



# Global Advertising Law Developments in Response to COVID-19

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# GALA

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## Argentina

On March 19, 2020 the Argentine Executive declared the Health Emergency for the COVID pandemic. Since then, there have been many new laws and regulations affecting mainly labor, health, finance, travel and transportation related matters. Even when none of them specifically refers to COVID-related marketing enforcement, it's important to point out that consumers' claims increased by 71% during the COVID mandatory lockdown, mostly concerning communication services, financial services and e-commerce sectors, as informed by the Secretariat of Domestic Trade.

## Belgium

The Belgian self-regulatory authority JEP received quite a number of consumer complaints against references to the strengthening of the immune system in ads, with or without special mentioning of the coronavirus. In view of these complaints and some promotional campaigns where mouth masks were being offered as premium with the purchase of a product, the JEP issued Specific Recommendations on 3 April 2020: (1) avoid non-relevant references to the coronavirus; (2) do not stage a behavior that disrespects or degrades the precautionary and confinement measures taken; (3) an otherwise normal campaign can become inappropriate; (4) do not profit from feelings of anxiety; and (5) make no claims on the efficacy of products specifically in preventing infection or combatting COVID-19.

## Bosnia & Herzegovina

No COVID-19 specific marketing enforcement measures have been implemented in Bosnia & Herzegovina. But, certain marketing platforms have voluntarily removed all COVID-19 related ads. The authorities have also implemented certain measures to prevent price gouging of essential products.

## Brazil

In Brazil, PROCON-SP has issued a technical note with guidelines to ease the conflicts in consumer relations, due to COVID-19, recognizing its characteristics of force majeure based on the Legislative Decree No. 6, 2020, published by the Brazilian Congress on March 20, 2020. PROCON-SP's technical note promotes measures such as converting contracted services into credit for later use and rescheduling the contracted service during the following 12 months after the termination of the decree of public calamity. Furthermore, some Brazilian cities, including Florianópolis, the capital of the state of Santa Catarina, have approved laws establishing that the public resources for advertising will be used solely for spreading public health information while the pandemic of COVID-19 in the city lasts.

## Bulgaria

After the outbreak of the COVID-19 pandemic, hand sanitizers became one of the most sought after products by consumers. Naturally, the market was flooded with such products. In April 2020, one of the most influential consumer organizations in Bulgaria, conducted tests of 21 hand sanitizers offered on the Bulgarian market (many of them placed on the market after the outbreak of the COVID-19 pandemic). The results were that only 8 out of 21 products provided adequate information about the product and its ingredients. It was further established that only 3 products comply with WHO's recommendation for disinfection

products to contain at least 70% alcohol. For the time being, the official authorities have not commented on the survey of the consumer association and have not undertaken any enforcement steps with respect to its conclusions.

## Canada

Federal regulator Health Canada ("HC") has accelerated market access for COVID-19 related drugs and medical devices, but its requirement that claims be substantiated remains unchanged. HC issued compliance letters to several retailers, naturopaths, and carrying media warning them about unproven COVID-19 claims. At issue were claims that products prevent or treat the virus, regarding disinfectant efficacy, as well as those related to the composition of personal protective equipment, such as masks and respirators. Self-regulatory body Ad Standards issued an advisory reminding industry that COVID-19 claims require substantiation, as well as prior authorization by HC in the case of regulated health products, such as natural health products, vaccines and non-prescription drugs. HC has not authorized any such claims or products for the treatment of COVID-19. Ad Standards has responded to an increased number of consumer complaints regarding unsubstantiated COVID-19 health claims and unauthorized products claims, as well as increased consumer sensitivity toward depictions of currently prohibited behavior such as scenes showing crowds of people in close proximity.

## Chile

According to the Consumer Protection Authority, up to May 2020 there has been a total of 18,007 official complaints related to the pandemic, mostly regarding tourism and transport, educational services and e-commerce. Although there has been a substantial number of new laws and regulations issued to combat the pandemic's severe consequences, they are centered in employment and economic issues. However, the discussion of a bill updating the regulation of pharmaceutical products, including its current labeling, has advanced considerably.

