**International overview on Legal mandate for advertisers to be part of the SR system**

Last update: July 2024

**Background:**

EASA and ICAS members have responded to a request for information from Advertising Standards Council of India (ASCI).

Following a court case regarding misleading advertising in India (see below for some details) the Union Ministry of Information and Broadcasting has [issued](https://urldefense.proofpoint.com/v2/url?u=https-3A__pib.gov.in_PressReleasePage.aspx-3FPRID-3D2022649&d=DwMGaQ&c=euGZstcaTDllvimEN8b7jXrwqOf-v5A_CdpgnVfiiMM&r=puytKUbgE9UZOB8JM7ckHw&m=OznJPvN16KAvnMY4_KGHQej2NK4pqORNzowpVpMyZhvtgDIMmGYcJIBHU7Js2c_k&s=4Nfl1oykfaHKMPQu2kIe7fkqkfzcnFldYPZapnQBb_I&e=) a directive requiring all advertisers to submit a ‘**self-declaration certificate’** before publishing or broadcasting any advertisements.

The self-declaration certificate is to certify that the advertisement (i) does not contain misleading claims, and (ii) complies with all relevant regulatory guidelines. Advertisers must provide proof of uploading the Self-Declaration Certificate to the relevant broadcaster, printer, publisher, or electronic media platform for their records. As per the Supreme Court’s directive, no advertisement will be permitted to run on television, print media, or the internet without a valid Self-Declaration Certificate. (see the guidelines [here](https://urldefense.proofpoint.com/v2/url?u=https-3A__cbcindia.gov.in_cbc_uploads_mandate_Self-5FDeclaration-5FPortal-5FGuidelines.pdf&d=DwMGaQ&c=euGZstcaTDllvimEN8b7jXrwqOf-v5A_CdpgnVfiiMM&r=puytKUbgE9UZOB8JM7ckHw&m=OznJPvN16KAvnMY4_KGHQej2NK4pqORNzowpVpMyZhvtgDIMmGYcJIBHU7Js2c_k&s=QO0V-woqaoY_araE-NgccOwTkB4geiJ2iB5O6wCVHvI&e=))

**ASCI would like to use this opportunity to ask the Supreme Court to strengthen the self-regulation system.**

**Questions:**

**1. Is it mandatory for all advertisers in your country to be registered/affiliated with the SRO ? (Or with any government authority?)**

**2. If so, could you share a link to the legislation which mandates this?**

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| --- | --- | --- |
| Country | SRO | Response |
| Australia | [**The ABAC Scheme**](http://www.abac.org.au/a)(Associate) | It is not mandatory for alcohol advertisers in Australia to become signatories to the ABAC SRO. However they are required to hold a liquor licence with one of Australia’s State or territory liquor authorities under the relevant liquor Act before they can produce or sell alcohol in Australia.  As such we have considered whether we could strengthen our self regulatory scheme by seeking to have the liquor authorities make it a requirement to hold a liquor licence that licensees make a commitment to and abide by our Code.  This is only a theoretical option at this stage and hasn’t progressed, but it could solve the issue of incomplete industry coverage and also have everyone contribute to the cost of the SRO.  As a first step we have entered into MoU arrangements with some of the authorities for information sharing, cross referral and assistance with enforcement.I am however aware of another legislative scheme in Australia where industry participants are required to be registered by legislation which may assist - refer <https://www.tio.com.au/joining-scheme> |
| Brazil | **Conselho Nacional de Autorregulamentação Publicitária**[**CONAR**](http://www.conar.org.br/) |   The only more specific provision on the mandatory affiliation with a private regulatory entity occurred in the recent regulation of betting. In certain categories of restricted products or services, there may be a requirement for mandatory registration of the product (i.e. medicines) or authorization to operate the activity itself, before competent public authorities (i.e. betting, financial products/services). This is the case of the betting sector, whose commercial operation of the activity requires authorization from the public authority. Among the requirements for granting the authorization is: "proof that the applicant company is affiliated or associated with a body responsible for monitoring advertising" (article 12, nº VII, of Ordinance SPA/MF [No. 827/24](https://www.in.gov.br/en/web/dou/-/portaria-spa/mf-n-827-de-21-de-maio-de-2024-561240128) / Law [14.790/23](https://www.planalto.gov.br/ccivil_03/_ato2023-2026/2023/lei/l14790.htm), article 16). An important point related to the case described: we have recently noticed an increase in the number of representations at CONAR, based on consumer complaints, regarding advertisements for products classified as dietary supplements or vitamins, with promises of direct cures and therapeutic effects (in disagreement with public regulations and the SR Code). The table below contains summaries of the cases already analyzed by our Jury, some of which promise cures for COVID and diabetes, and even encourage people to abandon medical treatment and follow an unrestricted diet.

