ASEAN
STATUS OF TOBACCO PROMOTION AT POINT-OF-SALE

SEATCA

DON'T BE FOOLED BY TOBACCO INDUSTRY

Southeast Asia Tobacco Control Alliance

November 2014

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***All photos showed in this report taken in 2014 by Tobacco Industry Surveillance Focal Points in countries**

ABOUT SEATCA TOBACCO INDUSTRY SURVEILLANCE PROJECT

Tobacco control legislation in the ASEAN has made good progress however further strengthening and monitoring is needed. The tobacco industry continues to undermine government efforts to implement legislation and reduce tobacco use. In countries with good legislation we see these being violated through innovative promotional strategies by the tobacco industry while in Indonesia the industry is opposing even basic regulation on tobacco advertising. WHO FCTC Article 5.3 empowers governments to protect public health policies from interference of the tobacco industry. It obligates governments to be transparent in their dealings with the industry. However this policy implementation meets many challenges as the tobacco industry finds ways to continue its interference in the tobacco control policy development in the region.

SEATCA aims to strengthen the capacity of ASEAN countries to counter tobacco industry interference effectively through de-normalization and documentation of industry tactics. In addition, FCTC Article 5.3 [tobacco industry interference] and Article 13 [tobacco advertising, promotion and sponsorship] Guidelines should be fully implemented by governments. To achieve these aims, the industry surveillance [SIS] project expands the Monitor-Alert-Counter [MAC] Network established by SEATCA in 2009 to effectively monitor tactics and activities of the tobacco industry and its influence on governments in the region.

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ASEAN: STATUS OF TOBACCO PROMOTION AT POINT-OF-SALE

INTRODUCTION

Tobacco Advertising and Promotion is any form of commercial communication, recommendation or action with the aim or effect of promoting a tobacco product or tobacco use either directly or indirectly. These are focused on direct tobacco advertisements and sponsorship of sports and entertainment. In some countries the bans do not go far enough. The tobacco industry challenges legislation that halts all forms of advertising, promotions and sponsorship. Implementing WHO FCTC Article 13 should focus on achieving comprehensive bans which include the aspects outlined in Article 13 Guidelines.

With tobacco advertising and promotions being either totally or partially banned in almost all countries in Southeast Asia (ASEAN), the tobacco companies have shifted their focus to market at point-of-sale (POS) by displaying many packs or cartons of cigarettes. This is the remaining principal avenue for tobacco companies to communicate to the public. Cigarette pack displays at POS are aimed at keeping them visible and normal in the public's mind. POS outlets are ubiquitous, and there is usually no control over their numbers which gives the tobacco companies an easy way to make cigarettes easily available. Since minors also visit retail outlets the packs positioned prominently at counters are visible to children as well.

BEST PRACTICES IN ASEAN: BRUNEI, THAILAND AND SINGAPORE

Legislation on Tobacco Advertising Ban at POS

	Regulation of POS Advertising	Status of Pack Display
Brunei	Ban	Banned, effective 2011
Cambodia	Ban	Display of only 1 pack/carton per brand
Indonesia	No Ban	Allowed
Lao PDR	Ban	Allowed
Malaysia	Ban	Allowed
Philippines	No Ban	Allowed
Singapore	Ban	Display of any 1 pack per variant (will be banned by end of 2013)
Thailand	Ban	Banned, effective 2005
Vietnam	Ban	Display of any 1 pack, box or carton per brand

Brunei and **Thailand** in the ASEAN region have completely banned pack displays at POS as recommended in the FCTC Article 13 Guidelines,[i] as part of a comprehensive ban of tobacco promotions. In **Thailand**, the ban on pack display at POS has been in place since September, 28, 2005. According to the law, there are at least two types of display areas found in Thailand. First, in convenient stores such as 7-Eleven and second, in Family Marts where built-in shelves with flip-covers containing cigarette packs are normally located behind the cashier counters.

