Implementing Pictorial Health Warnings in Malaysia:
Challenges and Lessons Learned

Southeast Asia Tobacco Control Alliance
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Implementing pictorial health warnings in Malaysia: challenges and lessons learned

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Acknowledgements

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About SEATCA
This booklet is part of a SEATCA’s effort in advancing tobacco control policy and strengthening World Health Organization Framework Convention on Tobacco Control (WHO FCTC) implementation in ASEAN countries. It is a documentation of Malaysia case study in implementing pictorial health warnings and provides insights of Malaysia’s experience putting in place pictorial health warnings effective 1 January 2009. A series of interviews has been made with key officers of Ministry of Health to gather their invaluable experiences covering challenges and lessons learned.

Southeast Asia Tobacco Control Alliance (SEATCA) acknowledges the important contribution made by Ministry of Health Malaysia in supporting this initiative. Sincere thanks are extended to Dato’ Dr Hasan Bin Abdul Rahman, Deputy Director General (Public Health) for his strong support of this project.

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photo credits

Ministry of Health, Malaysia
Tan Yen Lian, SEATCA
Introduction

The Malaysian government ratified the World Health Organization Framework Convention on Tobacco Control (WHO FCTC) in 2005, committing to implement strong tobacco control policies. After the ratification, it is required to adopt more prominent and pictorial health warnings on tobacco products within three years under provision of FCTC Article 11 on packaging and labelling of tobacco products. In supporting this global health treaty, Malaysia has been taking several proactive measures against smoking, including introducing pictorial health warnings (PHWs) with the enactment of the Control of Tobacco Product (Amendment) Regulations 2008. It stipulates that every cigarette pack sold in Malaysia is required to be printed with pictorial health warning effective 1 January 2009. This marked another milestone in tobacco control in curbing smoking and that implementation of pictorial health warnings signifies another leading example in the ASEAN region. Malaysia ranked the fourth country in the ASEAN region to implement pictorial health warnings after Singapore (2004); Thailand (2005) and Brunei (2008).

Monitoring of cigarette packs and product designs introduced by the tobacco industry in 2007 has indicated that Malaysia has the most variety of innovative pack designs and appears to be the testing ground for the industry in ASEAN. Findings revealed that tobacco industry optimized the used of the cigarette pack by introducing special editions in conjunction with festival events; attractive pack designs targeting the young, and pack with promotional items and expanded size packs. It was observed that three to four new promotions and designs were introduced monthly. Evidently Malaysia was a target country for cigarette marketing and also known as “The ASEAN ‘Central’ Market for Pack Design” and “A Marketing Paradise”.

Malaysia faced strong challenges from the industry in pushing for effective tobacco control legislation that requires mandatory display of six sets of pictorial health warnings on cigarette packs. These valuable experiences of Malaysia in implementing pictorial health warnings presents a good case study. This case study documents the experiences of Malaysia including challenges and lessons learned in implementing pictorial health warnings (PHWs). It is hoped to serve as a guide in providing insights and ways to implement PHWs.
Setting the Groundwork

Malaysia started to advocate for pictorial health warnings in 2002 while working on the much anticipated amendment of the Control of Tobacco Product Regulations (CTPR 2004). However, the initial attempt to include pictorial health warnings in the amendment law in CTPR 2004 was not successful due to the following factors:

- The main reason was time constraint as the country was then preparing to be a party to the World Health Organization Framework Convention on Tobacco Control (WHO FCTC). According to the Attorney General’s Office, a tobacco control regulation with provisions that is in line with the FCTC must be in place before being considered to become a party to the WHO FCTC. On 23 September 2003, Malaysia became a signatory and two years following that, on 16 September 2005, the Prime Minister deposited the tools of ratification and Malaysia officially became a party to WHO FCTC on 16 December 2005.

- There were also challenges and objections from the tobacco industry during the process of developing the amendment for the CTPR. The proposal to include pictorial health warnings under the ban on tobacco advertising, promotions and sponsorships was strongly opposed by the tobacco industry. The industry claimed that having pictorial health warnings is a violation of intellectual property rights because it may damage their brands’ image. It was envisaged that the tobacco industry will fight this policy and to counter the industry would be a long and expensive battle. Because of the need to approve the CPTR in 2004 to meet the requirement for FCTC ratification, Ministry of Health (MOH) decided to omit the proposal for pictorial health warnings in the amendment of CTPR to avoid any delay in approving the amendment.

- Limited human resources working on tobacco control issues within the Ministry of Health has delayed the process of implementing pictorial health warnings in the country.

