

LCQ4: Tobacco control and combating trading activities of duty-not-paid cigarettes

Following is a question by the Hon Lai Tung-kwok and a written reply by the Secretary for Health, Professor Lo Chung-mau, in the Legislative Council today (February 26):

Question:

At present, the Tobacco and Alcohol Control Office (TACO) of the Department of Health is mainly responsible for matters relating to tobacco control and taking enforcement action under the Smoking (Public Health) Ordinance (Cap. 371). From time to time, TACO conducts plainclothes inspections or test purchases, and conducts investigations in the form of joint operations with other law enforcement departments, while the Customs and Excise Department (C&ED) combats smuggling and trading activities of illicit cigarettes on different fronts. In this connection, will the Government inform this Council:

- (1) of the number of inspections conducted and fixed penalty notices issued by TACO in each of the past three years, together with a breakdown by smoking offences;
- (2) of the respective establishment and strength of frontline law enforcement officers of different ranks in TACO in each of the past three years;
- (3) of the details and results of C&ED's efforts to combat smuggling and trading activities of illicit cigarettes in the past three years;
- (4) on import cases, of the following information in each of the past three years: the number of referrals received by TACO from C&ED and the number of summonses issued, the number of cases convicted in the court, and other details of the relevant cases;
- (5) on in-town enforcement, of the number and results of various investigation actions (including plainclothes inspections, test purchases, and joint operations) conducted by TACO in each of the past three years; and
- (6) how the authorities plan to enhance interdepartmental collaboration in the future to combat the sale of duty-not-paid cigarettes and alternative smoking products?

Reply:

President,

Having consulted the Department of Health (DH) and the Customs and Excise Department (C&ED), the consolidated reply to the various parts of the

Hon Lai Tung-kwok's question is as follows:

The Tobacco and Alcohol Control Office (TACO) of the DH is the principal enforcement agency for the Smoking (Public Health) Ordinance (Cap. 371) and the Fixed Penalty (Smoking Offences) Ordinance (Cap. 600) (with the number of full-time enforcement staff in the approved establishment provided at Annex I). The TACO mainly enforces (i) offences relating to illegal smoking in statutory no-smoking area (including aiding and abetting smoking offences and obstruction of inspectors' duties); (ii) offences relating to tobacco advertisement and sale; and (iii) offences relating to alternative smoking products (ASPs). The C&ED is the principal enforcement agency responsible for the suppression of smuggling activities, including collecting and protecting revenue from dutiable commodities stipulated in the Dutiable Commodities Ordinance (Cap. 109). At present, combating illicit cigarettes is mainly the responsibility of the C&ED. The numbers of inspections conducted, fixed penalty notices (FPNs)/summons issued by the TACO between 2022 and 2024 for smoking and other related offences are at Annex II.

As regards illegal smoking offences, under the prevailing legislation, any person who commits the act of smoking in a designated no smoking area is liable to a fixed penalty of \$1,500. To effectively mitigate the impact of secondhand smoking on the public and enhance the deterrent effect against illegal smoking, the TACO has flexibly deployed resources and adopted new enforcement strategies since 2023, which included extending the time of surveillance and inspections in no smoking areas, deploying plain-clothes officers to take proactive enforcement actions, and would issue FPNs to smoking offenders without warning.

The number of prosecutions against illegal smoking has surged due to the aforementioned new enforcement strategies. The number of FPNs issued increased from 6 296 in 2022 to 10 261 in 2023 and 13 488 in 2024. Besides, to step up efforts in targeting venues (e.g. bars and restaurants) that offer waterpipe tobacco to customers, the TACO, on its own and in conjunction with the Police, has taken over 400 enforcement actions in the past three years. In addition to prosecution against illegal smoking, the TACO has also initiated prosecutions against persons suspected of inciting, aiding and abetting smoking offenders (including bar operators who have committed aiding and abetting smoking offences).

As regards smoking product advertisements, under the prevailing legislation, no person shall display or distribute smoking product advertisements (including leaflets) or place smoking product advertisements on the Internet. Offenders are liable to a fine of \$50,000. The TACO has been actively conducting market surveillance, and in order to further curb the situation of illicit cigarette leaflets, the TACO has been strengthening joint operations since 2023, including joint operations with the Police, the Housing Department (HD) and the C&ED against complaints of distributing illicit cigarette leaflets. A total of over 250 joint operations were conducted in the past three years. Since 2021, the TACO has successfully prosecuted 17 offenders for distributing smoking product leaflets. The highest penalty for these convicted cases was a fine of \$8,000. For online advertisement, apart from conducting investigations and prosecutions upon

receipt of complaints or referrals, the TACO also actively carries out online surveillance. Upon identification of smoking product advertisements, the TACO will ask the relevant internet service providers and social media platforms to remove such contents as soon as possible. The TACO has removed over 3 200 webpages and social media accounts or posts involving smoking product advertisements in aggregate in the past three years.

