

Legal Extranet

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Spain

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National Association: Asociaci spa Agencias Publicidad (AEAP)

Web link: <http://www.aeap.es>

General Legal Overview: Some of the advertising industry in Spain is self-regulated and governed by Codes of Advertising Practice (Autocontrol Code of Advertising Practice, Codes of Self-Regulation in the Beer Industry, Alcohol Drinks, Tobacco Industry). However several basic laws and multiple regulations at national and regional level also apply turning the regulation of the sector into a complex set of norms.

A list of some of the relevant legislation can be found at the following web site:
<http://www.autocontrol.es/data/frames/frcod.htm>

Basic Guide to Intellectual Property rights in the Territory: Copyright

Copyright is concerned with original literary, musical or artistic works. The intellectual property of a literary, artistic or scientific work belongs to its author with the simple act of its creation. The rights of exploitation of the works have a duration which includes the entire life time of the author plus 70 years upon his/her death. Intellectual property rights are composed by rights of personal and property character, which provide the author with the capability to dispose of the work, as well as the exclusive right to exploit the work, unless otherwise specifically stated by law. Copyright is independent, compatible and able to be accumulated with other rights such as: a. the property rights and other rights with material carrier to which an intellectual creation is incorporated; b. the industrial property rights, which may exist over the work.

Trade Marks

A trade mark is an identification symbol by which a business identifies its products or services and distinguishes them from those supplied by competitors. Trade Marks may consist in one or a combination of distinctive words (including slogans), letters, numerals, drawing symbols, 3-D signs, music or vocal sounds, colours or fragrances (please, note that fragrances are not explicitly mentioned in the Law on Marks 17/2001, but are not forbidden in the same act). Trade Mark law in Spain complains with European Directives. Trade Marks can be registered at the Spanish Patent and Trade Mark Office (SPTO), the European Community Registry (OHIM) or the World Intellectual Property Organization (WIPO).

Commercial names

Within the industrial property rights falls also the legal category "commercial name". Commercial name may be any sign capable to have graphic representation which identifies an enterprise within the business traffic and distinguishes it from the rest of the enterprises developing similar or identical activities. The commercial name as an industrial property title which differs and are independent from the company names of the companies registered at the Commercial Registrars.

Unfair Trade Practices, Passing Off, Unfair Competition etc.

Generally, according to Unfair Competition Act (Law 3/1991) unfair competition is deemed to be any act which objectively contradicts good faith requirements. The acts of confusion, deception, denigration, comparison, imitation, exploitation of third parties reputation, violation of secrets, acts inducing into a breach of contract, consumer's discrimination as of prices, the dumping sale, are also deemed as acts of unfair competition. The individuals or companies who may suffer damages due to unfair competition have the right to file, among others, the following judicial actions before Spanish civil courts:

- (a) Declarative action for declaring the unfairness of the challenged act if the violation created still remains;
- (b) Banning action of the violation or prohibition of the unfair behaviour; and
- (c) Recovery action for the damages and losses suffered due to unfair behaviour.

The judicial actions against unfair competition shall prescribe upon one year from the moment when they could be filed and the legitimate person was aware of the person who performed the unfair act. In any case claims should be filed no later than three years from the moment of commitment of the unfair behaviour.

AECE (Asociación Española de Comercio Electronico meaning Spanish Association of E-Commerce)

Web link: <http://www.aece.org>

Autocontrol - Asociación para la Autorregulación de la Comunicación Comercial

Tel: +34 91 309 66 37 ext. 208, Fax: +34 91 402 98 24, c/ Conde de Peñalver, 52 - 1° D, 28006 - Madrid, SPAIN

Web link: <http://www.autocontrol.es>

Confianza Online

Conde de Peñalver 52, 1° D 28006 Madrid, Tel: (+34) 91.309.13.47 Fax: (+34) 91.402.98.24 E-mail: info@confianzaonline.org

Web link: www.confianzaonline.org

Agencia Espanola de Proteccion de Datos (Spanish Data Protection Agency)

