
Intellectual Property, Media and IT

Legal Flash | Portugal

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Contents

New restrictions on advertising food and beverages harmful to health



I. Amendment to the Advertisement Code – Law 30/2019, of April 23, and Dispatch 7450-A/2019, of August 21

Law 30/2019 of April 23 restricts advertising of foods and beverages containing high-energy value, salt content, sugar, saturated fatty acids and processed fatty acids to minors under 16 years of age.

Although this law has been in force since June 23, 2019, its implementation (and supervision) depended on the entry into force of a dispatch of the Directorate General for Health required to define the objective scope of the new restrictions.

Thus, Dispatch 7450-A/2019, of August 21, **which enters into force on October 20, 2019**, has defined the meaning of foods and beverages with a high-energy value, salt content, sugar, saturated fatty acids and processed fatty acids.

Scope and nature of prohibitions

New article 20-A of the Advertisement Code prohibits the advertising of the above foods and beverages in any:

- a) pre-school, basic and secondary educational establishments, and any sport, cultural and recreational activities they organize; and
- b) children's public parks and parks open to the public.

These restrictions apply equally within a radius of 100 meters from the access to these sites, except for the use of logos or trademarks on the terrace furniture, canopies or integrated signs of commercial establishments.

The media is also subject of this new restriction. Audiovisual and radio communication services are prohibited from broadcasting advertisements for these types of foods and beverages for 30 minutes before and after programs, when at least 25% of the public is under 16 years of age.

The new article also bans the advertising of these foods and beverages at the screening of films in cinemas, in publications such as newspapers and magazines, and on websites and social networks on the internet, whose recipients are under the age of 16.

Furthermore, the law also states that advertisements for these foods and beverages must be clear and objective and must not relate them to potential health benefits.



The law lists the prohibited advertisement strategies, e.g., the use of mascots, celebrities or well-known people, or relating these products to gaining status, success, popularity or special skills.

Sanctions

Economic operators should now determine which products are subject to the new restrictions, following the criteria provided by the Directorate General for Health, according to the dispatch issued, to establish whether they are within the scope of the new restrictions.

We remind you that infringing the provisions in the Advertisement Code is an administrative offense for advertisers and advertising agencies, as well as for those responsible for supporting the advertising, including its concessionaire and any other agents involved in the advertising message

Infringing the prohibitions under new article 20-A of the Advertisement Code **is punishable with fines ranging from €1,750 to €3,750 for natural persons and €3,500 to €45,000 for legal persons.**

Ancillary sanctions may also be applied, as provided under article 35 of the Advertisement Code, including a temporary ban on the publicity activity for up to two years or the closure of facilities where the breach occurred.



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