

IAC-Tobacco

Inter-Agency Committee-Tobacco

INTER-AGENCY COMMITTEE-TOBACCO

Memorandum Circular No. 1

Series of 2004

SUBJECT : Rules and Regulations Implementing Republic Act No. 9211, Otherwise Known as the Tobacco Regulation Act of 2003

WHEREAS, it is the policy of the State to protect the populace from hazardous products and promote the right to health and instill health consciousness;

WHEREAS, it is also the policy of the State, consistent with the Constitutional ideal to promote the general welfare, to safeguard the interests of the workers and other stakeholders in the tobacco industry;

WHEREAS, there is a need for the government to institute a balanced policy whereby the use, sale and advertisements of tobacco products shall be regulated in order to promote a healthful environment and protect the citizens from the hazards of tobacco smoke, and at the same time ensure that the interests of tobacco farmers, growers, workers and other stakeholders are not adversely compromised;

NOW, THEREFORE, pursuant to Section 37 of Republic Act No. 9211, the following rules and regulations are hereby promulgated:

Title I – GENERAL PROVISIONS

Rule I – Title

Section 1. *Title.* – These Rules shall be referred to as the Implementing Rules and Regulations of the Tobacco Regulation Act of 2003.

Rule II – Coverage

Section 1. *Coverage.* – These Rules shall apply to all types of tobacco products placed into commerce in the Philippines, whether locally manufactured or imported.

Rule III – Definition of Terms

Section 1. *Definition of terms.* - For purposes of these Rules, the term:

- 1.1. "Act" – refers to Republic Act No. 9211, otherwise known as the Tobacco Regulation Act of 2003;
- 1.2. "Advertisement" – refers to any visual and/or audible message disseminated to the public about or on a particular product that promote and give publicity by words, designs, images or any other means through broadcast, electronic, print or whatever form of mass media, including outdoor advertisements, such as, but not limited to, signs and billboards. For the purpose of these Rules, advertisement shall be understood as tobacco advertisement;

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- 1.3. "Advertising" – refers to the business of conceptualizing, presenting, making available and communicating to the public, through any form of mass media, any fact, data or information about the attributes, features, quality or availability of consumer products, services or credit. For the purpose of these Rules, advertising shall be understood as tobacco advertising. This shall specifically refer to any messages and images promoting smoking; the purchase or use of cigarette or tobacco products; and cigarette or tobacco trademarks, brand names, design and manufacturer's names;
 - 1.4. "Advertiser" – refers to a person or entity on whose account or for whom an advertisement is prepared and disseminated by the advertising agency, which is a service established and operated for the purpose of counseling or creating and producing and/or implementing advertising programs in various forms of media;
 - 1.5. "Celebrity" – refers to any natural person who, by his accomplishments or fame, or by reason of his profession or calling, gives the public a legitimate interest in his doings, affairs and character. The term includes anyone who has arrived at a position where public attention is focused upon him as a person, such as, but not limited to, actors, athletes and other sports personalities, war heroes, famous inventors and explorers, among others.
 - 1.6. "Cigarette" – refers to any roll or tubular construction, which contains tobacco or its derivatives and is intended to be burned or heated under ordinary conditions of use;
 - 1.7. "Distributor" – refers to any person to whom a tobacco product is delivered or sold for purposes of distribution in commerce, except that such term does not include a manufacturer or retailer or common carrier of such product;
 - 1.8. "Enclosed area" – refers to an area that is physically separated from adjacent areas by walls or partitions and a roof or ceiling. The walls or partitions must be continuous, interrupted only by doors and windows. The mere presence of a roof or ceiling over the structure, but without walls or partitions surrounding said structure, does not constitute an enclosed area;
 - 1.9. "IAC-Tobacco" – refers to the Inter-Agency Committee-Tobacco;
 - 1.10. "Indicia" – refers to any name, logo or trademark and other words, symbols, designs, colors or other depictions of tobacco products which are registered, or although unregistered, are either considered "well known", as defined under the Intellectual Property Code of the Philippines and its implementing rules and regulations, or have become distinctive in relation to the tobacco product arising from substantially exclusive and continuous use in commerce in the Philippines for at least five (5) years;

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- 1.11. "Mass Media" – refers to any medium of communication designed to reach a mass of people. For this purpose, mass media includes print media such as, but not limited to, newspapers, magazines, and publications; broadcast media such as, but not limited to, radio, television, cable television, and cinema; electronic media such as, but not limited to, the internet. For the purpose of these Rules, communications designed to reach persons by private, postal or regular mail, electronic mail (e-mail), and similar means shall not be considered as mass media;
 - 1.12. "Minor" – refers to any person below eighteen (18) years old;
 - 1.13. "Manufacturer" – refers to any person or entity, including a re-packer, who makes, fabricates, assembles, processes, or labels a finished product.
 - 1.14. "Package" – refers to packs, boxes, cartons or containers of any kind in which any tobacco product is offered for sale to consumers;
 - 1.15. "Perimeter" – when used in these Rules in relation to the sale of, and outdoor advertisements for, tobacco products, the term shall refer to any point in the boundaries as indicated in the Original Certificate of Title or Transfer Certificate of Title of the tract of land that is actually used or occupied by a school, public playground or other facility frequented particularly by persons below eighteen (18) years of age, whether or not said tract of land is separated from adjacent tracts by a wall or fence;
 - 1.16. "Person" – refers to an individual, partnership, corporation or any other business or legal entity;
 - 1.17. "Point-of-Sale" – refers to any location at which an individual can purchase or otherwise obtain tobacco products. For the purpose of these Rules, itinerant/ambulant vendors are not covered by the term "point-of-sale";
 - 1.18. "Premises" – refers to a tract of land and the building or buildings thereon, including the open spaces between the buildings located on the same tract of land and within the perimeter of said tract of land;
 - 1.19. "Principal display panel" – refers to that part of the package of a tobacco product that is most likely to be displayed, presented or shown or examined under normal and customary conditions;
 - 1.20. "Promotion" – refers to an event or activity organized by or on behalf of a tobacco manufacturer, distributor or retailer with the aim of promoting a brand of tobacco product, which event or activity would not occur but for the support given to it by or on behalf of the tobacco manufacturer, distributor or retailer. It may also refer to the display of a tobacco product or manufacturer's name, trademark, logo, etc. on non-tobacco products. This includes the paid use of tobacco products bearing the brand names, trademarks, logos, etc. in movies, television and other forms of entertainment. For the purpose of these Rules, promotion shall be understood as tobacco promotion;