In **Singapore**, the government has announced that shops will be barred from displaying cigarette packs at POS as a measure to protect youths from tobacco marketing. It will be implemented through an amendment of the Tobacco (Control of Advertisements and Sale) Act by the end of 2015[ii]. The ban was enacted following a public consultation in 2013. Tobacco retailers will be required to use storage devices to keep tobacco products out of direct sight of customers. Retailers were given a grace period of 12 months to comply after legislation was enacted.

In other countries, the tobacco companies have lobbied governments to allow them to advertise at POS or display only 1-pack per brand, then they exploit this advantage to outrageous extents. In Southeast Asia, there are only a handful of tobacco companies that conduct such aggressive POS advertising and promotions. The top three transnational tobacco companies, BAT, PMI, JTI supply branded carts to street vendors. These companies while claiming to respect local laws, the peoples' welfare and the FCTC, in reality show scorn and contempt for these. Top local tobacco companies such as Gudang Garam and Djarum in Indonesia, and VINATABA in Vietnam, use similar tactics.

STATUS OF POS IN ASEAN COUNTRIES

LAO PDR

Since 2010, **Lao PDR** has implemented the Decree on Tobacco Product Promotional Consumption Ban. According to the law, tobacco companies are allowed to promote using umbrellas, indoor cigarette display shelves, and electronic bill board. This exception has provided the tobacco companies leeway to still advertise and target new smokers. Latest survey on POS; shows companies advertising by printing oversized cigarette stickers on display shelves, such that customers can easily see cigarette packs. In addition, to lure people walking on the street, retail shops usually place cigarette display shelves near the shop entrances. Candies are also displayed near cigarette displays.

Cigarette display shelves near the shop entrance and candies

CAMBODIA

Using sale girls or promotional girls (see photo on page 3 and annex) have become a common marketing tactic in **Cambodia**. According to the Ministry of Health, using cigarette sale girls violates the Sub-Decree on Advertising of Tobacco Products; however, it is not easy to penalize them or tobacco companies because sale girls are well trained by tobacco companies to avoid enforcement officers and they move very fast. The MOH can send warning letters to the responsible tobacco companies. In Cambodia, violators of the law do not need to pay a fine because the law requires only a warning to be issued to the violators or confiscation of the advertisement. This has shown to be ineffective because the tobacco companies can replace the confiscated poster with a new one.

PHILIPPINES

Shop signage found in the Philippines

In **the Philippines**, according to the tobacco control legislation, RA9211, all outdoor advertising is banned: "Beginning 1 July 2007, all cinema and outdoor advertising shall be prohibited. No leaflets, posters and similar outdoor advertising materials be posted, except inside the premises of point-of-sale retail establishment."[iii] Tobacco companies can still advertise at POS and provide free sampling of tobacco products, among other promotional activities. Recently, several types of tobacco advertising, promotion and sponsorship at point-of-sale regularly found in the Philippines, such as cigarette display shelves, posters of cigarette advertisement and promotion, advertising through sale persons and vehicles and shop signages.

Since there is no prohibition on advertising or pack display ban, tobacco companies provide elaborate display shelves and stands at POS to keep cigarettes highly visible. Children who frequent these outlets are exposed to cigarette advertising and promotions through these displays. Poor vendors who eke out a living on the street are most vulnerable to the exploitative tactics of tobacco companies. With its large young population the Philippines has been targeted by tobacco companies. These past few years, PMI launched a new "*Don't Be A Maybe – Be Marlboro*" advertising campaign as one of its key driver to renew market share in the Philippines. Similarly Indonesia, another PMI target country in Southeast Asian, is flooded with the same *Be Marlboro* advertising campaign in 2013.[iv]

INDONESIA

According to the 2011 WHO report on the global tobacco epidemic, Indonesia has not enacted any bans on TAPS, and it is the only WHO member state in Southeast Asia that has not ratified the FCTC.[v] So, Indonesia has been the main target of tobacco companies for years, where advertising is ubiquitous. Streets are lined with prominent billboards advertising cigarettes or tobacco sponsored

events. Multiple banners along streets is a common tactic to repeat brand names in the public eye. Such extensive advertising is unmatched elsewhere in Asia.

