



Compliance and enforcement of laws for the prevention of NCDs:

Examples from the Western Pacific Region and beyond

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WHO Collaborating Centre
for Law & Noncommunicable Disease

McCabe
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We respectfully acknowledge the First Nations Peoples, the Traditional Owners and Custodians of the lands and waterways throughout Australia, whose shared connection to culture and place brings deeper meaning to the cities and regions in which we live and work. We pay our respects to Elders past, present and emerging and embrace their cultures, knowledges and heritages in defining our shared social, spiritual, health, environmental and economic aspirations.

The McCabe Centre's office is located on Bunurong country. As we work towards a world free of preventable cancer and noncommunicable diseases, access to safe and affordable cancer and noncommunicable diseases treatment and care, we acknowledge the lasting impacts of colonisation and intergenerational trauma on the health inequities in Aboriginal and Torres Strait Islander communities here in Victoria, nationally and globally. We understand that, working within a framework of self-determination, enabling Aboriginal and Torres Strait Islander communities to determine and guide this work will lead to effective and sustainable change.

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The McCabe Centre is the WHO Collaborating Centre for Law and Noncommunicable Disease and the only centre of its kind in the world advancing law to fight cancer and noncommunicable diseases (NCDs) and protect people affected by them.

The McCabe Centre would like to acknowledge and thank representatives of the WHO Regional Office for the Western Pacific who provided valuable input on the report.

Methodology

Case studies for this report were primarily sourced through secondary desk research conducted by McCabe Centre legal staff, as well as through the McCabe Centre's networks in the WHO Western Pacific Region and elsewhere. Where case studies were sourced through secondary research, the McCabe Centre's Regional Managers, and other stakeholders and relevant professionals in the region and beyond, were involved in verifying the examples and their legal and factual accuracy.

The case studies in this document are not intended to provide a comprehensive overview of how compliance and enforcement can occur. Approaches to the enforcement of laws for the prevention of NCDs depend on the country context. Rather, the case studies in this document are illustrative examples of how compliance and enforcement of NCD laws has been approached in different countries in the WHO Western Pacific Region and beyond.

The McCabe Centre has made every effort to confirm the accuracy of the information contained in this document.

Disclaimer

This report is prepared for information purposes only and should not be relied upon for legal advice. All care is taken to ensure that the information contained in this report is accurate at the time of publication. However, laws, regulations, policies and entitlements may change. Readers should take independent advice from a qualified professional when dealing with specific situations. The McCabe Centre excludes all liability for any loss or damage incurred by use of or reliance on the information contained in this report.

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Foreword



Hayley Jones
Director
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There's no denying that addressing noncommunicable disease is one of the greatest public health challenges we face.

Cancer and other NCDs represent seven out of every ten deaths worldwide and kill 41 million people each year.

While those are confronting statistics, there are effective and powerful tools we can use to help reduce the incidence of cancer and NCDs, including law. We know that strong and well-drafted laws have the power to reshape social norms, stop industry interference, and remove barriers to good health.

But laws can only be effective if they lead to change on the ground – which is why we have worked with WHO in the Western Pacific Region to compile this report on good practices in compliance and enforcement.

Enforcing and ensuring compliance with the law can be challenging at the best of times, and more so where resources are constrained. The recent impact of COVID-19 has also exacerbated these challenges – with industry actors using the pandemic as an opportunity to expand their influence and reach.

This report looks to the Western Pacific Region and beyond to demonstrate successful examples of compliance with, and enforcement of, NCD legislation in the hope that these can serve as a guide for further progress.

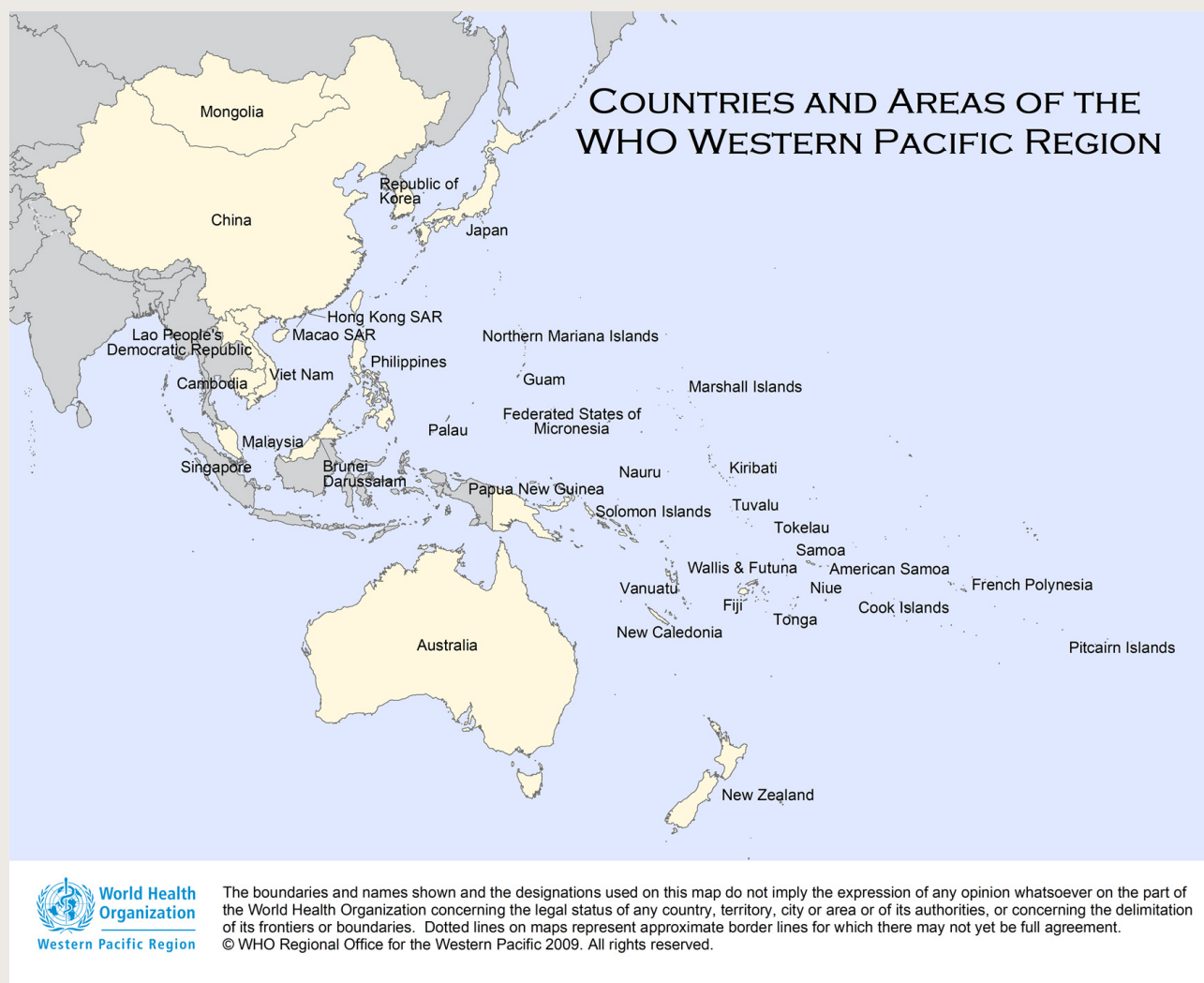
We also provide practical examples of collaboration, and how working with governments, authorities and communities is essential in ensuring laws translate into real-life action.

Take for example, Singapore's Orchard Road No Smoking Zone, which drew on the work of volunteers to promote no smoking areas in public as a social norm. Another example is Thailand's alcoholic beverage law, which is a 3-tier system that includes collaboration between different agencies, ministries, experts and civil society organisations, working together to ensure compliance with alcohol control measures.

We can't do this work on our own. We'd like to thank our contributors and our alumni networks who inform our work and give us greater insight into the nuances and complexities of their countries. The work we do is also possible because of the work of the WHO, the Pacific Community (SPC), and their respective member states.

It's clear from this report that drafting and enacting well-thought-out laws is the beginning of a much longer process to turn laws into action. Compliance and enforcement are critical to this process. They cannot simply be an afterthought.

We hope this report helps to highlight how enforcement is an integral part of the puzzle and can help us as we work towards a healthier future for the Western Pacific region, and the world.



Executive summary

Noncommunicable diseases, or NCDs, are responsible for 80% of all deaths in the Western Pacific Region.¹ In order to prevent NCDs like cancer, it is vital for governments to adopt laws which address NCD risk factors, but also actively enforce compliance with those laws. This is because laws must be translated into tangible actions – such as changes in behaviour or policy – to achieve their public health objectives. Strengthening NCD laws and their implementation is critical to ensuring that laws on paper become action on NCDs in practice.

Enforcing laws can be particularly challenging in low-resource settings such as in low- and middle-income countries. This can be compounded by factors like industry interference from well-resourced commercial actors, and circumstances like the COVID-19 pandemic.

This report aims to support Member States in the Western Pacific Region to more effectively enforce laws and regulations to prevent NCDs. It includes case studies of successful compliance and enforcement, as well as legislative examples, from a range of resource settings in the Western Pacific Region and beyond, with a focus on practices and mechanisms that are feasible in low- and middle-income countries.

