TODAY’S TEENS, TOMORROW’S CUSTOMERS:
Baiting youths with new tobacco products to create a new generation of addicts
Authors
Worrawan Jirathanapiwat and Jennie Lyn Reyes

Editorial team
Southeast Asia Tobacco Control Alliance (SEATCA)

Suggested citation

Cover Design
Nichamon Pichiansathian

Layout
Watcharachai Ninthomya

Published by
Southeast Asia Tobacco Control Alliance (SEATCA)
Thakolsuk Place, Room 4D, 115 Thoddamri Road, Dusit, Bangkok 10300 Thailand.

Disclaimer
The information, findings, interpretations, and conclusions expressed herein are those of the author(s) and do not necessarily reflect the views of the funding organization, its staff, or its Board of Directors. While reasonable efforts have been made to ensure the accuracy of information presented in this report at the time of publication, SEATCA does not warrant that the information in this document is complete and correct and shall not be liable for any damages incurred as a result of its use. Any factual errors or omissions are unintentional. For any corrections, please contact SEATCA via email: info@seatca.org.

© Southeast Asia Tobacco Control Alliance 2020
This document is the intellectual property of SEATCA and its authors. SEATCA retains copyright on all text and graphic images in this document, unless indicated otherwise. This copyright is protected by domestic and copyright laws and international treaty provisions. The information in this document is made available for non-commercial use only. You may store the contents on your own computer or print copies of the information for your own non-commercial use. You are prohibited from modifying or re-using the text and graphics in this document, distributing the text and graphics in this document to others, or “mirroring” the information in this document in other media without the written permission of SEATCA. All other rights reserved.

For more information, visit: www.seatca.org
Executive Summary

The tobacco industry uses marketing and sales schemes to deliberately target the youth to expand its cigarette business. These tactics extend to electronic nicotine delivery systems (ENDS, such as e-cigarettes, and e-shisha, that heat a nicotine-containing e-liquid) and heated tobacco products (HTPs, which contain tobacco) designed to be especially attractive for the youth and to current smokers, too.

Like cigarette advertisements, ENDS and HTPs ads are filled with youth-appealing themes—such as being cool, having fun, success, and sensuality. Users of ENDS and HTPs are frequently portrayed in advertisements by young, stylish, and urban socialites. JUUL’s early marketing campaigns were clearly youth-oriented—featuring rock music festivals, parties, and prominent celebrities and other references to pop culture. ENDS and HTPs also come in youth-appealing fruity flavors, candy and sweet flavors that reduce the perception of harm and are clearly attractive to youths.

Without a comprehensive ban on advertising, promotions, and sponsorships (including cross-border and online promotions) and use of flavors, the youths are particularly susceptible to the industries’ aggressive marketing ploys. Latest findings from Global Youth Tobacco Surveys (GYTS) show increasing exposures and prevalence of ENDS and HTPs use among youths in the ASEAN region.

The youth are exposed to brand advertising on social media platforms (e.g. Facebook, Instagram, Twitter, YouTube, etc.) through their own peers, top celebrities, or social media influencers. The shareability of social media content allows organic or promotional contents to spread across different platforms that can increase youth exposure to influencer marketing, which has been exploited by tobacco companies to promote their products.

In countries without a ban on point-of-sale (POS) cigarette display or retailer incentives, the youth are also exposed to ENDS and HTPs through retail display schemes that are very similar to cigarette POS displays, where promotional “power walls” are used to attract customers. Points-of-sale also often serve as vaping lounges where customers are invited to try vape flavors and test or modify their vaping devices.

E-commerce platforms, such as Lazada and Shopee, also provide easy access to ENDS and HTPs to the youth. A Reuters review of JUUL products advertised on e-commerce platforms concluded that retailers in the Philippines allowed online sales of JUUL devices and pods with no age verification. While already banned in Cambodia and Thailand, ENDS and HTPs products can still be bought online. In Cambodia, ENDS categorized under electronic devices and mobile phones can be bought via Khmer 24, a local e-commerce website. In Thailand, JUUL products can also be bought from a number of Facebook pages and other online platforms.
To delay and defeat policy measures to promote and protect the profitability of their business, tobacco and nicotine industries employ various tactics that interfere with government efforts to protect public health. These include news articles, social media adverts, lobbying policymakers, and presentations in international conferences. ENDS and HTP proponents attack governments like Singapore and Thailand for banning these products and aggressively promote them in countries without such a ban, as in Indonesia, Malaysia, Philippines, and Vietnam, even promoting ENDS and HTPs as an economic investment opportunity for countries.

Since 2018, the PMI-funded Foundation for a Smoke-free World (FSFW) has been funding the establishment of multiple research centers to support tobacco harm reduction globally. By funding research into “reduced risk” tobacco products as it has done for cigarettes, the industry hopes to influence how ENDS and HTPs -- still unrestricted in many countries -- will be regulated in the future.

