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Tobacco Endgame Series Edition 7: Regulation of OTT Platforms: Strategies to Prevent Promotion of Tobacco/Nicotine Products



Tobacco Free Times 26th Edition Released



The 26th Edition of bi-monthly publication "Tobacco Free Times" featuring Tackling Tobacco Industry Interference was released in Chandigarh, in collaboration with the National Health Mission, Government of Odisha. The event was chaired by Dr. Suman Singh, Health Mission, Union Territory, Chandigarh & was graced by many

EDITOR'S SPEAK



As a Doctor and public health advocate, I would like to congratulate the Government of India on behalf of 60 crore Indian youth for its recent enactment of the regulation for OTT platform regarding the depiction of tobacco and e-cigarette products at OTT platforms. The regulation came into force in September 2023. The tobacco and vaping industry

always tries to lure young in vicious addiction to tobacco and vaping through various means. The Tobacco Free Films and TV guidelines over the time showed promising results in reducing the depiction of tobacco imagery in film and TV programs. OTT platforms were not abiding by the existing regulations for showing tobacco/nicotine product imagery in films and web series. The regulation will protect the youth of India from use of tobacco/nicotine products.

> - Dr Sonu Goel, E-RCTC and Professor, PGIMER, Chandigarh and Chair-Tobacco Control Section- The Union

> >

EXPERTS'



MoHFW, Govt. of India



All our implementers, academicians and stakeholders will have access to relevant information through the E-RCTC that serves as a one-point reference centre.

- Dr Rana J Singh, Deputy Regional Director, International Union Against Tuberculosis and Lung Disease

PROJECT UPDATES

An International Webinar on "Tobacco Industry: A Deep Dive into Interference"

An international webinar was conducted on "Tobacco Industry: A Deep Dive into Interference" on 25th September 2023, 3:30 pm-5:30 pm organized by E-RCTC in collaboration with Tobacco Control Section, The Union which was supported by The Union, SEA, New Delhi. The webinar started with an address by the guest of honors and continued with the technical sessions by national and international speakers on tackling tobacco industry interference. The objective was to understand the influence of the tobacco industry on tobacco control policies and the possible solutions and strategies to combat the tobacco epidemic.



A Working Group Meeting of Nodal Persons from AIIMS for Framing an Action Plan on Tobacco Control

A working group meeting was conducted on 30th August 2023, 3:00 pm-5:00 pm with the key panellists and nodal persons from the AIIMS across India. AIIMS are institutes of national importance and torch bearers of medical fraternity in India. The objective was to enable AIIMS nodal officers to collaboratively develop a comprehensive and effective action plan for addressing tobacco control. The AIIMS nodal officers presented their short-term and mid to long term action plans for their respective institutes in advancing tobacco control.



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A Focus Group Discussion on "Index for Tobacco Control Sustainability and implementation of Article 5.3 policy in Meghalaya"

A Focus Group Discussion (FGD) was conducted on 17th August 2023 through virtual mode on the topic of "Index for Tobacco Control Sustainability and implementation of Article 5.3 policy in Meghalaya." The focus group discussion was attended by 11 participants from the education, health, and law departments. The main agenda was to provide a comprehensive snapshot of the status of tobacco control in the state and identifying focus areas for enhancing sustainability of tobacco control and implementation of FCTC Article 5.3.



Capacity Building Workshop/Sensitization Workshop/Webinar: Telangana

On 18th August 2023, a state-level review of the Tobacco Control Program was held in Telangana. In the review, representation of all 33 districts of Telangana in form of District-Level Coordinating Committee (DLCC) were present. Among others, decision was taken to ensure healthier educational environments by designating at least 20 schools per district as Tobacco-Free Educational Institutions.

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IEC material: Meghalaya and Telangana

Various IEC on different sections of COTPA was designed by Resource Centre for Tobacco Control, and shared with the State team for formal dissemination.

The following IEC posters are prepared.

1. Tobacco cancer display for children.



3. Tobacco Free School Poster

2. Tobacco Free Educational Institutions





SLCC/DLCC meetings: Telangana

A DLCC meeting happened on 8th September in Gadwal district of Telangana under the chairmanship of collector, Mr. Valluru Kranthi, IAS, and Additional Collector, Mr. Chirla Srinivas. The collector advised the Health and the Police department to create awareness regarding tobacco control in the district.

A DLCC meeting was conducted on 19th August in the Medchal Malkajgiri district of Telangana, under the chairmanship of Additional Collector, Mr. Vijayender Reddy (IAS). All the government institutions were advised to place NO SMOKING signages. The collector advised the educational department to follow the guidelines of Tobacco Free Educational Institutions, police department for stringent law enforcement, and the labour department to encourage bidi workers to look for alternate livelihood.