The report identifies four lessons:

Lesson one: Build enforcement in from the start of the drafting process

Well-designed, clear, comprehensive, and enforceable laws are critical to compliance and are more effectively enforced. For example, in Niue, tobacco control legislation clearly defines key terms such as ‘tobacco’ and ‘tobacco product’ to ensure that rules, sanctions, and mechanisms employing these terms are enforceable (see Box 2). Laws which are well targeted are also more likely to obtain high levels of compliance, and are easier to enforce (see Box 3).



Lesson two: Create systems to promote and monitor compliance

Governments should both promote and monitor compliance with the law. Compliance can be promoted by making regulated entities aware of their obligations, as well as informing the public about what is prohibited. For example, in Singapore, providing nutrition labelling guidance to manufacturers and importers supports compliance efforts (see Box 6). Community buy-in also promotes compliance and can reduce the need for enforcement. In Chile, this was achieved through an effective communications campaign to raise awareness of new legal requirements and mobilise civil society support (see Box 5).

Monitoring compliance with the law also helps to detect and correct violations. This can be done through inspections and investigations (see Box 7), mandating recordkeeping and reporting (see Box 8), and complaints systems (see Box 9). These mechanisms and activities are efficient ways to achieve voluntary compliance and minimise the need for more serious interventions, such as sanctions and legal action. In an effective compliance and enforcement strategy, they form the bulk of activities undertaken by law enforcement authorities and agencies.

The case studies also show the importance of the ability to respond to violations in various ways, such as by way of warnings and administrative orders (see Box 14), penalties and sanctions (see Boxes 15 and 16), legal action (see Box 17), and licence suspension or cancellation (see Box 18). Transitional periods, prior to enforcing new laws, can provide regulated persons and entities time to prepare for meeting their obligations (see Box 4).

Lesson three: Ensure that enforcement agencies are adequately resourced and can enforce the law

Countries should also consider what kinds of compliance and enforcement powers are most appropriate to achieve the aims of the law, as well as what resources may be needed. This includes monitoring powers like the power of entry and inspection (see Box 10), investigation powers such as the power to seize unlawful products (see Box 11), administrative compliance powers such as the power to issue formal warnings (see Box 12), and legal action and prosecution powers such as the power to commence legal proceedings and to seek to impose penalties (see Box 13). It is important to consider how resources for enforcement will be allocated, and to make appropriate provisions for this within the relevant budgetary processes.

Legislation must also confer responsibility for enforcement on authorised entities and officers to ensure that enforcement activities are carried out. For example, in the Republic of Korea, anti-smoking advisors may be appointed under a legislative mechanism to enforce smoke free laws (see Box 19). In New Zealand enforcement officers are appointed under legislation to monitor and enforce smoke free laws (see Box 20).

Lesson four: Work across sectors and levels of government

While local authorities are often well placed to enforce NCD laws and regulations (see Box 21), implementing an effective enforcement program generally requires a collaborative approach, where different sectors and levels of government work together to ensure that policies are implemented coherently and that there is adequate political commitment from all relevant agencies. In Thailand, a 3-tier system, established under the country's alcohol control legislation, promotes multisectoral coordination to implement and enforce the law between various government agencies and ministries, as well as between provincial and national government agencies (see Box 22). In Quezon City, Philippines, a local government order mandates the City Administrator to coordinate with national government agencies for the implementation of a healthy food procurement policy (see Box 26).

Involving the public to promote compliance and implement the law is also important (see Boxes 23 and 24). In addition, ongoing planning is required to implement and enforce legal measures, (see Box 25), as well as regular monitoring and evaluation of the effectiveness of such measures and enforcement programs (see Box 27).



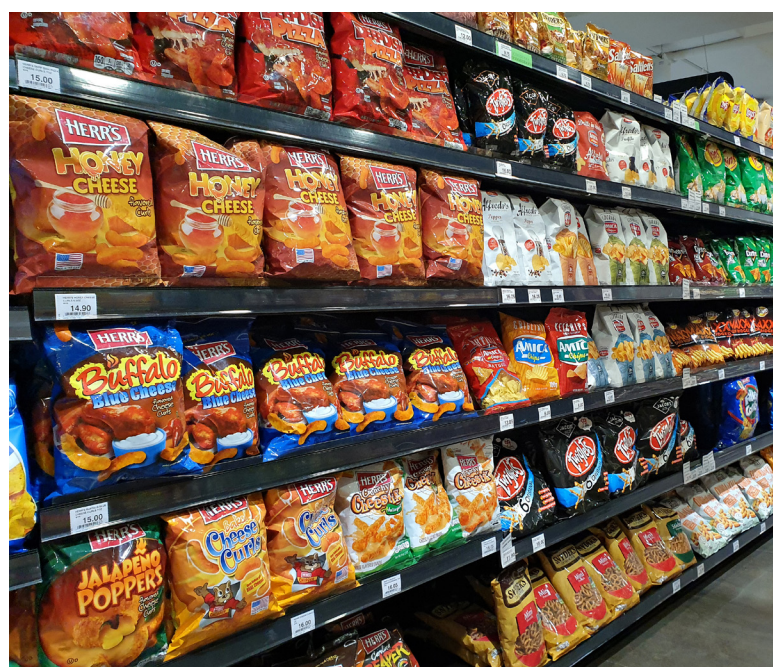
Introduction to the enforcement of laws for the prevention of NCDs

Noncommunicable diseases (NCDs) kill around 41 million people each year and are responsible for 71% of all deaths globally.² The burden of NCDs is particularly high in the Western Pacific Region where NCDs are responsible for 80% of all deaths.³ In low-resource settings, such as low- and middle-income countries, NCD-related healthcare costs and loss of working capacity have a particularly devastating impact on household resources, forcing millions of people into poverty each year.⁴

Legislation is crucial to addressing NCD risk factors, such as tobacco, alcohol, and unhealthy diets. Appendix 3 of the Global Action Plan for the Prevention and Control of NCDs 2013-2030 recommends cost-effective policy interventions known as ‘Best Buys’. These include regulatory measures such as price and tax measures, smoke free laws, packaging and labelling measures, regulating sale to and by minors, marketing bans and restrictions, and regulating supply and demand of unhealthy commodities such as tobacco, alcohol, and unhealthy foods.⁵ Many countries in the Western Pacific Region have enacted, or are enacting, legislation to implement these ‘Best Buys’ and better protect the health of their population.

However, it is not enough simply to enact laws. Laws must be translated into tangible actions – such as changes in behaviour or policy – to achieve their public health objectives and reduce the burden of NCDs. Compliance and enforcement are a key part of ensuring that laws on paper become action on NCDs in practice.

Effective enforcement of NCD laws is particularly important in light of the challenges posed by the COVID-19 pandemic. NCDs put people at higher risk of complications from COVID-19. NCD risk factors may also increase the chances of contracting the virus, and its severity.⁶ Moreover, unhealthy commodity industries have taken advantage of the COVID-19 pandemic by adapting their digital marketing and product promotion efforts, using corporate social responsibility initiatives, and pursuing collaborations to expand their influence, protect their interests, and promote their harmful products.⁷ For example, unhealthy commodity industries, such



as tobacco, alcohol and unhealthy food industries, have promoted online sales during the COVID-19 pandemic,⁸ and have sought to link their products with health services through gifts and donations.⁹ These industries have also sought to shape public health policies including by challenging and interfering with health and environmental regulation and its enforcement.¹⁰ These developments pose new challenges for the enforcement of laws to combat NCDs, at a time when such laws are more important than ever.

In addition, countries operating in low-resource settings face special challenges in effectively implementing and enforcing laws including lack of resources, training, and capacity. Countries operating in both low and high-resource settings face additional challenges, such as lack of coordination between critical sectors, lack of political will, and poor civil society engagement.

This report aims to support Member States in the Western Pacific Region to more effectively enforce laws and regulations to prevent NCDs. It includes case studies of effective compliance and enforcement activities, as well as legislative examples, from a range of resource settings in the Western Pacific Region and beyond, with a focus on practices and mechanisms that are feasible in low- and middle-income countries.

What is compliance and enforcement?

Compliance and enforcement are key to achieving the objectives of NCD laws. This is because well-designed laws provide little benefit if they are not complied with and enforced. To be effective, NCD laws require appropriate compliance and enforcement action to meet their objectives and protect public health.

Compliance refers to regulated persons acting consistently with their legal obligations and requirements. Enforcement generally relates to actions taken by government bodies or agencies to achieve compliance. It is part of the ongoing implementation of laws,¹¹ and is usually one part of a broader compliance strategy. Enforcement activities are interrelated and usually commence when laws come into effect, or shortly after.¹² This often requires the development of a clear enforcement program and strategy which sets out the actions required to secure compliance and support enforcement activities. Enforcement includes prosecution of offences,

but also includes other legal mechanisms to achieve compliance. Enforcement activities may encourage compliance with the law, as well as discourage breaches of the law through monitoring compliance and responding to violations.

Consistent and effective enforcement programs support public health outcomes and ensure that non-compliant persons and entities do not gain an unfair advantage over those who comply with the law. This ensures that all regulated persons and entities are treated equally.¹³

Key regional and international frameworks

Several key instruments recognise the importance of compliance and enforcement with NCD laws. They provide technical guidance on the enactment and implementation of enforcement mechanisms, activities and programs at the country level, including in the Western Pacific Region and in low-resource settings.

Box 1. Recognition of the importance of enforcement and compliance of NCD laws in global and regional instruments

Western Pacific Regional Action Agenda on Strengthening Legal Frameworks for Health in the Sustainable Development Goals

The Western Pacific Regional Action Agenda was endorsed at the 69th session of the Regional Committee for the Western Pacific in October 2018.

