

19 Romania (RO)

19.1 Introduction

Romanian consumers remained price sensitive, but product availability and advertising were both strong tools in raising brand awareness over the last years. Strong competition among beer manufacturers makes alcoholic drinks one of the most dynamic markets in Romania. An indication of the strength of competition is the level of the advertising expenditure, amounting to more than US\$38 million for beer alone. Advertising for wine and spirits also increased sharply in the last two years, especially for new brand launches.

The expected joining with the EU by 2007 will bring about important changes in the alcoholic drinks market as Romania will have to apply the same legislation as the EU.

Advertising of alcoholic beverages is regulated by the Advertising Law no.148/2000, which transposes certain European Unions Rules and Regulations in the field. It states that advertising of alcoholic beverages is forbidden within educational institutions and medical care units or under 200m from their entrance on a public road.

Also, the advertising of alcoholic beverages is not allowed in publications for minors, in show halls before, during or after shows dedicated to minors. Furthermore, any advertisement is forbidden which addresses directly to minors or shows minors consuming these products. The advertisement which suggests that these products present therapeutic properties or have sedative or stimulant effects or can solve personal problems and which give a negative image about abstinence are also banned.

Advertising of distilled spirits is allowed in Romania only through magazines and newspapers, television and radio. It is forbidden to explicitly advertise on the first and on the last page of a publication, as well as on the travel tickets.

The Code of Regulation of the Audiovisual Content Decision no. 187 of 3rd April 2006, regarding advertising, sponsorship and teleshopping was issued taking into account the harm done to minors by alcohol consumption and the fact that from the statistics published by public and private institutions can be concluded that a correlation exists between the increase of alcohol consumption among the minors and of the alcoholic distilled beverages advertising.

The spots that promote distilled spirits will end with the warning, audio and visual: "Excessive alcohol consumption seriously harms the health status"

| Regulation | | Statutory / Non-statutory |
|------------|---|---------------------------|
| 1 | The Code of Regulation of the Audiovisual Content Decision no. 187 /3 APRIL 2006 | Statutory |
| 2 | The Audio Visual Law | Statutory |
| 3 | The Advertising Law | Statutory |
| 4 | Law no. 61/September 27th, 1991 (regarding the social life and public order norms) | Statutory |
| 5 | Decision no. 128/March 30th, 1994 (regarding certain measures for ensuring the physical and moral development conditions for schoolchildren and students) | Statutory |

19.2 Decision regarding the advertising, sponsorship and teleshopping

The Code of Regulation of the Audiovisual Content
Decision no. 187 /3 APRIL 2006

Name of regulation:

- 1 **The Code of Regulation of the Audiovisual Content Decision no. 187 /3 APRIL 2006**

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

National Audiovisual Council (NAC)

Which types of marketing are controlled by in this regulation?

Advertising, sponsorship and teleshopping

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

Distilled alcoholic beverages (spirits) > 15% VOL. (at 20 C degrees)

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

Radio and TV distributors/ broadcasters

19.2.1 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 | Yes | No | No | No |

* other than young people

19.2.2 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 | Yes | No | Yes | No | No | No | No | No | No |

Remarks per element

Violence

The broadcast of advertisement for alcoholic drinks that promote violent, aggressive or antisocial behaviour or attitudes is prohibited.

Children

Advertising and teleshopping observe the requirements and criteria for the protection of minors. The broadcast of advertising spots for alcoholic drinks featuring minors is prohibited.

Events

It is prohibited to broadcast promotional announcements or competitions that include references to the name or trademark of a distilled alcoholic beverage; within competitions it is prohibited to offer prizes sponsored by companies producing such beverages.

The broadcast of sports transmissions sponsored by alcoholic beverage producers may be broadcast only between 23.00 – 6.00 hours.

Sports events taking place on the territory of Romania which do not respect the provisions of the Law no. 148/2000, published in the Official Journal of Romania, Part 1, no. 359/2000, with the subsequent alterations and completions, concerning tobacco products and alcoholic beverages shall not be broadcast by broadcasters licensed in Romania. Alcohol advertisements with minors are forbidden. The advertising of the alcoholic beverages that promote violent, aggressive or antisocial behaviours or attitudes are prohibited too.

