

MINISTRY OF WELFARE

DECISION NUMBER 003961 OF 2009

(21 October)

Specifying the requirements for packaging and labelling of tobacco and tobacco products.

The Ministry of Welfare

In the exercise of the powers entrusted to it by law, and in particular those conferred upon it by article 13 of Act 1335 of 2009 and article 2 of Decree 2005 of 2003 and,

WHEREAS

In Act 1109 of 27 December 2006, the Congress of the Republic of Colombia adopted, the WHO Framework Convention on Tobacco Control (FCTC), and the said Convention was declared enforceable by decision C-665 of 29 August 2007 of the Constitutional Court and was promulgated by Decree 2871 of 5 August 2008;

Article 4 of FCTC stipulates, as one of the basic principles of the Convention, that every person should be informed of the health consequences, addictive nature and mortal threat posed by tobacco consumption and exposure to tobacco smoke and that effective legislative, executive, administrative or other measures should be contemplated at the appropriate governmental level to protect all persons from exposure to tobacco smoke;

Article 11 of FCTC requires the application of effective measures to ensure that tobacco product packaging and labelling display large, rotating health warnings and that they do not promote tobacco products by any means that are false, misleading or deceptive and also requires that tobacco packaging and labelling display information on relevant constituents and emissions of tobacco products as defined by national authorities;

Article 13 of Act 1335 of 2009 determines the provisions applicable to the packaging and labelling of tobacco products and allows the Ministry of Welfare a period of (3) three months to adopt the necessary regulations to ensure compliance with those provisions;

IN VIRTUE OF THE ABOVE

HEREBY DECIDES

**Article 1. Purpose.** The purpose of the present decision is to determine provisions specifying the requirements with which the packaging and labelling of all tobacco products and by-products sold within the national territory must comply.

**Article 2. Definitions.** For the purposes of the present decision, the following definitions shall apply:

**Health warnings:** A combined pictogram and warning text displayed on all packets of tobacco products offered for sale in whatever presentation.

**Packet:** a pack or wrapping that is the smallest unit containing cigarettes intended for sale.

**Front face:** The surface located on the front or back of a cigarette packet; it is the packet's largest surface.

**Side face:** The surface located on the sides of a cigarette packet; its dimensions are smaller than those of the front surfaces.

**Main faces of packs of tobacco products:** The surfaces that constitute the largest area exposed.

**Packing:** Packets, packets tins and any other unit used to prepare products for the consumer market.

**Warning text:** A brief text designed to inform the general public about issues linked to consumption of tobacco and its by-products in any form.

**Pictogram:** A clear schematic image summarizing a message that overcomes the language barrier in order to inform about issues linked to consumption of tobacco and its by-products in any form.

**Article 3. Obligation to include warnings and pictograms.** All cigarettes, tobacco products and by-products must clearly and unequivocally display, by image or text as appropriate, and in a rotating and concurrent manner, warning sentences and pictograms, which shall be rotated at least annually.

**Article 4. Nature of warning text and pictograms.** On packs of tobacco products and by-products sold in the country the warning text and pictograms shall appear on the faces of both main surfaces and occupy 30% of their area. The text shall be in Spanish and appear within a black box with a white background using black Helvetica 14-point font parallel to the lower part of the pack. The border shall measure 2 millimetres.

**Paragraph 1.** Health warnings must be visible at all times on cigarette packets and cartons and on packs of all other tobacco products and by-products offered for sale in the country. Warning texts and pictograms must not be hidden by other brands, wrapping, stamps or any mandatory or optional notices on the packaging or labelling, or by internal or external commercial leaflets. In no case may the warnings be concealed, covered or capable of being removed.

Whenever packs of cigarettes are presented to consumers, they must display the warning text and pictograms referred to herein.

**Paragraph 2.** The pictograms must be printed in polychrome using indelible ink. In no case shall the pictograms or warning text be placed on the transparent wrapping or on any other external wrapping of the pack. Each series shall display six (6) warning texts and six (6) pictograms, which shall be printed in a manner such that each of them appears on an equal number of packets and packages of all the brands belonging to a family of brands on all sizes and types of package.

**Transitional paragraph.** During the first year, starting on 21 July 2010, the number of warning texts and pictograms shall be three (3).

**Article 5. Prohibitions applicable to packaging and labelling.** Packaging and labelling of tobacco products and by-products may not:

- a) target minors or be especially attractive to them. Packets and labelling shall not contain luminous or reflective messages which, inter alia, are considered especially attractive to minors.
- b) suggest that smoking contributes towards success in athletics or sport, popularity, success at work or sexual attractiveness;
- c) Contain false or misleading advertising using expressions such as "mild", "light", "low-tar", "low-nicotine" or "low carbon monoxide".

Packets of tobacco products and by-products shall not include dates of expiry that confuse or deceive consumers or lead them to conclude that tobacco products may be consumed without risk at certain times.

Nor may packets of tobacco products provide misleading information as to their characteristics, effect on health, risks or emissions or use terms, descriptive elements, brand or trade names, figurative or other types of sign whose direct or indirect effect is to create the false impression that a particular tobacco product is less harmful than others.

None of the different types of tobacco-product or by-product packages may include quantitative information on their constituents and emissions that may lead consumers to make false assumptions, such as that lower concentrations or contents are safe.

**Article 6. Warning texts and pictograms.** To ensure compliance with the provisions of Article 13, paragraph 1 of Act 1335 of 2009, The Ministry of Welfare's Department of Public Health shall determine the mechanism whereby warning texts and pictograms are to be decided for each period; the format of these shall be published at the latest by 20 November each year on the web page of the Ministry for use by manufacturers and importers of tobacco products.

Once these formats have been published, manufacturers and importers of tobacco products shall have forty-five (45) calendar days to prepare colour proofs and to submit a sample of the finished product, reproducing in full all the design characteristics, colour, proportions and other features of each warning and presentation on each pack to the Ministry of Welfare's Department of Public Health.

The said Department shall have one (1) month from the date of reception of the batch of products to approve or reject the proofs. If the first colour proof is rejected, a period of fifteen (15) calendar days shall be allowed for it to be modified and the final proof submitted.

**Paragraph 1.** The health warnings and pictograms issued annually shall be the sole property of the Ministry of Welfare and consequently may neither be altered by third parties nor used for ends other than those laid down in this decision, except by express decision of the Ministry of Welfare's Department of Public Health.

**Paragraph 2.** After the annual date for the rotation of the health warnings which, as stipulated in Act 1335 of 2009, shall be 21 July each year, manufacturers and importers of tobacco products and by-products may not offer for sale any packs displaying earlier health warnings or without any warnings.

**Article 7. Imported packets and packs.** In addition to the requirements laid down in this decision, all cigarette packets and packs imported into Colombia and used to supply the product to the final consumer must display on one of their side faces the country of origin and the words "*importado para Colombia*" (imported for Colombia) in capital letters in a font of no less than 4 points.

**Article 8. Entry into force and derogations.** This decision shall apply from the date of its publication and shall derogate from any provisions that are counter to it.

FOR PUBLICATION AND ENFORCEMENT

Issued in Bogota, D.C. on 21 October 2009

(signed)

Diego Palacio Betancourt  
Minister of Welfare