

**A BILL
FOR
AN ACT TO REPEAL THE TOBACCO (CONTROL) ACT 1990 CAP.T16 LAWS OF THE FEDERATION AND
TO ENACT THE NATIONAL TOBACCO CONTROL BILL 2012 TO PROVIDE FOR THE REGULATION OR
CONTROL OF PRODUCTION, MANUFACTURE, SALE, ADVERTISING, PROMOTION AND SPONSORSHIP
OF TOBACCO OR TOBACCO PRODUCTS IN NIGERIA AND FOR OTHER RELATED MATTERS.**

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Commencement.

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

PART I - ESTABLISHMENT 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:
- Establishment of
the National
Tobacco Control
Committee.
- (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. Two Representatives of the National tobacco Control alliance (NTCA) or similar tobacco control civil society organizations or groups

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) No member of the Committee shall be affiliated in any manner with the tobacco industry or its subsidiaries, nor work on behalf of or to further the interests of the tobacco industry;

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

(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 re-appointment 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 Committee without the permission of the chairperson or;

ii. Is convicted of an offence 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. Is discovered to be directly/indirectly affiliated with tobacco industries or its subsidiaries .

(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, provided that in the absence of the chairman, 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.

(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 to attend its meeting for the purpose of assisting or advising it on any particular matter but such person shall have no right to vote.

(11) The committee shall meet not 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 shall regulate its own proceedings.

PART II - TOBACCO PRODUCTS SMOKING PROHIBITION

2. (1) Smoking is hereby prohibited in the areas listed in schedule II of this bill.

Prohibition of Tobacco and Tobacco Products Smoking in Public Places.

(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.

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

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

(4) 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.

(5) Any person who contravenes the provision of subsection 1 of this bill shall be liable on conviction to a fine not exceeding fifty thousand Naira or to imprisonment for a term not exceeding three months or both.

3. (1) No person below the age of eighteen years (18 years) shall sell or be sold

Supply of Tobacco Products to Young

tobacco or tobacco products.

Persons.

(a) No person shall furnish, deliver, offer or sell tobacco to a person who produces a document mentioned in subsection(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 and welfare of a minor under the age of 18 years to knowingly allow that minor to possess any cigarettes made of tobacco or of any other substance which can be smoked, any cigarette paper or tobacco in any form, including but not limited to smokeless tobacco.

(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 at least eighteen years of age by asking for and being shown any of the documents specified in subsection (4) for the purpose of verifying the age of the young person, and believed on reasonable grounds that the documentation was authentic

(3) Subject to subsection (2) a person who contravenes the provisions of subsection (1) commits an offence and 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

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

Method of Identification.

(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 any articles or objects resembling tobacco products/cigarettes, which would reasonably appeal to persons less than 18 years, including but not limited to sweets, snacks and toys

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

4. (1) Every retailer shall post, in the prescribed place and manner, the following sign: "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

Display Signs.

messages.

(2) The owner or occupier of any enclosed public place of collective use, or employer, as applicable, and the owner or operator of any public conveyance, shall post signs prominently on the premises or in the conveyance stating that smoking is not permitted. This shall be done in the prescribed manner contained in this Law.

(3) "Every sign required to be under subsection (1) shall –

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

(b) in addition to the message prescribed in section 4 (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

Obligation to ensure compliance.

(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 fifty thousand naira, or to imprisonment for a term not exceeding six months, or to both.

(6) It shall be the duty of the owner or occupier of any enclosed public place of collective use, employer, and the owner or operator of any public conveyance, 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 persons refuses to stop smoking or leave the premises or conveyance.

(b) No 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 fifty thousand naira, or to imprisonment for a term not exceeding twelve months

or both.

(7) It shall be an offence for any person carrying on business to sell cigarettes to any person other than in pre-packed quantities.

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

(9) 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 twenty five thousand naira or to imprisonment for a term not exceeding six months, or to both.

5. (1) Automatic Tobacco Vending Machines shall not be displayed in prohibited smoking areas. Vending Machines.

(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 fifty thousand naira, or to imprisonment for a term not exceeding six (6) months or both.

- 6 (1)Tobacco products may only be sold to consumers if before purchase: Self Service Display Delivery.

(a) 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 twenty five thousand naira, or to imprisonment for a term not exceeding six months, or to both.

- 7 (1) No person shall advertise an offer to deliver or mail a tobacco product anywhere within the Federal Republic of Nigeria. Prohibition of Mailing Tobacco and Products.

