

Tobacco imagery in entertainment media: evolution of tobacco-free movies and television programmes rules in India

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ABSTRACT

Introduction Tobacco imagery in films and television increased in India after it ended conventional tobacco advertising in 2004. The Ministry of Health and Family Welfare (MoHFW) introduced rules to eliminate this tobacco imagery in 2005 which took effect in amended form in 2012. This study presents the enablers and barriers in development and implementation of the regulations to curb tobacco imagery in films and television in India.

Method We reviewed legislation, evolving regulations, parliamentary questions, judicial decisions, Bollywood trade publications and relevant news articles from 2003 to 2019 and interviewed key informants.

Results Based on the WHO reports and civil society demands, the MoHFW issued a complete ban on tobacco imagery in movies and television programmes in 2005. The Ministry of Information and Broadcasting (MoIB) joined the film industry in opposing the rules. A filmmaker challenged the rules in court, which ruled that they violated constitutional freedoms. On appeal by MoHFW, the Supreme Court allowed the rules to take effect. Continuing opposition by MoIB and the film industry weakened the rules and delayed implementation until 2012. As of 2020, rather than a ban, all films with tobacco imagery require strong editorial justification, 100 s of antitobacco messages produced by the MoHFW, and a static health warning at the bottom of screen during tobacco imagery display. In 2015, less than 48% of movies had tobacco imagery compared with 89% in 2005.

Conclusions Although, not a ban, MoHFW, supported by local advocates and WHO, issued regulations that resulted in a substantial drop in on-screen tobacco imagery and increased exposure to antitobacco messages. India's experience informs WHO Framework Convention on Tobacco Control parties as they develop and implement policies to curb tobacco imagery in entertainment media.

INTRODUCTION

India's film industry produces 1500–2000 movies yearly that reach 2.2 billion moviegoers in India as well as a sizeable worldwide audience.¹ Indians also watch movies on television (TV), satellite and on-demand platforms. Aware of the promotional value of tobacco imagery in

Key questions

What is already known?

- ▶ Tobacco imagery in film and television programs causes youth tobacco use.
- ▶ The tobacco industry has a history of using film and television to promote its products.
- ▶ India implemented regulations to reduce the amount and impact of tobacco presentation in films and on television.

What are the new findings?

- ▶ The Ministry of Health and Family Welfare with support from WHO and non-governmental organisations passed regulations for comprehensive tobacco-free movie and film rules in India.
- ▶ Film industry and the Ministry of Information and Broadcasting fought the rules, weakening and delaying implementation for more than 7 years, until 2012.
- ▶ There was a substantial reduction in tobacco imagery in movies in India after the rules went into effect and broad dissemination of antitobacco advertising accompanying films and television that still contain smoking images.

What do the new findings imply?

- ▶ The detailed analysis of policy-making process that led to the Indian rules presents a lesson for the other countries for regulating tobacco imagery in films and television.
- ▶ It is important to engage with stakeholders, including WHO, civil society, sympathetic filmmakers and politicians to support the regulations while being cautious of the motion picture and television companies, their unions and rating agencies.
- ▶ A detailed guideline for effective implementation of the regulations by all stakeholders should always follow any regulation to assist effective enforcement.

films^{2–7} tobacco companies have used smoking by major film stars to help construct a pro-tobacco culture across Asia.⁸ Although tobacco kills more than 1.35 million Indians every year, it is home to nearly 270 million tobacco users with

more than 28% adults using tobacco in some form.⁹ Additionally, about 15% youth between 13 and 15 years of age use tobacco¹⁰ while more than 5500 youth initiate tobacco use every day.¹¹

The Ministry of Information and Broadcasting (MoIB) is the nodal ministry for regulating films and TV programmes in India. MoIB enforces the Cinematograph Act, 1952 which prohibits 'glamorisation' of tobacco and smoking in movies (without defining the term)¹² and the Cable Television Networks Amendment Act, 2000, which bans tobacco advertising on cable TV.¹³ Active efforts to regulate tobacco use in Indian film started in 2001 when the Ministry of Health and Family Welfare (MoHFW), the nodal ministry for health, introduced the Cigarettes and Other Tobacco Products Act (COTPA) that was signed into law in May 2003. COTPA Section 5 (1) states, 'no person shall take part in any advertisement which directly or indirectly suggests or promotes the use or consumption of cigarettes or any other tobacco products (emphasis added).'¹⁴ The law also prohibits smoking in public places, sale of tobacco products to and by minors and within 100 yards of educational institutions and mandates pictorial health warnings covering 85% of the principal display area, both front and back, of all tobacco products.¹⁴

Nevertheless, adolescents are more likely to start smoking if exposed to on-screen tobacco imagery.^{15–22} Research in India shows that high levels of smoking in Indian movies and frequent displays of tobacco brands on-screen influenced youth uptake.^{6 7} In 2005, the MoHFW issued regulations prohibiting tobacco appearances in movies and TV programmes. Film industry and MoIB opposition weakened the rules and delayed the implementation until 2012. Nevertheless, MoHFW, with support from non-governmental organisations (NGOs) and the WHO secured strong regulations that were followed by a drop in tobacco use in films as well as an increase in public exposure to antitobacco messages.