19.2.3 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 | No | Yes | Yes |

- Taking into account the National Council Audiovisual obligations to establish regulations on the protection of children, the defence of human dignity, the cultural responsibilities of broadcasters, advertising, sponsorship and teleshopping, and taking into account the National Audiovisual Council obligations established by the law to ensure, in audiovisual programmes, the protection of the physical, intellectual and moral development of children, the search for violations is performed by National Council of Audio-Visual.
- Complaints can be made to National Council of Audio-Visual.
- The supervision of the application, the control of the fulfilment of the liabilities and the sanctioning of infringements of the provisions of this Law is incumbent on the National Audiovisual Council and the National Regulatory Authority for Communications, in compliance with its attributions, granted by the law.
- The exertion of the control activity shall be accomplished under the terms of this Law, as follows:
 - a) ex officio;
 - b) on request of a public authority;
 - c) as a consequence of a complaint handed in by a natural or legal person, directly affected by the infringement of the provisions of this Law.
- The infringement by radio-broadcasters or service distributors of the provisions of this Law, or of the decisions representing regulation norms issued by the Council, shall be considered contravention. The Council or, as the case may be, the National Regulation Authority for Communications, shall issue until applying the fine, a summons for becoming lawful, with precise terms. If the radio-broadcaster or the service distributor does not enter into legality within the terms and under the conditions established in the summons or if he again infringes these provisions, an infringement fine from ROL 25,000,000 - ROL 250,000,000 shall be applied.
- When individualising the sanctions, the National Audiovisual Council shall take into account, as the case may be, the following:
 - a) the seriousness of the fact and its effects;
 - b) the previous sanctions, during a period not longer than one year;
 - c) the day of the week and the broadcasting time span of the respective programme;
 - d) the programme duration;
 - e) the rating.

19.3 The Audio Visual Law

Name of regulation:

2 The Audio Visual Law no 504/2002

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

the National Council of Audio-Visual;

the Ministry of Communications and Technology of Information

Which types of marketing are controlled by in this regulation?

Broadcast (tv, radio: advertising, sponsoring and teleshopping)

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

Alcoholic beverages in general

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

The public and private radio and television broadcasting company.

19.3.1 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 | No | Yes | No | No | No |

* other than young people

19.3.2 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 | No | Yes | Yes | Yes | Yes | No | No | No | No | No |

Remarks on elements

- C Article 32.
 - a) The advertising and the teleshopping are forbidden to be addressed to minors or show minors drinking alcoholic beverages.
- D Article 29.

Publicity, including self publicity and teleshopping, will observe the following conditions:

 - e) not to stimulate harmful behaviour to health or to people's safety;

Article 30. Any form of publicity or teleshopping for cigarettes or other tobacco products is forbidden.
- E Article 29.

Publicity, including self publicity and teleshopping, will observe the following conditions:

 - a) not to affect physical, mental and moral progress the minors.
 - e) not to stimulate harmful behaviour to health and to people's safety;
 - g) not to stimulate indecent or immoral behaviour.
- F Article 32: It is forbidden to
 - b) suggest that alcoholic beverages provide an increase of physical and mental performance or a better ability to drive cars.
 - c) suggest that alcoholic beverages provide an increase of social or sexual performance.
 - d) suggest that alcoholic beverages present therapeutic properties or have sedative or stimulating effects or can solve personal problems.
 - e) stimulate the excessive alcohol consumption or to give a negative image of abstinence.

