code of Practice and the Outdoor Media Association Code of Ethics.

What are the main principles of alcohol advertising regulation in your jurisdiction?

The ABAC contains an extensive list of limitations on the content of advertising of alcohol, for example advertisements for alcohol beverages:

- must present a mature, balanced and responsible approach to the consumption of alcohol beverages, and not to encourage excessive consumption, under-age (18) drinking;
- must not have strong or evident appeal to children or adolescents, including only presenting adults in advertisements over 25 years of age, limiting depictions of children to natural situations such as family barbecues or licensed restaurants and limiting depictions of adults under the age of 25 to natural crowds and background scenes;
- must not suggest that consumption or presence of alcohol beverages may create or

- contribute to a significant change in mood, including in relation to personal business, social, sporting, sexual or other success;
- must not depict any direct association with consumption of alcohol beverages (over 3.8% alcohol/volume) and operation of vehicles;
- must not challenge or dare people to drink alcohol, or inducements to prefer alcohol beverages on the basis of higher alcohol content;
- must not encourage consumption in excess of, or inconsistent with the Australian Alcohol Guidelines issued by the National Health and Medical Research Council; and
- must be in compliance with AANA Code of Ethics.

Furthermore, Free TV Australia's Commercial Television Industry Code of Practice limits direct advertisements to M, MA or AV classification periods and as an accompaniment to the live broadcast of a sporting event on weekends and public holidays.

How would you assess the pressure for tighter regulation in your jurisdiction?

There are active groups lobbying to combat teen binge drinking, including criticism of the advertising of 'alcopops' to the youth market. However there are no changes proposed to regulation of alcohol advertising at this stage.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

One particularly amusing advertisement which was found to be in breach of the ABAC relates to Bundaberg Five, a brand of white rum (determination No. 69/11).

The advertisement depicts a young man walking into a bar filled with bored patrons, and then, upon reaching the barman, the bar is transformed into a fantastical, gleaming bar where there are fountains, and beautiful men and women wearing white with golden accessories. In the end, the man is lifted up into the air on as he is standing on giant bottle of Bundy 5.

The background lyrics included:

"You're in the club with your homies, *bunch of players*, blandness all around you, *so damn boring*, make the call, *you want it all*, head to the bar, *It's not that far*, to buy around, to buy a round, *you're generous*. But then it hits you, *feel it in the air*, this ain't you man, *you're a maverick* You want it all, you like it raw, time to get some, time to get some, *player, player* Ain't no posers drink, *It's a players drink*, Ain't no boy band drink, *it's a manly drink*. Ain't no dandy drink! *It's a maverick's drink*, Ain't no posers drink... Pick up your drink now, *so heavy*, and take a sip, *oh gosh damn*. What's that you see, *that's a fountain*, your tongue is dancing, *in your mouth*. You can't believe it, and you laugh out loud, *tastes amazing*, problem solved, *like algebra* You got a clear drink, mucho-macho, *5-times filtered*, oh-so- trans-lu-so no more blandness, no more blandness for youuuuuu "

Whilst the advertiser argued that the transformation of the bar was not attributable to mood altering effects from consumption of the product, it was held by the ABAC Complaints Panel that the ABAC also deals with the "presence" of alcohol and circumstances where alcohol "may" create or contribute to a significant change in mood or environment.

Accordingly, the Panel held this advertisement was in breach of the ABAC because a reasonable person viewing the ad as a whole would take away a message that the presence of the product was a cause of the significant change in mood and environment, especially due to the imagery of the man being raised up on top of the bottle and use of words such as "you can't believe it, and you laugh out loud, tastes amazing, problem solved " and "no more blandness, no more blandness for you" imply the consumption of the product is a cause or contributor to success and mood change.

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What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

In Austria there are three acts that specifically refer to alcohol marketing and advertising: these are the Federal Act on the Austrian Broadcasting Corporation, the Audiovisual Media Services Act and the Private Radio Act. Each of these statutory regulations is directed only at specific institutions, which provide advertising space. In general these regulations include a total ban on advertising spirits as well as restrictions on advertising other alcoholic beverages.

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

In Austria the adherence of the acts mentioned above is being monitored by the system of ordinary courts. If a company infringes a law regarding the advertising and marketing of alcohol, every competitor and also the Association for Consumer Information and other interest groups have the right to start court action. The Austrian Advertising Council, a self regulating agency of the Austrian advertising industry, has published a non-statutory Self Regulation Codex (Werbegrundsätze). This Codex is directed at all companies and departments of companies involved in advertising in Austria and targets all kinds of "economical advertising", which does not include sponsoring, product placement or advertisement by political parties. These regulations contain guidelines on what should be avoided when dealing with advertising alcoholic beverages. Their adherence is being monitored by the Austrian Advertising Council.

What are the main principles of alcohol advertising regulation in your jurisdiction?

The Federal Act on the Austrian Broadcasting Corporation and the Audiovisual Media Services Act share the same principles regarding alcohol marketing and advertising. These are for example the legal ban on advertising of spirits or the interdiction of broadcast advertisements linking alcohol with children, driving or sport or promoting alcohol abuse. The Austrian Advertising Council's Self Regulation Codex has four main principles constraining the advertising of alcohol. According to these principles advertisements must not condone the excessive or abusive consumption of alcohol and children must not be the target audience of those advertisements. Creating a downplaying image of alcohol is not allowed. The advertisements also should not convey the impression that the use of alcohol has a therapeutic effect or can help to solve private or social problems.

How would you assess the pressure for tighter regulation in your jurisdiction?

At the moment there are no ambitions to change the current legal situation in Austria.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

In June 2011 the Austrian Advertising Council criticised the Austrian brewery Ottakringer for using an advertisement poster advertising beer. The poster said (next to a bottle of beer): "Men don't show their feelings, they swallow them." The Austrian Advertising Council decided that this advertisement went against their Self Regulation Codex, according to which advertisements should not create the image of alcohol being able to help solving private or social problems. As a reaction to this criticism the company decided to refrain from using this poster any longer.

BOLIVIA

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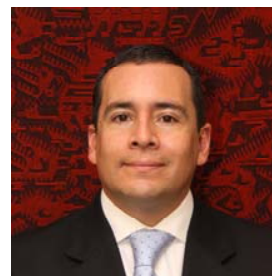
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What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

At the moment, although Bolivian legislation has targeted the effective distribution and sale of alcoholic products, the advertising and marketing of alcoholic products is not specifically regulated. In August 2011 the Viceministry of Public Safety has announced the preparation of a bill targeting the advertisement of alcoholic products. With this precedent, there is a strong possibility that legislation on the matter exists in the near future.

There are, nevertheless, municipal regulations in different cities that prohibit the advertising (banners) of alcoholic products near schools.

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

There are no specific regulatory controls on advertising and marketing of alcohol in Bolivia.

What are the main principles of alcohol advertising regulation in your jurisdiction?

Given the lack of specific regulation on alcohol advertising, the main principles of advertising are applied to alcohol advertising as well. This kind of principles can be found on diverse laws, such as legislation regarding consumer's protection. The principles require advertising to be accurate and truthful.

Aside of these general principles, the new legislation will most probably establish (according to declarations of the press) that alcohol advertising should not incite special attraction of minors, should not suggest explicitly nor impliedly that alcohol promotes social or athletic success, nor causes sexual attraction.

How would you assess the pressure for tighter regulation in your jurisdiction?

There is a high pressure for tighter regulation, because of the lack of regulation on the matter. Alcohol issues have recently become a topic of high interest for the Bolivian population. New legislation has been approved establishing higher condemnns for drivers under the influence, and prohibiting consume of alcohol in public places. Also, as stated above, a bill on alcohol advertising is been prepared at the moment.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

There are no precedents that can be cited.

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What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

The main legal control on marketing of alcohol in Brazil is the Statutory Law 9.294/1996, amended by Laws 10.167/2000 and 10.702/2003, which provides for the restrictions on marketing of alcohol (those with more than 13 degrees of alcohol according to Gay Lussac) and smoking products.

Such legislation establishes the following:

- It will only be allowed to advertise alcohol on radio and television between 9:00 pm and 6:00 am.
- The advertising cannot associate the product to the Olympic and competition sports, to the healthy performance on any activity, to driving and to any image of success or sexuality.
- The labelling of the alcoholic beverages will contain the following terms "Avoid excessive alcohol consumption."
- Inside the places where liquor is sold, must be affixed legibly written warning that driving under the influence of alcohol is a crime punishable with imprisonment.
- It is forbidden the use of sportswear, for Olympic sports, to spread the propaganda of alcoholic beverages.

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

The Brazilian Advertising Self Regulation Council ("CONAR") regulates, on 'Exhibit A' of the Brazilian Advertisement Self-regulation Code, advertisement and marketing of Alcoholic Beverages in Brazil.

What are the main principles of alcohol advertising regulation in your jurisdiction?

The main principles of alcohol advertising regulation in Brazil are the following.

- Children and teenagers shall not appear, in any manner, in the advertisements; any person appearing in the commercial shall be and look older than 25.
- The ads shall be exclusively addressed to adult public, and no indulgence as regards such principle shall be accepted.
- The ad shall not give the impression that the product is being recommended or suggested by virtue of its effect on the senses.
- Websites shall contain a provision for selective access, so as to prevent navigation by minors.
- No association of the product with situations that suggest aggressiveness, use of weapons and changes of emotional equilibrium shall be made.
- Any eventual appeal to sensuality shall not constitute the main content of the message; advertising models shall never be treated as sexual object.
- No positive association between product consumption and driving vehicles shall be made;
- All ads shall include a "warning clause" as provided in item 5 of "Exhibit A" of the Brazilian Advertisement Self-regulation Code containing one of the following sentences:
 - "DRINK WITH CAUTION"
 - "SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGE ARE PROHIBITED TO MINORS"
 - "THIS PRODUCT IS DESTINED FOR ADULTS"
 - "AVOID EXCESSIVE ALCOHOL CONSUMPTION"
 - "DO NOT EXAGGERATE CONSUMPTION"

- "THE LESS YOU DRINK MORE FUN YOU HAVE"
- "IF YOU DRIVE, DON'T DRINK"
- "TO SERVE ALCOHOLIC BEVERAGE TO MINORS THAN 18 IS A CRIME"

How would you assess the pressure for tighter regulation in your jurisdiction?

Much has been discussed nowadays regarding regulation and monitoring the consumption of alcohol in Brazil. In relation to advertising activity, it is carried out at two levels. The first is the State, which, through its control, regulates the advertising with its three powers: Legislative, Executive and Judiciary. The second system, as an alternative, is exercised by the advertising industry through the CONAR, which provides for the ethical standards of advertising.

It is understood that the CONAR is an efficient agency to regulate and supervise the advertising of alcoholic beverages.

Some may claim that CONAR can be very strict when analyzing the legality of certain types of advertising, but the majority of the industries believe that it is important tool to enforce advertising rights in Brazil.

The specific chapter of Brazilian Advertising Self Regulation Code regulating the advertising of alcoholic beverages and in particular beers is revised whenever necessary to satisfy the demands of society.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

- Claim No. 037/10 was brought by CONAR against beer manufacturer company "Primo Schincariol", against an internet contest that could stimulate excessive alcohol consumption, since the prize for the winner would be R\$ 3.000,00 to be spent on Primo Schincariol's products. The defense claimed that it was a cultural contest, and the money didn't necessarily have to be spent on beer, but also food and other non alcoholic beverages available at the Primo Schincariol's stores. CONAR recommended the suspension of the contest, alleging that "Annex P" of the Brazilian Advertisement Self-regulation Code recommends that any alcoholic beverage ad shall not induce the excessive and irresponsible alcohol consumption.
- Claim No. 163/09 was brought by CONAR against beverage manufacturer company "AmBev" and "CBB" (Brazilian Beverage Company), due to a newspaper ad for beer "Bohemia". The ad was in a booklet format, therefore, CONAR claimed that the ad was inappropriate since it only displayed the 'warning clause, required on item 5 of "Exhibit A" of the Brazilian Advertisement Self-regulation Code, in one page of the booklet ad. On first Instance it was decided for the ad's alteration, so that the 'warning clause' would be displayed on every page of the booklet. "AmBev" and "CBB" appealed from that decision, claiming that the Brazilian Advertisement Self-regulation Code does not express clearly the need for the 'warning clause' to be displayed on each page of the ads. The Special Chamber of Appeal decided, by majority of votes, in favor of the defendant, determining the abandonment of the claim. This advertisement was not banned, but it is interesting since it questions the Brazilian Advertisement Self-regulation Code.

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What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

Alcohol advertising is heavily regulated in Canada. Federally, the Canadian Radio-television and Telecommunications Commission's (the "CRTC") "Code for Broadcast Advertising of Alcoholic Beverages" (the "CRTC Code").¹ applies to all radio and television advertising in Canada. In addition, alcohol advertising is regulated under provincial legislation, related regulations and industry guidelines. While there are both federal and provincial regulatory regimes, most provinces and territories have implemented restrictions on alcohol advertising similar to those outlined in the CRTC Code. Provincially-licensed alcohol retailers are similarly restricted in how they can promote alcohol in their establishments.²

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

While each province has its own regulations and guidelines for the advertising of alcohol, the following regulatory controls apply to alcoholic advertising in Canada. Advertising Standards Canada ("ASC"), a national not-for-profit advertising self-regulatory body provides voluntary (although broadcasters generally insist on an ASC approval number) review and clearance services for alcohol advertisements that will be broadcast on radio and television in Canada. ASC applies the provisions of the CRTC Code in its review, although it is the CRTC that remains ultimately responsible for the interpretation and application of the CRTC Code. ASC also offers review services for non-broadcast ads (e.g., print, out-of-home and other advertising materials) to ensure compliance in Ontario with the "Alcohol and Gaming Commission of Ontario Liquor Advertising Guidelines" and in British Columbia with the CRTC Code. As with all advertisements, alcohol advertisements are subject to challenge if they do not comply with ASC's "Canadian Code of Advertising Standards" (the "ASC Code"). Broadcast ads in Canada are subject to pre-clearance by broadcasters. The Television Bureau of Canada's Telecaster Services is the general clearing house for all broadcast ads (except those intended for broadcast on the Canadian Broadcasting Corporation – our public broadcaster that clears ads for itself). In addition, Quebec requires regulatory pre-clearance for both broadcast and non-broadcast ads through the Quebec Régie des alcools, des courses et des jeux.

What are the main principles of alcohol advertising regulation in your jurisdiction?

The primary goal of the regulation of alcoholic advertising in Canada is the promotion of safe and

¹ Canadian Radio-television and Telecommunications Commission, "Code for Broadcast Advertising of Alcoholic Beverages" (1 August 1996) online: <http://www.crtc.gc.ca/eng/general/codes/alcohol.htm>.

² See, for example, *Licences to Sell Liquor*, R.R.O. 1990, Reg. 719, s. 87

responsible consumption of alcohol. The main principles underlying the federal and provincial regulation of alcohol advertising in Canada include that advertising: must not be directed at or appeal to persons under the legal drinking age; must not imply that alcohol is necessary for the benefit or enjoyment of life or the accomplishment of social, business or other success; must not portray alcohol use or consumption; must not promote excessive consumption or encourage irresponsible drinking; must not associate alcohol with activities that are dangerous or require skill/attention; and must not attempt to influence non-drinkers to consume alcohol.

How would you assess the pressure for tighter regulation in your jurisdiction?

In 1997, the CRTC disbanded mandatory government pre-clearance of alcohol advertisements in deference to provincial regulation and self-regulation by broadcasters and the industry (i.e., ASC). This loosening of governmental oversight of the approval process coincided with an overall strengthening of legislative standards for alcohol advertising, including the issuance of a revised CRTC Code in 1996.

We are not aware of any recent pressure to modify the existing legislative or regulatory framework regarding the advertisement of alcohol. However, there is some public concern about the efficacy of self-regulation, the impact of international advertising seeping into the Canadian market, the introduction of alcoholic based energy drinks, and the placement of alcohol advertising (especially with respect to minors).

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

There have been some violations under the general advertising prohibitions of the ASC Code. For example, in 2010, a beer company's claim that beer cans were more environmentally friendly than beer bottles was found to be unsubstantiated and contrary to Clauses 1 and 8 of the ASC Code. In 2008, another beer company contravened the prohibition against unacceptable portrayals in Clause 14 of the ASC Code when it depicted an irritating German party guest. The German caricature was found to be disparaging on the basis of nationality. A more common problem in alcohol advertising is depicting scantily clad or sexualized women, which the ASC often finds to contravene Clause 14 on the basis of degrading women.

As for specific federal or provincial alcohol advertising rules and regulations, there are a few standard industry practices that can be used to avoid common non-compliant depictions. For example, to comply with the prohibition against encouraging the general consumption of alcohol or the irresponsible use of it, ads should only depict one serving of alcohol per person, and the beverage(s) depicted should be full. Secondly, taglines should not use imperatives when describing consumption of alcohol such as "drink" or "enjoy", but may instead express these sentiments by adding a modifier such as, "why not enjoy". Advertisement also must not depict consumption, with common mistakes including implied consumption through the use of gulps, slurps or an "Ahhh!" Depictions of individuals skipping work or personal obligations in order to consume alcohol will likely run afoul of the prohibitions against associating alcohol with completing tasks requiring skill or with personal/social achievement. Lastly, Ontario ads must not depict both a consumption scenario and a moving motor vehicle, even if the vehicle is not central to the creative (e.g. appears blurred in the background).

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What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

Advertising of alcoholic beverages in Chile has not been regulated as thoroughly as in other jurisdictions, but still bears some minimum restrictions, especially regarding television advertising. Television contents are regulated by the National Television Council (Consejo Nacional de Televisión, CONATEL), created by Law N° 18.836. This Council advocates for the proper operation of television broadcasts, adjusting its contents to the nation's moral and cultural values, human dignity, and the adequate spiritual and intellectual formation of children and young men and women, amongst others.

It is under this premise that CONATEL has dictated the Special Rules Regarding Television Contents. This act, dating back to August 20th, 1993 has restricted the broadcasting of advertising of alcoholic beverages to the time slot between 22:00 and 6:00 (10 PM and 6 AM). However, trademarks related to alcoholic beverages can be named and placed during a television broadcast when they are used to sponsor or promote a cultural or sporting event.

Additionally, the Alcoholic Beverages Act, Law No 19.925, penalizes any acts, including advertising, that induces minors to consume alcohol. In this regard, article 42 states the following:

Article 42 –Whoever sells, gives or supplies alcoholic beverages by any means to a person under eighteen years of age, in any of the premises specified in Article 3, shall be punished with imprisonment and a fine from three to ten monthly tax units. Nonetheless, it is permitted to sell, give and supply alcoholic beverages to minors when they attend accompanied by their parents to premises aimed for diners.

