

STIVA

Self regulation of alcohol marketing in The Netherlands

16 July 2008

Foundation for Responsible Alcohol Consumption, The Hague, The Netherlands

STIVA

- Foundation for Responsible Alcohol Consumption;
- Social Aspect Organization of the alcohol industry in The Netherlands;
- A cooperation between beer, wine and spirits;
- Includes all producers and importers of alcoholic beverages.

What does STIVA do?

- Selfregulation of alcohol marketing
- Education/prevention:
 - ✓ www.genietmaardrinkmetmate.nl (responsible consumption)
 - ✓ www.alcoholonderde16natuurlijkniel.nl (no alcohol consumption by minors)
 - ✓ www.pratenoveralcohol.nl (talking about alcohol – for parents)
 - ✓ Mandatory sticker for the legal age for purchasing
 - ✓ Supermarket flyer



Selfregulation: The Advertising Code for Alcoholic Beverages

The Advertising Code includes:

- ✓ All common standards set by: The Brewers of Europe (BoE), the European Spirits Organisation (CEPS) and the European Forum for Responsible Drinking (EFRD);
- ✓ All requirements mentioned in art. 15 of the Audiovisual Media Services Directive;
- ✓ Compulsory pre-copy advice for TV and radio advertisements;
- ✓ Independent complaints jury (The Advertising Code Committee).

EU

In 2003 the EU Director General for Education and Health stated:

“An analysis of the present Dutch national legislation has shown that the Netherlands has fulfilled its legal obligation to implement the relevant provision of Article 15 of the Council Directive (89/552/EEC) of 3 October 1989 on the co-ordination of certain provisions laid down by law, regulation, or administrative action in Member States concerning the pursuit of television broadcasting activities as amended by Directive 97/36/EC. According to article 249 (3) of the EC Treaty the Member States are free as to the choice of forms and methods of implementing a directive. The Netherlands has chosen to transpose the content of Article 15 of the Directive by providing for a system of (controlled) self regulation or co-regulation. We consider that this system is - due to its binding nature on all public and commercial broadcasters – suitable, sufficient and appropriate to achieve the aims of the respective Directive provision, i.e. Article 15.”

See: Letter from the EC Directorate for Education and Culture to STAP (EAC-C1/KE/pa D(2003)24136.

Complaints

Complaints are handled by the independent Advertising Code Committee. Members of the Committee are appointed by the board of the Dutch SRO (Advertising Code Authority) that consists of representatives of the Dutch industry and consumer representatives. The Alcohol industry is not on the board of the SRO.

The Advertising Code Committee has 5 members:

- One member appointed by the advertisers;
- One member appointed by the consumer organizations;
- One member appointed by the advertising agencies;
- One member appointed by the media;
- Independent Chair.

In 2006 there were 51 complaints against alcohol ads. In 33 cases the complaints were (partially) upheld.

Excessive price promotions

- Most complaints upheld were violations of article 20 of the code (excessive price promotions);
- 7 in bars, 7 in retail, all upheld because there was a price reduction of more than 50% of the normal price;
- Dutch Hospitality sector refused to commit to the Advertising Code. Because of competition legislation industry can't impose minimum prices upon the hospitality sector. In the recent review of the code this is made clear in the text of the code. STIVA will inform local authorities, who license pubs and bars, on excessive promotions;
- In reaction to parliamentary questions the Dutch Minister of Health said he saw no possibility to introduce legal minimum prices for alcoholic beverages.

Changes in the Advertising Code: Sports

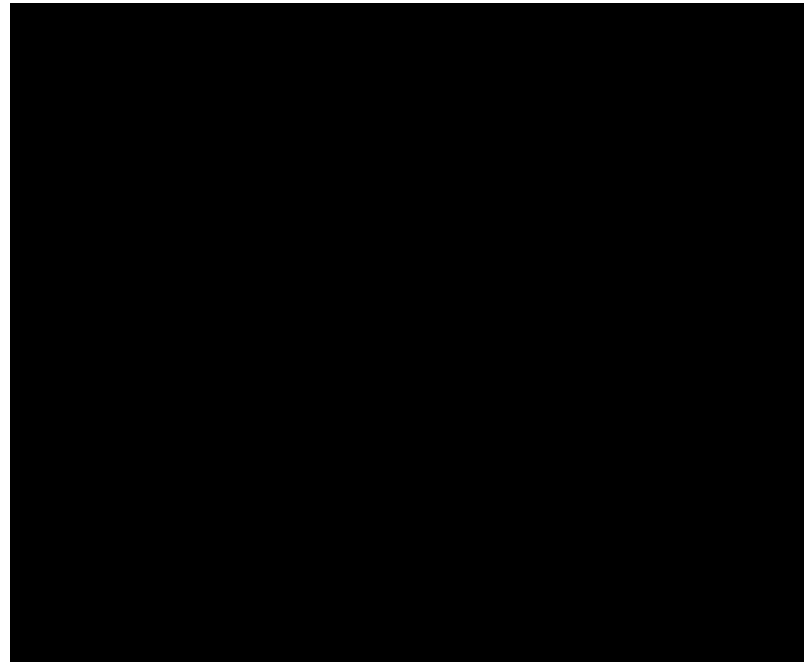
STAP claimed that the rules on sports were weakened. But STAP did not mention that around sports there's not only the article on content (Article 6) but also the article on placement (Article 28):

"The advertising of alcoholic beverages may not be displayed on an individual sportsman or sports team, or on vehicles used by the sportsman or sports team in performing speed sports."

