Best practices in comprehensively banning TAPS

Photo: Ontario Tobacco-free Network

Photo: Anne Jones

World Health Organization

International Union Against Tuberculosis and Lung Disease
Overview

- Best practices from different regions
- Common legal loopholes and pitfalls
- Lessons learned
- New tactics
Norway – leading the way

Norway began banning TAPS as early as 1975. Soon afterwards tobacco advertising activities declined.

Results:
- High public approval supported by government mass media campaigns about the TAPS impact on youth
- Close monitoring and firm action reduced violations
- Evaluation and revisions of enforcement strategy used to address indirect TAPS
Lessons from Bangladesh – engaging the media and NGOs

Following alerts about breaches from NGOs, Bangladesh used mobile courts to issue on-the-spot fines and bulldozers to tear down tobacco billboards in front of media.

Results:

• Tobacco interest groups knew government was serious about enforcement
• Earned media exposure alerted public and other responsible entities to the fact that these TAPS were illegal
Lessons from France – engaging civil society

The French government, in response to increasing violations of TAPS law and with limited resources for enforcement, empowered NGOs to launch legal action.

Results:

- Increased number of convictions
- Damage to reputations of violators
- Further de-normalization of tobacco use
- Contribution to new jurisprudence about bans
Lessons from Panama – defining breaches and implementation body

The ban on direct forms of TAPS in 2005 was reviewed and upgraded to include indirect forms of TAPS in 2008.

Results:

- Law 13 of 2008 included bans on gifts, souvenirs, related activities that incite people to consume tobacco, internet promotions, direct mail promotions and cross-border TAPS
- Enforceable breaches were clearly defined, including penalties of loss of license and destruction of materials and products
- An integrated advisory body of the General Directorate for Public Health was formed to implement the law
Directive 2003/33/EC of the European Parliament prohibited several forms of TAPS in member states, including tobacco sponsorship of cross-border cultural and sporting events from July 2005.

Results:

• France successfully defended its ban in national and EU courts
• Commission opened infringement proceedings in 2006 against four member states with exemptions (Formula One, motoGP) and all changed their laws to comply with the directive
• 24 member states have implemented cross-border bans
Lessons from Ireland – a planned approach to building support

The Irish government announced in July 2008 that, as of July 2009, TAPS would be removed from retail outlets. A multi-pronged enforcement preparatory strategy was launched.

Results:

• Prepared the evidence base with collection of empirical data, such as, trends in youth exposure to TAPS to increase support for bans
• Developed a media strategy that pitched the law as protecting youth and highlighted strong public support
• Launched public information campaign with materials for retailers
Lessons from every country: need to counter tobacco industry opposition to bans on TAPS

- **Myth #1** Advertising bans will have serious negative economic effects on the advertising industry, media, and economy as a whole.
  → Studies from the EU show that expenditures on TAPS were replaced by publicity from other sectors without loss of revenue or jobs.

- **Myth #2** Tobacco is still a legal product, so companies should be able to advertise it.
  → As part of consumer protection laws, many governments ban or restrict advertising of other legal products such as firearms and medications.

- **Myth #3** CSR such as philanthropy and tobacco industry “youth smoking prevention campaigns” are positive contributions by the industry.
  → CSR should be prohibited on the basis that it involves “contributions” when implemented by other parties or represents corporate promotion if conducted by the industry itself.
Lessons from Mauritius – banning the tobacco industry’s CSR activities

In 2008 Mauritius passed regulations under the Mauritius Public Health Act banning tobacco industry CSR programmes, including:

“...any form of contribution to any event, activity or individual with the aim, effect or likely effect of promoting a tobacco product or tobacco use directly or indirectly”
Common loopholes or pitfalls

1. Poorly drafted legislation that does not use the roadmap (FCTC Article 13 Guidelines) and technical legal help to comply with obligations

2. Allowing or ignoring loopholes/exemptions, such as cross-border TAPS, new media technology, CSR, smoking in movies

3. Legislation is weakened so that it does not counter tobacco industry opposition and tactics
Watch out for new tobacco industry tactics

For instance:

- Using risk and impact assessments, cost benefit analyses etc. to ward off new legislation
- Ensuring that guidelines on how such assessments are carried out by government/international bodies are drafted to the advantage of the tobacco industry and not public health
- This is a whole new playing field that we have not so far paid any attention to – the tobacco industry has been working on this for the last 10 years
A planned approach with well-written legislation is most effective (using Art 13 Guidelines as roadmap).

Partial bans are not as effective as comprehensive bans, as resources will be shifted to non-banned TAPS.

Need to identify and counter opposition from the tobacco industry and related groups.

Watch what is happening with general regulatory policy.

Civil society plays an important role in monitoring and enforcing TAPS ban.

Communication with all stakeholders will build and strengthen support and enforcement.
It can be done anywhere:
Many countries around the world have already implemented fairly comprehensive bans on TAPS

Low- and middle-income countries are more likely than high income countries to have comprehensive bans on TAPS

(Who Report on the Global Tobacco Epidemic, 2009)