METHODS

We used the 'standards for reporting qualitative research' reporting guidelines²³ (online supplemental file) to prepare a policy history and analysis of the development of India's regulations of tobacco use in film and TV for the period 2003 to 2019.

Relevant Indian laws and regulations on films, cinema, TV and tobacco control were searched from <https://www.indiacode.nic.in/>.

Parliamentary questions posed by members of parliament (MPs) to relevant ministers between 1 January 2003 and 24 July 2019 were searched from <https://parliamentofindia.nic.in/> with key words 'movie,' 'film,' 'cinema' and 'TV' and identified 298 relevant questions.

We searched the www.smokefreemovies.ucsf.edu database for India-specific information and identified 37 media stories. We then conducted snowball searches from this initial list in other film and tobacco industry

trade publications for collating information on movie rules in India from 2003 to 2019, which yielded another 30 media stories.

We searched <https://indiankanoon.org> and <https://www.tobaccocontrollaws.org> for information on litigation and judicial observations regarding India's movie rules, which yielded 17 judicial decisions.

Information available on the Central Board of Film Certification (CBFC), the MoIB agency charged with reviewing and certifying films, website <https://www.cbfcindia.gov.in> was searched in December 2020.²⁴

Stakeholders whose names appeared in the literature review and media reports in respect of film rules in India were contacted for interviews to both validate and substantiate the findings from the review and to fill in the information gaps. Stakeholders were asked to share their experience of development and implementation of the movie rules in India and what according to them were the enablers and barriers in the process which have been included in our analysis. The stakeholders included the WHO India Office, civil society representatives and the concerned officials in relevant government departments. Interviews were conducted over telephone except one that was conducted in person. Interviews were recorded and professionally transcribed. Officials from the MoHFW, WHO India Office, MoIB and CBFC did not respond to the email requests for interviews. Representatives from the film industry were not contacted for this study because we could not identify contact information beyond their social media accounts.

Data collection and analysis took place from July 2019 to April 2020. We used the information we collected to prepare a detailed timeline and history of the developments and events relating to films and TV rules in India (online supplemental table S1). A much more detailed report on the events presented and analysed in this paper is also available.²⁵

Patient and public involvement

This paper does not report a clinical study, so no patients were involved.

This paper described the public and political process to develop and implement India's films and TV tobacco depiction rules. While the public was not involved in the development and design of the study, several public players were interviewed. Involvement paragraph as a subsection within the methods section of their papers. We will make the published paper available to the media, health authorities and public health advocates to disseminate it to people and organisations who can act on the information and recommendations in the paper.

RESULTS

Initial push to ban on-screen tobacco imagery (2003–04)

WHO highlighted its campaign against on-screen tobacco promotion with the 2003 World No Tobacco Day's theme 'Tobacco-free film, tobacco-free fashion.'⁵ As part of

this event, WHO collaborated with the University of California, San Francisco Smokefree Movies project in November 2002 to call on Hollywood and Bollywood to end their promotion of tobacco.⁷ In February 2003, WHO released a report documenting tobacco presentation in 76% of the Indian movies released between 1991 and 2002 and 89% in 2005. During 1991–2002, 16% of movies with tobacco imagery had brand placements and 62 tobacco brand exposures were recorded, with the highest brand exposure being ITC's Wills brand.⁷ Tobacco brand placement increased threefold to 46% in 2005 after implementation of the advertising ban under COTPA, wherein over 90% of all brand appearances were Philip Morris (Marlboro) and ITC (Wills and Gold Flake).⁶

Several MPs cited the WHO report⁷ when asking the Government what it was doing about tobacco presentation in films and TV.^{26 27} The MoIB responded that the CBFC was preventing glamorisation of tobacco use in films.²⁶ The MoHFW acknowledged the report's recommendations to protect youth from tobacco imagery in movies, that COTPA required a total prohibition on all forms of direct and indirect advertising and that the Government intended to use World No Tobacco Day to highlight tobacco's ill effects and advocate to eliminate tobacco imagery in films.²⁷ At the main World No Tobacco Day 2003 event in New Delhi, the Health Minister called for support from the media community and several actors, producers, directors and others spoke against tobacco consumption and promotion.²⁸

Several NGOs also promoted the movie rules and defended their necessity (online supplemental table S1). Tobacco control activists and students, led by Delhi-based NGO HRIDAY, pressed for a ban of on-screen tobacco depictions.^{29 30} The Cancer Patient Aid Association, a Mumbai-based NGO which also contributed to WHO's report, said that the findings were, 'not to chastise film stars, but to sensitise them to the fact that they exert a huge impact on people' and recruited several actors to create antismoking advertisements.³¹

