

A BILL

FOR

AN ACT TO ENACT THE TOBACCO SMOKING CONTROL BILL TO AMONG OTHER THINGS PROVIDE FOR THE REGULATION OF THE PRODUCTION, IMPORTATION, ADVERTISING, PROMOTION, SPONSORSHIP, DISTRIBUTION, SALE AND DESIGNATION OF AREAS WHERE TOBACCO PRODUCTS MAY OR MAY NOT BE SMOKED AND FOR MATTERS CONNECTED THEREWITH.

Sponsored by Hon. Yacoob E.A. Bush-Alebiosu

BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria

Preamble

ACKNOWLEDGING that tobacco use

- Is extremely injurious to the health of smokers, non-smokers and other users of tobacco products;
- Has caused widespread addiction in society
- Warrants in the public interest, a restrictive legislation

REALISING that the associate of the use of tobacco products with social success, business advancement and sporting prowess through advertising and promotion may have particularly harmful effect of encouraging children and young people to use tobacco products;

CONSIDERING that the extent of the harmful effects of the tobacco products on health calls for strong action to deter people, especially the youth, from using tobacco products to protect non-smokers from exposure to tobacco smoke and to encourage existing users of tobacco products to quit and

RESOLVING to align the health system with the democratic values of the Constitution and the World Health Organization Framework Convention on Tobacco Control [and its implementation guidelines and protocols](#), and to enhance and protect the fundamental rights of citizens by discouraging the use, promotion and advertising of tobacco products in order to [prevent and](#) reduce the incidence of tobacco-related illness and death;

PART I- Establishments of the National Tobacco Control Committee

1. -(1) There is established a Committee to be known as the National Tobacco Control Committee (NATOCC) which shall consist of:

- (a) A Chairman to be appointed by the President;
- (b) The Director of Public Health FMOH or his/her representative - Member;

(c) The National Coordinator NCD & tobacco control focal person; Secretary of the Committee;

(d) A representative of each of the following relevant Federal Ministries, statutory bodies and groups namely; Federal Ministries of

(i) Justice;

(ii) Environment;

(iii) Customs service;

(iv) Agriculture;

(v) Education;

(vi) Representative of the National tobacco Control alliance (NTCA);

(vii) DG NAFDAC or his/her representative;

(viii) National Drug Law Enforcement Agency (NDLEA);

(ix) Advertisement Practitioners Council of Nigeria (APCON);

(x) Consumer Protection Council (CPC);

(xi) Standard Organization of Nigeria (SON);

(2) (1) No member of the Committee shall be affiliated in any manner ~~with~~ the tobacco industry or its subsidiaries, including any person or entity working on behalf of or to further the interests of the tobacco industry.

(a) The Minister, in consultation with the Committee, shall have the authority to make regulations designed and applied to protect tobacco control policy development and implementation from the commercial and other vested interests of the tobacco industry by specifying and adding to requirements that -

i. Limit interactions to only those strictly necessary for effective regulation of the tobacco industry or tobacco products between the Committee, its individual members, and any persons working on behalf of any of the ministries and other governmental entities represented on the Committee who have or may have any responsibility for tobacco control.

ii. Ensure full transparency of any necessary interactions; and

ii. Are necessary or appropriate for preventing and managing any tobacco-related conflicts of interest that do or may arise on the Committee or any of the ministries and other governmental members of the committee.

(b) No government institution, body, board, commission, committee, work group, organ, or other entity

Comment [A1]: How are these representatives going to be appointed?

Comment [A2]: Section (2) falls short of providing comprehensive protection against tobacco industry interference under FCTC Article 5.3 and its implementation guidelines. Please see suggested revisions under this section.

shall participate in, support, endorse, or accept partnerships of any kind with the tobacco industry, any non-binding or non-enforceable agreement, or any proposals, drafts, or offers of assistance with the development or implementation of any tobacco control policies.

(2) A person who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand naira, or to imprisonment for a term not exceeding three years or both

(3) In the case of a violation by a public office holder, disciplinary action shall be taken, as appropriate and as may be prescribed in policies developed by the respective disciplinary authorities, in addition to or in the place of any other applicable penalty provided in sub-section(2) and sub-section (5)(b).

(3) The Secretary of the Committee shall, within thirty days of the commencement of this Act, convene the first meeting of the agency.

(4) A member of the Committee other than an ex officio member or chairperson, shall subject to this section, hold office for a period of three years, subject to reappointment for a further term of three years.

(5) A member of the Committee, may:

(a) At any time resign from office by notice in writing to the Minister; or

(b) Be removed from office by the Minister if the member:

(i) Is absent from three consecutive meetings of the agency- without the permission of the chairperson or;

(ii) Is convicted of an offense and sentenced to imprisonment

(iii) Is incapacitated by reason of prolonged physical or mental illness from performing his or her duties or;

(iv) Is adjudged bankrupt or has entered into a scheme or arrangement with his creditors;

(v) ~~Becomes~~ ~~is discovered to be~~ directly/indirectly affiliated with ~~the~~ tobacco industries or its subsidiaries, including any person or entity working on behalf of or furthering the interests of the tobacco industry.

(6) The quorum at a meeting of the agency shall be 1/3 of members.

(7) The Chairman shall preside at every meeting of the committee at which he/she is present, but if he/she absent, his/her representative shall preside, provided that in the absence of both the chairman and or a representative, the members present shall elect one of themselves who shall, with respect to that meeting and the business transacted thereat, have the powers of the chairman.

Comment [A3]: Discovered connotes a responsibility to get that information- Duty should be on member to show no conflicting relationship with the tobacco industry. Note the interaction with Section (2) above.

(8) Unless a unanimous decision is reached a decision on any matter before the Committee shall be by a majority of the votes of the members present and in the case of an equality of votes, the person presiding shall have the deciding vote.

(9) Subject to subsection (8), no proceedings of the Committee shall be invalid by reason only of a vacancy among the members.

(10) The Committee may invite any person who does not have a tobacco-related conflict of interest or is directly or indirectly affiliated with the tobacco industry, to attend its meeting for the purpose of assisting or sharing information ~~advising it~~ on any particular matter but such person shall have no right to vote.

Comment [A4]: Where the following definitions are added to the interpretation section:

“conflict of interest”, means a conflict between the public duties and private interests of any person working in or on behalf of government in any capacity where that person has tobacco-related interests which could improperly influence, the performance of his or her official duties and responsibilities;

(11) The Committee shall meet no less than four times in every financial year and not more than three months shall elapse between the date of one meeting and the date of the next meeting.

(12) Subject to this Act and to any general or special directions in writing by the Minister, the Committee regulate its own proceedings.

(13) Functions of the Committee.

(1) The Committee shall be the national coordinating mechanism for purposes of the effective implementation of the WHO Framework Convention on Tobacco Control (WHO FCTC).

(2) Subject to this Act, the Committee shall -

(a) Coordinate the development, amendment and implementation of tobacco control policies, strategies, plans, programs and projects, in accordance with the WHO FCTC, its implementation guidelines, and protocols;

(b) Coordinate the monitoring of tobacco industry interference and insulate tobacco control-related policies from commercial and other vested interests of the tobacco industry; and

(c) Advise the Minister on the implementation of tobacco control measures, as appropriate.

PART II- TOBACCO PRODUCTS SMOKING PROHIBITION

2.-(1) A person shall not smoke in any part of any enclosed public place, workplace or anywhere on any means of public transport, or in the outdoor places specified in subsection (2).

Comment [A5]: The term “enclosed” is now defined in the interpretation section as it is in the FCTC Article 8 implementation guidelines

(2) A person shall not smoke in any outdoor space that is:

Comment [A6]: The term “outdoor space” is now defined in the interpretation section.

(a) within metres of any doorway, operable window, or air intake mechanism of any public place or workplace;

(b) within metres of any waiting area or queue, including but not limited to public transport stops

(c) anywhere on the premises of any child care facility, educational facility, playground, or amusement park;

(d) a stadium, arena, or any kind of performance space;

(e) a plaza, park, or other public gathering space;

(f) a space for the service or consumption of food or drink; and

(g) any other outdoor public or work place specified in regulations by the Minister or that is designated as a no-smoking area by the person responsible for the premises.

(3) Without prejudice to the generality of subsection (1), the Schedule II of this bill contains a non-exhaustive, indicative list of public places or workplaces or public transport in which smoking is prohibited. Smoking is hereby prohibited in the areas listed in schedule II of this bill.

(2) No person shall manufacture, import or **distribute tobacco** or tobacco product that does not conform to the requirements of this Act or any regulations made there under.

(3) Every packet and package of tobacco for retail and wholesale in Nigeria shall carry the statement "Sales only allowed in Nigeria" and shall also state the country of origin.

(4) Every packet and package of tobacco for export from Nigeria shall bear the statement "Manufactured in Nigeria for export only"

(5) Every packet and package of tobacco made in or traveling through Nigeria shall include the following, permanently affixed under the wrapping on each tobacco products packet and package, at the time of manufacture;

(i) Name and license number of the manufacturer, wholesaler, importer, exporter;

(ii) Serial number, date, location and country of manufacture

(iii) Clearly visible "tax" stamp or marking.

(6) Any person who contravenes the provisions of this bill shall be liable on conviction to a fine not exceeding One Million Naira or to imprisonment for a term not exceeding three months or both.

(7) Notwithstanding the fact that a private dwelling is excluded from the definition of 'workplace', no person may smoke any tobacco product in a private dwelling if that private dwelling is used for any commercial childcare activity, or for schooling or tutoring.