- Another reason for the delay in implementing pictorial health warnings was the lack of local evidence. Having pictorial health warnings was perceived as something new and there was not much scientific evidence to show its effects to reduce tobacco use in the country. It also takes time to implement. It is very clear that the Malaysian government was not ready to implement pictorial health warnings at that time.

Lessons Learned

- Start preparing as early as possible and always anticipate response from the industry.
- Be prepared and responsive to refute tobacco industry arguments that pictorial health warnings violate World Trade Organization (WTO) agreement and intellectual property rights. In actual fact, the same claim was made in other countries that have implemented picture-based warnings, but governments rejected these claims and no legal challenges were ever filed since.
- Implementing provisions in the FCTC (such as minimum size for warnings, or the option to use pictures) does not infringe upon international trade laws.
- Strong political will is needed to move policy change in tobacco control.
- Having sufficient number of advocates to work on tobacco control is important to support and strengthen tobacco control policies.
Generating Supporting Evidence

After the passing of the amended CTPR in 2004, Ministry of Health has continued to generate more local evidence, develop and prepare appropriate and effective pictures to be used in advocating for pictorial health warnings. The Ministry have worked closely with researchers from local universities to gather local and international evidences to support implementation of pictorial health warnings in Malaysia. In addition, much ground work was carried out to identify the most effective pictures. The Ministry of Health also commissioned local researchers to generate evidence pertaining to public opinion on health warnings’ effectiveness as well as prepare pictures of smoking-related diseases to be used.

A series of discussions and evaluations was carried out to determine the appropriate and effective pictures that convey messages on health effects of smoking. Despite having various sets of tested pictures presented with supported local evidence, the results were unconvincing and inconclusive. The selection committee from Ministry of Health could not decide on the proposed pictures because too many pictures were presented. It is believed that the proposed pictures were not effective enough to be used on the packs.

Identification of effective pictures continued and 10 pictures were presented at three different public consultations organized by Ministry of Health with the aim of receiving feedbacks and comments from the public and tobacco industry as part of the law making process. The public consultations were conducted on 14, 23 and 27 May 2008. Below are some examples of selected pictures presented in the meeting during the selection of effective pictures to be printed on cigarette packs sold in Malaysia.
Finally, a set of six pictures was selected to be printed on cigarette packet as the first set of Malaysian pictorial health warnings. They were believed to be gorier and effective as compared to the first set of selected pictures. The selected six rotating health warning messages are from Singapore and Thailand, three from each country.

**Pictorial health warnings from Singapore include:**

<table>
<thead>
<tr>
<th>Health Warning</th>
<th>Image</th>
</tr>
</thead>
<tbody>
<tr>
<td>3. Cigarette Causes Gangrene (Rokok Menyebabkan Gangren)</td>
<td>![Gangrene Image]</td>
</tr>
<tr>
<td>4. Cigarette Causes Premature Birth (Rokok Menyebabkan Kelahiran Bayi Pramatang)</td>
<td>![Premature Birth Image]</td>
</tr>
<tr>
<td>5. Cigarette Causes Miscarriage (Rokok Menyebabkan Keguguran Janin)</td>
<td>![Miscarriage Image]</td>
</tr>
<tr>
<td>8. Cigarette Causes Lips Cancer (Rokok Menyebabkan Kanser Bibir)</td>
<td>![Lips Cancer Image]</td>
</tr>
<tr>
<td>9. Cigarette Causes Heart Attack (Rokok Menyebabkan Serangan Jantung)</td>
<td>![Heart Attack Image]</td>
</tr>
<tr>
<td>10. Cigarette Causes Impotence (Rokok Menyebabkan Mati Pucuk)</td>
<td>![Impotence Image]</td>
</tr>
</tbody>
</table>

**Pictorial health warnings from Thailand include:**

<table>
<thead>
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<th>Image</th>
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</thead>
<tbody>
<tr>
<td>3. Cigarette Causes Gangrene (Rokok Menyebabkan Gangren)</td>
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<td>10. Cigarette Causes Impotence (Rokok Menyebabkan Mati Pucuk)</td>
<td>![Impotence Image]</td>
</tr>
</tbody>
</table>

Source: Ministry of Health, Malaysia.
Lessons Learned

- Use pictures that are based on market testing supported with local evidence and proven effective.
- Utilizing existing effective pictorial health warnings from the neighbouring countries such as Singapore and Thailand would save time and resources.
- Copy-right free of pictorial health warnings from Singapore and Thailand can be obtained easily.

