

**RESOLUTION OF IAB 43rd.GENERAL ASSEMBLY
RESTRICTIVE ADVERTISING LAWS**

WHEREAS:

The numerous Bills in various countries to restrict advertising of food and drinks considering they have a high fat, sodium or sugar percentage.

CONSIDERING:

That commercial advertising related to legal products, which marketing to the public is legal, is a form of communication protected by freedom of expression under the American Convention on Human Rights.

That according to the jurisprudence of the Inter-American Court only those restrictions on freedom of expression pursuing a purpose covered by the American Convention are legitimate, in this case public health and children protection, the same international doctrine states "This applies in the case of limitations placed on a right, as imperative public interest must be present to justify the limitation."¹

That restrictions or limitations on freedom of expression, even when they are directed to a legitimate purpose In this sense, a restriction must be "useful," "reasonable" and "desirable." "Necessary" means that the measure must not limit the right beyond what is strictly indispensable for guaranteeing the full exercise and scope of the right to freedom of expression.² "

That according to the jurisprudence of the Inter-American Court and the recommendations of the IACHR and its Special Rapporteur for freedom of expression, "it falls to the State to demonstrate both the existence of an impending threat that could cause real harm and that it is crucial to impose the restriction in order to prevent the harm."³

That there is a lot o scientific evidence of the failure of advertising restrictions in European countries , which has led to develop other ways, less restrictive and more efficient, to achieve the legitimate aim of public health and the protection of children, developing programs in collaboration with the media industry and subject to periodic measurements and evaluation.

That if the sale of any legal product is permitted to the public, its promotion or advertising should also be authorized, to allow free competition and the necessary information of the public in their right to choose and be informed.

¹ IACHR Standards on Broadcasting, number 21 page 7

² Ibid, number 39, page 12

³ Ibid, number 22, page 7

That if a legal product requires preventive recommendations, such as the consequences of excessive consumption, those recommendations should be included in the container or label and eventually warned in the advertising or communication to the public, which is a more reasonable restriction than the mere ban.

That besides affecting the competition between products and food brands, limited advertising and public communication affects competition between the media, since it affects the sustainability of free over-the-air radio and TV, whose only source of funding is advertising and discriminates them of other media or advertising.

That this discrimination produces a reorientation of advertising investment of products " censored " to other advertising media such as internet, outdoor advertising, points of sale, events, etc. turning censorship advertising on Radio and Television more ineffective.

That, for example, studies by the Ministry of Communications of the United Kingdom concerning investigations conducted for 20 years in various countries (report endorsed by the Ministry of Consumer Affairs in Germany), have confirmed that in countries where this type of communication has been drastically restricted and dropped, obesity rates continue to rise, determining that the prohibitions and restrictions are "disproportionate and ineffective ".

THE 43rd.GENERAL ASSEMBLY OF THE INTERNATIONAL ASSOCIATION OF BROADCASTING - IAB - MEETING IN RIO DE JANEIRO , BRAZIL , RESOLVES:

To urge the Governments and Parliaments to consider the abundant scientific evidence, especially in Europe, which shows the ineffectiveness of the restrictions on advertising or commercial advertising for the objectives to be achieved, and to focus the public policy effort to educate and inform consumers on the adoption of proper eating habits .

Rio de Janeiro , October 16, 2013