

5 Denmark (DK)

5.1 Introduction

In Denmark three different regulations exist that specifically refer to alcohol marketing and advertising: The Order on Advertisement and Sponsorship on the Radio and on Television (the Broadcasting Act), which is statutory; the non-statutory Regulations of Marketing Alcoholic Beverages (The Self Regulation) and the statutory Marketing Practises Act (The Law of Marketing).

The non-statutory Regulations of Marketing Alcoholic Beverages is the main regulation. It was made especially for regulating Alcohol Marketing. It was made in 2000 in a joint venture between the Ministry of Business Affairs, the Ministry of Health and representatives from the alcohol industry as well as consumer organizations and NGOs. It is also called “The Self Regulation” and is enforced by a Committee (the Committee of Enforcement) headed by an independent Chairman. The Regulations is a volunteer code with no real sanctions attached. Six years have passed, and while the industry praises the Self Regulation system for its effectiveness, the Consumer Ombudsman, the Consumer organizations and the Danish Alcohol Policy Network criticise it for not being effective. During the past six years 59 complaints have been lodged by the Danish Alcohol Policy Network. The Committee of Enforcement has made 76 decisions. Fifty percent of these violated the articles about children and young people.

By the end of 2005 the Law of Marketing became subject to a review. The review can be seen as a tightening of the Law in relation to alcohol marketing targeted at children and young people. The Minister of Family and Consumer Affairs has referred to specific alcohol marketing practises as some of the reasons for tightening the Law. In this way, tightening the Law of Marketing is meant to compensate for the weaknesses of the Self Regulation, for instance the lack of real sanctions.

Regulation		Statutory / Non-statutory
1	Order on Advertisement and Sponsorship in the Radio and on Television (the Broadcasting act)	Statutory
2	Regulations of Marketing Alcoholic Beverages	Non-statutory
3	The Marketing Practises Act	Statutory

5.2 The Broadcasting act

Name of regulation:

- 1 **Order on Advertisement and Sponsorship in the Radio and on Television (the Broadcasting act)**

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

The Danish Ministry of Culture

Which types of marketing are controlled by in this regulation?

Broadcast (tv, radio only within danish jurisdiction)

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

All alcoholic beverages

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

The National Board of Television and Radio states, that the order is directed at those who hold a programme license, e.i. the various television- or radio-broadcast stations.

5.2.1 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	No	No	No	No	No

* other than young people

5.2.2 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	No	Yes	No	Yes	Yes	No	No	Yes	No	No

Remarks on elements

- C "Advertisement of alcoholic beverage is not allowed to:
 - 1) be targeted especially at minors, and even more importantly to show minors, who drink alcohol" (§ 13).
- E "Advertisements must not show minors in dangerous situations, call upon or incite minors to stay in or go to dangerous places, to use dangerous products, or to endanger themselves in any other way" (§ 18).
- F "Advertisement of alcoholic beverage is not allowed to:
 - 2) link consumption of alcohol with improved physical performance or driving.
 - 3) make the impression, that consumption of alcohol adds to success socially or sexually" (§ 13).
- I "Advertisement of alcoholic beverage is not allowed to:
 - 1) be targeted especially at minors, and even more importantly to show minors, who drink alcohol" (§ 13).

5.2.3 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	No	Yes	No	Yes	Yes

Complaints can be made to the Radio and Television Board. During a procedure a marketing practice can still be used.

The possibility of complaining is made known to the public since complaints can be lodged on-line on the National Board of Radio and Television's homepage.

The police is responsible for the fine, while the National Board of Television and Radio is responsible for other sanctions. Sanctions can be a fine up to €260.000 (which has never been given) or the campaign can be stopped as a consequence of the decision. However, the part of the sanction system, which can lead to a fine requires, that the National Board of Television and Radio actually reports to the police. Until today this has never happened.

The results of complaint procedures are published on the homepage of The National Board of Radio and Television, sometimes also by press releases.

The average amount of time of the procedure is officially 11 weeks maximum (usually somewhat longer).

5.3 Regulations for Marketing Alcoholic Beverages

Name for regulation:

2 Regulations of Marketing Alcoholic Beverages

Is this statutory or non-statutory regulation?

Non-statutory

Who made the text of this regulation?

The Danish Ministry of Business Affairs

Which types of marketing are controlled by in this regulation?

All kinds of marketing

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

Alcoholic beverages > 2,8 VOL

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

"The Regulations apply to everybody in business, including: producers, merchants, retailers, restaurants and other kinds of sales on and off the premises - provided that they are considered engaged in commerce activities according to the Marketing Practices Act." (Article 4)

Additional comments

The Secretariat of the Committee of Enforcement is placed at The Danish Brewers Association, which is probably also its financial source.

