

THE INDIAN JOURNAL OF CANCER

ISSN 0019-509X
Volume 44 | Issue 4 | October–December 2007

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Abstract

BACKGROUND: The effect of any legislation depends on its implementation. Limited studies indicate that tobacco companies may tend to use such provision for surrogate advertising. The point of sale advertisement provision has been placed in the Indian Tobacco Control legislation. The study was undertaken to assess the Indian scenario in this regard. **OBJECTIVE:** To assess if there are any violations related to provision of point of tobacco sale advertisements under India's comprehensive tobacco Control legislation in different parts of India. **MATERIALS AND METHODS:** Boards over various shops showing advertisements of tobacco products were observed in the cities of Delhi, Mumbai, Kolkata, Trivandrum and Jaipur, between September 2005 and March 2006. **RESULTS:** The point of sale advertisements mushroomed after the implementation of 2004 tobacco Control legislation. Tobacco advertisement boards fully satisfying the point of sale provision were practically non-existent. The most common violation of point of sale advertisements was the larger size of the board but with tobacco advertisement equal to the size indicated in the legislation and remaining area often showing a picture. Invariably two boards were placed together to provide the impression of a large single repetitive advertisement. More than two boards was not common. Tobacco advertisement boards were also observed on closed shops/ warehouses, shops not selling tobacco products and on several adjacent shops. **CONCLUSION:** The purpose of the point of sale advertisements seem to be surrogate advertisement of tobacco products, mainly cigarettes.

Key words: Legislation, point of sale advertisements, tobacco

Introduction

As per the World Health Organization, tobacco use causes about five million global deaths each year.^[1] If current smoking patterns continue, it will cause some 10 million deaths each year by 2020 and half of the current smokers (about 650 million people) will eventually be killed by tobacco.

The WHO initiated the process of Framework Convention on Tobacco Control (FCTC), in view of the globalization of the tobacco epidemic, the spread being facilitated through complex factors with cross-border effects (including trade liberalization and direct foreign investment), global marketing, transnational tobacco advertising, promotion and sponsorship and the international movement of contraband and counterfeit cigarettes.^[2] FCTC addresses a range of legislative and other measures to be addressed by the parties to the FCTC. However, as WHO's Director General,

believes, "The success of the WHO FCTC as a tool for public health will depend on the energy and political commitment that we devote to implementing it in countries in the coming years".^[3]

Government of India, in view of several suggestions of World Health Assembly, brought out a comprehensive legislation for control of tobacco use in 2003, which addresses issues related to, (i) ban on direct as well as indirect advertisements of tobacco products, (ii) ban on smoking in public places, (iii) ban on sale of tobacco products to persons below 18 years of age, (iv) ban on sale of tobacco products within 100 meters of educational institutions, (v) legible and prominent warnings on all tobacco products and (vi) maximum

Presentation: Some of the photographs included in the paper were presented by the first author at the World Conference on Tobacco or Health at Washington DC, in July 2006, in the form of a poster.

limits on levels of tar and nicotine.^[4] The rules related to the first three provisions were implemented from 1st May 2004, whereas some provisions on ban on advertisement have been modified from 1st April 2006. The rules related to ban on advertisements, permit advertisements on (a) packages containing cigarettes or any other tobacco products; and (b) at the entrance or inside a warehouse or a shop where cigarettes and any other tobacco products are offered for distribution or sale.

The provisions under the 2004 notification (in effect from 1st May 2004) permit, a maximum of two boards not exceeding ninety centimeter by sixty centimeter in dimensions, displayed at the entrance or inside a warehouse or a shop where cigarettes and any such tobacco products are offered for distribution or sale. Each board has to contain in the Indian language as applicable, one of the two specified warnings (Tobacco Causes Cancer or Tobacco Kills) in the top 25% area of the board. The board could have only the brand name or picture of the tobacco product and no other promotional message and picture were permitted.^[4] However, in the further modifications of rules in 2006 (to be implemented), the board number has been reduced to one with a size of maximum of sixty centimeters by forty-five centimeters. The warning size has also been reduced to twenty centimeters by fifteen centimeters. Thus, the warning would occupy about 11% of the area, in comparison with 25% of the area in the earlier provisions. The board can only list the type of tobacco products available and now cannot show any brand name or picture of tobacco products. The display board cannot be backlit or illuminated in any manner. The new rules also indicate that the owner or manager or in-charge of the affairs of a shop cannot display tobacco products (in order to prevent easy access to tobacco products to persons below the age of eighteen years).