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- 1.21. "Public Conveyances" – refer to modes of transportation servicing the general population, such as, but not limited to, elevators, airplanes, buses, taxicabs, ships, jeepneys, light rail transits, tricycles, and similar vehicles;
 - 1.22. "Public Places" – refer to enclosed or confined areas of all hospitals, medical clinics, schools, public transportation terminals and offices, and buildings such as private and public offices, recreational places, shopping malls, movie houses, hotels, restaurants, and the like;
 - 1.23. "Publication of general circulation" – refers to a publication that is published for the dissemination of local news and general information with a *bona fide* subscription list of paying subscribers and published at regular intervals. When used in these Rules, the term does not include trade or professional journals and similar publications that are geared towards a limited audience, such as tobacco trade publications;
 - 1.24. "Retailer" – refers to any person who or entity that sells tobacco products to individuals for personal consumption;
 - 1.25. "Secretariat" – refers to the secretariat of the IAC-Tobacco;
 - 1.26. "Smoking" – refers to the act of carrying a lighted cigarette or other tobacco products, whether or not it is being inhaled or smoked;
 - 1.27. "Sponsorship" – refers to any public or private contribution to a third party in relation to an event, team or activity made with the aim of promoting a brand of tobacco product, which event, team or activity would still exist or occur without such contribution. For the purpose of these Rules, sponsorship shall be understood as tobacco sponsorship;
 - 1.28. "Tobacco" – refers to agricultural components derived from the tobacco plant, which are processed for use in the manufacturing of cigarettes and other tobacco products;
 - 1.29. "Tobacco Product" – refers to any product that consists of loose tobacco that contains nicotine and is intended for use in a cigarette, including any product containing tobacco and intended for smoking or oral or nasal use. Unless stated otherwise, the requirements of these Rules pertaining to cigarettes shall also apply to other tobacco products;
 - 1.30. "Tobacco Grower" – refers to any person who plants tobacco before the enactment of the Tobacco Regulation Act of 2003 and classified as such by the National Tobacco Administration (NTA); and
 - 1.31. "Warning" – refers to the notice printed on the tobacco product or its container and/or displayed in print or aired in broadcast or electronic media including outdoor advertising and which shall bear information on the hazards of tobacco use.

Title II – HEALTHFUL ENVIRONMENT

Rule I – Smoking Ban and Designation of Smoking Areas

Section 1. Smoking ban in public places. – Smoking shall be absolutely prohibited in the following public places:

- 1.1. Centers of youth activity such as playschools, preparatory schools, elementary schools, high schools, colleges and universities, youth hostels, and recreational facilities for persons under eighteen (18) years old. Such recreational facilities for persons under eighteen (18) years old shall include, but are not limited to, playgrounds;
- 1.2. Elevators and stairwells;
- 1.3. Locations in which fire hazards are present, including gas stations and storage areas for flammable liquids, gas, explosives or combustible materials;
- 1.4. Within the buildings and premises of public and private hospitals, medical, dental, and optical clinics, health centers, nursing homes, dispensaries and laboratories;
- 1.5. Public conveyances and public facilities including airport and ship terminals and train and bus stations, restaurants and conference halls, except for separate smoking areas; and
- 1.6. Food preparation areas. When used in these Rules, food preparation areas shall include areas where food or beverage is actually being manufactured or prepared.

Section 2. Smoking ban in public conveyances: exemption. – The absolute ban on smoking in public conveyances mentioned in the preceding section does not apply in inter-island vessels, where smoking areas have been designated: *Provided*, said designated smoking areas conform to the specifications set forth under these Rules.

Section 3. Designation of smoking and non-smoking areas. – In all enclosed places that are open to the general public, public and private workplaces, and other places not covered by Section 1 of this Rule, where smoking may expose a person other than the smoker to tobacco smoke, the owners, proprietors, operators, possessors, managers or administrators of such places shall establish smoking and non-smoking areas. Such areas may include a designated smoking area within the building, which may be in an open space, or a separate area with proper ventilation, but shall not be located within the same room that has been designated as a non-smoking area.

Section 4. Standards for designated smoking area. – The owners, proprietors, operators, possessors, managers or administrators of establishments not covered by Section 1 of this Rule shall determine the size and specifications of the smoking or non-smoking area: *Provided*, That the following standards shall be observed:

- 4.1. The designated smoking area other than in an open space shall be completely enclosed or physically separated from the rest of the premises

and equipped with adequate ventilation in conformity with the provisions of Presidential Decree No. 1096, otherwise known as the "National Building Code", and the Philippine Society of Mechanical Engineers Code.

4.2. Separation of the designated smoking area other than in an open space shall be effected through any of the following means:

4.2.1. The designated smoking area must be fully separated from smoke-free area by continuous floor-to-ceiling or floor-to-floor solid partitions which are interrupted only by doors equipped with door closers, and which must be constantly closed except when a person is entering or exiting the area; or

4.2.2. The designated smoking area must be set apart, enclosed or confined by means other than those described in Section 4.2.1 above: *Provided*, That said means enable compliance to air quality standards set forth in the National Building Code and the Philippine Society of Mechanical Engineers Code. Said standards are reproduced and attached herewith as "Schedule A", and made an integral part of these Rules.