(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 fifty thousand naira, or to imprisonment for a term not exceeding six months, or to both.

8. (1) 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 which includes the hazards or effects arising from the use of the product or from its emissions. Package Information Requirement.

(2) Every package containing a tobacco product shall:-

(a) 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 the word “WARNING” appearing in capital letters and all text shall be large, clear, visible and legible.

(c) 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.

(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.

(4) Every package containing a tobacco product shall bear such statement as to emissions as may be prescribed 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 be limited to the factual disclosure of the contents and not their quantities.

(5) 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 one hundred thousand naira, or to imprisonment for a term not exceeding two years, or to both.

PART III – PROMOTION

9. (1) No person shall promote tobacco or tobacco products in any form. Prohibition of Promotion of Tobacco and Products
- (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 hundred thousand naira, or to imprisonment for a term not exceeding three years, or to both.
10. (1) No person shall promote tobacco or a 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. False Promotions
- (2) A person who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to fine not exceeding one hundred thousand naira, or to imprisonment for a term not exceeding three years or to both.
11. (1) No person shall promote a tobacco product by means of a testimonial or an endorsement. Endorsement and Testimonies
- (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 elements, 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 hundred thousand naira, or to imprisonment for a term not exceeding three years or both.

12. (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 product, its package or a brand element or one that evokes a tobacco product or element, or that depicts a tobacco product manufacturer.

Promotion
Advertisement.

(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, leaflets, posters, point of sale adverts, branding of vehicles, mobile adverts facilities, films, brand placements, Home videos, cultural events, musical events, sports events, events by unions or associations 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 section commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand naira, or to imprisonment for a term not exceeding one year, or to both.

13. (1) No person shall:-

Sponsorship
Promotion.

(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, artistic, recreational, educational or entertainment event or activity; or

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

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

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

Display of
Manufacturers
Name.

15. (1) No manufacturer, distributor or retailer shall manufacture, distribute or

Accessories.

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 hundred thousand naira, or to imprisonment for a term not exceeding three years, or to both.

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

(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 fifty thousand naira or to imprisonment for a term not exceeding six months, or to both.

17. (1) No manufacturer, distributor or retailer shall:- Sales Promotions.

(a) offer or provide any consideration, whether directly or indirectly, for the purchase of a tobacco product, including a gift to a purchaser 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 or 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 hundred thousand naira or to imprisonment for a term not exceeding six months, or to both.

18. (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. Adverts in the Media.

(2) No person shall, by means of a publication that is published outside Nigeria, or a broadcast that originates 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) Any 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 imprisonment for a term not exceeding three years or both.

19. (1) The manager or owner of a prohibited smoking area shall cause to be Displays at Non-smoking areas.

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 place as may be prescribed.

(3) A manager 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 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 a police officer or other authorized officer.

(6) A person who commits an offence under subsection (4) 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).

PART IV - ENFORCEMENT.

20. 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. Enforcement by authorized officers.
21. (1) In carrying out the provisions of this Bill, an authorized officer shall have the following powers, which no authorized officer shall abuse or use for his or her own financial or personal gains; Power of officers.
- (a) examine a tobacco product or any thing 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, 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 22.

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

(3) A person who commits an offence 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).

22. (1) Upon an ex-parte application, a magistrate or judge of the High Court, may issue a warrant authorizing the officer 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:-

Search warrants
procurement.

(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

23. 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 the NATOCC Chairman within the prescribed time and in the prescribed manner.

Restoration of
seized Products.

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

Restoration Order.

(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.

25. (1) Where :- Forfeiture.
- (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.
26. (1) No person shall manufacture or sell any tobacco product that does not meet all product standards and other requirements prescribed by the Ministry in implementing regulations or Standard Organization of Nigeria, tested by the method and in the manner prescribed. Regulation of Tobacco Products
- (2) Tobacco products exported from Nigeria shall meet the requirements of the importing territory.
- (3) Any non-compliant tobacco products found in the possession or under the control of a tobacco manufacturer or seller or bound for the market place after the date specified for compliance in regulations shall be subject to confiscation and destruction, in addition to the application of any penalties or corrective action authorized.
27. The Minister may on recommendation of the National Tobacco Control Committee make Regulations: 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.
28. Any person convicted of an offence under this Act for which no other penalty is provided shall be liable to a fine not exceeding five hundred thousand naira or to imprisonment for a term not exceeding six months or to both. For a corporate body the fine shall not be less than two million naira (2,000,000.00). General Penalty

PART V-PROTECTION OF TOBACCO CONTROL POLICIES FROM COMMERCIAL AND OTHER VESTED INTERESTS.

