

The Kenya Tobacco Control Alliance (KETCA) is an organization that brings together individuals and Civil Society Organization (CSOs) championing for tobacco control in Kenya. KETCA also works closely with the Ministry of Health, Government Departments and other stakeholders to advocate for a **tobacco-free** Kenya

## Tobacco Advertising, Promotion and Product Display at Points-of-Sale in Kenya.

A Compliance Monitoring Study carried out in Nairobi, Kakamega, Vihiga and Tharaka Nithi Counties.



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## NOTES

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## NOTES

## REFERENCES

1. Campaign for Tobacco Free Kids. Country Details for Kenya. [International Legal Consortium]; 2015 [Accessed 1/17/18]. Available from: [www.tobaccocontrol.org/legislation/country/kenya/summary](http://www.tobaccocontrol.org/legislation/country/kenya/summary).
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## EXECUTIVE SUMMARY

In Kenya, tobacco use has continued to increase both among youth and adults. According to the Global Adults Tobacco Survey (GATS), 11.6% of adults currently use tobacco products. The Global Youth Tobacco Survey (GYTS) estimates that 9.9% of youth currently use tobacco.

As tobacco use continues to grow in Kenya and throughout Africa, civil society organizations and advocates are working tirelessly to reduce tobacco use among existing users and prevent youth from initiating. KETCA is one of the regional leaders in tobacco control advocacy. The Kenya Tobacco Control Alliance (KETCA) with technical assistance from the Campaign for Tobacco Free Kids (CTFK) has developed an observational monitoring study to assess the level of compliance with the ban on tobacco advertising and promotion at various tobacco points of sale (POS). This compliance study is the first of its kind to be conducted in Kenya and is an important first step to better understand how tobacco control laws are currently being implemented in the country.

This technical report focuses on one element of the Kenya's Tobacco Control Act: Tobacco Advertising and Promotion. Given that no compliance study has been conducted to assess how the Tobacco Control Act is being implemented at a local level, KETCA chose to assess tobacco advertising and promotion at 400 tobacco vendors in four towns in Kenya: Nairobi, Mbale, Kakamega and Chuka.

The key findings of this report suggest that tobacco advertising and promotion is still very prevalent at POS in Kenya despite the comprehensive ban on tobacco advertising and promotion. Of the 400 tobacco vendors visited in this study, one or more form of advertising and promotion was observed at 397 vendors (99.25%). Tobacco product displays were observed at 393 (98.75%) of vendors and other forms of advertising and promotion were observed at 3% of vendors (n=12). Tobacco product displays were observed in a variety of forms including packs laid out on a tray, table, or on another surface, an organized shelf, a hanging display or an illuminated display. Overall, 13 instances of advertising and promotions (other than product displays) were observed. There was only one instance of promotion, and this was observed at a tobacco vendor with advertising. Of the total observations of advertising and promotions (other than product displays), over half (n=9) were for cigarettes. This includes the single instance of promotion. The remaining advertisements (n=4) observed were for shisha products. This is consistent with the distribution of product types that was observed in this assessment, as cigarettes were the most commonly observed product, followed by shisha and smokeless tobacco products.

Given the evidence from this compliance monitoring study it is clear that in spite of the bans on tobacco advertising and promotion, product displays are a direct form of marketing that remains pervasive throughout the towns included in this study. Government officials, health professionals and the ministry of health should consider taking action immediately to eliminate this form of tobacco advertising.

## ACKNOWLEDGMENTS

KETCA extends special thanks to Dr Salome Nyambura from Kenyatta University for her valued expertise and guidance throughout this study. We sincerely thank the team of data collectors and the coordinators who braved the harsh conditions on the ground to get the relevant information from the ground.

KETCA would also like to thank the Campaign for Tobacco Free Kids for the financial and technical support in making this compliance study possible. We extend our heartfelt gratitude to Ernesto Sebrie, Teresa DeAtley, Hania El Banhawi, and the entire research team for their unwavering support and expertise throughout this study, your support and guidance is deeply appreciated.

A special thanks to the Kenya Tobacco Control Alliance Team for their commitment and tireless efforts in carrying out the assessment.

Thank you All

## RECOMMENDATIONS

The study clearly shows that the tobacco control act (TCA2007), especially the provisions on the ban on tobacco advertising, promotion and sponsorship (TAPS), has not been properly enforced at majority of POS.