More importantly, Malaysia has an obligation to meet the impending deadline on 16 December 2008 after 3 years of ratification of the WHO FCTC (16 December 2005) to adopt and implement effective measures on packaging and labelling of tobacco products (Article 11).

Selecting Effective Health Messages and Pictures

The decision made on the type of pictures was based on the arguments that:

1) Evidence from Singapore and Thailand showed that these pictorial health warnings were effective and well accepted by the public.

2) Singapore and Thailand gave an unrestrictive condition to facilitate the use of copy-right free of their pictorial health warnings. Using these pictorial health warnings was an added advantage for Malaysia because the tobacco industry are printing these pictorial health warnings on cigarette packs exported to both countries and thus have no excuses for not being able to print similar pictures in Malaysia.

3) Pictorial health warnings prepared and proposed by the Malaysian researchers and advertising agency were regarded as weak, not real and ambiguous. The pictures failed to depict the realism of diseases of smokers.

4) Limited opportunity to get a specimen of a victim of various smoking-related diseases has led to seeking of alternative sources of effective pictures from neighbouring countries such as Singapore and Thailand which have implemented pictorial health warnings since 2004 and 2005, respectively.

Common Tobacco Industry Arguments Against Pictorial Health Warnings

Pictorial health warning is recommended but NOT required by the WHO FCTC

- Substantial investment is required to print pictorial health warnings
- Must discuss issues with the tobacco industry and suppliers especially with printers and cylinder/plate manufacturers
- It interferes with intellectual property rights of commercial enterprise
- Must retain enough space for legitimate brand names and trademark
Dealing with Manipulations of Tobacco Industry

### Design Elements

The following table summarizes key tobacco industry’s arguments and Ministry of Health’s stand points in developing effective packaging and labelling requirements.

<table>
<thead>
<tr>
<th>Component</th>
<th>Industry’s Arguments</th>
<th>Ministry of Health’s Decisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pictorial</td>
<td>The minimum requirement from the FCTC was 30% and text only</td>
<td>Ministry of Health (MOH) was firm on their decision that picture warnings should be printed on each cigarette pack.</td>
</tr>
<tr>
<td></td>
<td>Proposed to the Ministry of Health to adopt:</td>
<td>The pictorial health warning must be placed on top of the pack surfaces.</td>
</tr>
<tr>
<td>Location</td>
<td>1) The health warning should be printed at the bottom</td>
<td>The picture size must occupy 60% back and 40% front panels of the pack.</td>
</tr>
<tr>
<td></td>
<td>2) Covering 30% of front and back is proportionate to Intellectual Property Right (IPR)</td>
<td></td>
</tr>
<tr>
<td>Rotation</td>
<td>3) Rotating textual health warning</td>
<td>The pictorial health warnings must be rotated every two years.</td>
</tr>
<tr>
<td></td>
<td>4) Black letter on white background</td>
<td>The accompanying text should be in white letters on black background with lettering of Arial 10 points for each unit packet.</td>
</tr>
<tr>
<td>Colour of letters,</td>
<td></td>
<td>Picture files provided by MOH are not modifiable. It must be printed on each cigarette pack, the sleeves and also carton pack using not less than 4 colour printing.</td>
</tr>
<tr>
<td>background and font</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Colour of pictures</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Language</td>
<td></td>
<td>It must be printed in both Malay and English languages on each side of the pack.</td>
</tr>
<tr>
<td>Outer Packaging</td>
<td></td>
<td>Health warning and information cannot to be obstructed. Health warning or other information that are required to be printed and likely to be obstructed visually or obscured by an outer packaging containing the packet or carton of cigarette other than transparent poly-wrap, the health warning or other information, shall be printed on the outer packaging.</td>
</tr>
</tbody>
</table>
Banning of Misleading Descriptors

Prohibitions on misleading information have been strengthened through the Control of Tobacco Product (Amendment) Regulations 2008 under the provision for matters forbidden on tobacco product packaging or label banning. It includes, but not limited to the use of any term, word or descriptor such as “light”, “ultra light”, “mild”, “cool”, “extra”, “low tar”, “special”, “full flavour”, “premium”, “rich”, “famous”, “slim”, “grade A” or any term, word or descriptor or any other words of similar meaning that directly or indirectly create an erroneous or false impression that a particular tobacco product is less harmful than the other tobacco products.

However, in the case of ‘Mild Seven’, a flagship brand of Japan Tobacco International (JTI Malaysia), the use of word ‘Mild’ is given administrative permission since it was registered as the trademark with the Intellectual Property Corporation of Malaysia (MyIPO) prior to the banning on descriptors was enacted. MyIPO is an agency under the Ministry of Domestic Trade. At present, ‘Mild Seven’ is still permitted as the Ministry of Health tries to avoid any discrepancy or disagreement with Ministry of Domestic Trade. The exception is given for the time being.

