

The Regulation of Media and Marketing Communication of Tobacco and Alcohol Products

Definitions

1. “Media” refer to any channels or tools employed to communicate the message about tobacco and alcohol products with consumers. The channels refer to mass media, community media, personal media, media events or activities, outdoor media, point of purchase, ad hoc media, and online media (digital media/ social network/ mobile media). The tools refer to advertising, public relations, sale personnel, sale promotion, sport or musical activities, Corporate Social Responsibility (CSR) activities, or any direct marketing strategies. These channels and tools are regulated, self-regulated, or co-regulated by many bodies including governmental agencies regulating the media according to media law; professional media organizations; professional public relations organizations; professional advertising organization; professional marketing organizations, and etc. Also, media content producers, distributors, and content providers are a crucial part of these bodies of self- and co-regulations.

2. “Communication” refers to any activities of exchanging information about tobacco and alcohols products. Such activities are systemically planned both in terms of contents and strategies, and conveyed through different channels and tools employed by tobacco and alcohol companies in an attempt to reach their target audience, especially children and young people in order to create the sense of awareness and recognition of their brands. This would change the attitude of their target audience, persuade the consumers to buy their products, and also strengthen their brand and corporate loyalty among the target group.

Situation

3. Many empirical studies show that media and technologies have penetrated and dominated the life styles of many young people in Thailand in many ways. This tendency is likely to increase annually. At

this rate, the media and technologies come to play a crucial role in cultivating a certain set of consumerist beliefs and behaviors among the people in our society. This is especially motivated by advertising, and marketing communication which are an important tool to influence, or even control the way people consume products/ services [1].

4. Advertising and marketing communication are important strategies which help extend the market and segmentation of tobacco and alcohol products. These are conducted especially by motivating the sense of curiosity of consumers, swaying their decisions to purchase and consume the products. Besides, such communication channels can change the attitude of the consumers into believing that smoking and drinking are normally accepted as a norm by the society. Numerous studies, furthermore, theoretically suggest that advertising and marketing communication increase the chance of exposure to smoking and drinking among children and young people, who are aimed to be their prospective smokers or drinkers, and also expand the number of youths who have already smoked or drunk alcohol. The longer these young people are exposed to and influenced by advertising and marketing communication of tobacco and alcohol products, the more likely they will consume the products.

5. Academic reports reveal that Thai children are the important target group of tobacco and alcohol products. The tobacco industry needs new smokers as a replacement of those who quit smoking, and those who already passed away [2]. In similar vein, the teenagers are the main target group of alcohol beverages industry since they tend to consume alcohol products more, and longer than other groups, contributing to their long-term business benefits [3]. As the number of drinkers and smokers in developed countries has decreased, tobacco and alcohol industries, therefore, have shifted their focus to target the consumers in the developing nations instead.

6. According to Center of Alcohol Studies (CAS), since the Alcohol Beverage Control Act B.E. 2551 (2008) has been enforced, the average advertising budget of alcohol products in every section of media outlets has decreased, approximately from 2,187 million baht/ year to 1,600 million baht/ year. However, it is revealed that the media spending of alcohol products has significantly increased on digital media [4]. In 2012, alcohol beverages industry spent 145 million baht of their media spending budget for digital media alone. It is also expected that number of media

spending of alcohol beverages industry on digital media will continue to grow [5].

7. Tobacco industry, on the other hand, annually raises their budget spending on indirect advertising and sale promotions. From 2009-2012, the budget rose approximately from 155 to 426 million baht [6]. Such a considerable amount of media spending of tobacco and alcohol industries not only affects health and well-being of the people in our society, whether it be direct or indirect manners, but, according to WHO [7], continuously contributes to an extension of tobacco and alcohol's epidemic.

8. The use of online media of tobacco and alcohol industries targeted at young audience is an important phenomenon worth mentioning here. The study reveals that there are a number of websites selling different brands of cigarette online, paving the way for suppliers to advertise and sell their products to the consumers more conveniently [8]. Similarly, alcohol beverages industry also boosts up the use of online media in order to interact directly with targeted consumers, regardless of limitation of time and place [9].

9. It is also found that, recently, tobacco and alcohol industries have intentionally made their names appear in the mass media, print media, and online media through different kinds of activity or campaign raisings such as charitable donations, and music, sport or festival sponsorships. These activities are always claimed to be a part of corporate social responsibility or CSR. In fact, most often, they are just a ploy of sponsorship strategies used by tobacco and alcohol companies in order to get their names, or images repeatedly heard, or seen by their audience, enhancing the public awareness of their brands.