Based on this study, KETCA recommends that:

- Government bodies and the respective agencies comprehensively address the pervasiveness of tobacco advertising that is most popular in Kenya – tobacco product displays.
- There should be full implementation of the Tobacco Control Act in order to eliminate the blatant violations of the ban on TAPS at the points-of-sale. This will also reduce the accessibility of cigarette especially by minors.
- As the government implements and enforces the Tobacco Control Act, the Tobacco Industry is held accountable and liable for the violations of the act. If Kenya is successful in fully enforcing the existing laws on this form of TAPS, the country can serve as a leader for the rest of the region by setting a precedent for how tobacco legislation is implemented
- County governments should step up the enforcement of the tobacco control policies to prevent the Tobacco Industry from taking advantage and violating the act at the county level. The counties also need to provide sufficient resources to the county enforcement team to make them more effective.

Given Kenya's tobacco control efforts in recent years, KETCA recommends that the government should be encouraged to continue to care for the health of its citizens. This report serves as evidence that a provision of the current law is not being fully implemented. KETCA encourages the government and the Ministry of Health to take action now to save Kenya's next generation from the death and disease associated with tobacco use.

## CONCLUSION

Overall, 99.25% of the tobacco vendors observed in this compliance study had some form of tobacco product display, or other advertising and/or promotion. The most common form was tobacco product displays. Tobacco product displays were observed in a variety of forms: packs laid out, packs on organized shelves, and hanging displays.

Given the pervasiveness of tobacco product displays, consumers are constantly being exposed to tobacco products. The large number of displays works against existing tobacco laws, as they serve as a visual cue to consumers that smoking is normal and are a direct form of advertisement for tobacco companies to create brand recognition.

Fortunately, forms of tobacco advertising and promotion other than product display, which enable tobacco companies to promote their products, were minimally observed in this monitoring study, suggesting that advertising and promotion through other forms such as posters or signs are less of a problem in Kenya.

Given the evidence from this compliance monitoring study, it is clear that in spite of the bans on TAPS -which are part of the Tobacco Control Act- tobacco advertising, in the form of product displays, is still very prevalent in Kenya. Two vendor types make up over half of the tobacco vendors visited in this study: general convenience stores and kiosks. Given that they are more permanent structures, owners have the space and flexibility to move products out of the visibility of customers.

## ABBREVIATIONS

<b>BAT</b>	– British American Tobacco
<b>CSO</b>	– Civil Society Organization
<b>CTFK</b>	– Campaign for Tobacco Free Kids
<b>GATS</b>	– Global Adult Tobacco Survey
<b>GYTS</b>	– Global Youth Tobacco Survey
<b>KETCA</b>	– Kenya Tobacco Control Alliance
<b>MTKL</b>	– Mastermind Tobacco Kenya Limited
<b>PMI</b>	– Phillip Morris International
<b>POS</b>	– Point of Sale
<b>TAPS</b>	– Tobacco Advertising, Promotion and Sponsorship
<b>TC</b>	– Tobacco Control
<b>TCA</b>	– Tobacco Control Act
<b>WHO</b>	– World Health Organization

99.25%

## INTRODUCTION

In 2007, Kenya enacted the Tobacco Control Act, which is the principal tobacco control law in the country. The 2007 law includes prohibition of smoking in public places, ban on tobacco advertising, promotion and sponsorship, and packaging and labeling of tobacco products.<sup>1</sup> This comprehensive law bans virtually all direct and indirect forms of advertising and promotion of tobacco products, including points of sale (POS) advertising and promotion such as "product stacking or product displays of any kind or size". There are few exceptions among the regulated forms of tobacco advertising and promotion, including on tobacco packaging, labeling and inserts, reverse brand stretching and a few promotional provisions.

Tobacco control in Kenya is becoming increasingly important as the tobacco industry, namely British American Tobacco (BAT) and Mastermind Tobacco Kenya Limited (MTKL) have continued to push their products on Kenya's youth and adult populations. Data from 2016 reveals that there are three major tobacco companies operating in Kenya: British American Tobacco (BAT), Mastermind Tobacco, and Phillip Morris International (PMI), which account for 77.1%, 17.2% and 4.2% of the total retail cigarette volume sales in the country respectively.<sup>2</sup> According to Euromonitor International, cigarette retail volume in Kenya has slowly increased since 2002. In 2016, cigarette retail volume reached 7,287.4 million sticks, up 1.8% from 2002.<sup>3</sup> Adult smoking rates as estimated by the GATS survey had reached 11.6% among adults (15 years of age and older.) in 2014. Rates of tobacco use are much higher among men than women: 19.2% of men and 4.5% of women currently use tobacco. According to the GYTS, 9.9% of youth currently use tobacco (12.8% of boys and 6.7% of girls).

