

20 September 2006

Mr. Andrew Cheng
Legislative Councillor
Chairman
Bills Committee on Smoking (Public Health) Amendment Ordinance

Dear Mr. Cheng,

You may have read the article that appeared in today's Standard, titled, "Debate heats up on 'misleading' cigarette labels". We wanted to let you know that our position on descriptors remains the same- we believe that the Hong Kong Government's decision to ban the use of term such as "light", "mild" and "low tar" on cigarette packaging should apply to all brands with no exceptions. We have attached for your information a letter to the Editor of the Standard explaining our position.

We know that LegCo is doing its best to pass the Ordinance in a timely fashion and we would like to reiterate our support for the comprehensive regulation of tobacco products in Hong Kong.

Sincerely,
Rebecca Ng
Corporate Affairs Manager
Philip Morris Asia Ltd.

Debate heats up on 'misleading' cigarette labels

Caroline Kim

As a controversial anti-smoking law draws closer to implementation, lawmakers and government officials are locked in yet another debate over what legal action to take over deceptive trademarks on cigarette packets.

Both lawmakers and officials of the Health, Welfare and Food Bureau are mulling over a ban on both unregistered and registered trademarks of popular cigarette brands that carry such descriptors as "low tar," "mild" and "light."

The debate follows a recent United States federal court case pertaining to misleading descriptions on packages of tobacco products.

But, after a review, the government concluded the case is not applicable to Hong Kong.

Lawmaker and barrister Martin Lee Chu-ming, who was outraged by the government's response, said: "The judgment applies squarely to us."

He argues that descriptors such as "low tar" deceive a smoker into believing that the product is safer than others.

"We cannot allow them [tobacco companies] to continue such fraud," Lee said.

Deputy Secretary for Health, Welfare and Food Ingrid Yeung Ho Poi-yan has repeatedly said the US case cannot be applied here as such a move would "amount to deprivation and run possible risks of litigation from the tobacco industry."

"Furthermore, it would also be against Hong Kong's international obligation to the TRIP [Tobacco Retailer Inspection Program]."

While a general prohibition of the use of misleading words, as suggested by Lee and his colleagues, was deemed "workable" by the Legislative Council's legal adviser, it could only be applied to new or unregistered trademarks in future, since already registered trademarks would be exempted.

"If you can prove the words are, in fact, misleading, a complete ban can be imposed," a legal source said.

Lee added: "We cannot surrender to tobacco companies just because the

government fears losing court cases."

The US court case, which banned the use of descriptors, arose from a legal battle between the US government and leading tobacco companies such as Philip Morris, USA and R J Reynolds.

"The US government does not mind spending seven years and millions of dollars on the case because they know they'll be able to save huge sums in healthcare and in the fight against tobacco-related illnesses," said legislator Kwok Ka-ki, who represents the medical constituency.

He argues that legal action against the use of descriptors by tobacco firms can help the government save more than HK\$5.7 million a year.

Philip Morris Asia said that a ban on descriptors on cigarette packs is inappropriate "because it has the potential to create confusion among consumers, the government and manufacturers."

"Customers may not fully understand that there's no difference between the health consequences of smoking brands that carry descriptors and those that do not," the manufacturer said.

A suggested alternative to the ban is to provide additional information on cigarette packs.

The US government confiscated internal documents from one of the tobacco companies, clearly stating that "if they [tobacco company] could convince potential quitters that 'low tar' cigarettes were a healthier choice and an acceptable alternative to quitting, they could keep their sales from declining."

Besides the member states of the European Union, 17 other countries, including the United States and Canada, have already moved to ban "misleading" descriptors on tobacco products.



Martin Lee



PHILIP MORRIS
ASIA LIMITED

September 20, 2006

Mr. Marcel Joanilho
Metro Editor
The Standard

Dear Mr. Joanilho,

We refer to the article "Debate heats up on 'misleading' cigarette labels" dated September 20, 2006.

Our views on the proposed ban on cigarette descriptors are different from what was reported. We have openly stated that the Hong Kong Government's decision to ban the use of term such as "light", "mild" and "low tar" on cigarette packaging should apply to all brands with no exceptions.

Our letter to the Chairman of the Bills Committee dated July 26, 2006 clearly states that, "we do not think the proposed 'grandfather' approach is appropriate because it has the potential to create confusion amongst consumers, the government and manufacturers".

A copy of this letter can be found at the LegCo website: <http://www.legco.gov.hk/yr04-05/english/bc/bc61/papers/bc61cb2-2884-1e-scan.pdf>.

We want to be clear that we support the goal of the amendment to the Smoking (Public Health) Ordinance and believe the passage of the bill is an important step towards the comprehensive regulation of tobacco products in Hong Kong.

We would like to meet with you and members of your staff to explain our company's position on the Ordinance and tobacco issues in general.

Yours sincerely,


Rebecca Ng
Corporate Affairs Manager
Philip Morris Asia Ltd.
Hong Kong & Macau