



Advanced country practices in the implementation of WHO FCTC Article 13 and its guidelines

**Combatting cross-border advertising and
depiction of tobacco in entertainment media**

Report commissioned by the Convention Secretariat

Prepared by Trinette Lee

March 2018

Funded by the:



The content of this report represents the views of the author only and her sole responsibility; it cannot be considered to reflect the views of the European Commission.

The European Commission do not accept any responsibility for any use that may be made of the information it contains.

The Secretariat of the WHO Framework Convention on Tobacco Control would like to thank the European Union for the grant provided that made the preparation of this paper possible.

Table of contents

1. Introduction	4
2. Guidelines for implementation of Article 13 of the WHO FCTC	4
3. Methodology.....	5
4. Cross-border advertising, promotion and sponsorship ban	5
<i>A) Internet sales, advertising and promotion</i>	<i>6</i>
<i>B) Cultural and sporting events, broadcast and print media</i>	<i>12</i>
<i>C) Cooperation across Parties.....</i>	<i>13</i>
<i>D) Disclosure of TAPS expenses by tobacco industry.....</i>	<i>15</i>
5. TAPS ban in entertainment media.....	15
<i>A) Rating or classification guidelines</i>	<i>16</i>
<i>B) Use of health warnings to counter effects of exposure to smoking scenes.....</i>	<i>17</i>
<i>C) Active citizenry and civil society can contribute to stronger policies and compliance..</i>	<i>18</i>
6. Closing observations.....	21

1. Introduction

Article 13 of the WHO Framework Convention on Tobacco Control (WHO FCTC) is one of the time-bound measures of the Convention. Parties are expected to undertake appropriate action within the period of five years after entry into force of the WHO FCTC to comply with their obligations. The Conference of the Parties (COP) adopted the “Guidelines for implementation of Article 13 of the WHO FCTC” (Tobacco advertising, promotion and sponsorship) at its third session (Durban, South Africa, 17-22 November 2008). These guidelines were based on the best available evidence and experience of Parties that have successfully implemented effective measures against tobacco advertising, promotion and sponsorship (TAPS).

One of the Parties submitted a request to the COP Bureau to review TAPS in entertainment media and cross-border advertising because of concerns associated with increased use of mobile technology, particularly among young people. As such, TAPS was included as an agenda item at the seventh session of COP (COP7) with a view to further strengthen implementation of Article 13 of the Convention.

At COP7, the Conference of the Parties requested the Convention Secretariat to establish an expert group to provide recommendations on operationalizing the implementation of Article 13 and its Guidelines on cross-border advertising and TAPS in entertainment media, collect successful national and regional experiences, and develop a report to be submitted to COP8.

This document is intended to share advanced practices and lessons learned from Parties in the implementation of Article 13, in line with Decision FCTC/COP7(5) as well as Decision FCTC/COP7(24), containing the work plan and budget of the Convention Secretariat for the financial period 2018-2019. An early version of this report was presented to the expert group established at COP7 to provide background information to its discussions.

2. Guidelines for implementation of Article 13 of the WHO FCTC

Article 1 of the Convention (Use of terms) defines a comprehensive TAPS ban to include “*any form of commercial communication, recommendation or action*” and “*any form of contribution to any event, activity or individual with the aim, effect or likely effect of promoting a tobacco product or tobacco use either directly or indirectly*”.

Under Article 13.2 of the Convention, Parties are required to undertake a comprehensive ban of all TAPS. This shall include a comprehensive ban on cross-border advertising, promotion and sponsorship originating from its territory. As a result, within a period of five years after entry into force of the Convention in a given Party, the Party shall undertake appropriate legislative, executive, administrative and/or other measures to implement this Article.

However, if a Party is not in a position to undertake a comprehensive ban due to its constitution or constitutional principles, restrictions on all TAPS will be applied. This is in accordance with Article 13.3 of the Convention. Article 13.4(d) states that Parties that do not have a comprehensive ban shall require the tobacco industry to disclose expenditures on TAPS. This requirement may help Parties identify any TAPS not covered by the ban or engaged in by the tobacco industry in contravention of the ban. This may also discourage the tobacco industry from engaging in TAPS it might otherwise engage in.

The Guidelines for implementation of Article 13 of the WHO FCTC describe in detail the scope of a comprehensive TAPS ban. Additionally, in its Appendix, the Guidelines provide an indicative (non-exhaustive) list of forms of tobacco advertising, promotion and sponsorship within the terms of the Convention that should be included in the scope of a comprehensive ban. Accordingly, a comprehensive ban should include cross-border advertising, promotion and sponsorship, both originating from and entering a Party's territory. It should also address all persons or entities involved in the production, placement and/or dissemination of TAPS.

In order to implement a comprehensive ban, effective monitoring, enforcement, and sanctions supported and facilitated by strong public education and community awareness programs are essential. Civil society has an important role in building support for, and ensuring compliance with laws addressing TAPS, and should be an active partner of the government in these endeavours. Furthermore, to facilitate elimination of cross-border advertising, international cooperation should also play its important role, through the development of technologies and other means are also needed to effectively control cross-border forms of TAPS.

3. Methodology

This best practice report is based on desk research as well as on additional information provided by the WHO FCTC Parties.

As a first step in the development of this paper, Parties' most recent implementation reports were reviewed in an attempt to identify advanced practices. When such practice was identified, and wherever additional information was necessary beyond that contained in the official implementation reports, further resources were identified, checked and utilized. These additional sources included: country profiles and legislation in the Tobacco Control Laws database of the Campaign for Tobacco Free Kids, an observer to the Conference of the Parties; publications of the WHO, other resources and reports available with the Convention Secretariat; reports of the respective national governments, research institutes and advocacy organizations within the Parties' jurisdiction. Furthermore, news articles and other media clippings were utilized.

Finally, in some cases, the WHO FCTC's technical focal points were contacted for clarifications and additional information.

4. Cross-border advertising, promotion and sponsorship ban

Tobacco advertising, promotion and sponsorship can cross borders easily through platforms such as the Internet, films, direct broadcast satellite, on clothing and technological devices during sporting or cultural events that may be broadcasted in another State, or in publications that may be exported or imported.

This section presents the measures Parties have taken to prevent or minimize cross-border TAPS via the Internet, through cultural and sporting events, broadcast and print media. This section also describes how Parties could ensure that their domestic advertising bans are not undermined by any cross-border forms of TAPS.

A) Internet sales, advertising and promotion

According to the WHO FCTC Article 13 Guidelines, Internet sales inherently involve advertising and promotion as defined in the Convention. Sale of tobacco products on the Internet also gives rise to other issues such as sales to minors, tax evasion and illicit trade. Banning tobacco sales on the Internet is the most direct way to avoid tobacco advertising and promotion. The ban should apply not only to entities that sell the products, but also include companies that facilitate payment and postal or delivery services. If sales are not banned, then restrictions should be imposed that permits only textual listing of products and their prices, without any pictures or promotion features.