|  |  |
| --- | --- |
| 000023/20 | <http://www.conar.org.br/processos/detcaso.php?id=5464> |
| 000026/20 | <http://www.conar.org.br/processos/detcaso.php?id=5447> |
| 000049/20 | <http://www.conar.org.br/processos/detcaso.php?id=5483> |
| 000057/20 | <http://www.conar.org.br/processos/detcaso.php?id=5545> |
| 000076/20 | <http://www.conar.org.br/processos/detcaso.php?id=5472> |
| 000077/20 | <http://www.conar.org.br/processos/detcaso.php?id=5488> |
| 000090/20 | <http://www.conar.org.br/processos/detcaso.php?id=5493> |
| 000110/20 | <http://www.conar.org.br/processos/detcaso.php?id=5548> |
| 000112/20 | <http://www.conar.org.br/processos/detcaso.php?id=5533> |
| 000115/20 | <http://www.conar.org.br/processos/detcaso.php?id=5534> |
| 000116/20 | <http://www.conar.org.br/processos/detcaso.php?id=5535> |
| 000117/20 | <http://www.conar.org.br/processos/detcaso.php?id=5606> |
| 000128/20 | <http://www.conar.org.br/processos/detcaso.php?id=5591> |
| 000133/20 | <http://www.conar.org.br/processos/detcaso.php?id=5577> |
| 000137/20 | <http://www.conar.org.br/processos/detcaso.php?id=5549> |
| 000144/20 | <http://www.conar.org.br/processos/detcaso.php?id=5593> |
| 000145/20 | <http://www.conar.org.br/processos/detcaso.php?id=5579> |
| 000146/20 | <http://www.conar.org.br/processos/detcaso.php?id=5664> |
| 000150/20 | <http://www.conar.org.br/processos/detcaso.php?id=5553> |
| 000153/20 | <http://www.conar.org.br/processos/detcaso.php?id=5608> |
| 000154/20 | <http://www.conar.org.br/processos/detcaso.php?id=5555> |
| 000155/20 | <http://www.conar.org.br/processos/detcaso.php?id=5683> |
| 000163/20 | Sobrestado |
| 000166/20 | <http://www.conar.org.br/processos/detcaso.php?id=5594> |
| 000168/20 | Sem link |
| 000188/20 | <http://www.conar.org.br/processos/detcaso.php?id=5595> |
| 000189/20 | Sobrestado |
| 000205/20 | Sem link |
| 000218/20 | <http://www.conar.org.br/processos/detcaso.php?id=5630> |
| 000231/20 | <http://www.conar.org.br/processos/detcaso.php?id=5649> |
| 000235/20 | <http://www.conar.org.br/processos/detcaso.php?id=5651> |
| 000259/20 | <http://www.conar.org.br/processos/detcaso.php?id=5707> |
| 000269/20 | <http://www.conar.org.br/processos/detcaso.php?id=5688> |
| 000271/20 | <http://www.conar.org.br/processos/detcaso.php?id=5641> |
| 000011/21 | <http://www.conar.org.br/processos/detcaso.php?id=5672> |
| 000018/21 | <http://www.conar.org.br/processos/detcaso.php?id=5671> |
| 000020/21 | <http://www.conar.org.br/processos/detcaso.php?id=5751> |
| 000021/21 | <http://www.conar.org.br/processos/detcaso.php?id=5696> |
| 000023/21 | Julgamento Pendente |
| 000028/21 | <http://www.conar.org.br/processos/detcaso.php?id=5712> |
| 000031/21 | <http://www.conar.org.br/processos/detcaso.php?id=5720> |
| 000052/21 | <http://www.conar.org.br/processos/detcaso.php?id=5738> |
| 000067/21 | <http://www.conar.org.br/processos/detcaso.php?id=5740> |
| 000077/21 | <http://www.conar.org.br/processos/detcaso.php?id=5796> |
| 000080/21 | <http://www.conar.org.br/processos/detcaso.php?id=5800> |
| 000083/21 | <http://www.conar.org.br/processos/detcaso.php?id=5770> |
| 000087/21 | <http://www.conar.org.br/processos/detcaso.php?id=5771> |
| 000089/21 | <http://www.conar.org.br/processos/detcaso.php?id=5784> |
| 000100/21 | <http://www.conar.org.br/processos/detcaso.php?id=5813> |
| 000125/21 | <http://www.conar.org.br/processos/detcaso.php?id=5806> |
| 000130/21 | <http://www.conar.org.br/processos/detcaso.php?id=5855> |
| 000131/21 | <http://www.conar.org.br/processos/detcaso.php?id=5842> |