10. Tobacco and alcohol industries purposively use mass media, especially newspapers, as their major platform to express their views, demanding, protesting, objecting, or curbing any complaints or policy proposals by NGOs which are deemed against their interests. For example, alcohol companies might purchase newspaper contents, whether it is news, editorials, or advertorials, to request that Thai government amend excise taxes on alcohol products [10]. In the same vein, tobacco companies may buy and direct newspapers to cover only the positive sides of tobacco farming or organize press tours to visit their tobacco

farms in an attempt to legitimize the demonstration of tobacco farmers against the new Tobacco Consumption Control Act.

11. Studies on self-regulation of media on advertising of alcohol products in Australia and Brazil show that such self-regulation is ineffective. There are always evidences of violations of such media regulation, and there is no punishment or social sanction committed [11]. The situation is the same here in Thailand since the professional media organizations could not pressure the media under their supervision to enforce such self-regulation effectively. There are a number of ethics violations of media practitioners across different types of media outlet, despite the attempt to develop and uphold to their ethical standards. The media ethics, codes, or standards here are also not clearly defined. As a certain type of business, the media entrepreneurs or owners have conducted their business with the best interest as their top priority, according to capitalist model. Many choose to represent a distorted version of facts in order to compromise their interests. Systems of patronage and cronyism of media [12], intricately connected with business interests, lead to the failure of Thai media to regulate each other. Although self-regulation system of media may not work effectively, it is necessary to lay a strong foundation for co-regulation of media instead. This includes the strong will and determination of media not to depend their revenue on businesses whose products/services might affect health and well-being of the public. The President of Amarin Printing and Publishing Ltd., for example, decides not to advertise any alcohol products in their media [13]. Such policy, therefore, should be supported and followed more by other media entrepreneurs.

12. A number of studies show that there are attempts by NGOs, civil society groups, and academic sector joining forces to monitor and publicize reports and information to the public, raising people's awareness and literacy in advertising and marketing communication of tobacco and alcohol products in accordance with related laws, regulations, and media policies. To raise such awareness and literacy, however, is not an easy task since tobacco and alcohol products have persistently employed advertising and marketing communication strategies in each and every channels or opportunities when and where possible.

13. Threats and dangers to public health and well-being caused by tobacco and alcohol products are referred to as "industrial epidemic" [14]. This particular epidemic is not spread out by nature, but a

consequence/byproduct of advertising and marketing communication through various types of mass media aimed at young consumers. The regulation of media practitioners, media professionals, and media entrepreneurs is intended to protect the rights of the consumers, especially from the products/services which might harm, or pose any threats and dangers to individuals and the public as a whole.

Related Policies, Laws, and Regulations

14. The Alcohol Beverage Control Act B.E. 2551 (2008) is the main legal mechanism of Thailand which puts an emphasis on limitation of access to alcohol products, management of the behavioral context of drinking, and regulation of alcohol advertising [15]. The important legal mechanism to curb advertising and marketing communication is Chapter 4 “Alcoholic Beverage Control.” In this chapter, Section 30 applies to the control of sale promotions, for example: the prohibition of providing discount as sale promotion; the prohibition of dispersing, providing, giving or exchanging with alcoholic beverage or any goods or services, as the case may be; or distributing alcoholic beverage in form of sample or in order to promote alcoholic beverage consumption of the public including the determination of sale condition as compulsory buying, whether direct or indirect manner, of alcoholic beverage. Section 32 applies to the control of alcohol advertising, and also the display of brand names and logos of alcohol products in order to claim any benefits or persuade consumers to consume the products in direct or indirect manners. This legal measure, however, faces challenges by the new avoiding tactics and strategies employed by domestic and global alcohol beverage entrepreneurs.

15. At international levels, controls of alcohol products rely on regulations of advertising and marketing communication by government sector. These regulations cover: different types of marketing communication; different types of alcohol products; channels of advertising; air time of advertising; or formats and contents of advertising of alcohol products [16]. There are also media regulations regulating professional media organizations. There is, for instance, a law regulating radio and television broadcasting in Bulgaria which prohibits any direct and indirect advertising of alcohol beverages [17]. Only co-regulation of professional media organizations is found in England. One of the code of conducts there, for example, is the prohibition of the use of popular music among children under 18 years of age in alcohol advertising [18].

16. The Tobacco Products Control Act, B.E. 2535 (1992) is the primary law of Thailand which governs, limits, and bans all forms of advertising and sale promotions of tobacco products round the clock. Section 6-7 apply to the control of selling goods or render services with the distribution, addition, gift of tobacco products or exchange with the tobacco products. Section 8-9 apply to the control of any direct or indirect advertising and marketing communication by exposing the name or trademark of the tobacco products, or using the name or trademark of the tobacco products as a trademark of other goods. The problems, however, occur when the responsible agents and authorities lack of understanding and literacy in the complicated nature of advertising and marketing communication, leading to the imperfection of law enforcement. The challenges by the rapid change of advertising and marketing communication strategies also play a crucial role for such imperfection.

