



*Achieve Perfection by unattached action*

STUDY MATERIAL FOR THE WEBINAR ON

**Sensitization of Judicial Officers on the Effective Implementation of**

**THE CIGARETTES AND OTHER TOBACCO  
PRODUCTS (PROHIBITION OF ADVERTISEMENT AND  
REGULATION OF TRADE AND COMMERCE,  
PRODUCTION, SUPPLY AND DISTRIBUTION) ACT,  
2003**

© By The Rajasthan State Judicial Academy, Jodhpur (Rajasthan)

All rights reserved

No part of this publication may be produced in any form electronic or mechanical or otherwise without the written permission of the publisher. The below publication is intended for private circulation only to further academic understanding and not to be construed as legal advice.

## Contents

INTRODUCTION.....	3
HISTORICAL DEVELOPMENT OF TOBACCO CONTROL LAWS IN INDIA.....	4
CONSTITUTIONAL PROVISIONS RELATED TO HEALTH AND RIGHT TO LIFE.....	5
AIM AND OBJECT OF THE ACT.....	6
INTERNATIONAL FRAMEWORK ON TOBACCO CONTROL .....	6
World Health Organization Framework Convention on Tobacco Control (WHO FCTC).....	6
WHO FCTC Articles and their Implementing Guidelines.....	7
Global Adult Tobacco Survey (GATS) .....	8
MPOWER measures .....	8
GLOBAL EXAMPLES OF BEST PRACTICES FOR TOBACCO CONTROL .....	9
Complete protection from exposure to tobacco smoke (FCTC Article 8).....	9
Contents and Emissions (FCTC Articles 9 and 10).....	9
Packaging and & Labeling (FCTC Article 11) .....	10
Complete Elimination of all Tobacco Advertisement Promotion and Sponsorship (TAPS) (FCTC Article 13).....	10
Plain packaging (FCTC Article 11 and 13) .....	10
Prohibition on single sticks and small packs (FCTC Article 16).....	11
NATIONAL FRAMEWORK ON TOBACCO CONTROL.....	11
National Tobacco Control Programme (NTCP) .....	11
The Cigarettes and Other Tobacco Products Act (COTPA) 2003 .....	12
Notable changes brought in by COTPA 2003 .....	12
What are public places as per Section 4 of COTPA 2003?.....	13
Other Related Legislations.....	13
▪ Prohibition of Smoking in Public Places Rules, 2008 .....	13
▪ Food Safety and Standards Act, 2006.....	13
▪ Ban on electronic cigarettes and heating products- Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage and Advertisement) Act, 2019.....	13
▪ Juvenile Justice (Care and Protection) Act 2015 .....	13
▪ Consumer Protection Act, 2019 .....	13
▪ The Rajasthan Prevention of Juveniles Smoking Act, 1950 .....	13
▪ The Rajasthan Opium Smoking Prohibition Act, 1950 .....	13
ROLE OF JUDICIARY IN ADVANCING TOBACCO CONTROL .....	13
Protection of minors.....	14
Ban on advertising, promotion and sponsorship.....	15
Ban on smokeless tobacco in toothpaste.....	15
Ban on sale of smokeless tobacco in plastic sachets.....	15
Pictorial health warnings.....	15
Regulation of content .....	16
ANTI-TOBACCO CAMPAIGN IN RAJASTHAN.....	16
WAY FORWARD .....	17

*Health is a state of complete physical, mental and social well-being and not merely the absence of any disease and infirmity.*

## World Health Organization

### INTRODUCTION

- Tobacco use is the leading cause of preventable death, and is estimated to kill more than 5 million persons each year worldwide.<sup>1</sup> Effective tobacco control policies are enshrined in the World Health Organization (WHO) Framework Convention on Tobacco Control (FCTC), a legally binding international treaty.
- In addition to disease burden, tobacco use results in severe social, economic and environmental burden. Tobacco and related industries have been employing sustained tactics to attract new generations of tobacco users.
- As a result, tobacco kills over 1.2 million in India, every year. One million deaths are due to smoking, with over 200,000 due to secondhand smoke exposure, and over 35,000 are due to smokeless tobacco use. India's deaths due to smokeless tobacco use are especially concerning, as they account for 64% of the world's smokeless tobacco-attributable deaths. 27% of all cancers in India are attributable to tobacco use.<sup>2</sup>
- The death and disease caused by tobacco has an economic impact as well. Smoking-attributable Health Expenditure in India is estimated at 133.2 billion Rs (13,300 crores), or 3.5% of the Total Health Expenditure. Total Economic Cost of Smoking, taking into account loss of earning capacity, is estimated at 1.82 trillion Rs (182,000 crore), or 1.8% total GDP.
- Smoked forms of tobacco include various kinds of cigarettes, cigars, pipes, bidis, hookahs, and many others. Smokeless tobacco is not burned when used. It may be sucked, chewed, dipped, gargled, or applied to the gums or teeth while fine tobacco mixtures are inhaled into the nostrils.
- *“Whenever penalty is imposed on someone for violating the Act, the first thing we get to hear is that he/she was not aware of the Act. A massive awareness campaign is the need of the hour”*<sup>3</sup>
- There are various laws and legislations for tobacco control in India. The Cigarettes and Other Tobacco Products Act (COTPA) 2003 was enacted in 2004 but is not enforced rigorously.
- Though the Act is intended as a comprehensive law on tobacco control, it was adopted over 15 years ago and was developed before the coming into force of WHO FCTC. With the passage of time and a greater understanding of the full range of measures necessary to combat the tobacco epidemic, lacunas in the Act have become apparent and proved to be a major challenge in its effective implementation. These gaps in the current law are highlighted by the **WHO Report on the Tobacco Epidemic (GTCR) 2019**, which provides the status of countries' implementation of key tobacco control measures on a biannual basis. India has adopted best practices in cessation and health warnings on packs. In all other policy areas, India falls into the moderate category, with no forward progress since the 2008 report.<sup>4</sup>
- COTPA covers all forms of tobacco products and caters to various issues such as protection of the health of non-smokers in public places and minimizing access of tobacco products to children. The violations are mainly pertaining to smoking in public places, advertisements at points of sale, prohibition of sale of cigarettes and other tobacco products within 100 yards of educational institutions and pictorial warnings on cigarette packets
- Important provisions of COTPA, 2003 include:
  - a) Section 4, prohibition of smoking in public places;
  - b) Section 5, prohibition of advertisement of cigarettes and other tobacco products;