Sagasta 22, 28004 Madrid Tel: (+34) 91 399 62 00 Fax: (+34) 91 445 56 99 E-mail: ciudadano@agdp.es

Web link: www.agdp.es

Comision del Mercado de las Telecomunicaciones

C/Alcal 7, 28014 Madrid, Tel: 913 724 300

Servicio de Defensa de la Competencia

Subdireccion General de Asuntos Juridicos y Relaciones Institucionales, Tel: 915837691, Fax: 915835505E Paseo de la Castellana, n 162, Pta. 20, Madrid, SPAIN e-mail: sgajri@mineco.es

Web link: <http://www.mineco.es/dgdc/sdc/default.htm>

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Activity	Collateral Gifts
Country	Spain
General legal framework	Sales with free gifts or premiums are regulated under the National Retailer Act 7/1996 (Ley de Ordenación del Comercio Minorista, hereafter referred to as LOCM), the Unfair Competition Act 3/1991 and legislation of the different autonomous regions. Article 32 of the LOCM states that with the purpose of promoting sales, another free product or service maybe offered to the consumer for free or at a specially reduced price, either automatically or by way of participation in a lottery or competition. Gifts and premiums must be granted to the purchasers within a maximum period determined by the corresponding autonomous region. This period can not exceed 3 months from the moment in which the purchaser fits the requested requirements. Types of gifts and promotional offerings are widely varied. For example two for one offers, bonuses or coupons that are offered as gifts to obtain a future discount, or bonus points that allow the obtaining of free goods in the future, etc. With regard to gifts, Autocontrol recommends that sellers include in advertising, the total and available number of the said gifts.
The subject of the rules	Article 8 of the "Ley de la Competencia Desleal" (Unfair Competition Act) states that it is unfair to give gifts for publicity purposes, when the circumstances compromises the consumer to acquire a chief acquisition. If the gift is delivered by way of a bonus for the purchase of a determined product or service, it is considered unfair when it induces or can induce the consumer to misunderstand the level of prices of other products or services within the same establishment, or when it makes extremely difficult to appreciate the effective value of an offer or its comparative with other alternatives offers; circumstances that are verified when the effective cost of the advantage exceeds 15 % of the price of the main acquisition. Equally, another set of rules prohibits the delivery of gifts depending on the protection of certain goods. Along this line the "Ley 25/1990 del Medicamento" (Medicine's Act) and the Royal Decree 1416/1994 can be mentioned, which regulate publicity for medicines for human use, that prohibits the giving of, the offering of or the promising to persons authorised to prescribe or dispense medicines, and in the scope of the promotion of such medicines, bonuses, pecuniary or special advantages, except with those that are of insignificant value and are irrelevant to the practise of medicine and pharmacy.
Last updated	04 November 2004