(8) The owner of or person in control of a place or an area contemplated in subsection (6), or an employer in respect of a workplace, shall ensure that no person smokes in that place or area.

Comment [A7]: Providing lists of places can limit the scope of the smoking ban and it is important to ensure that any list is simply for illustrative purposes and that the MOH is authorized to expand any list as it may be appropriate or useful.

Comment [A8]: Is this the only Act that would regulate tobacco leaf? Are you certain that you want to cover leaf in this law?

Comment [A9]: If Section 2 is amended as suggested, this provision is not needed.

(9) The Minister may prohibit the smoking of any tobacco product in any additional prescribed outdoor public place, or such portion of an outdoor public place as may be prescribed, where persons are likely to congregate within close proximity of one another or where smoking may pose a fire or other hazard.

(10) The owner of or person in control of a place or area contemplated in subsection (6), or employer in respect of workplace, shall display the prescribed signs and shall make the prescribed public announcements in order to inform any person who enters or who is in or on such place or area of any prohibition on smoking.

(11) Any employer must ensure that:

(a) employees may object to smoking in the workplace in contravention of this Act without retaliation of any kind;

(b) employees who do not want to be exposed to tobacco smoke in the workplace are not so exposed

(c) it is not a condition of employment, expressly or implied that any employee is required to work in any portion of the workplace where smoking is permitted; and

(d) employees are not required to sign any indemnity for working in any portion of the workplace where smoking is permitted.

(12) The owner of or person in control of a place or area contemplated in subsection (6), or employer in respect of a workplace, shall ensure that no person under the age of 18 years is present in any portion of the workplace where smoking is permitted or in the area within a public place contemplated in subsection (6) in or on which smoking is permitted.

3.- (1) It is unlawful for any person to engage in retail sale of tobacco and tobacco products, distribute tobacco and tobacco products by roadside kiosks, public markets, selling of cigarettes including hawking and the sale of tobacco in traffic and other similar establishments.

(2) It is unlawful for anyone to procure any person to engage in the sale and distribution of tobacco and tobacco products in contravention of the provision of this Bill.

{3) Anyone or body responsible for the violation of this section commits an offense and shall, on conviction, be liable to fine not exceeding, or to imprisonment for a term not exceeding three years or both and Where such person or body is licensed to deal in tobacco in accordance with the provisions of this Act, it shall be a sufficient ground for the revocation of such license.

Exception to the comprehensive smoking ban in factories ~~Designated Smoking Areas~~

4. -(1) No one shall smoke tobacco-or tobacco products except in a smoking designated area in factories where tobacco products are being manufactured, packaged, tested and other factory related activities. ~~and in accordance with the provision this Act and no one shall smoke in premises prohibited in line with the provision of this Act.~~

Comment [A10]: Consider amending Section 4(1) as follows so as to not limited the comprehensive ban created in Section 2 of this Part.

~~(2) Notwithstanding any contrary provision in this Act this section shall apply to factories where tobacco products are being manufactured, packaged, tested and other factory related activities.~~

(3) Anyone or body responsible for the violation of this section commits an offense and shall, on conviction be liable to fine not exceeding....., or to imprisonment for a term not exceeding three tyears or both.

Comment [A11]: Note there is no amount here

Prohibition of the use of addictive ingredients

5.- (1) The Committee may prohibit the use of ingredients which increase the addictiveness of tobacco products.

Supply of tobacco products to young persons

6.- (1) No person below the age of eighteen years (18 years) shall sell or be sold tobacco or tobacco products.

(a) No person shall furnish, deliver, offer or sell a tobacco product to a person who produces a document mentioned in subsection (5)4 as a proof that he or she is 18 years of age or older if it appears that the document has been altered or is otherwise unsatisfied as to the legitimacy of the document.

(b) It shall be unlawful for a parent, legal guardian or other person acting in place of a parent or legal guardian or person who is responsible for the care welfare of a minor under the age of 18 years to knowingly allow that minor to possess any cigarettes made of tobacco or of an) other substance which can be smoked, any ~~cigarettes made of tobacco product or any other substance which can be smoked, any cigarette paper or tobacco in any form, including but not limited to smokeless tobacco.~~

Comment [A12]: "Tobacco product," as that terms is defined in the bill covers these other terms.

(2) Notwithstanding the provisions of subsection (1), it shall be a defense to an offence under this section, if it is established that the accused person attempted to verify that the young person was a least eighteen years of age by asking for and being shown any of the documents specified in subsection 5 (4) for the purpose of verifying the age of the young person, and believe on reasonable grounds that the documentation was authentic.

Comment [A13]: Is this a typo?

Method of identification

(3) Subject to subsection (3) a person who contravenes the provisions of subsection (1) commits an offence and shall, on conviction be liable to a fine not exceeding One Million naira, or to imprisonment for a term not exceeding six months, or to both.

(4) For the purpose of this section the following documentation may be used to verify a person's age:

(i) A national identity card issued by the Federal Republic of Nigeria containing the persons photograph, date of birth and signature;

(ii) A driving license or international passport issued by the Federal Republic of Nigeria or any other country

(iii) Birth certificate or Age Declaration in any court of competent jurisdiction;

(iv) any other documentation as prescribed

(5) No person shall manufacture and/or sell or offer for sale any articles or objects resembling tobacco products/~~cigarettes~~, which ~~may would reasonably~~ appeal to persons less than 18 years, including but not limited to sweets, snacks, and toys.

(6) A person who contravenes the provision of subsection (5) above commits an offence and shall, on conviction be liable to a fine not exceeding one Million naira or to imprisonment for a term not exceeding 6 months, or to both.

7.-(1) Every retailer shall post, in the prescribed place and manner, the following signs: “ THE SALE OF TOBACCO PRODUCTS TO ANYONE UNDER THE AGE OF 18 IS PROHIBITED BY LAW.” The sign shall contain any of the prescribed health messages.

(2) The owner or person responsible for the premises ~~occupier~~ of any ~~enclosed~~ public place, workplace, and a place of collective use, or employer, as applicable, and ~~the owner or operator of any~~ public conveyance where smoking is prohibited, shall post signs prominently on the premises or in the conveyance stating that smoking is not permitted as prescribed by the Ministry with regard to format, content, design, size, display, location, and all other details. ~~This shall be done in the prescribed manner contained in this Law.~~

Comment [A14]: Suggest that the following phrase is used instead of “owner or occupier” to ensure that a duty is placed on all appropriate persons.

“person responsible for the premises” means the owner, manager, or other person in charge of the public place, workplace, or means of public transport.

(a) A wholesaler shall display a tobacco product at his or her place of business in the prescribed manner.

(b) A retailer shall display-

(i) a notice in the prescribed manner in her or her place of business that contains the prescribed information regarding any tobacco product available at his or her place of business; and

(ii) a tobacco product at his or her place of business in the prescribed manner and in such a way that no person shall be able to handle the tobacco product before paying for it.

(c) No person shall sell or offer to sell the tobacco products at retail unless the prescribed notices are displayed.

(d) This section must not be construed as limiting, amending, repealing or otherwise altering any legal obligation or liability in terms of any other law to warn consumers of the risks of using a tobacco product which a manufacturer, importer or retailer is bound by.

(3) Every sign required to be under subsection (1) shall be prescribed by the Ministry with regard to format, content, design, size, display, location, and all other details and –

(a) be displayed on a surface measuring not less than 18” by 12” in size;

(b) be in English and/or in the predominant language of the area within which the sign is posted, in addition to the message prescribed in clause 6(1) of this Act, bear the word “ WARNING” in capital

letters followed by one of the prescribed health warnings contained in the Schedule which shall appear in conspicuous and legible type and shall be black on a white background or white on a black background and shall be enclosed by a rectangular border that is the same colour as the letters of the statement.

(c) Be in English and/or in the predominant language of the area within which the sign is posted.

(4) Any person (s), who hinders, obstructs, threatens or abuses or assaults a manager or owner of a prohibited smoking area in the execution of the powers conferred by this section commits an offence and may be arrested without a warrant by such manager or by a police officer or other authorized officer.

(5) A retailer who contravenes any of the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding One Million naira, or to imprisonment for a term not exceeding six months, or to both.

(6) It shall be the duty of the ~~person responsible for the premises of any owner or occupier of any enclosed~~ public place, ~~workplace, of collective use, employer,~~ and ~~the owner or operator of any~~ public conveyance, ~~where smoking is prohibited, as applicable,~~ to take all reasonable steps to ensure that no person smokes in violation of the provision of this Part. Taking reasonable steps includes but is not limited to:

(a) Asking an offending person who continues to smoke to leave the premises or the conveyance when this can be done safely; refusing further service; in the case of an employee, disciplining, including dismissing the offending person from employment; and seeking the assistance of law enforcement personnel in cases where the offending person refused to stop smoking or leave the premises or conveyance.

(b) No ~~person responsible for the premises of any owner or operator of any enclosed~~ place where smoking is prohibited shall allow the placement of ash trays;

(c) A person who contravenes any of the provisions of this section commits an offence and shall, on conviction be liable to a fine not exceeding One Million naira, or to imprisonment for a term not exceeding twelve months or both.

(7) Tobacco products may only be sold in intact packages containing the specified number of sticks or consisting of the specified weight, as applicable:

(a) Smoked tobacco product unit packages shall contain a minimum number of 20 sticks.

