

Enforcement of tobacco advertising bans



Photo: WBB Trust (Bangladesh)



World Health
Organization



International Union
Against Tuberculosis
and Lung Disease

The basics of effective enforcement

- A clear, well drafted law
- Compliance by all target groups
- A designated enforcement agency in the law
- Clear offences and penalties
- Partnerships between government and civil society
- Political will

Enforcement of Tobacco Control Law A Guide to the Basics



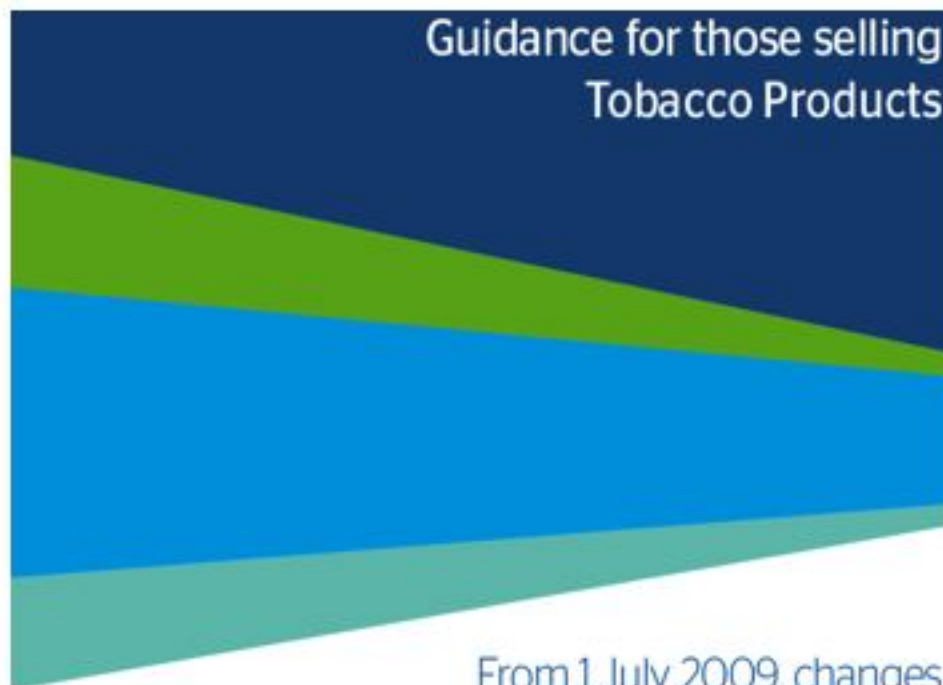
How to draft good enforcement provisions

- Consult with enforcement experts when drafting the law
- Define key terms
- Avoid or minimize exemptions
- Assign enforcement authority to the most effective agency or agencies and consider establishing a new enforcement agency if necessary
- Clearly define the powers of enforcement officers
- Establish clear legal duties for each component of the law
- Clearly identify offences and penalties
- Penalties should be sufficient to deter noncompliance and should be proportionate to the offence
- Anticipate and guard against tobacco industry efforts to interfere with legislative drafting

Some useful tools for successful enforcement

- Training workshops for the enforcers
- Guidance materials for retailers and advertisers
- Media campaigns before entry into force
- Civil society monitoring
- A designated lawyer or legal team to bring forward cases for breaches of the law

Prepare detailed guidance materials for retailers



Guidance for those selling
Tobacco Products

From 1 July 2009, changes
in legislation will affect all
those who sell tobacco
products to the public.

Public Health (Tobacco) Acts

Useful components of guidance materials

- Clear explanations/examples of what retailers/advertisers/producers need to do to comply with the law
- Details of penalties for breach of the law
- Deadlines for compliance
- Frequently asked questions sheet
- A free telephone hotline/web site for advice

Tell stakeholders what they need to know through written material & web sites and provide information for enforcement staff

Ban on Point of Sale Advertising

Relevant Legislation

Section 33A of the Public Health (Tobacco) Acts, 2002 and 2004, prohibits all advertising of tobacco products¹ in retail premises in which tobacco products are sold.

What does this mean for me?

- No tobacco related advertising will be permitted on your premises. This includes both internal and external tobacco display and advertising signs.
- No tobacco related advertising will be permitted either surrounding or on the front of the closed container or dispenser that stores the tobacco product. This includes all in-store advertising or promotional material for tobacco products, for example, posters, backlit decorative panels featuring picture boards of tobacco products, promotional lighting, clocks, charge mats, mouse pads, till covers, decals, pens, rollers or danglers.
- Tobacco products or reproductions of tobacco products cannot be on display.
- All tobacco products must be kept out of view in a closed container or dispenser only accessible by the retailer and retail staff.
- It is entirely a matter for each retailer of tobacco to decide:
 - How tobacco products are removed from view; and
 - In what type of closed container they are stored.
- The location of the closed container or dispenser is a matter for the retailer. It is not required to be under the counter.
- Only the tobacco product must be out of sight. The closed container may be visible.
- Self-service vending machines are prohibited except in registered clubs² and licensed premises³. They must also be free of all tobacco related advertising.
- Selection decal/buttons for dispensing machines and self-service vending machines must not display tobacco product trademarks, emblems, marketing images or logos unless they are out of the view of the customer.

From 1 July 2009 no advertising or display of tobacco products will be permitted.

¹ A tobacco product means any product consisting in whole or in part of tobacco, that is intended to be smoked, and any cigarette paper, tube or filter manufactured for use in smoking of tobacco. Public Health (Tobacco) Act 2002 as amended.
² A registered club is a premises registered under the Register of Clubs Act 1964 as amended.
³ A licensed premises means a premises in respect of which a licence for the sale of intoxicating liquor has been granted by the Circuit or District court under the Licensing Act 1998.



Left (Ireland): www.otc.ie
 Right (France): www.cnct.fr

Role of civil society in monitoring and enforcement

- Help identify breaches
- Work with the authorities to remedy breaches



Photos: WBB Trust (Bangladesh)

What about giving NGOs powers in the law to help?

Directive 2003/33/EC, Article 7:

“...Those rules shall include provisions ensuring that persons or organisations which, under national legislation, can justify a legitimate interest in the suppression of advertising, sponsorship or other matters incompatible with this Directive, may take legal action against such advertising or sponsorship or bring such advertising or sponsorship to the attention of an administrative body competent either to pronounce on complaints or to institute the appropriate legal proceedings.”

Advantages for government and NGOs

- NGOs can use regional networks to monitor
- Short-staffed government officials get support
- NGOs can generate positive media coverage for government
- Government and NGOs can work together to strengthen the law and protect public health

What are the obstacles to enforcement of the advertising ban?

- The law is unclear?
- Penalties are too low?
- Lack of knowledge about the law?
- Nobody knows who should be enforcing it?
- Not enough staff to enforce it?
- Not enough monitoring of breaches?
- The tobacco industry is promoting breaches?
- The media are unsupportive?

Solutions?

- Clarify and simplify the law
- Increase the penalties
- Bring together the enforcement authorities and designate one to lead on enforcement
- Write a guidance document for advertisers, producers and retailers; visit them and explain
- Get civil servants to work with NGOs on monitoring of breaches
- Point out when the tobacco industry is breaking national law and...

...If all else fails

- Take one successful case to the courts against a high profile offender – let the tobacco industry and press know you are serious

