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# CROSQ RPT Tobacco Advertising – DCRS 60 Tobacco Products – Advertising, promotion, and sponsorship – Specification

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Compiled comments from: AG, BAH, DOM, JA, DCA, LC, DM, WITCO

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For Comment Disposal by RPC 6 – December 15, 2020

Please find attached a copy of the above collation of comments disposed at.

In review of the comment in addition to explanations provided the following is proposed:

- EAF Editorial comment, accepted fully
  - EAP Editorial comment, accepted in part
  - EN Editorial comment, not accepted
  - TAF Technical comment, accepted fully
  - TAP Technical comment, accepted in part
  - TN Technical comment, not accepted
  - C Comment, noted
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1	2	(3)	4	5	(6)	(7)
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AG			te	If possible, consideration could be given towards including some appropriate health message regarding the harmful use of tobacco products as well as Electronic Nicotine Delivery Systems and the like. This will help to separate the article or production from being received as Tobacco, Advertising, Promotion and Sponsorship.		Noted This will come under product labelling standard.
Bah	Foreword		general	Limited / restrictive	change "supports a total ban" to "supports a limited ban"	Not accepted The text is descriptive of the FCTC
DM			ge	Are differentiations made for duty-free sales?		There is no differentiation between the two.
DM			ge	In Dominica, there exists the only existing Tobacco Factory in the OECS Region. This factory presently employs Eleven (11) Dominican citizens inclusive of three (3) as Office Clerks. The company has been in existence for numerous years. At one time it employed approximately 700 citizens.  It has been stated that Tobacco is bad for health and so seeing that the world is heading in the direction of curtailing its use integration into the global arena dictates that we act likewise. In that thrust the consumers right to make prudent or simple choices is curtailed by lobbyist on the other side of the fence. We are of the opinion that jobs, as policy makers, is to put the information out there; have educational programmes about the proposed ills of smoking and let people make their choices.  This Standard is an imposition on the right of the		Noted This is not consistent with current best practice for tobacco product regulation

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				consumer to make an informed choice on a product which is legal in the market and which we, here in Dominica, produce.		
Jamaica	2.7			The definition for Electronic Non – Nicotine Delivery Systems (ENDS) appears to be too broad and therefore needs to have qualifying provisions to ensure that prohibitions are not inadvertently applied to products for which the standard is not intended to cover.	It may also be useful to include in the definition the similarity resemble of these products to Electronic Nicotine Delivery Systems (ENDS) in appearance and how they are used.	Accepted fully New definition provided for ENDS below  ENDS“electronic nicotine delivery system are handheld devices manufactured for consuming a nicotine product by producing an aerosol or vapour for inhalation, and includes any item or part made for use with the device, including any tank, capsule or pod that connects to the device, whether or not sold separately typically containing concentrated <b>nicotine</b> , flavouring chemicals, and propylene glycol to be inhaled by the user.
RPT			Te	Insert new definition for health warnings	<b>Health Warnings</b> Means prescribed text and accompanying full colour pictures required to be displayed on tobacco packaging and labelling that convey the health and other consequences of tobacco use and exposure to tobacco	Not accepted  Words used within the body of the standard are defined.

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					smoke.	
RPT	2.8		Ed	<p><b>Include after tobacco product electronic nicotine delivery system ("ENDS")</b></p> <p><b>manufacturer</b> person or entity that processes, prepares or packages any tobacco product for sale or distribution</p>	<p><b>manufacturer</b> person or entity that processes, prepares, or packages any tobacco product or electronic nicotine delivery system ("ENDS") for sale or distribution</p>	Agree to include to complete sentence
RPT			Te	<b>Include definition for seller</b>	<p><b>Seller</b> Means any person who supplies any tobacco product or electronic delivery system for a fee or other consideration, and includes any distributor, wholesaler, importer, exporter and retailer.</p>	<p>Not accepted</p> <p>Words used within the body of the standard are defined.</p>

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RPT			Te	<b>Include definition for “to smoke”</b>	To smoke – means to inhale, exhale, hold or otherwise have control over an ignited tobacco product or a heated, but not ignited, tobacco product that produces an emission of any sort; or to operate or otherwise have control over an electronic delivery system that produces an emission of any sort.	Not accepted  Words used within the body of the standard are defined.
AG	2.10 and 10 of Annex A		te	<p>These definitions could be construed as a restriction to free determination of prices by the distributors. If interpreted in this manner, the Draft would establish a restrictive pricing pattern which, will not only become a handicap for the execution of the standard but also would promote unhealthy practices in the markets.</p> <p>As an example of the foregoing, it could be argued that, if the “regular trade price” is to be determined by the products that are sold the most in each category, the prices would be determined by the distributor who has the dominant position in the market; this would give them the possibility to force other competitors to follow their prices, therefore colliding with the principles of fair competition as well as violating the right of consumers to have access to fair pricing practices.</p>	These sections and any other that seeks to establish a price controlling structure should be completely excluded from the draft in order to avoid the implementation of a model that would create significant distortions in the market.	Not accepted  It is not meant to be a price control measure. The intent is not to have discounted products as a mean of promoting sales.
DM	<b><u>Section 2.10 and point 10</u></b>			<ul style="list-style-type: none"> <li>These definitions could be construed as a restriction to free determination of prices by the distributors. If interpreted in this manner, the Draft</li> </ul>	<b>This sections and any other that seeks to establish a price controlling structure</b>	Refer to comment above for AG 2.10 and 10 of Annex A.

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	<u>of Annex A of the Draft.</u>			<p>would establish a restrictive pricing pattern which, in our opinion, will not only become a handicap for the execution of the standard but also would promote unhealthy practices in the markets.</p> <p>As an example of the foregoing, it could be argued that, if the “regular trade price” is to be determined by the products that are sold the most in each category, the prices would be determined by the distributor who has the dominant position in the market; this would give them the possibility to force other competitors to follow their prices, therefore colliding with the principles of fair competition as well as violating the right of consumers to have access to fair pricing practices.</p>	<b>should be completely excluded from the draft in order to avoid the implementation of a model that would create significant distortions in the market.</b>	Measures apply to all. Members have the right and duty to report breaches of these regulations, as in the case of competitors offering discounts.

Dca	2.12		ge	<p>a. First, it must be noted as a general point that requirements relating to advertising and promotion do not fall within the meaning of “standards” as set out in the Agreement Establishing CROSQ, as the regulation of advertising and promotion does not concern “products”, “their characteristics” or “related processes or production methods”. Therefore, CROSQ does not have a mandate to promote requirements relating to advertising and promotion.</p> <p>b.</p> <p>c. Moreover, the definition is circular because it defines advertising and promotion as “commercial communication... with the aim of promoting... and includes any advertising and promotion...” This makes the definition unclear, which in turn renders the material scope of the substantive provisions on</p>	<p>definition 2.12 tobacco advertising and promotion</p> <p>Commercial communication or action with the aim or effect of increasing sales or consumption of a tobacco product, excluding the mere display of tobacco products at the point of sale.</p>	<p>Not accepted</p> <p>Note that the definition of standard - means a guideline approved by a recognised body that provides for common and repeated use, rules, guidelines or characteristics for products or related processes and production methods. In this case advertising and promotion are processes for which a standard can be established. Note the catalog of process standards developed by ISO. Additionally, Standards and Technical Regulations</p>
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				<p>advertising and promotion vague and ambiguous.</p> <p>d.</p> <p>The definition must consequently be amended to make it clear that advertising and promotion do not apply to all kinds of commercial communication, but only to communication that is aimed explicitly at increasing sales or consumption. It must also be made clear that commercial communication indicating availability of a product for sale or provides information about product characteristics, such as display at the point of sale, are not included in the definition.</p>		<p>fall under Chapter Four of the Revised Treaty of Chaguaramas which allows CARICOM to develop the standardization programme for the region.</p> <p>The definition is taken from Article 1 of the WHO FCTC and should remain as is. Display of tobacco products at points of sale in itself constitutes advertising and promotion.</p> <p>Reference:</p> <p>1. WHO FCTC <a href="https://apps.who.int/iris/bitstream/handle/10665/42811/9241591013.pdf?sequence=1">https://apps.who.int/iris/bitstream/handle/10665/42811/9241591013.pdf?sequence=1</a></p>
J'ca	2.12				It is recommended that the words "and/or ENDS" is added after the words "promoting a tobacco product".	Accepted fully
WITC O	2.12		ge	This definition is already provided in the Tobacco Control Act. The definitions should be aligned in order to avoid conflict.	any form of commercial communication, recommendation or action with the aim, effect or likely effect of promoting a tobacco product , <del>tobacco product brand element</del> or tobacco use either directly or indirectly; <del>and includes any advertising and promotion or a person or entity's involvement in the tobacco industry;</del>	Not accepted The tobacco control Act is for T&T only this is a regional standard therefore an international definition is more acceptable.

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						<p>The definition is taken from Article 1 of the WHO FCTC and should remain as is.</p> <p>Reference:</p> <ol style="list-style-type: none"> <li>WHO FCTC <a href="https://apps.who.int/iris/bitstream/handle/10665/42811/9241591013.pdf?sequence=1">https://apps.who.int/iris/bitstream/handle/10665/42811/9241591013.pdf?sequence=1</a></li> </ol> <p>The definition should stay as is and include the words “and/or ENDS” is added after the words “promoting a tobacco product”.</p>
J'ca	2.15				<p>It is recommended that the definition for Tobacco Sponsorship as it appears in the text of the treaty be used in standard. The definition as is, presents loopholes which are likely to be exploited. The treaty uses the following definition:</p> <p>“tobacco sponsorship” means any 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.</p>	Accepted fully

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Dca	2.16		ge	<p>Must be clear that this definition should not be interpreted to include ENDS or ENNDS. Also note that some e-cigarettes look like cigarettes i.e. long thing and often coloured white with tipping paper. However, other vapour devices or refillable products do not look like traditional cigarettes or pipes.</p> <p>It should be clearly indicated that the prohibition is for toy products for the use of children.</p>		<p>Noted</p> <p>This is a definition of toy tobacco products.</p> <p>The definition needs to be expanded to include candies, snacks as per 6.5.</p> <p>Note 6.5 needs to ban advertising promotion and sponsorship.</p> <p>`Insert definition below</p> <p>ENDS "electronic nicotine delivery system" are handheld devices manufactured for consuming a nicotine product by producing an aerosol or vapour for inhalation, and includes any item or part made for use with the device, including any tank, capsule or pod that connects to the device, whether or not sold separately typically containing concentrated <b>nicotine</b>, flavouring chemicals, and propylene glycol to be inhaled by the user.</p>

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						<b>ENNDS</b> “electronic non-nicotine delivery system” means an electronically operated hand held product designed to deliver an aerosol to users by heating a solution of substances that does not contain nicotine; contains flavourants, usually dissolved into Propylene Glycol or/and Glycerin and any solutions intended for use with or in the product;
J'ca	2.16			Toys or other products, which look like tobacco products, and can be used to stimulate smoking, reinforce and promote the use of the actual products. Consequently, these items would not aid in smoking cessation. Therefore, it is recommended that all words following “....cannot be smoked” be deleted.		Not accepted  The words add empathises to the definition.
WITC O	2.16		ge	Must be clear that this definition should not be interpreted to include ENDS or ENNDS. Also note that some e-cigarettes look like cigarettes i.e. long thing and often coloured white with tipping paper. However, other vapour devices or refillable products do not look like traditional cigarettes or pipes. It should be clearly indicated that the prohibition is for toy products for the use of children.	<b>toy tobacco product</b> any object that looks like a tobacco product or a smoker's pipe, and can be used to simulate smoking, but cannot be smoked and has a primary purpose other than to aid in smoking cessation excluding ENDS or ENNDS.	Not accepted This comment is a repetition of number 12.  There is a clear separation between toy products and other products  Insert detailed definition for ENDS AND ENNDS  <b>Electronic                      Nicotine</b>

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						<p><b>Delivering System (“ENDS”)</b>  are handheld devices manufactured for consuming a nicotine product by producing an aerosol or vapour for inhalation, and includes any item or part made for use with the device, including any tank, capsule or pod that connects to the device, whether or not sold separately typically containing concentrated nicotine, flavouring chemicals, and propylene glycol to be inhaled by the user.</p> <p><b>Electronic Non-Nicotine Delivery System (“ENNDS”)</b>  handheld product designed to deliver an aerosol to users by heating a solution of substances that does not contain nicotine; contains flavourants, usually dissolved into Propylene Glycol or/and Glycerin and any solutions intended for use with or in the product.</p>

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AG	3.1, 3.2, 3.3, 5.3, Annex A		te	This section could be misconstrued to limit communication with retailers and adult consumers, therefore limiting their possibility of obtaining clear and accurate information of different products. The real and natural consequence of this situation, can only be the inequitable market closure to minor and new competitors, which will create unjust and uneven market conditions that will favour the parties with dominant position, contravening basic principles of fair competition.	To achieve both the real objectives of the Standard but also avoid inequities in the market, the wording of this section should allow the communication regarding tobacco products, at the very least, through direct means to the adult consumer as well as by other means in places where minors are not allowed.	The WHO FCTC requires a comprehensive ban on advertising and promotion of tobacco products.  Reference to direct means of communication to adults is a misnomer as adolescents and children are not always limited in their sources of information. Banning tobacco advertising, promotion and sponsorship is one of the best ways to protect young people from starting smoking as well as reducing tobacco consumption across the entire population
Dca	3, 4, 6, 7		ge	As outlined before, requirements relating to advertising and promotion do not fall within the meaning of "standards" as set out in the Agreement Establishing CROSQ. Therefore, CROSQ does not have a mandate to promote requirements relating to advertising and promotion. Moreover these paragraphs are too wide and cannot be accepted. Please refer to the below argument. This type of regulation should be questioned by the Members State since the proposal established a control without given the tools or ways to enforce them.  <i>1. The proposed ban on advertising and promotion of tobacco products and the ban on the display of tobacco products in retail outlets would violate our right of property and the right</i>	These are the general comments on absolute bans.	CROSQ has a mandate to develop standards  The regulations are specific and reflect best practice. The quoted example related to intellectual property rights has not been upheld in court proceedings.  The right to health is clearly established and takes precedence over any rights mentioned in these

