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2017 Tobacco Products Control Act

Another step forward for Thai health



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Tobacco products are addictive and directly harmful to a user's health. Half of tobacco smoking addicts who cannot quit will become ill and die prematurely due to tobacco-related illnesses. At present, around the world, six million persons die from smoking each year, including 600,000 non-smokers who are affected by second-hand smoke from someone else's smoking behaviour. In Thailand, approximately 50,000 people die from tobacco use in one year, including 6,500 exposed to second-hand smoke. This disease and mortality cost the economy nearly 75 million baht in 2009.¹

Thailand first started to control the sales of cigarettes about 30 years ago through various legal provisions. The two key laws are the Tobacco Products Control Act and the Protection of Health of Non-smokers Act, both enacted in 1992. However, since then, there are new delivery systems for tobacco/nicotine such as electronic cigarettes and vaping devices. There are also loopholes in the law such that cigarette companies can advertise their products through electronic media. Thailand is a signatory to the WHO commitment to control consumption of cigarettes and, thus, the country must continue to improve the two laws to keep

up with changing trends. The National Legislative Assembly has approved the latest version of the law on March 3, 2017, which became effective on July 4, 2017. The following is a summary of the process and content of the law and reactions from the tobacco industry.

2017 Tobacco Products Control Act

This act combines the content of the first two laws enacted in 1992 into a single law. In addition, new provisions were added to make the law consistent with the current situation. The law applies the recommendations of the Department of Cigarette

Regulations Conventions of WHO to increase the efficiency of the control of cigarettes. The following are highlights of these improvements in the 2017 Act:

1. Change of the definition of 'cigarettes; to include new forms of nicotine delivery systems such as electronic cigarettes, vaping equipment, and other addictive practices.
2. Appoint a provincial committee for control of cigarettes to implement activities in each province of the country.
3. Limit access to cigarettes for under-age consumers by increasing the age for legal purchase from 18 to 20 years. In addition, the law prohibits selling cigarettes by an individual cigarette (i.e., less than one pack).
4. Prohibit promotion of sales of cigarettes or sales pitches through special price reductions, sales through electronic media, and sales in restricted locations (e.g., schools, religious institutions, etc.).
5. Prohibit the display of cigarettes in retail shops since that is a form of advertising and discourages abstinence.
6. Prohibit cigarette companies and related entities from conducting activities or CSR events in an attempt to minimize the damage to their image as marketing an addictive substance which harms health, or as a way to curry favour with policymakers.
7. Cigarette companies must annually report their marketing activities and financial balance sheet to ensure transparency in compliance with the law
8. Cigarette manufacturers must inform the public of the contents of their products
9. Cigarette packaging must be plain, without attractive colours or designs. Only the name of the product may be presented. This is



to reduce the attraction of the product for youth. The packaging must include warnings about the danger of smoking and messages to encourage quitting smoking.

10. The owners of establishments which prohibit smoking must enforce that prohibition and post clear and visible signs and warnings not to smoke. These owners will be held in violation of the law if they do not enforce the no-smoking restrictions in their establishments.

Enforcement of the law

The 2017 Tobacco Products Control Act covers products, marketing, prevention of industry undermining national policy, increasing efficiency of protection of non-smokers, and prescribes strategies for filling gaps and eliminating loopholes at national and provincial levels. Provincial level



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control committees are chaired by the respective governor and have representatives from 16 relevant government agencies and six specialists; the chief of the provincial health office is the secretary of the provincial committee. The role of the provincial committee is to oversee implementation of the national strategy for control of cigarettes as approved by the Cabinet. The first priority is to ensure strict enforcement of the 2017 Act, both in the letter and spirit of the law. The central authority for implementation of the Act is the Bureau of Cigarette Consumption Control, which oversees control and disclosure of the contents of the tobacco product, setting standards for cigarette packaging, and ensuring that cigarette companies submit the required reports on an annual basis, etc. The authorities need to be on a constant look-out for efforts by industry to get around the provisions of the Act, by direct or indirect means.

Historically, the tobacco industry fought hard against any legislation that would restrict marketing or sales of cigarettes. However, the increasing toll that smoking was taking on the health of Thais outweighed the resistance of industry. These health effects of smoking are well-known and include cancer, heart disease, stroke, emphysema, etc., which, as a group, entail enormous expenditure for medical treatment – which is all preventable. In order for the provinces to adequately monitor compliance with the law, they need to be well-informed of the provisions of the 2017 Act and introduce measures to conduct inspections of compliance and other control efforts. A major challenge is to enforce the restriction of sales of cigarettes to those age 20 or older, the prohibition of selling cigarettes by individual units, and the prohibition to display cigarettes in retail outlets. There need to be systems to detect evasion of paying cigarette taxes or conducting CSR activities to reduce/ combat the negative image of cigarette companies. A new provision of the 2017 Act is the holding responsible owners of establishments and entities where smoking is prohibited. That is, if the authorities detect smoking in non-smoking establishments or areas, the owners/ managers/custodians are also held responsible, as is the smoker. Thus, these establishments must be diligent in posting no smoking signs and warnings of consequences of violations.

