

# News analysis

## MALAYSIA: TOUGH NEW WARNINGS

Malaysia amended the regulations of its tobacco control law in September to implement compulsory pictorial warnings on tobacco packaging. A series of six of some of the most gruesome warnings in the world will appear on the top of both main faces of the pack, covering 40% of the front and 60% of the back, in the country's two main languages, Malay and English. Manufacturers will be allowed to print their usual brand names, colours and other devices on the remainder of each face, but first sight of the warnings suggests that even the most creative designs will face an uphill struggle to reduce the impact of the warnings.

Three of the six warnings deal with cancers—of the lung, neck and mouth—and the others with premature birth, miscarriage and gangrene. From 1 January 2009, at least two brands or variants from each tobacco manufacturer will be required to have pictorial warning packs displayed on retail shelves. By 1 March 2009, all variants must have pictorial warnings. By 1 June 2009, all cigarettes on sale must have pictorial warnings and any remaining stocks without them must be removed.

It was not so long ago that Malaysia gave the impression of an adventure playground for young tobacco marketing executives, and industry documents reveal strenuous efforts to resist, among other measures, pack warnings that might actually make an impression on smokers. For example, health ministry proposals for a new range of tobacco control measures, including better warnings, were met by the industry using the successful strategy it has followed for so long in the UK, the infamous “voluntary agreement” system. Companies such as market leader British American Tobacco (BAT) constantly told governments that this policy “worked well” in Britain, its homeland, knowing that it worked well for manufacturers because it had little lasting effect on consumption (nor, therefore, on disease). In Malaysia, a former British colony with many legal and regulatory systems based



Malaysia: graphic warnings about smoking induced disease will have to be printed on the front and back of tobacco packaging in Malaysia from 2009. The six rotating warnings include these depicting, respectively, cancer of the neck (the smaller size is for the pack front) and lung (larger size for the back of the pack).

on those of Britain, the argument, while completely untrue, may have sounded relevant.

In practice, the strategy meant tying up the government in lengthy negotiations, using arguments such as the claim that more eye-catching warnings would dilute the effectiveness of legitimate warnings on products of known danger. It then tried to steer Malaysia into a system of complex tar yield figures in place of warnings, saying that these were “better understood by the Malaysian consumer”. Furthermore, it ridiculed the government's proposals by citing analogies between cigarettes and other dangerous products that carried no warnings. All this came from companies such as BAT that had conceded—in “voluntary agreements” with the UK government—the need to place warnings on British cigarette packs since 1971 (see Assunta M, Chapman S. A mire of highly subjective and ineffective voluntary guidelines: tobacco industry efforts to thwart tobacco control in Malaysia *Tob Control* 2004;13;ii43-ii50.).

Seen against this background, the new Malaysian pack warnings are a major

achievement. The images themselves are a powerful addition to the gallery of fame for pictorial warnings, together setting a powerful benchmark for other countries to emulate.

## INDIA: INDUSTRY FAILS TO STOP SMOKING BAN

A really effective law on tobacco control in the world's second largest country was never going to be easy, nor go unchallenged by tobacco interests. The scale and tactics used to try to thwart the government's efforts, already seen throughout its development and parliamentary stages, have been extended recently to the courts. The topics most bitterly contested, and therefore likely to reduce consumption significantly, are the ban on smoking in public places, and pictorial health warnings.

The ban, aimed particularly at workplaces, includes all public places except entirely open spaces. Thus it covers not just conventional buildings, but also partly open areas such as bus stops, railway stations and sports stadiums. Although designated smoking areas are allowed, they must be physically separated, with an automatically closing door whose normal position is closed. They must also have an air flow system to defined standards, with negative air pressure relative to the rest of the building.

In May, the government gave official notification of the regulations, to be implemented on 2 October. At first, the industry made no new moves. It may have decided to delay legal challenges on technical grounds and demand a stay on implementation in the hope that a stay would be automatic nearer 2 October. Lengthy hearings would follow, if the industry had its way, with the court having to hear all the usual lies and subterfuges, perhaps with some new ones just for India, too. The infamous, globe-trotting industry “scientists' circus” would fly into town and juggle with each and every building block of the great mound of research showing passive smoking to be harmful to non-smokers. Every genuine scientist's expert witness statement would be disputed at length in court, while public relations firms worked overtime to try to make politicians change direction, and soften up public opinion against the ban. With luck, the whole thing might eventually just fade away.

If the industry had gone to court as soon as the government's notification of the ban's details was published at the end

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of May, it is just possible that it could have got a judgement, even after substantive hearings, before 2 October; if it lost, however, that would be the end of the story. So instead, it filed petitions in the Delhi High Court barely ten days before implementation. The federal government wisely applied to the country's Supreme Court, requesting all the petitions to be heard there, where any decision would be final. At a hearing on 29 September, Supreme Court judges refused to grant a staying order and further ordered that no other court in the country could interfere with the implementation of the ban. When asked during the hearing why it had taken so long to file petitions, a leading lawyer for the industry replied, a little unconvincingly for some, "We were trying to evolve a method by which we are able to resolve the problem rather than fighting in court."