If it is the administrator or the owner of the premises who carries out the infringement described on the previous paragraph, the punishment will be imprisonment, a fine of ten to twenty monthly tax units and temporary closure of the premises for a period no longer than three months. The same penalties apply if inducing minors to alcohol beverages, either directly or through advertising.

Lastly, The Chilean Code of Advertising Ethics (CCAIE) has a chapter dedicated to alcohol advertising. However, its provisions are of self regulatory nature, with no legal effect and, therefore, non binding.

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

The relevant regulatory body regarding alcohol advertising is The Council for Self-regulating and Ethical Advertising (CONAR) a non-binding voluntary association of Chilean Advertisers, that enforces The Chilean Code of Advertising Ethics (CCAIE) which acts as a guideline for advertisement campaigns in Chile. Complaints before CONAR can be filed by any individual that believes that a current advertising campaign is breaching the CCAIE. The decisions issued by CONAR have no legal effect, as they are non-binding and only involve members of CONAR. However, it is a respected institution in Chile and its decisions are usually followed. The CCAIE has a chapter regarding advertising and marketing of alcohol beverages and it is usually enforced by its members.

What are the main principles of alcohol advertising regulation in your jurisdiction?

As a general rule, the main principle governing alcohol advertising regulation is the protection of minors and preventing the consumption of alcoholic beverages from an early age. For these reasons, the television broadcasting of advertising of alcoholic beverages has been restricted to a specific night schedule and the Alcoholic Beverages Law, penalizes any acts, including advertising, that induces minors to consume alcohol.

How would you assess the pressure for tighter regulation in your jurisdiction?

Several legislative bills which include further restrictions on alcoholic beverage advertising have been sent to Congress over the past years. These bills focus on the labeling of alcoholic beverages and the obligation to include health warnings in every form of alcoholic beverage advertising. Furthermore, the latest bill includes prohibitions of sponsorship to sporting events. However, these bills have been sitting in Congress for many years, and no substantial changes to the current restrictions on alcoholic beverages are expected within the following months. Therefore, although the public is aware of the potential dangers that are associated with alcohol consumption, this has not been reflected, thus far, in tighter regulation.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

There have not been any relevant alcohol related advertisements that have been recently banned due to the infringement of the previously mentioned legal and regulatory bodies. However, the authorities have been keener to promote responsible drinking during these last few months and have issued television campaigns to raise awareness on this matter.

COLOMBIA

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What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

Aside from the ordinary sanitary licenses that any importer or distributor has to obtain before putting a spirit or a beer in the market, marketing of alcohol is restricted if it targets minors or student communities. Thus, any marketing campaign in which alcohol is offered or distributed for free has to take place beyond certain distance from schools and universities. In any case, it is unlawful to sell alcohol to minors (<18 years old).

Advertising of alcohol is also regulated. Direct Advertising of alcohol is prohibited while Indirect and Promotional Advertising of alcohol are permitted within certain limits and rules. As defined by law, the basic differences between Direct and Indirect Advertising of alcohol are:

- (a) that Direct Advertising of alcohol portrays the act of consumption while Indirect Advertising does not, and,
- (b) Direct Advertising alludes to the properties of the product or its benefits while Indirect Advertising does not.

Needless to say, Promotional Advertising is always Indirect and necessarily tied with the promotion of a cultural or sports event and therefore it occurs within a specific time frame in connection with the event.

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

Indirect Advertising of alcohol in mass media can only be broadcasted between 10 p.m. and 5 a.m. Promotional Advertising of alcohol can only occur within one calendar month before the promoted event and can only be broadcasted between 9:30 p.m. and 5:00 a.m.. As an exception, Promotional Advertising can also be broadcasted during the promoted event regardless the time of the day it takes place but with a time limit of 60 seconds for every thirty minutes of the event's duration.

In terms of content, Indirect and Promotional Advertising of alcohol have to abide to the following rules:

- (a) No model or characterization may represent or appear to be a minor (underage) or a pregnant woman;
- (b) every ad should include the phrases, both printed and heard (audio) in the ad's normal speed and when applicable, that the excess of alcohol is prejudicial to health and that selling alcohol to minors is prohibited;
- (c) it may not contain any association between alcohol consumption and success, or the achievement of personal, sexual, professional, financial or social goals, nor may it suggest that alcohol consumption is desirable or a problem solution alternative and it may not portray a negative image of abstinence or sobriety;
- (d) it should be true and objective;
- (e) it may not attempt honour, good name or intimacy of people, nor rights, principles or liberties granted by the Constitution;
- (f) it may not contain images (when applicable) that by nature attract young audiences;
- (g) it may not allude to any healing or therapeutic properties of alcohol consumption; and,
- (h) it may not contain images or messages that in any way relate alcohol consumption with driving a vehicle.

Aside from legal regulation, the Colombian Advertising Self-Regulation Code adds the restriction that alcohol advertising may not present or suggest consumption along with the practice of any sport.

What are the main principles of alcohol advertising regulation in your jurisdiction?

The protection of young audiences as a prevention policy and the preservation of public health.

How would you assess the pressure for tighter regulation in your jurisdiction?

We do not foresee tighter regulation for Advertising of alcohol. It is tight already and seems to cover the basic principles it targets to protect. The broader issue that is not being covered is DUI, evident in a notorious increase in fatal car accidents involving DUI. It is clear that such a problem will not find a solution within advertising regulation as advertising has not been blamed for it. Experts have concurred in the need for a tighter criminal legislation for DUI and the consequences for DUI drivers in accidents with injured or dead. We foresee changes in the criminal legislation for DUI in the near future but no changes in regulation for Advertising of alcohol.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

Promotional Advertising of alcohol is permitted during the promoted event regardless of the time of the day / night in which the event takes place. In other words, it is an exception to the hourly time frame in which Advertising of alcohol is permitted, an hourly time frame intended for mature audiences only. A legal action was recently raised against Promotional Advertising of alcohol during an important soccer championship with games scheduled on weekend days' afternoons. The plaintiff claims that such Advertising should be banned with grounds on both the fact that it runs during hours that are not for mature audiences only and the fact that it links alcohol and a national sport as soccer. It concludes that it attempts against minor audiences and public health in detriment of sports. The Court hasn't ruled on the case yet but the petition to temporarily suspend its broadcasting while the Court gives its final ruling has been overruled.

COSTA RICA

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What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

Advertising of alcohol is regulated by the “Ley de Licores” (Liquors Law) of 1936, and the “Reglamento sobre Regulación y Control de Propaganda de Bebidas Alcohólicas” (Rules for the Regulation and Control of Advertising of Alcoholic Beverages) of 1974.

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

According to applicable regulations, all advertising of alcohol must be cleared by an agency called “IAFA”, which is dependant of the Ministry of Health, and is in charge of prevention and treatment of alcoholism and drug addiction.

What are the main principles of alcohol advertising regulation in your jurisdiction?

The following are the main rules contained in the regulation:

- All information given about the product must be truthful and verifiable.
- People may not be shown drinking
- It is forbidden to present images showing satisfaction towards the expectation of drinking or after having a drink
- Advertising may not relate alcohol with physical, moral or intellectual attributes of individuals
- Advertising may not mention any stimulating effect of an alcoholic beverage
- It is not permitted to use any celebrity or any national symbol in alcohol advertising
- Advertising may not use any minor, nor be particularly directed to underage population.

Also, it is forbidden to advertise alcohol on Sundays and holidays, as well as on sport sections or children’s TV shows.

How would you assess the pressure for tighter regulation in your jurisdiction?

There is currently no threat to tighten the regulation. However, the regulatory body (IAFA) is known for being very strict, and even overzealous in the application of the rules, and sometimes going beyond the express prohibitions contained in the regulations.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

There is a tendency in IAFA to reject advertising that “stimulates drinking”. Although the purpose of every advertising is to promote consumption of a product, IAFA invokes the prohibition to “mention a stimulating effect of a beverage”, and interprets this as a prohibition to “stimulate drinking”. There are several examples of decisions in this line of thought; some of them have been overruled in Courts.

Also, recently IAFA has rejected ads based on morality issues, such as the portrayal of women. Although this is not expressly mentioned in the regulation, courts have interpreted it to be part of the prohibition to “relate alcohol with physical attributes of individuals”.

CROATIA

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What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

In Croatia there are no acts in force which deal only with alcohol advertising. The main source of alcohol advertising regulation is the Croatian Food Act. The most recent Food Act and the one currently in force were enacted in 2003. The 2004 Croatian Media Act also contains provisions concerning alcohol advertising. In addition, the European Convention on Transfrontier Television applies in Croatia.

The Advertising Rules Code does not regulate alcohol advertising. It does refer to alcohol advertising only by saying that this subject is regulated by the law.

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

The enforcement of the regulation is generally conducted by the Ministry of Interior, a special national authority called the State Inspectorate and ultimately by the Courts. Because of the general ban on alcohol advertising which has been in force in Croatia for many years, there are no real attempts of advertising alcohol in public.

What are the main principles of alcohol advertising regulation in your jurisdiction?

According to the Food Act of 2003, as the main source for alcohol advertising, the advertising of alcohol is generally banned. This applies to all media and all public spaces. The ban applies to direct and indirect advertising.

Advertising of beer, wine and fruit wine is allowed and specially regulated.

According to Article 15 of the European Convention on Transfrontier Television, advertising and tele-shopping for alcoholic beverages of all varieties shall comply with the following rules:

- (a) they shall not be addressed particularly to minors and no one associated with the consumption of alcoholic beverage in advertising or tele-shopping should seem to be a minor;
- (b) they shall not link the consumption of alcohol to physical performance or driving;
- (c) they shall not claim that alcohol has therapeutic qualities or that it is a stimulant, a sedative or a means of resolving personal problems;
- (d) they shall not encourage immoderate consumption of alcohol or present abstinence or moderation in a negative light;
- (e) they shall not place undue emphasis on the alcoholic content of beverages.

How would you assess the pressure for tighter regulation in your jurisdiction?

The regulations concerning alcohol advertising and the regime in general have been in force in the same form for a long period. We are not aware of any intentions to change the current regulations.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

Because of the general ban on alcohol advertising in Croatia, no advertisements appear in public. Although, this rule does not apply to beer and certain types of wine, under special circumstances.

CZECH REPUBLIC

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What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

There are no special legal acts which would deal only with advertising and marketing of alcohol in the Czech Republic. Advertising of alcohol is regulated in the Act on Advertising Regulation (act number 40/1995, Coll. Of Law, of 9 February 1995). More specific provisions are then to be found in the Act on Operating the Radio and TV Broadcasting (act number 231/2001, Coll. Of Law, of 17 May 2001) which – among other things – deals with the advertisements on alcohol in radio and TV commercials.

Self-regulatory rules of the advertising organizations are included in the so-called Advertising Codex (the present version is from 2009). The Advertising Codex does not have the power of law, but it is widely respected by all the members of the Advertising Council which issues the Codex.

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

The Act on Advertising Regulation contains general rules on advertising of alcohol in all types of “communications media” (i.e. press, magazines, motion pictures, video-on-demand services, software, radio and TV broadcasting etc.). There are several supervisory bodies which supervise that the rules set down by the Act are adhered to, for instance: The Radio and TV Broadcasting Council (that surveys the radio and TV advertising), State Institute for Drug Control (that surveys the advertising of drugs) Ministry of Health (that surveys the advertising of medical care) etc. In the case of advertising of alcohol, the basic supervisory bodies would be mainly the regional Trade Licensing Offices.

In relation to advertising of alcohol, the Act on Operating the Radio and TV Broadcasting specially regulates only the advertising of alcohol in radio and TV broadcasting. As was said above, the supervisory body for TV and radio broadcasting is The Radio and TV Broadcasting Council

The self-regulatory Advertising Codex again sets down the rules on advertising of alcohol in all types of “communications media” in the whole broad sense mentioned above. The body within Advertising Council called The Arbitration Committee monitors that all the Council’s members abide by the standards set out by the Advertising Codex. The Committee has unofficial, but widely respected authority to give a ruling in questionable cases. Everybody (physical as well legal persons from the public) has the right to file a complaint to the Committee concerning some seemingly unethical (i.e. Codex breaching) advertisement.

What are the main principles of alcohol advertising regulation in your jurisdiction?

The Act on Advertising Regulation sets down in its Section 4 that advertising of alcoholic beverages must not:

- a) Admonish to excessive use of alcoholic beverages or size up abstinence or abstention negatively or ironically,
- b) Be aimed at persons under 18, in particular in must not portray such persons nor persons who look as being under 18 as consuming alcoholic beverages, as well as it must not use elements, instruments or actions which address persons under 18,
- c) Connect consumption of alcohol with enhanced achievements, or to be used in connection with driving car,

- d) Create impression that consumption of alcohol contributes to social or sexual success,
- e) Claim that alcohol in beverage does possess healing qualities or encouraging or soothing effect or that it functions as a device for solving personal problems,
- f) Emphasize volume of alcohol as positive value of the beverage.

The Act on Operating the Radio and TV Broadcasting sets down that radio and TV commercial for alcoholic beverage must not:

- a) Be aimed specially at children and young people or to portray children and young people as consuming alcoholic beverage,
- b) Connect consumption of alcoholic beverage with enhanced physical achievements or with driving car,
- c) Create impression that consumption of alcoholic beverages contributes to social or sexual success,
- d) Claim that alcoholic beverages do possess healing, stimulating or soothing qualities or that they function as a device for solving personal conflicts,
- e) Contribute to immoderate consumption of alcoholic beverages or portray abstinence or abstention in negative light,
- f) Emphasize high volume of alcohol as positive value of the alcoholic beverage.

The Advertising Codex includes similar rules as the above quoted statutes, but it goes into bigger details. For instance, when it comes to children and young people, the Codex states that commercials must not use any graphics, symbols, music and cartoon characters which primarily draw the children's attention.

How would you assess the pressure for tighter regulation in your jurisdiction?

The pressure for tighter regulation of advertising of alcohol in the Czech Republic is with no doubts escalating. The pressure for such regulation goes hand in hand with the progressing restrictions for the advertising of tobacco.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

In 2007, for instance, there was a case (file number 032/2007/Stíž) where The Arbitration Committee found that The Advertising Codex was infringed by a TV commercial for bitter herbal liqueur Berentzen produced by Berentzen Distillers CR spol. s.r.o. The advertisement in question was found unethical because it tried to create impression that when your life goes into wrong direction (all girls leave you and everything you touch ends up catastrophically), then your best friend is "loyal" alcoholic beverage, namely Berentzen.

There is no doubt that this particular commercial infringed not only the self-regulatory Advertising Codex, but also both The Act on Advertising Regulation and The Act on Operating the Radio and TV Broadcasting.

DENMARK

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What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

The main legal controls on advertising and marketing of alcohol in Denmark can be found in the Danish Marketing Practices Act, art. 1 and art. 8.

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

The main regulatory controls on advertising and marketing of alcohol in Denmark are the Guidelines from the Danish Alcohol Advertising Board (DAAB) from 2010. The guidelines do not differ by type of media. DAAB receives and determines complaints regarding alcohol advertising and they can also determine cases on their own motion.

The Danish Consumer Ombudsman (DCO), who also receives and determine complaints regarding alcohol advertising and who also can determine cases on his own motion, can furthermore determine cases for treatment after the Danish Marketing Practices Act when the advertiser will not abide by the criticism from DAAB and will not suspend from the advertising.

What are the main principles of alcohol advertising regulation in your jurisdiction?

In Denmark alcohol advertising in general is considered to be governed under the Marketing Practices Act, Art. 1, concerning fair trading practices.

Also it is prohibited to advertise alcohol towards children and the rule can be found in the Danish Marketing Practices Act, art. 8.

The main principles are that alcohol may not be marketed in a way that encourages excessive intake. Advertising should not be provocative or give the impression that the intake can lead to success or improve performance. Advertising must always take the social and health aspects into consideration and must not give the impression that it is healthy. The main principles are found in the Guidelines from DAAB 2010, art. 3. Art. 6 in the Guidelines rule that alcohol advertising is prohibited to associate with sports and athletics.

In 2005 DCO found that it is against fair trading practices to mention a specific alcohol product and inflict a recipe for "hot vodka shots" on a whipping cream carton.

How would you assess the pressure for tighter regulation in your jurisdiction?

After the establishment of DAAB and the Guidelines in 2000 together there is currently no pressure or only an insignificant amount of pressure for tighter regulation.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

The most recent decision from DCO is from 2009: Young people could on an Internet Portal follow celebration events, various nightclubs and bars throughout the country. The age limit was 16, but the portal contained alcohol advertising. DCO ruled that it is was prohibited to advertise alcohol to children and the company behind the portal then performed a distinction between the people under and over 18 years in the advertising on the portal.

The most recent decision from DAAB is from 2011 “Boobs for Shaker”: The campaign consisted of events on discos where female guests can exchange a view on their bare breasts to the local DJ for a shaker (alcoholic drink) and the internet site where female visitors could upload a picture of their bare breasts and win a breast implant. The campaign was only for girls over 18 years old. The DAAB ruled that the campaign was against the main principles in their Guidelines.

DOMINICAN REPUBLIC

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What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

Several laws have control or affect advertising and marketing of alcohol in the Dominican Republic:

- General Health Code No. 42-01
- Children Protection Code 136-03
- Consumer Protection Law 358-05
- Self-regulation rules of the Dominican Association of Beer Producers

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

As per Article 123 of the General Health Code No. 42-01, the packaging of beer and alcoholic beverages destined to national market, must bear the following legend: "The consumption of alcohol is harmful to health", written in easily legible font and in contrasting colors. This disposition is extensive to all advertisement via communications media or of any nature.

Another regulatory control comes from the Children Protection Code: Alcohol advertising and promotions are banned in public and private places destined for children.

Beer producers have a self-regulatory agreement for not to using beer logos and trademarks or authorize, license to clothes, toys, games or other materials oriented to children.

Specifically in the marketing arena, it is interesting to mention that there a Presidential Rule that establishes a control of hours to sell alcohol - alcohol retailing (until 12:00 am weekdays and 2:00 am in weekends)

What are the main principles of alcohol advertising regulation in your jurisdiction?

The Children Protection Code includes that when alcohol products or its advertisement are "in public" not in places specially oriented for children, those products can only be exposed observing the major respect for ethical and social values of human beings and families.

The Beer Producers in the Dominican Republic have these principles:

- a) Responsible consumer
- b) Protection to children
- c) Ethics in advertising
- d) Law compliance

How would you assess the pressure for tighter regulation in your jurisdiction?

There have been intermittent, but no major calls to restrict the advertising of alcohol further or ban alcohol advertising altogether. The main area of action in the Dominican Republic, relates to alcohol retailing.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

N/A

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ROSCHIER

What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

Advertising of alcohol in Finland is governed by the Alcohol Act (1143/1994, as amended) and the Decision of the Ministry of Social Affairs and Health on advertising and other promoting of strong alcohol beverages and on providing of the product information thereof (841/1995, as amended).

