

## ADVERTISING AT POINT-OF-SALE GONE BERSERK: A CASE FOR PACK DISPLAY BAN

### INTRODUCTION

With tobacco advertising and promotions being either totally or partially banned in the mass media in almost all countries in Southeast Asia, the tobacco industry has shifted its focus to do marketing communication at point-of-sale (POS) by displaying a number of cigarette packs or carton. This is the remaining principal avenue for tobacco industry. 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 industry an easy way to make cigarettes easily available. Since minors also visit retail outlets the packs positioned prominently at counters are visible to them as well.



In countries that still allow advertising at POS, the situation has gone berserk. The tobacco companies lobby governments to allow them to continue advertising at POS then they exploit this advantage to outrageous extents. **Brunei** and **Thailand** have addressed this problem and as recommended in the WHO FCTC Article 13 Guidelines,<sup>1</sup> have banned cigarette pack display at POS as part of a comprehensive ban of tobacco promotions. **Brunei, Singapore** and **Thailand** have also licensed cigarette retailers as a means for stricter regulation of retailers. This hand-out reviews the status of promotions at POS and makes a case for pack display bans.

### Advertising and Promotions at Point-of-sale

Although tobacco kills half its users prematurely, it is extremely easily available through the numerous retail outlets. Cigarettes are sold in supermarkets, sundry shops, kiosks, newsstands, mobile vans, street vendors, minimarts and convenience stores. The number of tobacco retailers has proliferated unabated (Table 1). Accessibility and visibility of cigarettes is more than the estimates provided in Table 1 and these do not take into account the innumerable street vendors in Indonesia, the Philippines and Vietnam. The proliferation of retail outlets selling cigarettes is contradictory to the health objective of reducing tobacco use and the burden of disease. This is an important issue that governments need to address. As Table 1 shows, the ratio of physicians to the whole population to tackle tobacco related diseases is rather obscure in comparison to the number of retailers selling cigarettes to smokers. Of course the concentration of cigarette retailers will be higher in cities and urban areas.

**Table 1: Cigarette Retailers in Select Countries<sup>2 3</sup>**

Country	Total Smokers	Cigarette Retailers*	Cig Retailer per 10,000 smokers	Physicians per 10,000 pop***
<b>Indonesia</b>	61,400,000	2,500,000	407	1
<b>Malaysia</b>	4,700,000	80,000	170	7
<b>Philippines</b>	17,300,000	694,821	402	12
<b>Singapore</b>	391,000 <sup>1</sup>	5335	137	19 <sup>2</sup>
<b>Thailand</b>	14,300,000	570,000	399	3
<b>Vietnam</b>	12,800,000	120,000**	94	6

\*Does not include street vendors. \*\*Ho Chi Minh City has reportedly more than 70,000 cigarette retailers

\*\*\* Table 14, 2010 HDR <http://bit.ly/dQupbE>

<sup>1</sup> refers to Singapore and Permanent residents aged 18 to 69 years old only, derived from the National Health Survey of 2010

<sup>2</sup> sources: Ministry of Health Singapore, Health Fact Singapore, Health Manpower

Indonesia and the Philippines allow advertising at POS (Table 2) which tobacco companies take full advantage of. They equip POS with elaborate display shelves and stand 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. Sales of cigarettes, their advertising and promotions have extended to gas stations (although smoking is banned here), coffee shops and restaurants, where cigarette brands are even on the menu. Shop owners, coffee shop associations or retailers hence are strong allies and spokespersons for the tobacco industry in fighting restrictions or any form of regulation as required in the FCTC and its guidelines.