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Subject	Gaming & Betting	
Country	Spain	
General legal framework	<p>Gaming and betting are ruled by Law 34/1987, Royal Decrees 1967/1981, 2/1987 and 2110/1998, as well as by different regulations issued by the autonomous regions. Both autonomic regulations and state regulations are characterised by the principle that all that is not expressly authorised is prohibited. Types of games can be very varied as follows: games, gambling, raffles, tombolas, coupons and lotteries. All games not contained in the correspondent game catalogues are declared as prohibited. Subject to authorisation are those games permitted where prizes are awarded by way of chance. When the scope of the game is outside the range of an autonomous region, the authorisation is granted by the State body "Loterias y Apuestas del Estado" (LAE). Otherwise authorisation is granted by the games authority of each autonomous region. Games can be only directed at residents in Spain. Therefore, all games that involve more than one country including Spain are prohibited. The company that organises the game must have a registered office in Spain. It must have a fiscal identification number and pay a fee which amounts to 10% of the total prizes awarded in the promotion. The terms and conditions of the Game must be written clearly and in the Spanish language, and they must be deposited with a Spanish Public Notary. In the T&C's of the game the objective of the promotion must be indicated, also its territorial ambit, free participation status, start and finish dates, date and type of lottery (for instance with public notary, according to National Lottery), how the right to participate is acquired, the/any product in promotion, nature and value of prizes offered, a description of how prizes are to be awarded and an established period for complaints to be presented. For non-compliance in respect of any of these rules, fines can be imposed depending on minor, severe or very severe infringement.</p>	
Restrictions to the media	Web	Even though specific regulations for games organised via internet do not exist, these games must also comply with all the requirements mentioned before. This means that these games must be exclusively directed to consumers resident in Spain and prizes must be awarded only to them.
	Press	The advertising of gambling & betting is only authorised to be made in certain specialized magazines.
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Activity	Prize Promotions	
Country	Spain	
General legal framework	For prize promotions where prizes are awarded by way of chance please see "Gaming & Betting". If the prizes of a promotion are awarded by skill and not by chance or random no authorisation from Spanish authorities is necessary and no taxes related to the promotion are due.	
Restrictions to the media	TV	According to the Law 25/1994 which incorporates in the Spanish legislation the European Directive 89/552/CEE, any TV advertising which includes offers for prizes, premiums or other additional incentives should represent the advertised product or service into a clear and comprehensible form. The way in which the prize is offered must not create a wrong or exaggerated impression.
Last updated	04 November 2004	

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Subject	Alcohol	
Country	Spain	
General legal framework	The advertising of alcoholic beverages is regulated by the General Advertising Act 34/1988 (GAA), as well as by the Act 25/1994 implementing the Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by Law, Regulation or Administrative Action in Member States concerning the pursuit of television broadcasting activities and some self-regulation codes.	
General self-regulatory framework	Among the self-regulation codes are included the following: The Code of the Spanish Advertisers Association for the self-regulation of the Advertisement of Alcoholic Drinks (November 1995), which states that advertisements cannot be directed at minors under 16 years. In accordance with the code advertisers must refrain from using the voice and image of minors through any means of communication; using situations or scenes related to or connected with minors; any type of graphic or audio-visual etc means directed at minors; the image of famous persons etc popular with or associated with minors; to use or sponsor in cultural, social or sport events or functions directed at minors under 16 years. The Code of self-regulation between Breweries and the Consumers Union (March 1996) stipulates that commercial communications cannot be directed in any circumstances at minors. It is prohibited to show minors or persons looking like minors drinking or emulating the drinking of beer. Advertisements cannot suggest that the consumption of beer is proof of maturity and likewise that non-consumption is the proof of immaturity. Advertisements relating to beer cannot be exhibited or broadcast in publications for minors or in theatres, cinemas etc before, during or after shows for minors, neither on television before 8.30 p.m.	
The subject of the rules	The GAA states that the advertising via television of alcoholic beverages over 20° proof is prohibited. Similarly, it is illegal to advertise alcoholic beverages in places where the selling or consumption of such beverage is prohibited. Additionally, the Act 25/1994 indicates that advertising of alcoholic beverages via television cannot be directed at minors. Likewise the use of minors in advertisements for alcoholic beverages is prohibited.	
Restrictions to the media	Outdoor	The advertising of alcoholic beverages is prohibited in the places, where a respective ban for alcohol sale or consumption exists.
	TV	According to the General Advertising Act, only advertising of drinks containing less than 20 degrees of alcohol is permitted on TV.
Last updated	04 November 2004	

