

EACA Policy Brief: Alcohol Advertising

Advertising of alcoholic beverages is regulated both on the European and on a Member-State level. In this Brief, we are going to outline which laws are applying to advertising of alcoholic beverages by presenting the European regulatory framework (I) before focusing on specific Member State regulation in the UK (i), in France (ii) and in Germany (iii).

(I) EU Regulatory Framework: The Audiovisual Media Service Directive

The European Union has implemented a regulation for alcohol marketing as part of its broader legislation on communication: the 2010 Audiovisual Media Services Directive (AVMSD), which was then revised in 2018. Its aim is to coordinate national legislation across the EU for all audiovisual media, including traditional TV broadcasts and on-demand services.

The Audiovisual Media Services Directive (AVMSD) **sets a minimum standard** for regulations on alcohol marketing and food marketing and Member States have the freedom to introduce stricter rules.

Which EU-wide rules do apply in this context?

The Directive imposes certain criteria on advertising for alcoholic beverages to ensure responsible and appropriate messaging:

- Advertisements must not target minors or depict minors consuming alcohol.
- Advertisements must not suggest that alcohol consumption leads to social or sexual success, or that it enhances physical performance or driving ability.
- Advertisements must not make false claims about the therapeutic qualities or effects of alcohol.
- Advertisements must not encourage excessive drinking or present moderation negatively.
- Advertisements must not promote the high alcoholic content of the beverage as a desirable quality.

These requirements are intended to protect minors from harmful content, ensure that advertising does not promote excessive drinking, and promote responsible consumption of alcoholic beverages.

However, it's worth noting that the AVMSD doesn't regulate all forms of alcohol marketing, including sponsorship, cinema advertising, radio, billboard advertising, retail at point of sale, price advertising, and product placement.

The 2018 AVMSD revision has introduced two important novelties:

THE COUNTRY OF ORIGIN PRINCIPLE

The AVMSD determines the laws that broadcasters must follow based on the country where they are established. This means that a broadcaster only needs to comply with the rules of the EU Member State where it is located, even if it broadcasts to other Member State with more restrictive rules.

For instance, alcohol advertisements can be seen on Swedish-language channels originating from England and broadcasted to Sweden, despite Sweden having a legal ban on alcohol advertising on TV. The Swedish government has expressed its opposition to this practice, but when Sweden attempted to enforce its alcohol advertising legislation on these channels, the European Commission rejected the notification in 2018.

THE EXPANSION OF THE VOLUME OF ADVERTISING

The revised AVMSD allows for an expansion in the volume of advertising, particularly on TV.

Under the previous version, a maximum of 12 minutes of TV advertising per hour was allowed, but the revised AVMSD provides advertisers with more flexibility.

Broadcasters can now choose when to air ads throughout the day, as long as the overall limit of 20% of broadcasting time is maintained between 6:00 AM to 6:00 PM, and the same share is allowed during prime time (from 6:00 PM to midnight).

However, this could lead to increased exposure of young people to alcohol advertising.

Most European countries have implemented policies regulating alcohol advertising to protect the youngest and most vulnerable segments of the population. The sets of regulatory policies implemented range from complete bans with penalties for legal offences to self-regulatory codes of conduct adopted by industry.

(II) Member States Regulations: Regulatory Framework

Besides, the EU Regulatory Framework, several EU Member States have implemented supplementary rules on alcohol advertising. You can find below the additional national regulations applying in the UK (i), France (ii) and Germany (iii).

(i) UK

In the UK, alcohol advertising is regulated by three organizations:

The **Advertising Standards Authority (ASA)**, funded by the advertising industry, which oversees alcohol advertising.

Ofcom, UK's communication regulator, which oversees sponsorship of TV shows.

The **Portman Group**, which is funded by the alcohol industry and oversees alcohol packaging and labelling.