## China

In its first batch of sample false advertising cases for 2020 released on March 27, 2020, the State Administration for Market Regulation ("SAMR") included a case in which four advertisers were fined RMB 200,000 to RMB 300,000 for using terms such as "effectively prevent COVID-19 or coronavirus" in ads for health food, health products, oral sprays and tea. In addition, one advertiser was fined RMB 180,000 for stating that its vegetables could improve immunity. Under the February 10, 2020 Opinions on Criminal Offenses During the Period of COVID-19 Control, COVID-related false advertising can be a crime where: (1) the advertising is false, (2) relates to the prevention or control of COVID-19, (3) a large number of people were deceived, and (4) there were significant illegal gains. As an example, the SAMR included in its sample cases an instance where an advertiser's claim that its masks were of "surgical" quality was deemed a crime and was transferred to the Public Security Bureau for prosecution.

## Colombia

Any advertising promoting the benefits of any product or treatment against COVID-19 has been ordered to be taken down by the Consumer Protection Authority, given that the

Ministry of Health issued a document which clarifies that, up until now, there is no evidence to support the beneficial effects of any compound as an effective medicine to prevent its contagion or provide a safeguard for this new virus. The packaging should also contain health warnings printed in prescribed form.

## Curacao

We are not aware of any COVID-related marketing enforcement in Curacao.

## Cyprus

In Cyprus, during the COVID-19 emergency, several decrees have been issued by the Minister of Health aiming to enforce the existing consumer protection rules in relation to the maximum selling price of specific products. In particular, as per the latest decree, the maximum wholesale and retail selling price of specific products has been set. The decree lists specific antiseptic products, masks and thermometers. Moreover, the Consumer Protection Service has set out the requirements that masks should meet in order to be considered suitable for selling and use in relation to the COVID-19 emergency situation. Additionally, and in relation to package holidays which were to take place during the COVID-19 pandemic, the Consumer Protection Service suggested to all related consumers to consider the transfer or postponement of the purchased holidays via vouchers to be used in future time. It is suggested that consumers should ask travel agents to add a note on such vouchers that the option of refunding the amount of money paid in relation to the package holidays is possible in the event that such voucher is not used. Travel agents should make sure that the said vouchers are protected against insolvency of the tour operator.

## Czech Republic

A vast number of extraordinary crisis measures has been issued by the Czech authorities (mainly the Government and the Ministry of Health) during the COVID-19 pandemic; two of them were regulating the price of FFP3 respirators and the price of RT-PCR tests for SARS CoV-2. Czech Police investigated around 30 cases of spreading alarming news (the most notorious case concerned audio recording spread on social media containing fake news on possible curfew) and also published a warning regarding criminal behavior related to the coronavirus pandemic, in particular fraudulent conduct related to online shopping, offering goods via telephone, or phishing and smishing. The Czech Agriculture and Food Inspection Authority also issued several statements related to the coronavirus pandemic and its abuse by certain entities selling food supplements that these are (from the legal point of view) foodstuff and therefore they cannot in any way be attributed therapeutic or preventive effects in relation to COVID-19. Besides this, the Ministry of Industry and Trade published an information on the issue of Common position of CPC authorities regarding scams and unfair business practices on online platform in the context of the coronavirus outbreak in the EU.

## Dominican Republic

The Consumer Protection Agency took the leadership during COVID-19 in control distancing in supermarkets, pharmacies and convenience stores, price gouging, and advising on cautious shopping and even on "mental health." Just before easing the

lockdown, it gave warning to local major stores (IKEA & Centro Cuesta) to stop selling non-essentials goods through digital channels.

## Ecuador

We are not aware of any advertising enforcement related to COVID-19.

## Egypt

There have been no COVID-19 related changes in Egypt.

## El Salvador

No new regulations have been adopted by the Consejo Nacional de la Publicidad on advertising during these times of COVID-19.

## Finland

In Finland, the COVID-19 pandemic has raised questions related to appropriate marketing during the pandemic. For example, the Finnish Council of Ethics in Advertising issued a remark for a bank that had used an image of a distressed looking child as an effective means in an advertisement that also referred to the end of the world with the headline of "Will it now be the end of the world." The Council saw that during the coronavirus pandemic, the advertisement was likely to raise concerns in children and was thus against good practices. Furthermore, the Finnish Consumer Authority and the Finnish Consumers' Union have warned consumers of scams related to the COVID-19 pandemic. In this regard, the Consumer Authority and the Consumers' Union warned consumers to be particularly cautious of misleading marketing of health and natural products. During the pandemic, the Consumer Authority has already received dozens of notifications from consumers concerning such scams.