The following examples illustrate how different Parties have enforced a ban on or restricted tobacco advertising and promotion on the Internet:

- ♦ *Example 1:* Singapore – Cyber surveillance curbed illegal sale of cigarettes and imitation tobacco products on the Internet
- ♦ *Example 2:* Singapore – Monitoring online sales and advertising originating from Singapore
- ♦ *Example 3:* Bahrain – Social media monitoring to reduce advertising and promotion of tobacco products, particularly e-shisha
- ♦ *Example 4:* Finland – Ban on cross-border sale and cross-border purchase
- ♦ *Example 5:* Australia – Regulating Internet point-of-sale tobacco advertising
- ♦ *Example 6:* Ireland – Ban on point-of-sale advertising and display for online shops
- ♦ *Example 7:* United Kingdom of Great Britain and Northern Ireland – Retailer registration and age verification system to restrict cross-border tobacco sales

Example 1: Singapore – Cyber surveillance curbed illegal sale of cigarettes and imitation tobacco products on the Internet

Background case #1: The Tobacco Regulation Branch of the Health Sciences Authority (HSA) Singapore detained a 19-year old male for illegally selling cigarettes through online platforms in January 2017. HSA officers then conducted an enforcement operation. During their checks, eight packets of Singapore Duty Paid cigarettes were seized at the seller's residence. Preliminary investigations found that the seller and his friends had stolen the cigarettes from a supermarket and had tried to resell them over the Internet.ⁱ

Legislation and penalties: The Tobacco (Control of Advertisements and Sale) Act, Section 18, states that a person must have a valid retail license and be authorized to distribute, sell or offer for sale by retail any tobacco products only at a single point of sale within the retail outlet specified in the license. Upon conviction, the penalty for selling tobacco products without a valid license may result in a maximum fine of up to \$10,000 Singapore dollars under the Tobacco (Control of Advertisements and Sale) Act. Separately, for theft in dwelling, anyone convicted may be imprisoned for a term of up to seven years and shall also be liable to a fine.

Background case #2: In 2012, three online peddlers were detected illegally offering prohibited vaporizers for sale via websites. All three peddlers had purchased the vaporizers from overseas suppliers to be sold locally. Through HSA's cyber surveillance efforts, officers were able to verify the peddlers' identities and places of residence. HSA officers then conducted an enforcement operation over a period of 48-hours, and seized 490 sets of vaporizers from the three peddlers. All three peddlers were subsequently charged and convicted in a Singapore Court.ⁱⁱ

Legislation and penalties: The Tobacco (Control of Advertisements and Sale) Act, Section 16¹, states that:

“A person must not import into Singapore, or distribute, sell, offer for sale or possess for sale in Singapore, any confectionery or other food product, or any toy, device or article – (a) that resembles, or is designed to resemble, a tobacco product; (b) that is capable of being smoked; (c) that may be used in such a way as to mimic the act of smoking; or (d) the packaging of which resembles, or is designed to resemble, the packaging commonly associated with tobacco products”

Upon conviction, the penalty for the importation, distribution, sale, offer for sale or possession for sale of imitation tobacco products in Singapore may result in a maximum fine of up to \$20,000 Singapore dollars, imprisonment for a term not exceeding 12 months, or both.

Enforcement method: The HSA has a dedicated team of officers that conduct cyber surveillance and Internet trawling on a daily basis. The basic steps involved:

- Identification of high-risk media platforms used for the contravention of relevant laws. This is based on public complaints and intelligence shared by partner agencies.
- Use of undercover social media accounts for officers to visit these sites, scan for possible offences and interact with suspected peddlers/offenders.
- Upon the detection of a suspected illegal activity online, officers shall attempt to establish contact with the illegal peddler.
- Officers shall arrange with illegal peddler to come to a consensus to transact so as to apprehend them.
- Once apprehended, the contraband products shall be seized and further investigations shall be made to take actions against the offender.

The challenge for the enforcement of the ban on Internet sale of tobacco products is that the World Wide Web is borderless and allows criminals a large degree of anonymity. As such, it is difficult to accurately determine the identities of criminals who work hard to hide their identities, and prohibited products may be purchased online from vendors easily.

Example 2: Singapore – Monitoring online sales and advertising originating from Singapore

Background: The Tobacco Regulation Branch of HSA Singapore detected a website created by a licensed tobacco company in 2014. The website listed the tobacco products available for sale by the company for customers around the South-East Asian Region and also the locations of local retailers from which the tobacco products could be purchased. Subsequently, HSA officers conducted investigations on the tobacco company. The company was found to have contravened the Tobacco (Control of Advertisements and Sale) Act and was eventually fined for their offences. The company’s website was taken down as well.

Legislation and penalties: The Tobacco (Control of Advertisements and Sale) Act, Section 3(6), prohibits tobacco advertisement published electronically to originate from Singapore; to be “published or caused to be published by a Singapore-connected person or the Singapore-connected person takes part in the publication”; and be “accessible by persons physically present in Singapore”.

¹ The penalties for section 16 of the Tobacco (Control of Advertisements and Sale Act) were increased from 1 August 2017 onwards. For example, for the first offence, penalties were increased from a maximum fine of up to \$5,000 Singapore dollars to a maximum fine of up to \$10,000 Singapore dollars, imprisonment for a term not exceeding 6 months or both. For the second or subsequent offence, penalties are increased from a maximum fine of \$10,000 Singapore dollars to a maximum fine of up to \$20,000 Singapore dollars, imprisonment for a term not exceeding 12 months or both.

If convicted, a person may be liable “to a fine not exceeding \$10 000 Singapore dollars or to imprisonment for a term not exceeding six months or to both... [or] if the person has any previous qualifying conviction, [they are liable] to a fine not exceeding \$20 000 Singapore dollars or to imprisonment for a term not exceeding 12 months or to both”.

Enforcement method: The steps involved to enforce the ban on advertisements published electronically and originating from outside Singapore are as follows:

- HSA's dedicated team of officers conduct cyber surveillance and Internet trawling based on keyword searches for suspected online illegal activities related to tobacco.
- If the advertisement is published by a local company but hosted on a server based overseas, upon detection of the advertisement, the company shall be investigated.
- As part of the ongoing investigations of the company, the company should also be required to remove any advertisements on its website or social media account(s).

The challenge with enforcement is that the rise of social media has made it possible for the tobacco industry to mask their advertisements through the use of innocuous accounts on social media platforms such as Facebook or Instagram. Companies can easily set up multiple social media accounts to advertise their products. Upon detection of these advertisements, companies may deny ownership of these accounts.

Example 3: Bahrain – Social media monitoring to reduce advertising and promotion of tobacco products, particularly e-shisha

Background: The Kingdom of Bahrain’s Law No. 8 on Controlling Smoking and All Forms of Tobacco of 2009 gave strong impetus to tobacco control efforts in the country. Tobacco advertising, promotion and sponsorship was banned. The responsible staff in the Public Health Directorate monitors compliance in all media, including social media posts, particularly those originating from Bahrain. For movies and television series produced outside Bahrain and screened on Bahrain television and in cinemas, the Ministry of Information Affairs has started to display a warning message at the time tobacco use is depicted in a scene.

Violations, primarily of tobacco advertising and promotion laws, have been observed in Bahrain. They have been referred to the public prosecutor for further actions in accordance with Law No. 8. There have been instances of tobacco advertising and promotion in social media, especially Instagram, mostly related to e-shisha. The health inspectors in the Public Health Directorate have tracked some of these cases and referred them to the Public Prosecutor. Others were referred to the Cybercrime Directorate in the Ministry of Interior for further investigation and action.

Legislation and penalties: Articles 6, 7, 13 and 15 of the Law No. 8 (2009) on the Matter of Controlling Smoking and All Forms of Tobacco prohibit any form of advertising, promotion and sponsorship by tobacco manufacturers, importers and distributors.

The penalty for violating Article 7 (on sponsorship) is 1000-3000 BD, and closure of the shop for a period not exceeding two months in cases of repeated violation. The penalty for violating Article 13 (on individual cigarettes and point of sale advertising) is at least 100 BD, and closure of the shop for a period not exceeding one month in cases of repeated violation.

There are currently no penalties for Article 6 (on advertisement in public places and the media) and Article 15 (on free distribution, gifts and sweets that resemble tobacco products) of Law No. 8. However, amendments are proposed to Law No. 8 (2009) to specify penalties for these articles. These two articles cover primarily the ban on tobacco advertising and promotion.