**Table 2: Legislation on Tobacco Advertising at POS**

Country	Regulation of POS Advertising	Remarks on pack display
<b>Cambodia</b>	Banned	Display of only 1 pack or carton per brand
<b>Indonesia</b>	No Ban	Pack display allowed
<b>Lao PDR</b>	Banned	Pack display allowed
<b>Philippines</b>	No Ban	Pack display allowed
<b>Malaysia</b>	Banned	Pack display allowed
<b>Singapore</b>	Banned	Display of only 1 pack per variant
<b>Thailand</b>	Banned	Pack display banned
<b>Vietnam</b>	Banned	Display of only 1 pack or carton per brand



Large POS promotion in the Philippines



Cart covered with cigarette advertising reaches everyone including children

In Southeast Asia it is only a handful of tobacco companies that conduct such aggressive POS advertising and promotions or supply branded carts –the top few transnational tobacco companies, (BAT, PMI, JTI) and top local tobacco companies in their respective countries (Gudang Garam and Djarum in Indonesia, Vinataba in Vietnam). These same companies while claiming to respect local laws, the peoples' welfare and the FCTC, in reality show scorn and contempt for these.

Countries which have imposed a ban on advertising at POS or restrictions on pack display (Table 2) face some challenges in enforcement. In Vietnam, a 2010 study shows 93% of the retail stores selling tobacco products violated the provisions restricting the display to one pack or one carton per brand name, resulting in unlimited visibility of tobacco.<sup>4</sup> Some enforcement challenges are that there is no coordinating mechanism between the multiple ministries responsible for implementation; the fines imposed for violations (Decree No. 75/2010/NĐ-CP) were not high enough as a deterrent and the numerous street vendors are one of the most visible outlets for display of cigarette packs and difficult to control.

Although **Malaysia** has banned advertising and promotions at POS, however the tobacco companies are still promoting through deploying attractive display panels or walls covered with numerous cigarette packs that makes the ban completely ineffective. They launch new cigarette brands and tobacco products through innovations, offer special packaging and aggressively display these through prominent, attractive display panels at the counter.



Wall of cigarettes by BAT makes imposing POS advertising although Malaysia has banned POS advertising

Since bans on pack display are effective, tobacco companies fight them in the courts. The UK government's ban on the display of tobacco products in retail outlets is being challenged by tobacco companies. Imperial Tobacco is seeking a judicial review of the relevant sections of the UK Health Act 2009 and proposed regulations that aim to ban the display of tobacco products in retail outlets from October 2011.<sup>5</sup> BAT is seeking a similar judicial review. PMI is challenging display bans in other countries e.g. Finland and lost its legal challenge in Norway.<sup>6</sup> PMI did not appeal. Such antagonistic action in court inadvertently may have a 'chilling effect' on other governments who are considering similar POS display bans.

To stop tobacco companies from circumventing the ban on advertising and promotions at POS, and to comply with recommendations in the FCTC Article 13 Guidelines, several countries and jurisdictions have banned pack display at POS (Table 3).

**Table 3: countries and jurisdictions have banned pack display at POS**<sup>7 8 9 10</sup>

COUNTRY	PACK DISPLAY BAN
Australia	2011
Canada	2004 (10 states)
England	2012
Finland	2010
Iceland	2001
Ireland	2009
Mauritius	2008
New Zealand	2011
Northern Ireland	2012
Norway	2010
Scotland	2010
Thailand	2005
Wales	2012



Due to POS ban in Thailand, shops cannot show cigarette pack on shelves and cover it by sign "Cigarette Sold Here"

### Retail licensing is needed

According to the FCTC Article 13 Guidelines, licensing of tobacco retailers "can be an effective method for controlling advertising, promotion and sponsorship. A licence would be granted or renewed only if the applicant could ensure compliance with the legal requirements. In cases of non-compliance, the licence could be withdrawn for a certain time or cancelled." Hence licensing of retailers is an important step towards controlling access and keeping retailers in check. It is also addresses the problem of proliferation of street vendors whom tobacco companies exploit for unlimited advertising opportunities.

Licensing of cigarette retailers is not required in many countries in the ASEAN region (Table 4). Governments should seriously consider this measure as a means to not grant license for cigarette sales in the vicinity of schools as Brunei has done.