## France

During the lockdown, the French SRO has issued a public communication in order to remind the market that the general principle of social responsibility (set forth by the International Chamber of Commerce/ICC Code) must be complied with by advertisers and ad agencies; as a result, advertisers must not, during the lockdown, create an urgency feeling among consumers, nor incite them to violate lockdown rules; and so in order to stay in line with the current health public priority goal. From a practical standpoint, it means that general wordings such as "hurry up," "go fast . . . before tonight," or wording referring to very short validity periods for promotions ("today only") must not be used in ads during the lockdown. Ads for face masks are subject to very strict rules which vary depending on the type of face mask concerned; for instance, FFP2 masks, which are dedicated to health professionals, are qualified as "Individual Protection Equipment" and cannot be advertised to the public. Face masks aiming at protecting people surrounding the individual wearing the mask are deemed medical devices rated Class 1 (with a CE mark) and may be advertised to the public provided that certain conditions are met (e.g., the ad must state that the mask is a medical device, feature the name of the manufacturer, contain a reference leading to the mask's instructions of use, etc.).

## Greece

Several Greek regulators have taken action to address bad practices in COVID-19 related advertising. For example, the

Hellenic Food Authority announced that the advertisements which imply that food may contribute in any way to the prevention or treatment of viral infections are prohibited. In addition, the National Council for Radio and Television has started proceedings against three TV stations because they falsely advertised a hand cream which was supposed to protect from COVID-19.

## Honduras

The Honduran Government imposed in mid-March restrictions in an attempt to prevent the spread of COVID-19, which include amongst others, having established a curfew. Some of the measures adopted by the government include the suspension of deadlines and interruption of limitation periods imposed by the statute or governmental institutions, including public courts, and authorizing employers to suspend existing labor contracts with employees during the COVID-19 pandemic.

## Hong Kong

We are not aware of any advertising enforcement related to COVID-19.

## Hungary

The Hungarian Competition Authority (HCA), as coordinated by the European Commission, has been screening a number of websites with the aim of finding out where consumers in Hungary are being subjected to content promoting false claims or scam products in the context of the coronavirus. The sweep – carried out by the HCA as a member of the Consumer Protection Cooperation (CPC) Network – consisted of two parts: a high-level screening of online platforms and an in-depth analysis of specific advertisements and websites linked to products in high demand because of the coronavirus. As a result, the HCA initiated investigations in connection with claims formulated regarding disinfectant products emphasizing that consumers are in particular vulnerable with respect to such claims as a result of the current pandemic.

## India

The Government of India has issued instructions to all Central and State/Union Territory Government Authorities to take effective measures including making of false claim as punishable offence, so as to prevent the spread of COVID-19 in the country. Ministry of Ayurveda, Yoga & Naturopathy, Unani, Siddha and Homoeopathy (AYUSH) has also directed to all concerned Authorities to stop and prevent publicity and advertising of AYUSH-related claims for COVID-19 treatment in print, TV and electronic media. The Government has also made an effort to regulate the production and price of essential commodities.

## Ireland

The Advertising Standards Authority for Ireland (ASAI) has issued a guidance note to advertisers that any claims being made for products and services referring to COVID-19 should be adequately substantiated. This was due to the fact that it has received complaints about a number of advertisements for products and services relating to COVID-19 on the grounds that they are misleading. Advertisers were reminded to avoid claims that undermine public health advice or exploit people's anxieties. The CEO of the ASAI stated, "No advert should be irresponsible or exploit consumer fears regarding the current

crisis. Advertisers are therefore advised to think twice before making any claims about how to prevent or cure COVID-19 unless the claims can be supported by robust evidence.

## Israel

The Israel Consumer Protection and Fair Trade Authority warned the Israeli public against purchasing "wonder drugs" which claim to cure and treat COVID-19. The authority warned that making false claims relating to such products is considered "misleading consumers," an act which is clearly prohibited by the Consumer Protection Law.

