

RESEARCH ARTICLE

How Compliant are Tobacco Vendors to India's Tobacco Control Legislation on Ban of Advertisements at Point of Sale? A Three Jurisdictions Review

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Abstract

Background: Section 5 of India's tobacco control legislation "Cigarettes and Other Tobacco Products Act (COTPA), 2003" comprehensively prohibits all kinds of tobacco advertisement, promotion and sponsorship (TAPS), but permits advertisements at the point-of-sale (POS) under certain conditions. This provision has been exploited by the tobacco companies to promote their products. **Objective:** To measure compliance with the provisions of Section 5 of Indian tobacco control legislation (COTPA, 2003) at point of sale. **Materials and Methods:** A cross-sectional survey using an observation checklist was conducted in 1860 POS across three jurisdictions (Chennai city, District Vadodara and District Mohali) in India. **Results:** The most common mode of advertisement of tobacco products was product showcasing (51.1%), followed by danglers (49.6%), stickers (33.8%) and boards (27.1%). More than one fourth of POS were found violating legal provisions for displaying advertisement boards in one or other forms (oversized, extended to full body length of POS, displayed brandname/packshot and promotional messages). Advertisement boards (16.3%) without health warnings were also found and wherever found, more than 90% health warning were not as per the specification in respect to size, font and background color. **Conclusions:** Point of sale advertising is aggressively used by the tobacco industry to promote their products. There is an urgent need of effective implementation of a comprehensive ban on tobacco product advertisement, promotion and sponsorship at point of sale.

Keywords: Compliance assessment - tobacco - advertising - COTPA - TAPS - point of sale - India

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Introduction

Tobacco addiction is a global epidemic. It ravages communities and countries, wreaking havoc in populations that are most vulnerable causing massive disability, disease, loss of productivity and death. This makes tobacco use the single most preventable cause of premature adult death globally (WHO, 2008). Everyday 80,000-100,000 youth become lifelong tobacco addicts (World Bank, 1999) and killing nearly half of them earlier from ailments caused due to tobacco use. Tobacco-related illnesses account for one in ten adult deaths worldwide (Mathers et al., 2006) and if current trends continue, one billion people are estimated to die from tobacco use in the 21st century (Peto et al., 2001).

One-third of India's population (or nearly 275 million adult, age 15 years and above) use tobacco products in some or other forms (MOHFW, 2010). Every year, one fifth of all worldwide deaths attributed to tobacco use occur in India, where more than 1.2 million adult die

prematurely from tobacco use and 12 million people become ill (MOHFW, 2004). The authors have conducted the studies in different jurisdictions of India to measure compliance to prohibition of smoking at public places (under section-4 of cigarettes and other tobacco products act (COTPA) in 2003) have shown mixed results (Tripathy et al., 2013; Goel et al., 2014; Kumar et al., 2014)

The tobacco industry is a major vector of premature death globally. It uses tobacco advertising, promotion and sponsorship (TAPS) tactics to neutralise tobacco control efforts and normalize its use, making it seem like any other consumer product. Industry documents reveal that the companies carefully study the habits, tastes, aspirations, and desires of their potential customers and use that research to develop products and marketing campaigns (Perry, 1999). Tobacco industry spends huge money on carrying out TAPS; Center for Monitoring Indian Economy Pvt. Ltd, 2004 reported that, advertising costs of tobacco product companies were 5.1% (of their net sales) in 2001-2002, being the highest as compared

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to other industries (Jandoo et al., 2008).

Tobacco advertising increases cigarette consumption and there is much empirical global literature that finds a strong correlation of tobacco advertising on increase in smoking, especially among children (Botvin et al., 1993; Evans et al., 1995; Saffer et al., 2000; Choi et al., 2002). Similarly, few studies from Indian sub-continent (Binu et al., 2010; Patel et al., 2012) also established that the tobacco advertising is one of the key factor for early initiation and increased consumption among adolescents.

Tobacco companies strategically targets the consumers at point of sale (POS) to draw attention to their products and stimulate sales locally. Advertisements at POS exposes youth to pro-smoking messages and creates positive attitudes toward tobacco products and brands (Henriksen et al., 2008; Paynter et al., 2009). There is an established relationship between exposure to tobacco promotion at POS and susceptibility to smoking, smoking experimentation, occasional smoking and regular smoking among youth (Wakefeld et al., 2000; Kaufman et al., 2001; Donovan et al., 2002). Point of sale promotion including price discounts and product giveaways can account for more than 75% of marketing spend by some tobacco companies (Bloom, 2001; Canadian Cancer Society, 2008).

