

## **Protocol and Review Chart for Tobacco Advertising, Promotion and Sponsorship Legislation Review**

### **Purpose**

The purpose of this protocol is to explain the **Tobacco Advertising, Promotion and Sponsorship (APS) Summary Charts** and the methodology used for interpreting the legal provisions summarized in the charts.

### **Contents and Structure of the Charts**

The APS charts will include the following information: 1) citations to the sources of law that regulate tobacco APS and their effective dates; 2) an assigned Regulatory Status Code signifying how the listed item is regulated; 3) explanation of the code assigned, including any interpretation and analysis of relevant provisions; 4) comments on whether relevant provisions align or do not align with FCTC Article 13 and its Guidelines and how this affects the scope, strength, and/or impact of the country's law; and 5) recommended legislative action where appropriate. ***Reviewer instructions regarding Comments and Regulatory Status Codes are found within the chart.***

### **The APS charts are divided into the following sections:**

- **Law Sources, Effective Date, and Short Title.** Lists citations to applicable laws regulating tobacco APS, provides the effective date of each law listed as a source, and shows either the short title provided in the law or an abbreviated title for easy reference.
- **Key Terms.** Shows definitions of key terms copied from the relevant law.
- **Regulated Forms of Tobacco Advertising, Promotion and Sponsorship.** The forms of tobacco APS addressed in FCTC Art. 13 and the FCTC Art. 13 Guidelines are listed along with an assigned Regulatory Status Code(s) designating the regulatory status of each form of tobacco APS. Structured comments analyzing and interpreting the law are also provided.
- **Action Required for Tobacco Advertising, Promotion and Sponsorship Not Banned.** The listed requirements are based on those imposed by FCTC Art. 13.4 on the tobacco industry in relation to forms of tobacco APS that are not banned due to constitutional principles or that are not yet banned under a comprehensive prohibition on tobacco APS. As provided in the FCTC Art.13 Guidelines paras. 37 and 43, these requirements can also apply to those very limited forms of relevant commercial communication, recommendation, or action that might continue to exist after a comprehensive APS ban has been implemented. Structured comments analyzing and interpreting the law are also provided.
- **Penalties.** Assigned codes representing available penalties and corrective action requirements for violations are shown, along with which entities are liable for the penalties. Structured comments analyzing and interpreting the law are also provided.

**COUNTRY NAME: FILL IN**  
**REVIEW CHART: Tobacco Advertising, Promotion and Sponsorship**

**Reviewers (for internal use only):**  
**Review Completed: MONTH, YEAR**

• **LAW SOURCES, EFFECTIVE DATE, AND SHORT TITLE**

<b>Law Source(s)</b>	<b>Effective Date of Law (Month, Day, Year)</b>	<b>Law Short Title or Abbreviation</b>
<p><i>ALL applicable laws (legislation, regulations, decrees, resolutions, and any other enactment that has legal force and effect) that govern tobacco advertising, promotion, and sponsorship are listed. These may be tobacco control laws, general advertising or consumer laws, public health laws, and any other applicable legal enactment.</i></p> <p><i>Where a law has been amended, this is indicated by “(as amended)”.</i></p> <p><b>Law sources include:</b></p> <ol style="list-style-type: none"> <li><b>1. Name of the first statute, regulation, decree, etc. with full citation and URL link, if available in national language.</b></li> <li><b>2. Name of the first statute, regulation, decree, etc. with full citation and URL link, if available in English.</b></li> </ol>	<p><i>The date the law took effect is provided. If the law does not give a specific effective date, but says, for example, that the law takes effect upon publication in the Gazette, the date the law was Gazetted is provided, if known.</i></p> <p><i>Where a law has been amended, the amending laws and their enactment dates are given, if known. This is shown by (as amended by law no. ___ of ___ or name and date).</i></p> <p><i>Where there are different effective dates of different provisions of the law, only the date the law took</i></p>	<p><i>If a short title is provided in the law, this is shown as the short title. If there is no short title provided in the law, an acronym or convenient abbreviation (e.g., Act 5.672) is created and listed here.</i></p>

