

THAILAND
COUNTRY REPORT
On
LABELLING and PACKAGING

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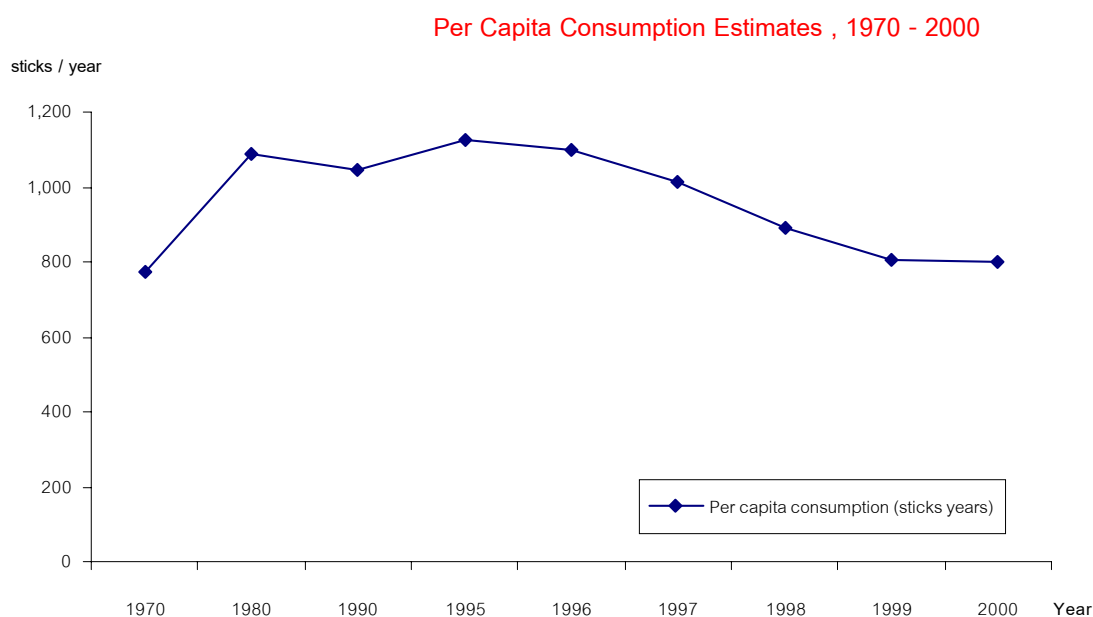


INTRODUCTION

From 1981 to 2001 there were dramatic changes in tobacco consumption in Thailand. The total number of smokers rose from 9.7 millions in 1981 to 10.6 million two decades later. Smoking prevalence declined from 35.2% to 22.5% during the same period. The male smoking rate decreased from 63.2% to 42.9%, while female prevalence fell from 5.4 to 2.4%. Per capita consumption rose from about 774 in 1970 to 1,087 in 1980. Since that time, it has decreased progressively to 798 in 2000.

Figure 1

Per capita consumption estimates 1970-2000



Source : Constructed by THPI from Guindon GE , Boisclair D. Past , Current and Future Trends in Tobacco Use.

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There have been no systematic studies of morbidity and mortality of tobacco-related diseases. Table 1 shows that the estimated number of deaths from various diseases in South East Asia for 2001 (within the low child and low adult mortality stratum to which Thailand belongs).

Table 1

Estimated number of deaths from diseases in South East Asia, 2001

Diseases	Deaths
<input type="checkbox"/> Cancer of trachea, lung, and bronchus	35 000
<input type="checkbox"/> Cancer of mouth and oropharynx	16 000
<input type="checkbox"/> Respiratory diseases	130 000
<input type="checkbox"/> Ischaemic heart diseases	232 000

Source: World Health Report, 2002. Geneva, World Health Organization, 2002.

In terms of cancer of various organs, lung cancer was the second most common cancer between 1988-1991 in Thailand. Women in the northern region, who have the highest smoking prevalence among the various regions, have lung cancer at an age-standardized incidence rate of 37.4 per 100,000 (1).

POLICY INTERVENTION

Policy intervention on labeling and packaging, including health warnings, only involves manufactured cigarettes. This applies equally to both domestic and imported cigarettes. Other tobacco products, e.g. cigars and pipe tobacco, are not covered because there are too many varieties of packages and it is difficult to carry out regulatory procedures. In addition, the consumption level of these products is low and small gains in health are not worth the regulatory effort.