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

The National Supervisory Authority for Welfare and Health (Valvira) that supervises alcohol advertising together with the Regional State Administrative Agencies, has issued guidelines on advertising of alcohol.

What are the main principles of alcohol advertising regulation in your jurisdiction?

As a rule it is prohibited to directly or indirectly advertise or otherwise promote strong alcoholic beverages (containing over 22 percent by volume of ethyl alcohol).

Advertising and promotion of mild alcoholic beverages is basically allowed.

Although advertising of the mild alcohol beverages is basically allowed it is relatively strictly regulated and, accordingly, the advertising of mild alcoholic beverages must not: be aimed at minors or depict minors; be displayed in TV between 7 a.m. and 9 p.m. or at cinema in connection with a movie allowed to persons under 18 years of age; link consumption of alcohol to driving a vehicle; emphasize the alcohol content of an alcoholic beverage as a positive quality; describe heavy consumption of alcohol in positive terms, or temperance or moderate consumption of alcohol in negative terms; imply that alcohol increases the functional capacity or makes one socially or sexually more successful; give an idea that alcohol has medical or therapeutic properties or that is refreshes, calms or is a means to settle conflicts; be otherwise contrary to good practice.

As regards the strong alcohol beverages, there are few exceptions to the advertisement and promotion prohibition. According to the Alcohol Act strong alcohol beverages may be advertised in professional publications approved by the Product Control Agency and in foreign publications. The advertising is allowed also in premises that hold the alcohol serving licence or where the alcoholic beverages are retailed or produced. In addition, it is allowed to provide product information for those participating in the sales of alcoholic beverages.

How would you assess the pressure for tighter regulation in your jurisdiction?

Preparations for amending of the Alcohol Act, including its advertising provisions, are pending at

the Ministry of Social Affairs and Health, and the Government Bill on the amendments is expected to be submitted in early 2012. There is certain pressure for tighter regulation, and Valvira has in the course of law drafting stated its opinion that the image marketing of mild alcohol beverages should be prohibited and the advertisement should be restricted to providing of the product information.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

Valvira has in September 2011 prohibited the sale of beer bottles under the brand Duff on the Finnish market, as the appearance of the beer bottles is very similar to the appearance of Duff Beer cans from the cartoon the Simpsons as to its name, text, font and the overall appearance of the bottle. Valvira considered that the appearance of the bottles appeals to the minors in a manner that is contrary to the Alcohol Act.

Another recent case of advertisement that was considered to appeal to minors in inappropriate manner was the advertising campaign of a brewery company in May 2011, promoting cider by using a computer animated fox figure. In the ads, the fox was talking to the people, watching TV and holding a cider bottle. Valvira found that the fox is comparable to talking cartoon animals and accordingly, it appeals to the minors. In the ads it was also stated that the fox is polygamous and that one male can be with several females. According to Valvira this creates an impression that a fox that drinks the cider in question is sexually successful and that the cider in question promotes sexual success. In its decision Valvira urges the brewery to discontinue the current campaign and to refrain from using of other human-like animal figures that appeal to minors and from presenting any information or suggestions that relate to polygamy in its advertising.

FRANCE

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BERNARD-HERTZ-BÉJOT



What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

The advertising for alcohol is strictly restricted in France. The law dated 1991 called “*Loi “Evin”*” (which has been implemented in the Public Health Code) provides for limited media and content which are allowed in connection with the ads for alcohol.

Several amendments to this law have been carried out, notably to:

- extent the scope of the authorized content (2005 : the reference to the geographic origin of the product has been added to the list of the information which are allowed in the ads);
- take into account the existence of new media (2009 : the “online communication services” have been added as an authorized medium, under conditions : the ad for alcohol carried out online should not be intrusive – such as pop-ups – or interstitial and remain, in any case, prohibited on websites which are, by their character, presentation or purpose, mainly destined to young people).

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

The advertising French self-regulatory body (the “*Autorité de regulation Professionnelle de la Publicité*”, ARPP) notably issues rules dedicated to specific sectors, products etc. such as the advertising for alcohol in June 2010. Even if these rules are qualified as “*recommendation*” (*i.e.*, guidelines that do not have the nature of legal provisions), the recommendations are considered by the advertising agencies as rules, which they fully comply with.

This June 2010 Recommendation on Alcohol provides for detailed rules destined to complete the legal framework. For instance this Recommendation allows the display/use of characters/famous person only if they can be associated with a professional activity linked to the elaboration, distribution or presentation of the product to the consumer (*e.g.*, a wine waiter, a chef etc.). This document also gives details on the way to feature the health message (“*the excessive consumption of alcohol is dangerous for your health*”) required by the *Loi Evin* (size, font etc.).

Further, the ARPP is composed by the following bodies which have been created in 2008:

- the “*Conseil Paritaire de la Publicité*” aiming at reinforcing the relationships between the associations’ representatives (for instance the associations defending consumers or the ecology) and the advertising professionals’ associations;
- the “*Conseil de l’Ethique “Publicitaire*”” aiming at collecting the aforementioned associations’ expectations about advertising regulations;
- the “*Jury de déontologie publicitaire*”, which consists of independents members in charge of the complaints against the ads which do not comply with the self-regulatory rules;

What are the main principles of alcohol advertising regulation in your jurisdiction?

A drink is considered as an alcoholic beverage by French law if it contains more than 1,2 degree of alcohol.

The direct or indirect propaganda or advertising in favor of alcoholic drinks is only allowed in limited cases provided by the Public Health French Code which gives :

- a limited list of the media (for instance in press for adults, by certain categories of radio stations at specific times, in notice board or sign form...) which does not include the TV broadcast, and
- a limited list of the information (for instance the degree of alcohol, the origin and the component of the products, the name and the address of the manufacturer, the modalities of the sales and the consumption of the product)

Is deemed an "*indirect propaganda or advertising*", each propaganda or advertising in favor of an organism (firm, association or foundation), a service, an activity or a product other than an alcoholic drink which, by its graphics, presentation or any distinctive sign, reminds of an alcoholic drink.

Finally, any sponsorship campaign (*opération de parrainage*) which has, as its purpose or effect, the direct or indirect propaganda or advertising in favor of alcoholic drinks is forbidden.

How would you assess the pressure for tighter regulation in your jurisdiction?

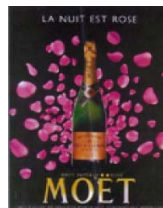
The legal and regulatory framework in France is already very strict. The most active associations against alcohol and its advertising only take actions to enforce the existing rules (see the case law described below).

On the contrary, the associations of manufacturers, distributors or advertisers tend to claim for a broader interpretation of the current legal framework which lead, in 2005 and 2009 to the amendment to the *Loi Evin* as described above.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

The decision rendered by the Court of appeal of Paris dated January 16, 2008 is a good example of the strict approach, by French judges, of the rules on ad for alcohol.

The campaign launched by MOËT in 2003 (displayed notably in the Vogue magazine and on billboards in the Paris' neighborhood) displayed a bottle of champagne, on a black background, with pink rose petals and a sentence stating "*the night is pink*" :



An association aiming at preventing the alcoholism brought a claim against this campaign.

The judges considered that, while the use of pink roses (referring both to the color of the product and to its olfactory and gustative characteristics) was not *per se* an infringement to the rules provided by the Public Health Code, the slogan accompanying this ad made the ad fall outside the scope of the authorized ads for alcoholic beverages.

Indeed, the judges considered that the use of these words ("*the night is pink*") created a link between the consumption of the product and the fact of seeing the life in pink color which, in the common language mean, to have an euphoric perspective of the life (deemed encouraging the consumption of alcohol). The manufacturer's representative has therefore been sentenced to pay monetary damages (10.000 Euros for the campaign published in the Vogue magazine and 10.000 Euros for the billboard campaign) to the association (the campaign was already finished when the Court of appeal rendered its decision).

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 HEUKING KÜHN LÜER WOJTEK

What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

No general ban exists on advertising and marketing of alcoholic beverages in Germany. There are, however, rules and regulations scattered over a variety of laws for all different kinds of advertising that may affect the way alcoholic drinks can be promoted. Further, a set of self-regulatory rules ("Code of Conduct on Commercial Communication for Food and Beverages") by the German Advertising Standards Council are to be considered.

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

Germany provides a framework for fair competition and ensures that advertising freedom is not used to the detriment of the public interest. An especially strict standard is applied to all promotional activities regarding minors. As a consequence, Article 6 JMStV (Interstate Treaty on the Protection of Minors from Harmful Media) states that advertising for alcoholic beverages must not be directed at minors or be especially designed to appeal to minors by way of presentation. These restrictions also include sponsorship. In addition to that, advertising must not cause physical or mental harm to minors. It is also not permissible to target minors by using forthright purchase appeals exploiting their inexperience and credulity as well as to directly call on them to persuade their parents or third parties to buy a certain product. The Youth Protection Act (Jugendschutzgesetz) includes a number of provisions on where and how alcoholic beverages may be legally promoted and distributed. Similar restrictions can be found in Article 15 of EU Directive 89/552/EEG. There are also provisions for advertising of food (including alcoholic beverages). For example, Articles 11 et seqq. LFGB (German Food and Feed Code) covers the advertising of food.

What are the main principles of alcohol advertising regulation in your jurisdiction?

Generally, advertising and marketing of alcoholic drinks must not be misleading. Nor may it be annoying for consumers or harmful to minors. It must not portray alcohol as indispensable nor criticise its avoidance, imply a drink may be preferred due to its alcohol strength, undermine a healthy and active lifestyle and encourage excessive drinking or link it to dangerous activities. In 2009, a set of self-regulatory rules, called the "Code of Conduct on Commercial Communication For Food and Beverages", has been adopted by the German Advertising Standards Council. The Code has similar provisions and aligns itself with the above-mentioned principles. Compliance with these rules is ensured by a 13-member panel of experts from all sectors of the advertising industry.

How would you assess the pressure for tighter regulation in your jurisdiction?

There have been several calls to further restrict advertising and marketing of alcohol in Germany. In 2008, the federal government introduced a national initiative for alcohol prevention. Inter alia, the debate focused on prohibiting the sale of alcohol at gas and train stations after 10 pm, lowering the blood alcohol level for drivers to 0.0 promille and banning advertising of alcoholic drinks on TV and in movie theatres before 8 pm. None of these have been implemented into law yet. Currently, there are no considerable calls for tighter regulation in this field.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

There have not been recent important cases dealing with the banning of an alcohol advertisement

in Germany. However, as an earlier example, the German Advertising Standards Council initiated proceedings against a brewery ad which featured a triathlete. One of the slogans was "Make it to the winner's podium with us!" The ad also used the line "That's the beer of our choice!" By directly linking an athlete to the consumption of beer the company breached the Council's Code of Conduct on alcoholic beverages. The company dropped the ad due to the Council's intervention. In another case, a liquor producer ran an ad for a youth training camp on a football club's website. The Council intervened and the ad was removed immediately.

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What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

Alcohol advertisements are legally controlled in Greece by: a) statutory provisions regarding certain means of advertising (TV/radio and teleshopping) and b) self-regulatory codes of conduct referring to all means of advertising. Special legislation prohibits bars etc from selling alcohol to minors.

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

A. Statutory provisions: All alcohol advertisements broadcasted by TV/radio stations (including teleshopping ads) are monitored by the Greek National Council for Radio and Television (NCRTV) which is an independent administrative authority. The said authority enforces the following statutory provisions:

- (i) With regards to TV advertisements, it enforces the Presidential Decree n. 109/2010 by which the Greek Law has implemented the EC Directive 2010/13 (Audiovisual Media Services Directive)
- (ii) With regards to advertisements aired on radio, it enforces the Presidential Decree n. 100/2000.

B. Self-regulation: Alcohol advertising is also regulated by the "Hellenic Code of Advertising and Communication Practices" (code of conduct) which covers all means of advertising (print media, electronic media, outdoor advertising etc). The provisions of the said code are enforced by The Greek SRO named "SEE" (Regulation of Communication Council). In addition, the Hellenic Association of Alcoholic Drinks Distributors (AADD) has adopted in cooperation with the Ministry of Health a joint Statement of Principles concerning alcohol beverages promotion and consumer awareness. The said Association has also undertaken other initiatives, such as including the tag line "enjoy responsibly" to all advertisements of alcoholic beverages, co-organizing campaigns against drinking and driving etc.

What are the main principles of alcohol advertising regulation in your jurisdiction?

According to Greek Law, TV and radio advertising of alcoholic beverages (including teleshopping) shall comply with the following criteria:

- a) it may not be aimed specifically at minors or, in particular, depict minors consuming these beverages,
- b) it shall not link the consumption of alcohol to enhanced physical performance or to driving,
- c) it shall not create the impression that the consumption of alcohol contributes towards social or sexual success,
- d) it shall not claim that alcohol has therapeutic qualities or that it is a stimulant, a sedative or a means of resolving personal conflicts,
- e) it shall not encourage immoderate consumption of alcohol or present abstinence or moderation in a negative light,

- f) it shall not place emphasis on high alcoholic content as being a positive quality of the beverages.

Similar provisions are included in the "Hellenic Code of Advertising and Communication Practices".

How would you assess the pressure for tighter regulation in your jurisdiction?

The revised "Hellenic Code of Advertising and Communication Practices" has tightened the regulation of alcohol advertising with effect from 01.01.2007. Furthermore, it is expected that the regulation will extend to cover advertising of alcohol through social networking sites, blogs, mobile apps and user generated content. For example, on September 2011, the world's leading European and US spirits producers agreed on a common approach to self-regulation of digital and social media. The adopted new guidelines will focus on promoting responsible drinking and consistent age checking (e.g. The spirit marketers will restrict access to official brand pages for users under 18 years old on social networking sites).

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

To our knowledge, no alcohol advertisement has been banned so far in Greece.

GUATEMALA

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What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

1. Health Code Order No. 90-97, Health Code Reforms Order No. 50-2000, Alcoholic Beverages, Wines, Beers and Fermented beverages Consumption and Advertisement Regulation Government Agreement No. 127-2002. All the above mentioned laws regulate advertising announcements of alcoholic beverages, wines, beers and fermented beverages at all print, graphic, radio, television, and electric & electronic mobile unit's media.
2. All advertisement announcements related with of alcoholic beverages, wines, beers and fermented beverages, should incorporate the warning legend: "EXCESSIVE CONSUMPTION OF THIS PRODUCT IS HARMFUL FOR CONSUMER HEALTH" approved by Ministry of Public Health and Social Assistance.
3. Advertisement announcements of alcoholic beverages, wines, beers and fermented beverages, emitted by radio, television, electric & electronic and mobile units media, were not be issued at children programming schedules. Same type of advertisements can not show or suggest a direct consumption by means of human models, animated drawings, references from sports athletes and public personalities. Advertising announcements can not be placed within 500 meters from educational establishments. Free and promotional distribution of alcoholic beverages, wines, beers and fermented beverages is prohibited.
4. To commercialize alcoholic beverages is required Sanitary Register, comply with labeling requirements about ingredients declaration, net content and legal warning legends.

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

1. Health Code Order No. 90-97
2. Health Code Reforms Order No. 50-2000
3. Alcoholic Beverages, Wines, Beers and Fermented beverages Consumption and Publicity Regulation Government Agreement No. 127-2002
4. Food Safety Regulations Government Agreement No. 969-99
5. Alcohols, Alcoholic & Fermented Beverages Law
6. Regulatory Provisions for the Sale and Consumption of Alcoholic & Fermented Beverages Government Agreement No. 221-2004

What are the main principles of alcohol advertising regulation in your jurisdiction?

1. Protect the health of the inhabitants in relation to the risks associated with excess consumption of alcoholic beverages, wine, beer and fermented beverages.
2. Protect consumers and inhabitants in general against advertisement that stimulates alcoholic beverages, wines, beers and fermented beverages consumption.
3. Protect the inhabitants against to the places where the above mentioned products are consumed.

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What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

Main legal controls on advertising of alcohol in the Republic of Hungary are contained in Act no. XLVIII of 2008 on the Basic Requirements and Certain Restrictions of Business Advertising Activities.

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

Main regulatory controls may be found in the Hungarian Code of Advertising Ethics, adopted by the Hungarian Advertising Association, which has also been adopted by the Association of Hungarian Breweries and the Union of the Hungarian Alcohol Industry.

Both the Association of Hungarian Breweries and the Union of the Hungarian Alcohol Industry have their own code of ethics.

What are the main principles of alcohol advertising regulation in your jurisdiction?

Alcoholic beverages may not be advertised if the advertising:

- (a) is targeted at children or juveniles; when selecting the media it must be provided that at least 70% of the audience can reasonably be expected to be of 18 or older; alcoholic beverages may not be advertised/promoted in media or at events where at least 30% of the audience is predictably child or underage;
- (b) depicts children or juveniles; advertisement of alcoholic beverages may not present models or actors younger than 25.
- (c) encourages extreme alcohol consumption or shows self-control or the abstention from alcohol consumption in a negative way; an advertisement should not show people who appear to be drunk or in any way imply that drunkenness is acceptable;
- (d) connects alcohol consumption with a better physical performance or the driving of vehicles (including bicycles, power-boats, jet skis, snowmobiles and airplanes); an advertisement shall not suggest that consumption of alcohol before or during operating dangerous machinery or connected to any dangerous free time or work activity is acceptable;
- (e) gives the impression that alcohol consumption is beneficial to social or sexual success; it should especially not suggest that alcohol consumption is a condition of social acceptance or success, that it enhances sexual performance, attractiveness or leads to the creation of a sexual relationship, or that it helps to overcome inhibition or shyness;
- (f) states or gives the impression that alcohol has medicinal properties, or stimulating or sedative effects; advertisement should not claim that alcoholic products may help to preventing, treating or curing human disease; information on nutrition value, carbohydrate content or calorie content may, under certain circumstances, be acceptable provided that they are lawful, true and applied with due care;
- (g) states or gives the impression that alcohol may be an instrument to solve personal conflicts; or

(h) emphasizes as a positive quality of a product its high alcohol.

Advertisement of alcoholic beverages may not present alcohol consumption at the workplace, in connection with work. Exceptions from this rule are advertisements connected to product tasting, company visit, where it is presented connected to a professional work.

An advertisement shall not use any – real or imaginary – objects, pictures, styles, symbols, colours, music or characters (especially cartoon characters, sportsmen or celebrities) that are primarily appeal the under-age or are strongly linked to their thoughts or emotions. No brand logo and product tag can be used that primarily aim children and under-age (names, logos, sports equipment, sport, game or other) and cannot suggest that it makes the consumer adult or adult like.

