

February 17 2023

Broadcasting regulations and crypto ads: restrictions on crypto ads in Taiwan

Shay & Partners | Tech, Data, Telecoms & Media - Taiwan



ARTHUR SHAY

> Broadcasting regulations

> How do broadcasting regulations apply to crypto ads?

Crypto ads were widespread until June 2022, when Google announced an expansion of its rules around ads relating to financial products and services in Australia, Singapore and Taiwan, in partnership with their respective local authorities. This expansion will provide additional protection from fraud and scams for consumers.

Broadcasting regulations

The Satellite Broadcasting Act and its relevant rules, published by the National Communications Commission (NCC), apply to all satellite TV channels receiving landing licences and thus carried by cable TV systems and media on demand digital platforms in Taiwan. The contents of programmes or ads transmitted by a satellite TV channel must not violate compulsory or prohibitive regulations under the law. Accordingly, the NCC has banned ads relating to tobacco products, gambling promotion and solicitation on all satellite TV channels. Further, product placement marketing for the following products, services and associated trademarks are also forbidden pursuant to the [Regulations for the Distinction between Television Programs and Advertisements, Product Placement Marketing, and Sponsorship](#):

- tobacco;
- alcohol;
- international matchmaking;
- prescription medicine or medicine designated by central competent health authorities;
- illegal commodities and services; and
- other commodities forbidden from advertising by law.

However, unless there is specific law requiring prior approval of the ads from the other appropriate authorities, the NCC neither requires an ad to be licensed before being shown in Taiwan nor imposes censorship on TV ads.

Nevertheless, the NCC's implementation of ad regulation is closely connected to the [Consumer Protection Act](#). Article 23 of the Consumer Protection Act demonstrates that ad disclaimers may not have the legal effects that the advertisers and digital media platforms may have intended:

Where media knows or should have known that the contents of the advertisements are inconsistent with the facts, shall be jointly and severally liable to consumers for their reliance upon such advertisements.

Damage liability set forth at previous paragraph cannot be restricted or waived by any agreement in advance.

How does broadcasting regulation apply to crypto ads?

In Taiwan, there is no domestic legislation that directly applies to crypto assets, although operations using cryptocurrencies may fall under existing laws – specifically, compliance requirements relating to anti-money laundering (for further details, see "[How are crypto assets regulated in Taiwan?](#)"). Despite numerous consumer complaints on false, misleading and deceptive crypto ads pending further investigation of relevant authorities (including police and prosecutors), there is no law requiring prior approval on the placement of TV and/or digital ads pertaining to crypto assets providers or crypto products in Taiwan. An advertiser need not be licensed before advertising in Taiwan either.

The placement of TV or online digital ads may be either a brand awareness campaign or a "call to action" relating to specific products or services. In either case, it should be carefully distinct from news and programme content, as highlighted by the NCC.

Leading media companies such as Facebook and Google are cooperating with the Taiwanese authorities to enhance consumer protection against fraud and scams. Ad disclaimers do not relieve advertisers and media of their responsibilities subject to the Consumer Protection Act.

For further information on this topic please contact Arthur Shay at Shay & Partners by telephone (+886 2 8773 3600) or email (arthur@elitelaw.com). The Shay & Partners website can be accessed at www.elitelaw.com.