## Italy

In Italy, during the COVID-19 emergency, the advertising authorities have significantly enforced the existing consumer protection rules. The Italian Competition Authority has enforced the Consumer Code's provisions on unfair commercial practices, while the Italian Advertising Self-Regulatory Body has enforced its Code of Marketing Communication Self-Regulation. The main practices addressed by the authorities have involved: (i) the commercialization of products (e.g. food supplements and medical products) falsely claiming beneficial effects in connection with COVID-19's prevention, diagnosis and cure, (ii) price gouging, mostly on masks and (iii) aggressive/misleading practices carried out on fundraising platforms. The authorities have considered these practices to be extremely serious also in view of the professionals' exploitation of the health emergency as well as of the alteration of the consumers' judgement and several interim measures have been adopted on an urgent basis.

## Japan

There is no specific enforcement under COVID-19 in Japan. Commercial advertisements have decreased and advertising on social issues (such as "Stay Home," "Wash Your Hands," and "Thanks for Medical Professionals") by Advertising Council Japan (AC Japan) have increased. In addition, the Japanese government has produced and broadcasted advertising encouraging to take measures against COVID-19 on TV and the Internet in order to prevent the spread of the infection. The Ministry of Internal Affairs and Communications requested industry associations related to digital signage (i.e. Digital Signage Consortium and Japan Public Viewing Association) to cooperate in distributing the above advertising in digital signage system managed by each member of the associations.

## Malaysia

We are not aware of any advertising enforcement related to COVID-19.

## Mexico

Even though Mexico does not have specific COVID-19 advertising guidelines, penalties for false or misleading advertising in health matters are significantly severe. The Federal Commission for Protection against Sanitary Risk (COFEPRIS) and The Federal Consumer Protection Office (PROFECO) work together to prevent false or misleading advertising in medical devices, medicines, dietary supplements or food complements matter.

## Netherlands

The Dutch self-regulatory body (the Advertising Code Committee, ACC) supports ICAS' and EASA's joint statement on

responsible advertising during the COVID crisis. The ACC has received multiple complaints about advertisements for products that bear names such as "Anti-Corona smoothie" or are otherwise marketed to help against COVID-19 because of the product's alleged immunity boosting effects. The Netherlands Food and Consumer Product Safety Authority (NVWA) also keeps a close eye on COVID-19 claims and can impose fines of up to EUR 150,000.

## New Zealand

While there have been no changes to advertising legislation or codes as a result of the COVID-19 pandemic, New Zealand's Advertising Standards Authority, the industry organization responsible for the self-regulation of advertising content and placement across all media in New Zealand, has emphasized that particular care should be taken in the current context to ensure advertising is socially responsible and protects consumers from undue fear or confusion. Given the significant impact of the virus both in New Zealand and globally, advertisements making reference to the COVID-19 virus or pandemic in order to promote products or services may be viewed as insensitive and socially irresponsible. Only advertisements for certain products and services are able to make claims in relation to the testing, diagnosis, prevention, treatment or cure of COVID-19 and must be able to be substantiated by the advertiser.

## Nicaragua

We are not aware of any advertising enforcement related to COVID-19.

## Nigeria

The outbreak of the COVID-19 pandemic has adversely affected the Nigerian business scene as it has no doubt affected the world at large. Movement has been restricted, borders and other entry points have been closed. Businesses and government offices not designated as essential are not permitted to operate, court sittings have been stopped for the time being, social gatherings have been banned, interstate travel has also been restricted, and curfews imposed. These situational responses affect businesses including in their interactions with their relevant regulators. We have begun to see a rise in illegal practices such as an increased availability of fake and standard items like hand sanitizers, nose masks and PPE on the market. Hoarding of goods, and price inflation for essential goods and services has become rampant. With movement restrictions in place, and as communication has shifted to the online space, it has become increasingly difficult to physically check the actions of these unscrupulous individuals through direct market enforcement. However, the federal and states governments have issued regulations prohibiting some of these breaches, and the courts have also issued regulations and practice directions to guide enforcement proceedings in line with the Quarantine Act and other state laws.

