BEST PRACTICES IN IMPLEMENTATION OF ARTICLE 11 OF THE WHO FCTC CASE STUDY: MAURITIUS

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Introduction

Mauritius has been a leader in Africa in terms of requirements for tobacco packaging and labelling. As a country with a population of 1.3 million, Mauritius has demonstrated how a relatively small nation can be successful in adopting advanced tobacco control legislation on packaging and labelling. The Mauritius experience – as described by Vinoda Pitchamootoo Vythelingam of the Mauritius Ministry of Health and Quality of Life[1] – can be an example for many other Parties. This is important because well-designed package warnings are an effective means to increase awareness of the health effects of tobacco use, and to reduce tobacco use.[2]

The Mauritius tobacco labelling requirements are one component of the country's overall tobacco control strategy. Mauritius also has an extensive ban on tobacco advertising, promotion and sponsorship; a ban on smoking in indoor public places such as restaurants and bars, and restrictions on smoking in indoor workplaces; a ban on smoking in vehicles with any passengers; a ban tobacco sales to minors; tobacco taxation; educational campaigns; and other measures.

Figure 1. Ministerial announcement

Mauritius Minister of Health and Quality of Life, Dr Rajesh Jeetah (centre right), 12 February 2009, announcing the new picture warnings. Photo courtesy of Véronique le Clézio.
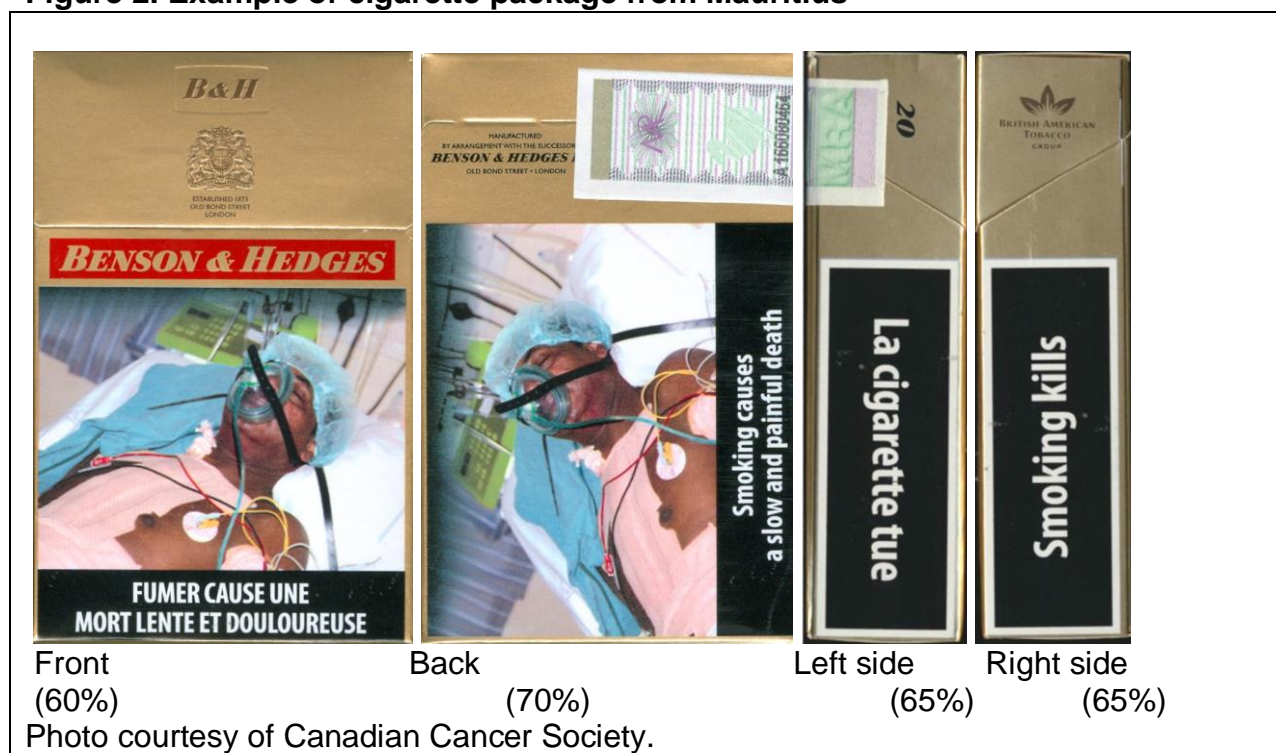
Summary of warning requirements

Since 2009 Mauritius has required a series of eight picture-based bilingual health warnings to cover 60% of the front (with French text) and 70% of the back (with English

text). On 65% of each of the left and right sides of cigarette packages, the text message "Smoking kills" appears in French on one side and English on the other. Figure 2 illustrates cigarette labelling requirements. For tobacco products other than cigarettes, warning requirements in Mauritius either do not exist or are not WHO FCTC-compliant.