	<i>effect is provided here.</i>	

• **KEY TERMS**

Key Term	Defined?	Aligns with FCTC and FCTC Guidelines definitions?	Definition Provided in the Law	Citation (Law, Art. No.)	Comments
<p><i>Note: Definitions from the FCTC/ FCTC Guidelines are shown under each term.</i></p>	<p><b>Yes</b> <b>No</b></p> <p><i>Yes= The term or a similar term is defined in an applicable law.</i> <i>No= No definition for the term is provided.</i></p>	<p><b>Yes</b> <b>No</b> <b>N/A</b></p> <p><i>Yes= The term or a similar term is defined in accordance with the FCTC and/or Guidelines.</i></p> <p><i>No = The term or a similar term is not defined in accordance with the FCTC and/or Guidelines.</i></p> <p><i>N/A = The term is not necessary</i></p>	<p><i>The definition from the law is copied. Where it is not feasible to copy the definition, a summary of the definition is provided.</i></p>	<p><i>The short title of the applicable law and regulations, along with any article(s) and, if applicable, sub-article(s) is given.</i></p>	<p><b><i>Reviewer comments address:</i></b></p> <p><i>(1) whether the definition in the law aligns with the relevant FCTC and FCTC Art. 13 Guidelines definition;</i></p> <p><i>(2) how any significant differences between the definition in the law and that provided in the FCTC or FCTC Art. 13 Guidelines, or lack of definition, impacts the coverage, comprehensiveness, and/or clarity of the law’s substantive provisions; and</i></p> <p><i>(3) recommended legislative action, if any.</i></p>

		<i>or does not impact the coverage, comprehensiveness and/or clarity of the law's substantive provisions.</i>			
<b>Tobacco advertising and promotion</b>  Any form of commercial communication, recommendation, or action with the aim, effect or likely effect of promoting a tobacco product or tobacco use either directly or indirectly. (FCTC Art. 1(c))					
<b>Tobacco sponsorship</b>  Any form of contribution to					

<p>any event, activity, or individual with the aim, effect or likely effect of promoting a tobacco product or tobacco use either directly or indirectly. (FCTC Art. 1(g))</p>					
<p><b>Tobacco product</b></p> <p>Any product entirely or partly made of the leaf tobacco as a raw material which is manufactured to be used for smoking, sucking, chewing or snuffing. (FCTC Art. 1(f))</p>					
<p><b>Other significant definitions provided in the law</b> [<i>Add as many rows as necessary</i>]</p>					

- **REGULATED FORMS OF TOBACCO ADVERTISING, PROMOTION AND SPONSORSHIP**

**Regulatory Status Codes**

**The following codes are used to show how the listed forms of tobacco advertising, promotion and sponsorship (APS) are regulated.**

**Banned (B)**: means that the listed form of tobacco APS is completely banned.

**Some Restrictions (R)**: means that there is not a complete ban on the listed form of tobacco APS, but one or more limits on the form applies. *Reviewers should note that substantial time, place and size restrictions on tobacco advertising will fall into the R code.*

**Allowed (A)**: means that there is no ban and there are no applicable restrictions whatsoever. *Reviewers should note that minimum content restrictions (e.g., advertising cannot show people smoking) will fall into the A code.*

**Uncertain (U)**: means that the status of regulation is uncertain due to lack of clarity in the law or inability to obtain all relevant laws.

<b>Form of Tobacco Advertising, Promotion or Sponsorship</b>	<b>Regulatory Status</b>  Banned Some Restricted Allowed Uncertain	<b>Citation (Law, Art. No.)</b>	<b>Comments</b>  <i>Reviewer comments address:</i>  <i>(1) a summary description of applicable legal provisions;</i>  <i>(2) an analysis of the regulatory status of the listed form of APS including:</i> <i>(a) an explanation of the analysis and interpretation to arrive at the particular Regulatory Status Code assigned. Where the Regulatory Status Code of the listed form is not clear from the text of the law, an explanation of how the text was interpreted to arrive at the particular Regulatory Status Code assigned. (Note that further guidance on interpretation is provided below for certain listed forms);</i> <i>and</i> <i>(b) a comment on how common the listed form of tobacco APS is in the country in order to give an idea of how the law is applied in practice, where possible;</i>  <i>(3) an analysis of whether the law aligns with FCTC Art. 13 and the FCTC Art. 13 Guidelines and how this affects or can affect the law's impact (e.g., interpretation of the law may be difficult where a key term is not defined.), where applicable; and</i>  <i>(4) recommended legislative action, if any.</i>
<b>1. Domestic TV and radio (including all domestic media such as satellite and cable)</b>			

<p><i>Where there is not an explicit ban on tobacco advertising and promotion on domestic TV and radio, a ban on tobacco advertising via electronic media, if one exists, normally will be interpreted as covering TV and radio absent any provision or suggestion to the contrary.</i></p>			
<p><b>2. Domestic newspapers and magazines</b></p> <p><i>If there is not an explicit ban on tobacco advertising and promotion via domestic newspapers and magazines but a ban on tobacco advertising in print media exists, this normally will be interpreted as covering tobacco advertising in newspapers and magazines absent any provision or suggestion</i></p>			