To increase public visibility and reach a wider network, the tobacco industry organizes and funds international conferences such as the Global Tobacco and Nicotine Forum (GTNF), which provides a platform for the tobacco industry to promote its products, as well as its efforts in tobacco harm reduction. A similar forum, the Global Forum on Nicotine (GFN), is organized annually by London-based Knowledge Action Change Limited (KAC), which has received over USD 1 million from FSFW. Many of the GTNF speakers are also speakers at the GFN.

In Asia, the Asia Harm Reduction Forum (AHRF) was organized in 2017 and sponsored by harm reduction supporters. The AHRF has strategically held meetings in Indonesia (2017), Philippines (2018), and South Korea (2019) where ENDS and HTPs are not banned yet. Various academics and health professionals have attended AHRF as speakers or panelists, some with clear relationships with the tobacco industry as research grantees.

The World Health Organization has warned that ENDS or e-cigarettes are not safer alternatives to regular cigarettes, while there is still no evidence to demonstrate that HTPs are less harmful than conventional tobacco products.

**Banning the manufacture, importation, promotion, distribution, sale, and use of these products is still the most comprehensive approach.** As of February 2020, 41 countries (including Brunei, Cambodia, Lao PDR, Singapore, and Thailand) have banned the sale and distribution of ENDS; while 65 countries (including Indonesia, Malaysia, and Philippines) permit the sale of e-cigarettes with certain restrictions/regulations applied. In Myanmar and Vietnam, these products are not yet regulated/restricted.
"Today’s teenager is tomorrow’s potential regular customer....
The smoking patterns of teenagers are particularly important to Philip Morris."

- Philip Morris internal memo, 1981

For decades, the tobacco industry has used marketing and sales schemes to deliberately target the youth to expand its cigarette business. More recently, these tactics have extended to its newer nicotine products -- from appealing product design to specially crafted marketing campaigns -- that are designed to attract and hook new generations of users. Other manufacturers of nicotine products have joined the bandwagon.

Electronic nicotine delivery systems (ENDS, such as e-cigarettes, e-cigars, e-pipes, and e-shisha, that heat a nicotine-containing e-liquid or e-juice without tobacco) and heated tobacco products (HTPs, which contain tobacco) are designed to be especially attractive for the youth, while simultaneously appealing to current smokers. Strategies to market them plug into a youth’s natural curiosity and eagerness to try trendy new things, like sleek and hi-tech gadgets (which e-cigarettes are designed to be). The need to be accepted and belong socially by following the latest trends (by mimicking their peers or famous social influencers) is also very high among this age group.

Latest findings from the Global Youth Tobacco Surveys (GYTS) show increasing exposures and prevalence of ENDS and HTP use in many countries (Figure 1), despite the rapidly growing evidence of harm. The ASEAN region is home to 213 million youths (aged 15-34), where regulatory frameworks and enforcement of public health policies are constantly challenged by industries demanding to self-regulate, if not thwarting, weakening, and delaying these very policies.
The young ASEAN population, which has internet access and is social media savvy (Table 1), is a huge potential for ENDS and HTPs promotion and market expansion, and saying that this has the makings of another public health catastrophe is not exaggerated. It is urgent for governments and stakeholders to take collective action in exposing and countering the industries behind ENDS and HTPs and to protect our youth from this growing epidemic.

Table 1: Social media use in ASEAN

<table>
<thead>
<tr>
<th>Country</th>
<th>Population (millions)</th>
<th>Median Age (years)</th>
<th>Internet Users (millions)</th>
<th>Active Social Media Users (millions)</th>
<th>Mobile Social Media Users (millions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brunei Darussalam</td>
<td>0.44</td>
<td>32.4</td>
<td>0.41</td>
<td>0.41</td>
<td>0.35</td>
</tr>
<tr>
<td>Cambodia</td>
<td>16.3</td>
<td>25.6</td>
<td>12.5</td>
<td>8.4</td>
<td>8.1</td>
</tr>
<tr>
<td>Indonesia</td>
<td>268.2</td>
<td>29.3</td>
<td>150</td>
<td>150</td>
<td>130</td>
</tr>
<tr>
<td>Lao PDR</td>
<td>7</td>
<td>24.4</td>
<td>2.7</td>
<td>2.7</td>
<td>2.6</td>
</tr>
<tr>
<td>Malaysia</td>
<td>32.2</td>
<td>29.9</td>
<td>25.3</td>
<td>25</td>
<td>24</td>
</tr>
<tr>
<td>Myanmar</td>
<td>54.1</td>
<td>29.1</td>
<td>21</td>
<td>21</td>
<td>21</td>
</tr>
<tr>
<td>Philippines</td>
<td>107.3</td>
<td>25.2</td>
<td>76</td>
<td>76</td>
<td>72</td>
</tr>
<tr>
<td>Singapore</td>
<td>5.8</td>
<td>42.4</td>
<td>4.9</td>
<td>4.6</td>
<td>4.2</td>
</tr>
<tr>
<td>Thailand</td>
<td>69.2</td>
<td>40.1</td>
<td>57</td>
<td>51</td>
<td>49</td>
</tr>
<tr>
<td>Vietnam</td>
<td>96.9</td>
<td>32.6</td>
<td>64</td>
<td>62</td>
<td>58</td>
</tr>
</tbody>
</table>

This report reviews the ENDS and HTP business in the ASEAN region and how youths are targeted as potential customers and have access to these products, identifies proponents of these products who influence policy, and provides recommendations to policymakers to protect the youth.