There is an administrative order that require tobacco industry to submit all new designs, packaging and labeling including colors, wording, etc. for approval before printing it on the pack. This measure aims to ensure that the use of words and terms are legally permitted. However, the challenge faced by the Ministry of Health is the lack of man power to process the applications to change pack designs which are very regular, that is once every three months. It was observed that the introduction of new designs and packaging of certain cigarette brands is used as a marketing tactic by cigarette manufacturers when the sales volume of those products is slow and there is a need to revive its packaging to make them more appealing and novel so as to attract consumer’s attention. At the same time, the tobacco industry tries to challenge the boundary of the use of words and terms by submitting new pack design together with alternative descriptors such as ‘Elite’, ‘Silver’, ‘Nova’ or by devices such as using colour-coding, number or images for approval. They have adapted quickly with the restriction on the use of misleading descriptors by introducing new packaging using different means to suggest variations in quality.

**Lessons Learned**

- Ministry of Health is required to prepare a comprehensive implementation guideline covering the scope and boundary prohibiting the use of misleading descriptors.
- Provide this implementation guideline to all tobacco manufacturers to aid their compliance to the regulation.
- Require more manpower to examine and screen all the applications for new packaging designs to ensure they meet all the specifications and requirements stipulated in the law/regulation.
- Laws regarding misleading information should
  a) include ban of misleading features and innovative elements such as colors, numbers and broaden the boundary of descriptors to eliminate misleading substitute descriptors, such as smooth, fine taste and others.
  b) encompass the ban on the claim of superiority to limit any use of such descriptions.
  c) give authority to Ministry of Health to adopt new rules or additional guidelines to tackle innovative ways used by the tobacco manufacturers to continue to mislead consumers.
Descriptors that refer to superiority of a product are not prohibited in the regulation and the tobacco industry did not take long to exploit this loophole in the law. ‘Superiority’ is defined as words or terms that refer to a higher quality or grading of a product compared to another. The tobacco industry has started to claim the superiority of its products by using alternative descriptors and colour coding such as ‘Kent Futura’, ‘Mintek charged flavored technology’ ‘Kent Silver Neo’, ‘3-Tek Triple filter charcoal technology’, ‘Kent Nanotek’, ‘Salem Elite’ ‘Salem Nova’, ‘Naturally Sun Ripened Tobacco’ and others.
The tobacco industry always claims that they have conformed to their internal highest standard and quality control and thus have the right to put such claims on their packs.

To date, at least 43 countries are known to have specifically banned the misleading “light” and “mild” descriptors for cigarettes. Tobacco industry continues to challenge the ban using colors, numbers, and other words as descriptors to communicate deceptive differences in the risks of different brand to their potential customers.

When descriptors were banned, cigarette packs switched to using alternative descriptors and color coding.
Mass Media Anti-Smoking Campaign: A Powerful Tool for Health Promotion

In addition to legislative controls, Malaysia government has embarked on health promotion strategies to increase public awareness on health effects of smoking as well as to garner community support against smoking. ‘TAK NAK’ which is a colloquial expression that state ‘not wanting’ was a nationwide media campaign launched in February 2004 by the Malaysian government. The campaign’s slogan “Tak Nak! Setiap sedutan membawa padah.” (Don’t Start! Every puff you take damages your body) was designed and aimed at discouraging teenagers and women from starting to smoke, smokers from continuing their habit and encourage friends and families to support activities to curb tobacco smoking from taking up or quit smoking.11 ‘Tak Nak’ campaign was a 5-year project with an annual cost of approximately RM 17 million for the first phase of 2004/2005, RM 9 million for the second phase of 2006/2007 and the last phase was RM 9.2 million for 2008/2009.12

Communication approaches used in the campaign focused on three main media channels such as television which served as the key channel while supporting media were printed media such as newspapers and external media such as using school buses. These media strategies aimed to reach effectively all segments of population at the right time and place. The campaign materials include various types of printed and electronic ads in 4 different languages such as English, Malay, Mandarin and Tamil to reach all target multiracial groups in the country. Table top is another approach that was used in the campaign to inform the public about the harmful effects of smoking and its poisonous substances. (Please refer to appendixes 1 - 3).