<sup>1</sup> Bellew, B et al. “Addressing the tobacco epidemic in the Philippines: progress since ratification of the WHO FCTC.” Public health action vol. 3,2 (2013): 103-8. doi:10.5588/pha.13.0006

<sup>2</sup> <https://www.nls.ac.in/wp-content/uploads/2020/11/Tobacco-Control-Book-Final-proof-to-print.pdf>

<sup>3</sup> <https://www.thehindu.com/news/national/karnataka/penalty-collected-under-cotpa-to-be-used-for-creating-awareness-on-act/article7269419.ece>

<sup>4</sup> <https://www.nls.ac.in/news-events/report-on-tobacco-control-law-in-india-origins-and-proposed-reforms/>

- c) Section 6, prohibition of sale of cigarettes or other tobacco products to anyone below the age of 18 years and in a particular area; and
- d) Section 7, prohibition on trade and commerce in production, supply, and distribution of cigarettes and other tobacco products.<sup>5</sup>

- While promulgation of a law is usually a onetime process, its implementation is a continuous and more difficult process to enforce. According to the **Global Youth Tobacco Survey (GYTS), 2009, 14.6% of students in India, aged 13–15 years, use tobacco**. It has been established through research that persons who smoked their first cigarette at 14–16 years of age were 1.6 times more likely to become dependent than those who initiated smoking at an older age. Therefore, to achieve tobacco control amongst youth, it is essential that there should be strict enforcement of the COTPA Act in the vicinity of educational institutions. The Government of India released the **‘Guidelines for Tobacco-Free Schools/Educational Institutions’ in 2019** and **‘Step-by-Step Guidelines for implementation of Section 6b of the Act and Rules’ in 2017**.
- There is a need for creating greater public awareness about the harmful effects of tobacco so that there is more voluntary compliance with the regulations. Complying with the guidelines on Tobacco-Free Educational Institutions can provide a holistic approach to tobacco control and improve the implementation of COTPA in and around educational institutions. guidelines in the respective states involved in this study and in the country overall.
- Implementation of various provisions under COTPA and effective enforcement of tobacco control law remains a big challenge. To strengthen the implementation of the tobacco control provisions under COTPA and policies of tobacco control mandated under the WHO FCTC, the Government of the India piloted **National Tobacco Control Programme (NTCP) in 2007–2008**.<sup>6</sup>

---

### HISTORICAL DEVELOPMENT OF TOBACCO CONTROL LAWS IN INDIA

- The use of tobacco in one form or the other can be traced back to the 16th century. However, it took nearly 400 years for the world to identify the life-taking diseases like cancer of different forms and various other respiratory and cardiovascular diseases caused by the consumption of tobacco. Medical science now clearly recognizes tobacco use as the single most significant cause of mortality and morbidity across the globe. In order to deal with the enormity of the health hazards caused by tobacco in India, progressively stricter regulation of tobacco products have been introduced, starting with **the Cigarettes (Regulation of Production, Supply and Distribution) Act, 1975 (The Cigarettes Act)**, which included provisions that made it mandatory to display a statutory warning “Cigarette smoking is injurious to health” on all packages of cigarettes and in all advertisements.
- Taking account of the enormity of the tobacco hazard both in India and elsewhere, and the international consensus on the need to act to reduce the death and disease caused by the growing tobacco epidemic, the Government in India felt the need to introduce a more comprehensive anti-tobacco legislation based on the recommendations of the **Parliamentary Committee on Subordinate Legislation, 1995**. Accordingly, **The Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (COPTA)** was enacted to provide for, among other matters, a ban on most forms of tobacco advertisement, smoking in public places, sale to minors and display of mandatory pictorial health warning on tobacco packs.

---

<sup>5</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7552856/>

<sup>6</sup> Government of India. National Tobacco Control Programme; 2007-08. Available from: <http://www.mohfw.nic.in>.

## **The Cigarettes (Regulation of Production, Supply and Distribution) Act, 1975**

- The Statement of Objects and Reasons of the Cigarettes Act 1975, inter alia, states: *“Smoking of cigarettes is a harmful habit and, in course of time, can lead to grave health hazards. Research carried out in various parts of the world have confirmed that there is a relationship between smoking of cigarettes and lung cancer, chronic bronchitis; certain diseases of the heart and arteries; cancer of bladder, prostate, mouth, pharynx and oesophagus; peptic ulcer etc., are also reported to be among the ill-effects of cigarette smoking”*.
- The key provisions of the Cigarettes Act, 1975 mandated:
  - I. Every package of cigarettes produced supplied or distributed shall bear thereon, or on its label, the specified warning, i.e., “cigarette smoking is injurious to health”.
  - II. Every advertisement of cigarette shall carry the specified warning, i.e., “cigarette smoking is injurious to health”.

The Cigarettes Act, 1975, however, was not sufficiently comprehensive in its coverage as *it did not include non-cigarette tobacco products such as beedis, cigars, chewing tobacco etc., and the warning specified under the Act was far too mild to be an effective deterrent.*

- In the interregnum between the Cigarettes Act of 1975 and COTPA 2003, several State and Union Territories enacted their own Tobacco Control Laws i.e., the Prohibition of Smoking and Protections of Non-Smokers Health Acts. Some of the examples being:
  - i. The Delhi Prohibition of Smoking and Non Smokers Health Protection Act, 1996
  - ii. The Sikkim Prohibition of Smoking and Non Smokers Health Protection Act, 1997
  - iii. The Goa Prohibition of Smoking and Spitting Act, 1997
  - iv. The Himachal Pradesh Prohibition of Smoking and Non Smokers Health Protection Act
  - v. **The Rajasthan Prohibition of Smoking and Non Smokers Health Protection Act, 1999**
- During at this time, a Public Interest Litigation was preferred before the Hon‘ble Supreme Court of India inter-alia highlighting the inaction of the Government in regulating the use of tobacco and the failure of existing legislation, the Cigarettes (Regulation of Production, Supply and Distribution) Act, 1975 in achieving the objective. The petitioner sought the relief of banning smoking in public places. Interestingly the Hon‘ble Court acknowledged the introduction of COTPA Bill and observed that statutory provisions are being made for prohibiting smoking in public places and the Bill introduced in the Parliament is pending consideration before a Select Committee. *However, the Apex Court realizing the gravity of the situation and considering the adverse effect of smoking on smokers and passive smokers which was in violation of a non-smokers Fundamental Right guaranteed under Article 21 of the Constitution of India, directed the Union of India, State Governments as well as the Union Territories to take effective steps to ensure prohibiting smoking in public places, till the statutory provision is made and implemented by the legislative enactment. [Murli S. Deora v. Union of India and Ors, AIR 2002 SC 40]*

---

## **CONSTITUTIONAL PROVISIONS RELATED TO HEALTH AND RIGHT TO LIFE**

- Tobacco control measures find ample support in the constitutional provisions, such as, fundamental right to life or health (Article 21), responsibility of the Government to direct its policy towards securing, tender age of children and giving them opportunities to develop in a healthy manner (Article 39 (e) & (f)) and duty of the Government to improve public health (Article 47).
- The Constitution also provides for respecting international law and treaty obligations [Article 51(c)] and further empowers the Indian Parliament to make any law for implementing any international treaty, agreement or convention (Article 253).

