

Appendix: Regulations of Alcohol Marketing in 24 European Countries

The ELSA project (2005-2007) of STAP (National Foundation for Alcohol Prevention in the Netherlands) includes representatives from 24 European countries. The objective of ELSA is to assess and report on the enforcement of national laws and self-regulation on the advertising and marketing of alcoholic beverages in EU Member States and Norway.

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1 Austria (AT)

1.1 Introduction

In Austria four different regulations specifically refer to alcohol marketing and advertising. These are the Federal Act on the Austrian Broadcasting Corporation, the Private Radio Act, the Private Television Act, which are all statutory. And the non-statutory Self Regulation Codex set up by the Austrian Advertising Council – the self regulation agency of the Austrian advertising industry.

All three statutory Regulations are directed only at specific institutions, which provide advertising space. These are the Austrian Broadcasting Company (Federal Act on the Austrian Broadcasting Corporation), the Austrian private radio broadcasting companies (Private Radio Act) and the Austrian private television broadcasting companies, all with their respective clients (Private Television Act). In general these regulations include a total ban on advertising spirits and restrictions on advertising other alcoholic beverages.

The non-statutory regulations set up by the Austrian Advertising Council are directed at all companies related to the Austrian advertising industry and concern all kinds of “economical advertising” (not included: sponsoring, product placement etc.). These regulations contain guidelines on what should be avoided when dealing with advertising alcoholic beverages.

Besides these regulations, since 1997 a paragraph exists regulating advertising in schools. This paragraph doesn't explicitly mention alcoholic beverages, but includes them in practice. It says that in schools, at school events and at events directly connected to schools, it is only allowed to advertise if the duties and responsibilities of the Austrian school system are preserved. It is thus understood that you can't advertise in schools for products like alcohol, tobacco, computer games insuitable, sects or destructive cults.

The mentioned regulations have not been changed essentially in the last years. As of 2004 KommAustria is legally obligated to observe the adherence to the national regulations by checking monthly samples of all Austrian broadcasting companies. Also in 2004 the Austrian Advertising Council implemented a copy advice service as an additional facility (Note: both, the observations of KommAustria and the copy advice do not explicitly or exclusively deal with alcohol issues, but do include them).

Regulation		Statutory / Non-statutory
1	Federal Act on the Austrian Broadcasting Corporation (ORF Act)	Statutory
2	Private Radio Act	Statutory
3	Private Television Act	Statutory
4	Self Regulation Codex of the Austrian Advertising Council	Non-statutory

1.2 Federal Act

Name of regulation:

I Federal Act on the Austrian Broadcasting Corporation (ORF Act)

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

Federal Legislation

Which types of marketing are controlled by this regulation?

Public broadcast (tv, radio, webpage, teletext: advertising, product placement, sponsoring)

Which alcoholic beverages are subject to this regulation? (in VOL.)

“Spirits”, no further definition;

“Alcoholic beverages”, no further definition

Whom is this regulation directed at or who has to adhere to it?

The Austrian Broadcasting Company (ORF) (which is subject to public law) and its clients, who do their advertising via the ORF.

1.2.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with ‘yes’ in the following table. If a ban regarding this aspect is absent it is indicated with ‘no’.

BANS						
	Location*	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	Yes	No	Yes	No	Yes

* Location: question not relevant, because law applies generally to a broadcasting company

* Target-group: other than young people

1.2.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with ‘yes’ in the following table. If an element is not forbidden at all, it is indicated with ‘no’.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Success	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	No	Yes

Remarks on element

A Question not relevant, because law does not deal with the production of alcohol.

B ORF-G, §16 (4):

Advertising of alcoholic beverages must not ... be aimed specifically at minors

...

C General terms and conditions for Advertising with “ORF.at” 4, e)

5. “Protection of minors”: It is forbidden to imitate minors in advertising.

- D .
- E ORF-G, §16 (4):
Advertising of alcoholic beverages must not:
- encourage immoderate consumption of alcohol or present abstinence or moderation in a negative light.
- F ORF-G, §16 (4):
Advertising of alcoholic beverages must not:
- link alcohol consumption with enhanced physical performance or driving;
- create the impression that alcohol consumption contributes to social or sexual success;
- claim that alcohol has therapeutic qualities or that it is a stimulant, a sedative or a means of resolving personal conflicts.
- G 1. General criteria for advertising (ORF-G, §4(4)):
- Advertising must not promote behaviour that puts at risk someone's sanity or safety.
2. Criteria for Ad of alcoholic beverages
("General terms and conditions 2005 for Advertising on TV and Radio", 4(e)):
- must not prompt directly the consumption of alcohol, eg. by proclaiming: "Drink ...!"
- H ORF-G §14(6):
Restriction on product placement only in connection with explicit programs for children and young people.
- I Same as under H.
- J Question not relevant, because law does not deal with distribution of alcohol.
- K ORF-G, §16 (4):
Advertising of alcoholic beverages must not:
- be aimed specifically at minors.

1.2.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	Yes	Yes	Yes	Yes	Yes	Yes

Pre-launch advice is provided by the Austrian Advertising Council (Self Regulation Agency of the Austrian Advertising Industry). This option was not foreseen in the ORF-Act; since 2004 the Austrian Advertising Council offers a service called "COPY ADVICE", that means every company has the possibility to get a pre-evaluation of its planned advertising campaigns.

The search for violations is performed by The Austrian Communications Authority (KommAustria). It was established under the KommAustria Act (KOG, BGBl. I No. 32/2001) for the purpose of leading the administration of regulatory activities in broadcasting. See: <http://www.rtr.at/web.nsf/englisch/startseite?Opendocument>. The ORF itself has no explicit mandate to search for violations. Both in general conditions and in guidelines, the ORF disclaims responsibility for the content of advertising programs. It accepts the orders provided that they are rejected in case they don't comply with the ORF-act or with other regulations.

Complaints can be made to the Federal Communication Senate: legal Control Organ of the ORF and of the private broadcasting companies, established under the KommAustria Act, situated at the bureau of the federal chancellor (BKA). Marketing practices can be continued as long as legal proceedings are ongoing. Only when the Federal Communication Senate has decided that the practice is illegal, it is to be discontinued by the accountable organ of the ORF.

The possibility of complaining is made known to the public by the decision of the Federal Communication Senate.

Sanctions, when appropriate, are imposed by the Federal Communication Senate and can be a fine up to € 36.000,- or in case the violation is not stopped and several efforts to achieve a solution failed, the organ of the ORF can be dismissed (ORF-G, § 38). These sanctions are directed at the organs and the associated broadcasting companies of the ORF, which are judged to have violated the ORF-Act.

The results of procedures are publicly announced. A selection of decisions is available at the internet-site of the Federal Communication Senate:

<http://www.austria.gv.at/DesktopDefault.aspx?TabID=4076>

The officially proceedings have to be completed within 6 weeks [ORF-Act, § 37 (3)].

1.3 Private Radio Act

Name of regulation:

2 Private Radio Act

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

Federal Legislation

Which types of marketing are controlled by this regulation?

Privat broadcast (radio: advertising, product placement, sponsoring)

Which alcoholic beverages are subject to this regulation? (in VOL.)

“Spirits”, no further definition

Whom is this regulation directed at or who has to adhere to it?

Austrian private radio broadcasting companies and their clients, who do their advertising via these companies.

1.3.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with ‘yes’ in the following table. If a ban regarding this aspect is absent it is indicated with ‘no’.

BANS						
	Location*	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	Yes	No	Yes	No	Yes

* Location: question not relevant, because law applies to broadcasting companies

* Target-group: other than young people

1.3.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with ‘yes’ in the following table. If an element is not forbidden at all, it is indicated with ‘no’.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	No	No	No	No	No	No	No	No	No

Remarks on elements

- A Question not relevant, because law does not deal with the production of alcohol.
- J Question not relevant, because law does not deal with the distribution of alcohol.

1.3.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions incase of violators	Results published or publically announced
Yes or No	Yes	Yes	Yes	Yes	Yes	Yes

(All following answers apply generally to advertising and to violations of regulations of the PrR-Act, concerning advertising.)

Pre-launch advice is provided by the Austrian Advertising Council (Self Regulation Agency of the Austrian Advertising Industry). This option is not foreseen in the PrR-Act; since 2004 the Austrian Advertising Council offers a service called "COPY ADVICE", that means every company has the possibility to get a pre-evaluation of its planned advertising campaigns.

The search for violations is done by The Austrian Communications Authority (KommAustria). It was established under the KommAustria Act (KOG, BGBl. I No. 32/2001) for the purpose of leading the administration of regulatory activities in broadcasting. See:

http://www.rtr.at/web.nsf/englisch/Ueber+Uns_KommAustria?OpenDocument.

Complaints can be made to the Federal Communication Senate: legal Controll Organ of the ORF and private broadcasting companies, established under the KommAustria Act, situated at the bureau of the federal chancellor (BKA).

Marketing practices can be continued as long as legal proceedings are ongoing. Only when the Federal Communication Senate has decided that the practice is not legal, it has to be stopped by the accountable company.

The Federal Communication Senate informs the public about the possibility of complaining.

Sanctions, when appropriate, are imposed by the Federal Communication Senate and can be a fine up to € 3.600,- or in case the violation is not stopped and several efforts to achieve a solution failed, the transmission licence can be withdrawn.

These sanctions are directed at the private broadcasting companies.

The results of procedures are publicly announced. A selection of decisions is available at the internet-site of the Federal Communication Senate:

<http://www.austria.gv.at/DesktopDefault.aspx?TabID=4076>

The minimum and maximum amount of time the procedure officially takes is [Decision has to be made within 4 weeks.]

1.4 Private Television Act

Name of regulation:

3 Private Television Act

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

Federal Legislation

Which types of marketing are controlled by in this regulation?

Private broadcast (tv: advertising, product placement, sponsoring)

Which alcoholic beverages are subject to this regulation? (in VOL.)

“Spirits”, no further definition;

“Alcoholic beverages”, no further definition

Whom is this regulation directed at or who has to adhere to it?

Austrian private television broadcasting companies and their clients, who do their advertising via these companies.

1.4.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with ‘yes’ in the following table. If a ban regarding this aspect is absent it is indicated with ‘no’.

BANS						
	Location*	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	Yes	No	Yes	No	No

* Location: question not relevant, because law applies to broadcasting companies

* Target-group: other than young people

1.4.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with ‘yes’ in the following table. If an element is not forbidden at all, it is indicated with ‘no’.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	Yes	No	No	Yes	Yes	No	No	No	No	No

Remarks on elements

- A Question not relevant, because law does not deal with the production of alcohol.
- B PrTV-G, §42 (1):
- Advertising of alcoholic beverages must not be aimed specifically at minors...
- C .
- D .
- E PrTV-G, §42 (5):
Advertising of alcoholic beverages must not ... encourage immoderate consumption of alcohol or present abstinence or moderation in a negative light.
- F PrTV-G, §42 (2,3,4):
Advertising of alcoholic beverages must not:
- link alcohol consumption with enhanced physical performance or driving;
- create the impression that alcohol consumption contributes to social or sexual success;
- claim that alcohol has therapeutic qualities or that it is a stimulant, a sedative or a means of resolving personal conflicts.
- G Alcohol advertising should not be aimed at the target group of children.
- H .
- I .
- J Question not relevant, because law does not deal with distribution of alcohol.
- K .

1.4.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	Yes	Yes	Yes	Yes	Yes	Yes

(All following answers apply generally to advertising and to violations of regulations of the PrR-Act, concerning advertising.)

Pre-launch advice is provided by the Austrian Advertising Council (Self Regulation Agency of the Austrian Advertising Industry). This option is not foreseen in the PrTVAct; since 2004 the Austrian Advertising Council offers a service called "COPY ADVICE", that means every company has the possibility to get a pre-evaluation of its planned advertising campaigns.

The search for violations is done by The Austrian Communications Authority (KommAustria). It was established under the KommAustria Act (KOG, BGBl. I No. 32/2001) for the purpose of leading the administration of regulatory activities in broadcasting. See: <http://www.rtr.at/web.nsf/englisch/startseite?Opendocument>

Complaints can be made to the Federal Communication Senate: legal Controll Organ of the ORF and private broadcasting companies, established under the KommAustria Act, situated at the bureau of the federal chancellor (BKA).

Marketing practices can be continued as long as legal proceedings are ongoing.

Only when the Federal Communication Senate has decided that the practice is not legal, it has to be stopped by the accountable company.

The Federal Communication Senate informs the public about the possibility of complaining.

Sanctions, when appropriate, are imposed by the Federal Communication Senate and can be a fine up to € 8.000,- or in case the violation is not stopped and several efforts to achieve a solution failed, than the transmission licence can be withdrawn. These sanctions are directed at the private television companies, which are judged to have violated the PrTV-Act.

A selection of decisions is available at the internet-site of the Federal Communication Senate: <http://www.austria.gv.at/DesktopDefault.aspx?TabID=4076>.

The minimum and maximum amount of time the procedure officially takes is 4 weeks.[Decisions have to be made within 4 weeks.]

1.5 Austrian Advertising Council

Name of regulation:

4. Self Regulation Codex of the Austrian Advertising Council (Österreichischer Werberat (ÖWR): Self Regulation Agency of the Austrian Advertising Industry)

Is this statutory or non-statutory regulation?

Non-statutory

Who made the text of this regulation?

Austrian Advertising Council (ÖWR). The ÖWR has been set up and funded by the advertising industry to apply code and rules regulating advertising content.

Which types of marketing are controlled by this regulation?

All kinds of “economic advertising” (not included: sponsoring, product placement etc.)

Which alcoholic beverages are subject to this regulation? (in VOL.)

All kinds of “alcoholic beverages” - no further definition

Whom is this regulation directed at or who has to adhere to it?

All companies related to the Austrian advertising industry.

1.5.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with ‘yes’ in the following table. If a ban regarding this aspect is absent it is indicated with ‘no’.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	No	No	No	No	No

* other than young people

1.5.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with ‘yes’ in the following table. If an element is not forbidden at all, it is indicated with ‘no’

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	Yes	No	No	Yes	Yes	Yes	No	No	No	No

Remarks on elements

- A Question not relevant, because ÖWR does not deal with the production of alcohol.
- B - Alcohol advertising should not be aimed at the target group of children.
- E - Advertising should not encourage immoderate consumption of alcohol.
- Advertising should not create the impression that alcohol has therapeutic qualities and could help to solve private or social conflicts.
- F - Advertising should not create the impression that alcohol has therapeutic qualities and could help to solve private or social conflicts.
- G - Alcohol advertising should not be aimed at the target group of children.

1.5.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	Yes	No	Yes	Yes	No	Yes

Pre-launch advice is provided by the Austrian Advertising Council (Self Regulation Agency of the Austrian Advertising Industry). Since 2004 the Austrian Advertising Council offers a service called "COPY ADVICE", that means every company has the possibility to get a pre-evaluation of its planned advertising campaigns.

There is no systematic searching for violations.

Complaints can be made to the Austrian Advertising Council. Marketing practices can be continued as long as legal proceedings are ongoing. Only when the Austrian Advertising Council has decided that the practice does not comply with the codex, the accountable company is urged to discontinue or modify the campaign within 2 weeks.

The possibility of complaining is made known to the public on the website www.werberat.at/

The results of procedures are publicly announced at www.werberat.at and in an annual report.

The minimum and maximum amount of time the procedure officially takes is 2 weeks.

2 Belgium (BE)

2.1 Introduction

In Belgium there is only one federal law regulating alcohol advertising, namely the “Consumers Health Law” of the 24th of January 1977. The Consumers Health Law contains only one article on alcohol advertising.

Since Belgium is a federal state, and advertising on radio and television is considered a community competence, advertising on radio and television is regulated at the community level. This means that there are five different statutory regulations which regulate television and radio broadcasting in the three Communities (the Flemish, French and German-speaking Community) and the three Regions (the Flemish Region, the Brussels-Capital Region and the Walloon Region). They all contain a chapter on the regulation of advertising, sponsoring and teleshopping and in most cases alcohol is specifically mentioned. The stipulations about alcohol marketing in the different community laws are similar in each region.

Until May 2005, advertising for beer was (self)regulated by the “code of conduct and advertising concerning beer” of the beer industry.

By means of the “covenant concerning behaviour and advertising on alcoholic drinks”, the former selfregulation code of the beer industry evolved to a co-regulation between the alcohol industry, consumer organisations and the government. This covenant was published on the 12th of May 2005. The covenant now regulates all kinds of advertising for drinks with an alcohol percentage of more than 1,2% vol.

On the 14th of October 2005 the federal board of ministers approved a proposition to change the Consumers’ Health Law of 24th of January 1977. This would give the covenant a legal basis. Until this moment though, the Consumers Health Law has not been changed, so the covenant remains a non-statutory regulation.

The best known controlling agency is the JEP (Jury on Ethical Practices concerning advertising). It treats complaints and gives pre-launch advice about advertising campaigns. The JEP is a selfregulatory organ of the advertising sector set up by the council of advertising in 1974. The council of advertising is an association consisting of representative advertisers, media and advertising companies. The JEP has no legal authority.

Besides the JEP, which operates nationally, there are specific agencies at the community level that check for violations of the community based regulations.

Regulation		Statutory / Non-statutory
1	Consumers Health Law (wet betreffende de bescherming van de gezondheid van de gebruikers op het stuk van de voedingsmiddelen en andere producten)	Statutory
2	Flemish coordinated decree on radio broadcasting and television (Besluit van de Vlaamse Regering tot coördinatie van de decreten betreffende de radio omroep en de televisie)	Statutory
3	French Decree of Radio Broadcasting (Décret sur la radiodiffusion)	Statutory
4	Decision Management Contract RTBF (Contrat de gestion de la radio-télévision belge de la communauté française)	Statutory
5	German Media Decree (decreet over de media)	Statutory
6	Brussels Capital Broadcasting Law (Wet betreffende de netten voor distributie voor omroepuitzendingen en de uitoefening van [omroepactiviteiten] in het tweetalig gebied Brussel-Hoofdstad)	Statutory
7	Covenant (convenant inzake gedrag en reclame met betrekking tot alcoholhoudende dranken)	Non-statutory

2.2 Consumers Health Law

Name of regulation:

i. Consumers Health Law

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

The Belgian federal department of health and environment

Which types of marketing are controlled by in this regulation?

Law: advertising and sponsoring.

Covenant: every announcement [...] also sponsoring as well as the place where alcohol is sold. (Ban for newspapers, magazines and cinema for children)

Which alcoholic beverages are subject to this regulation? (in VOL.)

Law: all food products meaning all products meant for human consumption including drugs (legal and illegal) e.g. all alcoholic drinks.

Covenant: Alcoholic drinks > 1,2% VOL

Whom is this regulation directed at or who has to adhere to it?

This federal law is directed at everyone involved in the production, export and trade in food products.

The stipulations in the covenant are directed at the different parties who signed the covenant: the Belgian Federation of Wine and Distilled Spirits (BFWG), Belgian Brewers, the Belgian federation of distribution firms (FEDIS), the jury on ethical practices concerning advertising (JEP), the federation of restaurant owners, Federation of the Horeca (Fed.Ho.Re.Ca), the research and information centre of consumer organisations (OIVO) and the consumer organisation Test-Aankoop. These parties agreed to distribute the content of the agreement in their respective sectors.

Additional comments

This law contains only one article on alcohol advertising (art. 7 § 2).
 On the 14th of October 2005 the federal board of ministers approved a proposition to change the consumers health law of 24th of January 1977. The suggestion was to add an article 7bis which would mean that the conditions of the covenant concerning behaviour and advertising on alcoholic drinks will gain legal status (see also 2.8).
 At this moment the law has not been changed yet.

2.2.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	Yes	Yes	Yes	No	Yes	No

* other than young people

2.2.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes

Remarks on elements

The forbidden elements of the Council Recommendation are similar to the elements forbidden in the covenant (see 2.8.3).

- D On top of that, the consumers health law regulates advertising and sponsoring for tobacco (art. 7 § 2 bis). Advertising and sponsoring for tobacco, products based on tobacco and other tobacco products is forbidden.
 It's also forbidden to use a brand, which reputation is mainly derived from a tobacco product, for advertising in other areas, as long as the brand is used for a tobacco product.

2.2.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced	Yes or No
Yes	Yes	Yes	No	Yes	No	

Pre-launch advice is provided by the Jury on Ethical Practices concerning advertising (JEP). Advertisers, advertising companies or media can ask for an investigation before a campaign is launched.

Supervision is exercised by the judicial police and the federal ministry of public health and environment. In case of an offence of this law, the offender receives a warning in which he'll be called upon to stop the offence within a certain period of time. When the offender does not stop the offence voluntarily, an official record is sent to the public prosecutor. The sanction that follows can be a fine between 2,5 euro and 375 euro or a prison sentence ranging from 1 month to 1 year. This sanction can be doubled when the violator repeats his violation in the course of 3 years after a conviction.

The minimum and maximum amount of time the procedure officially takes is 2 months.

Moreover, the Commission of Advice (commissie van advies inzake voedingsmiddelen), installed at the ministry of public health and environment, provides advice on all problems concerning (the composition, labelling an advertising of) food and other products described in this law (e.g. alcohol). An advice is formulated within a period of maximum 2 months.

The High Health Council ('De Hoge Gezondheidsraad') formulates general advice on food products.

2.3 Flemish coordinated decree on radio and television

Name of regulation:

2 Flemish coordinated decree on radio broadcasting and television

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

The Flemish Ministry of government affairs, foreign policy, media policy and tourism

Which types of marketing are controlled by in this regulation?

Broadcast (tv, radio: advertising, sponsoring and teleshopping)

Which alcoholic beverages are subject to this regulation? (in VOL.)

No information

Whom is this regulation directed at or who has to adhere to it?

The private broadcasting companies which are acknowledged by the Flemish Community: these are (1) the private radio stations: national radio stations, regional radio stations, local radio stations, cable-radio stations, radio services and (2) the television broadcasting companies: private television broadcasting companies aimed at the Flemish Community as a whole, regional broadcasting communities, the target group and theme broadcasting companies, the pay on account companies, the television services and the teleshopping broadcasting companies.

The public radio and television broadcasting company of the Flemish Community (VRT).

2.3.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	Yes	No	No	No	No

* other than young people

2.3.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes

Remarks on elements

- C Art. 98 4° a: advertising and teleshopping on the subject of alcohol is not allowed to be specifically addressed at minors and in particular, may not show minors using alcoholic drinks.
Art. 98 5° d: advertising and teleshopping can not show minors in dangerous situations without good reason. (not alcohol specific)
- D Art. 98 3°: advertising and teleshopping is not allowed to deal with (directly or indirectly): cigarettes or tobacco in any possible condition; medicine or medical treatment only available on prescription.
- E Art. 98 2°: advertising and teleshopping may not encourage behaviour which is detrimental for health, security or environment. (not alcohol specific)
- F Art. 98 4° c: advertising and teleshopping on the subject of alcohol can not suggest that the use of alcohol contributes to social or sexual succes.
Art. 98 4° b: advertising and teleshopping on the subject of alcohol can not make a link between the use of alcohol and the improvement of fysical performances or motorised driving.
- G Art. 98 5° a: advertising or teleshopping can not incite minors to buy a certain product by taking advantage of their lack of information nor their inexperience nor their trustfulness. (not alcohol specific)
Art. 98 5° b: advertising or teleshopping can not incite minors to persuade their parents or other people to buy products or services being recommended by advertising or teleshopping. (not alcohol specific)
Art. 98 4° e: advertising and teleshopping can not encourage excessive alcohol use. Abstinance or average alcohol usage cannot be presented negatively.
- H Art. 101 § 3: in programmes consisting of autonomous parts, in sports programmes, events that are similary structured or shows with a break, there can only be advertising and teleshopping spots between the autonomous fragments or during the breaks. (not alcohol specific).

- I Art. 101 § 6: advertising or teleshopping is not allowed in programmes for children. Advertising, teleshopping and sponsoring is also forbidden 5 minutes before and 5 minutes after a programme for children. (not alcohol specific).
- K Art. 98 6°: advertising and teleshopping can not use any subliminal methods. This is the use of non-visible images which can be absorbed by the subconsciousness. (not alcohol specific).
Art. 98 7°: advertising and teleshopping can not appeal to any person with a media-reputation connected to informative programmes. (not alcohol specific).

2.3.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	Yes	Yes	Yes	Yes	Yes	Yes

Pre-launch advice is provided by the Jury on Ethical Practices concerning advertising (JEP). Advertisers, advertising companies or media can ask for an investigation before a campaign is launched. The JEP examines if a campaign follows the national statutory and non-statutory regulations.

The search for violations on this decree particularly is done by the Flemish Media regulator ('Vlaamse Regulator voor de Media') (former Flemish Media Commission: 'Het Vlaams Commissariaat voor de media'). The Flemish Media regulator was founded by the decree of 16 december 2005. It has a corporate identity.

The Flemish Media regulator is in charge of the supervision of mediaregulations within the Flemish community. The general council of the Flemish Media regulator judges the complaints about marketing, teleshopping, sponsoring etc. which can be lodged by any interested person or organisation.

Violators of the regulations can receive a sanction: this can be a fine up to 125.000 Euro; a warning with the request to stop the violation; the obligation to broadcast the decision of the Commission. The violator has to pay for this broadcast; the obligatory publication of the decision in the newspapers and/or in weekly magazines. The violator has to pay for this publication; the suspension or revocation of the broadcasting permit; the suspension or revocation of the recognition of the broadcasting company.

Summaries of decisions, recommendations and complaints are published on the website of the Flemish Media regulator:

<http://www.vlaamscommissariaatmedia.be>.

The minimum and maximum amount of time the procedure officially takes is 6 weeks. This period can be prolonged whenever it is needed for the procedure and/or the investigation.

2.4 French Decree of Radio Broadcasting

Name of regulation:

3 French Decree of Radio Broadcasting

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

The government of the French Community.

Which types of marketing are controlled by in this regulation?

Broadcast (tv, radio: advertising, sponsoring and teleshopping)

Which alcoholic beverages are subject to this regulation? (in VOL.)

No information

Whom is this regulation directed at or who has to adhere to it?

The decree is applicable on every radio broadcasting activity. A few special conditions are apposite on the RTBF, i.e. 'Radio-Télévision belge de la Communauté française de Belgique'. ('Belgian radio and television of the french Community'). Every service publisher, service provider and every network exploiter falling under responsibility of the French Community have to adhere to this decree.

2.4.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	Yes	No	Yes	No	No

* other than young people

2.4.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	Yes	No	Yes	No	Yes	Yes	Yes	No	Yes

Remarks on elements

C Art. 13 4°: advertising communication can not show minors in dangerous situations without any reason. (not alcohol specific)

E Art. 11 4°: advertising communication can not encourage behaviour which is detrimental for health or security, including by recommending violent behaviour. (not alcohol specific)

- Art. 11 5°: advertising communication can not encourage behaviour which is detrimental for the environment. (not alcohol specific)
- G Art. 29 3°: teleshopping-programmes can not incite minors to come to an agreement for buying or renting some goods or services. (not alcohol specific)
- Art. 13 1°: advertising communication can not incite minors to buy a certain product by taking advantage of their lack of information nor their inexperience nor their trustfulness. (not alcohol specific)
- Art. 13 2°: advertising communication can not incite minors to persuade their parents or other people to buy products or services being recommended. (not alcohol specific)
- Art. 13 3°: advertising communication can not misuse the special trust minors have in their parents, teachers or others. (not alcohol specific)
- H Art. 18 § 2: concerning broadcasts composed of fragments or at sports broadcasts and at events that are similar structured and shows with a break, there can only be advertising, teleshopping spots and selfpromotion between the fragments or during the breaks. (not alcohol specific)
- I Art. 18 § 5: advertising, teleshopping spots and selfpromotion is not allowed in programmes for children. (not alcohol specific)
- K Art. 14 § 2: advertising communication can not use any subliminal methods. (not alcohol specific)
- Art. 14 § 3: The sound intensity of advertising communication spots, as well as the fragments preceding or following on it, can not suffer from any deliberate variation in comparison with the the rest of the programmes. (not alcohol specific)

2.4.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	Yes	Yes	Yes	Yes	Yes	Yes

Pre-launch advice is provided by the Jury on Ethical Practices concerning advertising (JEP). Advertisers, advertising companies or media can ask for an investigation before a campaign is launched. The JEP examines if a campaign follows the national statutory and non-statutory regulations.

The 'High Council for the audiovisual sector of the French Community' (Conseil supérieur de l'audiovisuel) is an independent governmental board with a legal identity which regulates radio broadcasting in the French Community.

The Council is composed of 2 directorates (the advice directorate and the directorate for licenses and control), 2 bureaus and a research secretariat.

The search for violations is done by the research secretariat of the 'Higher Council for the audiovisual sector of the French Community'. The research secretariat receives all the complaints of the public concerning radio and TV programmes (e.g. protection of minors, duration of publicity). The complaints are classified without consequence or reported to the directorate for licenses and control, which can impose an administrative sanction after it investigates the matter.

The secretariat is able to identify every violation or non-observing of laws, decrees or ordonances concerning the radio broadcasting company.

Possible sanctions are: a warning, publication of the offence, the suspension of the disputed programme, the revocation of the disputable programme, the suspension of the license for a maximum duration of 6 months, the revocation of the license, a fine of minimum 250 euro.

The advice directorate gives an advice within a period of maximum 3 months, the directorate for licenses and control gives advice within 2 months. Advice in an urgent procedure is given within 1 month.

Decisions, advices and recommendations are published on the website:

www.csa.be.

2.5 Decision Management Contract RTBF

Name of regulation:

4 Decision Management Contract RTBF

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

– The Government of The French Community: minister of arts, literature and audiovisual sector

– The R.T.B.F.

Which types of marketing are controlled by in this regulation?

Broadcast (tv, radio: advertising / commercial nature)

Which alcoholic beverages are subject to this regulation? (in VOL.)

No information

(ban for alcoholic drinks > 20% VOL)

Whom is this regulation directed at or who has to adhere to it?

The R.T.B.F., i.e. 'Radio-Télévision Belge de la Communauté Française de Belgique'. This is the public radio and television of the french community.

2.5.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	Yes	No	Yes	No	No

* other than young people

2.5.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	No	Yes	Yes	No	No	No	Yes	No	Yes

Remarks on element

- D Art. 29 4 a: at the RTBF commercial advertising on medicines aimed at in the law of 25 march 1964 on medicines is forbidden.
 Art. 29 4 b: at the RTBF, commercial advertising on substances aimed at in the royal ordonnance of 6 mai 1922 concerning the sales of desinfectants and antiseptics, and on the substances aimed at in the royal ordonnance concerning the trade in hypnotics and anaesthetics, is forbidden.
 Art. 29 4 c: at the RTBF, commercial advertising on tobacco, products based on tobacco and similar products aimed at in the royal ordonnance of 20 december 1982 concerning advertising on tobacco, products based on tobacco and similar products, is forbidden
- E Art. 29 4 f: at the RTBF, commercial advertising on arms is forbidden.
 Art. 29 4 g: At the RTBF, commercial advertising on toys copying fire-arms or toys encouraging violent, racist or xenophobic behaviour is forbidden.
- I Art. 29 6: commercial advertising and sponsoring are forbidden during the period of 5 minutes before and 5 minutes after a show/programme for children. (not alcohol specific)
- K Art. 29 8 b: commercial advertising can not contain any written, oral, vision or sound segment that is able to, directly or indirectly, mislead the consumer by exaggerating or ambiguity. (not alcohol specific)
 Art. 29 8 c: commercial advertising can not falsely use technical or scientific words, or present them in such a way that they could lead to an incorrect interpretation. (not alcohol specific)

2.5.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions incase of violators	Results published or publically announced
Yes or No	Yes	Yes	Yes	Yes	Yes	Yes

Pre-launch advice is provided by the Jury on Ethical Practices concerning advertising (JEP). Advertisers, advertising companies or media can ask for an investigation before a campaign is launched. The JEP examines if a campaign

follows the national statutory and non-statutory regulations. The 'High Council for the audiovisual sector of the French Community' (Conseil supérieur de l'audiovisuel) is responsible for the supervision of this regulation. The procedure is similar as in paragraph 2.4.4. When the RTBF does not fulfil its obligations as mentioned in the management contract and in the decree on its statute, it can be punished to the payment of a fine of maximum 1% of its subsidies.

2.6 German Media Decree

Name of regulation:

5 German Media Decree

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

Government of the German community

Which types of marketing are controlled by in this regulation?

Broadcast (tv, radio: advertising, sponsoring and teleshopping)

Which alcoholic beverages are subject to this regulation? (in VOL.)

No information

Whom is this regulation directed at or who has to adhere to it?

The code is directed at TV- and radio broadcasting companies directed at the German-speaking Community.

2.6.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	Yes	No	No	No	No

* other than young people

2.6.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes

Remarks on elements

- B Art. 11 1: advertising and teleshopping on alcoholic beverages can not be specifically aimed at minors.
- C Art. 11 1: advertising and teleshopping on alcoholic beverages can not show minors who are consuming alcohol.
Art. 12 4: advertising and teleshopping can not show minors in dangerous situations without any reason. (not alcohol specific)
- D Art. 9 & art. 10: any form of advertising and teleshopping on cigarettes or smokers' requisites as well as medication and medical treatments only available on doctor's prescription, is forbidden.
Art. 13 3: persons or companies which produce or sell cigarettes, smokers' requisites, medicines or medical treatments on doctors prescription, are not allowed to sponsor programmes
- E Art. 8: advertising and teleshopping can not encourage behaviour which is detrimental for health or security. (not alcohol specific)
Art. 8: advertising and teleshopping can not encourage behaviour which is detrimental for the protection of the environment. (not alcohol specific)
Art. 8: advertising and teleshopping can not contain any discrimination on race, gender or nationality. (not alcohol specific)
Art. 8: advertising and teleshopping can not offend religious or political opinions. (not alcohol specific)
- F Art. 11 3: advertising and teleshopping can not suggest that the use of alcohol leads to social or sexual succes.
Art. 11 2: advertising and teleshopping can not link the use of alcoholic beverages with an improvement of fysical performances or driving.
Art. 11 4: advertising and teleshopping can not suggest that alcohol has a therapeutic, stimulating, calming effect or that alcohol contributes to the solution of conflicts.
- G Art. 11 5: advertising and teleshopping can not encourage excessive alcohol use. Abstinance or average alcohol usage can not be presented negatively.
Art. 11 6: Advertising and teleshopping can not justify the alcohol percentage of drinks as a positive characteristic.
Art. 12 1: Advertising and teleshopping can not incite minors to buy a certain product by taking advantage of their inexperience and their frankness. (not alcohol specific)
Art. 12 2: advertising and teleshopping can not incite minors to persuade their parents or thirds to buy certain goods or services. (not alcohol specific)
Art. 12 3: advertising and teleshopping can not misuse the special trust minors have in their parents, teachers or other confidants. (not alcohol specific)
- H Art. 7 § 1: broadcasts composed of autonomous parts, sports programmes or programmes about events can only show advertising and teleshopping between the autonomous fragments or during the breaks. (not alcohol specific)
- I Art. 7 § 2: programmes for children can not be interrupted by advertising and teleshopping. (not alcohol specific)
- K Art. 6: in TV advertising and teleshopping the use of subliminal methods is forbidden. Teleshopping can not use clandestine advertising. (not alcohol specific)
Art. 36: Clandestine advertising as well as the use of subliminal methods are forbidden in radio programmes. (not alcohol specific)

2.6.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions incase of violators	Results published or publically announced
Yes or No	Yes	Yes	Yes	No	Yes	No info

Pre-launch advice is provided by the Jury on Ethical Practices concerning advertising (JEP). Advertisers, advertising companies or media can ask for an investigation before a campaign is launched. The JEP examines if a campaign follows the national statutory and non-statutory regulations.

The search for violations concerning this decree is done by the Media Council of the German-speaking Community (Medienrat der Deutschsprachigen Gemeinschaft). Complaints can be made to the Media Council of the German-speaking Community.

Sanctions, where appropriate, are imposed by the Government of the German-speaking Community and can be a fine between 2,5 and 2.500 euro or a provisional suspension, or a reduction or a revocation of the license.

The media council formulates a statement within a period of 3 weeks - 3 months.

2.7 Brussels Capital Broadcasting Law

Name of regulation:

6 Brussels Capital Broadcasting Law

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

Ministry of science policy and infrastructure and ministry of justice.

Which types of marketing are controlled by in this regulation?

Television (advertising, sponsoring and teleshopping)

Which alcoholic beverages are subject to this regulation? (in VOL.)

No information

Whom is this regulation directed at or who has to adhere to it?

The law can only be applied on the networks for the distribution of radio or television broadcasting in the bilingual area of Brussels-Capital.