Section 5. Signage for designated smoking and non-smoking areas – All designated smoking areas shall have at least one (1) legible and visible sign posted saying "SMOKING AREA", in English or Filipino, for the information and guidance of all concerned. The sign shall be placed conspicuously at the entrance to the designated smoking area and shall be in accordance with the specifications set forth in "Schedule B" of these Rules. In addition, the sign or notice shall include a warning in English or Filipino about the ill effects of both direct and secondary exposure to tobacco smoke. Said warning may be any of the four (4) variants of the health warning prescribed to be printed on the packages of tobacco products under Title IV, Rule I of these Rules. Under no circumstances shall any mark, device, word, or image associated with any tobacco company or product be included in any of these signs and materials. Non-smoking areas shall likewise have at least one (1) legible and visible sign posted saying "NON-SMOKING AREA" or "NO SMOKING".

Title III – ACCESS RESTRICTIONS

Rule I – Requirements for Self-Service Facilities and Point-of-Sale

Section 1. Vending machines and other self-service facilities. – The sale or distribution of tobacco products by means of a vending machine or any self-service facility or similar contraption or device is prohibited, unless the vending machine has a mechanism for age verification.

Section 2. Retailer compliance with respect to self-service facilities. – Each retailer shall ensure that all tobacco-related self-service displays or facilities, advertising, labeling and other items that are located in the establishment of the retailer that do not comply with the requirement of the Act and these Rules are removed or brought into compliance with the requirement of the Act and these Rules.

Section 3. Signage at point-of-sale. – Point-of-Sale establishments offering, distributing or selling tobacco products to consumers shall post the following

statement in a clear and conspicuous manner: "SALE/DISTRIBUTION TO OR PURCHASE BY MINORS OF TOBACCO PRODUCTS IS UNLAWFUL" or "IT IS UNLAWFUL FOR TOBACCO PRODUCTS TO BE SOLD/DISTRIBUTED TO OR PURCHASED BY PERSONS UNDER 18 YEARS OF AGE."

Rule II – Minimum Age for Access to Tobacco Products

Section 1. Minimum age requirement. – The sale or distribution to, as well as the purchase from, any minor of cigarettes and other tobacco products is absolutely prohibited. As such, it shall be unlawful:

- 1.1. For any retailer of tobacco products to sell or distribute tobacco products to any minor;
- 1.2. For any person to purchase cigarettes or any tobacco products from a minor;
- 1.3. For a minor to sell or buy cigarettes or any tobacco products; and
- 1.4. For a minor to smoke cigarettes or any tobacco products.

Section 2. Ignorance of real age of minor not a defense. – It shall not be a defense for the person selling, distributing or purchasing cigarettes or any tobacco products that he/she did not know or was not aware of the real age of the minor to whom said cigarettes or any tobacco products was sold or distributed, or from whom they were purchased, as the case may be. Neither shall it be a defense that he/she did not know nor had any reason to believe that the cigarette or any other tobacco product was for the consumption of the minor to whom it was sold.

Section 3. Sale of tobacco products within the perimeters of centers of youth activity. – The sale or distribution of tobacco products is prohibited within one hundred (100) meters from any point of the perimeter of a school, public playground or other facility frequented particularly by minors.

Section 4. Proof of age verification. – In case of doubt as to the age of the buyer, retailers shall verify, by means of any valid form of identification paper containing both the photograph and the date of birth of the bearer, such as, but not limited to, passport, driver's license, Social Security System identification card, postal identification card and the like, that the buyer is at least eighteen (18) years old.

Title IV – ADVERTISING AND PROMOTIONS

Rule I – Warnings on Packages of Tobacco Products

Section 1. Health warnings. – Effective 1 January 2004, all packages in which tobacco products are provided to consumers, withdrawn from the manufacturing facility of all manufacturers or imported into the Philippines intended for sale to the market, shall be printed, in either English or Filipino, on a rotating basis or separately and simultaneously, the following health warnings:

- 1.1. "GOVERNMENT WARNING: Cigarette Smoking is Dangerous to Your Health" ('BABALA: Ang Paninigarilyo ay Mapanganib sa Iyong Kalusugan");

- 1.2. "GOVERNMENT WARNING: Cigarettes are Addictive" ("BABALA: Ang Sigarilyo ay Nakaka-adik");
- 1.3. "GOVERNMENT WARNING: Tobacco Smoke Can Harm Your Children" ("BABALA: Ang Usok ng Sigarilyo ay Mapanganib sa mga Bata"); and
- 1.4. "GOVERNMENT WARNING: Smoking Kills" ("BABALA: Nakamamatay ang Paninigarilyo").

Section 2. Health warning on side panel. – Upon effectivity of the Act until 30 June 2006, the health warning shall be located on one side panel of every tobacco product package and occupy not less than fifty percent (50%) of such side panel including any border or frame.

Section 3. Health warning on front panel. – Beginning 1 July 2006, the health warning shall be located on the bottom portion of one (1) front panel of every tobacco product package and occupy not less than thirty percent (30%) of such front panel including any border or frame. The text of the warning shall appear in clearly legible type in black text on a white background with a black border and in contrast by topography, layout or color to the other printed matters on the package. The health warning shall occupy a total area of not less than fifty percent (50%) of the total warning frame. For the purpose of these Rules, the front panel wherein the health warning must appear shall be the principal display panel.

Section 4. Frequency of appearance of health warnings. – The warnings shall be rotated periodically, or separately and simultaneously printed, so that within any twenty-four (24) month period, the four (4) variations of the warnings shall appear with proportionate frequency.