Advertisement of alcoholic beverages may not create any confusion as the nature and the strength of the product. It may present information on alcohol strength but may not create the impression that high alcohol content is the positive trait of the product. It cannot suggest that by consuming beverages of low alcohol content addiction or excessive drinking may be avoided.

Advertising of alcoholic beverages is prohibited:

- (a) on the front cover of printed materials and – in the case of a web page, on the opening page;
- (b) in theaters or cinemas before 8 pm, as well as during or immediately before or after any programs for children or juveniles;
- (c) on toys and their packaging;
- (d) in a public education or health institution, or on billboards situated within 200 meters of their entrance.

On the Internet website of the company or the brand it must be clearly and well visibly indicated that the given site may only be visited only by those who are above the age limit. To this effect, advertiser must ensure that the given site may only be visited after the visitor giving their date of birth. On the Internet site of the company or the brand, clear notice of alcohol responsibility message must be placed.

How would you assess the pressure for tighter regulation in your jurisdiction?

Hungarian regulations are tight and it does not seem to be much pressure to impose stricter regulations.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

There have not been significant advertisements that have been banned in Hungary. Typical issues are, for example, a Soproni beer advertisement that CMS Brand Connection Kft. placed on a phone box located within 200 of a public school in Székesfehérvár.

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What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

The main legal control on advertising of liquors is Cable Television Network (Regulation) Act, 1995 ("CTNA") under which advertising of alcohol is banned in India since 1995. In Rule 7(2) (viii) (a) of Act it has been clearly indicated that "No advertisement shall be permitted which promotes *directly or indirectly* production, sale or consumption of cigarettes, tobacco products, wine, alcohol, liquor or other intoxicants".

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

The main regulatory body having control on advertising and marketing in India is The Advertising Standards Council of India ("ASCI").

The ASCI is a self regulatory voluntary organization of the advertising industry, registered as a not-for-profit Company under Section 25 of the Indian Company Act, has drawn up a Code of Conduct (also known as Advertising Code) to control the content of advertisements with a view to achieve fair advertising practices. The Code applies to all forms of advertisement, that is, to newspapers, magazines, television, radio, cinema and posters, amongst others.

Section 6 of the Cable Television Network (Regulation) Act, 1995 ("CTNA") provides that "No person shall transmit or re-transmit through a cable service any advertisement unless such advertisement is in conformity with the prescribed advertisement code.

Therefore, the advertisement code drawn up by ASCI has a legal backing in the Act.

What are the main principles of alcohol advertising regulation in your jurisdiction?

Today in India, the tendency to alcohol consumption has percolated down to the youth. The media has played a leading role in encouraging the use of alcohol among young people by such means as the portrayal of drinking in congenial settings, by associating habit with glamour and celebrity status, & by direct and indirect advertising.

Constitution of India includes a provision in Article 47 which provides that "The state shall regard the raising of the level of nutrition and standard of living of its people as among its primary duties and in particular, the state shall endeavour to bring about *prohibition of the use* except for medicinal purposes of *intoxicating drinks* and of drugs which are injurious to health."

Therefore, constitutional mandate of protecting health of citizens by prohibiting the use of alcohol and to prevent media from glamorising the drinking are the main principles behind regulation of alcohol advertising.

How would you assess the pressure for tighter regulation in your jurisdiction?

Due to ban of liquor advertisements in India under the abovementioned Act, the trend of surrogate advertisement has gained momentum under which companies with liquor brands are not advertising liquor products, instead they have extended the equity of their brands into other fields.

The national regulation which provides restriction with respect to the "surrogate advertisement" is

mentioned herein below:

The Advertising Standards Council of India ("ASCI"):

The provision has been laid down in the Advertising Code which provides the criteria for deciding whether an advertisement is indirect advertisement and provides restriction with respect to the surrogate advertisement. The relevant provision is quoted herein below:

Section 6: *"Advertisements for products whose advertising is prohibited or restricted by law or by this code must not circumvent such restrictions by purporting to be advertisements for other products the advertising of which is not prohibited or restricted by law or by this code. In judging whether or not any particular advertisement is an indirect advertisement for product whose advertising is restricted or prohibited, due attention shall be paid to the following:*

- (a) Visual content of the advertisement must depict only the product being advertised and not the prohibited or restricted product in any form or manner*
- (b) The advertisement must not make any direct or indirect reference to the prohibited or restricted products*
- (c) The advertisement must not create any nuances or phrases promoting prohibited products*
- (d) The advertisement must not use particular colors and layout or presentations associated with prohibited or restricted products*
- (e) The advertisement must not use situations typical for promotion of prohibited or restricted products when advertising the other products"*

This clause also lays down the criteria for deciding whether an advertisement is indirect advertisement

Even though certain National regulations for prohibition of surrogate advertising are in place, they perform only half job in controlling this menace. In view of this, it is necessary to implement the legislations in a manner where there is no possibility of any loopholes.

There is a pressure to making transparent laws banning surrogate advertisement for different products under a single brand name and providing more teeth to Advertising Standards Council of India to enable it to take action against false and misleading advertisements, and keep a close vigil over clever evasion of law.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

In June, 2002, the Indian Information & Broadcasting (I&B) Ministry served notices to leading television broadcasters to ban telecast of two surrogate ads of liquor brands McDowell No. 1 & Gilbey's Green Label & put some other brands such as Smirnoff Vodka, Royal Challenge Whisky, & Hayward's 5000 on "watch list".

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What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

There are no specific laws governing the advertising of alcohol in Ireland although the Intoxicating Liquor Acts 2003 - 2011, deal with licensing requirements and also the methods that can be used to sell and market alcohol. There are various codes of practice which regulate the industry.

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

All alcohol advertisements (whether print media, internet or broadcast) must obtain prior clearance from Central Copy Clearance Ireland. No media outlet in Ireland will accept an advertisement for alcohol unless it carries a Central Copy Clearance licence number. In addition the Advertising Standards Authority of Ireland (ASAI) Code of Practice contains a section on advertising and marketing of alcohol and there is a separate industry Code of Practice for alcohol advertising which was agreed between the Department of Health, the alcohol industry and the media or broadcast outlets. The Broadcasting Association of Ireland also has a Code of Practice which includes alcohol advertising.

What are the main principles of alcohol advertising regulation in your jurisdiction?

Most of the codes/regulations promote social responsibility and the ASAI Code of Practice has general rules requiring advertisements to be legal, decent, honest and truthful. The specific section in the ASAI Code states that (amongst other things) alcohol advertisements must not: be aimed at or appeal particularly to under-18s; feature people under 25 years old; imply a drink may be preferred because of its alcohol strength or its intoxicating effect; encourage excessive drinking; associate alcohol with unsafe or unwise activities.

The voluntary code agreed with the Department of Health is aimed at limiting the exposure of young persons to alcoholic drink advertising.

CCCI will assess the various codes when deciding whether an advertisement can be passed.

How would you assess the pressure for tighter regulation in your jurisdiction?

There are regular calls from health organisations for a complete ban on alcohol advertising and sponsorship. The voluntary Code with the Department of Health was introduced in 2005 however alcohol awareness agencies and youth charities claim that it has not worked and seek a total ban.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

Because of the requirement for prior clearance of advertisements there are very few upheld complaints since the CCCI started clearing advertisements in 2004. Prior to that the standard type of complaint would have been as per the example below:

In late 2003 a complaint was made against a poster advertisement for Coors Light. The poster

featured a man's arms clasped around a woman, with his hand on her bottom. The ad read 'Smooth and well rounded with 4.3% strength - goes down easy'. The complainants felt that the ad was degrading to women, that it suggested sexual availability and that it belittled women in general by reducing their bodies to sexual objects. The advertisers insisted that the ad did not link alcohol with sex and that there was absolutely no depiction of sexual activity in it.

However the complaints committee of the ASAI felt that the ad did not respect the dignity of women. It was also concerned that the ad could imply that drinking the product could contribute to sexual or social success, which is specifically against the code of advertising standards.

It is likely that this advertisement would not have been cleared by Central Copy Clearance Ireland.

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What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

Advertising and marketing are regulated on the national level. Accordingly, the Knesset (Israel Parliament) enacted Laws such as the Consumer Protection Law-1981 ("CPA") and the Second Television and Radio Authority Law-1990, laws which cover a large portion of advertising law, including laws which relate to advertising and marketing alcohol.

Some of the primary legislation delegates regulation powers to individuals/bodies such as the Minister of Industry and Finance and to the Second Television and Radio Authority Council.

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

As described above, the Minister of Industry and Finance has tools which enable him to control the field of alcohol ads and marketing. Additionally, pursuant to the CPA, the Consumer Protection Commissioner also has general powers relating to the consumer protection, inclusive of alcohol related issues.

Advertising on television, including televised advertisements relating to alcohol, are strictly regulated. Empowered by the Second Television and Radio Authority Law-1990, the Second Television and Radio Authority Council strictly monitors and controls televised advertising.

What are the main principles of alcohol advertising regulation in your jurisdiction?

Pursuant to The Second Television and Radio Authority Rules (Television Advertising Ethics)-1994, it is prohibited to target minors with alcohol advertisements, unless the beverage contains less than 1.2% alcohol. Additionally, advertisements are prohibited from representing that the consumption of alcohol contributes to the quality of life, health, success, improved mental or physical functioning, and sexual success. Further, it is prohibited to offer drinking competitions, prizes related to alcohol or uncontrolled drinking.

Pursuant to the Consumer Protection Regulations (Advertisements Targeted at Minors)-1991, it is prohibited to encourage minors to drink intoxicating beverages.

How would you assess the pressure for tighter regulation in your jurisdiction?

Pressure for tighter alcohol regulation would be welcomed by the public since alcohol consumption has been recently receiving a huge amount of negative publicity. The topics of drunk driving and alcohol consumption by minors are constantly in the news. It seems that a large number of politicians are currently attempting to enact alcohol related bills.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

N/A

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What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

Local legislation considers as “alcoholic” beverages with alcoholic content exceeding 1,2° and as “super-alcoholics” those with more than 21 per cent of alcohol in volume. All commercial communication relating to such products is subject to a range of restrictions set both, by Italian Statute Law as well as by Industry Self-Regulation.

In general terms, advertising and marketing of alcohol will have to comply with the domestic provisions governing the promotion and the selling of food and beverages (as laid down in Law no. 283 of 1962, specifically in Article 13) and with the local regulations implementing the EU Directives on labelling and advertising of food products (Legislative Decree no. 109 of January 27th, 1992, Article 2). Additional relevant requirements and prescriptions may be found in the Italian Consumer Code (Legislative Decree no. 206 of 2005).

Specifically the topic is subject to the restrictions set by Law no. 125 of March 30th, 2001 (a general policy law meant to prevent addiction and to favour rehabilitation).

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

The Italian legal framework assigns control functions to a special Authority (AGCM = Commissioner for Market and Fair Competition) which is called to react – either ex officio or on complaint of an interested subject – against illicit comparative or misleading advertising and is entitled: to issue cease injunctions (in order to stop illegal campaigns), to apply fines (from Euro 5.000 up to Euro 500.000), to suspend offenders from business and to provide both, for public announcement of violations sanctioned as well as for corrective advertising.

When the questioned commercial communication is performed through particular media (such as TV, Radio or Press), another Authority (AGCOM = the Communication Commissioner) will become involved. It has competence as to issuing regulations and guidelines for advertising diffused via such media.

The Institute for Advertising Self-Regulation (IAP) administers the Code of Marketing Communication Self-Regulation (CAP) which sets general principles and specific requirements for advertising and marketing of alcoholic beverages.

What are the main principles of alcohol advertising regulation in your jurisdiction?

- (a) Law no. 283 of 1962 requires all advertising for food products to be correct, transparent, truthful and not misleading. In addition, Legislative Decree no. 109 of 1992 (implementing the EU Directives nos. 89/395 and 89/396), while confirming such requirements, also calls for proper and correct consumer information with respect to labelling and advertising of alcoholic beverages.
- (b) Since July 30th, 2008 Ministerial Decree, jointly issued by the State Departments for Labour, Public Health and Welfare, obliges the owners of entertainment premises to properly inform their customers about beverages' alcoholic content (this also with the aim of allowing them

adequate control on compliance with the restrictions set by the local Traffic Code on “drink and drive”).

- (c) The ‘Consumer Code’ (Legislative Decree no. 206 of 2005, implementing EU Directive no. 2005/29/EC on Unfair Commercial Practices) considers as unfair and misleading a commercial practice, which omits to provide – when relating to products potentially harmful to consumers’ safety or health – adequate information and therefore induces consumers to ignore risks or ordinary rules of caution.
- (d) Law no. 125 of 2001 already did provide for specific limitations with respect to TV and Radio advertising of alcoholic beverages. According to Article 13 advertising for alcoholic and ‘super-alcoholic’ drinks (i.e. those with a high grade of alcoholic content as most of the spirits) was totally banned:
 - during TV programs for children as well as during the 15 minutes preceding and following the broadcasting of such programs,
 - when claiming (without an explicit approval of the State Department for Public Health) therapeutic benefits deriving from alcoholic beverages,
 - when showing children consuming alcoholic drinks or suggesting to consider such use as a positive attitude,
 - advertising (both direct as well as indirect) of alcoholic beverages may not be performed in places primarily attended by children,
 - commercial communication for high grade alcoholics is banned during programs aired on TV/Radio (from 4 to 7 pm).
 - such advertising is also not allowed in the press (for publications mainly targeted to children) as well as at cinemas running movies specifically directed to an audience of children.
- (e) Nowadays the issue is dealt with by the “Consolidated Act on Audio-Visual and Broadcasting Services” (Legislative Decree no. 177 of 2005), recently amended (through Legislative Decree no. 44 of 2010) in the context of the domestic implementation of the EU Directive on Audio-Visual Media Services.

The Act puts a special focus on commercial communication performed via audio-visual media services and sets the general principles and criteria to be observed for such communication.

Article 36-bis requires commercial communication:

- not to encourage conduct likely to cause harm to safety or health,
 - when referring to alcoholic beverages, not to target and address specifically minors of age or encourage excessive consumption of such beverages.
 - Furthermore Article 37 sets that commercials meant to advertise alcoholic beverages:
 - may not expressly target minors and may not present them while consuming such beverages,
 - may not establish any connection between consumption of alcoholics and physical strength or car driving,
 - have to strictly avoid any suggestion that consumption of alcoholics contributes to social or sexual success,
 - must restrain from associating alcoholic beverages with therapeutic, stimulating, relaxing effects and from suggesting their capacity of resolving psychological conflicts,
 - must not encourage uncontrolled or excessive consumption of alcoholics and must not present abstinence or sobriety in a negative light,
 - must restrain from associating indications about the beverage's alcoholic content with positive qualities of an alcoholic product.
- (f) The Code of Marketing Communication Self-Regulation explicitly states (see Article 22) that advertising of alcoholic drinks shall not be targeted, albeit indirectly, to minors and must not:
- “ - *encourage the excessive, uncontrolled, and hence damaging consumption of alcoholic beverages,*
 - *depict situations suggesting either an unhealthy attachment or an addiction to alcohol, or the belief that resorting to alcohol can solve personal problems,*
 - *target or refer to minors even only indirectly, or depict minors consuming alcohol,*
 - *associate the consumption of alcoholic beverages with the driving of motorized vehicles,*
 - *lead the public to believe that the consumption of alcoholic beverages promotes clearness of mind and enhances physical and sexual performance, or that the failure to consume alcohol implies physical, mental or social inferiority,*
 - *depict sobriety and abstemiousness as a negative value,*
 - *induce the public to disregard the different drinking styles associated with the specific characteristics of individual beverages, and to ignore the personal conditions of the*

- *consumer,*
- *stress the alcoholic strength of a beverage as the main theme of the advertisements”.*

(g) On March 16th, 2007 the State Departments for Home Affairs and for Sports and Youth have jointly reached an agreement with some of the particularly involved Trade Associations (e. g. those of the local producers or importers of beer, wine or spirits, of the entertainment industry, of the barmen) on promoting a special Ethic Code, which in the following was also adopted by other interested associations (e. g. that of the driving schools) as well as by Town Councils.

Such Ethic Code is aimed at:

- promoting responsible drinking and driving both, in general as well as through periodic educational/informational campaigns (targeting especially young people),
 - favouring certain restrictions on sales of alcoholic beverages in entertainment premises (also if performed through vending machines),
 - convincing customers, when leaving premises open to the general public, to spontaneously undergo quick tests and inviting those showing excessive alcohol consumption to restrain from driving,
 - offering special benefits (as free access or reduced tickets, one free non-alcoholic drink, etc.) to the so-called 'designated driver' (i.e. one person volunteering to not consume alcoholics during the entire stay) of a group entering an entertainment premise,
 - increasing control in order to prevent sales of alcoholic beverages to minors of age,
 - excluding discount (or below-the-cost) promotions with respect to alcoholic drinks.
- (h) Audio- and Videotex services: According to Ministerial Decree no. 385 of 1995 such *"services and information should be directed, as a rule, to people older than 18 years"* and *"are not allowed to stimulate the use of alcoholic beverages and tobacco products "*. These provisions were repealed by Ministerial Decree no. 145 of March 2nd, 2006, which introduced a broader regulation now governing all services, provided by means of electronic communication and involving for users additional costs/payments; the regulation includes services provided through SMS, MMS, dial-up systems and interactive digital TV. Article 3 of the Decree explicitly sets that such services may not induce the consumption of alcoholic beverages.

How would you assess the pressure for tighter regulation in your jurisdiction?

As far as the institutions of the EU are concerned it appears that Directorate General for Health & Consumers is monitoring the problem of alcohol related harm and is trying to achieve standards of good practices and written alcohol policies. A progress report of such efforts is due in 2012. Despite huge efforts and pressure performed by interested stakeholders such as Eurocare - The European Alcohol Policy Alliance (a network of some 50 voluntary and non governmental organisations promoting the ELSA project, i.e. 'Enforcement of national Laws and Self-regulation on advertising and marketing of Alcohol'), additional harmonized legislation and new regulations as to alcohol advertising don't seem to be on the horizon in a near future.

I also don't foresee that in Italy the issue will be addressed by new provisions.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

- The Review Board of the local Institute for Advertising Self-Regulation in 2010 questioned and halted TV commercials through which female models promoted a wine brand with slogans such as: *"I drink wine X with my hip hop trainer, because when we're alone the music changes"*, *"I drink my wine X with my guitar player, because he knows how to touch the right strings"*, *"Whom are you drinking your wine X with?"* In the Board's view the commercials infringed on Article 22 of the Code, which requires alcohol advertising *"not to be in contrast with the obligation to depict styles of drinking behaviour that project moderation, wholesomeness and responsibility"* and to avoid encouraging *"the belief that the consumption of alcoholic beverages promotes clear thinking and enhances physical and sexual performance"*. The advertiser challenged the Board's injunction before the Jury, but had his opposition dismissed (through decision no. 45 of May 3rd, 2010). The Jury was not impressed by the warning message *"Drink responsibly"* in small type.
- In January 2011 the Review Board forced a local beer producer to change the commercial communication on its website, where a certain brand was promoted by claiming nutritional capacities and health benefits. The messages were considered as misleading and in violation of Article 22 of the Code.
- Through decision no. 128 of June 24th, 2010 the Commissioner for Market and Fair Competition served a broadcasting company with 75.000 Euro fine for airing a commercial

for an alcoholic beverage during a 'protected air time period' (from 4:00 to 7:00 pm). The Commissioner applied a 'reduced' fine considering that the commercial had been aired only three times (at 6:57 pm and at 6:59 pm).