2.7.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	Yes	No	No	No	No

* other than young people

2.7.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Success	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	Yes	Yes	Yes	Yes	Yes	No	Yes	No	Yes

Remarks on elements

- C Art. 36 a: advertising and teleshopping can not show minors who are using alcoholic drinks.
Art. 37 d: advertising and teleshopping can not show minors in dangerous situations without any reason. (not alcohol specific)
- D Art. 35 bis: advertising, sponsoring and teleshopping for cigarettes and other tobacco products are forbidden.
Art. 35 ter: advertising for medicines and medical treatments only available on doctor's prescription are forbidden. Teleshopping concerning medicines for which a release license is necessary and teleshopping concerning medical treatments are forbidden.
- E Art. 35 d and e: advertising and teleshopping can not encourage behaviour which is detrimental for health, security or the environment. (not alcohol specific)
Art. 35 a: advertising and teleshopping can not damage the human dignity. (not alcohol specific)
Art. 35 b: advertising and teleshopping can not contain any discrimination towards race, sex or nationality. (not alcohol specific)
Art. 35 c: advertising and teleshopping can not offend any political or religious belief. (not alcohol specific)
- F Art. 36 c: advertising and teleshopping on the subject of alcohol can not suggest that the use of alcohol contributes to social or sexual success.
Art. 36 b: advertising and teleshopping on the subject of alcohol can not make a link between the use of alcohol and the improvement of physical performances or motorised driving.
Art. 36 c: advertising and teleshopping on the subject of alcohol can not suggest that alcoholic beverages possesses therapeutic qualities, or that they have a stimulating, calming or relaxing effect.

- G Art. 36 e: advertising and teleshopping can not encourage excessive alcohol use. Abstinence or average alcohol usage cannot be presented negatively.
Art. 37 a: advertising or teleshopping can not incite minors to buy a certain product by taking advantage of their lack of information nor their inexperience nor their trustfulness. (not alcohol specific)
Art. 37 b: advertising or teleshopping can not incite minors to persuade their parents or other people to buy products or services being recommended by advertising or teleshopping. (not alcohol specific)
Art. 38 § 1 c: sponsored television programmes can not incite to buying or renting products or goods coming from the sponsor, especially through specific recommendations of those products or services. (not alcohol specific)
- I Art. 36 a: advertising and teleshopping on the subject of alcohol can not be specifically addressed to minors.
Art. 34 § 5: programmes for children of which the duration is less than 30 minutes, can not be interrupted by advertising or teleshopping. (not alcohol specific)
- K Art. 33 § 3: advertising and teleshopping can not use any subliminal methods. (not alcohol specific)
Art. 36 f: advertising and teleshopping on the subject of alcoholic beverages can not emphasise on a high percentage of alcohol as a positive characteristic.

2.7.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	Yes	Yes	Yes	No	Yes	No

Pre-launch advice is provided by the Jury on Ethical Practices concerning advertising (JEP). Advertisers, advertising companies or media can ask for an investigation before a campaign is launched. The JEP examines if a campaign follows the national statutory and non-statutory regulations.

The compliance of this law is not controlled by a specific organ or council. Sanctions, where appropriate, are imposed by the Ministry of Science Policy and Infrastructure and can be a fine between 25 euro and 2,500 euro. Also when this law is violated, the authorized minister can suspend the license of the cable company. In case of a repeated violation, the license can be withdrawn. The suspension or revocation measures can only be pronounced after an urgent request to end the violations within a period of 30 days. When, in the course of that term, a solution hasn't been found and when the violation continues after the expiration date, the authorized minister can suspend or, in case of a reprise, revoke the license, after he has heard the defence of the cable company.

2.8 Covenant

Name of regulation:

7 Covenant

Is this statutory or non-statutory regulation?

Non-statutory

Who made the text of this regulation?

The Arnoldus group (Belgian Brewers) coordinated the text.

Which types of marketing are controlled by in this regulation?

Every announcement [...] also sponsoring as well as the place where alcohol is sold.

(Ban for newspapers, magazines and cinema for children)

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic drinks > 1,2% VOL

Whom is this regulation directed at or who has to adhere to it?

The different parties who signed the covenant: the Belgian Federation of Wine and Distilled Spirits (BFWG), Belgian Brewers, the Belgian federation of the distribution firms (FEDIS), the jury on ethical practices concerning advertising (JEP), the federation of restaurant owners, Federation of the Horeca (Fed. Ho.Re.Ca), the research and information centre of consumer organisations (OIVO) and the consumer organisation Test-Aankoop. These parties agreed to distribute the content of the agreement in their respective sectors.

Additional comments

By means of this covenant the selfregulation code of the beer industry evolved to a co-regulation between the alcohol industry, consumer organisations and the government. At the 14th of October 2005 the board of ministers have approved a proposition to change the law of 24th January 1977 concerning the protection of consumers health using food products (see 2.2). This means that the covenant will gain legal status.

2.8.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	Yes	Yes	Yes	No	Yes	No

* other than young people

2.8.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	Yes	Yes	No	Yes	Yes	Yes	No	Yes	Yes	Yes

Remarks on elements

- B Art. 4.5: advertising can not use drawings or marketing techniques:
 - which refer to popular or fashionable figures for minors.
 - with images or statements which mainly belong to the culture of minors.
- C Art. 4.2: advertising can not portray minors or persons who seems underaged.
- E Advertising can not:
 - incite or encourage irresponsible, heavy or illegal consumption (art. 3.1)
 - refer to favourable fysical or psychological effects of drinking which will diminish fysical, psychological or social problems and fear (art. 3.1)
 - portray alcoholic drinks as a means to overcome dangerous situations (art. 4.8).
- F Advertising can not suggest
 - that the use of alcohol leads to social or sexual succes (art. 3.3).
 - suggest a positive influence of drinking on sportive performance (art. 9).
- G Art. 4.4: advertising can not incite minors to buy alcoholic drinks by taking advantage of their lack of information nor their inexperience nor their trustfulness.
 Art. 4.6: Advertising can not incite minors to persuade their parents or other people to buy alcoholic drinks.
 Art. 5.1: Alcoholic drinks can not be offered for free, nor can they be sold for a symbolic price and it is not allowed to organise tastings focused on minors.
 Art. 5.3: The sale of alcoholic drinks in beverage machines close to primary and secondary schools, youth clubs and places where minors gather is not allowed .
- I Advertising is forbidden in newspapers and magazines for children (art. 11.2).
 - Cinema advertising is not possible during films for children (art. 11.2).
- J Art. 5.1: alcoholic drinks can not be offered for free, nor can they be sold for a symbolic price and it is not allowed to organise tastings focused on minors.
- K Art. 4.1: Advertising can not be focused on minors nor by content, nor by means of communication.

2.8.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions incase of violators	Results published or publically announced
Yes or No	Yes	Yes	Yes	No	Yes	Yes

Pre-launch advice is provided. Advertisers, advertising companies or editorial staff can ask for an investigation before a campaign is launched. In case of a preliminary investigation the campaign is suspended until a decision is made. The search for violations is performed by the JEP. The JEP is a self-regulatory organism of the advertising sector set up by the council of advertising in 1974. The council of advertising is an association consisting of representative advertisers, media and advertising companies. The JEP has no legal authority. Any interested party without commercial aims can make a written complaint. When the JEP receives a complaint about a current campaign, the campaign remains in the air until the final judgement by the JEP. If the marketing message contains textual or visual elements which do not correspond to laws or codes, the JEP formulates a recommendation to change or suspend the advertisement. This recommendation is directed at the responsible advertiser. When the responsible advertiser does not follow the advice, the JEP will send a suspension recommendation to the media. When the binding recommendation of the JEP is not followed the company has to pay the JEP 1.000 EUR/day. The minimum and maximum amount of time the procedure officially takes is 4 days to 2 weeks (emergency procedure possible). The results of procedures are publicly announced. Summaries of advice, recommendations and their motivations are published on the website of the JEP: <http://www.jepbelgium.be>.

3 Bulgaria (BG)

3.1 Introduction

At present there are two official regulations referring to alcohol marketing and advertising in Bulgaria: the *Health Law*, implemented by the Ministry of Health and the *Radio and TV Law*, implemented by the Council for Electronic Media. Both are statutory, covering electronic as well as printed media and treating with special attention marketing practices that are directly or indirectly targeted at young people.

The Bulgarian *Health Law* stipulates a total ban on direct marketing and time-limitations for indirect marketing of hard liquor in mass media; it also states that indirect advertisements of spirits and advertisements of wine and beer cannot be directed to underage or minors or be otherwise appealing to them (by appearing in youth programmes or printed publications; by using minors as participants, etc). In addition, it forbids associating alcohol consumption with sport or physical achievements or with driving as well as making false implications about any health, social or sexual benefits attributed to alcohol. The *Radio and TV Law* deals with the same restrictions; it authorizes the Council for Electronic Media (an independent regulatory body) to supervise electronic media concerning observance of all alcohol-marketing regulations (especially with respect to young people), to impose proprietary sanctions and warnings in cases of violation and to revoke media licenses for repeated violations of these normative acts. All results of the CEM procedures are publicly announced by the media. These are, in general, the ways in which the elements of the Council Recommendation are reflected in Bulgarian legislation.

Regulation		Statutory / Non-statutory
1	Health law	Statutory
2	Radio and TV Law	Statutory

3.2 Health law

Name of regulation:

1 Health law

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

Ministry of Health

Which types of marketing are controlled by in this regulation?

Electronic and printed media (direct and indirect marketing)
(a ban for both targeting youth < 18y)

Which alcoholic beverages are subject to this regulation? (in VOL.)

All types (a total ban on direct marketing of hard liquors).

Whom is this regulation directed at or who has to adhere to it?

Mass media

3.2.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table below. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	Yes	Yes	Yes	No	No

* other than young people

3.2.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Success	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	Yes	Yes	No	No	Yes	Yes	No	Yes	Yes	No

Remarks on elements

- B Ban on marketing targeting young people under 18 years.
- C Ban on use of young people under 18 years as participants in indirect marketing.
- F - Ban for marketing practices that suggest false implications regarding health benefits, social and /or sexual wellness.
- Ban on marketing connecting use of alcohol with sport and physical achievements.
- G Ban on selling alcohol to young people under 18 years.
- I Ban on use of electronic media or printed media targeting youth under 18 years of age.
- J Ban on selling alcohol to young people under 18 years.

3.2.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	No	Yes	Yes	Yes	Yes	Yes

The search for violations is performed by the Council for Electronic Media. Complaints can be made to the Ministry of Health Council for electronic media. The possibility of complaining is announced by the Media. Sanctions, where appropriate, are imposed by the Council for Electronic Media - following the Radio and TV Law the fines can run between €2500 – €5000. The results of procedures are publicly announced by the Media.

3.3 Radio and TV Law

Name of regulation:

2 Radio and TV Law

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

Council for Electronic Media (specialised independent body) [<http://www.crc.bg/vi/files/en/107.htm>]

Which types of marketing are controlled by in this regulation?

Electronic and printed media (direct and indirect marketing) (a ban on use of electronic media targeting youth < 18y)

Which alcoholic beverages are subject to this regulation? (in VOL.)

All types

Whom is this regulation directed at or who has to adhere to it?

Electronic Mass Media

Additional comments

Ban on marketing practices that suggest false implications regarding health benefits, social and/or sexual wellness;
Ban on marketing connecting use of alcohol to sport and physical achievements.

3.3.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the table below. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	No	Yes	No	No	No

* other than young people

3.3.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	Yes	No	No	Yes	No	No	Yes	No	No

Remarks on elements

- C Ban on use of young people under 18 years as participants in indirect marketing.
- I Ban on use of electronic media programs targeting youth under 18 years of age

3.3.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions incase of violators	Results published or publically announced
Yes or No	No	Yes	Yes	Yes	Yes	Yes

The search for violations is preformed by the Council for Electronic Media. This is an independent specialized body which regulates radio and TV activities by means of registering and licensing Radio and TV business and by applying supervision on Radio and TV operators.

Complaints can be made to the Council for Electronic Media. During a procedure a marketing practice can be continued.

The possibility of complaining is made known to the public by the Media. Sanctions, where appropriate, are imposed by the Council for Electronic Media - following the Radio and TV Law- and can range between €1000 - €7500 on first occasion or a doubled fine for subsequent violations or radio/TV License cancelation.

The results of procedures are publicly announced by the Media.

The minimum and maximum amount of time the procedure officially takes is 1 month for judging procedure.

4 Czech Republic (CZ)

4.1 Introduction

In the Czech Republic, five different regulation mechanisms exist, which relate to the advertising and marketing of alcoholic beverages. Three of them are statutory - Act No. 40/1995 Coll., on the Regulation of Advertisement, Act No. 231/2001 Coll., on TV and Radio Broadcasting and Act No. 37/1989 Coll., on the Protection against Alcoholism and other Toxicomanias, the remaining two are non-statutory self-regulations: Code of Practice of the Association of Alcohol Producers and Code of Advertising Practice of the Czech Advertising Standards Council.

To understand the situation in the Czech Republic, it is necessary to mention, that before 1989 there were no privately owned companies in the CR; the sole owner of all business organizations was the state. Advertising and product marketing were quite insignificant, only of secondary nature. After the political changes in 1989, a lavish boom of advertising and promotional activities took place, in principle without any restrictions. The free market and strongly expanding availability of alcoholic beverages together with their massive and aggressive advertisement and promotion led to the increase in alcohol consumption especially among adolescents.

Regulations related to alcohol were not particularly strong in the CR. However, after the Czech Republic joined the European Union, they were harmonised with EU legislation. Nevertheless, provisions regulating advertisement and promotion of alcohol remain unsatisfactory. Non-statutory codes declare in principle the intention of alcohol producers and the advertising industry to voluntarily follow the policy to not target children and youth. However, taking into account the fact that Czech football Extra-league officially bears the name “Gambrinus” (popular beer brand), it is obvious that this official declaration of intentions may not always translate into serious actions.

Regulation		Statutory / Non-statutory
1	Act No. 40/1995 Coll., on the Regulation of Advertisement	Statutory
2	Act. No. 231/2001 Coll., on TV and Radio Broadcasting	Statutory
3	Act. No 379/2005 Coll. On protection against harm done by tobacco products, alcohol and other addictive substances]	Statutory
4	Code of practice – Association of Alcohol Producers	Non-statutory
5	Code of Advertising Practice – the Czech Advertising Standards Council	Non-statutory

4.2 Act on the Regulation of Advertisement

Name of regulation:

I Act No. 40/1995 Coll., on the Regulation of Advertisement

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

Ministry of Industry and Trade. Originally the text of the law is prepared by the relevant ministry. The Parliament endorses it and the Ministry of interior's Board of editors is responsible for specific editing.

Which types of marketing are controlled by in this regulation?

Announcement [...] [also sponsoring]

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages > 0,5 VOL

Whom is this regulation directed at or who has to adhere to it?

Advertising companies, advertisements publishers, advertisement submitters.

4.2.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	No	No	No	No	No

* other than young people

4.2.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	Yes	Yes	No	No	Yes	Yes	No	Yes	Yes	Yes

Remarks on elements

B Ban on marketing targeting young people under 18 years.

C Alcohol advertisement must not depict people under 18 years of age consuming alcohol.

F Alcohol advertisement must not make any implications of alcohol consumption contributing towards social or sexual success.

- G Alcohol advertisement must not:
 - 1 encourage immodest consumption of alcohol beverages;
 - 2 judge abstinence or alcohol restraint in a negative manner;
 - 3 target persons younger than 18 years of age.
- I Advertising of alcoholic beverages may not be targeted at persons under 18 years of age.
- J Ban on selling/advertising alcohol to young people under 18 years. Plus no encouragement for immoderate use and/or negatively or ironically evaluate abstinence or abstemiousness.
- K Advertising of alcoholic beverages may not use factors, means or actions addressing persons under 18 years.

4.2.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Sis-tematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions incase of violators	Results published or publically announced
Yes or No	No	Yes	Yes	Yes	Yes	Yes

The search for violations is performed by the authority competent to exercise supervision over the compliance with this Act:

- the Board for Radio and Television Broadcasting
- for Advertising Spread in Radio and Television Broadcasting and
- for Sponsoring in Radio and Television Broadcasting and
- the regional trade licence offices appropriate to the place of business or abode of the person responsible for the compliance with this Act.

Complaints can be made to:

- The Czech Advertising Standards Council.
- The Council for Radio and Television Broadcasting.
- Regional trade licence offices.

The possibility of complaining is made known to the public by the Media.

Sanctions, where appropriate, are imposed by:

- The Council for Radio and Television Broadcasting (GOV);
- Regional trade licence offices.

Sanctions can be a fine of €70.000 – €300.000.

The results of procedures are publicly announced by a press announcement.

The minimum and maximum amount of time the procedure officially takes is usually 30 days, occasionally longer.

4.3 Act on TV and Radio Broadcasting

Name of regulation:

2 Act. No. 231/2001 Coll., on TV and Radio Broadcasting

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

Ministry of Culture (Ministry of Interior – Body of editors – responsible for the exact text)

Which types of marketing are controlled by in this regulation?

Broadcast (tv, radio: advertising and teleshopping)

Which alcoholic beverages are subject to this regulation? (in VOL.)

> 0,50 VOL (not exactly stated in this law, alcoholic beverages mentioned generally).

Whom is this regulation directed at or who has to adhere to it?

Radio and TV stations, advertising companies.

4.3.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	No	No	No	No	No

* other than young people

4.3.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Success	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	No	No	No	Yes	Yes	No	Yes	No	No

Remarks on elements

C Alcohol advertisement must not depict people under 18 years of age consuming alcohol.

F Alcohol advertisement must not make any implications of alcohol consumption contributing towards social or sexual success, enhanced physical performance or car driving.

- G Alcohol advertisements must not:
 - 1 encourage immodest consumption of alcoholic beverages;
 - 2 depict abstinence or alcohol restraint in a negative manner.
- I Alcohol advertisement must not be specifically targeted at youth.

4.3.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	No	Yes	Yes	Yes	Yes	Yes

The search for violations is performed by the Council for Radio and Television Broadcasting

(<http://www.rrtv.cz/en/>).

Complaints can be made to:

- The Czech Advertising Standards Council (<http://www.rpr.cz>).
- The Council for Radio and Television Broadcasting (<http://www.rrtv.cz/en/>).

The possibility of complaining is announced by the Media.

Sanctions, where appropriate, are imposed by the Council for Radio and Television Broadcasting (GOV) and can be a fine with a range between €70.000 – €300.000.

The results of procedures are publicly announced by a press announcement.

The minimum and maximum amount of time the procedure officially takes is usually 30 days, occasionally longer.

4.4 Act on Protection against harm done by addictive substances

Name of regulation:

- 3 Act. No 379/2005 Coll. On protection against harm done by tobacco products, alcohol and other addictive substances

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

Ministry of Health (Ministry of Interior – Body of editors – responsible for the exact text)

Which types of marketing are controlled by in this regulation?

Selling, serving or otherwise encouraging alcohol consumption.

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages > 0,5 VOL

Whom is this regulation directed at or who has to adhere to it?

States circumstances under which selling or serving alcohol beverages is forbidden.

4.4.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	Yes	No	No	No	Yes	No

* other than young people

4.4.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	No	No	No	No	No	No	No	Yes	No

Remarks on elements

J Selling, serving or otherwise encouraging alcohol consumption anyone younger than 18 years of age is forbidden.

4.4.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions incase of violators	Results published or publically announced
Yes or No	No	Yes	Yes	Yes	Yes	No

The search for violations is performed by the Police. The Police is responsible for the enforcement and execution of laws.

Complaints can be made to the police. During a procedure a marketing practice can still be used.

The possibility of complaining about the ill enforcement of the law is a standard procedure within the Czech legal system. This is defined by the Collections of law of the Czech Republic.

Sanctions, where appropriate, are imposed by police officials or the relevant court and can be a fine up to € 100 or up to one year imprisonment.

The minimum and maximum amount of time the procedure officially may range from instant (a fine issued by a police officer) up to years (judicial process).

4.5 Code of practice

Name of regulation:

4 Code of practice – Association of Alcohol Producers

Is this statutory or non-statutory regulation?

Non-statutory

Who made the text of this regulation?

Forum PSR

Which types of marketing are controlled by in this regulation?

Advertising

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcohol (no further definition)

Whom is this regulation directed at or who has to adhere to it?

Advertising companies, Alcohol producers

4.5.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	No	No	No	Yes	No

* other than young people

4.5.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	No

Remarks on elements

- B The members of the association will not use graphics, symbols, music or cartoon characters which are related to persons under 18 years of age.
- C The advertisements will feature no persons looking younger than 25 years of age.
- E The advertisement will never connect alcohol consumption to violence, aggression, harmful or antisocial behaviour.
- F The advertisement will never connect alcohol consumption to sexual success.
- G The advertisement will not be specifically aimed at children or persons younger than 18 years of age.
- H The members of the association will not sponsor activities where at least 1/4 of the audience consists of persons under 18 years of age.
- I The advertisement will not be placed in media that are primarily aimed at children.
- J Members of the association will not utilise any marketing offer that would allow them to place advertisements on products which are primarily targeted at children.

4.5.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publicly announced
Yes or No	No	Yes	Yes	Yes	Yes	Yes

The search for violations is performed by the Council for Radio and Television Broadcasting (more information can be found at <http://www.rrtv.cz/en/>). Complaints can be made to the Czech Advertising Standards Council (more information can be found at <http://www.rpr.cz>), the Council for Radio and Television Broadcasting (more information can be found at <http://www.rrtv.cz/en/>). During a procedure a marketing practice can still be used. The possibility of complaining is announced through the media. Sanctions, where appropriate, are imposed by the Council for Radio and Television Broadcasting (GOV) and can be a fine of €70.000 – €300.000. The results of procedures are publicly announced by a press announcement. The minimum and maximum amount of time the procedure officially takes is usually 30 days, exceptionally even longer.

4.6 Code of Advertising Practice

Name of regulation:

5 Code of Advertising Practice – the Czech Advertising Standards Council

Is this statutory or non-statutory regulation?

Non-statutory

Who made the text of this regulation?

Czech advertising standards council

Which types of marketing are controlled by in this regulation?

Advertising (all media of communication: electronic, printed, ...)

Which alcoholic beverages are subject to this regulation? (in VOL.)

“Strong Drinks”

Whom is this regulation directed at or who has to adhere to it?

Advertising companies

Additional comments

Advertising - For the purpose of this Code, advertising is to be understood as a process of commercial communication, performed on basis of payment, by whatever entrepreneurial subject, or another subject acting in favor thereof, the purpose of which is to provide the consumer with information about goods and services (referred to as the “product” only) as well as activities and projects of charitable nature. This information is above all spread by media of communication, which are understood for purpose of the Code to be television, radio, audio-visual carriers, periodic and occasional press, transportation means, posters, flyers, and other communication means allowing transmission of information.

Following this definition, the transmission of information, in which advertisers only indicate the place for selling the goods, is not understood as advertising, even if in other cases it would be considered to be advertising.

1.2 Advertising governed by this Code is in particular business advertising, i.e. information about products and information about subjects operating on the free market.

1.3 The concept of advertising under this Code shall when appropriate apply to the advertising performed by non-business subjects or by those entities acting on behalf thereof.

4.6.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with ‘yes’ in the following table. If a ban regarding this aspect is absent it is indicated with ‘no’.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	No	No	No	No	No

* other than young people

4.6.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with ‘yes’ in the following table. If an element is not forbidden at all, it is indicated with ‘no’.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	Yes	No	Yes	Yes	Yes	No	Yes	Yes	Yes

Remarks on elements

- C Forbids to: “Use children in advertising of strong drinks”
- E Forbids: “Advertising supporting aggression or physical violence “”Advertising indicating avoidance of safety or lack of respect towards the laws and public order.”
- F Forbids: “Advertising indicating excessive sexuality, sexual stimulations, yielding, nakednes or partial nakedness presented in a distasteful way, presentation of women in whatever compromizing situation or advertising presenting strong drinks as an appropriate tool to abolish sexual inhibitions or fear in general.”
- G Forbids: “Advertising specially focused on children.”
- I Forbids: “Advertising specially focused on children.”
- J Forbids: “Advertising specially focused on children.”
- K Forbids: “Advertising specially focused on children.”

4.6.3 Procedures connected to the regulation

It is indicated whether the following procedures are (‘yes’ or ‘no’) connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions incase of violators	Results published or publically announced
Yes or No	No	Yes	Yes	Yes	Yes	Yes

The search for violations is performed by the Council for Radio and Television Broadcasting (more information can be found at <http://www.rrtv.cz/en/>). Complaints can be made to the Czech Advertising Standards Council (more information can be found at <http://www.rpr.cz>), the Council for Radio and Television Broadcasting (more information can be found at <http://www.rrtv.cz/en/>)). During a procedure a marketing practice can still be used. The possibility of complaining is announced through the media. Sanctions, where appropriate, are imposed by the Council for Radio and Television Broadcasting (GOV) and can be a fine with a range between €70.000 – €300.000. The results of procedures are publicly announced by a press announcement. The minimum and maximum amount of time the procedure officially takes is usually 30 days, exceptionally even longer.

5 Denmark (DK)

5.1 Introduction

In Denmark three different regulations exist that specifically refer to alcohol marketing and advertising: The Order on Advertisement and Sponsorship on the Radio and on Television (the Broadcasting Act), which is statutory; the non-statutory Regulations of Marketing Alcoholic Beverages (The Self Regulation) and the statutory Marketing Practises Act (The Law of Marketing).

The non-statutory Regulations of Marketing Alcoholic Beverages is the main regulation. It was made especially for regulating Alcohol Marketing. It was made in 2000 in a joint venture between the Ministry of Business Affairs, the Ministry of Health and representatives from the alcohol industry as well as consumer organizations and NGOs. It is also called “The Self Regulation” and is enforced by a Committee (the Committee of Enforcement) headed by an independent Chairman. The Regulations is a volunteer code with no real sanctions attached. Six years have passed, and while the industry praises the Self Regulation system for its effectiveness, the Consumer Ombudsman, the Consumer organizations and the Danish Alcohol Policy Network criticise it for not being effective. During the past six years 59 complaints have been lodged by the Danish Alcohol Policy Network. The Committee of Enforcement has made 76 decisions. Fifty percent of these violated the articles about children and young people.

By the end of 2005 the Law of Marketing became subject to a review. The review can be seen as a tightening of the Law in relation to alcohol marketing targeted at children and young people. The Minister of Family and Consumer Affairs has referred to specific alcohol marketing practises as some of the reasons for tightening the Law. In this way, tightening the Law of Marketing is meant to compensate for the weaknesses of the Self Regulation, for instance the lack of real sanctions.

Regulation		Statutory / Non-statutory
1	Order on Advertisement and Sponsorship in the Radio and on Television (the Broadcasting act)	Statutory
2	Regulations of Marketing Alcoholic Beverages	Non-statutory
3	The Marketing Practises Act	Statutory

5.2 The Broadcasting act

Name of regulation:

- 1 **Order on Advertisement and Sponsorship in the Radio and on Television (the Broadcasting act)**

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

The Danish Ministry of Culture

Which types of marketing are controlled by in this regulation?

Broadcast (tv, radio only within danish jurisdiction)

Which alcoholic beverages are subject to this regulation? (in VOL.)

All alcoholic beverages

Whom is this regulation directed at or who has to adhere to it?

The National Board of Television and Radio states, that the order is directed at those who hold a programme license, e.i. the various television- or radio-broadcast stations.

5.2.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	Yes	No	No	No	No	No

* other than young people

5.2.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Success	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	Yes	No	Yes	Yes	No	No	Yes	No	No

Remarks on elements

- C "Advertisement of alcoholic beverage is not allowed to:
 - 1) be targeted especially at minors, and even more importantly to show minors, who drink alcohol" (§ 13).
- E "Advertisements must not show minors in dangerous situations, call upon or incite minors to stay in or go to dangerous places, to use dangerous products, or to endanger themselves in any other way" (§ 18).
- F "Advertisement of alcoholic beverage is not allowed to:
 - 2) link consumption of alcohol with improved physical performance or driving.
 - 3) make the impression, that consumption of alcohol adds to success socially or sexually" (§ 13).
- I "Advertisement of alcoholic beverage is not allowed to:
 - 1) be targeted especially at minors, and even more importantly to show minors, who drink alcohol" (§ 13).

5.2.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	No	No	Yes	No	Yes	Yes

Complaints can be made to the Radio and Television Board. During a procedure a marketing practice can still be used.

The possibility of complaining is made known to the public since complaints can be lodged on-line on the National Board of Radio and Television's homepage.

The police is responsible for the fine, while the National Board of Television and Radio is responsible for other sanctions. Sanctions can be a fine up to €260.000 (which has never been given) or the campaign can be stopped as a consequence of the decision. However, the part of the sanction system, which can lead to a fine requires, that the National Board of Television and Radio actually reports to the police. Until today this has never happened.

The results of complaint procedures are published on the homepage of The National Board of Radio and Television, sometimes also by press releases.

The average amount of time of the procedure is officially 11 weeks maximum (usually somewhat longer).

5.3 Regulations for Marketing Alcoholic Beverages

Name for regulation:

2 Regulations of Marketing Alcoholic Beverages

Is this statutory or non-statutory regulation?

Non-statutory

Who made the text of this regulation?

The Danish Ministry of Business Affairs

Which types of marketing are controlled by in this regulation?

All kinds of marketing

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages > 2,8 VOL

Whom is this regulation directed at or who has to adhere to it?

"The Regulations apply to everybody in business, including: producers, merchants, retailers, restaurants and other kinds of sales on and off the premises - provided that they are considered engaged in commerce activities according to the Marketing Practices Act." (Article 4)

Additional comments

The Secretariat of the Committee of Enforcement is placed at The Danish Brewers Association, which is probably also its financial source.

5.3.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	Yes	No	No	No	No	No

* Other than young people

5.3.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Success	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	Yes	Yes	No	Yes	Yes	No	No	No	No	No

Remarks on elements

- B "Marketing of alcoholic beverages is not allowed to show pictures, figures, comics or icons with a special appeal to children and young people." (Article 5)
- C It is not allowed to use persons in marketing activity, who due to their young appearances create the impression, that young people drink alcoholic beverages. (Article 5)
- E "Marketing activity is not allowed to link consumption of alcoholic beverages with risky behavior, such as driving, operating potentially dangerous machines, or other potentially dangerous activity" (Article 3)
- F "Marketing activity is not allowed to make the impression, that a certain amount of alcohol may be healthy, may lead to success or may improve the consumers capacities mentally or physically."(Article 3)

5.3.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	No	No	Yes	No	Yes	Yes

The Danish Alcohol Policy Network checks for violations of the Regulations the best way possible.

Complaints can be made to the Committee of Enforcement. During a procedure a marketing practice can still be used.

The possibility of complaining is made known to the public through Report of the Committee of Enforcement: everybody can state a complaint. However, this possibility is not widely known.

Sanctions, where appropriate, are imposed by the Committee of Enforcement: The Committee of Enforcement can publish its criticism. In case of subsequent offense the Committee can decide to make their criticism of the business company in question public.

The Committee of Enforcement publishes an annual report.

There is no minimum and/or maximum amount of time the procedure officially takes.

5.4 The Law of Marketing

Name of regulation:

3 The Marketing Practises Act (Law of Marketing)

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

The Danish Ministry of Family and Consumer Affairs

Which types of marketing are controlled by in this regulation?

All types of marketing (not only alcohol marketing)

Which alcoholic beverages are subject to this regulation? (in VOL.)

All alcoholic beverages

Whom is this regulation directed at or who has to adhere to it?

“The Act applies to private business activity and comparable public activity”

Additional comments

According to the Consumers Ombudsman the § 1 of the Act implies that marketing of alcoholic beverages directed at children and young people is not good marketing practise.

This present version of the Law of Marketing is quite new and is in force from the first of June 2006.

5.4.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with ‘yes’ in the following table. If a ban regarding this aspect is absent it is indicated with ‘no’.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	No	No	No	No	No

* Other than young people

5.4.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Success	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	Yes	No	No	Yes	Yes	No	No	No	No	No	No

Remarks on elements

A-B: The production and styles issues are indirectly mentioned in the Act: "Marketing targeted at children and young people must be shaped with due account being taken of children and young people's natural credulity, lack of experience and of critical sense, all of which make them susceptible to influence".

D-E: The drugs and violence issues are directly mentioned in the Act: "Marketing targeted at children and young people is not allowed directly or indirectly to encourage violence, use of drugs – including alcohol – or other dangerous or ruthless behaviours; or in any other way to make improper use of violence, fear or superstition for instance as a gimmick".

These are all new additions in relation to the former Marketing Practises Act.

5.4.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	Yes	No	Yes	No	Yes	Yes

The pre-launch advice is more than a procedure, in the Marketing Practises Act, it is an article: “On request, the Consumer Ombudsman will give a statement regarding his view of the lawfulness of contemplated marketing arrangements, unless an opinion would be subject to unusual doubt, or other special circumstances exist. An advance indication does not amount to an actual opinion of the lawfulness of the arrangement concerned” (Article 18). But regarding alcohol marketing this possibility has not been used.

There is no systematic searching for violations, but the Consumer Ombudsman superintends that the the Marketing Practices Act (see below) is not violated. Complaints can be made to The Danish Consumer Ombudsman. Normally the campaign runs until a sentence is passed upon it. However, the police can temporary prohibit a campaign.

The possibility of complaining is described on the homepage of the Danish Consumer Ombudsman, in handbills and frequently in newspaper articles. Sanctions, where appropriate, are imposed by the courts of justice (if it is a fine); the police (if it only has to do with stopping a marketing campaign) and can be a fine close to 1 million euro’s, depending on the marketing budget, or the marketing campaign can be stopped. The Danish Consumer Ombudsman superintends and reports if nessecary to the Police. The latter decides whether the case should be prosecuted. Finally, the courts of justice pass sentence. Within the Danish Consumer Ombudsman administration there is no system of appeal. But the courts of justice offer the possibility of trying the case.

It is possible to read about the results on the homepage of the Danish Consumer Ombudsman. Information on the results is also given via newsletters and in some cases press releases.

The minimum and maximum amount of time the procedure officially takes is minimally 2 hours, maximally 50 hours.

6 Estonia (ET)

6.1 Introduction

No introduction available.

Regulation		Statutory / Non-statutory
1	Advertising Act (Reklaamiseadus)	Statutory
2	Brewers Code of Ethics	Non-Statutory

6.2 Advertising Act

Name of regulation:

Advertising Act

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

Ministry of Economic Affairs and Communications

Which types of marketing are controlled by in this regulation?

All kinds of marketing

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages > 0,5% vol

Whom is this regulation directed at or who has to adhere to it?

Industry, retailers, HORECA, consumers.

6.2.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	Yes	Yes	Yes	Yes	No	No

* other than young people

6.2.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	Yes	Yes	No	Yes	Yes	Yes	Yes	No	No

Remarks on elements

- C § 11 Advertising of alcoholic beverages must not be aimed specifically at minors (under the age of 21).
- D § 17. Advertising of illegal drugs is forbidden.
- F § 12 Alcohol ads may not portray information, activity or anything else that would send a message that in order to be successful you should drink this product.
- G § 11 Alcohol advertising must not propagate to start drinking.
- H § 12 Alcohol advertising is banned in cinemas, theaters or concert halls and at events that are specifically targeted to minors.
- I § 13 Alcohol advertising is banned in TV and radio from 7-20 o'clock.

6.2.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	No	Yes	Yes	Yes	Yes	No

The search for violations is performed by the Estonian Consumers Union. Complaints can be made to the Estonian Consumers Union or to the local government. During a procedure a marketing practice can still be used. The possibility of complaining is made known to the public by law and media. Sanctions, where appropriate, are imposed by the Estonian Consumers Union and can be fines from 18 000 Estonian chronos (EEK) to 50 000 EEK.

6.3 Brewers Code of Ethics

Name of regulation:

Brewers Code of Ethics

Is this statutory or non-statutory regulation?

Non-statutory

Who made the text of this regulation?

Union of Estonian Brewers

Which types of marketing are controlled by in this regulation?

Beer marketing

Which alcoholic beverages are subject to this regulation? (in VOL.)

Beer up to 12% vol

Whom is this regulation directed at or who has to adhere to it?

Brewers

6.3.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	No	No	Yes	Yes	No

* other than young people

6.3.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Success	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	Yes	Yes	Yes	No	Yes	Yes	Yes	No	No	No	Yes

Remarks on elements

- A Brewers will not produce beer over 10% vol.
- C Ads should not be directed at children or mainly at under 21 year-olds.
- E Industry should not advertise beer in connection with violence.
- F Ads should not claim that drinking beer success in social life or in sports.
- G Ads should not encourage irresponsible drinking.
- K
 - Industry should not disparage being sober.
 - In ad campaigns the prize can't be beer.
 - Ads should not be directed at pregnant women or be in context of parenthood.
 - Ads should not link alcohol to religion or any religious groups.

6.3.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	No	No	Yes	Yes	Yes	Yes

Complaints can be made to the special committee that is established by the Union Of Estonian Brewers.

During a procedure a marketing practice can [Yes/No] still be used.

The possibility of complaining is made known to the public through a website.

Sanctions, where appropriate, include fines or reprimand.

The results of procedures are publicly announced by the Union of Estonian Brewers (on their website).

7 Finland (FI)

7.1 Introduction

In Finland there is only one regulation, which specifically refers to advertising and other sales promotion of alcoholic beverages. This regulation is included in the “Alcohol Act” and it is statutory. This regulation can be amended only by the Finnish Parliament. In addition to this regulation there is one ministerial decree, which concerns interpretation of the ban on the advertising of strong alcoholic beverages. Control authorities have also published a guidebook in order to give more detailed information about the interpretation practices of the basic regulation, but the guidebook is only for guidance purposes and is not binding. Advertising targeted at minors (under 18s) is totally banned. This applies to all kinds of sales promotion and marketing practices, not only ads. Also depicting minors in ads is prohibited.

