

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 incase 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.