| 000136/21 | <http://www.conar.org.br/processos/detcaso.php?id=5826> |
| 000137/21 | <http://www.conar.org.br/processos/detcaso.php?id=5808> |
| 000152/21 | <http://www.conar.org.br/processos/detcaso.php?id=5832> |
| 000153/21 | <http://www.conar.org.br/processos/detcaso.php?id=5833> |
| 000156/21 | <http://www.conar.org.br/processos/detcaso.php?id=5835> |
| 000158/21 | <http://www.conar.org.br/processos/detcaso.php?id=5836> |
| 000159/21 | <http://www.conar.org.br/processos/detcaso.php?id=5856> |
| 000160/21 | <http://www.conar.org.br/processos/detcaso.php?id=5857> |
| 000161/21 | <http://www.conar.org.br/processos/detcaso.php?id=5837> |
| 000162/21 | <http://www.conar.org.br/processos/detcaso.php?id=5838> |
| 000175/21 | <http://www.conar.org.br/processos/detcaso.php?id=5860> |
| 000177/21 | <http://www.conar.org.br/processos/detcaso.php?id=5861> |
| 000178/21 | <http://www.conar.org.br/processos/detcaso.php?id=5846> |
| 000256/21 | <http://www.conar.org.br/processos/detcaso.php?id=5946> |
| 000260/21 | <http://www.conar.org.br/processos/detcaso.php?id=5984> |
| 000271/21 | Julgamento Pendente |
| 000005/22 | <http://www.conar.org.br/processos/detcaso.php?id=5975> |
| 000019/22 | <http://www.conar.org.br/processos/detcaso.php?id=5992> |
| 000070/22 | <http://www.conar.org.br/processos/detcaso.php?id=6034> |
| 000105/22 | <http://www.conar.org.br/processos/detcaso.php?id=6085> |
| 000126/22 | <http://www.conar.org.br/processos/detcaso.php?id=6096> |
| 000134/22 | <http://www.conar.org.br/processos/detcaso.php?id=6097> |
| 000150/22 | <http://www.conar.org.br/processos/detcaso.php?id=6114> |
| 000152/22 | <http://www.conar.org.br/processos/detcaso.php?id=6115> |
| 000198/22 | <http://www.conar.org.br/processos/detcaso.php?id=6172> |
| 000212/22 | Julgamento Pendente |
| 000220/22 | <http://www.conar.org.br/processos/detcaso.php?id=6350> |
| 000257/22 | <http://www.conar.org.br/processos/detcaso.php?id=6242> |
| 000265/22 | <http://www.conar.org.br/processos/detcaso.php?id=6245> |
| 000002/23 | <http://www.conar.org.br/processos/detcaso.php?id=6247> |
| 000010/23 | <http://www.conar.org.br/processos/detcaso.php?id=6308> |
| 000038/23 | <http://www.conar.org.br/processos/detcaso.php?id=6278> |
| 000040/23 | Julgamento Pendente |
| 000058/23 | <http://www.conar.org.br/processos/detcaso.php?id=6494> |
| 000096/23 | Sem link |
| 000106/23 | <http://www.conar.org.br/processos/detcaso.php?id=6380> |
| 000107/23 | <http://www.conar.org.br/processos/detcaso.php?id=6437> |
| 000112/23 | <http://www.conar.org.br/processos/detcaso.php?id=6495> |
| 000120/23 | <http://www.conar.org.br/processos/detcaso.php?id=6398> |
| 000138/23 | <http://www.conar.org.br/processos/detcaso.php?id=6373> |
| 000149/23 | Julgamento Pendente |
| 000151/23 | <http://www.conar.org.br/processos/detcaso.php?id=6386> |
| 000167/23 | <http://www.conar.org.br/processos/detcaso.php?id=6422> |
| 000174/23 | Julgamento Pendente |
| 000180/23 | <http://www.conar.org.br/processos/detcaso.php?id=6496> |
| 000205/23 | <http://www.conar.org.br/processos/detcaso.php?id=6441> |
| 000241/23 | <http://www.conar.org.br/processos/detcaso.php?id=6485> |
| 000243/23 | <http://www.conar.org.br/processos/detcaso.php?id=6486> |
| 000244/23 | Sem link |
| 000038/24 | Julgamento Pendente |
| 000039/24 | Julgamento Pendente |
| 000058/24 | Julgamento Pendente |
| 000062/24 | Julgamento Pendente |
| 000067/24 | Julgamento Pendente |
| 000071/24 | Julgamento Pendente |
| 000072/24 | Julgamento Pendente |
| 000081/24 | Julgamento Pendente |
| 000092/24 | Julgamento Pendente |