(b) Smokeless tobacco product unit packages shall contain a minimum of 30grams of smokeless tobacco. It shall be an offence for any person carrying on business to sell cigarettes to any person other than in pre-packed quantities

Comment [A15]: These provision is limiting if the Minister determines that combined picture and text health warnings should be prescribed to effectively warn consumers about the health harms of tobacco products.

Comment [A16]: Prohibiting the sale of 'kiddie packs' and single sticks is a measure designed and applied to prevent youth access to tobacco products in line with FCTC Article 16.

Comment [A17]: Consider whether this is an appropriate weight if these products are sold in Nigeria now.

Health Warning Tobacco Products

(8) In this context “original package” means the sealed and unbroken wrap or package in which the tobacco product cigarettes were supplied for the purpose of retail sale by the manufacturer or importer, and “package” means any box, carton or other container for retail sale.

(9) A person who contravenes any of the provisions of this section commits an offense and shall, on conviction, be liable to a fine not exceeding One Million naira, or to imprisonment for a term not exceeding six months or to both.

8. Smokeless tobacco shall be marked with the following warning (in Nigerian):

“This tobacco product can damage your health and is addictive.”

The warning shall be printed on the packet’s most visible side and cover not less than thirty percent of that side.

For retail sales, the warning shall also be printed on any outer packaging, though not if the outer packaging is transparent. In the case of packets where the most visible side is larger than 75cm², the area for the warning text shall be not less than 22.5cm².

Vending Machines

9. (1) No person shall sell or arrange for tobacco products to be sold through vending machines or other automated devices. Automatic Tobacco Vending Machines shall not be displayed in prohibited smoking areas.

(2) A person who contravenes any of the provisions of this section commits an offense and shall, on conviction be liable to a fine not exceeding One Million naira or to imprisonment for a term not exceeding six (6) months or both.

Self Service Display Devices

10. (1) Tobacco products shall not -

(a) Be displayed or be visible at any place of sale, other than being visible momentarily at the time of a sales transaction, and they shall not be commercially displayed or visible at any other. Tobacco products may only be sold to consumers if before purchase:

(a) be sold to consumers if before purchase the retailer has the opportunity to ensure the verification of age, and;

(b) the consumer has not been denied the right to examine the product in its original sealed package

(2) A person who contravenes the provisions of this section commits an offence and shall, be liable to a fine not exceeding One Million naira, or to imprisonment for a term not exceeding six months, or to both.

Comment [A18]: Suggest deleted this and authorize and require the MOH to prescribe all the details of the warnings. As the term tobacco products is defined in the Bill, smokeless tobacco products will be covered under the health warning requirements. These provisions are limiting because of the small size of the warning and that they are text-only.

Comment [A19]: Prohibiting the sale of tobacco products by vending machines is an FCTC-based measure designed to prevent youth access to tobacco products (Article 16) and to protect against tobacco advertising and promotion (Article 13).

Comment [A20]: To enhance the protection of the tobacco advertising and promotion ban proposed in the bill, tobacco product display at the point of sale should also be prohibited in line with FCTC Article 13.

Point of sale advertising exposes youth to pro-smoking messages, increases youth experimentation and initiation of using tobacco products, and encourages impulse buying and makes it harder for users to quit.

Comprehensive advertising bans are more effective than partial bans in reducing tobacco product consumption.

• A study of 30 developing countries found partial bans were associated with a 13.6% reduction in per capita consumption, compared to 23.5% in countries with comprehensive bans (see Blecher E. The impact of tobacco advertising bans on consumption in developing countries. Journal of Health Economics. 2008 July;27(4):930-42.).

11.- (1) ~~No person shall sell a tobacco product over the Internet or through the mail or have any role in enabling or facilitating any such sale, including but not limited to facilitating payment and postal or other delivery services for the product. No person shall advertise an offer to deliver or mail a tobacco product anywhere within the Federal Republic of Nigeria.~~

Comment [A21]: In addition to prohibiting the advertising of an offer, it would be clearer to prohibit sale of tobacco products through the mail and internet.

(2) A person who contravenes any of the provisions of this section commits an offence and shall, on conviction be liable to a fine not exceeding One Million naira or to imprisonment for a term not exceeding six months, or to both.

12.- (1) No person shall manufacture, sell, distribute, or import a tobacco product unless the package containing the product and unit packet displays, in the manner and form prescribed by the Minister form and manner, such information should include the hazards or effects arising from the use of the product or from exposure to its emissions.

(2) Every package containing a tobacco product shall:

(a) ~~Display have combined picture and text health warnings and messages occupying at least 50 % of each principal display area of the package, not counting the space taken up by any border surrounding the health warnings and messages. have at least two un-obscured health warning labels and/or health messages, covering 50% of the principal display or total surface area and both located on the lower portion of the pack or package directly underneath the cellophane or other clear wrapping.~~

(b) ~~Bear text on the health warnings and messages in the English and [] language(s). bear the word "WARNING" appearing in capital letters and all text shall be large, clear, visible and legible;~~

Comment [A22]: Additional principal languages?

(c) ~~The Ministry shall have the authority to prescribe the content, colour(s), size, font, print quality, layout, design, placement, display, and all other details related to the health warnings and messages, constituent and emissions information, and all other information required to be displayed in connection with tobacco product packaging and labeling. bear text that is black on a white background or white on a black background in a manner that contrasts by typography, layout or colour with all other printed material on the package.~~

Comment [A23]: The MOH should be required to issue these regulations within a certain time (6-9 months) after enactment of the law.

(3) ~~The Minister may, by notice in the gazette, prescribe that the warning, required under this section, be in the form of pictures or pictograms and may prescribe the required pictures or pictograms.~~

(34) Every package containing a tobacco product shall bear such qualitative statements as to emissions as may be prescribed by the Minister and such statement shall be placed directly on the right hand side of the package, underneath the cellophane or other clear wrapping in a conspicuous and prominent format and shall not include emission yield figures, including when used as part of a brand name or trademark. be limited to the factual disclosure of the contents and not their quantities.

(4) The packaging and the design or appearance of the tobacco product itself must not promote the product by any means that are false, misleading, deceptive or likely to create an erroneous impression about the product's characteristics, health effects, hazards or emissions, including using any term, descriptor, trademark, figurative, colour, or other sign of any kind that directly or indirectly creates or is

likely to create the false impression that a particular tobacco product is less harmful than others. Prohibited terms include, but are not limited to, “low tar”, “light”, “ultra-light” or “mild”, “extra”, “ultra”, and other terms in any language that might mislead consumers, including when used as part of a brand name or trademark.

(5) After the date specified in regulations, which shall be no later than 9-12 months from the date of publication of the regulations in the Official Gazette, tobacco manufacturers and sellers must only supply tobacco products, packaging, and labelling for sale in the territory that comply with the provisions of this Part. Any non-compliant tobacco product packaging and labelling or products contained therein found in the possession or under the control of a tobacco manufacturer or seller after that date shall be subject to confiscation and destruction, in addition to any penalties or other corrective action authorised.

(6) Any person who contravenes any of the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding Two Million naira” or to imprisonment for a term not exceeding two years, or to both.

Warning picture and photograph

13. In addition to the message prescribed in this Bill, a stick of cigarette shall bear a picture, photograph of the effect of smoking on the lungs followed by the prescribed health warnings contained in the Schedule which shall appear in a legible and prominently displayed fashion on 100% (one hundred percent) of their back surface and on one of their sides and conspicuous and visible to an ordinary eyes and shall be black on a white background or white on a black background and shall be enclosed by a rectangular border that is the same colour.

Provision on effect of tobacco on packs

14. No person shall manufacture, sell, distribute, or import a tobacco product unless the package containing the product and unit packet displays, in the prescribed form and manner, such information should include the hazards or effects arising from the use of the product or from its emissions.

PART III- COMPREHENSIVE BAN ON TOBACCO ADVERTISING, PROMOTION AND SPONSORSHIP

15. – (1) No person shall initiate, produce, publish or make accessible any advertisement, promotion, or sponsorship OF promote tobacco or tobacco products in any form.

(a) This Part applies to all domestic and cross-border advertisement, promotion, and sponsorship of tobacco products, including that initiated, produced, published, disseminated, or engaged in by a national of this country in another territory.

(b) Without limiting in any way the broad application of this Part, the Third Schedule provides, for illustrative purposes only, non-exhaustive examples of tobacco advertising, promotion, and sponsorship prohibited under the Act. The Ministry shall have the authority to expand the examples in the Third Schedule as it deems appropriate and useful.

Comment [A24]: FTC Article 11 requires a ban on all misleading packaging and labeling.

Comment [A25]: Ensure that a supply date deadline for compliance of all the packaging and labeling provisions is imposed in the bill.

Comment [A26]: Consider 9-12 months

Comment [A27]: It is highly recommended that the required warnings on individual sticks is removed from the Bill for the following reasons:

1) Single stick sales should be banned as recommended in the Bill to prevent and reduce access to tobacco products by youth, thereby making warnings less important on the sticks and more important to have large, combined picture and text warnings on the packaging;

2) It may be overly burdensome for manufacturers and certainly BAT will argue that it cannot comply with this requirement claiming that it is technically impossible. BAT has made the same claim in its recent lawsuit against regulations in Jamaica providing for similar requirements;

3) The measure may run afoul of Nigeria’s commitments under the WTO rules where requiring a significant change in production processes is not based on evidence that it may be more effective to warn consumers than a less trade restrictive measure such as large pictorial warnings on packaging. A ban on single sticks would be less likely to raise any trade-related issues than this proposed measure.

