

Ministry of Information, Press and National Communication,

Ministerial Administrative Order n° 008/CAB/MIN.INFO.PRES & COM.NAT./2007 of July 9, 2007 amending and completing Ministerial Administrative Order n° 04/MCP/009/2002 of October 15, 2002, setting the criteria for assessing advertising for tobacco and alcoholic beverages as amended to date.

The Minister of Information, Press and National Communication, In light of the Constitution of the Republic;

In light of Legislative Order n° 41-63 of February 24, 1941, concerning unfair competition;

In light of Law n° 96-002 of June 22, 1996, setting the terms for the exercise of freedom of the press in the Democratic Republic of Congo;

In light of Order n° 07/001 of February 5, 2007, concerning the appointment of Ministers of State, Ministers and Vice Ministers of the Government of the Democratic Republic of Congo;

In light of Order n° 07/017 of May 3, 2007, concerning the organization and functioning of the Government, practical procedures for collaboration between the President of the Republic and the Government, as well as among members of the Government;

In light of Order n° 07/018 of May 16, 2007, setting the attributions of Ministries, particularly in its Article point 16;

In light of Departmental Administrative Order n° 04/DIP/004/90 of April 21, 1990, bearing on general regulatory provisions concerning advertising in the Democratic Republic of Congo;

Reviewing Ministerial Administrative Order n° 04/MCP/009/2002 of October 5, 2002, amending and completing Ministerial Administrative Order n° 04/DIP/005190 of April 21, 1990, setting the criteria for assessing advertising for tobacco and alcoholic beverages in the Democratic Republic of Congo;

Considering the recommendations of February 16, 2006, stated upon the issuance of agreements between the Bureau of the High Office of Media, the Ministries of Information, Press and National Communication and of Culture and the Arts, the National Commission for Censorship of Songs and Spectacles, as well as the representatives of the Brewing Companies BRALIMA and BRACONGO on problems relating to advertising alcoholic beverages in audiovisual media in the Democratic Republic of Congo;

In light of its necessity and urgency, hereby

ORDERS:

Article 1

Articles 1, 2, 3, 4, 5 and 13 of Departmental Administrative Order n°)4/DIP/005/90 of April 28, 1990, setting the criteria for assessing advertising for tobacco and alcoholic beverages are amended and supplemented as follows:

Article 2:

Any advertising of any kind to appear in public or private media must be in accordance with the legal and regulatory provisions in force concerning advertising.

Article 3:

Any advertising for tobacco or alcoholic beverages must be in accordance with the criteria defined by this Administrative Order, as well as with legal and regulatory provisions in force regarding advertising. No advertising can appear without first obtaining approval from one of the Oversight Commissions and approval for the advertising in question.

Article 4:

The name of the brand and the nicotine and tar content are to be included on each pack of cigarettes, as well as the health warning stating that smoking is harmful to health. The health warning is to be printed in bold, upper case letters: **SMOKING IS HARMFUL TO YOUR HEALTH.**

Article 5:

The tar and nicotine content are to appear on the right side of each pack, and they shall cover 20% of the aforesaid side. They are to be printed as follows:

TAR mg.

NICOTINE..... mg.

Article 6.

The health warning must appear on each pack and on each carton, as well as on each promotional article whose surface area stating the brand is greater than 25 cm².

On all items indicated in sub-paragraph 2 below, the health warning shall appear in legible colors and size. The statement concerning alcohol content for alcoholic beverages must be compatible with the format of the support used. Its dimensions shall be one tenth the size of the support. The language to be used for all information that is to appear on packs, cartons and promotional articles for tobacco and alcoholic beverages shall be French.”

Article 7:

Unofficial Translation

Advertising shall only be addressed to adult consumers authorized to purchase and sell tobacco products.

Any advertising for tobacco must scrupulously respect the quantitative criteria hereinafter, whose assessment falls within the competence of the oversight commission and the approval of the advertising.

A. For television and radio, any kind of televised or radio broadcast advertising is prohibited:

Any kind of advertising for tobacco products in the print media is prohibited, including the various kinds of magazines, both commercial ones as well as general information ones.

B. For advertising, promotion, sponsorship and outdoor sampling:

C. 1. Advertising

At all points of sale with a surface area greater than 250 cm² the health warning according to which smoking is harmful to health is to be displayed.

The space reserved for the health warning shall cover 10% of the surface displaying the brand.

The health warning shall be placed in a particular spot whose color is in contrast with the main color of the point of sale.