Early in 2004, MoHFW issued regulations to implement COTPA,³² including provisions banning direct and indirect advertising of tobacco products. The Ministry also released a comprehensive report on tobacco control in November 2004³⁰ that, among other things, linked tobacco use to films.³³

Civil society campaigns for tobacco-free movies (2005)

The year 2005 started with HRIDAY student representatives sending open letters to the CBFC chairperson seeking a tobacco imagery ban in Indian films.³⁴ Salaam Bombay Foundation, a Mumbai-based NGO, released an analysis of four popular movies from 2004 to 2005 that found the films collectively had 27 min of tobacco imagery, worth INR116 million (US\$2.7 million) in advertising.³⁵

On 21 March 2005 actor Vivek Oberoi, who had been honoured with a World No Tobacco Day award by WHO

in 2004, accepted the Red and White Bravery Award from Godfrey Phillips, Philip Morris International's Indian affiliate. The Cancer Patient Aid Association called on Oberoi to reverse his decision to accept the award³⁶ and the Burning Brain Society, a Chandigarh-based NGO, sued Godfrey Phillips for sponsoring the awards in violation of COTPA and called on Oberoi to return the award.^{37 38} Burning Brain Society also wrote to MoHFW and MoIB ministers and the CBFC chairman urging them to stop tobacco imagery in movies and broadcast media.^{39 40}

First tobacco-free movies rules: notification and challenges (2005)

On 31 May 2005, MoHFW announced the tobacco-free movie and TV regulations.⁴¹ Effective 1 August 2005, the rules prohibited tobacco imagery in new movies and TV programmes and required old movies and TV programmes to have a health warning scroll at the bottom of the screen during any display of tobacco imagery. Displays of brands or logos in films, TV, print, outdoor and electronic media was prohibited (online supplemental table S2).⁴¹

Several filmmakers and actors attacked the regulation using rhetoric employed by Hollywood.⁴² The CBFC chairman called it a hasty decision, raised concerns about tobacco depiction in period and gangster movies, and said the ban would be difficult to enforce,⁴³ especially for movies that were complete or nearing completion.⁴⁴ The Film and TV Producers Guild of India called for self-regulation and argued that the Cinematograph Act was sufficient.⁴⁵

The publisher of *The Hindu*, a major newspaper, challenged the rules in Madras High Court. A leading film director, who was considered a known ally of the tobacco industry,⁴⁶ also challenged the rules in Bombay High Court. The cases were consolidated before the Delhi High Court.⁴⁷

Discord between MoIB and MoHFW (2005)

Against this background, two MPs asked MoIB and MoHFW about the demand to ban smoking scenes in film and if there was a difference of opinion between them.⁴⁸ MoIB responded that the film rules were under examination in consultation with MoHFW and that the film industry opposed the directive because some of the provisions would be difficult to implement.⁴⁸ MPs also asked if MoIB was pressuring MoHFW to ease the regulations.^{49 50} The MoIB minister denied that MoIB was pressuring MoHFW, but said that the 'MoHFW have been requested to look into some of the implementation aspects of the notification in light of the reservations expressed by the film industry.'^{49 50}

Indian tobacco control NGOs published a two-page advertisement in *Screen*, one of India's leading entertainment newspapers, on 17 August 2005, supporting the rules with the headline 'Why Indian films will lead the world on 2 October, 2005,' that summarised the scientific

evidence for tobacco-free media in plain language. NGOs sent copies of the ad to all 788 MPs and the CBFC chairperson.⁵¹

In response to film industry and MoIB concerns, MoHFW modified its movie rules in November 2005^{52 53} to exempt tobacco depictions by an actual historical character or in an historical period or eras and portrayals that include tobacco's health dangers, such as a character getting sick and dying from a tobacco-caused disease. Tobacco imagery in live TV coverage, old Indian films and TV programmes and all (old and new) foreign films and TV programmes was permitted.⁵⁴ Tobacco product placement, brand display and close-ups of packs and other brand collateral were still banned.⁵² In addition, the revised regulations required a minimum 30 s of anti-tobacco advertisements at the beginning, intermission and end of old Indian and all foreign films in place of the health warning scroll during scenes depicting tobacco. TV programmes continued to be given the option of a 30 s antitobacco advertisement before the programme or health warning scroll during depiction of tobacco use.⁵²

Widening differences between MoIB and MoHFW (2006)

By early 2006, MoIB and MoHFW submitted competing affidavits to the Delhi High Court.⁴⁷ Outside the court, the MoIB said that, 'The announcement [of the MOHFW rules] was premature and impossible to implement without destroying cinematic beauty and artistic control.'⁵⁵ The Health Minister said, 'I will talk to the I&B Ministry on this issue... We are going to move forward, but the matter is now in the court.'⁵⁶ To overcome the differences MoHFW approached the Prime Minister's Office, which directed the Cabinet Secretary to resolve the issue between the two ministries.⁵⁷ In the meantime MoHFW kept postponing implementation.⁵⁸

In May 2006, MoHFW agreed to allow tobacco imagery in new films with 'editorial justification' and disclaimers by actors using tobacco before the film, while existing movies would carry antitobacco advertisements at the beginning, intermission and end of films and a scrolling health warning message for a minute before and after tobacco scenes. The Health Minister announced⁵⁹ and reported to Parliament⁶⁰ that MoHFW would implement the new rules once the court approved them.

