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Report Name: Mexico Releases the Decree that Modifies the Regulations for Sanitary Control and the General Health Law on Advertising

Country: Mexico

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Report Category: Agricultural Situation, Agriculture in the News, Agriculture in the Economy, National Plan, Policy and Program Announcements

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Report Highlights:

On September 8, 2022, Mexico published in the Federal Registry the Decree that amends, adds, and repeals several provisions of the Regulation of Sanitary Control of Products and Services and the Regulation of the General Health Law regarding Advertising. The changes in advertising adhere to the reforms to various articles of the General Health Law in terms of overweight, obesity, and labeling of processed foods and non-alcoholic beverages and how companies will need to request authorization from the Mexican authorities to advertise their products. This report contains a courtesy translation of the Decree.

Background

On October 1, 2019, the Health Commission of the Mexico House of Representatives voted on the amendments to the General Health Law, including amendments to article 212, the Regulation of Sanitary Control of Products and Services, and the Regulation of the General Health Law regarding Advertising.

On May 27, 2020, Mexico published in the Federal Registry the Amendments of Mexican Official Standard NOM-051 (Front of Pack Labeling). The publication mentions the correlation between the declaration of critical nutrients on the Front of Pack Labeling and the amendments to the General Health Law regarding Advertising, which intends to have an integral regulation between what is sold at stores and what is advertised in the media.

On July 1, 2020 the Quality Infrastructure Law was published in the Federal Registry. This law seeks the participation of the public, social, and private sectors in the development and enforcement of the Mexican Official Standards (NOM for its abbreviation in Spanish) and regulations. This law was created within the framework of the United States-Mexico-Canada Agreement as part of Mexico's improvement process in terms of quality and competitiveness.

As part of the Quality Infrastructure Law, on February 25, 2021, the National Quality Infrastructure Program 2021 was created with the objective to plan, conduct, coordinate, and inform the activities, normalization, standardization, and metrology at national level.

Main Aspects of the Decree

The following is a courtesy translation of the decree. The original version in Spanish is available at the following [link](#)

ARTICLE ONE. Articles 2, section VIII Bis; 9, section IV; 13; 15; 25, section VI and second paragraph; 25 Bis, and 160, section II are hereby amended; Articles 2, with sections VIII Bis 1; VIII Bis 2; XI Bis 1; 11 Bis; 25, with a last paragraph, are added; 25 Bis 1; 25 Bis 2; 25 Bis 3 and 25 Bis 4, and repeal section IX Bis of article 2, the third and fourth paragraphs of article 25 and the second paragraph of article 210 of the Regulation on Sanitary Control of Products and Services, to read as follows:

ARTICLE TWO...

I. to VIII. ...

VIII Bis. Critical nutrients, those nutrients that when ingested above the nutritional reference values are considered as risk factors associated with non-communicable diseases; these are: free sugars, saturated fats, trans fats and sodium.

VIII Bis 1. Portion, quantity of product suggested to be consumed or generally consumed in an ingestion, expressed in units of measurement of the General System of Units of Measurement.
VIII Bis 2. Pre-packaged or packaged, the placing of products in a container of any nature, in the absence of the consumer, which allows that the quantity of product contained therein cannot be altered, unless the container is opened or perceptibly modified.

IX...

IX Bis. Repealed

X. to XI Bis. ...

XI Bis 1. Front of Pack labeling system, information system located on the main display surface, which warns in a truthful, direct, clear, simple, and visible manner, when a prepackaged product has a content in excess of energy, critical nutrients and ingredients that represent a health risk in excessive consumption, in accordance with the corresponding standard.

XII. ...

ARTICLE NINE. ...

I. to III. ...

IV. Physical, chemical, nutritional, and biological characteristics, if applicable.

ARTICLE 11 Bis. Those products in which, according to the corresponding standards, their components, raw materials, ingredients, and additives, may represent a mediate or immediate risk for the health of consumers, either by ingestion, application, or handling of the product, shall warn of their presence on the label, through the necessary precautionary legends.

ARTICLE 13. For sanitary control purposes of the products and raw materials, the Health Secretariat, may request in writing from the interested parties the biological, chemical, physical, and nutritional specifications of the products and raw materials, as well as the general techniques of the process, which may be corroborated by the Secretariat itself, which shall guarantee the confidentiality of the data.

ARTICLE 15. The standards shall establish the microbiological, toxicological, nutritional or health risk specifications of the products, as well as the sanitary production techniques to ensure such specifications and the corresponding sampling, testing, and analysis methods.

ARTICLE 25. ...

I. to V. ...

VI. Nutritional labeling.

VII. to XI. ...

The standards corresponding to each type of product shall determine the general sanitary information to be contained in the label or the specific information when, due to the size of the package or container or the conditions of the process or any other condition, not all the required information may appear.

Third paragraph repealed.

Fourth paragraph repealed.

...

The information contained in the label must be truthful and must be described and presented in such a way as not to mislead the consumer as to its nature.

ARTICLE 25 Bis. The labeling of prepackaged food and non-alcoholic beverages, in addition to what is indicated in the previous article, shall include the front of pack labeling system as established in the corresponding standard and shall not use any other.

ARTICLE 25 Bis 1. The label of prepackaged food and non-alcoholic beverages that include one or more elements of the front of pack labeling system, as established in the corresponding standard, must not contain children's characters, animations, cartoons, celebrities, athletes or mascots, interactive elements, such as visual-spatial games or digital downloads, aimed at girls and/or boys that incite, promote or encourage their consumption, purchase or choice; nor make reference to foreign elements for the same purpose.

