

Strap: Advertising in Mexico

Head: It pays to check your copy

SF: An advice system for labelling products in Mexico has been extended to food and non-alcoholic beverages. Daniel Sanchez and Victor Ramirez of Olivares report on how the regime works in practice.

PQ:

“COFEPRIS relayed that from the results of the random inspections it conducted at stores to verify compliance of the products, around 75% or more of the members were at fault.”

Over the last few years the Mexican government has developed a complex legal framework to regulate the information consumers receive in connection with food and drinks.

The main goal the government seeks through these regulations is to protect and educate consumers, making sure they receive accurate, truthful and appropriate information for each type of food or beverage.

Since most of the information on the food and drink products is transmitted to consumers through advertising and the labels of products, that is where the Ministry of Health has focused its regulatory efforts.

Because of the high level of health problems related to being overweight, such as obesity, diabetes and hypertension, among the Mexican population, the health agencies have been tightening the regulation net on the labelling regulation for food and soft drinks.

In particular, the head of the Federal Commission for Protection against Health Risks (COFEPRIS) implemented several amendments to the Mexican Official Standard Rule NOM-051-SCFI/SSA1-2010 for Food and Non-Alcoholic Beverages (NOM 051), published in the *Official Gazette* in 2014.

NOM 051 contains the rules regarding labelling requirements for food, non-alcoholic beverages and other pre-packed products for human consumption that are imported, manufactured and sold in Mexico.

In 2014, the Mexican government issued a decree of amendments to NOM 051, wherein it established the obligation to include additional nutrition facts in the labelling of these products alongside an agreement specifying the technical guidelines detailing how the new nutrition facts required by the amendments of the regulation should be displayed.

The additional requirements on the labelling were implemented in order to ensure that the population could easily identify the calorie content of some of these products, since the rates of obesity in the population kept on increasing.

### **Random checks**

COFEPRIS and the Federal Bureau for Consumers Protection (PROFECO) were designated as the responsible authorities for verifying compliance with the labelling requirements through random visits to the food and non-alcoholic drinks industries; however, the results showed that most of the industries were not fulfilling the labelling requirements established by NOM 051.

Unfortunately, full understanding of the new requirements has become an issue for many members of the food and drink industry, because the lack of clarity in the wording of the regulation makes it complicated for companies to ensure their products' labelling is in accordance to the aim of the regulation.

Considering the money and time involved when COFEPRIS decides a product that is already on shelves has to be recalled, it is most important to make sure the labelling for the products is in accordance to the official standards. However, this has turned into a headache when the word of the law is not clear.

Confusion among the food and drink industry members reached such a high level that in May 2016, during the Third National Food Assembly, COFEPRIS relayed that from the results of the random inspections it conducted at stores to verify compliance of the products, around 75% or more of the members were

at fault on at least one on the labelling regulation requirements.

For the same reason, COFEPRIS announced the implementation of the new Copy Advice System for labelling of food, non-alcoholic beverages and other pre-packed products for human consumption that are sold in Mexico, in order to support industries on the proper labelling process of these products and keep them from breaching labelling regulations.

### **Effective service**

The Copy Advice System was implemented by COFEPRIS with regard to the labelling of alcoholic beverages in 2011. According to the Mexican Health Law (MHL) and its regulations for advertising, companies must submit and obtain the corresponding authorisation for each project. Due to its effectiveness, it was decided that it should also be implemented for products covered by NOM 051.

The Copy Advice System works as a support tool for companies; it consists of a preliminary analysis carried out by COFEPRIS of the advertising or labelling of the products. In the case of food and soft drinks, this pre-analysis helps a company's counsel to ensure the understanding and interpretation of the labelling rules is accurate and therefore that the labelling designs comply with such regulations before proceeding to the manufacturing stage.

As for alcoholic beverages, it helps the companies' counsels to make sure the advertising will be approved by COFEPRIS and will get the required authorisation, which also provides an important advantage of reducing the risk of losing money in governmental fees for processing the advertising applications. Especially considering that by law every advertising project has to obtain COFEPRIS approval to be aired or published and the governmental fees can reach to US \$3,000 per draft, we can be talking about a considerable portion of the advertising budget for a company.

It is important to mention that the result of the Copy Advice analysis is non-binding and free, since it is intended to serve as an opportunity for the users to prevent further authority rejections and regulation breaches.

In the case of the Copy Advice preliminary analysis for alcoholic beverages, COFEPRIS and the company users have developed a useful experience and standard criteria to some extent, which helps the industry members, their marketing departments and counsels to have some level of certainty of what is permitted.

In these circumstances, the companies' counsels can take advantage of this Copy Advice tool to speed up the review and authorisation process for all advertising and labelling projects. It is always advisable to conduct a preliminary review of the designs before submitting them to the COFEPRIS Copy Advice service to ensure that any objections and observations that may arise are minimal or none.

From the previous favourable experience with the Copy Advice System implemented for alcoholic beverages, we believe the benefits for the food and soft drinks industry will be similar.

Daniel Sanchez is a partner at Olivares. He can be contacted at [daniel.sanchez@olivares.mx](mailto:daniel.sanchez@olivares.mx)

Victor Ramirez is an associate at Olivares. He can be contacted at [victor.ramirez@olivares.mx](mailto:victor.ramirez@olivares.mx)