

Legal Extranet



Mexico

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General Legal Overview:

The advertising industry in Mexico is regulated mainly by the following legal bodies:

- Federal Law for Consumer Protection (Ley Federal del Protección al Consumidor);
- Federal Health Law (Ley Federal de Salud);
- Regulations of the Federal Health Law for Advertising Matters (Reglamento de la Ley Federal de Salud en Materia de Publicidad);
- Regulations of the Federal Commission for Protection against Sanitary Risks (Reglamento de la Comisión Federal para la Protección Contra Riesgos Sanitarios);
- Federal Radio and Television Law (Ley Federal de Radio y Televisión);
- Federal Law for Games and Raffles (Ley Federal de Juegos y Sorteos);
- Regulations of the Federal Law for Games and Raffles (Reglamento de la Ley Federal de Juegos y Sorteos);
- Regulations for Promotions and Offers (Reglamento de Promociones y Ofertas)

These legislations are enforced by several authorities, including the Ministry of the Interior, the Federal Consumer Protection Agency, the Ministry of Economy and the Ministry of Health.

This industry is also self-regulated by the Code of Ethics issued by the Council for Self-Regulation and Advertising Ethics (CONAR-Consejo de Autorregulación y Ética Publicitaria, A.C.). This independent entity, which groups approximately 90% of the advertisement spending in Mexico, has been gaining strength in recent years, specially through a voluntary conciliation procedure to which any person that considers that some the activity of a third party is violates the CONAR Code of Ethics may initiate.

Basic Guide to Intellectual Property rights in the Territory:

AUTHOR'S RIGHTS (COPYRIGHTS)

The legislations that regulate Author's Rights in Mexico are the Federal Author's Rights Law of 1996 (Ley Federal del Derecho de Autor) and the Regulations of the Federal Author's Rights Law of 1998 (Reglamento de la Ley Federal del Derecho de Autor).

Mexican legislation protects works original works since they are fixed in a tangible medium and for 100 years after the death of the author.

As a consequence of the fact that Mexico adopted the Latin Author's Rights tradition, and is a part of the Berne Convention, it recognizes moral rights in favor of artists and performers as perpetual and non-negotiable rights.

Some of the activities that are considered as a violation of the rights of the author or the owner of the economic rights over a work are:

- Publicly communicating or using a work without the consent of the titleholder;
- Making, storing, transporting and/or commercializing copies of a work that were not authorized by the author;
- Offering copies of works that have been modified, altered or mutilated for sale;

TRADEMARKS

Trademarks are regulated in Mexico by the Industrial Property Law (Ley de la Propiedad Industrial) and the Regulations of the Industrial Property Law (Reglamento de la Ley de la Propiedad Industrial).

According to the previously mentioned legislations a trademark is any visible sign that distinguishes products or services from others of their same nature, and fall into one of the following categories:

- Denominations and visible figures that are distinctive enough and are able to identify the products and services that they apply to;
- Three-dimensional objects;
- Commercial names and corporate names; and
- The names of natural persons.

The following are acts that the Industrial Property Law considers unlawful in connection to trademarks:

- Using a trademark that is identical or confusingly similar to another that was registered previously;
- Conducting commercial or industrial activities in such a way that consumers are lead to believe that a relationship or partnership exists, that products are manufactured under the specifications or license of a third party.
- Attempting or achieving to discredit the products, services or the industrial or commercial activities of another.

UNFAIR COMPETITION

The Industrial Property Law provides that unfair competition exists if a person or entity acts in such a way that may be considered that is against the good practices and uses in commerce, industry and services.

Furthermore, the Third Circuit Court issued an opinion in which it stated that the following are the elements that must be present in a case to consider it as one of unfair competition:

- 1) The person who denounces the supposed acts of unfair competition and the possible infringer must be commercial competitors.
- 2) The unlawful action must be performed in such a way in which consumers are deceived or lead to have a mistaken relieve about the products, services or activities of the possibly affected person.

Image Rights:

The Federal Author's Rights Law provides that the image of a person may only be used or published if the person or his/her legal representatives or successors have consented this acts.