17. Thailand has signed and ratified the WHO Framework Convention on Tobacco Control (FCTC) which has been active since 2003 [19]. This convention is an important mechanism in opposition of intervention from multinational tobacco corporations, contributing to an effective management of marketing communication of tobacco industry. According to Convention No. 13, advertising, sales promotions of, and sponsorship from tobacco products are comprehensively banned. This also includes transnational tobacco advertising [20]. Convention No. 5.3 on the prevention of policy intervention by tobacco companies that any activities claimed to be Corporate Social Responsibility (CSR) by tobacco companies could lead to negative effect on tobacco regulations. This convention, therefore, requests the governments of all ratified nations to publicize and remind every sectors of society to be aware of hidden intentions of CSR activities driven and organized by tobacco companies. The government agents or government agencies are not allowed to take part in any CSR activities of tobacco companies. Tobacco companies, on the other hand, are not allowed to publicize their CSR campaigns.

Important Issues

18. Studies on adjustments of advertising and marketing communication strategies of tobacco and alcohol products through: indirect advertising, including graphics of products/ brand names / logos/ corporate names; sponsorships on events and activities, especially music, sport and health

events aimed to target and reach for younger audiences; the use of online media, and also personal media such as models, waitresses, salesgirls and etc. [21], reveal that any activities claimed to be Corporate Social Responsibility (CSR) are only marketing strategies employed to extensively publicize their trademarks and images rather than to truly serve the interests of public.

19. Since the Alcohol Control Act B.E. 2551 (2008) has been enacted, the Office of the Alcohol Beverage Control Committee, a government agency which is responsible for enforcing the law, has filed lawsuits and legal actions against a large number of alcohol beverage companies, operators and retail stores that violate the essence of Section 32 in many forms, for example, by using outdoor LED displays or vinyl banners with motivational graphics or messages advertising to the passers-by to drink. The alcohol beverage industry, however, filed constitutional complaints back with the Constitutional Court, claiming that the control of alcohol advertising under the Alcohol Control Act B.E. 2551 (2008) was a limitation of their rights and freedom to perform their business and earn their livings [22]. The legal procedures of both sides have been protracted. And as long as the sentence has not yet been finalized, the alcohol beverage companies and entrepreneurs still have their rights to continue advertising their products.

20. Regulatory mechanisms on advertising and marketing communication, drafted by involved professional media organizations, only cover on general topics, despite a strong emphasis on instilling the sense of media ethics and responsibilities on advertising and sale promotions of products/services which might affect health and well-being of the public stated in Article 71 (8) of the Statute on the National Health System B.E. 2552 (2009). Also, there is no regulatory measure specifically regulating the representation of tobacco and alcohol products in the media. A draft notification regulating program contents in radio and television proposed by National Broadcasting and Telecommunications Commission (NBTC) under the power of Section 37 of the Radio and Television Operation Act B.E. 2552 (2009) has loosely defined the characteristics of prohibited contents, but instead focused more on national security or of public order, or obscene contents which might seriously affect public morals or health [23]. In similar vein, the Computer Crime Act B.E. 2550 (2007) mainly regulating the use of internet also has defined the account of dissemination of prohibited information very loosely. For example: fake information; false information; information which is a threat to national

security; or obscene information [24]. The Advertising Association of Thailand, on the other hand, has a code of conduct on Unbrand advertising, an advertising strategy which might be intended to make the people misunderstood the essence of the products/services, in order to violate or avoid the laws, regulations, or ethics. This code of conduct, however, is limited to cover only the advertising of food products [25].

Guidelines on Problem Solving

21. Developing code of ethics and code of conducts as an important tool for self-regulation among media practitioners on advertising and communication of tobacco and alcohol products, along with co-regulation by government agency and professional media organizations, in order to regulate the media more effectively, provide grounds for the media to perform and function more creatively, and, ultimately, protect the rights of the consumers. These regulations, therefore, must be delineated in accordance with media laws, fill the gap in the laws on tobacco and alcohol products, and determine punishment and social sanction for the violation of laws, or codes of conduct.

22. Enhancing constructive potential of the consumers by strengthening the sense of media literacy and monitoring skills in advertising, marketing communication strategies and the use of brand names and corporate names of tobacco and alcohol products.

23. Supporting surveillance or monitoring systems on advertising, and marketing communication of tobacco and alcohol products under the cooperation of professional media organizations, academic sector, civil society sector and NGOs, especially in the procedure of filing complaints or lawsuits in order to have legal action taken.

Issues for Consideration by the National Health Assembly

Requesting the National Health Assembly to consider documents for Health Assembly 6/Draft Resolution 5 on the Regulation of Media and Marketing Communication of Tobacco and Alcohol Products.

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