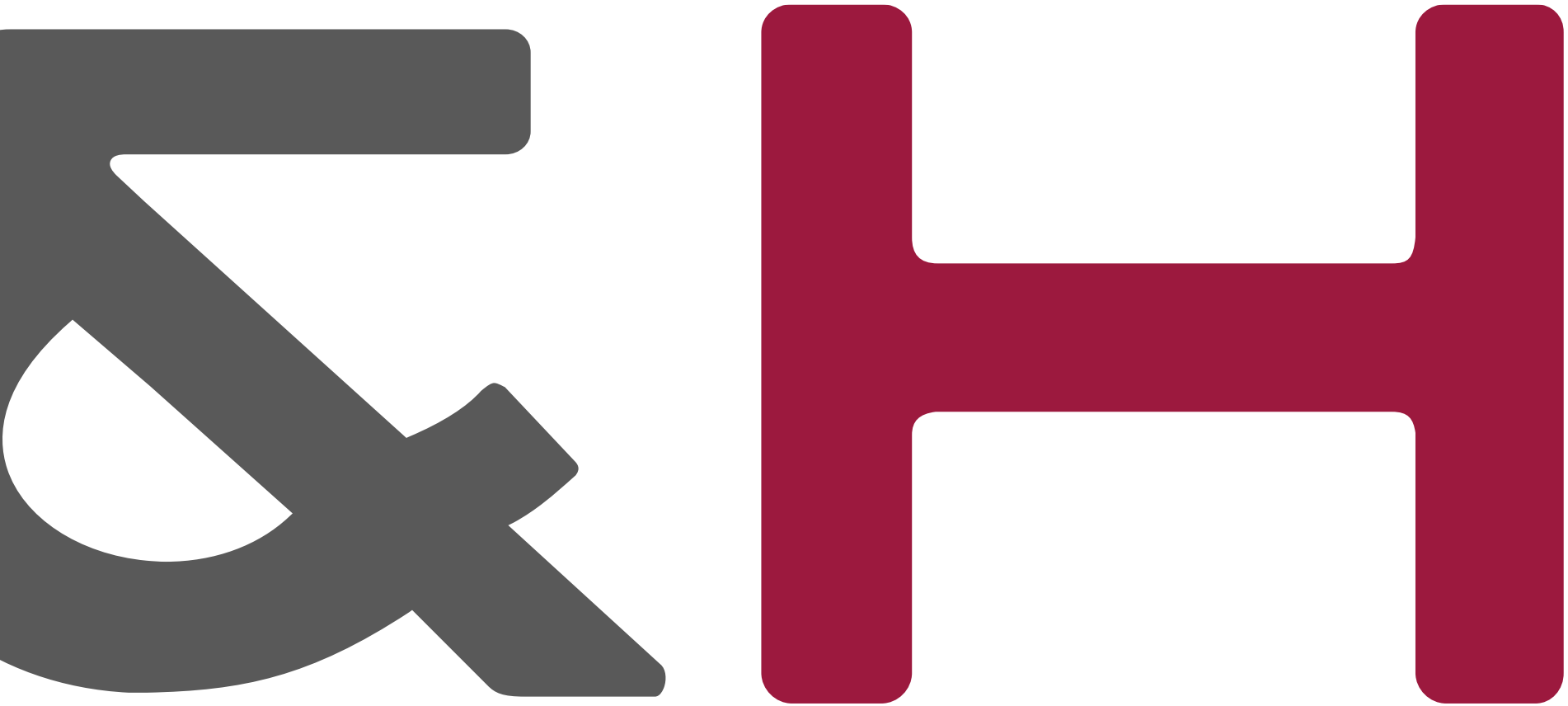

H&H NEWS – January 2020

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NEW LEGAL FRAMEWORK REGARDING ABUSE OF ALCOHOLIC BEVERAGES

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New legal framework regarding abuse of alcoholic beverages in Uruguay

- On January 10th, the Executive has published Act No. 19,855 (hereinafter the "Law") enacted on December 23rd, which aims to prevent the damages associated with the abuse of alcoholic beverages.

- The Act intends to fight against alcohol abuse but preserving the industry.

- The Act creates a regulatory framework that deals both with the abuse of alcohol and its social and health consequences.

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Public Policy & General Interest

- This Act is passed in the context of a national policy on alcohol use that intends to prevent and manage risks, to reduce damages and to treat negative social and health consequences related to its abuse.

- Hence, the Act expressly sets forth that its provisions are of public policy (*orden público)* which means that parties cannot agree conditions other than those of the legal text. Otherwise, conditions will be considered as null.

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Scope of the Act

- Activities included: the activities included under the scope of this Act are: distribution, commercialization, sale, offer or suppling, promotion, sponsoring or advertising on alcoholic beverages.

- Products included: the Act defines and regulates different products:

i. Alcoholic beverages: are defined as those products whose alcoholic gradation is equal to or superior to 0.5% of its volume.
ii. Low alcoholic drinks: are defined as those products whose alcoholic gradation is equal or superior to 0,1% of its volume and lower than 0,5%.
iii. Non – alcoholic beverages: are defined as those products whose alcoholic gradation is lower than 0,1%.
iv. Human use of alcohol: ethyl alcohol obtained by the distillation and rectification.