(2) A person who contravenes the provisions of this section commits an offence and shall, on conviction be liable to a fine not exceeding One Million naira, or to imprisonment for a term not exceeding three years, or to both.

False Promotion

16.-(1) Without limiting Section 15(1), nNo person shall promote tobacco or tobacco product by any means, including by means of the packaging, that are false, misleading or deceptive or that are likely to create an erroneous impression about the characteristics, health effects, health hazards or social effects of the tobacco product or its emissions.

(2) A person who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to fine not exceeding One Million naira, or to imprisonment for a term not exceeding three years or to both.

Endorsement and Testimonies

17.-(1) Without limiting Section 15(1), nNo person shall promote a tobacco product by means of a testimonial or an endorsement.

(2) For the purpose of this section the depiction of a person, character or animal, whether real or fictional, including and not limited to literary, dramatic, musical, cinematographic, educational or artistic works, productions or performances that use or depict a tobacco product or a tobacco product-related brand element. Whatever the mode or form of its expression, shall be considered to be a testimonial for, or an endorsement of the product where such is exposed to a person under 18 years.

(3) A person who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding five Million naira, or to imprisonment for a term not exceeding three years or both.

Misleading product descriptions

18. To ensure that consumers are not misled with regard to the damage to health caused by using tobacco products, it is prohibited to import into Nigeria, process sell or transfer tobacco products which imply by text, name, trade mark, illustrations or other signs that a particular tobacco product is less harmful to health than others.

Promotion advertisement

19.-(1) Without limiting Section 15(1), Subject to this Part, no person shall promote a tobacco product by means of an advertisement that depicts, in whole or in part, a tobacco products, its package or a brand element or one that evokes a tobacco product or element, or that depicts at tobacco product manufacturer.

~~(2) No person shall advertise any tobacco product on any satellite electronic and print medium or by any other form of communication including but not limited to newspaper adverts, bill boards posters, point~~

Comment [A28]: See the more detailed and comprehensive ban above in Section 12(4).

~~of sale adverts, branding of vehicles, mobile adverts facilities, films, brand placements, Home videos, cultural events, musical events, sport events, events by unions or association and branding of walls, restaurants.~~

~~(3) No person shall promote tobacco or a tobacco product by means of lifestyle advertising.~~

(4) A person who contravenes any of the provisions of this commits an offence and shall, on conviction, be liable to a fine not exceeding One Million naira or to imprisonment for a term not exceeding on year, or to both.

20.- (1) Notwithstanding subsection 15(1), the following communications are **allowed** even if they have or are likely to have an incidental promotional effect:

(a) a plain black-and-white only price list made available where tobacco products are legally sold, provided the list contains nothing more than the tobacco product brand name, package quantity, price, and any government-required or authorized information;

(b) display of the brand name, product name, and manufacturer's name on tobacco product packaging and labelling, in accordance with any requirements, restrictions, or prohibitions specified in regulations;

(c) depictions of tobacco products or tobacco use in media where the depiction is purely incidental or is justified by reasons of historical accuracy or legitimate journalistic or artistic expression, or where the depiction is required for educational purposes; provided no payment or other consideration was offered or made by a tobacco manufacturer or seller, or any person acting on their behalf;

(d) genuine political, social, or scientific commentary about tobacco products or tobacco use; provided no payment or other consideration was offered or made by a tobacco manufacturer or seller, or any person acting on their behalf;

(e) dissemination or reporting of information on tobacco companies' practices characterized as or likely to be perceived as socially responsible practices, such as sustainable environmental practices or good employment practices, that do not involve contributions to other parties; provided this information is necessary for business administration or for required corporate reporting;

(f) product information made accessible to persons within the tobacco trade who need the information for trading decisions, and only to the extent access is limited to those persons; and

(g) tobacco manufacturers' newsletters destined for and distributed only to the manufacturer's employees, contractors, suppliers, and other tobacco-related business partners, and only to the extent their distribution is limited to such persons.

Comment [A29]: The comprehensive ban on advertising, promotion and sponsorship should cover all commercial communications, under FCTC Article 13. However, the implementation guidelines to FCTC Article 13 provides that there are certain limited forms of commercial communications that may have an incidental promotional effect and may exist after a comprehensive ban is in place.

Acknowledging these forms of communications as not covered by the ban created in Section 9(1) can prevent the legislation from being considered over-broad and counter the tobacco industry's similar arguments.

Sponsorship Promotion

~~20. (1) No person shall:~~

~~(a) advertise tobacco, a tobacco product or a tobacco manufacturer or seller by means of organizing, promoting, or sponsoring a sporting, cultural, artistic, recreational, educational or entertainment programme, event or similar activity, or~~

~~(b) promote a tobacco product at any sporting, cultural, a recreational, education or entertainment event or activity; or~~

~~(c) advertise tobacco or a tobacco product by means of organizing promoting or sponsoring or entertainment event or activity.~~

~~(2) A person who contravenes any of the provisions of this section commits an offence and shall, on conviction, be liable to a fine exceeding five Million naira, or to imprisonment for a term exceeding three years, or to both.~~

Display of manufacturer's name

21. The name of a manufacturer or tobacco product related brand name may only appear on a permanent facility if such facility is owned or leased by the manufacturer.

22.- (1) No business in the tobacco industry shall offer or make, and no government institution, body, board, commission, committee, work group, organ, or other entity shall accept, any voluntary contribution of any kind, financial or otherwise, from the tobacco industry, unless such contribution results from legal requirements or litigation settlements

(2) A person who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand naira, or to imprisonment for a term not exceeding three years or both

(3) In the case of a violation by a public office holder, disciplinary action shall be taken, as appropriate and as may be prescribed in policies developed by the respective disciplinary authorities, in addition to or in the place of any other applicable penalty provided in sub-section(2) or section (2)(5)(b).

(4) In the case of a violation by a corporation, partnership, firm or other entity, the managers, directors, officers and/or their legal representatives, as appropriate, shall bear responsibility for any penalty imposed, for any costs associated with any enforcement or corrective action, and for any term of imprisonment ordered, unless otherwise specified.

~~(1) No manufacturer, distributor or retailer shall manufacture distribute or sell an accessory that displays a tobacco product related brand element or the name of the manufacturer.~~

~~(2) A person who contravenes any of the provisions of this section commits an offence and shall, on conviction be liable to a fine not exceeding five Million naira, or to imprisonment for a term not exceeding three years, or to both.~~

Comment [A30]: This provision is covered in Section 15(1) and in the Third Schedule.

Comment [A31]: Include an appropriate penalty here.

Comment [A32]: Section 22 is per FCTC Articles 13 and 5.3.

Displays on non tobacco products

23. (1) No person shall display a tobacco brand element on a non-tobacco product.

(2) No person shall on behalf of another person, with or without consideration furnish, publish, broadcast or otherwise disseminate, promote non-tobacco products bearing tobacco related brand element.

(3) A person who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding One Million naira, or to imprisonment for a term not exceeding six months, or to both.

Sales promotion

24. (1) No manufacturer, distributor or retailer shall:

(a) offer or provide any consideration whether directly or indirectly, for the purchase of a tobacco product, including a gift to a purchase or a third party, bonus, premium, cash rebate or right to participate in a game, lottery or contest;

(b) furnish a tobacco product without monetary consideration or in consideration of the purchase of a product or service of the performance of a service; or

(2) A person who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding One Million naira, or to imprisonment for a term not exceeding six months, or to both.

Adverts in Media

25. (1) No person shall, on behalf of another person, with or without consideration, publish, broadcast or otherwise disseminate any promotion that is prohibited by this Part, or participate in any of those activities.

(2) No person shall, by means of a publication that is published outside Nigeria, or a broadcast that originate outside Nigeria, or any other communication that originates outside Nigeria, promote any product, the promotion of which is regulated under this Part, or disseminate promotional material that contains a tobacco related brand element in a manner that is contrary to the requirements of this part.

(3) A person who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding five Million naira, or to imprisonment for a term not exceeding three years, or to both.

Effects of advertising and promotion

236. If any Plaintiff proves by a preponderance of evidence that he or she was exposed to and was aware of any tobacco-related advertising or other terms of promotion during her or her time of tobacco use, there shall be a rebuttable presumption that his or her ability to understand and incorporate fully

Comment [A33]: These Sections could be deleted because the content is covered in Section 15(1) and the Third Schedule – However, the differing penalties should be considered.

the true risks of using tobacco was undermined by the tobacco related advertising and promotion. For any Plaintiff for which a presumption under this subsection is not successfully rebutted, a claim of assumption of the risk, contributory negligence, or other similar legal argument denying entitlement to recover damage shall not defeat a claim for damages.