Section 5. Schedule of Rotation of Health Warnings. – The following schedule of the rotation of the health warning for all brands of tobacco products shall be observed by the manufacturers or importers of tobacco products who shall choose the rotating option:

- 5.1. Beginning 1 January 2004 until 30 June 2004 – "GOVERNMENT WARNING: Cigarette Smoking is Dangerous to Your Health" ("BABALA: Ang Paninigarilyo ay Mapanganib sa Iyong Kalusugan");
- 5.2. Beginning 1 July 2004 until 31 December 2004 – "GOVERNMENT WARNING: Cigarettes are Addictive" ("BABALA: Ang Sigarilyo ay Nakaka-adik");
- 5.3. Beginning 1 January 2005 until 30 June 2005 – "GOVERNMENT WARNING: Tobacco Smoke Can Harm Your Children" ("BABALA: Ang Usok ng Sigarilyo ay Mapanganib sa mga Bata"); and
- 5.4. Beginning 1 July 2005 until 31 December 2005 – "GOVERNMENT WARNING: Smoking Kills" ("BABALA: Nakamamatay ang Paninigarilyo").

This cycle or rotation of the health warnings prescribed above shall be repeated in the same sequence and for the same duration beginning 1 January 2006.

Section 6. Submission of Health Warning Plan. – Within thirty (30) days from the effectivity of these Rules, all manufacturers and importers of tobacco products for

sale or distribution in the Philippines shall submit to the IAC-Tobacco, through the Secretariat, their respective Health Warning Plans which shall include the following information:

- 6.1. The name and complete business address of the manufacturer or importer;
- 6.2. The brand names of their tobacco products; and
- 6.3. Their preferred option as to the appearance of the health warning, whether rotating, or separately and simultaneously printed.

Section 7. Clear display of health warnings. – The warnings shall not be hidden or obscured by other printed information or images, or printed in a location where tax or fiscal stamps are likely to be applied to the package or placed in a location where it will be damaged when the package is opened. If the warning to be printed on the package is likely to be obscured or obliterated by a wrapper on the package, the warning must be printed on both the wrapper and the package.

Section 8. Notice on prohibition of sale to minors. – In addition to the health warning, all packages of tobacco products that are provided to consumers shall contain, on one side panel, the following statement in a clear, legible and conspicuous manner: “NO SALE TO MINORS” or “NOT FOR SALE TO MINORS”. The statement shall occupy an area of not less than ten percent (10%) of such side panel and shall appear in contrast by color, typography or layout with all the other printed material on the side panel.

Section 9. Other printed warnings. – No other printed warnings, except the health warning and the message required in this Rule shall be placed on packages of tobacco products.

Section 10. Prescribed font types for health warnings. – Only the font types Helvetica or Arial shall be used for the health warnings and the message as to tobacco products being not for sale to minors required in this Rule.

Rule II – Warnings in Advertising

Section 1. Warning in advertising: general. – All tobacco advertising in mass media shall contain, either in English or Filipino the following health warning: “GOVERNMENT WARNING: Cigarette Smoking is Dangerous to your Health”.

Section 2. Warning in print and outdoor advertisements. – For print and outdoor advertisements, the warning frame shall be centered across the bottom of the advertisement and occupy a total area of not less than fifteen percent (15%) of such advertisement including any border or frame. The health warning shall occupy a total area of not less than fifty percent (50%) of the total warning frame. The text of the health warnings shall be clearly visible and legible, printed in a prominent color as appropriate and shall appear in contrast by color, typography or layout with all other printed materials in the advertisement. The warning shall not be hidden or obscured by other printed information or images in the advertisement.

Section 3. Warning in television and cinema advertisements. – For television and cinema advertisements, the warning shall be clearly shown and voiced over in the

last five (5) seconds of the advertisement, regardless of the duration of the advertisement, even when such advertisement is silent. The health warning shall occupy a total area of not less than fifty percent (50%) of the television or cinema screen and shall be clearly visible, legible and audible, in black text on white background or white text on black background. No other images except the warning shall be included in the warning frame.

Section 4. Prescribed font types. – Only the fonts Helvetica or Arial may be used for the health warning required under this Rule.

Section 5. Warning in radio advertisements. – For radio advertisements, the warning shall be clearly and audibly voiced over in the last five (5) seconds of the advertisement, regardless of its duration.

Rule III – Restrictions on Advertising in General

Section 1. Coverage. – This Rule shall apply to all tobacco advertising, regardless of the medium used.

Section 2. Advertisements not focused on minors. – Advertisements shall not be aimed at or particularly appeal to persons under eighteen (18) years of age.

Section 3. Prohibition on endorsement by celebrity. – Advertisements shall not feature a celebrity or contain an endorsement, whether implied or express, by a celebrity.

Section 4. Prohibition on use of cartoon characters. – Advertisements shall not contain cartoon characters or subjects that depict humans or animals with comically exaggerated features or that attribute human or unnatural characteristics to animals, plants or other objects.

Section 5. Minimum age for persons in advertisements. – Advertisements shall only depict persons who are or who appear to be above twenty-five (25) years of age.

Section 6. Prohibited scenes in advertisements. – Advertisements shall not show, portray or depict scenes where the actual use of, or the act of using, puffing, lighting or carrying lighted cigarettes or other tobacco products is presented to the public.

Rule IV – Restrictions on Print Media Advertising

Section 1. Coverage. – This Rule shall apply only to publications for general circulation that are published, or whose editorial offices are, in the Philippines, whether printed in the Philippines or in another country.

Section 2. Type of publication. – Advertisements shall not be placed in any printed publication unless there is a reasonable basis to believe that at least seventy-five percent (75%) of the readers of such publication are eighteen (18) years of age and above, and the number of youth who read it constitutes less than ten percent (10%) of all youth in the Philippines. The advertiser shall be responsible for securing a certification from the publisher that the publication where the advertisement appears meets the aforementioned qualifications.

