FOOD AND DRUGS AUTHORITY

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Food and Drugs Authority, Executive Committee (EXCO)

Guideline for Enforcement of Tobacco Advertising, Promotion, and Sponsorship Restrictions

	Signature	Date
Developed by: Director, Tobacco and Substances of Abuse		<DD Month YYYY>
Reviewed by: Head, QMSD		<DD Month YYYY>
Approved by: CEO		<DD Month YYYY>

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This guideline is an initial issue.

Comments should be provided using this link to comment sheet. The completed comments form should be sent to tsad@fda.gov.gh	
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	01	

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Table of Content

Acknowledgements

The Tobacco Advertising, Promotion, and Sponsorship (TAPS) Restrictions Guideline was put together in direct response to the pressing necessity for a comprehensive enforcement guide that would effectively steer the implementation of national tobacco control initiatives with respect to TAPS in Ghana.

The development of the TAPS restrictions guideline was based on extensive consultation and active participation from a diverse array of stakeholders, drawn from both governmental and non-governmental sectors, contributing to its conceptualization. We extend our heartfelt gratitude to each individual and institution who played a role in the development of this guide.

Furthermore, we express our sincere thanks to the World Health Organization Framework Convention on Tobacco Control secretariat and Tobacco Policy Action Fund for Africa (TOPAFA) for continuously supporting the advancement of tobacco control in Ghana.

Lastly, we acknowledge the exceptional leadership of the Food and Drugs Authority, as well as the dedication of the Tobacco Control Focal Person, for their remarkable efforts in coordinating, reviewing and harmonizing the diverse input from stakeholders, culminating in the creation of this TAPS Restrictions Enforcement Guide.

Executive summary

The Tobacco industry relies on Tobacco Advertisement, Promotion and Sponsorship (TAPS) as a strategy for sustaining sales and recruiting new users, particularly children and young people. Tobacco use is one of the leading preventable causes of death worldwide, contributing to non-communicable diseases such as heart disease, cancers, stroke, and chronic respiratory illnesses that place a heavy burden on individuals and health systems alike. Restricting TAPS is therefore one of the most effective ways to reduce the social acceptability of tobacco use, prevent initiation, and support cessation, thereby improving the quality of life of Ghanaians.

Under the Public Health Act, 2012 (Act 851) and the Tobacco Control Regulations, 2016 (L.I. 2247), the FDA is mandated to regulate the sale, distribution, and use of tobacco products and to protect the public, especially vulnerable groups such as pregnant women, children, and the youth, from marketing that entices them to start using tobacco products. This guideline provides direction for enforcing the laws on TAPS ban, with particular focus on protecting children and young people.

The guideline covers tobacco control monitoring, point-of-sale monitoring, internet and new-media promotion, media depictions, complaints, prohibitions, enforcement tools, education to ensure compliance. Through these measures, the FDA will monitor manufacturers, importers, distributors and retailers to identify non-compliant products and TAPS activities, conduct inspections and encourage the public to report violations promptly.

Where non-compliance is identified, the FDA will apply appropriate enforcement tools, ranging from warning letters and administrative charges to cancellation of registration, seizures and criminal prosecution. An education component complements enforcement by raising awareness of existing laws to ensure compliance. The FDA will continuously monitor and evaluate its enforcement action plan to ensure it aligns with the FDA's objectives and to determine whether additional measures are needed to curb access to tobacco products and reduce their appeal to children and youth.

This guideline and all other FDA guidance documents on the requirements of ACT 851 and L.I. 2247 are available on FDAs website https://fdaghana.gov.gh.

1. Background

Tobacco use is one of the major preventable causes of death in the world. To sustain and boost its sales and profits, the tobacco industry continually draws in new customers through Tobacco Advertising Promotion and Sponsorship (TAPS) to replace those who quit or die from tobacco use and exposure. To stay relevant in business, the industry employs a wide range of direct and indirect strategies designed to lure the public into using its products, typically by putting up commercials, or adverts, and by providing financial support for programmes through sponsorships. The likelihood of people starting or continuing to use tobacco can be attributed to a combination of TAPS and peer pressure, which together persuade young people, who are at an age when they are especially inclined to experiment with regular smoking.

Globally, the numbers reveal the magnitude of the problem. Tobacco kills nearly 8 million people worldwide every year, and around 80% of these deaths occur in low- and middle-income countries. TAPS plays a significant role in driving these numbers; according to the WHO, it is responsible for approximately one-third of all youth tobacco experimentation. Around the world, 78% of students between the ages of 13 and 15 report routine exposure to TAPS, and this exposure rate is thought to be increasing among adults as well. The significantly higher exposure rate among teenagers demonstrates that the tobacco industry specifically targets young people.

