

Note: This draft is only intended as a copy for comments during the stakeholder consultation period of the proposed guidelines. The content of this draft may change and does not prejudice any policy nor decision of the FDA. Citation of any text in this draft, for purposes other than the submission of comments as indicated in the issued announcement, is not recommended.

1 **FDA CIRCULAR**

2 No. \_\_\_\_\_

3

<b>SUBJECT</b>	:	<b><u>Vapor Product and Heated Tobacco Product Advertising, Promotion, and Sponsorship Guidelines</u></b>
----------------	---	---

4

---

5

6 **I. RATIONALE**

7

8 Advertising and promotion of potentially harmful and addictive products, such as vapor  
9 products and heated tobacco products (HTPs) may lead to unnecessary exposure of  
10 vulnerable populations, especially the youth, which can lead to the initiation of use. The  
11 novelty, addictiveness, and presentation of these products, partnered with marketing  
12 activities, makes it appealing to younger generations, which can result in an increase in the  
13 number of underage and non-smoking individuals using such products. To ensure that non-  
14 smokers, non-users, and the youth are protected from undue influence brought about by  
15 excessive disinformation, targeted marketing strategies, and unethical advertising and  
16 promotion activities to entice the youth and consumers, hence, the need to impose  
17 regulations on such activities.

18

19 The same essence is forwarded in national policy pursuant to Republic Act (RA) No. 11467  
20 and its implementing rules and regulations mandating the Food and Drug Administration  
21 (FDA) to periodically determine and regulate the advertising of vapor products and HTPs.  
22 This is consistent with RA 9711 (FDA Act of 2009) and RA 7394 (Consumer Act of the  
23 Philippines), which gave the FDA the authority to regulate advertising, promotion and  
24 sponsorship of health products, including tobacco and other related products, to public  
25 health and consumer safety. This was reiterated under Executive Order (EO) No. 106 s.  
26 2020, which also imposed requirements and limitations on the conduct of advertising and  
27 promotional activities for these products.

28

29 Further, in line with the country's commitment as a signatory to the WHO-Framework  
30 Convention on Tobacco Control (FCTC), the FDA acknowledges the importance of  
31 developing comprehensive guidelines for the strict regulation of vapor products and HTP  
32 advertising and promotion consistent with Article 13 of the framework to ensure the  
33 protection of the public, especially the youth. Thus, these guidelines are hereby established  
34 to ensure the proper implementation of the aforementioned laws, rules, and regulations.

35

36

37 **II. OBJECTIVE**

38

39 This Circular aims to establish the guidelines on the conduct of advertising, promotion, and  
40 sponsorship activities for vapor products and heated tobacco products pursuant to

Note: This draft is only intended as a copy for comments during the stakeholder consultation period of the proposed guidelines. The content of this draft may change and does not prejudice any policy nor decision of the FDA. Citation of any text in this draft, for purposes other than the submission of comments as indicated in the issued announcement, is not recommended.

1 Department of Health (DOH) Administrative Order (AO) No. 2020-0055 and in line with  
2 the WHO-FCTC.  
3  
4

### 5 **III. SCOPE**

6  
7 This Circular shall apply to all entities involved in the advertising, promotion, and/or  
8 sponsorship of vapor products and heated tobacco products.  
9

### 10 **IV. DEFINITION OF TERMS**

11  
12  
13 **A. ‘Advertising’** refers to the conceptualizing, presenting, making available, and  
14 communicating to the public, through any form of media platforms, any fact, data, or  
15 information about the attributes, features, quality, or availability of vapor products and  
16 HTPs. It shall also refer to any form of commercial communication, recommendation  
17 or action with the effect or likely effect of promoting a product or use either directly or  
18 indirectly.  
19

20 **B. ‘Point-of-sale’** refers to any location, whether physical or virtual, at which an  
21 individual can purchase or otherwise obtain vapor products, HTPs, or their  
22 components.  
23

