

Chapter 5 Tobacco Labeling Toolkit

IMPLEMENTATION



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This chapter is taken from the **Tobacco labelling and packaging toolkit**.

A complete copy of this toolkit and additional resources are available at:
www.tobaccolabels.org , or by contacting the author directly:

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5.0 IMPLIMENTATION

This section review several considerations leading up to the implementation stage of new labelling policies.

Public consultation

Parties should inform the public about proposals to introduce new labelling regulations. One option is to release information through a consultation paper, which can be publicized through the media. Community involvement can also be promoted by holding community workshops. Consultation papers and workshop provide an opportunity to communicate the rationale behind labelling proposals, to share the supporting evidence, as well as to help refined concepts. These activities not only provide helpful feedback on proposals, but also help to generate public support prior to implementation. These activities can be conducted in parallel with the development of new designs and preparation of the regulatory process to prevent unnecessary delays.

Communications and media strategy

The implementation of comprehensive health warnings and other labelling measures tend to be high profile events and Parties should expect considerable media interest. Those responsible for responding to media requests should be prepared to communicate the basic rationale for the regulations, as well as to respond to common complaints and arguments (see below). Timely information should be provided to the media as media coverage can increase the educational impact of new messages. Partners in civil society and non-governmental organizations can also play an important role in publicizing new regulations.

Linking with other tobacco control activities

The introduction of new health warnings and messages represents an excellent opportunity to link and leverage other policy initiatives. Where resources allow, mass media initiatives timed to coincide with the new messages appearing on the market. A coordinated media campaign will reinforce warnings and messages, improve access to target groups, provide additional information on health warnings and messages and also communicate other information that increases tobacco users motivation and confidence in their ability to quit, such as the benefits of quitting, attitudes to quitting, quit advice and contact details of quit organizations.

© CASE STUDY: Linking health warnings with other media campaigns

One consideration when developing the warnings is to link them with other mass media or education campaigns in your country. The Australian experience provides a very good illustration of this. One of the pictorial health warnings implemented in 2007 included a theme and subject that was featured in a very successful and well known television campaign that depicted the effects of smoking on arteries. Incorporating the same theme and subject in the package warnings provided an opportunity to capitalize upon this successful campaign and to provide constant reminders to smokers.



New South Wales, one of the five Australian states, also used the health warning messages as a basis for advertisements on the side of busses (see right), as well as several television spots. In both the bus and television spots, the advertisements helped to make the information in health warnings more vivid and provided a compelling narrative to the pictures and text. Smokers who see these advertisements are likely to recall them each time they see the related images on the pack. The print and television ads can be viewed at:



http://www.cancerinstitute.org.au/cancer_inst/campaigns/healthwarnings2006.html

Dealing with industry opposition & barriers

The tobacco industry has generally opposed the introduction of large pictorial health warnings on packages. Although tobacco manufacturers have launched legal challenges in countries such as Canada and the European Union, health warning legislation was upheld by the courts in both cases. Although legal challenges are relatively rare, Parties should be prepared to counter common grounds of opposition. The section below summarizes common industry arguments.

Printing capacity & technology

Tobacco manufacturers have previously argued that they lack the technology to print colour pictorial warnings or that the costs of altering their existing printing methods would be prohibitive. Although manufacturers must bear the costs of redesigning their printing practices, such as the costs of re-

etching press cylinders or preparing new lithographic printing plates, the technology required to print colour warnings is widespread. In every case to date, the printing changes required by manufacturers can be addressed by providing sufficient notice to manufacturers between the announcement of new regulations and the implementation deadline.

Violation of rights & trademarks

Tobacco manufacturers have argued that large health warnings represent unjustified violations of their rights to freedom of expression and their trademarks. Although courts in Canada found that large warnings may infringe upon the rights of manufacturers to use their package as they please, they also ruled that this infringement was completely justified given the serious health risks from these consumer products and the consequences for public health.

Infringement of Trade Agreements

Manufacturers in the European Union argued that the labelling directive infringed on Article 20 of the Agreement on the Trade-related Aspects of Intellectual Property Rights ('the TRIPs Agreement') as set out in Annex 1 C of the WTO Agreement. The European Court of Justice dismissed this argument and upheld the law.

Excessive and Unnecessary

One of the most common arguments against comprehensive warnings is that they are "excessive" and unnecessary, given that most smokers are already aware that smoking is harmful. In fact, virtually all smokers—including those in the most affluent and highly educated societies—fail to understand the full range, likelihood, and severity of health effects from smoking. There is also ample evidence, presented in Chapter 1, that larger, more comprehensive warnings are more effective in communicating this health information—

especially among children and others unable to read text warnings. In addition, as the following quote from Canada's Supreme Court indicates, the health warnings also help to provide a constant reminders of the health risks.

"...even if all smokers and potential smokers were very well aware of the risks associated with tobacco use, Parliament would still be justified in insisting that they be reminded once again of the harmful health consequences of smoking each time they take a cigarette from their packs."¹

Harassing smokers

Tobacco manufacturers commonly portray more comprehensive health warnings as an example of the government attacking or harassing smokers. For example, in 2004, former Chairman of BAT, Martin Broughton, argued:

"Some health policymakers show signs of having been 'captured' by narrowly based, vociferous anti-tobacco activists, who are sometimes even funded by the regulators they are lobbying," said Mr Broughton, who is leaving to chair British Airways later this year. "An example is the growing use of 'graphic image' health warnings, which threaten our intellectual property rights and can harass consumers - yet in fact give them no more information than print warnings."²

In fact, there is evidence from a number of countries that large pictorial warnings are not only supported by a strong majority of non-smokers, but also by most smokers. Indeed, many smokers welcome more health information on their packages, particularly when it includes support for quitting. In addition, support for large pictorial warnings typically increases over time. Therefore, industry claims that comprehensive warnings represent government attacks on smokers are not shared by most smokers themselves.

¹ JTI-Macdonald Corp., Rothmans, Benson & Hedges Inc and Imperial Tobacco Canada Ltd. v. Attorney General of Canada (Quebec Court of Appeal). 2005. [196]

² Stevenson R. *BAT chief bows out in fit of anger*. The Independent; London. 22 April 2004.