These global patterns are also reflected at the national level. In Ghana, the STEPS survey[1] shows that among adults aged 18 to 69 years, 4.8% currently smoke tobacco, with a statistically significant difference in prevalence between men and women. The prevalence among men is 9.3%, while among women, it is significantly lower at 0.3%. The Global Youth Tobacco Survey reports that 8.8% of students aged 13 to 15 use tobacco products. As a result, more than 6,700 Ghanaians die every year from tobacco-related illnesses, accounting for 3% of all deaths in the country. These patterns point to tobacco use as one of the leading risk factors for non-communicable diseases in the country. As the burden of tobacco-related illnesses such as heart disease, cancers, stroke, and chronic respiratory conditions continue to grow, it places further strain on an already

[1] GHANA STEPS REPORT 2023.pdf

overburdened health system, highlighting the urgent need for stronger public health policies on tobacco control.

1.1 Legal Basis

Ghana ratified the World Health Organization (WHO) Framework Convention on Tobacco Control (FCTC) in 2004. Under Article 13 of the WHO FCTC, all member states are obligated to enact a comprehensive ban on TAPS, in alignment with their respective constitutional frameworks and principles. In response to these obligations, Ghana passed the Public Health Act, 2012 (Act 851) and subsequently the Tobacco Control Regulations, 2016 (L.I.2247) with sections covering ban on all forms of TAPS, tobacco packaging and labelling provisions, ban of smoking in public places, age restrictions, public education on tobacco use, tobacco cessation, prohibiting sales in certain places among others.

Act 851 and L.I.2247 mandate the FDA to regulate tobacco and tobacco products, prevent, reduce tobacco use and protect public health. Provisions in sections 59 to 61 of Act 851 and regulations 9 to 12 of L.I.2247 are in line with the WHO FCTC Article 13 and its corresponding guidelines.

This Guideline is issued in line with section 148 of Act 851 and must be read in conjunction with the general principles of the WHO FCTC, Part VI (6) of Act 851 and L.I.2247.

1.2 Scope

This guideline applies to all persons including importers, manufacturers, wholesale distributors, retailers, media houses and online and media personalities, in relation to the enforcement of the TAPS ban.

2. Abbreviations

WHO	World Health Organization
TAPS	Tobacco Advertising Promotion & Sponsorship
WHO-FCTC	World Health Organization Framework Convention on Tobacco Control
FDA	Food and Drugs Authority
POS	Point of Sale
MOCD	Ministry of Communication and Digitalization
NFA	National Film Authority
NCA	National Communications Authority

3. Definition

In this Guideline, unless the context otherwise requires, the following terms have the meanings assigned. Terms not defined here have the meaning assigned in Act 851 and L.I. 2247.

Advertisement - Any communication, representation or reference distributed or directed to members of the public, by any means, that promotes or is likely to promote, directly or indirectly, the use, sale or disposal of tobacco or a tobacco product, including any visual or audible message that publicises tobacco or a tobacco product.

New media – digital, interactive communication technologies that allow users to create, share and engage with content in real time, including social media, websites, applications, streaming and gaming platforms, and any future digital platforms.

Non-Tobacco Products - any product, substance, accessory, equipment, or service that does not consist wholly or partly of tobacco leaf as raw material, but which is either

(a) marketed, packaged, or sold in a way that creates an association with a tobacco product, brand, or manufacturer, or

(b) used as a tobacco-cessation aid packaged to resemble tobacco products.

Person– includes an individual, a body corporate, an unincorporated body of persons, a partnership, an association, a sole proprietorship, a statutory corporation, and any organization, whether or not registered or licensed in Ghana, and includes a manufacturer, importer, distributor, wholesaler, retailer, advertising or media agency, event organizer, sponsor, or any other entity engaged in an activity regulated under these guidelines.

Promotion - Any form of commercial communication, recommendation or action with the aim, effect or likely effect of promoting tobacco or a tobacco product, directly or indirectly.

Sponsorship - Any form of contribution to any event, activity or individual with the aim, effect or likely effect of promoting tobacco or a tobacco product, directly or indirectly.

Tobacco - A product entirely or partly made of tobacco leaves as raw material which has been treated or manufactured to be smoked, sucked, chewed or sniffed or handled. This

Includes but not limited to, shisha, cigar, cigarette, snuff, tobacco leaves, tobacco patches, tobacco pouches and pipes.

