

Full title of law or regulation:

2010 - Evin Law (*Loi Evin, consolidated*)

This law, encoded under the Public Health Code (*Code de la santé publique*) was adopted in 1991 and has been regularly updated since. The latest decree allows “non-intrusive” online alcohol advertising, per the amendment from law No. 2009-879 (known as the Bachelot Law) Article 97, shown beneath the two links below

http://www.legifrance.gouv.fr/affichCode.do;jsessionid=CDCFC1193885BE8A6EF6D0ABDB3F952F.tpdjo02v_1?cidTexte=LEGITEXT000006072665&dateTexte=20140113

An English translation of the relevant clauses is here:

<http://www.g-regs.com/downloads/FRLoiEvinB.pdf>

<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000020879475&dateTexte=&categorieLien=id>

Bachelot law referenced above (article 97):

A further point allowing additional forms of communication - No. 9 - is inserted in article L3323-2 of the PHC, permitting “on-line communications services, with the exception of those which, by their nature, their appearance or their objective, seem to be mainly intended for young people, as well as those produced by sports associations, societies and federations or professional leagues within the meaning of the Sports Code, on condition that the publicity or advertising is not intrusive or interstitial” (the latter a page/communication that is displayed before an expected content page).

Title of relevant section

Article L.3323-2-9°

Context

This (below) is from commentary provided by French Counsel on the issue of whether using social media constitutes transgression of Article L.3323-2-9° of the French Public Health Code

Case

The Ricard brand had launched a promotional multimedia campaign entitled “*Un Ricard, des rencontres*” (“*a Ricard, various encounters*”) in order to promote the famous aniseed-flavoured liqueur “Ricard”. Thanks to a mobile application called Mix Ricard Code, requiring a Facebook account, Facebook users could watch a promotional video and collect passwords that gave them access to cocktail recipes based on Ricard, which they could share on their Facebook wall. More interestingly, the Paris Court of Appeals, confirmed by the Supreme Court, ruled on the lawfulness of the mobile applications developed and made available to the public by the Ricard Company.

Quoting the provisions of Article L.3323-2-9° of the French Public Health Code, pursuant to which authorized advertising on on-line communication services, should not, by its nature, its presentation or purpose, appear as mainly addressed to young people, nor prove intrusive, the Judges upheld:

- That the use of Facebook did not necessarily imply that the application was primarily addressed to young people;
- However, that, in this specific case, the use of a social network qualified as intrusive advertising, since it allowed the Ricard Company to spread, via the Facebook user, unsolicited messages to the user’s friends, encouraging them to download the application, without any mention of the legal health warnings, in a manner which was judged as “*unsolicited, unexpected and systematic*”. The mobile application was therefore considered illegal in this respect.

In a final decision rendered on July 3, 2013², the French Supreme Court considered that the graphical representations of the advertisement campaign and the correlated promotional video were considered as a violation of the “Evin Law”, since the illicit elements were magnified through an “*aesthetic composition*” and a “*seductive music*”.
