

Legal Extranet



Dominican Republic

General Legal Overview
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 Specific Legislation

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General Legal Overview:

Law 358-05

Consumer Protection in DR (related to advertising industry)

The rights of the consumer in the Dominican Republic include:

- a) Protection to life, health, own security in consume of goods and services
- b) Education for the consume of goods and services
- c) Receive from suppliers a truthful, sufficient, clear and timely information in Spanish about good and services in the market, as well of the prices, characteristics, quality and risks that the services and goods might have.
- d) Protection of the consumer economic interests with an equal and non-discriminatory deal from suppliers
- e) Reparation, in adequate form, of all the damages suffered by the consumer.
- f) To have access to a variety of products and services that permits a freely choice among them.
- g) Right of association

Security and health protection

All products and services supplied in the Dominican Republic must not present a danger or risk to the consumer. Foreseeable, usual and legal admissible risks must be previously informed to the consumer with signs and warnings that might be easily perceptible to the public. Unforeseen risks that later appear, must be informed immediately and in a ample manner.

All toxic, poisonous, inflammable, explosive, corrosive, abrasive, radioactive, caustic substances and materials must carry proper indications in Spanish language. All regulations for products and services that might affect health or security of the consumers must take into account several issues, including labeling, presentation and publicity of the products and services.

Economic Interest Protection

The offer of products and services will have to be adjusted to the nature, quality, and conditions. Price, which has to be also included in the offer, must contain applicable taxes, unless it is well informed to the consumer that it is not included in the price.

Sales and Special Promotions

In all sales, "clearances" and special promotions, including those identified with words in Spanish as "remate", "liquidación" or any synonym, all the Consumer Protection regulations full apply.

Rules, schedule and timeline of these promotions should be well informed to the consumer. The information to the consumer of the timeline of the sale period is consider critical and very important; also the revocation or the right to terminate the special promotion or sale must be communicated to the public in the same or similar manner as the publicity used to announce the sale. The failure to comply with the publicity entitles the consumer to claim the conditions of the special offer or to repair the "damage".

Automatic Gifts or Benefits to induce to a purchase

It is prohibited to propose or offer an article or service that has not previously required by the consumer, if there is going to be an automatic charge to the client, or if his (consumer) silence is going to be interpreted as an

acceptance of the offer. If a gift was granted with that offer or proposal, it could be kept by the consumer and the supplier must provide a return-free mechanism of the product previously sent or given without the consent of the client.

Also, it is banned the offer of free gifts or benefits, if they are going to induce the consumer to an error about the price level or quality of the offered products and services, or it would make more difficult to appreciate the effective value of the offer, or to effectively compare them with other alternative offer. It is obvious that it is considered unfair competition if the consumer would be in the obligation or compromise to obtain the main product or service.

Mail, telemarketing, TV, email, internet sales

In these types of sales (or equivalent) the supplier is in the obligation to:

- a) Previously inform the consumer price, tax, form and time of delivery, and existence of insurance if applicable.
- b) Issue a remittance note with name and address of the supplier, precise information of the good or service and name of the consumer
- c) Obtain the confirmation of the receipt of the goods or services by the consumer
- d) Allow claims, returns or changes through similar resources used for the sale operation. Claim period should be very clear. Supplier will run with the charges and costs of the claim.
- e) Supplier must provide all additional information required for the use of different services than those contracted.
- f) To cover return costs for repositions or repairs under warranty
- g) Allow a "reflection period" of three days to the consumer
- h) Allow a trial period of seven days.

Labeling requirements

The information of the product must be in Spanish language, in a clear and visible easy to read way. The Law admits as "minimum information" on the label, the following:

- a) Geographic and commercial origin of the product
- b) Nutritional and ingredients information, such as net contain, purpose, utility, etc. The Consumer Protection Law expressly discard the obligation to include in the label, the secret formula used in the manufacture of the product.
- c) Quality, quantity, weight or measures
- d) Brand and generic terms
- e) Instructions in Spanish language
- f) Expiration date if applicable
- g) Results expected with use or consumption of the product
- h) Adverse known effects
- i) Environmental and sanitary warnings
- j) An administrative ruling may include other labeling requirements.

Price information

The merchant or point of sale of the goods should mark the price of the good in a clear manner. The price always has to be marked in Dominican Pesos, and it could not be change regarding the type of payment method used by the consumer (cash, credit - debit card, check, etc.).