---

## AIM AND OBJECT OF THE ACT

- The Preamble of COTPA, 2003 provides that it is:

*An Act to prohibit the advertisement of, and to provide for the regulation of trade and commerce in, and production, supply and distribution of, cigarettes and other tobacco products and for matters connected therewith or incidental thereto.*

---

## INTERNATIONAL FRAMEWORK ON TOBACCO CONTROL

- The **43rd World Health Assembly** in its Fourteenth Plenary meeting held on the 17th May, 1990, reiterated the concerns expressed in the Resolution passed in the **39th World Health Assembly** and urged Member States to consider in their tobacco control strategies plans for legislation and other effective measures for protecting their citizens with special attention to risk groups such as pregnant women and children from involuntary exposure to tobacco smoke, discourage the use of tobacco and impose progressive restrictions and take concerted action to eventually eliminate all direct and indirect advertising, promotion and sponsorship concerning tobacco

### **World Health Organization Framework Convention on Tobacco Control (WHO FCTC)**

- The **World Health Organization Framework Convention on Tobacco Control (WHO FCTC)** is the first coordinated global effort to reduce tobacco use. The WHO FCTC entered into force on February 27, 2005 and requires Parties to implement evidence-based measures to reduce tobacco use and exposure to tobacco smoke. When effectively implemented, the WHO FCTC is a fundamental tool to reduce the devastating global consequences of tobacco products on health, lives, economies and environments. With 182 Parties as of May 2020, the WHO FCTC is one of the most widely adopted treaties in the United Nations system.
- India was one of the founding Parties to the treaty, signing it on 16 Jun 2003 and ratifying it on 14 June 2004.
- The WHO FCTC contains a broad framework of obligations and rights and requires Parties to implement effective tobacco control measures covering a range of topics. Parties are encouraged to implement measures beyond those required by the WHO FCTC (Art. 2.1).
- Adopted by consensus, the Guidelines to the FCTC were developed to assist Parties to meet their FCTC legal obligations. The Guidelines contain principles, definitions, and key legislative elements the Parties have agreed are necessary to provide effective implementation of the treaty. To perform their treaty obligations in good faith, as required by Article 26 of the Vienna Convention on the Law of Treaties, Parties must take the FCTC Guidelines into account when determining the content and scope of their FCTC obligations.
- The effort to fulfill the obligation under the FCTC, which India ratified as early as in 2004, is aligned with the State's primary duty of improving and protecting public health under the Constitution of India. Right to life under Article 21 of the Constitution of India is incomplete without right to live with human dignity which includes right to health. This right to live with human dignity enshrined in Article 21 derives its life breath from the Directive Principles of State Policy and particularly clauses (e) and (f) of Article 39 and Articles 41, 42 and 47. The Hon'ble Supreme Court has confirmed that Right to Health is an integral fact of meaningful Right to Life. The Hon'ble Supreme Court has also upheld policies, legislations regulating trade and use of tobacco in public interest and an endeavour to protect Right to life.

## WHO FCTC Articles and their Implementing Guidelines

Some of the WHO FCTC Articles and their implementing guidelines are produced below for reference:

- **ARTICLE 5.3– protection against the vested interests of the tobacco industry:** requires Parties to protect their public health policies from commercial and other vested interests of the tobacco industry
- COTPA does not contain any provisions that address the obligations under Article 5.3. Nor are there any other national laws, regulations, codes or guidelines that apply to the whole of government in India that seek to specifically protect public health policies from the vested interests of the tobacco industry. However, the principles of Article 5.3 are mandatory obligations on the Parties to the WHO FCTC and should pervade the development of all tobacco control policy and law.
- **ARTICLE 8– Smoke-free Environments:** requires Parties to adopt effective national legislation, and actively promote effective sub-national legislation (where possible), that requires 100% smoke-free environments in all indoor public places, indoor workplaces, on all means of public transport, as appropriate and other public places.
- Under the Guidelines, Parties agree that *approaches other than 100% smoke-free environments, including ventilation and air filtration technology and the use of designated smoking areas, do not provide effective protection and thus, conflict with the mandate of Article 8.*
- **ARTICLE 11– packaging and labelling:** requires Parties, within three years after entry into force of the FCTC for that Party, to adopt and implement effective measures to:
  - 1) prohibit misleading tobacco packaging and labelling;
  - 2) ensure that tobacco product packages carry large, clear, rotating health warnings and messages that cover 50% or more, but not less than 30%, of principal display areas and that are in the Parties’ principal language (s); and
  - 3) ensure that packages contain prescribed information on the tobacco products’ constituents and emissions.
- The Article 11 Guidelines draw upon lessons learned from Parties’ experiences and seek to counter known tobacco industry tactics for circumventing tobacco packaging and labeling regulation. Under the terms of the treaty and the Article 11 Guidelines, Parties should:
  - Prohibit packaging and labeling that promotes a tobacco product by means that are false, misleading, deceptive, or likely to create an erroneous impression about its characteristics, health effects, hazards, or emissions, including through the use of the terms (e.g., “low tar,” “light,” and any similar language) and any other figurative signs, colors, or other packaging or labelling design.
  - Require that unit (e.g., individual packages) and outside packaging (e.g., cartons) of all tobacco products carry rotating pictorial and text health warnings or messages that are as large as possible and displayed on the top of each principal display area.
  - Require that unit and outside packaging carry descriptive information on constituents and emissions (as determined by the appropriate government entity), without any yield figures.
  - Consider adopting plain or standardized packaging measures, which may increase the noticeability and effectiveness of health warnings and messages and prevent the tobacco industry from continuing to use packaging and labeling to mislead consumers and promote its products.
- **ARTICLE 13– advertising, promotion and sponsorship:** requires that Parties, in accordance with their constitutions and constitutional principles, comprehensively ban all tobacco **advertising, promotion and sponsorship (APS)** within five years of the treaty’s entry into force for that Party. A Party not in a position to comprehensively ban tobacco APS due to its constitution or constitutional principles nevertheless must apply restrictions on all tobacco APS that are as comprehensive as legally possible. The comprehensive ban (or restrictions, where applicable) should apply to both domestic and cross border tobacco APS.

