

## 8 France (FR)

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### 8.1 Introduction

In France four different regulations exist that refer to alcohol advertising and marketing. The “Code de la Santé Publique”, which is a statutory code and the non statutory codes named « Code d’autodiscipline et de déontologie en matière de communication commerciale », the « Code d’éthique des Brasseurs » and the “Code de bonne conduite pour la retransmission télévisée d’événements sportifs » regarding sport events. When it became clear in 1994 that the industry was using sport events broadcasted from abroad to promote alcoholic beverages exclusively for sale in France, a code was written by both the Ministry of Youth and Sport and the « Conseil Supérieur de l’Audiovisuel » after consultation of the broadcasters. In fact advertising at sport facilities is not forbidden but broadcasting is banned. In July 2004 a judgement of the EC of Justice in Luxembourg on the Commission and Bacardi case against the French Alcohol advertising ban (Loi Evin) states that “such a ban constitutes a restriction on the freedom to provide services, but is justified by the aim of protecting public”. The Court states that the French television advertising rules seek to protect public health and that they are appropriate to ensure that that objective is achieved”. So the TWF Directive is not applicable.

The Code of Public Health is statutory and includes the Loi EVIN.

Since January 2005 producers are allowed to communicate on references relating to quality characteristics but these must be “objective” (this was added by Anpaa in order to avoid positive representations like feasts, sport, youth, femininity, virility etc.). Advertising can also include references relating to the labels of origin or to geographical indications. These were before limited to some spirits by a European Regulation (1989) and will now apply to all alcoholic beverages, not only wine. The changes have not significantly weakened the Loi Evin and do not affect the comprehensiveness and basic premises of the law. Lifestyle advertising will remain illegal, only description of taste, smell, vintage and the qualities related to origins will be allowed.

Recently a law was accepted which rules that a health warning shall be replaced on every label pointing to the risk of alcohol consumption during pregnancy.

The decree has expected after consultation of the EC authorities at the latest in 2006.

A proposal made by pro wine Members of the Parliament and approved by the government, was voted in October 2005 in the French parliament creating a “Conseil de modération et de prévention”: Council on Moderation and Prevention. This council was created by a decree signed by the minister of agriculture in order to calm down wine producers after their lobby protested against the Loi Evin resisted to their lobby, claiming that “public health campaigns are discriminatory towards wine”. It will include members of the parliament, ministers and public authorities, health and road safety NGO’s and alcohol producers. The council will be consulted on matters relating to alcohol policy and prevention campaigns. ANPA and the main health partners did not agree to be a member of this council controlled by the wine industry. The journal Le Monde claims that this puts the wine lobby in a position to control alcohol prevention campaigns and legislative initiatives.

Regulation		Statutory / Non-statutory
1	Code of Public Health. Book II. Combatting alcoholism (includes the Loi EVIN). (Code de la Santé Publique. Livre II. Lutte contre l'alcoolisme (Loi EVIN)).	Statutory
2	Self Regulation Code on Communication and Sale of Alcoholic Beverages (Code d'autodiscipline et de déontologie en matière de communication et de commercialisation des boissons alcoolisées)	Non-statutory
3	Brewers Code of Practice (Code Ethique des Brasseurs)	Non-statutory
4	Code of practice in Sport Events Broadcast (Code de bonne conduite pour la retransmission télévisée d'événements sportifs comportant des panneaux publicitaires en faveur de boissons alcoolisées)	Non-statutory

## 8.2 Code of Public Health (incl. Loi EVIN).

### Name of regulation:

- 1 Code of Public Health. Book II. Combatting alcoholism (includes the Loi EVIN). Code de la Santé Publique. Livre II. Lutte contre l'alcoolisme (including the "LOI EVIN")

*Is this statutory or non-statutory regulation?*

Statutory

*Who made the text of this regulation?*

Ministère de la Santé et des Solidarités

*Which types of marketing are controlled by in this regulation?*

Marketing and advertising of alcoholic and non-alcoholic beverages. (ban on tv and cinema advertising)

*Which alcoholic beverages are subject to this regulation? (in VOL.)*

Alcoholic beverages > 1,2 VOL

*Whom is this regulation directed at or who has to adhere to it?*

Not defined.