19.3.3 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 | Yes | Yes | No | Yes | Yes |

- Complaints can be made to National Audio-Visual Council.
- The supervision of the application, the control of the fulfilment of the liabilities and the sanctioning of infringements of the provisions of this Law is incumbent on the National Audiovisual Council and the National Regulatory Authority for Communications, in compliance with its attributions, granted by the law.
- The exertion of the control activity shall be accomplished under the terms of this Law, as follows:
 - a) ex officio;
 - b) on request of a public authority;
 - c) as a consequence of a complaint handed in by a natural or legal person, directly affected by the infringement of the provisions of this Law.
- The infringement by radio-broadcasters or service distributors of the provisions of this Law, or of the decisions representing regulation norms issued by the Council, shall be considered contravention. The Council or, as the case may be, the National Regulation Authority for Communications, shall issue until applying the fine, a summons for becoming lawful, with precise terms. If the radio-broadcaster or the service distributor does not enter into legality within the terms and under the conditions established in the summons or if he again infringes these provisions, an infringement fine from ROL 25,000,000 - ROL 250,000,000 shall be applied.
- When individualising the sanctions, the National Audiovisual Council shall take into account, as the case may be, the following:
 - a) the seriousness of the fact and its effects;
 - b) the previous sanctions, during a period not longer than one year;
 - c) the day of the week and the broadcasting time span of the respective programme;
 - d) the programme duration;
 - e) the rating.

19.4 The Advertising Law

Name of regulation:

3 The Advertising Law

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

The Advertising Law was adopted by the Romanian Parliament in July 26th 2000 and was completed with the Governmental Ordinance No. 90 / August 26th 2004.

Which types of marketing are controlled by in this regulation?

Mass-media advertising

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

Alcoholic beverages in general

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

Mass-media in general

Additional comments

All the other articles of the regulation, not mentioned below:

Article 32. It is forbidden to present, like a quality, the high alcohol concentration of the alcoholic beverages.

To article 13 from the Law No. 148/2000, regarding Advertising, was inserted a new article, article 13.1, with the following content:

Art. 13.1:

(2) Alcoholic beverage advertising broadcast during audiovisual programmes is realized in accordance with the provisions of the Decisions No. 254/2004 of the National Audiovisual Council, regarding advertising sponsorship and teleshopping, published in the Official Journal of Romania, Part I, No. 668/July, 26th, 2004

19.4.1 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 | Yes | No | Yes | No |

* other than young people

19.4.2 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 | Yes | No | Yes | Yes | Yes | No | Yes | No | No |

Remarks on elements

- Advertising for alcoholic beverages and tobacco products is not allowed under conditions that show minors consuming these products.
- For products and services destined children it is forbidden that advertising:
 - Contains elements that are harmful to them from a physical, moral, intellectual and mental point of view;
 - Affects special relationships between minors on one side, and parents or teachers, on the other;
 - Unduly presents, minors in dangerous situations.
- Advertising for alcoholic beverages and tobacco products is not allowed under conditions that:
 - Suggest that alcoholic beverages contain therapeutic properties, that they have a stimulatory, sedative effect or that they can solve any personal problems;
 - Gives a negative image on abstinence;
 - Shows the alcohol content of alcoholic beverages in order to stimulate consumption, or relate alcohol to driving.
- For products and services destined for children it is forbidden that advertising encourages directly the children to try products or services, taking advantage of their lack of experience or their credulousness.
- Advertising for alcoholic beverages and tobacco products is not allowed in publications destined mainly for minors, inside performance halls, during and after performances aimed at minors.

19.4.3 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 publically announced |
| Yes or No | No | Yes | Yes | Yes | Yes | Yes |

The search for violations is done by:

- Consumer's Protection Office
- Local Public Administration
- Ministry of Health
- Complaints can be made to the same bodies.

And during a procedure a marketing practice can still be used.
Sanctions, where appropriate, are imposed by the same bodies as mentioned above and can be a fine (ART. 23):

- Breaking the provisions of articles 15 to 17: between 50 and 150 RON (between 18 and 50 €).
 - Breaking the provisions of articles 6,8,9 and 10 to 14: between 150 and 400 RON (= between 50 and 145 €).
- or other (ART. 25):
- Advertisement is banned;
 - Ceasing of advertisement until the correction day;
 - Publishing;
 - more rectifying announcements...ART. 24: (1) Minor offences stipulated at art.23 are ascertained and sanctioned when announced by the damaged persons or by the consumers' associations or ex-officio by: a) Empowered representatives of: - the Consumers' Protection Office; - the Local Public Administration; - Ministry of Health...].