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Subject	Tobacco	
Country	Spain	
General legal framework	The advertising of tobacco is regulated by the General Advertising Act 34/1988 (GAA), as well as the Act 25/1994 implementing the Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by Law, Regulation or Administrative Action in Member States concerning the pursuit of television broadcasting activities and some self-regulation codes. Due to health protection reasons, advertising of tobacco is limited by respective regulatory norms concerning the way, content and advertising conditions.	
The subject of the rules	According to Art. 8.5 of the GAA, there is a general ban for tobacco advertising on television. It is prohibited the use of tobacco advertising as an instrument for granting of incentives to the public (Law 13/1998 related to the tobacco market and tax norms). It is mandatory that all tobacco advertising campaigns be previously notified to the Authorities, which within 7 days may suspend its realization, referring it to the respective sanitary bodies or the respective administrative/judicial authorities.	
Restrictions to the media	Outdoor	According to the General Advertising Act, the advertising of tobacco products is prohibited in the places where it is prohibited its sale or consumption.
	TV	See our comments at Key General Restriction above.
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Activity	Data Protection/Privacy	
Country	Spain	
Contact	Agencia Española de Protección de Datos (Spanish Data Protection Agency) Sagasta 22, 28004 Madrid Tel: (+34) 91 399 62 00Fax: (+34) 91 445 56 99E-mail: ciudadano@agdp.es Web link: www.agdp.es	
General legal framework	Data Protection is regulated basically by the Organic Law 15/1999 of 13 December on the Protection of Personal Data, Act 34/2002 of 11 July on Information Society Services and Electronic Commerce and Act 32/2003 of 3 November, State Telecommunications Act. According to this provisions it is mandatory to obtain the unambiguous consent of the individuals for collecting their personal data. They must also be informed about the existence of a database, the purpose of collecting personal data and the recipient of the information. Nevertheless, if the information is obtained from public sources like promotional census, telephonic lists, newspapers or other media no consent is necessary. Furthermore it is required to provide individuals free access to the data base so that they may review, rectify or cancel the information collected about them. If personal data are going to be disclosed to third parties or to be used for purposes other than the original one, prior consent of the individuals concerned must be obtained. Any processing of personal data should be priory notified to the Spanish Data Protection Agency. On violation the provisions of the Data Protection Act sanctions between 600,00 and 600.000,00 Euro can be imposed.	
The subject of the rules	In the case of certain sensitive personal data like political opinion, trade union membership or religious beliefs the explicit written consent of the individuals is needed prior to the collection of this data. Other personal sensitive personal data related to racial origin, health and sex life can only be collected if authorised by law or the corresponding individuals and based on a general interest.	
Restrictions to the media	E-mail	If the information used is collected from public sources the consumer should have the right to review, rectify or cancel the information collected and the possibility to oppose the reception of marketing information ("opt-out"). If the data are collected from other sources unambiguous consent of the consumer is necessary. If it is intended to send marketing communications by e-mail or other equivalent electronic communication, the explicit consent of the individual to receive such communication is required ("opt-in"). However, in cases of a prior contractual relation between the parties and provided that the data of the consumer were obtained legally and if they are going to be used for marketing of the vendors own products or services, having similar characteristics to those contracted before, for those messages it is not necessary to obtain the prior consent of the customer. In any case the consumer should have the possibility to object to have the information provided processed for marketing purposes by means of an easy and free mechanism when collecting the data and on further marketing communication.
	SMS	If it is intended to send marketing communications by SMS or fax the explicit consent of the individual to receive such communication is required ("opt-in").
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Subject	Motors
Country	Spain
General legal framework	Advertising of motor vehicles is ruled under Traffic Act (Royal Decree 359/1990).
The subject of the rules	According to Act 19/2001 of 19 December which modified the Traffic Law it is illegal in advertisements featuring motor vehicles or their components - whether in their written or verbal text, sound elements or images - encouraging the use of excessive speed; driving without due care and attention; creating dangerous situations or any other circumstance that encourages behaviour against the principles of the Traffic law as well as the inducement of driving in an improper fashion or advertisements encouraging a false sense of security.
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Subject	Health & Beauty	
Country	Spain	
