



July 6, 2015

Clerk to Panel on Health Services
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Attention: Ms. Louisa YU

Dear Panel Chairman and Members,

Hong Kong United Against Illicit Tobacco (HKUAIT) appreciates the opportunity to provide views on the legislative proposals on tobacco control.

HKUAIT is an advocacy organization with the primary purpose of tackling the serious problems arising from the illicit tobacco trade in Hong Kong. It represents a cross-section of society, supported by almost 20 different community organizations, small business groups, trade associations and individuals who are affected by illicit tobacco trade.

We have serious concerns over the impact of the proposed 85% graphic health warnings on the packets of tobacco products will potentially have to the already flourishing illicit tobacco market in Hong Kong. Our assessment is that such a move would likely increase the flow of illicit and counterfeit cigarettes into Hong Kong due to: -

1. A genuine confusion by the consumers as the proposed 85% graphic health warnings will make products easier to counterfeit as it will leave very limited space for the application of security and authentication features that allow counterfeit packets to be detected by consumers, and
2. An easier and more attractive target product to counterfeit for organized crime gangs.

Illicit cigarettes consumption remains as a significant issues in Hong Kong. Based on the "Asia-14: Illicit Tobacco Indicator 2013" study by Oxford Economics published last year, Hong Kong ranked as the third highest illicit consumption market out of the 14 ones covered by the study, revealing almost one third of cigarettes consumed in Hong Kong are illicit. The illicit cigarette trade is already costing the Government HK\$3.2 billion in foregone tax revenue in 2013¹

¹ Available at <http://www.oxfordeconomics.com/asia14>.



equivalent to 7% of total public expenditure on health in 2014² and also 22 times of government spending on the treatment of drug abusers in 2014³. If this new packaging law is introduced, it will provide additional incentives to fuel this already serious issue.

Multiple major cigarette seizures this year involved the use of containers or trucks smuggling large quantities of illicit cigarettes from Mainland China. On February 2, 2015, the Police took enforcement action against an illicit cigarettes storage facility in Ngau Tau Kok and found 170,000 illicit cigarettes. The storage facility was believed to be operated by a major triad in Hong Kong. The illicit cigarettes were smuggled from Mainland China through land-crossing and were intended to be delivered to triad-operated retail sales locations across different parts of Hong Kong⁴. This recent case further highlights the fact that in Hong Kong, the smuggling and distribution of these illicit cigarettes mostly involve organized criminal syndicates smuggling across borders contraband or counterfeit cigarettes in which no excise duty has been paid in Hong Kong.

According to Hong Kong Customs & Excise (C&E), which was quoted in a recent TVB News Report⁵, the number of illicit cigarettes traded in public housing estates increased by 60% in the first 5 months this year versus the same period last year. Criminal syndicates even hired underage students as young as 15 years old to deliver illicit cigarettes.⁶ A survey conducted by the Hong Kong Federation of Youth Groups concluded that 49% of youngsters interviewed were involved in illicit cigarette trade and parallel trade in past 12 months⁷.

The above clearly establishes that illicit cigarette trade remains an active and serious problem in Hong Kong. Rather than considering the proposed enlargement of graphic health warnings, we believe that the government should first focus on enforcing existing laws before implementing any additional, excessive changes on tobacco control that will likely only worsen the existing illicit cigarette problem, thereby defeating any health objective of such policy.

² Health Facts of Hong Kong (2014 Edition), Department of Health, HKSAR

³ Estimates of Expenditure 2014-15, The Budget, Department of Health, HKSAR

⁴ Apply Daily, February 3, 2015 "警搗私煙竇拘兩男" available at <http://hk.apple.nextmedia.com/news/art/20150203/19027447>; Ta Kung Pao, February 3, 2015 "警搗私煙倉拘兩黑漢", available at <http://news.takungpao.com.hk/paper/q/2015/0203/2909814.html>.

⁵ TVB News on 15 June 2015.

⁶ South China Morning Post, April 2, 2015, "Crackdown on illicit tobacco phone sales".

⁷ Press Released from Hong Kong Federation of Youth Groups on January 6, 2015 "青少年從事違法及潛藏危機工作調查". See the survey results at <http://www.hkfyg.org.hk/page.aspx?corpname=hkfyg&i=1887>.



HKUAIT, recently commissioned with IPSOS – an international market research company, released an independent survey⁸ showing that nine out of 10 Hong Kong residents are now concerned about the illicit tobacco issue (an increase of 10% against previous year's survey) and that they would like to see the Government take more action to solve the problem. Worryingly the survey also reports 70% of respondents believe illicit cigarettes are easily available to children, while 81% believe adults have easy access to illegal cigarettes.

Australia could be used as a reference. Illicit tobacco trade in Australia increased following the implementation of high tobacco tax together with excessive health warning size (75%) and the plain packaging. While the measure has not resulted in reduced smoking, the black market has reached historic levels. According to the renowned international consulting firm KPMG, the tobacco black market grew by more than 17% in the first year of plain packaging and continued to grow to 14.5% of total consumption in 2014⁹.

Australia is a country with very good shipping controls and no land borders, whereas Hong Kong is far more vulnerable particularly as the bulk of illicit cigarettes come from the Mainland.

My concern on this is drawn from my 35 years of police experience in Hong Kong, much of it spent combating organized crime. It is indisputable: the trafficking and distribution of illicit tobacco is a business dominated by organized criminal groups that are involved in numerous other illegal activities.

Recent Government measures over the last few years have helped to foster the illicit activity and increase the revenue base for triads and organized crime. Extreme measures such as 85% graphic health warnings will turn into increased opportunities for criminal gangs who exploit the networks and supply chain to smuggle not just cigarettes but also other illicit goods like drugs.

This is why we firmly believe that the proposed 85% graphic health warnings would worsen the already serious illicit trade problem in Hong Kong. Instead, the government should focus on enforcing the already strict existing laws and address Hong Kong's illicit trade issue.

In short we predict that 85% Health Warning will lead to:

⁸ Ipsos adult 18+ telephone survey, December 2014, sample size: 1,003, available at http://www.stopit.hk/wp-content/uploads/2015/02/Hong_Kong_IT_Survey_2015_EN-FINAL.pdf

⁹ KPMG, Illicit tobacco in Australia, 2014 Full Year Report, 30 March 2015, available http://www.pmi.com/eng/media_center/media_kit/Documents/KPMG%20Report%20FY%202014%20-%20Illicit%20tobacco%20in%20Australia.pdf



- an increase in illicit cigarettes in Hong Kong,
- an increase in revenue to organized crime and decrease in revenue to the Hong Kong Government,
- higher risk to youth involvement in organized crime activities, and
- An increase in counterfeit cigarettes, further exacerbating the current health situation.

HKUAIT urges the Hong Kong government to carefully study the various effects of implementing such a policy in other countries before considering such policy proposal in light of the very real and serious risks such policy could have threatening the Hong Kong public security.

Yours sincerely,

Jeff Herbert

Advisor, Hong Kong United Against Illicit Tobacco