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What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

There exist no particular laws specifically restricting the advertising and marketing of alcoholic beverage products in Japan.

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

In terms of social responsibility of alcoholic beverage business companies, there exist in Japan governmental guidelines to regulate quality labeling/representations and prevent minors from drinking alcoholic beverages and industry's self-regulations which require that advertisers pay attention to any possible adverse effects on social environment in advertising of alcoholic beverages.

The National Tax Agency of Japan has adopted regulations providing for certain rules with respect to labeling and representation requirements for bottles and packages of alcoholic beverage products, limitations on places to display such products as well as sales methods in the "Guidelines for Representation Standard Concerning Prevention of Minors' Consumption of Alcoholic Beverages" (Circular No. 9 of the National Tax Agency, Nov. 22, 1989).

In addition, the Alcoholic Beverage Consumption Council comprised of eight relevant industry associations of alcoholic beverage business in Japan has adopted the "Self-regulations Concerning Advertising, Marketing and Packaging of Alcoholic Beverages" which provide for detailed rules for advertising of alcoholic beverages, with a view to preventing alcohol consumption by minors, driving under the influence of alcohol and health-related problems by drinking alcoholic beverages.

What are the main principles of alcohol advertising regulation in your jurisdiction?

The Act Against Unjustifiable Premiums and Misleading Representations in Japan (Act No. 134 of 1962) contains fundamental legal principles with respect to regulations in Japan on expressions in advertisements. This Act prohibits any representation that would unjustly induce customers and thereby impede fair competition.

In addition to the above-mentioned general rules with respect to advertising, no alcohol advertisements should, under the "Self-regulations Concerning Advertising, Marketing and Packaging of Alcoholic Beverages," contain inappropriate expressions, such as:

- (i) being aimed at or appeal particularly to minors (under 20 years of age) or pregnant women;
- (ii) encouraging excessive drinking, coercion of drinking, drinking during exercising or bathing;
- (iii) being capable of inducement of alcohol addiction;
- (iv) featuring minors;
- (v) linking alcohol with dangerous activities
- (vi) showing alcohol drinking while driving

How would you assess the pressure for tighter regulation in your jurisdiction?

The Self-regulations described above have been frequently amended for tighter regulations almost every year since 1995.

In addition, the Associations of Beer Manufactures in October 2010 voluntarily decided to expand

self-restraining hours to broadcast TV spots for beer products.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

An advertiser of a TV spot for a particular whiskey product was seemingly constrained to cease and remake it immediately after an actress, who had mainly appeared on the TV spot for almost 4 years, was found to be pregnant. It shows that the self-regulations above are strictly complied with by advertisers as alcoholic beverage manufacturers.

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KIM & CHANG

What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

Under the National Health Promotion Law, the minister for the Ministry of Health and Welfare can order to change the contents of or prohibit advertisements regarding liquor under the Liquor Tax Act.

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

The Broadcast Advertisement Review Regulation, as promulgated under the Broadcasting Act by the Korea Communications Standards Commission, includes a number of rules relating to the advertising of alcohol.

Broadcasting advertisements for liquor whose alcohol percentage is 17% or more is prohibited without exception.

Broadcasting advertisements for liquor whose alcohol percentage is below 17% is subject to the following regulations:

The following expressions, which are considered to harm an otherwise sound social order, national health, or juveniles' sound life, are prohibited in the broadcast advertisements of liquors:

1. expressions that depict excessive drinking atmosphere or excessively glorify drinking behaviours;
2. expressions that argue or imply that drinking is necessary for social recognition or success;
3. expressions implying that adequate drinking does not harm health;
4. expressions implying that drinking enhances physical strength or exercise ability, or gets rid of agony or anxiety, or helps treat diseases; and
5. expressions that disturb safety by depicting drinking behaviour in situations requiring a high level of alertness.

Persons appearing in liquor advertisements must be at least 19 years of age. The image and voice of a juvenile may not be depicted in liquor advertisements.

Liquor advertisements cannot include commercial jingles or expressions regarding premium or discount.

What are the main principles of alcohol advertising regulation in your jurisdiction?

Alcohol advertisements must not harm a sound social order, national health, or juveniles' sound life.

How would you assess the pressure for tighter regulation in your jurisdiction?

The advertising rules continue to increase in their limitations.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

Since advertisements that violate TV regulations are filtered out before they air, there have not

been any cases where advertisements have been banned after they have aired.

Congressman Oh Jae-Sae, member of the Democratic Party, announced early this year that he has proposed a revision to the National Health Promotion Law that will ban the advertisement of alcohol products on the Internet. The revision will prohibit alcohol manufacturers and sales license holders from using the Internet to promote their products.

Under current laws and regulations, alcohol advertisements on TV are limited to certain time periods. However, the law does not limit such advertisements on the Internet, to which children and teenagers may readily access and where alcohol advertisements often adorn the home pages of popular websites, such as search engines.

The revision has been presented to the Health and Welfare Committee of the National Assembly.

Also, late last year, sixteen domestic alcohol manufacturers agreed to control excessive advertising in order to prevent the abuse of alcohol. These manufacturers agreed to ban alcohol advertisements geared towards vulnerable segments of the public, such as teenagers and pregnant women, and to limit advertisements on college campuses and the Internet. Furthermore, they agreed to restrict sexually suggestive content, using underage talent and to avoid advertising on establishments within 50 meters of the entrances to elementary, middle and high schools. These manufacturers established a self-regulation committee to enforce this agreement.

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What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

There are no specific laws restricting the advertising of alcohol in Luxembourg. However, there are various laws dealing with alcohol as follow:

1. **Advertising and labelling of alcoholic beverage:** Article 16.7 of the Luxembourg Regulation dated 14 December 2000, as amended, concerning the labelling and the presentation of food and its advertising (the "**Regulation of 2000**") prohibits the use of any statement which refers to health and in particular the use of the following words: feel-good, fortifying, energizing, for your health, stimulating, in particular in beverages containing alcohol. Regarding the labelling of beverages containing more than 12 % by volume of alcohol, the Regulation of 2000 provides that the actual alcoholic strength by volume must be mentioned (Article 3 (10)).
2. **Audiovisual advertising:** regarding audiovisual commercial communication, the Luxembourg Law of 27 July 1991 on electronic media, as modified (the "**Law on electronic media**"), which applies to audiovisual advertising, provides that such communication for alcoholic beverages shall not be aimed specifically at minors and shall not encourage immoderate consumption of such beverages (Article 27 bis (3)).

In addition, Article 4 of the regulation of 5 April 2001 regarding the applicable rules concerning advertising, sponsorship, teleshopping and self-promotion in television broadcasts, as amended (the "**Regulation of 2001**"), provides that television advertising and teleshopping for alcoholic beverages shall comply with the following criteria:

- it shall not be aimed specifically at minors or, in particular, depict minors consuming these beverages;
- it shall not link the consumption of alcohol to enhanced physical performance or to driving;
- it shall not create the impression that the consumption of alcohol contributes towards social or sexual success;
- it shall not claim that alcohol has therapeutic qualities or that it is a stimulant, a sedative or a means of resolving personal conflicts;
- it shall not encourage immoderate consumption of alcohol or present abstinence or moderation in a negative light;
- it shall not place emphasis on high alcoholic content as being a positive quality of the beverage.

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

In Luxembourg, the advertising self-regulatory body is the Commission for Ethics in Advertising ("*Commission luxembourgeoise pour l'éthique en publicité*" – "**CLEP**"). The CLEP is an emanation of the Luxembourg Council for Advertising ("*Conseil luxembourgeois de la publicité*"), a non-profit association of private law formed by the major players active in the fields of marketing and commercial communication in the country. Both the CLEP and the Luxembourg Council for Advertising have been operational since 19 May 2009. Independent from public authorities and

member of the European Advertising Standards Alliance (EASA), the CLEP aims at ensuring loyalty and ethics for advertising in all kinds of media throughout the Grand-Duchy of Luxembourg. The CLEP has enacted a code of ethics in advertising (the “**Luxembourg Code for Ethics**”) and is competent to advise the advertising community and to handle complaints. It is also entitled to act on its own initiative. Advertising agencies can request prior advice before launching an advertising campaign. The CLEP will then take a decision on the compliance of the project as soon as possible. But every legal and natural person can also lodge a complaint against an advertisement. If the complaint is justified, the CLEP can ask for modifications or withdrawal. Its recommendations are, however, not legally binding.

What are the main principles of alcohol advertising regulation in your jurisdiction?

Alcohol advertising is authorised in Luxembourg via any media, subject to compliance with the requirements stated above.

In addition to these legal requirements, the Luxembourg Code for Ethics contains specific guidelines on advertising for alcoholic beverages which are applicable to all commercial communications, namely:

- advertising of alcoholic beverages shall not encourage irresponsible and immoderate consumption of alcohol by underlying any temporary pleasant benefits in consuming alcohol. Advertising shall not present abstinence or moderation in a negative light;
- it may not be aimed specifically at minors or, in particular, depict minors consuming these beverages. Such ad shall not promote alcoholic beverage by using well-known figures that minors look up to, in order to encourage them in consuming alcohol;
- it shall not link the consumption of alcohol to enhanced physical performance or to driving;
- it shall not create the impression that the consumption of alcohol contributes towards work performance, professional, social or sexual success;
- it shall not claim that alcohol has therapeutic qualities or positive effects on wellness;
- it shall not create the impression that the consumption of alcohol contributes towards sports performance, in particular among sports events.

How would you assess the pressure for tighter regulation in your jurisdiction?

Luxembourg authorities, especially the Ministry for Justice and the Ministry of Health, are aware of problems caused by alcohol and regularly organize alcohol controls. Luxembourg authorities identify two different targets i.e.

- minors and alcohol, where, in 2006, the Luxembourg law dated 22 December 2006 prohibits the sale or the free distribution of alcohol to minors below the age of 16. The non-compliance with this provision is punishable by a fine of between EUR 251.00 to EUR 1,000.00. The Ministry of Health set up a preventative campaign regarding the consumption of alcohol by minors under 16 on radio, cinema etc.
- alcohol and driving, where the blood alcohol level has been sensibly reduced in 2007.

Since then, there has not been any initiative tending towards tighter regulation of alcohol advertising in Luxembourg.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

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What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

In Malaysia The Advertising Standards Authority of Malaysia ('ASAM') provides self-regulatory controls on advertising and marketing matters including alcohol. It relies on a system of guidance and voluntary compliance in order to be more flexible and beneficial in resolving disputes.

Further, the Malaysia Code of Advertising Practice ("the code") which is administered by ASAM sets out a basic framework for the regulation of advertising services/commercials in Malaysia. The code was implemented in line with the various laws, rules and guidelines provided in the International Code of Advertising Practice.

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

As the main regulatory controls in Malaysia are self-regulatory, the burden is on the alcohol beverage industry to maintain its advertising and marketing complies with the guidelines in the code. The code is supported by the Association of Accredited Advertising Agents Malaysia, the Malaysian Advertisers Association, the Malaysian Newspapers Publishers Association and Media Specialist Association who work together to implement and promote the guidelines in the code with the public and the advertising and marketing industry.

The code covers a range of issues including advertising to young children, advertising of medical products, advertising of alcoholic drinks etc. The main principle is that all advertisements must be legal, decent, honest and truthful and prepared with a sense of responsibility to the consumer.

What are the main principles of alcohol advertising regulation in your jurisdiction?

Whilst there is no blanket ban on alcohol advertising in Malaysia, alcohol advertisements on Television and Radio have been banned since 1995. However advertisers are able to advertise the brand logos and names of the respective alcohol products on Television after 10pm so as long as it does not show the actual consumption of the alcoholic products.

In accordance with the above, the code further requires that children or anyone below the age of 18 should not be portrayed in alcohol advertisements or shown to be consuming alcohol. Appendix

C of the code states that advertisements must not encourage excessive consumption and suggest that consuming alcohol can solve problems such as loneliness, boredom etc. Further it must not exploit those who are vulnerable because of age, inexperience or any physical, mental or social incapacity.

How would you assess the pressure for tighter regulation in your jurisdiction?

In 2010 the Association of Accredited Advertising Agents Malaysia voiced out their concern on the government's proposed plans to impose a blanket ban on alcohol advertising by suggesting to the Health ministry to tighten up the laws on alcohol advertising by proposing stricter regulation to be imposed. This is because they felt that a complete ban on alcohol would be harmful to the economy and control the advertising and marketing of the product would be a better solution.

In light of the above, it can be seen that the various organizations are working together with the government's aim for tighter regulations on alcohol advertising in order to come to a flexible and beneficial stand.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

August 2009, More than 10 24-hour convenience stores in Shah Alam, Selangor have practised self-regulation to ban alcohol sale in Muslim-majority areas following pressure from various government bodies. However the ban is merely self-regulatory and depends on market demand in that area. This move shows the flexibility of the self-regulatory controls with the code acting as a check and balance whilst retaining flexibility on the advertising of alcoholic products.

MEXICO

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What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

In Mexico, there is neither special law governing advertising in general nor alcoholic beverage advertising in particular. That is, there are provisions on the subjects in various different laws, which are applied by different administrative authorities, each within its own competence and jurisdiction.

The main bodies of law and authorities that regulate alcoholic beverage advertising in Mexico are the Consumer Law, through the Consumer Agency; the Health Regulations in Advertising, regulated through the Secretary of Health and the Radio and Television Regulations regulated through the Ministry of the Interior.

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

The Consumer Law establishes the rules that must be met by any notice or advertising that is diffused by any means or form, stating that it must be truthful, verifiable, and free of texts, dialogues, sounds, images, marks, designations of origin and other descriptions that may lead to or be misleading or confusing by deceit or abuse.

The Regulations of the Law on Health in Advertising contain a specific chapter that refers to alcoholic beverages and establishes the main advertising principles. Also, they establish some limitations regarding the hours at which this advertising may be transmitted through cinema or television, and regulates the principle of sponsorships in which it is stated that when an alcoholic beverage mark or logo is used for these purposes, it may not: relate the beverage with the participating athlete, artist, or event; promote the consumption of the product; sponsor event related to minors or disseminate testimonials related to the consumption of the products by the athletes, celebrities, or prestigious figures, among others.

The Regulation of the Law on Radio and Television establishes, among other things that advertising of alcohol must be transmitted by television after 22:00; must avoid any exaggeration and the use of characters under-18s.

What are the main principles of alcohol advertising regulation in your jurisdiction?

Aside from the general advertising rules which require advertising to be truthful, verifiable and free of texts, dialogues, sounds, images, marks, designations of origin and other descriptions that may lead to or be confusing or misleading, the Regulations of the Law on Health in Advertising establishes that alcoholic beverages advertising may not: be aimed at minors under 18 or associated with the activities of young people below the age of 25; promote its immoderate or excessive consumption; transmit ideas of success, prestige, fame, leisure, tranquility, or joy; attribute nutritional, sedating or stimulating qualities to the product; associate its consumption with sporting, civic or religious activities; use recognized athletes or people using sportswear, among others.

How would you assess the pressure for tighter regulation in your jurisdiction?

The Regulations of the Law on Health in Advertising, which contains a particular chapter on advertising of alcoholic beverages, was published in the Official Gazette dated May 4, 2000. In 2009 relevant reforms were made in advertising in which the advertising of tobacco was prohibited in Mexico, nevertheless, the regulation of alcoholic beverages was not reformed and until today there are no reform projects.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

Alcoholic beverage advertising in Mexico requires the prior authorization granted by the Secretary of Health. In this sense, the majority of advertising transmitted through various means of communication has prior approval, which is why no relevant cases of censorship have been made public recently.

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VAN TILL advocaten

What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

In the EU we do not have a uniform legislation or directive on advertising and/or marketing of alcoholic beverages. This field belongs to the autonomy of the individual member states.

The directive "Television without boundaries" (89/225/EG) contains some criteria for the content of TV advertising for alcoholic beverages (Article 15) but it does not contain any restriction on the volume of advertising.

In 2009 the Media Act was changed and based on this law no TV nor radio advertising for alcoholic beverages is allowed during the period from 6 am to 9 pm.

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

The Netherlands is apart from England (co-regulation) the only European country within the EU where advertising for alcoholic beverages is controlled by means of self regulation. This works well in the Netherlands and all parties involved are happy with it. Still, the content of all advertising and the volume outside of this banned airing time is completely judged by self regulation.

Further, before airing all radio and TV commercials are reviewed by a committee organised by STIVA, the Dutch alcohol branch organisation. The Dutch Advertising Code Committee is competent on all complaints regarding advertising for alcoholic beverages. The Code Committee is judging is based on the Advertising Code for Alcoholic Beverages. You can find this Code on www.reclamecode.nl also available in English.

Different from other codes the branch agreed on and authorised the Advertising Code Committee to impose fines to a maximum of € 50.000. The Advertising Code for Alcoholic Beverages covers all forms of advertising for alcoholic beverages including print, ringtone, text messaging, sponsoring but also tasting, products placement, premiums and merchandising.

What are the main principles of alcohol advertising regulation in your jurisdiction?

Since the irresponsible consumption of alcoholic beverages can cause problems, restraint shall be exercised in all advertising messages for such beverages. Advertisements of alcoholic beverages shall not show, suggest nor stimulate any excessive or otherwise irresponsible consumption. As a consequence certain claims are not permitted such as reference to possible health benefits, physical, mental sporting or professional performances. Reference to social or sexual success is not permitted. Further protection of pregnant women and minors, depicting high risk situations and regulation on specific media such as text messaging, cinema, print, TV, internet, games etc. are the main principles of alcohol advertising.

Regulation in the Netherlands (youth magazines and TV stations) directed to minors

Further an educational slogan and logo is agreed and compulsory in all print and TV advertising. The slogan which shall be used is "Enjoy, but drink in moderation" and for low alcoholic beverages the slogan "Under 16? Not a drop!" The front, the size and the placing can be found on www.stiva.nl and for print in article 31 of the Code (www.reclamecode.nl)

How would you assess the pressure for tighter regulation in your jurisdiction?

