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Spain – Law 17/2011 on Food Safety and Nutrition



Full Title Law 17/2011 of 5 July, on Food Safety and Nutrition
Relevant section: Chapter 8 – Advertising of Foods; Articles 44,45, and 46)

CHAPTER VIII – Advertising of foods

Article 44

Advertising of foods.

1. Notwithstanding the specific provisions recognised in this Law (i.e. Law 17/2011), the commercial communication of foods is governed by Law 3/1991, 10th Jan on Unfair Competition, by the General Advertising Law 34/1988 of 16th Nov, Royal Legislative Decree 1/2007, 16 November, approving the consolidated text of the General Consumer and User Protection Act and other Complementary Laws, General Law 7/2010, 31st March on Audiovisual Communications, and by the special rules governing the activity in this area and which are applicable to it.

2. In addition, food advertising messages, carried out via any means of communication or medium, must comply with the applicable regulations, and specifically to Royal Decree 1907/1996 of 2nd August, concerning the Advertising and Commercial Promotion of Products, Activities or Services with claimed Health Effects / Benefits.

3. Without prejudice to the provisions in Regulation (EC) No 1924/2006 20 Dec on nutrition and health claims made on foods, the promotion or advertising, direct or indirect of foods is prohibited:

- a) The provision/ contribution of testimonials from health professionals or scientists, real or fictional, or from real or supposedly real patients as a way of encouraging consumption, as well as the suggestion of health or scientific backing/ endorsement.
- b) The promotion of food consumption in order to replace normal diet or nutrition, especially in cases of maternity, breastfeeding, childhood/ infancy, or old age.
- c) Reference to their use in health centres or distribution via pharmacies.

4. The use of endorsements from associations, corporations, foundations or institutions, related to health and nutrition, will only be permitted in the promotion or advertising, direct or indirect of foods, when:

- a) They are non-profit organisations
- b) They undertake in writing to use the financial resources acquired from this collaboration, in activities that promote health, via research, development and dissemination specialised in the field of health and nutrition.

Article 45

Voluntary regulation

Public authorities will encourage the development of voluntary regulation systems in order to achieve a broader and more rigorous control of the application of the current legislation by the advertising economic and professional operators, and they will enforce

its implementation and facilitate it insofar as those systems comply with the requirements established in Law No. 3/1991, January 10th, on Unfair Competition.

Article 46

Food advertising addressed to children under fifteen years old.

1. Competent authorities will promote the signature of co-regulation agreements with economic operators and audiovisual marketing communications service providers, for the establishment of codes of conduct that regulate food and beverage marketing communications addressed to citizens under fifteen years old, in order to contribute to the prevention of obesity and bad health habits. These codes of conduct should be applied by the self-regulation systems that comply with the previous article.

2. If these codes of conduct are not adopted in a period of a year since this Law comes into force, the Government will implement rules which regulate those marketing communications by the corresponding Regulation, in order to guarantee childhood and youth protection and means to make those rules effective