Enforcement: Bahrain monitors social media (e.g. Instagram and Facebook), particularly those originating from Bahrain. Individuals found to be violating the law are referred to the Public Prosecutor. Currently, there are seven public health inspectors in the Ministry of Health responsible for monitoring TAPS and other violations on social media. Monitoring is conducted on daily basis and searches are conducted using relevant keywords to find accounts that might be selling and promoting tobacco products. Once these accounts are traced, the public health inspectors shall identify the responsible person from his/her profile information and refer him/her to the Public Prosecutor. Should the public health inspectors be unable to confirm the identity of the account owner, the matter is referred to the Cybercrime Directorate of the Ministry of Interior for further investigation and action. There is strong collaboration on this issue between the Ministry of Health and the other ministries concerned, such as the Ministry of Information Affairs or the Ministry of Industry, Commerce and Tourism.

There are, however, several challenges to the enforcement of advertising and promotion rules. This include the advertising and promotion on social media that enters our territory from other countries, as Bahrain has no control over these accounts. Tobacco companies try to circumvent the legislation, for example by placing the information on nicotine content on the front of cigarette packages, to give the customer the impression that a specific product is light and less harmful. Companies also distribute to the retailers shelves with pack holders on the bottom that hide the pictorial warning placed at the bottom of the packs, thus making the brand name visible at the top. Furthermore, especially during the Ramadan, companies promote Ramadan tents with shisha in various newspaper articles. In all these occasions warnings were directed to violators and those who continue with the illegal advertising practices are referred to the public prosecutor.

Example 4: Finland – Ban on cross-border sale and cross-border purchase

Ban on cross-border sale:

Section 58 of the Finnish Tobacco Act No. 549/2016 (which came into force on 1 January 2017) prohibits cross-border sales of tobacco products, electronic cigarettes and nicotine-containing liquids. Operators established in Finland are not permitted to sell or supply these products to consumers using any means of distance communication.

Enforcement: It has not come to the attention of Finnish authorities that any companies located in Finland have violated the ban on cross-border sales. For suspected violations of the cross-border sales ban originating from Finland, the action should be taken by the relevant municipality. However, Finland is aware that companies in other European countries have violated the ban. In these instances, the Finnish authorities inform authorities of the country in question about the violation.

Penalties: There are no penal consequences for the violation of the cross-border sales ban, but possible consequences are outlined hereafter.

Section 97 of the Tobacco Act states that:

“A municipality may cancel a retail license... for a fixed period of at least one week and not more than six months, if the holder of the retail license despite a written warning or a criminal sanction issued by the municipality or other supervisory authority:... 6) sells or otherwise supplies tobacco products, electronic cigarettes or nicotine-containing liquids to consumers using a means of distance communication in violation of section 58... A municipality may permanently cancel a retail license, if the holder of the retail license continues or resumes the illegal activity... despite the temporary cancellation of the license and if the act cannot be considered minor.”

If a municipality performing its supervisory duties observes within its territory activities that violate the Tobacco Act or the provisions issued under it, the municipality may prohibit such activities. A municipality may issue a notice of a conditional fine to enforce a prohibition or an order issued under the provisions of this Act.

Ban on cross-border purchase:

According to Section 65 of the Tobacco Act, *“private persons shall not acquire or receive from an economic operator tobacco products, electronic cigarettes or nicotine-containing liquids by mail, freight or other comparable means from countries outside Finland”*.

Enforcement: The Finnish authorities shall inform Customs, who will then confiscate any illegally imported items.

Identification of new tobacco products, electronic cigarettes and nicotine-containing liquids can be challenging if there are no similar products in the Finnish market. Customs control is also challenging because sometimes the sender is marked as a private person when it is actually an economic operator.

Example 5: Australia – Regulating Internet point-of-sale tobacco advertising

In Australia, section 15A of the *Tobacco Advertising Prohibition Act 1992*ⁱⁱⁱ (TAP Act) prohibits tobacco advertising published electronically in Australia, unless one of the exceptions considered by the Act applies, which are the following: section 16A on Internet sales and point-of-sale advertising, section 16B on conduct by carriers, section 17 on periodicals printed outside Australia, section 19 on accidental and incidental publication, and section 20 on publication by individuals not receiving any benefit.

Regulation 8A of the *Tobacco Advertising Prohibition Regulation 1993*^{iv} (TAP Regulation), which was implemented on 6 September 2012, sets out the formatting requirements for tobacco advertisements published on the Internet, as this is an exemption from the Internet point-of-sale advertising ban.

According to regulation 8A, a tobacco advertisement published on the Internet must:

- Use black text on a white background;
- Display tobacco product information in a standardized layout and format using the same font and font size so that no tobacco product is displayed more prominently than any other tobacco product;
- Include a health warning message and corresponding graphic in a legible and undistorted form;
- Include a statement that it is illegal to sell tobacco products to and purchase a tobacco product for use by a person under 18;
- Include a system that limits access to the advertisement to a person who is at least 18;
- Not describe the product or components of the product, other than stating the country of origin in one sentence;
- Not contain any other information not required or permitted under the TAP Act or TAP Regulation, but may include the product name, price of the product (inclusive of all taxes), the package size or weight of the product, an item number or code for the product, and information about any other charges payable;
- Not include words that make claims about or describe the appeal of the tobacco product;

- Not include words or images that entice, or are intended to entice a person to purchase the product;
- Not include words that directly or by implication contradict, qualify or modify a health warning marked, or that is required to be marked, on the tobacco product being advertised;
- Not include images of tobacco products;
- Not include content that promotes another Internet site that either contains a tobacco advertisement or solicits Internet traffic to a tobacco advertisement.

In November 2015, the Australian Government Department of Health developed a Guide to Internet Point-of-Sale Tobacco Advertising to explain the TAP Regulation.^v

The maximum penalty for an offence against the TAP Act is \$25,200 for an individual and \$126,000 for a corporation. The Australian Government Department of Health investigates complaints about potential breaches of the Act.

Example 6: Ireland – Ban on point-of-sale advertising and display for online shops

Legislation and penalties: Online shops based in Ireland are covered by the ban on point-of-sale advertising and display. This means websites cannot display images of tobacco products and can only show the product names and prices. However, specialist tobacconists can continue to display and advertise inside their online shops.^{vi}

The Public Health (Tobacco) Act 2002 (Commencement) Order was signed in 2008 and the ban on point-of-sale advertising and tobacco displays took effect on 1 July 2009. Retailers may be brought to court for violations. If convicted, they be fined and/or suspended from the register and not allowed to sell tobacco for a period determined by the court.

Enforcement: The Health Service Executive is responsible for overseeing compliance with the ban on POS advertising and display.

Example 7: United Kingdom of Great Britain and Northern Ireland – Retailer registration and age verification system to restrict cross-border tobacco sales

Legislation: The Tobacco and Related Products Regulations 2016^{vii} (S.I. 2016 No. 507) requires one to:

“[R]egister with the Secretary of State by (a) a retailer established in the United Kingdom who engages or intends to engage in cross-border distance sale of a relevant product with a consumer located in another member state; and (b) a retailer who is established elsewhere than in the UK who engages or intends to engage in a cross-border distance sale of a relevant product with a consumer located in the UK.”

A retailer is prohibited from engaging in cross-border distance sales with a consumer located in another country that prohibits such cross-border distance sales. The retailer must also have an age verification system that can confirm the consumer’s age electronically.