POS too is an important avenue for tobacco companies to target and market to new smokers, especially the young. In retail shops and convenient stores many packs line big wall shelves just behind the cashier which can be seen easily, some with eye-catching text like "In or Out?" (above) Whole retail shops are also painted with popular cigarette brand colours.

MALAYSIA

The Malaysian Control of Tobacco Product Regulations 2004 (CTPR) states in Reg 4(1) that "no person shall display or affix, or cause or permit to be displayed or affixed any tobacco product advertisement, distribute, or cause or permit to be distributed any tobacco product advertisement."[vi] The regulation stipulates a total ban on advertising, promotion and sponsorship of all tobacco products. However Malaysia has not banned pack display yet and it allows the tobacco companies to still promote cigarette brands through attractive display panels or walls covered with numerous cigarette packs referred to as "Powerwall". This makes the ban ineffective. The companies launch new cigarette brands and tobacco products through innovations, offer special packaging and display these through prominent, attractive display panels at the counter.

VIETNAM

In Vietnam, Tobacco Control Law which has been in place since May 2013, Article 25 on POS displays says: "…at point of sales prohibit the display of more than one pack, one carton or box of one cigarette brand…" and "…organizations, individual must not sell cigarettes outside the gates within 100 meters from the boundary of children daycare centers, kindergarten, elementary school, secondary school, high school, medical institute, hospital, maternity homes, preventive medicine center, and communal health stations…" However, there is widespread violation reported without obvious punishment. Tobacco companies print in small font, "no sale to children aged under 18" (right) which is difficult to read and ineffective. As in Cambodia, cigarette sales girls are found in crowded areas.

NEW TREND OF POINT-OF-SALE ADVERTISING

PERSON-TO-PERSON SALE

Person-to-person sale is being used by tobacco companies to promote cigarette brands directly to the public. In countries like **Cambodia, Indonesia, Vietnam, Philippines** and **Thailand**, cigarette sale girls are found in communities and crowded areas to promote and sell cigarettes to potential

customers. In Thailand, especially in several tourist places, tobacco companies such as Philip Morris, put up mobile booths to sell cigarette using sales girls. This is observed in Pattaya. Tobacco companies recruit young, attractive girls to do the selling to appeal to smokers who are mainly men. They are trained to avoid enforcement officers. This type of person-to-person sale is not easy to monitor because they can move quickly once they notice they are being monitored or photographed. Since the pack display ban at POS, tobacco companies use person-to-person sales as an important tactic to promote cigarette brands directly to people.

From left to right: sale girls from Thailand, Vietnam and Cambodia

PACK DISPLAY SHELVES SPONSORED BY TOBACCO COMPANIES

Nowadays, even if pack display is banned at POS, tobacco companies sponsor cigarette display shelves with design and colors similar to that of cigarette brands. In **Thailand**, as for other small retail shops, the cigarette shelves are mostly provided free by the tobacco companies. These shelves have been designed by the company which carries their product logo and colors.

Some have a creative design that can be rotated around between cover and display. Some use clear see-through plastic in which people can easily see the cigarette packs inside. In rural areas, cigarette shelf or container are made by retailers. In other countries such as Lao PDR and Indonesia, cigarette display shelves sponsored by tobacco companies.

Cigarette display shelf sponsored by a tobacco company in Lao PDR

POLICY RECOMMENDATION

LICENSING TOBACCO RETAILERS

Brunei, Singapore and **Thailand** have licensed tobacco retailers for stricter regulation. Some convenience stores in **Brunei** have stopped selling cigarettes after the Ministry of Health informed them they were in violation of laws *prohibiting businesses from selling tobacco products within a kilometer radius of schools*.[vii] According to retailers in Brunei, the annual license to sell cigarettes has risen under the amendments to the Tobacco Order, making the profit margin for cigarettes negligible for small businesses. Licensing of retailers can also help the government monitor and control sales of smuggled cigarettes.[viii] In Vietnam, according to the recent tobacco control law, tobacco retailers need to register and meet several requirements before they are allowed to sell cigarettes.

