



**Federal Trade
Commission**
Protecting America's

Consumers

Appendix I
FOREIGN REGULATION AND SELF-REGULATION
OF ALCOHOL ADVERTISING

The European Union (EU) has adopted several directives seeking to harmonize the different laws of member states to foster the development of a common market. One of these directives sets out standards for regulating broadcast advertising, including the advertising of alcohol beverages. It provides in part:

Television advertising and teleshopping for alcoholic beverages . . . may not be aimed specifically at minors or, in particular, depict minors consuming these beverages.(1)

Governmental Restrictions

For many years, member states have had in place their own restrictions on marketing alcohol beverages to underage consumers. Many of these restrictions, which they have retained, go beyond the EU directive. For example:

- France bans alcohol beverage company sponsorships of sports events; prohibits alcohol ads on television; restricts the content of radio and print ads (to specific elements such as product name, ingredients, alcohol strength, method of production, and conditions of sale); and requires that ads include moderation messages.(2)
- Norway and Sweden prohibit advertising to the public of all alcoholic beverages over 2.5 percent (Norway) or 3.5 percent (Sweden) alcohol percent by volume (APV).(3) Denmark prohibits radio and television ads for alcohol over 2.8 percent APV.(4) Finland prohibits advertising for products over 22 percent APV, and regulates advertising for products with lower APV.(5)
- Italy restricts alcohol advertising on television until after 8 p.m., Portugal until after 10 p.m., and Spain until after 9:30 p.m. Greece limits the number of advertisements per brand, per day on television and radio.(6)
- Ireland prohibits spirits advertisements on television and radio, and prohibits the broadcast of alcohol ads before sports programs.(7)
- The United Kingdom (UK) prohibits alcohol ads on television that use "treatments" and "personalities" with "particular appeal" to those under 18 (the legal drinking age). The UK also requires that individuals associated in ads with the consumption of beverages containing over 1.2% alcohol by volume must be, and appear to be, 25 years old.(8) In 1997, the UK dropped a ban on distilled spirits advertising on television.

Canada has a restriction similar to the EU requirement. Its Code for Broadcast Advertising of Alcoholic Beverages prohibits directing TV ads to persons under the legal drinking age, associating any alcohol beverage with youth or youth symbols, and portraying alcohol beverages in relation to an activity attractive primarily to people under the legal drinking age.(9) Canada's provincial governments may also impose their own requirements.

Self-Regulatory Activities

In addition to government regulation, several EU states as well as Canada have industry-sponsored self-regulatory groups that review alcohol advertising. Most significantly, in the United Kingdom and Canada, the alcohol industry has established systems for voluntary pre-screening of alcohol broadcast ads to check their compliance with the UK and Canadian laws described above.(10)

- In the UK, self-regulatory responsibilities are divided among different non-governmental groups according to the particular advertising medium used. Thus, separate groups evaluate product labels and packaging, non-broadcast advertising, television ads, and radio ads for compliance with the various laws and/or voluntary codes applicable to each kind of advertising.
- **Product labels and packaging:** The Portman Group, a self-regulatory body funded by the alcohol beverage industry, has developed a voluntary Code of Practice on the Naming, Packaging and Merchandising of Alcohol Drinks. This code prohibits the use on labels of characters or imagery that would appeal to those under the legal drinking age, and bans containers with "names that suggest aggression, violence, danger or sexual success." Complaints under the code are handled by a separate group, the Independent Complaints Panel. Code violations can lead to requests to retailers not to stock the offending product. Producers can seek advice regarding code compliance through the Portman Group's Advisory Service.(11)
- **Non-broadcast advertising** (including print advertising, cinema, video, direct mail solicitations, billboards, and non-broadcast electronic media): The British advertising industry's Advertising Standards Authority administers and evaluates compliance with the British Codes of Advertising and Sales Promotion, a voluntary collection of rules covering non-broadcast advertising for all types of products. The codes

are written by the Committee of Advertising Practice (CAP), a separate group composed of representatives of the major advertising trade and professional organizations. The codes' provisions on alcohol advertising prohibit the placement of alcohol ads in publications for which more than 25 percent of the audience is underage. The codes' provisions also require that alcohol ads should not be directed at children, and should not use "real or fictitious characters who are likely to appeal particularly to [underage persons] in a way that would encourage them to drink." Upon request, CAP pre-screens ads for code compliance and advises advertisers, agencies and publishers on how to avoid code violations.(12)

- **Broadcast advertising:** The Broadcast Advertising Clearance Center (BACC), a non-governmental group set up and funded by broadcasters, pre-screens television ads for compliance with the ITC Code of Advertising Standards and Practice, a mandatory code issued by the Independent Television Commission (ITC), a government agency. The ITC Code's alcohol advertising provision provides that televised alcohol ads should not be directed at people under 18 and should not use treatments "likely to be of particular appeal to them."(13) In addition to its pre-screening service, BACC has issued interpretative notes, providing guidance on how to interpret the ITC Code.(14) As for radio advertising, the Radio Advertising Clearance Center pre-screens radio ads for compliance with laws containing alcohol ad provisions similar to those in the ITC code.(15)
- In Canada, a self-regulatory group, Advertising Standards Canada, set up an alcohol ad pre-clearance system in 1997 that is paid for by industry members to check their compliance with Canada's Code for Broadcast Advertising of Alcoholic Beverages (replacing pre-screening that had previously been done by the government).(16)
- In Australia, the alcohol and advertising industries, in consultation with the Australian government, have developed and adopted the Alcohol Beverages Advertising Code. The code, which covers virtually all advertising of alcohol beverages in print and broadcast media, is funded and operated jointly by retailers and the beer, distilled spirits and wine industries. It provides that ads should "not have a strong or evident appeal to children or adolescents" and should "not encourage . . . underage drinking." The code also sets up an independent Complaints Adjudication Panel to assess any complaints about alcohol advertising.(17)