<i>to the contrary.</i>			
<p><b>3. Other domestic print media, such as pamphlets, leaflets, flyers, posters, signs (not including print advertising at the point of sale)</b></p> <p><i>A ban on tobacco advertising in print media, if one exists, normally will be interpreted as covering these forms of print media absent any provision or suggestion the contrary.</i></p>			
<p><b>4. International TV and radio (and other broadcast media such as satellite)</b></p> <p><i>In the absence of an explicit ban on tobacco advertising and promotion via international or cross-border TV and radio (or electronic media), the regulatory status code</i></p>			

<p><i>given is Uncertain.</i></p> <p><i>The code SR is given when a country, because of trade or other political agreements, prohibits tobacco advertising and promotion only in media originating from within their political/trade bloc and principally directed at markets within their political/trade bloc (e.g., an EU member state prohibits such advertising if originating within an EU member state and principally directed at a market in an EU member state).</i></p>			
<p><b>5. International newspapers and magazines</b></p> <p><i>In the absence of an explicit ban on tobacco advertising and promotion in international or cross-</i></p>			

<p><i>border newspapers and magazines (or print media), the regulatory status code Uncertain is given.</i></p> <p><i>The code SR is given when a country, because of trade or other political agreements, prohibits tobacco advertising and promotion only in media originating from within their political/trade bloc and principally directed at markets within their political/trade bloc (e.g., an EU member state prohibits such advertising if originating within an EU member state and principally directed at a market in an EU member state).</i></p>			
<p><b>6. Internet communications</b></p> <p><i>If there is not an explicit ban on tobacco</i></p>			

<p><i>advertising and promotion via internet communications, a ban on tobacco advertising via electronic media, if one exists, normally will be interpreted as covering the internet absent any provision or suggestion to the contrary.</i></p> <p><i>Note whether there is explicit ban on tobacco advertising and promotion via international or cross-border internet communications or if the law is interpreted to apply to cross-border internet (or electronic) advertising.</i></p> <p><i>The code SR is given when a country, because of trade or other political agreements, prohibits tobacco advertising and promotion only in media</i></p>			
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<p><i>originating from within their political/trade bloc and principally directed at markets within their political/trade bloc (e.g., an EU member state prohibits such advertising if originating within an EU member state and principally directed at a market in an EU member state).</i></p>			
<p><b>7. Internet tobacco products sales</b></p> <p><i>Comments state whether internet tobacco product sales are banned specifically or whether other provisions of the law are interpreted as covering or not covering internet tobacco sales.</i></p> <p><i>Reviewers should consider whether there is a ban on mail and delivery services and if so, whether it applies to internet sales as well</i></p>			

<p><i>because there would be no way to deliver the product.</i></p> <p><i>In the absence of an explicit ban on tobacco product sales based internationally via the internet, a ban on internet tobacco sales, if one exists, will be interpreted as applying internationally if:</i></p> <p><i>1. there is no explicit exception for internationally based tobacco sales via the internet; <u>and</u></i></p> <p><i>2. a ban applicable to internet tobacco sales does not specifically or exclusively refer to internet tobacco sales based domestically.</i></p> <p><i>Comments explain the basis for the code chosen, including whether internet sales</i></p>			
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<p><i>are banned specifically or whether other provisions of the law are interpreted as covering or not covering internet tobacco sales.</i></p>			
<p><b>8. Outdoor advertising (e.g., billboards, posters)</b></p>			
<p><b>9. Point of sale advertising and promotion</b></p> <p><i>This refers to POS advertising and promotion other than POS product displays.</i></p>			
<p><b>10. Point of sale product display</b></p> <p><i>Comments explain the basis for the code chosen, including whether point of sale (POS) product displays are banned specifically or whether other provisions of the law are</i></p>			

<p><i>interpreted as covering or not covering them.</i></p>			
<p><b>11. Vending machines</b></p> <p><i>Comments explain the basis for the code chosen, including whether vending machines are banned specifically, are interpreted as being covered under a ban on product displays at POS, or whether other provisions of the law are interpreted as covering or not covering vending machines.</i></p> <p><i>Comments also note whether the provisions in the law relating to vending machines align or do not align with FCTC Art. 16, which encourages Parties to ensure that vending machines are not accessible to minors.</i></p> <p><i>Note: Any youth access</i></p>			

<p><i>prevention measures in the law should be checked to see if they address vending machine sales.</i></p>			
<p><b>12. Conventional mail</b></p> <p><i>“Conventional mail” means that delivered through the postal service rather than through electronic mail.</i></p>			
<p><b>13. Telephone and cellular phone</b></p> <p><i>A ban on tobacco advertising via electronic media, if provided in the law, normally will be taken to mean as covering tobacco advertising and promotion via telephone and cellular phone absent any provision or suggestion to the contrary.</i></p>			
<p><b>14. Brand marking, other than on tobacco product packaging and labeling:</b> Distinctive</p>			

