

12 Italy (IT)

12.1 Introduction

In Italy six different regulations (statutory and non statutory) exist that specifically refer to alcohol marketing and advertising. The “Law on alcohol and alcohol related problems” (2001), the Ratification of the European convention on Television without Frontiers” (1991), the “Self-regulation code on TV and minors” (2002) and the “Regulations for the implementation of art. 13,15,16 of the European Directive 3 October 1989 (89/552 CEE) regarding television advertising of alcoholic beverages and tobacco and the protection of minors” (1991) are statutory codes. The “Advertising self-regulation code” (1966) and the “Ethical code issued by national public radio – TV network (Rai)” (1954) are non-statutory codes.

All these rules are mainly related to alcohol advertising contents with few bans on location, time, media and type of product. The application of these rules is rather complicated, whereas for the characteristics of advertising timetable it would be fundamental to have simple and efficient procedures. For these reasons, the “Advertising self-regulation code” is in practise the main regulation of alcohol marketing in Italy with regards to the complaint procedures. But unfortunately this code regulates only the contents of the alcohol advertising.

Compared to other European countries, in Italy legislators have only recently taken into account the effects of advertising on alcohol consumption, by adopting the European directive 89/552 regarding this issue. For the first time in 2001 the Law on Alcohol and Alcohol Related Problems included a specific article on advertising of alcoholic beverages. Nevertheless the application and the enforcement of this law is difficult because of the ill-defined sanctions and procedures.

Regulation		Statutory / Non-statutory
1	Law on alcohol and alcohol related problems (Legge quadro in materia di alcol e problemi alcolcorrelati) art 13 on advertising	Statutory
2	Ratification of the European convention on Television without Frontiers (Ratifica e applicazione della convenzione europea sulla TV transfrontaliera)	Statutory
3	Self-regulation code on TV and minors (Codice di autoregolamentazione nei rapporti tra TV e minori)	Statutory
4	Regulations for the implementation of the artt. 13,15,16 of the European Directive 3 October 1989 (89/552 CEE) regarding television advertising of alcoholic beverages and tabacco and the protection of minors	Statutory
5	Advertising self-regulation code (Codice dell'autodisciplina pubblicitaria – 38th editions in force since 26 July 2005, the first edition in 1996)	Non-statutory
6	Etical code issued by national public radio – tv network (Rai) (Codice deontologico della radio-televisione pubblica (Rai)) – art. 7 Alcoholic	Non-statutory

12.2 Law on alcohol and alcohol related problems

Name of regulation:

- 1 Law on alcohol and alcohol related problems (Legge quadro in material di alcol e problemi alcolcorrelati; art 13 Disposizioni in material di pubblicità)

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

The text was long discussed by members of the Committee of Social Affair; the final text is the National Parliaments responsibility.

Which types of marketing are controlled by in this regulation?

Broadcast (tv, radio: direct or indirect advertisement)

Printed media (directed at children)

Places of public resorts mainly focused on children-activities

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

Alcoholic beverages > 1,2% VOL.

Spirits (> 21% VOL.)

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

Art. 13

§ 7. Alcohol industries, TV networks, magazine and cinema owners

Additional comments

Paragraph 5 states:

All kinds of spirits advertisements are also forbidden:

a in daily and periodical press targeting children and adolescents

b in movie theatres when movies for children and adolescents are shown.

It's worth noting that regarding violations of this paragraph there is no sanction.

12.2.1 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	Yes	No	No

* other than young people

12.2.2 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	No	No	No	Yes	Yes	No	No

Remarks on elements

- C Art. 13
 § 2. Alcohol advertising (for alcohol beverages and spirits) is forbidden in the following situations:
 c) where advertising shows children and adolescents consuming alcohol and representing alcohol intake as a positive attitude.
- H Art. 13
 3. Direct or indirect advertisement of alcohol beverages is forbidden in those environments mainly attended by underage people (18 years old).
- I Art. 13
 § 2. Alcohol advertising is forbidden in the following situations:
 a) in programmes specifically devoted to children and adolescents, and during the 15 minutes before and after the programmes themselves;
 § 5. All kinds of spirit advertisements are also forbidden:
 a) in daily and periodical press targeting children and adolescents
 b) in movie theatres when movies for children and adolescents are shown.