### Additional comments

France has dealt with regulation on alcohol for a long time and the Code represents a compilation of different laws and decrees established for the most before the elaboration of the Council Recommendation. The LOI EVIN [loi n° 91-32 du 10 janvier 1991] was included too.

### 8.2.1 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	Yes	Yes	Yes	No	Yes	No

\* other than young people

## 8.2.2 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	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

### Remarks on elements

- F. It is not literally formulated but it is a consequence of art. L 3323-4, which limits the advertising to the mentioning of degree, origin, name, composition, means of production, patterns of fabrication and consumption.
- G Art. L 3353-4. Any person who encourages a minor to be drunk incurs a fine or prison and can lose his parental rights.
- H Art. L 3323-2 (see Q12 a).
- I Art. L 3323-2 (see Q12 a).
- J - Art. L 3323-5. It is forbidden to distribute or to send to minors documents or products mentioning the name or manufacturer of an alcoholic drink.  
- Art. L 3342-1. Sale or free distribution of alcohol to minors under 16 is forbidden.  
- Art. L 3342-2. Sa
- K - Art. L 3323-1. Non alcoholic beverages must be presented in any public houses and have to be separately from the alcoholic drinks and showed off.

## 8.2.3 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 publicly announced
Yes or No	Yes	Yes	Yes	Yes	Yes	No

Pre-launch advice is provided by Bureau de Vérification de la Publicité (BVP). This is an NGO composed by the TV advertisers and financed by the industry. The search for violations is performed by the Conseil Supérieur de l'Audiovisuel (CSA). This is an independent authority in which the government, the senate and the parliament are represented. It makes sure that of the law by the broadcasters.

Complaints can be made to the Court of Justice. Marketing practices can not be used as long as legal procedures are ongoing.

All procedures are public and everybody can communicate about them. Sanctions, where appropriate, are imposed by the Court of Justice and can be

- 6000 € (Art. L 3322-2);
- 7500 - 50% of the amount of the illegal operation (Art. L 3323- 2, L 3323-4-5);
- 3750 € (Art. L 3321-1);
- 3750 - 7500 € (Art. L 3342-1);
- in case of relapse, prohibition of sale of the concerned beverage. Removal of the forbidden advertisement by the violator (Art. L 3323-2, L 3323-4-5)
- loss of parental rights (Art. L 3353-4)-[empty field]].

The minimum and maximum amount of time the procedure officially takes is one month to 1 year and can run up to five years (it depends on the type of procedure).

## 8.3 Self Regulation Code on Communication and Sale of Alcoholic Beverages

### Name of regulation:

#### 2 Self Regulation Code on Communication and Sale of Alcoholic Beverages (Code d'autodiscipline et de déontologie en matière de communication et de commercialisation des boissons alcoolisées)

*Is this statutory or non-statutory regulation?*

Non-statutory

*Who made the text of this regulation?*

The members who signed the Code

*Which types of marketing are controlled by in this regulation?*

Advertising and marketing. (ban on tv and cinema advertising)

*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?*

At the members of the SRO

### Additional comments

The code refers generally to the law of Public Health [Code de Santé Publique (Loi EVIN) see ELSA Q1p3-1] and does not go beyond that.

#### 8.3.1 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	Yes	No	Yes	No	Yes	No

\* other than young people

#### 8.3.2 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	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No

#### Remarks on elements

- B art.4.3: promotion of Designated Drivers especially young drivers
- C see B
- D art.7.5: packing cannot be linked to behaviour dangerous for health or society (bombs, syringes, etc.)
- E see D
- F see D
- G art.8.2: although the companies cannot control the distribution of their products the signers make sensible the distributors and sellers.
- H art.1.5-6: no commercial communication can be linked to sport practice or success; art.3.4: the advertisers must respect the regulation about billboards; art.3.4.1: nevertheless they will not use their right of advertisement in sport places during sport events
- I art. 2.3: no communication in press for minors
- J art.4.1: any promoter has to comply with the law [see ELSA Q1P3-1 Q14j] related to sale and distribution (even free) of alcoholic beverages and to implement control in order to prevent illegal consumption by minors or immoderate consumption by other customers.