In October 2006, MoHFW issued the second set of amendments to the movie rules, incorporating the compromises⁶¹ and further exempted 'rare' cases where tobacco use was 'compelled by the script', that is, when the depiction of tobacco use is central to the character or story. Any such representation required 'strong editorial justification' and a mandatory A certification (not suitable for youth under 18) for films and TV programmes and would be shown only at times with low youth viewership (<18 years old).⁶¹ (As of December 2020, no government agency had issued clear guidelines on how to decide whether there is 'strong editorial justification' for tobacco use in a movie.)

The newly appointed MoIB minister, actor-politician MH Ambareesh, opposed limiting tobacco imagery in movies and asked, 'If heroes stop smoking, will people not smoke?'⁶² The media largely favoured the MoIB and accused the government of high-handedness and behaving like a 'nanny state.'⁶³

Efforts by and focused on film stars (2007–2008)

In February 2007, several actors announced that they had stopped smoking.^{64 65} The Cancer Patient Aid Association worked with the actors who became brand ambassadors for MoHFW's antismoking campaigns⁶⁶ although some smoked in their subsequent movies.⁶⁷

In January 2008, Health Minister Ramadoss asked prominent actors to not smoke in movies.^{68 69} In response Shah Rukh Khan, a major movie star, asserted creative freedom should be allowed in cinema and arts.⁷⁰ NGOs sent Khan letters urging him to use his platform for the public good.⁷¹

In May 2008, Health Minister Ramadoss appealed to Indian film stars, especially Shahrukh Khan and Amitabh Bachchan, not to smoke or drink in movies to avoid inspiring youth initiation.⁷² Bachchan criticised Ramadoss as 'overzealous' and another filmmaker called him 'juvenile.'^{72 73} Actor Rajinikanth supported Ramadoss^{73 74} and committed not to smoke in real life or on film, and released two successful movies without smoking. The Minister hoped Bollywood leaders would follow in Rajinikanth's footsteps,⁷⁵ but other filmmakers refused to agree that smoking or drinking in movies stimulated those behaviours in real life.⁷⁶

The Delhi High Court quashes the rule but Supreme Court allows it to take effect (2008-09)

In February 2008, two Delhi High Court judges delivered divided rulings.^{77 78} One ruled that tobacco product advertisements were not constitutionally protected speech and that restrictions on electronic media and cinematographic film were reasonable and justified.⁴⁷ The other ruled that COTPA did not give MoHFW power to make rules about films or TV and a blanket ban on smoking scenes in films and TV encroached on filmmakers' creativity and free artistic expression.⁷⁹ The chief justice referred the case to an additional judge for final adjudication.

On 23 January 2009, the Delhi High Court quashed the movie rules as beyond COTPA's scope and inconsistent with the speech, expression and trade rights under India's Constitution.⁸⁰ The third judge ruled that CBFC guidelines were adequate and nothing more was required or permissible under COTPA or the Constitution.⁸⁰

The MoHFW appealed the decision to the Supreme Court. The Supreme Court issued an interim stay on the Delhi High Court judgement on 2 April 2009, which meant that the movie rules could go into effect.⁸¹

However, by this time Minister Ramadoss had resigned⁸² and Ghulam Nabi Azad was appointed as the new Health Minister. In response to a parliamentary question

regarding showing smoking scenes in films and TV, Azad responded, 'Action is in progress to implement the Rules notified in October 2006.'⁸³ In contrast, MoIB incorrectly stated that the 2006 film rules could not enter effect since the appeal was pending in the Supreme Court.⁸⁴

More advocacy efforts by MoHFW and civil society (2009–2011)

The WHO released its first report *Smoke-free movies: From evidence to action*¹⁹ in 2009 which highlighted that Indian films were depicting more tobacco imagery following implementation of COTPA in 2003. The report also suggested that the tobacco companies could be using increased placement of tobacco use in movies as a way to compensate for COTPA restrictions on traditional advertising.¹⁹ In 2011, WHO released a second edition of the report highlighting the conflict between the MoHFW and MoIB.²⁰ Failing to reach consensus with MoIB on the October 2006 rules, MoHFW started extensive negotiations with the MoIB to amend the rules.²⁰