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Regulation of OTT

Background

Tobacco kills more than 8 million people annually including 1.35 million people from India alone. India is home to almost 266 million tobacco users aged 15 years or above. Tobacco use is a preventable risk factor for many non-communicable chronic diseases such as cancer, lung disease, cardiovascular disease and stroke. (1) To maintain or increase sales of tobacco products, the tobacco

industry needs to attract new customers. Tobacco companies spend tens of billions each year on advertising, promotion and sponsorship. In particular, the industry targets young people, and worldwide 78% of students aged 13 to 15 years' report being exposed regularly to some form of tobacco advertising, promotion or sponsorship (TAPS). (2) Exponentially emerging OTT



platforms became a new avenue to promote tobacco, e-cigarettes and other vaping products.

Article 13 of WHO FCTC guides the parties in introducing and enforcing a comprehensive ban on tobacco advertising, promotion and sponsorship. (3) Section 5 of COTPA prohibits tobacco advertisement, promotion, and sponsorship on TV and films (4)

> and the Cable Television Networks Act (CTNA) prohibits the advertisement of tobacco products on Indian cable networks. (5) The OTT platforms in India were not following the guidelines, applicable to films, TV and similar programs. On World No Tobacco Day 2023, the government of India released the guidelines to regulate the depiction of tobacco/nicotine use on OTT platforms. (6)

- Hyper-personalized and private viewing experience.
 - Comfort of watching anywhere at viewers' ease.
 - Multi-time format based content
 - Low cost high-speed Internet
 - Increased affordability of smartphones

Impact of Tobacco/E-cigarette/content depiction on OTT over Youth

The available evidence showed that adolescents who are exposed to smoking or tobacco use incidents in movies are almost 3 times more likely to initiate smoking than those who have the least amount of exposure. The exposure to smoking imagery has



been increasing which leads to an increase in smoking initiation, experimentation as well as continuation of smoking among global and Indian youth.

Need for Regulation of OTT Platform

OTT platforms were not abiding by Section - 5 of the Indian Tobacco Control Act (COTPA 2003) GSR 786, GSR 708 which were amendments to COTPA Rules, 2004. The film and TV programs released on traditional television services and theaters have to undergo strict scrutiny while acquiring certification of age appropriation but it was not applicable to OTT platforms. The OTT platforms were following age-based self-classifications such as U, U/A 7+, U/A 13+, U/A 16+, and A, which can't be considered as a norm for a regulatory system. OTT platforms display E-cigarettes and their consumption without adhering to the GOI's Prohibition of Electronic Cigarette Act 2019 (PECA 2019). Several states/UTs in India have banned hookah bars, however, OTT platforms continued to display Hookah and its consumption without adhering to the rationale of these orders. OTT platforms in some way or another contravene all tobacco control initiatives. For example, the movie "Vikram" released and viewed in theatres abides by the film rules and when it was streamed on the OTT platform 'Disney+Hotstar' it removed all 146 health disclaimers that were displayed during the theatrical release of the movie. In a survey, conducted by YouGov, 57% of the people supported partial censorship for online streaming. They think that a lot of offensive content i.e., unsuitable for public viewing is put up on such platforms.

What is OTT Platform

An Over-the-Top (OTT) media or video streaming service is a media service that delivers streaming content to viewers via the Internet. Viewers can access OTT content through internet-enabled devices such as smartphones, tablets, laptops, desktops, smart TVs, set-top boxes and gaming consoles. So it is a means of providing television and film content over the internet at the request. Netflix, Amazon Prime, Disney+, and Hulu are the most popular OTT platforms. (7)



Rise of OTT Platforms

OTT platform first appeared in the early 2000s. The technological advances in internet speed provided impetus to the growth of OTT platforms. As per reports Global report of Statista, the OTT market is expected to grow to 4.2 billion users by 2027. The projected revenue in the OTT market Worldwide is estimated to reach US\$295 billion by 2023. (8)

Over 40 national & regional OTT platforms are available in India. The OTT market in India has also grown exponentially in the past few years and is expected to reach Rs 30,000 crore by 2030. Netflix, Amazon Prime Videos, Disney+Hotstar, SonyLiv, and ZEE5 are the most popular OTT platforms in India. There are 45 crore OTT subscribers in India which is expected to reach 50 crores by the end of 2023. (9)

Factors behind the rise of OTT

- Provide a blend of experimental and quality content
- Cost efficient and Freemium content
- Availability of global to regional multi-language content

Film & TV Rules of India

Tobacco imagery in films and television increased in India after it ended conventional tobacco advertising in 2004. The Ministry of Health and Family Welfare (MoHFW) introduced Film and TV rules, which first came out in 2005 and were implemented in 2012 after legal scrutiny and amendments.

