

Tobacco Products Packaging: Plain Packaging and Limited Trademark Use Came into Force

The Law on Amending Some Laws and Decree-Laws related to Health numbered 7151 (“the Law no. 7151”) has been adopted in The Grand National Assembly of Turkey on 15.11.2018 and published in the Official Gazette on 05.12.2018.

Articles 23, 24 and 25 of the Law no. 7151 amend some articles of The Law on Prevention and Control of Hazards of Tobacco Products dated 26.11.1996 and numbered 4207 (“The Law no. 4207”) and bring new regulations to tobacco market.

Major Proposed Changes

Summary of the amendments made in the Law no. 4207 by the Law no.7151 are as follows:

- Use or display of tobacco products or their images in movie theatres or theatres as well as in TV programs, movies, TV-series, music videos and advertisements is prohibited.
- Use or display of tobacco products or their images shall not be allowed in public social media platforms and similar environments for commercial and advertising purposes.
- The tobacco or tobacco products shall not be allowed for sale within hospitals, universities, stadiums, sports centers, galleries, art centers, opera houses et cetera as well as their premises such as university campuses. Turkish warnings or messages with illustrations which indicate the damages of tobacco products shall be placed within a special frame and no less than 85% area of the widest two sides of the every type of tobacco packages and hookah bottles.
- Tobacco products produced in Turkey or imported shall be offered for sale with plain and standardized packages which the mark's writing style, font, type size, location on the package, the color of the packages, other texts, phrases and shapes are designed in the same way. These rules also apply for tobacco cases which include a few packages together.
- The trademark shall be written on one side of the package without exceeding 5% area of the side. Trademark logos, symbols or other signs shall not be used on the package. These rules also apply for tobacco cases which include a few packages together.

- All the matters about plain and standardized packages which are designed uniformly will be regulated in one month, starting from the effective date of the Law no. 7151, namely from 05.12.2018 by the regulation prepared by the Ministry of Agriculture and Forestry by taking appropriate opinion of the Ministry.
- The tobacco products which have been produced in Turkey or imported before 05.12.2018 shall become compatible with the regulations above in seven months starting from 05.12.2018. The referred deadline may be extended by the Ministry of Agriculture and Forestry for up to six months and the adaptation process may be longer than anticipated.

Scope of the Law on Amending Some Laws and Decree-Laws related to Health numbered 7151

Article 23 of the Law no. 7151 amends Article 3/6 of the Law no. 4207 as stated below and prohibits the use of tobacco products or their images in programs, movies, TV-series, music videos, advertisements, introductory films featured in TV and as well as in movies and advertisements featured in cinema and in works performed in theatres. In public social media platforms and similar environments, tobacco products and their images shall not be used or displayed for commercial advertising purposes.

“Tobacco products or their images shall not be used or displayed in programs, movies, TV-series, music videos, advertisements and introductory films featured in TV, in works performed in cinemas or theatres, or they shall not be used or displayed in public social media platforms and similar environments for commercial and advertising purposes.”

The same article of the Law no. 7151 has also ruled that in places where health, education and training, culture and sport services are provided as well as enterprises within university campus areas the sales of tobacco or tobacco products shall also not be allowed.

Article 24 of the Law no. 7151 amends the first sentences of the Article 4/3 of the Law no. 4207 and it regulates that the warnings or messages in Turkish language with illustrations, which are currently placed within a special frame to indicate the damages of the tobacco products, shall be placed no less than 85% area of the widest two sides of the tobacco packages and hookah bottles produced in Turkey or imported, except the base of the hookah bottles, instead of placing them 65% area of the two widest side of the tobacco products or hookah bottles.