Limitation on Interactions Between Government and

29. (1) Interactions between government and the tobacco industry shall be limited to only those strictly necessary for effective regulation of the tobacco industry or tobacco products.

(2)(a) When any interaction between government and tobacco industry is strictly necessary for effective regulation, and whenever there is an interaction of any kind or contact between the government and the tobacco industry, regardless of which party initiates it, the appropriate government authority shall ensure transparency of the interaction or the contact.

(b) Transparency shall require, at a minimum-

(i) conducting any interaction between the government and the tobacco industry

in public, such as through public hearings, unless doing so would jeopardize effective regulation or would not be legally possible, as, for example, in the case of inspections or investigations or litigation interactions;

(ii) providing, for any interaction, timely advance notice and an agenda to the public and to the designated government oversight authority or authorities, unless doing so would jeopardize effective regulation or would not be legally possible, as, for example, in the case of inspections or investigations or litigation interactions;

(iii) requiring minutes or other documentation of all interactions, whether face to face or through some other means of communications, and contacts, that provide sufficient detail to identify, at a minimum, the parties involved, matters discussed or considered, any decision taken, any follow-up activity planned or anticipated, the date, location, method of the interaction or contact, and any other details as may be prescribed in regulations and/ or policies;

(iv) forwarding all documentation to the designated government oversight authority or authorities within no more than 15 days and making all records of and documents related to interactions, communications, and contacts readily accessible to the public, unless public disclosure would not be legally possible; provided that timeliness of public accessibility shall be subject to ensuring effective regulation, such as the case of ongoing investigations; and

(v) any other transparency measures as may be prescribed in regulations and/or policies.

(3) Any necessary interaction with the tobacco industry must be carried out in a manner that avoids the creation of any perception of a partnership or collaboration and, in the event such a perception is created, the government shall act promptly to correct it.

30. Government shall not participate in, support, endorse, or accept:

(a) any proposals, drafts, or offers of assistance from tobacco industries with

Prohibitions on
Partnership and
Endorsements of
the Tobacco
Industry, Tobacco

the development or implementation of any tobacco control policies;

Industry
Involvement in
Tobacco Control
Initiatives

(b) partnership of any kind with the tobacco industry, including with respect to initiatives or activities of the tobacco industry described, characterized, implied, or likely to be perceived as socially responsible;

(c) any non-binding or non-enforceable agreement, memorandum of understanding, voluntary agreement, or tobacco industry code of conduct in the place of legally enforceable tobacco control measures; or

(d) any involvement with the tobacco industry in any manner in any initiative, campaign, programme, or activity directly or indirectly related to tobacco control or public health, including but not limited to, any youth access or education programme, public education campaign, or other initiative.

31. No business in the tobacco industry shall-

Prohibition on
Voluntary
Contributions from
the Tobacco
Industry

(a) offer or make, and no government institution, body, board, commission, committee, work group, organ, or other government entity shall accept, any voluntary contribution of any kind, financial or otherwise, from the tobacco industry; provided that a contribution from the tobacco industry resulting from legal requirements or settlement of litigation shall not be considered a voluntary contribution;

(b) offer or make to any public office holder, and no public office holder shall solicit or accept, any financial or other contribution of any kind, including any gift, favour, or perquisite; or

(c) offer or make to any political party, candidate, or campaign, or any person or entity acting on their behalf, and no political party, candidate, or campaign, or any person or entity on their behalf, shall solicit or accept, any financial or other contribution of any kind.

32. The Ministry shall ensure that all branches of government are made aware of, at a minimum, the addictive and harmful nature of tobacco products and the need to protect tobacco control policies from the commercial and other vested interests of the tobacco industry and of the strategies, tactics, and front groups and other surrogates used, openly or covertly, by the tobacco industry to undermine and subvert the development and implementation of effective tobacco control policies, including by making philanthropic contributions to public and private organizations.

Awareness and
Education
Raising
Public

33. Government shall not provide any incentive or privilege to any person to establish or run a tobacco manufacturing, wholesale, import, or retail business, or any incentive or privilege related to any phase of the production or marketing of tobacco products or growing of tobacco. This includes but is

Prohibition on
Incentives or
Privileges to
Tobacco Businesses

not necessarily limited to, subsidies, investment incentives, direct treatment, and research and development grants or loans.

