



Health
Canada Santé
Canada

A Regulatory Proposal To Include Warnings in Tobacco Advertisements

Consultation Paper

November 17, 2004

Canada

I Introduction

Health Canada's Tobacco Control Programme is proposing to develop new regulations under section 33 of the *Tobacco Act*. These regulations would require a health warning, or other appropriate message, to be displayed on tobacco advertisements, including advertisements for accessories that carry a tobacco-related brand element.

Why new regulations?

The *Tobacco Act* currently places a number of restrictions on how tobacco products and smoking-related accessories can be promoted. The proposed regulations are intended to ensure that all Canadians, particularly youth and adult non-smokers, are provided with appropriate information when they see or read tobacco advertisements. This information would include messages about the health hazards associated with tobacco use.

The new regulations would also bring Canada into compliance with Article 13 of the WHO Framework Convention on Tobacco Control.

Comments and feedback are welcomed

This brief paper sets out Health Canada's regulatory proposal. Health Canada encourages individuals and stakeholder groups to review the proposal and provide feedback. All input will be considered as Health Canada shapes and finalizes its proposals for new regulations. (See Section IV for more information on how to participate in this consultation.)

II Background

A. Tobacco Use and Canadians

Fewer Canadians are smoking

The most recent data available from the Canadian Tobacco Use Monitoring Survey (2003) show that slightly more than five million Canadians smoke, or 21% of the population aged 15 years and older (both daily and occasional smokers). Smoking rates among Canadian youth (aged 15-19 years) are even lower, at 18%. Smoking rates are highest among young adults, with 30% of those aged 20-24 years saying they smoke (22% daily, 8% occasionally).

Canadians smoke fewer cigarettes

Since 1985, the number of cigarettes consumed by daily smokers has dropped from an average of 20.6 to 15.9 cigarettes. Men continue to smoke more cigarettes per day than women: 17.3 compared to 14.0 cigarettes per day, respectively.

One quarter of Canadians have quit smoking

Twenty-six per cent of Canadians aged 15 years and older report that they are former smokers. The most common reason given for quitting smoking was a concern for their health.

The impact of smoking

Over the past 40 years, Canada has made significant strides in reducing tobacco use. Nevertheless, smoking remains the leading preventable cause of illness, disability and premature death in the country.

Each year, more than 45,000 deaths are caused by smoking—more than 20 per cent of all deaths in Canada.

B. The Federal Tobacco Control Strategy

The Government of Canada believes that a multi-faceted approach is the most effective way to prevent and further reduce tobacco use in Canada. The Federal Tobacco Control Strategy (FTCS), announced in April 2001, is a framework for action on tobacco control. Health Canada, the Canada Revenue Agency, the Canada Border Services Agency, the RCMP, Public Safety and Emergency Preparedness Canada, and Justice Canada are responsible for implementing the strategy.

The 10-year objectives of the FTCS are to:

- Reduce smoking prevalence from 25 per cent (level in 1999) to 20 per cent;
- Decrease the number of cigarettes sold by 30 per cent;

- Increase retailer compliance with tobacco-sales-to-youth laws from 69 per cent to 80 per cent;
- Reduce the number of people exposed to second-hand smoke in enclosed public spaces; and
- Explore how to mandate changes to tobacco products to reduce health hazards.

C. Tobacco Promotion in Canada

The Tobacco Act and restrictions on promotion

Parliament passed the *Tobacco Act* in 1997. One of the purposes of the Act is “to protect young persons and others from inducements to use tobacco products and the consequent dependence on them.” Another purpose is “to enhance public awareness of the health hazards of using tobacco products.”

The Act restricts the promotion of tobacco products. For example, information advertising and brand-preference advertising are allowed for tobacco products, but only in publications mailed to named adults, in publications with an adult readership of not less than 85 percent or on signs in places where young persons are not permitted by law. These rules also apply to advertising for accessories¹ that carry a tobacco-related brand element.

Tobacco Advertising Activities in Canada

Tobacco advertising in Canada is minimal. Most of the advertising observed by Health Canada comes from tobacco retailers, particularly cigar stores. Typically, this advertising is published in magazines aimed at tourists or on websites.

Under the 2000 *Tobacco Reporting Regulations*, tobacco manufacturers and importers have to report their advertising-related expenses to Health Canada. For the year 2003, only \$15,000 in advertising expenditures were reported by this segment of the industry. No amounts were reported for either 2001 or 2002.

D. International Context

A number of jurisdictions require health warnings to be displayed on tobacco advertisements.

¹ In the *Tobacco Act*, “accessory” means a product that may be used in the consumption of a tobacco product, including a pipe, cigarette holder, cigar clip, lighter and matches.

Australia

Under Western Australia's *Tobacco Control (General) Regulations*, tobacco advertising is permitted at point-of-sale (e.g. inside shops or retail outlets), directly adjacent to where tobacco products are sold. A tobacco advertisement must have a health warning displayed, stating either "Smoking Kills" or "Smoking Is Addictive." The warning must occupy 50% of the total area of the advertisement.