Furthermore, this same law provides that this restriction does not apply if the image of the person is a minor part of a group or if the image is taken in a public place and has informative or journalistic purposes.

Finally this same Law considers that it is an administrative infringement to use the image of a person without his/her consent and that a person that commits this infringement may be fined with up to approximately \$19000.00 USD.

Consejo de Autorregulación y Ética Publicitaria

World Trade Center Montecito 38, 16th floor, office #16 Colonia Napoles Mexico, D.F.
03810

Web link: www.conar.org.mx

Federal Commission for Protection

Monterrey No. 33 Col. Roma Mexico, D.F., 06700

Web link: www.cofepris.gob.mx

Federal Consumer Protection Agency

Av. Jos類asconcelos No. 208, Col. Condesa, M鷁co D.F., 06140
Web link: www.profeco.gob.mx

Ministry of Economy
Insurgentes Sur No. 1940, Colonia Florida M鷁co, D.F.
Web link: www.economia.gob.mx

Ministry of Health
Lieja No. 7 Col. Juoz M鷁co, D.F. 06600
Web link: www.salud.gob.mx

Ministry of the Interior
Undersecretary for Media Regulation Barcelona No. 32, Col. Juoz, M鷁co, D.F., Mexico
06600
Web link: www.gobernacion.gob.mx

There are no tripartite bodies in Mexico

[Comparative advertising](#) 01 June 2006
[Alcohol](#) 01 June 2006
[Tobacco](#) 01 June 2006

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[Arochi, Marroquin & Lindner](#)
Karl Tessmann

Arochi, Marroquin & Lindner was founded in March 1994. The firm provides its clients with a complete range of legal services related to advertising and consumer protection and intellectual and industrial property. Members of the firm have participated, as counselors or expert witnesses, in some of the most famous cases with respect to advertising handled by the Mexican Administrative Authorities and Courts (both civil and criminal). The firm is currently handling one of the most important trade dress cases in Mexico, which involves complex advertising, marketing and promotion law issues.

Disclaimer

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Legislation Article

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Activity	Comparative advertising
Country	Mexico
General legal framework	Industrial Property Law. Article 213 Section X Federal Consumer Protection Law. Article 32
Restrictions to the activity	Comparative advertising not be deceiving or abusive and must not be derogatory to the other product
Last updated	01 June 2006

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Subject	Alcohol	
Country	Mexico	
General legal framework	Regulations of the Federal Health Law for Advertising Matters (Reglamento de la Ley Federal de Salud en Materia de Publicidad) Federal Radio and Television Law	
Restrictions to the activity	Cannot be related with sports.	
Restrictions to the media	<i>Cinema</i>	Restricted
	<i>Direct Mail</i>	There is no specific legislation
	<i>E-mail</i>	There is no specific legislation
	<i>Web</i>	Restricted
	<i>Outdoor</i>	Restricted. Outdoor advertisement must not be located at less than 200 meters from any school or hospital.
	<i>Press</i>	Restricted
	<i>Radio</i>	Restricted
	<i>SMS</i>	There is no specific legislation
	<i>TV</i>	Restricted. Can only be done after 10:00 p.m. on TV, must include health warnings, can not show actual consumption, can not include actors under the age of 25.
Sanctions	Economic sanction (fine), withdrawal of ads	
Last updated	01 June 2006	

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Subject	Tobacco	
Country	Mexico	
General legal framework	Regulations of the Federal Health Law for Advertising Matters Federal Radio and Television Law	
Restrictions to the activity	Cannot be related with sports	
Restrictions to the media	Press	Cannot be placed in the cover or back cover of magazines
	TV	Can only be done after 10:00 p.m. on TV, must include health warnings, can not show actual consumption, can not include actors under the age of 25.
Restrictions to the public	Children and adolescents	Cannot be directed to children and it must not contain objects that are attractive for children (i.e. cartoons)
Sanctions	Economic sancitons (fine), withdrawal of ads	
Last updated	01 June 2006	

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