Under mounting pressure from WHO, NGOs and increasing scientific evidence,^{85 86} MoHFW partnered with WHO and the Salaam Bombay Foundation to organise a workshop in September 2011 to sensitise members of the CBFC, its Regional Centres and some filmmakers on the need to restrict tobacco use in the films and TV programmes.⁸⁷

Third amendment to the movie rules (2011)

On 27 October 2011, MoHFW issued a modified notification on regulating tobacco imagery on-screen effective 14 November 2011.^{88 89} These rules required U/A certification (parental guidance for children below the age of 12 years) for any tobacco presentation in films. Further, it required a 20 s antitobacco disclaimer and 30 s antitobacco advertisement produced by the MoHFW before and during intermission in addition to the on-screen warning scroll during on-screen depiction of tobacco (online supplemental table S2).

A month later representatives of the film industry met with MoIB, the Ministry of Law and Justice, and CBFC to discuss the alleged difficulties and challenges in implementing the new rules.⁹⁰ No one from the MoHFW was invited to attend the meeting, but the MoIB Minister called the Health Minister during the meeting and presented the difficulties the CBFC and the film industry claimed.⁹¹ The MoIB advised the CBFC and its Regional Boards to maintain the *status quo* that existed before notification of the 27 October 2011 rules.⁹² MoHFW continued to pursue the matter with MoIB and wrote to the CBFC and Advertising Standards Council of India urging them to implement and monitor the rules,⁹² while MoIB asserted further changes citing practical difficulties.^{93–95}

Kerala High Court and Supreme Court direct full compliance with rules (2012)

On 26 March 2012, in response to a petition filed by the Kerala Voluntary Health Services regarding COTPA

implementation in the state of Kerala, the High Court of Kerala directed the national government, State of Kerala and the CBFC to 'ensure that no scenes are depicted in films, tele-serials and other visual media which would violate the provisions of COTPA and its allied Rules.'⁹⁶ On 27 April 2012, the Supreme Court made its 2 April 2009 interim stay on the Delhi High Court's order permanent.⁹⁷

MoIB ignored both courts while filmmakers continued to depict tobacco imagery.⁹¹ Although CBFC partially observed the regulations, it wrote MoIB expressing practical difficulties in implementing the provisions.⁹⁸ In response, the MoIB Director (Films) wrote the chief executive officer of CBFC saying they should advise filmmakers to display only a 20 s antismoking message at the beginning and end of films, and a static antismoking message during any smoking scene (online supplemental table S2).⁹⁸

Fourth and final amendment to the movie rules (2012)

In September 2012, MoHFW and MoIB agreed that films would not be rated for smoking scenes (not even a U/A certification) and that MoHFW would provide the disclaimer and advertisements to CBFC for filmmakers to use at the time of application for certification.⁹⁹ MoHFW issued the final regulations effective on 2 October 2012 (online supplemental table S2).¹⁰⁰ On 21 September 2012, MoHFW released a set of disclaimer and health spots to be used in films and TV programmes with tobacco imagery (figures 1 and 2).

In September 2013, MoHFW released two new anti-tobacco advertisements (figure 3) to be displayed at the beginning and middle of movies featuring tobacco imagery that would replace the earlier ones. The new advertisements were dubbed in 16 Indian languages for pan India coverage.¹⁰¹ MoHFW also placed a national advertisement on 2 October in leading newspapers (figure 4).²¹

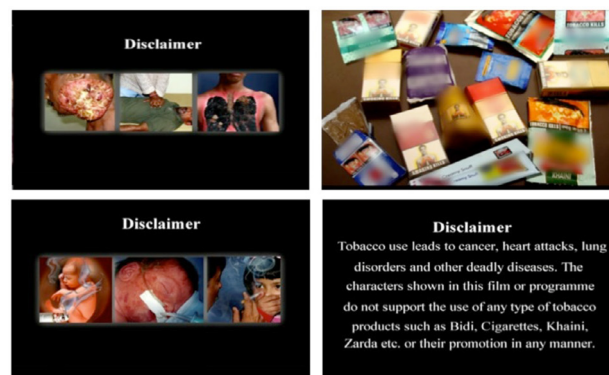


Figure 1 The static disclaimers to be displayed at the beginning and middle of films containing tobacco use produced by the Ministry of Health and Family Welfare in 2011. In addition to the images, an announcer reads the message.



Figure 2 The first two 30 s antitobacco advertisements MoHFW produced in 2011 to display at the beginning and intermission of films. Mukesh (left) is a testimonial by a 24-year-old young adult, Mukesh who died of the oral cancer after his operation for that cancer. Sponge (right) demonstrates the immediate damage that occurs to the lungs (represented by sponges) when someone smokes. A pair of hands squeezes the tar from the sponge, revealing the cancer-producing tar that goes into the lungs of a pack-a-day smoker every year. These advertisements were shown after one of the disclaimers shown in figure 1. These advertisements were produced by Ministry of Health and Family Welfare with technical support from the World Lung Foundation (now Vital Strategies) which were finalised after proper message testing and pilot testing of the spots.