The United Kingdom permits domestic sales via the Internet and there are currently no regulations regarding the display of tobacco products and prices on websites.^{viii}

B) Cultural and sporting events, broadcast and print media

According to the WHO FCTC Article 13 Guidelines, Parties shall impose a comprehensive ban on TAPS. Targeting to prohibit TAPS from originating from a Party's territory, the ban should cover print matter produced within the territory, regardless whether target audience is in the Party's territory or in another territory. Aiming to prevent TAPS from entering a Party's territory, the ban should cover print matter produced in another territory entering the Party's territory or targeting persons in that territory. It should also cover content on the Internet or any other audio, visual or audiovisual material broadcasted into, receivable and accessible within a Party's territory, regardless whether it is targeting persons in that territory.

The following examples illustrate how different countries have prohibited or restricted TAPS through cultural or sporting events, broadcast media and print media:

- ♦ *Example 8:* Brazil – Banning TAPS originating from the territory
- ♦ *Example 9:* Panama – Monitoring of television, films, Internet and social networks
- ♦ *Example 10:* Chile – Tobacco advertising ban on international broadcast channels and domestic Internet sites

Example 8: Brazil – Banning TAPS originating from the territory

Domestic events, broadcast and print media

Under Article 3 of the Law No.10.167^{ix} (2000), Brazil banned tobacco advertising and promotion in television, newspapers and magazines, as well as the sponsorship of cultural or sporting activities² since 2000.^x This prevents TAPS originating from Brazil to enter any other territories.

The National Health Surveillance Agency (ANVISA) is the regulatory agency responsible for overseeing tobacco products, particularly on advertising. ANVISA conducts surveillance and monitors local television, radio and printed media. The public may also submit complaints to the authority. Once a violation has been detected, ANVISA starts an administrative process. The company in question may present its arguments. However, if violations were confirmed, the company would be sanctioned according to the nature and damage (range) of the advertisement. The challenge in enforcement is the vast country size that complicates a complete nationwide inspection.

International sporting events and broadcasting of cultural or sporting events

In the case of international sporting events (i.e. Formula 1 races), sponsorship and advertising in a national stadium, race track, stage or similar was banned as of 30 September 2005. This is stipulated in Law No. 9.294 (1996) (amended by Law No. 10.702/03)^{xi}.

According to Article 3C of this Law, broadcasting of cultural or sporting events in Brazilian territory, with tobacco images generated abroad or sponsored by tobacco companies or its affiliates, was permitted as long as it was accompanied by a health warning message on the harmful effects of tobacco; such broadcasting was allowed until 30 September 2005 and is now prohibited.

² It is to be noted that the law does not ban the sponsorship of other kinds of events and activities, or sponsoring of individuals.

Challenges to the prohibition of tobacco advertisements from entering Brazil through foreign movies that depict tobacco products and use still remain. There are currently no restrictions and no requirements to display health warnings when scenes depicting tobacco appear.

Example 8: Panama – Monitoring of TAPS on television, films, Internet and social networks

Legislation: Article 14 of Law No. 13 (2008) on Measures to Control Tobacco and its Harmful Effects on Health^{xii} prohibits any kind of TAPS as well as cross-border forms that may enter the national territory. Violations are sanctioned by the Ministry of Health in accordance with provisions of the Health Code.

Enforcement: The Panama National Commission for the Study of Tobacco Use, under the direction of the Ministry of Health since 1989, coordinates implementation of the WHO FCTC. The Commission periodically enters the Internet and social networks to determine whether there have been violations of the TAPS ban, and also monitors the situation in television and movies. Violations and sanctions were imposed.

The Gorgas Memorial Institute for Health Studies conducted an evaluation of the compliance with the prohibition on tobacco product advertising, promotion and sponsorship at points-of-sale, in media, on the Internet, social networks, mobile messaging platforms, video games and packaging and labelling. Details may be found in the research report (Spanish language only)^{xiii}.

Example 9: Chile – Tobacco advertising ban on international broadcast channels and domestic Internet sites

Legislation: Article 3 of Law 19419 regulating activities related to tobacco states that advertising is prohibited on international channels broadcasted in Chile or Internet sites whose Internet domains have the ending ‘dot cl’.^{xiv}

Enforcement: The Health Authority and inspectors of the respective municipality are responsible for enforcing the law. Violations are reported to the Local Police Magistrate, who is authorized to impose the appropriate sanctions.

C) Cooperation across Parties

As contemporary media platforms such as the Internet, films and direct broadcast satellite enable TAPS to cross borders easily, domestic bans may be undermined unless the issue also addressed through international cooperation. Example 11 illustrates how the member states of the European Union cooperate to eliminate TAPS.

Example 11: Harmonization of legislative measures within the European Union (EU)^{xv}

Prohibiting cross-border TAPS: Directive 2003/33/EC^{xvi} of the European Parliament and the Council of 26 May 2003 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the advertising and sponsorship of tobacco products prohibits TAPS with cross-border effects.^{xvii} The ban covers media (i.e. print, radio, information society services) other than television. Member States are responsible for implementing measures, for laying down the rules for penalties and to bring them into force by 31 July 2005.

Articles 9(1d), 10(2) and 11(4a) of the Audiovisual Media Services Directive (2010/13/EU)^{xviii}, which replaced the Television Without Frontiers Directive (89/552/EEC) of 1989, prohibit all forms of

audiovisual commercial communications for cigarettes and other tobacco products, including sponsorship and product placement. Originating Member States are to verify that audiovisual media services comply with national law as coordinated by this Directive to ensure free movement of such services without secondary control in the receiving Member State. The Audiovisual Media Services Directive is currently being revised.^{xix} The Commission published its proposal on 25 May 2016, which does not propose any changes to the current wording on tobacco advertising. It is now being discussed by the co-legislators.

The Audiovisual Media Services Directive prohibits product placement of tobacco products in programmes on TV and in on-demand services, and sponsorship by undertakings whose principal activity is the manufacture or sale of cigarettes and other tobacco products.

In addition, the Commission supports the Council Recommendation of 2 December 2002 on the prevention of smoking and on initiatives to improve tobacco control. This Recommendation calls on Member States to further prohibit all advertising in cinemas, as well as practices which directly or indirectly promote tobacco products.^{xx}

Although there is a high value placed on protecting public health, the EU takes into consideration the right of expression and information when it comes to films and media in general. Therefore, the actual portrayal of smoking in films is not regulated at the EU level.

Directive 2014/40/EU concerning the manufacture, presentation and sale of tobacco prohibits commercial communications for electronic cigarettes and refill containers in print, radio and information society services.^{xxi} In addition, audiovisual commercial communications, to which the Audiovisual Media Services Directive applies, are prohibited for electronic cigarettes and refill containers.

Prohibiting or restricting cross-border sales: According to Directive 2014/40/EU of the European Parliament and the Council of 3 April 2014, on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC, EU Member States can prohibit cross-border distance sales of tobacco products.^{xxii} Article 18 states that Member States shall cooperate to prevent such sales. Retail outlets engaging in cross-border distance sales of tobacco products may not supply such products to consumers in Member States where such sales have been prohibited. Member States which do not prohibit such sales shall require retail outlets intending to engage in cross-border distance sales to consumers located in the EU to register with the competent authorities in the Member State, where the retail outlet is established, and in the Member State, where the actual or potential consumers are located. Retail outlets established outside the Union shall be required to register with the competent authorities in the Member State where the actual or potential consumers are located.

Enforcement of the Directives: Regarding Directive 2003/33/EC, in 2006 the European Commission opened infringement proceedings against a few Member States that did not meet the 31 July 2005 transposition deadline.^{xxiii} By the end of 2006 all Member States had subsequently communicated their laws and regulations to transpose the Directive. However, scrutiny of the transposition measures revealed that a few Member States originally introduced exemptions from the sponsorship ban for certain big events of great economic interest (such as Formula One and motor cycle GP). The Commission swiftly proceeded with infringement cases against those Member States. As all Member States rapidly changed their legislation, the Commission was able to close the infringement cases. All Member States have fully transposed the Directive and the Commission is not aware of any transposition gaps at the legislative level.

