



8 May 2017

Members of Subcommittee on  
Smoking (Public Health) (Notices) (Amendment) Order 2017

Dear Members,

**Amendment Order – 85% graphic health warnings**

We refer to the Government's recently published Smoking (Public Health) (Notices) (Amendment) Order 2017 to increase the size of the graphic health warnings ("GWHs") on the 2 largest surfaces of the tobacco product packet and retail container from 50% to 85% ("the Amendment Order"). We note that the Amendment Order has been tabled at the Legislative Council for consideration since 26 April 2017. We are writing to express the industry's strong opposition to the Amendment Order because it does not reflect the best practice of the legislative process.

The Amendment Order has never been subjected to any proper public consultation or regulatory impact assessment against the international accepted standards for better regulation endorsed by the Government itself<sup>1</sup>. Hong Kong has one of the lowest rates of smoking prevalence in the world – 10.5% – and the Government has never provided any evidence and justification supporting that increasing the size of GHWs will effectively reduce the smoking incidence in Hong Kong. In fact, several concerns and meaningful suggestions were raised regarding the Amendment Order by the affected stakeholders as well as a number of legislators at the Panel on Health Services' ("PHS") discussions including using new GHW images without changing the size, progressive size enlargement like in China, a 12 months' grace period after the effective date, and technical feasibility study etc. Unfortunately, the Government has not taken any of them into account.

Further, despite the motions passed by the PHS suggesting (a) that the size of the GHWs on the cigar boxes should be 60% at the front and 90% at the back, and (b) the Government to table the Amendment Order for negative vetting after May 2017, the Government simply ignored the motions as well as the difficulties and impracticalities repeatedly raised by the cigar industry.

Moreover, we have advised on many occasions and through various submissions that a 6 months' grace period would not be sufficient and the Government had conceded to give

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<sup>1</sup> See the "Be the Smart Regulator" program at <http://theme.gov.hk/en/theme/bf/smart/>

a 12 months' grace period instead at the PHS meeting on 20 March 2017. Yet, the Amendment Order now provides a 6 months' grace period only after the effective date. The Government has twisted the 6 months' notice period as the grace period. This is inconsistent with the 2006 legislation for implementing the 50% GHWs under which a full 12 months' grace period was given after the effective date.

Lastly, the AI files provided by the Government have not included any suitable graphical designs for cartons and drum cylinder tobacco products (i.e., no horizontal graphical designs). We have attempted to use the vertical graphical designs provided in the DVD supplied by the Government for the cigarettes or retail container of tobacco products (under part 2 of the Amendment Order) and for the drum cylinder (圓面) (under Part 2A of the Amendment Order) instead, however the GHWs would be distorted to a completely disproportional size as indicated in the attached pictures. This is another example of "wrong assumption" unilaterally made by the Government due to a lack of dialogue with the industry. As more clarifications in this regard will be required, the trade will not be able to commence artwork designs and the manufacturing processes until written clarifications in the Amendment Order are provided by the Government.

As always, we do not object to effective regulations that are substantiated by scientific evidence and are an outcome of a fair and proper process. Unfortunately, the Amendment Order fails to meet these criteria and therefore it is of our opinion that the Amendment Order should not be proceeded, otherwise it would create an unfavorable precedent for the legislative process in Hong Kong.

We respectfully request the members of the Subcommittee on Smoking (Public Health) (Notices) (Amendment) Order 2017 to scrutinize the Amendment Order through objective and reasonable means following the international standards for better regulation, and help to raise more appropriate and reasonable amendments to the fundamentally faulty Amendment Order.

Yours faithfully,



Christine Hu  
Chairperson  
Coalition On Tobacco Affairs Limited

Encl.

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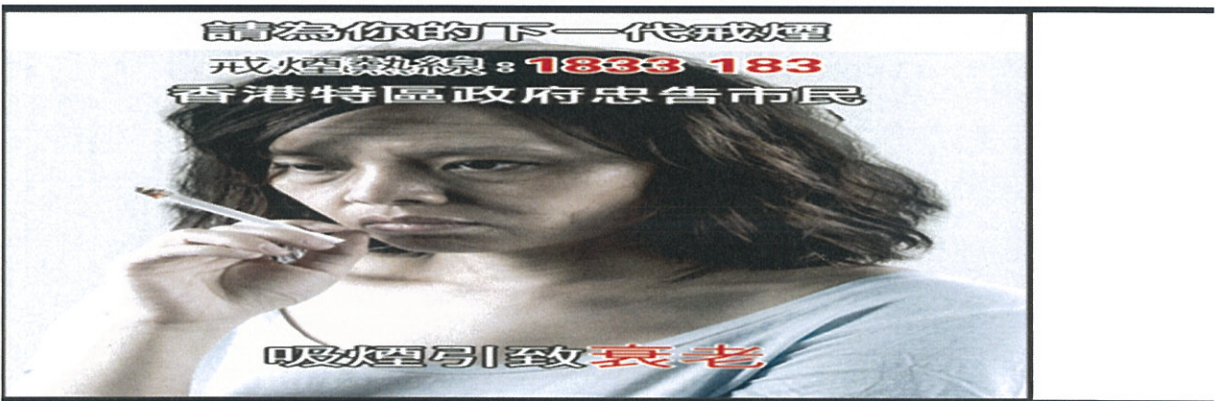
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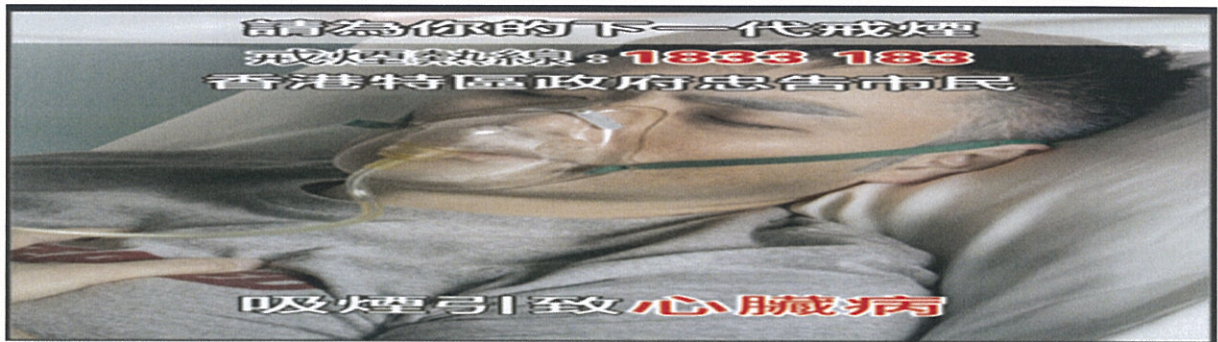
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