United Kingdom

In the United Kingdom, the *Tobacco Advertising and Promotion Act* provides a comprehensive set of restrictions, including prohibiting advertising in print media, direct mail and on billboards. Advertising at retail is permitted, but will soon have to comply with the *Tobacco Advertising and Promotion (Point of Sale) Regulations*, due to come into force in December 2004. Any advertisement will then have to display the warning "Smoking kills" or "Smoking seriously harms you and others around you," as well as the phone number for the "NHS Smoking Helpline." The messages will have to cover at least 30% of the total surface area of the advertisement.

United States

The U.S. *Cigarette Labeling and Advertising Act* was amended in 1984 to require that one of the following four warnings appear on most advertising, enclosed in a rectangle and accompanied by the statement "Surgeon General's Warning":

- "Smoking Causes Lung Cancer, Heart Disease, Emphysema, And May Complicate Pregnancy."
- "Quitting Smoking Now Greatly Reduces Serious Risks to Your Health."
- "Smoking By Pregnant Women May Result in Fetal Injury, Premature Birth, And Low Birth Weight."
- "Cigarette Smoke Contains Carbon Monoxide."

All warning statements must be in black on white, and be rotated by each manufacturer or importer of cigarettes quarterly. The size of the warning will vary according to the size of the advertisement. Further details can be found at www.ftc.gov/bcp/policystmt/cigarettememo.htm.

Three health warnings are also required to appear in advertising for smokeless tobacco products, such as chewing tobacco, moist snuff, and plug tobacco, in accordance with the *Comprehensive*

Smokeless Tobacco Health Education Act. The text of the warning must be printed in all capitals in Univers 67 normal or an equivalent type style. The three required warnings must be placed in a circle and arrow format on all forms of advertisements (except billboards) and be rotated every four months by each manufacturer, packager, or importer.

WHO Framework Convention on Tobacco Control

Canada has played an active role in the development of the World Health Organization's *Framework Convention on Tobacco Control* (FCTC), an international treaty that addresses a wide range of tobacco issues. The FCTC was adopted by the World Health Assembly in May 2003, and Canada signed it in July 2003. Although Canada has yet to ratify the FCTC, it is working toward full compliance.

As part of its requirements related to tobacco promotion, the FCTC obliges states to “require that health or other appropriate warnings or messages accompany all tobacco advertising and, as appropriate, promotion and sponsorship” once they become a party to the treaty. (More information on the FCTC is provided in the appendix.)

III Proposed Requirements

Health Canada proposes that every tobacco advertisement, including every advertisement for accessories that carry a tobacco-related brand element, be required to display a health warning in black text, on a white background, surrounded by a black border. The health warning, including the border, would have to occupy no less than 20% of the total surface area of the advertisement. The regulations would also require the warning to be attributed to Health Canada.

Suggested warnings are:

- “For help to stop smoking, visit www.gosmokefree.ca”
- “Get help to stop smoking: consult your doctor or pharmacist”
- “Tobacco smoke hurts children”
- “Tobacco smoke causes fatal lung disease”
- “Smoking during pregnancy harms your baby”
- “Where there is smoke, there is hydrogen cyanide”

Four different warnings would have to be displayed on a rotating basis, i.e., one in each quarter of the year.

IV Providing Feedback

Health Canada encourages all interested organizations and individuals to consider the proposals presented here and to provide feedback.

Written comments and suggestions should be submitted no later than December 20, 2004, to:

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APPENDIX

Article 13
Tobacco advertising, promotion and sponsorship
(WHO Framework Convention on Tobacco Control)

Paragraph 4(b), of article 13, is bolded:

4. As a minimum, and in accordance with its constitution or constitutional principles, each Party shall:

(a) prohibit all forms of tobacco advertising, promotion and sponsorship that promote a tobacco product by any means that are false, misleading or deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions;

(b) require that health or other appropriate warnings or messages accompany all tobacco advertising and, as appropriate, promotion and sponsorship;

(c) restrict the use of direct or indirect incentives that encourage the purchase of tobacco products by the public;

(d) require, if it does not have a comprehensive ban, the disclosure to relevant governmental authorities of expenditures by the tobacco industry on advertising, promotion and sponsorship not yet prohibited. Those authorities may decide to make those figures available, subject to national law, to the public and to the Conference of the Parties, pursuant to Article 21;

(e) undertake a comprehensive ban or, in the case of a Party that is not in a position to undertake a comprehensive ban due to its constitution or constitutional principles, restrict tobacco advertising, promotion and sponsorship on radio, television, print media and, as appropriate, other media, such as the internet, within a period of five years; and

(f) prohibit, or in the case of a Party that is not in a position to prohibit due to its constitution or constitutional principles restrict, tobacco sponsorship of international events, activities and/or participants therein.

For the complete text of the FCTC, please visit: www.who.int/tobacco/fctc/text/en/fctc_en.pdf