Filmmakers fail to block the static message and MoHFW-produced antitobacco advertisements (2012–2020)

The film industry, through the Film and TV Producers Guild of India, resisted on-screen static health warning messages (figure 5).¹⁰² Filmmaker Aurag Kashyap refused to add the static health warning message to his movie *Ugly* (2013, DAR Motion Pictures) and when refused certification¹⁰³ he sued CBFC in the Bombay High Court challenging the rules especially the static messages⁹⁸ on the grounds that it prevented enjoyment of the movie as a piece of art.^{104 105}

The Court, following the July 2013 direction of the Supreme Court,¹⁰⁶ refused to act on the lawsuit against the CBFC.⁹⁸

Early in 2014, several filmmakers argued they, not the MoHFW, should produce and control antitobacco messages.^{107 108} In response¹⁰⁹ NGOs wrote to MoHFW that Bollywood had conflicted with public health, that current film rules were effective in countering tobacco use in films, and that the government should not succumb to pressure from the film industry.¹¹⁰ Dr V Shanta, Chairman Adyar Cancer Institute, Chennai, also sent a letter to the Prime Minister on 23 April 2015 requesting that smoking



Figure 3 Two new antitobacco advertisements released by the Ministry of Health and Family Welfare on 30 September 2013. Child (left) showed a father smoking at home with the daughter starting to cough to illustrate the ill effects of secondhand smoke. The father puts out his cigarette. Dhuan (right) is a message about smoke all around the city and the ban on smoking in public places. The message is to put out your cigarette or it will subject you to a fine.

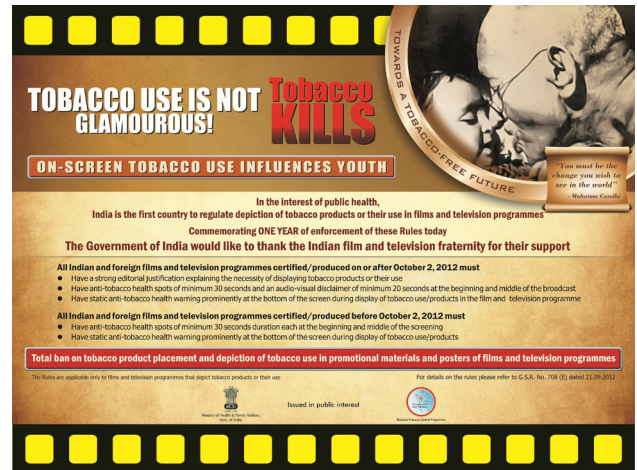


Figure 4 National public advertisement Ministry of Health and Family Welfare published on the first anniversary of India’s tobacco-free film and television rules by MoHFW on 2 October 2013 in leading national daily newspapers.

scenes in movies be banned and the MoIB be directed to strictly implement the rules immediately in all movies.¹¹¹

In June 2016, an MoIB Expert Committee constituted earlier in the year¹¹² recommended repealing of the MoHFW movie rules and replacing them with a static audio visual message only at the beginning of films. It also suggested self-production of small antitobacco advertisements by filmmakers to be screened in cinema halls and on TV channels.^{113–115} However, no changes were made and the rules remained in effect as of December 2020.

WHO commends tobacco-free movies in India (2016)

In February 2016, WHO released the third edition of its report *Smoke-free movies: From evidence to action*²¹ that highlighted India’s success. The report stated that by mandating ‘warnings about tobacco harms through public service announcements, disclaimers and static messages, the Government of India has been able to accrue valuable air time for public health messaging and has been able to raise tobacco control awareness among the masses.’ The head of the WHO’s Tobacco-Free Initiative applauded government’s effort and recommended a rating system that awarded an ‘adult’ rating for movies, TV and other entertainment products containing tobacco imagery.¹¹⁶

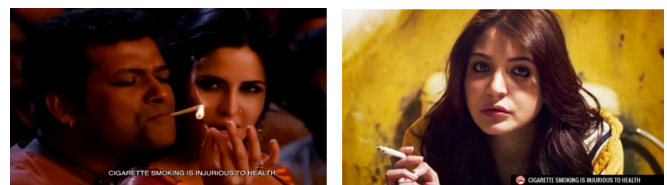


Figure 5 Screengrab from movies showing examples of the antitobacco static health warning message ‘cigarette smoking is injurious to health’ superimposed by the filmmakers on the screen during depiction of tobacco use. (Left) *Agnipath* (2012, Dharma Productions); (right) *NH10* (2015, Clean Slate Productions).