However, there are no time limits for advertising on TV or radio. The Finnish government has discussed alcohol prevention in 2006 and has decided that the Alcohol Act should be amended so that advertising on TV will be banned before 9 PM. Also, advertising in cinemas will be banned with exception to films rated for 18 year-olds only. The government will submit a proposal to the Parliament before summer 2006 and these amendments will be discussed in the Parliament in the autumn.

Legislation is not the only way to restrict alcohol advertising. The Ministry of Education has decided that financial aid is not given to sports organisations, if they accept alcohol advertising connected to their sports events. The impact of this decision will be evaluated when the transition period of three years is over.

Regulation		Statutory / Non-statutory
1	Alcohol Act (Alkoholilaki)	Statutory

7.2 Alcohol Act

Name of regulation:

1 Alcohol Act (Alkoholilaki)

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

Ministry of Social Affairs and Health / Finnish Parliament

Which types of marketing are controlled by in this regulation?

Advertising (direct and indirect) and other ways of sales promotion

Which alcoholic beverages are subject to this regulation? (in VOL.)

Difference between:

- Mild alcoholic beverages 1,2 – 22 % VOL and
- Strong alcoholic beverages > 22% VOL

Whom is this regulation directed at or who has to adhere to it?

Not mentioned; it applies to all involved, not only the industry and those selling alcoholic beverages but also advertising agencies and publications.

Additional comments

At the time of writing the Ministry of Social Affairs and Health intends to submit a proposal to the Government to amend the Alcohol Act before summer 2006. The most important amendments will be bans on TV advertising before 9 PM and in cinemas with exception to films rated for 18 year-olds only. There will also be health warnings on the labels of alcoholic beverages.

7.2.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	No	No	Yes	No	No

* other than young people

7.2.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Success	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Remarks on elements

- B Even though there is no mention in the lawtext it is clear that this kind of advertising can always be interpreted (and has been interpreted) to be targeted at minors.
- C See point a) "if such persons are depicted in it".
- E Article 33, section 1 POINT 7):
"Advertising, indirect advertising and other sales promotion of mild alcoholic beverages .. is prohibited if it is contrary to good manners".
- F Article 33, section 1 POINT 5):
"Advertising, indirect advertising and other sales promotion of mild beverages is prohibited if it suggest that alcohol increases functional capacity or makes one socially or sexually more successful".
- G Not mentioned in the lawtext but POINT 7 "prohibited if it is contrary to good manners" is interpreted to mean that this kind of marketing is prohibited.
- H Not mentioned in the lawtext but POINT 1 ("targeted at minors") is interpreted to mean that advertising during this kind of events is prohibited. The ban is literally declared in a detailed guidebook published by the control authorities.

- I Not specifically mentioned in the lawtext, but POINT 1 right away bans all advertising in publications targeted at minors.
- J Not mentioned in the lawtext, but (see point g) free distribution is interpreted to be against “good manners”. The ban is literally declared in a detailed guidebook published by control authorities.
- K Not mentioned in the lawtext, but several advertising measures are interpreted to be against good manners or targeted at minors

7.2.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions incase of violators	Results published or publically announced
Yes or No	Yes	Yes	Yes	Yes	Yes	Yes

Pre-launch advice is provided by the governmental control agency (Product Control Agency for Welfare and Health) and also the provincial authorities, which are responsible for monitoring and supervising the advertising rules. In addition to direct advertising the Product Control Agency can give advice regarding marketing methods such as labelling and packaging, which can influence to investments in a product. The Product Control Agency has published a detailed guidebook on interpreting of the rules, but it also quite frequently gives advice on specific cases if asked beforehand. The agency always has to emphasize that the advice is of a preliminary nature and has no legal status.

The search for violations is performed by the above-mentioned governmental control authority “National Product Control Agency for Welfare and Health” nationwide, and by provincial authorities in their provincial areas. Provincial authorities, who work under the guidance of the Product Control Authority normally take measures if rules are violated at a local level - e.g. at restaurants or in local publications.

Complaints can be made to the Product Control Agency or to the provincial control authorities.

- The Council of Ethics in Advertising (MEN) deals mainly with complaints from consumers and with issues that are deemed to have public significance.
- The Council of Ethics in Advertising handles complaints from consumers and advertisers regarding commercial communications in all media. There is no right of appeal.
- No sanctions are available to the Council if its decisions are ignored because its statements are recommendations .

Marketing practices can be used until the control authority bans it. In cases where the violation is clear and it is important to stop that marketing, the ban can be immediate. Normally the process takes some weeks before judgement is passed. The complaining process is described in the Alcohol Act. In Finland anyone can submit a complaint to control authorities if violations are found. However, most cases are raised by control authorities themselves. Sanctions are administered take by control authorities, which apart from banning procedures are entitled to

give a warning or impose conditional fines. If violations are repeated conditional fines are taken to Market Court, which can rule that the fines have to be paid. The fine ranges from € 10.000 to € 50.000. According to a proposal for amendment of the Criminal Law (currently at the Parliament) the violation could also lead to imprisonment for a maximum of 6 months.

If the case is considered very important the result is published on the web-pages (by control authorities) and control authorities sometimes also submit a press-release. Press-release normally is used only if the case has been in the Market Court. Market Court also publishes all its cases on the Internet and in its annual publication.

There are no precise time limits for the procedure. Minimum: If the violation is clear and has to be stopped as soon as possible the authorities can order to discontinue it almost immediately (phone call and fax). Normally it takes 2-4 weeks to make the final judgement. Maximum can be much longer if the case is very complicated or insignificant. If the judgement is taken to the Market Court it can take months.

8 France (FR)

8.1 Introduction

In France four different regulations exist that refer to alcohol advertising and marketing. The “Code de la Santé Publique”, which is a statutory code and the non statutory codes named « Code d’autodiscipline et de déontologie en matière de communication commerciale », the « Code d’éthique des Brasseurs » and the “Code de bonne conduite pour la retransmission télévisée d’événements sportifs » regarding sport events. When it became clear in 1994 that the industry was using sport events broadcasted from abroad to promote alcoholic beverages exclusively for sale in France, a code was written by both the Ministry of Youth and Sport and the « Conseil Supérieur de l’Audiovisuel » after consultation of the broadcasters. In fact advertising at sport facilities is not forbidden but broadcasting is banned. In July 2004 a judgement of the EC of Justice in Luxembourg on the Commission and Bacardi case against the French Alcohol advertising ban (Loi Evin) states that “such a ban constitutes a restriction on the freedom to provide services, but is justified by the aim of protecting public”. The Court states that the French television advertising rules seek to protect public health and that they are appropriate to ensure that that objective is achieved”. So the TWF Directive is not applicable.

The Code of Public Health is statutory and includes the Loi EVIN.

Since January 2005 producers are allowed to communicate on references relating to quality characteristics but these must be “objective” (this was added by Anpaa in order to avoid positive representations like feasts, sport, youth, femininity, virility etc.). Advertising can also include references relating to the labels of origin or to geographical indications. These were before limited to some spirits by a European Regulation (1989) and will now apply to all alcoholic beverages, not only wine. The changes have not significantly weakened the Loi Evin and do not affect the comprehensiveness and basic premises of the law. Lifestyle advertising will remain illegal, only description of taste, smell, vintage and the qualities related to origins will be allowed.

Recently a law was accepted which rules that a health warning shall be replaced on every label pointing to the risk of alcohol consumption during pregnancy.

The decree has expected after consultation of the EC authorities at the latest in 2006.

A proposal made by pro wine Members of the Parliament and approved by the government, was voted in October 2005 in the French parliament creating a “Conseil de modération et de prévention”: Council on Moderation and Prevention. This council was created by a decree signed by the minister of agriculture in order to calm down wine producers after their lobby protested against the Loi Evin resisted to their lobby, claiming that “public health campaigns are discriminatory towards wine”. It will include members of the parliament, ministers and public authorities, health and road safety NGO’s and alcohol producers. The council will be consulted on matters relating to alcohol policy and prevention campaigns. ANPA and the main health partners did not agree to be a member of this council controlled by the wine industry. The journal Le Monde claims that this puts the wine lobby in a position to control alcohol prevention campaigns and legislative initiatives.

Regulation		Statutory / Non-statutory
1	Code of Public Health. Book II. Combatting alcoholism (includes the Loi EVIN). (Code de la Santé Publique. Livre II. Lutte contre l'alcoolisme (Loi EVIN)).	Statutory
2	Self Regulation Code on Communication and Sale of Alcoholic Beverages (Code d'autodiscipline et de déontologie en matière de communication et de commercialisation des boissons alcoolisées)	Non-statutory
3	Brewers Code of Practice (Code Ethique des Brasseurs)	Non-statutory
4	Code of practice in Sport Events Broadcast (Code de bonne conduite pour la retransmission télévisée d'événements sportifs comportant des panneaux publicitaires en faveur de boissons alcoolisées)	Non-statutory

8.2 Code of Public Health (incl. Loi EVIN).

Name of regulation:

- 1 Code of Public Health. Book II. Combatting alcoholism (includes the Loi EVIN). Code de la Santé Publique. Livre II. Lutte contre l'alcoolisme (including the "LOI EVIN")

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

Ministère de la Santé et des Solidarités

Which types of marketing are controlled by in this regulation?

Marketing and advertising of alcoholic and non-alcoholic beverages. (ban on tv and cinema advertising)

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages > 1,2 VOL

Whom is this regulation directed at or who has to adhere to it?

Not defined.

Additional comments

France has dealt with regulation on alcohol for a long time and the Code represents a compilation of different laws and decrees established for the most before the elaboration of the Council Recommendation. The LOI EVIN [loi n° 91-32 du 10 janvier 1991] was included too.

8.2.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	Yes	Yes	Yes	No	Yes	No

* other than young people

8.2.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Remarks on elements

- F. It is not literally formulated but it is a consequence of art. L 3323-4, which limits the advertising to the mentioning of degree, origin, name, composition, means of production, patterns of fabrication and consumption.
- G Art. L 3353-4. Any person who encourages a minor to be drunk incurs a fine or prison and can lose his parental rights.
- H Art. L 3323-2 (see Q12 a).
- I Art. L 3323-2 (see Q12 a).
- J - Art. L 3323-5. It is forbidden to distribute or to send to minors documents or products mentioning the name or manufacturer of an alcoholic drink.
- Art. L 3342-1. Sale or free distribution of alcohol to minors under 16 is forbidden.
- Art. L 3342-2. Sa
- K - Art. L 3323-1. Non alcoholic beverages must be presented in any public houses and have to be separately from the alcoholic drinks and showed off.

8.2.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publicly announced
Yes or No	Yes	Yes	Yes	Yes	Yes	No

Pre-launch advice is provided by Bureau de Vérification de la Publicité (BVP). This is an NGO composed by the TV advertisers and financed by the industry. The search for violations is performed by the Conseil Supérieur de l'Audiovisuel (CSA). This is an independent authority in which the government, the senate and the parliament are represented. It makes sure that of the law by the broadcasters.

Complaints can be made to the Court of Justice. Marketing practices can not be used as long as legal procedures are ongoing.

All procedures are public and everybody can communicate about them. Sanctions, where appropriate, are imposed by the Court of Justice and can be

- 6000 € (Art. L 3322-2);
- 7500 - 50% of the amount of the illegal operation (Art. L 3323- 2, L 3323-4-5);
- 3750 € (Art. L 3321-1);
- 3750 - 7500 € (Art. L 3342-1);
- in case of relapse, prohibition of sale of the concerned beverage. Removal of the forbidden advertisement by the violator (Art. L 3323-2, L 3323-4-5)
- loss of parental rights (Art. L 3353-4)-[empty field]].

The minimum and maximum amount of time the procedure officially takes is one month to 1 year and can run up to five years (it depends on the type of procedure).

8.3 Self Regulation Code on Communication and Sale of Alcoholic Beverages

Name of regulation:

2 Self Regulation Code on Communication and Sale of Alcoholic Beverages (Code d'autodiscipline et de déontologie en matière de communication et de commercialisation des boissons alcoolisées)

Is this statutory or non-statutory regulation?

Non-statutory

Who made the text of this regulation?

The members who signed the Code

Which types of marketing are controlled by in this regulation?

Advertising and marketing. (ban on tv and cinema advertising)

Which alcoholic beverages are subject to this regulation? (in VOL.)

not defined

Whom is this regulation directed at or who has to adhere to it?

At the members of the SRO

Additional comments

The code refers generally to the law of Public Health [Code de Santé Publique (Loi EVIN) see ELSA Q1p3-1] and does not go beyond that.

8.3.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	Yes	No	Yes	No	Yes	No

* other than young people

8.3.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	no	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No

Remarks on elements

- B art.4.3: promotion of Designated Drivers especially young drivers
- C see B
- D art.7.5: packing cannot be linked to behaviour dangerous for health or society (bombs, syringes, etc.)
- E see D
- F see D
- G art.8.2: although the companies cannot control the distribution of their products the signers make sensible the distributors and sellers.
- H art.1.5-6: no commercial communication can be linked to sport practice or success; art.3.4: the advertisers must respect the regulation about billboards; art.3.4.1: nevertheless they will not use their right of advertisement in sport places during sport events
- I art. 2.3: no communication in press for minors
- J art.4.1: any promoter has to comply with the law [see ELSA Q1P3-1 Q14j] related to sale and distribution (even free) of alcoholic beverages and to implement control in order to prevent illegal consumption by minors or immoderate consumption by other customers.

8.3.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions incase of violators	Results published or publically announced
Yes or No	Yes	No	No	-	-	-

Pre-launch advice is provided by BVP (an SRO) financed by the industry. It is one of the ratifiers of this code but it is not mentioned as providing advice. The main mission of BVP is to conceive self regulation and to systematically examine any TV advertising production before broadcasting. But this is not mentioned in the code either.

The search for violations is performed by BVP.

8.4 Brewers Code of Practice

Name of regulation:

3 Brewers Code of Practice (Code Ethique des Brasseurs)

Is this statutory or non-statutory regulation?

Non-statutory

Who made the text of this regulation?

The brewers industry is financier.

Which types of marketing are controlled by in this regulation?

Marketing concerning communication and sale

Which alcoholic beverages are subject to this regulation? (in VOL.)

Beer

Whom is this regulation directed at or who has to adhere to it?

Brewers

Additional comments

This code was written in 1997. Since this time, the French Brewers Association signed the code of Communication and Sale of alcoholic beverages.

About the terminology used: the term “complaint” does not carry legal weight and should be interpreted as a form of “protest”. There is no possibility to have a control in case of sanction by the industry versus a member of the SRO.

8.4.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with ‘yes’ in the following table. If a ban regarding this aspect is absent it is indicated with ‘no’.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	No	No	No	No	No

* other than young people

8.4.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with ‘yes’ in the following table. If an element is not forbidden at all, it is indicated with ‘no’.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	Yes	Yes	No	Yes	Yes	Yes	Yes	No	No	Yes	No

Remarks on elements

- A art.2: brewers contract to never sell products which could facilitate alcohol abuse by young people
- art.3: brewers refuse to produce and sell products which are attractive to young people, or to introduce confusion on the alcoholic nature of the product
- D art.4: the packaging cannot be connected with dangerous behaviour for health or society (syringes, bombs,etc.)
- E see A
- F see A
- G see A
- J art.1: brewers contract to make known any operation which facilitates or exploits the vulnerability of young customers

8.4.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publicly announced
Yes or No	No	No	No	-	-	-

Complaints can be made to the Association of the French Brewers. Any complaint has to be written and will be communicated to the company in question with a recommendation about measures to be taken in order to respect the code. The complainers will be informed about the appropriate action. Complaints regarding the law and/or regulation code.

8.5 Code of Practice in Sport Events Broadcast

Name of regulation:

- 4 **Code of Practice in Sport Events Broadcasting (Code de bonne conduite pour la retransmission télévisée d'événements sportifs comportant des panneaux publicitaires en faveur de boissons alcoolisées)**

Is this statutory or non-statutory regulation?

Non-statutory

Who made the text of this regulation?

Ministère de la Jeunesse et des Sports

Which types of marketing are controlled by in this regulation?

Broadcast of sport events which shows billboards promoting alcoholic beverages.

Exception: multinational sports events specifically targeted at the french public is authorized.

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages > 1,2 VOL

Whom is this regulation directed at or who has to adhere to it?

TV Broadcasters

Additional comments

This regulation is not imbedded in law except for the law committed to the CSA which is composed by the national authorities, and focus on control of the content and the implementing of the clauses regarding TV programmes. The Code of Public Health (Loi EVIN) does not mention precisely how to deal with the broadcasting of sports events and no jurisprudence exists. This is the reason why a code of practice has been implemented which is validated by the statement TWF from the European Court of Justice [EC] 2004-07-13].

8.5.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	Yes	-	Yes	No	No	No

* other than young people

8.5.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	No	No	No	No	No	No	No	No	No

Remarks on elements

-

8.5.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions incase of violators	Results published or publically announced
Yes or No	No	Yes	Yes	Yes	Yes	No

CSA makes sure that all the broadcasters respect the laws and regulations.

Complaints can be made to the Court of Justice. Marketing practices can be continued as long as legal proceedings are ongoing.

All procedures are public and everybody can communicate about it.

Sanctions, where appropriate, are imposed by the Court of Justice and can be a fine like in the (Loi EVIN art. L 3323-2).

The minimum and maximum amount of time the procedure officially takes is one month up to one year and even five years (it depends on the type of procedure).

9 Germany (DE)

9.1 Introduction

In Germany three different regulations exist that specifically refer to alcohol marketing and advertising. The 'Jugendschutzgesetz' and the 'Jugendmedienschutz-Staatsvertrag', which are both statutory, and the non-statutory 'Code of Conduct on Commercial Communication for Alcoholic Beverages'. Regarding advertising, the 'Jugendschutzgesetz' only deals with the broadcast time of commercials in movie performances and not with the content of commercials. The elements of the Council Recommendation are reflected in the 'Jugendmedienschutz-Staatsvertrag' in a very general form. § 6 (5) says that "Advertising for alcoholic beverages must neither be directed towards children and adolescents nor be designed to appeal especially to children and adolescents nor show them drinking alcoholic beverages." The 'Code of Conduct' is in practice the main regulation of alcohol marketing and advertising in Germany and the way in which the elements of the Council Recommendation are reflected in German regulation in detail. The text of it is designed by the advertising and alcohol industry. The German Advertising Council, a self-regulatory agency of the German Advertising Federation, is responsible for the complaint and sanctioning system.

Regulation		Statutory / Non-statutory
1	Federal Protection of Minors Act (Jugendschutzgesetz)	Statutory
2	Interstate Treaty for the Protection of Minors from Unsuitable Media Content (Jugendmedienschutz-Staatsvertrag)	Statutory
3	Code of Conduct on Commercial Communication for Alcoholic Beverages (Verhaltensregeln des Deutschen Werberates über die kommerzielle Kommunikation für alkoholische Getränke)	Non-statutory

9.2 Federal Protection of Minors Act

Name of regulation:

1 Federal Protection of Minors Act (Jugendschutzgesetz)

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

German Federal Ministry of Family, Seniors, Women, and Youth

Which types of marketing are controlled by in this regulation?

- Labeling of sweetened alcohol-containing beverages (alcopops)
- Commercials and advertising in movie performances
- Sale and delivery of alcohol

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages in general

Sweetened alcohol-containing beverages (alcopops)

Whom is this regulation directed at or who has to adhere to it?

Persons with parental power, custodial persons, event and other business operators

Additional comments

There is no complaint procedure as we find it in several self-regulatory organisations. Concerning advertising, the JSchG only deals with the broadcast time of commercials and advertising programmes in movie performances and not with the content of commercials. Violations of this regulation seem to be most improbable.

9.2.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	Yes	No	No	No	No

* other than young people

9.2.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Success	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	No	No	No	No	No	No	Yes	Yes	Yes

Remarks on elements

- I § 11 Movie performances
 - (5) Commercials and advertising programmes for tobacco products and alcoholic drinks must not be shown before 6 p.m.
- J § 9 Alcoholic drinks
 - (1) The following bans shall apply to restaurants, stores and other points of sale:
 1. Brandy as well as brandy-containing drinks or food products with brandy above negligible level or
 2. Other alcoholic drinks
 must neither be sold to children and adolescents below the age of 16 years nor must their consumption by said persons be tolerated.
 - (2) Sub-Clause 1, No. 2 shall not apply to adolescents accompanied by a custodian.
 - (3) Alcoholic drinks must not be available from drinks dispensers in public.

This shall not apply under the following circumstances:

1. A drink dispenser is located on a site not accessible for children and adolescents.
2. A drink dispenser is located in enclosed company space and furnished with mechanical devices or adequately guarded and supervised to the effect that children and adolescents have no access to alcoholic drinks.

K § 9 Alcoholic drinks

(4) Sweetened alcohol-containing beverages in terms of § 11, Sub-Clauses 2 and 3, Alcopop Tax Act, must not be commercially launched without the label “Not to be distributed to persons below 18 years of age, § 9, Protection of Young Persons Act”. This notice shall be attached to the sales package in type, size and colour of print identical with that of the trade or fancy name or with the marketing label or, in case of bottles, on the front label.

9.2.3 Procedures connected to the regulation

It is indicated whether the following procedures are (‘yes’ or ‘no’) connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	No	Yes	Yes	–	Yes	No

Pre-launch advice is not provided.

The search for violations is performed by the lower administrative agency.

Depending on the federal state this is normally either the local regulatory agency (Ordnungsamt) or the youth welfare office (Jugendamt).

Complaints can be made also to the lower administrative agency. If commercials and advertising programmes for alcoholic drinks have been shown in cinemas before 6 p.m it will be hard to prove afterwards. According to an associate of the regulatory agency of the city of Dortmund this case is improbable but would lead to a talk with the cinema operator.

Sanctions, where appropriate, are imposed by the lower administrative agency and can be a fine: according to § 28 (5) of the JuSchG the fine can be up to €50.000 for a violation of § 9 or § 11.

There is no information available about the minimum and maximum amount of time the procedure officially takes.

9.3 Interstate Treaty for the Protection of Minors from Unsuitable Media Content

Name of regulation:

- 2 **Interstate Treaty for the Protection of Minors from Unsuitable Media Content (Jugendmedienschutz-Staatsvertrag)**

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

The German federal states

Which types of marketing are controlled by in this regulation?

Electronic information and communication media (radio, television, internet)

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages in general

Whom is this regulation directed at or who has to adhere to it?

Broadcast and internet provider, see §3 (2)

Additional comments

According to the FSF (Freiwillige Selbstkontrolle Fernsehen – an organisation for the voluntary self-regulation of television) they mainly check television programmes (films, tv series, reality shows, ...) and are not involved in checking commercials. For that task they refer to the youth commissary (Jugendbeauftragter) of the channels. However, a youth commissary of a private channel informed us that they only pay attention to the broadcast time of alcohol commercials, not to the content of the commercials. Accordingly, there seems to be no systematic search for violations of § 6 (5) (6).

9.3.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	Yes	No	No	No	No

* other than young people

9.3.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	Yes	Yes	No	No	No	No	No	No	No	Yes

Remarks on elements

B § 6 (5) Advertising for alcoholic beverages must neither be directed towards children and adolescents nor be designed to appeal especially to children and adolescents nor show them drinking alcoholic beverages.

§ 6 (6) Subsections 1 to 5 are also valid for teleshopping. Teleshopping must

not urge children and adolescents to conclude contracts of sale, lease, or rent for goods or services.

C § 6 (5) Advertising for alcoholic beverages must neither be directed towards children and adolescents nor be designed to appeal especially to children and adolescents nor show them drinking alcoholic beverages.

§ 6 (6) Subsections 1 to 5 are also valid for teleshopping. Teleshopping must not urge children and adolescents to conclude contracts of sale, lease, or rent for goods or services.

K § 6 (5) Advertising for alcoholic beverages must neither be directed towards children and adolescents nor be designed to appeal especially to children and adolescents nor show them drinking alcoholic beverages.

§ 6 (6) Subsections 1 to 5 are also valid for teleshopping. Teleshopping must not urge children and adolescents to conclude contracts of sale, lease, or rent for goods or services.

9.3.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	Yes	Yes	Yes	Yes	Yes	Yes

Pre-launch advice is provided by organisations that are certified by the KJM (Commission for the Protection of Minors from Unsuitable Media Content, Kommission für Jugendmedienschutz). For television the FSF (Freiwillige Selbstkontrolle Fernsehen – an organisation for the voluntary self-regulation of television) is responsible. For the internet the FSM (Freiwillige Selbstkontrolle Multimedia-Diensteanbieter – an organisation for the voluntary self-regulation of the multimedia services) is responsible.

The responsible state media authority for broadcasting (Landesmedienanstalt) monitors the adherence to the treaty. To fulfil this task the commission for the protection of minors from unsuitable media content (Kommission für Medienschutz = KJM) was installed, § 14 (2). The KJM certifies self-regulative o (e.g. FSF, FSM). Jugendschutz.net is responsible for searching for violations on the internet. Jugendschutz.net is organisationally linked to the KJM. When jugendschutz.net registers violations, it informs the provider about the violation as well as certified self-regulative and the KJM.

There are multiple possibilities for complaining. A complaint can be addressed directly to the KJM. Concerning television a complaint can also be made to the self-regulative FSF. Concerning the internet a complaint can be directed at jugendschutz.net or to the self-regulative organisation FSM. They provide hotlines and complaint forms.

Marketing practices can be continued as long as legal proceedings are ongoing. The possibility of complaining is made known to the public. On the homepages of jugendschutz.net, FSF, and FSM the possibility of complaining is explained. Sanctions, where appropriate, are imposed by KJM, FSM, FSF and according

to the KJM consequences depend on the severity of the violation. Possible consequences are:

- formal hint
- rebuke
- reduction of broadcasting time
- broadcasting ban
- initiating regulatory offence proceedings

Members of the self-regulatory can also receive a public rebuke or a fine by the self-regulatory organisations or be excluded from the organisation.

The results of procedures are publicly announced. The FSM reports examples of complaint procedures on its homepage: <http://www.fsm.de/de/Praxisbeispiele>.

There is no general information available about the minimum and maximum amount of time the procedure officially takes. KJM: From April 2003 until September 2005 the KJM dealt with 229 broadcasting cases (135 completed) and with 848 internet cases (733 completed).

FSM: In the year 2004 the FSM processed 977 complaints (4% are still in progress).

9.4 Code of Conduct

Name of regulation:

3 Code of Conduct on Commercial Communication for Alcoholic Beverages (Verhaltensregeln des Deutschen Werberates über die kommerzielle Kommunikation für alkoholische Getränke)

Is this statutory or non-statutory regulation?

Non-statutory

Who made the text of this regulation?

German Advertising Federation (Zentralverband der deutschen Werbewirtschaft, ZAW) and producer and importer association, federations and organisation.

Which types of marketing are controlled by in this regulation?

Commercial communication

(the use of any communication instrument by a business enterprise with the primary objective of promoting the sale of goods or services, excluding editorial content)

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages: containing alcohol in any quantity, excluding beverages that are allowed to be designated alcohol-free.

Whom is this regulation directed at or who has to adhere to it?

Not directly described in the regulation. But mainly directed at the advertising industry.

9.4.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	No	No	No	No	No

* other than young people

9.4.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Success	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	Yes	No	Yes	Yes	Yes	Yes	Yes	No	Yes

Remarks on elements

- C 2.1. Commercial communication for alcoholic beverages shall neither promote drinking of alcoholic beverages by minors nor show minors in the act of drinking or promoting the drinking of such beverages.
- E 1.3. Commercial communication for alcoholic beverages shall not create any association between the consumption of such beverages and violent, aggressive or dangerous conduct.
- F Commercial communication for alcoholic beverages shall not:
 - (8.1) make any claim relating to improvement of physical performance as a result of consuming alcoholic beverages.
 - (8.2) give the impression that consumption of alcoholic beverages promotes social or sexual success.
- G Commercial communication for alcoholic beverages:
 - (2.1) shall neither promote drinking of alcoholic beverages by minors nor show minors in the act of drinking or promoting the drinking of such beverages.
 - (2.2) shall not be conveyed by media the majority of whose editorial content addresses minors.
 - (2.3) shall not make any claim or representation to the effect that minors are not old enough to consume alcoholic beverages and so provoke drinking.
 - (2.4) shall not show persons stating that they drank alcoholic beverages as minors.
- H 2.2. Commercial communication for alcoholic beverages shall not be conveyed by media the majority of whose editorial content addresses minors.
- I 2.2. Commercial communication for alcoholic beverages shall not be conveyed by media the majority of whose editorial content addresses minors.
- K Commercial communication for alcoholic beverages shall not:
 - (3.) show athletes drinking or promoting drinking.
 - (7.1.) make any claim relating to the disinhibiting effect of alcoholic beverages.
 - (7.2.) make any claim relating to the elimination or relief of anxiety.
 - (7.3.) make any claim or representation relating to the elimination or resolution of psycho-social conflicts.

9.4.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	Yes	No	Yes	Yes	Yes	Yes

Pre-launch advice is provided by the German Advertising Council (Deutscher Werberat). This is a self-disciplinary agency of the German Advertising Federation (Zentralverband der deutschen Werbewirtschaft, ZAW). It is possible to ask the advertising council for pre-launch advice on the basis of a description of an advertisement or a campaign but it is not possible to present an advertisement to the advertising council and ask whether it is within the code of conduct or not. Complaints can be made to the German Advertising Council. Marketing practices can be continued as long as legal proceedings are ongoing.

The possibility of complaining is explained in the publication “Deutscher Werberat Jahrbuch 2005” and on the homepage of the German Advertising Federation.

Sanctions, where appropriate, are imposed by the German Advertising Council and can be a public rebuke.

The results of procedures are publicly announced every year in the “Deutscher Werberat Jahrbuch”, in press releases and via the internet:

http://www.interverband.com/dbview/owa/assmenu.homepage?tid=69392&fcated=4351&from_home=/werberat.

According to the German Advertising Council the procedure officially takes 10 days on average.

10 Hungary (HU)

10.1 Introduction

Questions about health related governance and health impacts of different policy measures are often raised in parliamentary debates, and health commissions of parliament assess the impact of most of the legislative acts from a health perspective. However, health considerations do not often explicitly and significantly influence parliamentary decisions and the parliament does not have implementation mechanisms by nature.

Government policy in Hungary is significantly influenced by EU membership. Government documents reflect the philosophy and considerations of the EU Public Health Action Plan and the principle of horizontality. Thus government policy documents in this field are, at least at the verbal level, inspired and influenced by the Health for All policy of the WHO and other WHO policy documents (e.g. nutrition policy, environment policy).

Some important legislative steps were taken in 1997 (Act on Health, incl. public health) and in 1999 and 2000 (Act on Protection of Non-smokers and amendment on Commercial Advertising regulating tobacco and alcohol ads) but these did not fit into a larger framework.

There is a long-term strategy of public health in Hungary, adopted by the parliament in 2003 with 4 main strategic directions (*1. Creating a health-promoting social environment; 2. Programmes of Healthy Lifestyle – reducing the risk factors; 3. Prevention of avoidable death, illness and handicap; 4. Improvement of the health care and public health system*). One of the subprograms of the main strategic directions, the “Programs of Healthy Lifestyle, Reducing the risk factors” focuses on alcohol and drug prevention.

The programs of healthy lifestyle are aimed at changing the lifestyle of Hungarian citizens to be healthier, since there is a lot to do in this field. Hungarian drinking and smoking habits are direct causes and reasons of bad morbidity and mortality rates. The habits of alcohol consumption and drinking are culturally deeply embedded, so it is difficult to influence them. Besides, most of this behavior occurs in the private sphere, hidden from the public, within families.

Later on the Ministry of Health asked experts to elaborate a background paper for future alcohol policy and so the first draft of a National Alcohol Policy has been prepared without any further action budget. Nevertheless, according to the new priorities of the National Public Health Program – one of them is mental health – there is a clear need to draft and adopt a new alcohol policy.

However there are regulations, statutory and non-statutory as well, regulating the sale, promotion and marketing of alcoholic beverages.

One important factor is the EU membership, which also had a great influence on Hungarian regulations. Due to the process of harmonisation of laws, there was a need to create new updated codes and regulations. Accordingly the implementation of the Council Recommendations in Hungary are reflected by national regulations, aimed at preventing alcoholic beverages being produced, advertised and marketed aiming at young people. As in many other countries it was necessary to introduce rules to protect the physical, mental and moral development of minors as well, though there are some uncovered areas, especially as far as sport and music events and sponsorship are concerned.

Regarding for all the above mentioned factors, the sale, marketing and promotion of alcoholic beverages in Hungary is regulated as follows.

Regulation		Statutory / Non-statutory
1	Law on Economic Advertising Activity (Act No. LVIII/1997. on economic-commercial advertising activities)	Statutory
2	Act No. I./1996. on radio and television broadcast, the so called 'Media Law'	Statutory
3	Hungarian Code of Advertising Ethics, 2005	Non-statutory
4	Code of Advertising Ethics of the Association of Hungarian Brewers	Non-statutory

10.2 Law on Economic Advertising Activity

Name of regulation:

- I **Law on Economic Advertising Activity (Act No. LVIII/1997. on economic-commercial advertising activities)**

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

Parliament

Which types of marketing are controlled by in this regulation?

Economic/commercial advertising

Which alcoholic beverages are subject to this regulation? (in VOL.)

All type of alcoholic beverages

Whom is this regulation directed at or who has to adhere to it?

The Scope of this law extends to all commercial activities of any natural or legal person or enterprise without a legal entity (referred to henceforth as enterprises) within the territory of the Hungarian Republic as an advertiser, provider/supplier of advertising services or publisher of advertisements.

Publisher of an advertisement: who possesses any means appropriate for the publication of advertisements and makes any advertisement known/recognisable by the use of these means.

Additional comments

Advertising of alcoholic drinks, which was once completely banned, is permitted subject to legislative regulation. It is allowed in all media subject to constraints on content, timing and place.

The Hungarian Code of Advertising, which does not include specific rules on alcoholic beverages, is applied by the self-regulatory body The Hungarian Advertising Self-regulatory Board. Statutory Authorities

– The Consumer Protection Authority, the so called Directorate of Consumer Protection (Fogyasztóvédelmi Felügyelőség) and its county branches are responsible through the Law on Consumer Protection to protect the life, health and safety of consumers, protect their interests, provide information to consumers and take part in consumer education. It is also responsible for most of the Law on Advertising

– It undertakes fact finding on consumers complaints and takes relevant measures, including monitoring advertising

– The Hungarian Competition Authority (Gazdasági Versenyhivatal) initiates proceedings on unfair manipulation of consumer choice, restrictive agreements, abuse of dominant position and merger control under the Competition and Business Advertising Acts. It also handles misleading and competitive advertising

– The main supervisory body overseeing broadcasting is the National Radio and Television

Board (ORTT). Created by the 1996 Law on Radio and Television Broadcasting its responsibilities include supervising the observation of the media law, including the amount of time taken up by advertising, and has the authority to fine broadcasters or even to suspend broadcasting

10.2.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	Yes	Yes	Yes	Yes	No	No

* other than young people

10.2.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Success	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	No

Remarks on elements

- It is forbidden to advertise alcoholic drinks
 - a in printed papers whose target groups are children and young people.
- § It is forbidden to advertise tobacco or alcoholic beverages:
 - a aimed at children or young people;
 - b displaying children or young people
- It is forbidden to advertise tobacco or alcoholic beverages:
 - a aimed at children or young people;
 - b displaying children or young people;
 - c calling for immoderate consumption.
- It is forbidden to broadcast/publish advertisements, which are likely to impair the physical, mental or moral development of minors, in particular those, depicting minors in dangerous, violent situations or in situations emphasising sexuality.
- Advertisements, promoting cigarettes or tobacco products
 - a presenting smoking as a healthy activity;
 - b depicting people consuming these products/ smoking cigarettes;
 - c using the images or statements of famous film, pop or show business stars are forbidden.

- It is forbidden to broadcast/publish advertisements, which are likely to impair the physical, mental or moral development of minors, in particular those, depicting minors in dangerous, violent situations or in situations emphasising sexuality.
- It is forbidden to advertise alcoholic drinks
 - a in printed papers whose target groups are children and young people;
 - b on a toy, game or on their packages.

10.2.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	Yes	Yes	Yes	Yes	Yes	Yes

Pre-launch advice is provided by

- *Directorate of Consumer Protection and its county branches;
- *The Hungarian Advertising Association
- *EASA -The European Advertising Standards Alliance (EASA), a non-profit organisation based in Brussels.

The Advertising Association has launched a monitoring service to follow advertisements thematically: last year and this year, reports have been compiled about the pharmaceutical and alcohol commercials.

Complaints can be made to

- 1 EASA The European Advertising Standards Alliance (EASA) brings together national advertising self-regulatory organisations (SROs) and organisations representing the advertising industry in Europe. In Hungary it is the Önszabályozó Reklám Testület (ÖRT).
- 2 Directorate of Consumer Protection and its county branches;
- 3 The Hungarian Advertising Association, Ethical Committee
- 4 The court
- 5 Competition Council /Gazdasági Versenyhivatal/.