In Thailand, policy is based on legislative action. Initially, the Medical Association of Thailand pressed for regulatory action and such issues were later taken up by the

Announcement of Labelling Committee of the Consumers Protection Board (CPB) pursuant to the Consumers Protection Act 1979. This announcement became effective on 20 September 1990. Finally, labelling was mandated by successive Ministerial Announcements pursuant to the Tobacco Products Control Act (TPCA) 1992. After this Act became effective from 3 August 1992, the CPB's Announcement of Labelling Committee was disbanded. These efforts are outlined chronologically in table 2.

Steps toward Implementation

Before 1989 there was no established national policy to control tobacco consumption. In late 1988, the Deputy Director-General of the Department of Medical Services (DMS), proposed and received approval from the then Minister of Public Health (later a 2-time Prime Minister of Thailand) to establish an inter-agency policy committee for tobacco control called the National Committee for Control of Tobacco Use (NCCTU).

In the proposal this committee appointed the Public Health Minister as the chairman. The members comprised chair-persons of the standing committee on health of both the Senate and the House of Representatives. They were the following: permanent secretaries* of the Ministries of Public Health, Education, Agriculture, Interior, Finance, and Prime Minister's Office; Deputy Permanent Secretary for Health of the Bangkok Metropolitan Administration; Director-Generals of Departments of Health, Medical Services, Excise, Public Relations; President of the Reporters Association of Thailand, Secretary-General of the Medical Council, and five experts. The Deputy Director-General was the NCCTU's first secretary.

The Ministry of Public Health (MOPH) proposed the formation of the NCCTU. The proposal received approval from the Cabinet and the Committee was formally established on 14 March 1989. This interagency body is now responsible for formulating

* A permanent secretary is the highest ranking permanent official of a ministry.

the country's policy on tobacco control. To this end it has initiated several tobacco control policies, one of which was a regulation mandating health warnings.

Table 2

Chronology of regulation on labelling and packaging

<i>The first set of health warnings</i>	
1967	A secretary-general of the Medical Association of Thailand under Royal Patronage, who was also a chest physician with post-graduate training in the United States of America, requested that the Ministry of Finance require the Thailand Tobacco Monopoly (TTM) to print a health warning on cigarette packages they produced. (The Ministry supervises the TTM, which was the only cigarette manufacturer in the country at that time).
1974	After a long delay, the TTM began printing a small health warning, 'smoking may be harmful to health' on the side of cigarette packages.
<i>The second set of health warnings</i>	
	At the first meeting the NCCTU secretary proposed that there had been only one small health warning placed on cigarette packets and six new rotating health warnings should be mandated. The NCCTU approved the new set, which comprised the following messages: 'smoking causes lung cancer and emphysema', 'smoking causes ischemic heart disease', 'smoking harms babies in the womb', 'respect other people's right by not smoking in public places', 'giving up smoking reduces serious illness' and 'for the sake of your children please give up smoking'.
11 July 1989	The Cabinet endorsed the MOPH proposal mandating health warnings on cigarette packages and ordered the CPB to take further action.

18 May 1990	<p>The CPB's Labelling Committee mandated a seventh health warnings on cigarette packages, namely, 'smoking may be harmful to health' (this warning had been in place since 1974), as well as the sixth warnings approved by the Cabinet. These had to be placed in front of the package, the size of the letters had to be at least 1 mm wide and at least 2 mm high. The warning had to be evenly distributed among the produced packages. This announcement became effective on 20 September 1990.</p> <p>The procedures for enacting a law or a regulation pursuant to a certain section of a law must follow these consecutive steps:</p> <ul style="list-style-type: none"> ■ a law is passed by the National Assembly; ■ the Prime Minister proposes the law to His Majesty the King of Thailand; ■ the King signs on to the law and returns it to the Prime Minister who counter signs; and ■ a regulation or ministerial announcement is sent to the Government printing house to be published in the Royal Gazette. The announcement is publicized by the person responsible for that law, and includes a statement on how many days following its publication the law will become effective
<i>The third set of health warnings</i>	
3 August 1992	<p>The TPCA 1992 was enacted and became effective as of 3 August 1992. Section 12 of this Act stated that 'the manufacturer or importer of the tobacco products must place the labels on the packages of tobacco products before they leave the manufacturing site or before importation into the Kingdom[*] as the case may be.</p> <p>The criteria, procedures and conditions of displaying these labels and the statements therein shall be in accordance with those published in the Government Gazette by the Minister.[#]</p>

¹ A permanent secretary is the highest ranking permanent official of a ministry.

