

Governmental Agreement No. 426-2001

Guatemala, October 16, 2001

The Constitutional President of the Republic

WHEREAS:

That Decree No. 90-97 of the Congress of the Republic and its reforms contained in Decree No. 50-2000, Congress of the Republic, the Health Code provides that the actions of health promotion should be aimed at improving the level of health by adopting healthy lifestyles, focusing among other measures, to avoid using harmful substances health, particularly those that are addictive, and contains provisions aimed at the participation of manufacturers, importers, marketers and advertisers, promoting programs to inform about the risks of consumption substances harmful to health and especially the consumption of tobacco and damage to health that this entails.

WHEREAS:

That to achieve adequate enforcement of these provisions requires a regulatory framework that establishes the competence and responsibilities of each of those involved in the approval of the advertising that takes place by means of mass communication, as well as in packaging or packaging of products derived from tobacco.

WHEREAS:

That the wording of the provisions of Article 244 of the Health Code, Decree No. 90-97 of the Congress, incumbent the executive branch through the Ministry of Health and Welfare, issued regulations to regulate provisions on advertising and consumption of tobacco contained in the Code of Health and its reforms.

THEREFORE:

In exercise of the functions under Article 183, paragraph a) e) of the Constitution of the Republic of Guatemala, 244 Decree 90-97 of Congress, the Health Code and 27 literal j) of Decree 114-97 of the Congress, Executive Agency Act.

RESOLVED:

Issue the following:

"RULES FOR THE REGULATION, APPROVAL AND ADVERTISING AND
PLACES OF CONSUMPTION OF TOBACCO AND PRODUCT RELATED
PRODUCTS"

CHAPTER I

GENERAL PROVISIONS.

ARTICLE 1. PURPOSE.

This regulation aims to develop the provisions of the Health Code, Decree No. 90-97 of the Congress of the Republic and its reforms contained in Decree No. 50-2000 of the Congress, in order to facilitate its implementation by the Ministry of Public Health and Welfare, relating to advertising for products of tobacco, made in social media, whether written, graphic, radio, television, electronic, and film units mobile sites permitted for consumption, the packaging or wrapping of such products, as well as rules to be watch manufacturers, importers, distributors and advertisers of these products.

ARTICLE 2. Fundamental purposes.

As provided in the Constitution of the Republic and in the Health Code, are fundamental goals of this Regulation:

- a) To protect the health of residents in relation to the risks associated with the consumption of tobacco and their derivatives;
- b) To protect consumers and people in general, from advertising to encourage consumption of products related to tobacco.
- c) To protect the inhabitants and as to the places where they consume these products.

ARTICLE 3. SCOPE AND RESPONSIBILITY.

The individuals or legal entities, domestic or foreign, producing, manufacturing, importing, distributing or marketing tobacco related products and derivatives, as well as the agent or broker advertising, and media social communication, are subject to the obligations under this regulation.

ARTICLE 4. RULES, PROCEDURES AND FORMS.

It is for the General Directorate of Regulation, Monitoring and Control of Health as the agency responsible for propose and approve technical standards and verifying

compliance, the design of administrative procedures and Forms for applications for and approval of advertising of products related to tobacco. These forms must be clear, objective and general compliance, stating the documents that must accompany the application and time resolution.

ARTICLE 5. INSPECTIONS.

The Directorate General of the Integrated Health Care, "SIAS", hereafter referred to simply "Address of SIAS, through the network of licensed health facilities, the issuance of orders approving the designated areas for consumption of products related to tobacco, inspections they deem necessary to establishments to control and supervision in the hours of operation thereof, in order to verify the compliance with this regulation. The owner or responsible to allow health officials, duly identified, carry out inspections of its facilities, in case of default, procedures developed for considering the Law Also, accounts for monitoring media used for advertising of products that referred to these rules, must start administrative proceedings according to the Health Code and its amendments and this Regulation. The Ministry of Health and Welfare, through the Directorate of SIAS, may at any time, request reports from advertising guidelines to any social media.

ARTICLE 6. TECHNICAL DEFINITIONS.

For the purposes of these rules, the term:

Advertiser: individual or legal person who uses the media to disseminate advertising any product or service commercial, informational or social. Announcing through advertising. Client of an advertising agency or a mass medium that exists in the country.

Advertise. Communicating through the ads.

Ad. Communication to the public, whose objective is to sell a product or service and generate interest in something. It is a graphic advertisement, radio, television, film or online.

Uppercase Arial Black number 12. It is a specific design of typography, which sets the font size.

Publicity Authorization. Permission or consent granted by the Ministry of Health and Welfare, through the

competent agencies for the purpose of authorizing any related advertising that tobacco products to suit requirements of the Act

Pack. Package containing product units, which can be:

a) *pack Dura*: It's made with semi-thick cardboard consistency.

b) *Soft pack*: It was prepared with paper thin consistency.

