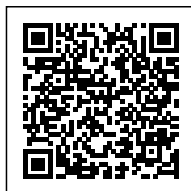


NEW LAW REGULATES ADVERTISING OF FOODS AND BEVERAGES

Posted on 06/06/2019



Category: [Uncategorized](#)



On 23 April 2019, Law 30/2019 was approved on advertising of food and beverages with high energy values, salt content, sugar, saturated fatty acids and trans-fatty acids, regarding the definition of the law itself, stating that *all those containing a number of these elements which*

compromise, in accordance with available scientific knowledge, a varied, balanced and healthy diet.

This Law does not come as a surprise given that, at least since 2015, several legislative projects had been presented (namely that of the Socialist Party and that of PAN), alerting to the fact that Portugal recorded some of the highest numbers of childhood obesity amongst other European countries and to the need to turn the fight against this problem into a matter of public health.

Its approval, achieved with the widespread support of the many political forces, changes dramatically the rules regarding advertising of food items (such as soft drinks and chips) *containing a high energy value, salt or sugar content, saturated fatty acids and trans-fatty acids* to children under 16 years of age.

The Directorate-General for Health will be responsible for setting the values to be taken into consideration, something which has not yet happened, when it comes to identifying these parameters under this order.

Advertising to these food items is now prohibited in the following situations:

- In kindergarten, primary and secondary schools;
- In public playgrounds and those open to the public;
- During sports, cultural and leisure activities (although not all of them, as it was initially proposed, but only those organized by said kindergartens, primary and secondary schools).

In addition to this first level of restrictions on advertising of such food items, the Law also set a surrounding perimeter covering a 100 meter-radius of access to said schools and/or playgrounds.

Advertising elements posted in commercial establishments, namely through product placement on pieces of furniture, terraces, awnings or signs part of these establishments, are excluded from this perimeter.

Advertising is also forbidden on the following locations:

- television programme services, audio-visual communication on demand (video on demand) and radio during the 30 minutes preceding and following children's programmes, and television programmes with a minimum share of 25 % of children under 16 years old (it is now up to the Government to say how it will ascertain this share), as well as advertising during the corresponding intermissions;
- In film theatres and films for children under the age of 16 years old;
- *Online, via websites or social media*, as well as mobile apps for devices that use the Internet, *when their content is intended for recipients under 16 years old.*

Finally, it is also mentioned that all advertising involving this type of products must be clear and objective and cannot relate the consumption of said product with potential health benefits, also abstaining from:

- Encouraging an excessive consumption;
- Neglecting non-consumers;
- Creating a sense of urgency or pressing need to consume the advertised product;
- Conveying the idea of ease in acquisition, minimizing its costs;
- Transmitting the idea of benefit by its exclusive or exaggerated consumption, compromising the importance of a varied and balanced diet and of a healthy lifestyle;
- Associating the consumption of the product with the acquisition of statute, social success, special skills, popularity, success or intelligence;

- Using, in those commercials, figures, cartoons, personalities and mascots, among others, which relate to programmes intended for children;
- Mentioning characteristics of this type of food items and beverages as having health benefits, omitting the harmful effects of their high levels of salt, sugar and acids.

Infractions to advertising practices that do not comply with these now imposed restrictions shall be punishable with fines, with companies being eligible to pay up to € 45 000.00.

The *Direção Geral do Consumidor* [Portuguese Directorate-General for Consumers], the Portuguese government's central direct administration service responsible for monitoring and supervising commercial and institutional advertising, shall be responsible for supervising compliance with the new rules on advertising of this type of food.

The law shall enter into force within 60 days after its publication, that is, on 23 June 2019.

Manuel Gibert Prates

manuel.prates@spsadvogados.com