

CABINET OF MINISTERS OF UKRAINE
RESOLUTION

No. 885 dated 26 August 2012

**On Amendment of Paragraph 4 of the Procedure for
Imposition of Fines for Violation
of the Law on Advertising**

The Cabinet of Ministers of Ukraine resolves:

1. To amend paragraph 4 of the Procedure for Imposition of Fines for Violation of the Law on Advertising, approved by resolution No. 693 of the Cabinet of Ministers of Ukraine dated 26 May 2004 (Official Bulletin of Ukraine, 2004, No. 21, p. 1440; 2009, No. 72 p. 2477), with the amendments stated in the attached version.
2. This resolution shall take effect simultaneously with the entry into force of the Law of Ukraine No. 3778 dated 22 August 2011 "On Amendments to Some Legislative Acts of Ukraine on the Prohibition of the Advertising, Sponsorship and Promotion of the Sale of Tobacco Products."

Prime Minister of Ukraine

M. AZAROV

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APPROVED

by Resolution No. 885 of the Cabinet of Ministers of Ukraine
dated 26 August 2012

AMENDMENTS

made to paragraph 4 of the Procedure for Imposition of
Fines for Violation of the Law on Advertising

Paragraph 4 shall be set forth as follows:

"4. For violation of the law on advertising of alcoholic beverages, tobacco products, trademarks and servicemarks, other intellectual property right objects, under which they are issued (Articles 22 and 16 of the Law of Ukraine "On Measures for the Prevention and Reduction of the Use of Tobacco Products and their Harmful Effect on the Health of the Population"), fines shall be imposed:

1) on advertisers, responsible for

providing false information to the producer of the advertising necessary for the production of advertising;

non-compliance with the legally established requirements for the content of advertising, namely:

- involving persons under the age of 18 as photo models in advertising;
- depiction of the process of smoking tobacco products or consuming alcoholic beverages;
- creating the idea that the use of alcohol or smoking is an important factor in achieving success in sports, social, sexual and other spheres of life and that alcohol or tobacco products have healing properties or that they are stimulants or sedatives;
- creating the impression that the use of alcoholic beverages or tobacco products or smoking helps to solve personal problems or that the majority of people smoke or consume alcoholic beverages;
- encouraging the use of alcoholic beverages or tobacco products or having a negative attitude towards abstaining from use of alcoholic beverages and tobacco products;
- placing images in advertising of doctors and other health care professionals as well as persons whose appearance mimics that of doctors, popular people and information that is a direct or indirect endorsement by popular persons of smoking or the use of alcohol, beer and beverages that are made from beer.
- the absence of a warning label about the harm from using alcoholic beverages and tobacco products or its non-compliance with legislative requirements;

2) on advertisers who distribute the advertising themselves, and on distributors of advertising responsible for violations of the procedure for distribution and placement of advertising;

distribution of advertising of tobacco products, trademarks and servicemarks, other intellectual property objects under which tobacco products are issued, on radio and television (including using cable, satellite, IP broadcast, online broadcast, mobile broadcast, digital terrestrial broadcast and other means of broadcast), and alcoholic beverages, trademarks and servicemarks, other intellectual property objects, under which alcoholic beverages are issued, - on radio and television from 6:00am to 11:00pm;

distribution of advertising of alcoholic beverages, tobacco products, trademarks and servicemarks, other intellectual property right objects under which alcoholic beverages and tobacco products are issued, using outdoor and indoor advertising (with the exception of information provided for by law on the manufacturer of the goods and/or goods in places in which such goods are sold or are provided to consumers);

placement of advertising of alcoholic beverages, trademarks and servicemarks, other intellectual property right objects under which alcoholic beverages are issued in all printed mass media (except for specialized publications), including in all publications for children and teens;

placement of advertising of alcoholic beverages, trademarks and servicemarks, other intellectual property right objects, under which alcoholic beverages are issued, on goods designed primarily for persons under the age of 18;

placement of advertising of tobacco products, trademarks and servicemarks, other intellectual property right objects, under which they are issued, in scientific, popular science, educational, sociopolitical, reference, literary-artistic publications, publications for children and teens, publications for leisure and recreation, sports and other publications, including in all printed mass media, on goods and in printed publications intended primarily for persons under the age of 18, or in parts of other printed publications designed for these persons;

placement of advertising of tobacco products, servicemarks and trademarks, other intellectual property right objects, under which tobacco products are issued, on transportation, and also advertising of alcoholic beverages, trademarks and servicemarks, other intellectual property right objects, under which alcoholic beverages are issued, on the outside and inside of public transportation and metro vehicles;

advertising of tobacco products, trademarks and servicemarks, other intellectual property right objects, under which they are issued, using events of an advertising nature (except for special exhibitions of tobacco products under the condition that only allowed at these events are employees of companies that have a license for the wholesale trade in tobacco products or the production of tobacco products);

