

6th April 2006

Pengarah Kawalan Penyakit
Bahagian Kawalan Kesihatan Awam
Kementerian Kesihatan Malaysia
Aras 6, Blok E 10, Parcel E Precint 1
Komplek Pejabat-Pejabat Kerajaan
62518 Putrajaya

Dear Sir,

ISSUES AND IMPROVEMENTS TO THE TOBACCO CONTROL ACT 2006 BY MEMBER ORGANISATIONS OF THE MALAYSIAN COUNCIL FOR TOBACCO CONTROL, THE CLEARINGHOUSE FOR TOBACCO AND RESEARCH NETWORK.

Tobacco control was the initiative by MOH since 2002. The control of Tobacco Products Regulations 2004 under the Food Act 1983 showed up several weaknesses that make enforcement difficult if not impossible. Besides the Tobacco Industry had also utilized these weaknesses to circumvent the provisions in the regulations thus undermining the Government's efforts in addressing the smoking epidemic at the expense of public health.

Recognizing the importance of the FCTC preamble alerting “to any efforts by the tobacco industry to undermine or subvert tobacco control efforts” it is crucial to exclude the tobacco industry from tobacco control initiatives. Based on past experiences relating to the postponement of several provisions of the current regulations, it is inconceivable to think that such actions could have been possible without undue pressure applied politically by the tobacco industry. A major weakness of current legislation must be the provision whereby only one person in a political position of power could make a decision leading to the detrimental effect on the health of the population at large.

In order for the legislation on tobacco control to be meaningful, the purpose of the law must be effective to discourage smoking and reduce consumption. Penalties for non-compliance and circumvention of the law by the tobacco industry must be very severe (fines **AND** jail sentence) as we are dealing with an industry which makes very substantive profit and the “wrong-doing” are actually beneficial to them. Penalties to smokers could include a small fine, community service and undergoing a mandatory smoking cessation programme.

The function of the law is to reduce the smoking epidemic and not to protect the profits of the tobacco companies nor the interests of the tobacco farmers whose interests can be best served by Government assistance to move them into other income-generating activities that do not cause public hazards. This will be in line with the provision of FCTC notwithstanding that those provisions cover only baseline requirements.

The new legislation on tobacco control should have the obligation to implement FCTC in good faith by the Government. That requires the Government to adopt effective legislative, executive, administrative and/or other measures to implement specific provisions such as to prevent illegal trading.

Attached is Appendix 1 which tabled the issues and proposals that had been submitted by members of MCTC for adoption. MCTC further offers continued support to the Ministry of Health in the role of a strong advocate in tobacco control and complement the efforts of MOH to realize the Government's stated objective to achieve a Healthy Malaysia via the strategy of a Smoke Free Malaysia. We look forward to working with the Ministry of Health and any other Ministries, Civil Societies, and individuals to achieve this vision of ours.

Yours Sincerely,

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Dr Molly Cheah,
Deputy President, MCTC