

Vice Advertising II - Cigars, Electronic Cigarettes, and Smokeless Tobacco

In the February 21, 2011, edition of *Outdoor Outlook*, OAAA began a series of articles providing answers to common questions about advertising vice products. In this article, OAAA will address the advertising of cigars, electronic cigarettes, and smokeless tobacco.

Can cigars be advertised on billboards?

Like cigarette manufacturers, the seven largest cigar manufacturers voluntarily entered into a Master Settlement Agreement (MSA) with the Federal Trade Commission (FTC) in which they agreed to "clearly and conspicuously display warnings on all advertisements." Unlike the cigarette MSA, the cigar MSA does not prohibit participating cigar manufacturers from including brand names in advertising, but ads must include a specifically sized Surgeon General's warning.

For more details regarding the cigar MSA and/or the required Surgeon General's warnings, [please review the OAAA materials here](#).

Can smokeless and chewing tobacco products be advertised on billboards?

The Comprehensive Smokeless Tobacco Health Education Act of 1986, or the Smokeless Tobacco Act, required manufacturers, importers, and packagers of smokeless tobacco products to display

on a rotating basis one of three Surgeon General warnings on product packages and in most advertising. Billboards were excluded.

However, in June 2010, President Obama signed into law the Family Smoking Prevention and Tobacco Control Act, which amended the Smokeless Tobacco Act to change the existing health warning language, added a fourth, and required it apply to all outdoor advertisements.

Additionally, the Family Smoking Prevention Act added new size, format, and display requirements for the statutory health warnings on packaging and advertisements. The new warnings must now occupy at least 20 percent of any advertisement, including billboards.

Furthermore, the Family Smoking Prevention Act does not preempt the provisions of the Tobacco Act, which bans

all "outdoor advertising for cigarettes or smokeless tobacco, including billboards, posters, or placards . . . within 1,000 feet of the perimeter of any public playground or playground area in a public park . . . elementary school, or secondary school."

Similar warning and/or spacing provisions exist in Illinois, Michigan, Utah, and West Virginia, to mention a few.

Can electronic cigarettes be advertised on billboards?

OAAA has recently fielded numerous questions about the advertising of electronic cigarettes. Also known as e-cigarettes or vaporizer cigarettes, these new products are battery-powered devices that provide inhaled doses of nicotine or non-nicotine vaporized solution. These are used as an alternative to smoked tobacco products.

(Continued on page 2)



Fumar
cigar
623.594.4020
2010 W. Parkside Lane, Suite 110
On Parkside, one block south of Pinnacle Peak, one block west of 19th Ave.
www.fumarcigarusa.com

Retail Store • Hookah Lounge • Groups Welcome



SURGEON GENERAL WARNING:
Cigars Are Not A Safe Alternative To Cigarettes.

This ad roughly depicts the size and font required for a standard 14x48 billboard Surgeon General's warning.

CALENDAR

April 11-13
OAAA/TAB National Convention & Trade Show
Miami Beach, FL

April 11
FOARE Board Meeting
8-9 am, Miami Beach, FL

April 11
OAAA Board of Directors Meeting
Noon - 3 pm, Miami Beach, FL

April 13
OAAA OBIE Awards
Miami Beach, FL

April 20
Webinar: OAAA Convention Recap and OBIE Award Winners
2-3 pm ET

April 27
Webinar: Transit Series 2 - Rail
2-3 pm ET

April 28
Webinar: OAAA Biennial Membership Meeting
2-3 pm ET

May 4
Webinar: TAB's EYES ON VIII
2-3 pm ET

May 11
Webinar: The Changing Face of America
2-3 pm ET

May 18
Webinar: Transit Series 3 - Airport
2-3 pm ET

June 8
Webinar: Creativity V - Take a Creative Ride
2-3 pm ET

July 13
Webinar: Creativity VI - New Technology
2-3 pm ET

Vice Advertising - Smokeless Tobacco (continued)

In September 2009, the Food and Drug Administration (FDA) classified electronic cigarettes as drug delivery devices, subjecting them to regulation under the Food, Drug, and Cosmetic Act (FDCA). As a result, they required market authorization prior to importation and sale in the United States.

However, in January 2010, the classification was overruled by a federal district court judge. In its appeal, the FDA argued the right to regulate electronic cigarettes based on its previous ability to regulate nicotine replacement therapies such as nicotine gum or patches.

In December 2010, an appeals court ruled against the FDA, ruling it can only regulate electronic cigarettes as tobacco products and cannot block their import.

Pursuant to the Federal Cigarette and Smokeless Tobacco Acts, however, the term "cigarette" is broadly defined. Thus, the FTC's Bureau of Consumer Protection has ruled it unlawful for a manufacturer or importer of electronic cigarettes to advertise without including one of four health warnings:

- 1. SURGEON GENERAL'S WARNING:** Smoking Causes Lung Cancer, Heart Disease, and Emphysema.
- 2. SURGEON GENERAL'S WARNING:** Quitting Smoking Now Greatly Reduces Serious Health Risks.
- 3. SURGEON GENERAL'S WARNING:** Pregnant Women Who Smoke Risk Fetal Injury and Premature Birth.
- 4. SURGEON GENERAL'S WARNING:** Cigarette Smoke Contains Carbon Monoxide.