Endnotes:

1. Council Directive 89/552/EEC, Article 15 (October 3, 1989), as amended by Council Directive 97/36/EC (June 30, 1997), available at http://europa.eu.int/eur-lex/en/lif/dat/1999/en_389L0552.html; http://europa.eu.int/eur-lex/en/lif/dat/1997/en_397L0036.html. The EU directive further provides that European Free Trade Association countries "shall be free to compel cable companies operating on their territories to scramble or otherwise obscure spot advertisements for alcoholic beverages." Council Directive 89/552/EEC, as amended by Agreement on the European Economic Area (March 1, 1994), available at http://europa.eu.int/eur-lex/en/lif/dat/1994/en_294A0103_60html. The EU directive is also consistent with policies of the World Health Organization Regional Office for Europe, which has urged European states to adopt policies to reflect that "children and adolescents have the right to grow up in an environment protected from . . . the promotion of alcoholic beverages." European Charter on Alcohol (December 1995), available at <http://www.who.dk/policy/alcohol.htm>.
2. For information about alcohol advertising restrictions in France, see Les Agences de Communication en France, Evin Law on Alcohol and Tobacco, available at <http://www.aacc.fr/english/alcohol.html>; Eurocare, France - Overview Report on Alcohol, available at <http://www.eurocare.org/profiles/franceeupolicy.htm>. For a brief summary of alcohol advertising restrictions of 13 EU countries, including France, see Institute on Alcohol Studies, Fact Sheet: Alcohol and Advertising [hereinafter IAS Fact Sheet], available at <http://www.ias.org.uk/factsheets/advertising.htm>.
3. Eurocare, Norway - Country Profile, available at <http://www.eurocare.org/profiles/norway/advert.htm>; Eurocare, Sweden - Country Profile, available at <http://www.eurocare.org/profiles/sweden/advertising.htm>.
4. The Danish Broadcasting Act is available at http://www.fs.dk/uk/acts/a_tvuk.htm.
5. IAS Fact Sheet, supra note 40; Eurocare, Finland - Country Profile, available at <http://www.eurocare.org/profiles/finland/#anchor163753>.
6. IAS Fact Sheet, supra note 2.
7. Id.
8. The Independent Television Commission Code of Advertising Standards and Practice (1997); Eurocare, UK Advertising, available at <http://www.eurocare.org/profiles/uk/ukadvertising.htm>.
9. Canadian Radio-Television and Telecommunications Commission (CRTC) Code for Broadcast Advertising of Alcohol Beverages (1997). The "attractive primarily" language has been interpreted to prohibit the depiction of the product at "a performance, event or activity where the audience or the participants are expected to be predominantly people under the legal drinking age." Id. For more information on the CRTC, see <http://www.crtc.gc.ca>.
10. Officials and company personnel involved in the clearance process indicate that, in practice, most networks will ask a company to verify that an ad has received clearance before they will accept it for broadcast.
11. A description of the code, how complaints are handled, and how alcohol companies can request pre-screening of ads is available at <http://www.portman-group.org.uk/code>.
12. European Advertising Standards Alliance, Advertising Self-Regulation in Europe (1997), at 104-107.
13. ITC Code of Advertising Standards and Practice, Section 40, available at <http://www.bacc.org.uk/>.
14. See European Advertising Standards Alliance, supra note 12, at 108-111. BACC's interpretative guidance explains that the ITC code prohibits

ads that target those under 18 "either in terms of their style and content or in the selection of air time," and that the code proscribes ad placement on "programming of particular interest to under-18s." The guidance further provides that ads should not be shown immediately before, during or immediately after children's programs. It also states that "pop stars and professional sportsmen and sportswomen are unacceptable A personality may have particular appeal to those under 18 even if he or she also has a significant following among older groups," although personalities can be used "whose popularity with younger viewers is nothing more than a reflection of their broad general appeal to all ages." BACC Notes of Guidance, Section 4.9, ADVERTISING OF ALCOHOLIC DRINKS, available at <http://www.bacc.org.uk>.

15. European Advertising Standards Alliance, *supra* note 12, at 111.

16. See note 9, *supra*. Advertising Standards Canada also is responsible for handling public and competitor complaints regarding non-compliance with the Canadian Code of Advertising Standards, a voluntary industry advertising code. Although this code does not contain specific restrictions on the marketing of alcohol beverages, it does proscribe the advertising of products prohibited from sale to minors "in such a way as to appeal particularly to persons under legal age" and requires that "people featured in advertisements for such products must be, and clearly seen to be, adults." Canadian Code of Advertising Standards, Section 13, available at <http://www.canad.com/asc/ccas.html#CODE>.

17. See <http://www.health.gov.au/archive/mediarel/1998/mw15298.htm> for a news release from Australia's Federal Health and Family Services Minister announcing adoption of the Code.

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