

Worldwide news and comment

The power of cigarette packs as a marketing device is well recognised, and comprehensively addressed by measures outlined in Articles 11 and 13 of the World Health Organization Framework Convention on Tobacco Control (FCTC) and their guidelines. The theme of World No Tobacco Day 2016 – *Get ready for plain packaging* – supports these aims.

The encouragement to policy makers is sorely needed: it is a telling indication of the tobacco industry's success in hijacking government policies intended to make smoking history that progress in adopting, and robustly implementing, graphic health warnings and plain packaging continues to be painfully slow. In this issue we look at recent progress in selected countries, and some bumps on the policy-making road in others to quash the appeal of packaging.

WORLD NO TOBACCO DAY: GET READY FOR PLAIN PACKAGING

Given the challenges of implementing measures to counter the impact of the pack as a 'silent salesperson', it is fitting that the theme of World No Tobacco Day 2016 is *Get ready for plain packaging*. It recognises that plain packaging is an important demand reduction measure. Limiting what the tobacco industry can put on packs is not only a natural and logical component of advertising restrictions, it also increases the effectiveness of health warnings.

The rationale for adopting plain packaging is being recognised in an increasing number of countries – France, the UK, and Ireland have all passed laws to follow Australia's 2012 legislation, and plans are advanced to adopt it in many other countries.

The impact of plain packaging is likely to extend well beyond curtailing the appeal of the packs themselves. The tobacco industry is adept at exploiting new avenues to get around advertising and promotion bans in the borderless and rapidly changing social media landscape, which is often beyond the ability of governments to monitor, much less control.

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Removing the allure of packs diminishes the appeal on which internet and social media marketing relies. It also chokes the potential for brand stretching and subliminal advertising. The iconic Formula One Marlboro barcode livery would mean little to anyone who has only ever seen Marlboro cigarettes in drab packaging, devoid of the instantly recognisable chevron.

In 2016, the Australian government published a post implementation review of its 2012 plain packaging legislation. Australia has in place a comprehensive range of tobacco control measures, making it difficult to isolate the impact of plain packaging – each measure works synergistically. However, the review found that plain packaging resulted in a statistically significant decline in smoking prevalence among Australians aged 14 years

and over of just over 0.5%. Given the full effect of the measure is expected to be realised over time and continue to grow, this is an encouraging result.

The review also calculated the regulatory cost of compliance (although it was limited by the fact that was based on cost submissions from the tobacco industry). It noted that 'in the absence of better information, industry submissions as to costs...necessarily formed the basis of the estimates'. The regulatory burden was estimated to be A \$73.87 million, a transitional cost across all affected industries.

Monetising the benefits of plain packaging is difficult to do precisely due to the long-term intended impact of the measure; however the review found that even a small drop in prevalence results in large monetised health benefits; a drop of 0.07 percentage points evenly distributed over ten

GET READY FOR PLAIN PACKAGING

No logos, colours, brand images or promotional information

Pack surfaces in a standard colour

Brand and product names in a standard colour and font

Graphic health warnings used in conjunction with plain packaging

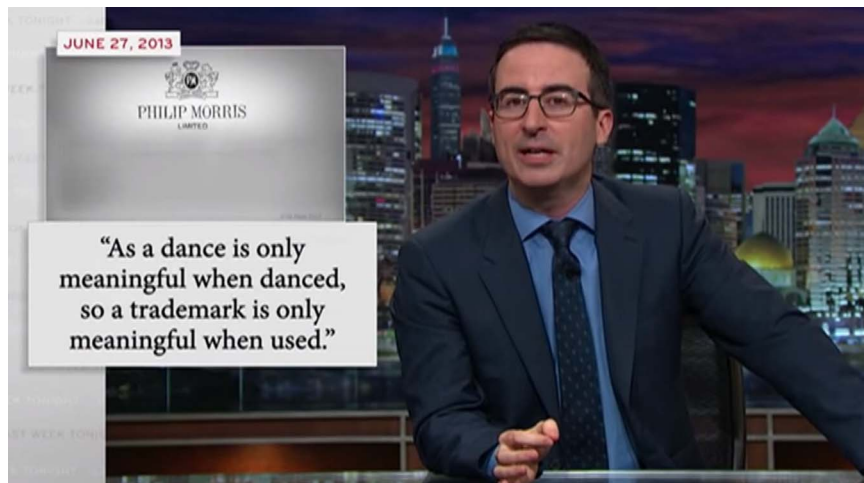
- Reduce attractiveness of tobacco packaging
- Eliminate tobacco advertising and promotion
- Limit deceptive tobacco packaging
- Increase effectiveness of tobacco health warnings

