

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

SUBJECT	:	<u>Vapor Product and Heated Tobacco Product Advertising, Promotion, and Sponsorship Guidelines</u>
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6 **I. RATIONALE**

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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.

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37 **II. OBJECTIVE**

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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

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

4 **A. Target audience**
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- 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”*
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1 **C. Conduct of advertising and promotion activities**
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- 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

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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