ARTICLE 25 Bis 2. The Health Secretariat, in coordination with research and higher education institutions, both public and private, shall establish the portions and the unit of measurement for food and non-alcoholic beverages to be taken as a reference, which shall be published in the Federal Registry and permanently updated by the Secretariat itself or at the request of the interested parties.

ARTICLE 25 Bis 3. The Health Secretariat, by means of the corresponding norms, shall determine those additives, ingredients, or substances that, present in the products or at certain levels, may generate a health risk, in which case the products containing them shall include a precautionary legend on their consumption, with particular emphasis on products aimed at children.

ARTICLE 25 Bis 4. In the case of prepackaged foods and non-alcoholic beverages that, in accordance with Article 32 of the Federal Consumer Protection Law, may include graphic or textual elements that indicate that these products have been recommended or recognized by societies or professional associations, they may only do so when they do not present an excessive content of energy or critical nutrients in accordance with the corresponding standard, and must specify the target population and its specific health condition to which the consumption of these

products is directed. The above will not be applicable to conditional claims in terms of the corresponding standard.

ARTICLE 160. ...

I. ...

II. With lower content or elimination of some nutrients such as fat, gluten, lactose, and others indicated in the corresponding standards,

III. ...

ARTICLE 210. ...

Second paragraph repealed.

ARTICLE TWO. - Articles 22 Bis; 79, section X and 80, sections VI and VII are hereby amended; Articles 6, with section I Bis; 24 Bis and 80, with section VIII, are hereby added, and section VI of Article 86 of the Regulations of the General Health Law on Advertising is hereby repealed, to read as follows:

ARTICLE 6. ...

I. ...

I Bis. Include seals or legends of recommendation or recognition by professional organizations or associations in those foods and non-alcoholic beverages that, according to the corresponding standard, must include on their label one or more seals of excess energy or critical nutrients.

II. ...

III. ...

ARTICLE 22 Bis. Advertising on open television, restricted television, movie theaters, internet and other digital platforms, about the existence, quality and characteristics of food and non-alcoholic beverages, as well as to promote their use, sale or consumption directly or indirectly, when the label of such products includes the front of pack labeling system, according to the corresponding standard, shall be subject to a permit from the Health Secretariat, granted through the Federal Commission for the Protection against Sanitary Risks (COFEPRIS).

For the purposes of the provisions of the preceding paragraph, the Federal Commission for the Protection against Health Risks, through Guidelines to be published in the Federal Registry, will establish the advertising requirements and procedures that food and non-alcoholic beverages must comply with to advertise on open television, restricted television, movie theaters, internet and other digital platforms, as well as the conditions for granting the permit provided in the

preceding paragraph, which must adhere to the principle of the best interest of the childhood, contemplated in Article 4 of the Political Constitution of the United Mexican States.

The advertising of food and non-alcoholic beverages, including that of products that conform to the guidelines referred to in the preceding paragraph, must comply with the provisions of Article 22 of these Regulations.

For purposes of the foregoing, the Health Secretariat will have up to twenty working days to resolve the request.

ARTICLE 24 Bis. The advertising of pre-packaged food and non-alcoholic beverages whose label includes one or more elements of the front of pack labeling system, in accordance with the corresponding regulations, shall not include children's characters, animations, cartoons, celebrities, athletes or mascots, interactive elements, such as visual-spatial games or digital downloads, aimed at girls and/or boys that incite, promote, or encourage the consumption, purchase or choice of such products.

ARTICLE 79. ...

I. to IX. ...

X. Food and non-alcoholic beverages that are broadcast on open television, restricted television, movie theaters, internet, and other digital platforms, when such products do not comply with the guidelines referred to in the second paragraph of Article 22 Bis of these Regulations.

...
...
...

ARTICLE 80. ...

I. to V. ...

VI. Documentation supporting the claims made in the advertisement.

VII. The sanitary authorization of the product and its authorized label, in the case of health supplies; and

VIII. The product label, in the case of prepackaged food and non-alcoholic beverages, and food supplements.

...
...
...

ARTICLE 86...

I. to V. ...

VI. Repealed.

TRANSITORY ARTICLES

FIRST. - This Decree shall enter into force on the day following its publication in the Federal Registry, with the exception set forth in the following transitory provision.

SECOND. - Article Two of this Decree shall enter into force 180 calendar days after its publication in the Federal Registry.

THIRD. - The Federal Commission for the Protection against Sanitary Risks shall carry out within ninety days after the publication of this Decree, the corresponding adjustments to the Guidelines referred to in Article 22 Bis of the Regulations of the General Health Law on Advertising referred to in Article Two of this Decree.

FOURTH.- The Agreement by which the Guidelines referred to in Article 25 of the Regulations for the Sanitary Control of Products and Services to be observed by producers of prepackaged food and non-alcoholic beverages are issued for the purposes of the information they must display in the front display area, as well as the criteria and characteristics for obtaining and using the nutritional label referred to in Article 25 Bis of the Regulations for the Sanitary Control of Products and Services, published in the Federal Registry on April 15, 2014, is hereby repealed.

FIFTH: The regulatory and administrative provisions in force, which do not oppose this Decree, shall remain in force.

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Attachments:

No Attachments.