

Full title of law or regulation	The ARPP Health Claims Recommendation, the Ministerial Statement on Health Messages, The ARPP Food Behaviours Code, and EU Regulations 1924/2006 and 1169/2011
Title of relevant section	Definitions and Scope in each case
Context	The purpose of this note is to show how various Codes apply to advertising channels, i.e. to define where advertising rules apply
Code	<p>The ARPP Health Claims Recommendation:</p> <p>http://www.g-regs.com/downloads/FRARPPHealthClaimsEN.pdf</p> <ul style="list-style-type: none"> ➤ A health claim constitutes any statement or advertising presentation establishing, or suggesting a link between a product and health. It differs from the therapeutic claims which attribute to a product properties of prevention, treatment or cure of a disease ➤ It is aimed at any product, be it food, cosmetics or other, but also any object, device, service or method ➤ It includes advertising aimed at consumers. <p>In this context, and without prejudice to the specific provisions applicable to certain categories of products, the ethical rules laid down in the recommendation apply to any advertisement containing a health claim, regardless of the form of the message or the medium of dissemination used and aimed at any product, as described above, regardless of the nature.</p> <p>Some product categories are, moreover, subject to sectoral Recommendations by ARPP.</p>
Decree/ Minister's statement	<p>Ministerial statement on Health Messages:</p> <p>http://www.g-regs.com/downloads/FRMinistersNoteHealthMessages.pdf</p> <p>Chapter I. Advertising media covered by the article</p> <p>Article L.2133-1 refers to advertising and promotional messages intended for the public, in the print media and in publications published by the producers or distributors of the food products concerned. <i>The advertising and promotional messages in question are all messages intended to inform the public (consumer information) of the existence and qualities of the food products in order to increase sales.</i> Following parliamentary debates, the legislative provision refers only to advertising messages in the strictest sense, in other words those whose principal purpose and nature is advertising, and that are distributed through channels used primarily for advertising or promotional purposes. <i>It is not aimed at information related to the sale of the products, or to information provided at such events as local and traditional shows and fairs.</i></p> <p>For example, a small poster at the point of sale aimed at buyers of the products is not covered (unless the poster is visible from outside the outlet), while the system does apply to large posters displayed via a poster network or on a vehicle. Likewise, the provision does not include spoken messages delivered at the point of sale, the packaging of the products and printed material attached to them, the media associated with the sales and consumption methods (sets, batches, purchase orders, coupons, price and usage information, leaflets, menus, recipes, etc.), and the equipment used to sell the products (furniture, display units, dispensers, shelf dividers, shop windows, trolleys, etc.).</p> <p><i>Sponsorship is not covered either:</i> under the terms of Decree no. 92- 280 of 27 March 1992, the aim of these operations is not to boost the sales of a particular product, but to promote a name, brand, image, activities or projects. Also excluded are specialist on-line publications or services that are not intended for the general public or consumers and that can only be accessed by professionals. Further exclusions include the publications and corporate sites of production or distribution companies that do not contain advertising or promotions of their products.</p>

The legislation applies to the major advertising channels, i.e. the media (television, radio, the Internet, posters, the printed press, mobile phones and the cinema) as advertising channels for which advertising spaces can be purchased, and non-media advertising channels aimed at wide audiences such as leaflets or brochures produced by the distributors or producers: for example, supermarket brochures, leaflets delivered through letter boxes, leaflets in public areas such as doctors' waiting rooms or shopping centres, info sheets such as "recipe guides" when they refer to the commercial aspects of the food items that fall within the scope of the provision.

As far as advertising on television and radio is concerned, the legislation only applies to messages transmitted and broadcast on French territory, in accordance with the provisions of the 'Television without Frontiers' Directive transposed into French law

Ministerial Statement

Chapter III.

Food Products in question

The advertisements concerned are those relating to all food products, with the exception of certain drinks and non-manufactured foods.

1) Drinks

The Act states that advertisements for drinks without added sugar, salt or artificial sweetener are not subject to the requirement to attach health information. This rule applies to products usually consumed in the form of a drink. In particular, adverts for tea, coffee, herbal teas and chicory are not required to display the message if the product does not contain any added salt, sugar or artificial sweetener. Fruit juices or milk without added sugar, salt or artificial sweetener are therefore not affected by the provision, even if they have been pasteurised.

In the case of advertising on an alcoholic drink, the specific public health message required by the legislation on alcohol (article L.3323-4 of the Public Health Code) acts as the health message for the purposes of this measure.

2) "Manufactured food products"

There is no legal definition of manufactured food products. The products to which the Act applies are food industry products, in particular foods with additives and processed foods. Products offered to the consumer in their raw state are excluded (fresh fruits and vegetables, herbs and spices, for example).

Some special cases of excluded products: fresh meat or fish that has just been cut or minced, raw products that are packed only (for example, egg boxes, oranges in nets, honey within the meaning of the regulation), deep or fast frozen or canned with nothing added other than water.

3) Products intended for infants and young children (under three years of age)

The Decree stipulates specific types of health information for food products intended for children under three years of age.

European Commission Directive 91/321/EEC on infant formulae and follow-on formulae and Directive 96/5/EC on processed cereal-based foods and baby foods for infants and young children contain provisions relating to the labelling, presentation and advertising of products presented as being especially suitable for children under three years of age.

These instruments were transposed into French law by the provisions of the Decree of 1 July 1976, as amended, relating to foods intended for infants and young children, and by articles L.121-50 to L.121-53 of the Consumer Code (Note – subsequently amended order; now articles L122-12 to L122-15)

Under the terms of these provisions, preparations for infants can only be advertised in the printed press intended for the health professions. The measures stipulated by article L.2133-1 do not therefore apply to these products. On the other hand, they do apply to the follow-on formulae referred to in article 13 of the Decree of 1 July 1976, which provides for specific types of health information that are compatible with the nutritional information provided in accordance with the Directive.

With regard to foods that fall within the scope of Directive 96/5/EC (referred to in article 20 of the Decree of 1 July 1976), advertising is not prohibited, but the required references must be displayed on the labelling of these products. The Decree stipulates specific types of health information that are compatible with the nutritional information provided under the terms of the Directive.

Code

ARPP Food Behaviours Code:

http://www.arpp.org/wp-content/uploads/2016/09/Food_Behaviors-v2.pdf

These rules apply to all adverts representing a food behavior, no matter the persons represented, and no matter the audience. They concern all advertising sectors. The notion of product, used below, refers to food as well as to drinks.

EU/ EC Regulation

EU Regulations take the definition of advertising from Article 2(a) of Directive 2006/114: 'Advertising' means the making of a representation in any form in connection with a trade, business, craft or profession in order to promote the supply of goods or services, including immovable property, rights and obligations;

Directive 2006/114:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:376:0021:0027:EN:PDF>

Regulation 178/2002 defines in art 2: Article 2 Definition of 'food' For the purposes of this Regulation, 'food' (or 'foodstuff') means any substance or product, whether processed, partially processed or unprocessed, intended to be, or reasonably expected to be ingested by humans. 'Food' includes drink, chewing gum and any substance, including water, intentionally incorporated into the food during its manufacture, preparation or treatment

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:031:0001:0024:en:PDF>