Major producers of ENDS and HTPs include Altria Group, Inc. (owner of Philip Morris USA), British American Tobacco (BAT), Imperial Brands, International Vapor Group, Japan Tobacco International (JTI), NicQuid, JUUL Labs, Inc., Philip Morris International, Inc. (PMI), R.J. Reynolds Vapor Company, Nicquid, Shenzhen IVPS Technology Co., Ltd., and Shenzhen KangerTech Technology Co., Ltd. The top five (5) e-cigarette brands in the world in 2018 were owned by Altria Group, BAT, Imperial Brands, JTI, and NJOY. The global e-cigarette market is estimated to grow by USD 29.53 billion between 2020-2024, with a year-over-year growth rate forecast at 15.14% for 2020. North America was the largest market in 2019, while countries from the Asia-Pacific region, including ASEAN member states, were considered as fast-growing e-cigarette markets. As of October 2019, The United States-based JUUL, the most popular brand among US teens, controlled 64.4% of the US e-cigarette market and as high as 75% in July 2019. In December 2018, Altria bought a 35% stake in JUUL Labs.
Similar to cigarette promotions and advertisements now banned in many countries in accordance with Article 13 of the WHO Framework Convention on Tobacco Control (FCTC), ENDS and HTP advertisements are filled with youth-appealing symbolisms and imagery -- such as being cool, having fun, success, and sensuality. Users of ENDS and HTPs are frequently portrayed in advertisements by young, stylish, and urban socialites. JUUL’s early marketing campaigns that were promoted heavily in social media were clearly youth-oriented – featuring rock music festivals and parties, and resorting to visual cues with prominent celebrities and references to pop culture. E-cigarettes are frequently promoted online through company-sponsored videos and content on YouTube and Twitter. Vaping trick videos on mobile video sharing service TikTok, the latest social media platform to emerge and dominated by teenagers and young adult users, have accumulated hundreds of millions of views.

ENDS and HTPs also come in youth appealing flavors in the same manner that tobacco companies strategically used sweet, fruity, candy-like flavors to mask the natural harshness and taste of tobacco and increase the palatability and attractiveness of their products among the youth. In 2018, there were 15,000 reported flavored vaping products including fruity ones (e.g. blueberry cheesecake, mango, cinnamon, and lemon crumble cake) and candy and sweet flavors (e.g. gummy bear, cookies ‘n cream, and cotton candy) that reduce the perception of harm and are clearly attractive to youths. Where a comprehensive ban on advertising, promotions, and sponsorships (including cross-border advertising, online / internet promotions, and retailer incentives) and on the use of flavors is lacking, or where enforcement of these regulations is weak for ENDS and HTPs (as with tobacco), youths are particularly susceptible to these industries’ extensive and aggressive marketing ploys. Youths may be exposed through a range of channels including social media/social influencers, product displays in shops that resemble electronics stores, and advertisements outside of stores. The following are examples of how ENDS and HTPs are advertised, promoted, and eventually retailed in the ASEAN region.

Social media marketing and influencers

Youths are exposed to brand advertising on social media through various sources such as their own peers or social media celebrities, people who have built a reputation for their knowledge and expertise on a specific topic and have large followings (“influencers”). Influencer marketing stems from celebrity endorsement, which is a major influence on the purchasing decision of young people and which has been exploited by tobacco companies to promote their products. The shareability of social media content allows organic or promotional contents to spread across different platforms, which can increase youth exposure to marketing by influencers. Facebook, Instagram, Twitter, and Pinterest are among the top platforms for social media and e-commerce marketing, where user-generated content (hashtags or mentions, photos of products in hand, photos taken while inside stores, etc.) can also be reused as sponsored or promotional content by product-owners.
In Myanmar, for example, a number of Facebook pages promote ENDS and HTPs through celebrities. Vape City (Photo 1) is one of the most popular ENDS Facebook pages in Myanmar, with more than 64,000 followers (as of May 2020).\(^{34}\) Vape City has vaping stores located across Yangon and promotes its products and branches through actors and actresses as endorsers. The owner of Vape City is married to a well-known local actress and uses her popularity to attract clients, who are also celebrities and entertainers.\(^{35}\)

Local celebrities also promote ENDS and HTPs via Facebook Live. Frontier Myanmar reported a Facebook Live video of a local actress puffing an e-cigarette and blowing smoke clouds towards the camera, while another video is of a singer-actress showing her unbox a Chinese e-cigarette brand before explaining the prices and different flavors.\(^{36}\)