Malaysia Health Ministry embarked on the final laps of the ‘Tak Nak’ campaign to support the implementation of pictorial health warnings which came into effect on 1 January 2009. The objective of the final phase of the campaign was to show not just the physical effects of smoking on the smokers as portrayed in the earlier phases of the campaign, but also to illustrate the emotional toll on both the smokers and their families. A three-minute TV commercial was developed and broadcasted during prime time on all main TV channels. (Please refer to appendix 4).

Lessons Learned

- All government agencies must understand the guidelines for implementation of Article 5.3 of the WHO FCTC on the protection of public health policies with respect to tobacco control from commercial and other vested interests of the tobacco industry.
- Strong political will from policymakers is very crucial to protect the public health policies.
- To be effective, anti-smoking media campaign must be sustained for a longer period in order to be successful in changing public’s perception towards smoking behaviour and lead to quit attempts as well as prevent smoking uptake among the young which will reduce smoking prevalence.
In conjunction with the theme of "Tobacco Health Warnings" for World No Tobacco Day 2009 which was celebrated on 31st May 2009, the mass media has played a significant role to support the event as an agent to inform the public about the dangers of smoking and the full implementation and enforcement of the graphic health warnings throughout the country.
Intrusion of Health Messages in the Printed Ads

As part of the ‘Tak Nak’ campaign, a series of coloured pictorial health warnings with the health messages together with a statement “Don’t be fooled by the tobacco companies’ covering a full page of print advertising was designed and published in all major mainstream newspapers. It was printed in four different languages. The Ministry of Health has received many compliments as well as criticisms on the effort from certain sectors. It was observed that the publication of the print ads was discontinued after four continuous daily appearances in the newspapers starting from 2 February 2009. The statement ‘Don’t be fooled by Tobacco Companies’ was removed from the ads in the following publications. Due to overwhelming feedbacks from the public beginning 21 February 2009, the print ads were resumed without the ‘offending’ statement till 24 March 2009.
Role of Civil Society:
National and Regional Alliances

Civil society at national, regional and international levels have played an important role in contributing to the success of tobacco control efforts in Malaysia including implementation of pictorial health warnings. At the national level, the media, Clearinghouse for Tobacco Control (C-TOB) and Malaysia Council for Tobacco Control (MCTC)\(^\text{13}\) played a significant role in advocating for pictorial health warnings. A series of press releases, factsheets and evidences has been prepared and presented to policymakers as well as disseminated to the media.

These strategies have successfully created public awareness of the need of having pictorial health warnings on cigarette pack as a means to convey messages on health risks of smoking. A call for having pictorial health warnings was supported by local evidence and constant publicity made in the media have drawn policymakers’ attention to fully support the implementation of pictorial health warnings.

As a regional alliance, Southeast Asia Tobacco Control Alliance (SEATCA)\(^\text{14}\) which was established in 2001, has worked with and supported, government and non-government tobacco control advocates in the ASEAN countries including the Philippines, Vietnam, Thailand, Cambodia, Lao PDR, Indonesia and Malaysia. SEATCA provides technical assistance to these countries in developing and putting in place effective tobacco control policies. It has advanced tobacco control in the region by helping its national partners to focus on key policy issues like tobacco control laws, tobacco taxation, pictorial health warnings, smoke-free areas and advertising and promotion bans for tobacco products, tobacco industry interference and others.

As one of the partner countries, Malaysia has benefited from this collaboration where SEATCA through its collaborative research program to build more local evidence for advancing tobacco control policy in the country. SEATCA has provided research capacity building and funding to Malaysian researchers to conduct a study on effective pictorial health warnings. Research findings were generated and disseminated to various stakeholders including policymakers and media to support policy development on pictorial health warnings. Tobacco control advocates and researchers from Ministry of Health and non-governmental agencies were provided capacity-building training and mentorship through the fellowship program. Fellows carried out a variety of advocacy projects and were trained in media campaigning, countering the tobacco industry, engaging with policymakers and advancing tobacco control programs. The fellowship program has contributed to the increase in number and capacity of tobacco control workers in the region including in Malaysia.

In addition, SEATCA through its regional forum which highly responds to in-country policy movement has organized a regional workshop on ‘Implementing WHO FCTC Article 11: Tobacco Packaging and Labeling’ on 20-21 May 2008 in Kuala Lumpur, Malaysia.\(^\text{15}\) It aims to provide technical assistance to governments in order for them to meet their impending deadlines for compliance with Article 11 as part of their FCTC obligation. Malaysia was the next country in ASEAN region to adopt pictorial health warnings.
The workshop was timed to coincide with the Malaysian government’s consultation on the regulations and was strategically to provide expert testimony through sharing experiences, including challenges encountered and best practices in packaging and labelling of tobacco products.

