



## TECHNOLOGY AND PRIVACY

## More restrictions on advertising introduced

The Advertising Code now regulates the advertising of foodstuffs and beverages containing high energy values, or high levels of salt, sugar, saturated fatty acids or trans-fatty acids, particularly when it targets the under-16s. Law no. 30/2019 of 23 April made the 14th amendment to the Advertising Code (which was approved by Decree-Law 330/90 of 23 October) and it will come into force 60 days after its publication.

**"The Advertising Code now contains restrictions on advertising targeting under-16s for foods and beverages containing high energy values, or high levels of salt, sugar, saturated fatty acids or trans-fatty acids."**

This Law has added articles 20-A and 20-B to the Advertising Code and provides that anyone who violates their provisions commits an administrative offence. This change is made by amending articles 34 and 40 of the Code.

The new article 20-A(2) and (3) of the Advertising Code ban the advertising of the foodstuffs and beverages described above. Under the new law, the advertising of foodstuffs and beverages will be prohibited:

- In pre-school, basic and secondary education institutions
- In playgrounds that are public or open to the public
- Within a radius of 100 metres of the entrances to the above locations
- At sporting, cultural and recreational activities organised by pre-school, basic and secondary education institutions
- On television channels, on-demand TV services and the radio in the 30 minutes before and after children's programmes, and television programmes that have a an under-16 audience share of at least 25%. This rule also applies to any advertising breaks in those programmes

- In publications aimed at under-16s
- In advertising in cinemas in films with an under-16 age rating
- On the internet, through sites or social networks and mobile applications for devices that use the Internet, when their content is aimed at the under-16s.

However, the law provides an exception from this set of advertising bans for materials displayed in commercial establishments. This means the ban does not apply to branding on tables, chairs and other terrace furniture, or to signs that are part of the establishment.

Besides the prohibitions laid down in article 20-A(2) and (3), number 4 of the same article also introduces restrictions on the advertising of foodstuffs and beverages containing high energy values, or high levels of salt, sugar, saturated fatty acids or trans-fatty acids, in cases in which that advertising is allowed. The law provides that this type of advertising must be clear and objective, and must not relate the consumption of the product to potential health benefits. It must also avoid the inclusion of information that undermines these goals.

In turn, the new article 20-B of the Advertising Code sets out what is meant by foodstuffs and beverages with high energy value, salt content, sugar, saturated fatty acids and trans-fatty acids. It goes on to provide that the Directorate-General of Health is responsible for establishing, by order, the numbers that identify this "high value".

Finally, any breach of these rules constitutes an administrative offence punishable with fines ranging from €1750 to €3750, if the offender is an individual, or €3500 to €45,000€ if the offender is a company. The Directorate-General of the Consumer is responsible for supervising these matters. ■

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