The Mauritius tobacco labelling requirements are outlined in the *Public Health (Restrictions on Tobacco Products) Regulations 2008* ("Regulations"), which were adopted 28 November 2008 and entered into force on 1 June 2009. The actual images to be used in cigarette warnings are stipulated separately by the Minister of Health and Quality of Life. The current requirements replace Circular 1999 of the Public Health Act, which had required a text-only warning for cigarettes (but not other tobacco products), with no specific requirements for size, location or colour. Under the old regulations, the warning appeared in a small font, in package colours, and on the side of the package.

Figure 2. Example of cigarette package from Mauritius

Front (60%)   Back (70%)   Left side (65%)   Right side (65%)
Photo courtesy of Canadian Cancer Society.

Size

As noted in the summary, Mauritius requires cigarette warnings to appear on 60% of the package front, and 70% of the back. At the time that the Regulations were adopted and implemented, Mauritius had the largest cigarette package health warnings in the world at 65% (on average) of the package front and back. Mauritius also had the largest warnings on the front of the package, at 60%. It was only later, in November 2009, that

Uruguay would surpass Mauritius in terms of size, at 80% of the package front and back.

As of May 2013, Mauritius continues to have the largest warning size in Africa, and is ranked seventh in the world for warning size among countries that have finalized warning requirements:[3]

85% Thailand (85% of front, 85% of back)
82.5% Australia (75%, 90%)
80% Uruguay (80%, 80%)
80% Sri Lanka (80%, 80%)
75% Brunei (75%, 75%)
75% Canada (75%, 75%)
65% Mauritius (60%, 70%)
65% Mexico (30%, 100%)

The Regulations in Mauritius had initially required the size to be 40% of the front and 90% of the back. Prior to implementation, on 27 May 2009, the sizes were modified through a regulatory amendment to 60% of the front and 70% of the back.[4]

In Africa, a 50% size for the package front and back has been implemented in Cameroon (text-only), Ghana (text-only), Madagascar (pictures) and Seychelles (pictures). This 50% size is the largest in Africa after Mauritius.

Use of pictures

In 2009, Mauritius became the first African country to require picture warnings, and has since been followed by Madagascar (2012) and Seychelles (2013). The full set of eight picture warnings in Mauritius, which covers a range of health effects, is illustrated in Figure 3. The text in English of the eight cigarette warnings is:

Cigarette is a highly addictive drug
Tobacco smoke harms the health of children
Smoking causes heart diseases
Smoking causes strokes
Smoking causes lung cancer
Smoking causes oral mouth cancer
Tobacco use makes you impotent
Smoking causes a slow and painful death

Local people are depicted in the warnings[5] for cultural sensitivity reasons. This was a key consideration when the warnings were designed.

Figure 3. Set of eight cigarette picture warnings in Mauritius

Note: The top row illustrates four packages with the warning appearing on 60% of the package front. The bottom row illustrates four packages with the warning appearing on 70% of the package back.
Photo courtesy of Canadian Cancer Society.

Language

The warnings appear in English and in French, the two national languages in Mauritius.

Location on packages

Though the Regulations require health warnings to appear on the package front and back, the Regulations allow the warnings to be placed anywhere on these surfaces. In practice, manufacturers have placed the warnings at the bottom of these surfaces. The

Guidelines for implementation of Article 11 of the WHO FCTC recommend that warnings be located at the top of the package front and back as this increases visibility.[6]

The Mauritius warnings appear horizontally on the back of the package (see Figure 3). An evaluation should be done to assess whether this rather unique approach should continue.

Tobacco products other than cigarettes

For cigars and pipe tobacco, the following single text warning is required to appear in English and in French: "Smoking causes cancer, heart disease, bronchitis and early death". The warning is to appear in black text on a white background using Helvetica font style and in a font size of at least 10 point. The warning may be located anywhere on the package, such as the side. In practice, the warning size would be very small.

The warning requirements for cigar and pipe tobacco do not comply with WHO FCTC requirements. The warning does not cover at least 30% of the principal display surfaces. Moreover, there is only a single warning, with no rotation of any kind.