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				<p><i>to conduct a lawful trade and manufacturer's rights to non-discrimination.</i></p> <p>The implementation of a total ban on advertising and promotion and a ban on the display of tobacco products in retail outlets impairs the right of the industry to communicate with consumers in relation to its products and the right of those consumers to receive such communications in order to differentiate between products. The ability – both of the industry to communicate and consumers to receive information – is a fundamental right of freedom of expression.</p> <p>The ability of manufacturers to market their products to adult consumers is fundamental to fair brand competition. Responsible advertising and the display of tobacco products also performs a number of important functions for consumers, specifically:</p> <ol style="list-style-type: none"> <li>indicating to customers both the availability of tobacco products generally, as well as the fact that specific products are in stock;</li> <li>assisting customers in recognising their preferred brand and distinguishing it from other brands;</li> <li>preventing customer confusion and mistakes, by enabling customers to clearly differentiate between the brands on display and to identify and ask for their brand of choice;</li> <li>alerting customers to the existence, availability and characteristics of alternative brands; and</li> <li>making all smokers aware of new brands as they become available.</li> </ol>		<p>comments.</p> <p>Disagree with this section.</p> <p>See comments above regarding CROSQ and CARICOM mandates. Additionally, CROSQ develops voluntary standards.</p> <p>See comments above regarding right to health and UN Convention on rights of the child.</p> <p>The WHO FCTC recommends a comprehensive ban on tobacco advertising. Reference is made to the Guideline for implementation which represent WHO recommended best practice for the implementation of the FCTC</p> <p><a href="https://www.who.int/fctc/guidelines/article_13.pdf?ua=1">https://www.who.int/fctc/guidelines/article_13.pdf?ua=1</a></p> <p>Reduced prices do not necessarily lead to</p>

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				<p>The implementation of a total ban on advertising and a display ban, would remove almost entirely all means of communication which manufacturers have and deny consumers the right to receive information about lawful products. As such, these provisions would violate the right to compete. Further the draft measures would violate property and trademark rights by prohibiting almost entirely all means of use of trademarks so that they would no longer be able to serve their purpose of identifying and differentiating products. A Manufacturer would be deprived of the reality of proprietorship and the ability to use its trademarks that make that property worth having.</p> <p>Further such a prohibition will distort competition among tobacco companies by inhibiting new product launches and new market entrants.</p> <p>Furthermore, as outlined below these provisions cannot be justified by the public health objective of reducing smoking as there is no credible information that the will have any impact on smoking behaviours.</p> <p><i>3. The WHO FCTC neither requires nor authorises the proposed ban on advertising and promotion of tobacco products and the ban on the display of tobacco products in retail outlets</i></p> <p>An absolute ban on advertising and promotion is not mandatory under the WHO FCTC. Importantly, the WHO FCTC does not authorise the implementation of measures that breach national laws. Article 13 of the WHO FCTC recognises that any ban on tobacco advertising, promotion and sponsorship must be in accordance with a Party's "constitution[s] or constitutional principles". Article 5, which sets out the general obligations of Parties, similarly acknowledges</p>		<p>increased illicit trade</p> <p>Comprehensive laws that eliminate tobacco advertising and promotion reduce tobacco use and therefore prevent disease and death. Studies have shown that while comprehensive advertising and promotion</p>

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				<p>that the implementation of legislative measures must be in accordance with national laws and in "<i>accordance with</i> [Parties'] <i>capabilities</i>".</p> <p>Furthermore, the binding Articles of the WHO FCTC do not even mention the ban on the display of tobacco products in retail outlets. The hortatory Guidelines on Articles 13 of the WHO FCTC, which promote display bans are not binding, and also recognise that such measures may be restricted by a Party's constitution. The Guidelines on Article 13 of the FCTC recommend that "<i>display and visibility of tobacco products at points of sale constitutes advertising and promotion and should therefore be banned</i>". The Guidelines recommend "<i>that Parties should introduce a total ban on any display and on the visibility of tobacco products at points of sale, including fixed retail outlets and street vendors.</i>" Only the textual listing of products and prices, without any promotional elements, would be allowed.</p> <p>As noted above, the proposed ban on advertising and promotion of tobacco products and the ban on the display of tobacco products in retail outlets, if enacted, would impose restriction on manufacturers and consumers' right to freedom of expression, use of (intellectual) property and right to compete. It appears that the Advertising Specification was drafted without due regard to these fundamental rights.</p> <p>Product display serves important practical and commercial functions. Product display enables retailers to communicate product availability and prices to consumers, and is necessary for fair brand competition. There is no evidence to support a ban on tobacco</p>		

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				displays. The display of tobacco products in retail stores does not increase the initiation or prevalence of smoking or discourage those who attempt to quit <sup>1</sup> .		

<sup>1</sup> On consumption see e.g., Kirsten Bell, Amy Salmon, Michele Bowers, Jennifer Bell, Lucy McCullough. Smoking, stigma and tobacco 'denormalisation': Further reflections on the use of stigma as a public health tool. *Social Science & Medicine*, v. 70, i. 6, p. 795-799. 2010.

On youth initiation, see e.g., See, e.g., US Department of Health and Human Services. "Preventing Tobacco Use Among Young People: A Report of the Surgeon General" US Department of Health and Human Services, Public Health Service, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office of Smoking and Health, Chp. 4 (1994) (summarizing approximately 160 studies on the subject of the psychosocial risk factors associated with underage tobacco use); see also US Department of Health and Human Services "Preventing Tobacco Use Among Youth and Young Adults, A Report of the Surgeon General" US Department of Health and Human Services (2012) (reinforcing findings of 1994 Surgeon General's report with added emphasis on the high accessibility and availability of tobacco products, such as obtaining tobacco products from parents, siblings, or peers); Canada's Smoking Profile, The 2008/2009 Youth Smoking Survey; Fuller, E. "Smoking, drinking and drug use among young people in England in 2006" National Centre for Social Research: London 2007; Eureka Strategic Research, Youth Tobacco Literature Review (Report Prepared for Australian Government Department of Health and Ageing, June, 2005).

On on-going consumption see e.g., Professor Ravi Dhar and Professor Stephen Nowlis: "Report on Adult Consumer Behaviour and Decision-Making in the Context of Smoking", December 2010, p.31 (Research commissioned by Japan Tobacco International).

On cessation and on-going use, see, e.g., Report of Jonathan Klick, PhD, submitted by BAT New Zealand Ltd in support of its response to the Ministry of Health's Proposal to ban tobacco retail displays in New Zealand, 18 May 2010.

Furthermore, national policy reviews have identified only speculative links between display and smoking incidence. For example, in 2006, Health Canada, the Federal department, said "it is possible that restrictions on tobacco displays at retail will have an impact on this trend, but this remains very speculative at this time." In 2007, the Norwegian Department of Health and Care Services stated, "there is yet no scientific study published that definitely shows the impact that a ban against public display would have on the number of people who smoke." In the UK, the Department of Health (2008) acknowledged that there "has yet to be a full evaluation of a display ban" and said the public health benefits of prohibiting the display of tobacco products was "not conclusive."

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				<p><i>4. The proposed ban on advertising and promotion of tobacco products and the ban on the display of tobacco products in retail outlets cannot be justified as necessary or adequate to protect public health</i></p> <p>The proposed total ban on advertising and ban on the display of tobacco products in retail outlets are not necessary and/or appropriate to achieve the public health objective. This is because:</p> <ol style="list-style-type: none"> <li>a. There is universal awareness of the risks of tobacco use i.e. with 92.2% of adults in Malaysia, 97% in Thailand, 97.2% in Turkey and 97.4% in Bangladesh knowing that the risks associated with smoking are extremely high.</li> <li>b. There is no credible evidence that the measures will reduce smoking prevalence</li> </ol> <p>Consumers are well informed about the risks of smoking. Consumers, including youth, are regularly exposed to anti-smoking messages. Youth are also taught about the dangers of smoking in schools and are targeted in media campaigns that warn of health risks. Warnings on cigarette packets continue to reinforce the media coverage and other information on smoking risks. There is also no evidence that the advertising or the display of tobacco products neutralises the warnings or impedes consumers' existing awareness of the risks.</p> <p>In this environment and given the existing prohibition on the sale of tobacco products to youth, preventing the responsible advertisement and display of tobacco products for adult purchase is not necessary. Any evidence-based domestic concern regarding misleading</p>		

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				<p>or deceptive advertising, which would have to be demonstrated, can also be met by enforcement of existing laws that prevent misleading and deceptive advertising.</p> <p>Existing research does not demonstrate a credible causal connection between total advertising bans or retail display bans and smoking outcomes for youth specifically or any group of individuals generally.</p> <p>For example Duffy (1996) undertook an empirical investigation of the effect of total cigarette advertising on the demand for cigarettes in the United Kingdom and concluded that: "[n]o evidence is found in this research to back up the view that aggregate cigarette advertising has the effect of expanding total market demand for cigarettes."<sup>2</sup> A meta-analysis of empirical studies on the effect of advertising bans on cigarette consumption also concludes that "[m]ost U.S. studies of cigarette demand report small and insignificant advertising elasticities, which refutes the view that advertising has an important spillover effect on aggregate demand and smoking behaviors"<sup>3</sup></p> <p>In addition, data from countries that have implemented tobacco product display bans do not support or establish the efficacy of such bans. Specifically, where display bans have been implemented, they have not been successful in producing reductions in levels of smoking among young people or in the population</p>		

<sup>2</sup> Duffy, An Econometric Study of Advertising and Cigarette Demand in the UK. *International Journal of Advertising*, 1996, 15, 262-284; see generally, [www.health.gov.au/internet/yourhealth/publishing.nsf/Content/pcda~tpha~ta~resta#.UOGgWGg6LzI](http://www.health.gov.au/internet/yourhealth/publishing.nsf/Content/pcda~tpha~ta~resta#.UOGgWGg6LzI).

<sup>3</sup> Nelson, Jon P. (2006), "Cigarette Advertising Regulation: A Meta-Analysis," *International Review of Law and Economics*, 26, 195-226.

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				<p>generally, for example:</p> <ul style="list-style-type: none"> <li>e. A review smoking prevalence prior to and after the implementation of the display ban in Ireland found that the ban had no impact on teenage smoking prevalence (“[i]n all, 10% of teenagers reported being current regular smokers pre-legislation ... by post-legislation, 10.5% of teenagers were reporting being current regular smokers...”). Similarly, the researchers found that regarding adults “<i>the implementation of the legislation caused no immediate significant change in smoking prevalence</i>”.<sup>4</sup></li> <li>f. Examination of the data from Iceland following its 2001 retail display ban also demonstrates that display bans are not effective in reducing smoking prevalence rates. A report by Europe Economics in 2009 found that “there is no statistical basis for believing that the display ban has affected prevalence trends or consumption trends in Iceland. Further, there is no basis for believing that the display ban has affected current smoking prevalence amongst the general population or the 15-19 age group.”<sup>5</sup></li> <li>g. A 2013 analysis of RDBs in Canada similarly found that the retail display bans had no</li> </ul>		

<sup>4</sup> McNeill, A., et al., “Evaluation of the removal of point-of-sale tobacco displays in Ireland”, Tobacco Control, published online 18 November 2010.

<sup>5</sup> Report of Andrew Lilico, Ph.D., “The Impacts of Restrictions on the Display of Tobacco Products; A Supplemental Report by Europe Economics,” produced for the Japan Tobacco Group, 8 October 2009.

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				<p>significant impact on smoking participation, quit attempts or quit intentions.<sup>6</sup></p> <p>This empirical conclusion is consistent with the research on the known factors that drive smoking behaviour. The authors find that the existing evidence on the effect of advertising does not scientifically support a causal link between advertising and smoking initiation.<sup>7</sup></p> <p>In short, there is no reliable experimental data, survey data, or data on smoking behaviour to conclude that total advertising bans or retail display bans are effective in reducing smoking prevalence.</p> <p><i>5. The proposed ban on advertising and promotion of tobacco products and the ban on the display of tobacco products in retail outlets would have significant unintended consequences that undermine the health objectives</i></p> <p><u>Prices would fall and consumption would increase</u></p> <p>Banning all advertising and putting tobacco products behind closed doors or under the counter would lead to a commoditisation effect. Without the ability to communicate product differences to consumers and differentiate one brand from the next at the point of sale, consumers are likely to perceive all cigarettes as the same, leaving price as the main competitive lever. As such, price competition will become even more intense leading to further price reductions.</p> <p>The impact of reduced prices will be an increase in</p>		

<sup>6</sup> Irvine et al. (2014) "Retail Tobacco Display Bans", Working Paper No 2-14-07 available at <http://www.canadiancentreforhealththeconomics.ca/wp-content/uploads/2014/03/Hai-et-al.pdf>

<sup>7</sup> James J. Heckman, Fredrick Flyer & Colleen Loughlin, *As Assessment of Causal Inference in Smoking Initiation Research and a Framework for Future Research*, 1 Economic Inquiry 37 (2008).