Brazil went through a period of military dictatorship, from 1964 to 1985. During this period, there was censorship and prior control of the editorial, artistic and media markets in the country. Due to this relatively recent historical fact, there is a strong rejection of prior control of communications in the country. The current [Brazilian federal constitution](https://www.planalto.gov.br/ccivil_03/constituicao/constituicao.htm) provides, in article 220, the prohibition of prior censorship. We do not have preclearance or mandatory prior control of advertisements in the country. However, we have seen that the current volume of advertising is contributing to greater pressure on the advertising control system. Another point is that there are some decisions by the country's constitutional and superior court, recognizing the validity and encouraging self-regulation (see STF [ADO 22](https://redir.stf.jus.br/paginadorpub/paginador.jsp?docTP=TP&docID=9016175) and STJ [Enunciado 85/2016](https://www.cjf.jus.br/cjf/corregedoria-da-justica-federal/centro-de-estudos-judiciarios-1/publicacoes-1/cjf/corregedoria-da-justica-federal/centro-de-estudos-judiciarios-1/prevencao-e-solucao-extrajudicial-de-litigios/?_authenticator=60c7f30ef0d8002d17dbe298563b6fa2849c6669) ).  |
| Chile | **Consejo de Autorregulación y Ética Publicitaria**[**CONAR**](http://www.conar.cl/) | No is not mandatory; however the Chilean SRO voluntary members represent the 90% of the marketing and advertising industry. This included de union of advertising agencies, the media in all format and de advertisers (7 in total).  The members of all the unions are obligated to respect the ethic code and al the resolutions of our SRO.The ones which are no affiliate to one of this 7 unions, also recognize and respect the SRO rules. |
| France | **Autorité de régulation professionnelle de la publicité**[**ARPP**](http://www.arpp.org/) | No it isn’t mandatory in France for an advertiser to be an ARPP member. |
| Greece | **Greek Advertising Self-Regulation Council**[**SEE**](http://www.see.gr/) | In Greece, it is not mandatory for advertisers to be registered / affiliated with our SRO, advertisers can become members of our SRO if they wish, thereby participating in the self-regulatory system and accepting the rules established by the advertising market. Also, advertisers that are members of the Hellenic Association of Communications Agencies (the advertiser’s national trade body) are considered participants of our self-regulatory system – even if they are not direct members of our SRO.  |
| Ireland | **The Advertising Standards Authority for Ireland**[**ASAI**](http://www.asai.ie/) | Nothing relevant.  |
| Paraguay  | [**CONAR**](https://www.cerneco.org.py/conar/) | In Paraguay, it is not mandatory for all advertisers to be registered/affiliated with the SRO.Advertising related to certain products, such as pharmaceutical products, requires previous governmental approval. |
| Philippines  | **Ad Standards Council** [**ASC**](https://asc.com.ph/) | 1. Advertisers are not mandated to be a member of the Philippine Association of National Advertisers (PANA), which is the organization of advertisers and which is  one of the member-associations under the Ad Standards Council.  Advertisers who are not PANA members are still allowed to submit their materials for screening by the ASC. However, their application rates are 30% more expensive than advertisers who are PANA members.  The ASC makes it a point to refer these non-member advertisers to PANA so the organization can encourage them to join PANA.