In November 2017, Kenya Tobacco Control Alliance (KETCA) conducted a compliance study to monitor the level of compliance with tobacco advertising, promotion and sponsorship (TAPS) provisions under the Tobacco Control Act.

Over the last several years the Kenyan government has faced legal battles with BAT's attempts to overturn and weaken the existing tobacco control laws. In April 2015, BAT unsuccessfully challenged the tobacco control regulations (TCR) that are meant to strengthen certain provisions of the Tobacco Control Act, as well as the pending tobacco legislation that went into effect in September 2016.

In light of BAT's aggressive legislative action to weaken Kenya's tobacco control laws and the industries' aggressive efforts to market their deadly products, it is important and timely that KETCA assess the current state of tobacco advertising and promotion at the POS. Tobacco advertising and promotion can take on many forms and its pervasiveness serves as an environmental cue for current smokers to smoke and appeals to non-tobacco users. This tobacco advertising and promotion compliance monitoring study aims to inform policy makers and stakeholders on how Kenyan tobacco control laws are being implemented. Considering how comprehensive the Tobacco Control Law is on TAPS, KETCA expected to find little to no tobacco advertising and promotion during this compliance study.

Figure 7: Cigarette Brands most commonly observed in product displays, Number of observations

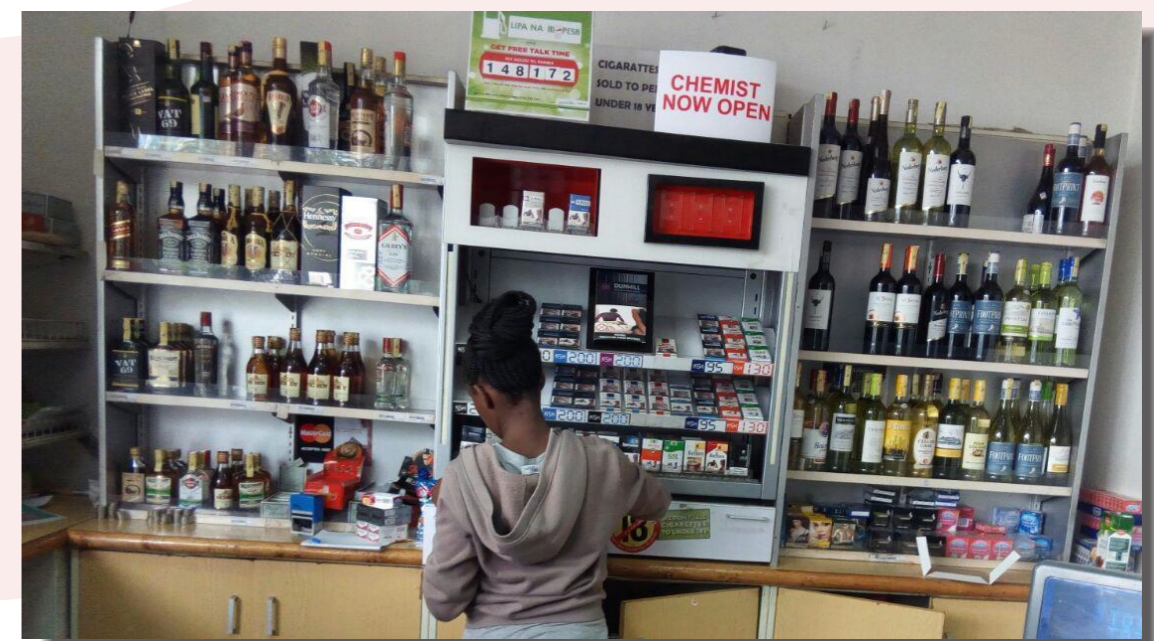
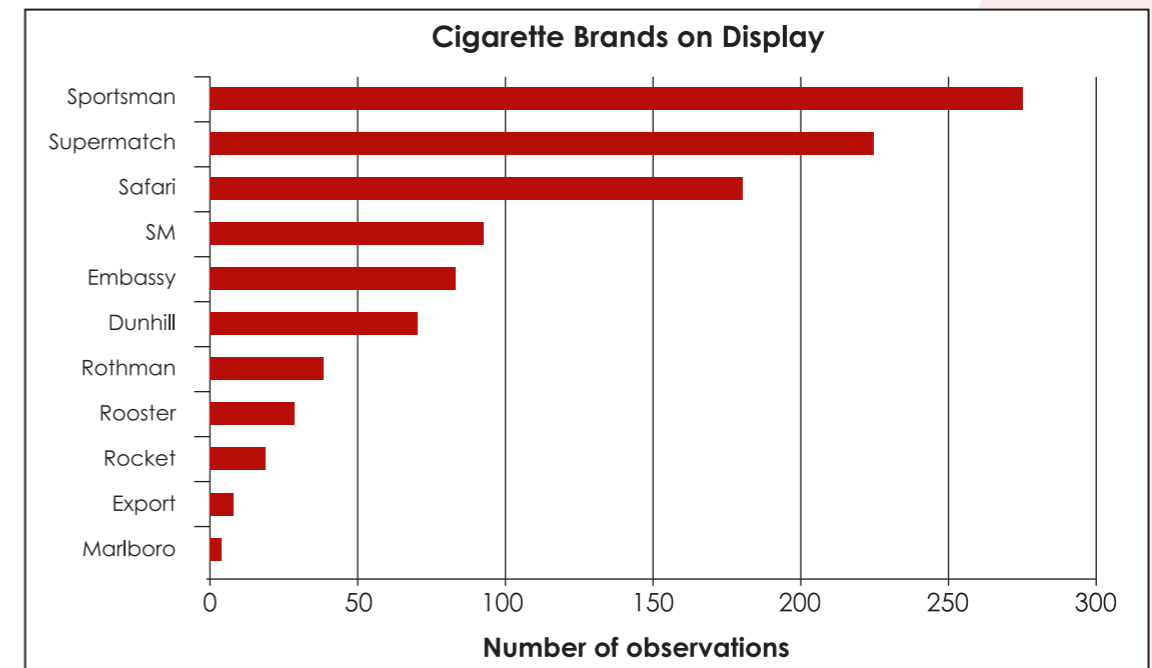
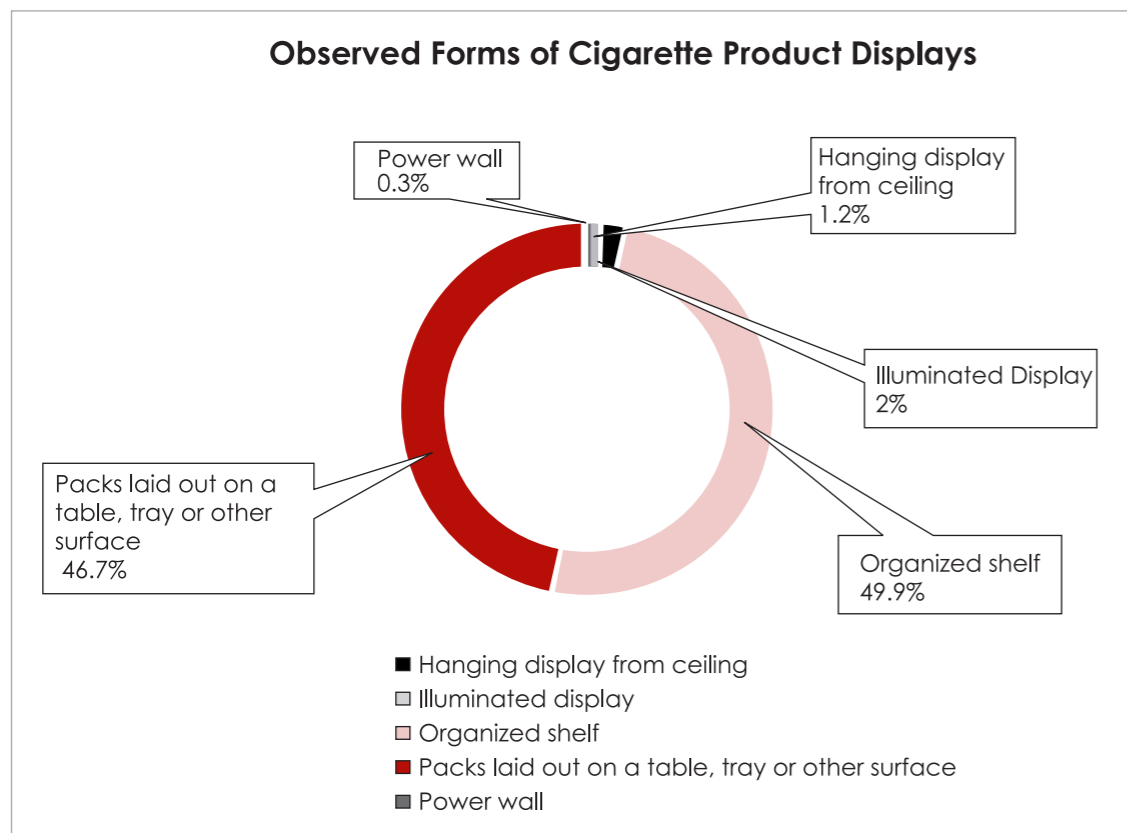