Section 3. Restricted sections of publication. – Advertisements shall not be placed on the packaging or both the front and back outside covers of a magazine, newspaper, journal or other publication printed for general circulation.

Rule V – Restrictions on Outdoor Advertising

Section 1. Restricted zone for outdoor advertisements. – Outdoor advertisements of tobacco products shall not be placed on billboards, wall murals, or transport stops or stations which are within one hundred (100) meters from any point of the perimeter of a school, public playground or other facility frequented particularly by persons below eighteen (18) years of age.

Section 2. Official to determine compliance to restricted zone. – The concerned city or municipal building official shall be responsible for determining whether outdoor advertisements comply with the preceding section. Any outdoor advertisement which was determined by the concerned city or municipal building official to be not in conformity with the requirement of the preceding section shall be disposed of in the manner provided in Section 3 of this Rule.

Section 3. Disposition of outdoor advertisements within the restricted zone. – The disposition of all outdoor advertisements of tobacco products which were determined by the concerned city or municipal building official to be within the one hundred (100) meter radius of the perimeter of a school, public playground or other facility frequented particularly by persons below eighteen (18) years of age shall be governed by the following guidelines:

- 3.1. The removal of the non-compliant outdoor advertisement shall be done only after due notice by the concerned city or municipal building official to the owner or administrator of the building, other structure or land where said outdoor advertisement is located.
- 3.2. The owner or administrator of the building, other structure or land where the non-compliant outdoor advertisement is located shall be responsible for the removal or to cause the removal of said non-compliant outdoor advertising within three (3) days from receipt of notice from the concerned city or municipal building official. The final disposition of the outdoor advertising so removed shall be subject to the terms and conditions stipulated in the lease contract for the advertising space between the owner or administrator of the advertising space and the advertiser or the advertising agency, as the case may be.

Section 4. Maximum size of outdoor advertisements. – Outdoor advertisements shall not, either individually or when placed in deliberate combination with other outdoor tobacco advertising, exceed seventy (70) square meters in total size.

Section 5. Official to Determine Compliance to Maximum Size. – The concerned city or municipal building official shall be responsible for determining whether outdoor advertisements comply with the preceding section. Any outdoor advertisement which was determined by the concerned city or municipal building official to be not in conformity with the requirement of the preceding section shall be disposed of in the same manner provided in Section 3 of this Rule.

Section 6. Ban on outdoor advertisements in public conveyances and in stations, terminals or platforms thereof. – Outdoor advertisements shall not be placed on taxis, buses, trains or other public conveyances. Outdoor advertisements shall likewise not be placed in stations, terminals or platforms of public conveyances, except at point-of-sale establishments.

Rule VI – Restrictions on Advertising in Cinemas

Section 1. Advertising in cinemas. – Advertisements of tobacco products shall not be allowed in cinemas when the motion picture or film being exhibited allows the admission of persons below eighteen (18) years old.

Rule VII – Restrictions on Television and Radio Advertising

Section 1. Advertising on TV and radio. – Advertisements of tobacco products shall not be broadcast on television, cable television, and radio between seven o'clock in the morning and seven o'clock in the evening.

Rule VIII – Restrictions on Advertising in Audio, Video and Computer Cassettes/Discs and Similar Medium

Section 1. Advertising in audio, video and computer cassettes/disks. – No electronic advertisements shall be incorporated within any video or audio cassette, videogame machine, optical disc, or any similar medium, unless access to the item is restricted to persons eighteen (18) years of age or older. For the purpose of this Section, video game includes any electronic amusement device that utilizes a computer, microprocessor, or similar electronic circuitry and its own cathode ray tube, or is designed to be used with a television set or a monitor that interacts with the user of the device.

Rule IX – Restrictions on Advertising on the Internet and Similar Medium

Section 1. Advertising on the Internet. – Advertisements are prohibited on the Internet and other similar medium unless the Internet site is restricted to persons eighteen (18) years of age or older. A site will be deemed restricted if a person cannot obtain access beyond the first page of the website unless the person has established that he or she is at least eighteen (18) years old. This limitation applies to commercial communications and shall not prevent the use of company Internet websites to provide information regarding a company, its products and smoking and health related information. This Section shall not prohibit business-to-business transactions conducted on the Internet and other similar medium between tobacco manufacturers, retailers and distributors.

Rule X – Ban on Advertisements

Section 1. Ban on advertising on TV and radio. – Beginning 1 January 2007, all tobacco advertising on television, cable television and radio shall be prohibited. The prohibition shall include sponsored segments of television, cable television and radio programs.

Section 2. Ban on cinema and outdoor advertising. – Beginning 1 July 2007, all cinema and outdoor advertising shall be prohibited. No leaflets, posters and similar

outdoor advertising materials may be posted, except inside the premises of point-of-sale retail establishments.

Section 3. Ban on mass media advertising. – Beginning 1 July 2008, all forms of tobacco advertising in mass media shall be prohibited except tobacco advertisements placed inside the premises of point-of-sale retail establishments.

Rule XI – Restrictions on Tobacco Promotions

Section 1. Target audience of promotions. – Promotions must be directed only to persons at least eighteen (18) years old. No person below eighteen (18) years old or who appear to be below eighteen (18) years old may participate in such promotions. The participants in promotions must be required to provide proof of age. The examples of acceptable proof of age under Section 4, Rule II, Title III required for buyers of tobacco products are likewise applicable under this Rule.

Section 2. Requirements for promotions communication. – Communications to consumers about tobacco promotions shall comply with the provisions of the Act and these Rules governing tobacco advertising. In addition to the required health warning, the age requirement for participation in any promotion must be clearly marked on the program materials distributed to consumers.

Section 3. Location of stalls for tobacco promotions. – All stalls, booths, and other displays concerning tobacco promotions must be limited to point-of-sale locations or adult-only facilities.