World Health Organization

31MAY:WORLDNOTOBACCO DAY

www.who.int/world-no-tobacco-day #NoTobacco

A poster for World No Tobacco Day 2016: Get ready for plain packaging.



US-based comedian John Oliver – creator of *Jeff the diseased lung* – discussing tobacco industry attempts to lobby Ireland not to introduce plain packaging in 2015. Included in one letter from Philip Morris was the memorable argument “As a dance is only meaningful when danced, so a trademark is only meaningful when used”. As Oliver stated: “...you have a pretty weak legal argument if it sounds like a rejected **** (singer/songwriter) Jewel lyric”.

years would generate an estimated monetary value equivalent to A\$273 million.

Against the background of the tobacco industry screaming, the evidence in favour of plain packaging continues to accumulate. The WNTD theme is a reminder to governments everywhere that plain packaging is a simple, powerful and cost effective measure to reduce smoking uptake.

GERMANY: TIDE TO TURN WITH GRAPHIC HEALTH WARNINGS?

In a welcome step forward from the weak text-only ‘smoking can be deadly’ and similar warnings that have thus far graced cigarette packs, Germany is set to introduce graphic health warnings.

Despite tentative progress in recent years, Germany has historically been one of Europe’s poster children for tobacco control legislative failure. That reputation may begin to change from 20 May, when gory pictures of black lungs, dead bodies and other consequences of smoking will be plastered over two thirds of the surface area of cigarette packs, in line with European Union regulations.

While the news is welcome, much remains to be done: Germany has long languished near the bottom of European countries for its many shortcomings in tobacco control policy and implementation.

Although some smoke free legislation is in place, lax advertising restrictions have allowed tobacco companies to continue to use advertising billboards – one of only two European countries which have not yet outlawed such a blatant violation of the FCTC. Even neighbouring Austria, the perennial ‘rogue state’ of European tobacco control, does not allow cigarette billboards.

According to the German Cancer Research Center, 121,000 people die from smoking-related causes each year, representing 13.5% of all deaths in Germany. There are significant regional variations in the country, with the percentage of smoking-related deaths as high as 23% in some places.

The introduction of graphic health warnings signals a pivotal moment which it is hoped will be the beginning of serious tobacco control legislation and the inexorable decline of smoking in Germany.

INDIA: 85% HEALTH WARNINGS DISPUTE PROMPTS INDUSTRY SHUTDOWN

A new law in India for graphic health warnings to cover 85% of cigarette packs got off to a rocky start.

Due to be implemented on 1 April, industry lobbying against the measure appeared to have paid off when a parliamentary committee report tabled on 15 March, found that the 85% labels would be “too harsh” and instead recommended a slight increase to 50% of the pack (from the previous 40%).

Drawing faithfully on standard tobacco industry spin, the report claimed that the larger health warnings would trigger a flood of illicit cigarettes. The panel – which included a member of parliament who was formerly a tobacco industry baron – also expressed concern that the measure would have a negative impact on tobacco farmers.

In addition to lobbying politicians, the tobacco industry (predictably) challenged the new rules in court. At the time of the 1 April implementation date, the court had not handed down its ruling on the challenge. It subsequently gave orders for the law to be implemented on 2 April. Due to the pending decision of the court, and claiming they had been led to believe the warning requirements would be amended following the parliamentary committee report, Indian cigarette makers suspended production on 1 April.

ITC, the company with the largest share of India’s cigarette market, was quoted in Indian media justifying its decision: “The implementation of any change in the health warnings on the cigarette packages is an elaborate process for the manufacturers, entailing months of preparation”. The Tobacco Institute of India, which represents tobacco industry stakeholders, has also argued that the manufactured cigarette sector is being subject to discriminatory treatment compared to the 88% of other products that make up the Indian tobacco market.



