

## Legal Extranet

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Turkey

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## National Association:

Turkish Association of Advertising Agencies (TAAA)

Web link: <http://www.rd.otg.tr>

## General Legal Overview:

Advertising industry in Turkey is governed by the provisions that are scattered into various laws namely, Act on Protection of Consumers, Regulation regarding Commercial Advertisements and Announcements, Act on Establishment and Broadcasting of Radio and Television. Some other legislation also applies.

A full list of the relevant legislation in Turkish can be found at [www.adalet.gov.tr](http://www.adalet.gov.tr) or [www.sanayi.gov.tr](http://www.sanayi.gov.tr)

According to Article 16 of the Act on Protection of Consumers, commercial advertisements and announcements have to comply with the laws, the principles of Board of Advertisement, public morality, public order and individual rights and have to be conscientious and accurate. Advertisements and announcements, which are deceptive, misleading or exploiting consumers' lack of experience and information, jeopardising of safety of their lives and properties, encouraging violence and crime, abusing public health, exploiting patients, the aged, children and handicapped, and implicit advertising are prohibited.

The advertising of the following categories are prohibited by law:

- Tobacco and tobacco products
- Alcohol and alcoholic drinks
- Pharmaceutical
- Political advertising (exception for the political parties, that participates to the elections, may advertise on radio and television for a certain time period before the voting day)
- Various professions (lawyers, self-employed accountants etc)
- Weapons

## Basic Guide to Intellectual Property rights in the Territory:

## Copyright

Copyright exists in an original artistic, literary or musical composition. Copyright in that original work belongs to the creator of that work and subsists for his/her lifetime and for a period of seventy years after their death. If the creator of the original work is a legal entity, copyright subsists for a period of seventy years from the publicity date.

It is a breach of copyright to make an exact copy or a substantial copy of the original.

Whether a copy is substantial or not is based on a qualitative not a quantitative interpretation. Meanwhile, there may be just one copy for personal usages without intend of benefit. However the freedom of utilisation and comparison and quotation exists. But in case of making a quotation, the source of the quotation should have been shown.

## Trademarks

A trademark is an indication, which serves to distinguish goods or services of one business from those of another. Trademarks may consist of, including person names especially words, devices, letters, numbers, the type of goods or packages or others can be displayed by drawing or expressed in a similar way, published by printing and duplicated.

Trademark law in Turkey complies with European directives. The EU directive was implemented into Turkish Law by means of Decree-Law No: 556 in 1995. The trademark should be registered in order to benefit the protection under Decree-Law No: 556. The application is filed with the Turkish Patent Institute.

It is a breach of trademark law to use a sign or logo which is identical to a registered the mark in the same category in which the mark is registered. It may also be a breach of trademark if you use a similar sign in the same category as the registered trademark or an identical sign in different category to the registered trademark whether it will be a breach depends on whether there is a likelihood of confusion or association on the part of the public.

## Unfair Competition:

Unfair competition is the abuse of an economic competition with deceptive activities or any activities against goodwill principles. Below are the examples, of unfair competition activities set out under Article 57 of the Turkish Commercial Code:

- to disparage others and their goods or services acts or commercial activities by false, misleading or unreasonably damaging statements
- to give false or misleading information about oneself, his own personality, goods or services

acts or commercial activities

- to try to make people believe that he has exclusive virtues
- to give false certificates of power and good conduct
- to give rise to confusion with other's goods or services acts or commercial activities or taking acts that may lead to this situation
- to give or promise the benefits that they do not merit, to the employees of third parties for leading them to misconduct their duties to gain profits for himself or for the third parties
- to get use of the production or commercial secrets that he reached or learned in a way contributing bona fide presumptions
- to violate the contracts, regulations that are valid for competitors

The Board of Self Policing Advertisement

İstiklal Cad., No:407/4 34433 Beyoğlu/İSTANBUL Tel:0 (212) 243 93 69 Fax:0 (212) 243 93 70

