

Worldwide news and comment

THAILAND: YOUNG, FEMALE 'AMBASSADORS' PROMOTE CIGARETTES

Although Thailand is well known for its stringent tobacco control legislation, the tobacco industry has resurrected an old tactic to circumvent the Thai regulations banning tobacco promotion—'cigarette girls'. Unlike a typical cigarette girl of the past, a Thai cigarette girl may not actually sell you any cigarettes—she may just pose for the brand name, thereby blurring the line between brand advertising and corporate promotion, which is still allowed in Thailand. Using attractive young women as walking, talking billboards to promote cigarettes is more appealing than other types of promotional materials, such as insipid posters and boring brochures.

Over these past few years tobacco companies have been seen to use these young women in various ways. They often conduct corporate promotions and corporate social responsibility activities to promote the tobacco industry. The job can involve facilitating games at a corporate social responsibility-related function, and promoting the availability of a smoking area. Euphemistically, they are referred to as 'Ambassadors of smoking'. These 'ambassadors' do not sell cigarettes, just the company's name.

They can often be found with mobile cigarette booths set up at concerts, sports and cultural events, where they promote their brands to those attending the events. Some cigarette booths are permanently set up at the entrance of entertainment facilities such as pubs, bars and discos in Bangkok and in other tourist towns, especially those frequented by young people. Here, the young women sell cigarettes at the booths and also promote the smoking zones nearby.

The tobacco companies also use the women to launch and promote new cigarette brands at entertainment facilities, major convenience stores and tobacco trade shows. At such promotional events, cigarette girls have been seen wearing eye-catching dresses in specific cigarette brand colours. For example, they wore red and

black dresses to represent Marlboro Classic, dark green and black for Marlboro Menthol, and red, green and white dresses for L&M. Those promoting Krongthip, the largest selling local brand, wore plain red—the brand colour. Needless to say, the cigarette booths were painted in cigarette brand colours. Some booths also stocked tobacco related items such as designer cigarette lighters.

The young women working for Philip Morris were recruited through an agency and expected to stand at a booth located outside or at the entrance of entertainment facilities from 19:00 to 01:00 or 02:00. The tobacco companies provide male assistants to collect money from sales, as well as doubling up as security men for their female colleagues. The women had been instructed to stand still, much like a poster board, and were not allowed to call customers into the booth or to step outside the booth area to lead customers to their booth. Instead, if the customers looked their way, they were to point at signs indicating that cigarettes were sold at the booth. The young women are positive about their work, as compared to other sales jobs this is not labour intensive and no sales quota is involved.

According to provisions in Thailand's tobacco control legislation, promotions using cigarette girls would be in violation of the law if the young women were handing out free cigarettes, or gifts accompanying cigarette purchases. Clearly, the tobacco companies are exploiting an ambiguity in the law, which is unclear as to whether using young women as human billboards is legal. These promotions emphasise the need for Thailand to amend its legislation, to remove such loopholes as soon as possible. The law should prohibit not only promotion of cigarette brand names, but also any corporate promotional activities. In addition, at present the law



Thailand: young women taking part in a Marlboro brand promotion.



Thailand: the Thai Tobacco Company's helpers at a trade stand.

does not require tobacco companies to report how much they spend on promotions. To help achieve a comprehensive ban on tobacco promotion, companies should be required to report this information.

PİYARAT NIMPITAKPONG & CHURUNEE PITTAYAKULMONGKON

Tobacco Industry Watch Project, Bangkok, Thailand
ohpiyarat@yahoo.com

LEBANON: AT LAST, A COMPREHENSIVE TOBACCO CONTROL LAW

In August, at the end of a long saga of political uncertainty and hard lobbying by tobacco interests, Lebanon's parliament finally passed the country's first comprehensive tobacco control legislation. Health advocates consider that despite some weaknesses, the law is as good as it is possible to obtain at present.

The legislation is the first to implement the standards of the WHO's Framework Convention on Tobacco Control (FCTC), to which Lebanon became a party in December 2005. In the intervening years, far from working steadily towards compliance, there have been developments in tobacco marketing that have actually worsened the outlook for the future health of its citizens. These have included overt marketing to women, including an unusual promotion aiming to recruit women to water pipe smoking (see Lebanon: water pipe line to youth. *Tob Control* 2005;14:363–4).

The new law is therefore a considerable advance, banning smoking in all enclosed public places, including restaurants, bars, cafés, offices and aircraft. As originally drafted, it would have left the onus for compliance with smokers, who risk a fine if they smoke inside public places; however, a notable achievement was the addition of a clause to make the proprietor of premises where a violation

All articles written by David Simpson unless otherwise attributed. Ideas and items for News Analysis should be sent to: David.Simpson@ctsu.ox.ac.uk



Lebanon: a football match organised by civil society group IndyACT outside parliament last year. Health advocates took on a side representing the tobacco industry, to kick the 'ball', the tobacco control bill, which members of parliament were debating inside.

takes place liable to be fined, too. In addition to making public places smoke-free, tobacco advertising and promotion will be banned, including on billboards and in magazines; and tobacco company sponsorship of concerts and other events will be prohibited. Tobacco packaging will require pictorial warnings about the dangers of smoking, covering 40% of the pack.