Before the implementation of the current Tobacco Control legislation in 2004, the advertisements of tobacco products were very common all over the country, except in Delhi, where the billboard advertisements were banned due to the provisions of Delhi government's Tobacco Control law of 1997. Pertaining to pre-legislative times in Mumbai, Bansal *et al.*,^[5] reported that cigarette advertising was ubiquitous in the environment, present in news and in film magazines, but not in women's magazines or the newspapers. Advertisements and product placements was at low heights and next to candies at point of sale which were easily accessible by children. However, the authors had observed that during pre-legislation period, Delhi newspapers as well as non-film magazines carried

advertisements of tobacco products, including cigarettes. Point-of-sale advertisements did exist at a limited level but had not specifically been reported in scientific literature perhaps because direct advertisements were in abundance. Point-of-sale advertisements have increased all over the country after the implementation of the Tobacco Control rules of 2004. Similar increase in point of sale advertisements and promotions have been reported from the US after tax increase, as a strategy to undermine the effects of state Tobacco Control programmes.^[6]

It may be pertinent to note that advertisements of products on the boards of shops, is not a new phenomenon in India. Many products have been advertised on the boards of shops and these have been prepared and erected by the company manufacturing or distributing the concerned product. Similarly, the display of products or advertisements inside many shops is also done on regular payment basis. This has been a well known modality of brand advertising. Similar strategies which increase the visibility of tobacco products and provide incentives to store owners has also been described from the US^[7-9] and the UK.^[10]

Storefront tobacco advertising (point-of-sale) has been observed to be far more prevalent in predominantly minority, low income communities than in non-minority, higher income communities in the US.^[11] Tobacco companies obtain this advertising at little cost. In view of the negative impact of point-of-sale advertising, New Zealand has acted on phasing out of such advertisements.^[12]

The current study relates to observations on the violations made by the tobacco companies/ shop owners, regarding the point-of-sale advertisements at tobacco shops between September 2005 and March 2006, i.e. before the notification of modified rules on ban on tobacco advertisements.

Objective

To assess if there are any violations related to provision of point of tobacco sale advertisements under India's comprehensive Tobacco Control legislation in different parts of India.

Materials and Methods

The authors observed the boards over various shops showing advertisements of tobacco products in the cities of Delhi, Mumbai, Kolkata, Trivandrum and Jaipur, between September 2005 and March 2006. As the intention was merely to observe violations of the rules, no specific sampling procedure or visit to

any specific area of the city was considered necessary. Different areas of the cities were visited to observe tobacco advertisements on the shops.

Results

The provisions under the 2004 notification permit a maximum of two boards not exceeding ninety centimeter by sixty centimeter in dimensions, displayed at the entrance or inside a shop. Billboards with tobacco advertisements were a common site in India before this legislation, with the exception of the state of Delhi where these bills had been banned in 1997 under a state government act. The point of sale advertisements were a rare sight before the implementation of 2004 Tobacco Control legislation. The number of such advertisements have been increasing since the implementation of the legislation. It is interesting to note that not all the shops have point of sale advertisements.

During late 2004 and early 2005, when the point of sale advertisements started in a big way, two boards were generally placed together to provide an illusion of a bigger advertisement. However, soon these boards were replaced by a single board of bigger size than was prescribed by the rules. Thus, the correct point of sale advertisement as given in the rules was not seen. The single board in most cases has two advertisements of the size as indicated in the rules. Some of these advertisements possibly looked slightly bigger than permitted, but the boards were not measured under the study. The provision of a warning on top 25% area, did seem to be followed in practically all cases, on each of the advertisement on the board. The advertisements do contain only picture(s) of tobacco product(s) or pack(s). Many boards are backlit and some of them were observed to remain lit throughout the night, even when the shops were closed.

The commonest violation of point of sale advertisements was the size of the board. Even if the board had only one advertisement, the size of the board was invariably larger to fit the front of the shop and the remaining area was either blank or had a picture which had nothing to do with the tobacco product but it gave the impression of overall advertisement being very large [Figure 1]. In a substantial number of advertisements, two advertisements were placed together on one board, giving the impression of a larger single repetitive advertisement [Figure 2]. Only in few situations, the author could observe two separate boards placed together. In a small number of cases, the shop had more than two boards [Figure 3].



Figure 1: A typical large board to cover front of the shop



Figure 2: Repetitive advertisements on one board

Point of sale tobacco advertisements were observed not only on shops selling tobacco products but also on shops generally not selling tobacco products. There seems to be a strong possibility that many a general stores have started keeping tobacco products only to place tobacco advertisements on their shops. However, in some cases the authors observed that tobacco advertisements had been placed on shops which were closed or used as warehouse or were not selling tobacco products at all [Figure 4]. In two such instances, the shop displaying a tobacco advertisement were a sweet shop or a juice shop, which generally would not be considered esthetically correct to sell tobacco products [Figure 5].