The Regional Action Agenda provides guidance for governments in the region on strengthening legal frameworks to advance the rule of law and expand the role of law in health.¹⁴ It highlights priority action areas that countries may consider and provides guidance on navigating complex law-making processes. The development, implementation and evaluation of laws for health is one of the three strategic pillars presented in the Regional Action Agenda for strengthening legal frameworks for health. Enforcement is a key aspect of this pillar.

The foreword to the Regional Action Agenda notes that “[t]o be effective, legal frameworks should be sufficiently resourced and enforced, with monitoring and regular evaluation to ensure effectiveness and inform further strengthening”.¹⁵

Global Action Plan for the Prevention and Control of NCDs 2013-2030

Endorsed by the 66th World Health Assembly in 2013, the Global Action Plan for the Prevention and Control of NCDs 2013-2020, extended to 2030 at the 72nd World Health Assembly, provides a road map and menu of policy options for WHO Member States to prevent and control NCDs.¹⁶ Appendix 3 of the Global Action Plan for NCDs recommends 16 cost-effective policy interventions known as ‘Best Buys’ to prevent and control NCDs. Nine of these interventions require laws or regulations to be implemented and enforced.¹⁷

WHO Framework Convention on Tobacco Control – Guidelines for Implementation

The Guidelines for Implementation were adopted by the Conference of the Parties to the WHO Framework Convention on Tobacco Control (WHO FCTC) at its second (2007), third (2008), fourth (2010), fifth (2012), and sixth (2014) sessions.¹⁸

The guidelines were prepared by the Convention Secretariat to promote implementation of the WHO FCTC and cover various provisions of the treaty including protection from exposure to tobacco smoke and packaging and labelling of tobacco products. The guidelines are intended to help Parties to meet their obligations under the WHO FCTC by promoting best practices and standards that governments can benefit from in implementing and enforcing the provisions of the treaty to control tobacco and prevent NCDs.

Regional Action Plan for Tobacco Control in the Western Pacific

The Regional Action Plan for Tobacco Control in the Western Pacific (2020-2030) was endorsed at the 70th session of the WHO Regional Committee for the Western Pacific in October 2019.

The Regional Action Plan presents a road map for countries and areas in the region to take strategic action to achieve global tobacco control goals and counteract the shared threat to health across the Western Pacific Region.¹⁹ The Regional Action Plan focuses on four strategic areas for action to bolster the implementation of tobacco control interventions. One of the objectives of Strategic Area 2 is the implementation of measures to strengthen multisectoral tobacco control enforcement.

Addressing the Harmful Use of Alcohol – Guide to Developing Effective Alcohol Legislation

The Guide to Developing Effective Alcohol Legislation was commissioned by the WHO's Regional Office for the Western Pacific and published in 2011. It followed the development of the Regional Strategy to Reduce Alcohol-Related Harm which was endorsed at the 57th session of the WHO Regional Committee for the Western Pacific in September 2006.²⁰ Subsequently, in May 2010 the World Health Assembly adopted a Global Strategy to Reduce the Harmful Use of Alcohol.²¹

The purpose of the guide is to assist governments in the Western Pacific Region to develop legislation to implement, monitor and enforce effective alcohol policies to address the harmful use of alcohol. The guide focuses on monitoring and enforcement of policies to control alcohol, such as measures which reduce affordability, regulate availability and restrict marketing of alcohol.

Regional Action Framework on Protecting Children from the Harmful Impact of Food Marketing in the Western Pacific

The Regional Action Framework was endorsed at the 70th session of the WHO Regional Committee for the Western Pacific in October 2019.²²

The Framework is comprised of four pillars for action on food marketing to children – a policy framework, multisectoral and multi-stakeholder collaboration, advocacy and communication, and monitoring and evaluation. The Framework also contains ten recommended actions that governments in the Western Pacific Region can tailor to suit their needs and priorities. The recommended actions include establishing or strengthening enforcement or compliance mechanisms to support laws, as well as policies aimed at improving the food environment and protecting children from the harmful impact of food marketing.

Pacific NCD Roadmap Report

The NCD Roadmap Report was developed by the World Bank as a background document on preventing and controlling NCDs in the Pacific and circulated for consideration by the Joint Forum Economic and Pacific Health Ministers' Meeting in July 2014.²³ It aims to help government officials implement and enforce strategies and measures to respond to NCDs in ways that are affordable for Pacific Island governments. Multisectoral coordination in implementing and enforcing NCD laws and the role of all government ministries in addressing NCD prevention is recognised throughout the report.²⁴

For the Future – Delivering Better Health in the Western Pacific Region

For the Future – Delivering Better Health in the Western Pacific Region is a White Paper on WHO's work in the Western Pacific Region developed in April 2019 for consultation with Member States, WHO staff, partners and stakeholders.²⁵ The White Paper sets out thematic priorities, such as NCDs and ageing, for WHO's work in the Western Pacific Region, as well guidelines for collectively responding to current and future health challenges, and focusses on seven main areas including championing health beyond the health sector.

Developing an effective enforcement program

Effective drafting of laws

Well-designed, comprehensive, and enforceable laws with clear and practical requirements, which grant necessary powers to authorised entities and persons (see the section on ‘What compliance and enforcement powers are needed’ below), are critical to ensuring compliance. Clearly defined rules, terms, appropriate sanctions, and evidence-based enforcement mechanisms impact compliance and enforcement, as does the robustness of the overall legal framework in which the law operates.

Box 2 sets out an example of how key terms are defined in Niue’s tobacco control legislation.

Box 2. Niue’s Tobacco Control Act 2018

Niue’s Tobacco Control Act 2018 clearly defines key terms used in the Act to ensure that provisions using these terms are easy to understand and comply with and are enforceable. This includes the following terms:²⁶

*“Tobacco” means any preparation of the leaves of plants from the genus *Nicotiana* or species *tabacum* used for smoking or chewing and includes all products which contain tobacco in any form and may include all parts and materials, such as filters, rods and similar matter. For the purposes of [the] Act tobacco also means any waterpipe, shisha, Electronic Nicotine Delivery systems (“ENDS”) or Electronic Non-Nicotine Delivery systems (“ENNDS”).*

“Tobacco product” means any product intended for human consumption which contains tobacco in any form, in an amount that is more than an incidental ingredient or component and includes all parts and materials including filters, rods, portion pouches, and similar matter, as applicable, including loose tobacco but not including raw tobacco. Any product labelled as containing tobacco must be considered, for the purposes of [the] Act, to be a tobacco product.

As nicotine and non-nicotine tobacco products, and the devices required to use these products, cannot be easily distinguished, including both ENDS and ENNDS in the definition of ‘tobacco’ under the Act is important to effectively enforcing regulations controlling ENDS which contain nicotine.

Consistency with other laws

NCD laws should be consistent with existing legal frameworks. This means that governments must respect constitutional rights, procedural obligations, and human rights obligations when developing and enforcing NCD laws. Unhealthy commodity industries may challenge the validity of NCD laws and related enforcement mechanisms based on trade or investment law, or on commercial rights which may be protected under constitutional or regional agreements, or on procedural grounds. To better protect legal measures against the risk of legal challenge, it is important to determine what other laws may be applicable, to follow due process in introducing or amending laws, and to consider how NCD laws may be enforced consistently with other obligations.

In addition, new NCD laws should be consistent with and complement other laws which address NCD risk factors. This includes existing laws which have been adopted in line with cost-effective policy interventions known as ‘Best Buys’ set out in Appendix 3 of the Global Action Plan for the Prevention and Control of NCDs 2013-2030.²⁷

Governments must also ensure that enforcement mechanisms and activities are developed consistently with obligations arising under the WHO Framework Convention on Tobacco Control (WHO FCTC),²⁸ and its Guidelines for Implementation.²⁹ For example, when implementing article 8 of the WHO FCTC, governments must ensure that enforcement actions adequately protect people from exposure to tobacco smoke.

Who should be the subject of enforcement?

Laws and regulations target persons and entities which are required to comply with legal requirements. Where classes of persons and entities cannot be defined or are unknown, legislation may provide for broad application of laws and enforcement mechanisms.

Box 3 sets out various recommendations in the WHO FCTC Article 8 Guidelines for Implementation for imposing legal responsibility for smoke free laws.

Box 3. *The WHO FCTC Article 8 Guidelines for Implementation*

The **WHO FCTC Article 8 Guidelines for Implementation** recommend that effective legislation, which prescribes smoke free places, should impose legal responsibilities for compliance on both affected business establishments and individual smokers. The guidelines recommend that legislation should provide penalties for violations which should apply to businesses and, possibly, to smokers.³⁰ According to the guidelines, Legislation should place the responsibility for compliance on the owner, manager or other person in charge of the premises and should clearly identify the actions he or she is required to take including a duty to:

- display signage that clearly indicates smoking is prohibited
- remove any ashtrays from the premises
- supervise the observance of rules
- discourage individuals from smoking on the premises

Transitional periods

Legislation generally provides for a transitional period after it has come into effect to enable all regulated persons and entities to prepare for meeting their obligations under the new law before it is enforced. Where legislation does not provide for a transitional period, an initial fixed period of ‘soft enforcement’ may be outlined in the enforcement program.

Box 4 describes a transitional period under Australia’s tobacco plain packaging legislation.

Box 4. *Transitional period prior to enforcement of tobacco plain packaging requirements in Australia*

Pursuant to **Australia’s Tobacco Plain Packaging Act 2011** and **Tobacco Plain Packaging Regulations 2011**, all tobacco products sold, offered for sale, or supplied in Australia must be in plain packaging. The Act and Regulations set out detailed plain packaging standards for tobacco products.