24 **C. ‘Promotion’** refers to an event or activity organized by or on behalf of a vapor product  
25 and/or HTP manufacturer, distributors (importer, exporter, wholesaler), seller or  
26 retailer with the aim of promoting vapor product and/or HTP, which event or activity  
27 would not occur wholly or partly but for the support given to it by or on behalf of the  
28 vapor product and/or HTP manufacturer, distributor (importer, exporter, wholesaler),  
29 seller or retailer. It may also refer to the display of vapor products and/or HTP or the  
30 manufacturer’s name, trademark, logo, and the like on non-vapor products or non  
31 HTPs. This includes the paid use of vapor products and/or HTPs bearing the brand  
32 names, trademarks, logos, and the like in movies, radio, television, concerts, sports,  
33 gaming activities, and other forms of entertainment.  
34

35 **D. ‘Sponsorship’** refers to any public or private contribution from vapor product and/or  
36 HTP industry in relation to an event, team or activity made with the aim of promoting  
37 a brand of vapor products and/or HTPs, which event, team or activity would still exist  
38 or occur with or without contribution. This shall also include corporate social  
39 responsibility (CSR) activities by the vapor product and/or HTP industry.  
40

41 **E. ‘Verified Customer’** shall refer to an individual who has expressed interest to purchase  
42 or use the product and whose identity and age have been verified through the  
43 presentation or submission of a government-issued identification document.  
44

Note: This draft is only intended as a copy for comments during the stakeholder consultation period of the proposed guidelines. The content of this draft may change and does not prejudice any policy nor decision of the FDA. Citation of any text in this draft, for purposes other than the submission of comments as indicated in the issued announcement, is not recommended.

1  
2 **V. GENERAL GUIDELINES**  
3

4 **A. Target audience**  
5

- 6 1. All forms of advertising and promotional materials and activities shall not be  
7 directed at or appeal to non-smokers and/or persons below 21 years old.  
8  
9 2. Only verified customers shall be the intended audience for advertising and  
10 promotion activities.  
11  
12 3. The general public shall not be targeted or actively engaged by the industry in their  
13 advertising and/or promotion activities.  
14

15 **B. Advertising and promotion materials**  
16

- 17 1. Advertising and promotional materials shall not bear markings or characters that  
18 are likely to appeal to the youth such as the use of cartoons, anime, manga, animated  
19 characters, youth influencers, personalities, and the like.  
20  
21 2. The use of product or company brands, logos, presentations that imitate, resemble,  
22 or depict products, brands, characters, or personalities that are generally appealing  
23 or marketed to children and the youth shall be prohibited.  
24  
25 3. Placement of logo, insignia, brand, symbols, designs, pictures of vapor products  
26 and/or HTPs, on items that are commonly consumed or used by children and the  
27 youth shall be prohibited.  
28  
29 4. Advertisements and promotional materials shall not depict vapor products and/or  
30 HTPs as having characteristics which they do not have. No advertisement and  
31 promotional material shall be deceptive, false, misleading, or is likely to create an  
32 erroneous impression regarding its character, value, quantity, composition, merit,  
33 or safety.  
34  
35 5. All advertising and promotional materials shall bear the following warning  
36 statement:  
37 a. *“This product contains/produces chemicals that are toxic and harmful”*.  
38 b. *“The sale/distribution and advertising of vapor products or heated tobacco*  
39 *products to persons below 21 years old and non-smokers is unlawful”*  
40  
41  
42  
43  
44

Note: This draft is only intended as a copy for comments during the stakeholder consultation period of the proposed guidelines. The content of this draft may change and does not prejudice any policy nor decision of the FDA. Citation of any text in this draft, for purposes other than the submission of comments as indicated in the issued announcement, is not recommended.