- *Tobacco companies now frequently use new media platforms for Tobacco APS including social media and mobile phone applications where influencers, celebrities and brand sponsored contests are used to promote tobacco products.* The enormous growth in the use of communications technology especially on mobile phones has made it essential to monitor and enforce against tobacco advertising and promotion on platforms such as Instagram, YouTube, and Facebook which are easily accessed and commonly used by children and adolescents. Existing legislation banning TAPS may not include a ban on advertisements on the Internet and therefore ensuring that bans are inclusive of Internet-based media is essential. 86 countries prohibit all forms of internet advertising which should include social media platforms. However, research suggests that the tobacco companies are flouting these rules around the world and governments need to introduce specific rules to address the problem that are enforceable against both the tobacco companies and the social media platforms.
- **ARTICLE 16– Sales to and by minors:** requires Parties to prohibit sales of tobacco products to and by persons under the age set by domestic or national law, with a minimum age of eighteen. Other measures may also include banning the sale of tobacco products directly accessible at points of sale, restricting accessibility of vending machines, prohibiting the manufacture and sale of toys or candy in the form of tobacco products, prohibiting free distribution of tobacco products.
- Article 16 also states that Parties should endeavour to prohibit the sale of cigarettes individually or in small packets, which increase the affordability of such product to minors.

#### **Global Adult Tobacco Survey (GATS)**

- The Global Adult Tobacco Survey (GATS) is a global standard for systematically monitoring adult tobacco use (smoking and smokeless) and tracking key tobacco control indicators.
- In India, the first round of GATS was first implemented in 2009-10 (GATS 1) and the second round was implemented in 2016-17 (GATS 2). The Ministry of Health and Family Welfare (MoHFW) designated Tata Institute of Social Sciences (TISS) as the implementing agency for carrying out the second round of GATS in India.
- GATS 2 was implemented in 30 states of India and two Union territories (UTs). A total of 74,037 individuals across states and UTs were interviewed between August 2016 and February 2017. Along with measurement of changing prevalence of tobacco use between GATS 1 and GATS 2, the survey also measures changes in exposure to secondhand smoke, efforts at cessation, exposure to messages on media, knowledge and perception of tobacco use.

#### **MPOWER measures**

- The WHO Framework Convention on Tobacco Control and its guidelines provide the foundation for countries to implement and manage tobacco control. To help make this a reality, WHO introduced the MPOWER measures which correspond to one or more articles of the Framework Convention, to assist in reducing the demand for tobacco products at country-level.
- The six components of MPOWER are:
  - **M**onitor tobacco use and prevention policies
  - **P**rotect people from tobacco smoke
  - **O**ffer help to quit tobacco use
  - **W**arn about the dangers of tobacco
  - **E**nforce bans on tobacco advertising, promotion and sponsorship
  - **R**aise taxes on tobacco

## GLOBAL EXAMPLES OF BEST PRACTICES FOR TOBACCO CONTROL

### Complete protection from exposure to tobacco smoke (FCTC Article 8)

- According to the WHO 2019 Report on the Global Tobacco Epidemic<sup>7</sup> :

*Comprehensive smoke-free legislation is in place for over 1.6 billion people in 62 countries (covering 22% of the world's population). There is remarkably little difference among income groups, with around one in three countries in each income group having a comprehensive ban in place. Two in three countries continue to leave their populations vulnerable to the dangers of second-hand smoke through weak or absent smoke-free laws, with 41 high-income, 68 middle-income and 24 low-income countries poorly or completely unprotected. Among them, 24 countries (with 372 million people) have no bans at all – 21 of them low- and middle-income countries. The other 109 countries have partial bans that fall short of a complete ban on smoking in public places and workplaces.*

- The WHO 2019 Report on the Global Tobacco Epidemic categorizes India's smoke-free policy as moderate.<sup>8</sup> India falls within the category of countries that fall short of a complete ban largely because COTPA still permits designated smoking areas. India must completely ban smoking in all indoor public places, including disallowing all DSRs.
- In recent years a number of countries have taken the steps necessary to completely protect their population against exposure to smoke. One such example is of Gambia which enacted a new Tobacco Control Act in December 2016. While previous smoke-free legislation required people not to smoke in public indoor areas, these bans were incomplete, allowing smoking areas or designated smoking rooms in almost all venue types. The new Act took a major step forward by removing these exemptions, making the ban complete across all venues.
- Other countries that the WHO class as having best practice for smoke-free environments include Pakistan, Afghanistan, Turkmenistan, Thailand, Nepal, Russia, the UK, Ireland and most countries in South America.

### Contents and Emissions (FCTC Articles 9 and 10)

- At least 39 countries ban or restrict the use of sugars and sweeteners in tobacco products. Countries that ban their use include Canada, Sri Lanka, Uganda, and Senegal. All EU countries prohibit the use of sugars unless it is essential for the manufacture and it does not result in a characterizing flavor or increase the addictiveness or toxicity of the product. At least 36 countries ban all flavors in cigarettes. This includes the UK, all EU countries, Canada, Brazil, Ethiopia and Sri Lanka. Some of those countries ban all flavors for all tobacco products. Other countries ban some, but not all flavors. At least 30 countries ban the use of ingredients that facilitate nicotine uptake, including all EU countries.
- The FCTC Guidelines on the regulation of emissions is currently blank to indicate that guidance will be proposed at a later stage. Despite this at least 59 countries have set maximum levels for cigarette emissions for nicotine and tar, and in some cases, carbon monoxide. These limits are set to restrict the toxicity, health impacts and addictiveness of what is in any event a deadly product.
- Although these limits vary, the majority of those countries set the maximum limits as 10 mg tar; 1 mg nicotine; and 10 mg carbon monoxide, per cigarette.
- Many countries, including all EU countries, Australia and Canada require statements on the harms of emissions on the side panels of cigarette packages, and prohibit the display of any emission yields.