Although the general provisions of the Act commenced on 1 December 2011,³¹ requirements under the Act and Regulations mandating plain packaging and outlining the appearance of tobacco products did not commence until 1 October 2012 for manufacturers and packagers, while tobacco suppliers and sellers had until 1 December 2012 to ensure that all tobacco products sold, offered for sale or otherwise supplied in Australia were in plain packaging.³² The transitional period allowed manufacturers time to adapt package printing processes to meet the new requirements and allowed retailers and distributors time to replace existing inventory before the new requirements commenced.

Securing community, political and administrative buy-in

Clear and consistent communication is crucial to securing community buy-in and support for NCD laws. Communication increases public awareness and includes providing information on legal requirements to the public and regulated persons. Provision of information to unhealthy commodity industries should be in line with rules to prevent industry interference including Article 5.3 of the WHO FCTC which governs engagement with the tobacco industry.

Box 5 provides an example of a communications campaign in Chile designed to raise awareness of new legal requirements and mobilise civil society support.

Box 5. Communications campaign for Chilean front of package nutrition warning labels

Chile's Law No. 20.606 on the Nutritional Composition of Food and Food Advertising (Chile) mandates the use of front-of-package nutrition labels (FOPL) that warn consumers if the product is high in calories, sodium, sugars and saturated fats, where limits set by the Ministry of Health are exceeded, and provides information necessary for selecting and facilitating the purchase of healthier food. *The Food and Health Regulations* (Chile) regulate how the Law is implemented.

Following implementation of the Law, national public campaigns consisting of commercials, videos and downloadable posters to explain the meaning and justification of the labels contributed to high public awareness and their use by Chilean consumers. Prior to implementation of the FOPL, media coverage during development of the Law ensured public transparency of the process and helped to mobilise the support of civil society.³³



It is also important to secure political and administrative buy-in. This can be achieved through sensitizing and making parliamentarians, policymakers, government officials, bureaucrats, technocrats and other officials across key sectors, as well as law enforcement authorities and agencies, whose support may affect compliance and enforcement, aware of NCD laws.



What are the key elements of an enforcement program?

Enforcement programs generally comprise a range of regulatory mechanisms and activities, and are governed by a clear compliance and enforcement strategy. The strategy outlines the objectives of the program, the strategic approach to achieving compliance, and the guiding principles which underpin the program. It usually employs a risk or harm-based approach to guide the use of compliance and enforcement mechanisms and activities available under the program, and in the legislation it works to enforce, in a graduated manner according to the gravity of the breach and level of potential risk or harm.

To what degree promoting compliance (e.g. educating the public and regulated entities), and/or monitoring compliance with the law (e.g. inspections, responding to violations), are used depends on the NCD risk factor being regulated, the local culture, the available resources, the persons and entities being regulated, and the nature and gravity of offences.

Promoting and monitoring compliance with the law

It is important to both promote and monitor compliance with the law. Promoting compliance involves informing regulated persons and entities about their obligations, duties, and what action will be taken in response to breaches. It also involves informing the public about what is prohibited, how to comply with the law, and how to report breaches. Providing technical assistance (e.g. expertise/technology, training tools/materials) to regulated persons and entities, consistently with conflict of interest rules to protect from industry interference, supports implementation of legislation.

Monitoring whether regulated persons and entities are complying with the law, known as ‘compliance monitoring’, can help to identify violations and act as a deterrent.

Box 6 provides an example of technical guidance provided to regulated entities in Singapore to promote compliance with nutrition labelling laws.

Box 6. Nutrition labelling guidance for manufacturers and importers in Singapore

The **Singapore** Food Agency regularly publishes a ‘Guide to Food Labelling and Advertisements’ to assist importers and manufacturers of food products to comply with the nutrition labelling requirements contained in the *Sale of Food Act 1973* and the *Food Regulations 2005*,³⁴ while the Singapore Health Promotion Board also publishes a Handbook on Nutrition Labelling to support implementation of the laws and regulations.³⁵ The guide and handbook provide information on food labelling regulations, which require a nutrient declaration to be contained in a nutrition information panel, for prepacked foods where a nutrition claim is made.

In December 2021, the *Food Regulations* were amended by the *Food (Amendment No. 2) Regulations* (Amendment Regulations) to introduce standardized front-of-pack nutrition labels in Singapore, known as ‘Nutri-Grade’, for sugar-sweetened beverages and non-alcoholic beverages with saturated fat content.³⁶ The labels will be color-coded with the letters ‘A’ to ‘D’ reflecting the sugar and saturated fat content of the beverages, and with letters ‘C’ and ‘D’ pertaining to those at the higher end of the range. It will be mandatory for beverages graded ‘C’ and ‘D’ to display the labels.

The Amendment Regulations came into effect on 30 December 2022. The Singapore Health Promotion Board has published an industry guide entitled ‘Labelling and Advertising Requirements for Nutri-Grade Beverages sold in Singapore’ to assist industry actors to comply with the new labelling and advertising requirements.³⁷ The guide is complemented by mandatory specifications for the application of Nutri-Grade labels and a ‘Usage Guide for Graphic Applications of the Nutri-Grade Mark’ which provides guidelines on graphic applications of the label.³⁸

Identifying violations

There are three common methods for identifying violations:

1. inspection and investigation
2. recordkeeping and reporting by regulated persons/entities
3. utilising a complaints system (e.g. for complaints from the public/civil society/NGOs).

Inspection and investigation

Inspections and investigations are generally carried out by enforcement authorities and officers. Inspections may be conducted on a random or selective basis. Sampling and testing, a form of investigation, usually involves health authorities collecting and analysing product samples to determine compliance with standards.

Box 7 outlines an example of sampling and testing in Singapore to determine compliance with tobacco control laws which regulate the contents and emissions of tobacco products.

Box 7. Singapore's Cigarette Testing Laboratory

The Cigarette Testing Laboratory (CTL) in **Singapore** is a WHO Collaborating Centre for Tobacco Testing and Research. The Pharmaceutical Laboratory, Cosmetics Laboratory and CTL comprise the Pharmaceutical Division at the Health Sciences Authority of Singapore. CTL's main function is to test for tar, nicotine, carbon monoxide, and other toxicants in the smoke of various products, such as traditional tobacco products, electronic nicotine delivery systems (ENDS), heated tobacco products (HTPs), and synthetic nicotine products, including at the request of the Singapore government and regulatory authorities. CTL utilizes existing analytical facilities in the pharmaceutical and cosmetics laboratories.

This work supports compliance in Singapore with regulations relating to the contents and emissions of tobacco products and tobacco product disclosures, in accordance with Articles 9 and 10 of the WHO FCTC, and provides useful information for determining the health implications of tar, nicotine, and carbon monoxide concentrations. CTL's scope extends to other toxicants and also includes:³⁹

- providing technical support in the development of regional testing capabilities in the control of tobacco products
- providing technical training on tobacco content analysis and emissions measurement
- developing testing methodologies on carcinogenic and genotoxic smoke constituents

CTL also supports tobacco testing initiatives in other countries, such as Fiji, Brunei Darussalam, Tonga, the Solomon Islands and Samoa, which require testing facilities to support their tobacco regulatory frameworks and promote compliance, and to fulfil their obligations under the WHO FCTC.⁴⁰ A report of the test results is issued with fees charged for all testing services performed by CTL. A copy of the report will be sent to the Health Products Regulation Group or other relevant authorities if the test reveals that the sample is non-compliant with any legal requirement.⁴¹

Recordkeeping and reporting

Reporting systems are a cost-effective way of identifying violations and promoting compliance. They require regulated persons and entities to retain compliance records and to disclose this information to enforcement agencies and other

relevant government authorities. This may include information on product contents and ingredients, emissions, packaging/labelling, and marketing information. In some cases, regulated persons and entities may be required to arrange their own sampling and testing and to submit the results to the relevant authority.

Box 8 highlights an example from Niue where reporting requirements for tobacco product manufacturers and importers regularly require them to submit contents and emissions test results to health authorities.

Box 8. Reporting obligations under Niue's Tobacco Control Act 2018

The *Tobacco Control Act 2018* of Niue mandates testing of the content and emissions of tobacco products.⁴² Under the Act, every importer or manufacturer of a tobacco product must, at least once a year, provide to the Department of Health (DOH), at its own expense, the results of testing of the constituents of each brand and brand variant of tobacco product it sells in Niue and the respective quantities of those constituents.⁴³ Manufacturers and importers must also report yearly to the DOH on the results of smoke emissions testing of each brand and brand variant of tobacco product it sells and the respective quantities of those constituents.⁴⁴

The *Tobacco Control Regulations 2020* (Niue) prescribe the standards for tests required by the Act.⁴⁵ Pursuant to the Regulations,⁴⁶ individual test results, a statistical summary of the results, and accompanying quality assurance data must be provided to the DOH, which must determine whether the tests were done in accordance with testing standards.

The Act also prescribes general reporting requirements for manufacturers, importers and exporters of tobacco products which must provide business information to the DOH on an annual basis.⁴⁷ This includes:

- the characteristics or source of the tobacco used in the manufacture of tobacco products sold in Niue
- any specified design features of tobacco products
- marketing initiatives underway or undertaken in Niue including their focus, findings, and expenditure

Complaints system

Setting up a complaints system by which complaints from the public, civil society and NGOs can be reported, recorded and responded to by enforcement agencies is another method for identifying and deterring violations.

