

G-Regs™

France - Ministers' Note Health Messages



Source	<p>Memo concerning the health information that must accompany advertising or promotional messages for certain foods and drinks</p> <p>28 February 2007</p> <p>http://www.sante.gouv.fr/IMG/pdf/note_messagepub.pdf</p>
Title of relevant section	<p>All; Sections I to V</p>
Introduction	<p>Article L.2133-1 of the Public Health Code, resulting from Act no. 2004-806 of 9 August 2004 concerning the public health policy, states that advertising messages for drinks with added sugar, salt or artificial sweeteners and food products must contain health information. If the health message is not attached, the advertiser or promoter will be liable to a financial contribution, based on the advertising costs, payable in accordance with the same methods as value added tax. The income from this tax will be paid to INPES, the French National Institute for Prevention and Health Education, to conduct nutritional education projects.</p> <p>Decree No. ... of ... (published in the Official Journal on [date]) and the Decree dated ... (published in the Official Journal on [date]) set the conditions for implementation of the Act, in particular determining the content of the health information.</p> <p>This is a nutritional education measure that aims to raise the awareness of the general public and, in particular, children, and to provide key points of reference for nutrition. It contributes to the prevention of obesity and diseases associated with poor nutrition.</p>
Chapter I	<p>I. ADVERTISING MEDIA COVERED BY THE ARTICLE</p>
Clauses	<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. 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. 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. 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.</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</p>

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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.).

Sponsorship is not covered either: 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.

- 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.

Chapter II

II. THE DISSEMINATION OF HEALTH INFORMATION

Clauses

1) Alternating the dissemination of health information in a non-organised manner

The purpose of the Decree is to ensure that all health information is disseminated in as fair and even-handed a manner as possible. It establishes a principle of alternating between the regular and random display of health information in advertising messages. In practical terms, the health information must rotate within each identical series of advertising units: the same cinema advert, the same poster, the same television advert, the same magazine issue, the same Internet banner ad, etc. Furthermore, the frequency of use of the different types of health information must not be organised (for example, in broadcasting schedules or between locations or television channels, etc.), while remaining regular.

However, for obvious reasons of feasibility, an advertisement in an issue of a magazine or newspaper will contain just one type of health information. Similarly, there is no requirement for the dissemination of health information in cinemas to be equally distributed within a single cinema. In this case, the advertiser will organise the allocations so that they alternate between different publications or cinemas. In both cases, and only these cases, the constraints imposed by feasibility may lead to exceeding the 10% tolerance stipulated by the Decree for the regular dissemination of health information in an equal number of advertising or promotional messages.

In other cases, the 10% tolerance means that the fact that some advertising or promotional media are not suitable for disseminating a strictly identical number of types of health information can be taken into consideration (for example, posters, the press, the Internet and leaflets).

2) Dissemination of health information in brochures and leaflets

The Decree states that in the case of advertising and promotional documents produced by a single distributor or producer, the health information may take the form of a

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nutritional education text presented just once in the document. This option only relates to documents whose content is published directly by the producer or distributor without resulting in the purchase of advertising space or allocation to an advertiser for a fee.

3) Dissemination of health information using on-line public communication services

The health information must appear on these services at the same time as the advertisement and must be accessible while the advert is being read. Health information that appears without any specific action by the user is deemed to be a simultaneous appearance.

Should our department be formally notified of a technical problem, there will only be an obligation to make the health information accessible (for example, by the display of an interstitial web page), while waiting for other technical solutions.

Chapter III

III. THE FOOD PRODUCTS IN QUESTION

Clauses

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

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articles L.121-50 to L.121-53 of the Consumer Code.

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.

Chapter IV

IV. TELEVISION COMMERCIALS AIMED AT CHILDREN

Clauses

In an exchange of letters with the Ministry of Health, the television channels undertook to include the health message orally and visually in advertising jingles in slots containing the commercials referred to by the provision and broadcast at times when young children are watching. In this context, all children, even those who cannot read, will hear the messages and be able to understand them.

Chapter V

V. SPECIAL CASES

Clause

In the event of problems of interpretation, requests for further explanation must be sent to the Ministry of Health, Department of Health (Room EA3).