Displays at nonsmoking areas

~~27.-(1) The manager or owner of a prohibited smoking area shall cause to be displayed therein, clear and prominent notices in both English and local language stating that smoking is prohibited and the prescribed penalty therefore.~~

~~(2) Every notice under subsection (1) shall be in such form and of such size, and shall be posted in such places as may be prescribed.~~

~~(3) A manger or owner of any prohibited smoking area may order any person who smokes within such area or within the immediate vicinity of the entrance to the area to cease smoking forthwith, indicating the penalty therefore and any person failing, refusing or neglecting to comply with such order may be required by the manager or owner to leave such area.~~

~~(4) Any manager or owner of clubs and bars who desire for such to be designated as smoking areas shall apply with the prescribed fees to the Committee for approval with the relevant restrictions.~~

~~(5) Any person (s) who hinders, obstructs, threatens or abuses or assaults a manger or owner of a prohibited smoking area is the execution of the powers conferred by the section commits an offence and may be arrested without a warrant by a police officer or other authorized officer.~~

~~(6) A person who commits an offense under subsection 4 shall on conviction, be liable to a fine not exceeding fifty thousand naira (N50,000.00) or to imprisonment for a term not exceeding six months imprisonment, or to both. For corporate offenders, the fine is five million naira (N5,000,000.00).~~

Comment [A34]: This does not create a comprehensive smoking ban as required by FCTC Article 8 and would not protect consumers and workers from the hazardous exposure to tobacco smoke. This provision, along with the entire Section 27 should be deleted to ensure comprehensive protection against exposure of the more than 7000 chemicals emitted from the end of a single burning cigarette.

Comment [A35]: This entire Section 27 is repeated from Part II, so it should be deleted.

General provision relating to the obligation to label tobacco products.

~~248.~~ There shall be an irrebuttable presumption that anyone who used a tobacco product described or implied by its label design, or otherwise, or in advertising, to be 'low tar', 'light', 'mild', or of a similar nature was deceived or misled into thinking that use of that product was safer or less harmful than using a full strength tobacco product.

PART IV-ENFORCEMENT

Licensing

~~259.-(1)~~ No person shall sell, manufacture, distribute tobacco or tobacco product to members of the public unless such person is a licensed so to do, and has obtained the requisite license from the agency required under this law.

(2) No licenced person, individual, business name corporation or similar entity shall sell or distribute tobacco or tobacco product except in a licensed premise or establishment, any sale outside the said establishment shall be deemed a violation of the provisions of this section.

(3) It shall be unlawful for anyone to sell, distribute import or procure the distribution of tobacco and tobacco products in contravention of the provision of this section that is without obtaining the license, such person or body corporate shall be guilty of an offence.

(4) An offence under this section is punishable with a fine of Ten million naira and imprisonment for a term of 3 years, or both.

(5) No person shall engage in the business of tobacco and its products without prior registration and obtaining license and where such person or body carries on business before the enactment of this Act, such person or body shall within three months of the commencement of this Act obtain such registration and license, or otherwise cease to carry on such business.

Enforcement by authorized officers- power of officers

2630. For the purpose of the enforcement of this Act, any person upon whom any written law vests functions of the maintenance of law and order shall be deemed as authorized officers.

2731.- (1) In carrying out the provisions of this act, an authorized officer may:

- (a) examine a tobacco product or anything referred to in that section;
- (b) require any person in such place to produce for inspection, in manner and form requested by the officer, the tobacco product or thing;
- (c) open or require any person in the place to open any container or package found in the place that the officer believes on reasonable grounds contains tobacco, the tobacco product or thing;
- (d) take or require any person in the place to produce a sample of the tobacco, tobacco product or thing;
- (e) conduct any test or analysis or take any measurements; or
- (f) require any person found in the place to produce for inspection or copying any written or electronic information that is relevant to the administration or enforcement of this Act; or
- (g) Seize any tobacco product or thing in relation to which he/she believes on reasonable grounds that this Act has been breached and a full inventory thereof shall be made at the place and time of such seizure by the officer.
- (h) An authorized officer may not enter a dwelling place except with the consent of the occupant or under the authority of a warrant issued under section 25.

Comment [A36]: Is it clear under existing laws which authority or authorities have inspection powers and duties for the smoking ban in public places, for the advertising, promotion and sponsorship prohibitions, and the packaging and labeling on tobacco products?

(2) No person shall obstruct or hinder, or knowingly make a false or misleading statement to an office who is carrying out duties under this Act.

(3) A person who commits an offense under subsection (24) shall, on conviction, be liable to a fine not exceeding fifty thousand naira or to imprisonment for a term not exceeding six months, or to both. For corporate offenders the fine is Two million Naira (N2,000,000.00)

Search Warrants and Procurement

~~2832~~-(1) Upon an ex-parte application, a magistrate or judge of the High Court, may issue a warrant authorizing the office named in the warrant to enter and inspect a dwelling place, subject to any conditions specified in the warrant, if the magistrate or judge is satisfied by information on oath that:

(a) the dwelling place is place referred to in part 1 section 3;

(b) entry to the dwelling place is necessary for the administration or enforcement of this Act;

(c) the occupant does not consent to the entry, or that entry has been refused or there are reasonable grounds for believing that it will be refused.

(2) An officer executing the warrant shall not use force unless such officer is accompanied by a police officer and the use of force is specifically authorized in the warrant.

Recovery of cost of healthcare benefits

~~2933~~-(1) The government shall be entitled to recover the cost of health care services provided to particular individuals on an aggregate basis for a population of persons on account of any tobacco-related illnesses or at the risk of suffering from any tobacco related illness.

(2) To recover the costs of health care services on an aggregate basis, the government shall prove by a preponderance of the evidence or other specified legal standard that;

(a) the defendant breached a common law equitable, statutory, or other duty or obligation owed to persons in the Federal Capital Territory who have used tobacco or have been exposed to tobacco smoke, or who might use any particular tobacco product or become exposed to its smoke.

(b) such use or exposure can cause or contribute to illness or disease; and

(c) during all or part of the period of breach of duty, the type of tobacco product manufactured by the defendant was offered for sale in the Federal Capital Territory.

(3) In an action to recover the costs of healthcare services on an aggregate basis, there shall be a rebuttable presumption that use of tobacco or exposure to tobacco to its smoke by any person in the population would not have occurred but for the defendant's breach of duty and that the use or exposure caused or contributed to illness or disease or the risk of illness or disease in a portion of the population.

(4) In an action by the government on an aggregate basis, the health care records, treatment records, records showing the costs of health care services provided, and related documents pertaining to particular individuals shall not be compellable unless such documents are relied upon by an expert witness for the government provided- however, that a court may order discovery of a statistically meaningful sample of documents upon application by a defendant; provided, further that such order shall provide direction on the nature, level of detail, and type of information to be disclosed while also providing that any information that identifies or potentially identifies particular individuals shall first be deleted if determined appropriate by the Court.

(5) In an action by the government on an aggregate basis, no person shall be compelled to answer questions with respect to the health of, or provision of health care services to, any particular individual provided health care services on account of a tobacco-related illness or because of the risk of suffering from a tobacco-related illness; provided however, that a court may order discovery of a statistically meaningful sample of documents upon application by a defendant, and such order shall provide direction on the nature, level of detail, and type of information to be disclosed, while further provided that any information that identifies or potentially identifies particular individuals shall be deleted if determined appropriate by the Court.

(6) Statistical information and information derived from epidemiological, sociological and other relevant scientific studies including information derived from sampling is admissible as evidence for the purposes of establishing causation and quantifying damages or the costs of health care services in relation to any action brought by the government or by an individual on his or her own behalf or as a member of a class of plaintiffs suffering from a tobacco-related illness or at risk of suffering from a tobacco-related illness.

(7) In the case of more than one defendant, there shall be a rebuttable presumption that each defendant's portion of liability in relation to the aggregate amount of damages is equal to its average market share in the type of tobacco product that is the subject of the litigation; provided however that each defendant shall remain jointly and severally liable for any damages recovered, as long as more than a de minimis quantity of the defendant's tobacco products were used by the plaintiff.

Private class of action by individuals and class of individuals

304. Any person harmed by the use or exposure to tobacco smoke, or who is at risk of suffering from a tobacco related- illness shall have a cause of action severally and or jointly against the manufacturer of the product that caused or contributed to the harm or the risk of harm. Any such action may be brought by the individual on his or her own behalf or on behalf of an affected class of individuals. In any such action, the following shall apply:

Capacity of young tobacco users

(31) There shall be an irrebuttable presumption that a plaintiff who began using a tobacco product before attaining the age of 18 years lacked the capacity to understand, consent to, and assume any risk associated with using the product, even if he/she was provided by any person with information about the risks of using tobacco. Any proffered evidence or legal argument by an defendant that the plaintiff

assumed the risk was contributory negligent, or should be not entitled to recovery under any similar theory, shall be inadmissible if the Plaintiff proves, by a preponderance of evidence that:

- a) he or she started using tobacco before he or she reached the age of 18 years;
- b) he or she made a reasonable attempt to quit at some time during his or her period of use. In considering the question of whether a reasonable effort to quit was made, the highly addictive nature of tobacco products shall be taken into account.

Restoration of seized products

325. Any person from whom tobacco, a tobacco product or thing was seized may, within sixty days after the date of seizure, apply to the High Court in the State where the seizure has taken place, for an order of restoration, and shall send notice containing the prescribed information to NATOCC Chairman within the prescribed time and in the prescribed manner.

336. The High Court may order that the tobacco, tobacco product or thing be restored immediately to the applicant if, the court is satisfied that:

- (a) the applicant is entitled to possession of the tobacco, tobacco product or thing seized; and
- (b) The tobacco, tobacco product or thing seized is not and will not be required as evidence in any proceedings in respect of an offence under this act.

Forfeiture

347.-(1) Where:

- (a) no application has been made under this act, or an application has been made but on the hearing of such application no order for restoration is made;
 - (b) a person has been convicted of an offence under this Act in respect of which tobacco, a tobacco product or thing has been seized under this Act:
 - (c) an officer has seized tobacco, a tobacco product or thing and the owner or the person in whose possession it was at the time of seizure consents in writing to its forfeiture.
- (2) The tobacco, tobacco product or thing is forfeited to the State and may be destroyed or disposed of as the Committee may direct.