Brand. "Any word, figurative, three-dimensional or mixed visually perceptible, that is capable of distinguishing the products or services of an individual or legal person from those of another "Emblem." A figurative sign that identifies and distinguishes a company, a commercial establishment or entity. "

Disseminate. It is the fact disclose advertising of tobacco products through various media social in open to the public at large.

Seller. "Individual or legal person who self, sells, distributes, promotes, or placing vending goods products consisting of tobacco in its different presentations, a natural or juridical person, national or foreign, called the principal who is bound by a distribution or representation. "

Free Distribution. Any activity that involves the free distribution of tobacco products in any of their presentations, goods or services bearing the name or trademark of tobacco products.

Distribution Promo. All advertising, marketing aimed at the pursuit of increased sales, which involving the free distribution of products related to tobacco, and any other good or service whose purpose is the promotion of the name or trademark of a tobacco product.

Packing. Packaging designed specifically for the purpose of transporting the products of tobacco. Box or cover with which shelter tobacco products to be transported.

Wrapping. Packaging unit that contains individual packets of cigarettes or tobacco the different products.
Advertising space. Time or area used for advertising a brand in different media.

Manufacturer. Individual or legal person develop products related to tobacco consumption, either way craft or mechanics.

History Project. Approximate translation of Americanism "Story board".

Warning Legends. Will the warnings alternatives:

- Smoking causes cancer tobacco.
- The consumption of this product produces cardiovascular diseases.
- The consumption of this product causes cancer of the mouth and pharynx.
- In pregnant women smoking and tobacco cause abortion fetal malformation.
- The consumption of this product causes lung cancer.

Social Media. Are any forms or social communication mechanisms used for transmission of any information, including advertising of products related to tobacco, electrical, electronic, such as radio, television, cinema newspapers, magazines, brochures, internet.

Importer. Single person or entity, owner or not product related to internal tobacco under his responsibility and their own national territory of such products.

Advertising. Set of means used to disseminate commercial advertisements.

Tobacco products. Anyone whose article is the raw material derived from tobacco or tobacco, intended for consumption.

Promotion. Strategic activities marking of products related to tobacco for a specified time by granting prizes, raffles, discounts, in order to boost sales of a product.

Advertising through writing. All that advertising is done through documents, manuscripts, letters typed or printed, disclosed that appear via the Internet, newspapers, magazines, flyers, billboards, events and programs supplements special.

Advertising graphic medium. All this is done by means of images, signs or expressions, belonging or relating to writing or printing, which are disseminated through posters, posters, billboards, wall hangings, wall posters, posters

exhibitors, blankets, electronic media, internet and others.

Advertising by Radio. All that advertising that is broadcast on national radio at different frequencies, radio Community CCTV and any other arrangements in the future may arise.

Advertising through television. All that advertising that is broadcast on local television, national, and closed circuit cable, scheduled to be broadcast nationwide.

Publicity through film. All that advertising is planned in cinemas or by similar means.

Advertising by electrical or electronic. All that advertising is carried out through neon sign or the Internet.

Advertising through mobile unit. It is contained in public, using any means of land transport, air or sea.

Monthly Production Manufacturer. All of tobacco related products for domestic consumption, produced during a time period within four to five weeks.

Children's Programming. Is any programming or advertising broadcast or cable television after six hours and prior to the twenty-one hours.

Tobacco. Plant of the nightshade family that is used for the manufacture of tobacco.

Font. Design and style of a typeface. For the purposes of this regulation, concerns the type Arial Black, whose number implies the size of it.

CHAPTER II

AGENCIES RESPONSIBLE FOR APPROVAL OF TOBACCO AND TOBACCO PRODUCTS ADVERTISING

ARTICLE 7. CREATION OF THE COMMISSION.

The Health Ministry will establish a committee of functional through a Ministerial Agreement, hereinafter called "The Commission", which technically assist in advertising the Department of Regulation and Health

Programs environment of the Directorate General of Regulation, Monitoring and Control of Health, hereinafter called "Department of Health and Environment" in the preparation of opinions for the subsequent approval of advertising for related products tobacco.

ARTICLE 8. AUTHORIZATION

In accordance with the provisions of Article 49 paragraph a) of the Health Code, any advertisement on tobacco and its derivatives is made by any of the media, prior to being released, should have written the technical opinion "The Commission", based on which the Department of Health and Environment will issue the respective technical advice. Media communication prior to the dissemination of any advertising on the particular job must require advertisers to approval of advertising.

ARTICLE 9. OF REQUEST FOR AUTHORIZATION.