## Paraguay

With respect to the COVID-related marketing enforcement in Paraguay, there have been no updates with respect to legislation nor any jurisprudence worth mentioning. However, what we have seen is a change in the marketing promoted by businesses. In this sense, to date, most businesses, both companies that manufacture, offer and sell indispensable products (foodstuffs, cleaning products), as well as companies

from sectors that are currently not yet open or available to work, promote their products/services or advertise in a manner that create an awareness in consumers as to the COVID-19 situation and the importance of lifestyle changes, social distancing and staying at home. Phrases/hashtags such as #quedateentucasa#, #NOSVEMOSPRONTO#, #NOSVOLVEREMOSAENCONTRAR#, and similar messages are seen all around the social networks as well as TV and radio advertisements. There has been enormous support by the companies as to the measures established by the national government in order to face the pandemic and diminish as much as possible the rate of infected people.

Companies and individuals offering and selling products and services have also been posting advertisements related to the health measures that need be undertaken by the population in order to avoid the risk of infection by COVID-19. And there has been a change in the manner of advertising. To date, all publicity and advertisements are mostly performed via the social networks (this is a tendency that Paraguay had already started before the COVID-19 pandemic, but has been accentuated throughout the past few months, as of March, 2020).

## Peru

During the pandemic, the Peruvian Unfair Competition Office has initiated approximately 300 investigations related to COVID-19. As a result of those investigations, more than 150 advertisements were removed. Many of these advertisements were related to products offering COVID-19 cures, such as vitamins.

## Poland

No specific regulation on advertising and promotion has been implemented due to the coronavirus outbreak. However, there is a total ban on activities connected with the organization, promotion or management of events such as fairs, exhibitions, congresses, conferences, meetings and collective forms of culture and entertainment (with some exceptions). Therefore, the companies had to stop marketing activities related to such events. According to the information provided by the Polish government, since the beginning of June 2020, the organization of some events shall be allowed under certain conditions. Moreover, many companies in Poland are modifying marketing activities to ensure that brand communication is appropriate to the current situation. The marketing communication nowadays aims to support healthcare and preventive measures (for example using the popular hashtag #stayathome).

## Portugal

In Portugal, no specific legislative measures related to COVID-19 advertisement enforcement were adopted. Nevertheless, the Consumer General Directorate ("DGC"), in joint cooperation with the Advertising Self-Regulating Entity ("ARP"), issued a number of recommendations to economic operators regarding their advertising communications before the current public health crisis. According to those, there is a need to combine efforts to remind all professionals that advertising cannot falsely claim that a good or service is capable of curing or helping to prevent COVID-19, otherwise it would be considered a misleading practice under current legislation. Furthermore, those same entities have also raised awareness and alerted consumers to the misleading advertising of cleaning products, sanitizers or protective masks since they have

been claimed to have characteristics or results that actually they do not possess.

## Romania

In these times of uncertainty, media, marketing and advertising were given the opportunity to become, more than ever, a crucial source of information and instruction. Many advertorial messages revolve around social and civic responsibility, aiming to promote social distancing, as advised by the relevant Romanian authorities. However, at the beginning of the COVID-19 crisis, some of the market players used the situation as means to increase their profitability by taking advantage of the consumers' natural anxiety. In this respect, one of the competent Romanian bodies that ensures faithful communication with the consumer - The National Audio-visual Council ("NAC") - has been rather busy in this time of crisis, sanctioning various entities and radio and TV stations for spreading communications that aim to exploit the consumers' anxiety in the context of the pandemic. The NAC made sure that the provisions of the Code for the Regulation of Audio-visual Content are fully complied with, emphasizing the importance of a transparent and panic-free communication with the consumers, in this delicate context. Correspondingly, another Romanian body - the National Authority for Management and Regulation in Communications of Romania (ANCOM) and its collaborative bodies has also went through a busy period, by taking down websites that promote fake news related to the COVID-19 pandemic.