Regulations

358. The Minister may ~~on recommendation of the National Tobacco Control Committee~~ make Regulations:

- (a) for prescribing anything required by this Act to be prescribed;
- (b) prohibiting anything required by this Act to be prohibited; and

(c) generally for effective implementation of the objects and provisions of this Act [and in furtherance of the WHO Framework Convention on Tobacco Control, its implementation guidelines, and protocols.](#)

Comment [A37]: Ensure that the authority of the Minister is not limited in any way for the effective implementation of the law. As well, the Minister should be directed by furthering the evidence-based measures prescribed by the FCTC and its guidelines to ensure that it is limited in its actions and cannot subsequently weaken implementation in any way.

Admissibility of statistical information

369. Statistical information and information derived from epidemiological, sociological, and other relevant studies, including information derived from sampling, shall be admissible as evidence for the purposes of establishing causation and quantifying damages, and for supporting any evidence submitted by the plaintiff.

General Penalty

3740. Any person convicted of an offence under this Act for which no other penalty is provided shall be liable to a fine not exceeding Two Million naira, naira or to imprisonment for a term not exceeding six months or to both. For a corporate body the time shall not be less than two million naira (2,000,000.00)

PART V- MISCELLANEOUS PROVISION

Repeal Savings

3841. The tobacco Smoking (Control) C.A.P T6, Laws of the Federation of Nigeria, 2004 is hereby repealed.

3942. Nothing in this Act shall affect the ability of any other level of government to enact laws or regulations addressing recovery of damages for tobacco-related harm.

FIRST SCHEDULE

Report to the Committee

Every manufacturer shall submit to the Committee, a report in the prescribed manner and within the prescribed period, with the prescribed information [in furtherance of this Act and the WHO Framework Convention on Tobacco Control, its implementation guidelines and protocols.](#)~~about any promotion under this part~~

Duty to provide information

1. The Committee shall instruct manufacturers and importers of tobacco products to submit lists containing information about the contents of tobacco products. This list shall contain information about all the ingredients, with an exact specification of the quantities of the ingredients that are used in the manufacture of tobacco products, by brand name and type. This list shall be accompanied by a declaration stating the reason for using those ingredients in the tobacco products in question. The declaration shall explain the function and category of the ingredients. The list shall also include all the toxicological data available to the manufacturer or importer on the ingredients in question both before and after burning. The purpose of this information is to clarify the effect of the ingredients on health, with particular emphasis on their addictiveness. All of the ingredients in the

tobacco products in question shall be listed in descending order of weight. Information shall be provided in pursuance of this provision on a yearly basis. The Committee shall ensure that information obtained in pursuance of this section is made public. The Committee shall draw up an annual report and ensure that this is made known to the general public. It is the responsibility of the Committee to make public the information obtained in pursuance of this provision, insofar as publication is not prevented by statutory duty of confidentiality.

Role of Standard Organization of Nigeria

- (1) Notwithstanding the provisions of any other written law currently in force. Standards Organization of Nigeria may, upon request and in consultation with the Minister:-
- (a) Prescribe the permissible levels of tar, nicotine, and such other constituent of tobacco products and their emission;
 - (b) Prohibit the addition of and use of harmful constituent(s) or ingredient(s) in the production of tobacco products;
 - (c) Prescribe the methods to be used for testing tobacco products and their emission;
 - (d) Prescribe such information that manufacturer shall provide to the Committee including and not limited to tobacco products and their emission: sales and advertising data; and information on products composition

~~(e) Subject to this Act, control the labeling, packaging, sale, distribution, promotion or advertising of tobacco products, so as to:~~

- ~~(i) Ensure that the purchaser(s) and or consumer(s) of a tobacco product is not misled as to its quality, quantity, character, value, composition, effect, merit or safety;~~
- ~~(ii) Prevent injury or harm to the health of the consumer.~~

~~2. Any of the following rotating health messages shall be displayed on every package containing a tobacco product, sign or advertisement stipulated under the provisions of this Act:~~

- ~~(1) Smoking harms people next to you;~~
- ~~(2) Tobacco use kills;~~
- ~~(3) Tobacco harms your unborn baby;~~
- ~~(4) Tobacco use causes cancer;~~
- ~~(5) Tobacco use causes heart disease;~~
- ~~(6) Tobacco use causes lung disease;~~
- ~~(7) Tobacco use is addictive~~
- ~~(8) This product can cause gum disease and tooth loss (includes smokeless tobacco products);~~
- ~~(9) This product can cause mouth cancer (includes smokeless tobacco products);~~
- ~~(10) This product is not a safe alternative to cigarettes (for smokeless tobacco products); ingredients hazardous properties and brand element;~~
- ~~(11) Tobacco use causes impotence;~~
- ~~(12) Tobacco uses causes miscarriages;~~
- ~~(13) Tobacco use causes infertility in women;~~
- ~~(14) Tobacco use causes mental retardation in children;~~

Comment [A38]: The health ministry should retain the sole authority for implementing the Act with regard to the labeling, packaging, sale, promotion and advertising of tobacco products because it is within its ministerial portfolio and expertise to do so.

Comment [A39]: This is a legal impossibility. There is no safe use of tobacco products. Even brief exposure to tobacco smoke, for example, increases the risk of heart disease by making blood platelets sticky and more likely to clot and clog arteries. Also, exposure in persons with asthma can trigger a life threatening event.

Therefore, it is not possible to prevent harm to health of the consumer involving the use of these products.

~~(15) Tobacco use is injurious to health~~

~~(3) The health messages in paragraph one above or any pictures or pictograms prescribed shall be displayed on every package containing a tobacco product in the manner prescribed in this bill or such other manner as may be prescribed in the Regulations under this Act.~~

~~(4) The Minister may upon the Committee's recommendation, adjust the format, type size, text type and display of any of the health message, picture or pictograms required under the provisions of this Act, if such change would promote greater understanding of the risks associated with the use of any tobacco product.~~

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Design of the warning labelling and declaration of contents.

~~3. The labeling pursuant to the provisions of these laws shall be~~

~~(a) Clear and easy to read and the text shall be in Nigerian;~~

~~(b) in black Helvetica bold on a white background;~~

~~(c) Printed in a font size that ensure that the warning text covers as much as possible of the area reserved for it;~~

~~(d) Printed in lowercase letters except where uppercase letters are required for grammatical reasons;~~

~~(e) Centered on the reserved areas of the surface of the packet;~~

~~(f) Parallel to the top edge of the packet, and~~

~~(g) Surrounded by a black border no less than 3mm and no more than 4mm in width, outside the area reserved for the warning text and the declaration of content~~

~~The requirements pursuant to litras (f) and (g) do not apply to labeling as stipulated in this law. The combined health warnings shall be surrounded by a black border no less than 3mm and no more than 4mm in width, outside the area reserved for the warning text, and shall be designed in such a way that the border does not obstruct the text or images in the health warning. Unless otherwise stated in the fourth paragraph, the combined health warnings shall be:~~

~~(a) Reproduced without any changes to their format and proportions and in accordance with the images in appendix 1 to the Regulations;~~

~~(b) Cover the area reserved for the combined health warnings;~~

~~(c) Positioned parallel to the top edge of the packet and in the same directions as the other information on the packaging, and~~

~~(d) Printed in four color screen, 133 lines per inch as a minimum requirement. If the size of the packaging so necessitates, the combined health warnings may be amended in accordance with the following:~~

~~(a) The text may be edited graphically by changing the font size and line spacing to render the text easy to read;~~

~~(b) If the combined warning is in text form, the font size and line spacing may be altered. The ratio between the area covered by illustrative text and the additional health warning in text form must not be altered.~~

~~(c) Graphical editing of combined health warnings that contain photographs or some other illustration shall ensure proportional scaling of the illustration or may change~~

Comment [A40]: This section does not fall under the preview of the SON, so suggest that it is not included here. Also, the text is not necessary given suggested edits to previous section on packaging and labeling requirements – which requires the MOH to prescribe all details of the warnings, which, in practice will be done after testing of the warnings, among other things. It is important to retain flexibility in prescribing all the details of the warnings and require the ministerial expertise to carry out the implementation and design of the warnings.

~~the ratio between the area used for the illustration and the additional warning in text formats as follows:~~

- ~~1. If the ratio between the height and the width of the combined health warnings is less than 0:8 the additional warning in text format may if it is below the illustration, be moved to the right of the illustration.~~
- ~~1. If the ratio between the height and the width of the combined health warning is greater than 1:2 the additional warning in text format may, if it is beside the illustration, be moved to below the illustration.~~

2. Labeling pursuant to these laws shall not be:
 - (a) Printed on packet's tax stamps or similar;
 - (b) Printed on transparent outer packaging
 - (c) Printed in such a way that it can be removed or destroyed;
 - (d) Concealed, obscured or obstructed by other graphics, text or similar
 - (e) Destroyed when the packed is opened.

~~On tobacco products other than cigarettes, the health warnings and the declaration of content may be affixed to the packaging by means of self-adhesive stickers, provided that these stickers are not removable.~~

Comment [A41]: This section does not fall under the preview of the SON, so suggest that it is not included here. Also, the text is not necessary given suggested edits to previous section on packaging and labeling requirements – which requires the MOH to prescribe all details of the warnings, which, in practice will be done after testing of the warnings, among other things. It is important to retain flexibility in prescribing all the details of the warnings and require the ministerial expertise to carry out the implementation and design of the warnings.