Marketing practices can be continued as long as legal proceedings are ongoing. The possibility of complaining is regulated by the law itself. Information can be found on the internet.

Sanctions, where appropriate, are imposed by the court and the Directorate of Consumer Protection and the sanction can be a fine depending on all the conditions under which the violation occurred, with special regard for the violation of the customer's rights or the sanction can be a ban or suspension, when the marketing practice or advertisement in question can be banned or suspended.

The results of procedures are publicly announced. Corrections needed to be made; the decision has to be published in the same media where the violation happened (e.g. the tv channel must suspend its activity for some minutes displaying the information that according to the decision of .. in accordance with .. law, the broadcasting activity must be suspended because of violating the law with.. the activity).

The minimum and maximum amount of time the procedure officially takes is unknown.

10.3 Media Law - Act on radio and tv broadcast

Name of regulation:

2 Act No. I./1996. on radio and television broadcast

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

Parliament /Accepted by the Parliament on 21 dec. 1995.

Which types of marketing are controlled by in this regulation?

Classical advertisement;

Indirect advertisement;

All kind of broadcasts;

Which alcoholic beverages are subject to this regulation? (in VOL.)

All types of alcoholic beverages

Whom is this regulation directed at or who has to adhere to it?

(1) The Scope of this law extends to all Hungarian radio and television broadcasts and to all related broadcasting activities.

(2) If laid down by provisions of an international contract, the scope of this law extends to non-Hungarian broadcasters as well.

10.3.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	Yes	Yes	Yes	Yes	No	No

* other than young people

10.3.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	No	No

Remarks on elements

- B Advertisements in general
 - (4) Shall not exploit the special trust minors place in parents, teachers or other persons, nor their inexperience or credulity.
- D Television advertising for alcoholic beverages shall comply with the following criteria:
 - a) it may not be aimed specifically at minors or, in particular, depict minors consuming these beverages;
- E (3) It shall not unreasonably show minors in dangerous situations or shall not exhort violence.
- F 12 § (2). Television advertising for alcoholic beverages shall comply with the following criteria:
 - b) it shall not encourage immoderate consumption of alcohol or present abstinence or moderation in a negative light;
 - c) it shall not create the impression that excessive drinking can be avoided by the consumption of alcoholic beverages with low alcohol content or it shall not place emphasis on high alcoholic content as being a positive quality of beverages;
 - 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) in main time only beverages with low alcoholic content can be advertised
 - f) no ads can be shown immediately preceding or following children's programs
 - g) it shall not link the consumption of alcohol to enhanced physical performance or to driving
 - e) it shall not create the impression that the consumption of alcohol contributes towards social or sexual success;
- G Television advertising for alcoholic beverages shall comply with the following criteria:
 - a) it may not be aimed specifically at minors or, in particular, depict minors consuming these beverages;Television advertising shall not cause moral or physical detriment to minors, and shall therefore comply with the following criteria for their protection:
 - 14 § (1) It shall not directly encourage minors to persuade their parents or others to purchase toys or other goods or services being advertised.
 - (2) It shall not be misleading as for the real nature and hazards of the toy being advertised.
 - (3) It shall not unreasonably show minors in dangerous situations or shall not exhort violence.
 - (4) It shall not exploit the special trust minors place in parents, teachers or other persons, nor their inexperience or credulity.
 - (5) It shall not directly exhort minors to purchase (buy, rent) a product or a service.

10.3.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	Yes	Yes	Yes	Yes	Yes	Yes

Pre-launch advice is provided by

- Directorate of Consumer Protection and its county branches;
- The Hungarian Advertising Association;
- EASA The European Advertising Standards Alliance (EASA), a non-profit organisation based in Brussels.

The Advertising Association has launched a monitoring service to follow advertisements thematically: last year and this year, reports have been compiled about the pharmaceutical and alcohol commercials. (The monitoring reports are published in the Studies column of the homepage.) "The Commission has not found any alcohol commercial problematic this year. This shows, too, that the business is law-abiding and quick; instead of ethical and business failures committed for the sake of immediate success, the advertisements prepared with care and responsibility are more useful". /Remark: This is a quote from the webpage of the Advertising Association. Some advertisements do violate the law in my opinion/

Complaints can be made to:

- 1 EASA The European Advertising Standards Alliance (EASA) brings together national advertising self-regulatory organisations (SROs) and organisations representing the advertising industry in Europe. In Hungary it is the Önszabályozó Reklám Testület (ÖRT).
The Advertising Law, passed in 1997, recognises the role of self-regulation. More recently introduced framework legislation affecting advertising is inspired by EU Directives. Self-regulation in Hungary dates from 1981 and the system was completely overhauled in 1996, when the present SRO was set up.
 - 2 Directorate of Consumer Protection and its county branches;
 - 3 The Hungarian Advertising Association, Ethical Committee
 - 4 The court
 - 5 Competition Council /Gazdasági Versenyhivatal/
- When a possible violation has been reported and the legal procedure is in process a marketing practice can still be used.
The possibility of complaining is made known to the public /it is regulated by the

law itself. Besides this information can be found on the internet/.
 Sanctions, where appropriate, are imposed by the court and the Directorate of Consumer Protection and there can be a fine, which depends on all the conditions under which the violation occurred, with special regard for the violation of the customer's rights - what rights were violated, how seriously, for how long and how frequently it was repeated; or the marketing practice or advertisement can be banned or suspended.

The results of procedures are publicly announced. Corrections have to be made; the decision has to be published in the same media where the violation happened (e.g. the tv channel must suspend its activity for some minutes displaying the information that according to the decision of .. in accordance with .. law, the broadcasting activity must be suspended because of violating the law with.. the activity)].

The minimum and maximum amount of time the procedure officially takes is not known.

10.4 Hungarian Code of Advertising Ethics, 2005

Name of regulation:

3 Hungarian Code of Advertising Ethics, 2005

Is this statutory or non-statutory regulation?

Non-statutory

Who made the text of this regulation?

the Hungarian Advertising Association

Which types of marketing are controlled by in this regulation?

Advertisement

Which alcoholic beverages are subject to this regulation? (in VOL.)

All type of alcoholic beverages

Whom is this regulation directed at or who has to adhere to it?

This Code applies to the advertising activity of the members of the signatory organizations and all those who voluntarily submit its regulations.

Additional comments

Self-regulatory codes are binding only for those, who voluntarily commit themselves to their regulations, so legally no obligations are attached. The Ethical Committee of the Association does not have any legal tools to force its members to honor the obligations laid down in the Code.

10.4.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	No	Yes	No	Yes	No

* other than young people

10.4.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	Yes	Yes	Yes	No	Yes	Yes	No	No	No	No	Yes

Remarks on elements

- A Article 12:
Protection of children and youth
- In advertisements for children, special regulations concerning the advertising of certain products for children and juvenile consumers shall be obeyed.
- Advertisements targeted at children and juveniles, or advertisements made with children and juveniles in them shall not contain announcements, visual appearance or sound effects which may be spiritually, mentally or physically harmful to them, or which take advantage of their lack of experience, credulity and ignorance.
- B (6) Producers of foods and drinks shall pay particular attention to the fact that in advertisements targeted at children, no live or animated media personality (appearing in radio, television or press) shall be used to sell products, services or gifts in a way that renders it more difficult to draw a distinction between editorial content and commercial promotion in a programme
- C (8) With regard to their message and their appearance as well, advertisements addressed to children and juveniles shall not show a bad example or negative moral values.
(9) Business advertisements shall not show children in dangerous situations.
- F Article 14
(2) Advertisements of alcoholic beverages shall not represent outstanding physical or intellectual achievement as a result of the consumption of such drinks.
(6) Advertisements of alcoholic beverages shall not convey the impression that consuming alcoholic beverages contributes to social or sexual success.
- E * Remark *: it is not a ban, on the contrary, it is more about how to talk the language of children to reach them in (17). That is why it is worth paying attention to these type of messages of the self-regulatory codes.
(16) In case of advertising a product or service, the advertising of which involves the opportunity of selling and/or using a service (e.g. advertising on the internet or other advertisements which suggest purchase by phone calls), advertisers shall pay particular attention to children getting parental consent before declaring purchase or using a service.
(17) In commercial promotional offers targeted at children, the accurate and detailed conditions of getting the advertised gift, tender or competition, or the availability of the advertised product shall be given. The message shall be appropriate for children to understand the promotional offer properly. **
(1) Special protection shall be provided for certain defenceless consumer groups (e.g. children and youth, handicapped consumers) regarding the exercise of the Code's principles.

10.4.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	Yes	Yes	Yes	Yes	Yes	Yes

Pre-launch advice is provided by

- Directorate of Consumer Protection and its county branches;
- The Hungarian Advertising Association
- EASA The European Advertising Standards Alliance (EASA), a non-profit organisation based in Brussels.

“The Advertising Association has launched a monitoring service to follow advertisements thematically: last year and this year, reports have been compiled about the pharmaceutical and alcohol commercials. (The monitoring reports are published in the Studies column of the homepage.) The Commission has not found any alcohol commercial problematic this year. This shows, too, that the business is law-abiding and quick; instead of ethical and business failures committed for the sake of immediate success, the advertisements prepared with care and responsibility are more useful.”

But the country partner did find and show advertisements and other marketing practices that did violate the statutory regulations.

Complaints can be made to

- 1 The Hungarian Advertising Association, Ethical Committee
- 2 EASA The European Advertising Standards Alliance (EASA) brings together national advertising self-regulatory organisations (SROs) and organisations representing the advertising industry in Europe. In Hungary it is the Önszabályozó Reklám Testület (ÖRT).

The Advertising Law, passed in 1997, recognises the role of self-regulation. More recently introduced framework legislation affecting advertising is inspired by EU Directives. Self-regulation in Hungary dates from 1981 and the system was completely overhauled in 1996, when the present SRO was set up.

- 3 Directorate of Consumer Protection and its county branches;
- 4 The court
- 5 Competition Council

Marketing practices can be continued as long as legal proceedings are ongoing.

Self-regulatory codes apply to the advertising activity of the members of the signatory organizations and all those who voluntarily submit its regulations. Self-regulation of the advertising profession as the completion of the state regulations is recognized also by the 84/450 and 97/55 EC directive on deceptive and comparative advertising, and by the preamble of the Act LVIII of 1997 on Business Advertising Activity. This Code is a collection of practical and professional ethic norms for advertisers in Hungary. According to the Code “Due to its nature, the Code is more detailed than legal acts are and it is sometimes more strictly formulated. However, professional code of ethics of other trades may contain special regulations which were given grounds not from advertising aspects. These are not included in this Code.” Regarding definitions of certain expressions

otherwise not defined in this Code, the relevant statutory regulations and referred laws shall apply. Advertisers in the first place shall bear overall responsibility for obeying the Code's regulations.

Regarding sanctions, the Advertising Association can ban or suspend the advertisements or marketing practices that violate the code or the relevant law, and if the marketing practise is still being used, then the Association can exclude the advertiser from its members. Otherwise the same sanctions apply as in case of the previously mentioned statutory regulations.

The minimum and maximum amount of time the procedure officially takes is [not know but can even take years. The only time limit mentioned is the appeal against an ad or marketing practice within a year from publication.

10.5 Code of Advertising Ethics of the Association of Hungarian Brewers

Name of regulation:

o. Code of Advertising Ethics of the Association of Hungarian Brewers

Is this statutory or non-statutory regulation?

Non-statutory regulation

Who made the text of this regulation?

the Association of Hungarian Brewers

Which types of marketing are controlled by in this regulation?

All types

Which alcoholic beverages are subject to this regulation? (in VOL.)

Beer

Whom is this regulation directed at or who has to adhere to it?

This Code applies to the advertising activity of the members of the Brewers Association at the territory of the Hungarian Republic for any products produced or distributed in Hungary with the exception of alcohol-free beers. Any other brewer is free to join the Code.

Additional comments

This Code applies to the advertising activity of the members of the Brewers Self-regulatory codes apply to the advertising activity of the members of the signatory organizations and all those who voluntarily submit its regulations, in this case only brewers. This means that such codes do not have the same legally binding nature as statutory regulations, so their effect is also limited.

10.5.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	Yes	Yes	Yes	Yes	Yes	Yes

* other than young people

10.5.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Success	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Yes	No	No

Remarks on elements

- A - It does not regulate production, it is about advertising activities. It is based on the statutory regulations, so all the elements of statutory regulations are legally binding for everybody. It does however regulate ads aimed specifically at minors, stating that ads aimed at minors or depicting minors in the act of consuming beer or even in a situation suggesting the act of consumption, are forbidden. Though minors in a family or similar environment can be portrayed in ads, but it must be made clear that they are not consuming any beer.
- B The advertisement of beer shall not depict any celebrity or symbol, real or invented, in the act of drinking or promoting drinking, who/which is popular among minors especially
- C - In no ways/forms beer can be advertised at schools or other institutions for education or training for minors, nor at social premises where minors meet, nor at publications aimed at minors.
- Beer can not be advertised in health care institutions (hospitals, clinics, etc.)
(2) Ads aimed specifically at minors, or depicting minors in the act of consuming beer or only in a situation suggesting the act of consumption, are forbidden. Though minors in a family or similar environment can be portrayed in ads, it must be made clear that they are not consuming beer.
- D Minors in a family or similar environment can be portrayed in ads, but it must be made clear that they are not consuming beer.
- E - Beer consumption shall not be portrayed in connection with any other activity dangerous to health or that can cause injuries or in any other situations where beer consumption can be dangerous.
- F - Advertisements of beer cannot blame, criticize, or make fun of people not consuming any beer.
- Ads can not present beer, as means of achieving outstanding intellectual, physical or sexual performance, or of increased devotion or popularity.
- Advertisements of beer shall not convey the impression that consuming beer contributes to social success and that refusal of consumption is a sign of weakness.
- Beer consumption shall not be presented as a challenge or as if it was a brave, masculine act.
- Ads can not suggest that beer has any therapeutic qualities.
- G - In no ways/forms beer can be advertised at schools or other institutions for education or training for minors, nor at social premises where minors meet, nor at publications aimed at minors.

- Beer shall not be advertised in media, whose target groups are minors.
- Regarding internet - pages mostly visited by minors or aimed specifically at minors shall not be used to advertise beer.
- I - Beer shall not be advertised in media, whose target groups are minors.
- Regarding internet - pages mostly visited by minors or aimed specifically at minors shall not be used to advertise beer.
- J [empty field]
- Other:
 - The advertisement of beer shall not be targeted at pregnant women and people with mental disorders.
 - Beer can not be advertised in health care institutions (hospitals, clinics, etc.)

10.5.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	Yes	Yes	Yes	Yes	Yes	Yes

Pre-launch advice is provided by:

The Brewers Association, Ethical Committee

Besides the other bodies are responsible for pre-launch advice:

- Directorate of Consumer Protection and its county branches;
- The Hungarian Advertising Association
- EASA The European Advertising Standards Alliance (EASA), a non-profit organisation based in Brussels.

“The Advertising Association has launched a monitoring service to follow advertisements thematically: last year and this year, reports have been compiled about the pharmaceutical and alcohol commercials. The monitoring reports are published in the Studies column of the homepage. The Commission has not found any alcohol commercial problematic this year. This shows, too, that the business is law-abiding and quick; instead of ethical and business failures committed for the sake of immediate success, the advertisements prepared with care and responsibility are more useful.”

But the country partner did find and show advertisements and other marketing practices that violated the statutory regulations.

Complaints can be made to:

- 1 The Hungarian Advertising Association, Ethical Committee
- 2 EASA The European Advertising Standards Alliance (EASA) brings together national advertising self-regulatory organisations (SROs) and organisations representing the advertising industry in Europe. In Hungary it is the Önszabályozó Reklám Testület (ÖRT).

The Advertising Law, passed in 1997, recognises the role of self-regulation.

More recently introduced framework legislation affecting advertising is inspired by EU Directives. Self-regulation in Hungary dates from 1981 and the system was completely overhauled in 1996, when the present SRO was set up.

- 3 Directorate of Consumer Protection and its county branches;

4 The court

5 Competition Council

Marketing practices can be continued as long as legal proceedings are ongoing. Self-regulatory codes apply to the advertising activity of the members of the signatory organizations and all those who voluntarily submit its regulations. This Code is a collection of practical and professional ethical norms for Brewer-advertisers in Hungary. Regarding definitions of certain expressions otherwise not defined in this Code, the relevant statutory regulations and referred laws shall apply. Advertisers in the first place shall bear overall responsibility for obeying the Code's regulations.

Regarding sanctions, the Brewers Association can ban or suspend the advertisements or marketing practices that violate the code or the relevant law, and if the marketing practise is still being used, then the Association can exclude the advertiser from its members. Otherwise the same sanctions apply as in case of the previously mentioned statutory regulations.

The minimum and maximum amount of time the procedure officially takes is [not know but can even take years. The only time limit mentioned is the appeal against an ad or marketing practice within a year from publication.

11 Ireland (IE)

11.1 Introduction

Advertising in Ireland is regulated through both statutory codes and through industry self-regulatory codes. Broadcasting is regulated by the statutory body the Broadcasting Commission of Ireland and the Broadcasting Complaints Commission (BCC). The BCC was founded in 1976 to receive and adjudicate on complaints about material broadcast, both programmes and advertisements.

The ASAI is the self-regulatory body for the advertising industry, it provides pre-vetting service to the industry and its Complaints Committee adjudicates on complaints made about individual advertisements. The MEAS Code of Practice, published by the social aspects organisation of the Irish drinks industry, concentrates on the naming, packaging and promotion of alcoholic drinks.

Central Copy Clearance Ireland Ltd was established in February 2003 as an independent organisation to provide a pre-vetting service for all advertising of alcoholic drinks in Ireland. CCCI ensures that no media outlet in Ireland will accept any advertising for any alcoholic drinks brand unless it carries a copy clearance number from CCCI. CCCI is funded by members of the Drinks Industry Group of Ireland (DIGI) – which represents brewers, distillers, distributors and retailers of alcoholic products. The day-to-day running of the organisation is the joint responsibility of the Institute of Advertising Practitioners in Ireland (IAPI) - which represents the advertising agencies - and the Association of Advertisers in Ireland (AAI) - which represents major advertisers.

In January 2006 a new Monitoring Body was established by the Minister for Health and Children. The body will oversee the implementation of and adherence to the Voluntary Codes of Practice agreed between the Department of Health and Children and representatives of the advertising, drinks and media communications industries. The Alcohol Advertising Monitoring Body will be made up of representatives from four key groups; the Health Promotion Unit of the Department of Health and Children; the Broadcasting Commission of Ireland; the Drinks Industry Group of Ireland and the Advertising Standards Authority.

The new Monitoring Body will have access to and will review data from the Advertising Standards Authority of Ireland, Central Copy Clearance Ireland, AC Nielson, Joint National Listenership Research (JNLR), Irish Film Censor Reports (cinema). In addition, the Body can commission independent research across all media to assess adherence to the Code. This research will be funded by the Department of Health and Children.

Regulation		Statutory / Non-statutory
1	Code of Standards, Practice and Prohibitions in Advertising Sponsorship and other forms of Commercial Promotion in Broadcasting Services (Broadcasting code)	Statutory
2	Advertising Standards Authority for Ireland (ASAI)	Non-statutory
3	MEAS Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks	Non-statutory
4	Voluntary Code to Limit the Exposure of Young People to Alcoholic Drink Advertising on Television, Radio, in Cinema and on Outdoor/Ambient media.	Non-statutory

11.2 Code of Standards in Advertising Sponsorship and other

Name of regulation:

- I **Code of Standards, Practice and Prohibitions in Advertising Sponsorship and other forms of Commercial Promotion in Broadcasting Services (Broadcasting code)**

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

Minister for Arts, Culture and the Gaeltacht (Gaelic or Irish speaking areas)

Which types of marketing are controlled by in this regulation?

All kinds of broadcast (tv, radio: public, private, advertising, sponsoring, commercial, promotional)

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcohol beverages in general (controlled);

Spirit based alcoholic drinks (ban)

Whom is this regulation directed at or who has to adhere to it?

The legislation governing the drawing up of this code states that “...every sound broadcasting contractor and the television programmes service contractor shall comply with every such code in relation to its broadcasting services.” This in effect means that it applies to the State broadcasting authority RTE and its radio and tv stations, the independent TV station, TV3, and the independent radio stations governed by the BCI.

Additional comments

Mature Enjoyment of Alcohol in Society (MEAS) is a social aspects organisation established in 2002 by the principal companies and trade organisations in the drinks industry but is operationally independent from the drinks companies.

- Its Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks came into force in May 2004 after consultation with representatives from all categories of stakeholders.
- Applicable to all types of alcoholic drinks, it generally addresses areas not covered by ASAI.
- MEAS offers a non-binding advisory service for all commercial communications apart from broadcast media where responsibility lies with ASAI and CCCI.
- Its Independent Complaints Panel hears complaints relating to all commercial communications for alcoholic beverages apart from national advertising broadcast media, cinemas, outdoor and national sponsorships which fall within the remit of the ASAI. Its decisions are publicised.
- A campaign to promote the Code to the public is planned for 2005.

- Guidance Notes, developed in consultation with the industry, provide additional advice on promotional practices and multiple drinks servings.
- In January 2005, The Drinks Industry Group of Ireland, in agreement with advertisers, advertising agencies and the relevant media suppliers, implemented voluntary codes to limit the exposure of young people to alcoholic drink advertising on television and radio, in cinemas and on outdoor/ambient media.
- The Drinks Industry Group of Ireland has also agreed a Code of Sponsorship to ensure the promotion of and adherence to the highest standards in sponsorship of events. The Code is intended to complement the ASAI Codes in addition to the regulations, legislation and voluntary codes covering the sale and general marketing of alcohol drinks in the Republic of Ireland.

11.2.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with ‘yes’ in the following table. If a ban regarding this aspect is absent it is indicated with ‘no’.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	Yes	No	Yes	Yes	No

* other than young people

11.2.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with ‘yes’ in the following table. If an element is not forbidden at all, it is indicated with ‘no’.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Success	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	Yes	No	No	Yes	Yes	No	Yes	No	No

Remarks on elements

- C Advertisements for alcoholic drink may not be aimed specifically at minors or, in particular, depict minors consuming these beverages.
- F “The advertising of alcoholic drinks should not create the impression that consumption of such beverages contributes towards sexual attraction and success, or social success”.
and “Advertisements shall not link the consumption of alcohol to enhanced physical performance or to driving”.
- G Alcoholic drink advertising must not encourage young people or other non-drinkers to begin drinking - it must be cast towards brand selling and identification only.
- I Broadcasters will ensure that alcoholic drink advertisements are not transmitted in or around programmes primarily intended for young viewers

or listeners; advertisers are required to take account of the age profile of the viewers and listeners so that ad

11.2.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions increase of violators	Results published or publically announced
Yes or No	Yes	No	Yes	No	No	Yes

Pre-launch advice is provided by Central Copy Clearance Ireland (the name of the body). It is funded by the drinks industry in Ireland and operated by the advertising industry. It was set up in 2003 and the two advertising bodies AAI and IAPI offer independent and the media operate a voluntary ban on any advertisements that have not obtained the CCCI stamp of approval prior to publication.

Complaints can be made to a statutory body called the Broadcasting Complaints Commission. It is state funded

It is left up to the advertiser whether a marketing practice is still used during a complaint procedure. In some cases they take off the advertisement as soon as they receive the complaint, pending a decision by the Commission, however in other cases the advertisement continues to air until a complaint is upheld.

The possibility of complaining is made known to the public. Information is published on website and booklet available from BCC.

The Broadcasting Complaints Commission consider that the fact of having a complaint against a broadcaster upheld and being required to state this publicly on air is a good sanction for the broadcaster.

The broadcaster is required to publicise the decision of the Broadcasting Complaints Commission at some relevant point within the schedule - if the complaint is about a particular programme or item of discussion the broadcaster is requested to read an 'apology' or announcement that the complaint has been upheld by the BCC.

The complaint has to be made within 30 days of the airing of the advertisement or programme. The complaint is then forwarded to the broadcaster who has 21 days to respond, the complainant receives their response and has 14 further days to make a further complaint to the Commission. The Commission meet every 3 months and generally deal with all complaints before them at this stage so the procedure is unlikely to take more than 3 months.

11.3 Advertising Standards Authority for Ireland

Name of regulation:

2 Advertising Standards Authority for Ireland (ASAI)

Is this statutory or non-statutory regulation?

Non-statutory

Who made the text of this regulation?

Advertising Standards Authority for Ireland, a limited company whose main activity is the regulation of advertising. The system is financed entirely by the advertising industry by way of membership subscriptions. The Board consists of thirteen members – the Chairman and four Advertiser members, four Agency members and four Media members. It is the independent self-regulatory body set up and financed by the advertising industry.

Which types of marketing are controlled by in this regulation?

Broadcast (tv, radio, cinema);
Advertisements in/on all printed material;
Electronic systems (internet, teleshopping etc.);
Promotional media in public places;

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages > 1.2% VOL.
(ban on spirit based alcohol drinks for Broadcast)

Whom is this regulation directed at or who has to adhere to it?

The code is directed at all sectors of the advertising industry - advertisers and promoters, advertising agencies, direct marketing interests, sales promotion consultants, media independents and the various media - print, radio and television, cinema, outdoor and Internet.

Additional comments

- Self-regulation of alcoholic beverages in Ireland is addressed by three organisations. The Advertising Standards Authority for Ireland (ASAI) is complemented by two drinks industry initiatives that apply specifically to alcoholic drinks advertising: Mature Enjoyment of Alcohol in Society (MEAS) and Central Copy Clearance Ireland (CCCI).
- Self-regulation of advertising is primarily through the ASAI, an independent self-regulatory body set up in 1981 and financed by the advertising industry.
- ASAI applies two codes: the Code of Sales Promotion Practice and the Code of Advertising Standards for Ireland and which applies to advertising and sales promotions in all media. It includes specific regulations relating to alcohol.
- Applicable to all alcoholic drinks, they were arrived at after extensive consultation with all stakeholders and cover the majority of commercial communications although not labelling, packaging, merchandising, point of sale, sponsorship and product placement.
- The coverage of its provisions is comprehensive and non-binding copy advice is offered by ASAI.
- ASAI offers a complaints mechanism and either party may appeal their decision. The decisions are published.
- ASAI does not offer copy clearance but Central Copy Clearance Ireland (CCCI), a self-regulatory body set up in 2003, funded by the drinks industry in Ireland, and operated by the advertising bodies, the Association of Advertisers in Ireland (AAI) and the Institute of Advertising Practitioners in Ireland (IAPI), provides independent vetting for all alcoholic-related advertising, judged against the ASAI Codes. No alcohol-related product advertisement will be published in any media until it has obtained prior clearance from CCCI.

11.3.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	No	Yes	Yes	No	No

* other than young people

11.3.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Success	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	Yes	Yes	Yes	No	Yes	Yes	Yes	No	Yes	No	No

Remarks on elements

- A Advertisements should not be directed at minors (those under 18 years of age) or in any way encourage them to start drinking. (The code applies only to advertising not production).
- B Treatments that are likely to appeal to minors should not be used. Advertisements should not feature characters (real or fictitious), motifs, colours or styles that are likely to appeal particularly to minors in a way that would encourage them to drink.
- C Anyone depicted in an alcohol advertisement should be over twenty-five and should appear to be over twenty-five.
- E An advertisement may refer to the social dimension or refreshing attributes of a drink but should not link in any way the consumption of alcohol to aggressive or anti-social behaviour.
- F
 - a Should not imply that it can improve physical performance,
 - b Should not imply that drinking can contribute to social or business success or distinction or that those who do not drink are less likely to be acceptable or successful than those who do,
 - c Should not suggest that any drink can contribute towards sexual success or make the drinker more attractive to the opposite sex by word or allusion.
- G Advertisements should not be directed at minors (those under 18 years of age) or in any way encourage them to start drinking.

11.3.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	Yes	No	Yes	No	Yes	Yes

Non binding advice on a proposed advertisement or promotion may be obtained from the ASAI secretariat. In addition Central Copy Clearance Ireland was set up in 2003. It is a self-regulatory body funded concerned solely with by the Drinks Industry Group of Ireland (DIGI) and operated by the jointly by the two advertising industry bodies - Association of Advertisers of Ireland (AAI) and the Institute of Advertising Practitioners in Ireland (IAPI). According to an agreement between the various media, the Drinks Industry Group of Ireland (DIGI), the AAI and the IAPI, alcohol advertisements which do not have the CCCI stamp of approval will not be accepted by any Irish media.

Complaints can be made to ASAI. And during a procedure a marketing practice can under certain conditions still be used. If a case is particularly grave the Secretariat may request interim action by the advertiser/promoter or agency including the immediate amendment or withdrawal of an advertisement or promotion pending completion of the investigation.

Information on how to complain outlined on ASAI website also contained in the Advertising Self-Regulation Manual.

Sanctions, where appropriate, are imposed by ASAI and can be a fine (no standard fine (because of good control of ASAI rarely necessary)) or withdrawal or amends and refusal to publish. An additional sanction is the publication of Case Reports, including names of advertisers and agencies involved, this is considered by the ASAI to be an important element of the self-regulatory system.

The results of procedures are publicly announced. Complaints Bulletins are published on ASAI website and supplied to national media.

The minimum and maximum amount of time the procedure officially takes is 2 – 6 months.

11.4 MEAS Code of Practice

Name of regulation:

3 MEAS Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks

Is this statutory or non-statutory regulation?

Non-statutory

Who made the text of this regulation?

MEAS (the working title of Mature enjoyment of Alcohol in Society Limited) is an independent company, limited by guarantee, currently supported by: Beamish & Crawford plc Diageo Ireland Edward Dillion & Co. Ltd. Irish Distillers Group Licensed Vintners Association C & C Group plc Drinks

Industry Group of Ireland Heineken Ireland Interbrew Ireland Vintners' Federation of Ireland.

MEAS is the social aspects organisation of the drinks industry in Ireland.

Which types of marketing are controlled by in this regulation?

Any media (packaging, sale, sponsorship, promotions, ... via direct or indirect / print or electronic communication)

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages > 0.5% VOL

(even if they are classified as foodstuffs rather than drinks)

Whom is this regulation directed at or who has to adhere to it?

The code states that it is the responsibility of all companies connected with the alcoholic drinks industry in the Republic of Ireland (whether as producers, distributors, marketers or retailers) to comply with this Code. This includes the provision of adequate and appropriate briefings to external agencies from whom companies may commission design or promotional work.

Irish distributors are defined as "a company that either produces a brand, holds the trademark rights for a brand within the Republic of Ireland or has contractual rights to distribute or sell a brand within the Republic of Ireland to wholesalers and retailers.

11.4.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	No	No	No	No	No

* other than young people

11.4.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	-	Yes	Yes

Remarks on elements

B A drink, its packaging and any promotional material or activity must not in any direct or indirect way: have a particular appeal to under 18s by including, inter alia, the use of styles, such as characters (real or fictitious, including sporting heroes),

- C A drink, its packaging and any promotional material or activity must not in any direct or indirect way: incorporate images of people who are, or look as if they are, under twenty-five years of age;
- D A drink, its packaging and any promotional material or activity must not in any direct or indirect way:suggest any association with, acceptance of, or allusion to, illicit drugs;
- E A drink, its packaging and any promotional material or activity must not in any direct or indirect way:suggest any association with bravado, or with violent, aggressive, dangerous or anti-social behaviour;
- F A drink, its packaging and any promotional material or activity must not in any direct or indirect way:suggest any association with sexual success or prowess; and suggest that consumption of the drink can lead to social, sporting or business success or popularity;
- G A drink, its packaging and any promotional material or activity must not in any direct or indirect way:encourage illegal, irresponsible or immoderate consumption, such as binge-drinking,* drunkenness or drink-driving; ('illegal' being an indirect reference to children and adolescents)
- H Point-of-sale materials and promotions for alcoholic drinks must not be projected to an under 18s audience or be available at events or activities where more than 25 per cent of the expected audience is under 18.
- J Branded merchandise must not be aimed at children or have a particular appeal to them.
- K Companies must not require sponsored parties to feature alcohol branding on children's size replica sports kit. No other merchandise bearing the brand name or logo of an alcoholic drink will be aimed at children or have a particular appeal to them.

11.4.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	Yes	No	Yes	Yes	Yes	Yes

MEAS offers an advisory service to its clients. *“The Advisory Service offers drink producers, distributors, marketers, retailers and importers an opportunity to seek advice, in advance, about the packaging, including naming and labelling, of any alcoholic drink that they are planning to launch or re-launch or any promotional material or activity or merchandising arrangements that they are intending to undertake that is covered by the Code. This enables any concerns about possible breaches of the Code to be discussed and dealt with at an early stage.”*

Complaints can be made to MEAS.

And during a procedure a marketing practice can still be used.

The possibility of complaining is made known to the public by media coverage and website publication of complaints guide.

Sanctions, where appropriate, are imposed by MEAS (the working title of Mature Enjoyment of Alcohol in Society Limited)- the social aspects organisation of the

drinks industry. It is an independent company, limited by guarantee, currently supported by: Beamish & Crawford plc Diageo Ireland Edward Dil. In the case of Code breaches concerning packaging or point of sale materials, a timetable for implementing the necessary changes will be notified in writing to the company concerned. Retailers will be instructed to dispose of stocks of either any product whose packaging has been found in breach of the Code, or any point of sale material found in breach of the Code, after the date specified by the Code Secretariat. In the event that a MEAS member company chooses not to make the required changes to their product, representatives would be asked to explain their position to MEAS and the company may be expelled from membership. Should any Code signatory other than a MEAS member company not adhere to a Panel decision, it may be removed from the list of Code signatories.

All decisions are published via a press notice issued by MEAS shortly after decisions have been made final and in an annual report submitted to relevant Government Ministers, alcohol interest groups, the Gardaí, licensing authorities, the media and members of the public who request it. The Code Secretariat may advise the aforementioned of any company(ies) who choose not to comply with the Panel's decisions; the Code Secretariat may also notify the media.

According to Meas the minimum amount of time the procedure officially takes is "a few weeks" and the maximum two months.

11.5 Voluntary Code to Limit the Exposure of Young People to Alcoholic Drink Advertising

Name of regulation:

4 Voluntary Code to Limit the Exposure of Young People to Alcoholic Drink Advertising on Television, Radio, in Cinema and on Outdoor/Ambient media.

Is this statutory or non-statutory regulation?

Non-statutory

Who made the text of this regulation?

The Drinks Industry Group Ireland, together with the Association of Advertisers in Ireland, The Institute of Advertising Practitioners in Ireland and the Cinema Industry based in the Republic of Ireland

Which types of marketing are controlled by in this regulation?

All marketing on Television, Radio, Cinema and Outdoor or Ambient media

Which alcoholic beverages are subject to this regulation? (in VOL.)

All alcoholic beverages

Whom is this regulation directed at or who has to adhere to it?

All advertisers on the above media

11.5.1 Bans

The Cinema Industry will not accept alcohol advertising from strength alcohol brands. The Outdoor Media Association (OMA) will not place advertising for any alcoholic drinks within 100 metres of a primary or secondary school entrance

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	-Yes	-	No	Yes	No	No

* other than young people

11.5.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Success	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	Yes	No	No	No	No	No	No	No	No

Remarks on elements

- C Alcohol advertising will only be shown in the cinema with films targeting an adult audience and where it is deemed that at least 75% of the attendances will be aged 18 or over.
 No advertising for alcohol would be booked by an alcoholic drinks advertiser or his agency or placed by the Broadcasters in any television programming where more than 33% of the audience is under the age of eighteen years.
 No advertising for alcohol will be placed in any programming specifically aimed at children or young people.
 On radio all alcohol advertising are banned from programmes where over 33% of the listeners are young people.

11.5.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publicly announced
Yes or No	Yes	No	No	No	No	No

Pre-launch advice is provided by the Central Copy Clearance Ireland (CCCI) and all advertisements must carry the CCCI stamp of approval before acceptance. The search for violations is done by the Alcohol Marketing Communications Monitoring Body. While it is understood that the Body has yet to decide on its operational methods it will have access to and will review data from the Advertising Standards Authority of Ireland, Central Copy Clearance Ireland, AC Nielson, Joint National Listenership Research (JNLR), Irish Film Censor Reports (cinema).
 Complaints cannot be made by members of the public.

The possibility of complaining is not made known to the public.
Sanctions; Where breaches occur, the Body will approach the relevant organisations with details and obtain agreement on the application of the Code. Where agreement cannot be reached, the Body will report the issue to the Minister for Health and Children and will include details of such breaches and attempts to resolve the issue.
The results of procedures will be published annually.
The minimum and maximum amount of time the procedure officially takes is unknown.

12 Italy (IT)

12.1 Introduction

In Italy six different regulations (statutory and non statutory) exist that specifically refer to alcohol marketing and advertising. The “Law on alcohol and alcohol related problems” (2001), the Ratification of the European convention on Television without Frontiers” (1991), the “Self-regulation code on TV and minors” (2002) and the “Regulations for the implementation of art. 13,15,16 of the European Directive 3 October 1989 (89/552 CEE) regarding television advertising of alcoholic beverages and tobacco and the protection of minors” (1991) are statutory codes. The “Advertising self-regulation code” (1966) and the “Ethical code issued by national public radio – TV network (Rai)” (1954) are non-statutory codes.

