

MINISTRY OF HEALTH

REPUBLIC OF TOGO  
Labor – Freedom – Country

DECREE No. 2012 – 072 / PR  
Concerning the prohibition of advertising, promotion and sponsorship of tobacco and its  
derivative products in Togo

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**THE PRESIDENT OF THE REPUBLIC,**

In consultation with the Minister of Health;

In light of the Constitution of October 14, 1992;

In light of Law n° 2009-007 of May 15, 2009, concerning the Code of Public Health of the  
Republic of Togo;

In light of Law n° 2010-017 of December 31, 2010, concerning the production,  
commercialization, and consumption of cigarettes and other tobacco products;

In light of Decree n° 2012-004 /PR of February 29, 2012, concerning the attributions of Ministers  
of State and their Ministers;

In light of Decree n° 2012-006 /PR of March 7, 2012, concerning the organization of ministerial  
departments;

In light of Decree n° 2012-051/PR of July 19, 2012, concerning the nomination of the Prime  
Minister;

In light of Decree n° 2012-056/PR of July 31, 2012, concerning the composition of the  
government, as amended by Decree n° 2012-060/PR of August 24, 2012;

The Council of Ministers having been notified, hereby

**DECREES:**

**Article 1: Purpose**

This Decree has as its purpose to define the modalities for the application of measures for the  
prohibition of advertising, promotion and sponsorship of tobacco and its derivative products in  
Togo.

**Article 2: Scope of application**

Pursuant to the terms of this Decree, the prohibition of advertising, promotion and sponsorship of  
tobacco extends to any kind of:

- advertising and promotion for tobacco, as well as sponsorship, without exception,  
whether it is direct or indirect;

- acts seeking to promote tobacco and its derivative products, and acts having or likely to have a promotional effect;
- promotion of tobacco products and the use of tobacco;
- commercial communications, as well as recommendations and commercial actions;
- contributions of any kind to any event, activity or person;
- advertising and promotion of brands of tobacco and any promotion of companies;
- extension and exchange of brands;
- theatrical spectacles, games and in the traditional media (print press, television and radio) and all other media, films, other new technologies, including the Internet, mobile phones, vending machines or any other form of advertising, promotion and sponsorship of tobacco;
- any form of cross-border advertising;

**Article 3: Advertising and display of tobacco and its derivative products at points of sale**

It is prohibited to engage in advertising and promotion of tobacco and its derivative products at points of sale.

This prohibition is complete and extends to any display or any visibility of tobacco and its derivative products or images of tobacco and its derivative products inside or outside points of sale.

Operators of points of sale must refrain from exhibiting tobacco and its derivative products to the public. Only a text list of products indicating their price is authorized, without any promotional element.

This prohibition also applies on board ferries and planes, as well as in ports and airports, bus stations and railroad stations.

**Article 4: Measures concerning the sale, advertising, promotion and sponsorship of tobacco and its derivative products on the Internet**

The sale, offer of sale, provision or distribution of tobacco and its derivative products, as well as the advertising, promotion and sponsorship of tobacco and its derivative products on the Internet or any electronic device are prohibited.

This prohibition also applies to entities that sell tobacco and its derivative products, to credit card companies that facilitate payment, to internet service providers and to shipping and delivery services for such products.

Internet service providers, institutions delivering credit cards, and shipping and delivery services are obliged to see to implementation of the provisions in this article, and particularly, to take measures to prevent or restrain internet sites from selling tobacco and its derivative products, to prevent payment by credit card or any other appropriate measure.

**Article 5: Measures concerning the extension and exchange of brands**

Any kind of disguised advertising or promotion of tobacco and its derivative products through the extension of brands or exchange of brands is prohibited.

The extension of brands is understood to refer to a tobacco brand, emblem, trademark, logo or commercial insignia, or other distinctive characteristics, including associations with distinctive colors associated with a product or service not directly related to tobacco, in such a way as to produce a likely association between the tobacco product and the product or service not related to tobacco.

The exchange of brands is understood to refer to the use of a brand name, emblem, trademark, logo or commercial insignia, or any other distinctive sign, including associations with distinctive colors associated with a tobacco product or company of the tobacco industry, in such a way as to produce an association or likely association between the tobacco product and the product or service not related to tobacco.

**Article 6: Measures concerning billboards, posters and other advertising media**

It is prohibited to engage in advertising for tobacco and its derivative products via any communication medium through the following:

- audio, visual or audiovisual media, print, including newspapers, magazines, brochures, leaflets, fliers, letters, billboards, posters, signs; television and radio, films, DVD's, videos and CD's; games, including computer games, video games or online games or other means of digital communication, including the Internet and mobile phones, dramatic performances or any other live performance;
- the affixing of commercial brands, including in places of entertainment and retail points of sale, or on vehicles and materials, through the use of colors or combinations of colors of the brand, logo or trademark.