Licensing of Tobacco Retailers		
COUNTRY	**LICENSING OF RETAILERS**	**COST OF LICENSE(USD)**
Brunei	Licensed	240.12
Cambodia	Not licensed	
Indonesia	Not licensed	
Lao PDR	Not licensed	
Philippines	Not licensed	
Malaysia	Not licensed	
Singapore	Licensed	288.14
Thailand	Licensed	17.09
Vietnam	Not licensed	

COMPREHENSIVE BAN: FCTC ARTICLE 13 IMPLEMENTATION

Since cigarettes are easily and widely available, countries must implement a total ban on any display and visibility of tobacco products at POS. Only textual listing of products and their prices without any promotional elements can be allowed. Retailers should be licensed for better regulation, and the number of retail outlets fixed, to prevent proliferation especially of street vendors. A ban based on best practice should apply to all modes of public transport and stations including ferries, airplanes, ports and airports. To stop tobacco companies from circumventing the ban on advertising and promotions at POS, recommendations in FCTC Article 13 Guidelines should be implemented in a comprehensive manner.

LAW ENFORCEMENT

Tobacco companies have been found to circumvent of violate legislation, hence law enforcement must be stepped-up in the ASEAN region. In **Cambodia**, just the warning and confiscation of advertisement have shown to be ineffective as a deterrent to violators. In **Thailand**, retailers located in rural areas do not close the cigarette display shelves as required by law. In **Vietnam**, the law is broken frequently in retail shops, street vendors and convenient stores displaying more than one pack per brand and selling cigarettes near places stated in the law. Besides, stringent enforcement of tobacco control laws also need to be strengthened to deter violators.

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[i] WHO Framework Convention on Tobacco Control, Article 13 Guidelines, http://www.who.int/fctc/protocol/guidelines/adopted/article_5_3/en/index.html

[ii] MOH to proceed with point-of-sale display ban on tobacco products, http://on-msn.com/XnUedQ

[iii, vi] SEATCA. 2012. ASEAN Tobacco Control Atlas.

[iv] SEATCA, 2014, Marlboro Adverts Target Youth in Southeast Asia, http://seatca.org/dmdocuments/SEATCA_Be%20Marlboro%20Campaign_Southeast%20Asia_7%20Mar%202014.pdf

[v] Rebekah H. Nagler, Kasisomayajula Viswanath, Nicotine Tob Res. 2013 April; 15(4): 832–846. Implementation and Research Priorities for FCTC Articles 13 and 16: Tobacco Advertising, Promotion, and Sponsorship and Sales to and by Minors Published online 2013 January 4. http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3601914/

[vii] Cigarette sale no longer profitable, Brunei Times, 18 May 2012 http://bit.ly/JO9Vku

[viii] Vietnam Business Outlook, Nielson, Aug 2010 http://bit.ly/QR3pw9

ANNEX – PHOTO EVIDENCE

ASEAN: STATUS OF TOBACCO PROMOTION AT POINT-OF-SALE*

CAMBODIA

Under-aged boy selling cigarettes together with other products such as shampoo and Mono Sodium Glutamate at Chey Sen District Preas Vihear Province

Cigarette sale girls found in Phnom Penh Province

TUKTUK carrying cigarette advertising in Khann Sen Sok, Phnom Penh Province

Cigarette lighter (functional object or gift from cigarette products printed cigarette brand as covered to promote and advertise the brand), at Phsar Kandal, Phnom Penh Province

Cigarette advertising posters found on the wall in Kg. Thom market

*All photos taken in 2014 by Tobacco Industry Surveillance Focal Points in countries

INDONESIA

Big cigarette advertising billboard are located along main, busy roads

Numerous, prominent cigarette banners line the big roads; they are placed consecutively to ensure they cannot be missed

Djarum Coklat banner at a community entrance

PT Djarum's Magnum Blue brand launched through a big promotion, with the shop decorated attractively in a modern style to target young people.