An example of one of the striking new graphic health warnings in India. These are required to cover 85% of cigarettes packs as of 1 April 2016. Source: www.tobaccofreekids.org

The industry does have a point regarding discriminatory treatment. According to an editorial published in Bloomberg View, a major gap in Indian tobacco control legislation is the absence of measures to tackle bidi smoking. The new graphic health warnings are only required on one side of bidi packets, and the excise on bidis is woefully inadequate – no more than 5% for larger producers, while those manufactured by small producers are completely exempt from excise. As a result, bidis are affordable to low income smokers; unsurprisingly, bidis account for 85% of smoked tobacco in India. This is despite the fact that, stick for stick, bidis are deadlier than cigarettes due to a higher content of nicotine, tar and carbon monoxide.

The bidi industry is largely made up of small-scale producers which use low paid, often female rural labour to roll the product by hand, but in a country with 100 million smokers it adds up to a big business which causes illness and death on a massive scale.

With India set to host the 7th FCTC Conference of the Parties (COP7) in November 2016, the country's health minister is to be congratulated for holding firm against industry pressure to make a concession on the size of graphic warning labels on cigarette packs. Now to address the problem of bidis...

BANGLADESH: HEALTH WARNINGS DILUTED AFTER INDUSTRY PRESSURE

While the tobacco industry in India claimed uncertainty about packaging legislation as the reason for closing factories until clarity was provided about the size



An example of a new brand variant with a very colourful design that competes with the recently introduced graphic health warnings in the Philippines. Credit: E. Ulysses Dorotheo, Southeast Asia Tobacco Control Alliance.

of the warnings, it was a different story in Bangladesh.

Three years after a law for graphic health warnings was passed by the Bangladesh parliament, a long-fought campaign by the tobacco industry culminated in the new laws being watered down just before they came into effect.

Originally, the legislation had specified that the warnings should cover the top 50% of the pack. However lobbying by tobacco industry legal advisors resulted in the warnings being moved to the lower half of the pack, where the visual impact is diminished.

Interestingly, although the industry typically argues that it needs a long transition time to adjust to new packaging legislation, in Bangladesh the new version of the packs was available within two days of the amendment being announced. The admirable adaptability of the tobacco industry

in Bangladesh is a lesson for policy makers everywhere: it appears the industry can have new packs available to the public within two days.

THE PHILIPPINES: TOBACCO COMPANIES EXPLOIT TRANSITION TO GRAPHIC HEALTH WARNINGS

The Philippines introduced graphic health warnings from 3 March. The first phase of the law requires all packs manufactured in the Philippines, or imported into the country, to be printed with graphic health warnings. The transition period to allow old stock to be run down is until 3 November, after which all packs must have the mandated warning labels.

However, there are concerns that the industry is exploiting the transition phase. One month after the start of phase one, power walls in Manila were observed which appeared to be carefully designed to minimise the impact of the new warning. In this Marlboro display (pictured) only one new, premium brand variant displayed the graphic health warning. It included a giveaway lighter, attached but packaged separately in a clear plastic pack with only one health warning.

The overall effect of the power wall, with the graphic health warning buried in a new variant with colourful contrasting design, suggests a strategy of 'easing' customers into the new warnings, thereby diminishing the impact ahead of full implementation.

The introduction of graphic health warnings in the Philippines has the potential to be a major step forward in a country that has been a haven for tobacco companies. However, early signs suggest that vigilance and strong enforcement will be needed.



An example of a power wall featuring one variant with the new graphic health warning in the Philippines. Credit: E. Ulysses Dorotheo, Southeast Asia Tobacco Control Alliance.

SOUTH KOREA: 'SHOCKING' HEALTH WARNING PICTURES

According to the Korea Times, a British American Tobacco official thinks they are "far more shocking than was socially acceptable...under the law, the image should not be too extreme to cause disgust." The concern? South Korea's new graphic health warnings, which will appear on cigarette packs from December.

The images offending the BAT official's delicate sensibilities include images depicting the effects of long-term smoking – lung, laryngeal and oral cancers, heart disease, stroke, sexual function disorder, premature skin ageing, and the effects of tobacco smoke exposure on unborn babies.