In line with its objective to monitor and assess the situation in the EU, the European Commission has also published in 2016 a study assessing citizens' exposure to tobacco marketing in the EU (see summary of findings in (See Chapter 5.8).^{xxiv}

Even with a generally good application of restrictions on cross-border advertising, promotion and sponsorship in the EU, challenges on advertising and sponsorship remain. This includes enforcement in channels such as the Internet and social media, which have become a relevant place for advertising targeting young people, and corporate promotion or corporate social responsibility practices.

D) Disclosure of TAPS expenses by tobacco industry

Another form of monitoring TAPS activities would be to require the tobacco industry to submit a report on their expenses and donations. This allows checks to be made to assess whether tobacco companies had allocated financial resources to advertising, promotion and sponsorship both in the country and in other territories. Example 12 illustrates Chile's legislative requirement.

Example 12: Chile - Disclosure of donations and expenses incurred

Legislation: Article 3 of Law 19419^{xxv} regulating activities related to tobacco states that tobacco companies must annually inform the Ministry of Health an itemized breakdown of donations made, as well as expenses incurred as a result of agreements with public institutions, athletic or community organizations, academic or cultural institutions, and non-governmental organizations.

5. TAPS ban in entertainment media

Tobacco use or products featured in films can normalize smoking and promote pro-tobacco social norms. Entertainment media is one of the primary vehicles for exposing youth to smoking imagery. A 2008 report by the National Cancer Institute of the United States of America (the US) found that there is a causal relationship between exposure to movie smoking depictions and youth smoking initiation.^{xxvi} A review by the US Surgeon General in 2012 also came to the same conclusion.^{xxvii} In an experimental study of adolescents' response to movie trailers with smoking, characters who smoked were found to be more attractive.^{xxviii} It is therefore important to prohibit and prevent depictions of tobacco products and tobacco use, particularly in entertainment media that is widely circulated to a broad audience.

Entertainment media is also a key vehicle for delivery of cross-border TAPS, which creates another layer of complexity and challenge when Parties are drafting their domestic regulations on TAPS. Entertainment media includes film, television series, soap operas, video games, music and books, and crosses borders via Internet-based devices (smart phones, apps, tablets, smart televisions, game consoles), cable television, transnational flight entertainment and public lounges, among others. As a result of the proliferation of high-speed data connections, household Internet access, mobile broadband subscription, and media platforms for viewing filmed entertainment, reality shows and outdoor exhibitions, exposure to TAPS might be greater than estimated.^{xxix} With the technology evolving and changing faster than policies and regulations can adapt, national regulators face substantial challenges to enforce national TAPS bans.

Films that market tobacco and promote smoking are still common, particularly those originating in countries with the most active film industries. Such films are sometimes rated as suitable for children and adolescents.^{xxx} As non-Parties^{xxxi} also produce entertainment media, which are available in Parties

with weak regulatory frameworks, international cooperation is essential to prevent such cross-border effects. ^{xxxii} The following examples illustrate how Parties to the WHO FCTC have banned TAPS in entertainment media as recommended by the Article 13 Guidelines.

A) Rating or classification guidelines

Films with tobacco imagery are recommended to be given an “adult” rating (18 years in many countries). Age-classification of films is useful for reducing youth exposure to tobacco imagery and can incentivize producers to leave smoking out of films to be marketed to young people. Producers routinely manage other types of content (strong language, drug use, brutal violence, nudity and sexual imagery) for its target audience. And adding tobacco to this list would encourage them to tailor the film to achieve the desired rating and yield their projected revenue. Ratings based on age-appropriateness are an effective measure for reducing youth exposure to tobacco use. ^{xxxiii}

Example 13: Kenya – Rating guidelines to determine age suitability^{xxxiv,xxxv}

The Kenya Film Classification Board (KFCB) is the public regulator of films planned for public exhibition, distribution and broadcasting in this African country. Kenya’s Film Classification Guidelines classifies use of tobacco or tobacco products under the theme “drugs, alcohol and other harmful substances”.

The Board examines the frequency and intensity of the elements under the relevant theme and gives a score on a scale of 1 to 5. Based on this score, the appropriate rating will then be given.

Score	Rating	Interpretations
0-1	Low impact classifiable elements – General Exhibition	No references to illegal drugs or drug abuse.
2	Mild impact classifiable elements – Parental	Only discreet references to illegal drug use are allowed on the condition that such references do not promote or endorse drug abuse and should be justified by context.
3	Moderate impact classifiable elements – 16	The film as a whole must not promote or encourage drug use.
4	Strong impact classifiable elements – 18	Use or depiction should not promote or endorse drug abuse.
5	Extreme impact classifiable elements - Restricted	Materials glorifying or encouraging drug abuse.

According to the Stage and Films Act Cap 222 Section 12 and 14, no person shall exhibit or distribute any film to public and no film shall be distributed, exhibited or broadcast either publicly or privately unless the Board has examined it and issued a Certificate of Approval. The steps include: filing an application form to seek examination and classification services; paying for classification fee, determined by the length of the film; paying for the poster and trailer; and submission of the entire film for examination and classification. The Board’s film examiners will then view and classify the film within a day, and either approve it with a rating or reject it. They will either give the applicant the Certificate of Approval or notify the applicant as soon as feasible and provide reasons for certifying or not certifying. The Certificate of Approval is valid for a period of five years from its date of issue.

There are two forms used in examination and classification – (a) examination/rating form and (b) classification report. The examination/rating form is used by an individual examiner while examining and classifying the film. The classification report is a document signed off by all examiners and has the

classification rating given, the film title, length, place of origin, venue and date when the film was examined and classified.

B) Use of health warnings to counter effects of exposure to smoking scenes

Several studies and experiments have measured the effects of smoking and the counter-effects of anti-smoking advertisements in films. One experiment found that exposure to film smoking enhanced adolescents' perceptions of smokers' social status and increased their intention to smoke, but an anti-smoking advertisement before the film nullified the effects.^{xxxvi} Two studies in Australia found that a higher proportion of non-smokers exposed to the anti-smoking advertisement disapproved of film smoking than those unexposed.^{xxxvii, xxxviii} Another study in Germany found that those exposed to an anti-smoking advertisement were more aware of smoking in films and were less likely to approve of it, and had a more negative attitude towards smoking in general than those unexposed. However, among smokers, smoking in films increased their urge to smoke, regardless of whether there was anti-smoking advertisement.^{xxxix} These three studies strengthened existing evidence in support of using health warnings and the placement of an anti-smoking advertisement before films with smoking to discourage smoking among non-smokers.^{xl}

Showing anti-tobacco advertisements are also preferred to pixelization (an image-editing technique to blur or reduce resolution), blurring of films or embedding formulaic health warnings or symbols in a film.^{xli} Furthermore, showing health warnings or anti-tobacco advertisements provides the government valuable air time with which to spread public health messages to the masses.

- ♦ *Example 14: India – Health spots, health warnings and disclaimers*
- ♦ *Example 15: Malta – Health warnings before the film and after intervals*

Example 14: India – Health spots, health warnings and disclaimers^{xlii}

India enacted the Cigarette and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act in 2003.^{xliii} This banned direct and indirect tobacco advertising and event sponsorship. Studies conducted before and after passage of the Act found that tobacco imagery, including brand display, in films increased dramatically following the ban on tobacco advertising in other media.