Box 9 describes a complaints system set up in Baguio City, Philippines for members of the public to report contraventions of smoke free laws.

Box 9. Baguio City's 'Report a violation' system

Baguio City in the **Philippines** maintains a website that is dedicated to providing information on the Smoke-Free Baguio Ordinance (Ordinance No. 34, series of 2017) and facilitating reporting to promote compliance and aid enforcement of its tobacco control measures. The Smoke-Free Baguio Ordinance was implemented in January 2018 and resulted in the creation of the Smoke-Free Baguio Task Force.⁴⁸ The ordinance and task force aims to safeguard public health by protecting people from the harmful effects of smoking, vaping and tobacco consumption. The Smoke-Free Baguio website shares good practices from the city, provides a platform for reporting smoke free policy violations, and contains a database of protocols and forms for enforcement actions.⁴⁹

Members of the public may report a violation of any conduct prohibited by the Smoke-Free Baguio Ordinance by filling out a complaint on the Smoke Free Baguio website's 'Report a Violation' page.⁵⁰ The complainant must include specific information about the violation including a short description and must state which violation of the Smoke-Free Baguio Ordinance was committed, where the violation took place, and the date of the violation. The complainant's identity and personal information is kept confidential. The online reporting form also encourages complainants to use the language or dialect they are most comfortable with, and allows the submission of pictures or videos to support the documentation of the violation.

What compliance and enforcement powers are needed?

Identifying and responding to violations is generally supported by legislation that grants adequate powers to enforcement agencies and officers to enforce the law.

Monitoring powers

Monitoring powers are typically used to determine whether a person is complying with the law, or whether information given under the law is accurate. Monitoring powers allow enforcement authorities to carry out routine and targeted compliance activities including:

- entering and inspecting premises
- questioning
- obtaining and testing samples
- seizing unlawful products

Box 10 describes an example of powers used to monitor compliance with smoke free laws in China.

Box 10. *Enforcement of smoke free legislation in Xi'an Municipal People's Government, China*

In **China**, the Xi'an Municipal People's Government launched a citywide tobacco control movement in 2016.⁵¹ In 2018, the Government passed the *Tobacco Control Regulation* to make Xi'an 100% smoke free by banning smoking in all indoor public places, workplaces, public transport, and some outdoor areas. Around 40,000 law enforcement personnel have inspected more than 50,000 venues to enforce the ban, resulting in the equivalent of more than US\$20,000 in fines.⁵²

To help support compliance and enforcement, Xi'an's government also launched a hotline that citizens can use to report violations (see the section 'Complaints System' above).⁵³

Investigation powers

Investigative powers enable enforcement authorities to investigate suspected breaches of the law and health risks. The objective of investigative powers is to gather evidence for compliance purposes.

Investigative powers include:

- questioning, obtaining information, accessing records
- obtaining and testing samples
- inspection of documents, materials and products
- making recordings (e.g. video, photograph, audio)
- securing and operating equipment
- seizing unlawful products

Box 11 highlights an example of the seizure of unlawful products by enforcement authorities in Mexico.

Box 11. *Seizure of unlawful cereal boxes by enforcement officers in Mexico*

In January 2022, enforcement officers in **Mexico** entered and investigated 75 sales outlets where they seized 380,000 non-compliant boxes of cereals which displayed cartoon drawings on the packaging of the boxes in violation of the *Regulation of the General Health Law on Advertising 2000* (as amended) which aims to promote healthier diets.⁵⁴ The Regulation prohibits food companies from using marketing tactics that might appeal to children, like cartoon characters or mascots.⁵⁵

In addition, the cereal boxes did not clearly state nutritional values or display the proper warning labels, in violation of the *Regulation of Sanitary Control of Products and Services 1999* (as amended) where calories, fats, salt or sugar levels were excessive and required warnings to be displayed.⁵⁶

Administrative compliance powers

Administrative compliance powers provide authorities with the power to take administrative actions when a person or entity fails to comply with a legal requirement or duty. Administrative actions may be taken by an authority without initiating legal proceedings (such as civil or criminal action). These powers include:

- issuing formal warnings and compliance notices
- publicising instances of non-compliance
- issuing infringement notices
- refusing to issue licences or provide registration/permit approvals
- placing a condition on licences/registration/permits
- suspension or cancellation of licences/registration/permits

Box 12 shows how administrative compliance powers have been used to address non-compliance with smoke free laws in Singapore.



Box 12. Orchard Road No Smoking Zone and Enforcement (Singapore)

Under Singapore's *Smoking (Prohibition in Certain Places) Act (SPCPA)* and *Smoking (Prohibition in Certain Places) Regulations*, smoking is prohibited in specified places such as restaurants, offices, and shops. Under the Act, premises managers and operators have the legal responsibility to uphold the smoking prohibition within their managed premises by stopping smokers from smoking in such prohibited areas or request that they leave the premises. Since 1 January 2019, public areas within the Orchard Road precinct have been designated as a No Smoking Zone (NSZ), where smoking is only allowed in Designated Smoking Areas (DSAs).

To ensure the successful implementation of the Orchard Road NSZ (ORNSZ), the National Environment Agency (NEA) worked closely with the Orchard Road Business Association, public agencies, as well as owners and management of building premises in the Orchard Road precinct. NEA adopted a three-month advisory approach from 1 January to 31 March 2019, where verbal warnings or written advisories were issued to those smoking in public areas within the Orchard Road NSZ except within DSAs. This advisory period allowed smokers to be sensitised to the NSZ ahead of the enforcement period.

NEA deployed enforcement officers daily and engaged more than 100 volunteers to conduct regular patrols in the ORNSZ. Volunteers conducted outreach to educate smokers to cease smoking in prohibited areas and directed them to the nearest DSA. The volunteers' efforts complemented NEA's enforcement efforts on the ground, ensuring that friendly reminders would help to reinforce the regulations, while promoting no-smoking in public places as a social norm. Enforcement of the SPCPA at the ORNSZ took effect on 1 April 2019. Smokers caught smoking outside the DSAs within the ORNSZ may face a composition fine of S\$200, or up to S\$1,000 if convicted in Court.⁵⁷

A daily average of 735 advisories were issued to offenders between January 2019 to March 2019 following the implementation of the Orchard Road NSZ. When enforcement commenced on 1 April 2019, a daily average of 21 fines were issued that month. With consistent enforcement, the daily average has reduced to 14 fines per day between 1 May to 31 December 2019. This is a more than 50% reduction since the ORNSZ was implemented, and a one third reduction since enforcement began.⁵⁸

Legal action and prosecution powers

Legal action and prosecution powers allow for persons who have contravened laws to be prosecuted where administrative action, such as issuing warning notices, has not achieved compliance. These powers are generally granted in legislation and include:

- imposing civil penalties (e.g. monetary penalties, fines)
- imposing criminal sanctions (e.g. monetary penalties, fines, imprisonment)
- corrective action (confiscation of products, imprisonment)
- arresting and prosecuting offenders

Box 13 sets out an example from Fiji in which tobacco control legislation grants legal action and prosecution powers to various persons.

Box 13. *The Tobacco Control Decree 2010 (Fiji)*

Proceedings for an offence under **Fiji's Tobacco Control Decree 2010** may be brought:⁵⁹

- (a) by or on behalf of the Director of Public Prosecutions;
- (b) by a member of the police force; or
- (c) by an authorised officer.

Responding to violations

Once violations are identified, responding to contraventions of the law is necessary and acts as a deterrent by imposing sanctions for failure to comply with legal requirements. Appropriate severity of sanctions ensures that enforcement mechanisms have a deterring effect.

Responding to violations encompasses various mechanisms including:

- warnings and administrative orders (e.g. compliance notices, warning letters)
- sanctions and penalties (e.g. civil or criminal penalties, fines, infringement notices)
- licence, registration or permit suspension, revocation or cancellation
- legal action and prosecution



Warnings and administrative orders

Where a breach of a law or regulation has occurred, administrative compliance powers may be used to issue formal warnings and compliance notices which generally specify the violation, the provision of law which has been contravened, what the person or entity must do to return to compliance, the consequences of non-compliance (e.g. penalties/sanctions), and the time within which compliance is required. The power to issue warnings may be contained in legislation or in the enforcement program, plan or non-legislative policy.

Box 14 sets out an example from Australia where the power to issue warnings is outlined in the national tobacco control enforcement policy, a non-legislative instrument.

Box 14. *The Tobacco Control Enforcement Policy (Australia)*

In accordance with the *Tobacco Control Enforcement Policy* of the Department of Health (DOH) of **Australia**, authorised officers may issue non-compliant manufacturers or suppliers of tobacco products with a Notice of Alleged Non-Compliance recording the nature of the activity contravening the relevant legislation, and providing general guidance on rectification of the contravention to return to compliance.⁶⁰ In some circumstances, the DOH may issue a written warning letter. Failure to comply may lead to the issuing of an infringement notice or other enforcement action being undertaken against the manufacturer or supplier.⁶¹

Penalties and sanctions

Legislation generally prescribes penalties which may be imposed where administrative compliance powers, such as issuing warning letters or compliance notices, have not resulted in compliance. This includes civil penalties, such as fines or monetary penalties, as well as criminal penalties, such as fines, monetary penalties, and/or imprisonment. For certain low-level violations, infringement notices, which are administrative in nature, may be issued by a regulatory or enforcement agency setting out the particulars of an alleged contravention of a civil penalty provision or a criminal offence. A person issued with an infringement notice may pay the amount specified in the notice to avoid further legal action.