---

<sup>7</sup> WHO Report on the Global Tobacco Epidemic, 2019. Geneva: World Health Organization; 2019. Licence: CC BY-NC-SA 3.0 IGO. <https://www.who.int/teams/health-promotion/tobacco-control/who-report-on-the-global-tobacco-epidemic-2019>.

<sup>8</sup> See GTCR 2019 online Appendix VI, Table 6.1- Public places with smoke-free legislation, available at: [https://www.who.int/tobacco/global\\_report/en/](https://www.who.int/tobacco/global_report/en/)

### **Packaging and Labeling (FCTC Article 11)**

- Strong graphic pack warnings are in place for almost 3.9 billion people in 91 countries – over half of the global population (52%). More people are protected by this WHO FCTC measure than any other, with 47% of countries implementing graphic pack warning requirements at the highest level: 65% of the principal areas or more. 118 countries or jurisdictions now require picture health warnings on cigarette packages.
- India is in the top 10 countries in the world rated for the size of health warnings and therefore exhibits best practice in this area.

### **Complete Elimination of all Tobacco Advertisement Promotion and Sponsorship (TAPS) (FCTC Article 13)**

- According to the WHO, banning TAPS remains an under-adopted measure, with only 18% of the world's population, in 48 countries, covered by a fully comprehensive ban. At the same time, there are 44 countries that have not adopted any TAPS bans to date. Interestingly, more low-income countries have adopted a TAPS ban than any other FCTC measure, with 14 low income countries having comprehensive TAPS bans in place. By contrast, under 20% of high-income countries have achieved this best practice level.
- Included in a comprehensive ban on TAPS is a prohibition on the display of any tobacco advertising or tobacco products at points of sale. Most countries with an advertising ban, include specific provisions that prohibit advertising at the point of sale as well. At least 80 countries ban this practice.<sup>9</sup>
- More and more countries are recognizing the role that displays of tobacco products in stores and kiosks play in promoting tobacco as a normal product, encouraging impulse purchases and increasing initiation by young people. There are at least 28 countries that have enacted laws to fully prohibit point of sale displays and many more (38) that place strict restrictions on it.
- The WHO 2019 Report on the Global Tobacco Epidemic categorizes India's tobacco advertising policy<sup>10</sup> notes that in India point of sale advertising and product display are allowed, as are some forms of sponsorship and corporate social responsibility by the tobacco industry. These forms of advertising must be banned for India to join the 48 other countries that the WHO categorise as having comprehensive bans on tobacco advertising

### **Plain packaging (FCTC Article 11 and 13)**

- Plain packaging of tobacco is a common sense policy that removes the promotional, marketing and advertising features on packs of tobacco, but leaves the health warnings, tax stamps and other features required by government. Packaging for all products can act as a form of promotion, marketing and advertising. This is even truer for tobacco because in countries where other advertising is restricted, the pack becomes the main means of promoting tobacco; and tobacco is a 'badge product' which people carry around with them and display every time they take the pack out.<sup>7</sup>
- There are now 17 countries<sup>11</sup> that have adopted plain packaging laws as recommended by the implementation guidelines for Article 11 and 13 of the WHO FCTC.
- In January 2013, a non-governmental organization in an endeavor to reduce tobacco use among Indian youths, filed a writ petition before the Hon'ble Allahabad High Court, inter-alia seeking implementation of plain packaging of tobacco products in India (**Love Care Foundation v. Union of India (W P No. 1078; (M/B) of 2013)**).<sup>12</sup> The Hon'ble High Court concluded that plain packaging and health warnings reduce the ability of attractive packaging to mislead consumers about the harms of tobacco use. The Hon'ble High Court in the

<sup>9</sup> Policy search on the [www.tobaccocontrolaws.org](http://www.tobaccocontrolaws.org) database

<sup>10</sup> See GTCR 2019 online Appendix VI, Tables 6.10, 6.11, and 6.12 on bans on direct and indirect advertising, available at: [https://www.who.int/tobacco/global\\_report/en/](https://www.who.int/tobacco/global_report/en/).

<sup>11</sup> Australia, France, United Kingdom, New Zealand, Norway, Ireland, Thailand, Uruguay, Saudi Arabia, Slovenia, Turkey, Israel, Canada, Singapore, Belgium, Hungary and Netherlands. Full details are available here: [https://www.tobaccofreekids.org/assets/global/pdfs/en/standardized\\_packaging\\_developments\\_en.pdf](https://www.tobaccofreekids.org/assets/global/pdfs/en/standardized_packaging_developments_en.pdf)

<sup>12</sup> Ruling available here: <https://www.tobaccocontrolaws.org/litigation/decisions/in-20140721-love-care-foundation-v.-union->

Judgment dated 21.7.2014, took judicial notice of plain packaging of tobacco and recommended to the Government to do so.

#### **Prohibition on single sticks and small packs (FCTC Article 16)**

- At least 86 countries prohibit the sale of single cigarettes sticks.
- At least 62 countries set a minimum number of cigarette sticks per individual package. The minimum varies but the most common requirement is a minimum of 20 sticks per pack (including Australia, Brazil, Canada, Chile, the UK, Singapore, Hong Kong, Thailand and Uganda).
- In at least 10 countries, where smokeless tobacco use is a problem for young people, the law sets a minimum weight of smokeless tobacco product for each individual packet. The minimum weight set varies from 10 grams (in Equador, Kenya and Togo) to 30 grams (in Nigeria, Ghana and Maldives).

---

## **NATIONAL FRAMEWORK ON TOBACCO CONTROL**

#### **National Tobacco Control Programme (NTCP)**

- As the implementation of various provisions under COTPA lies mainly with the State Governments, effective enforcement of tobacco control law remains a big challenge. To strengthen implementation of the tobacco control provisions under the COTPA and the policies of tobacco control mandated under the WHO FCTC, the Government of India piloted the **National Tobacco Control Programme (NTCP) in 2007-2008**.
- This was a major leap forward for the tobacco control initiatives in the country, as for the time dedicated funds were made available to implement tobacco control strategies at the central state and sub state levels in India.
- The main components of the NTCP were:

##### *National Level*

- Public awareness/mass media campaigns for awareness building and behavior change.
- Establishment of tobacco product testing laboratories, to build regulatory capacity, as mandated under COTPA, 2003.
- Mainstreaming the program components as part of the health care delivery mechanism under the National Rural Health Mission framework.
- Mainstream Research and Training on alternate crops and livelihoods in collaboration with other nodal Ministries.
- Monitoring and Evaluation including surveillance e.g. Global Adult Tobacco Survey (GATS) India.