Comment [A42]: The FCTC-based measure is reversed than what is read in 2(a): The tax stamps should be required to NOT conceal the warning in any way.

Consider the following text:

Normal opening of the package must not damage, conceal, obscure, disrupt, or otherwise hamper the visibility of the warnings and messages and the warnings and messages must not be, and must not be susceptible at any time to being, damaged, concealed, obstructed, obscured, or disrupted by other required packaging and labelling information, markings, or stamps, by any package design feature, or by anything provided by the manufacturer or seller that could be used to cover, damage, conceal, obstruct, obscure, or disrupt the warnings and messages.

Comment [A43]: The ban is created in the text of the Act itself. In order to ensure that the language created there is not limited in any way, suggest deleting these section (4) here.

SECOND SCHEDULE

~~Prohibited smoking area~~ **Non-exhaustive, indicative list of public places, workplaces, or means of public conveyance in which smoking is prohibited under the Act.**

- (1) Every person has a right to a clean and healthy environment and the right to be protected from exposure to second hand smoke.
- (2) Every person has a duty to observe measures to protect the health of non-smokers.
- (3) Every head of family including and not limited to parent and or guardian is responsible for ensuring that the children are free from second hand smoke.

~~(4) No person shall smoke in any part of any enclosed or partially enclosed public place or workplace.~~

~~(4)~~

~~(5)~~(4) Without prejudice to the broad application of Section 2 of the Act, ~~generality of subsection (4) of the second schedule~~, no person shall smoke in any part of the following:

- (a) Education facilities, libraries and schools;
- (b) Offices and workplace including corridors, lounges, eating areas, reception areas, lifts, escalators, foyers, stairwells, toilets, laundries, amenity areas of such places;
- (c) Court building

- (d) Factories
- (e) Cinema halls, theatres, video houses, such other halls or places of performance, disco halls or any other entertainment facilities at any time during which it is open to the public.
- (f) Hospitals, clinics and other facilities where health care services are provided;
- (g) [Bars, r](#)estaurants and other eating places;
- (h) [Hotels and hotel guest rooms;](#)
- ~~(h)~~(i) Children's homes and such other premises where children are cared for on a commercial or public services basis.
- ~~(i)~~(j) Residential houses and such other premises where children are care for;
- ~~(j)~~(k) Places of worship
- ~~(k)~~(l) Police stations and cells;
- ~~(l)~~(m) Public services vehicles;
- ~~(m)~~(n) Airports and aircrafts, commuter boats, trains, passenger vehicles, ferries or any other public conveyance
- ~~(n)~~(o) Education facilities, Libraries and Schools.
- ~~(o)~~(p) Railway stations, airports, air fields, ports, motor parks and other public transport terminals
- ~~(p)~~(q) Indoor markets, shopping mall retail and wholesale establishment
- ~~(q)~~(r) Stadia, sports, athletic and recreational facilities;
- ~~(r)~~(s) Public buildings and offices;
- ~~(s)~~(t) Public transportation (buses, cars, trains, canoes, ships, aircraft):
- ~~(t)~~(u) Motor parks;
- ~~(u)~~(v) Amusement parks;
- ~~(v)~~(w) Public gardens; and
- ~~(w)~~(x) Market places

~~(6)~~(5) The Minster may by notice in the gazette [and subject to such conditions as the committee](#) may recommend specify any other building or vessel or part thereof, or class being a place or places in which member s of the public have access, as being a place or places in which smoking is prohibited either permanently or during such period or periods as he may specify.

~~(7) The person in control of the premises shall ensure that no person smokes in contravention of this section.~~

Comment [A44]: This provision is already in the text of the bill.

THIRD SCHEDULE

Indicative list of the forms of advertisement, promotion and sponsorship of tobacco products prohibited under the Act

Comment [A45]: This incorporates the FCTC Article 13-based measures from the Appendix in the Guidelines for effective implementation of the comprehensive ban under the Act.

1. Communication through audio, visual or audiovisual means, such as print (for example, newspapers, magazines, pamphlets, leaflets, flyers, letters, billboards, posters, signs), television and radio (including terrestrial and satellite), films, DVDs, videos and CDs, games (such as computer games, video games or online games), other digital communication platforms (such as the Internet and mobile phones) and theatre or other live performance;
2. Brand-marking, including in entertainment venues and retail outlets and on vehicles and equipment, such as by use of words, designs, images, sounds and colours, including brand names, trademarks, logos, names of tobacco manufacturers or importers and colours or schemes of colours, in whole or part and any other indicia associated with tobacco products, manufacturers or importers;
3. Display or visibility of tobacco products at points of sale and any other commercial display of tobacco products;
4. Sales of tobacco products through vending machines and through the internet;
5. Product diversification through brand stretching and brand sharing;
6. Product placement, such as the inclusion of or reference to a tobacco product, service or trademark in the context of communication in return for payment or other consideration;
7. Provision or offer of gifts or discounted products with the purchase of tobacco products, such as key rings, T-shirts, baseball hats, cigarette lighters, CDs, other trinkets or tobacco products;
8. Supply or offer of free samples of tobacco products, including in conjunction with marketing surveys and taste testing;
9. Incentive promotions or loyalty schemes, such as redeemable coupons provided with purchase of tobacco products;
10. Competitions associated with tobacco products or brand names, whether requiring the purchase of a tobacco product or not;
11. Direct targeting of individuals with promotional, including informational material, such as direct mail, telemarketing, "consumer surveys" or "research" or person- to- person conversation;
12. Promotion of discounted products;
13. Sale or supply of toys or sweets or other non-tobacco products that resemble tobacco products;
14. Payments or other contributions to retailers to encourage or induce them to sell tobacco products, including retailer incentive programmes, such as rewards to retailers for achieving certain sales volumes;
15. Packaging and product design features;
16. Payment or other consideration in exchange for the exclusive sale or prominent display of a

particular product or particular manufacturer's product in a retail outlet or at a venue or an event;

17. Sale, supply, placement and display of products at educational establishments or at hospitality, sporting, entertainment, music, dance and social venues or events;

18. Provision of financial or other support to events, activities, individuals or groups, such as sporting or arts events, individual sportspeople or teams, individual artists or artistic groups, welfare and other public interest organisations, government institutions or organisations, politicians, and political candidates or political parties, whether or not in exchange for attribution, acknowledgement or publicity, including corporate social responsibility activities of any kind;

19. Provision of financial or other support to venue operators, such as pubs, clubs or other recreational venues, in exchange for building or renovating or decorating premises to promote tobacco products or the use or provision of awnings, sunshades and similar items; and

20. Any other form of tobacco advertising, promotion or sponsorship by any method or means.

38. In this Act, unless the context otherwise provides:-

"Advertisement" means includes:

(a) Any commercial public statement, communication, recommendation representation or action reference with the aim, effect, or likely effect of -that promoting or publicizing es tobacco or a tobacco product or tobacco encourages use either directly or indirectly or draws attention to the nature, properties, advantages or uses of the product;

(b) And includes tThe use of any advertisement or promotion aimed or with the likely effect of being aimed at the public of a tobacco product manufacturer's company name where the name or any part of the name is used as or is included in a tobacco product trademark.

"Accessory" means a product that may be used in the consumption of a tobacco product and includes a pipe, cigarette holder, cigar clip, lighter or matches;

Comment [A46]: See FCTC Article 1(c).

Using FCTC-based definitions not only ensures comprehensive coverage of the ban, but also establishes international norms, which is important particularly where courts are increasingly called upon to interpret the rationale, purpose, and requirements of tobacco control legislation in Africa and across the world due to legal challenges filed by the tobacco industry and its allies.

This is evidenced by the recent ruling from the South African Supreme Court of Appeal, which rejected BAT's claim and upheld a ban on advertisement and promotion of tobacco products on the basis that any limitation on the freedom of commercial speech was justified due to public health considerations under the law and the FCTC.

The Court relied on the FCTC in its favorable ruling.

Notably, the court stated, "[I]n determining whether or not to impose a ban on advertising and promotion of tobacco products the Minister [of Health] would have been obliged to have regard to the Framework Convention. This Court is therefore obliged, under the Constitution, to give weight to it in determining the question of justification or the limitation of the right to freedom of speech." (See, pg. 13-14; http://www.tobaccocontrol.org/files/litigation/824/ZA_British%20American%20Tobacco%20South.pdf).

“Additive” means any substance, chemical, compound or component other than tobacco or water that is introduced into a tobacco product during processing, manufacturing or packaging, including those contained in the paper, filter portion pouch or similar part of the tobacco product.

“Authorized officer” has the meaning assigned to it in this Bill;

“Brand element” includes a brand name, manufacturer’s name, trade mark, trade name, logo, graphic arrangement, design, colours, motto or slogan or any other element that is reasonably associated with, or that evokes a product, a service or a brand of product or service, and includes any portion of a brand element.

“Brand preference advertising” means advertising that promotes a tobacco product by means of its brand characteristics;

~~“Cigarette” means any product which consists wholly or partly of cut, shredded, or manufactured tobacco, or of any tobacco derivative or substitute rolled up in paper or any other material and capable of being used immediately for smoking;~~

Comment [A47]: This definition is not necessary.