One would think that it would be the actual experience of those effects – or watching a loved one suffer from them – that is far more shocking than is socially acceptable. Perhaps tobacco industry employees have different sensibilities which result in pictures being more offensive than actual suffering.

Like many neighbouring countries, smoking prevalence among women in South Korea is relatively low at 5.9%. However 42% of men smoke, as do nearly 10% of boys. In a country of just over 50 million, the estimated annual death toll from tobacco is nearly 44,000.

KENYA: BAT LOSES CHALLENGE TO TOBACCO CONTROL LAW

Fresh from being exposed in the BBC documentary Panorama for alleged corruption and bribery of government officials, British American Tobacco has lost a challenge to the country's tobacco control regulations in the high court of Kenya. The basis of BAT's challenge to the regulations was that they were in bad faith and only sought to interfere with their tobacco business and profits.

The laws, which include graphic health warnings, a levy on tobacco companies for a dedicated tobacco control fund, and protection against secondhand smoke exposure, were originally introduced in 2014, but put on hold when BAT filed a challenge. The laws are also supported by enforcement powers granted to law enforcement officers, local authorities and medical health officers.

Following the court ruling, the laws are now due to come into force in six months, although BAT is expected to appeal the decision.

The win is an important signal to other African countries that they are on solid legal ground when putting in place measures that meet their obligations under the FCTC.

ISRAEL/EUROPE: WARPED PRIORITIES? PHILIP MORRIS NAMED TOP EMPLOYER

In a win for ignoring the end result of a company's success, Philip Morris has been named the best place to work in Israel.

The honour was bestowed by Top Employers Institute which, according to its website, "certifies excellence in the conditions that employers create for their people. Optimal employee conditions ensure that people develop themselves personally and professionally. This in turn enables companies to grow and to develop, always."

Philip Morris was apparently recognised for its exceptional employee conditions, nurturing and developing talent through all levels of the organisation, and its leadership in the human resources environment.

The award for Philip Morris Israel was one of several announced by Top Employers Institute for the company in early February. Philip Morris International was named as a 'Top' employer in Europe for the fourth year, and also for the first time in the Middle East – a total of 24 countries.

No mention is made anywhere in the press releases trumping these awards of the profit per life lost, by which Philip Morris' success can also be measured.

EUROPE: MIXED MESSAGES ON TOBACCO INDUSTRY RELATIONS

European Members of Parliament (MEPs) have passed a resolution urging the European Commission to not review an anti-smuggling deal with Philip Morris International, opting instead to push for a focus on effective implementation of the 2014 European Union Tobacco Products Directive (TPD). The TPD has effective tools such as an interoperable tracing and tracking system.

The agreement with PMI was entered into in 2004, and agreements with the other three largest tobacco firms (Japan Tobacco, British American Tobacco and Imperial) were struck between 2007 and 2010. Under the agreements, the companies pay a combined total of US \$2.15 billion in return for the EU dropping legal procedures against them for loss of duties caused by illegal trade in cigarettes.

MEPs were concerned that the deal proved ineffective in reducing smuggled 'illicit white' cigarettes. The issue of annual payments from the tobacco industry to contribute to funding the European Anti-Fraud office was considered a conflict of interest risk.

Meanwhile, the European Commission itself has refused to implement the recommendations of the European Ombudsman regarding tobacco industry lobbying. EU ombudsman Emily O'Reilly has said that the Commission has decided against publishing all details online of meetings with tobacco lobbyists. The Commission's health directorate publishes all meetings and minutes online, however other directorates do not. While this failure is against the spirit of the FCTC, the Commission's position is that it complies with all legal requirements.

In February, Irish Children and Youth Affairs Minister James Reilly claimed that tobacco companies are working through the courts and lobbying the European Commission to roll back tobacco control measures. He urged the Commission to comply with the recommendations of the EU ombudsman in regards to publishing *all* its dealings with tobacco lobbyists, and accused it of hiding behind the position that FCTC guidelines to limit interactions with the tobacco industry are not legally binding.

It is time for the Commission to listen, and proactively implement FCTC guidelines across all its directorates.



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