

**Re: Hong Kong government's plan on enlarging pictorial health warning on tobacco pack**

Dear member of Panel on Health Services in Hong Kong,

We refer to the release by Hong Kong government of its public plan to enlarge the size of pictorial health warnings to 85% on the tobacco packs. We, Trade-related IPR Protection Association (TIPA) is a non-profit organization that protects the intellectual property rights of companies and consumers. We support high standards of intellectual property protection and the respect of international trade rules that are indispensable to the economic growth and sustainable development of Korea. While TIPA believes that appropriate and proportionate regulation of tobacco products is both necessary and right in order to protect public health, we would like to share our views and concerns with respect to enlarging the pictorial health warning on tobacco packs and the unintended negative consequences that would cause potential problems and risks from the implementation of such a regulation.

Our understanding is that many government, including Hong Kong, drive for a larger graphic health warning (GHW), aiming to give higher level of awareness on health risks from smoking. However, numerous studies (including the FDA) over the years have proven that larger GHWs are ineffective in reducing the smoking rate. These studies are supported by surveys on smoking behaviors and smoking rates after GHW took place in countries like the United States. Furthermore, there is no deficit of information that the large GHWs will be able to address, since the levels of awareness about harmful effects of smoking are effectively universal. Here's more evidence from countries around world that shows that the levels of awareness about the risks associated with smoking are extremely high. For example, 92.2% of adults in Malaysia (93.5% of non-smokers) knew that smoking causes serious illness. This figure was 97% in Thailand, 97.2% in Turkey and 97.4% in Bangladesh; the results are from Global Audit Tobacco Survey. Instead, many studies find that rather than enlarging the size of pictorials, activities and campaigns to reduce or quit smoking is more effective to increase the awareness of the health risks.

Not only GHW has not yet been proven to be effective in reducing the smoking rate, but it is also not required by FCTC; FCTC requires only a textual health warning that covers a minimum 30% of the principal display areas of a tobacco package. The FCTC exists within a broader environment of international law composed of many obligations on Parties in areas that relate to public health, including trade, intellectual property (IP), and other treaties. We believe IP is the one of the crucial factors to be considered. Introduction of large GHWs can have a significant impact on the IP that is found on the packaging of tobacco products, and we strongly believe that protection of IP is a key element supporting global business and economic growth and development goals. It should not overlook that a trademark owner is protected from unwarranted regulation that limits the functional use of trademarks, which we are afraid larger GHWs will bring.

As stated, inserting larger pictorial warning is not effective way in deterring people from smoking, and will especially bring negative impacts on brand names and anti-counterfeit labels. It is in this context that we would ask your government to re-consider taking this option and deliberate the concrete evidences/studies from countries that have gone through the experiences in the past. Hopefully you will also realize that that are many more effective measures and policies to reduce the smoking incidence instead of taking the ineffective GHW option.

Sincerely,

CHUNG, Nam-ki



Chairman, Trade-related IPR Protection Association (TIPA)

Seoul Korea