All these rules are mainly related to alcohol advertising contents with few bans on location, time, media and type of product. The application of these rules is rather complicated, whereas for the characteristics of advertising timetable it would be fundamental to have simple and efficient procedures. For these reasons, the “Advertising self-regulation code” is in practise the main regulation of alcohol marketing in Italy with regards to the complaint procedures. But unfortunately this code regulates only the contents of the alcohol advertising.

Compared to other European countries, in Italy legislators have only recently taken into account the effects of advertising on alcohol consumption, by adopting the European directive 89/552 regarding this issue. For the first time in 2001 the Law on Alcohol and Alcohol Related Problems included a specific article on advertising of alcoholic beverages. Nevertheless the application and the enforcement of this law is difficult because of the ill-defined sanctions and procedures.

Regulation		Statutory / Non-statutory
1	Law on alcohol and alcohol related problems (Legge quadro in materia di alcol e problemi alcolcorrelati) art 13 on advertising	Statutory
2	Ratification of the European convention on Television without Frontiers (Ratifica e applicazione della convenzione europea sulla TV transfrontaliera)	Statutory
3	Self-regulation code on TV and minors (Codice di autoregolamentazione nei rapporti tra TV e minori)	Statutory
4	Regulations for the implementation of the artt. 13,15,16 of the European Directive 3 October 1989 (89/552 CEE) regarding television advertising of alcoholic beverages and tabacco and the protection of minors	Statutory
5	Advertising self-regulation code (Codice dell'autodisciplina pubblicitaria – 38th editions in force since 26 July 2005, the first edition in 1996)	Non-statutory
6	Etical code issued by national public radio – tv network (Rai) (Codice deontologico della radio-televisione pubblica (Rai)) – art. 7 Alcoholic	Non-statutory

12.2 Law on alcohol and alcohol related problems

Name of regulation:

- 1 Law on alcohol and alcohol related problems (Legge quadro in materia di alcol e problemi alcolcorrelati; art 13 Disposizioni in materia di pubblicità)

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

The text was long discussed by members of the Committee of Social Affairs; the final text is the National Parliament's responsibility.

Which types of marketing are controlled by in this regulation?

Broadcast (tv, radio: direct or indirect advertisement)

Printed media (directed at children)

Places of public resorts mainly focused on children-activities

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages > 1,2% VOL.

Spirits (> 21% VOL.)

Whom is this regulation directed at or who has to adhere to it?

Art. 13

§ 7. Alcohol industries, TV networks, magazine and cinema owners

Additional comments

Paragraph 5 states:

All kinds of spirits advertisements are also forbidden:

a in daily and periodical press targeting children and adolescents

b in movie theatres when movies for children and adolescents are shown.

It's worth noting that regarding violations of this paragraph there is no sanction.

12.2.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	Yes	Yes	Yes	Yes	No	No

* other than young people

12.2.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	Yes	No	No	No	No	Yes	Yes	No	No

Remarks on elements

- C Art. 13
 § 2. Alcohol advertising (for alcohol beverages and spirits) is forbidden in the following situations:
 c) where advertising shows children and adolescents consuming alcohol and representing alcohol intake as a positive attitude.
- H Art. 13
 3. Direct or indirect advertisement of alcohol beverages is forbidden in those environments mainly attended by underage people (18 years old).
- I Art. 13
 § 2. Alcohol advertising is forbidden in the following situations:
 a) in programmes specifically devoted to children and adolescents, and during the 15 minutes before and after the programmes themselves;
 § 5. All kinds of spirit advertisements are also forbidden:
 a) in daily and periodical press targeting children and adolescents
 b) in movie theatres when movies for children and adolescents are shown.

12.2.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	No	No	Yes	Yes	Yes	No

In theory the application of sanctions for violations related to regulation in radio-television field is the competence of the Communications Regulatory Authority (AGCOM). Nevertheless, the Antitrust Authority may have competence too because these violations could be considered deceitful or misleading advertising. And of course there are also the normal security authorities.

During the complaint procedure, the marketing practice can still be used. Sanctions, where appropriate, are imposed by ordinary justice and can be a fine between €2.500 to €10.000. (doubling for any further violation). The amount of time the procedure officially takes is a few months.

12.3 Ratification of the European convention on TWF

Name of regulation:

- 2 **Ratification of the European convention on Television without Frontiers (Ratifica e applicazione della convenzione europea sulla TV transfrontaliera)**

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

National Parliament

Which types of marketing are controlled by in this regulation?

Advertising of alcoholic beverages

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages (not further defined)

Whom is this regulation directed at or who has to adhere to it?

Television Broadcasting

Additional comments

General remarks concerning the procedures:

Normally in Italy all complaints have to be made to the Advertising Review Board of the IAP Istituto dell'Autodisciplina Pubblicitaria (IAP Institute of Italian Advertising Self-Regulation). Of course, it is possible to complain to the "Prefetto", local security authority which is part of the Ministry of Internal Affairs, and to the Communications Regulatory Authority (AGCOM) or to the Antitrust Authority.

12.3.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	No	No	No	No	No

* other than young people

12.3.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	Yes	No	No	Yes	No	No	No	No	No

Remarks on elements

- C Art. 15
“Advertising of alcoholic beverages cannot be specifically targeted at minors. No one who could be considered underage has to be used as an actor in the advertising which promotes the use of alcoholic beverages.”
- F Art. 15
“Advertising of alcoholic beverages must not link alcohol consumption to physical performance or to driving

12.3.3 Procedures connected to the regulation

It is indicated whether the following procedures are (‘yes’ or ‘no’) connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	No	No	Yes	–	–	–

Art. 20 establishes a Permanent Committee for complaint handling.

12.4 Self-regulation code on TV and minors

Name of regulation:

3 Self-regulation code on TV and minors (Codice di autoregolamentazione nei rapporti tra TV e minori)

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

Communication companies which signed and subscribed the code and the Ministry of Communication.

Which types of marketing are controlled by in this regulation?

Advertising of alcoholic beverages

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages (not further defined)

Whom is this regulation directed at or who has to adhere to it?

RAI-Radiotelevisione Italiana, Mediaset, Cecchi Gori Communications, F.R.T.-Federazione Radio Televisioni, A.E.R.-Associazione Editori Radiotelevisivi (that is, public and main private radio and television companies and associations)

Additional comments

Originally (in 1997) this code was a private act, but in 2002 the Minister of Communication established a Review Board at his Ministry for the enforcement of the code and it was then recognized by the law dated 3 May 2004.

In Italy in case of violation of alcohol advertising rules it is possible to follow three procedures:

- 1 to report to a statutory department, but it takes a very long time to get any results, compared to when the ad is in the air;
- 2 to report the misleading advertising to the Antitrust Authority and the Communications Regulatory Authority (AGCOM);
- 3 to report to the IAP (Self-regulation Institute).

In Italy the violation of this rules is actually the competence of the self-regulation system, because the complaint procedure apparently is clearer, better-organized and more effective.

12.4.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	Yes	No	Yes	No	No

* other than young people

12.4.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Success	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	Yes	Yes	No	No	No	No	No	Yes	No	No

Remarks on elements

- B Chapter 4 on advertising: First level of general protection (that is, principles . "Adverting must avoid to represent minors drinking alcohol beverages and to present abstinence with negative characteristics.
- C Chapter 4 on advertising: First level of general protection (that is, principles . "Adverting must avoid representing minors drinking alcoholic beverages and presenting abstinence with negative characteristics.
- I Chapter 4 on advertising, : Third level of specific protection (that is, when minors are probably watching TV without the supervision of adults) "Between 4 and 7 p.m. advertising of alcohol beverages should be avoided, in programmes addressing minors and during commercial breaks just before and after the programmes themselves"

12.4.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	No	Yes	Yes	No	Yes	Yes

A Review Board for complaints has been established at the Ministry of Communication. Members of the Review Board are representatives of television companies and other people indicated by the Prime Minister. The Review Board reports the violations of the code to the Communications Regulatory Authority (AGCOM), which takes the decision about the complaint and, in case of proven violation, has to condemn to different sanctions. And during a procedure a marketing practice can still be used. The possibility of complaining is communicated to the public. In case of violation of code ads rules, the communication has to be done without quoting the name of the product. Sanctions, where appropriate, are imposed by The Review Board and the Communications Regulatory Authority (AGCOM). The decision has to be transmitted by the Television in default that has to communicate the decision during peak time (better on the news) and before 10.30 p.m. Art. 10 of law 3/5/2004 n. 112 establishes that televisions have to respect the rules stated by the TV self-regulation code and minors. Sanctions can vary from €25,000 to €350,000. The Review Board notifies the violation to the interested TV, which can file its counter deduction by 15 days.

12.5 Regulations for the implementation of the European Directive 89/552

Name of regulation:

- 4 Regulations for the implementation of the artt. 13,15,16 of the European Directive 3 October 1989 (89/552 CEE) regarding television advertising of alcoholic beverages and tobacco and the protection of minors
Is this statutory or non-statutory regulation?
 Statutory
Who made the text of this regulation?
 Ministry of Communication
Which types of marketing are controlled by in this regulation?
 Advertising of alcoholic beverages
Which alcoholic beverages are subject to this regulation? (in VOL.)
 Alcoholic beverages (not further defined)
Whom is this regulation directed at or who has to adhere to it?
 Alcohol industries, TV networks, magazine and cinema owners

Additional comments

In Italy in case of violation of alcohol advertising rules it is possible to follow three procedures:

- 1 to report to a statutory department, but it takes a very long time to get some results, compared to ads time
- 2 to report the misleading advertising to the Antitrust Authority and the Communications Regulatory Authority (AGCOM).
- 3 to report to the IAP (Self-regulation Institute)

In Italy the violation of this rules is actually competence of the self-regulation system, because the complaint procedure seems to be clearer, better-organized and more effective.

12.5.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	No	No	No	No	No

* other than young people

12.5.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Success	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	Yes	No	No	Yes	No	No	No	No	No

Remarks on elements

- C Art. 2
 "Alcohol advertising should not address directly to minors, and particularly should not represent minors drinking alcoholic beverages"
- F "Alcohol advertising should not to link the use of alcohol to physical performances or to driving"
 "Alcohol advertising should not create the impression that the consumption of alcoholic beverages contributes to the social or sexual success".

12.5.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	No	No	Yes	Yes	Yes	No

In theory the application of sanctions for violations related to regulation in radio-television field is competence of Communications Regulatory Authority (AGCOM). Nevertheless, also the Antitrust Authority could have competence because these violations could be considered misleading advertising. And of course there are also the normal security authorities.

During the complaint procedure, the marketing practice can still be used.

There is no official minimum and maximum amount of time the procedure takes.

Usually it takes a few months.

12.6 Advertising self-regulation code

Name of regulation:

- 5 Advertising self-regulation code (Codice dell'autodisciplina pubblicitaria –38th editions in force since 26 July 2005, the first edition in 1996)

Is this statutory or non-statutory regulation?

Non-statutory

Who made the text of this regulation?

IAP Institute of Italian Advertising Self-Regulation

Which types of marketing are controlled by in this regulation?

Advertising of alcoholic beverages

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages (not further defined)

Whom is this regulation directed at or who has to adhere to it?

The Code of Advertising Self-Regulation is binding for advertisers, agencies, consultants, all advertising media, and for anyone who has accepted the Code directly or through membership in an association, or by underwriting an advertising contract as described in point. In order to better ensure full compliance with the decisions of the Jury the sponsoring organizations undertake that their members insert in their contracts a special clause of acceptance of the Code and its Regulations and of the decisions of the Jury, including orders to publish such decisions.

Additional comments

Art. 11 of the Code of Italian Advertising Self-regulation regards advertising and minors in general.

12.6.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	No	No	No	No	No

* other than young people

12.6.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	Yes	Yes	No	No	Yes	No	No	No	No	No

Remarks on elements

- B Art. 22
"target at minors even only indirectly, or depict minors consuming alcohol"
- C Art. 22
"target refer to minors even only indirectly, or depict minors consuming alcohol"
- F "encourage the excessive, uncontrolled, and hence damaging consumption of alcoholic beverages". This item is not directly aimed at young people but at the general population, of course including young people.

12.6.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	Yes	No	Yes	Yes	Yes	Yes

Pre-launch advice is provided by The Advertising Review Board of the IAP. The Advertising Review Board can provide an advance opinion, at the request of an interested party, on whether the final but not yet publicized advertising submitted to it conforms to the rules of the Code protecting the interests of consumers. The advertising review board submits advertising violations to the jury, autonomously or on the grounds of indications received, within its activities of monitoring. But it is not stated as systematic monitoring.

“As their association, every single consumer can complain freely to the Advertising Review Board about the advertisements that do not comply with the rules of the Code protecting the general interests of consumers”. If the advertising review board considers the complaint appropriate, it directly contacts the advertiser, asking clarifications or some changes in the message. It can also issue a desist order to the advertiser, or submit the complaint to the jury. In any case, the review board provides an appropriate answer to the people who have filed the complaint and explains the reasons of its decision. Marketing practices can be continued as long as legal proceedings are ongoing. The complaint procedure can take between 20 and 40 days.

Sanctions, where appropriate, are imposed by Jury of IAP. All decisions are published by the Secretariat in the website of the Istituto dell’Autodisciplina Pubblicitaria with the names of the parties concerned. The Jury may order that abstracts of decisions be disclosed to the public by the Istituto, also with the name of the interested parties under the terms and in media that are deemed appropriate. Then Jury may order the publication of the decisions, but it is not obliged to do it.

The minimum and maximum amount of time the procedure officially takes is depending on the development of the complaint, whether it goes from the review board to the jury or not, more or less from 20 to 40 days. On average 3 weeks. In case of appeal other 20-40 days.

12.7 Ethical code issued by national public radio-tv network

Name of regulation:

6 Ethical code issued by national public radio – tv network (Rai) (Codice deontologico della radio-televisione pubblica (Rai) – art. 7 Alcoholic drinks)

Is this statutory or non-statutory regulation?

Non-statutory

Who made the text of this regulation?

RAI Trade

Which types of marketing are controlled by in this regulation?

Advertising of alcoholic beverages

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages (not further defined)

Whom is this regulation directed at or who has to adhere to it?

RAI - National public radio-tv network

12.7.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with ‘yes’ in the following table. If a ban regarding this aspect is absent it is indicated with ‘no’.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	Yes	No	No	No	No

* other than young people

12.7.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Success	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	Yes	Yes	No	Yes	Yes	Yes	No	Yes	No	No

Remarks on elements

- B Quotation
“Advertising must avoid to make reference, also indirectly, to minors, and represent the latter during the consumption of alcohol”.
- C Quotation
“Advertising must avoid to make reference, also indirectly, to minors, and represent the latter during the consumption of alcohol”.
- E Art 6 of this regulation deals with children and teenagers, and there are references to their safety and physical integrity.
Quotation:
“Advertising shall not show or evoke activities that can represent a risk for the physical integrity of children and teenagers, neither provoke in them such feelings, attitudes or behaviours that may compromise the development and establishment of positive interpersonal relations”.
- F Quotation
“Advertising must avoid to induce the public to think that the consumption of alcoholic beverages contribute to mental lucidity and to physical and sexual efficiency, and that the lack of its consumption involves a condition of physical, psychological or social inferiority”.
- G Quotation:
“Advertising must avoid to encourage the excessive and uncontrolled, and therefore harmful, use of alcoholic beverages”.
Note: this item is not directly aimed at young people but at the general population, of course including young people
- I Alcohol beverages advertising is forbidden in tv programmes specifically devoted to minors and during the 15 minutes before and after the programmes themselves.

12.7.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	Yes	Yes	Yes	–	–	–

Pre-launch advice is provided by RAI Trade / RAI Trade provides an advance opinion on all advertising, whether it is in conflict with Italian regulations, both statutory and non-statutory.

The search for violations is performed by RAI Trade.

Marketing practices can be continued as long as legal proceedings are ongoing.

The best thing to do is to send the complaint about a violation of this regulation directly to the IAP (Institute of Advertising Self-regulation).

13 Latvia (LV)

13.1 Introduction

There are three regulations that specifically refer to alcohol marketing and advertising in Latvia. “Handling of Alcoholic Beverages Law”, “Radio and Television Law” and “Advertising Law”. They all are statutory.

The statutory “Handling of Alcoholic Beverages Law” regulates various activities with alcoholic beverages (preparation for processing, processing, production, packaging, labeling, storage, loading, disembarking, transfer, transport, import, export, distribution, purchase, marketing, elimination etc.), as well as advertising of alcoholic beverages. The Law is applicable also to retail trade in alcoholic beverages on trains, aeroplanes and ships, if these means of transport are registered in Latvia.

The statutory “Radio and Television Law” determines the procedures for the formation, registration, operation and supervision of broadcasting organisations in the jurisdiction of the Republic of Latvia.

The purpose of the “Advertising Law” is to regulate the production and distribution of advertising, as well as to determine the rights, obligations and liabilities of persons involved in the production and distribution of advertising; to protect the interests of persons as well as the general public in the field of advertising; and to promote fair competition.

The National Radio and Television Council (henceforth - the Council) is an independent institution- a fully autonomous institution, which represents the interests of the public in the field of electronic mass media. The Council will be established by the Saeima, electing nine members to it. The Consumer Rights Protection Centre (henceforth – the Centre) is a State civil institution under the supervision of the Ministry of Economics, which protects consumer rights and interests. The Competition Council is a State civil institution under the supervision of the Ministry of Economics which realizes State policy in the field of competition development and protection.

Regulation		Statutory / Non-statutory
1	Handling of alcoholic Beverages law	Statutory
2	Radio and Television Law	Statutory
3	Advertising Law	Statutory

13.2 Handling of alcoholic Beverages law

Name of regulation:

1 Handling of alcoholic Beverages law

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

Ministry of Finance of the Republic of Latvia

Which types of marketing are controlled by in this regulation?

All

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages > 0,5% VOL.

Whom is this regulation directed at or who has to adhere to it?

This regulation is directed at persons who make any activities with alcoholic beverages as well as the advertising of alcoholic beverages.

Additional comments

In alcoholic beverage advertisement, it is prohibited to:

- 1 represent persons consuming alcoholic beverages;
- 2 utilise symbols of the State of Latvia;
- 3 express an opinion regarding alcoholic beverages as a means of medical treatment;
- 4 associate alcoholic beverage consumption with sports activities or driving a means of transport;
- 5 express views that alcoholic beverages have stimulative or calmativ effects or they help to solve personal problems;
- 6 present negative abstinence or moderation of consumption of alcohol in a negative light.

The advertisement of alcoholic beverages shall include information, which warns against the negative effects of the usage of alcohol. At least 10 per cent of the size of the relevant advertisement shall be allocated to such information. The information shall be provided at the bottom of the advertisement with black letters on a white background; moreover, the letters shall be of such size that the title covers the (technically) greatest possible part of the area intended for the text.

13.2.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	Yes	No	No	No	No	No

* other than young people

Remarks per bans:

Location: Alcoholic beverage advertisements are prohibited:

- 1 In educational and medical treatment institutions and on the walls of such buildings and constructions;
- 2 On letter correspondence and postal parcel items;
- 3 On the external pages (cover) of books, magazines, newspapers and annexes thereof;
- 4 On public means of transport and therein.

13.2.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	Yes	No	No	Yes	No	Yes	No	Yes	No

Remarks on elements

- C It is prohibited to involve persons less than 18 years of age in the handling of alcoholic beverages.
- F In alcoholic beverage advertisement it is prohibited to create an impression that consumption of alcoholic beverages ensures success in social or sexual fields.
- H It is prohibited to sponsor entertainment events for children and sporting events if the information regarding sponsorship includes an indication to any alcoholic beverage (except the name of the sponsor), as well as utilisation of alcoholic beverages.
- J It is prohibited to offer alcoholic beverages free of charge (except the tasting thereof), as a gift or as a compensation for the purchase of other goods or for the receipt of services.

13.2.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions incase of violators	Results published or publically announced
Yes or No	No	Yes	Yes	Yes	Yes	Yes

Remarks per procedure:

Systematic search for violations - The Systematic search for violations is done by the Consumer Rights Protection Centre, the Competition Council and the Radio and Television Council within the respective spheres of their competence (hereinafter the Supervisory Institution).

Possibility to complain - Complaints can be made to the Supervisory Institution.

And during a procedure a marketing practice can still be used. Matters regarding possible violations within the field of advertising shall be examined within ten days from the day that a complaint has been received. If violations of this Law have been determined, the Supervisory Institution is entitled to take a decision, but if under certain circumstances it is not possible, the Supervisory Institution is entitled to take a decision regarding extension for ten days of the term for review of the matter.

System of appeal - An appeal regarding a decision by the Supervisory Institution may be filed with to a court within one month from the day the decision is taken. There is no law which defines after how many days, months or years legal process should be released; judicial system is very impacted that's why it takes about three to six months till first proceeding is denoted. Official legal proceedings can go as the far as European Court.

Sanctions - Sanctions, where appropriate, are imposed by the court and can be a fine (for physical persons up to 215 €, but for legal persons- up to 715 €). For the publication and distribution of unlawful advertisements, a fine for physical persons can rise up to 350 €, but for legal persons- up to 14 285 €. This procedure is part of Latvian Administrative Violation Code. Other sanctions can be deprivation of liberty for a term not exceeding two years, or a fine not exceeding eighty times the minimum monthly wage, with or without deprivation of the right to engage in entrepreneurial activity for a term of not less than two years and not exceeding five years. This procedure is part of Criminal Law.

Results published - All decisions taken by the Supervisory Institution are public and accessible to any interested person.

Legal processes in Latvia are public and sentences made in court are accessible to each interested person.

13.3 Radio and Television Law

Name of regulation:

2 Radio and Television Law

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

Ministry of Economics of the Republic of Latvia

Which types of marketing are controlled by in this regulation?

Advertising and marketing in electronical mass media

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages > 0,5% VOL.

Beer and wine

Whom is this regulation directed at or who has to adhere to it?

Advertising and marketing producers and distributors in electronic mass media have to adhere to this regulation.

Additional comments

Commercials and teleshops for alcoholic beverages shall comply with the following provisions:

- 1 they may not link the consumption of alcohol to enhanced physical performance or to operating means of transportations;
- 2 they may not claim that alcohol has therapeutic qualities or that it has the effect of a stimulant or a sedative or that it helps to resolve personal problems;
- 3 they may not encourage immoderate consumption of alcohol or present abstinence or moderation in the use of alcohol in a negative light;
- 4 they may not emphasise the alcoholic content of alcoholic beverages.

13.3.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	No	No	Yes	No	No

* other than young people

Remarks per ban

Type of product - Commercials and teleshops for beer and wine are permitted, but commercials and teleshops for other alcoholic beverages are prohibited.

13.3.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	Yes	Yes	Yes	No	No	No	Yes	No	No

Remarks per element

- C Commercials and teleshops for alcoholic beverages shall comply with the following provisions- they may not be aimed at minors, and minors shall not participate in them.
- D Commercials and teleshops for tobacco products and smoking are prohibited.
- E Violence is prohibited in commercials and teleshops.
- I Commercials and teleshops for alcoholic beverages shall not comply with the following provisions- they may not be aimed at minors, and minors shall not participate in them.

13.3.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	No	Yes	Yes	Yes	Yes	Yes

Remarks per procedure

Systematic search for violations - The search for violations is done by the Consumer Rights Protection Centre, the Competition Council and the Radio and Television Council within the respective spheres of their competence (hereinafter- the Supervisory Institution).

Possibility to complain- Complaints can be made to the Supervisory Institution. And during a procedure a marketing practice can still be used. Matters regarding possible violations within the field of advertising shall be examined within ten days from the day that a complaint has been received. If violations of this Law have been determined, the Supervisory Institution is entitled to take a decision, but if under certain circumstances it is not possible, the Supervisory Institution is entitled to take a decision regarding extension for ten days of the term for review of the matter.

System of appeal - An appeal regarding a decision by the Supervisory Institution may be filed with to a court within one month from the day the decision is taken. There is no law which defines after how many days, months or years legal process should be released; judicial system is very impacted that's why it takes about three to six months till first proceeding is denoted. Official legal proceedings can go as the far as European Court.

Sanctions - Sanctions, where appropriate, are imposed by the court and can be a fine (for physical persons up to 215 €, but for legal persons- up to 715 €). For the publication and distribution of unlawful advertisements, a fine for physical persons can rise up to 350 €, but for legal persons- up to 14 285 €. This procedure is part of Latvian Administrative Violation Code. Other sanctions can be deprivation of liberty for a term not exceeding two years, or a fine not exceeding eighty times the minimum monthly wage, with or without deprivation of the right to engage in entrepreneurial activity for a term of not less than two years and not exceeding five years. This procedure is part of Criminal Law.

Results published - All decisions taken by the Supervisory Institution are public and accessible to any interested person.

Legal processes in Latvia are public and sentences made in court are accessible to each interested person.

13.4 Advertising Law

Name of regulation:

3 Advertising Law

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

Ministry of Economics of the Republic of Latvia

Which types of marketing are controlled by in this regulation?

All

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages > 0,5% VOL.

Whom is this regulation directed at or who has to adhere to it?

Advertising and marketing producers and distributors have to adhere to this regulation.

13.4.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	No	No	No	No	No

* other than young people

13.4.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	Yes	Yes	Yes	No	No	No	Yes	No	No

Remarks on elements

- C Exploiting children in alcoholic beverage and tobacco product advertising, and aiming alcoholic beverage and tobacco product advertising at children, are prohibited.
- D Exploiting children in alcoholic beverage and tobacco product advertising, and aiming alcoholic beverage and tobacco product advertising at children, are prohibited.
- E Violence and war propoganda shall not be permitted in advertising.
- I Exploiting children in alcoholic beverage and tobacco product advertising, and aiming alcoholic beverage and tobacco product advertising at children, are prohibited.

13.4.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	No	Yes	Yes	Yes	Yes	Yes

Remarks per procedure

Systematic search for violations - The search for violations is done by the Consumer Rights Protection Centre, the Competition Council and the Radio and Television Council within the respective spheres of their competence (hereinafter- the Supervisory Institution).

Possibility to complain- Complaints can be made to the Supervisory Institution. And during a procedure a marketing practice can still be used. Matters regarding possible violations within the field of advertising shall be examined within ten days from the day that a complaint has been received. If violations of this Law have been determined, the Supervisory Institution is entitled to take a decision, but if under certain circumstances it is not possible, the Supervisory Institution is entitled to take a decision regarding extension for ten days of the term for review of the matter.

System of appeal - An appeal regarding a decision by the Supervisory Institution may be filed with to a court within one month from the day the decision is taken. There is no law which defines after how many days, months or years legal process should be released; judicial system is very impacted that's why it takes about three to six months till first proceeding is denoted. Official legal proceedings can go as the far as European Court.

Sanctions - Sanctions, where appropriate, are imposed by the court and can be a fine (for physical persons up to 215 €, but for legal persons- up to 715 €). For the publication and distribution of unlawful advertisements, a fine for physical persons can rise up to 350 €, but for legal persons- up to 14 285 €. This procedure is part of Latvian Administrative Violation Code. Other sanctions can be deprivation of liberty for a term not exceeding two years, or a fine not exceeding eighty times the minimum monthly wage, with or without deprivation of the right to engage in entrepreneurial activity for a term of not less than two years and not exceeding five years. This procedure is part of Criminal Law.

Results published - All decisions taken by the Supervisory Institution are public and accessible to any interested person.

Legal processes in Latvia are public and sentences made in court are accessible to each interested person.

14 Lithuania (LT)

14.1 Introduction

In Lithuania there are two statutory regulations concerning alcohol advertising: One is the Law on Alcohol Control, statutory regulation which specifically refers to alcohol marketing and advertising. The other specific document - the Law on Advertising does not cover specific regulations concerning advertising and marketing of alcoholic beverage. There is presently no overall self-regulatory system for advertising in Lithuania but the Advertising Law establishes the right to voluntarily control advertising. Additionally, The Lithuanian Brewers Association signed its Brewers self-regulation code in December 2004.

So the Law on Alcohol Control is in practice the only one and main regulation of alcohol marketing and advertising document in Lithuania. The Law on Alcohol Control was adopted by the Parliament on the 18th of April 1995. The last new version on the Law on Alcohol Control came in to force on the 1 March 2004. Till 2006 this Law was elaborated and changed more than 20 times. The complaint and sanctioning system connected to marketing and advertising on alcoholic beverages is fully reflected in that legal act.

These are the main principles of the Alcohol Control Policy set down in the Law on Alcohol Control:

- to reduce availability of alcoholic beverages through taxation;
- to ensure through State regulation measures the State's control of alcohol, protection and strengthening of the health of the population and funding of the programmes of education for minors;
- to extend priority to production of alcoholic beverages by natural fermentation and import and sale thereof;
- to limit promotion of sale and consumption of alcoholic beverages;
- to prohibit the means of promotion of buying and consumption of alcoholic beverages by youth;
- to encourage legal persons who are engaged in the alcohol business to join in implementing the state alcohol control policy;
- to increase public information regarding the issues of the social and economic harm inflicted on health and economy through the consumption of alcohol;
- to sponsor action programmes of health and temperance societies and thus augment the number of people who don't consume alcoholic beverages;
- to promote the production and sale of non-alcoholic beverages;
- to support planning of an alcohol-free living environment. It shall be permitted to engage in retail trade in alcoholic beverages in retail establishments and catering established in multi-family dwellings;
- to promote scientific research and dissemination of information concerning the harm caused to health by consumption of alcohol;
- to strengthen the cooperation with other Member states of the European Union and international organizations regarding the issues of the reduction of the consumption of alcohol. (Article 3, Law on Alcohol Control).

To increase the proportion of people not using strong alcoholic beverages the outdoor alcohol advertising (on billboards), except for beer and naturally fermented wine and cider is prohibited. On October 13th, 1997 the Decree of the Minister of Health "Concerning warnings about health damage of alcohol on the exterior advertising means" came into force.

Advertisement of all forms of alcohol is banned if it is directed at children and adolescents up to 18 years of age, features persons under 18 years of age in promotion campaigns, uses sportsmen, physicians, celebrities in art and science or other prominent public authorities, or their names, images, links consumption of alcohol with improvement of the physical condition, links consumption of alcohol with driving, links consumption of alcohol with physical activity improvement, personal problem resolution, social success, higher sexual activity, is related with stimulating, soothing and curing properties, or presents false and (or) deceptive information. It is forbidden to advertise alcohol on the first and last pages (covers) of newspapers, magazines and books, in programs of radio and television stations, cable radio and cable television stations registered in the Republic of Lithuania, being broadcast and rebroadcast from 15:00 to 22:30 hours, and Saturdays, Sundays and school holidays from 8:00 to 22:30 hours, but only of alcoholic beverages which volume exceed 22 percent. Enterprises certified to sell alcoholic beverages are prohibited from giving alcoholic beverages as a premium, an addition to other goods or as a present, to apply fixed discounts to those possessing coupons printed in mass media offerings, to organise retail sale entity competitions in order to promote alcoholic beverage sales, to sell specialized advertising publications, published in the Republic of Lithuania or abroad, and brought into the Republic of Lithuania, with the intention of promoting the sale of alcoholic beverages.

Regulation		Statutory / Non-statutory
1	Alcohol Control Law	Statutory

14.2 Alcohol Control Law

Name of regulation:

1 Alcohol Control Law

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

The Governmental office

Which types of marketing are controlled by in this regulation?

Production, sale, stocking, transportating, bringing in, importing, exporting, consumption, advertising and sponsorship, ...

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages > 1,2 % VOL.
(or beer more than 0,5 % VOL.)

Whom is this regulation directed at or who has to adhere to it?

The provisions of this Law have been harmonised with the legal acts of European Union which are indicated in the Annex of the Law. Principles of the State Policy concerning Alcohol Control are obligatory to all who are connected in some way with production, sale, bringing in, import, export and consumption of alcoholic beverages and other products containing Ethyl Alcohol.

Additional comments

Information is available to different institutions on written request. But the full description of the complaint and recommendation are not obtainable.

Framework of Self-regulation

- There is presently no overall self-regulatory system for advertising in Lithuania but the Advertising Law establishes the right to voluntarily control advertising
- Advertisers, agencies and the media have, however, announced plans to launch an advertising standards system
- Additionally, The Lithuanian Brewers Association is presently in the final stages of planning concerning a self-regulatory body and code

14.2.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	Yes	Yes	No	Yes	No	No

* other than young people

14.2.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Success	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	Yes	No	No	Yes	No	Yes	Yes	Yes	No	Yes	Yes

Remarks on elements

- A Article 29. 1. part:
Alcohol advertising of all forms shall be prohibited in the Republic of Lithuania if it:
- 1) is aimed at children and adolescents up to 18 years of age;
 - 2) features persons under 18 years of age in promotion campaigns;
2. part 4) at events
- D Article 29. 1. part:
Alcohol advertising of all forms shall be prohibited in the Republic of Lithuania if it:
- 7) links consumption of alcohol with stimulating, sedating and other beneficial characteristics;
- F Article 29. 1. part:
Alcohol advertising of all forms shall be prohibited in the Republic of Lithuania if it:
- 8) links consumption of alcohol with social success and sexual energy;

- G Article 28. Restriction of Promotion of Alcoholic beverage Sales
 1. part: For businesses certified to sell alcoholic beverages it shall be prohibited to employ the following means of promoting alcoholic beverage sales:
 1) to give alcoholic beverages as a premium, an addition to goods or as a present;
 2) to apply fixed discounts to those possessing coupons printed in mass media offerings;
 4) to organise retail sale entity competitions in order to promote alcoholic beverage sales;
 5) to sell specialized advertising publications, published in the Republic of Lithuania or abroad, and brought into the Republic of Lithuania, with the intention of promoting the sale of alcoholic beverages.
 2. part: It shall be prohibited to invite as assistants in promotion campaigns persons under 18 years of age.
- H Article 29. Alcohol advertising shall be prohibited:
 2. part: 4) at events intended for children and adolescents up to 18 years old;
- J Article 28. Restriction of Promotion of Alcoholic Beverage Sales
 1. part: For undertakings having the right to sell alcoholic beverages it shall be prohibited to employ the following means of promoting alcoholic beverage sales:
 3) to organise dissemination
- K Article 29. 1.part: Alcohol advertising of all forms shall be prohibited in the Republic of Lithuania if it:
 3) athletes, doctors political figures and persons famous in art and science circles, and other famous public figures participate in, and their person or uses their person, name, picture, etc.;
- 4)links consumption of alcohol with improvement in physical condition;
 5)links consumption of alcohol with driving; links consumption of alcohol with stimulating, sedating and other beneficial characteristics.
 9) favourably portrays immoderate consumption of alcoholic beverages or negatively responds to abstinence or moderation.

14.2.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	No	No	Yes	No	Yes	No

Complaints can be made to The National Consumer Rights Protection Board under the Ministry of Justice and State tobacco and alcohol control service under the Government of the Republic of Lithuania.

And during a procedure a marketing practice can not still be used.

The possibility of complaining is made known to the public. It can be published in newspapers or may be published by other mass communication media.

Sanctions, where appropriate, are imposed by the employees (officers) of the control institutions and can be a fine between 1000 and 10.000 Litas (1 € = 3,5 LT) or an institution can lose its license and in case of persons. The procedure is under Administrative Law Violation Code. The minimum and maximum amount of time the procedure officially takes is unknown.

15 Netherlands (NL)

15.1 Introduction

In the Netherlands three different regulations exist that specifically refer to alcohol marketing and advertising. The Alcohol licensing and catering act (Drank- en Horecawet), which is a statutory law to regulate the selling of alcoholic beverages, the non-statutory 'Advertising code for alcoholic beverages' and the Guideline for promotions by the catering industry (Richtlijn voor Horeca promoties). The latter contains additional guidelines to the 'Advertising code'.

The statutory 'Drank- en Horecawet' contains one article that makes it possible for the government to establish regulation for alcohol advertising and marketing without having to make a whole new law. But currently there is no such governmental regulation for alcohol advertising and marketing (except for one article that refers to separating alcoholic beverages from non alcoholic beverages on the shelves of stores). The 'Richtlijn voor Horeca promoties' contains additional guidelines that have no public system of control. So the 'Advertising code for alcoholic beverages' in practice contains the main regulation of alcohol marketing and advertising in the Netherlands. This self-regulation code is the way in which the elements of the Council Recommendation are reflected in Dutch regulation. The text of it is designed by an NGO funded by the alcohol industry. The complaint and sanctioning system connected to it is organised by a self regulatory organisation of the advertising industry.

The current regulation mainly regulates the content of alcohol advertising and marketing practices. In 2005 the minister of Health, Welfare and Sports proposed to add to the existing regulation by establishing a time limit for alcohol advertising on tv, radio and in cinema's until 21:00 o'clock. This is intended to limit the volume of advertising that young people are exposed to. But this proposal was withdrawn before the parliament discussed it. Instead the alcohol industry renewed the 'Advertising code for alcoholic beverages' and promised to add a 'responsible drinking' slogan to alcohol advertising during the day. The renewed code is used for the information hereafter. The slogan is not in use yet. Although it mentions more modern types of advertising than before, the renewed code does not seem to limit other advertising than before.