The results of procedures are publicly announced [ART. 25 - Institutions and authorities foreseen at art. 24 can dispense once with the application of the minor offence sanction the following measures, according to the case: c) Publishing the public authority decision, totally or partially and established the way it will be achieved. d) Publishing on the offender's expense one or more rectifying announcements, with the content and broadcasting way established.]

The minimum and maximum amount of time the procedure officially takes is not mentioned.

19.5 Law regarding the social life and public order norms

Name of regulation:

4 Law no. 61/September 27th, 1991 (regarding the social life and public order norms)

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

Ministry of Health,

Ministry of Labour and Social Protection,

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 in general

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

Social living, public order and safety norms: Art. 1 "The citizens are obliged to maintain a civic, moral and responsible behaviour"

Additional comments

The Public Order Law was completed with Law No. 265 / June 16th 2004. To articles 2 and 3 from the Law No. 61/1991, was modified in the following forms:
Art. 2:

23) Sale, marketing and consumption of alcoholic beverages in public places at the entrance in the yards or indoors, of: hospitals and other sanitary units, youth shelters, educational units and institutions, cultural places, religious institutions that ban alcoholic beverage consumption in the practice of their religion, on the pavements or access alleys of these.

25) Alcoholic drinks consumption in the following places: public roads, parks, stadiums, sport fields, cultural institutions, performance halls, economic units and institutions, all means of transportation: bus stations, railway stations and

airports, state private and private ones or any other places established by law. Inside these public places, alcoholic beverage consumption is controlled by the top management of those public places.

Exceptions on this rule are establishments concerning tourism and public alimentation such as: restaurants, bars, and discos. In these places alcohol consumption to minors under 18 years old is strictly banned.

Art. 3:

Minor offences stipulated in art.2 are sanctioned as follows: a) with a fine from 100 RON (1.000.000 ROL) to 500 RON (5.000.000 ROL) stipulated in points .. 24) ..; c) with a fine from 500 RON (5.000.000 ROL) to 1.500 RON (15.000.000 ROL) stipulated in points .. 21),22) ..; e) with a fine from 100 RON (1.000.000 ROL) to 1.500 RON (15.000.000 ROL) stipulated in points 23) and 25)

19.5.1 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 | Yes | No |

* other than young people

19.5.2 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

19.5.3 Procedures connected to the regulation

It is indicated whether the following procedures are ('yes' or 'no') connected to the regulation.

| PROCEDURES | | | | | | |
|------------|-------------------|---|--|------------------|--------------------------------|---|
| Yes or No | 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 | No | Yes | No |

The search for violations is done by

- Local Public Administration
- Police
- Gendarmerie

Complaints can be made to the same bodies.

And during a procedure a marketing practice can still be used.

Sanctions, where appropriate, are imposed by the same bodies and can be a fine (ART. 3) between 8 and 200 RON (between 2,5 and 70 euro) or:

- cessation of the activity of the public place for a period between 10 and 30 days.
- jail from 1 to 6 months. ART. 7:

Minor offences are ascertained by the mayor or by his empowered persons, by the police inspectors, military officers, gendarmerie, employees hired with a work contract.

If the minor offences for which the law foresees fine sanctions, the ascertaining agent applies both the ruling and the sanction.

19.6 Decision regarding certain measures for schoolchildren and students

Name of regulation:

- 5 Decision no. 128/March 30th, 1994 (regarding certain measures for assuring the physical and moral development conditions for schoolchildren and students)

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

Ministry of Education.

Which types of marketing are controlled by in this regulation?

Advertising, sale and consumption.

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

Alcoholic beverages in general

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

This regulation is directed at persons connected in any way with alcoholic beverages, as well as with the advertising of alcoholic beverages.

19.6.1 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

19.6.2 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 | No | No | No | No | No | No | No | No | No |

Remarks on elements

19.6.3 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 | Yes | Yes | No | Yes | No |

The search for violations is performed by Local Public Administration and Police. Complaints can be made to the same bodies.

And during a procedure a marketing practice can still be used.

Sanctions, where appropriate, are imposed by the same bodies and can be a fine ART. 5: from 50 RON (5.000.000 ROL) to 100.