

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 But this proposal was withdrawn before the parliament discussed it.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 financers 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

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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 financers 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.