In 2011 one finds that the issue is not specifically directed to advertising for alcoholic beverages but more to alcohol retailing to and the reduction of the use of alcohol by persons under the age of 16. According to the recently changed Licensing and Catering Act it is prohibited to sell alcoholic beverages to persons under the age of 16. This prohibition does not only count for catering establishments but also for retailers. It is under discussion in Parliament now to extend this prohibition to minors under 16 as well, thus in the future it will not only be a crime to sell alcoholic beverages to persons under 16, but the persons under 16 will be liable to punishment as well for buying alcoholic beverages. Especially the municipal authorities are pushing this regulation a lot since they think this will give them far more opportunities to affect their policy of restricting consumption of alcoholic beverages for persons under 16.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

In 2010 the Dutch Advertising Code Committee dealt with 22 complaints on advertisements for alcoholic beverages. They differ from advertisements for the election of "the alcoholic of the week" to advertisements directed to youngsters based on the style of the advertisement or the free gift. Further a commercial for 0% beer under the brand name of Premium Beer was considered to infringe the Code. This advertisement was banned for airing before 9 pm as well.

In 2011 we found out that in case of a complaint humour will not help you out. Heineken twittered a message on its twitter account "I only drink Heineken beer on days that end on any". This together with a calendar where all days were circled in red. Heineken defended themselves with the fact that it was clearly far over the top. But the Advertising Code Committee judged differently. This advertorial clearly stimulates excessive and irresponsible consumption.

In 2011 we also were confronted with a variation of the famous orange Bavaria dress used at the World Cup football. In this case the players of FC Twente were wearing a red bathrobe after having beaten AJAX in the Dutch football cup. The bathrobes had a very tiny Amstel beer trademark. This was considered to be an infringement of article 28 of the Dutch Advertising Code for Alcoholic Beverages which prohibits the advertising messages for alcoholic beverages displayed on objects used by sportsman during sporting activities. It was judged that this article is not only relevant during active supporting activities but also during homage after the game. Thus the red FC Twente bathrobes were banned.

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HESKETH HENRY
The Art of Law

What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

There are currently no specific laws in New Zealand that regulate the advertising and marketing of alcohol. There is however specific legislation that regulates the labelling of alcohol products and an Advertising Standards Authority (the "ASA") Code for the Advertising of Liquor ("**Code of Advertising Alcohol**").

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

The Fair Trading Act 1986 (the "FTA") regulates all representations made in trade and requires that they are fair, clear and not misleading. The FTA applies to alcohol marketing and advertising.

The ASA's Code of Advertising Alcohol, albeit self-regulating, sets out a number of specific rules that advertisers of alcohol must comply with. In addition the Association of New Zealand Advertisers has formed a further self-regulatory body which operates the Liquor Advertising Pre-Vetting System ("**LAPS**"). LAPS is voluntary, however the majority of advertising and marketing agencies working with the liquor industry utilise LAPS to have their advertising pre-vetted.

What are the main principles of alcohol advertising regulation in your jurisdiction?

The main principle behind New Zealand's regulation of alcohol advertising is to ensure that such advertising is conducted in a manner which neither conflicts with nor detracts from the need for responsibility and moderation in merchandising and consumption, and which does not encourage consumption by minors.

How would you assess the pressure for tighter regulation in your jurisdiction?

For some time there has been substantive pressure on the New Zealand government to introduce greater regulation around both the advertising and sale of liquor. This has culminated in a bill currently before Parliament, the Alcohol Reform Bill 2010 (the "**Bill**"). The Bill is in its second reading and is expected to be passed in late 2011.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

One specific area of concern in New Zealand in relation to alcohol, has been the image around drinking as part of youth culture. Recently, Otago University one of New Zealand's leading universities banned all alcohol advertising and sponsorship from all university events. Despite New Zealand's Bill of Rights which entrenches the right to freedom of expression, an argument often cited in support of alcohol advertising, Otago University has not been criticised or challenged for this stance.

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What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

There is no specific law that serves to regulate the advertising of alcohol in Nicaragua. However, there are various laws that touch on the subject.

The Law of Consumer Protection restricts promotional campaigns of products whose continuous or prolonged use imply risks to human health, such as alcohol. Such campaigns must include a warning about the dangers of the use of the product, in accordance with the size of the package, stating that “the use of alcoholic beverages is harmful to your health”. The use of minors, patriotic or religious symbols, or any other element, implying a message of inducing young people or children to consume such products, is prohibited in this type of advertising.

Furthermore, the **Childhood and Adolescence Code** establishes that “It is prohibited to advertisement agencies and media owners and their workers, to disclose advertising messages of a commercial, political or any other nature, inducing boys and girls and adolescents, through any media of social communication, to use drugs, tobacco products or **alcoholic beverages**...”

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

The Nicaraguan Beer Industry approved a self-regulation code which regulates the advertising and promotional practices to be followed, underlining their commitment to implement responsible business practices in accordance with the principles of fair competition and social responsibility. The guidelines contained therein surpass all requirements found in the legal provisions in connection with alcohol advertising. For example, said code requires that any person participating in ads and commercials, as well as any promotional event, must be at least 23 years old and must physically appear to be older than said age.

The General Law on Media and Social Communication establishes that advertisement has a responsibility towards consumers and the Nicaraguan society; its production, scope, content, duration, origin, and distribution on radio, motions picture and television programming, as well as other media, shall be regulated.

Said Law provides that mass media have the duty to contribute to the strengthening of national and personal values. By design of the cited Law, the **Department of Interior** is responsible for classifying entertainments and public events with respect to their nature, ages for which they are not recommended, locations and times on which their presentation is not adequate. It is also in charge of prohibiting advertisement agencies and media to disclose advertising messages, which they deem to be inappropriate.

What are the main principles of alcohol advertising regulation in your jurisdiction?

In addition to the general rules that provide that advertising cannot be false or misleading, inaccurate or obscure nor exaggerated in a manner that would lead to error or confusion among consumers, the use of minors, patriotic or religious symbols, or any other element, implying a message of inducing young people or children to consume such products, is prohibited in this type of advertising.

Advertisers should also observe the following principles:

- 1) Respect women's dignity, not using them as commercial or sexual objects.

- 2) Maintain a respectful and responsible social attitude towards people with disabilities.
- 3) Avoid exposition or display of criminal actions, specially, those involving minors or crimes relating to people's honor.
- 4) Promote respect towards the dignity of people and their private lives. Respect the freedom of conscience, beliefs.
- 5) Not to spread racist or discriminatory sentiments of any kind.

How would you assess the pressure for tighter regulation in your jurisdiction?

At present there is no pressure at all for tighter regulation.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

There are no recent cases to report.

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Banwo&Ighodalo

What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

There are no laws specifically controlling the advertising and marketing of alcohol in Nigeria. However, the Nigerian Code of Advertising Practice & Sales Promotion ("the Code"), which was issued by the Advertising Practitioners Council of Nigeria (APCON), contains rules that regulate, amongst others, the advertising of alcohol.

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

The Code contains a number of provisions which regulate the advertising and marketing of alcohol in Nigeria. It covers all broadcast and non- broadcast advertisements which include, but not limited to, the newspaper, magazine, radio, television, outdoor promotional activities, cinema, internet and direct mail. The Code applies to the entire content of an advertisement, including words and numbers, visual presentations, music and sound effects.

Its main objective is to promote high ethical standards in the advertising industry and the APCON through its statutory committees is vested with the responsibility of enforcing the provisions of the Code.

What are the main principles of alcohol advertising regulation in your jurisdiction?

Generally, all advertisements are required to be legal, decent, honest, truthful and mindful of Nigeria's culture. In addition, the Code requires that alcohol advertisements must not: be exposed in children's, religious and sport programmes, shows or publications; employ religious or medical suggestions or connotations; feature children, sportsmen/women and pregnant women as models or involve models who appear to be or are under the age of 25; imply that alcoholic beverages have health benefits, or contribute directly to success in sexual behaviour; depict people drinking heavily or irresponsibly or depict abstinence in a negative light; or show persons stating that they drank alcoholic beverages when they were minors.

In addition, alcohol advertisements are not to be broadcasted between 6.00 am and 8.00 pm on radio and between 6.00 am and 10.00 pm on television. Further, advertisements are required to be submitted to the Advertising Standards Panel of the APCON for review for compliance with the Code. The Panel upon approval of an advertisement will issue a Certificate of Approval confirming that the advertisement complies with the Code. Advertising practitioners and media houses that publish or expose advertisement without the Certificate of Approval are liable to fines.

How would you assess the pressure for tighter regulation in your jurisdiction?

Regulation of alcoholic beverages in Nigeria follows international trends closely with the APCON at the vanguard of the effort. There had been intermittent calls for tighter restrictions on advertisement of alcoholic beverages since the issuance of the current edition of the Code. Also two (2) bills seeking to regulate the advertisement of alcoholic beverages were presented to and considered by the National Assembly during the past session but they were not passed into law before the expiration of that session.

The most recent effort at considering other ways for a more effective regulation of advertisement of alcoholic beverages was the convening of a stakeholders' forum held on 24th March, 2011, in Lagos. In attendance at the forum were the APCON, the International Centre for Alcohol Policies

(ICAP) and the European Advertising Standard alliance (EASA). The forum was dedicated to finding ways to help reduce the harmful use of alcohol, focusing on the advertising and marketing of alcoholic beverages, encouraging responsible practice and compliance.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

There are hardly any examples of alcohol advertisements that have been banned by APCON, as the code is tightly enforced and more often than not, advertisements briefs are rejected and/or prevented from being aired where found to contravene the Code. Common reasons why alcoholic advertisements are refused Certificate of Approval include: use of sportsmen as role models in advertisement material, and omission of warning signals like "drink responsibly" or "not suitable for persons under 18".

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What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

The Act on the Sale of Alcoholic Beverages (Alcohol Act) covers all marketing of alcohol in Norway. The main rule is that advertising of alcoholic beverages is prohibited. Section 9-2, Advertising of alcoholic beverages states:

“Section 9-2 Advertising of alcoholic beverages

The advertising of alcoholic beverages shall be prohibited. The prohibition also applies to the advertising of other products carrying the same brand or distinctive mark as beverages containing more than 2.50 per cent alcohol by volume. Moreover, such products must not be included in advertisements for other goods or services.

The ministry may lay down regulations to delimit, supplement, implement and make exceptions from the provisions of the first paragraph. The ministry may make further exceptions from the prohibitions when there are special reasons for so doing.”

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

The Directorate for Health and Social Affairs shall supervise compliance with the provisions on prohibition of advertising laid down in or pursuant to this Act.

The Directorate has a very strict practise on this field.

Should the Directorate find that the prohibition of advertising has been violated, it may order the circumstance to be rectified. A coercive fine may be fixed at the same time as the rectification order is made.

What are the main principles of alcohol advertising regulation in your jurisdiction?

Same as already mentioned.

How would you assess the pressure for tighter regulation in your jurisdiction?

The regulation seems to be as tight as possible.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

No good examples recently.

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What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

There is no specific law restricting the advertising of alcohol in Panama. The main legal control derives from legislation relating to advertising of health (medicaments and similar) products.

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

Executive Decree No. 129 of 1978 contains a provision requiring any publicity concerning alcoholic beverages to be previously approved by the Advertisement Commission of the Health Ministry (*Comisión de Propaganda del Ministerio de Salud*).

What are the main principles of alcohol advertising regulation in your jurisdiction?

Executive Decree No. 129 of 1978 prohibits advertisements from showing persons drinking alcoholic beverages or taking alcoholic beverages to their mouths.

The State owned radio and television station (SERTV) cannot air advertisements of alcoholic beverages.

How would you assess the pressure for tighter regulation in your jurisdiction?

There is no noticeable pressure for tighter regulation regarding alcohol advertising in Panama.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

We have no knowledge of an advertisement that may have been banned for violating restrictions on alcohol advertising, which is not surprising since advertisements of alcoholic beverages are required to be pre-approved.

PERU

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What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

Advertising and marketing of alcohol is regulated by Law No. 28681, Law that regulates Marketing, Consumption and Advertising of Alcohol (hereinafter, “the Law”) and its Regulation, approved by Supreme Decree No. 012-2009-S.A. In addition, the Unfair Competition Law, approved by Legislative Decree No. 1044, contains some guidelines that must be followed for any advertiser of alcoholic beverages, like the “principle of legality” that establishes as an infraction the non-observance of any stipulation of the Law.

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

The Law establishes the following controls:

- (i) Packaging, wrapping or similar as well as labels on the containers used for marketing alcoholic beverages and written advertisements must legibly record the following statement: “DRINKING IN EXCESS IS HARMFUL” in a space not less than 10% of the total area of such advertisement;
- (ii) Audiovisual advertising must transmit visually the statement “DRINKING IN EXCESS IS HARMFUL” for a period of time not less than three (3) seconds;
- (iii) In the case of radial advertising, the statement “DRINKING IN EXCESS IS HARMFUL” must be pronounced clearly and slowly at the end of the ad, and;
- (iv) Market establishments which sell alcoholic beverages have to put in a visible place a poster with the phrase: “THE SALE OF ALCOHOL TO PEOPLE UNDER 18 YEARS OLD IS PROHIBITED” “IF YOU DRINK ALCOHOL, DO NOT DRIVE”.

Also, bear in mind that any kind of argument which promotes the consumption of alcoholic beverages to minors is expressly forbidden as well as the distribution of any advertising material.

Finally, the National Agency for the Defense of Competition and the Protection of Intellectual Property (INDECOPI) based on the “principle of legality”, could initiate a procedure ex officio against any advertiser of alcoholic beverage who doesn’t follow the specific provisions of advertisement established in the Law.

What are the main principles of alcohol advertising regulation in your jurisdiction?

The main principles of alcohol advertising regulation in our jurisdiction are focused on minimizing the damage produced by alcohol to the health of consumers; the integration of the families and the risks to third parties (e.g. accidents). Also the regulation prioritizes prevention consumption in order to protect minors.

How would you assess the pressure for tighter regulation in your jurisdiction?

As far as we know, there are not particular pressures for tighter regulation in our jurisdiction.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

There are not relevant or significant cases or process referred to alcohol advertisement that has been banned. Most of the cases are related to defects in the information (not consigning the warning in ad; the warning was made very fast, among others).

POLAND

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SOLTYSIŃSKI KAWECKI & SZLEZAK

What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

The main regulation on advertising / marketing of alcohol is set forth in the Act on Upbringing in Sobriety and Counteracting Alcoholism dated October 26, 1982 (the “**Act**”). Except the actual advertising, the Act specifically addresses the broad scope of other marketing activities, *i.a.* sponsorship and information on sponsorship offered by producers of alcoholic beverages. Derivative regulation is set forth in the Radio and TV law (*i.e.* in the scope of advertising within broadcasts addressed to the public).

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

The State Agency for the Prevention of Alcohol and Related Problems (PARPA) operates in accordance with the Act. One of the tasks is intervening in the cases of infringement of the provisions of the Act (and standing before the courts as a public prosecutor in such cases). The Code of Ethics in Advertising, drawn up by representatives of advertisers, advertising agencies and media, is enforced by the independent Advertising Ethics Commission by system of certificates. The Code of Ethics in Advertising sets forth requirements concerning the content and form of the beer advertising. It applies to all means of advertisement.

What are the main principles of alcohol advertising regulation in your jurisdiction?

The Act states that advertising of alcoholic beverages (save for beer) is prohibited, except for the “allowed channels of communication”, *i.e.*: (a) premises of wholesalers, (b) separated stands or outlets exclusively conducting the sale of alcoholic beverages, and (c) the institution where the alcoholic beverages sold are intended for immediate consumption by the consumer (*e.g.* bars, restaurants). Such advertisements placed in the above premises should not, as a principle, be visually accessible from outside of such premises.

The beer ads must not: be aimed at minors; depict minors; link alcohol consumption with physical fitness or driving; contain statements about medicinal, stimulating or calming properties of alcohol, or present alcohol as a mean of resolving personal conflicts; encourage excessive use of alcohol; present abstinence or moderate alcohol consumption in a negative way; highlight high alcohol content of beverages as a factor positively influencing their quality and evoke associations with sexual attractiveness, relaxation and resting, education and work, personal or professional success.

The advertising and promoting of beer cannot be conducted (a) on television, in the radio, cinema and theatre between 6.00 a.m. and 8 p.m. (with the exception of ads presented by the organizer of a specific sport events - during such events); (b) on videotapes and other media; (c) in press targeted to children and teenagers; (d) on the covers of daily newspapers and magazines; (e) on the advertising pillars and billboards, as well as on other immobile or mobile spaces which can be used for advertising purposes (unless 20% of the advertisement's surface is covered with visible and legible, written information about the detrimental effects of alcohol consumption or the ban on selling alcoholic beverages to minors; (f) with participation of minors.

How would you assess the pressure for tighter regulation in your jurisdiction?

The rules for advertising of alcohol set forth in the Act were tightened in 2007. The State Agency for the Prevention of Alcohol and Related Problems along with a number of Members of Parliament still call for more restrictive approach towards alcohol advertising due to various

instances of circumventing law by the advertisers. However, the Agency is not supported by necessary funding, so it does not perform all of its statutory duties in the full scope.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

In 2010 Żywiec group started a promotional campaign within which a pop-up ad for the Żywiec beer (with the characteristic shape of the font for Żywiec covering the majority of one of the most popular news webpage) was made public. After the pop-up unfolded, a question appeared: “Are you over 18 years?” After selection “No” as an answer, Żywiec’s advertising webpage opened with the following information: “There you are under 18 years old, but the best is before you.” located next to a pint of beer. The Committee of Ethics in advertising declared that the said ad breached standards set forth in the Code of Ethics in Advertising as well as provisions stipulated in the Act (*i.a.* the ads cannot be targeted to the minors).

Other recent cases pertaining to the alcohol ads we are familiar with were based on general principles of advertising law, rather than specific provisions on alcohol advertising (misleading information directed to consumers).

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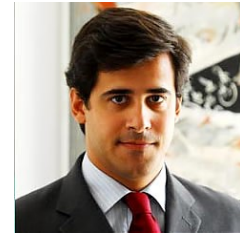
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SOCIEDADE
DE ADVOGADOS, RL

What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

There are no specific laws exclusively regulating advertising of alcohol, which is therefore subject to the general rules of the Advertising Code (Decree-Law 330/90, October 23rd, last amended by Law 8/2011, April 11th) and of the Code of Conduct of the Civil Institute of Self-Regulation of Commercial Communications (ICAP) and also by the Code of Self-Regulation in Respect of Commercial Communications Food & Drinks Directed at Children.

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

Compliance with the above referred provisions is enforced by Consumer's General Direction (DGC), responsible for claims concerning advertisement and also by ASAE, both under the Advertising Code which applies to all advertisements, including television, radio, press and also online ads.

With respect to Self-Regulation, ICAP mediates advertisement claims, through a Jury of Advertising Ethic, presented under the violation, by the associates, of the provisions concerning advertisement.