12.2.3 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	Yes	Yes	No

In theory the application of sanctions for violations related to regulation in radio-television field is the competence of the Communications Regulatory Authority (AGCOM). Nevertheless, the Antitrust Authority may have competence too because these violations could be considered deceitful or misleading advertising. And of course there are also the normal security authorities.

During the complaint procedure, the marketing practice can still be used. Sanctions, where appropriate, are imposed by ordinary justice and can be a fine between €2.500 to €10.000. (doubling for any further violation). The amount of time the procedure officially takes is a few months.

12.3 Ratification of the European convention on TWF

Name of regulation:

- 2 **Ratification of the European convention on Television without Frontiers (Ratifica e applicazione della convenzione europea sulla TV transfrontaliera)**

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

National Parliament

Which types of marketing are controlled by in this regulation?

Advertising of alcoholic beverages

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

Alcoholic beverages (not further defined)

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

Television Broadcasting

Additional comments

General remarks concerning the procedures:

Normally in Italy all complaints have to be made to the Advertising Review Board of the IAP Istituto dell'Autodisciplina Pubblicitaria (IAP Institute of Italian Advertising Self-Regulation). Of course, it is possible to complain to the "Prefetto", local security authority which is part of the Ministry of Internal Affairs, and to the Communications Regulatory Authority (AGCOM) or to the Antitrust Authority.

12.3.1 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	No	No	No	No

* other than young people

12.3.2 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	Yes	No	No	Yes	No	No	No	No	No

Remarks on elements

- C Art. 15
 “Advertising of alcoholic beverages cannot be specifically targeted at minors. No one who could be considered underage has to be used as an actor in the advertising which promotes the use of alcoholic beverages.”
- F Art. 15
 “Advertising of alcoholic beverages must not link alcohol consumption to physical performance or to driving

12.3.3 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	–	–	–

Art. 20 establishes a Permanent Committee for complaint handling.

12.4 Self-regulation code on TV and minors

Name of regulation:

3 Self-regulation code on TV and minors (Codice di autoregolamentazione nei rapporti tra TV e minori)

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

Communication companies which signed and subscribed the code and the Ministry of Communication.

Which types of marketing are controlled by in this regulation?

Advertising of alcoholic beverages

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

Alcoholic beverages (not further defined)

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

RAI-Radiotelevisione Italiana, Mediaset, Cecchi Gori Communications, F.R.T.-Federazione Radio Televisioni, A.E.R.-Associazione Editori Radiotelevisivi (that is, public and main private radio and television companies and associations)

Additional comments

Originally (in 1997) this code was a private act, but in 2002 the Minister of Communication established a Review Board at his Ministry for the enforcement of the code and it was then recognized by the law dated 3 May 2004.

In Italy in case of violation of alcohol advertising rules it is possible to follow three procedures:

- 1 to report to a statutory department, but it takes a very long time to get any results, compared to when the ad is in the air;
- 2 to report the misleading advertising to the Antitrust Authority and the Communications Regulatory Authority (AGCOM);
- 3 to report to the IAP (Self-regulation Institute).

In Italy the violation of this rules is actually the competence of the self-regulation system, because the complaint procedure apparently is clearer, better-organized and more effective.

12.4.1 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

* other than young people

12.4.2 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	No	Yes	Yes	No	No	No	No	No	Yes	No	No

Remarks on elements

- B Chapter 4 on advertising: First level of general protection (that is, principles . "Adverting must avoid to represent minors drinking alcohol beverages and to present abstinence with negative characteristics.
- C Chapter 4 on advertising: First level of general protection (that is, principles . "Adverting must avoid representing minors drinking alcoholic beverages and presenting abstinence with negative characteristics.
- I Chapter 4 on advertising, : Third level of specific protection (that is, when minors are probably watching TV without the supervision of adults) "Between 4 and 7 p.m. advertising of alcohol beverages should be avoided, in programmes addressing minors and during commercial breaks just before and after the programmes themselves"

12.4.3 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	No	Yes	Yes	No	Yes	Yes

A Review Board for complaints has been established at the Ministry of Communication. Members of the Review Board are representatives of television companies and other people indicated by the Prime Minister.