Vulnerable group – Refers to children, young persons, the aged, pregnant and lactating women and any other population group that is susceptible to tobacco marketing and its health effects.

4. Enforcement Requirements

4.1. Tobacco Control Monitoring

4.1.1 The Authority shall conduct routine surveillance of the importation, marketing and promotion of tobacco and tobacco products to ensure compliance. The monitoring will include; newspapers, magazines, periodicals, posters, placards, nonpoint-of-sale promotional material (including direct mail), social and new media, point-of-sale promotional material (including point-of-sale materials in audio or video formats) and any future platforms.

4.1.2 The Authority shall monitor the following sources to identify non-compliance:

a. regulatory submissions made to the Authority.
b. Complaints.

4.1.3 The Authority shall analyze trends in violative TAPS and may adjust its surveillance accordingly.

4.2 Regulatory Submissions made to FDA

4.2.1 A person dealing in tobacco or a tobacco product shall hold:

i. licence as a manufacturer or registration as an importer of tobacco products.

ii. registration of any tobacco or tobacco product to be sold in Ghana; and

iii. a valid import permit issued by the Authority after all requirements have been satisfied.

4.2.2 No person shall package, label, or offer for sale any product that resembles or is likely to be associated with tobacco or a tobacco product.

4.2.3 Tobacco products must not be packaged or labelled in any way that is false, misleading, or deceptive, or that creates a wrong impression about the product's characteristics, health effects, hazards, or emissions. This includes the use of any term, description, trademark, or expression, whether direct or implied - that suggests a particular tobacco product is less harmful than another, such as words like "light," "ultra-light," "mild," "low tar," or any similar expression implying reduced harm or beneficial effects.

4.2.4 The tobacco product package shall include but not limited to the following:

a) Health warnings (pictorial images and accompanying text) schedule shall cover 50% of principal display area at the front and 60% at the back of a rectangular packaging, positioned in the lower portion of each of the principal display areas.

b) For a carton and other outside packaging, the warning and message shall cover the widest main surfaces in a way that they cover not less than 50% to the left side of each of those surfaces. This warning shall be a textual warning.

c) Health warnings shall be permanently inscribed on the package and shall not be inscribed on any cellophane or other wrapping that can be removed.

d) The visibility of the warning and message shall not be susceptible at any time to being damaged, concealed, obstructed, obscured, disrupted, covered, or changed by any markings, stamps, package design feature or mechanism, or by anything supplied by the manufacturer or seller.

e) The warnings must be reproduced on the package by electronic imaging derived from the original images contained in the electronic files and displayed on the package with the same quality and clarity.

f) The text of the warnings and messages shall be in English language and shall be printed in legible characters on a contrasting background as shown in the electronic images determined by the Authority.

g) Only the prescribed warning and message shall be inscribed on the part of the space reserved for the warning and message.

h) For smokeless tobacco product, the health warning and message shall cover 65% of the main display areas of the package and meet all the requirements specified under Sub-regulation (c) to (g).

i) The inscription **"FOR SALE IN GHANA ONLY"** displayed on the side panel of the product pack: The inscription shall have a font colour which contrasts with the background of the product pack.

j) Tobacco product packages shall state the country of origin of the tobacco product, the manufacturers address, batch number and manufacturing date.

k) A sign on a side panel of the product pack shall specify the age eighteen (18) years as the lowest age for the sale of tobacco and tobacco products.

4.2.5 The FDA retains the authority to update the content of these warnings periodically, provided that no warning is changed within one year of the previous update.

4.2.6 The FDA shall ensure that the prescribed warnings are rotated and randomly displayed across products.

4.2.7 Any Information presented in these submissions shall be monitored and evaluated to ensure compliance with applicable laws including the restrictions on TAPS to the public especially to vulnerable groups.

4.2.8 The FDA shall monitor trends of violative TAPS and analyze results to determine perceived impact or effects on the public to inform regulatory actions and may modify its surveillance activities when needed.

4.3 Point-of-Sale Monitoring

- 4.3.1 A person who sells or offers for sale tobacco or a tobacco product shall conspicuously display at the point of sale a health warning of not less than 420 mm × 590 mm on a poster, bearing a mandatory message which reads “Tobacco use increases the risk of cancer, heart disease, and stroke”. Font shall be printed in a bold, sans-serif typeface such as Arial Bold, with the principal warning statement in letters not less than 40 mm in height and any supporting text not less than 15 mm in height, in black text on a white background, occupying not less than 60% of the total surface area of the poster.