Regional Workshop on tobacco packaging and labeling held in Kuala Lumpur in May 2008.

With a strong commitment from Malaysia government to strengthen tobacco control policies, the Malaysian Ministry of Health announced its decision for all cigarette packs to carry pictorial health warnings by 1 December 2008. Providing continuous support and on-going technical assistance to Malaysia government and health advocates has contributed to the passing of Control of Tobacco Product (Amendment) Regulations 2008. This marked another historic milestone in tobacco control policies in Malaysia as it required all cigarette packs sold in Malaysia to be printed with pictorial health warnings effective 1 January 2009.
Implementation: Deadline to be Met

<table>
<thead>
<tr>
<th>Issues</th>
<th>Industry’s Arguments</th>
<th>Ministry of Health’s Decisions</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Implementation Period</strong></td>
<td>The tobacco industry made several attempts to request for further deadline extension to 15, 18, and 24 months. The excuses given by tobacco industry for wanting to delay the implementation of pictorial health warnings were: 1) the selected pictures required adjustment 2) claims that printers are incapable of handling colour demands 3) claims that they have to print it in mass production and that required special roller that have to be fitted with these pictures and that the big drums have to be imported from Australia 4) takes time to order the printing drums (at least 3 months) 5) claims that more time is needed to exhaust its supply of raw materials, finish existing cigarette stocks in the market, redesign packs, cut new print cylinders, print new wrapping materials and communicate changes to customers</td>
<td>Request for deadline extension was rejected on the fact that FCTC deadline for Malaysia to introduce large and effective health warnings on tobacco product packages was due on 1 December 2008. They were reminded that the Minister of Health has announced during the World No Tobacco Day celebrated on 31 May 2008 that the implementation date for pictorial health warnings was December 2008 and that no further extension would be given to the tobacco industry. He also reiterated that in his press statements at various events.</td>
</tr>
</tbody>
</table>

The Control of Tobacco Product (Amendment) Regulations 2008 - (CTPR 2008) was passed on 15 September 2008 and the Ministry of Health provides implementation guidelines together with 6 finalized pictures for pictorial health warnings in a compact disc (CD) to tobacco industry. The implementation guidelines served as guiding principles and procedures and tobacco industry is required to conform to it.

The tobacco industry was given three months to have at least two of their stock keeping unit (SKU) of each variance of cigarette brands to be printed with pictorial health warnings by 1 January 2009 and 6 months grace period before full implementation deadline on 1 June 2009.

There are over 90,000 cigarette outlets/retailers which are widely disperse in the country. In the effort of ensuring compliance from these premises, Ministry of Health has required tobacco industry to print flyers with important notice to inform all of their tobacco dealers/vendors/retailers about the amendment of the CTPR.

Lessons Learned

» Set realistic implementation timeline or compliance deadlines for the tobacco industry. At the manufacturer/importer level, the transition period should not be longer than 12 months from the date of passing of the law/regulation since this is an achievable timeframe that is proven by many countries. A shorter transition period is preferable.

Implementation deadline

» Singapore (50% front and back): First set is 9 months; 2nd set is 5 months only
» Taiwan (50% front and back): 6 months
» Malaysia (40% front and 60% back): 4 months (but companies were given a break: 2 brands with PHWs in 4 months, all brands after another 5 months)
» Mauritius (65% front and back): 3.5 months
» Thailand (50% front and back): 1 year
» Brunei (50% front and back): 1 year
The Control of Tobacco Product (Amendment) Regulations 2008 requires:

1) **Beginning 1 January 2009**, the tobacco industry were given three months to have at least two of their stock keeping unit (SKU) of each variance of cigarette brands to be printed with pictorial health warnings.

2) **Beginning March 2009**, all newly local manufactured or imported cigarettes for sale in the Malaysian market must be printed with pictorial health warnings. Tobacco industries were given extension until 31 May to clear all the old stocks.

3) **Effective 1 June 2009**, full implementation that requires all cigarette packs to carry pictorial health warnings sold in the market. All retailers are advised to only accept cigarette packs with pictorial health warnings from the suppliers/distributors and to return any cigarette pack which does not feature any pictorial health warning to them as soon as possible. They are strictly prohibited from selling cigarette packs that do not carry pictorial health warning on it starting from 1 June 2009.

4) The pictorial health warnings on all cigarette packs must not be obstructed from view by any object and by any means, when displayed or offered for sale. A penalty will be imposed on any person who violate the law and be liable to a fine not exceeding RM10,000 (US$3,000) or to imprisonment for a term not exceeding two years or both.

