



Persatuan Pengguna Pulau Pinang Consumers Association of Penang

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Letter to the Editor

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MALAYSIA MUST LEAD IN TOBACCO CONTROL FOR PUBLIC HEALTH

The Consumers' Association of Penang (CAP) calls on the government to implement measures to curb smoking, particularly among women and youths. Tobacco use is one of the most preventable public health threat, killing one in every two persons who use them. The World Health Organisation had warned that if governments do not take strong action to limit exposures to tobacco, by 2030 it could kill eight million people worldwide annually.

On those grounds, CAP urges the government to take the following measures:

- Have a standalone Tobacco Control Act.
- Speed up the introduction of plain packaging.
- Licensing of cigarette sellers and tobacconists.
- Since nicotine is considered a poison under the Poisons Act, its use has to be prescribed by either a doctor or a pharmacist.

It is utmost urgent to extract tobacco control regulations out from the existing Food Act and have a standalone Tobacco Control Act. In the first place it makes no sense to place tobacco control under the Food Act because tobacco is not a food product and it contains nicotine, a potent poison that is listed under the Poisons Act. In fact, nicotine leaching from wet tobacco leaves can be absorbed through the skin causing 'green tobacco sickness', particularly among tobacco leaf handlers.

Plain packaging of cigarettes has to be speeded up although there is a possibility that Malaysia has been warned by the Confederation of Malaysian Tobacco Manufacturers (CMTM) comprising British American Tobacco (Malaysia) Berhad, JT International Berhad and Philip Morris (Malaysia) Sdn Bhd that the government (if enforces plain packaging on tobacco products) could have far-reaching implications on the use of trademarks and intellectual property rights in other industries. However, Australia and the United Kingdom have set precedents in this issue.

Australia, the first country to implement plain packaging in 2012, was taken to court by JT International and British American Tobacco. The Court ruled in favour of the Australian government in a six-to-one decision that "there was no acquisition of intellectual property rights by the Government in its plan to impose plain olive packaging with graphic health warnings".

Justice Gummow commented that the Trade Marks Act did not confer "a liberty to use registered trademarks free from restraints found in other statutes."

In the United Kingdom last year, British American Tobacco, Imperial Tobacco, Philip Morris International and Japan Tobacco International launched a High Court battle against a ban on brand

cigarette packaging that was to come into force in May 2016. The judge in handing down his judgement said that the companies had no right to compensation because they engaged in activities “which impose vast cost on the state” in terms of public health care.

Hence, Malaysia should not feel intimidated by the tobacco industry since there are precedents by Australia and the United Kingdom on plain packaging.

Complementary to the introduction of plain packaging, Malaysia should also consider the licensing of cigarette retailers or tobacconists. This is a way to monitor legal cigarette retailers and weeding out those selling smuggled cigarettes. Currently there are more than 80,000 cigarette retailers in the country, not including street vendors.

Four countries in the ASEAN region have already implemented the licensing of cigarette retailers/vendors. Brunei charges an equivalent to RM976.25 per license and Singapore, RM1,171.75.

It is unthinkable why nicotine in tobacco products, particularly cigarettes, is exempted from being classified under Group C poison of the Malaysian Poisons Act 1952 (Revised 1989) and Regulations. The reason lies in the fact that a mere 60 mg of nicotine is capable of paralysing the central nervous system, causing death.

Nicotine should not be made an exemption since it is the most accessible poison available to 5 million smokers in the country. It should be regulated just like any other poison under Group C that “shall not be sold or supplied by retail to any person except... as a dispensed medicine or an ingredient in a dispensed medicine”.

CAP iterates the call to implement the measures proposed above to tighten tobacco control in the Malaysia.

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