Figure 8: Cigarettes on display on a wall [High-income area, Nairobi, November 2017]

The most common form of cigarette displays (96.82%) were packs on organized shelves (49.86%) or laid out on a table, tray or other surface (46.96%). A breakdown of the forms of cigarette product displays observed is provided in Figure 6 below.

Figure 6: Forms of cigarette product displays observed



### Cigarette Brand Observations

Data collectors were able to observe and record a number of popular cigarette brands placed on display. The most commonly observed brands were brands produced by BAT (including Sportsman, Safari, Sweet Menthol/SM, Embassy, Rooster, Rothmans and Dunhill) and Mastermind Tobacco Company (including Supermatch and Rocket). While only a convenience sample and not an exhaustive list, Figure 7 inventories the number of recorded observations of brands that were observed on display. The brands most commonly displayed include Sportsman (N=268), Supermatch (N=226), Safari (N=184), and Sweet Menthol/SM (N=95).

## METHODS

Data collection instruments were finalized by KETCA with technical assistance from the Campaign for Tobacco Free Kids (CTFK). The study was conducted by a data collection team of 8 individuals and 4 team leaders who co-coordinated data collection throughout the week. Prior to starting data collection, team leaders mapped out the low and high income commercial areas in each town. Income areas were divided among data collection teams to prevent duplication of data collection. A pilot exercise was conducted to pretest and refine data collection instruments and familiarize data collectors with the procedures for data collection. The pilot was also used to identify the best times to conduct observations, given that some tobacco vendors are only open at certain times during the day or at night.

Data collection took place November 6th through 12th 2017. Data collectors used an observational form to record data on the following six categories: vendor location, tobacco product observational data, forms of tobacco advertising and promotion, forms of tobacco product display, and picture information. Pictures were taken on each data collector's cellular device and sent to a central collection point (database) at KETCA office at the conclusion of each day.

This compliance monitoring study was conducted in four towns: Nairobi, Mbale, Kakamega and Chuka, which are located in the respective counties of Nairobi, Vihiga, Kakamega and Tharaka Nithi. In each of these counties, the selected towns serve as administrative headquarters. 100 vendors were visited in each town, and observations were collected from a total of 400 vendors. The different POS visited were:

- Mobile street vendor / Peddler
- Stationary street vendor
- Kiosk
- Supermarket/ Hypermarket
- Tobacco Shop
- General/ Convenience Store
- Hotel/ Restaurant/ Bar

Data collectors collected data on the availability of a variety of tobacco products including manufactured cigarettes, hand-rolled cigarettes, cigars, loose tobacco, smokeless tobacco, shisha, and electronic cigarettes.

The types of tobacco advertising and promotion (other than product display) that data collectors looked for and recorded were:



**Advertising:**

- Posters/signs, Stickers
- Banners
- Fliers/ leaflets/ pamphlets
- Window ads
- Toys or sweets that resemble tobacco products
- Mockup packs
- Brand marking on physical structures (paintings, umbrellas, counter, etc.)
- Vendor wearing clothing (t-shirt, hat) with brand
- Video screens
- Illuminated ads

**Promotion:**

- Discounts/ coupons (e.g. buy 1 get 1 free)
- Free gift with purchase of tobacco product
- Free samples of products (e.g. free single cigarettes)
- Competitions associated with tobacco products or brands

The types of tobacco product displays that data collectors looked for and recorded were:

- Power wall (multiple packs displayed on wall behind the cash register)
- Organized shelf (anywhere in venue)
- Illuminated/ light-up display
- Hanging display (packets hanging from ceiling)
- Packs laid out on a tray, table, or other surface

In addition to recording all forms of tobacco advertising and promotion present at POS, data collectors also recorded tobacco brand information across all tobacco products.

