

Comprehensive Ban on Cross-Border Tobacco Advertising, Promotions and Sponsorship in ASEAN Region

Background

Bans on advertising, promotion and sponsorship (TAPS) have been shown to reduce tobacco consumption, but bans only work if they are comprehensive.¹ Many countries have moved to implement comprehensive TAPS bans, cross border issues however still pose a problem. This document provides a background to addressing the issue.

What the WHO Framework Convention on Tobacco Control says about cross-border TAPS

FCTC Article 13.2 states, “A comprehensive ban shall include, subject to the legal environment and technical means available to [each] Party, a comprehensive ban on cross-border advertising, promotion and sponsorship originating from its territory.” The FCTC also states all Parties shall cooperate in the development of technologies and other means necessary to facilitate the elimination of cross-border advertising (Article 13.6).²

Cross-border advertising includes *out-flowing* advertising, promotion, and sponsorship (originating from a country’s territory) and *in-flowing* advertising, promotion, and sponsorship (entering a country’s territory). It involves the use of the Internet, television, radio, printed publications, and other media forms. International sponsorships that cross borders are likewise considered cross-border advertising; a prominent example would be sponsorship of international sporting events using cigarette brands.

Example of recent cross-border TAPS: Djarum Indonesia Open 2012

An international badminton tournament, Indonesia Open under auspices of the Badminton World Federation was broadcasted to several countries: Hong Kong, Malaysia, Denmark, Singapore and Germany.³ Along with the broadcasting, people from many countries were exposed to *Djarum*, an Indonesian tobacco brand, a sponsor of the tournament. This form of in-flowing cross-border TAPS must be banned. The office of the Badminton World Federation located in Kuala Lumpur also advertised this tobacco sponsored event on its website which is accessible online as illustrated in the figure below.

Status of ASEAN Region on cross-border on TAPS

Reports submitted by countries to the Conference of Parties, (COP) show **Thailand** and **Malaysia** have banned cross-border TAPS.⁴ Thailand has banned cross-border TAPS originating locally but not those entering the country. This loophole can be exploited by the tobacco industry to promote their products. Similarly has not banned in-flowing TAPS hence in June 2012 Malaysia received telecasts of tobacco sponsored badminton, Indonesia Open, from Indonesia. In Vietnam, the new tobacco control law passed in June 2012 includes a ban on cross-border TAPS (Law on Prevention and Control of Tobacco Harms, 2012).

¹ <http://bit.ly/LhJsPX>

² www.who.int/fctc/protocol/guidelines/adopted/guidel_2011/en/index.html

³ www.youtube.com/user/bwf

⁴ www.who.int/fctc/reporting/en/



Image from tobacco sponsored Badminton tournament in Indonesia is seen in other countries. Photo credit: www.historyofbadminton.net/indonesian-open-badminton-tournament-final-results, http://article.wn.com/view/2012/05/14/Fauzi_Bowo_starts_Jakarta_Open_s_Badminton_Championship/

How other regions deal with cross-border on TAPS: European Union

The Tobacco Advertising Directive (2003/33/EC) has an EU wide ban on cross-border tobacco advertising and sponsorship in the media. The ban covers print media, radio, internet and sponsorship of events involving several Member States, such as the Olympic Games and Formula One races. Free distribution of tobacco is banned in such events. The ban covers advertising and sponsorship with the aim or direct or indirect effect of promoting a tobacco product.⁵

Recommendations for banning cross-border TAPS

To ban cross-border TAPS in a comprehensive manner, besides taking action nationally, member countries should also collaborate regionally

RECOMMENDATION:

1. At the national level, Member Countries should enact legislation to address cross-border TAPS ban:

- a. Ensure that any cross-border TAPS originating from their territory is banned or restricted in the same manner as domestic TAPS;
- b. Member countries should make use of their sovereign right to take effective actions to limit or prevent any cross-border TAPS entering their territory;

2. At the ASEAN level, Member Countries need to adopt international cooperation mechanisms to deal with cross-border advertising:

- a. Cooperation in the development of technologies and other means necessary to facilitate the elimination of cross-border advertising;
- b. Cooperation and support for research and surveillance systems and related capacity-building programs;
- c. Cooperation in the facilitation of the development, transfer, and acquisition of technology, knowledge, skills, capacity, and expertise related to cross-border advertising;

3. Member Countries should also consider establishing or designating a body and providing resources to coordinate, review, and monitor the implementation of this policy.

⁵ http://ec.europa.eu/health/tobacco/law/advertising/index_en.htm