Web link: <http://www.rok.org.tr>

Advertising Board (within the Ministry of Industry and Commerce)

Sanayi ve Ticaret Bakanligi Eskisehir Yolu 7. Km ODTU Karsisi No:154 ANKARA Telefon: 286 03 65

Web link: <http://www.sanayi.gov.tr>

N/A

|                                 |                  |
|---------------------------------|------------------|
| Tobacco                         | 09 November 2004 |
| Alcohol                         | 09 November 2004 |
| Health & Beauty                 | 09 November 2004 |
| Financial products and services | 09 November 2004 |
| Direct Marketing                | 09 November 2004 |
| Pharmaceuticals                 | 09 November 2004 |
| Prize Promotions                | 09 November 2004 |
| Coupons                         | 09 November 2004 |
| Gaming & Betting                | 09 November 2004 |
| Collateral Gifts                | 09 November 2004 |
| Comparative advertising         | 09 November 2004 |

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|                                   |   |
|-----------------------------------|---|
| Subject                           | Tobacco   |
| Country                           | Turkey  |
| General legal framework           | It is governed by the Act on Prevention of Damages of Tobacco Products and the Act on Establishment and Broadcasting of Radio and Television.         |
| General self-regulatory framework | Tobacco, Tobacco Products and Alcohols Regulating Authority   |
| The subject of the rules          | Any kind of advertisement of tobacco products is prohibited without any exception.  |
| Restrictions to the activity      | There are no specific regulations about the specified areas (Cinema, web, press etc.)   |
| Sanctions                         | Breach of the provisions of the legislation may result in a fine or prevention of broadcasting or even in certain circumstances to a prison sentence. |
| Last updated                      | 09 November 2004  |

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|                              |   |           |
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| Subject                      | Alcohol   |           |
| Country                      | Turkey  |           |
| General legal framework      | It is governed by the Act on Grain Alcohol and Grain Alcoholic Beverages , the Regulation on the Procedure and Principles of Exporting and Importing of Alcohol and Alcoholic Beverages, the Act on Establishment and Broadcasting of Radio and Television      |           |
| The subject of the rules     | It is prohibited to advertise grain alcoholic beverages, such as beer and wine, in television, radio, cable TV and public broadcasting. Conversely, advertising the alcoholic beverages in the private properties, such as cinema, newspapers etc is permitted. |           |
| Restrictions to the activity | It is prohibited to advertise grain alcoholic beverages, such as beer and wine, in television, radio, cable TV and public broadcasting. Conversely, advertising the alcoholic beverages in the private properties, such as cinema, newspapers etc is permitted. |           |
| Restrictions to the media    | <i>Cinema</i>   | Permitted |
|                              | <i>Direct Mail</i>  | Permitted |
|                              | <i>E-mail</i>   | Permitted |
|                              | <i>Web</i>  | Permitted |
|                              | <i>Outdoor</i>  | Permitted |
|                              | <i>Press</i>  | Permitted |
|                              | <i>Radio</i>  | Forbidden |
|                              | <i>SMS</i>  | Permitted |
|                              | <i>TV</i>   | Forbidden |
| Sanctions                    | Breach of the provisions of the legislation may result in a fine or even in certain circumstances to close down the working premises.   |           |
| Last updated                 | 09 November 2004  |           |