Following extensive inter-ministerial consultations and a court case, the Ministry of Health and Welfare issued notification of amended rules to regulate the depiction of tobacco products or their use in films and television programs on 21 September 2012. These rules, the Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Amendment Rules 2012, came into force from 2 October 2012.^{xliv} The rules were applicable to all Indian- and foreign-produced films and television programs.

For films and television programs produced and certified before 2 October 2012, they are required to screen government-produced anti-tobacco advertisements (30 seconds minimum) at the beginning and middle of the film or television program. They are also required to show a prominent, static anti-tobacco health warning at the bottom of the screen for the duration a tobacco product and/or its use is depicted.

For films and television programs produced and certified after 2 October 2012, producers shall provide India's Central Board of Film Certification acceptable editorial justification for the display of tobacco products or their use in the film. Government-produced anti-tobacco health spots (30 seconds minimum) must be featured at the beginning and middle of the film or television program. They should

also show a prominent, static anti-tobacco health warning at the bottom of the screen for the duration a tobacco product and/or its use is depicted. Furthermore, they should also display an audiovisual disclaimer (20 seconds) explicitly mentioning the ill-effects of tobacco use at the beginning and middle of the film or television program.

The Ministry of Health and Welfare provides anti-tobacco advertising and audiovisual disclaimers that are periodically rotated and are evidence-based. These amended rules strengthened enforcement and obliged film exhibitors, broadcasters and the Central Board of Film Certification to comply. Sanctions for non-compliance include suspension or revocation of operating licenses for exhibitors and broadcasters.

The requirement by law for anti-tobacco health spots, health warnings and disclaimers about tobacco harms to be included in film and television that depicts tobacco use has given the Government valuable air-time for public health messaging. This is useful for raising awareness among the general population.

Example 15: Malta – Health warnings before the film and after intervals

Legislation and penalties: Article 7 of the Malta Tobacco Act of 1986 (amended by Act IX of 2003)^{xlv} states that:

“(1) It shall be the duty of every owner, licensee, machinist or person for the time being purporting to act in any such a capacity in a cinema to ensure that immediately before the beginning of every film show and immediately on the resumption of the show after the interval, a health warning acceptable to the Superintendent is shown on the screen for such time, on each occasion, as shall be prescribed, as also a notice that smoking is prohibited by law in the cinema; and (2) It shall be the duty of every person running a broadcasting station to ensure that before the showing of any film or other broadcast in which smoking or any of the items mentioned in article 4, are shown or mentioned, to broadcast immediately before the film show or other such programme, a health warning as is referred to in subarticle (1).”

If convicted, the person will be liable, on first conviction, to a fine of not less than 232.94 euros and not exceeding 1164.69 euros, and on subsequent convictions, the prosecution may recommend imprisonment for a term not exceeding three months, and to suspension of the license of the premise or public transport where the offence took place, for a period of not less than one week and not exceeding one month.

C) Active citizenry and civil society can contribute to stronger policies and compliance

Civil society has an important role in building support for and ensuring compliance with the law. Civil society organizations and the citizens themselves should be involved in the monitoring and effective enforcement of the ban, and be permitted to initiate complaints as well as legal action against illegal TAPS.

Example 16: Republic of Korea – Citizens’ views contributed to broadcasters eliminating smoking scenes

Article 28 (Soundness) of the Broadcasting Review Regulations indicate that broadcasting companies should be prudent when describing or airing contents related to smoking. Article 44 (Acceptance) states that broadcasting companies are not to air smoking scenes during the Juvenile Protection Times (7-9 am and 1-10 pm; and 7-10 pm on a national holiday or vacation).^{xlvi}

Korean drama series are extremely popular and can be accessed by many countries in Asia and beyond. It is therefore positive that tobacco scenes have virtually disappeared from television due to sustained strict regulation and cooperation between major broadcasters.^{xlvi} Three major broadcasters – Korean Broadcasting System, Seoul Broadcasting System and Munhwa Broadcasting Corporation – have eliminated smoking scenes in television drama since early to mid-2000s due to criticism by viewers.

Example 17: Austria and Hungary – Legislation enables civil society and citizens to make a case

Article 61 of the Federal Act on Audiovisual Media Services states that the regulatory authority can decide on infringements on the basis of complaints by: a statutory interest group which has a justified interest in compliance with Articles 31 to 38 and 42a to 46 (regarding audiovisual commercial communication on television channels in order to protect consumer interests); by individuals affected; by the Association for Consumer Information; and by one of the bodies and organizations of another Member State of the European Union.^{xlvi}

Paragraph 26 of the Hungarian Act XLVIII 2008 states that *“nongovernmental organizations active in the area of protection of non-smokers shall be entitled to request the opening of proceedings with respect to any infringement of the provision governing the advertisement of tobacco products and sponsorship relating to tobacco products”*.^{xli}

Example 18: Canada – Studies and advocacy activities to support TAPS restrictions

Since 2005, national and provincial nongovernmental organizations working to further public health interest in Ontario (Toronto), British Columbia (Vancouver) and Quebec (Montreal), have engaged local health departments, and worked together to survey film content, evaluate film ratings, document public subsidies for films with smoking and endorse best practices.ⁱ They have submitted information to policy-makers concerned with film classification and tax policy to provide their recommendations; and have also conducted public opinion polling and public education campaigns to support their call for policy change.ⁱⁱ

The table below shows examples of provincial policies and advocacy activities pertaining to tobacco depictions in entertainment media, based on updates as of February 2018. An anti-tobacco coalition in New Brunswick has created an infographic to raise awareness on tobacco depictions in movies and the impact on adolescents; Ontario has undertaken public education campaigns targeting parents and organized smoke-free movie nights; Ontario also requires a content advisory for tobacco use whereby the Ontario Film Review Board needs to provide detailed observations if a film contains tobacco products; Alberta plans to develop tobacco prevention advertisements to precede movies showing tobacco use, as part of the third phase of its tobacco strategy (2018-2022); and Nova Scotia requires information pieces, one of which targets substance abuse, to assist parents and caregivers in determining whether a film is appropriate for their child.

Province	Advocacy Efforts	Policy Changes (if any)
Alberta	No recent advocacy efforts.	No action has been taken by the Alberta government regarding the depiction of tobacco in entertainment. However, a potential action in Alberta’s tobacco strategy is “Developing tobacco, tobacco-like products and smokeless tobacco prevention

Province	Advocacy Efforts	Policy Changes (if any)
		<p>advertisements to precede movies shown in Alberta that depict tobacco use". This is an action to be considered in phase three of the strategy, 2018-2022.</p> <p>http://www.health.alberta.ca/initiatives/tobacco-reduction-strategy-2012.html</p>
New Brunswick	<p>In May 2017, the New Brunswick anti-tobacco coalition created an infographic to raise awareness on depictions of tobacco in movies and their impact on adolescent smokers.</p> <p>https://goo.gl/w1txBX</p>	No policy changes resulted from this activity.
Nova Scotia	No recent advocacy efforts.	<p>In Nova Scotia, in addition to film classification, information pieces are added by the Maritime Film Classification Board to assist parents and caregivers in determining whether a film is appropriate for their child. One information piece is around "Substance Abuse" which is defined as "Descriptive scenes depicting; the use of illegal substances, the excessive use of tobacco or the use of alcohol resulting in impairment."</p> <p>https://novascotia.ca/sns/access/alcohol-gaming/theatres-amusements/rating-guidelines.asp</p>
Ontario	<p>Some municipalities in Ontario have taken action to raise public awareness on tobacco imagery in movies. Activities include public education campaigns targeting parents, and smoke-free movie nights.</p> <p>http://smokefreemovies.ca/</p>	A content advisory for "tobacco use" was established in 2012 for all films containing tobacco products. The Ontario Film Review Board is required to provide detailed observations if a film contains tobacco products. There has been no additional policy change to date.