Any kind of advertising on highway signs, including billboards and banners, is prohibited.

No electronic advertising may be incorporated into any video, audiocassette, compact disc, DVD or similar media, unless measures are taken to ensure that the persons receiving such articles are adults.

It is prohibited to undertake any advertising research on a population under the age of 18.

C.2. Promotion of tobacco products

- Participation by the general public in promotional offers through the press is subject to proof that one is 18 years old.
- When promotional activities allow an adult to take part in the company of others, the persons accompanying must also be adults.

Promotional events can only take place in places where access is restricted to adults only.

No promotional article can be given out to minors, purchased by minors, or sold to minors.

C.3. Sampling of tobacco products

- Samples of tobacco products cannot be offered to a person who has not yet reached the age of 18.
- Samples are only to be offered in situations where it is possible to control access to the place of sampling, for example, in a particular space where access is restricted to adults.

Unofficial Translation

- Persons employed to offer samples of tobacco products or to conduct promotional activities must be at least 21 years of age, and must ascertain that the person receiving a sample is an adult.

Article 8:

Advertising for tobacco companies, beer companies or others, may with duly founded reasons, apply for and obtain from the Minister of Information, a special dispensation whose duration may not exceed six months.

C.4. Sponsorship

It is prohibited to sponsor events intended for minors through either print or audiovisual media.

Article 9:

Any advertising for mildly alcoholic beverages (beer) and others must scrupulously respect the criteria for production and dissemination in the broadcast space of the RDC, whose assessment falls within the competence of the Special Compliance Commission, set up by the Ministry of Information, Press and National Communication.

a. For audiovisual media

a.1. No advertising message (spot, infomercial, reporting, advertising film) can be broadcast without the prior written authorization of the Compliance Commission following a favorable opinion by the Ministry of Information, Press and National Communication.

a. 2. The duration of a spot for an alcoholic product may not exceed 45 seconds, and 60 seconds for other products.

a. 3. No active advertising for an alcoholic product lasting more than 30' can be broadcast twice during the same session.

a.4. Active advertising for a mildly alcoholic product may not be broadcast prior to 9:30 p.m. on weekdays, and 11:00 p.m. on weekends and holidays, with an exception allowed for sporting, cultural and other contractual events, and that has received a dispensation from the Ministry of Information, Press and National Communication.

a.5. As for passive advertising, it may not be used to comprise the background animation at events relayed live or delayed by radio and TV networks in order to synchronize the broadcast.

a. 6. It is strictly prohibited to use any kind of advertising genre whatsoever for an alcoholic product in programs intended for children.

a. 7. False advertising is sanctioned in accordance with the laws governing this sector.

a. 8. Any production and creation of an audiovisual work of advertising must be done with the involvement of a qualified and competent professional with professional credentials.

b) For television and radio

Unofficial Translation

- No advertising message for alcoholic beverages or tobacco will be broadcast prior to 10:30 p.m.
- No advertising will be done during the weekend;
- Messages shall have a maximum duration of 60 seconds.

a. 9. Their broadcast shall be carried out in the context of programs for adults, and shall not under any circumstances occur in programs specifically intended for young people.

c) For the print media

b. 1. No message can appear without the statement “infomercial-reporting” or advertising;

b. 2. The message shall occupy a space that may not exceed 20% of the total surface of the page where said advertisement is displayed.

Article 10:

For oversight of the implementation of this Administrative Order, the members of the Oversight Commission for the approval of advertising are assigned to carry out the duties of inspectors charged with ascertaining any shortcomings, and to impose the appropriate sanctions against offenders.

Article 11:

- Violations of the provisions of this Administrative Order shall be punished with one or several of the following sanctions: a warning, a reprimand, confiscation of products, destruction of products, as well as payment of a settlement fine and administrative expenses that may go as high as the equivalent in Congolese francs of fifty thousand US dollars;
- In cases of repeat offenses, in addition to other sanctions, settlement fines and administrative costs will be doubled.

Article 12:

Any provisions prior to this Administrative Order are hereby rescinded.

Article 13:

Enterprises engaged in production as well as importers of tobacco and alcoholic beverages shall have a period of three months as of the date of the signing of this Administrative Order to insert all of the statements indicated in Article 3, as amended.

Article 14:

The Secretary General for Information, Press and National Communication is charged with the execution of this Administrative Order, which shall enter into force on the date of its signature.

Done in Kinshasa, on July 9, 2007, Professor Tshilombo Send Toussaint