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				<p>consumption as:</p> <ol style="list-style-type: none"> <li>a. Existing smokers will consume more (as tobacco products become more affordable);</li> <li>b. Some existing smokers will continue to smoke, who would otherwise have quit at higher prices; and</li> <li>c. Some non-smokers may take up smoking, which would otherwise have not done so at higher prices.</li> </ol> <p>The impact of lower prices on consumption will be particularly significant among young people who are generally more price sensitive. This would undermine the apparent objective of the proposed measure.</p> <p><u>Illicit trade would increase</u></p> <p>Banning the display of legitimate, duty-paid tobacco products could only further incentivise illicit trade by:</p> <ol style="list-style-type: none"> <li>a. Impeding the ability of enforcement agencies to identify illegal stock;</li> <li>b. Preventing adult smokers from distinguishing between counterfeit and genuine tobacco products before making a purchase;</li> <li>c. Making it easier for unscrupulous retailers to mix illicit 'under-the-counter' tobacco products with legitimate stock;</li> <li>d. Blurring the distinction between legitimate and illicit product, which would all be 'under cover', making it harder to reinforce public appreciation that smuggling, counterfeit and piracy are crimes.</li> </ol> <p>An increase in illicit trade would undermine public health</p>		

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				<p>objectives. It would also have a significant impact on Government revenues and society in general through increased criminal activity. It is also the case that illicit traders ignore age restrictions on tobacco products and any increase in their trade will actually lead to increased youth smoking.</p> <p><u>Competition would be distorted</u></p> <p>Effective communication with adult consumers through, for example, advertising and retail display of tobacco products is essential to competition in mature markets, such as the cigarette market. Regulation that would overly restrict such communication with consumers would invariably distort the market and give an advantage to tobacco brands already on the market at the expense of new entrants. Further, effective communication with adult consumers is fundamental to facilitate inter- and intra-brand competition, and to have competition on dimensions other than price. The proposed Standard would lead to increased price competition on the basis that advertising would not permit product differentiation, resulting in adult smokers down-trading to cheaper brands – or cheap illegal cigarettes – and thus increasing tobacco consumption. Putting cigarettes under the counter would lead to a commoditisation effect whereby, without the ability to differentiate one brand from the next at the point of sale, smokers are likely to perceive all cigarettes as the same.</p> <p><u>Small retailers would be disproportionately impacted</u></p> <p>If the proposed display ban was implemented, small retailers, who derive a large portion of their revenue from tobacco products, would be less likely to be able to</p>		

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				<p>bear the costs of compliance involved in refitting their stores. Small retailers would also be more likely to lose sales to larger stores, as the display of products helps to counteract the incorrect assumption that larger stores have a bigger range of products available.</p> <p>Specialist tobacconists, whose business is reliant on their ability to stock a wide range of tobacco products, will be at a particular disadvantage compared to other retailers.</p> <p>If CARICOM is committed to introducing regulation to restrict tobacco displays, this must allow for effective price and brand communication with adult smokers; permit effective brand competition at the point of sale; mitigate the potential financial and other impacts to retailers; and avoid unintended adverse consequences such as the potential for increased tobacco consumption and illicit trade.</p>		
WITC O	3, 4, 6, 7		ge	<p>These paragraphs are too wide and cannot be accepted. Please refer to the below argument. This type of regulation should be questioned by the Members State since the proposal established a control without given the tools or ways to enforce them.</p> <p><i>2. The proposed ban on advertising and promotion of tobacco products and the ban on the display of tobacco products in retail outlets would violate our right of expression, property and the right to conduct a lawful trade and manufacturer's rights to non-discrimination.</i></p> <p>However, the implementation of a total ban on advertising and promotion and a ban on the display of tobacco products in retail outlets impairs the right of the</p>	These are the general comments on absolute bans.	<p>This is a duplication of comment number 16. See comment above.</p> <p>CROSQ has a mandate to develop standards</p> <p>The regulations are specific and reflect best practice. The quoted example related to intellectual property rights has not been upheld in court proceedings.</p>

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				<p>industry to communicate with consumers in relation to its products and the right of those consumers to receive such communications in order to differentiate between products. The ability – both of the industry to communicate and consumers to receive information – is a fundamental right of freedom of expression.</p> <p>The right implicitly recognizes corporate speech.</p> <p>The ability of manufacturers to market their products to adult consumers is fundamental to fair brand competition. Responsible advertising and the display of tobacco products also performs a number of important functions for consumers, specifically:</p> <ul style="list-style-type: none"> <li>f. indicating to customers both the availability of tobacco products generally, as well as the fact that specific products are in stock;</li> <li>g. assisting customers in recognising their preferred brand and distinguishing it from other brands;</li> <li>h. preventing customer confusion and mistakes, by enabling customers to clearly differentiate between the brands on display and to identify and ask for their brand of choice;</li> <li>i. alerting customers to the existence, availability and characteristics of alternative brands; and</li> <li>j. making all smokers aware of new brands as they become available.</li> </ul> <p>The implementation of a total ban on advertising and a display ban, would remove almost entirely all means of communication which manufacturers have and deny consumers the right to receive information about lawful products. As such, these provisions would violate the right to freedom of expression and the right to compete.</p>		<p>The right to health is clearly established and takes precedence over any rights mentioned in these comments.</p> <p>Disagree with this section.</p> <p>See comments above regarding CROSQ and CARICOM mandates. Additionally, CROSQ develops voluntary standards.</p> <p>See comments above regarding right to health and UN Convention on rights of the child.</p> <p>The WHO FCTC recommends a comprehensive ban on tobacco advertising. Reference is made to the Guideline for implementation which represent WHO recommended best practice for the implementation of the FCTC</p>

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				<p>Further the draft measures would violate property and trademark rights by prohibiting almost entirely all means of use of trademarks so that they would no longer be able to serve their purpose of identifying and differentiating products. A Manufacturer would be deprived of the reality of proprietorship and the ability to use its trademarks that make that property worth having.</p> <p>Further such a prohibition will distort competition among tobacco companies by inhibiting new product launches and new market entrants.</p> <p>Furthermore, as outlined below these provisions cannot be justified by the public health objective of reducing smoking as there is no credible information that they will have any impact on smoking behaviours.</p> <p><i>3. The WHO FCTC does not require nor authorize the proposed ban on advertising and promotion of tobacco products and the ban on the display of tobacco products in retail outlets</i></p> <p>An absolute ban on advertising and promotion is not mandatory under the WHO FCTC. Importantly, the WHO FCTC does not authorise the implementation of measures that breach national laws. Article 13 of the WHO FCTC recognises that any ban on tobacco advertising, promotion and sponsorship must be in accordance with a Party's "<i>constitution[s] or constitutional principles</i>". Article 5, which sets out the general obligations of Parties, similarly acknowledges that the implementation of legislative measures must be in accordance with national laws and in "<i>accordance with [Parties'] capabilities</i>".</p>		<p><a href="https://www.who.int/fctc/guidelines/article_13.pdf?ua=1">https://www.who.int/fctc/guidelines/article_13.pdf?ua=1</a></p> <p>Reduced prices do not necessarily lead to increased illicit trade</p> <p>Comprehensive laws that eliminate tobacco advertising and promotion reduce tobacco use and therefore prevent disease and death. Studies have shown that while comprehensive advertising and promotion</p>

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				<p>Furthermore, the binding Articles of the WHO FCTC do not even mention the ban on the display of tobacco products in retail outlets. The hortatory Guidelines on Articles 13 of the WHO FCTC, which promote display bans are not binding, and also recognise that such measures may be restricted by a Party's constitution. The Guidelines on Article 13 of the FCTC recommend that "<i>display and visibility of tobacco products at points of sale constitutes advertising and promotion and should therefore be banned</i>". The Guidelines recommend "<i>that Parties should introduce a total ban on any display and on the visibility of tobacco products at points of sale, including fixed retail outlets and street vendors.</i>" Only the textual listing of products and prices, without any promotional elements, would be allowed.</p> <p>As noted above, the proposed ban on advertising and promotion of tobacco products and the ban on the display of tobacco products in retail outlets, if enacted, would impose restriction on manufacturers and consumers' right to freedom of expression, use of (intellectual) property and right to compete. It appears that the Advertising Specification was drafted without due regard to these fundamental rights.</p> <p>Product display serves important practical and commercial functions. Product display enables retailers to communicate product availability and prices to consumers, and is necessary for fair brand competition. There is no evidence to support a ban on tobacco displays. The display of tobacco products in retail stores</p>		

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				does not increase the initiation or prevalence of smoking or discourage those who attempt to quit <sup>8</sup> .  <i>4. The proposed ban on advertising and promotion of</i>		

<sup>8</sup> On consumption see e.g., Kirsten Bell, Amy Salmon, Michele Bowers, Jennifer Bell, Lucy McCullough. Smoking, stigma and tobacco 'denormalisation': Further reflections on the use of stigma as a public health tool. *Social Science & Medicine*, v. 70, i. 6, p. 795-799. 2010.

On youth initiation, see e.g., See, e.g., US Department of Health and Human Services. "Preventing Tobacco Use Among Young People: A Report of the Surgeon General" US Department of Health and Human Services, Public Health Service, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office of Smoking and Health, Chp. 4 (1994) (summarizing approximately 160 studies on the subject of the psychosocial risk factors associated with underage tobacco use); see also US Department of Health and Human Services "Preventing Tobacco Use Among Youth and Young Adults, A Report of the Surgeon General" US Department of Health and Human Services (2012) (reinforcing findings of 1994 Surgeon General's report with added emphasis on the high accessibility and availability of tobacco products, such as obtaining tobacco products from parents, siblings, or peers); Canada's Smoking Profile, The 2008/2009 Youth Smoking Survey; Fuller, E. "Smoking, drinking and drug use among young people in England in 2006" National Centre for Social Research: London 2007; Eureka Strategic Research, Youth Tobacco Literature Review (Report Prepared for Australian Government Department of Health and Ageing, June, 2005).

On on-going consumption see e.g., Professor Ravi Dhar and Professor Stephen Nowlis: "Report on Adult Consumer Behaviour and Decision-Making in the Context of Smoking", December 2010, p.31 (Research commissioned by Japan Tobacco International).

On cessation and on-going use, see, e.g., Report of Jonathan Klick, PhD, submitted by BAT New Zealand Ltd in support of its response to the Ministry of Health's Proposal to ban tobacco retail displays in New Zealand, 18 May 2010.

Furthermore, national policy reviews have identified only speculative links between display and smoking incidence. For example, in 2006, Health Canada, the Federal department, said "it is possible that restrictions on tobacco displays at retail will have an impact on this trend, but this remains very speculative at this time." In 2007, the Norwegian Department of Health and Care Services stated, "there is yet no scientific study published that definitely shows the impact that a ban against public display would have on the number of people who smoke." In the UK, the Department of Health (2008) acknowledged that there "has yet to be a full evaluation of a display ban" and said the public health benefits of prohibiting the display of tobacco products was "not conclusive."

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				<p><i>tobacco products and the ban on the display of tobacco products in retail outlets cannot be justified as necessary or adequate to protect public health</i></p> <p>The proposed total ban on advertising and ban on the display of tobacco products in retail outlets are not necessary and/or appropriate to achieve the public health objective. This is because:</p> <ul style="list-style-type: none"> <li>c. There is universal awareness of the risks of tobacco use i.e. with 92.2% of adults in Malaysia, 97% in Thailand, 97.2% in Turkey and 97.4% in Bangladesh knowing that the risks associated with smoking are extremely high.</li> <li>d. There is no credible evidence that the measures will reduce smoking prevalence</li> </ul> <p>Consumers are well informed about the risks of smoking. Consumers, including youth, are regularly exposed to anti-smoking messages. Youths are also taught about the dangers of smoking in schools and are targeted in media campaigns that warn of health risks. Warnings on cigarette packets continue to reinforce the media coverage and other information on smoking risks. There is also no evidence that the advertising or the display of tobacco products neutralizes the warnings or impedes consumers' existing awareness of the risks.</p> <p>In this environment and given the existing prohibition on the sale of tobacco products to youth, preventing the responsible advertisement and display of tobacco products for adult purchase is not necessary. Any evidence-based domestic concern regarding misleading or deceptive advertising, which would have to be demonstrated, can also be met by enforcement of existing laws that prevent misleading and deceptive</p>		

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				<p>advertising.</p> <p>Existing research does not demonstrate a credible causal connection between total advertising bans or retail display bans and smoking outcomes for youth specifically or any group of individuals generally.</p> <p>For example Duffy (1996) undertook an empirical investigation of the effect of total cigarette advertising on the demand for cigarettes in the United Kingdom and concluded that: "[n]o evidence is found in this research to back up the view that aggregate cigarette advertising has the effect of expanding total market demand for cigarettes."<sup>9</sup> A meta-analysis of empirical studies on the effect of advertising bans on cigarette consumption also concludes that "[m]ost U.S. studies of cigarette demand report small and insignificant advertising elasticities, which refutes the view that advertising has an important spillover effect on aggregate demand and smoking behaviors"<sup>10</sup></p> <p>In addition, data from countries that have implemented tobacco product display bans do not support or establish the efficacy of such bans. Specifically, where display bans have been implemented, they have not been successful in producing reductions in levels of smoking among young people or in the population generally, for example:</p> <p>h. A review smoking prevalence prior to and after the implementation of the display ban in</p>		

<sup>9</sup> Duffy, An Econometric Study of Advertising and Cigarette Demand in the UK. *International Journal of Advertising*, 1996, 15, 262-284; see generally, [www.health.gov.au/internet/yourhealth/publishing.nsf/Content/pcda~tpa~ta~resta#.UOGgWGg6LzI](http://www.health.gov.au/internet/yourhealth/publishing.nsf/Content/pcda~tpa~ta~resta#.UOGgWGg6LzI).

<sup>10</sup> Nelson, Jon P. (2006), "Cigarette Advertising Regulation: A Meta-Analysis," *International Review of Law and Economics*, 26, 195-226.

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				<p>Ireland found that the ban had no impact on teenage smoking prevalence (“[i]n all, 10% of teenagers reported being current regular smokers pre-legislation ... by post-legislation, 10.5% of teenagers were reporting being current regular smokers...”). Similarly, the researchers found that regarding adults “<i>the implementation of the legislation caused no immediate significant change in smoking prevalence</i>”.<sup>11</sup></p> <p>i. Examination of the data from Iceland following its 2001 retail display ban also demonstrates that display bans are not effective in reducing smoking prevalence rates. A report by Europe Economics in 2009 found that “there is no statistical basis for believing that the display ban has affected prevalence trends or consumption trends in Iceland. Further, there is no basis for believing that the display ban has affected current smoking prevalence amongst the general population or the 15-19 age group.”<sup>12</sup></p> <p>j. A 2013 analysis of RDBs in Canada similarly found that the retail display bans had no significant impact on smoking participation, quit attempts or quit intentions.<sup>13</sup></p> <p>This empirical conclusion is consistent with the research</p>		

<sup>11</sup> McNeill, A., et al., “Evaluation of the removal of point-of-sale tobacco displays in Ireland”, Tobacco Control, published online 18 November 2010.

<sup>12</sup> Report of Andrew Lilico, Ph.D., “The Impacts of Restrictions on the Display of Tobacco Products; A Supplemental Report by Europe Economics,” produced for the Japan Tobacco Group, 8 October 2009.