National strategic plan for control of cigarettes

The 2017 Act is truly a great leap forward for Thailand for the control of smoking. However, the country still faces the challenge of reducing the number of smokers and preventing people from starting smoking – especially youth. This largely

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depends on how strictly and comprehensively the law is enforced. The MOPH has established its own strategic plan (for 2016-20²) to control cigarettes and smoking which was submitted to the Cabinet for approval. That five-year strategy has six components: (1) Building capacity of relevant government agencies to control cigarettes; (2) Prevention of new smokers; (3) Monitoring of industry compliance; (4) Helping smokers to quit; (5) Controlling and publicizing the contents of cigarettes; and (6) Creating an environment free of cigarettes.

Reaction from the cigarette industry

Ever since the appointment of the sub-committee to revise the existing tobacco control laws in 2011, the cigarette industry vigorously opposed any action to restrict the sales and marketing of its products. They also made every effort to slow the process of legal reform, and demanded to be included on the committee to draft the new law (which is not allowed by the WHO convention on tobacco control). In addition, foreign companies which market cigarettes in Thailand also joined the lobbying effort, and formed a Tobacco Commerce Association in 2012 whose principal function was to oppose the new law and mobilize tobacco farmers to protest the draft law.³ Protests continued even as the draft law had made it to the NLA for review. The tobacco industry targeted many

degrees of opposition, from appealing for no reform at all, to stalling tactics, to arguing that the interim government of the NCPO should wait for an elected government to act.⁴ That latter proposal would have meant a further delay of six to seven years in enacting reform. Industry's next strategy was to slow the process of final review as much as possible.⁵ If that failed, they would try to have the new law revised or diluted.⁶ The new regulations which the Tobacco Commerce Association fought most vigorously were the provision to outlaw the sale of piecemeal numbers of cigarettes (i.e., less than one full pack), the provision to outlaw display

of cigarettes in retail shops, the provision against CSR, and the plain design of the packages. These provisions were specifically intended to reduce access of youth and aspiring smokers to cigarettes. A survey found that 88% of Thais age 15-17 years who smoke cigarettes buy cigarettes by the piece since they did not usually have enough cash for a whole pack.⁷ Also, openly displaying cigarettes in colourful packaging at retail shops is a form of marketing in and of itself. Studies have found that the earlier a person starts smoking the more likely it is that they will become addicted. Thus, it is imperative that Thailand and tobacco laws target youth at risk of starting smoking.

How was the draft law eventually approved?

The Ministry of Children and Youth of Ireland reported that, after the country passed a law required plain packaging for cigarettes, the response from industry was the strongest reaction for any law ever passed in Ireland's history. Thailand's law actually had at least ten new provisions to further restrict cigarette sales, so it is no wonder that the reaction of the tobacco industry was so strong here. However, the determination of the legislators and officials was bold enough to withstand the protest, and none of the provisions in the draft was dropped or watered down. As a result, the final law contained virtually every provision which the MOPH draft had called for. This action to restrict cigarettes was backed up by a growing movement against smoking by society-at-large and Civil Society. Indeed, they were able to obtain signatures of support for the draft law from ten million signatories by May 2015 (eventually increasing to 15 million by the time the law passed).⁸ This massive social support provided further momentum for a speedy

review and approval by the Cabinet. The social movement comprised many networks of doctors, village health volunteers, teachers against smoking, the network of women from four regions, the youth vision network, the National Alliance for a Tobacco Free Thailand, the Health Professionals' Network, ASH Thailand and the THPF.

Remaining challenges to reduce smoking

Cigarettes are as addictive as heroin, and the tobacco industry is very wealthy and influential. Cigarettes are the only consumer product, when taken as intended by the manufacturer, cause illness and death. However, the tobacco industry has avoided facing the reality that they are complicit in killing so many people. Instead, they fight any effort to reduce smoking or the number of smokers, especially new, young smokers who are the most attractive tobacco consumers from a marketing standpoint. While an increasing proportion of society would like an end to smoking, strong laws and strict enforcement will be needed to counteract the tobacco industry's attempts to find loopholes and ways around the 2017 Tobacco Products Control Act. Companies which violate the law must be vigorously prosecuted. At the same time, government and all related agencies and organizations need to help anyone and everyone who wants to quit smoking. Most importantly, the new generation of would-be smokers must be intercepted before they become addicted. Only then can Thailand look forward to a smoking-free society in the not-so-distant future.