Box 15 sets out several examples of penalties and sanctions for breaches of Tonga's alcohol control legislation.

Box 15. *The Intoxicating Liquor Act 2016 (Tonga)*

Under **Tonga's Intoxicating Liquor Act 2016**, any person who sells liquor without holding a licence or authorisation to do so is liable to a fine of up to T\$5,000, or to imprisonment for a period up to 2 years for a first offence, or to both. For any subsequent offence, a person is liable to a fine up to T\$10,000 or to imprisonment for a period up to 3 years, or to both.⁶²

The Act also empowers a magistrate judge to make a prohibition order in respect of a person.⁶³ A person against whom a prohibition order is made found in possession of or drinking intoxicating liquor, or who directly or indirectly supplies such a person with intoxicating liquor, is guilty of an offence.⁶⁴ In addition, a licensee who permits any person against whom a prohibition order is in force to be on their licenced premises without any legitimate reason is guilty of an offence and liable on conviction to a fine of up to T\$500, and in default of payment to imprisonment for up to 3 months.⁶⁵

A prohibition order may also be made against a licensee who is convicted of any other offence under the Act.⁶⁶

Box 16 describes an example from Samoa where legislation empowers police officers and alcohol inspectors to issue and serve infringement notices for certain breaches of the law.

Box 16. *Infringement notices and sanctions under Samoa's Alcohol Control Act 2020*

Samoa's Alcohol Control Act 2020 empowers police officers and alcohol inspectors to issue and serve an infringement notice on persons who they have found to be in breach of certain offences under the Act including:⁶⁷

- illegally serving alcohol to minors
- illegal purchase of alcohol by minors
- selling or supplying alcohol outside of permitted trading hours

Infringement notices may also be issued by police officers at the direction of the Alcohol Control Board where it has determined that a breach of the Act has occurred.

Pursuant to the Act, a licensee or person who breaches the prohibition on selling or supplying alcohol to a person under the age of 21 years, commits an offence and is liable upon conviction to a fine or to imprisonment for a term not exceeding six months, or both.⁶⁸

Legal action and prosecution

Taking legal action and/or prosecuting offences and persons in contravention of laws or regulations may be necessary if compliance cannot be achieved through administrative compliance powers, and where no other appropriate remedies are available. This includes commencing legal proceedings to impose civil and criminal sanctions, prosecuting offences where there has been a failure to comply with an infringement notice, and defending legal challenges to uphold the validity of NCD legislation.

Box 17 describes an example of a government authority in Australia taking legal action against several tobacco retail companies which contravened consumer laws.

Box 17. Legal proceedings commenced by the Australian Competition and Consumer Commission

The **Australian** Competition and Consumer Commission (ACCC), an Australian government regulator, commenced proceedings in the Federal Court in 2016 against the Joystick Company Pty Ltd (Joystick), an online e-cigarette retailer, for alleged false or misleading representations in contravention of the *Australian Consumer Law* (ACL) that, among other things, its products did not contain any toxins.⁶⁹

The proceedings reflect the ACCC's policy to consider litigation against businesses that do not pay infringement notices.⁷⁰ The ACCC had previously issued Joystick with three infringement notices as it had reasonable grounds to believe that the company had made several false or misleading representations.⁷¹ Joystick did not pay the penalties within the specified payment period.

The ACCC also commenced separate proceedings against two other online e-cigarette retailers, Social-Lites Pty Ltd (Social-Lites) and Elusion Australia Limited (Elusion), for making false or misleading statements.⁷² The proceedings were commenced after independent ingredient testing commissioned by the ACCC indicated that Joystick, Social-Lites, and Elusion's e-cigarette products contained carcinogens and toxic chemicals. The Court found that the companies had contravened the ACL by making false or misleading representations that their products did not contain harmful carcinogens and toxins. In May 2017, the Court ordered the companies to pay significant monetary penalties.⁷³

Licence suspension and cancellation

Temporary or permanent suspension of an entity's licence may be necessary to protect public health, particularly where serious breaches of the law have occurred, or where civil and criminal sanctions have failed to secure compliance. Where temporary licence suspension fails to ultimately secure compliance or is inadequate due to the severity of the offence, revocation or permanent cancellation of the licence may be required.⁷⁴

Box 18 outlines a legislative enforcement mechanism from Fiji which provides for licence suspension or revocation where certain tobacco control provisions are breached.

Box 18. The Tobacco Control Regulations 2012 (Fiji)

Under **Fiji's Tobacco Control Regulations 2012**, a subsequent offence of any of the following contraventions results in a fine, as well as a 30-day suspension or revocation of the licence of the manufacturer or importer of tobacco products:⁷⁵

- failing to comply with labelling requirements
- selling tobacco products to an unregistered wholesaler, distributor or retailer
- selling tobacco products to a registered retailer, wholesaler or distributor with a suspended or revoked licence



Who should be responsible for enforcement?

Legislation generally specifies which entities will be responsible for implementing and enforcing its provisions. Primary responsibility for enforcement and its coordination may be given to one entity or agency, however, other relevant enforcement agencies and government entities may also need to be involved to ensure a system-wide and whole-of-government approach to enforcement.

Legislation may devolve responsibility for enforcement on various governmental ministries, such as health, trade/commerce, justice, and finance,

as well as on various national and local agencies. These may include prosecuting bodies, administrative bodies, taskforce committees, inter-ministerial committees, police, and judicial institutions. Legislation may also confer responsibility on public health inspectors, customs officers, transport officers, and other authorised officers,⁷⁶ or provide responsible entities with authority to delegate responsibility for enforcement to individuals.

Box 19 provides an example from the Republic of Korea where officers, designated as ‘anti-smoking advisors’, are appointed by legislation to enforce smoke free laws.

Box 19. *Anti-smoking advisors appointed under the Republic of Korea’s National Health Promotion Act*

Pursuant to the *National Health Promotion Act* of the **Republic of Korea**, anti-smoking advisors may be appointed under the Act to enforce smoke free laws.⁷⁷ Under Article 9-5 of the Act, a Mayor/Do Governor or the head of a Si/Gun/Gu may appoint anti-smoking advisors from among qualified persons prescribed by the *Enforcement Decree of The National Health Promotion Act* to take measures to stop smoking in non-smoking areas.⁷⁸ Duties of anti-smoking advisors are:⁷⁹

1. to inspect whether the facility standards of non-smoking areas are complied with
2. to monitor smoking at non-smoking areas, and provide guidance
3. to report any violation of measures to stop smoking to the competent administrative agencies, or provide related materials
4. any other matter prescribed by the Enforcement Decree concerning the creation of a smoke free environment



Box 20 provides a further example from New Zealand where enforcement officers are appointed under legislation to monitor and enforce smoke free laws.

Box 20. Appointment of enforcement officers under New Zealand's smoke free legislation

The Ministry of Health is ultimately responsible for controls related to the sale and supply of smoked tobacco products within **New Zealand**,⁸⁰ however, 'enforcement officers' are appointed by the Director-General of Health under the *Smokefree Environments and Regulated Products Act 1990* to enforce the smoke free provisions of the Act.⁸¹ Enforcement officers are also responsible for enforcing controls related to the sale and supply of vaping products and legislated smoke free and vape free areas under the Act.



Enforcement of NCD laws commonly forms part of the mandate of subnational governments and local authorities which generally have greater familiarity with the local context and may have the necessary institutions, facilities and resources for enforcement.

Box 21 highlights an example from the Philippines where local authorities have primary responsibility for enforcement of smoke free laws.

Box 21. Enforcement mandate of local government units in the Philippines

In the **Philippines**, local government units (LGUs) play an important role in the implementation and enforcement of tobacco control laws at the sub-national level. LGUs have broad powers under the 'general welfare clause' of the *Local Government Code of 1991* (Republic Act No. 7160) to exercise express and implied powers for their efficient and effective governance, and those which are essential to the promotion of the general welfare. Pursuant to this clause, LGUs formulate and pass local ordinances to implement and enforce national laws within their territorial jurisdiction or to adopt more stringent tobacco control measures in accordance with national law.

LGUs also have the express mandate to ensure proper enforcement of the *Tobacco Regulation Act 2003* (Republic Act No. 9211) along with members of the Philippine National Police and other stakeholders.⁸²

Under the National Tobacco Control Strategy 2017-2022, LGUs have led responsibility for advocating for the adoption and enforcement of Article 8 of the WHO FCTC (protection from exposure to tobacco smoke) in local ordinances, advocating for the enactment of a WHO FCTC compliant 100% smoke free national law, and advocating for the adoption of a smoke free generation in LGUs.⁸³

Multisectoral coordination for enforcement

Multisectoral coordination and a whole-of-government and system-wide approach is critical to implementing an effective enforcement program. This may include establishing a multisectoral enforcement team, coordinating mechanism and/or committee.⁸⁴ Beyond coordinating enforcement activities, the mandate of a multisectoral body may also include protecting the enforcement of NCD laws

from industry interference. The McCabe Centre for Law and Cancer explores multisectoral coordination further in its 2020 report on 'Multisectoral coordination to address NCDs through law: Good practices from the Western Pacific Region'.⁸⁵

Box 22 describes a multisectoral coordination mechanism established under alcohol control legislation in Thailand to enforce the provisions of the law.