4.3.2 Point-of-sale poster which shall contain the statement “IT IS AGAINST THE LAW TO SELL TOBACCO PRODUCTS TO ANYONE UNDER THE AGE OF 18 YEARS”.

4.3.3 No tobacco advertising or promotional material shall be displayed at the point of sale.

4.4 Internet and New-media Promotion

4.4.1 The FDA with the Ministry of Health, Ministry of Communication, Digital Technology and Innovations (MOCDTI), Ghana Tourism Authority (GTA), National Media Commission (NMC), National Film Authority (NFA), National Communication Authority (NCA), National Commission on Civic Education (NCCE) and other relevant bodies, shall conduct routine surveillance of websites, new media, gaming platforms and other online platforms used to promote tobacco or tobacco products.

4.4.2 The FDA shall take prompt enforcement action where non-compliance is identified and shall analyse trends in violative internet promotion to address them.

4.5 Depictions in Media

4.5.1 The FDA, with the relevant bodies, shall ensure, in accordance with Regulation 9 of L.I. 2247, that:

a. tobacco brands or brand images are not depicted in any media content;
b. prescribed anti-tobacco messages are displayed at the start of media content depicting tobacco use;
c. rating or classification systems in audio visual content take account of tobacco depictions;
d. media content aimed at children does not depict tobacco products, use or imagery; and
e. emerging TAPS threats are identified and addressed.

4.6 Complaints

4.6.1 A person may report non-compliance with Act 851, L.I. 2247 and this Guideline to the FDA at any of its offices nationwide, on the toll-free number 0551112224/5, by email at fda@fda.gov.gh, or through its website www.fdaghana.gov.gh.

4.6.2 The FDA shall evaluate and give feedback to a complaint involving regulatory non-compliance relating to tobacco within twenty (20) working days and may conduct inspections or further investigations to follow up and gather evidence.

4.6.3 The FDA shall analyse trends in complaints received to evaluate and improve its enforcement activities and strategies.

5. Prohibitions

5.1 No person shall use a Digital and Online Marketing platform or digital channels, either directed at or accessible to Ghanaian audiences, regardless of the country of registration, to promote or advertise tobacco products, tobacco-branded or tobacco-associated games, competitions, loyalty programs, polls, quizzes, and interactive digital experiences in Ghana.

5.2 No person shall use hashtags, social media challenges, and viral content techniques to promote tobacco or tobacco products.

5.3 No person shall advertise tobacco or a tobacco product, either directly or indirectly.

5.4 No person shall use a tobacco trademark, brand logo, or brand name in any advertisement of a product or in the organisation of any activity or event.

5.5 No person shall advertise tobacco, a tobacco product, or a tobacco-related product on a billboard, wall mural, public transport, transport stop or station, airport, or seaport.

5.6 No person shall promote tobacco or a tobacco product by retail sale through mail or any other means of communication.

5.7 No person shall sell, display, supply, or advertise a non-tobacco product or service that features any writing, image, graphic, or message associated with or likely to be associated with a tobacco product, brand, or manufacturer.

5.8 No person shall sell or offer for sale tobacco products through the post, the internet, or any other communication medium.

5.9 No person shall package, label, or offer for sale any product that looks like or is likely to be associated with a tobacco product.

5.10 No person shall package or label a tobacco product in a false, misleading, or deceptive manner, or in a way likely to create a wrong impression about its characteristics, health effects, hazards, or emissions.

5.11 No person shall use any term, description, trademark, or expression, directly or indirectly, that suggests a tobacco product is less harmful than another, including terms such as "light," "ultra-light," "mild," "low tar," or similar expressions.

5.12 Packaging and labelling must not contain any content, design, or feature that contradicts, conceals, obscures, or undermines required health warnings, constituent disclosures, or any other mandatory information.

5.13 No person shall initiate or engage in any form of tobacco sponsorship.

5.14 No person involved with tobacco shall organise or promote any activity or event in the country.

5.15 No person involved with tobacco shall make any financial contribution to an organised activity or to any person for the purpose of organising, promoting, or participating in such an activity.

5.16 No person shall use the name, trademark, brand logo, brand name, or company name of a tobacco product in connection with any organised activity or event.

5.17 No person shall sell or offer tobacco products through vending machines or self-service mechanisms.

5.18 Point-of-sale displays are restricted to approved inscriptions only - no promotional content beyond the permitted statements is allowed.