Section 4. Requirement for telephone communications on promotions. – Telephone communications concerning promotional offers, programs or events must include a recorded health warning message in English or Filipino consistent with the warnings specified in the Act as well as in these Rules. For the purpose of these Rules, telephone communications shall include the traditional voice calls, fax messages, and messages transmitted through cellular phones using the Short Messaging System (SMS) or Multimedia Messaging System (MMS).

Section 5. Prohibited placements. – No placement shall be made by any manufacturer, distributor, or retailer of any tobacco product package or advertisement as a prop in any television program or motion picture produced for viewing by the general public or in a video, optical disc or on a video game machine. This prohibition shall apply whether said placement is gratuitous or for a certain consideration.

Section 6. Articles that may carry brand of tobacco product. – The name, logo, or other indicia of a brand of a tobacco product may appear on cigarette lighters, ashtrays, or other smoking related items. If such name, logo, or other indicia of a cigarette brand is larger than fifty (50) square centimeters, the item must carry a health warning consistent with the warnings specified in the Act as well as in these Rules.

Section 7. Restriction on non-smoking related articles to carry brand of tobacco product. – No merchandise such as, but not limited to, t-shirts, caps, sweatshirts, visors, backpacks, sunglasses, writing implements and umbrellas, may be distributed, sold or offered, directly or indirectly, with the name, logo or other indicia

of a brand of a tobacco product displayed so as to be visible to others when worn or used. Clothing items with the name, logo or other indicia of a brand of a tobacco product may be allowed: *Provided*, That said name, logo or other indicia is not visible to others when the clothing item is worn: *Provided further*, That said clothing items are in adult sizes only.

Section 8. Prohibition on appearance of brand of tobacco product on articles used by minors. – No name, logo, or other indicia of a brand of a tobacco product or element of a brand-related marketing activity, may appear on items that are marketed to or likely to be used by minors such as, but not limited to, sports equipment, toys, dolls, miniature replicas of racing vehicles, video games, and food. The manufacturer or company must take all available measures to prevent third parties from using the company's brand names, logos, or other proprietary material on products that are directed toward minors.

Section 9. Prohibition on tobacco advertisements on shopping bags. – No tobacco advertisements, including the name, logo or other indicia of a brand of a tobacco product, may be placed on shopping bags.

Rule XII – Naming Rights

Section 1. Prohibition on naming rights with sports league or team. – No manufacturer may enter into any agreement pursuant to which payment is made or other consideration is provided by such manufacturer to any sports league, or any team involved in any such league, in exchange for use of a tobacco product brand.

Section 2. Prohibition on naming rights with stadium. – No manufacturer may enter into any agreement for the naming rights of any stadium or arena using a tobacco product brand name or otherwise cause a stadium or arena to be named with such a brand name.

Rule XIII – Restrictions on Sponsorships

Section 1. Prohibited sponsorship; exemptions. – No sponsorship shall be provided for:

- 1.1. An event or activity which bears a tobacco product brand name, unless there is reasonable basis to believe that all persons who compete, or otherwise take an active part, in the sponsored events or activities are persons eighteen (18) years of age or older;
- 1.2. A team or an individual bearing a tobacco product name, unless all persons sponsored are eighteen (18) years of age or older; or
- 1.3. A sponsored event or activity reasonably believed to be of particular appeal to persons under eighteen (18) years old.

Section 2. Requirements for sponsorship. – Tobacco brand sponsorships shall be prohibited except where there is reasonable basis to believe that:

- 2.1. At least seventy-five percent (75%) of the number of persons attending said sponsored event or activity are at least eighteen (18) years old;

- 2.2. The sponsored event or activity will not be of particular appeal to persons under eighteen (18) years old;
- 2.3. The sponsored event or activity will not receive exposure, other than as a news item, on television or radio or the Internet, unless such exposure complies with the provisions of the Act and these Rules governing tobacco marketing through those media; and
- 2.4. The principal activity associated with the sponsorship does not require above-average physical fitness for someone of the age group of those taking part.

Section 3. Minimum age of persons to bear tobacco advertisements. – All persons authorized to bear tobacco product advertisements, logos or brand names at sponsored events shall be at least eighteen (18) years old.

Section 4. Compliance to marketing provisions. – All forms of advertising associated with or ancillary to sponsorship shall comply with the marketing provisions of the Act and these Rules.

Rule XIV – Ban on Sponsorships

Section 1. Absolute ban on sponsorships. – Beginning 1 July 2008, cigarette and tobacco companies are hereby prohibited from sponsoring any sport, concert, cultural or art event, as well as individual and team athletes, artists or performers where such sponsorship shall require or involve the advertisement or promotion of any cigarette or tobacco company, tobacco product or tobacco use, name, logo or trademarks and other words, symbols, designs, colors or other depictions commonly associated with or likely to identify a tobacco product.

Section 2. Attribution in roster of sponsors. – Notwithstanding Section 1 above, attribution in the roster of sponsors shall be allowed only to the name of the tobacco company, and not to the brand name of the tobacco product of said company.

Section 3. Prohibition on registration of brand name as company name. – No manufacturer may register a tobacco brand name as a company name after the passage of the Act on 23 June 2003.

Rule XV – Restrictions on Sampling

Section 1. Prohibition on giving of samples to minors. – The distribution of samples of tobacco products to persons below eighteen (18) years old is prohibited.

Section 2. Scope of prohibition. – The prohibition on distribution of samples of tobacco products mentioned in Section 1 above shall include distribution made by the manufacturer of the tobacco product or any person, whether or not acting in behalf of the manufacturer such as the distributor, retailer, advertising agency or marketing research entity.