Box 22. *Cooperation between national and local authorities in implementing Thailand's Alcoholic Beverage Control Act 2008*

The *Alcoholic Beverage Control Act 2008* of **Thailand** establishes a 3-tier coordination mechanism to implement and enforce the Act. This includes multisectoral coordination between various government agencies and ministries, as well as coordination between provincial and national government agencies and offices, and the involvement of civil society organisations and selected experts.

At the national level, the Act establishes the National Alcoholic Beverage Policy Committee (Committee) which is chaired by the Prime Minister, and includes the:⁸⁶

- Minister of Public Health
- Minister of Finance
- Minister of Tourism and Sports
- Minister of Social Development and Human Security
- Minister of Justice
- Minister of the Interior
- Minister of Education
- Minister of Industry

The powers of the committee include monitoring and evaluating compliance with alcohol control measures including those it has developed under the Act.⁸⁷ The Committee is the main responsible public agency for alcohol control in Thailand.⁸⁸

The Act also establishes the Alcoholic Beverage Control Committee (Control Committee) which is chaired by the Minister of Public Health and consists of various government ministers, as well as the Commissioner General of the Royal Thai Police, the Permanent Secretary of Bangkok Metropolitan, and the Manager of Thai Health.⁸⁹ It also includes representatives from civil society organisations and selected experts, such as public health experts. The powers of the Control Committee include requesting information or a statement of opinion from government officials, officers, or employees of any government agency, state agency, or local government in relation to the implementation of the Act.⁹⁰

Under the Control Committee, the Act establishes two provincial committees – the **Bangkok** Alcoholic Beverage Control Committee and the **Changwat** Alcoholic Beverage Control Committee – which include representatives from the police, community and social development, human security, excise, education and medical service departments, as well as selected experts and representatives of local administrative offices.⁹¹ The powers of the provincial committees include coordinating with state agencies to control the manufacture, import, sale, advertising, and consumption of alcoholic beverages and to monitor and evaluate compliance with the Act and report to the Control Committee.⁹²

The Act also establishes the Office of Alcoholic Beverage Control Committee (The Alcohol Control Office) within the Department of Disease Control, Ministry of Public Health.⁹³ The Alcohol Control Office is the Secretariat of the Committee and the Control Committee. Its duties include coordinating with the provincial committees and government and state agencies on alcohol control matters.⁹⁴

Involving civil society and the public

Involving communities to enhance local support and increase awareness of NCD laws, as well as encouraging the public to help enforce the law where appropriate, is important to promoting compliance. Civil society can influence social norms and has a central role in building support for NCD laws. Civil society can support implementation of laws and regulations through educating the public and promoting sensitisation to secure community buy-in and counter opposition. Civil society, as well as NGOs and academic researchers can also contribute to implementation of laws and regulations through capacity building, advocacy, technical expertise and local knowledge. Members of the public and civil society may also assist with monitoring compliance with the law. This includes identifying violations and making complaints, exercising rights, and reporting on the effectiveness of enforcement activities.

Box 23 describes the work of the Cancer Society of New Zealand, a civil society organisation, in providing event organisers with guidance on enforcing smoke free laws.

Box 23. *The Cancer Society of New Zealand's guide on enforcing smoke free events*

The Cancer Society New Zealand (Auckland Division) has produced a guide which provides tips for planning smoke free events to support communities and event organisers in the Auckland area.⁹⁵ The guide includes tips for the enforcement of smoke free laws, contained in the *Smokefree Environments and Regulated Products Act 1990*, by event staff and volunteers. This includes the following guidance on developing an enforcement strategy for smoke free events which recommends:⁹⁶

- a clear process on how staff/volunteers handle breaches
- a graduated approach to enforcement starting with verbal warnings and increasing to penalties if warnings and signs are ignored
- a clear complaints process to manage any potential conflict

Box 24 outlines the work of another civil society organisation, the Samoa Cancer Society, in supporting the implementation of NCD laws in Samoa.

Box 24. *The Samoa Cancer Society's work in supporting NCD laws*

The Samoa Cancer Society is a civil society organisation that is a partner of the Samoa Ministry of Health which helps to advance tobacco control in Samoa. It has played a key role in raising awareness on the impact of tobacco products on health and the environment, engaged youth to protect from industry interference and to prevent tobacco and nicotine use, and has promoted existing cessation services.⁹⁷ In 2021, the Society hosted a science fair to promote awareness among children about the harmful effects of smoking and was a recipient of the WHO's World No Tobacco Day Award for the Western Pacific Region.⁹⁸

The Society's advocacy work also facilitated addressing the gaps in Samoa's *Tobacco Control Act 2008* on e-cigarettes and around restrictions on tobacco sales and promotion through an amendment of the Act in 2019.⁹⁹ The Society is one of two civil society representatives on the National Tobacco Control Committee, a multisectoral coordinating mechanism established by the Act and the *Tobacco Control Amendment Act 2019*, which also includes representatives from the Ministry of Health, Ministry of Finance, Samoa Police Service, and the Customs Division of the Ministry for Revenue.¹⁰⁰ The committee must meet four times a year and provide a quarterly report to the Minister of Health.¹⁰¹ The committee's functions include:¹⁰²

- developing a multisectoral workplan to assist the implementation of the *Tobacco Control Act 2008*, international obligations under the WHO FCTC and the Protocol to Eliminate Illicit Trade in Tobacco Products, and any other related tobacco laws
- supporting the coordination of input from their agency on tobacco control activities as appropriate (e.g. enforcement activities)
- liaising within their agency as appropriate to strengthen the effective implementation of tobacco control laws

See the section on 'Multisectoral coordination for enforcement' above and Box 22 for more on multisectoral coordination.

How will the enforcement program be implemented?

A multisectoral coordinating mechanism, taskforce, team, or committee, comprised of key members of government agencies and civil society, should be responsible for implementing the enforcement program to ensure policy coherence.

A system-wide approach to implementation and addressing industry interference is key, as well as effective resource planning, identifying enforcement priorities, and systemic capacity building and training at all levels of government

and across sectors. Effective planning includes designing and coordinating a robust enforcement program underpinned by a clear compliance and enforcement strategy, activities, and accountability mechanisms to monitor and report on the progress of implementation and enforcement. The planning process should commence as early as possible and identify the need for conflict-of-interest policies to protect NCD laws and their implementation from industry interference.

Box 25 provides an example of ongoing enforcement planning activities in Palau.

Box 25. *Ongoing planning of activities to enforce Palau's Tobacco Control Regulations*

Palau has continued to plan for tobacco control enforcement activities following the adoption of its *Tobacco Control Regulations* 2012. This has included the establishment of a National Coordinating Mechanism on NCDs in 2015 pursuant to Executive Order No. 379. The Order clearly outlines the duties and functions of the National Coordinating Mechanism on NCDs, such as various planning and implementation responsibilities including:¹⁰³

- facilitating the implementation, integration, and alignment of the Non-communicable Disease Prevention and Control Strategic Plan of Action 2015-2020 (Palau NCD Plan), which remains in operation until an updated plan is developed, with the WHO FCTC and its guidelines, the Ministry of Health's strategic plan, and national development plans and policies
- developing annual action plans based on the Palau NCD Plan in coordination with the Ministry of Health which lists outputs, activities, responsible agencies or organisations, and budget allocation
- coordinating regular monitoring, evaluation and reporting on the national response to addressing NCDs including implementation and updating of the Palau NCD Plan

The Palau NCD Plan also contains several planning actions, such as holding tobacco enforcement planning meetings to obtain input on Palau's enforcement system,¹⁰⁴ as well as requiring the development of an enforcement mechanism for addressing the engagement of public agencies with the tobacco industry, the conduct of officials in dealings with industry, and the management of conflicts of interest.¹⁰⁵

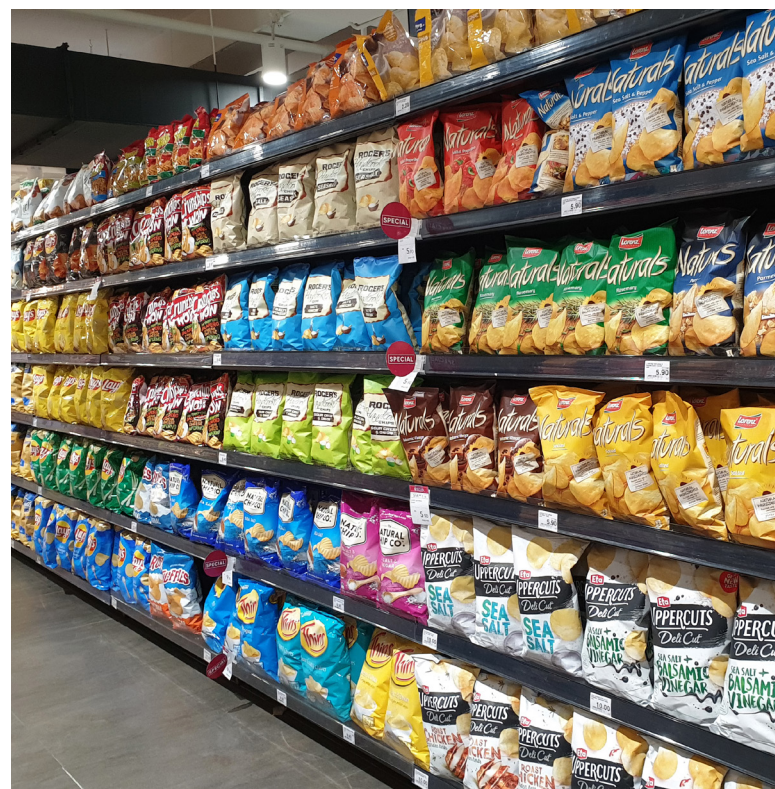
Resourcing enforcement and other challenges

The resources available to implement and enforce NCD laws and regulations have a significant impact on compliance outcomes. This includes human, financial, technical and logistical resources that can be allocated to enforcement agencies, multisectoral coordinating mechanisms and taskforces. However, adequate and ongoing resources including those required for training officials are a challenge, particularly in low-resource settings, which has been further exacerbated by the COVID-19 pandemic due to the diversion of public resources. In some cases, monitoring and enforcement costs may be resourced through registration and licensing fees, or through taxes, duties, and levies (e.g. alcohol, tobacco, or sugar-sweetened beverage excise taxes), as well as by revenue from monetary penalties. Appropriate provisions for allocating resources should be included within relevant budgetary processes.