Regulation		Statutory / Non-statutory
1	Drank- en Horecawet (licence law)	Statutory
2	Advertising code for alcoholic beverages (Reclamecode voor Alcoholhoudende dranken (RvA))	Non-statutory
3	Richtlijn voor Horeca promoties	Non-statutory

15.2 Drank- en Horecawet (Alcohol licensing and catering act)

Name of regulation:

1 Drank- en Horecawet (Alcohol licensing and catering act)

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

Minister of Health, Welfare and Sport.

Which types of marketing are controlled by in this regulation?

not defined

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages > 0.5% VOL.

(at a temperature of 20 degrees Celsius)

Whom is this regulation directed at or who has to adhere to it?

Description: the relevant articles apply to sellers of alcoholic beverages.

Additional comments

There are two relevant articles in the Drank- en Horecawet.

- The first, article 2, is a possibility for the Minister of Health, Welfare and Sports to make regulation on alcohol advertising. The Minister has not established this, thus this article in practice has no meaning or effect. Therefore this article is not mentioned further on.
- The second is article 18.3, described further on.

15.2.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	No	No	No	No	No

* other than young people

15.2.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	No	No	No	No	No	No	No	No	Yes

Remarks on elements

K. Article 18.3. This article establishes that when selling alcoholic beverages in a grocery store, the alcoholic beverages have to be presented in such a way that these alcoholic beverages for the audience can be distinguished clearly from non alcoholic beverages.

15.2.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	No	Yes	Yes	Yes	Yes	No

Pre-launch advice is not applicable. The only active applicable rule concerns the placement of products in a store.

The search for violations is performed by the Food and non-food Authority (VWA), part of the ministry of Health, Welfare and Sport and/or local government. The VWA is only active in checking for violations of article 18, since article 2 is not defined.

Complaints can be made to VWA. And during a procedure a marketing practice can still be used, since an investigation is started after a complaint. Only after a violation is observed the violator may be sanctioned by 'Bureau Bestuurlijke Boete', part of the VWA.

The possibility of complaining is made known to the public by announcements on and in the website and brochure of the VWA and websites and brochures of other governmental organisations like Postbus51 and brochures subsidised by the department of Health, Welfare and Sport.

Sanctions, where appropriate, are imposed by VWA and can be a fine of €900 to €3600 for a violation of article 18.3. This is the basic fine (depending on size of the company). If the fine concerns a second violation of the same article (within 12 months), the fine increased by 50%. If it is a repeated violation (twice or more within 12 months), the fine is increased by 100%.

There is no fine connected to violations of article 2, since there is none defined.

The fining by the VWA is not public procedure. But when appeal procedures are started, the proceedings becomes public. From then on the procedures is formally a public procedure, but one has to take initiative themselves to get insight.

The minimum and maximum amount of time the procedure officially takes is not known: official judicial procedures can formally go as far as the european court.

The VWA has a maximum of 3 years to fine after a violation of the regulation.

15.3 Advertising code for alcoholic beverages

Name of regulation:

2 Advertising code for alcoholic beverages (Reclamecode voor Alcoholhoudende dranken (RvA))

Is this statutory or non-statutory regulation?

Non-statutory

Who made the text of this regulation?

STIVA (Stichting Verantwoord Alcoholgebruik, Association for the Responsible Consumption of Alcohol). Main financiers of STIVA are the Dutch producers and importers of beer, wine and distilled beverages.

Which types of marketing are controlled by in this regulation?

The Advertising Code for Alcoholic Beverages applies to the advertising of alcoholic beverages and non-alcoholic beverages in so far as these are promoted for use in combination with alcoholic beverages. (specifically intended for the Netherlands)

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages > 0,5% VOL.

Whom is this regulation directed at or who has to adhere to it?

This is not described in the regulation, but fines can only be opposed to members of the STIVA.

Additional comments

In 2005 the public debate on the regulation of alcohol marketing flamed in the Netherlands because the Minister of Health proposed new alcohol policy on drinking and young people. One item was a restriction for alcohol advertising on tv, radio and in cinemas until nine o'clock. STIVA responded with a reviewed RvA and the possibility to get pre-launch advice. So there is not a lot of experience yet regarding the new regulation. But the changes in the code will in practice not induce very different marketing practices, complaints or recommendations, because the new regulation seems to have been covered by the former regulation already.

15.3.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	Yes	No	Yes	Yes	Yes	No

* other than young people

15.3.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Remarks on elements

- B Article 10. [...]Advertising of alcoholic beverages may not make use of illustrations, colour combinations or designs, cartoons, symbols or idols, sound, music, ring tones, SMS or language or expressions typical of minors, whose degree of attraction for min
- C Article 11. The advertising of alcoholic beverages may not show any persons under 25 consuming alcoholic beverages or encouraging the consumption of alcoholic beverages.
- E 'Article 14. The advertising of alcoholic beverages may not portray situations that encourage risky behaviour.' is the most relevant. In the guidelines given by STIVA is referred to "violent, aggressive, dangerous or anti-social behaviour" (ref: THE ADVERTISING CODE FOR ALCOHOLIC BEVERAGES WITH GUIDELINES).
- F Article 6. Paragraph 3: The advertising of alcoholic beverages may not: [...] suggest that the consumption of alcoholic beverages improves physical or mental performance. [...]
Article 8. The advertising of alcoholic beverages may not arouse the impression that consumption of an alcoholic beverage enhances social or sexual success.
- G Article 13. The provision free of charge or at less than half the normal retail price of objects bearing advertisements for alcoholic beverages to persons who have not yet reached the legal age for purchasing the alcoholic beverage in question is not permitted.
Article 20. Free supply: Except in the case of taste sessions, advertising under which an alcoholic beverage is offered by a member of the industry or with the active co-operation of a member of the industry to private individuals free of charge or at less than half the normal retail price of the alcoholic beverage is not permitted.
Article 26. Paragraph 2: During catering promotions it is not permitted to offer alcoholic beverages free of charge or to sell them at less than half the normal retail price.
Article 26. Paragraph 3: During catering promotions it is not permitted to offer more than one drink with discount per client.
Article 26. Paragraph 4: During catering promotions it is not permitted to simultaneously offer a drink with discount and a free gift.
- H Article 21. No advertising of alcoholic beverages in any form may reach a public that consists of more than twenty five percent (25%) minors. [...] The attendance figures are the standard for determining the reach of advertising in cinemas and at events. [...]
Article 26. Paragraph 1:
The recommendation of alcoholic beverages by promotion teams may not target minors. This form of recommendation is not permitted in places where over twenty five percent (25%) of the public consists of minors at that point in time.

- I Article 10. The advertising of alcoholic beverages may not target minors specifically. [...]
- Article 21. No advertising of alcoholic beverages in any form may reach a public that consists of more than twenty five percent (25%) minors. [...]
- Article 22. The advertising of alcoholic beverages may not be broadcast on radio and television immediately before, during or directly after programmes that, according to viewer or listener rating figures generally accepted in the market, are listened to or viewed by more than twenty five percent (25%) minors.
- Article 23. Youth broadcasting stations may not carry any advertising for alcoholic beverages.
- Article 24. The advertising of alcoholic beverages may not take place by sending solicited or unsolicited SMS messages to minors; nor may it take place in the form of ring tones or mobile games, or in the form of Internet games or other computer games specifically designed for minors. Sponsoring of or product placement in the above-mentioned games by the industry is not permitted.
- Article 25. Paragraph 2: The advertising of alcoholic beverages on Internet sites that specifically target minors is not permitted.
- Article 26. Paragraph 1: The recommendation of alcoholic beverages by promotion teams may not target minors. This form of recommendation is not permitted in places where over twenty five percent (25%) of the public consists of minors at that point in time.
- Article 27. The advertising of alcoholic beverages is not permitted on billboards, swanks, bus shelters and display panels located in sight of [...] schools largely attended by minors, [...].
- J Article 13. The provision free of charge or at less than half the normal retail price of objects bearing advertisements for alcoholic beverages to persons who have not yet reached the legal age for purchasing the alcoholic beverage in question is not permitted.
- Article 20. Free supply: Except in the case of taste sessions, advertising under which an alcoholic beverage is offered by a member of the industry or with the active co-operation of a member of the industry to private individuals free of charge or at less than half the normal retail price of the alcoholic beverage is not permitted.
- Article 26. Paragraph 2: During horeca promotions it is not permitted to offer alcoholic beverages free of charge or to sell them at less than half the normal retail price.
- Article 26. Paragraph 4: During horeca promotions it is not permitted to simultaneously offer a drink with discount and a free gift.
- K Specifically regarding minors:
- Article 12. The advertising of alcoholic beverages may not suggest that the consumption of alcoholic beverages is a sign of adulthood and that abstinence from alcohol consumption is a sign of immaturity.
- Article 25. Paragraph 1: Internet sites whose domain name includes the brand name of the alcoholic beverage should clearly state the legal age limit for purchasing alcohol. These Internet sites may not contain chat boxes.
- All the other articles of the regulation, not mentioned above.

15.3.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	Yes	No	Yes	Yes	Yes	Yes

Pre-launch advice is provided by a committee, established by STIVA (Main financers are the Dutch producers and importers of beer, wine and distilled beverages). STIVA established a committee in 2005 for the first time. The committee contains representatives of the alcohol industry as well as three independent experts.

Complaints can be made to the Advertising Code Committee of The Dutch Advertising Code Foundation: www.reclamecode.nl, (retrieved at 17/06/2005). And during a procedure a marketing practice can still be used.

The possibility of complaining is made known to the public. The website www.reclamecode.nl explains the procedures of the Advertising Committee and shows the established codes online.

Sanctions, where appropriate, are imposed by The Advertising Code Committee and the Board of Appeal of The Dutch Advertising Code Foundation and can be a fine of maximum €45,000 or other sanctions, namely: a 'private' or 'public' recommendation for discontinuing the advertisement. Conditions and limitations can be set on broadcast time of tv and/or radio. The most common sanction is a private recommendation for discontinuing the advertisement. Sometimes public recommendations are published, but a fine has never been imposed in the history of the code.

Only public recommendations are publically announced (normally by a press release) by the Dutch Advertising Foundation. Otherwise one has to pay membership to the Foundation to get online access to full descriptions of results of procedures. Online one could look for recommendations on a certain subject, but can only find the basics of such 'cases' like the name of the advertiser. The full description of the complaint and recommendation are not visible.

The minimum amount of time the procedure officially takes is when a complaint is decided (by the chair of the Committee). It should be handled within 14 days. After the decision there is a 14 day period (but 7 in urgent cases) to put in an appeal. Thus the minimum procedure takes up to 3 weeks. The maximum time is not stated, because a date has to be set for the complaint handling. In general the procedure takes about 2 months. Especially the time between handling a complaint and the decision can take a long time (it can take up to 8 weeks).

15.4 Richtlijn voor Horeca Promoties (Guidelines for promotions by the catering industry)

Name of regulation:

3 Richtlijn voor Horeca promoties

Is this statutory or non-statutory regulation?

Non-statutory

Who made the text of this regulation?

STIVA (Stichting Verantwoord Alcoholgebruik). Main financiers of STIVA are the Dutch Producers and importers of beer, wine and distilled beverages.

Which types of marketing are controlled by in this regulation?

Horeca promotions: “promotions in the hotel and catering industry, where a promotional team, by order of a producer or importer, introduces the attending public to one of the branded products of the producer or importer.”

Which alcoholic beverages are subject to this regulation? (in VOL.)

Not defined

Whom is this regulation directed at or who has to adhere to it?

Not defined.

Additional comments

The ‘Richtlijn voor Horecapromotion’ contains additional guidelines for advertisers, next to the RvA. In Article 26 of the RvA totally refers to Horeca promotions. Paragraph 6 reads: ‘Horeca promotions have to be reported to STIVA via www.stiva.nl (The full rules regarding horeca promotions and the use of the ‘Bob’ name and logo can be found in the guidelines for horeca promotions at www.stiva.nl)’

15.4.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with ‘yes’ in the following table. If a ban regarding this aspect is absent it is indicated with ‘no’.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	Yes	No	No	No	No

* other than young people

15.4.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with ‘yes’ in the following table. If an element is not forbidden at all, it is indicated with ‘no’.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes

Remarks on elements

- G No intrusiveness.
Regarding promotional discounts use the following norms:
- Minimally 50% of the consumerprice as it is established, with a maximum of one consumption per customer per evening.
- Reservation with premiums. No combination of discount and premiums.
- No discounts on buying more.
Do not aim at minors.
Regarding age follow this policy:
- Aim actions exclusively at persons of 18 years and older
- Make clear agreements with the horeca-manager about complying with legal regulation regarding age limits for the selling of alcoholic beverages.
- Stop the action if over 25% of the audience is (or appears to be) under 18 years old.
- H Stop the action if over 25% of the audience is (or appears to be) under 18 years old.
- I Stop the action if over 25% of the audience is (or appears to be) under 18 years old.
- J No intrusiveness
Regarding promotional discounts use the following norms:
- Minimally 50% of the consumerprice as it is established, with a maximum of one consumption per customer per evening.
- Reservation with premiums. No combination of discount and premiums.
- K Other guidelines in this regulation:
Recommendation for printed material
Use as general messages on printed material etc.:
- This promotion is for people of 18 years and older.
- For this action the rules of the Advertising Code for Alcoholic Beverages apply.
Use, if possible the following slogans:
- Bob jij of Bob ik? (Who'll be Des?)
- Geniet, maar drink met mate (Enjoy, but drink responsibly)

15.4.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions incase of violators	Results published or publicly announced
Yes or No	Yes	Yes	Yes	No	No	No

Pre-launch advice is provided by STIVA (main financiers are de Dutch producers and importers of beer, wine and distilled beverages). STIVA offers to answer questions about horeca promotions on their website www.stiva.nl.

The search for violations is performed by STIVA. STIVA offers to send in inspectors (trained by STIVA) at random to horeca promotions in search of possible violations. Horeca promotions have to be reported by the promotors in question. Findings of the inspectors are reported back to them.

Complaints can be made to STIVA. But there is no formal procedure published or described by STIVA. The possibility of complaining is mentioned in a description of the ' Richtlijn Horeca Promoties' on the STIVA website (<http://projecten.drecomm.nl/index.php?id=300&type=1>, retrieved on 2005/06/38). There is no formal procedure published or described by STIVA for complaint handling and sanctioning.

16 Norway (NO)

16.1 Introduction

Norway has one statutory law with regulations: The Alcohol Act, Chapter 9 “Prohibition against advertising of alcoholic beverages” and the supplementary Regulations in Chapter 14. This is a statutory law administrated by the Ministry of Health and Care Services. The Directorate for Health and Social Affairs supervises and imposes sanctions when the laws and regulations have been violated. Complaints and evaluations regarding the law and regulations may take place when there is a hearing regarding the law and the regulations. Norway has no marketing practices of alcohol because of prohibition against advertising of alcoholic beverages in Norway. Non alcohol marketing practises have been presented for Pre-launch-advice. (Low/non-alcoholic products (less than 2,5% alc) have been presented for a pre launch-advice).

Complaints about advertisements can be filed by anyone (citizens and organisations etc) to the Directorate for Health and Social Affairs. There has generally been a rise in the amount of complaints during the last six years. Usually The Directorate for Health and Social Affairs requests the illegal marketing to cease. However, if the illegal marketing continues sanctions will be imposed. The size and character of the sanctions will vary from case to case, and depends on the income of the business.

The changes in the law and regulations during the last five years have taken place in order to clarify the regulations and to include further details and to specify the law. The most important change in the law has been that the Directorate for Health and Social Affairs, which is responsible for the supervision, is able to give overrun penalties when the national law has been violated (a specific fine is decided but it will not be brought into effect unless the violation is repeated). Another change is how the Directorate is able to instruct the violator to remove the illegal marketing and to impose sanctions. This has made it easier to enforce the law and its regulations.

Regulation		Statutory / Non-statutory
1	Advertisement of alcoholic beverages	Statutory
2	Prohibition against advertising	Statutory

16.2 Advertisement of alcoholic beverages

Name of regulation:

I Advertisement of alcoholic beverages

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

Departement of Labour and Social Affairs

Which types of marketing are controlled by in this regulation?

All advertising of alcoholic beverages over 2,5 % by volume

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages > 2,5% VOL.

Whom is this regulation directed at or who has to adhere to it?

Everybody who sells alcoholic beverages

16.2.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	No	No	No	No	No

* other than young people

16.2.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	No	No	No	No	No	No	No	No	No

Remarks on elements

—

16.2.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	No	No	Yes	Yes	Yes	Yes

The search for violations is performed by Health and Care services, and the municipality is by law (§9-3 and §1-9) responsible for supervision in Norway. The police is (by regulation §14-4) also responsible for supervision.

Complaints can be made to Health and Care Services.

The possibility of complaining is announced through websites. The case/judgement will be published for the media, alcohol industry and the public.

Sanctions, where appropriate, are imposed by Health and Care Services and the municipality, and can be a fine depending on case or losing the license for selling alcoholic beverages.

The results of procedures are publicly announced. Newspapers write about these things, and it is published on the Health and Care Services' and the Market Councils website.

When the licence for retailing alcoholic beverages is suspended this is announced on the website of the municipality/country governor.

The minimum and maximum amount of time the procedure officially takes depends on the case.

16.3 Prohibition against advertising

Name of regulation:

2 Prohibition against advertising

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

Departement of Labour and Social Affairs

Which types of marketing are controlled by in this regulation?

All advertising of alcoholic beverages over 2,5 % by volume

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages > 2,5% VOL.

Whom is this regulation directed at or who has to adhere to it?

Everybody that sells and produces alcoholic beverages, producers of magazines, and media.

16.3.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	No	No	No	No	No

* other than young people

16.3.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	No	No	No	No	No	No	No	No	No

Remarks on elements

-

16.3.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	No	Yes	Yes	Yes	Yes	Yes

The search for violations is performed by the Directorate for Health and Social Affairs, and the municipality is by law (§9-3 and §1-9) responsible for supervision in Norway. The police is (by regulation §14-4) also responsible for supervision. Complaints can be made to the Directorate for Health and Social Affairs. Marketing practices can be continued as long as legal proceedings are ongoing.

The possibility of complaining is announced through web sites and media. The case/judgement is published for the media, alcohol industry and the public.

Sanctions, where appropriate, are imposed by the Directorate for Health and Social Affairs, the Market Council and the municipality and can be a fine, depending on the case (different amounts) or losing their license to sell alcoholic beverages for a certain period.

The results of procedures are publicly announced. The media is writing about these things, it is published on the the Directorate for Health and Social Affairs' and the Market Councils website. When the licence for retailing alcoholic beverages is suspended it will be announced on the website of the municipality/ county governor.

The minimum and maximum amount of time the procedure officially takes depends on the case.

17 Poland (PL)

17.1 Introduction

There are two documents in Poland which regulate alcohol marketing matters:

- Statutory: The Act of October 26th, 1982 on Upbringing in Sobriety and Counteracting Alcoholism (last version: 1.04.2005);
- Non-statutory: Polish Brewers Advertising Code of June 8th, 2005.

Two articles of the first document (Art. 2 [1], Art. 13 [1]) contain regulations on the promoting, the advertising and the sponsoring of alcoholic beverages. According to the law only beer is allowed to be advertised and promoted through media channels like TV, radio, billboards etc. The only exception for this is at the point of sale of the alcoholic beverages: in these places (a liquor store, a restaurant, a bar, a pub, a separate stall, a wholesale trade – they all have to have a special permission for alcoholic beverages selling) any kind of alcoholic beverages might be promoted and advertised in any way.

The Act of October 26th, 1982 on Upbringing in Sobriety and Counteracting Alcoholism has been changed many times both in the direction of liberalization and more restrictions (it depends mostly on the current government's alcohol policy). Long term analysis shows that when the national law moves in the direction of more restrictions and strict rules it causes more respect among alcohol producers and the alcohol marketing practices field seems to be well organized. Any liberalization of the Polish alcohol law usually causes some chaos in marketing practices and gives the producers much more flexibility to promote their products. Among many other issues there has always been a discussion and concerning the rules regarding TV advertising. The last version of the Act of October 26th, 1982 on Upbringing in Sobriety and Counteracting Alcoholism from the 1.04.2005, allows beer producers to advertise their products on the TV channels after 8 p.m. (in the past there were many different options: after 11 p.m., only non-alcoholic beverages were allowed to be advertised etc.).

The second document: Polish Brewers Advertising Code of June 8th, 2005, is a non-statutory one and refers only to beer advertising. Most of the rules from this regulation are reflected in the statutory one. So making any complaints organizations and institutions usually act on the basis of the Act of October 26th, 1982 on Upbringing in Sobriety and Counteracting Alcoholism. Some of the elements of the Council Recommendation are reflected in the Polish regulations, both in the statutory and non-statutory.

Regulation		Statutory / Non-statutory
1	The Act of October 26th, 1982 on Upbringing in Sobriety and Counteracting Alcoholism	Statutory
2	Polish Brewers Advertising Code	Non-statutory

17.2 The Act on Upbringing in Sobriety and Counteracting Alcoholism

Name of regulation:

1 The Act of October 26th, 1982 on Upbringing in Sobriety and Counteracting Alcoholism

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

Polish Parliament, Polish Government, Minister of Health, The State Agency for Prevention of Alcohol-Related Problems.

Which types of marketing are controlled by in this regulation?

Promotion, advertising, sponsoring of alcoholic beverages; and Information on the sponsor/sponsoring.

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages > 0,5% VOL.
(beer, wine and spirits)

Whom is this regulation directed at or who has to adhere to it?

The Act states that:

“Any ban (..) shall apply to any individual, legal person, or organisational unit without legal personality that participates in provision of advertisement as a customer or a contractor, regardless of the manner and form of such provision.”

Additional comments

Art. 2 (1) and 13 (1) of this Act contain the entire text regarding advertising, sponsoring and promotion of alcoholic beverages in Poland. The entire text of The Act of October 26th, 1982 on Upbringing in Sobriety and Counteracting Alcoholism is available on the following web page: <http://www.parpa.pl/parpaeng/?action=box&id=3>.

17.2.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with ‘yes’ in the following table. If a ban regarding this aspect is absent it is indicated with ‘no’.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	Yes	Yes	Yes	Yes	No	Yes

* other than young people

17.2.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with ‘yes’ in the following table. If an element is not forbidden at all, it is indicated with ‘no’.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Success	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	Yes	No	No	Yes	No	No	Yes	No	No

Remarks on elements

- C The Act states that: “Neither advertisement of beer, nor promotion thereof, referred to in par. 1 above shall be executed: (...) with participation of the under aged.”
- F The Act states that: “Advertisement and promotion in the territory of the country of any alcoholic beverage shall be prohibited, except for beer, advertisement and promotion of which shall be permitted provided that the same is not targeted at the under aged or executed by forming associations with:
- 1 sexual attractiveness,
 - 2 relaxation or leisure,
 - 3 fitness,
 - 4 learning, work, or professional success,
 - 5 personal health or success.”
- I The Act states: “Neither advertisement of beer, nor promotion thereof, referred to in par. 1 above shall be executed: (..) in press for the youth and children, “

17.2.3 Procedures connected to the regulation

It is indicated whether the following procedures are (‘yes’ or ‘no’) connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	Yes	Yes	Yes	Yes	Yes	Yes

Pre-launch advice is provided by The State Agency for Prevention of Alcohol-Related Problems, not officially (there is no any article regarding this issue in the Act).

The search for violations is performed by prosecutors, Police, The State Agency for Prevention of Alcohol-Related Problems, Local community governments, national council for radio and television broadcasting, office for protection of competition and consumers. After they get information about any violation of the code they can act before courts in the capacity of a public prosecutor.

Complaints can be made to The State Agency for Prevention of Alcohol-Related Problems, Local community governments, Prosecutors, Courts, Police.

Marketing practices can be continued as long as legal proceedings are ongoing, namely: it is possible but not a must. It depends on the organisation which provides the procedure of the complaint.

The possibility of complaining is made known to the public through media and Internet.

Sanctions, where appropriate, are imposed by the court. It decides about the fine and the money is given to the budget of the country. Sanctions can be a fine between €2.500 and €125.000.

The results of procedures can be publicly announced- it depends on the court's decision.

The minimum and maximum amount of time the procedure officially takes is 1 month – years (it is dependent on the functioning of the Polish system of justice).

17.3 Polish Brewers Advertising Code

Name of regulation:

2 Polish Brewers Advertising Code

Is this statutory or non-statutory regulation?

Non-statutory

Who made the text of this regulation?

The Union of Brewing Industry Employers in Poland – Polish Brewers. It covers 96% of beer producers in Poland. It is financed by the members, e.g. Carlsberg Poland, Grupa Zywiec (Heineken), Kompania Piwowarska (Sab Miller), Browar Belgia.

Which types of marketing are controlled by in this regulation?

Advertising (direct or indirect to promote the sale of beer / not applying to messages placed on beer packaging, sponsorships and promotions, but applying to the information regarding such sponsorships and promotions)

Which alcoholic beverages are subject to this regulation? (in VOL.)

Beer, with no description of alcohol percentage (in VOL.).

Whom is this regulation directed at or who has to adhere to it?

The Brewers which have signed the code/agreement.

Additional comments

The entire text of Polish Brewers Advertising Code is available on the following web page: http://www.browary-polskie.pl/rynek_piwa_w_polsce.php?struct=3

17.3.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	No	No	Yes	Yes	No

* other than young people

17.3.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Success	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	Yes	Yes	No	Yes	Yes	Yes	No	No	No	No

Remarks on elements

- B "Advertising may not:
1. (...);
 2. use images of people or figures which influence minors in a special way;
 3. suggest that beer is essential to becoming an adult or to achieve success in work or areas of social activity."
- C "Advertising may not:
1. contain images of people who are less than 25 years old"
- E "Advertising may not encourage aggressive or anti-social behavior."
- F "Advertising may not use or promote sexual promiscuity, consent to sex or nudity, nor suggest that beer consumption can have a positive influence on sexual performance."
"Advertising may not:
1. (...);
 2. (...)
 3. suggest that beer is essential to becoming an adult or to achieve success in work or areas of social activity."
- G "Advertising may not be addressed at people under the age of 18, in any way whatsoever, be it through its contents or the method of publicizing."

17.3.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	Yes	No	Yes	No	Yes	Yes

Pre-launch advice is provided by The Commission established by the Brewers to ensure observance of the rules of the Advertising Standards.

Complaints can be made to the Commission mentioned earlier. Marketing practices can be continued as long as legal proceedings are ongoing.

Sanctions, where appropriate, are imposed by The Commission and can be:

- prohibition of further advertising,
- announcement,
- or even publication.

The results of procedures are publicly announced ("Article 14

1. The offending Brewer is obliged to publish the *announcement within two months from the day of receiving the resolution.*

2. *The announcement is to be placed on page 3 of the "Rzeczpospolita" daily newspaper and cover a quarter of its area.* 3. *Within seven days from receiving the resolution, the offending Brewer is obliged to provide the Commission with proof that an order for the announcement was placed.* 4. *When requirements are not met, the Commission shall order the ZPPP to publish it.* 5. *Brewer is obliged to reimburse the costs of the publication placed by the ZPPP."*

The minimum and maximum amount of time the procedure officially takes is not known, because this act is too fresh. There are no data on this yet.

18 Portugal (PO)

18.1 Introduction

In terms of advertising regulation and compliance with recommendations of the EU on alcohol and young people, Portugal is accomplishing most of the suggestions in the document of the European Union. The Portuguese Advertising Code approved by the parliament years ago applies to the advertising of all products and services by all means and has a special article which relates to alcoholic beverages.

Some of the aspects which are properly regulated by law, although some of them not appropriately enforced are:

- Sporting and event sponsorship: Linkage of a brand name of an alcoholic beverage to an event is not permitted if the event is intended for minors. All the rules in the Code apply to sporting and events sponsorship. Association of any alcoholic beverage commercial communication with national symbols such as national flag and national colors, as mentioned in the Portuguese constitution, is not allowed. The advertising of alcoholic beverages is not permitted inside sports stadiums. Any marketing practice of alcoholic beverages in all education facilities or schools is forbidden even if the enrolled students are in majority adults. It is also forbidden to market alcoholic beverages in any magazine, TV or radio programs and any other activity mainly targeted at minors.
- The advertising or mentioning implicitly or explicitly of alcoholic beverages in connection with events, namely sports, cultural, recreational or others where minors participate is not allowed.
- It is forbidden to associate alcoholic beverages advertising to national symbols such as the nations flag.
- The advertising of alcoholic beverages in connection with events, namely music festivals and students celebrations, mainly targeted at minors is forbidden.
- Alcoholic beverages advertising, independent of the channel it only permitted when it does not target minors, and in particular doesn't portray minors in the act of consumption.
- The advertising of alcoholic beverages may not portray situations that encourage excessive consumption or suggest the existence in alcoholic beverages of stimulant, therapeutic or sedative properties.
- The advertising of alcoholic beverages is only permitted if it does not suggest that the consumption will enhance success, especially social success or any other special skills or aptitude by ways of drinking.
- It is also forbidden to market alcoholic beverages in any magazine, TV or radio programs and any other activity mainly targeted at minors.
- The advertising of alcoholic beverages may not suggest that the consumption of alcoholic beverages increases sports performance or should be associated with physical activity and with vehicles driving. The advertising of alcoholic beverages may not display, suggest or stimulate excessive consumption. The advertising of alcoholic beverages may not portray abstinence from alcohol consumption or moderate alcohol consumption negatively. The advertising of alcoholic beverages may not suggest that the alcoholic content is in itself a positive property.

Also, advertising of alcoholic beverages is permitted in all media subject to restrictions on content, timing and place. This includes a ban on advertising on radio and television between 7:00 am and 10:30 pm.

From a self-regulatory point of view, the alcoholic beverage and communication industry such as media have agreed on a voluntary basis and according to their codes of conduct to include educational messages in advertising for most media. There are no reports about the implementation of these codes. These codes are not properly publicized among society and stakeholders.

The Advertising Regulatory Commission (CACMP) is responsible for investigating alleged violations of the advertising regulations and imposing sanctions in Portugal. In cases of misleading advertising or where it is dangerous to health or consumer safety, it can order cessation or suspension of an advertisement. Its decisions are subject to judicial review. Complaints are heard by the Permanent Commission for the Monitoring of the Code of Good Practises of Commercial Communications of Alcoholic Beverages, which is made up of representatives drawn from the beer, wine and spirits industry, advertising agencies and media. There are no public reports to date of the action of these bodies and more importantly there is no report about complaints, handling of complaints and there is no information on how to and by whom a complaint can be presented.

Another organization - the Consumer Institute - monitors advertising on its own initiative and is willing to accept complaints. It also has the power to initiate and support legal initiatives.

The drinks industry code, the *Código de Boas Práticas de Comunicação Comercial de Bebidas Alcoólicas* is subscribed to by a group of associations representing the alcoholic drinks and allied sector representative organisations, media and advertising associations and individual companies.

Regulation		Statutory / Non-statutory
1	Advertising code for all communication media channels	Statutory
2	Self-regulation code for marketing and advertising of AB – alcohol industry	Non-statutory

18.2 Advertising code for all communication media channels

Name of regulation:

1 Advertising code for all communication media channels

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

The Portuguese Government

Which types of marketing are controlled by in this regulation?

Advertising of all products and services by all means and has a special article which relates to alcoholic beverages (specifically intended for Portugal)
All the rules in the Code apply to sporting and events sponsorship.

Which alcoholic beverages are subject to this regulation? (in VOL.)

The regulation applies to all kind of alcoholic beverages, namely beer, wine and spirits. Definitions. [...] Alcoholic beverages: beverages containing 0.5 VOL or more;

Whom is this regulation directed at or who has to adhere to it?

Everybody has to adhere to this regulation since this is a state law.

18.2.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	Yes	Yes	Yes	No	No	No

* other than young people

18.2.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Success	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	Yes	No	Yes	No	Yes	Yes	No	Yes	Yes	No	Yes

Remarks on elements

- A Article 17:
- The alcoholic beverages advertising, independently of the channel is only permitted when it does not targets minors, and in particular doesn't portray minors in the act of consumption.
- C Article 17:
- The alcoholic beverages advertising, independently of the channel is only permitted when it does not targets minors, and in particular doesn't portray minors in the act of consumption.
- E Article 17:
- The advertising of alcoholic beverages may not portray situations that encourage excessive consumption or suggest the existence in alcoholic beverages of stimulant, therapeutic or sedative properties.
- F Article 17:
- The advertising of alcoholic beverages is only permitted if it does not suggest that the consumption will enhance success, especially social success or any other special skills or aptitude by ways of drinking. [...]
- H Article 17:
- The advertising or mentioning implicitly or explicitly of alcoholic beverages in connection with events, namely sports, cultural, recreational or others where minors participate is not allowed.
- The advertising of alcoholic beverages in connection with events, namely music festivals and students celebrations, mainly targeted at minors is forbidden.
- I It is also forbidden to market alcoholic beverages in any magazine, TV or radio programs and any other activity mainly targeted at minors.

K Article 17.

The advertising of alcoholic beverages may not:

- suggest that the consumption of alcoholic beverages increases sports performance or it should be associated with physical activity and with driving vehicles.
- display, suggest or stimulate excessive consumption.
- portray abstinence from alcohol consumption or moderate alcohol consumption negatively.
- suggest that the alcoholic content is in itself a positive property.

18.2.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions increase of violators	Results published or publically announced
Yes or No	No	No	No	No	No	No

Pre-launch advice is not provided in the present regulation but yes in the industry code of practice.

18.3 Self-regulation code of alcohol industry

Name of regulation:

2 Self-regulation code for marketing and advertising of AB – alcohol industry

Is this statutory or non-statutory regulation?

Non-statutory

Who made the text of this regulation?

Alcohol producers' associations and advertisers' associations

Which types of marketing are controlled by in this regulation?

All

Which alcoholic beverages are subject to this regulation? (in VOL.)

All

Whom is this regulation directed at or who has to adhere to it?

All alcohol producers, retailers, sellers, etc....

18.3.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	Yes	No	No	No	No

* other than young people

18.3.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	Yes	Yes	No	Yes	No	No	No	No	Yes	Yes	-

Remarks on elements

18.3.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions incase of violators	Results published or publically announced
Yes or No	No	No	No	No	No	No

19 Romania (RO)

19.1 Introduction

Romanian consumers remained price sensitive, but product availability and advertising were both strong tools in raising brand awareness over the last years. Strong competition among beer manufacturers makes alcoholic drinks one of the most dynamic markets in Romania. An indication of the strength of competition is the level of the advertising expenditure, amounting to more than US\$38 million for beer alone. Advertising for wine and spirits also increased sharply in the last two years, especially for new brand launches.

The expected joining with the EU by 2007 will bring about important changes in the alcoholic drinks market as Romania will have to apply the same legislation as the EU.

Advertising of alcoholic beverages is regulated by the Advertising Law no.148/2000, which transposes certain European Unions Rules and Regulations in the field. It states that advertising of alcoholic beverages is forbidden within educational institutions and medical care units or under 200m from their entrance on a public road.

Also, the advertising of alcoholic beverages is not allowed in publications for minors, in show halls before, during or after shows dedicated to minors. Furthermore, any advertisement is forbidden which addresses directly to minors or shows minors consuming these products. The advertisement which suggests that these products present therapeutic properties or have sedative or stimulant effects or can solve personal problems and which give a negative image about abstinence are also banned.

Advertising of distilled spirits is allowed in Romania only through magazines and newspapers, television and radio. It is forbidden to explicitly advertise on the first and on the last page of a publication, as well as on the travel tickets.

The Code of Regulation of the Audiovisual Content Decision no. 187 of 3rd April 2006, regarding advertising, sponsorship and teleshopping was issued taking into account the harm done to minors by alcohol consumption and the fact that from the statistics published by public and private institutions can be concluded that a correlation exists between the increase of alcohol consumption among the minors and of the alcoholic distilled beverages advertising.

The spots that promote distilled spirits will end with the warning, audio and visual: "Excessive alcohol consumption seriously harms the health status"

Regulation		Statutory / Non-statutory
1	The Code of Regulation of the Audiovisual Content Decision no. 187 /3 APRIL 2006	Statutory
2	The Audio Visual Law	Statutory
3	The Advertising Law	Statutory
4	Law no. 61/September 27th, 1991 (regarding the social life and public order norms)	Statutory
5	Decision no. 128/March 30th, 1994 (regarding certain measures for ensuring the physical and moral development conditions for schoolchildren and students)	Statutory

19.2 Decision regarding the advertising, sponsorship and teleshopping

The Code of Regulation of the Audiovisual Content
Decision no. 187 /3 APRIL 2006

Name of regulation:

- 1 The Code of Regulation of the Audiovisual Content Decision no. 187 /3 APRIL 2006

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

National Audiovisual Council (NAC)

Which types of marketing are controlled by in this regulation?

Advertising, sponsorship and teleshopping

Which alcoholic beverages are subject to this regulation? (in VOL.)

Distilled alcoholic beverages (spirits) > 15% VOL. (at 20 C degrees)

Whom is this regulation directed at or who has to adhere to it?