##### *State Level*

- Tobacco control cells with dedicated manpower for effective implementation and monitoring of anti-tobacco laws and initiatives.

##### *District Level*

- Training of health and social workers, SHGs, NGOs, school teachers etc.
- Local IEC activities
- Setting up tobacco cessation facilities.
- School Programmes
- Monitoring Tobacco control laws
- Jhunjhunu, Rajasthan earned the distinction of being the first smoke-free district in the State on World No Tobacco Day, which is celebrated on 31 May Worldwide.

## **The Cigarettes and Other Tobacco Products Act (COTPA) 2003**

Some of the important provisions of COTPA are:

- Section 5 of the Act deals with prohibition of advertisement of cigarettes and other tobacco products;
- Section 6 deals with prohibition on sale to person below the age of 18 years and in particular area;
- Section 7 deals with restrictions on trade and commerce in, production, supply and distribution of cigarettes and other products, unless every package bears the specified warning;
- Section 8 provides the manner in which specified warning shall be made; Section 9 provides the language of the warning;
- Section 10 provides size of letters and figures of the warning;
- Section 11 provides the testing laboratory for nicotine and tar contents;
- Section 13 provides for the power to seize, whereas Section 14 provides for confiscation;
- Section 15 speaks of an option to pay cost in lieu of confiscation;
- Section 17 provides for adjudication;
- Section 18 provides for an appeal. The other provisions provide for punishment and forfeiture.
- What is material to be noted is that COPTA has not been given any overriding effect upon any other law, holding the field or which may be enacted. The regulatory mechanism in COPTA is restricted to ensuring that the sale, storage, distribution, of cigarettes and other tobacco products is not without the warning label and is to persons above the restricted age and to discourage the use of tobacco.

### **Notable changes brought in by COTPA 2003**

- This Act not only included cigarettes, like the 1975 Act, but also brought all other forms of tobacco products (both smoking and smokeless)
- Prohibition of smoking in public places (came into force from 02 October, 2008)
- Nationwide public smoking ban: Places where smoking is restricted include auditoriums, cinemas, hospitals, public transport (aircraft, buses, trains, metros, monorails, taxis) and their related facilities (airports, bus stands/stations, railway stations), restaurants, hotels, bars, pubs, amusement centres, offices (government and private), libraries, courts, post offices, markets, shopping malls, canteens, refreshment rooms, banquet halls, discotheques, coffee houses, educational institutions and parks.
- Ban on tobacco advertising and sponsorship
- Ban on sale to and by minors and in an area within radius of 100 yards of any educational institution (came into force from 01 December 2004)
- Display of pictorial health-warning labels came into force on 31 May 2009
- The specified health warnings must occupy at least 40% of the principal display area on the front panel of the packets, and shall be rotated every 12 months. The law also prohibited more than two languages from being used on the pack to ensure that the specified warning is legible and prominent.
- With effect from 02 October 2012, the government began screening two anti-tobacco advertisements in movie theatres and television. Proposed by the Ministry of Health and Family Welfare in May 2005, a smoking ban that prohibited films and television shows from displaying actors or actresses smoking went into effect on October 02, 2005
- The Nicotine and Tar contents of all tobacco products must be clearly displayed on the packs. Producers of tobacco products must ensure that these harmful contents are within the maximum permissible limits as prescribed by the rules.
- The testing of tobacco products to measure nicotine and tar contents to be done only at the Government recognized laboratories.

### **What are public places as per Section 4 of COTPA 2003?**

Section (4) of the COTPA 2003 prohibits smoking in all public places. 'Public Place' is defined as any place to which the public has access whether as of right or not and includes all places visited by general public namely auditorium, hospital building, railway waiting room, amusement centers, public offices, court buildings, educational institutions, libraries, coffee houses, canteens, banks, clubs and also open spaces surrounding hotels/restaurants etc .

### **Other Related Legislations**

- **Prohibition of Smoking in Public Places Rules, 2008**

- **Food Safety and Standards Act, 2006**

Regulation 2.3.4 of the Food Safety and Standards (Prohibition and Restrictions on Sales) Regulation, 2011 framed under Section 92 of the FSSA, 2006 reads as under:

*"2.3.4: Product not to contain any substance which may be injurious to health: Tobacco and nicotine shall not be used as ingredients in any food products."*

- **Ban on electronic cigarettes and heating products- Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage and Advertisement) Act, 2019**

- **Juvenile Justice (Care and Protection) Act 2015**

Section 77

### **Penalty for giving intoxicating liquor or narcotic drug or psychotropic substance to a child**

*Whoever gives, or causes to be given, to any child any intoxicating liquor or any narcotic drug or tobacco products or psychotropic substance, except on the order of a duly qualified medical practitioner, shall be punishable with rigorous imprisonment for a term which may extend to seven years and shall also be liable to a fine which may extend up to one lakh rupees.*

- **Consumer Protection Act, 2019**

Section 2(6) (v)

*(v) the goods, which are hazardous to life and safety when used, are being offered for sale to the public--*

*(a) in contravention of standards relating to safety of such goods as required to be complied with, by or under any law for the time being in force;*

*(b) where the trader knows that the goods so offered are unsafe to the public;*

- The Cable Television Network (Regulation) Amendment Act, in force since 08 September 2000, completely prohibits cigarette and alcohol advertisements.
- Under the Prevention of Food Adulteration Act (PFA) (Amendment) Act 1990, statutory warnings regarding harmful effects were made mandatory for pan masala and chewing tobacco.