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				<p>on the known factors that drive smoking behaviour. The authors find that the existing evidence on the effect of advertising does not scientifically support a causal link between advertising and smoking initiation.<sup>14</sup></p> <p>In short, there is no reliable experimental data, survey data, or data on smoking behaviour to conclude that total advertising bans or retail display bans are effective in reducing smoking prevalence.</p> <p><i>5. The proposed ban on advertising and promotion of tobacco products and the ban on the display of tobacco products in retail outlets would have significant unintended consequences that undermine the health objectives</i></p> <p><u>Prices would fall and consumption would increase</u></p> <p>Banning all advertising and putting tobacco products behind closed doors or under the counter would lead to a commoditisation effect. Without the ability to communicate product differences to consumers and differentiate one brand from the next at the point of sale, consumers are likely to perceive all cigarettes as the same, leaving price as the main competitive lever. As such, price competition will become even more intense leading to further price reductions.</p> <p>The impact of reduced prices will be an increase in consumption as:</p> <ul style="list-style-type: none"> <li>d. Existing smokers will consume more (as tobacco products become more affordable);</li> <li>e. Some existing smokers will continue to smoke,</li> </ul>		

<sup>14</sup> James J. Heckman, Fredrick Flyer & Colleen Loughlin, *As Assessment of Causal Inference in Smoking Initiation Research and a Framework for Future Research*, 1 Economic Inquiry 37 (2008).

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				<p>who would otherwise have quit at higher prices; and</p> <p>f. Some non-smokers may take up smoking, which would otherwise have not done so at higher prices.</p> <p>The impact of lower prices on consumption will be particularly significant among young people who are generally more price sensitive. This would undermine the apparent objective of the proposed measure.</p> <p><u>Illicit trade would increase</u></p> <p>Banning the display of legitimate, duty-paid tobacco products could only further incentivise illicit trade by:</p> <ul style="list-style-type: none"> <li>e. Impeding the ability of enforcement agencies to identify illegal stock;</li> <li>f. Preventing adult smokers from distinguishing between counterfeit and genuine tobacco products before making a purchase;</li> <li>g. Making it easier for unscrupulous retailers to mix illicit 'under-the-counter' tobacco products with legitimate stock;</li> <li>h. Blurring the distinction between legitimate and illicit product, which would all be 'under cover', making it harder to reinforce public appreciation that smuggling, counterfeit and piracy are crimes.</li> </ul> <p>An increase in illicit trade would undermine public health objectives. It would also have a significant impact on Government revenues and society in general through increased criminal activity. It is also the case that illicit traders ignore age restrictions on tobacco products and any increase in their trade will actually lead to increased</p>		

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				<p>youth smoking.</p> <p><u>Competition would be distorted</u></p> <p>Effective communication with adult consumers through, for example, advertising and retail display of tobacco products is essential to competition in mature markets, such as the cigarette market. Regulation that would overly restrict such communication with consumers would invariably distort the market and give an advantage to tobacco brands already on the market at the expense of new entrants. Further, effective communication with adult consumers is fundamental to facilitate inter- and intra-brand competition, and to have competition on dimensions other than price. The proposed Standard would lead to increased price competition on the basis that advertising would not permit product differentiation, resulting in adult smokers down-trading to cheaper brands – or cheap illegal cigarettes – and thus increasing tobacco consumption. Putting cigarettes under the counter would lead to a commoditisation effect whereby, without the ability to differentiate one brand from the next at the point of sale, smokers are likely to perceive all cigarettes as the same.</p> <p><u>Small retailers would be disproportionately impacted</u></p> <p>If the proposed display ban was implemented, small retailers, who derive a large portion of their revenue from tobacco products, would be less likely to be able to bear the costs of compliance involved in refitting their stores. Small retailers would also be more likely to lose sales to larger stores, as the display of products helps to counteract the incorrect assumption that larger stores have a bigger range of products available.</p>		

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				<p>Specialist tobacconists, whose business is reliant on their ability to stock a wide range of tobacco products, will be at a particular disadvantage compared to other retailers.</p> <p>If CARICOM is committed to introducing regulation to restrict tobacco displays, this must allow for effective price and brand communication with adult smokers; permit effective brand competition at the point of sale; mitigate the potential financial and other impacts to retailers; and avoid unintended adverse consequences such as the potential for increased tobacco consumption and illicit trade.</p>		
Bah	3.1 – a)		general	clarity	Initiate any tobacco advertising, promotion or sponsorship “contrary to the standards as set forth in this document”	Accepted fully
Bah	3.1 – b)		general	clarity	Produce, publish, or disseminate any tobacco advertising, promotion or sponsorship content sponsorship country to the standards as set forth in this document	Accepted fully
Dca	3.1		ge	Please refer to the comments on absolute bans provided for articles 3, 4, 6, 7	<p>3.1 No person or entity shall:</p> <ul style="list-style-type: none"> <li>a) Initiate any tobacco advertising, promotion or sponsorship <b>directed or aimed to persons under 18 years of age</b>;</li> <li>b) Produce, publish, or disseminate any tobacco advertising, promotion or sponsorship content <b>directed or aimed to persons under 18 years of age</b>; or</li> <li>c) engage or participate in any tobacco advertising, promotion or sponsorship as media or event</li> </ul>	<p>Not accepted</p> <p>The WHO FCTC requires a comprehensive ban on advertising and promotion of tobacco products.</p> <p>Reference to direct means of communication to adults is a misnomer as adolescents are children are not always limited in their sources of information. Banning tobacco</p>

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					organizer, sportsperson, celebrity or other participant, or as a recipient of any sponsorship contribution or intermediary that facilitates any such contribution <b>except as a tobacco company;</b> within the territory of any Member State, whether the material is targeting persons inside or outside of that Member State's territory.	advertising, promotion and sponsorship is one of the best ways to protect young people from starting smoking as well as reducing tobacco consumption across the entire population
DM	3.1		ge	The Standards seems to outright abolish advertising of the product. From a company stand point this put them immediately at a disadvantage as it relates to maximizing outreach and profits. It believe that the consumers should be allowed to make informed choices.		Noted See comment above see comment number 20  Not accepted The WHO FCTC requires a comprehensive ban on advertising and promotion of tobacco products.  Reference to direct means of communication to adults is a misnomer as adolescents are children are not always limited in their sources of information. Banning tobacco advertising, promotion and sponsorship is one of the best ways to protect young people from starting smoking as well as reducing tobacco consumption across

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						the entire population
DM	<b><u>Section 3.1, 3.2, 3.3, 5.3, Anex A of the Draft.</u></b>			This section could be misconstrued to limit our communication with retailers and adult consumers, therefore limiting their possibility of obtaining clear and accurate information of different products. <u>The real and natural consequence of this situation, can only be the inequitable market closure to minor and new competitors, which will create unjust and uneven market conditions that will favor the parties with dominant position, contravening basic principles of fair competition.</u>	<b>To achieve both the real objectives of the Standard but also avoid inequities in the market, the wording of this section should allow the communication regarding tobacco products, at the very least, through direct means to the adult consumer as well as by other means in places where minors are not allowed.</b>	Not accepted  See comment above see comment number 20  Not accepted The WHO FCTC requires a comprehensive ban on advertising and promotion of tobacco products.  Reference to direct means of communication to adults is a misnomer as adolescents are children are not always limited in their sources of information. Banning tobacco advertising, promotion and sponsorship is one of the best ways to protect young people from starting smoking as well as reducing tobacco consumption across the entire population
LC	3.1		te	Advertising, promotion and sponsorship by tobacco producers and retailers should be controlled and directed and not absolute	Consider insertions as highlighted below:  "3.1 No person or entity shall: d) Initiate any tobacco advertising, promotion or sponsorship <b><u>directed or aimed to persons under 18 years of age;</u></b>	Not accepted  Repetition of comment number 20.  The WHO FCTC requires a

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					<p>e) Produce, publish, or disseminate any tobacco advertising, promotion or sponsorship content <b><u>directed or aimed to persons under 18 years of age;</u></b> or</p> <p>f) engage or participate in any tobacco advertising, promotion or sponsorship as media or event organizer, sportsperson, celebrity or other participant, or as a recipient of any sponsorship contribution or intermediary that facilitates any such contribution <b><u>except as a tobacco company;</u></b></p> <p>within the territory of any Member State, whether the material is targeting persons inside or outside of that Member State's territory.</p>	<p>comprehensive ban on advertising and promotion of tobacco products.</p> <p>Reference to direct means of communication to adults is a misnomer as adolescents are children are not always limited in their sources of information. Banning tobacco advertising, promotion and sponsorship is one of the best ways to protect young people from starting smoking as well as reducing tobacco consumption across the entire population</p>
WITC O	3.1		ge	<p>Please refer to the comments on absolute bans provided for articles 3, 4, 6, 7.</p> <p>The total ban contradicts the provisions of the Tobacco Control (TC) Act which allows for information and brand preference advertising via certain means. Additionally a complete ban on advertising may be deemed to not be justifiable in a society that has a proper respect for the rights and freedoms of the individual, in particular:</p> <ul style="list-style-type: none"> <li>the legislative objective appears to be a complete ban on tobacco advertising, promotion and sponsorship given the "overwhelming evidence" that these fuel the global tobacco "epidemic". This objective is not grounded in scientific proof to justify the limiting of a fundamental right.</li> </ul>	<p>3Provide an exception in line with the TC Act: <i>Notwithstanding subsections 3.1, 3.2, 3.3, 3.4, 3.5, a person can advertise a tobacco product by information advertising or brand preference advertising by way of :</i></p> <p>a) <i>A publication that is provided by mail and addressed to an adult smoker who is identified by name;</i></p> <p>b) <i>A publication that has an adult readership of not less than 85% as determined by a recognized survey; and</i></p> <p><i>Signs in a place where children are not allowed.</i></p>	<p>Not accepted</p> <p>The MS has their own Tobacco Act which can be amended to match the standard. This standard is a CARICOM best practice standard. MS has an option to adopt.</p>

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				the means used to impair the right or freedom is more than is reasonably necessary to accomplish the legislative objective		
Dca	3.2.1		ge	Amend in order to reflect the comments regarding absolute bans.	3.2.1 The <b>restriction</b> in clause 3.1 shall apply to cross-border tobacco advertising, promotion and sponsorship.	Not accepted 3.2 is specific to cross-border advertising
WITC O	3.2.1		ge	Amend in order to reflect the comments regarding absolute bans.	3.2.1 The <b>restriction</b> in clause 3.1 shall apply to cross-border tobacco advertising, promotion and sponsorship.	Repetition of comment number 25  Not accepted 3.2 is specific to cross-border advertising
Bah	3.2.2 line 2 3.3 line 2 & 3		general	May be difficult to accomplish With the popularity of the internet, it is virtually impossible to ensure that banned forms of cross-border tobacco and advertising etc. do not "flow into its territory" or are not "broadcast into or otherwise received" in a territory	Omit "nor flow into its territory" , Question: If all forms of advertising including cross-border advertising are banned, then shouldn't this be ALL instead of "banned forms"? also 3.6.2 Omit "internet content" .... "broadcast into or otherwise received"	Not accepted  The technical means to achieve the stated aims exists.
DM	3.2.2		Clarification		A clear definition of sponsorship should be stipulated. There are many ways to receive "kickbacks".	Noted Definition is in the FCTC guideline
Dca	3.3		ge	Amend in order to reflect the comments regarding absolute bans.	3.3 Internet and audiovisual broadcast The <b>restrictions</b> on tobacco advertising, promotion and sponsorship contained herein include internet content that is accessible within the territory of a Member State and to any other audio, visual or audiovisual material broadcast into or otherwise received in a Member State's territory.	Not accepted  This does not add to the standard
LC	3.3		ge	How practical would prohibiting advertising of tobacco	Seeking clarification. Requirements must be	See comment number 27

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				on internet and audiovisual be?	practical for implementation.	Not accepted  The technical means to achieve the stated aims exists.
WITC O	3.3		ge	Amend in order to reflect the comments regarding absolute bans.	Eliminate	Not accepted
Dca	3.4		ge	Amend in order to reflect the comments regarding absolute bans.	3.4 Ferries, airplanes, ports and airports The <b>restrictions</b> contained herein apply to all ferries, airplanes, ports, and airports within the Caribbean Community.	Not accepted  The actual wording will remain
LC	3.4		te	Cruise ships should be included to the list.	<b>“3.4 Ferries, <u>cruise ships</u>, airplanes, ports and airports</b>  The prohibitions contained herein apply and extend to all ferries, <b><u>cruise ships</u></b> , airplanes, ports and airports within the Caribbean Community.”	Accepted fully
WITCO	3.4		ge	Amend in order to reflect the comments regarding absolute bans.	Eliminate	Noted Agreed to LC 3.4 above comment. inserted <b><u>cruise ships</u></b> in the heading and in the body but original wording remains
Dca	3.5		ge	3.5 should be eliminated. Due to the fundamental differences in product characteristics and risk profile, EN(N)DS should not be subject to the same restrictions as tobacco products. Instead, CROSQ should propose guidelines that protect young people and non-smokers		Not accepted  A new definition was given which reflect current best

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				from inappropriate EN(N)DS advertising.		practice
WITCO	3.5		ge	3.5 should be eliminated. Due to the fundamental differences in product characteristics and risk profile, EN(N)DS should not be subject to the same restrictions as tobacco products. Instead, CROSQ should propose guidelines that protect young people and non-smokers from inappropriate EN(N)DS advertising.		Not accepted  A new definition was given which reflect current best practice
DM	3.6				Section 3.6 should be moved to Section 3.2. The definition should come before discussion of prohibition advertising.	Accepted in part 3.6 to be moved to 3.1
LC	3.6		ed	Clause is ambiguous and does not give specific guidelines or requirements. The general comment that the document should be a guideline is further supported  Reword for clarity on intent of Annex and place 3.6.2 as a note or paragraph given it edifies 6.2.1 and does not give further requirements.  Also include nature of annex in foreword and title of annex as "normative."	"Without limiting in any way the broad application of this Standard, Annex A provides, examples of forms, media and means of tobacco advertising, promotion and sponsorship prohibited by this Standard.  NOTE The list presented in Annex A is not exhaustive and the National Standards Body or competent authority in a Member State may expand the examples in Annex A as it deems appropriate and useful, especially in instances of new and emerging forms of cross border tobacco advertising, promotion and sponsorship."	Accepted fully
Dca	3.6.1		ge	All tobacco restrictions must be adopted through a formal parliamentary process. The regulation of advertising and promotion does not fall within the definition of a standard within the meaning of the Agreement Establishing the CROSQ, which consequently lacks the authority to propose requirements or restrictions relating to advertising and promotion. Article 3.6.1 should be eliminated.  Moreover, even if the prohibition on advertising and		Not accepted  Countries have the authority to adopt standards into the national law