34. It shall be unlawful for the government, any business or entity, or any other person to retaliate or discriminate against any employee, applicant, contractor, or other person because such person made a complaint, reported, disclosed, or opposed any conduct, activity, or practice that reasonably could be construed to be a violation of any provision of this Bill or implementing regulations or policies, or who brought a legal action, testified in any proceeding or hearing, or assisted or participated in any way in any investigation brought pursuant to this Bill.
- Protection from Retaliation

PART VI MISCELLANEOUS PROVISION

35. The Tobacco Smoking (Control) Act No.20 of 1990/CAP. T6, Laws of the Federation of Nigeria, 2004 is repealed.
- Repeal
36. In this Bill, unless the context otherwise provides:-
- Interpretation

“Advertisement” includes -

(a) Any public statement, communication, representation or reference that promotes or publicizes tobacco or a tobacco product or encourages use or draws attention to the nature, properties, advantages or uses of the product;

(b) The use of any advertisement or promotion 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;

“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 by section 20 of this Act;

“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.

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

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

“Committee” means the National Tobacco Control Committee (NATOCC) established pursuant to section 1 of this Act;

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

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

“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 any 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 and 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, or similar characteristics;

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

“Manager; in relation to –

(a) A cinema or theatre includes an 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 a tobacco products to include the packaging, labeling, distribution and importation of tobacco product 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” means the container” receptacle or wrapper in which tobacco products are sold or distributed including the carton in which multiple packages are stored;

“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 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;

“Smoke Constituent” means any chemical or chemical compound including vapours, and grasses found in mainstream or side stream tobacco smoke that either transfers from any component of the cigarette to the smoke or that is formed by the combustion or heating of tobacco, additives, or other component of the tobacco product

“Smoking” 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 19;

“Sponsorship” means a 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 the 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 cigarette 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 importers of tobacco products including any re-packer or re-labeler, who—

(i) manufactures, fabricates, assembles, processes, or labels a tobacco product; or

(ii) imports a finished cigarette or smokeless tobacco product for sale or distribution.

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

“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 whatsoever, the purpose of which is the promotion of a brand of cigarettes or other tobacco products, even while knowing that this event, this team or this activity shall continue to exist without that contribution.

37. This Act may be cited as the “National Tobacco Control Act, 2012”.

Short Title.

It shall come into operation upon the expiration of six months from the date of assent.

FIRST SCHEDULE

Every manufacturer shall submit to the Committee, a report in the prescribed manner and within the prescribed period, with the prescribed information about any promotion under this part.

Report to the Committee.

(1) Notwithstanding the provisions of any other written law currently in force, Standards Organization of Nigeria may-

Role of Standard Organization of Nigeria

(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 ingredients, hazardous properties and brand element;

(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);

(11) Tobacco use causes impotence;

(12) Tobacco use causes miscarriages;

(13) Tobacco use causes infertility in women;

(14) Tobacco use causes mental retardation in children;

(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 under section 9 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.

SECOND SCHEDULE

- (1) Every person has a right to a clean and healthy environment and the right to be protected from exposure to second hand smoke. Prohibited smoking areas.
- (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.
- (5) Without prejudice to the generality of subsection (4) of the second schedule, no person shall smoke in;
- (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, theaters, 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) restaurants and other eating places;
 - (h) childrens' homes and such other premises where children are cared for on a commercial or public service basis.
 - (i) Residential houses and such other premises where children are cared for,
 - (j) Places of worship;
 - (k) Police stations and cells;
 - (l) Public service vehicles;
 - (m) airports and aircrafts, commuter boats, trains, passenger vehicles, ferries or any other public conveyance.

- (n) Education facilities, Libraries and Schools;
 - (o) Railway stations, airports, air fields, ports, motor parks and other public transport terminals;
 - (p) indoor markets, shopping mall, retail and wholesale establishment.
 - (q) stadia, sports, athletic and recreational facilities;
 - (r) Public buildings and offices;
 - (s) Public transportation (buses, cars, trains, canoes, ships, aircraft);
 - (t) Motor parks;
 - (u) Amusement parks ;
 - (v) Public gardens ; and
 - (w) Market places.
- (6) (a) The Minister 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 members 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.
- (b) provided that such recommendation by notice in the gazette shall be effective only upon six months from such publication
- (7) The person in control of the premises shall ensure that no person smokes in contravention of this section.

EXPLANATORY MEMORANDUM

“The Bill seeks to provide a legal framework for the control of the production, manufacture, sale, labeling, advertising, promotion, sponsorship, use of tobacco products and exposure to tobacco smoke, in order to protect the health of the Nigerian Public.