With a perceived reputation for their knowledge and expertise, big vape shop owners also act as social media influencers. In Cambodia, Mr. Free, who has more than 107,000 Facebook followers (as of May 2020), regularly posts vaping videos to promote different products sold in his shop.\(^{37}\)

Testimonial is a common advertising technique that uses celebrities and well-known personalities to endorse products and services. A variation of this technique called plain folks utilizes common people to provide these testimonials.\(^{38}\) Vaping House Manila (Photo 2) in the Philippines, with more than 10,000 Facebook followers (as of May 2020), uses this technique to promote e-cigarettes so that viewers can better relate themselves to the products.\(^{39}\)

Despite Instagram’s announcement in December 2019 that it would ban influencers from promoting vaping and will begin enforcement in the coming weeks,\(^{40}\) a quick look at Indonesia’s top vape influencers on Instagram, which include vape brands and shops and even young female influencers,\(^{41}\) shows that content (photos or videos) promoting vaping products are still prevalent.\(^{42}\)
**Point-of-Sale product displays and advertisements**

Brunei Darussalam, Singapore, and Thailand have banned the sale of ENDS and HTPs, hence these cannot be advertised or promoted, including at points-of-sale (POS); these three countries also already prohibit cigarette pack displays at POS. On the other hand, in ASEAN countries without a ban on POS cigarette display or retailer incentives, ENDS and HTPs retail display schemes are very similar to cigarette POS displays, where promotional “power walls” are used to attract customers.

![Photo 4: ENDS display in Myanmar (left) and cigarette display in Malaysia (right)](image)

In addition, points-of-sale often serve as vaping lounges where customers are invited to try vape flavors or test or modify their devices with the guidance of vape shop owners or staff.

**E-commerce platforms**

E-commerce refers to the buying and selling of goods or services using the internet, and the transfer of money and data to execute these transactions. The tobacco industry has been documented exploiting online platforms to target new customers, especially young people using the internet. The same is true for ENDS and HTPs. For example, in Malaysia, HTPs such as IQOS (PMI) and glo (BAT) are sold online via popular e-commerce platforms, such as Lazada and Shopee (Photos 5 and 6). In the Philippines, IQOS devices and sticks can also be bought from Shopee and Lazada, JUUL via Shopee and assortment of e-cigarette kits and e-liquids / e-juices via both platforms (Photos 7, 8, and 9).
Entry of JUUL in ASEAN

Despite having been hit with multiple lawsuits in the US for misrepresenting the safety of its products and targeting teens in advertisements, JUUL Labs expanded its market to the ASEAN region, with its eye on large tobacco consumption markets like Indonesia and the Philippines.

To legally import their products into Indonesia, JUUL Labs partnered with local company PT Erajaya Swasembada, a retailer of mobile devices for major brands including Apple, Xiaomi and Huawei. This exclusive distribution deal with Erajaya allowed JUUL products to be sold in the Greater Jakarta area, Java, and Bali by the end of June 2019.

Although JUUL routinely claims that it only wants adult smokers to use its products, Ken Bishop, the company’s executive in the Asia Pacific region, acknowledged that attracting young adult smokers was important to its success in Indonesia. A former employee and another source familiar with its Asia strategy corroborated that JUUL had targeted customers aged 19 to 35. The company promoted its products in places frequented by young people such as malls, movie theaters, and bars. While there are no JUUL kiosks in the US, JUUL set up kiosks inside malls in Jakarta and Bali that also host children’s events and operate children’s stores. E-cigarettes were sold in these kiosks and in sleek JUUL-branded retail shops that mimic Apple stores. Copying cigarette marketing tactics, JUUL also hired “ambassadors” - often attractive young women - to promote JUUL in bars and nightclubs. In February 2020, JUUL “indefinitely” suspended selling its products, claiming that it could not stop retailers from selling its high-nicotine e-cigarettes to young people.

In the Philippines, JUUL Labs entered the market in June 2019 and partnered with Gokongwei-owned Better for You Corporation (BFY). Rappler reported that a JUUL spokesperson told them that JUUL targeted the Philippines because it has one of the highest concentrations of tobacco users in Asia. JUUL also met privately with Philippine policymakers and tried to engage the medical community to promote its products, influence vaping laws, and lobby for lowering of taxes as it has done across the world.
JUUL kiosks are commonly located inside malls. Initially available in Central Square in Bonifacio Global City in Taguig City and Robinsons Galleria in Quezon City, JUUL has now set up in different mall chains including SM, Ayala, and Megaworld with branches across Metro Manila.

According to a Reuters review of JUUL products advertised for sale on Asian e-commerce platforms, retailers in the Philippines have allowed online sales of JUUL devices and pods with no age verification.

**ENDS and HTPs marketed in countries where they are banned by law**

An IQOS Facebook page (typically named, IQOS [name of country]) exists for nearly all ASEAN countries, including those that have banned HTPs (Table 5), and some of these pages are operated by influencers. In **Malaysia**, an IQOS Facebook page exists for nearly all individual states. IQOS Pilipinas, besides promoting IQOS, provides repair services.