Advertisers of products related to tobacco must request authorization in writing to the advertising Department of Health and Environment, whose ruling from the technical assistance of "the Commission". The application must be accompanied by copies of advertising materials as follows:

- a) For radiated material, submit the text of the radio script containing the part to assess b) For television equipment, shall
- two copies of the project, referring to ad-assessed;
- c) For advertising medium of film, submit two copies of the advertisement referred to the project to be evaluated.
- d) To print, submit two sketches properly protected. This provision applies to posters, advertisements press, billboards, blankets, flyers and brochures. Each copy must be properly identified with the advertiser's name and purpose of the advertising piece, the which will be accompanied by an application for approval of the material.

ARTICLE 10. CRITERIA FOR APPROVAL.

Constitute the criteria for approval of related advertising in this Regulation, those contained in the letters b) d) e) f) of Article 49 of the Health Code and these Regulations. These criteria should be applied to the

assessment and authorization.

ARTICLE 11. ADOPTION.

Upon receipt of a request conforming to the requirements, the Department of Health and Environment shall immediately convene to "The Commission", for a period not exceeding ten working days from the day after receiving the application, issue corresponding technical opinion. The resolution may approve or disapprove the advertising proposal and recommend changes to advertising material submitted.

If the technical opinion of the Department of Health and Environment is favorable, this will be forwarded immediately to the General in regulation, to the effect that issuing the permit.

ARTICLE 12. DEADLINE FOR RESOLUTION OF AUTHORIZATIONS.

The deadline for determining applications that meet the requirements of this regulation, shall be fifteen days working in accordance with the procedure contained in the preceding article.

CHAPTER III

CHARACTERISTICS OF THE PACKAGING, ENVELOPES OR PACKS

ARTICLE 13. OBLIGATION.

Are prohibited packaging, wrappers and packages of tobacco-based products marketed in the territory Guatemalan who do not comply with the provisions of Article 49 of the Health Code and these rules, it will be responsibility of manufacturers and importers to ensure that products produced or enter the country for marketing and the same, to comply with the provisions contained in the Act.

ARTICLE 14. PARTIES IN ONE PACK.

For the purposes of these rules will be parts of packets of cigarettes:

- a) Front. Hard on packs of cigarettes, is considered the front, the part where you open the pack. In packets mild cigarettes, is considered the front part where there is no overlap or the gum line etiqueta.
- b) Lateral. In the cigarette packet in any of their submissions will be considered side any of the sides right or left of it, taking the presentation from the front.

c) Reverse. Opposite the front of the pack.

ARTICLE 15. WARNING TO THE FRONT OF THE PACKS.

The legends of warning, in the case of the pack of the product shall be visible, written in Spanish language, with type uppercase Arial Black number 12 as a minimum, clearly legible, who has twenty-five percent (25%) in the bottom of the front of your presentation or pack. To determine the twenty five percent (25%) of space used by the legend on the front of the presentation or pack must be measured the total length of the packet from the lower edge of the same the top edge, the measure is divided between four and less space is the space to be occupied by the warning.

ARTICLE 16. WARNING OF THE LATERAL PART OF THE PRESENTATION OF THE PACKS.

In one of the sides of the display of cigarette packs must be shown in clearly visible warning:

THE USE OF THIS PRODUCT CAUSE SERIOUS DAMAGE TO HEALTH.

ARTICLE 17. OTHER ENVELOPES OR PACKAGING.

With regard to the warnings contained in other packaging alternatives or wrapper as defined in Article 6 of this regulation, they must be clear and visible as prescribed by law.

ARTICLE 18. ALTERNATIVES OF THE LEGENDS OF WARNING.

Both packs as other wrappers or containers of tobacco products warning legends will be allocated alternatively, for which the manufacturer must assign one of the warnings to begin printing the packs of each Fifty percent of the monthly production; consecutively to the printing of the first of the warnings will print second, third, fourth and fifth alternative way to complete one hundred percent having monthly production including all the legends of warnings in the same percentages. This in order that the market is find all the warnings mixed simultaneously and proportionally.

CHAPTER IV

ADVERTISING of TOBACCO AND TOBACCO PRODUCTS

ARTICLE 19. PUBLIC HEALTH WARNING ON TOBACCO.

When as set out in Article 49 letter b) of the Code of Health, manufacturers, importers, distributors and

advertisers Derivatives of tobacco, are required to:

a. In the print media. The productivity of tobacco products to be carried out using the media to take part in superior alternatives one of the warnings indicated in subsection b) of Article 49 of the Code of Health and at the bottom, the general warning that states, "The consumption of this product causes serious damage to health". Each of the warnings when inserted be occupied by the five percent (5%) of the ad space, and must occupy a total TWO WARNINGS, CINTO ten (10%) of ad space.

b. In the television media. In television advertisements advertisers must include the beginning and end of one television spot of the warnings referred to in subparagraph b) of Article 49 of the Code of Health, through a fixed credit of not less than three seconds. For the duration of the commercial warning is chosen in part be alternated with the warning: "The consumption of this product causes serious damage to health" through teletext announcement over, in the bottom of the screen. The warnings should not interrupt the emblems or trademarks.