The Framework Convention on Tobacco Control (FCTC), the world's first global public health treaty recognizes "that a comprehensive ban on advertising, promotion and sponsorship would reduce the consumption of tobacco products" (WHO, 2003). India was among the first signatories of the FCTC and drafted a comprehensive legislation for tobacco control in 2003 (i.e. Cigarettes and Other Tobacco Products Act, 2003, or COTPA) (MOHFW, 2003). Section 5 of the COTPA and subsequent rules (MOHFW, 2005) prohibits any kind of tobacco advertisement, promotion and sponsorship (TAPS) in line with Article 13 of WHO FCTC (PHFI and MOHFW, 2008). However, it allows advertisement of tobacco products at the point of sale under certain circumstances (MoHFW, 2003; MOHFW, 2005). Over the years, the tobacco industry has circumvented these provisions, so much so that POS violations have become a big menace in recent years (Chaudhary et al., 2007). There are very few studies in India which document point of sale advertising (Bansal et al., 2005; Chaudhary et al., 2007). This is the first systematic survey for compliance to POS from India which covers three large jurisdictions.

The primary aim of this study is to measure compliance to the provisions of Section 5 of Indian tobacco control legislation (COTPA, 2003) at of point of sale.

Materials and Methods

Study Design and study period: A cross-sectional survey was conducted between 1st January to 30th April, 2013 across three jurisdictions (Chennai city, and the districts of Vadodara and Mohali) in India.

Study Setting: Chennai is a metropolitan city in South India (pop: 4.6 million), Mohali is a district in Punjab in North India (pop: 0.99 million with 55% of them residing in urban area) and Vadodara is a district in West India

(pop: 4.2 million with nearly 50% urban population). The jurisdictions were identified for the study considering the geographical representation of country.

Sampling methodology: Sample size was calculated at an expected compliance rate of 50% and margin of error 5% using Open Epi software version 3.01 (Openepi, 2013). A total of 1860 POS were selected; 359, 501 and 1000 POS in district Mohali, district Vadodara and Chennai city respectively. POS were categorized into permanent shops, permanent kiosks and temporary kiosks. POS were also categorised by the type of business (exclusively tobacco, mainly tobacco shop and tobacco not a major business). Five to seven clusters were selected in each jurisdiction and POS were selected in each clusters based upon population to proportionate size (PPS). In a selected cluster, a fixed point was chosen in one corner randomly; thereafter a clockwise direction was followed around the cluster till the required number of POS was achieved. The study tool (observation checklist) was designed and pretested at different types of POS.

Study tool: In August 2012 The Union South East Asia, New Delhi organized a national level consultation where a compliance assessment protocol was developed in consensus with participants from the tobacco control community comprising government, non-government organizations, academia and international agencies. This survey uses this protocol and observational checklist. The operational definition of point of sale was developed using legal provision prescribed under the national legislation (Cigarettes and Other Tobacco Products Act, 2003, or COTPA) (MOHFW, 2003). The checklist has following key criteria to measure the compliance: *i*) No advertisements of any kind at POS. Display of advertisement boards (if any), must be in confirmation with COTPA specification (size, non backlit, no brand name/packshot, and no promotional message) *ii*) Presence of specified health warning on the advertisement board (size, text, colour, language); *iii*) Tobacco products display at the POS so that, these remains invisible and inaccessible to minors; *iv*) No tobacco products sold by vending machine; *v*) Tobacco products are not handled or sold by a minor

Survey teams: Three to four teams in each of the study site comprising atleast two investigators formed each team. The team members were trained by the Union technical team at their respective research site using a standard protocol and methodology for recording observation. A field exercise to build skills in recording was done in all sites prior to the actual survey. Errors made were discussed and processes of recording were corrected. Additionally, the questionnaire was also refined during the training.

Data collection: Field investigators recorded the POS, type of business and observed different types of advertisements during peak business hours and observed for 20 minutes and filled the observational checklist at the site using the protocol. Photographs were taken as additional evidence of potential violations. During the actual field survey, the investigator team also visited 10% of sampled POS and validated the observations recorded by the field investigators.

Data entry and data analysis: The data entry was done in Microsoft Excel 2007 by the field investigators

on a daily basis. Investigator team randomly checked 10 % of the total data entry for accuracy, completeness and consistency across responses. The data from all three jurisdictions was then compiled by the principal investigator and the data was analyzed using SPSS software version-17. Proportions and percentage were calculated for each domain of the checklist.

Ethical Consideration: The requisite permission was taken from State and District Tobacco Control Cell prior to conduction of these surveys. Besides, approval has also been obtained from the Union's Ethics Advisory Group (EAG). Being an unobtrusive observational study, no prior informed consent from the vendors was taken for making observation.