Title V – LEGAL ACTIONS

Rule I – Applicable Laws

Section 1. Applicability of the Civil Code of the Philippines. – Any legal action in connection with the tobacco industry that does not pertain to the violation of any provision of the Act and these Rules shall be governed by the provisions of the Philippine Civil Code and other applicable laws.

Section 2. All legal actions arising from the violation of the Act and these Rules shall be governed by the provisions of the Act and these Rules.

Title VI – PENALTIES AND ENFORCEMENT PROCEDURES

Rule I – Penalties

Section 1. Punishable acts. – The following acts are punishable under the Act:

- 1.1. Smoking in designated public places where smoking is prohibited;
- 1.2. Non-compliance by the owners, proprietors, operators, possessors, managers or administrators of enclosed places open to the general public, public and private workplaces and other places not covered under Section 5 of the Act to establish smoking and non-smoking areas under Section 6 of the Act;
- 1.3. Sale or distribution of tobacco products by means of a vending machine or other self-service facility, unless the vending machine or similar contraption has a mechanism for age verification under Section 7 of the Act;
- 1.4. Non-compliance by the retailer to the requirements of Section 8 of the Act with respect to tobacco-related self-service displays or facilities, or to remove such non-compliant self-service displays or facilities;
- 1.5. Sale of tobacco products to or by a minor under Section 9 of the Act;
- 1.6. Sale of tobacco products within one hundred (100) meters from any point of the perimeter of a school, public playground or other facility frequented particularly by minors under Section 10 of the Act;
- 1.7. Non-compliance with the required signage in point-of-sale establishments under Section 11 of the Act;
- 1.8. Non-compliance with the required health warnings on packages of tobacco products intended for sale in the Philippines under Section 13 of the Act;
- 1.9. Non-compliance with the required health warning in all tobacco advertising in mass media under Section 14 of the Act;
- 1.10. Non-compliance with the restrictions on tobacco advertising, print media advertising, outdoor advertising; cinema advertising; television and radio advertising; advertising in audio, video and computer cassettes/discs and similar medium; and advertising in the Internet under Sections 15 to 21 of the Act;

- 1.11. Non-compliance with the ban on advertisements; restrictions on tobacco promotions; and ban on naming rights under Sections 22 to 24 of the Act;
- 1.12. Non-compliance with the restrictions on sponsorships and ban on sponsorships under Sections 25 and 26 of the Act; and
- 1.13. Distribution of samples of tobacco products to minors under Section 27 of the Act.

Section 2. Penalties. – The following penalties shall apply:

- 2.1. *For violation of Sections 5 and 6 of the Act.* – On the first offense, a fine of not less than Five hundred pesos (Php 500.00) but not more than One thousand pesos (Php 1,000.00) shall be imposed.

On the second offense, a fine of not less than One thousand pesos (Php 1,000.00) but not more than Five thousand pesos (Php 5,000.00) shall be imposed.

On the third offense, in addition to a fine of not less than Five thousand pesos (Php 5,000.00) but not more than Ten thousand pesos (Php 10,000.00), the business permits and licenses to operate shall be cancelled or revoked.

- 2.2. *For violation of Sections 7, 8, 9, 10 and 11 of the Act.* – On the first offense, any person or any business entity or establishment selling to, distributing or purchasing a cigarette or any other tobacco products from a minor shall be fined the amount of not less than Five thousand pesos (Php 5,000.00) or an imprisonment of not more than thirty (30) days, upon the discretion of the court. For succeeding offenses, both penalties shall apply in addition to the revocation of business licenses or permits in the case of a business entity or establishment.

If the violation is by an establishment or business entity, the owner, president, manager, or the most senior officers thereof shall be held liable for the offense.

If a minor is caught selling, buying or smoking cigarettes or any other tobacco products, the provisions of Article 189 of Presidential Decree No. 603, otherwise known as The Child and Youth Welfare Code, as amended, shall apply.

- 2.3. *For violation of Sections 13 to 27 of the Act.* – On the first offense, a fine of not more than One hundred thousand pesos (Php 100,000.00) or imprisonment of not more than one (1) year or both, at the discretion of the court shall be imposed.

On the second offense, a fine of Two hundred thousand pesos (Php 200,000.00) or imprisonment of not more than two (2) years, or both, at the discretion of the court shall be imposed.

On the third offense, in addition to a fine of not more than Four hundred thousand pesos (Php 400,000.00) or imprisonment of not more than three (3) years, or both, at the discretion of the court, the business permits and

licenses, in the case of a business entity or establishment, shall be revoked or cancelled.

In the case of a business entity or establishment, the owner, president, manager or officials thereof shall be liable.

If the guilty officer is an alien, he shall summarily be deported after serving his sentence, and shall forever be barred from re-entering the Philippines.

Rule II – Enforcement Procedures

Section 1. Institution of criminal proceedings. – In the enforcement of the Act and these Rules, criminal proceedings may be instituted.

Section 2. Authority of city, municipal and police officials to initiate action. – To effectively implement the provisions of the Act and these Rules pertaining to the smoking ban, access restrictions, point-of-sale establishments, and cinema and outdoor advertising, the concerned city and municipal mayors and building officials and members of the Philippine National Police are authorized to take the necessary steps such as the institution of criminal proceedings against violators of the provisions of the Act, as well as to cause the removal of non-compliant cinema and outdoor advertising, and tobacco-related self-service facilities.

Title VII – MISCELLANEOUS PROVISIONS

Rule I – Designation and Functions of the Secretariat

Section 1. Secretariat of the IAC-Tobacco. – The Bureau of Trade Regulation and Consumer Protection of the Department of Trade and Industry shall be the secretariat of the IAC-Tobacco.