General legal framework	<p>This topic is regulated by the General Advertising Act 34/1998, General Health Act 14/1986, on the bases of which the Royal Decree 1599/1997 regulating the cosmetic products, and Royal Decree 414/1996, which regulates the sanitary products were adopted. Art. 8 of the General Advertising Act stipulates that the medicines destined for consumption by humans and animals may be advertised only following the strict regulations of the relevant specific legislation. One of the basic sources for regulation is the General Health Act. According to Art. 16.1 of the Royal Decree 1599/1997, the text, denomination, trade marks, images and other graphical signs shown in the label and advertising of the beauty products must not attribute to the products any features or actions exceeding their cosmetic functions, such as the attribution of therapeutic effects, false statements or the induction of the public into an error. The denominations of cosmetic products cannot induce consumers to believe that they are medicines or food products. Art. 16.5 of the cited above decree states that the public administrations should control advertising and commercial propaganda in order to adjust them to the criteria of veracity concerning health, limiting all that could damage health. Art. 29 of the Royal Decree 414/1996 states that the information and promotional media used as a support (in writing, audiovisual or other type) for the advertising of sanitary products must have scientific nature and should be generally distributed to sanitary professionals. The information must be rendered by suitably qualified professionals who may provide precise and complete guidance concerning the promoted products.</p>	
The subject of the rules	<p>According to Art. 102 of the General Health Act 14/1986, advertising of medicines and other sanitary products addressed to the professionals must comply with the conditions of their respective licences and could be subject to previous authorization from the administration. If the advertising of medicines and sanitary products is addressed to the public, a special authorization will be required from the respective sanitary authority. According to Art. 16 of the Royal Decree 1599/1997, advertising of cosmetic products shall not attribute to them features that they do not possess or which exceed their cosmetic functions (therapeutic effects, false statements or misleading information). Art. 29.4 of the Royal Decree 414/1996 states that in the cases of advertising to to the general public, among others, the following restrictions (Art. 5.4) shall apply: (a) the ban for use of labels or promotional material containing information which induces into an error, attributes not existing functions or provides expectations of a success guaranteed upon the product's use. (b) the advertising cannot attribute a superficial nature of any medical or surgical intervention. Finally Art. 29.4 of the same Royal Decree states that any advertising message made by any communication media is subject to previous authorization by the authorities of the autonomous regions.</p>	
Restrictions to the media	TV	Any TV advertising encouraging behaviours which are dangerous for human health or safety is illegal. Any similar sale on TV is also illegal. It is also strictly prohibited any direct/indirect advertising of medicines or medical treatments, which can be obtained only with prescription.
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Activity	Comparative advertising
Country	Spain
General legal framework	The basic legal framework of the topic is stated in the General Advertising Act 34/1988. According to Art. 6 bis of the General Advertising Act (GAA), comparative advertising is defined as advertising which refers implicitly or explicitly to a competitor or goods/services offered by him. Generally the comparative advertising is considered legal in Spain, always when it satisfies the following conditions:(a) it compares goods or services meeting the same needs or intended for the same purpose;(b) it objectively compares one or more material, relevant, verifiable and representative features of those goods and services, which may include price; (c) for products with designation of origin, it relates in each case to products with the same designation(d) it does not present goods or services as imitations or replicas of goods or services bearing a protected trade mark or trade name;(e) any comparison referring to a special offer shall indicate the date on which the offer starts and ends;(f) it does not take unfair advantage of the reputation of a trade mark, trade name or other distinguishing marks of a competitor or of the designation of origin of competing products;
The subject of the rules	If the comparative advertising does not meet the above mentioned conditions, according to Art. 6 (c), it is deemed misleading.
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Subject	Financial products and services
Country	Spain
General legal framework	Advertising of financial products and services is generally regulated by several laws, among them, the Law 26/1988 on the Discipline and Intervention of Credit Entities, Law 24/1988 on the Security Market and multiple regulations, depending on the concrete sub-areas (banking, credit entities, funding entities, investment, bonds, insurance, etc.), which the present format of the inform does not allow to mention in detail.
