

Advancing Health Warning Policy with Lessons Learned from Selected ASEAN Countries

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Status of Health Warnings in ASEAN

Singapore (2004; 2006; 2013)*

Position, Size, Location: Upper 50% (front) 50% (back)
Language: English
Health warning messages: 6 rotating messages



Thailand (2005; 2007; 2010; 2013)*

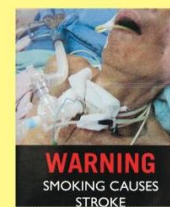
Position, Size, Location: Upper 85% (front) 85% (back)
Language: Thai
Health warning messages: 10 rotating messages



New set of PHWs will come into force on 2nd October 2013

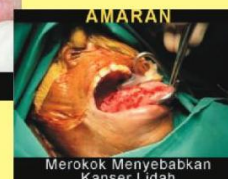
Brunei (2008; 2012)*

Position, Size, Location: Upper 75% (front) 75% (back)
Language: Malay (front), English (back)
Health warning messages: 7 rotating messages



Malaysia (2009; 2014)*

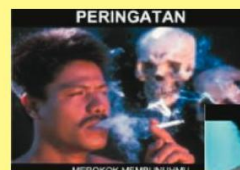
Position, Size, Location: Upper 50% (front) 60% (back)
Language: Malay (front), English (back)
Health warning messages: 6 rotating messages



New set of PHWs will come into force on 1st January 2014

Indonesia

Position, Size, Location: Upper 40% (front) 40% (back)
Language: Indonesia
Health warning messages: 5 rotating messages



PHWs will come into force in June 2014

Vietnam

Position, Size, Location: Upper 50% (front) 50% (back)
Language: Vietnamese
Health warning messages: 6 rotating messages



PHWs will come into force in November 2013

* Year of rotation



Philippines

Position, Size, Location: Bottom 30% (front) only
Language: English
Health warning messages: 4 rotating messages

GOVERNMENT WARNING:
SMOKING KILLS

GOVERNMENT WARNING:
CIGARETTES
ARE ADDICTIVE

Cambodia

Position, Size, Location: Bottom 30% (front) 30% (back)
Language: Khmer
Health warning messages: 5 rotating messages

ជក់បារីបណ្តាលឱ្យ
កើតជំងឺបេះដូង

ជក់បារីបណ្តាលឱ្យ
កើតជំងឺមហារីកសួត

Lao PDR

Position, Size, Location: Bottom 30% (front) 30% (back)
Language: Lao (front), English (back)
Health warning messages: 6 rotating messages

ສູບຢາພາໃຫ້ເປັນ
ອັນຕະລາຍຕໍ່ສຸຂະພາບ

SMOKING IS
DANGEROUS
TO HEALTH

Myanmar

Position, Size, Location: 1 side panel only
Language: Myanmar
Health warning messages: 1 message

စီးကရက်သောက်ခြင်းသည်
ကျန်းမာရေးကိုဆိုးရွားစွာ
ထိခိုက်စေပါသည်။



Challenges Posed by Tobacco Industry



Malaysia

2nd rotation of PHWs will
come into force on 1st
January 2014

Reasons for failure to
legislate PHWs in CTPR
2004) due to

- Strong opposition from TI
– PHWs violate IP rights
- Limited human resources
- Lack of local evidence
- Limited opportunity to get
specimen of victims with
smoking-related diseases

Current

Front



Back



2009



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First set of Malaysia PHWs- 2009

PHWs from Singapore



PHWs from Thailand



- Strong political will to legislate PHWs
- Use copyright-free pictures from Singapore and Thailand - save time and resources
- Government rejected request by TI to extend implementation deadline
- Set an end date for sale and distribution of tobacco products without PHWs



TI Exploits Loopholes in PHWs Regulation

No specification of size of the pack



Pictorial health warning is proportionately reduced in size for lipstick packs



Lessons Learned

- Set and specify the size limit of picture warnings that should be printed on the pack and not building on the % of the overall pack size
- Define the shape and dimension of cigarette packs



No regulation on printing outer packaging
where innovative designs were printed at the bottom
on a transparent sleeve to be placed on the
cigarette pack



- Specify the printing on the outer packaging and the use of sleeve must include the printing of pictorial health warning



No specification on the generic colours for the pack except for all the texts on health messages and images of pictorial health warning.