**Table 2: Some IQOS Facebook pages in the ASEAN region**

<table>
<thead>
<tr>
<th>Country</th>
<th>Facebook Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cambodia</td>
<td>IQOS Cambodia, IQOS Cambodia Community, IQOS Phnom Penh Cambodia, IQOS Cambodia Online shop</td>
</tr>
<tr>
<td>Indonesia</td>
<td>IQOS Indonesia, IQOS Indonesia Community, IQOS Owner Community Indonesia</td>
</tr>
<tr>
<td>Lao PDR</td>
<td>IQOS Laos, IQOS in Laos by JN, IQOS Indonesia</td>
</tr>
<tr>
<td>Malaysia</td>
<td>IQOS Malaysia Online Store, IQOS Johor Bahru, IQOS Penang, IQOS East Malaysia, IQOS Sarawak, IQOS Malaysia Kaki Lang, Geng IQOS Malaysia, IQOS EVERYTHING MALAYSIA</td>
</tr>
<tr>
<td>Myanmar</td>
<td>IQOS Myanmar, IQOS Lovers Myanmar, IQOS Store Myanmar</td>
</tr>
<tr>
<td>Philippines</td>
<td>Shop IQOS Manila, IQOS Pilipinas, IQOS Marketplace Philippines, IQOS Love Manila</td>
</tr>
<tr>
<td>Singapore</td>
<td>IQOS Sg</td>
</tr>
<tr>
<td>Thailand</td>
<td>IQOS Thailand Bangkok2, IQOS Thailand BKK</td>
</tr>
<tr>
<td>Vietnam</td>
<td>IQOS Original Vietnam, Thành Lâm Heat Not Burn</td>
</tr>
</tbody>
</table>
Since 2014, e-cigarettes have been banned in Cambodia by the National Authority for Combating Drugs through its Circular on Measures to Prevent and Terminate Consumption, Sales, and Imports of Shisha and E-Cigarettes. However, in 2019 alone, a tobacco industry monitoring team was able to detect and document at least 34 Facebook pages and 12 YouTube channels that continue to advertise and promote ENDS and HTPs in violation of Cambodia’s tobacco control laws. Although the monitoring team contacted Facebook page administrators and YouTube channel managers to inform them about the law, violations remain (Photos 12 and 13).

ENDS products remain available online via social media sites (i.e., Facebook) and e-commerce platforms such as Khmer 24 – a local e-commerce website in Cambodia selling ENDS under the category of electronic devices and mobile phones. In Thailand, JUUL products were sold online via the ‘JUUL Thailand’ Facebook Page. The page was active from August 2018 to November 2019, when it was removed or deactivated. However, other webpages and Facebook pages are selling the products online.
The tobacco and nicotine industries work strategically to delay and defeat policy measures across the globe in order to promote and protect the profitability of their business, employing various tactics that interfere with government efforts to protect public health, such as news interviews and articles, social media adverts, lobbying policy makers, and presentations in international conferences.

Appearing to come from various sectors to create a perception of diversity and legitimacy, ENDS and HTP proponents sing the same misinformed tune to governments and policymakers -- that ENDS and HTPs are safer alternatives to conventional cigarettes, can help smokers stop smoking, and therefore should be allowed and regulated, rather than banned. As such, they attack governments like Singapore and Thailand that have a ban on ENDS and HTPs and aggressively promote these products in countries without such a ban or where regulatory frameworks are still weak as in Indonesia, Philippines, and Vietnam. They also promote ENDS and HTPs as an economic investment opportunity for countries.

Figure 2 presents categories of ENDS and HTPs proponents in ASEAN and their messages to support their cause. The Policy Dystopia Model was used to categorize and analyze information collated from daily media monitoring from Indonesia, Philippines, Thailand, and Vietnam, with additional information from Malaysia, between January and September 2019.

**Figure 2: Voices and messages of ENDS and HTPs proponents in ASEAN**

| TI Representatives | 16
| Pro ENDS groups | 12
| Health Institutes / Experts | 11
| Government officials | 3
| Academics | 3
| Journalists | 2
| ENDS user | 2
| Unidentified | 1
| Lawyers | 1

| Frequency of news | Safer / Smoking cessation | 31
| Pregulated, not ban | 12
| Products for adults | 11
| Many users | 11
| Academic support | 9
| Govt & ENDS groups collaboration | 4
| Reduce tax | 3
| Income generation to people | 3
| Income generation to govt | 1

**Definitions**

- TI representatives: TI staff such as managers
- Pro-ENDS groups: group of people promoting ENDS/HTPs
- Products for adults: tactic portraying ENDS/HTPs as forbidden fruits for the youth but disguised as protecting youth
- Many users: argument that the government cannot ban ENDS/HTPs because many people are using the products.
To increase public visibility and reach a wider network, another strategy of the tobacco industry is to organize and fund international conferences and fora such as the Global Tobacco and Nicotine Forum (GTNF), which provides a platform for the tobacco industry to promote its products, as well as its efforts in tobacco harm reduction. A similar forum, the Global Forum on Nicotine (GFN), is organized annually by London-based Knowledge Action Change Limited (KAC), which in 2017 and 2018 received over USD 1 million from FSFW. Many of the GTNF speakers are also speakers at the GFN.