What are the main principles of alcohol advertising regulation in your jurisdiction?

According to Article 17 of the Advertising Code advertisement of alcohol is allowed if:

- a) It is not address specifically to minors (i.e. under 18 years of age), and it does not encourage them to consume alcoholic drinks;
- b) It does not encourage excessive consumption;
- c) It does not disparage non-consumers;
- d) It does not suggest success, social success or special skills caused by drinking alcohol;
- e) It does not suggest that alcohol has therapeutic, stimulant or sedative effects;
- f) It does not link alcohol with exercise or driving;
- g) It does not stress the content of alcohol as a positive characteristic.

It is also stated that advertisements of alcohol aired in television, radio and other media are prohibited between 7 a.m. and 10:30 p.m. and it is also prohibited to associate alcohol with national symbols (e.g.: national flag and anthem).

In case of specific events that include the participation of minors, such as sports, cultural or other events, trademarks of alcoholic drinks should not be displayed.

On the other hand, the Code of Conduct of the Civil Institute of Self-Regulation of Commercial Communications establishes that the advertisement of alcoholic drinks should also comply with other aspects, as follows:

- a) Concerning health care, the advertisement should not associate the irresponsible consumption of alcohol with health;
- b) Advertisement should have a special attention to vulnerable groups, such as pregnant woman and minors, i.e. should not encourage them to drink alcoholic drinks.
- c) Advertisement should not comply high-risk situations, for example, should not link driving and alcohol.
- d) Media should motivate consumers to adopt a responsible attitude, by including in all advertisements the following statement: "BE RESPONSIBLE, DRINK MODERATELY".

How would you assess the pressure for tighter regulation in your jurisdiction?

The last amendment of the Advertising Code was enacted in April 2011 and the last version of the Code of Conduct of the Civil Institute of Self-Regulation of Commercial Communications is in force as of March 2010. There are currently no amendments pending approval.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

In 2008 ICAP had to decide about a television advertisement about beer. The video shown at a relaxing moment, with young people, at a party environment.

ICAP decided that the advertisement did not comply with the rules under advertisement and minors, and also that the video was susceptible to induce to dangerous situations, because it demonstrates people opening beers and with ease throwing tops the bottles against glass and doors.

It was decided that, since there were no adults during the entire video and the young people on the video were susceptible of being confused with minors, this was a violation of the general prohibition of having minors associated with alcohol advertisements.

Following ICAP's decision, the video was removed from television.

ROMANIA

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What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

In Romania, there is no legislation forbidding the advertising of alcohol. However, the law stipulates specific conditions for carrying out this type of activity. These conditions are stipulated in Law No. 148/2000 regarding advertising, Law No. 504/2002 regarding audiovisual content (the “**Audiovisual Law**”), Decision No. 220/2011 of the National Audiovisual Council regulating audiovisual content (“**Decision No. 220/2011**”), and the Code of Practice in Advertising issued by the Romanian Advertising Council (the “**Code**”).

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

The Audiovisual Law stipulates that the National Audiovisual Council is the body that supervises the observance of the regulations on alcohol advertising, establishes if the deed is a minor offence or a crime and applies punishments accordingly. In addition, the Romanian Advertising Council, in its capacity as a self-regulatory organization, supervises entities acting in the field of advertising for compliance with the objectives and provisions of the Code.

What are the main principles of alcohol advertising regulation in your jurisdiction?

The alcohol advertising guidelines stipulate that advertising and teleshopping for alcoholic beverages must not:

- (a) be addressed to minors,
- (b) present minors drinking alcoholic beverages,
- (c) establish any connection between the consumption of alcohol and the improvement of physical or mental capacities or of the ability to drive vehicles,
- (d) suggest that social or sexual performance may be obtained through the consumption of alcohol,
- (e) suggest that alcohol has therapeutic qualities or that it is an incentive, a sedative or a manner to solve personal problems,
- (f) encourage the exaggerated consumption of alcohol,
- (g) put the moderate consumption of alcohol or the forbearance from the consumption of alcoholic beverages in a bad light,
- (h) present the high alcohol concentration of beverages as a quality. In addition, any form of audio-visual advertising for spirit beverages is forbidden between 6:00 and 22:00 hours.

How would you assess the pressure for tighter regulation in your jurisdiction?

Advertising rules have been tightened since 2005, when Romania adopted the European Charter on Alcohol issued by the World Health Organization, which provides the implementation of stricter control measures over direct and indirect advertisements for alcohol, and further stresses the importance of not addressing any type of alcohol advertisement to teenagers. Also, advertising for alcoholic beverages within educational and health care units or at a distance less than 200 meters from the entrance thereof was recently forbidden.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

The National Audiovisual Council instructed TV stations to stop broadcasting an advertising spot for a brand of brandy because it encouraged the consumption of alcohol at the workplace and in hospitals. The advertising spot presented a group of persons at their workplace, one of whom is electrocuted while digging a ditch. In the next sequence, the colleagues of the injured person are shown entering a hospital ward and furtively consuming the brandy after the nurse leaves the ward. After consulting the Romanian Advertising Council and the Romanian Physicians' College, the National Audiovisual Council decided to reinstate the broadcasting of the advertisement.

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A · L · R · U · D
LAW FIRM SINCE 1991

What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

The main legal act regulating the advertising of alcohol in Russia is the Federal Law "On advertisement" No. 38-FZ as of March 13, 2003 (the "**Law**"). The Law provides for a set of restrictions and bans with regard to alcohol and beer.

There is also the up-coming legislation aimed to tightening the regulations related to alcoholic and beer beverages advertising.

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

The Law encourages activity of self-regulating bodies in this field, however there are no such self-regulatory bodies in Russia by now. Therefore there are only legal controls on advertising alcohol in Russia.

Federal Antimonopoly Service of the Russian Federation ("FAS Russia") is only body empowered to supervise compliance with the Russian legislation on advertising in Russia. It is a state body, which is authorised to impose liability for violation of Russian legislation on advertising.

What are the main principles of alcohol advertising regulation in your jurisdiction?

As a general rule it is prohibited to show consumption of alcoholic and beer drinks in advertising. At the same time the Law provides for different regulation of advertising of alcoholic drinks and advertising of beer and beer based beverages.

Alcohol advertising should not, inter alia, assert that alcohol products are harmless for human health, state that a consumption of alcohol products serves for quenching one's thirst.

There is a restriction aimed to minors protection - alcoholic advertising should not be addressed to under 18-s or use the images of under 18-s.

It is also prohibited to place advertisements of alcohol products on the first and the last page of newspapers, magazines; on TV and radio, on any public transport, etc.

The restrictions in respect of beer and derived beverages advertising are quite similar. However there are some additional regulations with respect to beer and derived beverages. It is permitted to advertise beer and derived beverages on TV since 10 pm till 7 am, by radio – since 12 pm till 9 am. At the same time one may not depict of humans or animals in beer advertising, including their animated images.

The up-coming legislation is to unify the regulations related to alcohol, beer and derived beverages advertising.

How would you assess the pressure for tighter regulation in your jurisdiction?

There is trend of tightening the regulations related to alcoholic and beer beverages advertising.

The up-coming Federal law No. 218-FZ as of July 18, 2011, related to regulation of alcohol industry and sale, defines alcoholic products as all products which contain more than 0.5% of spirit, including beer and beer based beverages. It also introduces certain respective amendments into the Law, aimed on tightening the regulation on alcohol and beer advertising.

Based on the amendments, all the restrictions and bans mentioned above with regard to alcohol advertising will apply to advertising of beer, so there will be unified regulation of alcoholic and beer advertising. The Law will ban depicting of humans or animals, including animated, in advertisements of all alcohol & beer products.

Advertising of alcohol & beer, which contain more than 5% of spirit, will be permitted only in printed materials with above mentioned established restrictions; it will be also available to advertise such products at their permanent sales points and via Internet.

All the above amendments will come into force on July 23, 2012.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

In 2010 the advertisement of sparkling wine "GANCIA" were distributed through "HELLO" magazine in Russia. The advert depicted a number of young cheerful people sledging on bubbles of sparkling wine. The ad claim stated: "Make your life sparkling!"

FAS decided that the advert convinces consumers that consumption of alcohol would improve their emotional state.

As the Law prohibits alcohol advertisements, which asserts consumers that a consumption of alcohol products is important for the purpose of achieving public recognition, professional, sport or personal success or that it assists in improving physical or emotional state, FAS Russia has banned the advertisement and imposed a fine.

SINGAPORE

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What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

The advertising sector in Singapore is primarily self-regulating. The Advertising Standards Authority of Singapore ('ASAS') oversees and regulates advertising activities in Singapore. The ASAS relies on a system of guidance and voluntary compliance, which it believes is extremely beneficial and flexible in terms of resolving disputes/ concerns.

Further to this, The Singapore Code of Advertising Practice ("the Code"), which is administered by the ASAS, sets out the basic framework for the regulation of advertising services / commercial advertising in Singapore, and is in compliance with the plethora of laws, rules, regulations and the International Code of Advertising Practice, published by the International Chamber of Commerce.

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

The 'Code' stipulates that it shall apply to advertisements for any goods, services and facilities including alcoholic products, which appear in any form, or any media [including in information network services, electronic bulletin boards, on-line databases, internet services and digital communications in every format, design and context].

The main principle is that all advertisements must be legal, decent, honest and truthful and prepared with a sense of responsibility to the consumer.

What are the main principles of alcohol advertising regulation in your jurisdiction?

While there is no blanket ban on online alcohol advertising, the advertisement of alcohol in Singapore on Television is not allowed to be shown during programmes intended for children and young persons.

The main guidelines on alcohol advertising in Singapore is contained in Appendix K of the 'Code' whereby it stipulates that children should never be portrayed in alcohol advertisements and only individuals above the age of 18 can be portrayed. Further advertisers must ensure that their advertisements do not emphasise the stimulant, sedative, or tranquillising effects of any drink and encourage over-indulgence and excessive consumption.

How would you assess the pressure for tighter regulation in your jurisdiction?

In the wake of turning Singapore into a healthy nation, the government is expected to implement even tougher measures on smoking and drinking in general. For alcohol, higher excise tax may be imposed on the unhealthier products, such as spirits, following the higher excise already imposed on beer in 2007. Such moves would increase the price of the products with the higher excise rates and would make other alcoholic drinks more attractive in terms of choice, thus resulting in a shift towards healthier choices in alcoholic drinks over the forecast period. However the government has not made any amendments or new regulations as a blanket ban on alcohol would affect the economy and the alcohol industry which generates a significant amount of revenue.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

There have not been any significant cases of alcohol advertisements being banned in Singapore. This is due to the flexibility of the 'Code' which is self-regulatory and encourages the alcohol industry to use the 'Code' as a check and balance rather than strict enforcements.

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What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

There is no specific legislation relating to advertisement of alcoholic beverages. However, the Liquor Act 59 of 2003 provides that no liquor product may be advertised in a misleading manner or in a manner intended to attract or target minors. There are also regulatory controls (see below).

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

The Industry Association for Responsible Alcohol Use's (ARA) Code of Commercial Communication has been incorporated into the Advertising Standards Authority's (ASA) Advertising Code. Therefore this code is applicable to all members of the ARA and the ASA.

Complaints may be submitted to the ASA or the ARA, each of which has a complaints handling procedure which is set out in their respective codes.

What are the main principles of alcohol advertising regulation in your jurisdiction?

The introductory provisions of the ARA code provide that advertisements may not: encourage irresponsible drinking, or disparage abstinence and moderate drinking; target persons under the age of 18 or depict persons under the age of 25 consuming alcohol; suggest that alcohol contributes to sexual success; make use of nudity or inappropriate near nudity; claim that alcoholic beverages have curative qualities.

The ARA code also regulates promotional events and product launches.

The ARA code restricts the times when television, radio and cinema advertisements for alcohol may be flighted, as well as the placement of outdoor advertising, primarily to limit the exposure of minors to alcohol advertising.

Lastly, any advertisement for an alcoholic beverage must display the phrase "not for sale to persons under the age of 18" in a prescribed format.

How would you assess the pressure for tighter regulation in your jurisdiction?

There have recently been calls to restrict or ban alcohol advertising. These calls have been championed by Aaron Motsoaledi, the Minister of Health, who has been quoted as saying that it is a matter of time until alcohol advertising is banned.

A government task team has been set up to compile a report to be presented to an inter-ministerial committee. As no timeline for this process has been set and no draft legislation has been published, it is likely that the ban will not come into effect for a number of years, if at all.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

Very few alcohol advertisements have been banned in recent years and the majority of those banned were due to a failure to correctly display the phrase "not for sale to persons under 18", or other technical aspects relating to the labelling of products.

However, there have been a number of controversial advertisements which the ASA has ruled are permissible, particularly regarding the association of alcohol with success.

In Hansa Pilsner / T Timile / 18259 (25 August 2011) a complaint was lodged against an advertisement for Hansa Pilsner (a South African beer) which shows a character, Vuyo, designing a new musical instrument which goes on to become an international success. During the advertisement another character remarks that that "Vuyo can see things that others can't." Following the success of the instrument the characters are shown toasting their success with a beer. The complaint was based on rule 6 of the ARA code which states that alcohol may not be portrayed to be essential to business or social success.

The complaint was dismissed on the basis that it did not imply that the success was based on the result of the consumption of alcohol but rather drew a parallel between Vuyo's uniqueness and the uniqueness of Hansa Pilsner.

Similar decisions have been reached in decisions which relate to the success of sporting heroes but do not link their success to alcohol consumption. However, it should be noted that in the decisions relating to sporting icons, the sportsmen are not shown drinking alcohol during the advertisement.

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 **SCHILLER**
ABOGADOS

What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

The advertising of alcoholic beverages in general is regulated by the General Advertising Act 34/1988 (GAA), as well as by the Audiovisual Communication Law 7/2010 concerning advertising of alcoholic beverages in television.

Further the Autonomous Communities have a wide range of relevant regulations.

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

FEBE, the Spanish Federation of Alcoholic Beverages comprising almost 100% of manufacturers and distributors in the alcoholic beverage industry, has a Self-Regulation Code that aims at promoting honest, truthful and loyal advertising of alcoholic beverages.

There is also a Self-Regulation Code of the Spanish Brewers concerning advertising of beer.

What are the main principles of alcohol advertising regulation in your jurisdiction?

The Self-Regulating Code of FEBE states that advertising of alcoholic beverages may not be directed to minors nor may people under 25 be featured in the ads. In accordance with the code, advertisers must refrain from using the voice and image of minors through any means of communication; using situations or scenes related to or connected with minors; any type of graphic or audio-visual means directed at minors; the image of famous or popular persons with or associated with minors; to use or sponsor in cultural, social or sport events or functions directed at minors under 18 years.

Further, advertising of alcohol shall not encourage abusive consumption. To this effect advertising shall include the Responsible Consumption message in a clearly visible place and color (minimum size 1% of the total area of the ad) accompanied by an indication of the alcoholic strength of the product.

Moreover, the adverts may not suggest greater success, self-confidence, health, performance, etc., or present abstinence or moderate consumption in a negative light, etc.

How would you assess the pressure for tighter regulation in your jurisdiction?

In 2008 the Association of Communication Users (AUC) has issued a report on the effectiveness of the alcohol advertising regulations in Spain concluding that the existing self-regulation codes and agreements are a non-sufficient alternative to the present legal vacuum. Despite the existing bans there is still a considerable amount of prohibited alcohol advertising, especially in relation to sponsoring of sporting and musical activities. A further instrument used to circumvent bans is indirect advertising by product placement on television.

In February 2011, the Highest Court has banned alcohol advertising in public spaces in the Community of Madrid as a result of a proceeding brought by AUC. The court based its decision on the existing ban of alcohol consumption on the streets and the relevant legal provision that prohibits alcohol advertising in places where sale, supply and consumption of alcohol is prohibited.

However, this decision has not yet shown effects in practice, since alcohol advertising can still be seen on the streets.

There is a growing awareness of the negative impact of alcohol especially in relation to minors. In the last years the Ministry of Health has run information campaigns on the risks of alcohol consumption during the pregnancy, also campaigns targeted at minors and their families and is contemplating new measures and projects aimed at reducing the alcohol consumption among minors. Nevertheless, at the moment there are no concrete legislative proposals in place.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

The majority of the recently raised complaints before AUTOCONTROL (Spanish advertising self-regulation organisation) about advertising of alcohol in different media were linked to the absence of the Responsible Consumption message or the indication of the alcoholic strength of the beverages as well as to their placement within the advertising.

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WISTRAND

What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

The general act of interest is the Swedish Marketing Practices Act (MPA) which has a general application and regulates most aspects of advertising and promotional activities. Additionally, there is specific regulation found in the Swedish Act on Alcohol (Alcohol Act).

Advertising violating the MPA or the Alcohol Act could e.g. render in an injunction subject to a conditional fine or in severe cases result in a market disruption fee.

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

The Swedish Consumer Ombudsman (KO) is the responsible body for supervision of advertising of alcohol advertising.

The KO has issued non-statutory guidelines on advertising of alcohol advertising, which it follows in its controlling capacity. The guidelines are also commonly referred to by the Market Court.

There are also self-regulatory codes adopted by interest organizations representing the Swedish advertisers, the Swedish brewers and the Swedish providers of spirits and wines.

What are the main principles of alcohol advertising regulation in your jurisdiction?

Under the MPA all advertising must be consistent with generally accepted marketing practices (i.e. advertising must not be unfair or misleading etc.).

As a general rule the Alcohol Act states that all marketing of alcoholic beverages (spirits, wines and beers with more than 2,25 % Vol.) to consumers must be distinct moderate and are not allowed to be intrusive or seeking.

Alcoholic beverages as gifts are not allowed. Moreover, advertising must not target or portray children or young people under the age of 25. There is also a total ban on advertising of alcoholic beverages in radio and television commercials.

Commercial advertisement in periodical publications is allowed for alcoholic beverages that contains less than 15 % Vol. The advertisement must be moderate and hold a text of information about the risks that are connected with alcohol consumption.

How would you assess the pressure for tighter regulation in your jurisdiction?

The present Alcohol Act entered into force in 2011 (which did not provide any major amendments to previous regulation) and the KO has issued revised guidelines relating to advertising on alcohol quite recently. In light of these facts it may be concluded that the pressure for tighter regulation in Sweden is rather low at the moment.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

With a slogan called "The Best of Both Worlds", the Swedish brewery Spendrups sold a six-pack of beer and offered the customer a free DVD with Champions League football as a combined offer. The KO challenged the advertisements. The Swedish Market Court found that the advertising campaign contributed to a positive image of alcohol in connection with football, which did not meet the requirements for distinct moderation required in the Alcohol Act. Accordingly, Spendrups was considered to have acted in breach of the MPA.

