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**Panel on Health Services**

**Background brief prepared by the Legislative Council Secretariat  
for the meeting on 19 December 2016**

**Proposals to amend the health warnings  
on packets and retail containers of tobacco products**

**Purpose**

This paper provides background information on the requirements on health warnings on packets and retail containers of tobacco products and gives a brief account of the discussion by the Panel on Health Services ("the Panel") on the Administration's latest legislative proposals in this regard.

**Background**

2. According to the World Health Organization ("WHO"), well-designed health warnings and messages on tobacco product packages have been shown to be a cost-effective means to increase public awareness of the health effects of tobacco use and to be effective in reducing tobacco consumption. Article 11.1(b) of WHO Framework Convention on Tobacco Control Article ("FCTC")<sup>1</sup> requires each Party to adopt and implement effective measures to ensure that each unit packet and package of tobacco products and any outside packaging and labelling used in the retail sale of such products carry health warnings and messages. These warnings and messages shall be rotating; shall be large, clear, visible and legible; should be 50% or more, but no less than 30%, of the principal display areas; and may be in the form of or include pictures or pictograms.

3. The Smoking (Public Health) Ordinance (Cap. 371) ("the Ordinance") with its subsidiary legislation provide the legal framework on tobacco control

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<sup>1</sup> WHO FCTC entered into force in 2005. Parties are obliged to take a number of steps to reduce demand and supply for tobacco products. China is one of the signatories to and has ratified WHO FCTC, the application of which has been extended to Hong Kong since 2006.

for restricting the use, sale and promotion of tobacco products in Hong Kong. Under sections 8 and 9 of the Ordinance, health warnings in prescribed size and wording are required to be shown on the packets or retail containers, as the case may be, of cigarettes,<sup>2</sup> cigar, pipe tobacco and cigarette tobacco. According to paragraphs 3, 4A and 4AA of the Smoking (Public Health) (Notices) Order (Cap. 371B) ("the Order") as amended in 2006, the health warning shall be in one of the prescribed forms as set out in the Schedule to the Order and shall appear on the two largest surfaces of the packet or the retail container concerned. Other than the case of retail container containing one cigar, the health warning concerned shall be of a size that covers at least 50% of the area of the surface on which it appears.

### **Deliberations of the Panel**

4. The Panel discussed the Administration's legislative proposals to, among others, amend the prescribed forms of health warnings, the size and number of the health warnings and messages for packet or retail container of cigarettes, cigar, pipe tobacco and cigarette tobacco at its meeting on 18 May 2015, and received views from deputations on 6 July 2015. The major views and concerns of members are summarized in the following paragraphs.

#### Portion and forms of the health warning

5. Members noted that one of the legislative proposals was to increase the area of the graphic health warning from covering at least 50% to at least 85% of the two largest surfaces of the packet or the retail container of the tobacco product concerned. Some members were supportive of the proposal. However, some other members who shared the view of some deputations on the effectiveness of the proposal to lower the already very low local smoking prevalence rate, which stood at 10.7% in 2012, considered that strong supporting evidence should be provided to justify the proposal. These members noted that, as of July 2015, only three countries (viz. Nepal, Pakistan and Thailand) required the size of health warnings to cover at least 85% of the two largest surfaces of cigarette packets.

6. According to the Administration, it was recommended under WHO FCTC that Parties should implement larger, rotating health warnings on all tobacco product packaging and labeling in order to maintain saliency and enhance impact. According to empirical evidence from WHO and overseas experience,

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<sup>2</sup> Applies to any packet of cigarettes containing 20 or more cigarettes and any retail container of cigarette packets containing any number of cigarettes.

the effects of health warnings and messages in discouraging tobacco consumption increased with their prominence. It should be noted that Australia, France, Ireland and the United Kingdom had already adopted or prepared to adopt plain (standardized) packaging of tobacco products. Given that the existing batch of health warnings on packet or retail container of cigarettes and relevant tobacco products had been used since 2007, the Administration considered it high time to change the prescribed forms of the health warnings. Apart from increasing the portion of the health warnings, it was proposed that the number of forms of health warning be increased from six to 12. These proposals would increase the awareness of the health hazards of smoking among existing smokers and potential smokers, so as to encourage cessation and discourage uptake. It was hoped that smoking prevalence in Hong Kong could be lowered to single digit in the not-too-far away future.

7. Concern was raised about the display of an enlarged prescribed health warning on a square-shaped packet and a retail container in the form of a drum. The Administration advised that guidelines concerning the forms of the health warnings would be made available to the trade to facilitate their understanding of the requirements.