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				promotion were maintained (even though such prohibition falls outside of CROSQ's mandate) the "indicative list" in Annex A contains examples of advertising, promotion and sponsorship that are not, in fact, any of these things and which should therefore be excluded from the list. In this regard, specific reference is made to paragraphs 16 and 17 of Annex A, which must be eliminated.		
WITCO	3.6.1		ge	All tobacco restrictions must be adopted through a formal parliamentary process. Giving the option to the Minister to add more restrictions through an executive order it is not possible under the system adopted.	Please refer to the specific regulations of Trinidad & Tobago Tobacco Control Act 2009	Not accepted  Countries have the authority to adopt standards into the national law
Dca	3.6.2		ge	Please refer to comments on 3.6.1	Eliminate	Not accepted  Countries have the authority to adopt standards into the national law
WITCO	3.6.2		ge	Please refer to comments on 3.6.1	Please refer to the specific regulations of Trinidad & Tobago Tobacco Control Act 2009	Not accepted  Countries have the authority to adopt standards into the national law
Dca	4.1		ge	<i>There are other available measures which are less trade restrictive and could be considered in this proposal</i>  As explained above, existing laws that prevent misleading and deceptive advertising are sufficient to meet any demonstrable concerns while also respecting the choices and rights of adults who choose to use tobacco products and allowing legal industry, to	4.1 The <b>restrictions</b> on advertising, promotion and sponsorship of tobacco products, electronic nicotine delivery systems ("ENDS") and electronic non-nicotine delivery systems ("ENNDS") contained herein do not apply to: a) depictions of tobacco products or tobacco use in media where the depiction is justified by reasons of historical accuracy and legitimate	Not accepted  The actual wording in the standard will remain

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				<p>communicate with consumers. The enforcement of these laws should be undertaken, if required, before introducing more unnecessary regulation.</p> <p>There are also several examples of markets that have relatively low smoking prevalence rates, whilst also adopting less restrictive approaches to the regulation of tobacco advertising. Japan, which is also a Party to the WHO FCTC provides an example of a country that has been able to reduce tobacco consumption without the adoption of a comprehensive ban on the advertising of tobacco products and without banning the display of tobacco products at point of sale.</p> <p>Adult smoking prevalence in Japan has declined by around 18% between 2010 and 2013 from 21.7% in 2010 to 20.4% in 2013<sup>15</sup>.</p> <p>Advertising in Japan is restricted by voluntary rules that are focused on ensuring that advertising is not misleading and is not aimed at youth.</p> <p>In summary the voluntary restrictions include:</p> <ul style="list-style-type: none"> <li>• No advertising on TV, radio, cinema, or on the internet, unless it is restricted to adults only.</li> <li>• No advertising in any printed publication unless a number of conditions are met (e.g. at least 75% of readers are adults, no advertising to be placed on the packaging or outside covers).</li> <li>• No advertising at any highly public place such as outdoor billboards, excluding tobacco sales outlets and smoking areas.</li> </ul>	<p>journalistic, artistic or academic expression; and</p> <p>b) genuine political, social, or scientific commentary about tobacco products or tobacco use; provided no payment or other consideration was offered or made by a tobacco product manufacturer or seller, or any person acting on behalf of or in the interest of either.</p>	

<sup>e</sup> Smoking prevalence statistics sourced from Euromonitor

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				<ul style="list-style-type: none"> <li>Promotional activities and sampling are permitted, but must not target minors or non-smokers.</li> <li>Advertising content is restricted. For example, content should not be aimed at minors, should not contain celebrity endorsements and should not suggest that "smoking promotes sporting, athletic or professional success, or enhances popularity or sexual success".</li> </ul> <p>Point of sale advertising and retail display of tobacco products is permitted.</p>		
J'ca	4.1			<p>In keeping with the guidelines, the objective of banning tobacco advertising, promotion and sponsorship can usually be achieved without banning communications within the tobacco trade. However, these exceptions must be explicitly defined and strictly applied. The following addition is suggested:</p> <p>(c) information that is necessary for business administration or for required corporate reporting but only to the extent access is limited to the person (s) who need to received it for business administration or corporate reporting;</p> <p>(d) product information made accessible to persons within the tobacco trade who need the information for tobacco trading decisions, but only to the extent access is limited to those persons; and</p> <p>(e) tobacco manufacturers' newsletter destined for and distributed only to the manufacturer's employees, contractors, suppliers, and other tobacco – related business partners, and only to the extent their distribution is limited to such persons".</p>		<p>Accepted fully</p> <p>Insert bullets below into the document.</p> <p>(c) information that is necessary for business administration or for required corporate reporting but only to the extent access is limited to the person (s) who need to received it for business administration or corporate reporting;</p> <p>(d) product information made accessible to persons within the tobacco trade who need the information for tobacco trading decisions, but only to the extent access is limited to those persons; and</p> <p>(e) tobacco manufacturers'</p>

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						newsletter destined for and distributed only to the manufacturer's employees, contractors, suppliers, and other tobacco – related business partners, and only to the extent their distribution is limited to such persons".
WITCO	4.1		ge	<p><i>There are other available measures which are less trade restrictive and could be considered in this proposal</i></p> <p>As explained above, existing laws that prevent misleading and deceptive advertising are sufficient to meet any demonstrable concerns while also respecting the choices and rights of adults who choose to use tobacco products and allowing legal industry, to communicate with consumers. The enforcement of these laws should be undertaken, if required, before introducing more unnecessary regulation.</p> <p>There are also several examples of markets that have relatively low smoking prevalence rates, whilst also adopting less restrictive approaches to the regulation of tobacco advertising. Japan, which is also a Party to the WHO FCTC provides an example of a country that has been able to reduce tobacco consumption without the adoption of a comprehensive ban on the advertising of tobacco products and without banning the display of tobacco products at point of sale.</p> <p>Adult smoking prevalence in Japan has declined by around 18% between 2010 and 2013 from 21.7% in 2010 to 20.4% in 2013.</p>	<p>4.1 The <b>restrictions</b> on advertising, promotion and sponsorship of tobacco products, electronic nicotine delivery systems ("ENDS") and electronic non-nicotine delivery systems ("ENNDS") contained herein do not apply to:</p> <p>a) depictions of tobacco products or tobacco use in media where the depiction is justified by reasons of historical accuracy and legitimate journalistic, artistic or academic expression; and</p> <p>b) genuine political, social, or scientific commentary about tobacco products or tobacco use; provided no payment or other consideration was offered or made by a tobacco product manufacturer or seller, or any person acting on behalf of or in the interest of either.</p>	<p>Not accepted</p> <p>The actual wording in the standard will remain</p>

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				<p>Advertising in Japan is restricted by voluntary rules that are focused on ensuring that advertising is not misleading and is not aimed at youth.</p> <p>In summary the voluntary restrictions include:</p> <ul style="list-style-type: none"> <li>• No advertising on TV, radio, cinema, or on the internet, unless it is restricted to adults only.</li> <li>• No advertising in any printed publication unless a number of conditions are met (e.g. at least 75% of readers are adults, no advertising to be placed on the packaging or outside covers).</li> <li>• No advertising at any highly public place such as outdoor billboards, excluding tobacco sales outlets and smoking areas.</li> <li>• Promotional activities and sampling are permitted, but must not target minors or non-smokers.</li> <li>• Advertising content is restricted. For example, content should not be aimed at minors, should not contain celebrity endorsements and should not suggest that "smoking promotes sporting, athletic or professional success, or enhances popularity or sexual success".</li> </ul> <p>Point of sale advertising and retail display of tobacco products is permitted.</p>		
Dca	4.2		ge	See comments on 4.1	No person or entity shall employ any means with respect to any depiction or commentary as mentioned at clause 4.1 that are false, misleading, deceptive, or likely to create an erroneous impression about the characteristics, health effects, hazards, or emissions of a tobacco product.	Not accepted  The actual wording will remain

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DM	4.2		Clarification/ reference	Section contains the words “commentary as mentioned” without prior reference to any particular part of the document or other document.		Noted  Include “clause 1”
J'ca	4.2			The clause reference is not stated.		Noted  Include “clause 1”
LC	4.2			Insert reference to clause 4.1	“...any depiction or commentary as mentioned at clause <b>4.1</b> that are false, misleading...”	Accepted fully
WITCO	4.2		ge	See comments on 4.1	No person or entity shall employ any means with respect to any depiction or commentary as mentioned at clause <b>4.1</b> that are false, misleading, deceptive, or likely to create an erroneous impression about the characteristics, health effects, hazards, or emissions of a tobacco product.	Accepted fully
Dca	4.3		ge	Please see comments in respect of Article 3, 4, 6, 7. Further this places oversight in the hand of the parties responsible for dissemination of communications. Therefore, there is no CARICOM or Member State oversight which may lead to arbitrary and ill-informed decisions being taken.	Eliminate	Not accepted  The WHO FCTC requires a comprehensive ban on advertising and promotion of tobacco products.  Reference to direct means of communication to adults is a misnomer as adolescents are children are not always limited in their sources of information. Banning tobacco advertising, promotion and sponsorship is one of the best ways to protect young people from

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						starting smoking as well as reducing tobacco consumption across the entire population
LC	4.3			Clause speaks to third party publishing or production where owner of the entertainment is not the tobacco company/retailer/distributor and the production is not so initiated by them  Consider rewording the title of subclause	<b>Duties of publishing entity for third party productions</b>	Not accepted "A company" in 4.1 refers to all companies.
WITCO	4.3		ge	Please see comments in respect of Article 3, 4, 6, 7. Further this places oversight in the hand of the parties responsible for dissemination of communications. Therefore, there is no CARICOM or Member State oversight which may lead to arbitrary and ill-informed decisions being taken.	Eliminate	Not accepted The WHO FCTC requires a comprehensive ban on advertising and promotion of tobacco products.  Reference to direct means of communication to adults is a misnomer as adolescents are children are not always limited in their sources of information. Banning tobacco advertising, promotion and sponsorship is one of the best ways to protect young people from starting smoking as well as reducing tobacco consumption across the entire population
Bah	4.3.1	c)	general	recommendation	This should not be allowed AT ALL	Not accepted

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						Change <b>may</b> in to <b>shall</b> <i>authority in a Member State</i> <b>shall...</b>  insert as a) a) <i>certify that no</i> <i>benefits, <b>other</b></i> <i><b>than direct</b></i> <i><b>payment for</b></i> <i><b>services</b> have</i> <i>been received in</i> <i>exchange for that</i> <i>depiction;</i>
Dca	4.3.1		ge	See comments on 4.1	Eliminate	Not accepted  The actual wording will remain
WITCO	4.3.1		ge	See comments on 4.1		Not accepted  The actual wording will remain
Dca	4.3.2		ge	See comments on 4.1	Eliminate	Not accepted  The actual wording will remain
Dca	5		ge			No comments given
WITCO	5		ge			No comments given
Dca	5.1		ge	It is important to consider that the FCTC requirements.	No person shall sell, offer for sale or possess for the purpose of sale any cigarette product, unless the package bears a text health	Not accepted

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					warning that shall cover 30% of the two principal display surface areas and be located in the lower half of each package in such a way that the warning is not damaged when the package is opened.	5.1 complies to an existing standard and the current information will remain
J'ca	5.1				The following should be added to the clause : "or the applicable legislation of the individual territory"	Accepted fully
WITCO	5.1		ge	Trinidad & Tobago already approved a Regulation on this subject.		Noted
DM	5.2		ge	It prudent to observe that at present in Dominica certain cigarette brands (B&H and Malborough) are sold in packs of 10 and not 20; what happens when this Standard is enforced? They are outlawed? What constitutes the marked difference between 10 in a pack or 20? Please allow clarity.		This is correct base on the FCTC.  The CROSQ labelling of tobacco products will be referenced
Dca	5.2.1		ge	5.2.1-5.2.2: It is important to mention that these regulations should take into consideration the CARICOM Standard for Packaging and Labelling of Tobacco Products already discussed and approved by the Member States in the corresponding Regional Forum which does not establish any limitation on quantities and regulating in this sense contributes on the growth of illicit trade as it will not allow the legal industry to offer different options to the consumers that are available.	Eliminate	Accepted fully  This section was deleted. The CARICOM Standard for labelling of tobacco products will be referenced  SAME AS 65, 66, 68
WITCO	5.2.1		ge	5.2.1-5.2.2: It is important to mention that these regulations should take into consideration the CARICOM Standard for Packaging and Labelling of Tobacco Products already discussed and approved by the Member States in the corresponding Regional	Eliminate	Accepted fully  This section was deleted. The CARICOM Standard for labelling of tobacco products

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				Forum which does not establish any limitation on quantities and regulating in this sense contributes on the growth of illicit trade as it will not allow the legal industry to offer different options to the consumers that are available.		will be referenced
Dca	5.2.2		ge	See comments on 5.2.1.	Eliminate	Accepted fully  This section was deleted. The CARICOM Standard for labelling of tobacco products will be referenced
LC	5.2.2		ge	Bulk tobacco is currently sold on the market at 0.23 kg or more.	Consider adding an exception similar to exception for cigars in clause 5.2.1  "Except for bulk tobacco which is sold in quantities greater than 20 g."	Not accepted  This section was deleted. The CARICOM Standard for labelling of tobacco products will be referenced
WITCO	5.2.2		ge	See comments on 5.2.1.	Eliminate	Accepted fully  This section was deleted. The CARICOM Standard for labelling of tobacco products will be referenced
Dca	5.3		ge	Please refer to the comments on absolute bans provided for articles 3, 4, 6, 7	Eliminate	Not accepted  The WHO FCTC requires a comprehensive ban on advertising and promotion of tobacco products.