Other enforcement challenges, which may arise in both low and high-resource settings, include lack of coordination between critical sectors, lack of political will or commitment, poor civil society engagement, and industry interference. The NCD burden, the local context and the legal frameworks within which NCD laws operate also impact compliance. Multisectoral coordination, policy coherence, and a system-wide and equitable approach to enforcement are key to mitigating some of these challenges. Cooperation

between national enforcement authorities and local authorities with knowledge of local factors is similarly critical.

Box 26 provides an example of national and local authorities being required by law to coordinate efforts on the enforcement of a healthy food procurement policy in the Philippines.



Box 26. The Philippines' Healthy Food Procurement Policy of the City Government of Quezon City

In July 2021, the local government of Quezon City, **Philippines** established the *Quezon City Healthy Food Procurement Policy* through Executive Order No. 16, Series of 2021,¹⁰⁶ to promote the general welfare and health of Quezon City residents, employees, and beneficiaries. The Order cites high sodium intake, low intake of whole grains, and low intake of fruits as the leading dietary causes for NCDs globally, with NCDs accounting for 68% of all deaths in the Philippines. The Order requires all offices and departments of the city government to comply with *Nutrition Standards for Food Procurement* in procuring, preparing, and serving all food, including meals, snacks, and beverages. The city government also instituted a technical working group for food procurement to ensure that all food suppliers comply with the Nutrition Standards, to be periodically reviewed and updated by the City Health Department.

The Order mandates the City Administrator to coordinate with national government agencies for the implementation of the policy in facilities jointly operated by the city government and national government agencies, such as the Quezon City Jail. The Order also mandates the City Administrator to conduct regular coordination meetings for the implementation, monitoring, and evaluation of the Order between and among relevant city government offices and the national government agencies, including the Department of Health, the National Nutrition Council, the Department of Science and Technology – Food and Nutrition Research Institute, the Department of Interior and Local Government, the Department of Agriculture, the Department of Budget and Management, and the Government Procurement Policy Board.¹⁰⁷

Monitoring and evaluation of the enforcement program

Regularly reviewing and monitoring the enforcement program is important to assessing its effectiveness. Monitoring and evaluation of the effectiveness of enforcement activities may be built into legislation to provide for monitoring bodies and periods of monitoring, and may be

undertaken by the multisectoral coordinating mechanism or an external independent agency.

Box 27 provides an example of a regional accountability mechanism for monitoring and reporting on progress on implementation and enforcement of NCD laws in the Pacific.

Box 27. The Pacific MANA Dashboard

To address the NCD crisis in the **Pacific Island Countries and Territories (PICTs)**, the Pacific Monitoring Alliance for NCD Action (MANA) Dashboard was established as an accountability mechanism to monitor and report on the progress of the implementation of the Pacific NCD Roadmap which specifies policy and legislative measures aimed at preventing NCDs in the region.

The MANA Dashboard was endorsed by the Pacific Health Ministers in 2017 and comprises 31 indicators across the areas of leadership and governance, preventative policies including enforcement, health system response programmes and routine monitoring. It uses a 'traffic light' rating and star scheme to track the status and progress of PICTs.¹⁰⁸

The MANA Dashboard provides key findings for each domain of the dashboard including matters such as an active multisectoral NCD taskforce under the domain: Leadership and governance.

The MANA Coordination Team collaborated with national NCD focal points and completed Dashboards for all 21 PICTs in an agreed completion and validation process in 2017-2018.



Conclusion

As the Western Pacific Regional Action Agenda on Strengthening Legal Frameworks for Health in the Sustainable Development Goals highlights, to be effective, legal frameworks should be sufficiently resourced and enforced, and regularly monitored and evaluated to ensure their effectiveness.¹⁰⁹

Laws on paper must therefore be supported by resources and frameworks to ensure they are effectively put into practice to prevent NCDs. The case studies in this report, sourced from the WHO Western Pacific Region and beyond, provide an insight into how compliance and enforcement mechanisms, powers and activities can be used to promote and monitor compliance with NCD legislation. Though the country context is important – what is appropriate for one country might not suit another – the examples illustrate some common considerations, including:

- how to develop an effective enforcement program (with key elements such as a clear compliance and enforcement strategy, well-designed and targeted laws, community buy-in, mechanisms to identify/respond to violations, enforcement powers)
- who should be responsible for enforcement (government entities/agencies/officers, coordinating body/mechanism/committee, civil society, cooperation between local and national authorities)
- how to effectively implement an enforcement program (including planning, resources, transitional periods, monitoring enforcement activities)

While the case studies show that there are many different approaches to these questions, some clear lessons emerge about how to promote compliance with, and enforcement, of laws which aim to prevent NCDs.

Well-designed, targeted and enforceable laws which have community buy-in are critical to compliance and enforcement. NCD laws which are clear and comprehensive, and designed with enforcement in mind, facilitate compliance and effective enforcement. The example from Niue demonstrates the need for clearly defined terms

in legislation to ensure that legal requirements are enforceable (see Box 2). Targeted laws are also more likely to be complied with and are easier to enforce (see Box 3).

Ensuring compliance and protecting public health requires both compliance promotion and enforcement action. Compliance promotion encourages voluntary compliance by informing regulated persons of their obligations and how to comply with NCD laws. Laws which have community buy-in also promote compliance and reduce the need for enforcement (see Box 5). The example from Singapore illustrates how government authorities can promote compliance by providing technical guidance to regulated persons (see Box 6). Compliance monitoring through detecting and responding to violations is also important (see Boxes 7, 8, 9, 14, 15, 16, 17, and 18). The example from Baguio City, Philippines shows how complaints systems can help authorities to identify violations (see Box 9). The Australian Competition and Consumer Commission example shows how legal action can be taken to respond to violations (Box 17). The example of Australia's tobacco plain packaging legislation highlights the need for a transitional period prior to enforcement of laws (see Box 4).

Appropriate compliance and enforcement powers should be provided for in the law, and enforcement activities should be appropriately resourced. It is important to consider what kinds of powers might be needed to achieve the aims of the law, and to provide resources for enforcement activities as appropriate. Compliance and enforcement powers provide authorities with the ability to identify and respond to violations (see Boxes 10, 11, 12, and 13). A further example from Singapore demonstrates how authorities exercised administrative compliance powers to issue warnings to persons smoking in public areas protected by a no-smoking ban (see Box 12). The example from China illustrates how enforcement officers exercised monitoring powers to inspect premises and enforce a similar no-smoking ban (see Box 10). The examples from the Republic of Korea and New Zealand highlight the importance

of appointing authorised officers to exercise enforcement powers (see Boxes 19 and 20).

Multisectoral coordination and a whole-of-government approach facilitate effective enforcement. Local authorities are often well placed to enforce NCD laws and regulations (see Box 21), however, multisectoral coordination is crucial to ensuring an effective and whole-of-government approach to enforcement. The example from Thailand shows how a coordinating mechanism can be established by legislation to promote multisectoral coordination for enforcement of the law between various government agencies at the local and national level (see Box 22). The example from Quezon City, Philippines highlights the use of a governmental order requiring coordination between local and national authorities for the effective implementation of a healthy food procurement policy (see Box 26). Examples from New Zealand and Samoa show that involving civil society to implement NCD laws is also important (see Boxes 23 and 24). The example from Palau highlights the ongoing need for planning and coordinating implementation and enforcement activities (see Box 25). The MANA Dashboard example from the Pacific underscores the need to coordinate monitoring and evaluation of the implementation of NCD laws (see Box 27).

It is also important to reiterate the limitations of this report. The case studies described are not intended to be a comprehensive overview of how compliance and enforcement of laws for the prevention of NCDs can occur. Rather, these case studies are illustrative

examples of how compliance and enforcement has been facilitated in different country contexts in the WHO Western Pacific Region and beyond. They do not reflect all examples of the effective enforcement of laws for NCD prevention within the region. In addition, the examples outlined in this report were largely obtained through secondary desk research with some exceptions, rather than through primary research methods. The case studies reflected in the report are also subject to sample and selection bias notwithstanding considerable efforts made to highlight the most relevant and useful available examples and to ensure accuracy of information.

Furthermore, legislative examples and legal mechanisms described in this report may not operate as they are envisaged or described in this report, or their implementation may have changed over time. Challenges to compliance and enforcement have not been addressed in detail in this report, but it is important to highlight that even where the above lessons are considered, contextual factors such as political will, available resources, effective governance, legal frameworks, and the judicial system can all impact compliance and the effectiveness of enforcement.

With those limitations in mind, the case studies and lessons from this report are intended to encourage ideas and discussion on promoting compliance and effective enforcement for NCD prevention across the Member States and areas in the Western Pacific Region.

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