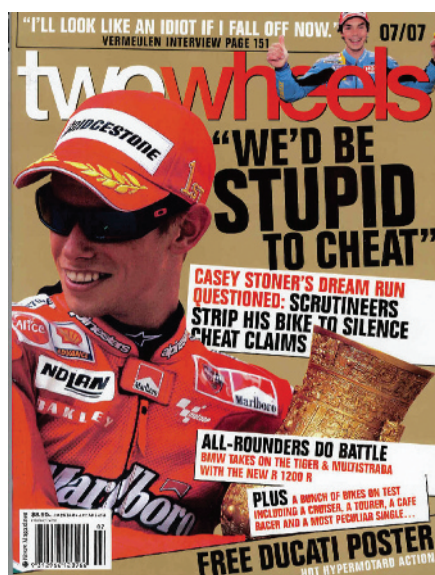
Media interest was intense throughout the period leading up to and immediately after the case and tobacco control activists were able to make good use of their by now substantial advocacy experience. The actual appeals can be heard later, of course, but obviously in a significantly different social and legal climate now that the law is already up and running. This is widely regarded as likely to have a strong negative effect on the chances of success. Meanwhile, the ban has gone ahead.

The industry's objections to pictorial warnings also took the court route, but involved no less than 45 actions in high courts right across India. No doubt this was to tie up federal health ministry resources as much as possible and one senior official was quoted as saying how difficult it had been, having to "move around the country again and again to explain to courts what is our position on pictorial warning and how it will serve a greater cause." Hence the ministry had moved the Supreme Court to transfer all the cases and hear them at the highest level, too. Of the 45 cases, at least 28 were from Tamil Nadu state alone, seven of them filed by ITC, Indian associate of British American Tobacco.

The official's mention of serving a greater cause reflects the welcome spirit in which the federal ministry is discharging not just its obligations under the Framework Convention on Tobacco Control (FCTC), but its duty of care to the country's citizens. It estimates that smoking kills 900,000 Indians each year and is linked to 40% of health problems. In an interview just before the smoking ban implementation, the internationally

renowned federal health minister, Dr Anbumani Ramadoss, denied he was trying to play the part of a moral policeman or guardian: "I am just doing my job," he said. "As health minister it is my responsibility to create awareness in the general population and to save every youth from everything that can harm their health... One sixth of humanity lives in India. As many as 600 million people here are below 30 years of age. We consider them as the high-risk group when it comes to tobacco, alcohol, drugs use, HIV infection and junk food consumption. It is the responsibility of the government to highlight the ill effects of these to the naive, illiterate and the youngsters."

#### AUSTRALIA: WORLD CHAMPION BRANDED "PUSHER"



Australia: MotoGP world champion Australian Casey Stoner wearing his Marlboro promotional outfit, pictured on a motorcycling magazine earlier this year.

When Australian health groups accused World MotoGP champion and Young Australian of the Year Casey Stoner of being the "new Marlboro Man" and a "high speed drug pusher", they were bombarded with hate mail from fans describing the groups as "gutless", "zealous hippies", "media whores" and "condescending do-gooders".

Stoner, however, was more positive about the bad publicity: overnight a few hundred Marlboro logos on his Australian website turned into innocuous bar codes. Tobacco logos also disappeared from the official MotoGP website around the same time.

The "outing" of Stoner and motorcycle makers Ducati took place in Australia—where tobacco sponsorship of international sport has been banned since 2006. But other countries hosting MotoGP races are yet to close the powerful advertising loopholes, in line with commitments under the Framework Convention on Tobacco Control (FCTC). As a result, tobacco sponsorship of some world champions continues to be accepted, broadcast and featured prominently in world media.

With a brilliant and winning rider like Casey Stoner, Marlboro receives massive penetration of direct hits on target audiences of young people estimated in the hundreds of millions. Even in countries where tobacco sponsorship is banned, "incidental" tobacco advertising is beamed in and generally seen by authorities as too difficult to stop.

Commencing six months ago, Action on Smoking and Health (ASH) Australia along with two youth groups, Smarter Than Smoking and the Australian Network on Young People and Tobacco (ANYPAT), kicked off a name-and-shame campaign aimed at Australian champions who allowed themselves to be exploited by tobacco companies to spread the message around the world that smoking is "cool".

