

EDITORIAL

Warning smokers is NOT UNCONSTITUTIONAL

HEALTH MINISTRY IS OBLIGED TO FIGHT TO ENLARGE SCARY GRAPHICS ON CIGARETTE PACKETS, GIVEN THE EXTREME DANGERS

Smokers will say “bring it on” and “we don’t care”. However, the Public Health Ministry must do what it has to, and that is to fight all the way to the Supreme Administrative Court until it can proceed with its plan to enlarge the warning graphics on cigarette packages. This is a legal battle that is interesting in many respects, and the final outcome may go a long way toward defining new boundaries of the anti-smoking campaign.

A few days ago, the Administrative Court suspended the plan under which tobacco companies would have to expand warning graphics to cover 85 per cent of the surface of cigarette packs – from 55 per cent. That would be a “big” change, but if the current graphics cannot get more eye-catching, it would beg the question of why the graphics were allowed to be there in the first place.

The graphics are scary, and the bigger, the scarier – but that’s the whole idea. If cigarette makers have to put these warnings on for consumers’ health, why can’t the warnings be more visible? If bigger warnings are illegal because of trade

rights or whatever, aren’t the current graphics illegal, too?

The decision not to allow bigger graphics doesn’t make sense. But, to be fair, allowing cigarettes to be sold despite their obvious and extreme health risks doesn’t make sense to begin with. It should be one way or the other. It should be banning cigarettes entirely or not allowing any graphics at all on packs. To try to compromise on matters like this, we are certain to get the incomprehensible big-or-small graphic row like the one we are facing now.

The Administrative Court issued its ruling after the Thai Tobacco Trade Association, which represents more than 1,400 retailers nationwide, petitioned the court to invalidate the Public Health Ministry’s “unconstitutional” decision to impose new warnings on cigarette packages. The association complained that the regulation would lead to real problems for retailers. These would include higher operating costs and a likely consumer shift towards cheaper, lower-margin, roll-your-own tobacco, which is not subject to the new warnings and yet makes up about half of all tobacco sold in Thailand.

It was also argued that the big-

ger graphics would promote the black market, where products are less expensive to buy, highly profitable to sell and often have smaller or no warnings at all.

One big question is how much of the association’s concerns should be heeded. To address this one entirely will, again, lead to the acrimonious debate on cigarettes’ danger and whether their sales should be prohibited outright. To avoid going down that road, should we simply take a look at a World Health Organisation’s guideline asking health authorities to avoid seeking the tobacco industry’s recommendations on anti-smoking measures?

As for the claim that bigger graphic warnings are “unconstitutional”, which size is constitutional? And is it constitutional to play down the tremendous health risks of tobacco? While “hard-core” smokers would discard bigger warnings in a flash, what is unconstitutional about “lighter” smokers being warned off the hazardous habit?

Smokers have rights, too. But their rights should stop at the right to light up. It should not by any means be extended to the right not to be warned.