



## **Section 5 COTPA: Prohibition of Brand Promotion of All Tobacco products**

**Section 5:** “(1) No person engaged in, or purported to be engaged in the production, supply or distribution of cigarettes or any other tobacco products shall advertise and no person having control over a medium shall cause to be advertised cigarettes or any other tobacco products through that medium and no person shall take part in any advertisement which directly or indirectly suggests or promotes the use or consumption of cigarettes or any other tobacco products.

- (2) No person, for any direct or indirect pecuniary benefit, shall-
- (a) Display, cause to display, or permit or authorize to display any advertisement of cigarettes or any other tobacco product; or
  - (b) Sell or cause to sell, or permit or authorize to sell a film or video tape containing an advertisement of cigarettes or any other tobacco product display any advertisement of cigarettes
  - (c) Distribute, cause to distribute, or permit or authorize to distribute to the public any leaflet, handbill or document which is or which contains an advertisement of cigarettes or any other tobacco product; or
  - (d) Erect, exhibit, fix or retain upon or over any land, building, wall, hoarding, frame, post or structure or upon or in any vehicle or shall display in any manner what so ever in any place any advertisement of cigarettes or any other tobacco product:

Provided that this subsection shall not apply in relation to –

An advertisement of cigarettes or any other tobacco product in or on a package containing cigarettes or any other tobacco product;

Advertisement of cigarettes or any other tobacco product which is displayed at the entrance or inside a warehouse or a shop where cigarettes and any other tobacco products are offered for distribution or sale.

- (3) No person, shall, under a contract or otherwise promote or agree to promote the use or consumption of-
- a) Cigarettes or any other tobacco product; or
  - b) Any trade mark or brand name of cigarettes or any other tobacco product in exchange for a sponsorship, gift, prize or scholarship given or agreed to be given by another person.”

**Additional Notification:** No. GSR 345 (E) dated 31<sup>st</sup> May, 2005.

### **Interpreting Section 5**

Section 5 of the COTPA prohibits any kind of advertisement, brand promotion and sponsorship of Tobacco products. There is ban on both direct & indirect advertisement of tobacco products in all forms of audio, visual and print media. This also applies to distribution of handbills, putting up hoardings promoting / advertising tobacco products No sports or cultural events can be sponsored by cigarette and other tobacco product



companies. No trade mark or brand name of cigarettes or any tobacco product can be promoted in exchange for sponsorship, gift, prize or scholarship. No person shall advertise and no person shall take part in any advertisement which directly or indirectly suggests or promotes the use of any tobacco product.

#### **Where can tobacco products be advertised?**

1. Tobacco products can be advertised in the package containing tobacco products.
2. In the entrance and inside a warehouse storing tobacco products.
3. At the point of sale or distribution.

#### **What constitutes Violation of Section 5?**

1. Presence of Hoardings advertising tobacco products, larger than prescribed (60cm x 45 cm) at the point of sale, and more than two boards at one point of sale.
2. Illuminated or backlit boards at the point of sale.
3. Open Display of tobacco products by a shop owner for sale.
4. Indirect/Surrogate advertisement of tobacco production in any form such as in apparel, sports gear, accessories etc. are not allowed.

#### **What happens if I violate Section 5?**

Violation of Section 5 attracts penalty to the responsible persons in the company of the tobacco product.

1. On first conviction the penalty could be imprisonment for a period extending up to 2 years or with a fine up to Rs 1000/- or both. (Sec 22)
2. On second and subsequent convictions with imprisonment for up to 5 years and with a fine up to Rs. 5000/-. (Sec 22)
3. For contravention of this section the advertisement and advertisement material may be forfeited by the Government as per Rule. (Sec 23)

**Note: All offences punishable under this Act are bail able.**