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What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

There is a Federal Ordinance on Alcoholic Beverages which contains one article on advertising for all types of alcoholic beverages;

Then there is the Federal Law on Spirits (gebrannte Wasser) which contains also one article on advertising especially for spirits;

Swiss Law on TV and Radio regulates the advertising on TV and Radio.

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

The Swiss self regulation code ("Grundsätze Lauterkeit in der kommerziellen Kommunikation") repeats the legal framework but does not go beyond.

What are the main principles of alcohol advertising regulation in your jurisdiction?

Alcohol advertising in general must not be aimed at or appeal particularly to minors below 18. Advertising for spirits may only show the product, but no drinking scene or animation. On TV and Radio, only Beer and Wine may be promoted.

How would you assess the pressure for tighter regulation in your jurisdiction?

At the moment no pressure

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

No interesting sentence in the past 5 years.

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MEHMET GÜN & PARTNERS

What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

A new regulation has come into force recently in Turkey, namely “Regulation the Procedure and Principles of Sale and Marketing of Tobacco Products and Alcoholic Beverages” (the “Tobacco and Alcohol Regulation”) issued by the Regulatory Council for Tobacco and Alcohol Markets which is based on the Law on Alcohol and Alcoholic Beverages, Law on Tobacco Products, Law on the Foundation and Duties of the Regulatory Council of Tobacco and Alcohol Markets as well as the Framework Agreement of World Health Organization on Tobacco Control.

The Regulation on Commercial Advertisements and Announcements also brings a general prohibition for the goods of which the advertisements are not allowed. The prohibition connotes that the goods and services of which the advertising and sale are prohibited as well as the ones bearing the same name/brand with such prohibited goods and services or the ones that create association with the prohibited goods and services cannot be advertised. Alcoholic beverages are included within the scope of this prohibition as alcohol advertising is subject to very strict restrictions in Turkey.

In addition to the above, the amended Law on Foundation and Broadcasting Services of Radio and Television Institutions also brings some restrictions namely; the broadcasts cannot promote alcohol consumption and prohibits the alcohol ads in this regard.

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

The Advertisement Board is the sole administrative authority controlling the advertisements in Turkey which has been established within the body of Ministry of Industry and Trade. The Advertisement Board is entitled to conduct investigation *ex officio* or upon an individual complaint. Upon the examination, the Advertisement Board is entitled to stop the challenged advertisements temporarily as precaution and/or demand of the amendment of the challenged advertisement and/or rule for administrative monetary fines. The amount of the monetary fine to be imposed by the Advertisement Board is currently TL 7, 396 (approximately € 3,200) for locally broadcasted ads and TL 73, 966 (approximately € 32,000) for nationally broadcasted ads; should the advertisement be found to be contrary to the legislation. If the same violation is repeated in a year, this monetary fine is doubled and imposed on the violator advertiser. The Board's decisions are legally binding upon the relevant parties.

On the other hand, the Supreme Council of Radio and Television is also entitled to control the radio and TV ads in Turkey. Concerning the broadcasts that violate the alcohol prohibition, the Council at first warns the broadcasting institution and should the same violation continue after the warning, then the Board is entitled to impose administrative monetary fine in the amount corresponding to 1-3 % of the broadcasting institution's monthly advertisement income depending on the severity of the violation and the type of the broadcasting media. Should the violation continue, the Council can also hold for stopping of such program or broadcast of the concerned channel for a certain period.

The Regulatory Council of Tobacco and Alcohol Markets in Turkey is also entitled to control the alcohol sales and promotions and within the coverage of its authority, the Council can warn the sellers or promoters to stop violating the restrictions and if such acts are not stopped, the Council is entitled to inform the above mentioned authorized bodies to perform what necessary is.

What are the main principles of alcohol advertising regulation in your jurisdiction?

In addition to above mentioned rules, the Tobacco and Alcohol Regulation severely restricts the sale and promotion of tobacco and alcohol products, namely:

- The sale and promotion of alcoholic beverages via television, cable broadcasting, radio and public broadcasting media is prohibited.
- Any public notifications or announcements using the names, emblems, logos, pictures, photographs, hallmarks and any other similar elements of the tobacco products are prohibited. Media organs and the internet are also prohibited from making these notifications, including the price notifications.
- Any advertisements or presentations using the names, trademarks or hallmarks of tobacco products and their producer firms are prohibited. The organization of campaigns promoting or encouraging the use of such products is prohibited. The firms producing or marketing tobacco products cannot sponsor any events and cannot affix their names and trademarks to the events.
- The companies producing or marketing tobacco products cannot distribute their products to stores and consumers as a promotion, present, sample or presentation, either free of charge or as a donation.
- Any campaign, promotion, advertisement or presentations promoting or encouraging the use and sale of alcoholic beverages is prohibited.
- Advertisements for alcoholic beverages cannot target children and young adults (defined as the persons between 15 and 24 years of age) and cannot be affixed to any sports activities.
- The trademarks or marks associated with alcoholic beverage trademarks cannot be used in the presentation and organization of any event that targets children and young adults. Selling or serving alcoholic beverages during the events is also prohibited.
- Placing alcoholic beverage ads in sections/pages directed at children or young adults, as well as the sports pages in printed or online media, is also prohibited.
- These advertisements can only be broadcast in films that have been classified by the Ministry of Culture and Tourism as “+18”.

How would you assess the pressure for tighter regulation in your jurisdiction?

Despite the government's claims that the new Tobacco and Alcohol Regulation is intended to protect children and young adults as well as public health, we are of the opinion that the Tobacco and Alcohol Regulation primarily aims to reduce alcoholic beverage consumption, as well as the use of tobacco products, in Turkey. No matter, it is necessary to restrict the alcohol ads to an extent, the tight restrictions concern consumers and manufacturers in the sector considering the fact that the sale and marketing of alcohol products will be seriously disrupted from now on.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

In January 2011, the Advertisement Board rendered a decision that the hidden advertisement of a well known Turkish raki brand (EFE) is made in a national newspaper under the news title of “Discount in Raki Prices” and therefore the Board imposed administrative monetary fine on the owner of the newspaper. This decision shows that the Advertisement Board's approach towards alcohol advertisements is quite strict no matter it is in a news format on information purpose.

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What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

There are no specific laws restricting the advertising of alcohol in the UK, although there are various laws that affect the way certain alcoholic drinks can be described (including in advertisements¹ and legal restrictions on irresponsible alcohol by retailers (The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010).

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

The UK Code of Non-broadcast Advertising, Sales Promotion and Direct Marketing (the "CAP Code") and The UK Code of Broadcast Advertising (the "BCAP Code") include a number of rules relating to the advertising of alcohol. In addition, the Portman Group (founded by the UK's major drinks producers) has its Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks (the "Portman Code").

The CAP Code covers all non-broadcast advertisements, including marketing material in non-paid for space online (such as advertisers' own websites). The BCAP Code applies to all advertisements and programme sponsorship credits on radio and television services licensed by Ofcom (the UK's independent communications regulator). The CAP and BCAP Codes are enforced by the independent Advertising Standards Authority ("ASA"). The Portman Code does not apply to advertising within the ASA's remit and is intended to define best practice in the presentation of alcohol brands to consumers (e.g. product names, packaging, sponsorship, merchandise).

What are the main principles of alcohol advertising regulation in your jurisdiction?

In addition to the general rules requiring advertisements to be legal, decent, honest and truthful, both the CAP and BCAP Codes state that (amongst other things) alcohol advertisements must not: be aimed at or appeal particularly to under-18s; feature people under 25 years old; imply a drink may be preferred because of its alcohol strength or its intoxicating effect; encourage excessive drinking; portray alcohol as indispensable; link alcohol with dangerous activities; normally show alcohol being drunk in the workplace; nor link alcohol with popularity or sexual success.

The Portman Code has similar provisions to the CAP and BCAP Codes and is intended to complement those Codes.

How would you assess the pressure for tighter regulation in your jurisdiction?

The advertising rules in the CAP and BCAP Codes were tightened in 2005. Since then there have been intermittent calls to restrict the advertising of alcohol further or ban alcohol advertising altogether. The British Medical Association has been particularly vocal in this debate along with a number of Members of Parliament (especially MPs that are also doctors). The main area of action at UK level relates to alcohol retailing, with a new mandatory code being introduced in 2010 and the potential for further action.

There is also the threat of alcohol advertising restrictions or a ban emanating from the European

¹ Alcoholic Liquor Duties Act 1979, s. 71; the Spirit Drinks Regulations 2008, regulation 4; the Scotch Whisky Regulations 2009; the Food Labelling Regulations 1996.

Union, with certain Members of the European Parliament particularly active in this debate. However, action is unlikely before the European Commission reports on its 2005-2012 Alcohol Strategy at the end of 2011.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

In July 2011 three video ads for an alcoholic drink called 'Cell Drink' appeared on YouTube and Facebook. The ads centred around Cell Drink's 'zero spillage' flexible packaging with claims that the product was 'made for the Dancefloor'.

The ads featured a 'free-runner' performing jumps and break-dancing whilst holding the Cell Drink without spilling it. The other ads featured a rocker and a raver respectively, dancing and spilling most of their drinks. One of the straplines was "Made for Dancefloors. Zero Spillage".

The ads were banned for breaching various CAP Code rules, including featuring someone under 25; appealing to under 18's and linking alcohol with bravado and dangerous behaviour.

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What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

In the United States, the advertising, marketing and sale of alcoholic beverages is strictly regulated at the federal level and by each of the individual states.

The Federal Alcohol Administration Act (FAA Act) requires:

- how products within each alcohol class (distilled spirits, wine and malt beverages) must be labeled, and requires certain mandatory disclosures to appear in all alcohol advertising.
- the types of imagery, claims and other marketing messaging that can or cannot be used in alcohol advertising.
- how members within each tier of the alcohol industry (supplier, wholesaler and retailer) can interact with one another.

The 21st Amendment to the U.S. Constitution gives the states the power to regulate the advertising, marketing and sale of alcoholic beverages within their states. As a result, each state has its own set of alcohol laws that must be adhered to when functioning within the state. In some states there may be further layers of regulation at the municipal or county level. State laws vary

significantly from state to state and are often more restrictive than federal law. States also control how industry members can interact in the sale and promotion of alcohol, often prohibiting business practices that would otherwise be permissible under a federal analysis only.

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

At the federal level, the Alcohol and Tobacco Tax and Trade Bureau (TTB) and the Federal Trade Commission (FTC) are primarily responsible for regulating alcohol advertising and marketing practices. State Alcohol Control Bureau (ABCs) regulate in-state practices. In addition, each of the three classes of alcoholic beverages (wine, malt beverages and distilled spirits) engages in self regulation through its respective trade association (i.e., The Wine Institute, The Beer Institute and DISCUS). Each trade association has its own marketing and advertising code, and although compliance with these codes is voluntary, members can bring challenges within the trade association against fellow members for violation of the code.

In addition, the television networks have very specific rules and guidelines relating to the advertising of alcohol. Other media, such as certain print publications, may also have their own guidelines.

Many alcoholic beverage suppliers have also developed advertising and marketing codes for U.S. advertising. In some cases, company codes are even more conservative than the industry codes.

What are the main principles of alcohol advertising regulation in your jurisdiction?

The focus of the federal and state statutes and regulations, as well as all three of the voluntary industry codes, is on portraying the product in a truthful and responsible manner. The federal regulations focus on truthful and accurate advertising as well as what health claims can and cannot be states. State regulations either mirror the federal regulations or are more restrictive. For example, many states prohibit happy hour advertising as encouraging excessive consumption. Some states prohibit billboard advertising of alcohol beverages outright. In other states, billboard advertising may be regulated on a municipal or county basis.

The industry voluntary codes are more general in nature and focus on how the products are portrayed. Some of the main components of the industry codes are:

- Not using individuals in advertising that are younger than 25 and which do not appear to be 21 or older;
- Not portraying, encouraging or condoning drunk driving;
- Not portraying rapid and excessive consumption or loss of control over a person's movement, behavior or speech;
- Not portraying or implying illegal behavior associated with the consumption of alcohol;
- Not using images or references that would appeal to persons under the legal drinking age such as cartoon characters, Santa Claus, the Easter Bunny, etc.
- Not implying that the product has health benefits or therapeutic qualities;
- Not implying that drinking the product would improve a person's strength or sexual prowess;
- Requiring product comparative advertising to be truthful and factual and prohibiting the disparaging of competitors;
- Requiring that alcohol advertising only appear in media where at least 71.6% of the audience is reasonably expected to be over 21 years of age.

Federal and state laws are also very focused on controlling the relationships between the members of the separate tiers (supplier, wholesaler and retailers) so as to try to eliminate unfair influences by one tier on the behavior of the other.

How would you assess the pressure for tighter regulation in your jurisdiction?

Currently, there is not widespread pressure for tighter regulation in general. The FTC is currently studying the effectiveness of the self regulatory efforts of the alcohol industry; however, this is a regularly scheduled study which is done every 4 to 5 years. The FTC has also begun a separate formal investigation of alcohol advertising's appeal to teenagers and children. The area of alcohol advertising and children is one to watch closely over the next few years, especially considering the spread of such advertising to social media platforms, many of which have a high number of users under age 21.

The Distilled Spirits Council of the United States ("DISCUS") recently issued new self-regulatory guidelines [http://www.discus.org/pdf/DISCUS_Digital_Communications_Guidelines.pdf]

governing online marketing practices on social media sites and other digital communications platforms, including websites, blogs, and mobile communications and applications.

Key requirements of the new DISCUS guidelines include:

- “Age-gating” on websites before any direct communication between advertisers and consumers;
- Regular monitoring and moderating of websites that include user generated content, and removal of inappropriate content;
- Where online content is intended to be forwarded by users, marketers must include instructions that content should only be forwarded to those who are of legal purchase age;
- Clear identification of online communications as advertising;
- Inclusion of social responsibility statements in all communications, where practicable; and
- Standards for privacy policies.

The Discus guidelines include restricting marketing to media where at least 71.6% of the audience is reasonably expected to be of the legal purchase age. As reported by DISCUS

[http://www.discus.org/media/press/article.asp?NEWS_ID=638], an August 2011 Nielsen survey shows that 82.22% of the Facebook audience, 86.86% of the Twitter audience, and 80.96% of the YouTube audience are at least 21 years of age.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

Recently, Four Loko and other similar caffeinated alcohol products, all perceived as being marketed and sold primarily to young people, reached a settlement with the FTC to change their marketing practices. Four Loko is a caffeinated malt beverage that retails for around \$3 and was marketed as a caffeinated malt beverage equivalent to a “couple of 12 oz. beers.” In reality, it was found to contain the alcohol equivalent of nearly four 12 oz. beers and the caffeine equivalent of a cup of coffee. At the federal level, the Federal Drug Administration and the TTB have expressed concerns that the product is adulterated. The FTC was concerned with deceptive advertising and other marketing practices. At the state level, these products were banned in a number of states due to concerns that the alcohol and caffeine content was a dangerous mix and appeared to be designed to appeal to underage drinkers. There have been several alleged deaths associated with consumption of these products. Under the FTC settlement, Four Loko agreed to change its labeling and packaging, to convey more clearly the actual alcohol content and to discourage consumption in one sitting.

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What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

Consumer Protection Law and the Act on Social Responsibility for TV and Radio rules on a complete banning for advertising alcohol. Only press, billboards (but not placed on highways for instance) and Internet area available media to advertise, under specific regulations. Product placement on TV is forbidden

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

Consumer Protection Agency and Directory of Social Responsibility (part of the Telecommunications Agency)

What are the main principles of alcohol advertising regulation in your jurisdiction?

See number 1. In addition to that, a disclaimer on accepted media should clearly state that the campaign is not aimed at or appeal particularly to under-18s

How would you assess the pressure for tighter regulation in your jurisdiction?

It is basically a limitation that has been in force for more than 30 years (with exemption of beers that were also included as banned 4 years ago). It appears that digital media could be a next target for regulation, but at this time regulators appears to be satisfied with the limitations in force.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

No recent case of interesting

ZIMBABWE

Brenda Kahari

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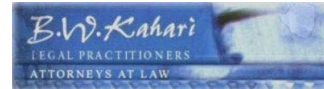
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What are the main legal controls on advertising and marketing of alcohol in your jurisdiction?

Mainly by way of self regulation, that is, the industry and suppliers of alcohol are expected to ensure how and when the products are advertised and marketed in line with social and cultural norms as well as legal principles expressed in legislation as guidelines.

What are the main regulatory controls on advertising and marketing of alcohol in your jurisdiction?

Although there is no legislation specifically to control advertising and marketing of alcohol there are self regulatory bodies. These self-regulatory bodies have rules or Codes/ Standards of Conduct expected of their members. The main associations are: the Advertising Standards Association; Advertising Media Association; Zimbabwe Advertising Practitioners Association; Communication Industry Association and the Association of Zimbabwe Advertisers.

There are various statutes which serve as a to guide, such as:

- The Liquor Act [Chapter 14:12];
- The Advertisements Regulation Act [Chapter 14:01] which merely deals with the posting of advertisements on roads, railways and in public places;
- The Miscellaneous Offences Act [Chapter 9:15] read with the Censorship and Entertainments Control Act [Chapter 10:04];
- The Criminal Penalties Amendment Act, 2001 [No. 22 of 2001];
- Competition Act No. 7/96 as amended by Act [No. 29/2001];
- The Children's Protection and Adoption Act [Chapter 5:06]

What are the main principles of alcohol advertising regulation in your jurisdiction?

The Zimbabwean Advertising Media Association has a Code of Standards and its general principle is:

"All advertising accepted for publication, transmission or broadcast will be governed by the general principle that it will be legal, decent, honest and truthful".

The Children's Protection and Adoption Act prohibits selling alcohol to minors. Therefore, it is accepted that advertising for sale of alcohol must not target children, i.e., persons under the age of 18. For example, advertisements for alcohol are not shown at schools or sporting events and entertainment or other places frequented by or activities for children.

The advertising community has internal means for disciplining members of their community who overstep the rules or required conduct of members of their Association.

How would you assess the pressure for tighter regulation in your jurisdiction?

In 2010, there was an effort by Government to curtail drinking and consumption of alcohol by imposing a punitive tax on advertising of beer and alcohol. However, this was met with stiff resistance from the industry.

While there have not been any further actions for tighter control on advertising, there is now a

movement advocating for reducing the availability of liquor for sale to the public through the closure of beer halls on Sundays. There continues also to be restrictions and prohibitions on sales of alcohol in public places, for instance, in service stations which are 24 hours, supermarkets with restricted days and times and restriction on licenced premises related to time and age of consumers.

Please describe any recent interesting, significant, or archetypal examples of an alcohol advertisement that has been banned in your jurisdiction.

There have not been any court cases on banning alcohol advertisements.