

Voluntary Report – Voluntary - Public Distribution

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Report Name: Mexico Releases Law on Advertising Against Contract Misconduct

Country: Mexico

Post: Mexico City ATO

Report Category: Agricultural Situation, Agriculture in the News, Agriculture in the Economy

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Report Highlights:

On September 1, 2021, Mexico's new Law on Transparency, Prevention, and Measures Against Advertising Contract Misconduct entered into force. The law regulates contracts between advertising agencies and the media. As well, it prohibits advertising agencies from reselling print or broadcast media spaces. Billing must be done between the advertising agency and the business. Discounts from the media must be transferred to the business in full. Neither advertising agencies nor hired third parties can receive payments, commissions, or economic benefits from the media. Fines will apply if advertising agencies do not adhere to the law.

Background

On April 30, 2021, Mexico's House of Representatives passed the Law on Transparency, Prevention, and Measures against Advertising Contract Misconduct. Before this Law went into effect on September 1, 2021, advertising agencies were being paid both by the business that requested their services and from the media using the service. Advertising agencies will now be fined for engaging in this practice. The law is available in Spanish [here](#).

Main Aspects of the Law

The law will change Mexican advertising operations for advertising agencies and advertising outlets, including television, radio, print media, and billboard advertising. Advertising agencies, media, and other outlets will be required to adjust their contracts and operations to comply with the law in the following ways:

Advertising agencies:

- Are prohibited from buying print or broadcast media spaces to resell them to the business.
- Can only purchase print or broadcast media spaces ordered by the business.
- Can only receive payment that has previously been agreed with the business.
- Must transfer discounts made by the media to the advertising agency in full to the business.
- Cannot receive payments, commissions, or economic benefits from the media. This includes hired third parties.
- Cannot provide advertising services to a media supplier and a business at the same time.
- Must inform the identity of the business to the media.
- Must submit a detailed report to the business the following month of the airing/publication of the advertisement.
- Must inform the business about the financial situation with the media supplier.

Media suppliers:

- Must bill directly to the business and not to the advertising agencies, although invoices may be paid by the agency.
- Must comply with transparency obligations with the business: dates and location of the campaign, advertising format, detailed price per unit and fees, including any discount offered by the media.

The law defines Digital Advertising as “the place that digital platforms connected to the internet, such as websites and mobile applications, use to insert online advertisements.” Separately, Programmatic Digital Advertising is defined as “digital advertising sold through automated mechanisms, in particular through real-time auctions, which establish access to audiences with segmented profiles as the main sales criteria.”

Non-compliance fees:

The law foresees fines of 2 percent of the annual income in the following cases:

- The business or advertising agency whose contract does not comply with the terms of the law.

- The media that does not send the invoice and complementary information directly to the business.
- Advertising agencies that do not deliver the information established in the law.

The law also set fines of 4 percent of the annual income in the following cases:

- Advertising agencies that purchase advertising space to subsequently resell to a business.
- Advertising agencies that recommend to a business, or hires on its behalf, media with which it has financial relations, or if the advertising agency deliberately communicates to the business false or distorted information on the features of the mentioned media or possible media.
- Advertising agencies, that acting on behalf and by order of a business, receives payment, commissions, or benefits of any kind from any person different than said business.
- The media that provide payments, commissions, or benefits of any kind to an advertising agency acting on behalf of, and ordered by a business or third party used by the agency, for the provision of services to the business, and,
- The advertising agency that provides services directly to a media supplier in terms contrary to regulations of Section 5 of the Law.

In case of recurrence, the fine imposed could be twice the amounts indicated above.

The law applies to business located in Mexico and advertising in Mexican media. Post recommends seeking legal advice as terms may vary according to each case.

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Attachments:

No Attachments.