The passage of the new law owes much to Lebanon's network of health advocates. Many parliamentarians worked hard to develop and defend the bill, and international tobacco control colleagues also played a vital part, including the submission of examples of laws with penalties for establishments which allow breaches of indoor smoking bans; Lebanese advocates used these to lobby for the inclusion of the amendment to add a similar provision to the bill.

Many Lebanese advocates are based at the American University of Beirut, but the civil society organisation IndyACT, which campaigns on a range of social justice and health issues, has also played a significant role in lobbying and public education work on tobacco, deploying some creative and humorous stunts along the way. At the time of the World Cup soccer series last year, for example, IndyACT saw a parallel between the tense wait for the tobacco law, which was already in process in the parliament, and the tension in the country as a whole as people awaited Lebanon's final World Cup match.

IndyACT decided it was time to referee the final 'match' outside the parliament building, with one team representing the international tobacco companies. The ball being kicked around was the tobacco control bill being kicked around in the parliament. Seconds after the beginning of the game, referee IndyACT raised the red card, expelling the tobacco companies' team from the game because of its unethical infiltration and illegal blocking of the other team. This was welcomed by viewers and fans representing civil society groups, public health experts and academics, who chanted their support for a complete smoking ban in enclosed public places, and blew vuvuzelas, the noisy instruments of preference of sports fans everywhere. How satisfying that the real life match was eventually won by the health side.

JAMAICA: GOVERNMENT FIDDLES WHILE TOBACCO BURNS

A new type of cigarette has arrived in Jamaica, while the health community continues its long wait for action by the government. In July, the first 'U-Roll'em' machine was installed in a shop in the capital, Kingston, heralding what the promoters hope will be a chain of similar installations across the country. The machines allow smokers to roll their own cigarettes in the shop, which provides the necessary tobacco, hollow paper tubes and boxes. As loose, roll-your-own (RYO) tobacco is taxed at a lower rate than

tobacco used in manufactured cigarettes, smokers end up paying much less for their tobacco. For those who buy the equivalent of a carton—200 cigarettes—at one time, the cost reportedly works out at just less than half the cost of a carton of standard manufactured cigarettes. The company also offers the option to the customer of buying a smaller RYO machine to take home.

The company behind the scheme is run by a Jamaican couple now based in Florida, USA, and does not appear to have ties to any of the big international tobacco firms. It also has the franchise rights for setting up similar operations in all the Caribbean countries—'available Caribbean territories' is how they are listed, apparently with ambitious intent, on the company website. The machines are supplied by another American company, based in Ohio, which also supplies the tobacco.

Advertisements for U-Roll'em, complete with standard health warnings, have appeared in printed media, where tobacco promotion is still legitimate. U-Roll'em has also been advertised on the internet. Among claims made on the website, which asks visitors to confirm that they are over 18 years of age, are that the cigarettes are 'chemical free', 'custom blended cigarettes', '100% high quality tobacco' and contain 'no fillers'. Interestingly, one claim says that the product has 'no extra carcinogens'—an unusual admission implying that the tobacco and its smoke will be full of them.

RYO schemes have seen a boom in recent years as a way of beating tax-driven price rises, but are mostly developments by large tobacco companies eager to retain existing customers (see UK/World: Imperial's low-tax cigarette device. *Tob Control* 2011;20:254–5). A major feature of U-Roll'em is that cigarettes are made by a machine, albeit one operated in a shop by the smoker, so a bulk supply can be made quickly, rather than the smoker making each one individually by hand. It seems likely that the resulting cigarettes will more closely resemble factory-made products, too. Both characteristics may help establish U-Roll'em as a lasting segment of the Jamaican market, rather than a temporary, somewhat fiddly experiment by smokers who might tire of fumbling with a pocket-sized hand-rolling device at home.

A government confronted by a development like this needs to act fast if it is to have any control over it. A country with a comprehensive tobacco control law

should have no difficulty in regulating, and if considered appropriate, banning the introduction of any new tobacco product. An unforeseen venture that effectively gets round tobacco tax barriers should be nipped in the bud by swift action from the finance ministry.