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						Reference to direct means of communication to adults is a misnomer as adolescents are children are not always limited in their sources of information. Banning tobacco advertising, promotion and sponsorship is one of the best ways to protect young people from starting smoking as well as reducing tobacco consumption across the entire population
WITCO	5.3		ge	Please refer to the comments on absolute bans provided for articles 3, 4, 6, 7	Eliminate	Not accepted The WHO FCTC requires a comprehensive ban on advertising and promotion of tobacco products.  Reference to direct means of communication to adults is a misnomer as adolescents are children are not always limited in their sources of information. Banning tobacco advertising, promotion and sponsorship is one of the best ways to protect young people from starting smoking as well as reducing tobacco

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						consumption across the entire population
J'ca	6				It would be beneficial to include a requirement for health warnings to be posted at point of sale in places where tobacco products are sold.	Not accepted Warnings are provided on packages, the display of which are outlined in section 7.
LC	6		te	The name of the standard is <i>Requirements for Tobacco Advertising, Promotion and Sponsorship</i> but clause 6 cover <b>Sales</b> .	Sales should be included in the name of the standard.  "Requirements for Tobacco Advertising, Sale, Promotion and Sponsorship."	Accepted fully
Dca	6.1		ge	Please refer to the comments on absolute bans provided for articles 3, 4, 6, 7	Eliminate	Not accepted The WHO FCTC requires a comprehensive ban on advertising and promotion of tobacco products.  Reference to direct means of communication to adults is a misnomer as adolescents are children are not always limited in their sources of information. Banning tobacco advertising, promotion and sponsorship is one of the best ways to protect young people from starting smoking as well as reducing tobacco consumption across the entire population
WITCO	6.1		ge	Please refer to the comments on absolute bans	Eliminate	Not accepted

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				provided for articles 3, 4, 6, 7		The WHO FCTC requires a comprehensive ban on advertising and promotion of tobacco products.  Reference to direct means of communication to adults is a misnomer as adolescents are children are not always limited in their sources of information. Banning tobacco advertising, promotion and sponsorship is one of the best ways to protect young people from starting smoking as well as reducing tobacco consumption across the entire population
Bah	6.2	line 3 and 4	general	Limiting and restrictive doesn't take into consideration the unique geographical make up of The Bahamas The Bahamas consist of a number of non-linked land masses which, at times, makes it impossible for some retailers and purchasers to be in the same physical location. In most of these situations, the retailer or purchaser will send an order to the distributor via telephone or email for delivery by air or sea.	Suggest amending the last sentence to read "... <b>where the sale and or delivery of the products are not in the same country or territory as the seller.</b> "	Accepted in part Insert below <b><i>where the sale and or delivery of the products are not in the same country</i></b>
RPT	6.2		Te	Insert clause for package quantities	<b>Package Quantities</b>  No person or entity shall sell any smoked tobacco product unless it is contained in a package of not less than twenty units per package of the tobacco product, with	Not accepted  This section was omitted. It was agreed to reference the labelling of tobacco products.

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					<p>the exception of cigars which shall be sold in packages containing not less than ten units.</p> <p>No person or entity shall sell any smokeless tobacco product unless it is contained in a package of at least twenty grams.</p>	
RPT			Te	Include a clause to capture plain packaging	<p><b>Plain packaging</b></p> <p>Plain packaging of tobacco shall be in accordance with the applicable legislation of the individual territory.</p>	Not accepted since this standard covers Article 13
Dca	6.2		ge	<p>We believe that adult consumers making an informed choice to buy tobacco products should be able to do so through their preferred retail channel. The sale of tobacco products to informed adult consumers through the internet should be permitted with appropriate regulation.</p> <p>Concerns have rightly been raised about remote sales of tobacco products, primarily relating to the potential for both access by minors (due to absent or inadequate age verification). However, we believe that it is possible to put in place adequate safeguards for the remote sale of tobacco products, and we support the development and enforcement of effective regulation of tobacco sales through channels where retailers and consumers are not in the same physical location, to ensure that only</p>	<p>No person or entity shall sell any tobacco product, ENDS or ENNDS, or enable or facilitate such sale, over the Internet or through the mail or by any other means <b>unless the age of the purchaser is duly corroborated to be older than 18 years old.</b></p>	<p>Not accepted</p> <p>Current wording in the standard remains</p> <p>SAME COMMENT AT 79</p>

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				<p>legitimate products are sold by legitimate retailers and are sold only to informed adult smokers.</p> <p>We support the following regulatory environment for internet sales:</p> <ul style="list-style-type: none"> <li>• Robust age and identity verification should be applied before any sale is made. Simply asking consumers to tick a box stating “click here to confirm you are an adult” or similar is not sufficient. As a minimum standard, we believe that an appropriate combination of credit cards, third-party databases, or any other available reliable solution should be used for this purpose.</li> <li>• Tobacco products should be packed in discrete unbranded boxes for delivery and carry a message such as “To be opened by addressee only”. Shippers and logistics companies should ensure secure delivery to an adult.</li> <li>• All taxes must be duly paid to the appropriate authorities.</li> <li>• Log-in pages to branded websites must be free of tobacco products advertising and branding and must only provide users with information about the nature of the page in plain type. Age verification must be completed before any tobacco branded content is shared.</li> <li>• Consumers should be informed of the risks of smoking and health warnings should be displayed on every page. It must also be noted that the online sales channel is crucial to the growth of the ENDS and ENNDS product category, which has a different risk profile from tobacco products and which may the potential to deliver significant public health benefits.</li> </ul>		

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DM	6.2 & 7			Both sections are mentioned in the Annex and seem repetitive.		Not accepted  Sections can remain
LC	6.2		ge	<p>Seeking clarification on <b>Sales via internet or mail</b>. Is there a current situation throughout the Caribbean?</p> <p>Are we going to create a technical barrier by limiting the sale to same location?</p> <p>Online sales are new technological trend. Standard should not restrict use of technology, There are many items that are sold on line and control measures are present.</p>	<p>Some rules for the internet sales can be:</p> <ul style="list-style-type: none"> <li>• Age and identity verification should be made before any sale is made.</li> <li>• Adequate packaging for these products must be implemented.</li> <li>• Log-in pages to branded websites must be free of tobacco products advertising and branding.</li> </ul> <p>Consumers must be informed of the risks of smoking and health warnings should be displayed on every page.</p>	Not accepted  Prohibition of internet sales is current best practice
WITCO	6.2		ge	<p>We believe that adult consumers making an informed choice to buy tobacco products should be able to do so through their preferred retail channel. The sale of tobacco products to informed adult consumers through the internet should be permitted with appropriate regulation.</p> <p>Concerns have rightly been raised about remote sales of tobacco products, primarily relating to the potential for both access by minors (due to absent or inadequate age verification). However, we believe that it is possible to put in place adequate safeguards for the remote sale of tobacco products, and we support the development and enforcement of effective regulation of tobacco sales through channels where retailers and consumers are not in the same physical location, to ensure that only legitimate products are sold by legitimate retailers and</p>	<p>No person or entity shall sell any tobacco product, ENDS or ENNDS, or enable or facilitate such sale, over the Internet or through the mail or by any other means <b>unless the age of the purchaser is duly corroborated to be older than 18 years old.</b></p>	Not accepted  Current wording in the standard remains

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				<p>are sold only to informed adult smokers.</p> <p>We support the following regulatory environment for internet sales:</p> <ul style="list-style-type: none"> <li>• Robust age and identity verification should be applied before any sale is made. Simply asking consumers to tick a box stating “click here to confirm you are an adult” or similar is not sufficient. As a minimum standard, we believe that an appropriate combination of credit cards, third-party databases, or any other available reliable solution should be used for this purpose.</li> <li>• Tobacco products should be packed in discrete unbranded boxes for delivery and carry a message such as “To be opened by addressee only”. Shippers and logistics companies should ensure secure delivery to an adult.</li> <li>• All taxes must be duly paid to the appropriate authorities.</li> <li>• Log-in pages to branded websites must be free of tobacco products advertising and branding and must only provide users with information about the nature of the page in plain type. Age verification must be completed before any tobacco branded content is shared.</li> <li>• Consumers should be informed of the risks of smoking and health warnings should be displayed on every page. It must also be noted that the online sales channel is crucial to the growth of the ENDS and ENNDS product category, which has a different risk profile from tobacco products and which may the potential to deliver significant public health benefits.</li> </ul>		

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DM	6.3		ge	Please clarify		It is as stated.
Dca	6.5			<p>k. Electronic nicotine delivery systems (“ENDS”) and electronic non-nicotine delivery systems (“ENNDS”) must be excluded in this regulation. ENDS and ENNDS are not included within the provisions of the WHO FCTC and accordingly their inclusion in the Advertising Specification is not required to meet the obligations under the WHO FCTC.</p> <p>Given that this is a new product category we believe that any regulatory regime should take account of the specifics of the products. We do not think it makes sense to shoe horn e-cigarettes into existing regulatory regimes for tobacco products.</p>	<p>No person or entity shall manufacture, import, distribute or sell any toy tobacco product, or snack or candy that resembles a tobacco product in whole or in part. <b>An exemption is made for electronic nicotine delivery systems (“ENDS”) and electronic non-nicotine delivery systems (“ENNDS”).</b></p>	<p>Not accepted</p> <p>This is not relevant to this section</p> <p>SAME COMMENT AT 83</p>
LC	6.5		te	<p>Rephrase sentence since <i>Snack or candy</i> are not considered toy products but food items.</p> <p>l.</p>	<p>suggestion Include new clause for food resembling tobacco products and give requirements:</p> <p><b>6.5 Toy Tobacco products</b> “No person or entity shall manufacture, import distribute or sell any toy tobacco products.”</p> <p><b>6.6 Tobacco-like food products</b> No person or entity shall manufacture, import, distribute or sell any snack or candy that resembles a tobacco product in whole or in part.</p>	<p>Accepted in part</p> <p>Expanded definition in 2.16 to include edible products</p>
WITCO	6.5			<p>m. Electronic nicotine delivery systems (“ENDS”) and electronic non-nicotine delivery systems (“ENNDS”) must be excluded in this regulation. ENDS and ENNDS are not included within the provisions of the WHO FCTC and accordingly their inclusion in the Advertising Specification is not required to meet the obligations under</p>	<p>No person or entity shall manufacture, import, distribute or sell any toy tobacco product, or snack or candy that resembles a tobacco product in whole or in part. <b>An exemption is made for electronic nicotine delivery systems (“ENDS”) and electronic non-nicotine delivery systems (“ENNDS”).</b></p>	<p>Not accepted</p> <p>This is not relevant to this section</p>

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				<p>the WHO FCTC.</p> <p>Given that this is a new product category we believe that any regulatory regime should take account of the specifics of the products. We do not think it makes sense to shoe horn e-cigarettes into existing regulatory regimes for tobacco products.</p>		
AG	Section 7		te	<p>Once again by limiting the amount of dispensers that can be available at a point of sale, the Draft will promote a favourable climate for the competitors with the Dominant position, which already have control of the vast majority of the existing dispensers.</p> <p>If we take into consideration that in the market's territory most of the tobacco products are sold through a dispenser, it is clear that by banning dispensers the Draft promotes an unfair treatment to other competitors which will be forced out of the point of sale.</p> <p>Without the possibility of providing their own dispensers to points of sale, distributors with a smaller share of market in the tobacco products category will be ripped of the chance to fairly compete and have an equal presence in the market.</p>	Therefore we suggest a review of section 5.3 in order to guarantee all competitors to have a fair chance to be present at the point of sale through a dispensing unit. In this case we suggest to either eliminate said section or to indicate that "no more than one cigarette dispensing unit per distributor will be allowed".	<p>Not accepted</p> <p>Not relevant to the section</p> <p>SAME AS COMMENTS 91,</p>
AG	Section 7		te	<p>Opposed to this restriction since it impedes competition, imposes significant costs and other burdens on retailers and could promote illicit trade of tobacco products in the market. It has been the experience in other countries that display bans have led to an increase of illegal or contraband cigarettes sold, for example, following the ban in Canada, 27 per cent of cigarettes sold are contraband.</p> <p>From the retailers' point of view, this is yet another</p>	Considering that there is no evidence that this measure would provide the desired objective, and in effect would further proliferate contraband as well as destroy basic legal principles, it should clearly be revised. In that sense, a wording that limits the display and visibility of tobacco products from outside of the points of sale, but allowing visibility of tobacco products in an area inside of the points of sale.	<p>Not accepted</p> <p>This is not in line with current best practice</p>

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				<p>restriction placed by the government to selling legal cigarettes in their stores, and at the same time, it provides a new gateway for illicit cigarettes to flourish leveraging in an environment with no regulation or control by the authorities. Additionally, the introduction of this measure would hurt the bottom line of retailer's stores. The increase in illicit trade, combined with the cost of the cabinets needed to abide by the regulation, will push many of these family-run small businesses to struggle to stay in business.</p> <p>Point of sale displays facilitate competition among different brands by showing customers what brands are available and allowing adult customers to decide which tobacco product they wish to purchase. Therefore, banning the display of tobacco products is anti-competitive. Banning displays favours well known, established brands over new brands and creates barriers to entry into the market.</p> <p>In the EU, Member States have expressed concern that the UK display ban would effectively prohibit the entrance of any new members to the UK market and would benefit those manufacturers who have already established a presence in the market prior to the display ban. Other countries have rejected a ban on displaying the products at the retail, and even the newly revised tobacco product directive in the EU does not prohibit display of tobacco products.</p> <p><sup>1</sup> <a href="http://dailycaller.com/2013/03/19/bloombergs-unhealthy-tobacco-display-ban/">http://dailycaller.com/2013/03/19/bloombergs-unhealthy-tobacco-display-ban/</a></p> <p><sup>2</sup> Physicians for a Smoke Free Canada, 2008 "Estimating the volume of contraband sales of tobacco</p>		

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				in Canada "		
Dca	7		ge	<p>n. Please refer to the comments on absolute bans provided for articles 3, 4, 6, 7</p> <p>o.</p> <p>p. In addition to the comments made in relation to paragraphs 3, 4, 6 and 7, the prohibition on the display at the point of sale appears to be inconsistent with Article 20 of the WTO TRIPS Agreement.</p> <p>q.</p> <p>r. In particular, an RDB imposes special requirements that encumber the use of trademarks in a retail environment, which is a critical point in time for a trademark to be used (i.e., when some consumers are making their decision about which brand to purchase).</p>	Eliminate	<p>Not accepted</p> <p>The WHO FCTC requires a comprehensive ban on advertising and promotion of tobacco products.</p> <p>Reference to direct means of communication to adults is a misnomer as adolescents are children are not always limited in their sources of information. Banning tobacco advertising, promotion and sponsorship is one of the best ways to protect young people from starting smoking as well as reducing tobacco consumption across the entire population</p> <p>Points P and R has been ruled on in the UK high courts and refer you to the relevant documents</p> <p><b>SAME AS 93, 95 AND 97</b></p>
Dca				<p>1. Article 20 of the TRIPS Agreement requires that the use of trademarks "in the course of trade" shall not be "unjustifiably encumbered by special requirements, such as ... use in a manner detrimental to its capability to distinguish the goods or services of one</p>		<p>Not accepted</p> <p>The WHO FCTC requires a comprehensive ban on advertising and promotion of tobacco products.</p>