1           **C. Conduct of advertising and promotion activities**  
2

- 3           1. Only FDA-licensed retailers may conduct advertising and promotional activities to  
4           verified customers. Manufacturers, traders, importers, exporters, and wholesalers  
5           are prohibited from directly advertising to consumers and the general public.  
6           2. Advertising and promotion activities shall only be conducted within the point of  
7           sale. Posting, displaying, distributing, or presenting of advertising and promotional  
8           materials outside of the point-of-sale is prohibited.  
9  
10          3. Indoor and outdoor advertising (including public transport, trains, etc), print media,  
11          radio, billboards, social media, and streaming platforms on personal internet-  
12          enabled devices, cross-border digital media, including in new media technologies,  
13          and similar platforms shall be prohibited.  
14  
15          4. Advertising and promotional activities shall only be directed at verified customers.  
16          Establishments are prohibited from actively advertising or promoting their brand or  
17          products to the general public.  
18  
19          5. Display of vapor products and HTPs at points-of-sale that are visible to the public,  
20          other than verified customers, shall not be allowed.  
21  
22          6. Automated self-service retail outlet platforms, such as vending machines shall not  
23          be allowed.  
24  
25          7. Free samples, giveaways, discounts, bundling with consumer products including  
26          those which appeal to the youth and children, and the like shall be prohibited.  
27  
28          8. Permissible sales promotions may only be conducted after securing a permit from  
29          the FDA.  
30

31           **D. Conduct of online advertising and promotion activities**  
32

- 33           1. Posting of advertising and promotional materials shall be limited to the seller's  
34           FDA-approved online page or website.  
35  
36           2. The conduct of advertising and promotional activities on social media platforms  
37           and other similar platforms shall be prohibited.  
38  
39           3. Online posts, particularly by endorsers, celebrities, influencers, and social media  
40           personalities, intending to directly or indirectly advertise, endorse or promote any  
41           vapor product or HTP companies/brands and/or their products on any platform shall  
42           be prohibited.  
43

Note: This draft is only intended as a copy for comments during the stakeholder consultation period of the proposed guidelines. The content of this draft may change and does not prejudice any policy nor decision of the FDA. Citation of any text in this draft, for purposes other than the submission of comments as indicated in the issued announcement, is not recommended.

1           **E. Depiction in entertainment media and legitimate journalistic, artistic or academic**  
2           **expressions**

- 3
- 4           1. The depiction of vapor products and heated tobacco products and/or its use in  
5           entertainment media and legitimate expressions should be conducted/executed with  
6           appropriate controls as to ensure that such representations do not promote or  
7           encourage the consumption of such products.  
8
- 9           2. Health warnings, as provided under Section V(B)(4)(a) and (b) should also be  
10          flashed during scenes where the products are depicted.  
11
- 12          3. No discernible scenes, markings, symbols, images, or statements should be  
13          included that can be identified or associated with a specific brand or product.  
14
- 15          4. Implementation of appropriate age ratings or classification system is recommended  
16          for materials that contain scenes with depictions of such products, its use, or images  
17          to ensure entertainment media aimed at children (including cartoons) do not depict  
18          such products, its use or imagery.  
19

20          **F. Communication within vapor products and HTPs trade**

- 21
- 22          1. All forms of product communication within its trade shall be exclusively conducted  
23          with and distributed to authorized persons of FDA-licensed establishments, with  
24          the authority to make trading decisions for the company and who consequently need  
25          the information.  
26
- 27          2. Such product communications shall not be provided or distributed to company  
28          personnel not involved or in the conduct of trading decisions.  
29
- 30          3. All product communications within vapor product and heated tobacco product trade  
31          shall not be made available to the public.  
32

33          **G. Sponsorship of vapor products and HTPs**

- 34
- 35          1. All forms of vapor product and heated tobacco product sponsorship, including the  
36          conduct of corporate-social responsibility activities by the industry or their  
37          representatives and affiliates shall be prohibited.  
38
- 39          2. Sponsorships in any sports, musical, artistic, social or cultural event, medical  
40          societies convention/seminars, commercial breaks in cinemas, charities,  
41          community projects, government, and related activities shall not be allowed.  
42