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|                              |  |
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| Subject                      | Health & Beauty  |
| Country                      | Turkey   |
| General legal framework      | It is governed by the Act on Cosmetics, Regulation on Cosmetics and Decree-Law on the Production, Consumption and Inspection of Food and Regulation on the Production, Consumption and Inspection of Food.   |
| The subject of the rules     | Advertisement of the cosmetics is not prohibited. Permission from Ministry of Health is not required. The advertisement should be correct and comprehensible but be neither deceptive nor harmful to the public health. Advertising of the foods and beverages with labels or packages which consists of inaccurate or misleading insignias and broadcasting, articles or written statements encouraging the treatment of illnesses, is prohibited |
| Restrictions to the activity | There are no specific regulations about the specified areas (Cinema, web, press etc.)  |
| Sanctions                    | Breach of the provisions of the legislation may result in a fine and interception of the advertisement   |
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|                                   |   |
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| Subject                           | Financial products and services   |
| Country                           | Turkey  |
| General legal framework           | It is governed by the Act on Banks and the Act on Capital Market  |
| General self-regulatory framework | It is governed by the Communique on principles and conditions of advertisement that established by Turkish Union of Banks.  |
| The subject of the rules          | The advertisement and announcement of the banks and financial institutions regarding their types, forms, qualifications and figures should not be contrary to the principles and conditions that are established by the Turkish Union of Banks. According to the Law, any notice or advertisement should be compatible with general moral rules and should contain accurate information. Additionally, notices or advertisements should not create an impression that a bank is more reliable than another. According to the Capital Market Law, The Board of Capital Market establishes the principles of announcements. The announcements to the public should not have unreal and deceptive information. And the permission of public offering shouldn't be stated as declaration of a guarantee. The Board of Capital Market may also prohibit the deceptive advertisement. |
| Restrictions to the activity      | There are no specific regulations about the specified areas (Cinema, web, press etc.)   |
| Sanctions                         | Breach of the provisions may result in a fine.  |
| Last updated                      | 09 November 2004  |