Regulatory Framework:

Presently, the ASA bears the responsibility for regulating all advertising standards and addressing consumer complaints, covering both broadcast and non-broadcast platforms. This means that any alcohol-related advertisements must comply with the self-regulatory UK Code of Non-Broadcast Advertising, Sales Promotion and Direct Marketing (**CAP code**), as well as the co-regulatory UK Code of Broadcast Advertising (**BCAP code**) overseen by Ofcom.

Key points regarding alcohol advertising in the UK¹:

- Alcohol advertising is allowed on television and radio but is subject to strict scheduling restrictions. Alcohol advertisements cannot be shown on television or radio before 9 pm to avoid exposure to children.
- Advertising of alcoholic beverages must include a warning about the dangers of excessive consumption of alcohol, such as "Drink Responsibly" or "Enjoy Alcohol Sensibly."
- The advertising of alcoholic beverages cannot associate consumption of alcohol with driving or operating machinery, sports, or sexual success.
- Advertising featuring people drinking alcohol should not imply that drinking is necessary for social success or acceptance and should not feature people who appear to be under 25 years of age.
- Advertisements for alcoholic beverages must not imply that alcohol can improve physical or mental performance, or that it has therapeutic or calming effects.
- There are also restrictions on advertising in places where children are likely to be, such as schools or public transport.

(ii) FRANCE

Regulatory Framework:

In France alcohol advertising is regulated by:

The "**Loi Évin**" law (1991), which has been amended several times, banning both alcohol and tobacco advertising.
The law applies to all alcoholic drinks above 1.2% ABV.

¹ The CAP code section on alcohol;
The BCAP code section on alcohol

Key points regarding alcohol advertising in France²:

- No advertising to be targeted at young people.
- No advertising on television (including sporting events which are televised) or in cinemas.
- No sponsorship of cultural or sport events is permitted.
- Advertising is permitted only in the press for adults, on billboards, on radio channels (under precise conditions), at special events or places such as wine fairs and wine museums.
- When advertising is permitted, its content is controlled. Messages and images must refer only to the qualities of the products such as degree, origin, composition, means of production, or patterns of consumption.
- A health message must be included on each advertisement to the effect that "*l'abus d'alcool est dangereux pour la santé*" (alcohol abuse is dangerous to health).

(iii) GERMANY

Regulatory Framework:

In Germany, alcohol advertising is allowed but is subject to regulations to ensure responsible advertising practices.

There are three specific regulations in Germany that pertain to alcohol marketing and advertising:

The “**Jugendschutzgesetz**” which only deals with the timing of alcohol commercials during movie performances and not with the content of the commercials.

The “**Jugendmedienschutz-Staatsvertrag**” which includes a general provision in § 6 (5), stating that alcohol advertising should not target children and adolescents or depict them consuming alcohol.

The “**Code of Conduct**” is the main regulation of alcohol marketing and advertising in Germany and is developed by the advertising and alcohol industry to detail the elements of the Council Recommendation.

Key points regarding alcohol advertising in Germany³:

- The advertising of alcoholic beverages is prohibited on television and radio between 6 a.m. and 9 p.m. to protect children and young people.
- Advertising of alcoholic beverages is not allowed in schools, kindergartens, youth clubs, or other places where minors are present.
- Advertisements for alcoholic beverages must include a warning about the dangers of excessive consumption of alcohol, such as "Alcohol can be harmful to your health" or "Enjoy alcohol responsibly."

² Loi n° 91-32 du 10 janvier 1991

³ Jugendmedienschutz-Staatsvertrag (JMStV) (Interstate Treaty on the Protection of Human Dignity and the Protection of Minors in Broadcasting); Jugendschutzgesetz (JuSchG) (Protection of Young Persons Act)

- The advertising of alcoholic beverages cannot associate consumption of alcohol with driving or operating machinery, sports, or sexual success.
- The advertising of alcoholic beverages cannot feature people under the age of 25, and advertising featuring people over the age of 25 should not imply that drinking alcohol is necessary for social success or acceptance.
- Advertisements for alcoholic beverages must not imply that alcohol can improve physical or mental performance, or that it has therapeutic or calming effects.

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