The subject of the rules	BanksAny type of advertisement made by the group intending to create a new bank is subject to previous authorisation of the Spanish Central Bank (Banco de España), otherwise the Ministry of Economy may refuse the registration of the bank in question. Credit entitiesAccording to Law 26/1988 (Art. 48.2.d) and the developed on its basis regulations (especially Order 12 from December 1989 on the types of interests and commissions, information to clients and advertising of credit entities), advertising of operations, services or financial products realised by the credit entities using any media, where their cost or income for the public is mentioned is subject to previous authorisation of the Spanish Central Banc (Banco de España). The rest of the advertisement realised by credit entities is not subject to such previous administrative authorisation. The Ministry of Economy and Finance is also authorised to regulate the advertising of the operations of the credit entities. It may as well establish a regime of previous administrative authorisation. Funding entitiesAny type of publication related to Funding entities or their operations or including their name are subject to previous authorisation of the Ministry of Economy and Finance. InvestmentAll type of advertising activities directed to investment, which mention, offer or guarantee any determined future revenue, surplus or liquidity is regulated by the Law 62/1964 and Royal decree 2584/1973. Such an advertising should respect a set of general principles (only legal investment may be advertised, advertising cannot mislead the public as of the essential characteristics of the investment, etc.). This type of advertising must be always subject to previous authorisation by the Ministry of Economy and Finance. SecuritiesThe Ministry of Economy and Finance determines in which cases the advertising regulated by Law 24/1988 on the Security Market requires previous authorisation or other type of administrative control by the National Commission of Securities Market (Art. 94 of Law 24/1988).
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Activity	Direct Marketing
Country	Spain
General legal framework	This topic is governed by Act 34/2002 of 11 July on Information Society Services and Electronic Commerce, Act 32/2003 of 3 November, State Telecommunications Act, National Retailer Act 7/1996, Organic Law 15/1999 of 13 December on the Protection of Personal Data and the Act 24/1998 of the Universal Postal Service. According to Act 34/2002 "commercial communication" is any form of communication designed to promote, directly or indirectly, the goods, services or image of a company, organisation or person pursuing a commercial or industrial activity. According to Art. 15.3 of the Act 24/1998 of the Universal Postal Service, direct advertising by mail should have the following characteristics: 1). To consist only in announcements, market researches or advertising; 2). To contain one similar message, although destined to different recipients; 3). To be sent to a significant number of recipients; and 4). To be distributed in an open envelope. According to Art. 39 of the National Retailer Act 7/1996, direct marketing via telephone communications should clearly and expressly state the seller's identity and the commercial goal of the call in the beginning of the telephone conversation. In the case of commercial telephone calls, e-mails, SMS or faxes the consumers' previous consent is required.
The subject of the rules	It is deemed illegal the sending of advertising materials by e-mail, SMS, telephone and fax if there is no previous consent of the recipient or if he consequently decided to refuse the receiving of such advertising.
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Activity	Coupons
Country	Spain
General legal framework	In Spain there is no specific regulation for coupons. This means that the regulations on prize promotions, direct marketing and data protection are applicable to this matter.
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Activity	E-mail	
Country	Spain	
General legal framework	Advertising through e-mails is regulated by Act 34/2002 of 11 July on Information Society Services and Electronic Commerce and Act 32/2003 of 3 November, State Telecommunications Act. According to Art. 20 of the Act 34/2002, commercial communications realized by e-mail should comply at least with the following conditions: (a) the commercial communication shall be clearly identifiable as such; (b) the natural or legal person on whose behalf the commercial communication is made shall be clearly identifiable. Furthermore, e-mails should contain in their beginning the word "advertisement". In any case the service provider is obliged to offer to the recipient the option of initial and consequent refusal of the processing of his data for commercial goals by means of a simple and free mechanism. The recipient may revoke at any moment his previously given consent to receive e-mails with a simple notification containing his will addressed to the service provider. Therefore service providers must offer simple and free mechanisms in such a way that the recipients could revoke their previous consent. The service provider should inform the recipients of the respective mechanism. Please note also our comments made in respect to Data protection/Privacy.	
The subject of the rules	According to Art. 21 of Law 34/2002, the sending of advertising or promotional communications via e-mail (commonly known as SPAM) which were not previously solicited or expressly authorised by their recipients is strictly prohibited. Such a ban is not applicable if there is a previously existing contractual relationship always when the service provider has legally obtained the recipients' contact data and uses them for the sending of commercial communications referred to products/services of their own enterprise similar to the ones which were initially subject to contract with the client. In any case, the service provider should offer the recipient the option to refuse the use of its personal data for promotional goals. This is the respective regulation of the "spamming" phenomenon.	
Restrictions to the media	SMS	See our comments at General Legal Framework and Key General Restrictions.
Last updated	04 November 2004	