Evaluation of the movie rules (2017)

A report that analysed contents of 245 top grossing Bollywood movies from 2006 to 2017 for tobacco presentation revealed that, in 2015 less than 48% of top-grossing movies had tobacco imagery⁶⁷ compared with 89% in 2005.⁶

In 2017, at the National Consultation on Tobacco-free Films Policy held in Mumbai, the MoHFW released a study conducted by Vital Strategies with support from the WHO India Office.¹¹⁷ Key stakeholders from government, media and NGOs participated in the consultation. The study found that 99% of movies with tobacco imagery released in 2015 implemented at least one element of the film rules while 27% implemented all three elements. Seventy-nine per cent of films with tobacco showed the disclaimer, 97% included the MoHFW antitobacco advertisements and 86% included the static health warning during smoking scenes.¹¹⁷ Moviegoers felt that the rules were easy to understand, increased concerns about tobacco's harms and prompted tobacco cessation attempts.¹¹⁷ Twenty-two per cent of TV programmes had tobacco imagery, of which 71% were broadcast at times of minor viewership (prime time) and only 4% of them implemented at least two out of the three rules requirements.¹¹⁷ None of the TV programmes implemented all three elements of the rules.^{67 117} One of the reasons for lack of compliance in TV was lack of broadcasters' sensitisation to the regulations.¹¹⁸

A study conducted in the state of Karnataka (data collected between July 2017 and January 2018) concluded that 'children in southern India who had seen films containing tobacco imagery are no more likely to smoke than those who had not, indicating that the tobacco control messaging mandated by Indian law may be attenuating the effect of tobacco imagery in films on smoking uptake.'¹¹⁹

Tobacco imagery in live streaming platforms (2017–2020)

During 2017, while the MoHFW worked to maintain tobacco-free films and TV rules compliance, online media streaming services flooded the internet with tobacco imagery.^{120 121} MoHFW objected to the Telecom Regulatory Authority of India about the blatant violations of the film rules and asked it to prevent violation of the regulations by the online streaming companies.¹²⁰ Because streaming platforms were not yet regulated, MoHFW started examining WHO Framework Convention on Tobacco Control (FCTC) Article 13, which forbids cross-border advertisements of tobacco products.¹²² By early 2019, the Internet and Mobile Association of India, the mobile industry's key lobbying body, created a voluntary regulatory mechanism for its members. It informed MoIB regarding the development of a 'Code of Best Practices for Online Curated Content Providers' including its complaint mechanism.¹²³ Such voluntary codes do not work^{124–126} and therefore, the internet and Mobile Association of India should instead be required to implement the existing film rules.

No formal process for considering 'editorial justification' (2012–2020)

Although movie rules had been in effect for 6 years, in August 2018 the CBFC Chief Executive Officer admitted that a formal process vetting 'editorial justification' claims for tobacco imagery in films still did not exist.¹²⁷ Our detailed review of the documents available online from the CBFC's website as of 24 December 2020 revealed that no formal procedure for seeking or documenting 'editorial justification' existed. The forms used to apply for film certification require many details about the film but did not ask questions regarding tobacco content.

While state health departments and NGOs reported movie rules violations^{128–130} (online supplemental table S1), the MoIB minister told Parliament on 28 June 2019 that antitobacco advertisements were mandatory and all films and TV programmes with tobacco imagery must adhere to the regulations, while Doordarshan (National Public TV channel) runs scrolling warnings (text that moves across the screen superimposed on the image) instead of static warnings during on-screen depiction of tobacco.¹³¹

DISCUSSION

WHO reports, civil society advocacy, and many MP supported Health Minister Ramadoss and subsequent Health Ministers' efforts to get the film rules implemented and prevent depiction of tobacco imagery in movies and TV programmes in India.¹³² Ramadoss not only introduced the initial rules in 2005 but also negotiated for MoIB's support and implementation of the regulations. He went all out in support of the rules, including filing court cases and arguing before the inter-ministerial committees as well.¹³³ He called on film stars to stop using tobacco on and off screen. NGOs responded to his call and supported the movie rules and later also reported violations of the regulations (online supplemental table S1).

Indian parliamentarians remained engaged and generally supportive of MoHFW and raised 298 questions during 2003–2019 about regulation of tobacco in movies and TV. Of these 142 (48%) raised concern about tobacco imagery or called for regulation of film and TV content, compared with only 43 (14%) that were negative; the remaining 113 (38%) were neutral.²⁵

In a world first, beginning October 2012, Indian movies with tobacco imagery were required to display a total of 100s of MoHFW-produced antitobacco disclaimers and advertisements before films and during intermissions, along with an antitobacco static health warning on-screen during all tobacco depictions.¹¹⁷ This compliance translated into about 23 hours of exposure to MoHFW antitobacco messaging that year.