 1. **For broadcast (TV and radio) placements**, the broadcast association -  Kapisanan ng mga Brodkaster ng Pilipinas (KBP), which is also a member-association of the ASC, requires the submission of an ASC Clearance for ad materials in order for these to be aired in their member-stations. No ASC Clearance = no airing of ad material.

 1. Another medium that requires ASC Clearance prior to display is **the out-of-home media** which includes billboards, electronic billboards, banners, etc. This is an agreement with the outdoor association (OHAAP) because of the nature of the medium, i.e., it can be seen by people of all ages (including children and minors) on a 24/7 basis. OHAAP is a member of the ASC.

 1. FOR **Print and Digital materials**, these are generally post-screened, i.e., no need for ASC clearance **except:**
2. For products and services in the following mandatory categories :

                                     1)   Over-the-counter Drugs and Home Remedy Product                                                            2)   Food Supplements                                                            3)   Alcohol Beverages                                                            4)   Products falling under the Milk Code                                                            5)   Airline and other transport promo fares1. If the ad contains any of the five must-screen claims which need to be supported by 3rd-party substantiation:

                                   1)   Leadership or Number 1 Claim1. Absolute Claim
2. Comparative Claim
3. Exclusivity Claim
4. Superiority Claim
5. If the ad has the following themes or classification:
6. Sexy tones, exposure of human or body parts, similar subject or execution
7. With tones of violence or similar subject or execution (such as explosives and other dangerous products)
8. if they are direct comparative ads in the following categories where these are allowed:

                   1)  Automotive vehicles excluding automotive products                   2)  Consumer durables e.g., AV equipment, appliances,  electronic gadgets                   3)  Airline and shipping lines                   4)  Musical instruments                  5) Mobile products, e.g., cellular handsets, tablets, laptops and netbooks NOTE: Print and digital materials which are implemented without an ASC Clearance BUT contains any of the above conditions will be sent a letter/Notice to Explain by the ASC if monitored by competition or by the ASC itself.  The case will be raised with the ASC Technical Committee and if the Committee decides that the advertiser committed an infraction, a penalty may be meted out to the advertiser. If the advertiser does not heed the letter of the ASC, the ASC refers the matter to the government regulatory body under which the product/category falls.      |
| Malaysia  | [**Content Forum**](http://www.contentforum.my/) | There is no mandatory requirement for advertisers to be registered with any SRO here in Malaysia. |
| The Netherlands | **Stichting Reclame Code (**[**SRC**](https://www.reclamecode.nl/)**)** | It is not mandatory by law for all advertisers in The Netherland to be registered/affiliated with our SRO or with any government authority.According to article 19 of the general part of our [advertising code](https://www.reclamecode.nl/nrc_taxonomy/general/?lang=en), advertisers are bound to submit proof that they have paid the financial contribution to our SRO. But in practice this article is never applied.  ***Article 19****At the request of the chairman of the Advertising Code Committee, organizations and institutions which publish advertisements are bound to submit a valid proof of payment of the financial contribution, yearly stipulated by the Advertising Code Authority.****Explanation of article 19****The financial contribution is based upon a percentage of the advertiser’s gross media expenses. The Board of the Advertising Code Authority decides each year the percentage that applies.  Furthermore, an advertiser, not being part of a concern and having no more than € 1 million gross per year media- expenses, is not bound to pay a contribution for the year concerned.**This article came into effect on 15 January 2010 and applies to contribution requests made after this date.**Since the year 2010 a 0.025 percentage has been determined (= € 250 per € 1 million media expenses) and the contribution is based  upon the gross media expenses in the year passed, as produced by Nielsen. The Advertising Code Authority itself upholds the obligation to pay. See* [*www.reclamecode.nl*](http://www.reclamecode.nl) *for further information.* We do have a mandatory affiliation for media-institutions that include advertising in their media offer. This is regulated in the Media Act. For commercial media institutions it is regulated in article 3.6 of the Media Act (our SRO is the Advertising Code Foundation): 1. *A commercial media institution that includes advertising or teleshopping messages in the program offering is affiliated with the Dutch Advertising Code or a comparable regulation established by the Advertising Code Foundation and is subject to the supervision of the Advertising Code Foundation in this regard.*
2. *Affiliation is demonstrated by submitting a written statement from the Advertising Code Foundation to the Commissariat.*