Another strategy adopted was to place tobacco advertisements on two or more adjacent shops, sometimes providing illusion of bigger advertisement [Figure 6]. In one case, it was observed that one board



Figure 3: Multiple boards with tobacco advertisements



Figure 6: Tobacco advertisements on several adjacent shops



Figure 4: Tobacco advertisement on a closed warehouse/ shop



Figure 7: Continuous single advertisement board on two adjacent shops



Figure 5: Tobacco advertisement on a shop not selling tobacco



Figure 8: Typical roadside stall selling tobacco products

was covering two shops (one of them - a sweet shop) with four repetitive advertisements on it [Figure 7].

Discussions

The Government of India on 18th May 2003, published the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003, replacing the Cigarette Act of 1975.^[4] While, advertisements of tobacco products were banned under this legislation, a provision for point of tobacco sale advertisement was introduced. The reason for this provision has not been indicated in any of the notifications. One may like to assume that this possibly was for the purpose of informing tobacco users about the availability of tobacco products. But, experience suggests that a large number of shops (may be in 50% or more cases) the shops especially in cities are open roadside stalls with their goods visible from a distance [Figure 8]. These shops carry all kind of tobacco products and there are no exclusive shops for any specific type of tobacco product. Thus, the utility and purpose of the provision for advertisement at point of sale is not clear. Historical considerations indicate that point of sale advertisements were not common in India before the implementation of the 2003 Tobacco Control legislation (implemented from May 2004), although such practices for non-tobacco products were very common. In the light of recent mushrooming of point of sale tobacco advertisements in India, one is forced to think, why there was no need for informing people about the shops which sell tobacco products before the implementation of Tobacco Control legislation. The fact that the point of sale advertisements (for all products) are paid by the manufacturers and that these advertisements are located at busy market places or on important road sides (and not on all shops), definitely suggest that these are more for sales promotion and not merely for information about availability of products.

The state of Delhi presents a special case. Delhi had banned billboard advertisements of tobacco products in 1997. The ban on billboard advertisements was quite effective, but the tobacco companies still had avenues of advertisements through print and other media. The provision of point of sale advertisement provision from 2004, seems to have provided an outlet for advertisements of tobacco products all over the country. These advertisements were initiated by cigarette companies and by and large these still remain cigarette advertisements.

A substantial number of Indian population uses tobacco

in smokeless form as well. The Tobacco Control act bans the advertisements of all tobacco products, including smokeless tobacco products. One popular smokeless tobacco product which had been advertised in the past, is gutka or pan masala with tobacco. Most of the companies with gutka or pan masala with tobacco, also manufacture plain pan masala also under the same brand name. The advertisements of plain pan masala are still common on mass media, including electronic mass media. One of the authors has shown that these advertisements are a surrogate for the smokeless tobacco products bearing the same trade name.^[13] Interestingly, point of tobacco sale advertisements for these products (which are being heavily advertised through mass media) are practically non-existent. In the light of the above, it would be logical to conclude that this provision is being used by the tobacco manufacturers, as an avenue for direct advertising.

It was observed that many of the point of tobacco sale advertisements were lit and the lights were left on by the manufacturers throughout night, even if the shops were closed providing a source of 24 hour advertising. The proposed modification in the act have tried to address the issue by banning backlighting, but the rules have not been implemented as yet.

A major violation of the act relates to interpretation of the size of the board to size of the advertisement. The size of the board invariably has been equal to the frontal width of the shop, with the each advertisement equaling the prescribed size and rest of the board being blank or bearing a picture. This enhances the impression of the tobacco advertisements. This advertising technique has been utilized by non-tobacco products also. The approach of modified interpretation of the size (switching board with advertisement size) cannot be considered as legal and these advertisements should be considered equal to the size of the board.

Similar feeling of larger advertisement has been created by joining two boards together or by painting two advertisements on a single board. Similar impression of mega advertisements has been created by tobacco manufacturers by placing tobacco advertisements on adjacent shops, sometimes by keeping two boards side by side and occasionally by even providing single board over two shops. In this process, some non-tobacco shops have started selling tobacco products (at whatever scale), while some shops have not even tried to put a facade of tobacco sales. This account suggests that the provision of point of tobacco sale provision in India's comprehensive Tobacco Control act has been distorted and has mainly been used as a means of advertisement.

This advertising scenario and historical facts suggest that there is no need for this provision in the Tobacco Control act and this should be repealed.

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Source of Support: Nil, **Conflict of Interest:** None declared.

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