5.19 No person shall sell or expose a child to tobacco or use a child in any capacity related to the sale or promotion of tobacco products.

5.20 No person shall import, distribute, sell and promote the use of vapes, e-cigarettes or any other emerging non-tobacco products.

5.21 No person shall manufacture, import, distribute, sell or promote any toy, confectionery, novelty item, or other product that is designed, shaped, packaged, or marketed to resemble a cigarette, cigar, pipe, vape, e-cigarette, or any other tobacco or emerging nicotine product, whether or not such item contains tobacco, or nicotine, where such item is likely to appeal to, or be marketed for use among minors.

6. Enforcement Tools

6.1 The FDA may use the following enforcement tools for non-compliance of TAPS; seizure, warning letter, administrative charge, cancellation of registration and criminal prosecution.

6.2 In determining the enforcement tool to be used, the FDA shall take into account whether the breach targets vulnerable group.

6.3 FDA upon citing TAPS violations, may seize tobacco and tobacco products and safely dispose them at the cost of the individual/industry.

6.4 FDA may issue warning letters to first time offenders of TAPS violations

6.5 The FDA shall issue the appropriate administrative charge in accordance with the Fees and Charges (Miscellaneous Provisions) Regulations, 2023 (L.I. 2481).

6.6 The FDA may cancel the registration of the licensee who violates the TAPS restrictions.

6.7 The FDA may refer offenders to the appropriate agencies for criminal prosecution.

7. Administrative Fines and Penalties

A person who contravenes provisions of this guideline and the tobacco control laws violate regulatory laws and commits an offence. Such persons may be given administrative sanction in accordance with the Fees and Charges (Miscellaneous Provisions) Regulations, 2023 (L.I. 2481) or liable upon summary conviction to a fine or to a term of imprisonment or to both.

8. Awareness creation

8.1 The FDA shall conduct educational campaigns to ensure importers, manufacturers, wholesale distributors, retailers, media houses, online and media personalities, facility owners and others to comply with the tobacco control laws.

8.2 The FDA in collaboration with relevant stakeholders shall educate the public to monitor and report TAPS violations in their communities to the FDA.

9. Monitoring and Evaluation

9.1 The FDA shall collaborate with relevant agencies, public-health bodies, civil society organisations, advocacy groups, community and religious leaders, professional organisations and other stakeholders to monitor progress and re-assess the components of this guideline.

9.2 The FDA and relevant stakeholders shall consider and incorporate new regulations, policies, recommendations and priorities and make the necessary changes.

9.3 The FDA shall leverage emerging technology to strengthen regulatory control.

9.4 The FDA shall communicate relevant information to stakeholders involved in tobacco control and make information available in multiple languages through various communication channels.

Annexes

Annex A –

FCTC COP 10 Guidelines on Cross Border TAPS and Depictions in Entertainment Media

Examples of TAPS across media types:

1. Digital media-sharing platforms provide the tobacco industry an additional platform for promoting their products and undermining tobacco control strategies. TAPS on these sites include:
    - Direct product promotion through paid advertisements.
    - Influencer promotions.
    - Commercial promotions of posts by consumers of their own tobacco usage.
    - Event promotion.
    - Corporate and campaign promotions.
    - Tobacco use depictions embedded in commercial content where those depictions are not legitimate expression.
    - Product integration.
    - Sponsored news or infotainment content.
    - Device advertising promotion and sponsorship.

2. Tobacco companies and those working to further their interests operate social media accounts and websites with content that is broadcast across borders.

3. Tobacco industry entities and associated third parties may assist in designing, distributing and sponsoring video games, computer games and smart-device applications. Examples of tobacco depictions in entertainment and digital media communication platforms:

    - Films, movies, television and streaming content are significant sources of tobacco depictions.
    - Streaming television programmes.
    - Video/computer games.

- Smartphone applications.

Annex B

Public Health Act, 2012 (Act 851)
https://www.moh.gov.gh/wp-content/uploads/2016/02/Public-Health-Act-851.pdf

Annex C

Tobacco Control Regulations, 2016 (L.I. 2247)
https://assets.tobaccocontrollaws.org/uploads/legislation/Ghana/Ghana-TC-Regs-2016-national.pdf

Annex D*Guidelines For the Implementation of Article 13*

Guidelines for implementation of Article 13 and Specific guidelines to address to address cross-border taps and the depiction of tobacco in entertainment media for implementation of article 13

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