**Article 7 : Measures concerning the prohibition of promotional acts**

It is prohibited to engage in the promotion of tobacco and its derivatives in any communications medium by engaging in the following

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- promotional actions to encourage the use of tobacco, or with the effect of encouraging it or inducing customer loyalty;
- contests associated with tobacco products or brand names, regardless of whether or not they involve the purchase of a tobacco product;
- promotional materials, including information, that directly targets private individuals, particularly through direct e-mail, telemarketing, consumer surveys or research;
- promotion of products by awarding prizes;
- sale or distribution of toys or candies resembling tobacco products;
- payments or other contributions to retailers to encourage them to sell products through giveaways of prizes, particularly programs of incentives for retailers;
- payment or other compensation in exchange for exclusive sale or prominent display of a particular product or the product of a specific manufacturer by a retailer, during an event or in a particular place;
- sale, distribution, placement and display of products in institutions of learning or places of entertainment, during receptions, sporting, musical, social or artistic events;
- product placement, that is to say, the inclusion of a tobacco product, a service or trademark or reference to a product, service or trademark, in the context of a communication, in exchange for payment or other compensation ;
- any publication on a subject relating to tobacco and its derivatives in the media, films or other methods of communication that do not respect professional ethics;
- gifts or awards of prizes of certain articles at the time of purchasing tobacco products;
- giving away free samples of tobacco products, particularly in conjunction with market research and taste testing events.

**Article 8 : Measures concerning prohibition of sponsorship**

It is prohibited to engage in sponsorship for tobacco and its derivatives by the following activities:

- providing financial or other support for events or activities, involving private individuals or groups, whether or not it is in exchange for publicity, particularly philanthropic activities of companies, or programs for the prevention of tobacco use among young people;

- provision of financial or other support for operators by the tobacco industry;
- in certain premises such as cafes, clubs or places of entertainment, in exchange for the construction or renovation of the premises to promote tobacco products, or the use or awnings or umbrellas;
- any other kind of contribution, regardless of whether the financial support is or is not publicized.

**Article 9 : Measures concerning cross-border promotion and sponsorship**

The cross-border advertising, promotion and sponsorship of tobacco, tobacco products and tobacco derivatives, are prohibited.

Institutions or individuals importing information, media or communication of any other kind shall be obliged to ensure that the latter does not convey information at variance with the provisions of this article.

The competent agencies of customs, communication and information, publication and printing, telecommunications, and other structures relating to cross-border advertising, promotion and sponsorship shall be obliged to see to it that these provisions are observed.

**Article 10 : Follow-up and evaluation**

The National program for tobacco control conducts periodic follow-up and evaluation of the implementation of measures to prohibit advertising, promotion and sponsorship of tobacco and its derivatives in order to accomplish the following:

- To encourage political leaders and the public to support the strengthening and extension of legislative and regulatory provisions;
- To gather data on results obtained;
- To observe and make known efforts undertaken by the tobacco industry to undermine the implementation of such measures;

**Article 11 : Penal provisions**

Any infraction of these provisions is susceptible to the penalties set forth in Chapter VI and Articles 24, 30 and 31 of Law 2010-01 7 of December 31, 2010.

These sanctions shall be applied to juridical persons and managers, administrators, directors and/or the legal representatives of the juridical persons responsible for the infraction.

**Article 12 : Transitory provisions**

Persons subject to the provisions of this decree have a period of nine (9) months counting from its publication to comply with it.

**Article 13 : Final provisions**

The Minister of Health, the Minister of Security and Civil Protection and the Minister of Communication are each charged, within the scope of their respective jurisdictions, to execute this decree, which is to be published in the Official journal of the Republic of Togo.

Done in Lomé, September 12, 2012

[STAMP:] Republic of Togo – The President  
The President of the Republic

The Prime Minister

**SIGNED**

**SIGNED**  
Kwesi Séléagodji AHOOMEY-ZUNU

**Faure Essozimna GNASSINGBE**

The Minister of Security and  
Civil Protection

The Minister of Health

**SIGNED**

**SIGNED**

**Colonel Damehame YARK    Professor Kondi Charles AGBA**

The Minister of Communication

**SIGNED**

**Djimon ORE**

For amplification  
The Secretary General  
of the Office of the President of the Republic  
[STAMP:] Republic of Togo – Secretary General – Office of the Presidency of the Republic  
[illegible signature]  
**Patrick Daté TEVI BENISSAN**