Radio and TV distributors/ broadcasters

19.2.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	Yes	Yes	No	No	No

* other than young people

19.2.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	Yes	No	Yes	No	No	No	No	No	No

Remarks per element

Violence

The broadcast of advertisement for alcoholic drinks that promote violent, aggressive or antisocial behaviour or attitudes is prohibited.

Children

Advertising and teleshopping observe the requirements and criteria for the protection of minors. The broadcast of advertising spots for alcoholic drinks featuring minors is prohibited.

Events

It is prohibited to broadcast promotional announcements or competitions that include references to the name or trademark of a distilled alcoholic beverage; within competitions it is prohibited to offer prizes sponsored by companies producing such beverages.

The broadcast of sports transmissions sponsored by alcoholic beverage producers may be broadcast only between 23.00 – 6.00 hours.

Sports events taking place on the territory of Romania which do not respect the provisions of the Law no. 148/2000, published in the Official Journal of Romania, Part 1, no. 359/2000, with the subsequent alterations and completions, concerning tobacco products and alcoholic beverages shall not be broadcast by broadcasters licensed in Romania. Alcohol advertisements with minors are forbidden. The advertising of the alcoholic beverages that promote violent, aggressive or antisocial behaviours or attitudes are prohibited too.

19.2.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	No	Yes	Yes	No	Yes	Yes

- Taking into account the National Council Audiovisual obligations to establish regulations on the protection of children, the defence of human dignity, the cultural responsibilities of broadcasters, advertising, sponsorship and teleshopping, and taking into account the National Audiovisual Council obligations established by the law to ensure, in audiovisual programmes, the protection of the physical, intellectual and moral development of children, the search for violations is performed by National Council of Audio-Visual.
- Complaints can be made to National Council of Audio-Visual.
- The supervision of the application, the control of the fulfilment of the liabilities and the sanctioning of infringements of the provisions of this Law is incumbent on the National Audiovisual Council and the National Regulatory Authority for Communications, in compliance with its attributions, granted by the law.
- The exertion of the control activity shall be accomplished under the terms of this Law, as follows:
 - a) ex officio;
 - b) on request of a public authority;
 - c) as a consequence of a complaint handed in by a natural or legal person, directly affected by the infringement of the provisions of this Law.
- The infringement by radio-broadcasters or service distributors of the provisions of this Law, or of the decisions representing regulation norms issued by the Council, shall be considered contravention. The Council or, as the case may be, the National Regulation Authority for Communications, shall issue until applying the fine, a summons for becoming lawful, with precise terms. If the radio-broadcaster or the service distributor does not enter into legality within the terms and under the conditions established in the summons or if he again infringes these provisions, an infringement fine from ROL 25,000,000 - ROL 250,000,000 shall be applied.
- When individualising the sanctions, the National Audiovisual Council shall take into account, as the case may be, the following:
 - a) the seriousness of the fact and its effects;
 - b) the previous sanctions, during a period not longer than one year;
 - c) the day of the week and the broadcasting time span of the respective programme;
 - d) the programme duration;
 - e) the rating.

19.3 The Audio Visual Law

Name of regulation:

2 The Audio Visual Law no 504/2002

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

the National Council of Audio-Visual;

the Ministry of Communications and Technology of Information

Which types of marketing are controlled by in this regulation?

Broadcast (tv, radio: advertising, sponsoring and teleshopping)

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages in general

Whom is this regulation directed at or who has to adhere to it?

The public and private radio and television broadcasting company.

19.3.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	No	Yes	No	No	No

* other than young people

19.3.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Success	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	Yes	Yes	Yes	Yes	No	No	No	No	No

Remarks on elements

- C Article 32.
 - a) The advertising and the teleshopping are forbidden to be addressed to minors or show minors drinking alcoholic beverages.
- D Article 29.

Publicity, including self publicity and teleshopping, will observe the following conditions:

 - e) not to stimulate harmful behaviour to health or to people's safety;

Article 30. Any form of publicity or teleshopping for cigarettes or other tobacco products is forbidden.
- E Article 29.

Publicity, including self publicity and teleshopping, will observe the following conditions:

 - a) not to affect physical, mental and moral progress the minors.
 - e) not to stimulate harmful behaviour to health and to people's safety;
 - g) not to stimulate indecent or immoral behaviour.
- F Article 32: It is forbidden to
 - b) suggest that alcoholic beverages provide an increase of physical and mental performance or a better ability to drive cars.
 - c) suggest that alcoholic beverages provide an increase of social or sexual performance.
 - d) suggest that alcoholic beverages present therapeutic properties or have sedative or stimulating effects or can solve personal problems.
 - e) stimulate the excessive alcohol consumption or to give a negative image of abstinence.

19.3.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	No	Yes	Yes	No	Yes	Yes

- Complaints can be made to National Audio-Visual Council.
- The supervision of the application, the control of the fulfilment of the liabilities and the sanctioning of infringements of the provisions of this Law is incumbent on the National Audiovisual Council and the National Regulatory Authority for Communications, in compliance with its attributions, granted by the law.
- The exertion of the control activity shall be accomplished under the terms of this Law, as follows:
 - a) ex officio;
 - b) on request of a public authority;
 - c) as a consequence of a complaint handed in by a natural or legal person, directly affected by the infringement of the provisions of this Law.
- The infringement by radio-broadcasters or service distributors of the provisions of this Law, or of the decisions representing regulation norms issued by the Council, shall be considered contravention. The Council or, as the case may be, the National Regulation Authority for Communications, shall issue until applying the fine, a summons for becoming lawful, with precise terms. If the radio-broadcaster or the service distributor does not enter into legality within the terms and under the conditions established in the summons or if he again infringes these provisions, an infringement fine from ROL 25,000,000 - ROL 250,000,000 shall be applied.
- When individualising the sanctions, the National Audiovisual Council shall take into account, as the case may be, the following:
 - a) the seriousness of the fact and its effects;
 - b) the previous sanctions, during a period not longer than one year;
 - c) the day of the week and the broadcasting time span of the respective programme;
 - d) the programme duration;
 - e) the rating.

19.4 The Advertising Law

Name of regulation:

3 The Advertising Law

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

The Advertising Law was adopted by the Romanian Parliament in July 26th 2000 and was completed with the Governmental Ordinance No. 90 / August 26th 2004.

Which types of marketing are controlled by in this regulation?

Mass-media advertising

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages in general

Whom is this regulation directed at or who has to adhere to it?

Mass-media in general

Additional comments

All the other articles of the regulation, not mentioned below:

Article 32. It is forbidden to present, like a quality, the high alcohol concentration of the alcoholic beverages.

To article 13 from the Law No. 148/2000, regarding Advertising, was inserted a new article, article 13.1, with the following content:

Art. 13.1:

(2) Alcoholic beverage advertising broadcast during audiovisual programmes is realized in accordance with the provisions of the Decisions No. 254/2004 of the National Audiovisual Council, regarding advertising sponsorship and teleshopping, published in the Official Journal of Romania, Part I, No. 668/July, 26th, 2004

19.4.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	No	Yes	No	Yes	No

* other than young people

19.4.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	Yes	No	Yes	Yes	Yes	No	Yes	No	No

Remarks on elements

- Advertising for alcoholic beverages and tobacco products is not allowed under conditions that show minors consuming these products.
- For products and services destined children it is forbidden that advertising:
 - Contains elements that are harmful to them from a physical, moral, intellectual and mental point of view;
 - Affects special relationships between minors on one side, and parents or teachers, on the other;
 - Unduly presents, minors in dangerous situations.
- Advertising for alcoholic beverages and tobacco products is not allowed under conditions that:
 - Suggest that alcoholic beverages contain therapeutic properties, that they have a stimulatory, sedative effect or that they can solve any personal problems;
 - Gives a negative image on abstinence;
 - Shows the alcohol content of alcoholic beverages in order to stimulate consumption, or relate alcohol to driving.
- For products and services destined for children it is forbidden that advertising encourages directly the children to try products or services, taking advantage of their lack of experience or their credulousness.
- Advertising for alcoholic beverages and tobacco products is not allowed in publications destined mainly for minors, inside performance halls, during and after performances aimed at minors.

19.4.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions incase of violators	Results published or publically announced
Yes or No	No	Yes	Yes	Yes	Yes	Yes

The search for violations is done by:

- Consumer's Protection Office
- Local Public Administration
- Ministry of Health
- Complaints can be made to the same bodies.

And during a procedure a marketing practice can still be used.
Sanctions, where appropriate, are imposed by the same bodies as mentioned above and can be a fine (ART. 23):

- Breaking the provisions of articles 15 to 17: between 50 and 150 RON (between 18 and 50 €).
 - Breaking the provisions of articles 6,8,9 and 10 to 14: between 150 and 400 RON (= between 50 and 145 €).
- or other (ART. 25):
- Advertisement is banned;
 - Ceasing of advertisement until the correction day;
 - Publishing;
 - more rectifying announcements...ART. 24: (1) Minor offences stipulated at art.23 are ascertained and sanctioned when announced by the damaged persons or by the consumers' associations or ex-officio by: a) Empowered representatives of: - the Consumers' Protection Office; - the Local Public Administration; - Ministry of Health...].

The results of procedures are publicly announced [ART. 25 - Institutions and authorities foreseen at art. 24 can dispense once with the application of the minor offence sanction the following measures, according to the case: c) Publishing the public authority decision, totally or partially and established the way it will be achieved. d) Publishing on the offender's expense one or more rectifying announcements, with the content and broadcasting way established.]

The minimum and maximum amount of time the procedure officially takes is not mentioned.

19.5 Law regarding the social life and public order norms

Name of regulation:

4 Law no. 61/September 27th, 1991 (regarding the social life and public order norms)

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

Ministry of Health,

Ministry of Labour and Social Protection,

Which types of marketing are controlled by in this regulation?

All kinds of marketing

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages in general

Whom is this regulation directed at or who has to adhere to it?

Social living, public order and safety norms: Art. 1 "The citizens are obliged to maintain a civic, moral and responsible behaviour"

Additional comments

The Public Order Law was completed with Law No. 265 / June 16th 2004. To articles 2 and 3 from the Law No. 61/1991, was modified in the following forms:
Art. 2:

23) Sale, marketing and consumption of alcoholic beverages in public places at the entrance in the yards or indoors, of: hospitals and other sanitary units, youth shelters, educational units and institutions, cultural places, religious institutions that ban alcoholic beverage consumption in the practice of their religion, on the pavements or access alleys of these.

25) Alcoholic drinks consumption in the following places: public roads, parks, stadiums, sport fields, cultural institutions, performance halls, economic units and institutions, all means of transportation: bus stations, railway stations and

airports, state private and private ones or any other places established by law. Inside these public places, alcoholic beverage consumption is controlled by the top management of those public places.

Exceptions on this rule are establishments concerning tourism and public alimentation such as: restaurants, bars, and discos. In these places alcohol consumption to minors under 18 years old is strictly banned.

Art. 3:

Minor offences stipulated in art.2 are sanctioned as follows: a) with a fine from 100 RON (1.000.000 ROL) to 500 RON (5.000.000 ROL) stipulated in points .. 24) ..; c) with a fine from 500 RON (5.000.000 ROL) to 1.500 RON (15.000.000 ROL) stipulated in points .. 21),22) ..; e) with a fine from 100 RON (1.000.000 ROL) to 1.500 RON (15.000.000 ROL) stipulated in points 23) and 25)

19.5.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	Yes	Yes	No	No	Yes	No

* other than young people

19.5.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	No	No	No	No	No	No	No	No	No

Remarks on elements

19.5.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
Yes or No	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	No	Yes	Yes	No	Yes	No

The search for violations is done by

- Local Public Administration
- Police
- Gendarmerie

Complaints can be made to the same bodies.

And during a procedure a marketing practice can still be used.

Sanctions, where appropriate, are imposed by the same bodies and can be a fine (ART. 3) between 8 and 200 RON (between 2,5 and 70 euro) or:

- cessation of the activity of the public place for a period between 10 and 30 days.
- jail from 1 to 6 months. ART. 7:

Minor offences are ascertained by the mayor or by his empowered persons, by the police inspectors, military officers, gendarmerie, employees hired with a work contract.

If the minor offences for which the law foresees fine sanctions, the ascertaining agent applies both the ruling and the sanction.

19.6 Decision regarding certain measures for schoolchildren and students

Name of regulation:

- 5 Decision no. 128/March 30th, 1994 (regarding certain measures for assuring the physical and moral development conditions for schoolchildren and students)

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

Ministry of Education.

Which types of marketing are controlled by in this regulation?

Advertising, sale and consumption.

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages in general

Whom is this regulation directed at or who has to adhere to it?

This regulation is directed at persons connected in any way with alcoholic beverages, as well as with the advertising of alcoholic beverages.

19.6.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	Yes	No	No	No	No	No

* other than young people

19.6.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	No	No	No	No	No	No	No	No	No

Remarks on elements

19.6.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions incase of violators	Results published or publically announced
Yes or No	No	Yes	Yes	No	Yes	No

The search for violations is performed by Local Public Administration and Police. Complaints can be made to the same bodies.

And during a procedure a marketing practice can still be used.

Sanctions, where appropriate, are imposed by the same bodies and can be a fine ART. 5: from 50 RON (5.000.000 ROL) to 100.

20 Slovak Republic (SK)

20.1 Introduction

In the Slovak Republic there are no specific regulations regarding alcohol marketing and advertising but there exist three different regulations which include regulations on alcohol marketing and advertising. The “Advertising Act” and “Act on Broadcasting and Retransmission” which are statutory and non-statutory “Ethical Principles on Advertising Practice Valid in the Slovak Republic”. The statutory “Advertising Act” valid from 2001 replaced the act from 1996. This new act introduced legal definition of comparative advertisement and specified definition of misleading advertisement in commercial code to harmonize it with EU regulations. Alcohol advertising in this act is more liberal – it allows advertisement of alcoholic beverages but states several conditions regarding restrictions concerning minors and forbids alcoholic beverage advertising to suggest that consumption of alcohol has a positive effect to physical and mental performance. The search for violations and complaints can be performed by the State Veterinary and Food Administration which is also responsible for sanctions and can entail obligation to publish this decision in mass communication media. The statutory “Act on Broadcasting and Retransmission” regulates advertising practice in broadcasting (TV, radio – advertising, teleshopping, sponsoring etc.). Alcohol marketing and advertising in this act is also limited regarding minors and giving the impression that alcohol consumption contributes to social and sexual success. The complaint and sanctioning system is carried out by supervisory authority Council for Broadcasting and Retransmission of the Slovak Republic Administration.

Basically, the advertising sector is in the Slovak legislation adapted to the extend, that regulations of the advertising in radio and TV broadcasting are in the Act No. 308/2000 Coll. on Broadcasting and Retransmission and other kinds of advertising amended by Act No. 147/2001 Coll. on Advertising. One exception is an adaptation of the comparative advertising sector which is included in the Act on Advertising but is applicable also for the radio and TV broadcasting sector. The non-statutory “Ethical Principles on Advertising Practice Valid in the Slovak Republic” were designed and adopted by the Slovak Advertising Standards Council in 2004. This ethical code in the area of alcohol advertisement regulates depiction of minors in advertisements; violence and restricts alcoholic beverage advertisement in media designed for youth. The Slovak Advertising Standards Council provides pre-launch advice, receives complaints and publishes results publicly.

Regulation		Statutory / Non-statutory
1	Advertising Act	Statutory
2	Act on Broadcasting and retransmission	Statutory
3	Ethical principles of advertising practice valid in the Slovak Republic	Non-statutory

20.2 Advertising Act

Name of regulation:

I Advertising Act

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

National council of the Slovak republic / Slovak parliament

Which types of marketing are controlled by in this regulation?

Advertising (general-; misleading-; unacceptable comparative-)

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages are spirituous liquors, wine, beer, and other beverages which contains more the 0.75% VOL.

Whom is this regulation directed at or who has to adhere to it?

There is no such definition in the Advertising act, however it's obvious that every subject who is involved in advertising practise is regulated by this act.

20.2.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	No	No	No	No	No

* other than young people

20.2.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	Yes	No	No	Yes	No	No	Yes	No	No

Remarks on elements

C ...no person considered to be a minor must be shown in any connection with the consumption of alcoholic beverages in advertising.

F Advertising of alcoholic beverages must not relate to consumption of alcohol to positive effects on physical performance or mental performance

I Advertising of alcoholic beverages must not be targeted at minors.

20.2.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	No	Yes	Yes	No	Yes	Yes

The search for violations is performed by the State veterinary and food administration of the Slovak Republic.

Complaints can be made to State veterinary and food administration of the Slovak Republic. And during a procedure a marketing practice can still be used.

The possibility of complaining is made known to the public on the website of the State veterinary and food administration of the Slovak Republic. It is not a special procedure. The complaints are regulated by the general Act on complaints and this procedure is common to the most of state administration.

Sanctions, where appropriate, are imposed by State veterinary and food administration of the Slovak Republic and can be a fine up to ca €50 000 or prohibition of dissemination of advertising.

The results of procedures are publicly announced according to Act on advertising, the Supervisory authority in its decision about prohibition of advertising propagation can entail the obligation to publish this decision or its part or to publish the corrective statement in mass communication media.

The fine can be imposed within the period of one year from the date when supervisory authority found out about breaking of the law, but not later than three years from the date of breaking this law. The minimum amount of time is limited by the procedural rights of the subject against which the complaint was aimed.

20.3 Act on Broadcasting and retransmission

Name of regulation:

2 Act on Broadcasting and retransmission

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

National council of the Slovak republic / Slovak parliament

Which types of marketing are controlled by in this regulation?

Broadcast (tv, radio: advertising, teleshoping, sponsoring etc.)

Which alcoholic beverages are subject to this regulation? (in VOL.)

All alcoholic beverages - not further defined but with references.

Whom is this regulation directed at or who has to adhere to it?

This act shall apply to:

- a) a broadcaster who has permission authority for broadcasting on the basis of the law (“public service broadcaster”),
- b) a broadcaster who has permission for broadcasting on the basis of a licence according to this act (further only “broadcaster with a licence” or “licensed broadcaster”),
- c) an operator of retransmission who obtained permission for retransmission according to this act.

20.3.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with ‘yes’ in the following table. If a ban regarding this aspect is absent it is indicated with ‘no’.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	Yes	No	No	No	No

* other than young people

20.3.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with ‘yes’ in the following table. If an element is not forbidden at all, it is indicated with ‘no’.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Success	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	Yes	No	No	Yes	No	No	Yes	No	No

Remarks on elements

- C Television advertising and teleshopping of alcoholic beverages must not be aimed at minors and especially must not show minors consuming these beverages
- F Television advertising and teleshopping of alcoholic beverages must not create the impression that consumption of alcohol contributes towards social and sexual success.
- I Television advertising and teleshopping of alcoholic beverages must not be aimed at minors and especially must not view minors consuming these beverages.

20.3.3 Procedures connected to the regulation

It is indicated whether the following procedures are (‘yes’ or ‘no’) connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	No	Yes	Yes	No	Yes	Yes

The search for violations is performed by Council for Broadcasting and Retransmission of the Slovak republic. Council performs state administration in the area of broadcasting and retransmission to the extent determined by Act on broadcasting. In the area of the content of the broadcasts this is done both by Council's own monitoring of broadcasts and by complaints from public. Complaints can be made to Council for Broadcasting and Retransmission of the Slovak republic. And during a procedure a marketing practice can still be used. The possibility of complaining is not a special procedure. The complaints are regulated by the general Act on complaints and this procedure is common to the most of state administration.

Sanctions, where appropriate, are imposed by Council for Broadcasting and Retransmission of the Slovak Republic and can be a fine from €250 to €125,000, a warning on infringement of law, broadcasting of an announcement about infringement of law or suspension of the broadcasting of the programme. The results of procedures are publicly announced on the web site of the Council and by announcement to the press.

The minimum and maximum amount of time the procedure officially takes is max. 6 months.

20.4 Ethical principles of advertising practice

Name of regulation:

3 Ethical principles of advertising practice valid in the Slovak Republic

Is this statutory or non-statutory regulation?

Non-statutory

Who made the text of this regulation?

The Slovak Advertising Standards council, The Slovak Advertising Standards Council defines its main goal as the codification and updating of a formal set of Ethical Principle of Advertising Practise in Slovakia, application of the principle in society and

Which types of marketing are controlled by in this regulation?

All advertising

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages - nu further defenition

Whom is this regulation directed at or who has to adhere to it?

According to the Code, Subjects of advertising communication process who are responsible for adhering to the Code are mainly advertisers, advertising agencies, and operators of communication media.

20.4.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	Yes	No	No	No	No	No

* other than young people

20.4.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	Yes	No	Yes	No	No	No	Yes	No	No

Remarks on elements

- C Advertisements which include indications of alcohol consumption by individuals considered to be under age or their consumption of alcohol is to be considered inappropriate.
- E Advertisements supporting aggression or physical violence.
- I Alcoholic beverages advertisement must not be placed in media designed for youth.

20.4.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions incase of violators	Results published or publically announced
Yes or No	Yes	No	Yes	No	No	Yes

Pre-launch advice is provided by the Slovak Advertising Standards Council. Complaints can be made to the same body. And during a procedure a marketing practice can still be used. The possibility of complaining is announced on the website of the Slovak Advertising Standards Council. The results are published on the website of the Slovak Advertising Standards Council and are available for the press.

21 Slovenia (SI)

21.1 Introduction

Regulation		
1	Act Amending the Health and Hygiene Safety of Foodstuffs and Products and Materials Coming in Contact with Foodstuffs Act.	Statutory

21.2 Act Amending the Health and Hygiene Safety of Foodstuffs

Name of regulation:

- 1 Act Amending the Health and Hygiene Safety of Foodstuffs and Products and Materials Coming in Contact with Foodstuffs Act.

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

Ministry of Health of Republic of Slovenia

Which types of marketing are controlled by in this regulation?

Broadcast (tv, radio);

Printed materials;

Electronic publications, teletext;

all forms of advertising available in public.

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages > 15% VOL.

(total ban)

Whom is this regulation directed at or who has to adhere to it?

Publisher of a form of marketing practice (private and public person),

subscriber of a form of marketing practice (private or public person).

21.2.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	Yes	Yes	Yes	Yes	No	No

* other than young people

21.2.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Success	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	Yes	No	Yes	No	Yes	Yes	Yes	Yes	Yes	No	No

Remarks on elements

- A Marketing practice must not use symbols, objects, images and heroes from cartoons and other youth shows.
- C Marketing practice must not contain/show persons under the age of 25.
- E Marketing practice must not emphasize that drinking an alcohol has any health benefits, stimulating effects, sedative effects, or that it is a method for solving personal problems.
- F Marketing practice must not connect use of alcoholic beverages with success in public or sexual life. Use of alcohol must not be connected to increase physical performance or driving capabilities.
- G It is not allowed to encourage overuse of alcoholic beverages.
- H Marketing practice is prohibited at events, which are primary made for youth under the age of 18. This prohibition also applies for all sports events.
- I Marketing practice must not be aimed at young people.

21.2.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publicly announced
Yes or No	No	Yes	Yes	Yes	Yes	Yes

The search for violations is done by the Health Inspectorate, Market Inspectorate, Inspectorate for Agriculture, Forestry and Food and Consumer Protection Office. They are responsible in general, not specifically for this regulation.

Complaints can be made to the Health Inspectorate, the Market Inspectorate, the Inspectorate for Agriculture, the Forestry and Food, the Consumer Protection Office and Police. And during a procedure a marketing practice can be banned. Inspectors can issue a temporal ban on marketing practices which are obviously

against regulations, or a complete ban or other sanctions.

The possibility of complaining is made known to the public. Private or public persons can inform the media. The same can be made through Consumer Protection Office.

Sanctions, where appropriate, are imposed by Inspectorates mentioned in Q17b or the Court of law and can be a fine between €2080 and €33.300 for a public person, and between €420 and €1040 for the responsible private person.

The results of procedures are not systematically publicly announced, but the Consumer Protection Office can inform the media.

22 Spain (ES)

22.1 Introduction

In contrast to the case of tobacco, there is no existing specific state legislation in Spain regarding either addictive substances, or drug addictions, or alcoholic beverages, except for the so-called “Wine Law” which in any case safeguards the rights of this economic sector with regards to possible future alcohol regulations. In the case of alcohol, those regulations relating to alimentary products, and those which govern their advertising, also apply. In Spain, a large part of the regulation of the advertising of alcoholic beverages in the various media (press, radio, cinema, exterior and even television) is established by regulations at the regional level which add a catalogue of prohibitions to those established by state legislation:

- In television, the most common practice is the prohibition of advertising of alcoholic drinks of any strength when associated with programmes aimed at minors as an exclusive or preferred target audience. There are cases in which the prohibition refers to particular periods in the schedule (between 8.00 and 22.00) or to specific contents (educational or public interest). In general, the ban includes both direct advertising and indirect or hidden advertising.
- The most common practice in radio is the prohibition of advertising of alcoholic drinks of any strength when associated with programmes aimed at minors as an exclusive or preferred target audience.
- In the press, the most common practice is to prohibit the advertising of alcoholic drinks in children’s or youth publications or in those sections of the printed media aimed at minors as an exclusive or preferred target readership. In some cases the ban is extended to include the first page, sections on hobbies, and sports sections.
- With regard to advertising in those media, in some cases the prohibition is limited to media whose influence extends to the majority of the public.
- With regard to exterior media, the advertising of alcoholic drinks is generally prohibited as a consequence of the prohibition of consumption of alcohol in public thoroughfares. In some Autonomous Communities it is not even contemplated; in others, exterior advertising is extensively prohibited or is focussed solely on higher proof alcoholic beverages.
- Generally the restrictions are established especially for people under 18 years of age, and in some cases for under-16s.
- The restrictions for alcoholic strength are set, according to the regulation, at 18, 20 or even 23 degrees proof.
- In a large part of this regulation the sale and consumption, and therefore the advertising, is prohibited in a wide range of places and establishments which include public thoroughfares.

In this chapter only the state legislation related to alcoholic beverages is included.

Regulation		Statutory / Non-statutory
1	General Law of Advertising	Statutory
2	TV code	Statutory
3	Law of Sport	Statutory
4	Code of self-regulation of beer producers	Non-statutory
5	Code of self-regulation of beer producers	Non-statutory

22.2 General Law of Advertising

Name of regulation:

I General Law of Advertising

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

Government

Which types of marketing are controlled by in this regulation?

Advertising on television

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages > 20% VOL.

Whom is this regulation directed at or who has to adhere to it?

No information found.

22.2.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	Yes	No	Yes	Yes	Yes	No

* other than young people

22.2.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	No	Yes	No	No	No	Yes	Yes	No	No

Remarks on elements

- A The form, content and conditions for the alcoholic beverage advertisements will be limited to protect health and safety of people taking into consideration the target group, there is no direct or indirect induction of its excessive consumption.
- D The form, content and conditions for the alcoholic beverages advertisements will be limited to protect the health and safety of people taking into consideration the target group, the no direct or indirect induction of its excessive consumption and taking into consideration the educative, sanitary and sportive settings.

22.2.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	No	No	Yes	Yes	Yes	Yes

Complaints can be made to ordinary justice. And during a procedure a marketing practice won't be used if the judge asks its cessation. When it can cause risk or damages for health.

The possibility of complaining is made known to the public by publication of the results of the procedure.

22.3 TV code

Name of regulation:

2 TV code

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

Spanish Parliament

Which types of marketing are controlled by in this regulation?

Television (direct or indirect advertisement, product placement, telesale, sponsorship through television, etc.)

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages > 20% VOL.

Whom is this regulation directed at or who has to adhere to it?

Television produced in Spain

22.3.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	No	Yes	Yes	Yes	No

* other than young people

22.3.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	Yes	Yes	Yes	Yes	Yes	No	No	No	No

Remarks on elements

- B not targeted at minors or to show minors drinking
- C not targeted at minors or to show minors drinking
- D not targeted at minors or to show minors drinking
- H The presence of brands or products (including alcohol) in televised sporting events organised by a third party (sports sponsorship) is not considered hidden advertising.

22.3.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	No	No	Yes	Yes	Yes	Yes

The search for violations is not systematically done but at a regional level the Autonomous Governments are responsible for looking for violations and at a national level the Ministry of fomento is responsible.

Complaints can be made to the National institute of consumption.
 And during a procedure the cessation can be asked from the beginning until the end of the illicit behaviour.
 Sanctions, where appropriate, can be a fine: up to €601.000.

22.4 Law of Sport

Name of regulation:

3 Law 10/1990, of Sport

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

Spanish Parliament

Which types of marketing are controlled by in this regulation?

Advertising.

Which alcoholic beverages are subject to this regulation? (in VOL.)

All alcoholic beverages

Whom is this regulation directed at or who has to adhere to it?

The stadium owner

22.4.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	Yes	No	No	Yes	No	No

* other than young people

Location: No advertising in sports stadiums.

Type of product: prohibition for all types of alcoholic beverages.

22.4.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	No	No	No	No	No	No	No	No	No

Remarks on elements

–

22.4.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	No	No	Yes	Yes	Yes	Yes

Complaints can be made through a legal procedure. And during a procedure a marketing practice can still be used.

Sanctions, where appropriate, are imposed by judicial bodies and can be withdrawal of the advertising, publication of the sanction in the media at the advertisers' expense, publication of corrective advertising in the same media and formats in which the campaign was conducted, at the advertiser expense.

The results of procedures are publicly announced in journals, by judicial bodies and media channels.

The minimum and maximum amount of time the procedure officially takes is a minimum of one year.

22.5 Code of self regulation of spirit producers

Name of regulation:

3.4 Code of selfregulation of spirit producers

Is this statutory or non-statutory regulation?

Non-statutory

Who made the text of this regulation?

FEBE (Spirits Producers Spanish Federation)

Which types of marketing are controlled by in this regulation?

Any type of advertising with the exception of product placement

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages > 1% VOL.

Whom is this regulation directed at or who has to adhere to it?

All the enterprises associated in FEBE

22.5.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	Yes	Yes	No	Yes	No

* other than young people

22.5.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	Yes	No	Yes	Yes	No	Yes	Yes	No	No

22.5.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions incase of violators	Results published or publically announced
Yes or No	Yes	No	Yes	Yes	Yes	Yes

Pre-launch advice is provided by AAP Jury.

Complaints can be made to the promoter and to the legal authority.

Sanctions, where appropriate, are imposed by FEBE and can be expulsion from FEBE.

22.6 Code of self regulation of beer producers

Name of regulation:

5 Code of selfregulation of beer producers

Is this statutory or non-statutory regulation?

Non-statutory

Who made the text of this regulation?

Spanish Beer Producers

Which types of marketing are controlled by in this regulation?

Advertising, sponsorship

Which alcoholic beverages are subject to this regulation? (in VOL.)

Not applicable to beer without alcohol

Whom is this regulation directed at or who has to adhere to it?

Beer Producers

22.6.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	Yes	Yes	Yes	Yes	Yes	No

* other than young people

22.6.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	Yes	Yes	Yes	Yes	Yes	No	Yes	No	Yes	No

22.6.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	Yes	No	Yes	Yes	Yes	Yes

The search for violations is performed by the Commission.

Complaints can be made to the Commission.

Particularly serious cases may lead to suspension of activities for the offender. All public aid will be suspended.

23 Sweden (SE)

23.1 Introduction

The Alcohol Act is the statutory regulation. There are also two non-statutory codes adopted by the alcohol industry (see below). The Alcohol Act states that all marketing to consumers must be distinct moderate and are not allowed to be intrusive or seeking. Alcoholic beverages as gifts are not allowed.

Advertisement in periodical publications is allowed for alcoholic beverages that are not stronger than 15 % VOL. The advertisement must be moderate and can only express the product or its content of raw products. An advertisement must hold a text of information about the risks that are connected with alcohol consumption (for example: "alcohol can damage your health"). There are 11 different possible texts to choose between in a statutory ordinance.

Outdoor advertisement is not considered distinctly moderate and therefore not seen in Sweden. The same goes for advertisement for example in cinemas, sports centres, hospitals and buses.

The search for violations is done by The Swedish Consumer Agency. Complaints can be made to this authority. If a company violates the rules in the Act it can be forbidden to repeat the marketing practice. The decision normally includes a fine – which will be fixed by a court decision. The Swedish Consumer Agency does not give pre launch advice regarding marketing or advertisement. On the local level the municipalities are responsible for controlling the marketing inside premises. If a restaurant owner violates the Act he could lose his license to serve alcoholic beverages.

As guidance concerning marketing and advertisement of alcoholic beverages and also to help determining which advertisement is moderate and which are not The Swedish Consumer Agency worked out "Guiding Principles". The authority will shortly replace these principles with "General Recommendations".

There are two different non-statutory codes decided by the alcohol industry:

- A. Swedish Spirits & Wine Suppliers Code - adopted in the year 2004. All sorts of marketing, information and promotion of all alcoholic beverages and soft drinks are under control in this regulation.

The member companies can get advices on a principle basis from a special person called 'AGM'. This person checks that member companies do not offend the rules in the Alcohol Act and the rules adopted by the member companies. The AGM-person can stop a marketing practise for the time being until a complaint has been judged by him. He also decides whether there shall be a fine (maximum 100.000 Euro).

- B. In February 2006 the Association of Swedish Advertisers, The Swedish Brewer's Association and Swedish Spirits & Wine Suppliers has adopted "Recommendations concerning advertisement of alcoholic beverages and soft drinks that contains alcohol". The Recommendation contains interpretations of the rules in The Alcohol Act.

The purpose of the Recommendation is said to be a guidance regarding the rule mentioned above (marketing to consumers must be distinct moderate), for the benefit of a uniform practice of the rules and also to give guidance when it comes to marketing of soft drinks that contains a small amount of alcohol (less than 2.25 % VOL) so that it will not be mistaken for marketing of stronger alcoholic beverages.

These Recommendations are not further reported or commented on in this report.

Regulation		Statutory / Non-statutory
1	The Alcohol Act	Statutory
2	Swedish Spirits & Wine Suppliers (SSWS) - (selfregulation code)	Non-statutory

23.2 The Alcohol Act

Name of regulation:

I The Alcohol Act

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

Ministry of Health

Which types of marketing are controlled by in this regulation?

Marketing;

Advertisement (in periodical publications or other publications on which the press law is applicable);

Alcoholic beverages as gifts in connection with marketing;

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages > 2,25% VOL.

(total ban for alcoholic drinks > 15% VOL.)

Whom is this regulation directed at or who has to adhere to it?

To all who sell or mark alcoholic beverages.

23.2.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	No	Yes	Yes	No	No

* other than young people

23.2.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Remarks on elements

- A Not allowed to children and adolescents under the age of 25
- B An advert (picture) can only express the product or it's content of raw products, isolated boxes of the product or the trade-mark.
- C Not allowed to use children and adolescents under the age of 25
- E An advert (picture) can only express the product or it's content of raw products, isolated boxes of the boxes of the product or the trade-mark. An advert is not allowed to be contrary to good manners and customs or indecent.
- F An advert (picture) can only express the product or it's content of raw products, isolated boxes of the product or the trade-mark. An advert is not allowed to be contrary to good manners and customs or indecent
- G Not allowed to children and adolescents under the age of 25
- H Marketing must be distinct moderate and are not allowed to be intrusive or seeking.
- I Not allowed to children and adolescents under the age of 25
- J Alcoholic beverages as gifts are not allowed

23.2.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions incase of violators	Results published or publicly announced
Yes or No	No	No	Yes	Yes	Yes	No

The search for violations is performed by the Swedish Consumer Agency. This is the supervisory authority at the national level. On the local level the municipalities are responsible for controlling the marketing inside premises.
 Complaints can be made to The Swedish Consumer Agency.
 The possibility of complaining is made known to the public by The Swedish Consumer Agency's homepage.
 Sanctions, where appropriate, are imposed by the Swedish Consumer Agency. The court has to condemn the fine. The fine depends on the turnover of the company.
 The minimum and maximum amount of time the procedure officially takes depends on the complexity of the case.
 The procedure to ban an alcohol marketing practices or to condemn a fine are stipulated in the Marketing Act (1995:450).

23.3 Self regulation code Swedish Spirits & Wine Suppliers

Name of regulation:

2 Swedish Spirits & Wine Suppliers (SSWS) - (selfregulation code)

Is this statutory or non-statutory regulation?

Non-statutory

Who made the text of this regulation?

The association itself (grounded 1998).

Which types of marketing are controlled by in this regulation?

All sorts of marketing, information and promotion of all alcoholic beverages and soft drinks.

Which alcoholic beverages are subject to this regulation? (in VOL.)

All beverages (alcoholic and non alcoholic) that the members trades with.

Whom is this regulation directed at or who has to adhere to it?

To the member companies of the association.

23.3.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	No	No	No	No	No

* other than young people

23.3.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	Yes	No	Yes	Yes	Yes	No	No	No	No

Remarks on elements

C People used in marketing, information (advertising with pictures etc) must look as if they are at least 25 years old.

E The marketing etc should not evoke or overlook violence or behavior that's illegal or that should be rejected from a social point of view.

F The marketing etc. shall not point out sexual capacity.

G Marketing etc. could not be aimed to persons who are under 18 years old.

23.3.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	Yes	Yes	Yes	Yes	Yes	Yes

The trade association offers members help to get legal advice. The executive president of the association also gives advice. A special person (called AGM) can give advice on a principle basis.