8. Some members shared the tobacco industry's concern that implementation of the proposals would aggravate the problem of counterfeit and illicit tobacco products, in particular that of cigar, due to the limited space left on the packets and retail containers for trade marks and branding. This would also amount to unlawful deprivation of intellectual property rights. There was a suggestion that the Administration should allow area of the graphic health warning to cover a different percentage of the two largest surfaces of the packet or the retail container concerned, say, 60% of one surface and 70% or 80% of another surface. The Administration advised that apart from the 15% remaining areas of the two largest surfaces, space was also available on the other surfaces of the packets or retail containers for trade marks and branding.

#### Statement on the health warnings

9. Members noted the Administration's legislative proposal to replace the existing statement "HKSAR GOVERNMENT WARNING" on the prescribed health warnings with the messages "Tobacco kills up to half of its users" and "Quitline: 1833 183". Some members were of the view that the message "Tobacco kills up to half of its users" appeared to be merely a slogan without scientific proof and should not be adopted. The Administration advised that the proposed message was based upon existing scientific evidence of WHO. Statistics revealed that up to half of current tobacco users would eventually die of a tobacco-related disease.

### Adaptation period

10. Members noted that in the last legislative exercise to introduce, among others, the requirement that packets or retail containers of tobacco products should bear graphic health warnings of a size that covered at least 50% of the principal surface areas, sale of tobacco products with pre-amendment health warnings was allowed during the 12 months after the day on which the relevant provisions came into operation. Question was raised as to whether the tobacco trade would be given sufficient time in this legislative exercise to change the packaging of their products for compliance with the proposed new requirements and sell existing stock. Members called on the Administration to communicate well with, and pay due regard to the concerns of, the industry and relevant stakeholders in the tobacco sector before introducing the legislative proposals into the Legislative Council ("LegCo").

11. The Administration stressed that Article 5.3 of WHO FCTC obliged Parties to protect public health policies with respect to tobacco control from commercial and other vested interests of the tobacco industry in accordance with national law. The Administration would, however, follow up with the tobacco industry on the technical issues concerned. There was room for discussion on the commencement of the relevant subsidiary legislation which would be a date to be appointed by the Secretary for Food and Health by notice published in the Gazette.

### **Recent developments**

12. According to the Thematic Household Survey Report No. 59 released by the Census and Statistics Department on 4 February 2016, the daily cigarette smoking prevalence of Hong Kong (persons aged 15 or above) was 10.5% in 2015.<sup>3</sup>

13. On 31 May 2016, the Food and Health Bureau issued a letter to the tobacco trade inviting their views on the layout, adaptation period and other technical specifics regarding the legislative proposals to amend the health warnings on packets and retail containers of tobacco products. It was proposed in the letter, among others, that the coverage of the health warning (the indication of tar and nicotine yields exclusive) would be 85% of the area of the

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<sup>3</sup> The survey was conducted from May to August 2015. While the previous round of similar survey conducted in 2012 only covered persons who smoked tobacco products (i.e. cigarette, cigar, hand rolled cigarette, water pipe and pipe-smoking), the survey conducted in 2015 covered persons who smoked all forms of tobacco and related products which included cigarette, cigar, hand rolled cigarette, water pipe, pipe-smoking and e-cigarette.

two largest surfaces on which the health warning appeared; the messages "QUIT SMOKING FOR FUTURE GENERATIONS" and "QUITLINE: 1833 183" would be incorporated with the existing statement "HKSAR GOVERNMENT WARNING"; and there would be a six-month adaptation period from the date of the publication of the subsidiary legislation in the Gazette.

14. According to the Administration, it has held a briefing for the tobacco trade on 23 November 2016 to further explain the legislative proposals and the technical issues related to implementation of the proposals. Its plan is to introduce the subsidiary legislation into LegCo in the first quarter of 2017.

15. The Administration will brief the Panel on the legislative proposals on 19 December 2016.

### **Relevant papers**

16. A list of the relevant papers on the LegCo website is in the **Appendix**.

Council Business Division 2  
Legislative Council Secretariat  
13 December 2016

**Relevant papers on proposals to amend the health warnings  
on packets and retail containers of tobacco products**

Committee	Date of meeting	Paper
Panel on Health Services	18.5.2015 (Item V)	<a href="#">Agenda</a> <a href="#">Minutes</a> <a href="#">CB(2)1808/14-15(01)</a>
	6.7.2015 (Item I)	<a href="#">Agenda</a> <a href="#">Minutes</a>

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