The Review Board reports the violations of the code to the Communications Regulatory Authority (AGCOM), which takes the decision about the complaint and, in case of proven violation, has to condemn to different sanctions.

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

The possibility of complaining is communicated to the public. In case of violation of code ads rules, the communication has to be done without quoting the name of the product.

Sanctions, where appropriate, are imposed by The Review Board and the Communications Regulatory Authority (AGCOM). The decision has to be transmitted by the Television in default that has to communicate the decision during peak time (better on the news) and before 10.30 p.m. Art. 10 of law 3/5/2004 n. 112 establishes that televisions have to respect the rules stated by the TV self-regulation code and minors. Sanctions can vary from €25,000 to €350,000.

The Review Board notifies the violation to the interested TV, which can file its counter deduction by 15 days.

12.5 Regulations for the implementation of the European Directive 89/552

Name of regulation:

- 4 Regulations for the implementation of the artt. 13,15,16 of the European Directive 3 October 1989 (89/552 CEE) regarding television advertising of alcoholic beverages and tobacco and the protection of minors

Is this statutory or non-statutory regulation?

Statutory

Who made the text of this regulation?

Ministry of Communication

Which types of marketing are controlled by in this regulation?

Advertising of alcoholic beverages

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

Alcoholic beverages (not further defined)

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

Alcohol industries, TV networks, magazine and cinema owners

Additional comments

In Italy in case of violation of alcohol advertising rules it is possible to follow three procedures:

- 1 to report to a statutory department, but it takes a very long time to get some results, compared to ads time
- 2 to report the misleading advertising to the Antitrust Authority and the Communications Regulatory Authority (AGCOM).
- 3 to report to the IAP (Self-regulation Institute)

In Italy the violation of this rules is actually competence of the self-regulation system, because the complaint procedure seems to be clearer, better-organized and more effective.

12.5.1 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

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

Remarks on elements

- C Art. 2
 "Alcohol advertising should not address directly to minors, and particularly should not represent minors drinking alcoholic beverages"
- F "Alcohol advertising should not to link the use of alcohol to physical performances or to driving"
 "Alcohol advertising should not create the impression that the consumption of alcoholic beverages contributes to the social or sexual success".

12.5.3 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 in case of violators	Results published or publically announced
Yes or No	No	No	Yes	Yes	Yes	No

In theory the application of sanctions for violations related to regulation in radio-television field is competence of Communications Regulatory Authority (AGCOM). Nevertheless, also the Antitrust Authority could have competence because these violations could be considered misleading advertising. And of course there are also the normal security authorities.

During the complaint procedure, the marketing practice can still be used.

There is no official minimum and maximum amount of time the procedure takes.

Usually it takes a few months.

12.6 Advertising self-regulation code

Name of regulation:

- 5 Advertising self-regulation code (Codice dell'autodisciplina pubblicitaria –38th editions in force since 26 July 2005, the first edition in 1996)

Is this statutory or non-statutory regulation?

Non-statutory

Who made the text of this regulation?

IAP Institute of Italian Advertising Self-Regulation

Which types of marketing are controlled by in this regulation?

Advertising of alcoholic beverages

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

Alcoholic beverages (not further defined)

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

The Code of Advertising Self-Regulation is binding for advertisers, agencies, consultants, all advertising media, and for anyone who has accepted the Code directly or through membership in an association, or by underwriting an advertising contract as described in point. In order to better ensure full compliance with the decisions of the Jury the sponsoring organizations undertake that their members insert in their contracts a special clause of acceptance of the Code and its Regulations and of the decisions of the Jury, including orders to publish such decisions.

Additional comments

Art. 11 of the Code of Italian Advertising Self-regulation regards advertising and minors in general.