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				<p>undertaking from those of other undertakings.”</p> <p>2. Distinguishing products is the core function of trademarks. Any measure that takes the form of a special requirement that negatively affects the capability of trademarks to distinguish goods in the marketplace “encumbers” the use of the trademark.</p> <p>3. Article 20 thus imposes obligations on WTO Members not to impose unjustifiable requirements on the use of trademarks that undermine their essential functions.</p> <p>4. An RDB falls within the definition of “special requirements.” First, an RDB is a “requirement” because it is mandatory. Second, this requirement is specifically limited to tobacco products, thus constituting a “special” requirement. An RDB, mandating that tobacco products (carrying legally registered trademarks) are not displayed in a retail environment, will directly conflict with and limit the use of validly registered trademarks on otherwise lawfully available products. It thus “encumbers” the trademark owners’ use of their trademarks on tobacco packaging “in the course of trade”.</p> <p>5. An RDB encumbers the use of trademarks by effectively imposing a prohibition on their use in a retail environment. It severely undermines the essential functions of a trademark, namely its ability to be seen by consumers in order for them to be capable of distinguishing products. It is only through its use (i.e. display) that a trademark can fulfil this core function. An RDB</p>		<p>Reference to direct means of communication to adults is a misnomer as adolescents are children are not always limited in their sources of information. Banning tobacco advertising, promotion and sponsorship is one of the best ways to protect young people from starting smoking as well as reducing tobacco consumption across the entire population</p> <p>Points P and R has been ruled on in the UK high courts and refer you to the relevant documents</p>

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				<p>therefore significantly impairs the capability of trademarks to distinguish goods as they are placed behind closed doors.</p> <p>6. “Use in a manner detrimental to its capability to distinguish” is an example of an encumbrance that is specifically identified as unjustifiable under Article 20 of the TRIPS Agreement. Because an RDB requires that tobacco products are kept out-of-sight and behind closed doors, it is highly detrimental to the ability of tobacco-related trademarks to distinguish between different tobacco products. As such, it violates Article 20 of the TRIPS Agreement and cannot be justified.</p> <p>7. The term “unjustifiable” in Article 20 is included for two reasons (1) to distinguish these listed encumbrances from the encumbrances that are expressly condoned<sup>16</sup>; and (2) to allow for encumbrances expressly envisaged by the TRIPS Agreement such as those resulting from a product ban or resulting from the fact that the specific trademark violates public order, or is otherwise in conflict with another prior trademark right. In addition, if a particular trademark offends public morals or is demonstrated to be misleading, its registration may be invalidated and its use may be encumbered as a result.</p> <p>8. The term “unjustifiable” is necessary to avoid an overly broad and absolute reading of the</p>		

<sup>16</sup> Article 20, second sentence, condones “requirements prescribing the use of the trademark identifying the undertaking producing the goods or services along with, but without linking it to, the trademark distinguishing the specific goods or services in question of that undertaking”.

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				<p>prohibition of Article 20 on encumbrances on the use of the mark, such as product bans and the like. This term (“unjustifiable”) however does not allow for encumbrances on the use of trademarks not envisaged in the TRIPS Agreement. It does not allow for encumbrances simply because they are related to a health objective.</p> <p>9. In fact, the TRIPS Agreement does not set forth a general health exception because Article 8.1 of the TRIPS Agreement merely confirms the principle that Members remain free to adopt measures necessary to protect health “provided that such measures are consistent with the provisions of this [TRIPS] Agreement.” So, the negotiators of the TRIPS Agreement deliberately decided not to include a general health exception for IP rights in the TRIPS Agreement, unlike in the general agreements on goods (GATT) and services (GATS). This must be given meaning and argues against reading such a health exception into a term like “unjustifiable,” which was inserted with a different goal in mind, as explained above. Nor is there a need for a broad health exception, given that trademarks are simply distinguishing signs that are protected by an intangible property right. Trademarks are not harmful to health.</p> <p>In any case, even if the term “unjustifiable” were to be considered to allow for measures “necessary” to protect health, as demonstrated below, the absence of any contribution to the reduction of smoking rates, let alone a material reduction, and the availability of less</p>		

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				trademark-restrictive alternative measures that are equally or more effective, confirms that these encumbrances resulting from an RDB are not "necessary" and thus certainly not "justifiable."		
DM	7		Location of comment	Should be part of advertising	Move to section 3.6	Accepted fully  Clause 7 will be placed under 3.6 and that 3.6 will be the new 3.1
DM	<b><u>Section 7 of the Draft.</u></b>			<ul style="list-style-type: none"> <li>We are opposed to this restriction since it impedes competition, imposes significant costs and other burdens on retailers and could promote <a href="#">illicit trade</a> of tobacco products in the market. It has been the experience in other countries that display bans have led to an increase of illegal or contraband cigarettes sold<sup>17</sup>, for example, following the ban in Canada, 27 per cent of cigarettes sold are contraband<sup>18</sup>.</li> <li>From the retailers' point of view, this is yet another restriction placed by the government to selling legal cigarettes in their stores, and at the same time, it provides a new gateway for illicit cigarettes to flourish leveraging in an environment with no regulation or control by the authorities. Additionally, the introduction of this measure would hurt the bottom line of retailer's stores. The increase in illicit trade, combined with the cost of the cabinets needed to abide by the regulation, will push many of these family-run small businesses to struggle to</li> </ul>	<b>Considering that there is no evidence that this measure would provide the desired objective, and in effect would further proliferate contraband as well as destroy basic legal principles, it should clearly be revised. In that sense, a wording that limits the display and visibility of tobacco products from outside of the points of sale, but allowing visibility of tobacco products in an area inside of the points of sale.</b>	Not accepted  Refer to FCTC Illicit Trade Protocol which is now in effect

<sup>17</sup><http://dailycaller.com/2013/03/19/bloombergs-unhealthy-tobacco-display-ban/>

<sup>18</sup>Physicians for a Smoke Free Canada, 2008 "Estimating the volume of contraband sales of tobacco in Canada"

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				<p>stay in business.</p> <ul style="list-style-type: none"> <li>Point of sale displays facilitate competition among different brands by showing customers what brands are available and allowing adult customers to decide which tobacco product they wish to purchase. Therefore, banning the display of tobacco products is anti-competitive. Banning displays favors well known, established brands over new brands and creates barriers to entry into the market</li> <li>In the EU, Member States have expressed concern that the UK display ban would effectively prohibit the entrance of any new members to the UK market and would benefit those manufacturers who have already established a presence in the market prior to the display ban. Other countries have rejected a ban on displaying the products at the retail, and even the newly revised tobacco product directive in the EU does not prohibit display of tobacco products.</li> </ul>		
DM	<b><u>Section 7 of the Draft.</u></b>			<p>Once again by limiting the amount of dispensers that can be available at a point of sale, the Draft will promote a favorable climate for the competitors with the Dominant position, which already have control of the vast majority of the existing dispensers.</p> <p>If we take into consideration that in the market's territory most of the tobacco products are sold through a dispenser, it is clear that by banning dispensers the Draft promotes an unfair treatment to other competitors which will be forced out of the point of sale.</p> <p>Without the possibility of providing their own dispensers</p>	<p><b>Therefore we suggest a review of section 5.3 in order to guarantee all competitors to have a fair chance to be present at the point of sale through a dispensing unit. In this case we suggest to either eliminate said section or to indicate that "no more than one cigarette dispensing unit per distributor will be allowed".</b></p>	<p>Not accepted</p> <p>Not relevant to the section</p>

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			ge	<p>to points of sale, distributors with a smaller share of market in the tobacco products category will be ripped of the chance to fairly compete and have an equal presence in the market.</p> <p>It is our position that the Draft constitutes a complete ban on tobacco advertising and marketing, with which we do not agree. The ability for companies to market their products to adult consumers is fundamental to vigorous competition and we believe it is important for adult consumers and the trade to be able to receive information on the available product range and on their preferred product choice.</p> <p>As a socially responsible company that continuously contributes with the welfare of its people, we understand and support standards and regulations that would encourage a better lifestyle for all citizens. In our view, if carefully drafted and implemented, this standard can strike the right balance between effectively limiting tobacco product marketing while preserving the ability of distributors to communicate with adult consumers. This will assure a healthy market dynamic in a manner in which the spirits of free enterprise and fair competition are protected and promoted.</p> <p>Finally we will like to formally request your authorization to participate in a seating of the council in order to present any further comments and clarifications once the review process of this communication is finished. Once again we appreciate the opportunity to address this council, with our best regards.</p>		
LC	7		ge	Display of product at point of sale should not be		Points P and R has been

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				considered advertising. Article 20 of the WTO TRIPS agreement mandates that countries do not unjustifiably encumber through creation of special requirements or laws the use of trademarks to distinguish products.		ruled on in the UK high courts and refer you to the relevant documents
WITCO	7		ge	<p>s. Please refer to the comments on absolute bans provided for articles 3, 4, 6, 7</p> <p>t.</p> <p>u. In addition to the comments made in relation to paragraphs 3, 4, 6 and 7, the prohibition on the display at the point of sale appears to be inconsistent with Article 20 of the WTO TRIPS Agreement.</p> <p>v.</p> <p>w. In particular, an RDB imposes special requirements that encumber the use of trademarks in a retail environment, which is a critical point in time for a trademark to be used (i.e., when some consumers are making their decision about which brand to purchase).</p> <p>x.</p> <p>y. 1. Article 20 of the TRIPS Agreement requires that the use of trademarks "in the course of trade" shall not be "unjustifiably encumbered by special requirements, such as ... use in a manner detrimental to its capability to distinguish the goods or services of one undertaking from those of other undertakings."</p> <p>z. 2. Distinguishing products is the core function of trademarks. Any measure that takes the form of a special requirement that negatively affects the capability of trademarks to distinguish goods in the marketplace "encumbers" the use of the trademark.</p>	Eliminate	<p>Not accepted</p> <p>The WHO FCTC requires a comprehensive ban on advertising and promotion of tobacco products.</p> <p>Reference to direct means of communication to adults is a misnomer as adolescents are children are not always limited in their sources of information. Banning tobacco advertising, promotion and sponsorship is one of the best ways to protect young people from starting smoking as well as reducing tobacco consumption across the entire population</p> <p>Points P and R has been ruled on in the UK high courts and refer you to the relevant documents</p>

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				<p>aa. 3.Article 20 thus imposes obligations on WTO Members not to impose unjustifiable requirements on the use of trademarks that undermine their essential functions.</p> <p>bb. 4.An RDB falls within the definition of “special requirements.” First, an RDB is a “requirement” because it is mandatory. Second, this requirement is specifically limited to tobacco products , thus constituting a “special” requirement. An RDB, mandating that tobacco products (carrying legally registered trademarks) are not displayed in a retail environment, will directly conflict with and limit the use of validly registered trademarks on otherwise lawfully available products. It thus “encumbers” the trademark owners’ use of their trademarks on tobacco packaging “in the course of trade”.</p> <p>cc. 5.An RDB encumbers the use of trademarks by effectively imposing a prohibition on their use in a retail environment. It severely undermines the essential functions of a trademark, namely its ability to be seen by consumers in order for them to be capable of distinguishing products. It is only through its use (i.e. display) that a trademark can fulfil this core function. An RDB therefore significantly impairs the capability of trademarks to distinguish goods as they are placed behind closed doors.</p> <p>dd. 6.“Use in a manner detrimental to its capability to distinguish” is an example of an encumbrance that is specifically identified as</p>		

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				<p>unjustifiable under Article 20 of the TRIPS Agreement. Because an RDB requires that tobacco products are kept out-of-sight and behind closed doors, it is highly detrimental to the ability of tobacco-related trademarks to distinguish between different tobacco products. As such, it violates Article 20 of the TRIPS Agreement and cannot be justified.</p> <p>ee. 7.The term “unjustifiable” in Article 20 is included for two reasons (1) to distinguish these listed encumbrances from the encumbrances that are expressly condoned; and (2) to allow for encumbrances expressly envisaged by the TRIPS Agreement such as those resulting from a product ban or resulting from the fact that the specific trademark violates public order, or is otherwise in conflict with another prior trademark right. In addition, if a particular trademark offends public morals or is demonstrated to be misleading, its registration may be invalidated and its use may be encumbered as a result.</p> <p>ff. 8.The term “unjustifiable” is necessary to avoid an overly broad and absolute reading of the prohibition of Article 20 on encumbrances on the use of the mark, such as product bans and the like. This term (“unjustifiable”) however does not allow for encumbrances on the use of trademarks not envisaged in the TRIPS Agreement. It does not allow for encumbrances simply because they are related to a health objective.</p> <p>gg. 9.In fact, the TRIPS Agreement does not set</p>		

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				<p>forth a general health exception because Article 8.1 of the TRIPS Agreement merely confirms the principle that Members remain free to adopt measures necessary to protect health “provided that such measures are consistent with the provisions of this [TRIPS] Agreement.” So, the negotiators of the TRIPS Agreement deliberately decided not to include a general health exception for IP rights in the TRIPS Agreement, unlike in the general agreements on goods (GATT) and services (GATS). This must be given meaning and argues against reading such a health exception into a term like “unjustifiable,” which was inserted with a different goal in mind, as explained above. Nor is there a need for a broad health exception, given that trademarks are simply distinguishing signs that are protected by an intangible property right. Trademarks are not harmful to health.</p> <p>hh. In any case, even if the term “unjustifiable” were to be considered to allow for measures “necessary” to protect health, as demonstrated below, the absence of any contribution to the reduction of smoking rates, let alone a material reduction, and the availability of less trademark-restrictive alternative measures that are equally or more effective, confirms that these encumbrances resulting from an RDB are not “necessary” and thus certainly not “justifiable.”</p>		