Unfortunately, however, the government of Jamaica has been nothing if not dilatory about tobacco control in general, and implementing the WHO's Framework Convention on Tobacco Control (FCTC) in particular. Health advocates long ago stopped holding their breath for a promised announcement of something—anything—by way of a tobacco bill to be put before parliament. Already the country's weak defences against tobacco have attracted plans to increase, rather than decrease tobacco consumption, with a recent announcement by the ministry of agriculture of plans to work with tobacco farmers to grow more tobacco; and a notorious collaboration between the government and BAT on a youth education programme must deserve some sort of international tobacco control booby prize (see Jamaica: more tobacco despite FCTC. *Tob Control* 2011;20:253).

Nevertheless, the tobacco industry does not seem to be relying on government lethargy being maintained. It has been generating a steady stream of anti-health propaganda, complete with sophistry, misinformation and heart-rending pleas from small businesses. In one 4-week period alone, in May and June, a national newspaper carried four letters to the editor, purportedly penned by individuals but reeking of tobacco industry public relations rhetoric. The first was headed, 'Unwise to ban smoking in bars, restaurants' by a writer who said he was the owner of a bar. Next came one headed, 'Reconsider plan to ban smoking' ("I am a tobacco farmer...", it began). 'Tread carefully with tobacco legislation' was the message from the next correspondent ("As a wholesale owner..."). Then readers were urged to 'Think carefully about the smoking ban' ("I am a vendor..."). Each letter might have been pieced together from a standard international tobacco industry propaganda manual—and probably was. Naturally, health agencies have been busy submitting their own letters and articles to the media, too.

If this sort of pressure is visible, the inevitable barrage of lobbying behind the scenes can only be imagined. Despite Jamaica having ratified the FCTC, the essential unanimity of purpose at cabinet

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WWW.UROLLEMTOBACCO.COM

Jamaica: an advertisement for the new U-Roll'em self-operated cigarette machines.

level required for effective public health action on tobacco seems to be entirely lacking. Health colleagues in Jamaica are already battle weary, but unfortunately, all the signs suggest they may still have a long campaign to fight.

JAPAN: BIG TAX RISE—THEN HEALTH MINISTER CALLS FOR MORE

After many years of comparative lack of action on tobacco control by the government, the situation is clearly changing. No doubt catalysed by the global economic downturn, an unprecedented 40% rise in tobacco tax was imposed last October.

Naturally, the rise will help the government's net revenue while also reducing consumption. However, public health colleagues in Japan said it was most significant that previous constraints on action, mainly linked to the government still having a controlling interest in Japan Tobacco International, did not get in the way of this substantial increase. Perhaps the need to raise more revenue was simply too great, though some Japanese health advocates saw it as a particularly tangible sign that the government has been taking tobacco control more seriously in recent years. Certainly there was a reassuringly positive evaluation of the tax rise in the form of a shrill squeal of protest from British American Tobacco (BAT), which has 10% of the Japanese market. BAT said its sales in Japan will fall by some 17% as a result of the rise.

However, tobacco companies immediately passed on the tax rise to their customers. In many countries, such price increases following a tax rise are found to contain an element of increased profit

for the manufacturers. With a third of Japanese men still smoking, it is unlikely that the government's move will harm the industry, and might actually make it even more profitable, at least in the short term.

However, the need to raise still more government revenue, made more urgent following the terrible accident at the Fukushima nuclear plant in March, may make the chances of another significant tax rise more likely. Certainly Yoko Komiyama, minister for health, labour and welfare, must think so. In September she proposed a further increase, noting that Japan is still far below international standards with regard to tobacco control. Komiyama, a former convenor of the cross-party anti-smoking group of parliamentarians, said that a pack of cigarettes should cost at least ¥700 (US\$9.10) and the tax increase should be made for health reasons more than for the sake of extra tax revenue.

Komiyama, who clearly understands what is required to maximise the effect of tax policy on tobacco consumption, said that tax needed to increase annually; the current price of ¥410–470 (US \$5.33–6.11) for a pack of 20 cigarettes was far behind the average in other countries, she said, where smokers paid a minimum of ¥600 (US\$7.80) per pack. Most encouragingly, she was reported as demanding a fundamental change in attitudes in the corridors of power in Japan, so that tobacco tax was no longer treated as financial. "It is a health problem that we need to address immediately," she said, criticising Japan's current policy of having the finance ministry controlling tobacco taxation.

PERU: COURT REJECTS INDUSTRY CHALLENGE TO LAW

In July, the constitutional tribunal of Peru rejected a challenge to Peru's law for the prevention and control of tobacco consumption risks, based on a claim that it was unconstitutional. The claim focused on Article 3 of the law, which prohibits smoking in all health and educational establishments, public institutions, indoor work spaces, enclosed public spaces and any means of public transport, effectively making these areas 100% smoke-free environments. The failed claim argued that the clause, by imposing an absolute ban on tobacco consumption in certain areas, violated smokers' right to personal autonomy, as well as rights to commerce, economic freedom, and freedom from discrimination.