Also, the Law no. 4207 provided restrictions on the use of the trademarks on the tobacco packages, i.e., trademarks shall be written on one side of the package without exceeding 5% area of the side and logos, symbols or other signs shall not be used on the packages. The sentences below also added to the same sub-article and it became compatible with Article 3:

“Tobacco products produced in Turkey or imported shall be offered for sale with plain and standardized packages which the mark’s writing style, font size, location on the package, the color of the packages, other texts, phrases and shapes are designed in the same way. The trademark shall be written on one side of the package without exceeding 5% area of the side. Trademark logos, symbols or other signs shall not be used on the package. These rules shall also apply for tobacco cases which includes a few packages together.”

Article 4/5 of the Law no. 4207 has been rearranged as follows and regulates that all the matters about packaging will be regulated by the regulation prepared by the Ministry of Agriculture and Forestry by taking appropriate opinion of the Ministry of Health.

“All the matters related to plain packaging including warnings, pictures, figures or graphic messages specified in this Law, the font character and size, location of the trademark on the package, the color of the packages, the warning messages on the packages and other mandatory writings, signs and figures shall be regulated by the Ministry of Agriculture and Forestry by taking the appropriate opinion of the Ministry of Health.”

Lastly, provisional Article 5 has been added to the Law no. 4207:

“Provisional Article 5 – (1) The tobacco products which have been produced in Turkey or imported before the date this Article comes into force shall become compatible with Article 4/3 in seven months. The referred deadline may be extended by the Ministry of Agriculture and Forestry for up to six months.

(2)The regulation which has been stated in Article 4/3 shall be enacted in one month starting from the date this Article comes into force.”

The Rationale of these Regulations

In the rationale of the referred regulation, it was stated that since sociodemographic transformation, rapidly developing technology, continuously changing and increasing social needs and demands necessitate the continuous revision and improvement of each system, it is essential to make the necessary adjustments and changes in the system according to the results obtained in the control phase which is one of the functions of the administration. That is why, tobacco products will be offered for sale in plain and standardized packages to eliminate the tempting features of the marks and packages.

Reviews

With the new Law, Turkey will also start applying plain packaging for cigarette and tobacco products which has already been introduced in some countries such as the UK, France, Australia and New Zealand in the recent years. Although the details of the new rules will be determined by the regulation prepared by the Ministry of Agriculture and Forestry, plain packaging limits and prohibits the use of trademark logos and tempting colors on tobacco packages; and it only allows the use of standardized word marks on them. Even in that situation, the trademark will be written on one side of the package without exceeding 5% area of that side. The same matter is applied to tobacco cases which include a few packages together. Also the percent of the area which the Turkish warning and messages with illustrations will be displayed is increased from %65 to %85 for tobacco packages and hookah bottles. The details of plain packaging will be decided by the Ministry of Agriculture and Forestry in the implementation regulation which will be released in one month starting from 05.12.2018. Tobacco products, which have been produced in Turkey or imported before, will become compatible with the matters stated above in seven months and this period may be extended for maximum six months by the Ministry of Agriculture and Forestry.

Another important change brought by the Law no. 7151 is the prohibition related to the use or display of tobacco products or their images in works performed in cinemas or theatres. On the other hand, it is noted that the rules regarding the use or display of tobacco products or their images in public social media platforms and similar environments are different in the final version of the Law compared with the Draft Bill.

It has been clarified that the use or display of tobacco products in public social media platforms are prohibited only if such use is for commercial and advertising purposes. As a result, the hesitations related to personal purposes have been eliminated.

It is also noted that while the Draft Bill had ruled that the sale of the tobacco products in closed cabinets which cannot be reached or seen by consumers in tobacco sale points, this rule had been removed from the final version of Law. Accordingly, the old regulation will remain in force and tobacco products shall only be seen from outside of the enterprises and shall not be offered for sale in a way that people under 18 can reach directly.

With this new Law, important changes have been made related to tobacco market. It is considered that prohibitions related to the use and display of tobacco products or their images in medias such as works performed in cinemas or theatres and in public social media platforms, even though personal uses have not been covered, will create discussions.



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