“Cinema” means or has the meaning assigned to it in the Films and Video Censor Board Act (Part IX, 66);

“Competent bodies” means appropriate bodies established under the Nigerian Law pursuant to this Act;

“Commission” means the Nigeria Tobacco Control Commission established under this Act;

“Committee” means the National Tobacco Control Committee (NATOCC) established pursuant to section 12 of this act;

~~“Conflict of interest” means a conflict between the public duties and private interests of any person working in or on behalf of government in any capacity where that person has tobacco-related interests which could improperly influence, the performance of his or her official duties and responsibilities;~~

“Dwelling place” means where people, live and or work with tools or machines

“Emission” means any substance produced when tobacco or a tobacco product is produced, processed and used;

~~“Enclosed” means any space covered by a roof or enclosed by one or more walls or sides, regardless of the type of material used for the roof, walls or sides, and regardless of whether the structure is permanent or temporary;~~

Comment [A48]: This FCTC-based definition is essential for effectively implementing the smoking ban provided in Section 2(1) to ensure that all places intended to be 100% smoke-free are required to be 100% smoke-free.

“Entity” includes a company, corporation, firm, partnership, association, society, trust or other organization, whether incorporated or not,

“FCTC” means the World Health Organization Framework Convention on Tobacco Control;

“Harmful constituent” means nicotine, tar or any other constituent of a tobacco product or of tobacco smoke which the Minister may under section 4(a) prescribe;

“ Health institution” means a Hospital, nursing home, convalescent home, maternity home, primary health center, health center, dispensary or other institution where health or other medical services are rendered free of charge or upon payment of a fee;

“ Illicit trade” means and practice or conduct prohibited by law and which relates to production, shipment, receipt, possession, distribution, sale or purchase of tobacco or its products including any practice or conduct intended to facilitate such activity;

“Ingredient” means any substance used in the manufacture or preparation of a tobacco product and still present in the finished product even if in an altered form.

“Information Advertising” means advertising that provides factual information to the consumer about a product that its characteristics, availability, price or brands”

“Legal entity” includes a non-governmental organization and any other body recognized in law as having a separate entity from that of its members;

“Lifestyle advertising” means advertising that associates a product with, or evokes a positive or negative emotion about or image of a way of life such as one that include glamour, sensuality, recreation, excitement, vitality, risk or daring, of similar characteristics:

“Magistrate” has the meaning assigned to it in the Magistrates Courts Act

“Manager” in relation to:

- (a) A cinema or theatre includes as assistant manager, a person holding an office analogous to that of a manager or the cinema or theatre of any person in charge or in control thereof;
- (b) A health institution, includes the owner or a person in charge or in control thereof;
- (c) A specified building, includes the owner, occupier, Lessee or the person in charge or in control thereof;

“Manufacture” means the processing of tobacco products to include the packaging, labeling, distribution and importation of tobacco products for sale in Nigeria;

“Manufacturer” in respect of tobacco products includes any entity that is involved in the manufacture, including an entity that controls or is controlled by the manufacturer, or that is controlled by the same entity that controls the manufacturer;

“Minister” means the Minister, Federal Ministry of Health for the time being responsible for matters relating to public health:

“Package” or “Packaging” means the container, receptacle, or wrapper in which tobacco products are sold or distributed including the carton in which multiple packages are stored;

“Person responsible for the premises” means the owner, manager, or other person in charge of the public place, workplace, or means of public transport.~~“Prohibited smoking area” means a place in which smoking is prohibited under section 4 and schedule II of this act.~~

“Promotion” means any commercial act or activity organized by on or behalf of a manufacturer, importer wholesaler or retailer of tobacco products which is intended directly or indirectly to promote the sale of its tobacco product brands;

“Public pPlace” means an area, permanent or temporary, that is accessible to the general public or for collective use by the general public regardless of ownership or right of access.

~~“Public Place” means any means any indoor or enclosed area which is open to the public or which members of the public ordinarily have access to, and includes indoor workplaces and a public conveyance/transport, indoor public places. Such public places shall include those mentioned in Schedule 2.~~

“Public service vehicle” means a vehicle having at least two wheels used for the carriage of passengers or goods (as described under Schedule II)

“Retailer” means a person who is engaged in a business that includes the sale of any tobacco product to consumers;

“Regional economic integration organization” means an organization that is composed of several sovereign states and to which its Member States have transferred competence over a range of matters, including the authority to make decisions binding on its Member States in respect of those matters,

“Sell” includes:

- (a) Barter or exchange;
- (b) Offer or expose for sale, barter or exchange;
- (c) Supply or offer to supply in circumstances in which the supplier derives or would derive a direct or indirect pecuniary benefit
- (d) Supply or offer to supply, gratuitously but with a view of gaining or maintaining customer, or otherwise with a view for commercial gain

Comment [A49]: There is no need for this definition given that all enclosed public places, workplaces and public conveyances are 100% smoke-free. It should be deleted to ensure the comprehensive protection against hazardous smoke exposure is not limited in any way.

Comment [A50]: (See FCTC Art. 8 Guidelines para. 18)

Again, using the FCTC definitions is strongly suggested to ensure that the substantive provisions are comprehensive, establish international norms, and assist in interpretive guidance by courts.

“Workplaces” should be defined separately, as indicated below.

“Smoke Constituent” means any chemical or chemical compound including vapours and gasses found in mainstream or side stream tobacco smoke that is formed by the combustion or heating of tobacco, additives, or other component of the tobacco product;’

“Smoking” or “Smoke” means inhaling or exhaling the smoke of any tobacco product and includes the holding of, or control over, any ignited tobacco product or device containing an ignited tobacco product.
~~“Specially designated smoking area” means an area provided under section 20.~~

“Sponsorship” means 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.

“Tobacco” means the tobacco plant, including the seeds and leaves;

“Tobacco product” means a product composed in whole or in part of tobacco, including tobacco leaves and any extract of tobacco leaves intended for use by smoking, inhalation, chewing, sniffing or sucking ~~and includes cigarettes papers, tubes and filters.~~

“Tobacco control” means a range of supply, demand and harm reduction strategies that aim to improve the health of a population by eliminating or reducing their consumption of tobacco products and exposure to tobacco smoke;

“Tobacco industry” means tobacco manufacturers, wholesale distributors and imports of tobacco products including any re-packer or re-labeller, who:

- (i) manufactures, fabricates assembles, processes, or labels a tobacco product; or that either transfers from any component of the cigarette to the smoke or;
- (ii) imports a finished cigarette or smokeless tobacco product for sale or distribution

“Tobacco Smoke, Second Hand Smoke or Environmental Smoke” means the smoke other emissions released from a tobacco product or the smoke exhaled by a person smoking a tobacco product.

~~“workplace” means any place used by people during their paid or unpaid employment or work, including all associated or attached areas commonly used in or incidental to the course of work, as well as work vehicles.~~

“Vending machine” means a machine or device that is constructed to contain tobacco products and which can automatically retail any tobacco product upon the insertion of a coin, token or similar object into the machine or device;

~~“Tobacco Sponsorship” means any public or private contribution given to a third party in relation to an event, a team or an activity in whatsoever, the purpose of which is the promotion of a brand of cigarette or other tobacco products, even while knowing that this even, this team or this activity shall continue to exist without that contribution.~~

39. This Bill may be cited as the Tobacco Smoking (Control) Bill 2013.

Comment [A51]: As suggested for amendments, there should be no exceptions to the smoking ban in order to meet Nigeria’s FCTC obligations and to protect people against the hazards of tobacco smoke exposure. This definition should be deleted to ensure the comprehensive protection against hazardous smoke exposure is not limited in any way.

Comment [A52]: Consider whether “and includes cigarette papers, tubes and filters” is needed in the definition. Including these items may have unintended consequences such as applying the packaging and labelling and smoke-free requirements to papers, tubes or filters.

Comment [A53]: Per FCTC Article 8 implementation guidelines

Comment [A54]: The other definition of “sponsorship” is more comprehensive and meets the definition provided for in the FCTC Article 1. This definition should be deleted.

EXPLANATORY MEMORANDUM

The Bill seeks to provide a legal framework for the control of the production, manufacture, sale, labeling, advertising, promotion, sponsorship; the protection of tobacco control policies from the commercial and other vested interests of the tobacco industry on account of the inherent and irreconcilable conflict of interests between the goals of public health policies for tobacco control and the interests of the tobacco industry, arising from the deadly nature of tobacco products; and the use of tobacco products and exposure to tobacco smoke in order to protect the health of the individual present and future generations from the devastating health, social, economic, and environmental consequences of tobacco use and exposure to tobacco smoke. The Bill seeks to give effect to the obligations Nigeria has undertaken to protect against tobacco-related harms and to promote health and other human rights as a Party to the Framework Convention for Tobacco Control.

Comment [A55]: It is essential to state that the Act's purpose is to give effect to the Nigeria's WHO FCTC obligations and to reduce and prevent the harms caused by tobacco use and exposure to tobacco smoke. It is important to establish the objective of the bill is to reduce and prevent tobacco use and exposure to tobacco smoke in the event that a judicial interpretation is needed in a domestic court if the tobacco companies challenge the enacted measures. As well, an international court/arbitration panel evaluating Nigeria's measures, due to a legal challenge by the tobacco industry or its allies, would also need to see that the legislation was developed and designed to satisfy a health objective and not some ulterior purpose – particularly as a disguised restriction on trade, for example. Also, the bill enables MOH to prescribe regulations for the effective implementation of the objects and provisions of the Act, thereby making it even more important to set out those objects.