

Cigar Advertising

In June, 2000, the seven largest U.S. cigar companies agreed to include warnings about significant adverse health risks of cigar use in their advertising and packaging in a settlement with the Federal Trade Commission.

The seven companies, which comprise about 95 percent of the U.S. cigar market, are Swisher International, Inc., Consolidated Cigar Corporation, Havatampa, Inc., General Cigar Holdings, Inc., John Middleton, Inc., Lane Limited, Inc., and Swedish Match North America, Inc.

Under the agreements, virtually every cigar package and advertisement is required to clearly and conspicuously display one of the following warnings on a rotating basis:

SURGEON GENERAL WARNING: Cigar Smoking Can Cause Cancers Of The Mouth And Throat, Even If You Do Not Inhale.

SURGEON GENERAL WARNING: Cigar Smoking Can Cause Lung Cancer And Heart Disease.

SURGEON GENERAL WARNING: Tobacco Use Increases The Risk Of Infertility, Stillbirth And Low Birth Weight.

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

SURGEON GENERAL WARNING: Tobacco Smoke Increases The Risk Of Lung Cancer And Heart Disease, Even In Nonsmokers.

The agreements also require that the warnings shall rotate every three months.

A billboard advertisement for Fumar cigars. The left side features the 'Fumar' logo in a stylized orange script, with 'cigar' in a smaller font below it. Below the logo is the phone number '623.594.4020' and the address '2010 W. Parkside Lane, Suite 110'. Further down, it says 'On Parkside, one block south of Pinnacle Peak, one block west of 19th Ave.' and the website 'www.fumarcigarusa.com'. The right side of the billboard has a dark background with the text 'Retail Store • Hookah Lounge • Groups Welcome' at the top. Below this is a large image of a Montecristo cigar. Underneath the cigar is the Montecristo logo, which consists of a yellow triangle with 'MONTECRISTO' written inside and '1935' at the bottom. To the right of the cigar and logo is a white box containing the text: 'SURGEON GENERAL WARNING: Cigars Are Not A Safe Alternative To Cigarettes.'

The advertisement above roughly depicts the size and font required for a 14x48 billboard display.

Furthermore, each settlement agreement sets out specific format requirements that are designed to ensure that the warnings are visible and readable. Under the settlement agreements, the warning statements must appear in black print on a solid white background. The warning statements also must be centered in a black-ruled rectangular box. The agreements also set out specific requirements for font size of the warnings.

Total area of 40 to less than 80 square feet

(5 x 11 Junior Poster=55 square feet)

Border: 3' 4" by 1' 2"

Rule width: ¼"

Type size: 2¼" (Cap Height)

Total area of 80 to less than 160 square feet

Border: 5' 8" by 2' 4"

Rule width: ¾"

Letter height: 3½" (Cap Height)

Total area of 160 to less than 350 square feet

(12 x 25 Poster=300 square feet)

Border: 19' 4" by 7' 4"

Rule width: 1¾"

Letter height: 11" (Cap Height)

Total area of 350 to 1200 square feet

(14 x 48 Bulletin=672 square feet)

Border: 20' by 7' 8"

Rule width: 2¼"

Letter height: 12" (Cap Height)

Total area of 1200 square feet or more

Border: 27' 4" by 9' 4"

Rule width: 3"

Letter height: 1' 4" (Cap Height)

Copies of the aforementioned settlement agreements signed on August 25, 2000*, can be found through a search of the FTC's Legal Library - <https://www.ftc.gov/legal-library>.

*It should be noted that in the case of Cigar Association of America, et al. v. U.S. Food and Drug Administration, et al., Case No. 16-cv-01460 (APM), the U.S. District Court for the District of Columbia issued a Memorandum Opinion dated August 9, 2023, which exempted "premium cigars" from the FDA's "Final Deeming Rule" and associated restrictions, including from having to include the above warnings. Premium cigars are defined as cigars that (1) are wrapped in whole tobacco leaf; (2) contain a 100% leaf tobacco binder; (3) contain at least 50% (of the filler by weight) long filler tobacco; (4) are handmade or hand rolled; (5) have no filter, nontobacco tip, or nontobacco mouthpiece; (6) do not have a characterizing flavor other than tobacco; (7) contain only tobacco, water, and vegetable gum with no other ingredients or additives; and (8) weigh more than 6 pounds per 1,000 units.

Special thanks to David Wilson, Esq. for his research in finding the above Memorandum Opinion and premium cigar exemption.

If you have further questions regarding this matter, please email amcdonald@oaaa.org.