² “Kingdom” is the legal term for the Kingdom of Thailand

³ “Ministers” means the Minister of Public Health who is responsible for this Act.

25 August 1992	<p>Following a meeting of the NCCTU, it was decided that a new set of health warnings would be mandated. The Ministerial Announcement, pursuant to Section 12 of the TPCA 1992, was issued, mandating ten rotating health warnings on cigarette packages. They were the following: 'smoking causes lung cancer', 'smoking causes heart disease', 'smoking causes lung emphysema', 'smoking causes obstructive or hemorrhagic stroke', 'smoking kills', 'smoking is addictive', 'smoking is harmful to people around you', 'smoking is harmful to babies in the wombs', 'quitting reduces the risk of serious illness' and 'giving up smoking leads to a healthy body'.</p> <p>The warnings had to occupy no less than 25% of the front and back of the main surfaces of cigarette packages or cartons. The lines bordering the warnings had to be white and letters black. The sizes of the font 'Si Phya' had to be 16 points for packages that have 37 cm² of the main surfaces, 21 points for 37 - 85 cm², 33 point for 85 cm² and 36 points for the cartons.</p>
24 September 1992	- The announcement was published in the Royal Gazette and the regulation became effective one year later.
	<p>This set of warnings represented a significant strengthening of tobacco control law compared to the previous ones. This was largely due to the fact that MOPH had just passed its own law (the TPCA 1992), which was a means of putting its regulations into effect. In addition, the ministry had just established the first national governmental agency for tobacco control - the Office of Tobacco Consumption Control, which acts as a full-time secretariat for the NCCTU. The first and second set of health warnings were initiated by other mechanisms outside the full control of MOPH, that is, by the Medical Association of Thailand under Royal Patronage and by the NCCTU via the Consumers Protection Act, which fell under the responsibility of the CPB of the Prime Minister's Office. The Third version was achieved by the NCCTU secretariat.</p> <p><i>The fourth set of health warnings</i></p>

15 October 1997	<ul style="list-style-type: none"> - The NCCTU decided to mandate a new version of health warnings. The new Ministerial Announcement was issued replacing the former one, mandating ten health warnings on cigarette packages: 'smoking causes lung cancer', 'smoking causes heart failure', 'smoking causes emphysema', 'smoking causes brain hemorrhages', 'smoking causes lead to other addictions', 'smoking causes ', 'smoking causes premature aging', 'smoking can kill you', 'smoke harms people near you' and 'smoke harms babies in the wombs'. - The warnings, including bordering lines, must occupy no less than one-third of the principal surfaces of the cigarette packages or cartons. - The border must be white and 2 mm. thick. - The background must be black and the letters white. - The letter font must be 'Si Phya' and the size must be 20 points for packages with an area of 37 cm² front and back, 25 points for an area of 37- 80 cm², 38 points for 80+ cm² areas and 75 points for cigarette cartons.
4 November 1997	<ul style="list-style-type: none"> - The announcement was published in the Royal Gazette and became effective one year later.
<i>The fifth set of health warnings - the pictograms</i>	
February 2000	<ul style="list-style-type: none"> -The president of Thailand Health Promotion Institute (THPI), who was a DMS advisor, suggested to the then Director-General of the DMS that Thailand mandate pictorial health warnings. The Director-General agreed and ordered the DMS' Institute of Tobacco Consumption Control (ITCC) to proceed.
23 March 2000	<ul style="list-style-type: none"> - The MOPH approved the DMS proposal and set up a committee to consider graphic health warnings on cigarette packages. The DMS Director-General was the chairman and THPI president was the vice-chairman.