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|                              |   |
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| Activity                     | Direct Marketing  |
| Country                      | Turkey  |
| General legal framework      | It is governed by the Regulation on the Principles and Fundamentals of Practices Regarding the Commercial Advertisements and Announcements.   |
| The subject of the rules     | In the direct marketing advertisements, the definition, functions and sales price of the goods and/or services should be mentioned. It is also required to state in the advertisements that the good and/or service will be delivered to the address of the consumer. Additionally, it should be stated that the consumer could refuse the good and/or service that are delivered |
| Restrictions to the activity | There are no specific regulations about the specified areas (Cinema, web, press etc.)   |
| Sanctions                    | Breach of the provisions may result in a fine   |
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|                          |   |
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| Subject                  | Pharmaceuticals   |
| Country                  | Turkey  |
| General legal framework  | The advertising of medicines in Turkey is governed by the Act on Pharmaceuticals and Medical Preparations No: 1262 and the Regulation on the Advertisement Activities of the Human Medical Products   |
| The subject of the rules | With the limited exception for the products used in vaccination campaigns, which are confirmed by the government, the Regulation prohibits the issue of any advertisement of a medicine to the general public that is likely to lead to the use of a prescription. Companies may advertise to the public only those medicinal products which are licensed by the Ministry and which, by virtue of their composition and purpose, are intended and designed for use without the intervention of a medical practitioner for diagnostic purposes or for the prescription or monitoring of treatment, with the advice of the pharmacist, if necessary. The Regulation prohibits the advertising to the general public of any medicinal products for the treatment, prevention or diagnosis of certain diseases or conditions including tuberculosis, sexually transmitted diseases, other serious infectious diseases, cancer and other tumoral diseases, chronic insomnia, diabetes and other metabolic illnesses. The Regulation also prohibits the advertising to the general public of medicinal products the cost of which may be reimbursed. According the article 5 of the Regulation, the labelling of medicinal products and the accompanying package leaflets and reference material relating, for example, to pack changes, adverse-reaction warnings as part of general drug precautions, are all out of the scope of this Regulation. These items and information are excluded from the definition of advertising reference material, as long as companies do not use them in a promotional manner or context. Pharmaceutical companies may advertise medicinal products which, by virtue of their composition and purpose, are intended and designed for use without the intervention of a medical practitioner for diagnostic purposes or for the prescription or monitoring of treatment, with the advice of the pharmacist, if necessary; and other medicinal products, as long as they comply with the relevant provisions of the Regulation. According the article 8/final of the Regulation, all published advertising to the general public for a medicinal product should be express, legible information which do not cause doubt or hesitation to the reader. |
| Sanctions                | Breach of the provisions may result in a fine or imprisonment or interception of advertisement.   |
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|                              |   |
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| Activity                     | Prize Promotions  |
| Country                      | Turkey  |
| General legal framework      | It is governed by the Act on Protection of Consumers, the Regulation on Principles and Fundamentals of Practices regarding the Commercial Advertisements and Announcements, the Decree Law on Establishment and the Tasks of National Lottery Administration, Regulation on Non-Cash Returnable Lotteries and Drawings. |
| The subject of the rules     | In general for advertisement regarding giving prize promotions, the approval of the National Lottery Administration has to be obtained.   |
| Restrictions to the activity | There are no specific regulations about the specified areas (Cinema, web, press etc.)   |
| Sanctions                    | Breach of the provisions of the legislation may result in a fine.   |
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|                              |   |
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| Activity                     | Coupons   |
| Country                      | Turkey  |
| General legal framework      | It is governed by the Act on Protection of Consumers, the Regulation on Principles and Fundamentals of Practices regarding the Commercial Advertisements and Announcements, the Decree Law on Establishment and the Tasks of National Lottery Administration, Regulation on Non-Cash Returnable Lotteries and Drawings. |
| The subject of the rules     | In general for the advertisement regarding giving coupons, the approval of the National Lottery Administration has to be obtained.  |
| Restrictions to the activity | There are no specific regulations about the specified areas (Cinema, web, press etc.)   |
| Sanctions                    | Breach of the provisions of the legislation may result in a fine.   |
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|                              |   |
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| Subject                      | Gaming & Betting  |
| Country                      | Turkey  |
| General legal framework      | It is governed by the Act on Protection of Consumers, the Regulation and the, the Decree Law on Establishment and the Tasks of National Lottery Administration, Regulation on Non-Cash Returnable Lotteries and Drawings. |
| The subject of the rules     | In general for advertisement regarding gaming and betting, the approval of the National Lottery Administration has to be obtained. The advertisement of gaming is prohibited.   |
| Restrictions to the activity | There are no specific regulations about the specified areas (Cinema, web, press etc.)   |
| Sanctions                    | Breach of the provisions of the legislation may result in a fine.   |
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|                              |   |
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| Activity                     | Collateral Gifts  |
| Country                      | Turkey  |
| General legal framework      | It is governed by the Act on Protection of Consumers, the Regulation on Principles and Fundamentals of Practices regarding the Commercial Advertisements and Announcements, the Decree Law on Establishment and the Tasks of National Lottery Administration, Regulation on Non-Cash Returnable Lotteries and Drawings. |
| The subject of the rules     | In general for advertisement regarding giving collateral gifts, the approval of the National Lottery Administration has to be obtained. Also in respect of any advertisement of the collateral gifts, the real shape of the gifts should be displayed.  |
| Restrictions to the activity | There are no specific regulations about the specified areas (Cinema, web, press etc.)   |
| Sanctions                    | Breach of the provisions of the legislation may result in a fine.   |
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|                              |  |
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| Activity                     | Comparative advertising  |
| Country                      | Turkey   |
| General legal framework      | It is governed by the Act on Protection of Consumers and Regulation on Principles and Fundamentals of Practices regarding the Commercial Advertisement and Announcement.   |
| The subject of the rules     | The comparative advertising is governed under Article 11 of the Regulation regarding Commercial Advertisements and Announcements. According to the Article, comparative advertising is permissible if (a) the name of the compared product, service or trademark is not mentioned, (b) the compared product or service has the same nature and characteristic with the one subject to the advertisement or supplies the same needs, and (c) the advertising, follows the principles of the competition principles and does not mislead the consumers |
| Restrictions to the activity | There are no specific regulations about the specified areas (Cinema, web, press etc.)  |
| Sanctions                    | Breach of the provisions may result in a fine or interception of the advertisement   |
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