## Russia

The Russian Federal Antimonopoly Service and its regional offices (FAS) scrutinize the advertising of medicines related to the therapeutic efficacy against COVID-19. In the absence of the respective information in the medicines' package leaflets, such statements contradict the advertising law. In particular, in February and March 2020, FAS found violations in the advertisements of the medicines Remantadin and Arbidol stating that the said medicines had therapeutic efficacy against coronavirus (Remantadin) and 2019-nCoV (COVID-19) (Arbidol). In the case of Remantadin an advertiser removed the advertisement promptly and voluntarily; in the case of Arbidol – FAS issued an order to stop the violation. Besides, in April 2020, FAS found a violation in a letter addressed to medical organizations and published on a publicly available website, where it was stated that the medicine Allokin-alfa had therapeutic efficacy against COVID-19. However, it was not proven by the medicine's package leaflet or clinical study. FAS issued an order to stop the violation. Thus, taking into account the scrutiny of FAS, pharmaceutical companies should be more careful while advertising or promoting medicines, particularly, as a treatment of COVID-19.

## Serbia

Serbian authorities declared a state of emergency on 15 March 2020 and adopted a series of decrees and orders aiming to contain the COVID-19 pandemic and protect those affected. A Decree on the application of deadlines in administrative proceedings during the state of emergency (Official Gazette of the Republic of Serbia, Nos. 41/2020 and 43/2020) allowed for a risk free non-compliance with procedural deadlines expiring during the state of emergency, for the duration of the state of emergency and in certain cases for the additional fifteen days after its lifting. The state of emergency

finally ended on 6 May 2020. On the other hand, regulators remained active and even stricter than usual. The Regulatory Authority for Electronic Media, Serbian national broadcasting regulator and a body responsible for enforcement when it comes to television advertising, showed its zeal late in April by warning broadcasters not to air a beer commercial for "Zaječarsko pivo" (a local beer brand), produced for the Serbian subsidiary of Heineken International. The authority considered the commercial containing the following voice-over: "Let's salute to all of us, since joined together we have shown our courage and humanity. Let's salute with Zaječarsko pivo, we have deserved it", accompanied by images of applauding police officers and medical professionals wearing face masks together with beer toasting images, to contravene a provision of the Serbian Advertising Law prohibiting television advertising for alcoholic beverages to create impression that the consumption of alcohol contributes towards social success. Broadcasters complied with the warning.

## Singapore

Advertisers are required to: put out messages that contribute positively to the Singapore Government's management of the crisis; ensure that the terms and conditions of promotions are indicated in the advertisement in a transparent manner; use only honest and truthful claims about products and services that are capable of robust substantiation; avoid spreading misinformation that originates from sources that are not reliable; check and comply with the Singapore Code of Advertising Practice, the Health Sciences Authority's Advisory on products claiming to prevent or treat COVID-19, and all the relevant national legislation.

## South Africa

With the national state of disaster being declared in mid-March in South Africa, the Disaster Management Act (DMA) of 2002 was resurrected and a number of regulations were passed to control not only the movement of people during the national lockdown that was declared from 27 March 2020 but also to restrict the sale of certain goods. More specifically, the regulations under that Act prohibited the sale of alcohol, tobacco products and all restaurant, fast food and ready prepared fresh food delivery services. Although alcohol could not be purchased during the lockdown period, manufacturers of alcoholic beverages could still advertise their products. Of particular interest is that many producers of alcoholic beverages turned their alcohol into sanitising products for general use by the public. The Regulations under the DMA were also serious about combatting the spread of any fake news about the corona virus and COVID-19 and there has already been one well reported instance of a criminal prosecution against a person who spread fake news about the contamination of COVID-19 tests on social media. A website has been set up to handle all fake news claims about the virus. The attempts by a local discount pharmacy chain to elevate the price of certain PPE and related products has also been challenged and the South African Competition Commission is investigating a number of cases regarding price gouging of PPE.

## Spain

The advertising activity has been restricted only in one area of commerce, namely, on-line gambling. The confinement caused a notable increase of ads attracting people to gamble, some of them promising fun and easy revenues in poker games,

lotteries, etc., during quarantine. The government considered that consumers should be protected from the risk of becoming addicted to gambling, and decided to limit this kind of advertising to late night (from 01:00 a.m. to 05:00 a.m.). During the first phases of the re-opening period, the government has also prohibited for street shops all kind of sales, discounts, special offers or price reductions, in order to avoid crowds. On-line commerce is not affected by this limitation.