All the examples STAP used are examples of advertising directly aimed at sports fans. There was no connection between active sports and alcohol consumption.

Changes in the Advertising Code: Minors

Example: Heineken 'Keep the can cool'



The complaint by STAP was rejected because Heineken could convincingly prove that the game and the character used in the commercial does not appeal to minors.

Changes in the Advertising Code: Minors

STAP claimed that article 10 (minors) has been weakened. That certainly was NOT the intention of the review of the code in 2005. And again in the presentation on March 4 only one article is cited. In the code there are 9 articles to guarantee that alcohol advertising is not aimed at minors.

In December 2006 this accusation of STAP was addressed in a joint meeting of the Dutch Ministry of Health, STAP and STIVA.

In that meeting parties agreed that:

- *Article 10 will be formulated more clearly. There is new article 10 in place since July 1. 2008;*
- *Independent research will be done to examine the relation between alcohol advertising and the drinking habits of young people. The conclusions of this research will be published by the Dutch Minister of Health in September 2008.*

Minors: 25% rule: hard to prove?

Article 21:

Paragraph 1

"No advertising of alcoholic beverages in any form may reach a public that consists of more than twenty five percent (25%) minors. The standard for determining the reach of advertising is the generally accepted survey for this purpose in the market. The attendance figures are the standard for determining the reach of advertising in cinemas and at events. The burden of proof regarding its reach falls on the advertiser, who should base his figures on generally accepted viewer or listener ratings in the market. For websites the user profile has to be made plausible."

In practice:

- official TV- and radio ratings;
- media-agencies know the exact audience figures;
- There never has been a violation of this rule.

Sexual and social succes

Revised article 8 in place since July 1, 2008.

“Advertising for alcoholic beverages may not create the impression that the consumption of an alcoholic beverage enhances social or sexual success. That impression can be created even though there is no actual consumption of an alcoholic beverage in the advertisement.”

With this revision the criticism of STAP is being addressed.

Further complaints of STAP on the Dutch Code:

STAP wants the concept of humor excluded from all alcohol-advertising. That is an unrealistic demand. Humor in general isn't specific appealing to minors

Time-frame?

The complaints are normally handled within 2 weeks and the decision of the Committee is usually announced 2 weeks after the hearing. The average time between submission of complaints and the adjudication is 4 weeks.

But there is also a fast-track mechanism in place when a decision is needed urgently.

Sanctions

There are different sanctions:

- Recommendation (in case of alcohol code always public through SRC-website);
- Fines, in place since 2005 (so the remark of STAP that there hasn't been a fine imposed in 18 years is inaccurate). Since 2005 there have not been any judgements justifying a fine;

Compliance:

- By law all broadcasters, subscribe to the Code Committee. When a complaint is upheld, ads are no longer broadcasted;
- Dutch newspapers and magazines subscribed voluntarily.

Area's for improvement

- STIVA and SRC have no means to impose the code on the hospitality industry. The hospitality industry will have to work on a mechanism to curb excessive discounts.
- STIVA will improve stakeholder consultation concerning the advertising code.

However... (1)

- STAP can not claim that the system isn't functioning just because its own complaints are not upheld;
- Regulation will not prevent young people from seeing alcohol advertising. That would be an unrealistic demand;
- STAP made its report without consulting STIVA or SRC. STAP rejects stakeholder consultation. Information send to STAP, for example about compliance monitoring, is systematically ignored.
- When reading the STAP report is good to bear in mind that they oppose to self regulation as such, whatever the content is.

However... (2)

But the Dutch Minister of Family and Youth does not share that opinion. In a recent debate (May 22, 2008) in parliament on alcohol policy he said:

"If it is possible to reach goals by means of self regulation, than we must do so. Then we know there is a broad support even from the sector itself. If self regulation is not possible or difficult to achieve, then we must look at other instrument, like statutory rules. But the attitude of the Dutch alcohol industry towards curbing underage drinking, gives confidence in the possibilities of self regulation."

STIVA issued a report on Dutch self regulation. KPMG Sustainability gave an assurance on this report, which means that all statements in the report have been verified.

A English translation of the report will be distributed.



This paper was produced for a meeting organized by Health & Consumer Protection DG and represents the views of its author on the subject. These views have not been adopted or in any way approved by the Commission and should not be relied upon as a statement of the Commission's or Health & Consumer Protection DG's views. The European Commission does not guarantee the accuracy of the data included in this paper, nor does it accept responsibility for any use made thereof.