Tobacco industry car covered with cigarette advert to attract road users

A road side stall covered with tobacco advertising

LAO PDR

Umbrellas advertising cigarette brands

A tobacco company car covered with cigarette advert

Pack display shelf designed to enlarge the size of cigarette packs to promote and advertise the brand

Hongtha Lao-Chinese Good Luck company's advertisement in front of its branch in Luang Prabang

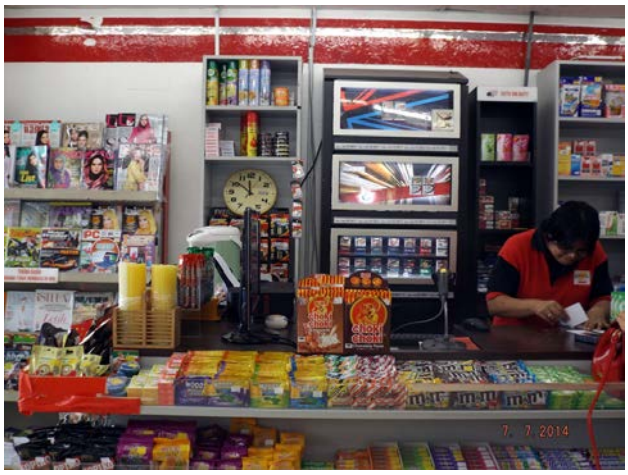
Shop signage with cigarette brand in front of a wholesaler

Cigarette display shelves with other goods in a retail shop

MALAYSIA

Cigarette display shelf in a retail shop

Prominent cigarette display shelf



Power wall - Cigarette display shelf in convenience store located just behind cashier counter

Cigarette display shelves in a convenience store

Prominent cigarette display at a retail shop

Cigarette display shelf in an internet café

PHILIPPINES

Shop signage promoting discounts for cigarettes

Poster of cigarette advertisement and promotion

Cigarette sale man on the street

Tricycle (Philippines local vehicle) covered by cigarette advertisement

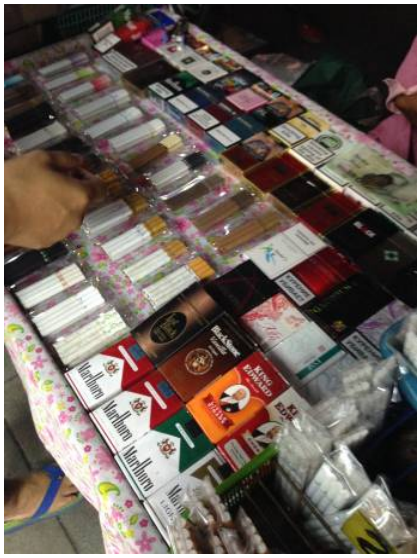
Attractive cigarette display shelf booth located in a department store with easy access to young children

Cigarette packs placed on the same shelf as other products in a grocery store

THAILAND

Free cigarette shelf provided by Thailand Tobacco Monopoly (left and middle) and Philip Morris (right)

Cigarette display shelf of Japan Tobacco International found without cover



Illicit cigarette packs/ sticks sold in night market

Cigarette sale girls at Philip Morris booth, Pattaya beach

Cigarette sold from a container in rural areas

Philip Morris booth and sale girl

VIETNAM

Tobacco advertising at POS which violates the law

Cigarette display shelf in a convenience store

Shops located along the street violate the law by displaying more than one pack per brand

Young children have free exposure to cigarettes

Poster cigarette advertisement at POS

Cigarette display shelf found along the street

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