As with smokeless tobacco, the regulations also dictate size, format, and display requirements for the statutory health warnings, (i.e. the warnings must occupy 20 percent of any advertisement) and prohibit outdoor advertising within 1,000 feet of the perimeter of



The Dutch Masters cigar brand is produced by Altadis U.S.A. and is covered by the MSA, but this ad doesn't contain the required warnings.

any public playground or playground area in a public park, elementary school, or secondary school.

It should be noted that some states have begun to consider either including electronic cigarettes in bans that affect tobacco or banning their sale entirely.

Other common questions:

Q: Can I advertise costs for cigars, electronic cigarettes, or smokeless products?

A: Yes, there is no prohibition regarding displaying price.

Q: Can I advertise cigar brands not covered by the cigar MSA?

A: Yes, the MSA provisions only apply to the participating manufacturers. Furthermore, liability for violating the MSA attaches to the manufacturer and/or importer and not to the advertiser or media company.

The next and final article in the series will evaluate advertisements for alcohol and gambling.

For questions about "vice" advertising, please contact Myron Laible (milaible@oaaa.org) or Kerry Yoakum (kyoakum@oaaa.org).

Convention Speaker Spotlight: Nancy Ryan

Nancy Ryan
Director of Media Integration
Allstate

Nancy Ryan is the director of media integration for Allstate. She leads the integrated media efforts for all of Allstate product lines: auto, home, retirement, life, and specialty lines including motorcycle, boat, renters, condo, commercial lines, snowmobiles, and other power sports.

She is also responsible for integrated media plans for Allstate's corporate advocacy campaign supporting teen driving legislation and regulatory reform of the insurance industry, all multicultural media efforts, and Allstate's sports sponsorship media including the Allstate Sugar Bowl and Olympics.

Ryan will address attendees of the 2011 OAAA/TAB National Convention & Trade Show during the Wednesday, April 13 general session. She will discuss out of home advertising of insurance brands.

[See the full convention agenda.](#)



Convention Prep: Apps, Tweets, and Likes

To address today's world of apps, tweets, likes and views, OAAA and TAB will be incorporating the latest social networking tools into the upcoming 2011 OAAA/TAB National Convention & Trade Show.

It's not too soon to start benefiting from the available social media networks that will be used in Miami. With so many ways to connect and engage – before, during and after the convention – the out of home industry is sure to find what it needs to prepare for the national convention or keep up with developments from home.

GrabYourShare.mobi



Plan Ahead: The official convention mobile site allows attendees to access via a smart phone full convention information, including the agenda, course details, speaker bios, event locations, and more.



Attendees with an iPhone or an Android can either enter <http://grabyourshare.mobi> in their smart phone browser, or scan the QR code to immediately access the mobile site.

FLYsmart Application



Learn the Area: The FLYsmart app provides a map of all surrounding locations based on a phone's GPS position. It will help to successfully navigate airports on the way to Miami, offer local restaurant suggestions with directions, and provide the location of each convention workshop.

Visit the iPhone or Android marketplace to download the FLYsmart app, or simply scan the QR code.

Twitter



#GrabYourShare hashtag. Attendees

Spread the Word:

Already tweeting about the convention? Be sure to use the designated

GrabYourShare.mobi

Scan the QR code to download the convention mobile site.



FLYsmart

Scan the QR code to download the convention mapping app.

Download a QR code scanner at www.scanlife.com.

can share their excitement with colleagues before arrival at the Convention, and those unable to attend can see what tweeters are saying about the event. Got a question for a general session speaker? Tweet it using the #GrabYourShare hashtag.

Be sure to follow @YourOAAA for updates and highlights before the convention. Also follow OAAA President & CEO Nancy Fletcher @nfletcherOAAA.

Visit www.twitter.com to create a Twitter account.

Facebook



Stay in the Know: Visit www.oaaa.org/facebook now to 'like' OAAA and get updates before and throughout the convention. OAAA will also post pictures and videos from the convention to Facebook each day.

LinkedIn



See Who's Going: Connect with colleagues before the convention via the OAAA LinkedIn group. Visit www.oaaa.org/linkedin to join.



Outdoor Outlook is produced by OAAA as a member service. Previous issues can be found at www.oaaa.org.

In Memoriam: Barry Ackerley and Henry Posner

Two leaders of the outdoor advertising industry passed away last week: Barry Ackerley died March 21, Henry Posner on March 23.

Ackerley bought Obie Media in Seattle in 1975, later renaming the company The Ackerley Group, Inc. He once owned outdoor inventory in Boston, Miami, Portland, and Seattle. In 2002, the multimedia Ackerley Group was acquired by Clear Channel Worldwide.

A native of Des Moines, IA, Ackerley said he wanted to be known as the man who saved the Seattle SuperSonics professional basketball team. Ackerley bought the team in 1983 to ensure the SuperSonics would remain in Seattle.

Chemist-by-training, Posner worked for several years as a research scientist during World War II and briefly taught chemistry at the University of Pittsburgh. After World War II, Henry Posner joined his father's billboard business, Pittsburgh Outdoor Advertising Company, taking over in the 1960s. An entrepreneur, Posner ultimately oversaw 26 companies. Posner donated millions to causes that were close to his heart. A funeral service was held March 25 at Rodef Shalom Temple, Pittsburgh.