In Asia, this saw the birth of the Asia Harm Reduction Forum (AHRF) in 2017. It is an annual travelling road-show sponsored by harm reduction supporters. The AHRF has strategically held its meetings in Indonesia (2017), Philippines (2018), and South Korea (2019) where ENDS and HTPs are not banned yet. Various academics and health professionals have attended AHRF as speakers or panelists, some with clear relationships with the tobacco industry as research grantees. Academics from ASEAN, who have participated in AHRF, include Tikki Pangestu (Singapore) and Amaliya (Indonesia), who have been vocal in promoting these products for their so-called lower risk and potential health benefit.

Besides academics and health professionals from the region, AHRF has invited international speakers, who have travelled around Asia to promote “safer alternatives to smoking” products, premised on the dangers of cigarette smoking (Table 3).

Every year, the forum releases press statements calling on governments to reverse or relax any restrictive regulatory policy and prevent bans on ENDS and HTPs from being enacted. During the 3rd AHRF (2019) in South Korea, statements from AHRF were widely reported in Malaysia, Philippines, and Thailand. AHRF’s Seoul Declaration also called on the governments of Thailand, India, and the Philippines to address their planned ban or restrictive policies on tobacco harm reduction products such as ENDS and HTPs.
Five states in Malaysia (Johor, Kedah, Penang, Kelantan, and Terengganu) have banned e-cigarettes since 2016, based on the National Fatwa Council’s 2015 declaration of the use of e-cigarettes and vaping as haram for Muslims; that same year, the Malaysian Cabinet decided to regulate the use and sale of ENDS (and non-nicotine varieties) under the purview of three ministries: Ministry of Health (MOH), Ministry of Domestic Trade, Cooperatives and Consumerism and Ministry of Science, Technology and Innovation, contrary to MOH’s recommendations to fully ban these products. Following the decision, the MOH will include ENDS in its draft bill to amend or replace the Control of Tobacco Product Regulations 2004, while the Ministry of Domestic Trade and Consumer Affairs will draft a new law relating to the control of e-cigarettes and vapes within the next two years. To date, the government is still looking to introduce stricter regulations on the sale and use of these products under a single law that would prohibit promotions and advertising, use in public areas, and use by minors, while the MOH continues to propose a total ban.

In Indonesia, the government expressed its intention to ban vaping and e-cigarettes following the report of a Filipino teenager, who smokes cigarettes and started vaping for six months, was diagnosed with a lung injury. However, pro-ENDS and HTPs groups such as Indonesian Personal Vaporizer Association have called on the government for public discussions with stakeholders before imposing any restrictions.

Towards the end of 2019, Philippine Congress passed a bill (Republic Act 11467) imposing measures that increased taxes on alcohol, tobacco products (including HTPs), and ENDS. In February 2020, the President also issued an executive order (EO 106) to include vaping or the use of ENDS and HTPs in an existing nationwide smoking ban (except in designated smoking areas), and banning the sale, manufacture, marketing, distribution and importation of unregistered ENDS and HTPs devices.

However, an in-depth analysis report by Health Justice Philippines unearthed how the tobacco industry, while discreet in terms of lobbying representation, has been a major actor in influencing policy formulation for ENDS and HTPs during the last session of Congress. The report revealed that of the nine bills proposed at the time, six were oriented to adopting ENDS industry positions, while four bills show the involvement of PMI to preempt the regulation of HTPs, such as its IQOS brand. According to HealthJustice, this is the first observation globally of this strategy of tobacco industry interference.

Pro-ENDS-and-HTPs groups in the Philippines are working aggressively to support the regulation of ENDS and HTPs and to undermine proposed tobacco control policies, especially those calling for a ban on these products. One of these groups is the Philippine E-cigarette Industry Association (PECIA).

Registered in 2013, PECIA identifies itself as a trade association composed of store owners, suppliers, and manufacturers of e-cigarettes and related products in the Philippines. One of its missions is to promote the greater understanding of e-cigarettes in the service of users, community and country. As of January 2020, PECIA has 250 members whose businesses are registered with the government to operate. According to its Facebook page, PECIA works to “meet with the government at local and national levels to serve as the industry voice when it comes to drafting legislation affecting the industry. It coordinates with law enforcement to stamp out fly-by-night operators that did not pass PECIA accreditation standards and defies government regulations regarding sales to minors.”
In March 2018, PECIA and The Vapers Philippines (TVP) were invited to attend a public hearing by the Committee on Trade and Industry of the House of Representatives to provide input to several pending bills seeking to regulate e-cigarettes. PECIA and TVP also submitted the 2018 Evidence Review of E-Cigarettes and HTPs commissioned by Public Health England (PHE), which is often cited for its favorable position on e-cigarettes in contrast to medical organizations and authorities in many other countries, who are opposed to ENDS and HTPs.