This obligation also applies to commercial media services on demand (including certain influencers) and video service platforms that are located in the Netherlands. |
| Romania | **Consiliul Român pentru Publicitate (**[**RAC**](https://www.rac.ro/)**)** | **Nothing relevant**  |
| Singapore | **Advertising Standards Authority of Singapore**[**ASAS**](https://asas.org.sg/) | In Singapore, it is not a mandatory requirement for advertisers to be registered or members of ASAS or our parent organisation, the Consumers Association of Singapore. On a related note, while it does not involve the regulation of advertising or other business activities, there is legislation that requires companies of a certain level of capital to be members of the Singapore Business Federation. [Singapore Business Federation Act 2001 - Singapore Statutes Online (agc.gov.sg)](https://sso.agc.gov.sg/Act/SBFA2001) |
| South Africa | **The Advertising Regulatory Board**[**ARB**](http://arb.org.za/) | We do not have this   |
| Spain | **Asociación para la Autorregulación de la Comunicación Comercial**[**AUTOCONTROL**](http://autocontrol.es/) | in Spain no such mandate exists. Membership of SRO is voluntary.  |
| Sweden  | **Reklamombudsmannen**[**Ro.**](http://reklamombudsmannen.org/) |  We have no such regulation in Sweden, there is no “preclearance” in Sweden. Authorities never intervene before publishing, only after, if the advertisement is found to be in breach of regulations. We have the same procedure as an SRO, proof of compliance must only be presented if we start an investigation, mainly by complaints from consumers, competitors or organizations.  |
| Turkey | **Reklam Özdenetim Kurulu (**[**RÖK**](https://www.rok.org.tr/)**)** | In Turkey, there is no obligation for advertisers to be registered/affiliated with our SRO.But for all advertisers, it is mandatory to apply for “trade registrastion” carried out by the [Union of Chambers and Commodity Exchanges of Turkey](https://tureng.com/tr/turkce-ingilizce/the%20union%20of%20chambers%20and%20commodity%20exchanges%20of%20turkey). For the trade registration process, the related legislation is as below, but it is only in Turkish.<https://www.mevzuat.gov.tr/mevzuat?MevzuatNo=20124093&MevzuatTur=21&MevzuatTertip=5> |
| UK | **The Advertising Standards Authority**[**ASA**](https://www.asa.org.uk/) | 1. No for the SRO. Essentially no for gov authorities (though financial advertisers are subject to authorisation requirements under financial law, gambling operators must be licensed by the Gambling Commission, etc.)
2. N/a.

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| USA | [**BBB National Programs**](http://asrcreviews.org/) | For the most part, the US does not have any requirements for an advertiser to be registered or affiliated with the SRO. There are some requirements for companies to register with a particular government regulatory authority (e.g., alcoholic beverage manufacturers, dietary supplement manufacturers), but not for advertising, and the authorities do not review or pre-approve the advertising in those industries. The main exception I am aware of is in the financial industry / securities market. The SRO there, the Financial Industries Regulatory Authority (FINRA), regulates securities brokers / dealers. FINRA, which was created by Congressional statute, does require broker-dealers to file communications with investors, including advertising, with FINRA.  In addition, the Securities and Exchange Commission (federal government body) has delegated to FINRA the authority to review mutual fund advertising as well.  Here is a webpage detailing FINRA’s rule as well as FAQs regarding guidance on what needs to be filed. <https://www.finra.org/rules-guidance/key-topics/advertising-regulation/chart> |