Results

A total of 1860 POS were visited in three jurisdictions of India (359, 501 and 1000 POS in Mohali, Vadodara and Chennai city respectively). More than half of POS were permanent shops (55.9%) and sold other products besides tobacco (59.8%).

All POS had displayed advertisements in some or other forms. Overall, product showcasings, dangles and advertisement boards were most common mode of advertisements in district Mohali, Chennai city and district

Vadodara respectively. More than one fourth (27.1%) of tobacco vendors had displayed advertisement boards (Table 1).

Over 80% of POS were found violating legal provision of Section 5 for display of advertisement boards in one or other forms (oversized, extended to full body length of POS, displayed brandname/packshot and promotional messages). 37% boards were found illuminated/backlit. The violation was almost universal in district Vadodara as compared to other jurisdictions (Table 2).

Nearly one sixth POS had displayed advertisement boards without any health warning. There were major violations in display of health warning on the advertisement boards in term of size, location, design and language (Table 3). In more than three-fourth of POS, the tobacco products were displayed in such a way that made them accessible and visible to minors, however at two POS only, minors were found selling tobacco products. The violation was more (52.7%) in district Vadodara as compared to other jurisdictions.

Limitations: The selection of the jurisdictions, although representative in terms of geography and rural and urban population dispersion, was done purposively and for convenience as the principal investigator found good collaborators. The survey was undertaken for a short period of time, which may or may not be representative of

Table 1. Type of Advertisements Displayed at Each Point of Sale in Three Jurisdictions of India, 2013

Type of advertisement	Number and percentage of point of sale in respective jurisdiction			
	District Mohali n=359	District Vadodara n=501	Chennai city n=1000	Total n=1860
Boards	64 (17.8)	265 (52.7)	175 (17.5)	504 (27.1)
Posters	57 (15.9)	0 (0)	61 (6.1)	118 (6.3)
Banners	5 (1.4)	0 (0)	19 (1.9)	24 (1.3)
Stickers	1 (0.3)	10 (2.0)	618 (61.8)	629 (33.8)
Video screening	0 (0)	0 (0)	3 (0.3)	3 (0.16)
Dangles	2 (0.6)	0 (0)	921 (92.1)	923 (49.6)
Promotional gifts/offers	0 (0)	0 (0)	8 (0.8)	8 (0.43)
Product showcasings	171 (47.6)	0 (0)	780 (78.0)	951 (51.1)
Others	0 (0)	1 (0.2)	11 (1.1)	12 (0.64)

Table 2. Non Compliance of Advertisement Boards at Point of sale in three Jurisdictions of India, 2013

Number of point of sale violating the provision of Section 5 for display of advertisement boards	Jurisdiction wise number and percentage of point of sale displaying advertisement boards			
	District Mohali n=64	District Vadodara n=265	Chennai city n=175	Total n=504
Size of boards exceeded 60x45 cm	61 (95.3)	265 (100)	148 (84.6)	474 (94.0)
Boards were illuminated or back lit	39 (60.9)	72 (27.2)	74 (42.3)	185 (36.7)
Boards displayed brand name/packshot	64 (100)	265 (100)	163 (93.1)	492 (97.6)
Board displayed promotional message	20 (31.3)	265 (100)	126 (72.0)	411 (81.5)
Advertisements extended to full body	63 (98.4)	265 (100)	92 (52.6)	420 (83.3)

Table 3. Non-compliance Related to Health Warnings on the Advertisement boards in India, 2013

Number of point of sale violating the provision of Section 5 for display of advertisement boards	Jurisdiction wise number and percentage of point of sale displaying advertisement boards			
	District Mohali n=64	District Vadodara n=265	Chennai city n=175	Total N=50
Boards did not display health warning	2 (3.1)	46 (17.4)	34 (19.4)	83 (16.3)
Health warning not written in white background with	60 (96.8)	214 (97.7)	127 (90.7)	401 (95.2)
Size of health warning was less than 20 x 15 cm	62 (100)	219 (100)	135 (96.4)	416 (98.8)
Health warning was not written on uppermost portion of a board	1 (1.6)	214 (97.7)	5 (3.6)	220 (52.3)
Health warning was not written in applicable language	1 (1.6)	0 (0)	8 (5.7)	9 (2.1)

time when point of sale violations may be more visible or flagrant (as in festivals or new product launch).

This study overcomes some of these deficiencies in its inherent. Except for short-term promotions, POS are displayed for a longer period of time, and therefore it may overcome the challenge of appropriate timing. The size of samples for rural and urban vendors is significantly robust and therefore it presents a fair representation of rural versus urban violations.