Mauritius has no warning requirements at all for tobacco products other than cigarettes, cigars and pipe tobacco. For example, health warnings are not required on packages of bidis, chewing tobacco, snuff, water pipe tobacco and roll-your-own tobacco. In Mauritius, however, cigarette papers are banned,[7] meaning that roll-your-own tobacco is not an issue in the country. Water pipe tobacco is also banned.[8] The volume of chewing tobacco and snuff is small.

Emissions statement

Consistent with the Article 11 Guidelines, Mauritius does not require tar and nicotine yield numbers on packages. Indeed, Mauritius has no requirement at all for a message on the package regarding cigarette emissions, in addition to the picture warnings on the package front/back.

Mauritius does require the message "Smoking kills" to appear on 65% of the side of cigarette packages in English, and on 65% of the other side in French ("La cigarette tue"). Only a small number of other Parties have so far required messages on both left and right side panels, instead of just one.

Misleading packaging

The Regulations prohibit tobacco product packaging from displaying any "term or other sign that directly or indirectly creates an impression that a particular tobacco product is less harmful than others". The wording of this prohibition could be enhanced through use of wording in Article 11.1(a) of the WHO FCTC.

The Regulations specifically prohibit "wording such as 'mild', 'low tar', 'light'".

The Regulations prohibit tobacco companies from displaying tar, nicotine and carbon monoxide numbers on packages. Though such a provision is recommended by the Article 11 Guidelines given the misleading nature of such numbers, relatively few Parties to date have implemented such a provision.

Cartons

The cigarette health warning requirements also apply to cigarette cartons. Thus a picture warning appears on 60% of the front principal display area in French, and 70% of the back principal display area in English. The text message "Smoking kills" appears on 65% of two other carton sides, once in French, and once in English. Figure 4 illustrates a cigarette carton.

Figure 4. Cigarette carton

Photo courtesy of Canadian Cancer Society

Compliance

Mauritius has achieved a high level of compliance with its warning requirements for cigarettes. Regarding the small text warning required for cigars and pipe tobacco, detailed compliance information is not readily available.

Initially in 2009, there was non-compliance for cigarettes sold in duty-free stores, whether the duty-free stores were located at the international airport or elsewhere in the country. Tobacco manufacturers and store operators argued that duty-free stores fell outside national legislation. However, the Mauritius Government confirmed that the legislation did indeed apply to duty-free stores, and subsequently cigarette packages supplied to duty-free stores would have the same picture warnings as depicted on packages in regular stores.

Implementation date – stockpiling

The Regulations contained an exemption for any packages of cigarettes or cigars imported or manufactured prior to the Regulations coming into force on 1 June 2009. The Regulations did not contain an implementation deadline at the retail level. This meant that manufacturers, importers and retailers could stockpile inventory without the

new requirements. The result was that it was not until 17 October 2009 before the first packages with the new warnings were found on the market.

New series of warnings

It has been four years since picture warnings were first required to appear in Mauritius. Research by the ITC Project found that the Mauritius warnings were starting to "wear out".[9] This emphasizes the need for a new set of picture warnings, which the Mauritius Government has been actively developing.

Plain packaging

The Mauritius Government has indicated that it is considering implementation of plain packaging as a future measure.

International cooperation

The Mauritius Government owns the copyright for seven picture warnings that have been developed, and is willing to grant other governments permission to use these images on a royalty-free basis.[10] The warning depicting mouth cancer was obtained from another source.

Mauritius has provided its warning images for inclusion in the database maintained by the WHO FCTC Convention Secretariat.[11] The Mauritius picture warnings would be available for use by Parties in Africa and elsewhere. Seychelles is already using (with permission) four of the Mauritius picture warnings.

Recommendations for improvement

While Mauritius has very strong packaging and labelling regulations, improvements are possible, including the following:

1. Require warnings for all tobacco products, not just cigarettes, in a way that is consistent with the WHO FCTC and with best practice in terms of size, use of pictures, content and rotation. The WHO FCTC requires that packages of all tobacco products depict warnings and sets out minimum requirements.

2. Have not just one set of picture warnings, but two or three sets that would change after a fixed period of time, such as every 12 months. At present, in Mauritius the warnings have been unchanged between 2009 and 2013, with a new set of picture warnings not yet finalized.

3. Locate the warning at the top (not the bottom) of the package front and back.

4. Establish a warning size that is as large as is achievable within the context of the country. Many Parties will initially require a warning size of 50% for picture warnings.

Mauritius certainly could increase the size to at least 75% or 80% of the package front and back, as several other Parties have done.

5. Add additional message content as part of the overall warning system, such as additional health effects, advice on cessation, and annual personal financial cost of smoking. It must be noted that an initial set of warnings can have the content enhanced over time.