5.3.1 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	No	No	No	No

* Other than young people

5.3.2 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 Success	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	Yes	Yes	No	Yes	Yes	No	No	No	No	No

Remarks on elements

- B "Marketing of alcoholic beverages is not allowed to show pictures, figures, comics or icons with a special appeal to children and young people." (Article 5)
- C It is not allowed to use persons in marketing activity, who due to their young appearances create the impression, that young people drink alcoholic beverages. (Article 5)
- E "Marketing activity is not allowed to link consumption of alcoholic beverages with risky behavior, such as driving, operating potentially dangerous machines, or other potentially dangerous activity" (Article 3)
- F "Marketing activity is not allowed to make the impression, that a certain amount of alcohol may be healthy, may lead to success or may improve the consumers capacities mentally or physically."(Article 3)

5.3.3 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	No	No	Yes	No	Yes	Yes

The Danish Alcohol Policy Network checks for violations of the Regulations the best way possible.

Complaints can be made to the Committee of Enforcement. During a procedure a marketing practice can still be used.

The possibility of complaining is made known to the public through Report of the Committee of Enforcement: everybody can state a complaint. However, this possibility is not widely known.

Sanctions, where appropriate, are imposed by the Committee of Enforcement: The Committee of Enforcement can publish its criticism. In case of subsequent offense the Committee can decide to make their criticism of the business company in question public.

The Committee of Enforcement publishes an annual report.

There is no minimum and/or maximum amount of time the procedure officially takes.

5.4 The Law of Marketing

Name of regulation:

3 The Marketing Practises Act (Law of Marketing)

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

The Danish Ministry of Family and Consumer Affairs

Which types of marketing are controlled by in this regulation?

All types of marketing (not only alcohol marketing)

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

All alcoholic beverages

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

“The Act applies to private business activity and comparable public activity”

Additional comments

According to the Consumers Ombudsman the § 1 of the Act implies that marketing of alcoholic beverages directed at children and young people is not good marketing practise.

This present version of the Law of Marketing is quite new and is in force from the first of June 2006.

5.4.1 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

5.4.2 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 Success	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	Yes	No	No	Yes	Yes	No	No	No	No	No	No

Remarks on elements

A-B: The production and styles issues are indirectly mentioned in the Act: "Marketing targeted at children and young people must be shaped with due account being taken of children and young people's natural credulity, lack of experience and of critical sense, all of which make them susceptible to influence".

D-E: The drugs and violence issues are directly mentioned in the Act: "Marketing targeted at children and young people is not allowed directly or indirectly to encourage violence, use of drugs – including alcohol – or other dangerous or ruthless behaviours; or in any other way to make improper use of violence, fear or superstition for instance as a gimmick".

These are all new additions in relation to the former Marketing Practises Act.

5.4.3 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	No	Yes	No	Yes	Yes

The pre-launch advice is more than a procedure, in the Marketing Practices Act, it is an article: “On request, the Consumer Ombudsman will give a statement regarding his view of the lawfulness of contemplated marketing arrangements, unless an opinion would be subject to unusual doubt, or other special circumstances exist. An advance indication does not amount to an actual opinion of the lawfulness of the arrangement concerned” (Article 18). But regarding alcohol marketing this possibility has not been used.

There is no systematic searching for violations, but the Consumer Ombudsman superintends that the the Marketing Practices Act (see below) is not violated. Complaints can be made to The Danish Consumer Ombudsman. Normally the campaign runs until a sentence is passed upon it. However, the police can temporary prohibit a campaign.

The possibility of complaining is described on the homepage of the Danish Consumer Ombudsman, in handbills and frequently in newspaper articles. Sanctions, where appropriate, are imposed by the courts of justice (if it is a fine); the police (if it only has to do with stopping a marketing campaign) and can be a fine close to 1 million euro’s, depending on the marketing budget, or the marketing campaign can be stopped. The Danish Consumer Ombudsman superintends and reports if nessecary to the Police. The latter decides whether the case should be prosecuted. Finally, the courts of justice pass sentence. Within the Danish Consumer Ombudsman administration there is no system of appeal. But the courts of justice offer the possibility of trying the case.

It is possible to read about the results on the homepage of the Danish Consumer Ombudsman. Information on the results is also given via newsletters and in some cases press releases.

The minimum and maximum amount of time the procedure officially takes is minimally 2 hours, maximally 50 hours.