5 April 2000	<p>At the first meeting TTM representatives opposed the printing of graphic health warnings on cigarette packages. The THPI , who was the meeting chairman, asked the TTM to submit an official letter to explain its reasoning. In its letter, the TTM stated that they only had a printer that could produce three-colour pictures. For four-colour pictures a new machine would have to be imported, and in addition to costing 12 million Baht, it would take two or three years to acquire.</p> <p>The THPI president asked the ITCC to ignore the TTM's complaint and proceed to acquire three-colour pictures for the health warnings.</p> <p>The protracted delay in implementation could have been due to either the ITCC's bureaucracy or the tobacco industry's underground lobbying. In Thailand, the transnational tobacco companies never act publicly because every time they do they are heavily challenged by the country's strong tobacco control advocates.</p>
28 February 2002	<p>During the NCCTU meeting the THPI president complained that the process of acquiring pictorial health warnings was dragging and the NCCTU ordered further action without delay. New subcommittees were established, one for implementation of the TPCA.</p>
26 April 2002	<p>At the subcommittee meeting chaired by the THPI president it was decided that 12 pictorial health warnings would be put in the Ministerial Announcement. The themes of the 12 pictures included in the 10 previous warnings and 2 new ones - 'smoking causes oral cancer' and 'smoking causes foul odours and blackened teeth'.</p>
3 May 2002	<p>After several contacts with the ITCC to determine the progress of preparing pictures and ministerial announcements, the THPI president found that there were certain obstacles in the process, namely, the major difficulties in acquiring pictures through bureaucratic means. The THPI then decided to use media advocacy to push for the policy's achievement by releasing a press message reporting that Philip Morris had sent a letter dated 27 February to the Public Health Minister threatening to take legal action if the MOPH ordered the printing of pictorial health warnings on the cigarette packages.</p>
4 May-17 June 2002	<p>The press release culminated in a continuous stream of news, letters, and articles in the media and in the international news agencies as well as numerous radio and television interviews, including CNN.</p>

11 May 2002	An entire week after news broke out of the Phillip Morris threat the Public Health Minister stated in a press interview that the MOPH did not believe that the decision mandating pictorial health warnings was contradictory to the Constitution and TRIPS (Trade-related aspects of intellectual property rights), and that the MOPH would go ahead with the plan.
17-21 June 2002	The THPI president asked for and received a green light from the DMS to produce the pictures. It was decided that five pictures, which depicted diseased organs, would be acquired from hospital slide libraries, that is, lung cancer, heart disease, emphysema, stroke, and oral cancer, and the other seven pictures would be acquired by conducting a country-wide contest so that the public could participate. The Photography Association of Thailand under Royal Patronage was invited to collaborate and the Thai Health Promotion Foundation was asked to fund the contest.
3 July 2002	Nongovernmental organizations (NGOs) organized the award ceremony for the contest winners. The Minister of Public Health was invited to chair the events.
6 September 2002	The THPI sent the complete set of pictorial health warnings to the DMS Director-General to draw up the ministerial announcement and proposal for the Minister of Public Health to sign.
1 October 2002	The newly - organized MOPH proposed that tobacco control work be a part of the new Department of Disease Control (DDC).
1 November 2002	-The THPI president sent a letter to the DDC Director-General urging him to expedite the long-delayed process.
20 January 2003	<p>The DDC Director-General called a meeting to consider pictorial health warnings. THPI president and Action on Smoking and Health (ASH) Secretary - General were invited. The Director-General asserted that the 12 pictures acquired did not seem to communicate very well to the viewers. The meeting decided to have a pre-test for these pictures.</p> <p>After acquiring satisfactory pictures there are still a few steps to be taken: drawing up the Ministerial Announcement, sending a proposal to the MOPH Minister for signature; and publication in the Royal Gazette. This regulation would become effective six months following its publication. The long interval would provide ample time for the cigarette producers to clear the stock and produce the new labelling.</p>

Opponents to counter the intervention

The tobacco industry does not want graphic health warnings and would go to any lengths to obstruct this effort. There are two main reasons:

- The pictograms were found to be very effective. An evaluation in Canada showed that 44% of smokers said the pictorial health warnings increased their motivation to quit, 58% thought more about health effects of cigarettes, 27% were motivated to smoke less inside their home, and 62% thought the pictograms make the packages look less attractive.
- Thailand would be the third country in the world to mandate graphic health warnings if the regulation passes and it would be an exemplary regulation that other countries would follow.