Advertising rules

All advertising must avoid unfair competition. The Consumer Protection Law confirms the rule that advertisers will be responsible of the veracity of the advertising of the products and services and establish a minimum set of rules, and includes:

- a) Advertising should be truthful and it is prohibited to use images, texts, dialogues, sounds, descriptions that direct or indirect cause a mislead, deceit, error or confusion to the public about the characteristics, price, sale/buy conditions of the products or services advertised.
- b) Advertising of food, medical, cosmetic, tobacco, alcohol products, or any type of product or service that might have therapeutic, nutritional or stimulant properties, should have the previous authorization of the health authority.
- c) Advertising to children must not contain information, images, sounds, data or references that might affect them in a physic, mental or morally manner.
- d) Advertising must not be degrading.

Corrective advertising is mandatory when deceitful and misleading advertising occurs. After the retirement and suspension of the previous unfair advertisements, the corrective advertising must be in the same characteristics and media used.

The Law creates the National Institution of Consumer Protection Rights (PRO CONSUMIDOR). This entity will have the right to issue administrative regulations on different topics and also will serve as administrative jurisdiction to resolve consumer protection issues.

Basic Guide to
Intellectual
Property rights in
the Territory:

The Dominican Republic modernized its legal regime of Intellectual Property in year 2000 in response of TRIPS obligations. Laws 20/00 and 65/00 include all the necessary tools to have an adequate intellectual property protection in the Dominican Republic.

COPYRIGHT IN THE DIGITAL MILLENNIUM

Copyright Law (65-00) is a very modern statute. Principles of Berne Convention, TRIPS and WIPO Treaties are included. Law 65-00 covers the digital world in Copyright, including software and databases.

Shrinkwrap licenses are considered valid in Dominican Law. Software are excluded from the right to the private copy. Only backup copies are permitted.

Wipo Treaties.- The Copyright Law introduces a basic language that includes the minimal protection of the Treaties, since it penalizes who:

Make, joint, import, modifies, bandage, or put of any other way in circulations devices, system or equipment able to avoid or to deactivate another device destined to prevent or to restrict the copy accomplishment of the work, interpretation or execution, production or emission, or to reduce the qualities of the made copies; or able to reduce or deactivate another device destined to prevent or control the reception of programs transmitted through the telecommunications, wire or cordless or of any other form to the public, on the part of those unauthorized for that reception.

Alter, eliminate, or elude in anyway device or technical means introduced in works, protected interpretations or executions, productions or emissions that prevent or restrict the reproductions or controlled the same ones, or make anyone of these acts in relation to the codified signals, directed to restrict the communication by any means of works, interpretations or executions, productions or emissions.

To remove or alter any electronic rights management information without authority recognize by this law, or to distribute, import for distribution, broadcast or communicate to the public, without authority, works or copies of works knowing that electronic rights management information has been removed or altered without authority.

Enforcement provisions in Law 65-00.- Jail time was established at 3 months to 3 years. Fines are calculated with the concept of minimum wages. (50 - 1,000).

With a new criminal code, cases will be heard much more quickly. Instead of having cases rescheduled in mid-trial for months at a time, the trial would be heard continuously during the course of several days. This new code also allows for the negotiation of restitution amounts, something that is not presently available.

The Copyright Law grants to the district attorney the faculty to initiate actions and inspections.

The law anticipate this faculty, inclusively included the investigation figure that could be asked for the civil judge previously to the conservatoire attached of the machineries and pirates work.

It was established the Copyright Office (known as Oficina Nacional Derecho de Autor / ONDA). Its inspectors have the legal authority to investigate, collect evidence and cease any infringement actions against copyright.

Law 65-00 also has especial dispositions for the measures in customs to prevent the importation / exportation of pirated materials.

TRADEMARKS

Dominican Republic has Law 20-00 for trademark protection (Term: 10 years).

The law permits the registration of words, numbers, combination of colors, design marks, three dimensional product configuration marks, trade dress, etc. There is a bill that should enter into effect by January 2007 that includes sounds and smells as trademarks.

Registration is mandatory to enforce trademark rights in the Dominican Republic, with special rules for famous trademarks.

This legislation also includes unfair competition and confidential information protection.

Administrative office (Oficina Nacional de Propiedad Industrial / ONAPI) takes care of registration and cancellations.

Image Rights:

According to the Copyright Law, in the Dominican Republic, all person has the right to impede that its photo or retrait be commercially exhibited or exposed without the consent of the person