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Bah	7.1	Lines 3 and 4	General	recommendation	Suggest amending the last sentence to read: "... or made visible other than being visible at the point of sale."	Not accepted This will create an exception
Dca	7.1		ge	Please refer to the comments on absolute bans provided for articles 3, 4, 6, 7	Eliminate	Not accepted The WHO FCTC requires a comprehensive ban on advertising and promotion of tobacco products.  Reference to direct means of communication to adults is a misnomer as adolescents are children are not always limited in their sources of information. Banning tobacco advertising, promotion and sponsorship is one of the best ways to protect young people from starting smoking as well as reducing tobacco consumption across the entire population  Points P and R has been ruled on in the UK high courts and refer you to the relevant documents
WITCO	7.1, 7.2		ge	Please refer to the comments on absolute bans provided for articles 3, 4, 6, 7	The exception should state: Clause 7.1 and 7.2 shall not apply to cigarette dispensers provided by the manufacturer. The dispensers shall not be used for the purposes	Not accepted

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					of tobacco advertising or promotion.	
Dca	7.2		ge	Please refer to the comments on absolute bans provided for articles 3, 4, 6, 7	Eliminate	Not accepted The WHO FCTC requires a comprehensive ban on advertising and promotion of tobacco products.  Reference to direct means of communication to adults is a misnomer as adolescents are children are not always limited in their sources of information. Banning tobacco advertising, promotion and sponsorship is one of the best ways to protect young people from starting smoking as well as reducing tobacco consumption across the entire population  Points P and R has been ruled on in the UK high courts and refer you to the relevant documents
AG	Section 8		te	Concerned that by restricting this means of communication to one per outlet, the Draft will promote a situation of inequality for smaller competitors. Taking into consideration the current status of the tobacco products market in the market and the fact that only one price list will be allowed per point of sale, the main issue with this section is that it will create an advantage for the dominant players whom will be likely to have control	It is our position that this section should be amended to allow each competitor in the market to prepare a price list, avoiding the clearly unfair duty of communicating its prices to a competitor prior to general publication, as well as to make this pricelist available and visible even without the request of the	Not accepted  Prices for consumer products are open to the members of the public

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				<p>of the printing and distribution of said lists.</p> <p>If this section is implemented it could lead to a situation of inequality through which the smaller competitors will not have the possibility to be equally included on price lists controlled by the competitors with the dominant position. Furthermore, the dynamics of a centralized and individual price list will force smaller competitors to divulge sensitive pricing information to the dominant player in the market for inclusion in the lists, even before executing the actual price change in the market.</p> <p>It is pertinent to clarify that the Distributor does not oppose the use of a price list in points of sales, but all competitors must have the opportunity to communicate the price information in a manner that is both fair and balanced for the market.</p>	purchaser.	
Bah	8.0	Lines 1,2 &3	General	How does that fit into the VAT guidelines that require that all prices must be displayed? VAT : TAX implemented in the Bahamas	Suggest amending to read “..... <b>may be displayed</b> provided that the price list must be on a single sheet of letter size paper (8.5 inches x 11 inches) containing only	Not accepted The list provided will show VAT as provided by law
Dca	8			Taking into consideration the above comments and complying with the local laws tobacco industry should have the right to communicate this information to consumers having the same opportunities of other legal products.	Eliminate	Not accepted  Prices for consumer products are open to the members of the public
DM	8		ge	Does this apply to manufacturers with point of sale within the manufacturing plant?		Yes it applies There are no expectations for point of sale restrictions
DM	<b><u>Section 8 of the Draft.</u></b>			<ul style="list-style-type: none"> <li>We are concerned that by restricting this mean of communication to one per outlet, the Draft will promote a situation of inequality for smaller</li> </ul>	<b>It is our position that this section should</b>	Not accepted  Prices for consumer

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				<p>competitors. Taking into consideration the current status of the tobacco products market in the market and the fact that only one price list will be allowed per point of sale, the main issue with this section is that it will create an advantage for the dominant players whom will be likely to have control of the printing and distribution of said lists.</p> <ul style="list-style-type: none"> <li>If this section is implemented it could lead to a situation of inequality through which the smaller competitors will not have the possibility to be equally included on price lists controlled by the competitors with the dominant position. <u>Furthermore, the dynamics of a centralized and individual price list will force smaller competitors to divulge sensitive pricing information to the dominant player in the market for inclusion in the lists, even before executing the actual price change in the market.</u></li> </ul> <p>It is pertinent to clarify that the Distributor does not oppose the use of a price list in points of sales, but all competitors must have the opportunity to communicate the price information in a manner that is both fair and balanced for the market.</p>	<b>be amended to allow each competitor in the market to prepare a price list, avoiding the clearly unfair duty of communicating its prices to a competitor prior to general publication, as well as to make this pricelist available and visible even without the request of the purchaser.</b>	products are open to the members of the public
LC	8		ge	Prices should be displayed to consumer as per consumer rights bill. The use of single sheet with small text may not be acceptable		Not accepted  Prices for consumer products are open to the members of the public
WITCO	8			Taking into consideration the above comments and complying with the local laws tobacco industry should have the right to communicate this information to consumers having the same opportunities of other legal	Eliminate	Not accepted  Prices for consumer products are open to the

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				products.		members of the public
RPT	8.3.2		te	Add new clause	NO person shall go into a public place carrying any tobacco product, Electronic Delivery System or Electronic Non-Nicotine Delivery System ("ENNDS") or component, in a tray, container or otherwise for the purpose of making sales or commercially displaying the product.	Accepted fully
RPT	8.4.2		te	Add new clause	No person shall sell a tobacco product, Electronic Nicotine Delivery System ("ENDS") or Electronic Non-Nicotine Delivery System ("ENNDS") or component to a minor"	Accepted fully
RPT	8.4.3		te	Add new clause	No person shall employ a minor to sell or handle a tobacco product, Electronic Nicotine Delivery System ("ENDS"), Electronic Non-Nicotine Delivery System ("ENNDS") or component"	Accepted fully
Dca	9		ge	This clause is too wide since gives the power to the authority to request more information. We oppose provisions which require that we submit reports containing details of financial investment and other confidential information. The reporting would not generate information that would be of value to either regulators or consumers. The authority may only require information that has	Eliminate	Not accepted  Content in the document will remain

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				<p>been previously agreed with the national stakeholders including the tobacco industry, and that no proprietary confidential information of the company is made available to the general public.</p> <p>Also it is important to question how this information will be protected by CARICOM as it can be viewed as commercially sensitive material.</p>		
J'ca	9			The inclusion of Section 9 appears unnecessary, as the Standard, with the proposed amendments above, reflects a total prohibition on all forms of tobacco advertising promotion and sponsorship.		<p>Not accepted</p> <p>Content in the document will remain</p>
LC	9		Ge	Reporting requirements are not part of what is being standardised and should not be part of the requirements of this standard	Consider making an annex which provides additional information.	<p>Not accepted</p> <p>Content in the document will remain</p>
WITCO	9		ge	<p>This clause is too wide since gives the power to the authority to request more information. We oppose provisions which require that we submit reports containing details of financial investment and other confidential information.</p> <p>The reporting would not generate information that would be of value to either regulators or consumers.</p> <p>The authority may only require information that has been previously agreed with the national stakeholders including the tobacco industry, and that no proprietary confidential information of the company is made available to the general public.</p> <p>Also it is important to question how this information will be protected by CARICOM as it can be viewed as commercially sensitive material.</p>		<p>Not accepted</p> <p>Content in the document will remain</p>
Dca	9.1		ge	See comments on 9	Eliminate	Not accepted

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						Content in the document will remain
WITCO	9.1		ge	See comments on 9	Eliminate	Not accepted  Content in the document will remain
Dca	9.2		ge	See comments on 9	Eliminate	Not accepted  Content in the document will remain
WITCO	9.2		ge	See comments on 9	Eliminate	Not accepted  Content in the document will remain
Trinidad and Tobago				19 (1) of the Tobacco Control Act indicates that advertising, promotion and sponsorship is prohibited.  It states: 19. (1) No person shall initiate, produce, publish, engage or participate in any tobacco advertising, promotion or sponsorship.  Trinidad and Tobago therefore has no comments on the standard.		Noted This comment is not applicable
Dca	A		ge	Please refer to the comments on absolute bans provided for articles 3, 4, 6, 7	Eliminate	Not accepted The WHO FCTC requires a comprehensive ban on advertising and promotion of tobacco products.

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						Reference to direct means of communication to adults is a misnomer as adolescents are children are not always limited in their sources of information. Banning tobacco advertising, promotion and sponsorship is one of the best ways to protect young people from starting smoking as well as reducing tobacco consumption across the entire population
J'ca	Annex A				In keeping with the guidelines for implementation, the following should be included in the list of Annex A: "packaging and product design features".	Accepted Insert Packaging and product features in Annex A
WITCO	A		ge	Please refer to the comments on absolute bans provided for articles 3, 4, 6, 7	Eliminate	Not accepted The WHO FCTC requires a comprehensive ban on advertising and promotion of tobacco products.  Reference to direct means of communication to adults is a misnomer as adolescents are children are not always limited in their sources of information. Banning tobacco advertising, promotion and sponsorship is one of the best ways to protect young people from

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						starting smoking as well as reducing tobacco consumption across the entire population
J'ca	Annex A - 2				Replace "or sellers" with ",importers, or wholesalers"	Accepted in part Add to the Annex importers or wholesalers
J'ca	Annex A - 3			The explicit prohibition of product diversification through brand stretching, reverse brand stretching and brand sharing is supported.		Noted
Bah	ANNEX A	Paragraph 5 line 1	General	Clarity	Amend to read <b>additional</b> tobacco products, <b>or any non-smoking related items</b>	Not accepted It is already included
DM	Annex A #5		ge	Are lighters and holders included?		Yes they are included
AG	Annex A subsection 14		te	It is key to reiterate that the Distributor carries not only tobacco products or tobacco related services but a relevant amount of other products not related to the tobacco category. This section will affect the Distributor complete organization, and as it could be appreciated, one of the pillars of our company is our Corporate Social Responsibility programs, through which we proudly promote the welfare and greater good of the country's people. Restricting our possibility of executing programs related to education, social welfare, among others, would potentially limit our efforts of supporting a better Antigua.	In view of the foregoing, it is our position that this sections, along with the similar Sections (as further explained above), should be excluded from the standard in order to avoid the dramatic market distortions described herein, always taking into consideration that the distributor commercializes many other products in the market.	Not accepted Promotion is prohibited
DM	<b><u>Annex A</u></b> <b><u>subsection</u></b> <b><u>14 of the</u></b> <b><u>Draft.</u></b>			It is key to reiterate that the Distributor carries not only tobacco products or tobacco related services but a relevant amount of other products not related to the tobacco category. This section will affect the Distributor complete organization, and as it could be appreciated, one of the pillars of our company is our Corporate	<b>In view of the foregoing, it is our position that this sections, along with the similar Sections (as further explained above), should be excluded from the standard in order to avoid the dramatic market distortions described herein, always</b>	Not accepted Promotion is prohibited

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				Social Responsibility programs, through which we proudly promote the welfare and greater good of the countries' people. Restricting our possibility of executing programs related to education, social welfare, among others, would potentially limit our efforts of supporting our country.	<b>taking into consideration that the distributor commercializes many other products in the market.</b>	
AG	Annex A subsection 15		te	<p>This sections proposes a complete ban on brand and company identity communications, going as far as prohibiting the use of company's logos and identity elements in non-tobacco products. By limiting the possibility of use of our company branding on non-tobacco products, the Draft not only affects our capability to promote or communicate our tobacco importing and distributing business but also all other businesses and products carried out by our company, hence restricting the possibility of commercial growth for our entire business structure.</p> <p>Additionally, by completely prohibiting the use of privately owned trademarks or company identity elements on non-tobacco products, this section will drastically cripple our possibility to promote our company on regular business materials such as business cards, paper items, letter heads, etc. This not only gives a favourable panorama to the competitors with dominant position but will also constitute a violation to our rights to promote our company and business, therefore representing a clear override of the principles of free enterprise and fair competition.</p>	In view of the foregoing, it is our position that these sections, along with the similar Sections, should be excluded from the Standard in order to avoid the dramatic market distortions described herein, always taking into consideration that the Distributor commercializes many other products in the market.	Not accepted This comment is not relevant to the quoted section
DM	<u><b>Annex A subsection 15 of the Draft.</b></u>			<ul style="list-style-type: none"> <li>This sections proposes a complete ban on brand and company identity communications, going as far as prohibiting the use of company's logos and identity elements in non-tobacco products. <u>By limiting the possibility of use of a company's</u></li> </ul>		Not accepted This comment is not relevant to the quoted section

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				<p><u>branding on non-tobacco products, the Draft not only affects the capability to promote or communicate the tobacco importing and distributing business but also all other businesses and products carried out by companies, hence restricting the possibility of commercial growth for our entire business structure.</u></p> <p>Additionally, by completely prohibiting the use of privately owned trademarks or company identity elements on non-tobacco products, this section will drastically cripple the possibility to promote the company on regular business materials such as business cards, paper items, letter heads, etc. <u>This not only gives a favorable panorama to the competitors with dominant position but will also constitute a violation to a company's rights to promote the company and business, therefore representing a clear override of the principles of free enterprise and fair competition.</u></p>		
Bah	ANNEX A	Paragraph 16	General	recommendation	<p>Suggest omitting “Commercial display of tobacco products, including at point of sale and” of Paragraph 16.</p> <p>Added to <b>Section 4.1.2 of the CARICOM REGIONAL STANDARD Labelling of Tobacco Products</b> document to read as follows:</p> <p><b>4.1.2</b> Each health warning shall consist of two parts, designated as ‘front of package’ and ‘back of package’ in Annexes A, B and C. <b>The front or back package health warnings shall be clearly visible at point of sale</b></p>	<p>Not accepted</p> <p>It is a critical part of a comprehensive ban</p>

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					<b>displays of tobacco packages.</b> These health warnings shall not be obscured by any other display component, unless required by law	
Dca	A.16			Display of the product at the point of sale is not advertising.	Eliminate	Not accepted  Self explanatory
WITCO	A.16			Display of the product at the point of sale is not advertising.	Eliminate	Not accepted  Self explanatory
Bah	ANNEX A	Paragraph 18	General	recommendation	Amend "Any other form of tobacco advertising, promotion or sponsorship by any method or means" to say "The above suggestions should be considered in conjunction with the following amendments to <b>ANNEX A</b> "	Not accepted  No amendments were provided

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