Colours are used to replace descriptors



**Light
(blue)**

**Regular
(red)**

**Menthol
(green)**

**Colours are used to
indicate the various
flavours**



Strawberry



Orange

- Government should consider legislative wording that restricts use of colours that dilute the impact of warnings



No specification of specification of banning the use of colour and design to add a graphical component at the bottom half of the packs



Government should consider legislative wording that restricts pack designs that dilute the impact of warnings

Graphic design helps to distract smoker from PHW

No specification on the thickness of the black border width where the words “AMARAN” and “WARNING” and the health message text shall be printed on each unit packet and unit carton



The black border of Marlboro textual health message is much larger than permitted by law - causing the PHW to be reduced in size

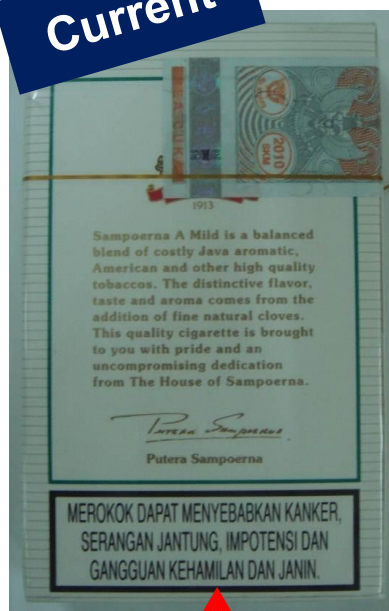
- Specify the size of the black border width for the text to avoid manipulation by the tobacco industry



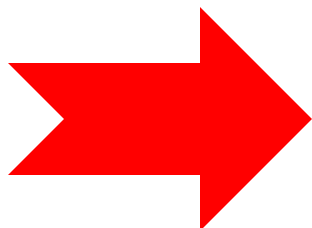
Indonesia

New PHWs will be implemented in June 2014

Current



40%



New PHWs



PP No 109 /2012 on Restraining Addictive Substance of Tobacco Product for Health



10% of the bottom back panel only

Smoking can cause cancer, heart attack, impotence and harms pregnancy and foetal development

5 rotating messages

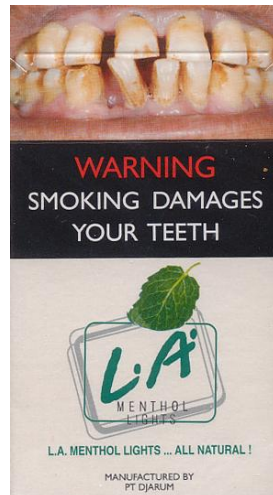


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Challenges in Legislating PHWs

Significant challenges came from

- the Ministry of Trade (MOT), which objected to any implementation of PHWs
- the Ministry of Industry (MOI), which requested that the size of PHWs be decreased from 50% to 30%



Lessons Learned

Counter-arguments:

- Tobacco companies exporting cigarette packages with PHW sizes of 50% and 75% to Singapore, Malaysia and Brunei Darussalam
- Indonesian government should not set double standards and hide the real reason for downsizing the PHWs (dilute their effect on smokers and others)

Challenges Ahead

- Tobacco industry requesting for extension of implementation deadline (the transition period of 18 months is too short)
- Tobacco industry unable to ensure old stock will be totally removed by June 2014
- Small-scale tobacco companies also expressed concerns on higher production costs for printing colored images of PHWs