## Sweden

In regards to adaptations in statutory law, the Swedish government has proposed a temporary regulation with the purpose of enhancing the protection of gamblers due to changes in their gambling behavior following the epidemic. Further, supervisory agencies have engaged in marketing enforcement activities. For instance, the Swedish Medical Products Agency has prohibited the marketing of certain self-test kits. Another example is the filing of a law suit by the Swedish Consumer Agency challenging a reputable influencer's marketing claims that use of a certain fish oil could be protection against the COVID-19 virus.

## Switzerland

As the COVID-19 crisis largely affects the healthcare sector, enforcement of marketing related healthcare regulations by Swissmedic, the Swiss agency for Therapeutic Products, are worth noticing, including the issuance of licenses for the authorization for the temporary import and distribution of human medicines, exemptions for the marketing of important, non-conforming medical devices, warning notices about illegal medicinal products from the internet and false claims of curative properties, and warnings about non-conforming face masks.

## Turkey

The Advertisement Board played major role in COVID-related marketing enforcement actions within the recent couple of months. Administrative sanctions, including considerable monetary fines, are imposed against entities unfairly increasing the price of masks, sanitizer, wet wipes, and food due to the fact that these acts are considered within the scope of unfair commercial practices. Ads for some food supplements which claimed to prevent or cure coronavirus and made false health claims, including ones that some celebrities and influencers ran on their social media pages, were also sanctioned and ceased.

## United Arab Emirates

The United Arab Emirates has passed Cabinet Resolution No. 24 of 2020 Concerning the Publishing and Exchange of Health Information about Communicable Diseases and Epidemics and Incorrect Information Relevant to Human Health. From a consumer perspective, there are two key provisions to consider. Article 2 requires, "every natural or legal person" who is aware of a case to inform the relevant Ministry. In addition, while Article 3 allows certain authorities to publish health information, Article 4 applies some restrictions on consumers wishing to do the same. It prohibits a person from doing any of the following: "publish, re-publish or circulate information or health guidelines that are lying, misleading, false, unofficially announced or unapproved by the Ministry or health authority, or that violate what has been announced through any printed, radio or video media, social networks,

websites, IT technology or other means of publishing or circulation." The wording is broad. In practice, this can be seen as an extension to various rules that already exist in relation to the spread of "fake news," however the application to the current epidemic, with such specific words, cannot be ignored. The authorities have prosecuted under the old law, using Article 198 of the Penal Code ("...shall be sentenced to detention, whoever deliberately diffuses false or tendentious news, information or rumours, or spreads provocative propaganda should it lead to disturbance of public security, cause panic among people or be prejudicial to the public interest"). An example was the use of this provision to prosecute a man who distributed an image of a man sprawled on the pavement, claiming this was a COVID-19 victim, when in fact it was a man having an epileptic seizure. The new law specifically allows for prosecution beyond just "fake news" such as the above. It allows the authorities to prosecute authors of unverified material like social media posts that promote or sell natural remedies for treating the virus. The government has been diligent in discussing the new law and this additional exposure to the law should, we hope, deter the public from dipping into the activity of promoting controversial and untested remedies.

## United Kingdom

The response of the UK's regulators of advertising and marketing has so far relied on the self-regulatory organization, the Advertising Standards Authority (ASA), acting on advice from the relevant medicine regulator and public health authority. In response to the government's call for "Regulatory Forbearance," the ASA has temporarily modified its prioritization principles to focus on ads that grossly undermine public health advice or that seriously misjudge public and minority group sensitivities. At the same time, the ASA will tread lightly in relation to more innocent, technical breaches of the CAP Code, such as advertising for products that become unavailable because of the COVID-19 pandemic. The ASA has also created a simplified system for consumer complaints about misleading or irresponsible ads that relate to COVID-19 which allow them to take action more quickly, without the usual protracted dialogue with the advertiser and complainant. Four areas have been singled out for particular scrutiny: food and food supplements; alternative and complementary therapies; medicines and medical devices; and the use of fear and distress in advertising, as well as social responsibility. Early ASA Rulings banning ads have focused on ads for face masks which either relied on fear and distress, or made claims for the use of prevention of COVID-19 which were inconsistent with advice from Public Health England. More recently, the ASA banned a series of ads for IV drips, mainly containing vitamins in a saline solution, which claimed to prevent COVID-19, and therefore made unauthorized medicinal claims. These were banned following consultation by the ASA with the Medicines and Healthcare products Regulatory Agency, and the two organizations have now issued a so-called Enforcement Notice, telling the market about the relevant rules, and calling on advertisers to get their house in order, or face the consequences of an investigation by the ASA.