The data collection team used WhatsApp, a communication platform, as an informal forum to send in inquiries, inform of developments in the field, and to post the pictures. WhatsApp also provided a forum for the team leaders to share on the progress in the field thus enabling good coordination of the daily data collection activities.

After the conclusion of data collection, KETCA compiled all raw data in an excel spreadsheet and wrote up a field report that outlined unique in-country challenges for this compliance study as lessons learned that can be used for coordination and development of future compliance studies. Data collection analysis was conducted by the CTFK.

**Table 2: Forms of advertising and promotion (other than product display) observed**

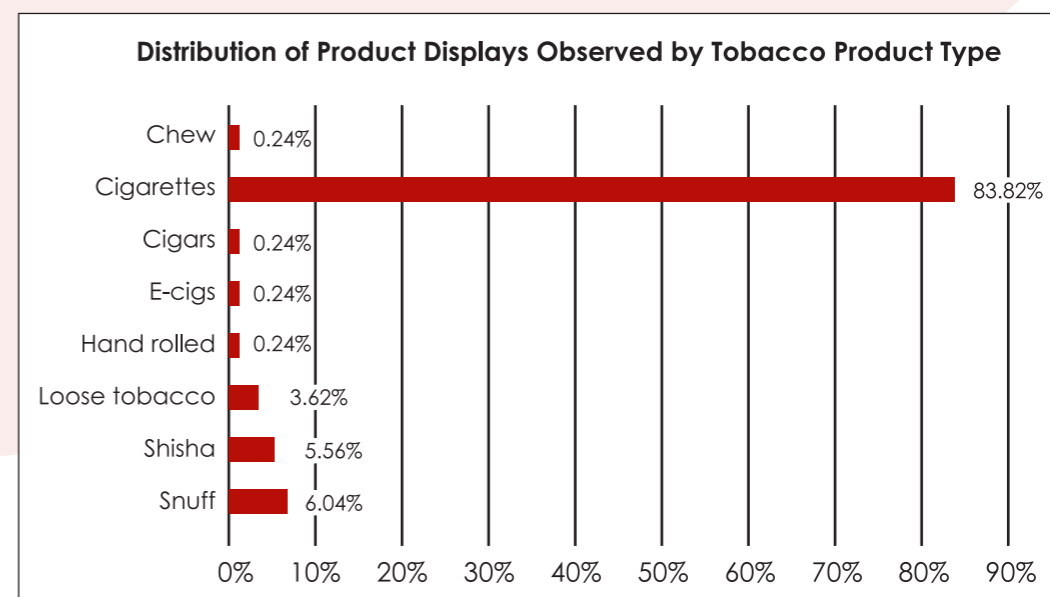
Form of advertisement or promotion	Instances	Product advertised or promoted
Illuminated	1	Cigarettes
Brand Marking on Physical structures	3	Cigarettes
Poster/Signs	4	Shisha
Stickers	4	Cigarettes
Discount/coupons	1	Cigarettes