Section 2. Functions of the secretariat. – The secretariat shall have the following functions:

- 2.1. Prepare the annual Compliance Monitoring Report to be submitted by the IAC-Tobacco to the President of the Philippines and to both Houses of Congress pursuant to Section 31 of the Act;
- 2.2. Prescribe, upon approval by the IAC-Tobacco, the contents and format of any report or form to be required from all manufacturers and importers of tobacco products; and
- 2.3. Provide technical, administrative and such other support services as may be required by the IAC-Tobacco.

Section 3. Assistance to the secretariat. – All member agencies of the IAC-Tobacco shall provide assistance to the secretariat when so requested by the latter.

Rule II – Transitory Provisions

Section 1. Substantial compliance to health warnings in packages of tobacco products. – To give the manufacturers and importers of tobacco products sufficient time to comply with the provisions of Rule I, Title IV of these Rules requiring the printing of health warnings and notice on prohibition of sale to minors in all packages in which tobacco products are provided to consumers, the health warnings

printed in said packages as of the date of effectivity of these Rules shall be deemed substantial compliance to the requirements of Section 1, Rule I, Title IV of these Rules until 30 April 2004. Effective 1 May 2004, all manufacturers and importers of tobacco products shall strictly comply with the provisions of Section 1, Rule I, Title IV of these Rules.

Section 2. Removal of non-compliant outdoor advertising with pre-existing lease contract. – The lease contract for advertising space for outdoor advertising that does not comply with the provisions of Section 1, Rule V, Title IV of these Rules but is subsisting as of the date of effectivity of these Rules shall be allowed to lapse: *Provided*, That any lease contract that will lapse before 15 April 2004 may no longer be renewed or extended. Effective 16 April 2004, all non-compliant outdoor advertising shall be removed notwithstanding the pre-existence of a lease contract for the subject advertising space.

Rule III – Repealing Clause

Section 1. Repealing clause. – All provisions of department orders, rules and regulations, and other issuances of government agencies, or any part thereof, which are inconsistent with these Rules are hereby repealed or modified accordingly.


Rule IV – Separability Clause

Section 1. Separability clause. – Should any provision of these Rules be subsequently declared unconstitutional or invalid, the other provisions not so declared and not affected by such declaration shall remain in full force and effect.

Rule V – Effectivity

Section 1. Effectivity. – These Rules shall take effect fifteen (15) days after its publication in at least two (2) newspapers of national circulation.

Done this 26th day of February 2004 at Makati City, Metro Manila.


CESAR V. PURISIMA
Secretary of Trade and Industry
Chairman, IAC-Tobacco

N.B. IAC-Tobacco Memorandum Circular No. 1, Series of 2004 was published in *Manila Times* on 24 March 2004 and in *Malaya* on 25 March 2004. It took effect on 9 April 2004, fifteen (15) days after its publication in *Malaya*.

Schedule "A"

Article 8.2 Air Conditioning and Ventilation Standards

Philippine Society of Mechanical Engineers Code

8. x x x

8.2.x x x

- 8.2.1. The temperature and humidity of the air to be used for comfort cooling shall be maintained at 20°-23°C effective temperature at an air movement of from 4,570 to 7,620 mm/min within the living zone and 55 to 60% relative humidity.
- 8.2.2. The air quality in such occupied spaces shall at all times be free from toxic, unhealthful, or disagreeable gases and fumes and shall be relatively free from odors and dust.
- 8.2.3. The air in such occupied spaces shall at all times be in constant motion sufficient to maintain a reasonable uniformity of temperature and humidity but shall not cause objectionable drafts in any occupied portion. The air motion in such occupied spaces, and in which the only source of contamination is the occupant, shall have a velocity of not more than 15.24 meter per minute as the air enters the living zone or 1,830 mm above the floor.
- 8.2.4. The air in all rooms and enclosed spaces shall be distributed with reasonable uniformity, and the variation in carbon dioxide content of the air shall be taken as a measure of such distribution. The carbon dioxide concentration when measured 910 mm above the floor shall not exceed 100 parts per million (ppm).
- 8.2.5. The quality of air used to ventilate the space during the occupancy shall always be sufficient to maintain the standards of air temperature, air quality, air motion and air distribution. Ventilation requirements shall conform to the following Table 8.2.5.

Table 8.2.5 Outdoor Air Requirement			
Application	Occupants Smoking	CMM/Person	
		Recommended	Minimum
Apartment, average	Some	0.567	0.283
Apartment, de luxe	Some	0.567	0.283
Banking Space	Occasional	0.283	0.213
Barber shop	Considerable	0.425	0.283
Beauty parlor	Occasional	0.283	0.213
Board room	Very heavy	1.417	0.567
Cocktail bar	Heavy	1.134	0.708
Department store	None	0.213	0.142
Director's room	Extreme	1.417	0.850
Drug store	Considerable	0.283	0.213
Factory	None	0.283	0.213
Funeral parlor	None	0.283	0.213
Hospital, private room	None	0.850	0.708
Hospital, ward	None	0.567	0.283
Hotel room	Heavy	0.850	0.708
Laboratories	Some	0.567	0.425
Meeting room	Very heavy	1.417	0.850
Offices, general	Some	0.425	0.283
Offices, private	None	0.708	0.425
Offices, private	Considerable	0.850	0.708
Restaurant, cafeteria	Considerable	0.340	0.283
Dining room	Considerable	0.425	0.340
Shop, retail	None	0.283	0.213
Theater	None	0.213	0.142
Theater	Some	0.425	0.288

Schedule "B"

**SPECIFICATIONS OF SIGNAGES
FOR DESIGNATED SMOKING AND NON-SMOKING AREAS**

1. Overall size of sign - 297 x 210 mm
2. Font and size for "NO SMOKING AREA" or "SMOKING AREA" - Arial Black, 122 pt.
3. Font and size for "GOVERNMENT WARNING" - Arial Black, 48 pt.
4. Font and size for "Tobacco Regulation Act" - Arial Black, 32 pt.