The advocacy campaign aimed to raise concerns with Stoner, Ducati and the organisers of the Young Australian of the Year Awards that tobacco sponsorship of champions is a powerful form of advertising to recruit new smokers; 35 million teenagers are already using tobacco worldwide; tobacco companies have targeted young people for decades; and replacement sponsors can and should be found whose products don't kill people.

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#### BAHAMAS: PRISON CIGARETTES SEEN AS PACIFIERS

An extraordinary revelation shook members of the Bahamas government's crime committee recently, when members were questioning the nation's prison superintendent about the prison's operations and its role in fighting crime. By law, they heard, prison authorities have to provide each inmate with 20 free cigarettes per week, at an annual cost to the government of US\$250,000. According to the superintendent, the original thinking behind providing free cigarettes for inmates was that cigarettes were viewed as pacifiers and provided a calming influ-



ence on people who had a lot of idle time on their hands.

The superintendent mentioned the apparently little known fact of the cigarette money when citing the need for rehabilitation. He argued that the sum would be better spent as resettlement allowances for prisoners being discharged at the end of their sentences, adding that inmates who smoked could get their cigarettes from the prison shop. Perhaps he should also consider how prison authorities in some US states have instituted comprehensive tobacco control regulations, including popular cessation programmes. (See Kauffman RM *et al.* Tobacco policy in American prisons. *Tob Control* 2008;**17**:357–60.)

### WORLD: HUMAN RIGHTS & TOBACCO NETWORK

Many tobacco control advocates agree that among the things that motivate them is the sheer inequity of the problem. They repeatedly feel fresh waves of outrage at the unfairness of massively wealthy companies continuing to push a product that kills a half of their lifetime customers, many of them vulnerable by any civilised standards, as well as renewed amazement that the tobacco pandemic should ever have been allowed to happen. In short, they see tobacco control as the righting of a grave injustice, as a human rights issue as well as one of public health.

Now some of these like-minded people have started a new network, the Human Rights and Tobacco Control Network (HRTCN). Its first international meeting, held in August at the University of Lausanne, Switzerland, was attended by some 30 delegates from a dozen countries. Among the topics they discussed was the need for their concerns to be represented by more voices outside existing tobacco control groups; for more alliances linking health and human rights; and to recruit help from more women's and children's rights experts. They pledged to follow up a varied list of action points in their respective home countries, and to investigate how to replicate pioneering action taken in individual countries. For example, on the issue of child labour in tobacco production, Brazil and Venezuela had designated it among the most serious forms of child labour, and their experience should be studied with a view to encouraging other countries following suit.

The second meeting of the network will take place at the end of the next world conference on tobacco and health, in Mumbai, India in March next year. Among those who have confirmed their

attendance is the United Nations Special Rapporteur on Health. Meanwhile, members of the network have their own discussion forum on GLOBALink at <http://member.globalink.org/humanrights> and welcome enquiries and contributions from anyone interested in their work.

### USA: CONTINUED PROMOTION OF "GREEN" BRAND

Despite RJ Reynolds' discontinuation of print advertising of its brands in 2008, ads for Natural American Spirit, another brand under the Reynolds American umbrella, have persisted and show no signs of slowing down. Since January 2008, Natural American Spirit ads have been found in at least 18 different popular magazine issues ([www.trinketsandtrash.org](http://www.trinketsandtrash.org)). So it is clear that it is business as usual for this Reynolds brand, which is directly owned by Santa Fe Natural Tobacco Company, a subsidiary of Reynolds American, and is thus technically exempt from the RJR print advertising policy. That is one reason tobacco control professionals should keep their eyes on this brand, but there are several more.

As its name implies, Natural American Spirit has promoted itself as a natural, earth friendly product, offering "additive free" tobacco, and, if that is not enough, organic versions as well. As noted in a recent article in *Tobacco Control*, claims of "naturalness" can contribute to misperceptions that such cigarettes are healthier and safer (McDaniel PA, Malone RE. "I

always thought they were all pure tobacco": American smokers' perceptions of "natural" cigarettes and tobacco industry advertising strategies. *Tob Control*, Dec 2007;**16**:e7). Furthermore (as the authors also point out), in an environment of growing unacceptability of smoking, Natural American Spirit may be seen as a "more acceptable" and alternative "green" friendly brand. Not only are "added chemicals" avoided, but the company advertises its support of earth conscious practices such as sustainable tobacco farming, and support of Native American groups and causes.

The brand's "natural" identity is promoted through various marketing communications, including the packs themselves, which come in natural primary colours (eg, yellows and blues) and display a design of a Native American smoking a tobacco peace pipe, connecting the brand with tobacco's history and origins. While print ads from 2003–2006 consisted mainly of simple images of the packs against solid coloured backgrounds, ads in 2007 and 2008 have made more explicit links to the "natural" theme by using images of plants, leaves, flowers and farms, by explaining that natural tobacco "tastes better," and by describing the manufacturer's environmentally friendly practices. In addition, the ads offer something extra to encourage product trial—US\$20 in gift certificates to sample the products.

