



2
0
1
9

Overview of the Thailand Tobacco Plain Packaging Act (2019)

Copyright © 2019 Mahanakorn Partners Group, All rights reserved.

Overview of the Tobacco Plain Packaging Act

New legislation, announced by the Thai Government on December 14th, 2018, requiring plain packaging for cigarettes, will enter into force on September 10th, 2019, making the Kingdom the first country in Asia, and first middle-income country globally, to do so. Thailand was praised by the [World Health Organization](#) (WHO) for implementing stronger tobacco control measures, noting the country's continued efforts to promote the well-being and health of its people.

The 2017 Tobacco Control Act set the minimum age for purchasing tobacco products at 20 and banned tobacco advertising, sponsorship and promotion as well as the sale of single cigarettes. This new legislation goes a step further, stipulating that all tobacco products will have plain packaging by September 2019. Existing stock of non-standardized tobacco packs may be sold until December 8th, 2019.

As a result of the plain packaging policy for tobacco products, logos, colors, brand images and promotional information may no longer be displayed on packaging. A standard color and font style are stipulated, and only brand names and product names are to be displayed.

The impact of the new regulation on tobacco industry brand owners will be profound as it will all but negate the effectiveness of their registered intellectual property in marketing their brands and in distinguishing them from competitors. Counterfeiters will find replicating standardized packaging of well-known brands an easier task, exposing consumers to perhaps greater health risks from unregulated products.

Trademark owners may decide to challenge the new legislation by claiming they unfairly devalue the registered intellectual property that had previously been granted. Section 44 of the Thai Trademark Act includes the right to use a registered trademark: "a person who is registered as the owner of a trademark shall have the exclusive right to use it for the goods for which it is registered." Whereas in many other countries trademark laws grant only a negative protection from infringement, the Thai Trademark Act grants a positive right to use a registered mark, making the likelihood of a challenge feasible.

However, there is international precedence for this type of legislation. Australia introduced plain packaging in 2012 putting tobacco companies in an uproar. The Australian Government was sued by Philip Morris, who claimed the limitations on packaging were unfair. The International Permanent Court of Arbitration (PCA) ruled in Australia's favor and the tobacco giant was forced to pay the government's legal fees. This success has prompted other countries to implement plain packaging regulations, and to date, France, Ireland and the United Kingdom of Great Britain and Northern Ireland have passed laws, and other countries have initiated legislative processes.

Further reading

[Thailand becomes first in Asia to introduce tobacco plain packaging; WHO commends efforts](#)

[Thailand: first country in Asia to adopt tobacco plain packaging](#)

[Plain packaging of tobacco products: evidence, design and implementation](#)

We are passionate
about **exceeding** your
expectations



Kian Gwan House III, 9th Floor, 152 Wireless Road
Lumpini, Pathumwan, Bangkok, 10330, Thailand



Tel: +66 (0) 2651 5107
Fax: +66 (0) 2651 5108



info@mahanakornpartners.com
www.mahanakornpartners.com