12.6.1 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	No	No	No	No	No	No

* other than young people

12.6.2 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 Succes	G Encouragement	H Events	I Media	J Free	K Other
Yes or No	No	Yes	Yes	No	No	Yes	No	No	No	No	No

Remarks on elements

- B Art. 22
"target at minors even only indirectly, or depict minors consuming alcohol"
- C Art. 22
"target refer to minors even only indirectly, or depict minors consuming alcohol"
- F "encourage the excessive, uncontrolled, and hence damaging consumption of alcoholic beverages". This item is not directly aimed at young people but at the general population, of course including young people.

12.6.3 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 publically announced
Yes or No	Yes	No	Yes	Yes	Yes	Yes

Pre-launch advice is provided by The Advertising Review Board of the IAP. The Advertising Review Board can provide an advance opinion, at the request of an interested party, on whether the final but not yet publicized advertising submitted to it conforms to the rules of the Code protecting the interests of consumers. The advertising review board submits advertising violations to the jury, autonomously or on the grounds of indications received, within its activities of monitoring. But it is not stated as systematic monitoring.

“As their association, every single consumer can complain freely to the Advertising Review Board about the advertisements that do not comply with the rules of the Code protecting the general interests of consumers”. If the advertising review board considers the complaint appropriate, it directly contacts the advertiser, asking clarifications or some changes in the message. It can also issue a desist order to the advertiser, or submit the complaint to the jury. In any case, the review board provides an appropriate answer to the people who have filed the complaint and explains the reasons of its decision. Marketing practices can be continued as long as legal proceedings are ongoing. The complaint procedure can take between 20 and 40 days.

Sanctions, where appropriate, are imposed by Jury of IAP. All decisions are published by the Secretariat in the website of the Istituto dell’Autodisciplina Pubblicitaria with the names of the parties concerned. The Jury may order that abstracts of decisions be disclosed to the public by the Istituto, also with the name of the interested parties under the terms and in media that are deemed appropriate. Then Jury may order the publication of the decisions, but it is not obliged to do it.

The minimum and maximum amount of time the procedure officially takes is depending on the development of the complaint, whether it goes from the review board to the jury or not, more or less from 20 to 40 days. On average 3 weeks. In case of appeal other 20-40 days.

12.7 Ethical code issued by national public radio-tv network

Name of regulation:

6 Ethical code issued by national public radio – tv network (Rai) (Codice deontologico della radio-televisione pubblica (Rai) – art. 7 Alcoholic drinks)

Is this statutory or non-statutory regulation?

Non-statutory

Who made the text of this regulation?

RAI Trade

Which types of marketing are controlled by in this regulation?

Advertising of alcoholic beverages

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

Alcoholic beverages (not further defined)

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

RAI - National public radio-tv network

12.7.1 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

12.7.2 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	No	Yes	No	No

Remarks on elements

- B Quotation
"Advertising must avoid to make reference, also indirectly, to minors, and represent the latter during the consumption of alcohol".
- C Quotation
"Advertising must avoid to make reference, also indirectly, to minors, and represent the latter during the consumption of alcohol".
- E Art 6 of this regulation deals with children and teenagers, and there are references to their safety and physical integrity.
Quotation:
"Advertising shall not show or evoke activities that can represent a risk for the physical integrity of children and teenagers, neither provoke in them such feelings, attitudes or behaviours that may compromise the development and establishment of positive interpersonal relations".
- F Quotation
"Advertising must avoid to induce the public to think that the consumption of alcoholic beverages contribute to mental lucidity and to physical and sexual efficiency, and that the lack of its consumption involves a condition of physical, psychological or social inferiority".
- G Quotation:
"Advertising must avoid to encourage the excessive and uncontrolled, and therefore harmful, use of alcoholic beverages".
Note: this item is not directly aimed at young people but at the general population, of course including young people
- I Alcohol beverages advertising is forbidden in tv programmes specifically devoted to minors and during the 15 minutes before and after the programmes themselves.

12.7.3 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	–	–	–

Pre-launch advice is provided by RAI Trade / RAI Trade provides an advance opinion on all advertising, whether it is in conflict with Italian regulations, both statutory and non-statutory.

The search for violations is performed by RAI Trade.

Marketing practices can be continued as long as legal proceedings are ongoing.

The best thing to do is to send the complaint about a violation of this regulation directly to the IAP (Institute of Advertising Self-regulation).