**Forms of Tobacco Product Display:**

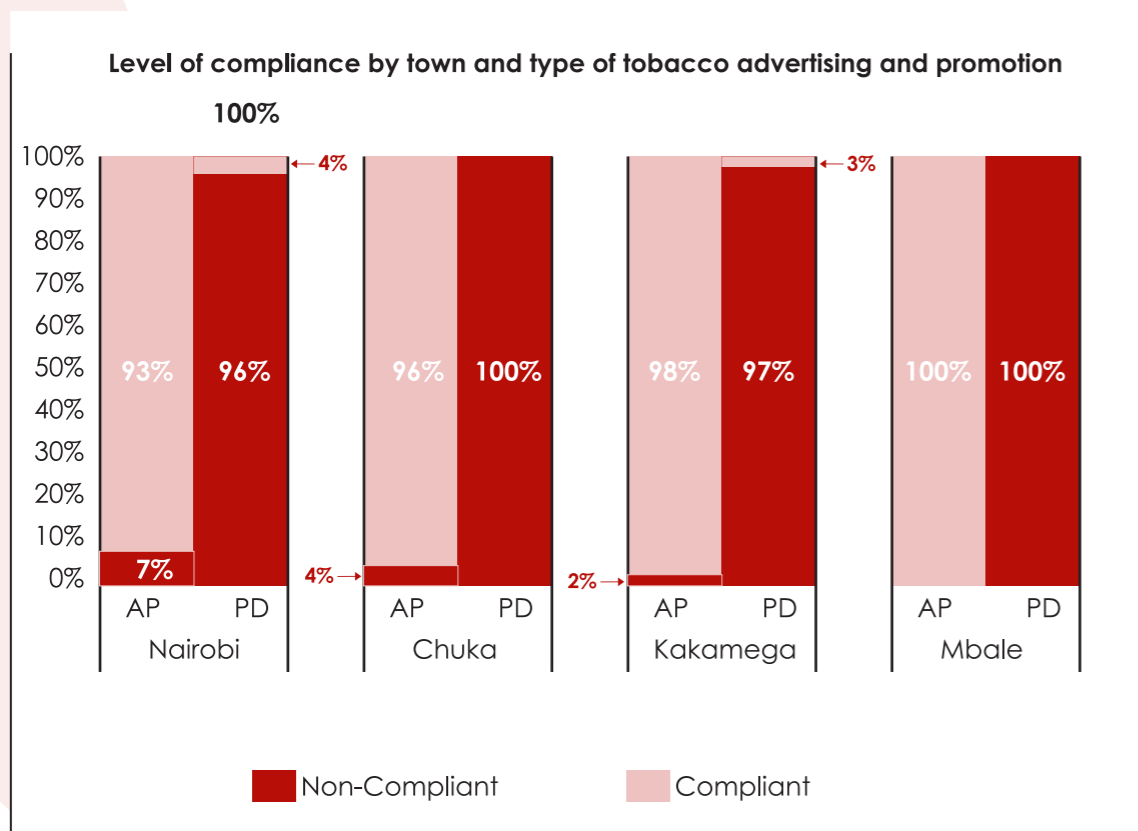
Most (98.25%) tobacco vendors had tobacco products on display at the POS. At 4% of vendors, displays for more than one product type were observed, bringing the total of independent display types observed up to 414 observations.

Of the 414 independent instances of product displays, the majority were for cigarettes (84%), as seen in Figure 5 below. After cigarettes, the most commonly displayed products were snuff, shisha, and loose tobacco. Product displays for chew, hand rolled cigarettes, e-cigs and cigars were only observed once each.

**Figure 5: Distribution of Product Displays Observed, break down by tobacco product type**



Levels of compliance varied by town. Figure 4 breaks down the level of compliance by town and by type of Tobacco Advertising and Promotion.



[Note: 'All' refers to all types of Tobacco Advertising, Promotion and tobacco product displays. 'AP' refers to Tobacco Advertising and Promotion (other than product display), and 'PD' refers to tobacco product display].

**Forms of Tobacco Advertising and Promotion (other than product display):**

Tobacco Advertising and Promotion (other than product display) overall was not very common, with 13 instances observed. These 13 instances were observed at 12 independent vendors: one of the vendors had both advertising and promotion. Table 2 details the forms of advertising and promotion (other than product display) observed. Overall, the majority of the advertising and promotion observed was for cigarettes (8 out of 12 vendors) and the remaining 4 vendors had advertising for shisha.

**RESULTS**

Data collectors visited a total of 400 tobacco vendors.

**Income level**

- Commercial areas were almost equally distributed across all four towns.
- 51.75% of the vendors monitored were from a low income commercial area
- 48.25% of vendors monitored were from a medium income commercial area

**Types of tobacco vendors**

Among the vendor types that were sampled, General/Convenience Stores (N=124) were the most common, followed by Kiosks (N=110), and Stationary Street Vendors (N=66). These three vendor types alone make up 75% of the total vendors surveyed in this monitoring study.



Table 1: Number of tobacco vendors by type samples in all 4 towns

Tobacco Vendor Type	Count [in (%)]
Mobile street vendor / Peddler	31 (7.75%)
Stationary street vendor	66 (16.5%)
Kiosk	110 (27.5%)
Supermarket/ Hypermarket	11 (2.75%)
Tobacco Shop	17 (4.25%)
General/ Convenience Store	124 (31%)
Hotel/ Restaurant/ Bar	41 (10.25%)
<b>TOTAL</b>	<b>400</b>

Figure 1: Cigarette packs laid out on an organized shelf [Nairobi, November 2017]

## Types of tobacco products sold

Among the vendors that sold tobacco:

- 87.5% sold cigarettes
- 6.5% sold shisha
- 6% sold smokeless tobacco
- 4% sold loose tobacco
- 0.5% sold hand rolled cigarettes
- 0.5% sold cigars/little cigars
- 0.25% sold e-cigarettes

[Note: these were not mutually exclusive categories. Some vendors sold both cigarettes and one or more additional tobacco product types].