<p>words, designs, images, logos, sounds, or colors to promote tobacco products in entertainment venues, retail outlets, on vehicles and equipment (brand marking on physical structures, other than on tobacco product packaging and labeling and print material.</p>			
<p><b>15. Tobacco packaging, labeling, and package inserts</b></p> <p><i>Comments explain the basis for the code chosen, including whether packaging and labeling are addressed specifically (e.g., plain packaging required) as a form of advertising and promotion or whether other provisions of the law are interpreted as covering or not covering tobacco packaging and labeling.</i></p>			

<p><b>16. Free distribution of tobacco products (e.g., samples and give-aways of tobacco products, with nothing, such as the purchase of a tobacco product, required in return)</b></p> <p><i>If not prohibited specifically, free distribution of tobacco products normally will be considered to be covered under a ban on tobacco advertising and promotion, absent any provision or suggestion to the contrary.</i></p> <p><i>Comments also note whether the law meets FCTC Art. 16, which requires Parties to prohibit or promote the prohibition of the free distribution of tobacco products.</i></p>			
<p><b>17. Promotions with a tobacco product purchase:</b> Promotional</p>			

<p>discounts, gifts, prizes, rewards to consumers in conjunction with a tobacco product purchase (e.g., buy one pack, get one free or, key chains, t-shirts, coupons, points)</p> <p><i>This form of APS is meant to be different than the free distribution of tobacco products listed in #20.</i></p>			
<p><b>18. Competitions associated with tobacco products:</b> Competitions associated with tobacco products or brand names, whether requiring the purchase of a tobacco product or not</p>			
<p><b>19. Direct person to person targeting of individuals</b></p> <p><i>Includes direct one-on-one marketing pitches (e.g., in bars) to</i></p>			

<p><i>individuals by individuals working on behalf of tobacco manufacturers, importers, or sellers.</i></p>			
<p><b>20. Brand stretching/trademark diversification:</b> Non-tobacco products or services using tobacco brand names or carrying a brand logo or other brand indicia</p> <p><i>Products and services are considered broadly for determining brand-stretching, including such things as stores, travel agencies, and buildings.</i></p>			
<p><b>21. Reverse brand stretching or brand sharing:</b> Tobacco products or services using non-tobacco brand names</p>			
<p><b>22. Toys that resemble tobacco products</b></p>			

<p><b>23. Candy that resembles tobacco products</b></p>			
<p><b>24. Retailer incentive programs (e.g., rewards to retailers for achieving certain sales volumes, enhancing displays, etc.) or other payments to encourage them to sell tobacco products</b></p> <p><i>Comments explain the basis for the code chosen, including whether payments/rewards to retail sellers for enhancing displays or promoting tobacco products are addressed specifically as a form of advertising, promotion or sponsorship or whether other provisions of the law are interpreted as covering</i></p>			

<p><i>or not covering this practice.</i></p>			
<p><b>25. Paid placement of tobacco products in TV, film, or other media</b></p> <p><i>Comments explain the basis for the code chosen, including whether paid placements are addressed specifically as a form of tobacco advertising, promotion or sponsorship or whether other provisions of the law are interpreted as covering or not covering this practice. This question covers only domestic TV, film or other media.</i></p>			
<p><b>26. Unpaid depiction of tobacco use or tobacco products in media that does not serve a legitimate purpose</b></p> <p>Unpaid depiction of</p>			

<p>tobacco use or tobacco products in TV, film, or other entertainment media that is not legitimate journalistic, artistic, or academic expression or legitimate social or political commentary</p> <p><i>If unpaid depictions in entertainment media are allowed, comments note any restrictions or conditions imposed.</i></p>			
<p><b>27. Tobacco industry sponsorship of events, activities, individuals, organizations, or governments:</b></p> <p>Financial or other sponsorship or support by the tobacco industry to events, activities, individuals/ groups, organizations, or governments (such as groups involved in sports, the arts, politics, charitable or welfare or</p>			

<p>other activities, or youth prevention programs.</p> <p><i>Comments should specifically address whether the law bans tobacco industry <b>contributions</b> to “corporate social responsibility” activities and youth tobacco use prevention programs.</i></p>			
<p><b>28. Publicity of financial or other sponsorship or support by the tobacco industry if tobacco sponsorship is not banned</b></p> <p><i>Comments should specifically address whether the law bans the <b>publicity</b> of tobacco industry contributions to “corporate social responsibility” activities, youth tobacco use prevention programs or any other contribution to any event, activity,</i></p>			

