

## COSTA RICA



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<b>1. Regulation</b>	
<b>Topic:</b>	New broadcasting regulation
<b>Who:</b>	Ministry of Government
<b>When:</b>	June 2004
<b>What Happened:</b>	Ministry of Government issued a new administrative regulation for broadcasting. The new rules establish the procedures for the assignment, operation and transfer of TV and radio concessions.
<b>Comments:</b>	<p>This administrative regulation is an attempt to fill the many gaps left by the Radio and Television Law. The main criticism received to this regulation is that – according to many – this subject must be regulated by a formal Law issued by Congress, and not by a governmental decree.</p> <p>Leaders in the industry coincide on the need of a new Law. However, this regulation is seen as a temporary solution to the many inconveniences of an old Law considered by many as obsolete.</p>

<b>2. Case Report</b>	ONCP v. ICE NK8.0
<b>Topic:</b>	Portrayal of men and women
<b>Who:</b>	Oficina Nacional de Control de Propaganda (ONCP)
<b>When:</b>	August 2004
<b>What Happened:</b>	<p>The National Office for advertising Control (ONCP), under a recent new director, forbids a billboard of a beverage on the grounds that it “offended the dignity of women by trying to increase sales using the image of a women’s body in a sexually suggestive way”.</p> <p>The ad showed a barely dressed girl in a suggestive pose, showing a tattoo on her back with the words “Express Yourself”.</p>
<b>Comments:</b>	<p>Adding up to the fact that this matter is subjective in nature, it has been the case for most regulators that the criteria and interpretation of regulations swings back and forth every time that there is a new director in office.</p> <p>After a period of calm and relatively lenient criteria, a recent new change of direction anticipates more difficulties for advertisers, as the evaluation criteria became stricter.</p>

<b>3. Case Report</b>	ONCP v. Centenario Hard Cola 8.0
<b>Topic:</b>	Obscenity
<b>Where:</b>	Oficina Nacional de Control de Propaganda (ONCP)
<b>When:</b>	August 2004
<b>What Happened:</b>	The National Office of Advertising Control (ONCP) ordered to stop the use of a billboard on the grounds that it uses the physical attributes of women

	<p>together with obscene gestures.</p> <p>The ad showed to girls caressing in a suggestive way, along with the phrase “more of what you like”. ONCP considered that this image shows women as a sexual object, distorting the concept of women.</p> <p>When approaching the obscenity issue, the ONCP did not considered the image as obscene in itself. The decision expressly said that there is nothing wrong with two girls hugging. The objection was based on the fact that one of the girls is cuddling in a way that unduly shows her middle finger.</p>
<b>Comments:</b>	In addition of being another example of the “new approach” of the commission (mentioned previously in this report), this type of approaches shows how difficult it becomes to draw the line when it comes to taste and decency.

<b>4. Regulation</b>	“Reglamento para la regulación del correo masivo no deseado”.
<b>Topic:</b>	Spam
<b>Where:</b>	Radiográfica Costarricense, S.A. (RACSA)
<b>When:</b>	August 2004
<b>What Happened:</b>	<p>RACSA, the public company operating the state monopoly on the Internet, issued a regulation that covers spam through its servers.</p> <p>Among others, this regulation establishes an obligation form senders to keep an updated registry of all those willing to receive email messages. Additionally, every message must include an op-out option.</p> <p>The regulation also establishes penalties for spamming, and a procedure to file complaints.</p> <p>It is important to know that messages sent unintentionally (i.e. due to a virus) are also subject to penalties. The justification is that every computer owner is responsible for the vulnerability of his/her system.</p>
<b>Comments:</b>	<p>Some people question the authority of RACSA to issue such a regulation, since it is not a formal authority, but rather a State-owned company.</p> <p>However, left that aside, it is important to note that this regulation is a step forward to regulate an area in which Costa Rica is evidently falling behind.</p>

<b>5. Case Report:</b>	F.G.A v. Euro Inversiones Inmobiliarias, S.A.
<b>Topic:</b>	Deceitful advertising
<b>Where:</b>	Comision Nacional del Consumidor (CNC)
<b>When:</b>	August 2004
<b>What Happened:</b>	<p>The CNC imposed a penalty to a Real Estate developer, since it advertised the of sale properties in a Condominium. Pictures in the ad included a Club House and “cascade pools”.</p> <p>A buyer of a lot filed a complaint, since the common areas of the condominium did not include the Club House shown, and the pool was different from the one shown in the pictures of the advertisement.</p> <p>During the procedure, the Commission found out that the pools and houses shown in the ad where private properties, built by previous owners in their</p>

	<p>own lots.</p> <p>By showing this pictures - Commission said - advertiser created the impression that these buildings where common to all owners, and therefore the advertising became deceitful. Additionally, it considered that all claims - express and implied - become part of the sales agreement with consumers.</p>
<b>Comments:</b>	<p>This case shows how sometimes a picture is worth more than words, and how an omission can create obligations beyond the intentions of the advertiser.</p>