Implementation Timeline of Current Pictorial Health Warnings (PHWs) in ASEAN

Country	Size (%)		Date of Approval	Date of Implementation	Duration of Compliance for Tobacco Industry
	Front	Back			
Singapore	50	50	13 August 2012	1 March 2013	Less than 7 months
Thailand	85	85	5 April 2013	2 October 2013	6 months
Brunei	75	75	13 March 2012	1 September 2012	Less than 6 months
Malaysia	50	60	30 May 2013	1 January 2014	7 months
Vietnam	50	50	1 May 2013	1 November 2013	6 months
Indonesia	40	40	24 December 2012	1 June 2014	18 months





Cambodia

Current Health Warning:
“It’s Only Words”

Front

Back



30% of the bottom front
and back panels

2010



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Tactics Used by TI to Subvert Health Warnings

- **Lobbying policy makers** (arrange meeting to meet with MOH and forge ties with other ministries-MOC (Intellectual Property Dept, Ministry of Domestic Trade, Ministry of Economic and Finance, and Ministry of Customs)
- **Forming Allies and Using Third Parties**
Gained support from New York-based Trademark Association to raise concerns with Minister of Health about requiring trademarks- violation of International Treaty Obligations such as Paris Convention and the WTO's TRIPS Agreement of which Cambodia is the member

- **Exploiting Loopholes in the Law**

Banning the registered commercial “marks, pictures, colour, or trade dress” is against some Articles stated in the ***Law Concerning Marks Trade Names and Acts of Unfair Competition of Cambodia*** which are actually allowed under the said national law

- **Fight PHWs Using Intellectual Property Rights and Trade Arguments**

The TI directed its attack on plain-packaging with the intention to confuse policy makers despite the draft Sub-Decree is pertaining to PHWs and does not require implementing plain packaging

Tobacco Industry Law Suits

Thailand

Industry attempts to block bigger size PHWs

Text

ควั่นบุหรี่ฆ่าเด็กได้

Pictogram



Quitline
Number

เลิกบุหรี่ 1600 www.thailandquitline.or.th

Cigarette
Brand

ยี่ห้อบุหรี่

85 %

- Lawsuit challenged by TI (JTI, PMI and BAT)
- Court case: starting from 20 June till present
- 20 June (JTI filed lawsuit) – 2 court hearing
- 26 June (PM filed lawsuit) 1 – court hearing
- 1 August (BAT filed lawsuit) – court hearing (not yet)

15 %



Law Suits Filed to Thai court

- Japan Tobacco International (JTI):
“disproportionate, infringe intellectual property”
- Phillip Morris (PM): “infringe on trademark,
ignored PM and retailer’s voice”
- British American Tobacco (BAT):
“unconstitutional, trademark violation”

Lesson Learned

- Big size health warning (80% or more) following FCTC Art 11 guidelines which say the bigger the better is confirmed by tobacco industry's lawsuit against MOH





Philippines

**Current Health Warning:
“It’s Only Words”**

Current

Front



**30% of the bottom
front panel only**

30% Front



60% Back



**DOH Administrative Order
(AO) 2010-0013**

**Tobacco Regulation Act
of 2003 or RA 9211**



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Law Suits by Tobacco Against AO 13

DOH Administrative Order 2010-0013

- Requires nine rotating pictorial health warnings printed in English or Filipino languages on all tobacco packs
- Occupying 30% of the upper front and 60% of the back panels



5 tobacco companies sued the DOH to nullify AO 13

- Fortune Tobacco (Marikina)
- PMFTC (Tanauan)
- Mighty Corp. (Malolos)
- JTI Philippines (Pasig)
- La Suerte (Parañaque)



Lessons Learned

- Government should not compromise by agreeing to use text only warning
- Specify the size, colour, location and provide picture files and do not allow TI to adjust
- Set implementation date for tobacco industry to comply and should not be long (not more than one year) and NO DELAY



Lessons Learned

- Selection of picture should be by market tested
– encourage countries to use existing effective pictures from neighbouring countries
- Do what the industry don't like you to do
- Be prepare to counter tobacco industry's tactics

Thank You

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