Other information that must be printed on the pack includes:

- Statement on ‘This product contains more than 4,000 chemicals including tar, nicotine and carbon monoxide that are dangerous to health’.
- Number of sticks.
- Manufacturer’s/Importer’s name and address.
- Statement on ‘Not for Sale to Minors below 18 years old’.
- Manufactured/imported Date: Day/Month/Year.

In effect, it took about 8 months for 100% of full implementation of pictorial health warnings printed on each cigarette pack sold in the market after the passing of the amended CTPR 2008.
After the implementation of pictorial health warnings, it was observed that the tobacco industry has introduced cigarette packs that come in various designs and shapes evidently to dilute the effects of the pictorial health warning. The industry succeeded in exploiting the loopholes in the Control of Tobacco Product (Amendment) Regulations 2008. Presented below are several loopholes and how the industry has used them to their advantage.

No specification of size of the pack, thus allowing the tobacco industry to introduce cigarette packs in the shape of small ‘lipstick’ boxes or ‘button’ pack. This has resulted in the distortion of the picture warning as the cigarette packaging is smaller in size. It also reduces the impact of pictorial health warning significantly, besides the tax stamp that is affixed on top of each imported ‘lipstick’ cigarette pack covers almost two-thirds of the whole pictorial health warnings.

- Set and specify the size limit of picture warnings that should be printed on the pack and not building on the percentage of the overall pack size.
- Define the shape and dimension of cigarette packs, this is to
  a) avoid all sorts of shapes that the tobacco industry can design such as introduction of pack in the form of lipstick; slim and perfume packaging or any odd shape.
  b) prohibit distorting and minimizing the pictorial health warnings.
- Set an equal size of pictorial health warning occupying both front and back of the pack.
- Specify the printing on the outer packaging and the use of sleeve must include the printing of pictorial health warning.
- The industry could dilute the impact of warnings through use of package colours and design and thus the government should consider legislative wording that restricts pack designs and colours that dilute the impact of warnings.
- Specify the size of the black border width for the text to avoid manipulation by the tobacco industry.

**Lesson Learned**

- Fanciful packaging proposed by a packaging company to the tobacco industry.
- A button pack and a new slim pack design.
- Pictorial health warning is proportionately reduced in size for lipstick packs.
Specification of different sizes of pictorial health warnings covering both principle areas of the pack in which 40% front and 60% back panels of the pack. The industry also gained from this, because retailers have deliberately displayed the non-pictorial health warning surface at point-of-sales beginning of the implementation period. In response to this, Ministry of Health has issued a warning letter to the tobacco industry and also alerted the enforcement officers about the issue. At present, it was observed that the retailers have resorted to display pictorial health warning that covers 40% front of the pack at point-of-sales.

Specification of the printing of outer packaging has been exploited by tobacco industry where innovative designs were printed at the bottom on a transparent sleeve to be placed on the cigarette pack. Given that the display of cigarette packs with ‘sleeve’ at point-of-sales did not conceal the pictorial health warning but it was noted that the smokers can switch the position of the sleeve with the design to the top of the pack to obscure the surface of pictorial health warning. Ministry of Health has confiscated those cigarette packs and issued a warning letter to the tobacco industry.
No specification on the generic colours for the pack except for all the texts on health messages and images of pictorial health warning. With the ban on descriptors the tobacco industry was quick to respond by producing packs with different colour coding to differentiate their product designs such as red colour for regular or conventional cigarette, blue for light cigarette and green for menthol cigarette. This is to sensitize consumers to the types of product design using colours.

In addition to that, colours were also used to differentiate or characterize a product, for instance the flavored cigarettes. Tobacco industry has aggressively introduced various types of flavored cigarettes using different colors (such as orange, strawberry, apple, etc.) for cigarette packs targeting at different groups of population especially the youth and women.
No specification of banning the use of colour and design to add a graphical component at the bottom half of the packs. This has led to direct exploitation by tobacco industry through utilizing colours and graphic design to distract viewers from looking at the health warnings and therefore diluting the effect of pictorial health warnings.

