



Persatuan Pengguna Pulau Pinang Consumers Association of Penang

檳城消費人協會 பினாங்கு பயனீட்டாளர் சங்கம்

Websites:
www.consumer.org.my

10 Jalan Masjid Negeri, 11600 Pulau Pinang, Malaysia
Tel: 604-8299511 Fax: 604-8298109
email: consumerofpenang@gmail.com

Press Statement

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MoH Lets Horse Bolt Before Closing The Gate

The Consumers' Association of Penang (CAP) is shocked and disappointed that the Malaysian Health Ministry (MoH) allows the sale of heat-not-burn (HNB) tobacco product devices and exempted them from pictorial health warning (PHW).

It is puzzling why MoH is confused with the Control of Tobacco Product (our italics) Regulations (CTPR), thinking that it regulates only shredded tobacco rolled in paper. There is nothing to be confused about what a 'tobacco product' is.

HNB tobacco product device does not need to be categorised as a 'cigarette' in order to be regulated because it is a 'tobacco product' as it uses a plug of tobacco. The Regulations stated that a "cigarette" means any product *which consists wholly or partly of cut, shredded or manufactured tobacco, or of any tobacco derivative or substitute* (our italics), rolled up in a single or more wrapper of paper, and which is capable of immediately used for smoking". Article 11 (Packaging and labelling of tobacco products) of the World Health Organization Framework Convention on Tobacco Control (WHO FCTC) applies to all tobacco products, not just cigarettes or tobacco wrapped in paper.

If the Regulation has such narrow interpretation then it is highly vulnerable as we have seen the emergence of shisha, e-cigarettes, and HNB tobacco product devices in recent years.

MoH explained that these devices do not come under the classification of a 'cigarette' as defined by the current law. They may not fit the definition of a cigarette but the tobacco plug (HeatStick) that is inserted into the device is certainly manufactured from tobacco.

Moreover, we would like point out that the mainstream smoke of a cigarette is also technically referred to as 'smoke aerosol' containing "carbon monoxide, other vapour phase components, particulate matter ('tar') and nicotine".

Major tobacco companies have not denied that cigarette smoke is an aerosol. The British American Tobacco (BAT) defined "aerosol" as "a collection of airborne particles suspended in a cloud of gas or vapour".

Philip Morris stated explicitly on its website: "An aerosol is a suspension of fine solid particles and/or liquid droplets in a gas (usually air). Cigarettes generate a smoke aerosol that is the result of the combustion (burning) of tobacco, and contains carbon-based solid particles. While smoke is an aerosol, not all aerosols are smoke."

We would like to ask why MoH has a problem with that definition? If we continue to split hair, then will chewing tobacco and other forms of tobacco products be exempted from the Regulations?

As for the recent media write-ups about IQOS (a brand name), they could actually have violated Part II of the Regulations that touched on the “Prohibition on tobacco product advertisement” and also Section 5A (amended in 2013) that stated very clearly that “no person shall (a) promote the sale of any tobacco product directly or indirectly...” The media carried an advertorial in a question-and-answer format and this violates the advertisement prohibition of Sections 4 (1) and 5A of the Regulations.

Common sense will raise a red flag why the industry had only highlighted the fact that this product produces low emission of nicotine and other chemicals when we know that such low dose of nicotine will make a smoker inhale deeper and longer to compensate the nicotine intake. If this is to take place then the smoker would have inhaled more of other toxic chemicals found in the aerosol in the same way as ‘light’ and ‘mild’ cigarettes that led to the ban of descriptors. Such claim is misleading consumers to believe that this device is safer than conventional cigarettes.

If a HNB tobacco product device is not considered as a tobacco product then will it be spared from smoking prohibition in public places? All the tobacco control efforts to reduce or eliminate tobacco use will come to naught and a whole nicotine addiction epidemic will replay itself as with the scourge of conventional tobacco products such as cigarettes.

With the imminent introduction of plain packs and large pictorial health warnings, such HNB tobacco product device packs and their tobacco plugs would be exempted from having the pictorial health warnings is the biggest victory for the tobacco industry. The industry is able to carve a special marketing niche for itself, free from government interference.

According to MoH each of the major tobacco companies – Philip Morris International (PMI), British American Tobacco (BAT), and Japan Tobacco International (JTI) – have its own heated tobacco products and each varies in how it is used. Why must MoH be worried about how each is used when they are all tobacco products and that the aerosol they produced is inhaled into the lungs in the same way as cigarettes.

There are already some studies carried out on HNB and published in established journals such as the British Medical Journal (BMJ), PubMed, and Tobacco Control. The low number of research conducted was due to the fact that HNB tobacco product devices first hit the market after 2014 and MoH should know that many of the smoking-related diseases may manifest after decades of exposure. How can four years of research by scientists not funded by the industry clear such devices for the consumers?

We have made our stand very clear that all tobacco products be banned from the market. If MoH allows the sale of HNB tobacco product devices future generations of Malaysians are doomed as the nation will continue to battle the scourge of nicotine addiction and smoking-related diseases. The nation’s coffers will suffer as health budget will be strained to treat such diseases.

S. M. Mohamed Idris
President
Consumers Association of Penang