In April 2019, PECIA collaborated with other pro-ENDS-and-HTPs groups, including the Coalition of Asia Pacific Tobacco Harm Reduction Advocates (CAPHRA), an affiliate member of the FSFW-funded International Network of Nicotine Consumer Organizations (INNCO), to participate in Department of Health’s (DOH) public consultation on the Draft Amendment of Administrative Order No. 2014-008 or “Rules and Regulation on Electronic Nicotine Delivery System”, which covers e-cigarettes.

On March 4, 2020, the PECIA President issued a statement on its Facebook page (Photo 16) to supposedly extend cooperation with the DOH and Food and Drug Administration (FDA) following a technical working group meeting of the Committee on Trade and Industry in the House of Representatives, during which PECIA proposed to allow certain flavors in a pending bill on ENDS.

Working as a regional network, pro-ENDS-and-HTPs groups present similar evidence and operate as mouthpieces for the industry. These groups are also collectively working to deliver one-sided messages to the government as stakeholders in policy development. When these groups refer to similar actions from other pro-ENDS-and-HTPs networks, it may be perceived to carry some weight to persuade governments to follow their recommendations that ultimately favor tobacco and nicotine industries.
In light of the intensified industry effort to promote ENDS and HTPs as harm reduction tools and their popularity among users, WHO has warned that ENDS or e-cigarettes are not safer alternatives to regular cigarettes, while there is still no evidence to demonstrate that HTPs are less harmful than conventional tobacco products.

Given the lack of evidence to support the long-term benefits or safety of ENDS and HTPs, the precautionary principle should apply when regulating these products. At one end of this regulatory scale is to prohibit or ban the manufacture, importation, promotion, distribution, sale, and use of ENDS and HTPs, a particularly logical approach where the regulatory framework or enforcement may be weak or problematic, while on the other end of this scale is to restrict these products. To this end, the WHO has called on governments that have not banned ENDS to consider regulating them as harmful products, while subjecting HTPs to the same policy and regulatory measures applied to all other tobacco products in line with the WHO FCTC.

Many governments have applied the precautionary principle and taken action to protect their citizens. As of February 2020, 41 countries have banned the sale and distribution of ENDS; 65 countries permit the selling of e-cigarettes but provide sales restrictions/regulations (Table 4); and of these 65 countries, 32 regulate the amount of nicotine in e-liquids.

### Table 4: Global Status of E-cigarette ban and regulation (2020)

<table>
<thead>
<tr>
<th>Sales/distribution ban</th>
<th>Sales restriction/regulation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Antigua and Barbuda*, Argentina, Australia, Bahrain**, Barbados**, Bhutan, Brazil, Brunei Darussalam, Cambodia, Colombia, Costa Rica**, Ethiopia*, Gambia, India, Iran, Japan, N. Korea, Kuwait**, Lao PDR, Lebanon, Mauritius**, Mexico, Nepal, Nicaragua, Oman, Palestine, Panama, Qatar, Seychelles, Singapore, Sri Lanka, Suriname, Syria, Thailand, Timor-Leste, Turkey, Turkmenistan, Uganda, Uruguay, Vatican City, Venezuela*</td>
<td>Afghanistan, Austria, Belgium, Bulgaria, China, Canada, Croatia, Cyprus, Czech Republic, Denmark, Djibouti, Ecuador, Egypt, Estonia, Fiji, Finland, France, Georgia, Germany, Greece, Honduras, Hungary, Iceland, Indonesia***, Iraq, Ireland, Italy, Ivory Coast, Jamaica**, Jordan, S. Korea, Latvia, Libya, Liechtenstein, Lithuania, Luxembourg, Malaysia, Maldives, Malta, Moldova, Morocco, Netherlands, New Zealand, Norway, Palau, Pakistan, Philippines, Poland, Portugal, Romania, San Marino, Saudi Arabia, Slovakia, Slovenia, Spain, Sudan, Sweden, Switzerland**, Tajikistan, Togo, Tunisia, Ukraine, United Arab Emirates, United Kingdom, Yemen*</td>
</tr>
</tbody>
</table>

* Included based on information from No Fire, No Smoke: The Global State of Harm Reduction, 2018 (GSTHR)

** Conflicting information found

*** Appears to be “legitimized” only by being subject to tax law
Status of legislation in ASEAN countries

Five ASEAN member states, Brunei, Cambodia, Lao PDR, Singapore, and Thailand have already banned the manufacture, importation, distribution, sale, use, promotion, and advertisement of ENDS and/or HTPs. Indonesia, Malaysia, and Philippines have put in place new policies to regulate and/or have existing legislations that were applied to restrict ENDS and HTPs. In Myanmar and Vietnam, these products remain unregulated and unrestricted.