While the brand may have started its advertising in niche alternative publica-



USA: Natural American Spirit ads, such as these from 2007 (left) and 2008 (right) using images of plants, leaves, flowers and farms, claim that natural tobacco "tastes better" and describe the manufacturer's environmentally friendly practices.

tions such as *Mother Earth News*, current ads have been running regularly in mainstream popular magazines. Between 2007 and 2008, at least 10 different ad versions, including heavier paper stock inserts, have been found in issues of *Cosmopolitan*, *Entertainment Weekly*, *Esquire*, *FHM*, *GQ*, *Harper's Bazaar*, *Lucky*, *Playboy*, *The Advocate* and *Vanity Fair* ([trinketsandtrash.org](http://trinketsandtrash.org)). The brand is simultaneously being promoted to retailers as a profitable investment. An ad in the June 2008 issue of *Smokeshop*, a trade magazine for tobacco retailers, called Natural American Spirit the top selling "100% additive-free natural tobacco product", offering trade samples and advising retailers to "cash in" on the success.

Also worthy of note is the fact that, unlike the websites of other mainstream cigarette brands (eg, Camel, Newport), American Spirit's brand website ([www.nascigs.com](http://www.nascigs.com)) is not password protected or age restricted. Once on the site, users can sign up to receive the US\$20 in gift certificates promoted in the ads to sample the brand's tobacco products (at which point they are finally asked to verify that they are at least 21 years old).

With both decreased advertising competition in print media from other cigarette brands and a growing public consciousness for all things "green", Natural American Spirit may stand to benefit and grow in popularity. Although proposed regulation of the tobacco industry could ban use of descriptors such as "natural" in the future, for now it is important that tobacco control professionals keep track of this brand and be prepared to counter the myths that smokers may associate with it.

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### **SOUTH KOREA: KT&G PREPARES FOR FCTC WITH CHARITY DRIVE**

As the South Korean government was due to begin considering legislation to implement the Framework Convention on Tobacco Control (FCTC) in August, Korea Tomorrow & Global (KT&G, formerly Korean Tobacco & Ginseng) began manoeuvring to protect its dominant market position from stronger regulation.



South Korea: one of the cars used by KT&G's corporate social responsibility programme.

Since the opening of the South Korean market in 1988 and KT&G's privatisation in 2003, the company has struggled to maintain its share of the market, now at 70%, from foreign competitors. In the process, corporate social responsibility has become a key part of its strategy.

Under the Tobacco Business Act, enacted in 1989, tobacco companies are restricted from advertising in the broadcast media and some print media, as well as prohibited from marketing specifically to young people under 19 years old and females. Advertising of cigarette brands and promotional activities are only permitted at retail outlets, and in certain magazines, and so corporate social responsibility (CSR) activities have become an increasingly important way of both promoting the company and winning the hearts and minds of the South Korean public.

KT&G launched its CSR programme in 2003 with the creation of the KT&G Social Welfare Foundation. The foundation announced that it would spend more than US\$200million by 2010. Three examples illustrate how the foundation has used CSR to circumvent marketing restrictions, whilst simultaneously legitimising the company.

The first is the donation of 100 cars to social welfare organisations each year since 2004. The cars clearly bear the KT&G logo and have the same colouring as the company's cigarette delivery vehicles. A second is the "Love Kimchi" (a traditional Korean side dish made of cabbage) project begun in 2004 and ostensibly aimed at helping low-income households stock up for winter. KT&G pays for the ingredients and recruits volunteers to make kimchi, which is then donated to low-income households and



China: the smoke-free policy at the 2008 Olympic games in Beijing was reinforced by numerous anti-smoking messages, including text messages sent to the mobile telephone handsets. They included a welcome message transmitted during the closing ceremony, which contained a reminder to spectators not to smoke in the stadium.

older people. The volunteers at kimchi-making events wear aprons and hair bands displaying the KT&G logo, providing valuable publicity for the company. By meeting poor people's needs that are not met by the state, KT&G hopes to win support and make it difficult for the government to ban its "socially responsible" activities.

A third, and perhaps the most pernicious example, is the "Dream in Painting" project. This recruits university students, parents and volunteers to paint murals on the walls of elementary schools. Three hundred students were recruited to participate in the project in May 2007. Although KT&G's logo cannot be included in the mural, all participants wear KT&G aprons.

The increased use of CSR in South Korea illustrates how a national tobacco company has responded to greater market competition and the shadow of the FCTC by adopting familiar tactics used by transnational tobacco companies (TTCs). As with TTCs, tobacco control advocates must remain wary of such efforts which circumvent restrictions on marketing and advertising, and gain the company much needed credibility at a time when stronger regulation looms.

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