

# COSTA RICA



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<b>1. Case Report:</b>	REPRETEL v. TICOFUTBOL
<b>Topic:</b>	Copyrights, new media
<b>When</b>	June 2006
<b>What Happened:</b>	<p>A few weeks prior to the Football (soccer) World Cup in Germany, an internet site started broadcasting the games of the Costa Rican national team by taking the signal from the exclusive broadcaster and streaming it through their site.</p> <p>The broadcaster (REPRETEL) sent a cease and desist letter, informing them their intention to pursue legal action unless the unauthorized use of the TV signal would stop.</p> <p>Site operators issued a public release, stating that they didn't violate any Law, but agreeing to stop with their transmissions.</p>
<b>Comment:</b>	This case may be a sample of things to come with the explosion of new technologies and media. Even if the case did not reach the Courts, it put on the table the challenges imposed when traditional Laws and remedies are intended to be applied to non-traditional media.

<b>2. Case Report:</b>	CR Box Express.com v. RACSA
<b>Topic:</b>	SPAM
<b>Where:</b>	Constitutional Hall of the Supreme Court
<b>When:</b>	June 2006
<b>What Happened:</b>	<p>Applicant filed a complaint against a regulation issued by RACSA (official and state monopoly in the supply of internet services.</p> <p>The main argument against the regulation (which adopts the "Opt-in" standard) was based on the harsh penalties imposed by it contravene freedom of speech, freedom of commerce, and rights of consumers to be informed. By blocking IP addresses and taking other measures against spammers.</p> <p>The Court dismissed the claim, arguing that the harm caused to networks and the nuisance to the general public caused by spammers justified the measures taken by the regulation.</p> <p>Additionally, the court concluded that consumer rights are not negatively affected by the regulations, since those who are interested in receiving the information is free to access it through alternate methods like web searching and the like. On the other hand, the prohibition of Spamming protects consumers from assuming the costs associated to receiving unwanted information.</p>
<b>Comment:</b>	Internet regulation is far behind in Costa Rica, this regulation is applicable only to services provided by RACSA (which are the majority). Hence, there is no current rule of general application in place in Costa Rica.

<b>3. Case Report:</b>	Junta de Proteccion Social (JPS) v. Alejandro Rueda
<b>Topic:</b>	Lotteries, games of chance, promotions
<b>Where:</b>	Criminal Tribunal, First Circuit of San Jose
<b>When:</b>	September 2006
<b>What Happened:</b>	<p>JPS, operator of the national lottery filed a criminal complaint against defendant, for operating what they consider an illegal lottery in his TV show, which is broadcasted weekly on Sunday afternoons.</p> <p>During the show, participants may send instant messages through a (paid) call to a 900 number, and prizes are raffled among them. JPS considered that since there is no element of chance involved, and since this activity is not made in connection with the advertising of a product, it amounts an illegal lottery.</p> <p>The Tribunal considered that prima facie, there appears to be a criminal infraction, and ordered that the case should go to trial.</p>
<b>Comment:</b>	<p>Promotional activities through value added services became very popular in the last years. However, some of them seem to be more a raffle or lottery and less of a game of chance.</p> <p>JPS expressly affirmed that they chose the case of the highest visibility, in order to set an example and persuade others from doing the same. Additionally, 16 other cases are being investigated at the administrative level.</p>

<b>4. Case Report:</b>	Ministry of Health v. Coca-Cola
<b>Topic:</b>	Food advertising, Child obesity
<b>Where:</b>	Ministry of Health
<b>When:</b>	November 2006
<b>What Happened:</b>	<p>Following an order by the Ministry of Health, a TV ad of Coca-Cola was pulled off the air, because the message promoted unhealthy eating habits.</p> <p>In the commercial, a kid talks about the food served by his mother, showing displeasure for the vegetables, salads, fish and other meals, since the only thing he really enjoys is Coca-Cola every day of the week.</p> <p>The Ministry of health argued that messages of this type affect the success of public health policies promoted by the authorities, and demanded that the ad should be immediately pulled off.</p> <p>She also complained about advertising in general, for making unhealthy products "too attractive" for young population.</p>
<b>Comment:</b>	<p>Legal regulations on food advertising include only general and basic principles, allowing authorities to intervene whenever they feel there is a public health issue.</p> <p>While these powers are rarely exercised, in this particular case no one complained against the measures taken, since the negative message contained in the ad was very clear.</p> <p>Cases like this one may spark the debate about advertising and obesity issues, which have not yet become as big of an issue as in other places.</p>

<b>5. Case Report:</b>	Mejía Godoy v. PUSC and JBQ (Grey)
<b>Topic:</b>	Copyrights and advertising
<b>Where:</b>	Supreme Court of Justice
<b>When:</b>	February 2007
<b>What Happened:</b>	<p>Under vote # 07-127, the Supreme Court confirmed a ruling against the Advertising Agency JBQ (Grey) and the Political Party then in power (PUSC). The case refers to the use of a song written by a Nicaraguan folk singer in a disc that was distributed as part of the presidential campaign of Abel Pacheco (who eventually won the elections). The disc incorrectly stated that Pacheco was the author of the lyrics, while in reality the lyrics were written by the plaintiff, but based on a short story written by Pacheco.</p> <p>The court concluded that the moral rights of the author were infringed, and imposed damages to be paid by both the advertiser and the advertising agency.</p>
<b>Comment:</b>	Two important features of this case deserve special attention: a) The claim was based solely on moral rights, because the copyrights were actually paid by defendants; and b) The advertising agency was sued and also found liable, which is very unusual in advertising cases, where most of the heat is normally taken by the advertiser.

<b>6. Regulation:</b>	Handbook of Good Practices towards Consumers
<b>Topic:</b>	Consumer protection, self-regulation, advertising.
<b>Who:</b>	National Consumers Commission
<b>When:</b>	March 2007
<b>What Happened:</b>	<p>On March 15th, the "Comision Nacional del Consumidor" (Official Agency for Consumer Protection issues in Costa Rica) announced the official publication of the "Handbook of Good Practices towards Consumers". This document is open for voluntary adherence by the commerce in general. Once adopted, it becomes mandatory for those who accept it.</p> <p>In general, the document serves as a guideline for the interpretation of the local Consumer Protection Law, as well as also filling some gaps that are not covered by it. It also intends to raise the standard of protection followed by all providers of products and services in their relationship with consumers, by adapting locally most of internationally recognized best practices.</p> <p>The main subjects covered by the handbook are: Product safety, Product liability, Information supplied to consumers, Advertising, Promotions, guarantees, On-line sales, and others.</p> <p>Parallely, all companies who adopt the handbook and implement a compliance program in accordance to it will receive a public distinction by the Ministry of Commerce, in which they are recognized a "Consumer Friendly". This distinction may be publicly advertised by beneficiary enterprises.</p>
<b>Comment:</b>	This initiative has been described as the main advance in consumer regulation in the last years. Its main benefit is that it provides an opportunity to raise the standard without going through the process of issuing new regulations, and also it benefits commerce by decreasing the level of uncertainty of the Law in some areas.