- **The Rajasthan Prevention of Juveniles Smoking Act, 1950**

- **The Rajasthan Opium Smoking Prohibition Act, 1950**

---

### **ROLE OF JUDICIARY IN ADVANCING TOBACCO CONTROL**

- The Indian Judiciary's role in supporting regulation of tobacco use and trade is noteworthy. Since the 1990's there have been several instances of judicial intervention, starting from an appeal against the Government of India notification imposing total prohibition on the use of tobacco in the preparation of tooth-powder and tooth-paste, under the Drugs and Cosmetics

Act, 1940. The Hon'ble Supreme Court of India held, the imposition of total ban was in the public interest. [**Laxmikant v. Union of India and Others (1997) 4 SCC 739**]

- Judicial pronouncements have played an important role in deciding the tide of tobacco control in the Southeast Asia Region. As a tool for social and policy change, litigation has been effectively used in the region to attain the public health objectives of tobacco control.
- The Hon'ble Supreme Court subsequently, in a public interest litigation preferred against inaction of the Government in regulating the use of tobacco, directed the Union of India, State Governments as well as the Union Territories to take effective steps to ensure smoking is prohibited in public place, since smoking in public place is violation of a non-smokers fundamental right to life guaranteed under Article 21 of the Constitution of India. [**Murli S. Deora v. Union of India and Ors, (2001) 8 SCC 765**]
- COTPA 2003 has been enacted to secure protection of health of citizens. It is settled law in catena of judgments that Right to Health is an integral part of the Right to Life and a facet of Article 21 of the Constitution of India. [**Tamil Nadu Medical Officers Association and others v. Union of India and others (2020 Indlaw SC 441); Association of Medical Super Speciality Aspirants and Residents and others v. Union of India and others (2019 Indlaw SC 785); State of Punjab & Ors v. Mohinder Singh Chawla & Ors (1997) 2 SCC 83 (1996 Indlaw SC 2054); and Devika Biswas v. Union of India and Others (2016 Indlaw SC 1032)**].
- In 2013, the Hon'ble Supreme Court in an appeal preferred against the orders of Bombay High Court staying the operation of COTPA Rules on advertisement and promotion of tobacco products, observed: [**Health for Million v. Union of India & Ors. (Civil Appeal No. 5912-5913/2013)**]

*“The consumption of tobacco and tobacco products has huge adverse impact on the health of the public at large and, particularly, the poor and weaker sections of the society which are the largest consumers of such products and that unrestricted advertisement of these produces will attract younger generation and innocent minds, who are not aware of grave and adverse consequences of consuming such products. We have no doubt that the Central Government and the State Governments across the country are alive to the serious and grave consequences of advertising tobacco and various products manufactured by using tobacco. They know that the consumption of these products will result in rapid increase in the number of cancer patients and huge proportion of the Budget earmarked for health of the common man will have to be used for treating the patients of cancer.”*

The Hon'ble Supreme Court while setting aside the stay orders of the Bombay High Court gave the following direction:

*“We also make it clear that as a sequel to setting aside of the interim order passed by the High Court, the Central Government and the Governments of all the States shall be bound to rigorously implement the provisions of the 2003 Act and the 2004 Rules as amended from time to time”*

#### **Protection of minors**

- Several High Courts in the country have issued directions for protection of minors as envisaged under Section 6 of COTPA *i.e.*, ensuring no sale of tobacco products to and by minors and within 100 yards of educational institutions.<sup>13</sup>
- The very provision was put into implementation as a result of the direction from the Bombay High Court [**Sumaira Abdulali v. Union of India, PIL/182/2007**].
- The Hon'ble Karnataka High Court further directed the monitoring of implementation of the provision on a monthly basis [**Cancer Patients Aid Association v. State of Karnataka & Another, Writ Petition (Civil) No. 17958/2009**], while the Hon'ble Kerala High Court gave

---

<sup>13</sup> Hon'ble High Court of Delhi in *World Lung Foundation South Asia v. Ministry of Health and Family Welfare*. MANU/DE/2692/2012

a detailed order for comprehensive protection of minors from exposure to tobacco [**Kerala Voluntary Health Services v. Union of India, Writ Petition 38513 of 2010**].

- The Hon'ble Delhi High Court dismissed petitions of wholesalers seeking exemption from application of Section 6(b) and ordered cost against the petitioners in **Naya Bans Sarv Vyapar Association v. Union of India and Ors, W.P. (C) No. 7292/2011 and W.P.(C) No. 4392/2012**, on appeal the Apex Court allowed the exemption with the condition that the petitioners shall transact their wholesale business only after 1600 h (*i.e.*, when the schools are closed for the day) and that they will not indulge in any retail business.<sup>14</sup> Further the Apex Court in **Health for Millions Vs. Union of India & Ors., Civil Appeal No. 5912-5913/2013**, directed the Government of India and State governments '*to rigorously implement the provisions of COTPA, 2003 and the 2004 Rules as amended from time to time*'

#### **Ban on advertising, promotion and sponsorship**

- The Courts in India have issued several directions to take action against advertisements, promotion and sponsorships by the tobacco industry. The Gujarat State Road Transport Corporation and Ahmedabad Municipal Transport Services were directed by the Hon'ble Gujarat High Court to remove the advertisements of gutka and/or pan masala displayed on the public transport vehicles [**Amarsingh Z Choudhari v. Union of India, Special Civil Application (SCA) /4848/20092/2**].
- Hon'ble Karnataka High Court in **Institute of Public Health v. The State Government of Karnataka and Others, Writ Petition 27692/2010** directed the Government of India to withdraw sponsorship extended by the Tobacco Board of India to a tobacco industry sponsored event in October 2010 to comply with Section 5 of COTPA.

#### **Ban on smokeless tobacco in toothpaste**

- Specific to SLT use, the Hon'ble Rajasthan High Court (Jaipur Bench) in **Kastoori Udyog and Others v. The Union of India and Others, Civil Writ Petition No. 3354 of 1993** upheld the Central Government's Notification that prohibited the use of tobacco in toothpastes/tooth powders under the Drugs and Cosmetics Act, 1940. On appeal, this was also upheld by the Hon'ble Supreme Court in **Laxmikant v. The Union of India and Others, 1997(4) SCC 739**.

#### **Ban on sale of smokeless tobacco in plastic sachets**

- The Hon'ble Rajasthan High Court applied 'polluter pays' principle on the *gutka* manufacturer being responsible for creating plastic waste and imposed exemplary damages while restraining the manufacturers of *gutka* and *pan masala* from selling their products in plastic sachets in **Indian Asthma Care Society Vs. State of Rajasthan and Others, CWP No. 1966/2003**.
- This was appealed before the Apex Court which upheld the decision sans the exemplary damages imposed by the High Court on the manufacturers. The direction from the Apex Court in this matter resulted in changing of the plastic waste management and handling regulation which banned the storing, packing or selling of *gutka*, tobacco and *pan masala* in plastic sachets (See: **Ankur Gutka v. Indian Asthma Care Society and Others Special Leave Petition No. 16308 of 2007**). This resulted in a restriction on the use of plastics for packaging of *gutka*, tobacco and *pan masala*.<sup>15</sup>