<i>individual, or group.</i>			
<p><b>29. Promotion by any means that are false, misleading, deceptive, or likely to create an erroneous impression about its characteristics, health effects, hazards, or emissions (covering any term, descriptor, trademark, emblem, marketing image, logo, color and figurative, or any other indicia)</b></p> <p><i>This includes the use of terms including “low tar”, “light”, “ultra-light”, “mild”, “extra”, “ultra”, and other terms in any language, and any term, descriptor, trademark, emblem, marketing image, logo, colour and figurative, or any other indicia that may be misleading or create an erroneous impression. Reviewers should</i></p>			

<p><i>consider both APS and packaging and labeling laws. If a law bans misleading packaging and labeling, but the APS laws or provisions are silent on misleading promotions, then reviewers should look for a comprehensive APS ban and where there is one, the regulatory status of Banned is given. Where the APS is not comprehensive, the regulatory status given here is Some Restrictions.</i></p> <p><i>If a general consumer law addresses false advertising, which is not specific to tobacco, and the reviewer understands that the general law is not applied to tobacco products, a regulatory status of Allowed is given.</i></p>			
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• **ACTION REQUIRED FOR TOBACCO ADVERTISING, PROMOTION AND SPONSORSHIP NOT BANNED**

Action Required by FCTC Art.13.4 for Tobacco Advertising, Promotion or Sponsorship Not Banned	Regulatory Status	Citation (Law, Art. No.)	Comments
<p><i>Note: These requirements, in addition to the requirement to prohibit misleading tobacco advertising, promotion, and sponsorship covered in no. 37, apply to tobacco APS that is not yet banned, that cannot be banned due to constitutional principles, and to the very limited forms of relevant commercial communication, recommendation or</i></p>	<p>Required  <b>NR</b> = Not Required  <b>NA</b>= Not Applicable            Uncertain</p>		<p><i>Reviewer comments address:</i></p> <p><i>(1) a summary description of applicable legal provisions;</i></p> <p><i>(2) where the regulatory status of the listed form of tobacco advertising, promotion, or sponsorship is not clear from the text of the law, an explanation of how the text was interpreted to arrive at the particular Regulatory Status Code assigned. (Note that further guidance on interpretation is provided below for certain listed requirements);</i></p> <p><i>(3) analysis of whether the law meets FCTC Art. 13 and follows the FCTC Art. 13 Guidelines and how this affects or can affect the law’s impact (e.g., interpretation of the law may be difficult where a key term is not defined.), where applicable; and</i></p> <p><i>(4) recommended legislative action, if any.</i></p>

<p><i>action that FCTC Art. 13 Guidelines paras. 13, 16, 20, 27, 29-34, acknowledge might continue after a comprehensive ban (e.g., legitimate journalistic or artistic expression, etc.).</i></p>			
<p><b>30. Disclosure to the government by the tobacco industry of information on advertising, promotion and sponsorship activities and expenditures</b></p> <p><i>If disclosure is required, comments identify what information is required to be reported.</i></p>			
<p><b>31. Health warning messages required on permitted forms of tobacco advertising, promotion and sponsorship</b></p> <p><i>Where health warning messages are required</i></p>			

<i>on only some forms of tobacco advertising, promotion and sponsorship, this is indicated in the comments, along with the list of forms.</i>			
<b>32. Disclosed information readily available to the public</b>			

• **PENALTIES**

<b>Activities/Violation</b>	<b>Entities that Can be Held Responsible</b>	<b>Available Penalties</b>	<b>Enforcement Agency/Agencies</b>	<b>Citation (Law, Art. No.)</b>	<b>Comments</b>
		<b>F</b> = Fine <b>L</b> = License suspension or revocation <b>CA</b> = Corrective action required <b>P</b> = Prison/Jail <b>W</b> = Warning <b>N</b> = None <b>O</b> = Other			<i><b>Reviewer comments address:</b></i>  <i>(1) Description of the fine amounts, if any;</i>  <i>(2) Description of other available relevant penalties and corrective action requirements (e.g., removal of the advertising, promotion or sponsorship; publication of court decisions; and funding of corrective or counter-advertising), as provided in FCTC Art. 13 Guidelines paras. 60-61); and</i>  <i>(3) recommended legislative action, if any.</i>

<b>33. Advertising and promotion</b>					
<b>34. Sponsorship</b>  <i>Where the law does not differentiate between advertising and promotion and sponsorship, this field will be the same as the “advertising and promotion” field above.</i>					