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GOVERNMENT

Ministry of Communications and the Press

Ministerial Administrative Order n° 04/MCP/009/2002 of October 15, 2002, amending and completing Ministerial Administrative Order n° 04/DIP/005/90 of April 21, 1990, setting the criteria to be applied to advertising for tobacco and alcoholic beverages

The Ministry of Communications and the Press

In light of Constitutional Decree-Law No. 003/97 of May 27, 1997, as amended and supplemented to date, concerning the organization and exercise of power in the Democratic Republic of Congo, particularly its Article 36;

In light of Legislative Order n°41-63 of February 24, 1950, 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 light of the Decree of June 1, 1959, concerning safeguarding the purchasing power of consumers

In light of Decree n° 028/2002 of March 12, 2002, bearing on the organization and functioning of the Government, particularly in its Article 9;

In light of Decree n° 025/2001 of April 14, 2001, bearing on the appointment of Members of the Government;

In light of Departmental Administrative Order n° 04/DIP/004 of April 21, 1990, bearing on general provisions regarding advertising;

In light of its necessity and urgency;

The Council of Ministers having been duly informed;

ORDERS

Article 1:

Articles 1, 2, 3, 4, 5 and 13 of Departmental Administrative Order n° 04/DIP/005/90 of April 21, 1990, setting the criteria for the assessment of advertising for tobacco and alcoholic beverages are hereby amended and supplemented as follows:

“Article 1:

All advertising of any kind whatsoever must be in compliance with the legal and regulatory provisions in force with regard to advertising.”

“Article 2:

All advertising for tobacco and alcoholic beverages must be in compliance with the criteria defined by this Administrative Order as well as with the legal and regulatory provisions in force with regard to advertising. No advertising may appear without first obtaining the approval of the Oversight Commission, as well as approval of the advertisement.

“Article 3:

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.

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.

Unofficial Translation

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 above, the health warning shall appear in legible colors and size. Moreover, it shall occupy 3/4 of the side panel of each pack, and shall cover 10% of the left side panel of each carton. 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 4:

- a) Advertising shall only be addressed to adult consumers authorized to purchase and sell tobacco products.”

“Article 5:

Any advertising for tobacco must scrupulously respect the quantitative criteria hereinafter, whose assessment falls within the competence of the Oversight Commission, and is subject to approval of the advertisement.

a. For television and radio

Any kind of televised or radio broadcast advertising is prohibited.

b. For the print press

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

c. For advertising, promotion, sponsorship and outdoor sampling.

1. Advertising

- At all points of sale with a surface area greater than 250 cm² the health warning which states that 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 that 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, audio cassette, compact disc, DVD or in 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.

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.

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.

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.

4. Sponsorship

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

“Article 13:

Any advertising for alcoholic beverages must scrupulously respect the quantitative criteria hereinafter, whose assessment falls within the competence of the Oversight Commission and is subject to approval of the advertisement.

a) For television and radio

- No advertising message for alcoholic beverages will be broadcast prior to 10:00 p.m. or on holidays or days off from work.
- No advertising will be allowed during the weekend;
- Messages shall have a maximum duration of 60 seconds.
- 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.

b) For the print media

- No message can appear without the statement “infomercial-reporting” or advertising;
- The message shall occupy a space that may not exceed 20% of the total surface of the page where said advertisement is displayed.

Article 2:

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 the offenders.

Article 3:

- 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 settlement fines 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 4:

Any provisions prior to this Administrative Order are hereby rescinded.

Article 5:

Unofficial Translation

Enterprises engaged in production as well as importers of tobacco products and alcoholic beverages shall have a period of five 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 6:

This Administrative Order enters into force on the date of its signing.

Done Kinshasa, October 15, 2002.

Kikaya Bin Karubi

Ambassador