

TOBACCO ADVERTISING AND PROMOTION ACT 2002

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 10: Prohibition of sponsorship

44. *Subsection (1)* prohibits anything done pursuant to a sponsorship agreement if the purpose or effect of what is done is to promote a tobacco product. It applies to both the sponsor and the recipient. The contribution made by the sponsor must be made in the course of a business; there is no intention to catch the private individual who uses his own money to sponsor an event or activity so as to promote smoking. The Act does not specify that the sponsorship agreements have to relate to any particular thing; typically sponsorship relates to an event or activity, such as a sporting competition or an artistic performance, but it could include sponsorship of a building or institution or service. These examples are not an exhaustive list.
45. *Subsection (2)* defines a sponsorship agreement to include any form of promotion, whereby an event etc receives help in monetary or other form from an individual or organisation. An offence will be committed by both parties to the agreement when something is done as a result of the agreement to promote tobacco products in the UK. This section does not prevent a tobacco company from giving money to support an event or activity, so long as the company's products are not given any promotion in return. For example, it is not intended to prevent a tobacco company supporting a theatrical production and being acknowledged for so doing, provided that the acknowledgement mentioned solely the name of the company and not any of its products, and did not involve any special treatment of the tobacco company over and above other sponsors, the purpose or effect of which was promotion of tobacco products.
46. *Subsection (3)* sets out defences, subsection (3)(a) where the defendant did not know and had no reason to suspect that the purpose of what was done as a result of the agreement was to promote a tobacco product and subsection 3(b) where he could not reasonably foresee that that would be the effect.
47. *Subsection (4)* provides a defence for the person sponsored where he did not know and had no reason to suspect that the contribution was made in the course of a business. This is to ensure that someone who could not have been expected to know that an apparently innocent contribution was in fact made in the course of a business would have an appropriate defence.