- Exclusions: There are some products excluded from the regime of the Act, *i.e.*: pharmaceutical preparations and syrups as long as they are elaborated for medical purposes and authorized by the authorities.

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Competent authorities

- The Act appoints two governmental agencies to deal with this matter:

a) The Ministry of Public Health: The impact on public health, which may lead to abuse of alcohol is part of the scope of this Agency.
b) National Drug Board: It designs and coordinates public politics related to alcoholic beverages.

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Main Regulatory News

1) Creation of a Registry of sellers of alcoholic beverages and related activities

- This registry becomes mandatory for any person or company that performs distribution, marketing, sale, or offers or supplies alcoholic beverages to adults (people over eighteen), since sale to minors is prohibited by law.

- In addition to the mentioned Registry, an authorization shall be obtained which is granted by the Ministry of Public Health.

2) Prohibition of conducting contests, tournaments or public events

- The Act sets forth a generic prohibition for those organizing contests, tournaments or public events, pursuing or not a profit, as long as they promote alcoholic beverages.

- Tasting or sampling modalities are excluded from the mentioned prohibition.

- Regarding public events, even if the main purpose of the activity does not intend to promote the alcoholic beverages, as long as in the course of the activity alcohol beverages are supplied, access to water dispensers shall be guaranteed and they shall be located in visible and hygienic places. Also, there shall be a relation between the availability of drinkable water and the number of people attending the event.

3) Preventive measures

- Any premises authorized for the sale, offer or supply of alcoholic beverages that has an area equal or superior to 100 m2, shall have alcoholic beverages in a specific and different place from those drinks that do not contain alcohol.

- Regulation by the Executive would be issued in the upcoming months (probably in April), it would provide more details on the conditions for selling alcoholic beverages.

4) Regulation of advertising, promotion and sponsorship of alcoholic beverages

- These innovations mostly incorporate provisions that were already provided in the Code of Ethics and Advertising Self-Regulation drafted by the Self-Regulation of Advertising Organization (*Consejo Nacional de Autorregulación Publicitaria, CONARP*).

- Addressee of advertising: advertising is prohibited to be addressed to children under eighteen.

- Content of advertising: the Act sets forth a group of prohibitions regarding advertising:

1. It is prohibited that advertising contains or represents minors, as well as images that, seem to represent minors.
2. It is prohibited to enhance virtues or advantages through the promotion of alcoholic beverages.
3. It is prohibited to link alcoholic beverages with meanings and behaviors that express an improvement in physical, intellectual or work performance.

4. It is prohibited the attribution of therapeutic properties to alcoholic beverages.

5. It is prohibited to promote discriminatory attitudes through the advertisement of alcoholic beverages .

6. It is prohibited to attribute social, professional or sexual success, or situations of power, to alcoholic beverages.

7. It is prohibited to use arguments, voices, images, or any other element associated with children's or teenage culture.

8. It is prohibited to link alcoholic beverages with the driving of vehicles, except for prevention campaigns.

9. It is prohibited to attribute a negative image to abstinence or sobriety in consumption.

10. It is prohibited to promote irresponsible consumption of alcoholic beverages.

11. It is prohibited the use of celebrities or recognized individuals as long as their success or recognition is associated with alcoholic beverages.

12. It is prohibited to develop joint promotional packaging with other products.

Main Regulatory News

- Preventive messages: every advertising message shall contain the following preventive message "*Prohibida la venta a menores de dieciocho años de edad*". (Prohibited the sell to children under eighteen years old). In addition, the Executive Power is allowed to determine other preventive messages that it considers pertinent, in which case it is mandatory to have the assistance of the National Drug Board.

- The preventive message shall be stated clearly, with legible letters and in visible places. Regarding audiovisual advertising, the preventive messages shall be conveyed with sufficient time that allows a properly grasp in advance of the message.

- Children protection: advertising of alcoholic beverages is prohibited immediately before, during, or immediately after the transmission of programs aimed at children under eighteen.

Main Regulatory News

- Admissible means: It is prohibited the distribution of information regarding alcoholic beverages through mail, telephone or any electronic means of communication, as long as the information is intended for minors under eighteen.

- Advertising in public events: in case of brands, symbols or images associated with alcoholic beverages, advertising must have 15% of the exposed space conveying preventive messages. This applies to both graphic, television, audio or any other medium.

5) Labeling

- It is provided that both the packaging of alcoholic beverages, as well as those of low alcohol content - previously defined -, must include on its main label : the nature or type of product, its gradation, the identification of the manufacturer or importer as well as the preventive messages.

- This obligation is provided both for domestic or imported beverages.

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Supervision, infractions and penalties

The sanctions provided by the Act are:

1. Observation
2. Warning
3. Fine from 1,000 IU (approximately 117 USD) to 100,000 IU (approximately 11.705 USD)
4. Temporary suspension of permits granted
5. Final suspension of permits granted
6. Temporary closure of the place in which alcohol was advertised
7. Definitive closure of the place in which alcohol was advertised
8. Stop of advertising
9. Performing counter advertising with the same frequency as infringing advertising, at the expense of the offender

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