6. Have a rotated series of qualitative toxic emission messages (without yield numbers) that would appear on both the left and right side panels. Mauritius currently has one only message ("Smoking kills") that appears on the side panel, while several other Parties have required multiple side panel messages to appear concurrently. In terms of colour, consideration could be given to requiring black text to appear on a yellow background, as Australia has done.

7. Prohibit all misleading packaging with legislative language based on Article 11.1(a) of the WHO FCTC itself, that is to prohibit any packaging and labelling that is "false, misleading, deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions, including any term, descriptor, trademark, figurative or any other sign that directly or indirectly creates the false impression that a particular tobacco product is less harmful than other tobacco products".

8. Ensure that there is an implementation deadline at the retail level.

9. Implement innovate measures, such as requiring a warning on every cigarette, and requiring a warning on equipment for water-pipe smoking.

10. Require plain packaging, in due course. For most Parties in an early phase of package labelling, it is best to focus on package warnings and labelling measures other than plain packaging.

References to guidelines and legislation

Guidelines for implementation of Article 11 of the WHO Framework Convention on Tobacco Control (Packaging and labelling of tobacco products)
http://www.who.int/fctc/guidelines/article_11.pdf

Public Health Act of 1925 (as amended)
http://www.tobaccocontrollaws.org/files/live/Mauritius/Mauritius%20-%20PH%20Act%201925%20-%20national.pdf

Public Health (Restrictions on Tobacco Products) Regulations 1999, Government Notice No. 62 of 1999.

Public Health (Restrictions on Tobacco Products) Regulations 2008, Government Notice No. 263 of 2008

http://www.tobaccocontrollaws.org/files/live/Mauritius/Mauritius%20-%20PH%20Regs%202008%20-%20national.pdf

Public Health (Restrictions on Tobacco Products) (Amendment) Regulations 2009, Government Notice No. 50 of 2009
http://www.tobaccocontrollaws.org/files/live/Mauritius/Mauritius%20-%20PH%20Amendment%20%231%202009%20-%20national.pdf

Public Health (Restrictions on Tobacco Products) (Amendment No. 2) Regulations 2009
http://www.tobaccocontrollaws.org/files/live/Mauritius/Mauritius%20-%20PH%20Amendment%20%232%202009%20-%20national.pdf

Endnotes

[1] Vinoda Pitchamootoo Vythelingam, "Pictorial Health Warnings in Mauritius" Presentation at the African Regional Meeting on Implementation of the WHO Framework Convention on Tobacco Control, Dakar, Senegal, 9-12 October 2012.

[2] Article 11 Guidelines, paragraph 3, http://www.who.int/fctc/guidelines/article_11.pdf

[3] Larger warnings in Sri Lanka and in Thailand are not due to appear on packages until later in 2013.

[4] *Public Health (Restrictions on Tobacco Products) (Amendment) Regulations 2009*, Government Notice No. 50 of 2009, http://www.tobaccocontrollaws.org/files/live/Mauritius/Mauritius%20-%20PH%20Amendment%20%231%202009%20-%20national.pdf

[5] All of the individuals depicted in the Mauritius warnings are from Mauritius, except for the mouth cancer warning.

[6] Article 11 Guidelines, paragraph 8, http://www.who.int/fctc/guidelines/article_11.pdf

[7] *Consumer Protection (Control of Imports) Regulations 1999*, Government Notice 135 of 1999, Second Schedule, section 13, as amended, http://mra.gov.mu/download/ConsumerProtectionRegulationsGn5of2012.pdf

[8] *Public Health (Restrictions on Tobacco Products) Regulations 2008,* section 6(d), http://www.tobaccocontrollaws.org/files/live/Mauritius/Mauritius%20-%20PH%20Regs%202008%20-%20national.pdf

[9] International Tobacco Control Policy Evaluation Project, "Evaluation of Tobacco Control in Mauritius Shows Need for New Pack Warnings and Stronger Commitment to Smoking Bans" May 31, 2012, http://www.itcproject.org/blogs/mediacover/evaluation-of-tobacco-control-in-mauritius-shows-n
International Tobacco Control Policy Evaluation Project, "ITC Mauritius National Report – Results of the Wave 3 Survey" May 2012, http://www.itcproject.org/documents/keyfindings/itc-mauritius-nr_w3may-25v25webpdf

[10] Mauritius, Second Implementation Report to FCTC Conference of the Parties,, questions 3.2.5.10 and 3.2.5.11, http://www.who.int/fctc/reporting/Mauritius_5y_report_final.pdf

[11] WHO FCTC Health Warnings Database, http://www.who.int/tobacco/healthwarningsdatabase/en/index.html