

**Legislative Decree No. 300 of December 16<sup>th</sup>, 2004**

**“Implementation of Directive 2003/33/CE in respect to the advertising and sponsorship of tobacco products”**

**Date of adoption:** 16 December 2004

**Date of publication:** 20 December 2004

**The President of the Republic**

In consideration of the Articles 76 and 87 of the Constitution;

In consideration of the Law No. 306 of October 31, 2003, and in particular the Article 1 and Annex B;

In consideration of the directive 2003/33/CE of the European Parliament and the Council of May 26, 2003 on the reconciliation of legislatives, regulations and administrative dispositions on advertising and sponsorship in Member States related to tobacco products;

In consideration of the Law No. 165 of April 10, 1962, and successive modifications;

In consideration of the Law No. 223 of August 6, 1990, and particularly Article 8, paragraph 14;

In consideration of the preliminary resolution of the Council of Ministers, adopted in its meeting on October 15, 2004;

Have taken the opinions of the competent parliamentary commissions;

In consideration of the decision of the Council of Ministers, adopted in its meeting on December 3, 2004;

On the proposal of the President of Council of Ministers and Minister for community policies, in consultation with the Ministers of Foreign Affairs, Justice, Economy and Finance, Productive Activities, Health and Communications;

Draws the following Legislative Decree:

### **Article 1 Definitions**

1. For the purposes of this Legislative Decree, they are understood as:

a) Tobacco products: all the products intended to be smoked, sniffed, sucked or chewed even if they are made, even partially, of tobacco;

b) Advertising: any form of commercial communication with the purpose or effect, directly or indirectly, to promote a tobacco product;

c) Sponsorship: any form of public or private contribution to an event, activity or individual with the purpose or effect, directly or indirectly, to promote a tobacco product;

d) Services of the information society: services covered by Article 1, paragraph 1, point b) of the Law No. 317 on June 21, 1986, and successive modifications.

### **Article 2 Advertising Means Through Prints and Services of Information Society**

1. Subject to the provision of single Article of Law No. 165 on April 10, 1962, the advertising is forbidden in the press and other printed publications, with the exceptions as referred in paragraph 2.

2. Advertising in the press and other printed publications, is allowed only in the publications intended exclusively to professionals in the tobacco trade and in the print and published publications in countries outside the European Community, which are not primarily intended for the EU market.

3. Advertising is forbidden in the services of information companies.

### **Article 3 Radio Advertising**

1. Radio advertising is forbidden for tobacco products.

2. Radio programs cannot be sponsored by individuals or undertakings whose principal activity is the manufacturing or sale of tobacco products.

### **Article 4 Sponsorship of events and activities**

1. Sponsorship of an event or activity is prohibited in cases where the same is carried out simultaneously in more than one State belonging to the European Community or whose organizer consists of several residents belonging to more than one EU country.

2. The sponsorship of an event where the organisation produces direct cross-border effects is also prohibited.

3. The provisions of paragraphs 1 and 2 are not applied to the sponsorship of an event or activities conducted within its framework, when this takes place exclusively in the territory of the State.

4. Also prohibited is the free distribution of tobacco products in the context of the sponsorship of events as referred to in paragraphs 1 and 2, which has the scope or can effect directly or indirectly to promote these products.

## **Article 5 Penalties**

1. Anyone making advertisements in newspaper or through services of information companies, in violation of prohibitions laid down in Article 2, is subject to an administrative penalty of EUR 2,582.25 to EUR 25,822.80.

2. The same penalty is subjected to any person whoever makes radio advertising which is prohibited under Article 3 or, sponsorship of events or activities prohibited under Article 4, paragraphs 1 and 2.

## **Article 6 Legitimizing to Act Against Violations**

1. The associations of the consumers and the representative customers at national level, included in the list under Article 5 of Law No. 281 of July 30, 1998, are entitled to take legal action against violations of the prohibitions under this decree.