Discussion

This is one of the first studies in India and perhaps from developing countries which has systematically assessed compliance to advertisement at POS in three large jurisdictions. The study results showed lack of compliance to all provisions of Section 5 of COTPA at POS. Global Adult Tobacco Survey India:2009-10 GATS) revealed that nearly 11% of adults observed cigarette advertisements at the POS during the last 30 days, with similar pattern for the advertisement of bidi and smokeless tobacco products (MOHFW,2010). These figures are in congruence with the overall non-compliance to Section 5 at POS in these study sites.

This being a cross-sectional study, may not determine with certainty that advertising has declined without having a record of the POS advertising rate prior to the ban. Point of sale advertising was not common before the national legislation. However with the India's national tobacco control legislation banning TAPS except at the POS, there has been a mushrooming of POS advertisements (Chaudhary et al., 2007).

Tobacco industry adopts such tactics globally; tobacco products and advertisements are often placed near candies and children's items at the front of the store and on counter tops, encouraging children to see them as harmless everyday items (Feighery et al., 2001; Quedley et al., 2008; Barnoya et al., 2010). Tobacco products often occupy large and prominent display space in stores and are strategically designed to encourage impulse purchasing and promote certain brands while making health warnings less visible (Quit Victoria, 2008). To further increase sales, tobacco companies have spent considerable sums of money on price discounts (NCI Monograph, 2008). Price discounts are advertised prominently near display cases and are another means of luring consumers into impulse purchases. With 1.2 million stores (Price Waterhouse Coopers, 2000), India has a widespread network of tobacco sellers across the nation. To regulate the business of tobacco selling and ensuring that tobacco vendors comply with the provisions of COTPA, there must be a mechanism for compulsory registration and licensing as done by excise department in regulating liquor in India (Excise Department, 2013).

Tobacco companies continuously violate advertising restrictions and aggressively use retail outlets to promote their products through several strategies to bypass the legislative restrictions (Feighery et al., 2001; Bansal et al., 2005; Chaudhry et al., 2007; Elf et al., 2013; Salloum et al., 2013; Mallikarjun et al., 2014).

In the present study, tobacco products were advertised through attractive showcasings, danglers and stickers which are not permitted under the law. Most stickers quote the unit cost of the cigarette and attract the youth to initiate smoking. More than one fourth of POS had displayed advertisement boards. Majority of these boards were oversized, bearing brand name, displaying packshot and promotional messages violating the provision of the law. Many advertisement boards were backlit and the lights were left open even if the shops are closed, thus providing 24 hour advertising. In several cases, whole booth carried the advertisement of a particular tobacco brand. Tobacco company resorted to "board within board" concept and created hoarding sized display board by extending the board size, by joining two boards which share brand name or brand shot, placing two boards on adjacent shops or by placing a single large board over two shops. This makes the size permitted by law meaningless and defies the purpose of putting health warning on the board. The tobacco industry provides retailers with attractive, modern storefront signs advertising cigarette products that they could otherwise not afford (Kaufman et al.,2001), besides this tobacco industry uses contracts and monetary incentives with retailers to ensure prime placement of their products and advertisements (Pynter et al.,2009; Quinn et al.,2011).

Although India has been a frontrunner in tobacco control, it faced a legal challenge from the tobacco industry and vendors. Hon'ble Supreme Court of India has also taken an affirmative step forward in this regard by vacating the stay on rules related to POS advertising (RCTFI, 2013), which was imposed by the Bombay High Court in 2006 thereby showing the commitment of the judiciary towards an effective tobacco control. This has paved the way for stricter enforcement of the rules. Under India's National Tobacco Control Programme (NTCP), monitoring committees especially for Section 5 of COTPA at state and district levels, as well as a national level steering committee, have been mandated, to take cognizance of TAPS violations (MOHFW, 2012).

Tobacco advertisements also make quitting very difficult (Slater et al., 2007). Banning POS advertising can reduce adolescents' exposure to cigarette brands by as much as 83% (Henriksen et al., 2004). The tobacco industry use innovative tactics to circumvent the law especially so when there is partial ban backed by limited enforcement (Wakefeld et al., 2000). Considering the poor compliance to the rules that restrict and regulate POS violations, the effect of POS promotion on youths needs to be mitigated through strict enforcement, and counselling where possible (Jayakrishnan et al., 2013).

In conclusion, tobacco industry is violating the provisions of Section 5 of Indian tobacco control legislation (Cigarettes and Other Tobacco Products Prohibition Act 2003). Point of sale advertising has become a strategic location for tobacco companies to advertise their brands. Considering the impact of POS advertisement and promotion on increased smoking/tobacco initiation and use, there is an urgent need of effective implementation of comprehensive ban on advertisements at point of sale.

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