[Children](#) 06 November 2006

**Information
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Disclaimer

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Legislation Article

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Subject	Children	
Country	Dominican Republic	
General legal framework	There is no self regulatory body in the Dominican Republic	
General self-regulatory framework	An important group of the advertising companies that make business at the Dominican Republic, formed in an association (LIDAP), decided to create a Code of Ethic, where it shows the level of compromise of these companies.	
The subject of the rules	The Ethics Code includes guidelines in several categories, among them we find: Alcoholic Drinks and Tobacco Products Certification of exact or technical information Children and Youth Comparative Publicity Confidence Corporative Responsibility Decency Dignity Environmental Protection Family Flammable and Toxic Products Information Plagiarism Privacy Risky conditions Testimony Use of the Word "Free"	
Restrictions relating to products or services	<i>Tobacco</i>	The LIDAP document encourages the companies to exclusively address the advertising of these products to adults; also advertising companies should have special care for not including messages for alcohol and tobacco products in children magazines, either in TV or radio programming oriented to children. In the Dominican Republic, in alcohol and tobacco products, containers and packing of these products and all related advertising have to include the phrase: "consuming alcohol is harmful to health". The word alcohol is changed with tobacco, accordingly. (Articles 123 - 124 Law 42-01 / General Health Law). Consumer Protection Law (358-05) orders that alcohol and tobacco advertisements have to be authorized by the Minister of Health.
	<i>Alcoholic beverages</i>	Same rules as Tobacco
	<i>Pharmaceuticals</i>	According to General Health Law and its regulations, it is mandatory to have the approval of the Ministry of Health to promote pharmaceuticals. It is only permitted the public promotion to the "over the counter" products (OTC)
	<i>Financial products and services</i>	Information Within the objectives of the guidelines are to avoid inducing consumer to an error through, whether visual, direct or indirect, advertising, mainly in the aspects in relation to the characteristics or the value of the product, payment conditions, delivery, repair, maintenance and warranty conditions, intellectual property, etc. Consumer Protection Law (358-05) orders that publicity must be accurate; it is forbidden that texts, dialogues, sounds or descriptions that might cause inaccuracy, or induce the consumer to an error or confusion.
	<i>Others</i>	Drugs The Law 50-88 in the Dominican Republic prohibits all type of publicity that stimulates the consumption and traffic of illegal drugs
Restrictions to the public	<i>Children and adolescents</i>	The LIDAP rules touch different aspects regarding children advertising, and the document claims that all advertising campaign must respect the ingenuity of the children, and also the inexperience of the young boys and girls. The loyalty to the family must be maintained. Other rules in the children - young boys and girls are: a) Inferiority or unpopularity for not acquiring some products or services must be avoided b) Molestation to convince parents to buy a product or service should not be permitted c) Psychological distortion will not be tolerated d) Children must be protected against practices and habits that might affect moral, mental and physical health. e) No advertising should encourage children and minors of age to enter to strange places and to talk with strangers in order to get coupons, labels, cards or something similar. f) Children must not appear by themselves in streets scenes, stepping down the sidewalk, crossing the streets or behaving against traffic rules. g) Children in danger situations must be avoided. As examples the document include: Escalating precipice, bridges, vehicles, high shelf, driving vehicles or heavy duty machinery. h) These examples also must be avoided: Manipulation of disinfectants, matches, gas, diesel, fuel, or any material that might conduct to burns or injuries. The "Code for Minors of Age" Law (136-03) that regulates everything for children, states in its Article 21 that alcohol, tobacco and guns, including all illustrations, photos and advertising material should be exposed to the public in a respectful manner to the ethic and social values of the human beings and families. These types of merchandise is forbidden in public and private places oriented to children. This

		Code also states that the children has the right to their “personal integrity”, this right comprehends the respect of the dignity and the inviolability of the physic, psychological, moral and sexual integrity. This also includes the preservation of the image, identity, autonomy of values, ideas, space and personal objects. Article 12
Restrictions relating to the contents	<i>Environmental claims</i>	LIDAP rules says that Advertisement Agencies must help to the protection of the environment, and they will eliminate unsafe practices that might put in danger humans or any living being or flora in the country.
	<i>Others</i>	Plagiarism The publicity should not imitate the form, text, slogan, music or sound effect of other advertising pieces, in a manner that damage legitimate rights of the owner of the advertising material or to confuse the public. Privacy The guidelines also state about the privacy of the persons. Only with the express consent of the person, his or her image will be showed. High respect must be considered for the ideas and concepts left by dead persons. Risky Conditions Advertising should respect security rules and will avoid, without justifiable reason in an educational environment, the practice of risky or dangerous practices. Testimony Advertising bases in testimonies should be authentic and base en real experiences. The testimonies should be always verifiable and obviously authorized by the persons that offer them. Use of the word “FREE” This word will only be admissible if there is no cost involve to the consumer. It always has to indicate expenses or taxes involved. Consumer Protection Law (358-05) establishes that free gifts combined with offers and sales must be accurate (in the offer) (art.56). If an offer is delivered with a free gift, the devolution of the product bought does not create an obligation to the consumer to return the “gift” (art. 59). Also two main rules for gifts and promotions: It is forbidden that the gift induce the consumer to an error about the level of prices or quality of the products (art.60). It will be considered unfair if the gifts provoke the compromise to the consumer to acquire the principal product or service. (art. 61)
Last updated	06 November 2006	

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