## United States

In the United States, there has been aggressive enforcement of coronavirus-related advertising at the federal, state, and local level. Consumer protection authorities are enforcing both

general consumer protection laws as well as rules that govern times of emergency. There has been a significant amount of enforcement of state and local price gouging laws. For example, the Texas Attorney general sued the nation's largest egg producer for price gouging. There has been some enforcement and other litigation related to businesses not giving consumers refunds for products and services not provided as a result of the coronavirus crisis. Regulators across the country have also been aggressively prosecuting marketers – at an almost unheard of pace – for selling products that falsely claim to be able to prevent or treat the coronavirus. Government enforcement has also focused on advertisers whose aggressive marketing may have crossed the line. Regulators have repeatedly warned marketers that they must have competent and reliable scientific evidence before making any claims related to the prevention or treatment of the coronavirus. The Florida Attorney General is investigating Norwegian Cruise Lines over its coronavirus-related marketing practices. The Florida Attorney General also sued an advertising agency, alleging that the agency deceived consumers with a coronavirus relief promotion. Finally, social media and other platforms have updated their advertising policies to prohibit or restrict coronavirus-related marketing.

## Ukraine

No guidance regarding running an advertising campaign during the COVID-19 outbreak in Ukraine was issued by Ukrainian advertising regulators. Nevertheless, one of the regulators, the Antimonopoly Committee of Ukraine issued a statement dated 31 March 2020 and warned pharmaceutical manufacturers and distributors, advertising agencies, and television channels against advertising any medications as treatment for COVID-19. Given that no medicine has yet demonstrated efficacy in treating COVID-19 so far, such advertising is considered as misleading.

## Uruguay

No specific advertising regulations have been implemented due to the pandemic. Connected with marketing activities, the authorities have implemented certain measures to prevent price gouging of essential products.

## Venezuela

Marketing regulation in Venezuela has been characterized for years by its volatility and uncertainty. Furthermore, companies have had to face a regulated growth environment. Regulation has been based on the intervention of the state to control the actions of private companies, with a view to defining what they can do and how certain activities should be carried out. The current situation, it is not the exception, since the Executive Branch has published Covid-related enforcement to specific sectors or goods. First, the prices of 27 basic products were set in dollars. This tries to force companies to set prices at a predetermined level, which is usually below the prices that would spontaneously deprive that market. With the setting of maximum prices and the introduction of exchange controls they generate similar effects, formation of a gap between limited supply and increasing demand, emergence of black or parallel markets in response to the scarcity generated. These are all symptoms of regulation that puts high demand running behind few goods and services. On the other hand, there is an exemption from the payment of Value Added Tax, Import Tax and Rate for determination of the customs regime to import of some medical supplies carried out by the Entities of the National Public Administration, intended to prevent the spread of the Coronavirus pandemic. Finally, DirecTV, the company with more than 40% of the subscription television service in Venezuela and with the highest penetration in popular areas, on May 19, 2020 stopped offering its services in the country. The retreat of DirecTV from Venezuela means a loss for Venezuelans in terms of telecommunications services, facing the crisis and the pandemic by COVID-19. DirecTV, owned by AT&T, was forced to close its pay TV operations in Venezuela, as it was unable to meet the demands of the sanctions imposed by the United States to continue carrying Globovision, a private network, sanctioned by the U.S., and channels of PDVSA, a state company, directly sanctioned by OFAC.

*For more information about advertising law around the globe, GALA recently released the Second Edition of Advertising Law: A Global Legal Perspective which is a detailed report on advertising law in more than 65 countries. The book can be purchased on Amazon.com or contact GALA for an electronic version.*

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