However, the court found that the measures imposed by the law constituted a legitimate limitation on smokers' right to personal autonomy because allowing smoking would interfere with other individuals' liberty and personal autonomy. While the court found that the rights to commerce and economic freedom were limited by the measure, it stated that the limitation was permissible because it passed the proportionality principle test and the rights themselves were not absolute. In referring to the suitability and proportionality of the law's measures, the court ruled that the legislative measure in question was not only constitutionally valid, but also necessary from the perspective of international human rights law, due to the government's obligation to protect the right to health of its citizens. In addition to legal analysis, much of the reasoning used to arrive at the court's decision was based on scientific data from the WHO.

SOUTH AFRICA: BAT LOSES AD BAN CASE; 1-TO-1 PROMOTIONS ALSO RULED OUT

South Africa, too, had a big success in the courts earlier this year. In May, the high court dismissed with costs a challenge by British American Tobacco (BAT) to the constitutionality of provisions of South Africa's advertising ban. The judge also rejected BAT's application to allow it to continue advertising on a 'one-to-one basis with consenting adult tobacco users'.

The judgement is particularly important because some countries still allow exemptions in their advertising bans, permitting one-to-one communications. As is seen so often around the world, such exemptions are abused to conduct promotion via such relatively new methods as viral marketing campaigns. South Africa banned tobacco advertising in 1999 and amended the law in 2008 to end the industry's practice of holding parties and other events to entice young people to smoke.

AUSTRALIA: ANYTHING BUT PLAIN PACKS, BEGS DESPERATE BAT BOSS

Imagine a condemned criminal begging for 30 years' hard labour breaking stones in

a quarry, in place of life imprisonment. That is the sort of desperation that appeared to haunt the boss of British American Tobacco (BAT) in Australia as he pleaded for a reprieve from Australia's proposal to limit the packaging of tobacco products in plain brown boxes largely covered in health warnings, with the brand name restricted to a small, uniform font.

David Crow, chief executive of BAT Australia, was giving evidence at a session of the standing committee on health and ageing of House of Representatives, in the federal parliament building in Canberra on 4 August. Mr Crow began by repeating well-worn industry mantras, such as the superiority of education, citing past success in changing public behaviour in other areas of health, such as skin cancer prevention and alcohol-related road traffic accidents (though without mentioning that these did not primarily involve a product's fundamental toxicity and addictiveness). There should be more of that, he urged members of parliament. So far, so routine.

But then Mr Crow soared into what his industry usually views as a much more turbulent area of policy. Australia needed to get pricing and excise regimes right, he said; "We understand that the price going up when the excise goes up reduces consumption. We saw that last year very effectively with the increase in excise." There had been a 25% increase in excise, he reminded members, which saw sales volumes decrease by about 10.2%. "So there are ways of achieving the objectives that do not infringe on the property rights, do not breach the laws and the international commitments and do not mean that the Australian government would have to compensate people."

No doubt the implied threat of litigation to sue for trademark damages will turn out to be real; but equally without doubt, the Australian government lawyers will have looked at all the implications of the imminent law. In any case, Mr Crow's plea obviously did not impress the committee. Less than 3 weeks later, on 24 August, the House of Representatives voted to pass into law the plain packaging

legislation, sending the bill to the Senate, where the government was confident it could outvote any opposition.

Meanwhile, it is interesting to know that the industry would apparently prefer to lose around a 10th of its sales each year through repeated tax rises, than to try to survive with plain packs. Such desperate pleading, in the last chance saloon for tobacco industry lobbying against Australia's world-leading legislation, shows once again how effective plain packaging is likely to be.

THAILAND: ATTRACTIVE CIGARETTE DESCRIPTORS BANNED

Thailand has notched up another significant victory over tobacco, in an area of policy hotly contested by the industry, and thus evidently important to its efforts to keep hooking new young customers. Regulations on the use of misleading 'descriptor' words or terms on cigarette packages have been toughened significantly, from the end of last year. The previous regulations, introduced in 2005, have been extended so as to ban words or terms which convey attractiveness, such as cool, ice, frost, crisp, fresh, mint, mellow, rich, smooth, natural, special, genuine, luminous, extra, premium, and other terms with similar meanings. The move was made in response to the proliferation of such terms on cigarette packages in recent years. Thailand banned almost all forms of tobacco advertising, promotion and sponsorship in 1992.

CHINA: SMOKERS STARTING YOUNGER

A recent survey by the Chinese Association on Tobacco Control (CATC) showed that almost one in four children between 12 and 14 years old have tried smoking. The survey, of 38 839 students and 6503 teachers from middle and high schools in 11 provinces across China, showed that 15.8% of middle and high school students smoke regularly, most buying cigarettes themselves, and three-quarters reporting that there was at least one cigarette shop within 200 m of their school.

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