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Activity	Sponsorship	
Country	Spain	
General legal framework	According to the General Advertising Act (Art. 24) the contract for advertisement sponsorship is an agreement according to which the sponsored person undertakes the obligation to collaborate in the advertising activities of the sponsor, while the sponsor grants to the sponsored an economic help for the realization of activities related to sports, charity, culture, science or in any other areas.	
Restrictions to the media	TV	TV programs could not be sponsored by individuals or legal entities whose main course of business is the manufacturing or sales of products/services whose advertising is forbidden (among them the ones related to tobacco products, the ones with political content, the related to environmental protection, etc.). It is prohibited the sponsorship of TV news or programs dealing with current political news. The content and program of a sponsored TV broadcast cannot be influenced by any means by the sponsor and intervene the independence of the sponsored TV operator, nor can it contain any messages inciting to purchase the products/services of the sponsor.
Last updated	04 November 2004	

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Subject	Pharmaceuticals	
Country	Spain	
General legal framework	<p>This area is regulated by the General Advertising Act 34/1998, the General Health Act 14/1986, and, among others, the Royal Decree 2236/1993 regulating the labeling and the prospectus of medicine for human use, the Medicine's Act 25/1990, Royal Decree 1416/1994 on the advertising of medicines for human use and the Royal Decree 414/1996, which regulates the sanitary products were published. Any advertising regarding non-prescription medicines directed to the general public requires an authorization from the respective sanitary authority. Art. 8 of the General Advertising Act stipulates that the medicines destined for consumption by humans and animals may be advertised only following the strict regulations of the relevant specific legislation. One of the basic sources for regulation is the General Health Act. Art. 4 of Royal Decree 1416/1994, states that subject to advertising destined to the general public may be only medicines which due to their composition and goals do not need any prescription. Furthermore, the same article states that advertising of this kind of medicines must include an express recommendation directed to consumers. Cited recommendation should advise them to consult the relevant medicine prospectus. The advertising should also include the following wording: "In case of doubt, please, consult your pharmacist (En caso de duda consulte a su farmacéutico). In respect to Royal Decree 414/1996, please refer to our article on Health & Beauty.</p>	
The subject of the rules	<p>Advertising of prescription pharmaceuticals to the general public is prohibited. Among other restrictions, advertising of non-prescription medicines cannot: (a) suggest that the consumer will improve his/her health by using the medicine; (b) suggest that the use of the medicine will improve his sports' output'; (c) is exclusively/mainly directed to children; and (d) identify the medicine with a food product or a cosmetic one. In accordance to the General Health Act, the health authorities must control the advertising and commercial promotion of all products, substances, materials or methods, announced as useful for the prevention, diagnostics or treatment of any disease or physiologic developments, slimming, etc. Unless otherwise provided by law, advertisement/promotion of any products or substances destined to the cure of cancer, diabetes and other diseases of metabolism is strictly prohibited. As a whole there are series of other severe restrictions in several different areas mentioned in the law. Art. 4 of Royal Decree 2236/1993 states that in the label of the medicine several data must be obligatorily mentioned. Any of this data may induce consumers into an error in respect to the products' nature, not to its therapeutic effects in order to that their correct use or prescription be guaranteed. Please, also see our comments in the Health & Beauty article.</p>	
Restrictions to the media	TV	<p>Any TV advertising encouraging behaviours which are dangerous for human health or safety is illegal. Any similar sale on TV is also illegal. It is also strictly prohibited any direct/indirect advertising of medicines or medical treatments, which can be obtained only with prescription. Please, see also our comments made in the General legal framework part above.</p>
Last updated	04 November 2004	

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