6. Closing observations

This report provides examples of implementation of Article 13 of the WHO FCTC, especially measures with cross-border effects. Some Parties that have comprehensively banned TAPS still face challenges with the elimination of depiction of tobacco in entertainment media and media that might have cross-border effects. With the increase in vehicles and platforms that could deliver cross-border TAPS (social media, Internet-based devices [smart phones, apps, tablets, smart televisions], cable television, transnational flight entertainment, online streaming of television series and others) the regulation of cross-border TAPS has become a major challenge.

The tobacco industry will continue to find ways to promote their products and encourage their use through creative and deceiving marketing tactics. This is the reason why comprehensive implementation of Article 13 of the Convention and utilization of its Guidelines is critical, leaving as few loopholes as possible for the companies to exploit. Parties are recommended to utilize Article 13 Guidelines not only when developing their legislation, but also in the implementation phase and when putting in place effective measures to monitor and enforce TAPS bans.

In order to strengthen implementation of cross-border TAPS bans, to start with, newly developed legislation should include reference to cross-border advertising. The definition of TAPS should be formulated as broadly as possible (as proposed in the Article 13 Guidelines), and the wording of the definition should be clear and easily interpretable. Additionally, Parties whose legislation still allows cross-border advertising should move towards removing these exceptions.

Furthermore, penalties for violations need to be proportionate and dissuasive. The involvement of the civil society organizations and the citizens themselves is important to garner further support for the development and implementation of the comprehensive TAPS bans, implementation monitoring and ensuring compliance with the obligations under the relevant laws.

REFERENCES

- ⁱ Press release. Online peddler nabbed for selling stolen cigarettes. Health Sciences Authority, 16 January 2017. Available at: http://www.hsa.gov.sg/content/hsa/en/News_Events/Press_Releases/2017/online-peddler-nabbedforsellingstolencigarettes.html.
- ⁱⁱ Press release. HSA prosecutes three persons for selling electronic cigarettes. Health Sciences Authority, 21 April 2014. Available at: http://www.hsa.gov.sg/content/hsa/en/News_Events/Press_Releases/2014/HSA_Prosecutes_Three_Persons.html.
- ⁱⁱⁱ *Tobacco Advertising Prohibition Act 1992* (Amended and in force on 20 September 2017). Available at: <https://www.legislation.gov.au/Details/C2017C00302>
- ^{iv} *Tobacco Advertising Prohibition Regulation 1993*. Available at: <https://www.legislation.gov.au/Details/F2012C00624>
- ^v Department of Health. Guide to Internet Point-of-Sale Tobacco Advertising. Commonwealth of Australia, 2015. Available at: [https://www.health.gov.au/internet/main/publishing.nsf/Content/DBBFCD4FF8BFC87CA257BF000193A5A/\\$File/Guide%20to%20online%20point%20of%20sale%20tobacco%20advertising%20regulations%20November%202015.pdf](https://www.health.gov.au/internet/main/publishing.nsf/Content/DBBFCD4FF8BFC87CA257BF000193A5A/$File/Guide%20to%20online%20point%20of%20sale%20tobacco%20advertising%20regulations%20November%202015.pdf)
- ^{vi} Best practices on implementation of the tobacco advertising and display ban at point of sale (Article 13 of the WHO FCTC). A four-country study: Ireland, Norway, Finland and the United Kingdom. Convention Secretariat, WHO FCTC.
- ^{vii} Consumer Protection: The Tobacco and Related Products Regulations 2016. Available at: <https://www.tobaccocontrollaws.org/files/live/England/England%20-%20Tobacco%20Products%20Regs%202016%20-%20national.pdf>
- ^{viii} Best practices on implementation of the tobacco advertising and display ban at point of sale (Article 13 of the WHO FCTC). A four-country study: Ireland, Norway, Finland and the United Kingdom. Convention Secretariat, WHO FCTC.
- ^{ix} Law No. 10.167 (December 27, 2000). Available at: <https://www.tobaccocontrollaws.org/files/live/Brazil/Brazil%20-%20Law%20No.%2010.167%20.pdf>
- ^x Observatório da Política Nacional de Controle do Tabaco. Legislação. www.inca.gov.br/observatoriotabaco
- ^{xi} Law No. 9.294 (July 15, 1996) (as amended by Law no. 10.702/03). Available at: <https://www.tobaccocontrollaws.org/files/live/Brazil/Brazil%20-%20Law%20No.%209.294.pdf>
- ^{xii} Law No. 13 of January 24, 2008 Which Adopts Measures to Control Tobacco and its Harmful Effects on Health. Available at: <https://www.tobaccocontrollaws.org/files/live/Panama/Panama%20-%20Law%2013%20of%202008.pdf>
- ^{xiii} Instituto Conmemorativo Gorgas De Estudio de la Salud. Evaluación del cumplimiento de la prohibición de publicidad, promoción y patrocinio de productos de tabaco en puntos de venta, medios de comunicación, Internet, redes sociales, plataformas móviles de mensajería, videojuegos y empaquetado-etiquetado. Informe de Investigación, 26 de septiembre de 2016. Ministerio de Salud, Panamá. Available at: http://www.gorgas.gob.pa/SitioWebTabaco/documentos/Informe_PPPPT.pdf
- ^{xiv} Law 19419 on regulating activities related to tobacco (as amended through Law 20660 (2013). Available at: <https://www.tobaccocontrollaws.org/files/live/Chile/Chile%20-%20Law%2019419.pdf>.
- ^{xv} Ban on cross-border tobacco advertising and sponsorship. European Commission. Directorate-General for Health and Food Safety. Available at: https://ec.europa.eu/health/tobacco/advertising_en.
- ^{xvi} Directive 2003/33/EC of the European Parliament and of the Council of 26 May 2003 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the advertising and sponsorship of tobacco products. Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32003L0033>
- ^{xvii} Convention Secretariat of the WHO FCTC. (2016) Provisional agenda item 5.9: Tobacco advertising, promotion and sponsorship: depiction of tobacco in entertainment media. Report by the Convention Secretariat. FCTC/COP/7/38, 30 August 2016. Conference of Parties to the WHO Framework Convention on Tobacco Control, Seventh session, Delhi, India, 7-12 November 2016. Available at: http://www.who.int/fctc/cop/cop7/FCTC_COP_7_38_EN.pdf

^{xviii} Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive). Available at: <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32010L0013>

^{xix} Policy: Revision of the Audiovisual Media Services Directive. European Commission. Available at: <https://ec.europa.eu/digital-single-market/en/revision-audiovisual-media-services-directive-avmsd>

^{xx} Council Recommendation of 2 December 2002 on the prevention of smoking and on initiatives to improve tobacco control (OJ L 22, 25.1.2003, p. 31). Available at: <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex:32003H0054>

^{xxi} Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC Available at: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ%3AJOL_2014_127_R_0001

^{xxii} Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC Available at: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ%3AJOL_2014_127_R_0001

^{xxiii} Ban on cross-border tobacco advertising and sponsorship. European Commission. Directorate-General for Health and Food Safety. Available at: https://ec.europa.eu/health/tobacco/advertising_en

^{xxiv} Study: an assessment of citizens' exposure to tobacco marketing. European Commission. Final Report. No. EAHC/2013/Health/10; No. 2014 62 03. European Commission; February 2016. Available at: https://ec.europa.eu/health/sites/health/files/tobacco/docs/citizensexposure_tobacomarketing_en.pdf

^{xxv} Law 19419 on regulating activities related to tobacco (as amended through Law 20660 (2013)). Available at: <https://www.tobaccocontrollaws.org/files/live/Chile/Chile%20-%20Law%2019419.pdf>

^{xxvi} The role of media in promoting and reducing tobacco use (Tobacco Control Monograph 19). Bethesda, Maryland: National Cancer Institute; 2008.