c. In the radio media. The advertising of tobacco that is conducted in the radio media through radio spots, verbalized should include a sentence at the beginning and end, with the general warning that states "The consumption of this product causes serious damage to health".

d. In print media. The tobacco products advertising that takes place in print media shall bear printed on the above, one of the alternatives described in the warning letter b) of Article 49 of the Code of Health and at the bottom of general warning that states:
"The consumption of this product causes serious damage to health".
Each of the warnings occupy five percent of ad space to a total of ten percent.

e. On billboards. Advertising on tobacco products to be performed on billboards shall bear printed on the top one of the alternatives described in the warning letter b) of Article 49 of the Code of Health and at the bottom of general warning that states:
"The consumption of this product causes serious damage to health".

Each of the warnings occupy five percent (5%) of the ad space to a total of ten percent (10%).

f. In mobile units. The tobacco products advertising that is done in mobile units by means of loudspeakers or otherwise. Should indicate the start of the alternatives warnings started in the letter b) of Article 49 of the Code Health and end the warning: "The consumption of this product causes serious damage to health".

g. In electrical or electronic media. The advertising of tobacco to be undertaken on electrical or electronic lead at the top of the notice of the alternatives described in the warning letter b) of Article 49 of the Code of Health, and at the bottom the warning: "The consumption of this product causes serious damage to health".

In the film media. Notices of cinemas or similar means, advertisers must include the beginning and end announced one of the warnings referred to in subparagraph b) of Article 49 of the Code of Health, through a fixed non-credit less than three seconds. For the duration of the commercial warning is chosen in part be alternated with the warning:

"The consumption of this product causes serious damage to health" through teletext announcement over, in the bottom of the screen. The warnings should not interrupt the emblems or trademarks. Such advertising can only be authorized within the spaces intended for adult roles.

SECTION 20. MONITORING OF TOBACCO ADVERTISING

The Ministry of Health through the SIAS address through the directorates of health areas, are responsible to monitor compliance with the provisions relating to advertising of products related to tobacco, as follows.

a) The addresses of the Areas of Health, through the environmental health inspectors will conduct visits to establishments that sell products related to tobacco, inspect posters and billboards and units phones, to determine whether warnings have been incorporated in the media advertising and on packaging and

packs of cigarettes as stipulated in Article 10 subparagraph a) of this reglamento.

b) The Director of SIAS is responsible for monitoring the radio and television stations to make sure if it is complying with the requirements regarding the advertising of products related to tobacco.

ARTICLE 21. SUPERVISION OF LIMITATIONS FOR TOBACCO RELATED PRODUCTS PROMOTIONAL ADVERTISING

Environmental health inspectors of the directorates of health areas, shall be responsible for overseeing the indicated in Article 49 subparagraphs g), h), i), health code related to the following prohibitions:

a) Prohibition of advertising showing consumption. In the advertising of tobacco not demonstrate the direct consumption them by human standards, cartoons, sports athletes and public figures,

b) Prohibition Advertising outside. No publicity or advertising may be placed outside of tobacco products within a radius of five hundred (500) meters around entrances and exits of preschool educational establishments, pre-primary, primary, secondary and universities, facilities or sports complexes, institutions, hospital and recreation centers;

c) radio and TV advertising. The tobacco product advertising through radio and television shall not in schedule children's programming;

d) Advertising in writing. Advertising is prohibited in all material written exclusively for young people and children.

ARTICLE 22.PROMOTION OF WARNINGS ON TOBACCO PACKETS

Those responsible for public and private establishments referred to in Article 51 of the Code of Health developed and

advertising signs not played under six inches high and fourteen wide, in order adheridle cartoncillos or paper with

the following messages:

a) No smoking.

b) not sell cigarettes to under eighteen (18) years.

- c) Do not sell single cigarettes or loose.
- d) The consumption of tobacco causes serious damage to health.
- e) smoking area.
- f) Non-Smoking Area.

CHAPTER V

ON OFFENCES, PENALTIES AND PROCEDURES.

ARTICLE 23. VIOLATIONS AND PENALTIES.

The breach, by action or omission, manufacturers, importers, distributors, advertisers and tobacco products derived from the provisions on advertising contained in the Health Code, its amendments and the present rules, health is considered as a breach were to be penalized according to law.

CHAPTER V

FINAL PROVISIONS, TRANSITIONAL AND REPEAL

ARTICLE 24. HEADINGS.

The headings preceding Articles of this Regulation do not apply interpretive and can not be cited regarding the content and scope thereof.

ARTICLE 25. REPEALING.

Are repealed all regulations that conflict with these rules.

ARTICLE 26. EFFECT.

This regulation will take effect the day following its publication in the official newspaper.

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