The Phillip Morris letter of 27 February 2002 was sent to the Public Health Minister, though no one knew her response or that of her secretariat. The THPI president knew of the Phillip Morris action from a DMS official and asked a DMS Deputy-Director-General to fax the Phillip Morris letter. The THPI then used the letter for advocacy in the media to reinforce the policy of educating smokers through pictorial health warnings.

The Phillip Morris letter propagated four myths.

Myth 1. *"It would impose an undue burden on the Company in that Ministerial Regulation (No.6). B.E. 2543 already requisitions 33.3% of the total area of a cigarette pack for the prescribed textual health warnings."*

Reality: what type and how big is the 'undue burden'?

Myth 2. *"The Regulation would impair the use of the Company's valuable trademarks by obscuring the marks on the pack face, thereby undermining the trademarks' functions of brand identification and communication with the Company's customers. Packaging is more important for cigarettes than other products since all forms of advertising are banned by the Tobacco Products Control Act."*

Reality: The trademarks are still there and not obscured.

Myth 3. *"The Company has the right to communicate with its customers through its display of trademarks and logos. Any attempt to limit this right must be necessary to achieve a legitimate public purpose. The imposition of the graphic health warnings would limit this right unnecessarily because existing health warnings already cover one third of the pack."*

Reality: The Government also has the right to clearly inform the people about health hazards of smoking.

Myth 4. *"Trademark are valuable Company property and are protected by the Trademark Act B.E. (Buddhist Era) 2534, the Penal Code, as well as by the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) of which Thailand is a member. TRIPS provide that the use of a trademark shall not be unjustifiably encumbered by special arrangements, such as use in a special form or manner detrimental to its capacity to distinguish the goods or service of one undertaking from those of other undertakings. The Regulation would violate this principle."*

Reality: The Trademark Act B.E.2534 prohibits destruction or imitation of trademarks. The pictograms would do neither.

TRIPS provides public health exception in Article 8.2 which states that the *"Member may, in formulation or amending their national laws and regulations, adopt measures necessary to protect public health and nutrition, and to promote the public interest in the sectors of socioeconomic and technological development, provided that such measures are consistent with the provisions of this agreement."*Therefore the regulation on pictograms does not violate TRIPS.

The Philip Morris letter sent to the Public Health Minister was meant only to bluff those who were unfamiliar with Thailand's copyright law, it's constitution and TRIPS. By citing the risks involved in their taking legal action, the tobacco multinationals had hoped that the MOPH bureaucrats would stop the implementation process

The Intervention's success

Regulation on packaging and labeling has been quite successful. To date, the first four different sets of health warnings have been mandated. The number of rotating warnings has increased from one to twelve. Warning area sizes on cigarette packages has been enlarged from small letters on the sides of cigarette packages to one-third of the principal surfaces of packages, including cartons. The last set of pictorial health

warnings, occupying half of the front and back, is being prepared and it is hoped that it will be enacted in 2003.

In Thailand, there has been no scientific study of the impact of the cigarette package textual health warnings on tobacco use.

Other Impacts of the Intervention

The graphic health warnings have created immense public interest. There is widespread support from the media and all sectors of society.

Media advocacy about pictorial health warnings has been enormous as the following figures demonstrate:

- After the THPI press release, from 4 May to 17 June 2002, the subject was mentioned 16 times in the newspapers and 6 of those articles were published on front pages; 4 letters and 5 newspaper articles devoted to the subject; at least 4 news releases by international news agencies, including CNN, and innumerable radio and television interviews.

Before and after the picture contest described in Table 2, from 17 June to 4 July 2002, pictorial health warnings were mentioned 23 times in newspapers; there were 4 newspaper articles on the subject, 1 public opinion poll, and numerous radio and television interviews.

Conclusion

Package labelling is a vital measure in controlling tobacco. It should be mandated with minimum cost, changed at appropriate intervals, and improved consistently. Thailand's legal system enables it to be easily implemented because packaging and labelling is a section of the law and regulation can be passed pursuant to the legislation. Textual health warnings can be changed and upgraded into pictorial ones that have, according to the Canadian experience, better impact upon the smokers.