advertising of alcoholic beverages, trademarks or servicemarks, other intellectual property right objects, under which they are issued, using events of an advertising nature (except for special exhibitions of alcoholic beverages);

placement of advertising of tobacco products, trademarks or servicemarks, other intellectual property right objects, under which they are issued, in places where public events are held of a political, educational, religious or sports nature and recreational events intended for minors;

placement directly on tobacco products and/or their packaging of information intended to promote the sale of tobacco, including web site addresses, emails, package inserts for tobacco products, text or graphic information on the transparent wrapper of the tobacco product package, drawings and other images, which are not a part of the protected trademark (trademark or service mark in the form of a registered original image provided in the application accepted for review for registration of trademarks and servicemarks) with the exception of:

- information, which is applied to tobacco products, packs, boxes, packaging and the shipping container in accordance with Article 11 of the Law of Ukraine "On State Regulation of the Production and Turnover of Ethyl, Cognac and Fruit Alcohol, Alcoholic Beverages and Tobacco Products;"
- information on the product, which according to the legislation is not deemed advertising and placement of which on labels, as well as on labeling or in accompanying documentation is performed in accordance with Article 15 of the Law of Ukraine "On Protection of Consumer Rights;"

placement of advertising of tobacco products, trademarks and servicemarks, other intellectual property right objects, under which tobacco products are issued, on the Internet, in addition to web sites, designed for adults, a prerequisite of which is that access requires provision in advance of identification of the age of the users;

distribution of advertising of tobacco products, trademarks and servicemarks, other intellectual property right objects, under which they are issued, by sponsorship of television broadcasts, radio broadcasts, theater and concert, sports and other events, programs or individuals or sponsorship using trademarks or servicemarks, other intellectual property right objects under which tobacco products are issued, provision by manufacturers or their related financial organizations of tobacco products or other support activities or individuals or groups, including political parties or leaders, athletes or sports teams, artists or artistic groups, educational institutions of all types of ownership, the conduct of information campaigns or events for the public, including for the prevention of smoking among young people, with direct or indirect financial support of manufacturers of tobacco products or organizations related to them;

placement of advertising of alcoholic beverages and tobacco products, trademarks and servicemarks, other intellectual property right objects, under which alcoholic beverages and tobacco products are issued, closer than 300 meters line of sight from the territory of pre-schools, secondary schools and other educational institutions in which children under the age of 18 are taught;

placement of images of tobacco products, trademarks and servicemarks under which tobacco products are issued, on any other products, besides placement on goods (objects) related to the use of tobacco products, lighters and ashtrays;

advertising of any goods or services using images of tobacco products or the process of smoking tobacco products;

advertising of alcoholic beverages and tobacco products, trademarks and servicemarks, other intellectual property right objects, under which alcoholic beverages and tobacco products are issued, by exchange of tobacco products for any other goods, work and services, provision of the right to participate in the lottery, games, contests and other recreational activities, if the condition of the right to participate is the purchase of tobacco products;

holding activities with the advertising of alcoholic beverages and tobacco products, trademarks and servicemarks, other intellectual property right objects, under which alcoholic beverages and tobacco products are issued, that stipulate sponsorship of events intended primarily for persons under the age of 18, with the use of trademarks and servicemarks, other intellectual property right objects under which tobacco products and alcoholic beverages are issued.

holding free distribution events, including for marketing research and sampling, exchange of tobacco products for any other goods, work and services;

use of tobacco products to obtain goods, work, services; offering or providing any direct or indirect compensation for the purchase or use of tobacco products;

offering or providing bonuses, rewards, the right to participate in any games, the lottery, contests, events, cash refunds, directly or indirectly related to the sale of tobacco products;

the sale of tobacco products in a set with any other goods;

placement of information on the manufacturer of tobacco products and/or tobacco goods in places where these products are sold, including elements of equipment and/or design of retail sites, with the exception of:

- one poster not more than 40 x 30 centimeters in size at a retail site on which there is written information on the availability of tobacco products for sale and their prices;
- placement of products and information on it, which according to legislation is not deemed advertising, intended to ensure the implementation of the rights of consumers and placement of which is made according to Article 15 of the Law of Ukraine "On the Protection of Consumer Rights;"

placement of information on tobacco products, trademarks and servicemarks, other intellectual property right objects, under which tobacco products are issued, in places of entertainment, in places of retail trade, on motor vehicles and equipment;

Unofficial Translation

sending mail, email, messaging on mobile phones, distributing DVDs, videos, CDs, computer and other games.

Fines shall be imposed on advertisers of beer and/or beverages that are produced from it, trademarks and servicemarks, other intellectual property right objects under which beer and/or these drinks are issued, who are responsible for placement in advertising of images of popular persons or information which is a direct or indirect endorsement by such persons of the use of beer and beverages manufactured from it."