In Indonesia, there are no domestic laws that specifically apply to ENDS and HTPs, but the Ministry of Finance (MOF) initiated a taxation scheme, effective since 2018, that covers excise fee for “Other Tobacco Processing Products (Hasil Pengolohan Tembaku Lainnya (HPTL))” that include tobacco extract (e-cigarettes), vape, snuff tobacco, or chewing tobacco.

In Malaysia, HTPs are regulated similarly to cigarettes, while ENDS with nicotine-containing e-liquid are banned under the Poison Act.

Table 5: ENDS and HTPs ban and regulation in ASEAN

<table>
<thead>
<tr>
<th></th>
<th>BR</th>
<th>KH*</th>
<th>ID</th>
<th>LA</th>
<th>MY</th>
<th>MM</th>
<th>PH</th>
<th>SG</th>
<th>TH</th>
<th>VN</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Complete ban</strong> (manufacture, importation, distribution, sale, use, promotion and advertisement)</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td><strong>Regulated</strong> (manufacture, distribution, sale, use, promotion and advertisement)</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td><strong>No regulation / Restriction</strong></td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td></td>
</tr>
</tbody>
</table>

*Does not cover HTPs

In the Philippines, ENDS are regulated by DOH and the FDA through an administrative order (AO) that covers the distribution, importation/ exportation, and sales (through a license to operate application). The AO also imposes a comprehensive ban on any form of advertising, promotion and sponsorship, including corporate social responsibility (CSR) campaigns by the industry. In the absence of national legislation that standardizes ENDS product control and monitoring, the legal regime permits restriction or regulation at the local level.

The definition of tobacco in Vietnam’s Tobacco Control Law allows HTPs to be regulated; however, the government does not have specific guidelines to determine whether these products will be regulated as conventional cigarettes or differently. The Ministry of Health is currently proposing a complete ban on ENDS, HTPs, and shisha, while the Ministry of Trade and Industry is also working to legitimize ENDS and HTPs manufacture and distribution in Vietnam.
In February 2020, WHO released a statement stressing that ENDS are undoubtedly harmful, should be strictly regulated, and most importantly, must be kept away from children. Highly addictive nicotine found in most e-cigarettes and in all HTPs and tobacco products pose risks to health, and the safest approach is to not consume them. This statement gives emphasis to this year’s World No Tobacco Day theme of protecting the youth from industry manipulation and preventing them from tobacco and nicotine use.

Given the dangers of using ENDS and HTPs, banning the manufacture, importation, promotion, distribution, sale, and use of these products is still the most comprehensive approach.

If governments determine that the most effective way to regulate ENDS and HTPs is to regulate these as tobacco products, restrictions should include WHO FCTC-based measures such as:

- Covering the ENDS/HTPs/nicotine industry and front groups under WHO FCTC Article 5.3 restrictions as the unity of their interests with the tobacco industry is palpable
- Prohibiting use in public places to protect people from secondhand exposure to the chemical aerosols emitted by these products and their users
- Requiring prominent pictorial health warnings and messages on all packaging

In addition to these, the following WHO FCTC-based measures can also specifically prevent and reduce ENDS and HTPs uptake by the youth:

- Prohibiting the use of flavorings to reduce palatability and attractiveness
- Applying a comprehensive ban on all forms of advertising, promotion and sponsorship, including POS advertising and display, cross border advertising, online / internet promotion, and retailer incentives
- Taxing at a rate that reduces affordability

Based on these measures, while not exhaustive, governments of ASEAN member states can plug loopholes and strengthen their existing legislations as well as enforcement.
### Annex 1: Examples of ENDS and HTP brands by tobacco companies

<table>
<thead>
<tr>
<th>Company</th>
<th>ENDS brands</th>
<th>HTP brands</th>
</tr>
</thead>
<tbody>
<tr>
<td>Philip Morris International (PMI)</td>
<td>Nicocig, Vivid, IQOS MESH</td>
<td>IQOS, TEEPS</td>
</tr>
<tr>
<td>Altria/Philip Morris USA</td>
<td>Mark Ten,* Green Smoke,*</td>
<td>sells PMI’s IQOS in USA</td>
</tr>
<tr>
<td></td>
<td>owns 35% of Juul</td>
<td></td>
</tr>
<tr>
<td>British American Tobacco (BAT)</td>
<td>Vype, Chic, VIP, Ten Motives</td>
<td>glo, glo iFuse</td>
</tr>
<tr>
<td>Japan Tobacco International (JTI)</td>
<td>Logic, Ploom</td>
<td>Ploom Tech, Ploom Tech+, Ploom S</td>
</tr>
<tr>
<td>Imperial Brands</td>
<td>blu</td>
<td>Pulze</td>
</tr>
<tr>
<td>RJ Reynolds (owned by BAT)</td>
<td>Vuse</td>
<td>Revo,* Eclipse*</td>
</tr>
</tbody>
</table>

*Discontinued*