Presence of the tobacco industry

After COTPA's ban on conventional advertising in 2004, the amount of tobacco imagery in Indian movies

increased.¹⁹ The tobacco industry also sponsored events and publications closely related to the film industry, including film magazines, cinema awards and concerts by Bollywood stars.^{134 135}

Although the tobacco industry continued benefiting from tobacco imagery in movies, it kept a low public profile during the battle over India's film rules. However, film industry arguments against the rules were similar to the tobacco industry's response to any effective tobacco control effort globally or in India,^{30 136–139} namely that the proposed regulations would not work, that the regulations violated fundamental rights, and that the film industry is not responsible for tobacco use among adolescents, youth or adults.

Blocking age-rating films and TV with tobacco

The film industry with MoIB's support blocked age-based restrictions to prevent youth exposure to tobacco imagery in films and TV programmes. As a result, youth-rated movies in India continue to contain tobacco images as of March 2020,^{67 85 140} more in the regional movies than the national languages.¹⁴⁰ While under the initial regulations films and TV programmes with tobacco imagery were not to be broadcast at a time with high viewership below 18 years old, with the film industry pressure the amended 2012 rules dropped these conditions, leaving millions of youth exposed to tobacco presentations (online supplemental table S2). Future regulations in India and other countries adopting similar regulations should insist on age-based restriction on tobacco imagery in movies and TV programmes.

The fight within the government

Due to lack of consultation with MoIB and CBFC before notifying the rules in 2005, the MoIB responded hostilely, siding with filmmakers in their legal challenge to the regulations while delaying and diluting the regulations. Even after agreeing to the final movie rules in 2012, the agencies under MoIB resisted enforcing the regulations. As of April 2020, the CBFC lacked procedures for filmmakers to submit 'editorial justification' for tobacco imagery, and we could not locate any formal records from the Board making any decisions on this matter. While MoIB and its agencies resist to ensure full compliance with the film rules under COTPA, such resistance should be dealt by the MoHFW at inter-ministerial committees and through training and sensitisation of non-health stakeholders.

Key lessons for India and other countries

Effective enforcement remains a challenge for MoHFW. MoHFW, civil society and policy-makers need to be cautious of film industry attempts to self-produce disclaimers. MoHFW needs to continue to seek assistance from the Prime Ministers' Office to better engage MoIB to sensitise and train staff and board members of CBFC and other self-regulatory bodies on the significance of the tobacco regulations to improve compliance. Although antitobacco disclaimers, advertisements and static health

warnings are translated in all regional languages of the country, multiple region-specific disclaimers, advertisements and static messages should be produced with local characters and testimonials by MoHFW and supplied through CBFC to filmmakers on a rotating basis.^{141 142}

The rules have reduced, but not completely prevented films and TV programmes from becoming tobacco advertising vehicles in India, and worldwide due to the global distribution of Indian films.¹⁴³ Arguments against restrictions on depiction of tobacco use in films continue to be made in various countries including the UK,¹⁴⁴ the European Union¹⁴⁵ and Germany¹⁴⁶ in response to regulation of tobacco presentation in movies. Countries developing policies to prevent tobacco promotions through entertainment media as part of implementing FCTC Article 13 could learn from India's experience and preempt tobacco and film industry counteraction, insulating themselves from long policy battles. The success story of movie rules in India also benefitted from the positive response from the Supreme Court of India for implementation of the COTPA provisions and its rules. This prevented any possibility of adverse orders in subsequent challenges to the film rules. Constitutional freedom of speech and expression has been raised against the film rules in India, which may not be relevant for countries where such freedom is not part of their constitution.

Limitations

This study only presents information available from the literature and sources publicly available and some details might not be recorded or available in public documents. Although the study captures filmmakers and actors' public statements and media impressions towards the movie rules, in-person interviews would have been beneficial.

CONCLUSION

After a long battle, India implemented comprehensive regulations to restrict tobacco imagery in films and TV. Since implementation, tobacco imagery in films dropped and public exposure to antitobacco messages has grown. Implementation of the MoHFW regulations lies with MoIB and CBFC, which should ensure compliance with the rules especially requiring 'editorial justification' in films with tobacco presentation and issue detailed guidelines to TV broadcasters, all its regional boards and filmmakers to increase compliance.

Cinematograph Act and the Cable Television Network Regulations should be amended to incorporate COTPA provisions on tobacco presentation in movies and TV. Filmmakers should submit details of tobacco imagery present in a film submitted for certification, require legally binding declarations from filmmakers that they did not receive financial, non-financial, or sponsorship support from the tobacco industry^{7 19–21} and replace self-regulation of TV and streaming services with binding regulations.

Considering the Indian experience, the WHO FCTC Working Group on Article 13¹⁴⁷ which is developing an addendum to existing guidelines¹⁴⁸ for implementing advertising and promotion restrictions to more explicitly address entertainment media, should include adult content ratings for films with tobacco imagery, require filmmakers and broadcasters to attest that their productions are free of tobacco industry influence, and should future-proof all measures to stop tobacco promotion in entertainment media by covering rapidly evolving digital distribution technologies.

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