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 tobacco industry has capitalized on this weakness by increasing the border width with the aim to reduce the size of the pictorial health warning. This has made the pictorial health warning smaller in size.
Recommendations

- In countering tobacco industry tactics in circumventing the loopholes in the current Control of Tobacco Product (Amendment) Regulations 2008, it is recommended that governments introduce generic or plain packaging\textsuperscript{18,19} as it would prohibit the use of colours, logos, brand images or promotional information, distinctive fonts, descriptive words and phrases except for the brand name and product names displayed in a standard colour and font style. It requires a standardized or homogenous packaging in terms of size and shape of the package; packaging material including gloss level; lining material and colour; use of ink colour and type as well as style of opening. It would apply to both exterior and interior of pack; tobacco product itself; all forms of smoked and smokeless tobacco including carton wrappings, cigarette papers, blunts and carrying cases.

- Banning tobacco industry power wall is an urgent call for the government to strategically paralyse the attraction of packs display on the point-of-sale (POS) to keep cigarettes invisible to the public in order to denomalise the product.

- In the pursuant of protecting public health policies including tobacco control from the influence by tobacco industry, it is crucial and vital that the government introduces code of conduct for Article 5.3 to protect tobacco control from commercial and other vested interests of the tobacco industry to all government agencies.

- Set up a strong coalition amongst the government agencies. It is essential that Ministry of Health partner and collaborate with other government agencies such as Royal Malaysian Customs, Intellectual Property Corporation of Malaysia (MyIPO) and Ministry of Domestic Trade is essential to work together to curb the issue of illicit cigarettes which are not in compliance with the requirement of pictorial health warning and prohibition of misleading descriptors.

- Establishment of tobacco industry surveillance system in the country is needed and should be sustained to monitor tobacco industry activities.

- Continue to strengthen enforcement activities at all levels to ensure compliance from tobacco industry to have printed six rotated pictorial health warnings on all of their tobacco products.

- Increase the number of human resource to work on tobacco control issues is essential to support and advance tobacco control policies in the country.


10. Canadian Cancer Society (June 1, 2007). Countries that Have Banned “Light” and “Mild” Descriptors for Cigarettes. Canada.


Appendix 1 | Tak Nak Media Campaign Materials for 2004

PRINTED MEDIA

EXTERNAL MEDIA

Asap rokok boleh menjejaskan kepintaran kanak-kanak

Tabiat merokok mengorbankan lebih daripada 8000 nyawa sehari
Appendix 2  Tak Nak Media Campaign Materials for 2006

Printed Media

External Media: Bus Panel

Poster
ELECTRONIC MEDIA

Television Advertising

This is a 3 minutes television ad that was screened in 4 different languages to target all groups of population in Malaysia.
The Southeast Asia Tobacco Control Alliance (SEATCA) works closely with key partners in ASEAN member countries to generate local evidence through research programmes, to enhance local capacity through advocacy fellowships, and to be the catalyst in policy development through regional fora and in-country networking.

By adopting a regional policy advocacy mission, it has supported member countries to ratify and implement the WHO Framework Convention on Tobacco Control (FCTC). SEATCA has been in existence since 2001 to act as supportive base for government and non-government tobacco control workers and advocates in the SEA region, primarily to Thailand, Malaysia, Cambodia and Vietnam. Currently, the alliance has formally extended to three more countries of Indonesia, Lao PDR, and the Philippines.

SEATCA was awarded the WHO Western Pacific Regional Office’s 2004 World No Tobacco Day Award in recognition of its major contribution to tobacco control in the region. “SEATCA has emerged as a major catalyst for advances made in tobacco control in the South East Asia Region, especially with regard to policy and legislation.”

- Dr Shigeru Omi, Regional Director for the Western Pacific Regional Office at the presentation of 2004 World No Tobacco Day Awards.

SEATCA Objectives

1) To form a supportive base for government and non-government tobacco control workers in their efforts to promote the implementation of effective evidence-based national tobacco control measures.

2) To encourage greater cooperation between tobacco control workers at national and regional levels and to act as a regional leader on issues which affect all countries in the region.

3) To facilitate information transfer and the sharing of experience and knowledge, to organize capacity building exercises, and to coordinate national and regional initiatives in tobacco control work.

4) To strengthen national tobacco control movements and to bring mainland Southeast Asian issues into the international tobacco control arena.

SEATCA Activities

1) Building local evidence through Collaborative research programme which provides funding, capacity building training, mentorship and platform to disseminate research studies to policy makers. The products from this programme are local evidences and knowledge for policy development.

2) Capacity building which focuses on strengthening local capacity on policy development through programmes named ASEAN fellowship programme and national tobacco control working group.

3) Regional network for policy development through SEATCA regional forum which highly responds to in-country policy movement. SEATCA organizes two regional fora per year focusing on policy issues like tobacco tax, health warnings, best practice on advertising ban, etc.

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“working together to promote the implementation of effective evidence-based tobacco control measures in southeast asia”