#### **Pictorial health warnings**

- The PHWs on tobacco products were notified first as a result of a PIL filed by Ms. Ruma Kaushik in Himachal Pradesh High Court (**Ruma Kaushik v. Union of India, CWP No 1223/2004**). The PHWs were finally implemented, after years of delay and dilution, as a result of the direction in the matter of **Health for Millions Trust v. Union of India and**

<sup>14</sup> Naya Bans Sarv Vyapar Association v. Union of India and Ors SLP(C)No(s).39271-39272/2012

<sup>15</sup> India: Ministry of Environment and Forest; 2011. [accessed on January 10, 2018]. Government of India. The Plastic Waste (Management and Handling) Rules, 2011. S.O.249(E) Available from: <http://www.moef.nic.in/downloads/public-information/DOC070211-005.pdf>

**Others, Writ Petition (Civil) 549 of 2008** by the Supreme Court of India in May 2009. More than 50 court cases were filed in various High Courts in India by the tobacco industry to challenge implementation of PHWs on the pretext that it breaches right to equality under the Constitution of India. All these matters were transferred by the Apex Court unto itself.<sup>16</sup> The Court mandated all tobacco products to display the specified PHWs in the country from 31 May 2009.<sup>17</sup> This resulted in confiscation of the Gutka pouches that were not in conformity with the provisions of Packaging and Labelling Rules, 2008, notified for implementation of Section 7 of COTPA, 2003.<sup>18</sup>

### **Regulation of content**

- Responding to a petition demanding information on the nicotine and tar content of tobacco products, the government gave an undertaking before the Delhi High Court to create requisite institutional capacity to test the nicotine and tar contents of tobacco products by setting up tobacco testing laboratories to enforce the mandates of Section 7 (Clause 5) of COTPA. In line with the WHO FCTC mandates and the global best practices, the Ministry of Health and Family Welfare, Government of India, has also proposed to amend this provision to prevent display of quantitative statements on tobacco product packaging and provide for testing of contents and emissions of all chemicals and not only of tar and nicotine.<sup>19</sup>
- The Hon'ble Rajasthan High Court in **Rahul Joshi v. Union of India and Ors. 2016 (3) RLW 2076 (Raj.)** dealing with the issue of plain Packaging of cigarette and other tobacco products; held that warnings on cigarette packages and depiction of sign of danger of smoking were not found sufficient. It causes loss of thousands of lives on acquiring fatal diseases on the use of tobacco products. Ordered to bring the Cigarette and other Tobacco Products (Packaging and Labelling) Amendment Rules, 2014 into force immediately.
- These litigation and the resulting judicial measures have demonstrated the effectiveness of judicial interventions in thwarting the tobacco industry tactics and advancing the public health objectives.

---

### **ANTI-TOBACCO CAMPAIGN IN RAJASTHAN**

- Rajasthan is the first state which has constituted a State Tobacco Control Cell, under the Directorate of Medical & Health, for tobacco control.
- Imposing highest Value Added Tax (VAT) on tobacco products in the country had earned Rajasthan a 2014 World No Tobacco Day Award in the South-East Asia Region. The state had won the award prior to that year as well in the area of tobacco control such as research, capacity building, promotion of policy or legislation and advocacy to enhance tobacco control.
- The Food Safety and Standards (Prohibition and Restrictions on Sales) Regulations, 2011 dated 01 August 2011, issued under the Food Safety and Standards Act, 2006, lays down that tobacco and nicotine shall not be used as ingredients in any food products.
- Currently, 28 states/UTs including Rajasthan have issue orders for implementation of the Food Safety Regulations banning manufacture, sale and storage of Gutka and Pan Masala containing tobacco or nicotine.
- Now, Rajasthan has many smoke-free districts. **The International Union Against Tuberculosis and Lung Diseases (IUATLD)** has included Bikaner, Alwar, Bharatpur, Ajmer, Bhilwara, Nagaur, Jaipur, Jhunjhunu, Jodhpur, Kota and Udaipur as smoke free districts in Rajasthan.

---

<sup>16</sup> Union of India v. ITC. Ltd. Etc.. Transfer Petition (Civil) 457-487 OF 2008

<sup>17</sup> Health for Millions Trust v. Union of India and Others, Writ Petition (Civil) 549 of 2008

<sup>18</sup> High Court of Delhi. M/S Raj Products v. State (Govt of NCT of Delhi) and Another MANU/DE/2920/2010

<sup>19</sup> Ministry of Health and Family Welfare Government of India. The Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, production, Supply and Distribution) (Amendment) Bill, 2015. 2015. [accessed on January 16, 2018]. Available from: <http://www.blogs.bmj.com/tc/files/2015/02/COTPA-Amendment-Bill-2015.pdf>.

## WAY FORWARD

- Although smoking in public places was prohibited by the Hon'ble Supreme Court, COTPA 2003 allows for 'designated smoking areas' in restaurants and hotels. Accordingly, the allowance for designated smoking areas must be done away with to prevent the 200,000 deaths resulting from second hand smoke.
  - Point-of-sale advertising continues to be practiced in India despite a ban on advertising of tobacco products. Tobacco products are prominently displayed in stores and kiosks, which entices consumers. Therefore, point-of-sale advertising and display of tobacco products must be prohibited.
  - Tobacco companies can engage in corporate social responsibility activities and corporate sponsorship of events. This enables them to present themselves as beneficial for the society, which is misleading.
  - Advertising of tobacco products on internet-based platforms and social media is very common and must be restricted.
  - Currently, the sale of tobacco products is prohibited to any person below the age of 18 years. The minimum age should be increased to 21 years.
  - Sale of single stick cigarettes and other loose tobacco products is the norm in India. As this increases accessibility and affordability of tobacco products for minors, this must be prohibited.
  - Emission yields which are displayed on cigarette packets often give a misleading impression that the cigarette with low emission is less harmful, which is not shown by any evidence. Therefore, this must be prohibited.
  - Tobacco products also make use of sugar, sweeteners, and other ingredients to add colour and flavour to the product. In addition to making tobacco products more appealing, they also reduce the irritating character of tobacco smoke which encourages use by minors. Therefore, this must be restricted.
  - While India does have strict requirements for pictorial warnings on tobacco packages, measures such as plain packaging should be adopted as they have been proven to reduce tobacco consumption.
  - The existing penalties under COTPA 2003 are not sufficient and need to be enhanced.
  - Thus it is imperative to incorporate the recommendation on COTPA amendments to strengthen the Act especially TAPS provisions, this will ensure implementation of the direction of the Hon'ble Supreme Court in its letter and spirit.
-