The search for violations is done by a special person (called AGM). He has got an assignment (as a sort of controller) to check that member companies do not break the rules in the alcohol act and the rules adopted by the member companies.

A complaint shall be sent to the association (Swedish Spirits & Wine Suppliers) or direct to the "AGM" person. The "AGM" person can stop advertising practice for the time being, until the complaint has been judged.

The possibility of complaining is made known to the public by newspapers covering alcoholic business. At some time TV also covered questions regarding a complaint.

Sanctions, where appropriate, are imposed by the AGM person. He decides the size of the fine (a maximum of €100.000).

The results of procedures are publicly announced on the association's homepage. The minimum and maximum amount of time the procedure officially takes is 4-6 weeks.

24 United Kingdom (UK)

24.1 Introduction

The regulatory system for broadcast advertisements (i.e. TV and radio) changed radically in 2004 with the start of a ‘co-regulatory’ system, an agreement between Government (in the form of Ofcom) and a self-regulatory body (the ASA, which has been set up by the advertising industries). The agreement is reflected in a contract between the two parties, setting out the expectations for what the ASA is meant to achieve, and also noting where statutory accountability and sanctions apply. As will be seen in the detail of the regulations below, this allows for a certain degree of democratic oversight of the co-regulatory system, although this is much less direct than is generally the case in purely statutory systems.

The two main broadcast codes themselves (3 and 4 below) are a product of this recent agreement, with the codes primarily being adaptations of the codes previously in operation. Noting concerns over alcohol however, Ofcom initiated a programme of consultation about changes to the alcohol codes, which was completed under the new co-regulatory system. Aside from meaning that the codes are very recent (and indeed only came into full force during the course of the ELSA project), the public debate around the consultation has also meant a high level of scrutiny of the text of the codes in recent years.

Outside of the TV and radio restrictions in this co-regulatory system, the advertising regulations for other media are less developed. Both the Portman Group code and the Sales Promotion code count as more conventional self-regulation, and therefore have a lower level of accountability (e.g. they are not accountable to Parliament). Aside from the content of the regulations – which is less strict than the co-regulatory codes – there are also substantial differences in process between these codes and the broadcast codes that are embedded in law. The Portman Group code, for example, only allows appeals by the drinks producer, while the co-regulatory system has the ‘Independent Reviewer of ASA Adjudications’ available to both sides.

Regulation		Statutory / Non-statutory
1	Portman Group Code of Practice on the Naming, Packaging, and Promotion of Alcohol Drinkers	Non-statutory
2	The British Code of Advertising, Sales Promotion and Direct Marketing	Non-statutory
3	Television Advertising Standards Code	Co-regulation
4	Radio Advertising Standards Code	Co-regulation
5	Broadcast Committee of Advertising Practice (BCAP) rules on the Scheduling of Advertising	Co-regulation

24.2 Portman Group Code of Practice

Name of regulation:

1 Portman Group Code of Practice on the Naming, Packaging, and Promotion of Alcohol Drinkers

Is this statutory or non-statutory regulation?

Non-statutory

Who made the text of this regulation?

The Portman Group sees itself as a producer-led organisation, but some pub companies contribute.

Which types of marketing are controlled by in this regulation?

Naming and packaging;

Sale activities and materials;

Websites, sponsorship, press releases, branded merchandise, advertorials and sampling;

Does not apply to any materials or activities whose purpose is solely and clearly to educate under 18s about the use and misuse of alcohol.

Does not apply to any marketing covered under the ASA codes (below).

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages > 0.5% VOL.

Alcoholic 'drinks', even if they are classified as foodstuffs rather than drinks for the purposes of licensing or customs and excise legislation, or even if they appear to be solid or heavily textured, rather than liquid.

Whom is this regulation directed at or who has to adhere to it?

"2.10 It is the responsibility of all companies connected with the alcoholic drinks industry in the UK (whether as producers, importers, wholesalers or retailers) to comply with this Code. This includes the provision of adequate and appropriate briefings to external agencies from whom companies may commission design or promotional work."

"2.6 The Code does not apply to wholesaler- or retailer-led promotions, other than where a wholesaler's or retailer's own brand is concerned, and in that case, references in this Code to 'producer' or 'UK distributor' will be deemed to include wholesalers or retailers when promoting their own brands. On-trade promotions, however, should comply with the guidelines, issued by the British Beer and Pub Association, which are also supported by the Association of Licensed Multiple Retailers."

"Companies may indicate their support for the Code and their willingness to abide by the decisions of the Independent Complaints Panel by becoming Code Signatories. Not doing so, however, does not mean that their products are outside the provisions of the Code."

Additional comments

Membership of the Portman Group and adherence to the Code of Practice are voluntary.

24.2.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	No	No	No	No	No

* other than young people

24.2.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Success	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	Yes	No	Yes	Yes	Yes	Yes	No	No	No	No	No

Remarks on elements

- A 3.2 A drink, its packaging and any promotional material or activity (as defined in section 2 and Annex I) should not in any direct or indirect way: (g) have a particular appeal to under 18s;
- C 3.2 A drink, its packaging and any promotional material or activity (as defined in section 2 and Annex I) should not in any direct or indirect way: (h) incorporate images of people who are, or look as if they are, under twenty-five years of age, unless there is no suggestion that they have just consumed, are consuming or are about to consume alcohol;
- D 3.2 A drink, its packaging and any promotional material or activity (as defined in section 2 and Annex I) should not in any direct or indirect way: (c) suggest any association with, acceptance of, or allusion to, illicit drugs;
- E 3.2 A drink, its packaging and any promotional material or activity (as defined in section 2 and Annex I) should not in any direct or indirect way: (b) suggest any association with bravado, or with violent, aggressive, dangerous or anti-social behaviour.
- F 3.2 A drink, its packaging and any promotional material or activity (as defined in section 2 and Annex I) should not in any direct or indirect way: (d) suggest any association with sexual success; (e) suggest that consumption of the drink can lead to social success or popularity;

24.2.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	Yes	No	Yes	*Yes	Yes	Yes

*The system of appeal is only for the drinks producers, not for the member of the public.

Pre-launch advice is provided by The Portman Group. Advice may also be sought about proposals for any other form of promotional material or activity covered by this Code. Any views expressed or advice given by the Advisory Service will not be binding on the Independent Complaints Panel.

Complaints are sent to 'the Complaints Officer' at the Portman Group. The 'Code Secretariat' then passes these on to the 'Independent Complaints Panel'.

The possibility of complaining is made known to the public by the Portman Group website only, although the website has not been widely publicised e.g. as part of the relevant alcohol marketing practices. The Portman Group is quite a well known organisation.

Sanctions, where appropriate, are imposed by the Portman Group and can be asking retailers not to stock the relevant product in future, and for TPG members, expelling them from TPG. *"The Code Secretariat may notify retailers of a decision taken by the Independent Complaints Panel and request them not to replenish stocks of any such product or to display any such point of sale material, until the decision has been complied with. For the avoidance of doubt, any such request will not require retailers to dispose of existing product stocks other than by normal retail sale and shall not require retailers to terminate any existing contractual commitment for the purchase or sale of such a product"*. If a retailer continues to stock products or display point of sale materials which have been found in breach of the Code by the Independent Complaints Panel, the Code Secretariat may notify the relevant licensing authority and request it to take this into account, subject to legal requirements, when considering whether to grant, transfer, renew or revoke licences. In some cases (mainly for POS and packaging), the panel will produce a timetable for making the changes, and retailers will be asked not to replenish stocks after a certain date. After making the changes, the Code Secretariat can decide that the changes didn't comply with the panel's verdict and refer it back to the panel. Finally, if a TPG member company refuses to make changes then they will be expelled from TPG. Non-member signatories will be removed from the list of signatories for refusing to make changes.

The results of procedures are publicly announced by the Portman Group website. If the decision is controversial then it is usually followed up by articles in the trade press (esp. The Publican).

The minimum and maximum amount of time the procedure officially takes is total 21 days (minimum) or 49 days + extra time for defendant responses and expert opinion (maximum). This does not include internal delays in the process (days are counted from defendant receiving documents, hence will probably be slightly longer in practice)

Note also that *"The time limits set out above may be extended or shortened at the discretion of the Code Secretariat."*

24.3 The British Code of Advertising, Sales Promotion and Direct Marketing

Name of regulation:

2 The British Code of Advertising, Sales Promotion and Direct Marketing

Is this statutory or non-statutory regulation?

Non-statutory

Who made the text of this regulation?

The Committee of Advertising Practice (Non-Broadcast division), generally known as CAP Non-broadcast

Which types of marketing are controlled by in this regulation?

- a) Advertisements in newspapers, magazines, brochures, leaflets, circulars, mailings, e-mails, text transmissions, fax transmissions, catalogues, follow-up literature and other electronic and printed material;
- b) Posters and other promotional media in public places, including moving images;

- c) Cinema and video commercials;
- d) Advertisements in non-broadcast electronic media, including online advertisements in paid-for space (eg banner and pop-up advertisements);
- e) Viewdata services;
- f) Marketing databases containing consumers' personal information;
- g) Sales promotions;
- h) Advertisement promotions;

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages > 1.2% VOL.

Whom is this regulation directed at or who has to adhere to it?

60.21 Marketers bear principal responsibility for the marketing communications they produce and must be able to prove the truth of their claims to the ASA; they have a duty to make their claims fair and honest and to avoid causing serious or widespread offence. Agencies have an obligation to create marketing communications that are accurate, ethical and neither mislead nor cause serious or widespread offence. Publishers and media owners recognise that they should disseminate only those marketing communications that conform with the Code. This responsibility extends to any other agent involved in producing, placing or publishing marketing communications. They accept the rulings of the ASA Council as binding.

60.22 The ASA Council judges whether marketing communications are contrary to the Code. Everyone responsible for commissioning, preparing, placing and publishing a marketing communication that breaches the Code will be asked to act promptly to amend or withdraw it.

Also, more generally:

1.3 g) a marketer includes an advertiser, promoter or direct marketer;

1.4 c) the Code is indivisible; marketers must conform with all appropriate rules.

24.3.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	No	No	No	No	No

* other than young people

24.3.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	Yes	Yes	Yes	Yes	Yes	No	No	Yes	No	No

Remarks on elements

- B 56.5 Marketing communications should not be directed at people under 18 through the ...style of presentation, content or context in which they appear.
- 56.7 Marketing communications should not be associated with people under 18 or reflect their culture
- C 56.6 People shown drinking or playing a significant role should neither be nor look under 25 and should not be shown behaving in an adolescent or juvenile way. Younger people may be shown in marketing communications, for example in the context of family celebrations, but should be obviously not drinking.
- D 3.6 Marketing communications should not encourage or condone the use of illegal drugs.
- E 56.12 Drinking alcohol should not be portrayed as a challenge, especially to the young. Marketing communications should neither show, imply or refer to aggression or unruly, irresponsible or anti-social behaviour nor link alcohol with brave, tough or daring people or behaviour.
- F 56.8 Marketing communications should not suggest that any alcoholic drink has therapeutic qualities or can change moods or enhance confidence, mental or physical capabilities or performance, popularity or sporting achievements.
- 56.9 Marketing communications must neither link alcohol with seduction, sexual activity or sexual success nor imply that alcohol can enhance attractiveness, masculinity or femininity.
- 56.11 Marketing communications should not suggest that drinking alcohol is a reason for the success of any personal relationship or social event. A brand preference may be promoted as a mark of, for example, the drinker’s good taste and discernment.
- I 56.5 Marketing communications should not be directed at people under 18 through the selection of media, style of presentation, content or context in which they appear. No medium should be used to advertise alcoholic drinks if more than 25% of its audience is under 18 years of age.
- 29.2 Alcoholic drinks should not feature in promotions directed at people under 18.

24.3.3 Procedures connected to the regulation

It is indicated whether the following procedures are (‘yes’ or ‘no’) connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	Yes	Yes	Yes	Yes	Yes	Yes

Pre-launch advice is provided by The CAP Copy Advice team (60.17). The CAP Copy Advice team gives advice to marketers, their agencies, the media and others on the likely conformity with the Code of marketing communications before they are published or distributed. In addition, it checks marketing communications produced by marketers subject to mandatory prevetting (for example, those who due to previous code breaches are required to submit all poster advertisements for pre-vetting). Copy advice is free and confidential from competitors. The

vast majority of written enquiries are dealt with within 24 hours although lengthy submissions may take longer, particularly those that include detailed evidence that needs to be reviewed by external expert consultants. Favourable pre-publication advice does not automatically protect marketers from complaints being investigated and upheld by the ASA. It is, however, a highly authoritative guide to what is likely to comply with the Code. Advice on the most common issues is available by accessing the AdviceOnline database on www.cap.org.uk. AdviceOnline is updated regularly by the Copy Advice team.

The search for violations is performed by The CAP Compliance team (60.18) The CAP Compliance team ensures that marketing communications conform with the Code to protect consumers and ensure a level playing-field. It enforces ASA decisions in individual cases and when a decision has ramifications for a whole sector. It takes action against marketers who persistently break the Code. In exceptional cases where a clear breach of the Code is evident, for example if a marketing communication contains claims that are blatantly misleading, the team takes immediate compliance action to stop the obviously problematic marketing communications from reappearing. On occasion, that compliance action is taken while an ASA investigation proceeds (see 60.35 and 61.3).

As a matter of course the marketing practice can be used, but in exceptional circumstances the ASA can remove it (60.35; 61.3).

Publicity: there's a very thorough website (with an online complaints section) and the ASA are currently doing their own advertising campaign (see <http://www.asa.org.uk/asa/adcampaign/>) so that people know who they are. There's a subscribers email list that can be joined automatically through the website that sends weekly updates of new adjudications, as well as more general news 4 times per year. Further information can be obtained by subscribing to the CAP quarterly e-mail newsletter.

Sanctions, where appropriate, are imposed by The ASA and CAP (together) and can be 5 levels of sanctions:

- 1 Adverse publicity
2. Ad Alerts (61.6) - "CAP may issue Ad Alerts to its members, including the media, advising them to withhold their services from non-compliant marketers or deny the latter access to advertising space. Ad Alerts are issued at short notice, are carefully targeted for greatest impact, are sent electronically and, once issued, are available on a secure section of www.cap.org.uk to those who may need to consult them. They contain the name and contact details of the non-compliant marketer, a description of the compliance problem and, if possible, a scanned image of the marketing communication in question.
- 3 Trading privileges and recognition (61.7) - "Many CAP trade associations and professional bodies offer their members, and others, recognition and trading privileges. They may revoke, withdraw or temporarily withhold those. For example, agency recognition offered by the print media members of CAP may be withdrawn or the substantial direct mail discounts offered by the Royal Mail on bulk mailings withheld. In exceptional cases of non-compliance, CAP members may expel companies from membership.
- 4 Pre-publication vetting - persistent offenders may be forced to have ads vetted by the Copy Advice Team (this is more likely for posters than other media, where competitors can decide that a poster firm requires pre-vetting)
- 5 Legal backstop [but this doesn't appear to be applicable for the alcohol clauses - see the first question on self- v. co-regulation above]

The results of procedures are publicly announced by weekly email with news of new adjudications, available through website, sometimes reported through the media.

24.4 Television Advertising Standards Code

Name of regulation:

3 Television Advertising Standards Code

Is this statutory or non-statutory regulation?

Co-regulation (all licence holders have to comply with the Ofcom code as terms of their licence. Ofcom has the right to contract out its functions and decided that the industry should regulate themselves within this statutory framework - meaning that there is a contract between Ofcom (statutory) and BCAP (non-statutory). Ofcom have general obligations under the Communications Act 2003 (e.g. “to protect children”, as well as TVWF), which are presumably in the contract.)

Who made the text of this regulation?

The Committee of Advertising Practice (Broadcast division), generally known as CAP Broadcast or BCAP (the Broadcast Committee of Advertising Practice). Changes to the code must be approved by the statutory body Ofcom. The Memorandum of Understanding between Ofcom and the self-regulatory organisations (ASA(B), BCAP, and BASBOF - see http://www.ofcom.org.uk/consult/condocs/reg_broad_ad/bcast_ad_mou.pdf) notes that “10 (b)...Ofcom retains all its legal powers stemming from the Act, and is therefore ultimately able to make Code changes. It will however not normally seek to do so...The Parties further note that, via consultation with Ofcom, the Secretary of State may (in accordance with s.321 of the Act) issue directions in relation to prohibited categories of advertising. Such directions will be complied with by BCAP if so notified by Ofcom.”

Which types of marketing are controlled by in this regulation?

Terrestrial TV services - Introduction (a) “This Code applies to all the Ofcom licensees, satellite television services provided by broadcasters within UK jurisdiction, licensable programme services, local delivery services, digital programme services and services provided under Restricted Service Licences (local television). The Code also applies to the Welsh Fourth Channel which is regulated by S4C. (Advertising on regulated text services is subject to the BCAP Code for Text Services.)”

Which alcoholic beverages are subject to this regulation? (in VOL.)

Separate rules for:

Alcoholic beverages > 1.2% VOL.

Alcoholic beverages < 1.2% VOL. (“low alcohol drinks”)

Whom is this regulation directed at or who has to adhere to it?

“It is the responsibility of the broadcasters themselves to ensure the advertising they transmit complies with both the spirit and the letter of the Code. Licensees must therefore satisfy Ofcom that they themselves have the staff and procedures to manage compliance. The Broadcast Advertising Clearance Centre (BACC) can offer its clients a useful pre-transmission advertising checking and approval service (including Notes of Guidance). However, not all licensees use the service and its use does not remove the licensee’s own responsibility.”

24.4.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with ‘yes’ in the following table. If a ban regarding this aspect is absent it is indicated with ‘no’.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	No	No	No	No	No

* other than young people

24.4.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with ‘yes’ in the following table. If an element is not forbidden at all, it is indicated with ‘no’.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Success	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	Yes	Yes	No	Yes	Yes	No	Yes	No	No	No

Remarks on elements

B 11.8.2 (a) “(1) Advertisements for alcoholic drinks must not be likely to appeal strongly to people under 18, in particular by reflecting or being associated with youth culture”. A ‘Guidance note’ States that the purpose of this rule is to prevent advertisements that might encourage those under 18 to drink, or think they should drink, alcohol. Thus themes that are likely to appeal strongly to those under 18 are unacceptable. [...] as a guide, particular caution should be exercised as follows: a) Personalities. Avoid those who are likely to have a strong appeal to the young; [...] b) Avoid themes that are associated with youth culture; [...] c) Teenage fashion or clothing mostly associated with those under 18. d) Avoid music or dance that is likely to appeal strongly to under 18s. But an advertisement that, for example, features an old recording that, perhaps as a result of its use in the advertisement, becomes popular with the young once again, will not necessarily be challenged. Announcements of alcohol-sponsored events may be made but the emphasis must be on the event, not the alcohol. e) Language commonly used by the young but rarely by an older generation; [...] f) Cartoons, rhymes or animation. Avoid those likely to have strong appeal to children and teenagers. Mature themes are likely to be acceptable. g) Caution is needed in the use of all sports. In addition, certain sports have a strong appeal to the young, for example, skateboarding or “extreme sports”; they should be avoided. h) Avoid puppets or cute lovable animals that are likely to inspire strong affection in the young. Humorous treatments cannot be used to circumvent the rule and, in any case, immature, adolescent or childish humour must be avoided. This rule requires particularly sensitive judgements. If they have any doubts about an advertising idea, advertisers or agencies are strongly advised to consult the BACC (or broadcaster compliance team) at the earliest stage of script development.

- C 11.8.2 (a) “(2) Children must not be seen or heard, and no-one who is, or appears to be, under 25 years old may play a significant role in advertisements for alcoholic drinks. No-one may behave in an adolescent or juvenile way.
Notes: (1) See the exception in 11.8.2 (a)(3)
(2) In advertising for low alcohol drinks, anyone associated with drinking must be, and appear to be, at least 18 years old.
(3) There is an exception to 11.8.2 (a)(2) for advertisements in which families are socialising responsibly. In these circumstances, children may be included but they, and anyone who is, or appears to be, under 25 must only have an incidental role. Nevertheless, it must be explicitly clear that anyone who appears to be under the age of 18 is not drinking alcohol.
- E 11.8.1(b) Advertisements must not link alcohol with daring, toughness, aggression or anti-social behaviour. [This applies to all advertising, not just advertising for alcoholic drinks]
11.8.2(b) Advertisements for alcoholic drinks must not show, imply or refer to daring, toughness, aggression or unruly, irresponsible or anti-social behaviour.
- F Rule 11.8.1(a)
(1) Advertisements must not suggest that alcohol can contribute to an individual’s popularity or confidence, or that refusal is a sign of weakness. Nor may they suggest that alcohol can enhance personal qualities.
(2) Advertisements must not suggest that the success of a social occasion depends on the presence or consumption of alcohol.
Rule 11.8.1(c)
Advertisements must not link alcohol with sexual activity or success or imply that alcohol can enhance attractiveness.
11.8.2(e) Alcoholic drinks must not be advertised in a context of sexual activity or seduction but may include romance and flirtation subject to rule 11.8.2 (a) (Youth appeal). Guidance to this rule: the purpose of this rule is, for example, to allow a couple to sit together sharing affectionate kisses or glances but not to allow sexual contact, an erotic atmosphere or implications of a sexual motive. The rule is not designed to prevent the use of glamorous images. Advertisements may not suggest that alcohol has a positive role to play in sexual relationships. Alcohol should not be used as an aid to seduction or seem to enhance a person’s attractiveness.
- H 11.8.2 (a) “(1) Advertisements for alcoholic drinks must not be likely to appeal strongly to people under 18, in particular by reflecting or being associated with youth culture”. a) Personalities (...); d) Music or dance (...); g) Sports (...);

24.4.3 Procedures connected to the regulation

It is indicated whether the following procedures are (‘yes’ or ‘no’) connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	Yes	No	Yes	Yes	Yes	Yes

Pre-launch advice is provided by Broadcast Advertising Clearance Centre (BACC) - *“The BACC is funded by commercial broadcasters who pay a quarterly copy clearance fee.”*

There is a search for violations (of sorts) done by ASA(B) and BCAP, but this is not systematical. More generally, ASA(B) and BCAP have agreed with Ofcom to conduct independent and public research into the working of the code as a whole (of which only a small part is focused on alcohol).

Complaints can be made to The Advertising Standards Authority (Broadcast division), known as ASA(B). This is a self-regulatory body funded in the same way as the CAP. The ASA is funded by a coluntary levy on the advertising industry.

During a procedure a marketing practice can generally carry on, unless the ASA decide that immediate action needs to be taken: Introduction (f) *Given the frequency of repetition of many advertisements, anything misleading or harmful needs to be quickly dealt with. The ASA and BCAP will on occasion require the suspension of an advertisement during investigation of the case, and before the adjudication is finalised.*

The ASA are currently doing their own advertising campaign (see <http://www.asa.org.uk/asa/adcampaign>) so that people know who they are. The Memorandum of Understanding between Ofcom and the ASA notes j) *Publicity. The new self-regulatory system for the handling and resolving of advertising standards complaints will be required to be publicised by licensees in accordance with section 328 of the Act. The Parties will liaise and agree as to the appropriate level, content and timing of such publicity so as to ensure that the way in which advertising standards complaints can be made is brought to the attention of the public through a variety of media as appropriate.*

ASA(B) have no power to sanction (e.g. fine licensees), although Ofcom does (see Memorandum of Understanding point 24). Basically, the ASA will expect compliance, and refer the broadcaster to Ofcom for any enforcement. Sanctions are a fine (not specified), formal reprimand, warning about possible revocation of broadcaster’s licence, or actual termination of the licence.

There is a subscribers email list that sends out the decisions every week, and decisions are often also reported in the newspapers. Only decisions are publicised however (sanctions are not publicly discussed, although some examples are mentioned in the annual report by way of illustration).

The minimum and maximum amount of time the procedure officially takes relates to agreements within the co-regulatory system, cf. the Memorandum of Understanding:

58 It is agreed by the Parties that benchmarks for average complaints turnaround times to be achieved by ASA(B) will be set at 80% of the average turnaround times achieved by the ITC in its last six months of operation. It is noted that data analysis has indicated that the following benchmarks would be broadly consistent with average turnaround times achieved by the ITC of:

- 5 working days for straightforward complaints requiring no investigation
- 10 working days for complaints where the advertisement must be viewed
- 8 weeks for cases requiring standard investigations and contact with licensees
- 3 months for complex cases, requiring high level and extended investigations.

NOTE: Complex cases can have extentions.

24.5 Radio Advertising Standards Code

Name of regulation:

4 Radio Advertising Standards Code

Is this statutory or non-statutory regulation?

Co-regulation (all licence holders have to comply with the Ofcom code as terms of their licence. Ofcom has the right to contract out its functions and to decide that the industry should regulate themselves within this statutory framework - meaning that there is a contract between Ofcom (statutory) and BCAP (non-statutory). Ofcom have general obligations under the Communications Act 2003 (e.g. “to protect children”, as well as TVWF), which are presumably in the contract.)

Who made the text of this regulation?

The Committee of Advertising Practice (Broadcast division), generally known as CAP Broadcast or BCAP (the Broadcast Committee of Advertising Practice). Changes to the code must be approved by the statutory body Ofcom. The Memorandum of Understanding between Ofcom and the self-regulatory organisations (ASA(B), BCAP, and BASBOF - see

http://www.ofcom.org.uk/consult/condocs/reg_broad_ad/bcast_ad_mou.pdf)

notes that “10 (b)...Ofcom retains all its legal powers stemming from the Act, and is therefore ultimately able to make Code changes. It will however not normally seek to do so...The Parties further note that, via consultation with Ofcom, the Secretary of State may (in accordance with s.321 of the Act) issue directions in relation to prohibited categories of advertising. Such directions will be complied with by BCAP if so notified by Ofcom.”

Which types of marketing are controlled by in this regulation?

Advertising on all services licensed by Ofcom (spot advertisements, promotions, sponsorship; etc.; does not cover product placement).

This Rule excludes promotion of radio stations’ own-branded activities, goods and events (such as websites, T-shirts and concerts) which enhance listener involvement and are not designed to make a profit or promote commercial partnerships.

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages > 1.2% VOL.

Whom is this regulation directed at or who has to adhere to it?

1. Licensees must make it a condition of acceptance that advertising complies fully with all legal requirements.

4.1 All compliance matters (copy clearance, content, scheduling etc) are the ultimate responsibility of each Licensee. This is the case whether or not advertising also requires central clearance.

24.5.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with ‘yes’ in the following table. If a ban regarding this aspect is absent it is indicated with ‘no’.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	No	No	No	No	No

* other than young people

24.5.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Success	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	Yes	Yes	No	Yes	Yes	Yes	No	Yes	No	No

Remarks on elements

- B 11.2**
 (a) Alcoholic drink advertising must not be aimed at those aged below 18 years or use treatments likely to be of particular appeal to them;
 (b) Advertisements for alcoholic drinks must not include any personality whose example is likely to be followed by those aged below 18 years, or who has a particular appeal to those aged below 18 years
- C 11.2**
 (c) Advertisements for alcoholic drinks must only use voiceovers of those who are, and sound as if they are, at least 25 years of age;
 d) Advertisements for drinks containing less than 1.2% alcohol by volume must only use voiceovers of those who are, and sound as if they are, at least 18 years of age;
 e) Children's voices must not be heard in advertisements for alcoholic drinks.
- D 11.3 g)** Advertisements must not offer alcohol as therapeutic, or as a stimulant, sedative, tranquilliser or source of nourishment/goodness, or link the product to illicit drugs...
- E 11.3**
 d) Advertisements must not suggest or imply that drinking is an essential attribute of gender. References to daring, toughness or bravado in association with drinking are not acceptable;
 e) Alcoholic drinks must not be advertised in a context of aggressive, dangerous, anti-social or irresponsible behaviour;
- F 11.3**
 a) Advertisements must not imply that drinking is essential to social success or acceptance, or that refusal is a sign of weakness. Nor must they imply that the successful outcome of a social occasion is dependent on the consumption of alcohol
 b) Advertisements must neither claim nor suggest that any drink can contribute towards sexual success or that drinking can enhance sexual attractiveness;
 g) ...While advertisements may refer to refreshment after physical performance, they must not give any impression that performance can be improved by drink;
- G 11.5** Advertisements for alcoholic drinks must not publicise sales promotions (including competitions) that appear to encourage excessive consumption.
 11.6 References to 'cut-price/happy hour drinks', 'buy two and get one free', 'money-off coupons' and the like must be considered with caution. References which encourage excessive or immoderate consumption are unacceptable. However, off-licences and alcoholic drink retailers may advertise price reductions for their stock.

- I II.1 Advertisements for alcoholic drinks must not be broadcast in or around ...programming aimed particularly at those aged below 18 years

24.5.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	Yes	No	Yes	Yes	Yes	Yes

Pre-launch advice is provided: “Central copy clearance is required.” This occurs through the Radio Advertising Clearance Centre (RACC). The RACC is a member of BASBOF (the funding organization described above), and communicates with the CAP Copy Advice team where common elements of the code exist. Where a pre-cleared advertisement is investigated by the ASA for breaching a code, the RACC often represents the advert to the ASA (rather than the company itself). There is no systematic search for violations but the ASA may raise issues about potential code breaches with advertising parties as well as investigating complaints that raise issues about compliance with the codes. Also in the course of undertaking monitoring and enforcement, BCAP may raise issues about apparent code breaches with advertising parties. And more generally, as part of the Memorandum of Understanding with Ofcom, the ASA(B) and BCAP undertake to conduct research on the extent to which the code is being met.

Complaints can be made to The Advertising Standards Authority (Broadcast division), known as ASA(B). The ASA is funded by a voluntary levy on the advertising industry. This is a self-regulatory body funded in the same way as the CAP. And during a procedure a marketing practices generally can carry on, unless the ASA decide that immediate action needs to be taken: 5.1 ...They [the ASA and BCAP] can require that the commercial be withdrawn immediately or amended; they can also ask that advertising is suspended while investigations are carried out.

The possibility of complaining is made known to the public. The ASA are currently doing their own advertising campaign (see <http://www.asa.org.uk/asa/adcampaign>) so that people know who they are. The Memorandum of Understanding between Ofcom and the ASA notes j) Publicity. The new self-regulatory system for the handling and resolving of advertising standards complaints will be required to be publicised by licensees in accordance with section 328 of the Act. The Parties will liaise and agree as to the appropriate level, content and timing of such publicity so as to ensure that the way in which advertising standards complaints can be made is brought to the attention of the public through a variety of media as appropriate.

Sanctions, where appropriate, are imposed by the same body and can be an unspecified fine, formal reprimand, warning about possible revocation of broadcaster’s licence, or actual termination of the licence.

The results of procedures are publicly announced. There is a subscribers email list that sends out the decisions every week, and decisions are often also reported in the newspapers as well. Only decisions are publicised however (sanctions are not

publicly discussed, although some examples are mentioned in the annual report by way of illustration).

The minimum and maximum amount of time the procedure officially takes relates to agreements within the co-regulatory system, cf. the Memorandum of Understanding:

58 It is agreed by the Parties that benchmarks for average complaints turnaround times to be achieved by ASA(B) will be set at 80% of the average turnaround times achieved by the ITC in its last six months of operation. It is noted that data analysis has indicated that the following benchmarks would be broadly consistent with average turnaround times achieved by the ITC of:

- 5 working days for straightforward complaints requiring no investigation
- 10 working days for complaints where the advertisement must be viewed
- 8 weeks for cases requiring standard investigations and contact with licensees
- 3 months for complex cases, requiring high level and extended investigations.

NOTE: Complex cases can have extensions).

24.6 Broadcast Committee of Advertising Practice

Name of regulation:

5 Broadcast Committee of Advertising Practice (BCAP) rules on the Scheduling of Advertising

Is this statutory or non-statutory regulation?

Co-regulation (Co-regulation (all licence holders have to comply with the Ofcom code as terms of their licence. Ofcom has the right to contract out its functions and decided that the industry should regulate themselves within this statutory framework - meaning that there is a contract between Ofcom (statutory) and BCAP (non-statutory). Ofcom have general obligations under the Communications Act 2003 (e.g. “to protect children”, as well as TVWF), which are presumably in the contract.

Who made the text of this regulation?

The Committee of Advertising Practice (Broadcast division), generally known as CAP Broadcast or BCAP (the Broadcast Committee of Advertising Practice). Changes to the code must be approved by the statutory body Ofcom. The Memorandum of Understanding between Ofcom and the self-regulatory organisations (ASA(B), BCAP, and BASBOF - see http://www.ofcom.org.uk/consult/condocs/reg_broad_ad/bcast_ad_mou.pdf) notes that “10 (b)...Ofcom retains all its legal powers stemming from the Act, and is therefore ultimately able to make Code changes. It will however not normally seek to do so...The Parties further note that, via consultation with Ofcom, the Secretary of State may (in accordance with s.321 of the Act) issue directions in relation to prohibited categories of advertising. Such directions will be complied with by BCAP if so notified by Ofcom.”

Which types of marketing are controlled by in this regulation?

Television advertising - “advertisements on any television channel licensed by Ofcom.”

Which alcoholic beverages are subject to this regulation? (in VOL.)

Alcoholic beverages > 1,2% VOL.

Whom is this regulation directed at or who has to adhere to it?

Broadcasters - as for TV code

24.6.1 Bans

Any bans on alcohol marketing practices in this regulation or code regarding the following marketing or advertising aspects are indicated with 'yes' in the following table. If a ban regarding this aspect is absent it is indicated with 'no'.

BANS						
	Location	Time	Media-channel	Type of product	Target-group*	Advertiser
Yes or No	No	No	No	No	No	No

* other than young people

24.6.2 Elements of Council Recommendation

Any elements of the Council Recommendation that are forbidden by this regulation or code (either literally or formulated in other words) are indicated with 'yes' in the following table. If an element is not forbidden at all, it is indicated with 'no'.

ELEMENTS											
	A Production	B Styles	C Children	D Drugs	E Violence	F Success	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	No	No	No	No	No	No	No	Yes	No	No

Remarks on elements

- I Children and young people 4.2.1
 (a) The following may not be advertised in or adjacent to children's programmes or programmes commissioned for, principally directed at or likely to appeal particularly to audiences below the age of 18:
 (i) alcoholic drinks containing 1.2 per cent alcohol or more by volume;

GENERAL NOTES:

- The term 'adjacent' where used in these rules refers to a break immediately before or after the programme in question.
- The term 'children's programmes' means programmes made for children.
- Channels devoted to children's programmes, or where the programmes are or are likely to be of particular appeal to children, will be unlikely to be able to carry at any time advertising of the kind restricted under 4.2.1 and 4.2.2 below. Such channels should also take particular note of 4.2.3 and 4.2.4.
- For the avoidance of doubt, any given timing restriction subsumes any other less severe restriction. Thus, a 'post 9pm' subsumes both a 'post 7.30 pm' as well as the restriction on scheduling in or adjacent to children's programmes or programmes likely to have a significant child audience. Particular care needs to be exercised where a programme for, or likely to be of interest to, children is transmitted late in the evening or in the small hours, as for example at Christmas. Where such a programme is transmitted after 9pm, no advertisement carrying a timing restriction may be transmitted in or around that programme.

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- 3 Advertisements for alcoholic drinks...must not be advertised in or adjacent to children’s programmes or programmes commissioned for, principally directed at or likely to appeal particularly to audiences below the age of 18
- 6 The ASA and BCAP will take the view that a programme will have ‘particular appeal’ to the relevant age range when audience measurement shows that it is likely to be relatively more popular with that age range than for the population as a whole.
- 7 In the case of products with a scheduling restriction of 16 or 18, the ASA and BCAP will normally regard the restriction as relevant to any programme where the 10–15 audience, indexed against the all-individuals audience, produces an index greater than 100. In the index range 100 to 120, particular circumstances may occasionally make the scheduling restriction not appropriate but licensees should assume that an index of 120 or more will automatically bring the programme within the scope of this restriction. If the restriction is not to apply to programmes at or beyond an index of 120 the ASA and BCAP must be satisfied in advance that the context of the programme justifies such an interpretation (eg if the high proportion of younger viewers is clearly not directly associated with the nature of the programme, such as a general news programme clearly not targeted at younger viewers). The ASA and BCAP believe it unlikely that there will be many programmes achieving a 120+ 10–15 index which will not attract the scheduling restriction
- 11 Nothing in this Guidance Note removes the need for all licensees to take into account, for the purposes of appropriate and sensitive scheduling, all characteristics of a programme in addition to the viewing index.

24.6.3 Procedures connected to the regulation

It is indicated whether the following procedures are (‘yes’ or ‘no’) connected to the regulation.

PROCEDURES						
	Pre-launch advice	Systematically searching for violations	Possibility to complain and to start a procedure	System of appeal	Sanctions in case of violators	Results published or publically announced
Yes or No	Yes	No	Yes	Yes	Yes	Yes

Pre-launch advice is provided by Broadcast Advertising Clearance Centre (BACC) - “The BACC is funded by commercial broadcasters who pay a quarterly copy clearance fee.” .

The search for violations is done by ASA(B) and BCAP.

Complaints can be made to The Advertising Standards Authority (Broadcast division), known as ASA(B). This is a self-regulatory body funded in the same way as the CAP.

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