As regards the ASP ban, with effect from April 30, 2022, no person may import, promote, manufacture, sell, or possess for commercial purposes ASPs, in accordance with the Smoking (Public Health) Ordinance (Cap. 371) and the Import and Export Ordinance (Cap. 60). The C&ED is responsible for intercepting illegally-imported ASPs at import level with intercepted cases referred to the TACO for follow-up and prosecution, the TACO is also responsible for market surveillance and instituting prosecution.

For cases involving import of ASPs, as at December 31, 2024, the TACO issued 1 272 summonses to offenders of importing cases, of which offenders in 694 cases were convicted by court and were fined \$300 to \$42,000. During the same period, the C&ED detected 52 cases involving offences under the C&ED's enforcement and illegal import of ASPs concurrently, of which 26 were convicted and the highest fine and sentence imposed were \$5,000 and four months' imprisonment respectively. Besides, the TACO also monitors the sale of ASP on the Internet, and conducts test buy for follow-up investigation, as well as liaises with relevant organisation to assist in removing the illegal online content. For cases of suspected sale or possession for commercial purposes of ASPs, the TACO issued 24 summonses to offenders, of which 20 cases were convicted by court and sentenced to two months' imprisonment at most.

The relevant ban on ASPs has been in force for nearly three years. At present, there are no legal channels to import or purchase ASPs, and ASPs purchased for personal use before the ban came into effect should have been largely consumed after a certain period of time. Prevailing legislation does not prohibit the possession of ASPs for non-commercial use. To suppress the continued circulation of ASPs, which are hazardous novel tobacco products, in Hong Kong and to tackle the problem of using e-cigarette devices to abuse drugs at its root, the Health Bureau will further strengthen the regulation of ASPs, including banning the possession of relevant products. Details will be announced later.

On the other hand, as an important pillar under the tobacco control strategy, the Government will spare no efforts in combating illicit cigarettes. At present, combating illicit cigarettes is mainly the responsibility of the C&ED. The C&ED will continue to adopt a multi-pronged approach and take stringent enforcement actions at all levels to combat the sale of illicit cigarettes. The C&ED exchanges intelligence with the Police from time to time and conducts joint operations in a timely manner, including combating cases of cigarette smuggling and illicit cigarette storage in downtown. In addition, the C&ED has been maintaining close intelligence exchange and co-operation with the Mainland and overseas law enforcement agencies to combat cross-boundary cigarette smuggling activities.

The enforcement figures against illicit cigarettes (including smuggling, storage and distribution as well as sale) in the past three years are set out at Annex III. The increase in the number of seizures of illicit cigarettes reflects the effectiveness of the C&ED's stepped-up actions against illicit cigarettes and the success of its enforcement strategy does not denote an expanding scale of illicit cigarettes activities. The Government announced the "10 measures for tobacco control" in June last year. Stepping up actions against illicit cigarettes was accorded the highest priority among the 10 measures, including:

- (i) introducing a duty stamp system to distinguish duty-paid cigarettes from non-duty-paid cigarettes;
- (ii) requiring tobacco products being sold at a price lower than the tobacco duty need to be proved duty-paid;
- (iii) increasing the maximum penalty for handling, possessing, selling or buying duty-not-paid cigarettes; and
- (iv) listing the relevant offences under the Schedule of the Organized and Serious Crimes Ordinance (OSCO) (Cap. 455), so as to enable the C&ED to freeze and confiscate illicit proceeds and assets associated with illicit cigarette activities by virtue of the OSCO.

On duty stamp system, taking into account factors such as enforcement effectiveness and cost-effectiveness, the Government proposes to require the affixing of duty-paid labels on the retail packages of cigarettes at this stage. Through the application of anti-forgery features and related digital technologies, frontline officers of the C&ED would be able to distinguish duty-paid cigarettes from duty-not-paid ones in a more effective manner, thereby enhancing enforcement efficiency. The C&ED expects that a pilot scheme on the duty stamp system will be rolled out in the middle of this year to work out the practical operating requirement of the relevant scheme, which will then be launched next year at the earliest. The Government expects that the above measures will increase the deterrent effect and enhance the effectiveness of law enforcement departments in combating illicit cigarettes.

The relevant Government departments, including the TACO, the C&ED, the Police and the HD will continue to work together to enhance intelligence exchange and deepen the co-operation mechanism, as well as to make adjustments to their enforcement strategies having regard to the actual situation, and to take joint enforcement actions and refer suspected illegal cases, with a view to taking forward the work of tobacco control and enforcing the relevant legislation.