#### 8.3.3 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	No	No	-	-	-

Pre-launch advice is provided by BVP (an SRO) financed by the industry. It is one of the ratifiers of this code but it is not mentioned as providing advice. The main mission of BVP is to conceive self regulation and to systematically examine any TV advertising production before broadcasting. But this is not mentioned in the code either.

The search for violations is performed by BVP.

## 8.4 Brewers Code of Practice

### Name of regulation:

#### 3 Brewers Code of Practice (Code Ethique des Brasseurs)

*Is this statutory or non-statutory regulation?*

Non-statutory

*Who made the text of this regulation?*

The brewers industry is financier.

*Which types of marketing are controlled by in this regulation?*

Marketing concerning communication and sale

*Which alcoholic beverages are subject to this regulation? (in VOL.)*

Beer

*Whom is this regulation directed at or who has to adhere to it?*

Brewers

### Additional comments

This code was written in 1997. Since this time, the French Brewers Association signed the code of Communication and Sale of alcoholic beverages.

About the terminology used: the term “complaint” does not carry legal weight and should be interpreted as a form of “protest”. There is no possibility to have a control in case of sanction by the industry versus a member of the SRO.

#### 8.4.1 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	No	No	No	No	No

\* other than young people

#### 8.4.2 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	Yes	Yes	No	Yes	Yes	Yes	Yes	No	No	Yes	No

### Remarks on elements

- A art.2: brewers contract to never sell products which could facilitate alcohol abuse by young people
- art.3: brewers refuse to produce and sell products which are attractive to young people, or to introduce confusion on the alcoholic nature of the product
- D art.4: the packaging cannot be connected with dangerous behaviour for health or society (syringes, bombs,etc.)
- E see A
- F see A
- G see A
- J art.1: brewers contract to make known any operation which facilitates or exploits the vulnerability of young customers

### 8.4.3 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 publicly announced
Yes or No	No	No	No	-	-	-

Complaints can be made to the Association of the French Brewers. Any complaint has to be written and will be communicated to the company in question with a recommendation about measures to be taken in order to respect the code. The complainers will be informed about the appropriate action. Complaints regarding the law and/or regulation code.

## 8.5 Code of Practice in Sport Events Broadcast

### Name of regulation:

- 4 Code of Practice in Sport Events Broadcasting (Code de bonne conduite pour la retransmission télévisée d'événements sportifs comportant des panneaux publicitaires en faveur de boissons alcoolisées)

*Is this statutory or non-statutory regulation?*

Non-statutory

*Who made the text of this regulation?*

Ministère de la Jeunesse et des Sports

*Which types of marketing are controlled by in this regulation?*

Broadcast of sport events which shows billboards promoting alcoholic beverages.

Exception: multinational sports events specifically targeted at the french public is authorized.

*Which alcoholic beverages are subject to this regulation? (in VOL.)*

Alcoholic beverages > 1,2 VOL

*Whom is this regulation directed at or who has to adhere to it?*

TV Broadcasters

### Additional comments

This regulation is not imbedded in law except for the law committed to the CSA which is composed by the national authorities, and focus on control of the content and the implementing of the clauses regarding TV programmes. The Code of Public Health (Loi EVIN) does not mention precisely how to deal with the broadcasting of sports events and no jurisprudence exists. This is the reason why a code of practice has been implemented which is validated by the statement TWF from the European Court of Justice [EC] 2004-07-13].

#### 8.5.1 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	Yes	-	Yes	No	No	No

\* other than young people

#### 8.5.2 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	No	No	No	No	No	No	No	No	No	No

#### Remarks on elements

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#### 8.5.3 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	No	Yes	Yes	Yes	Yes	No

CSA makes sure that all the broadcasters respect the laws and regulations.

Complaints can be made to the Court of Justice. Marketing practices can be continued as long as legal proceedings are ongoing.

All procedures are public and everybody can communicate about it.

Sanctions, where appropriate, are imposed by the Court of Justice and can be a fine like in the (Loi EVIN art. L 3323-2).

The minimum and maximum amount of time the procedure officially takes is one month up to one year and even five years (it depends on the type of procedure).