^{xxvii} Preventing tobacco use among youth and young adults – a report of the Surgeon General. Atlanta, Georgia: Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health; 2012.

^{xxviii} Hanewinkel, R. Cigarette smoking and perception of a movie character in a film trailer. Arch Pediatr Adolesc Med 2009; 163:15-18. In: *Smoke-Free Movies: from evidence to action*, 3rd Edition. Geneva; World Health Organization; 2015. Available at: http://apps.who.int/iris/bitstream/10665/190165/1/9789241509596_eng.pdf.

^{xxix} WHO Framework Convention on Tobacco Control Secretariat. (2016). Provisional agenda item 5.9: Tobacco advertising, promotion and sponsorship: depiction of tobacco in entertainment media. Report by the Convention Secretariat. FCTC/COP/7/38, 30 August 2016. Conference of Parties to the WHO Framework Convention on Tobacco Control, Seventh session, Delhi, India, 7-12 November 2016.

^{xxx} *Smoke-Free Movies: from evidence to action*, 3rd Edition. Geneva; World Health Organization; 2015. Available at: http://apps.who.int/iris/bitstream/10665/190165/1/9789241509596_eng.pdf. After the adoption of the guidelines for Article 13, WHO has released three reports on smoke-free movies prepared in close association with WHO's collaborating centres. In: WHO Framework Convention on Tobacco Control Secretariat. (2016). Provisional agenda item 5.9: Tobacco advertising, promotion and sponsorship: depiction of tobacco in entertainment media. Report by the Convention Secretariat. FCTC/COP/7/38, 30 August 2016. Conference of Parties to the WHO Framework Convention on Tobacco Control, Seventh session, Delhi, India, 7-12 November 2016.

^{xxxi} Within the context of film, this is a particular concern given that Hollywood movies can reach every corner of the world. Between 2002 and 2013, films produced in the United States comprised 75–85% of the top 100 box office films in Argentina, Brazil and Mexico, and the dominance continued through 2014. In 2014, domestically produced films accounted for a majority of box office receipts in only seven countries: the Islamic Republic of Iran (99%), the USA (95%), India (83%), Turkey (59%), Japan (58%), China (54%) and the Republic of Korea (50%). Focus 2015: World Film Market Trends. Strasbourg:

European Audiovisual Observatory; 2015. Available at: <http://www.obs.coe.int/>, accessed 10 August 2015. In: WHO Framework Convention on Tobacco Control Secretariat. (2016). Provisional agenda item 5.9: Tobacco advertising, promotion and sponsorship: depiction of tobacco in entertainment media. Report by the Convention Secretariat. FCTC/COP/7/38, 30 August 2016. Conference of Parties to the WHO Framework Convention on Tobacco Control, Seventh session, Delhi, India, 7-12 November 2016.

xxxii WHO Framework Convention on Tobacco Control Secretariat. (2016). Provisional agenda item 5.9: Tobacco advertising, promotion and sponsorship: depiction of tobacco in entertainment media. Report by the Convention Secretariat. FCTC/COP/7/38, 30 August 2016. Conference of Parties to the WHO Framework Convention on Tobacco Control, Seventh session, Delhi, India, 7-12 November 2016.

xxxiii *Smoke-Free Movies: from evidence to action*, 3rd Edition. Geneva; World Health Organization; 2015. Available at: http://apps.who.int/iris/bitstream/10665/190165/1/9789241509596_eng.pdf.

xxxiv *Smoke-Free Movies: from evidence to action*, 3rd Edition. Geneva: World Health Organization; 2015. Available at: http://apps.who.int/iris/bitstream/10665/190165/1/9789241509596_eng.pdf

xxxv Kenya Film Classification Board Classification Guidelines 2012. Available at: <http://kfcg.co.ke/wp-content/uploads/2016/08/Film-Classification-Guidelines.pdf>

xxxvi Pechmann C, Shih C. Smoking scenes in movies and antismoking advertisements before movies: effects on youth. *J Marketing* 1999;63:1–13.

xxxvii Edwards C, Harris W, Cook D, Bedford K, Zuo Y. Out of the smokescreen: does an anti-smoking advertisement affect young women's perception of smoking in movies and their intention to smoke? *Tob Control* 2004;13:277–82.

xxxviii Edwards C, Oakes W, Bull D. Out of the smokescreen II: will an advertisement targeting the tobacco industry affect young people's perception of smoking in movies and their intention to smoke? *Tob Control* 2007;16:177–81.

xxxix Hanewinkel R, Isensee B, JD S, Morgenstern M. Effect of an antismoking advertisement on cinema patrons' perception of smoking and intention to smoke: Quasi-experimental study. *Addiction*. 2010;105:1269–77.

xl Glantz SA. Commentary on Hanewinkel et al. (2010): Anti-smoking advertisements vaccinate movie viewers against effects of on-screen smoking. *Addiction* 2010;105:1278–9.

xli *Smoke-Free Movies: from evidence to action*, 3rd Edition. Geneva; World Health Organization; 2015. Available at: http://apps.who.int/iris/bitstream/10665/190165/1/9789241509596_eng.pdf.

xlii *Smoke-Free Movies: from evidence to action*, 3rd Edition. Geneva; World Health Organization; 2015. Available at: http://apps.who.int/iris/bitstream/10665/190165/1/9789241509596_eng.pdf.

xliii Cigarette and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act. Available: <https://www.tobaccocontrollaws.org/files/live/India/India%20-%20COTPA.pdf>

xliv Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Amendment Rules 2012. Available at: <https://www.tobaccocontrollaws.org/files/live/India/India%20-%20G.S.R.%20708%28E%29.pdf>

xlvi Malta Tobacco Act of 1986 (amended by Act IX of 2003). Available at: <https://www.tobaccocontrollaws.org/files/live/Malta/Malta%20-%20Tobacco%20Act%20of%201986.pdf>

xlvi Republic of Korea 2016 implementation report. Available at: <http://apps.who.int/fctc/implementation/database/parties/Republic%20of%20Korea>

xlvi 2016 Global progress report on implementation of the WHO Framework Convention on Tobacco Control. Geneva: World Health Organization; 2016.

xlvi Federal Act on Audiovisual Media Services (Audiovisual Media Services Act) (BGBl No. 84/2001). Available at: <https://www.tobaccocontrollaws.org/files/live/Austria/Austria%20-%20AV%20Media%20Services%20Act.pdf>

xlvi Hungary Act XLVIII 2008. Available at: <https://www.tobaccocontrollaws.org/files/live/Hungary/Hungary%20-%20Advertisements.pdf>

¹ Polansky JR. Tobacco vector: How American movies, Canadian film subsidies and provincial rating practices will kill 43,000 Canadian teens alive today—and what Canadian governments can do about it. Ottawa, Ontario: Physicians for a Smoke-free Canada; 2010. Available at: http://www.smoke-free.ca/pdf_1/2010/Tobaccovector.pdf. In: *Smoke-Free Movies: from evidence to action*, 3rd Edition.

Geneva: World Health Organization; 2015. Available at:

http://apps.who.int/iris/bitstream/10665/190165/1/9789241509596_eng.pdf.

^{li} Ontario doctors tell Hollywood to butt out. Hollywood Reporter, 31 May 2011. Available at:

<http://www.hollywoodreporter.com/news/ontario-doctors-tell-hollywood-butt-193328>. In: Smoke-Free Movies: from evidence to action, 3rd Edition. Geneva: World Health Organization; 2015. Available at: http://apps.who.int/iris/bitstream/10665/190165/1/9789241509596_eng.pdf.