Some convenience stores in **Brunei** have stopped selling cigarettes after the Ministry of Health informed them they were in violation of laws that *prohibit businesses from selling tobacco products within a kilometer radius of schools*.<sup>11</sup> According to retail owners in Brunei, the annual license to sell cigarettes has risen from \$500 to \$2,500, under amendments to the Tobacco Order, making the profit margin for cigarettes negligible for small businesses. Licensing of retailers can also help the government to monitor and control sales of smuggled cigarette.<sup>12</sup>

**Table 4: 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	

## Conclusion

The FCTC and its Guidelines empowers governments to act and they should enact regulations and legislation that enshrine the highest standards for tobacco control. Half-measures or compromised measures have repeatedly shown to be ineffective in the long run as tobacco companies exploit loopholes and circumvent restrictions.

## RECOMMENDATIONS

1. Conduct surveillance and monitoring tobacco industry's marketing strategies at POS
2. Monitor and document the trends in cigarette pack price, colours, designs, size, flavours and all product innovations
3. Enact ban on advertising and promotion at POS, including pack display ban
4. Regulate and license retailers selling tobacco products
5. Ban kiddie packs (not less than 20 sticks)
6. Advocate for standardized packaging – plain packaging as Australia has done.

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<sup>1</sup> WHO Framework Convention on Tobacco Control, Article 13 Guidelines, [http://www.who.int/fctc/protocol/guidelines/adopted/article\\_5\\_3/en/index.html](http://www.who.int/fctc/protocol/guidelines/adopted/article_5_3/en/index.html)

<sup>2</sup> British American Tobacco Malaysia, 2011 Annual Report, <http://bit.ly/RkhSia>

<sup>3</sup> British American Tobacco (Malaysia) Bhd, Global Consumer and Food Retail Conference, 10 Jun 2009, Paris <http://bit.ly/Sq0lt8>

<sup>4</sup> Joint National Capacity Assessment on the Implementation of Effective Tobacco Control Policies in Vietnam [http://apps.who.int/iris/bitstream/10665/75354/1/9789241502733\\_eng.pdf](http://apps.who.int/iris/bitstream/10665/75354/1/9789241502733_eng.pdf)

<sup>5</sup> Tobacco groups seeks to challenge UK display ban, Reuters, 26 Apr 2012 <http://reut.rs/isxnp9>

<sup>6</sup> Norway rules in favour of tobacco display ban, Victoria Klesty and Vegard Botterli, Reuters, 14 Sep 2012, <http://reut.rs/PpCTY4>

<sup>7</sup> Sarah Boseley, Cigarette and Tobacco Displays Ban in Supermarket, 5 Apr 2012,

[www.guardian.co.uk/society/2012/apr/05/cigarette-tobacco-displays-banned-supermarkets](http://www.guardian.co.uk/society/2012/apr/05/cigarette-tobacco-displays-banned-supermarkets)

<sup>8</sup> State Government Victoria Department of Health, Tobacco Retailers Factsheet, 1 Jan 2011,

[docs.health.vic.gov.au/docs/doc/77404BA8E1832995CA2578D700742FD2/\\$FILE/retailers\\_factsheet.pdf](http://docs.health.vic.gov.au/docs/doc/77404BA8E1832995CA2578D700742FD2/$FILE/retailers_factsheet.pdf)

<sup>9</sup> Finland adopts new tobacco act to complete ban smoking, 21 August 2010,

[http://news.xinhuanet.com/english2010/health/2010-08/21/c\\_13455063.htm](http://news.xinhuanet.com/english2010/health/2010-08/21/c_13455063.htm)

<sup>10</sup> Mixed reaction over smoking display, 15 July 2011, <http://tvnz.co.nz/national-news/mixed-reaction-over-smoking-display-ban-4305954>

<sup>11</sup> Cigarette sale no longer profitable, Brunei Times, 18 May 2012 <http://bit.ly/JO9Vku>

<sup>12</sup> Vietnam Business Outlook, Nielson, Aug 2010 <http://bit.ly/QR3pw9>