Overall, cigarettes were the most common product available for sale across all four towns. This is consistent with the distribution of tobacco advertising and promotion observed.

Data collectors recorded 24 vendors selling smokeless tobacco and 26 vendors selling shisha products. The majority of the 24 vendors that were recorded smokeless tobacco were observed in Chuka (n=21). The majority of the 26 vendors that were recorded selling shisha (n=25) were observed in Nairobi.



Figure 2: Shisha pipes on display in Nairobi, [November 2017]

## Level of Compliance

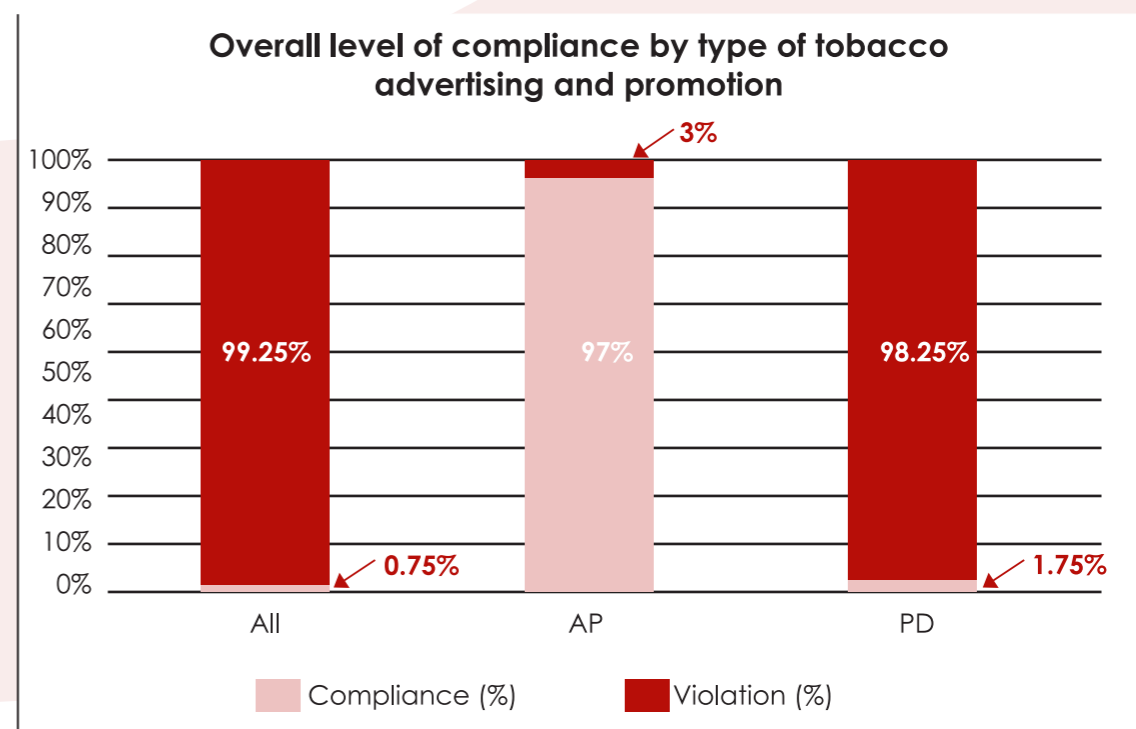
Out of the 400 vendors visited in this compliance monitoring study, 99.25% of the vendors had at least one form of tobacco advertising and promotion. Only 3 vendors were recorded as compliant with Kenya's current tobacco legislation. All three of the vendors were located in the same town, Kakamega.

Excluding display of tobacco products, 97% of vendors were compliant and 3% were non-compliant with advertising regulations: only 12 vendors were found to be in violation. One of these vendors also had a promotion.

Display of tobacco products was the most commonly observed TAPS violation. Out of the 400 vendors visited in this study 98.25% had tobacco products on display at the POS.

These results are summarized below in Figure 3

Figure 3: Overall level of compliance of tobacco vendors in all 4 towns combined



[Note: 'All' refers to all types of Tobacco Advertising, Promotion and tobacco product displays. 'AP' refers to Tobacco Advertising and Promotion (other than product display), and 'PD' refers to tobacco product display].