Salient Features of Tobacco-Free Film and TV Rules in India

- All films containing tobacco imagery need a strong justification for any tobacco product display to the Central Board of Film Certification.
- Screen anti-tobacco health spots of a minimum thirty seconds duration at the beginning and middle of the film and television program which displays tobacco product use.

- Screen anti-tobacco health warning written in black font on a white background as a prominent static message displayed at the bottom of the screen during the display of tobacco product use:
 - o "Smoking causes cancer" or "Smoking kills" for smoking form of tobacco use
 - "Tobacco causes cancer" or "Tobacco kills" for chewing and other form of tobacco
- No display of
 - o The brands of cigarettes or other tobacco products or any form of tobacco placement
 - o Close-ups of tobacco products, tobacco product packages
 - o Such scenes to be masked or blurred by the producer, distributor or broadcaster while screening

Regulation of the OTT Platform for depiction of tobacco/nicotine use

Global Regulation

Globally, few countries have enacted laws and regulations that are also applicable to the OTT platform. However, the majority of the global population is watching unregulated content from streaming platforms. OTT regulation provisions of Singapore, EU, UK, Kenya and Turkey are provided in Table 1.





Table 1. OTT regulation provisions of Singapore, EU, UK, Kenya and Turkey

Country	Law	Provisions for depiction of tobacco	
Singapore	Over-The-Top, Video-On-Demand and Niche Services	Drug and Substance Abuse (Including Psychoactive Substance Abuse) Rating: G-rating- There should not be any reference to or depiction of drug and psychoactive substance abuse. Consumption of alcohol or tobacco products should not be promoted.	
EU	Audio-Visual Media Services Directive (AVMSD)	 o The appropriate measures for the protection of minors applicable to television broadcasting services should also apply to on-demand audiovisual media services. o Prohibits audio-visual commercial communications and sponsored content for cigarettes or other tobacco products, e-cigarettes or refill containers 	
UK	Statutory Rules and Non-Binding Guidance for Providers of On-Demand Programme Services (ODPS)	Similar to EU's AVMSD. The Draft Media bill is under consideration for stringent regulation.	
Kenya	Proposed Co-Regulation Framework for Broadcast, Video- on-Demand, and Over-the-top (OTT)Services (2022)	This regulation will apply to broadcasters and OTT content services and tobacco product depiction will influence the content's rating.	
Turkey	Regulation of 2019: Provision of Radio, Television and On-Demand Broadcasts on Internet Medium; and Audio- Visual Law (2011)	This law states that media services 'should not encourage the use of addictive substances like tobacco'.	

Regulation in India

In India, OTT platforms follow a self-regulatory mechanism under the Digital Media Ethics Code, whereas content in theatres and TV is strictly regulated under Film and Television Rules.

On the occasion of World No Tobacco Day 2023, 31 May, the Ministry of Health and Family Welfare, Government of India announced the guideline under COTPA 2003 for the OTT platforms to regulate the

depiction of tobacco. India became the first and only country in the world to do so.

Publishers of online curated content, such as films, audio-visual programmes, television programmes, serials, series and other such content, that display tobacco products or their use will be required to comply with these guidelines. Earlier such rules were applicable to programs & films released only in theatres, multiplex and cable TVs.

OTT PLATFORMS ON INDIAS

Salient features of Anti-Tobacco warnings on OTT platforms

- 1. Health spots, messages, and disclaimers: Publishers of online curated content that display tobacco products or their use will be required to comply with specific guidelines. These include the display of anti-tobacco health spots, lasting a minimum of thirty seconds each at the beginning and middle of the program. Furthermore, publishers must exhibit anti-tobacco health warnings as a prominent static message at the bottom of the screen during the display of tobacco products or their use. Additionally, an audio-visual disclaimer on the ill-effects of tobacco use, lasting a minimum of twenty seconds each, must be shown at the beginning and middle of the program.
- 2. Access to content: The health spots, messages, and disclaimers will be made available to the publisher of the online curated

content on the website "mohfw.gov.in" or "ntcp.mohfw.gov.in."

- 3. Legibility and language: The anti-tobacco health warning message displayed as a static message must be legible and readable, with black font on a white background, and must include the warnings "Tobacco causes cancer" or "Tobacco kills." Furthermore, the health warning message, health spot, and audio-visual disclaimer should be in the same language as used in the online curated content.
- **4. Limitations on display:** The display of tobacco products or their use in online curated content is prohibited from including the brands of cigarettes or other tobacco products or any form of tobacco product placement. Additionally, the display of tobacco products or their use in promotional materials is strictly prohibited.



Provision for violations of OTT Guidelines

The failure to comply with the provisions outlined may result in action taken by an inter-ministerial committee comprising representatives from the Ministry of Health and Family Welfare, Ministry of Information and Broadcasting, and Ministry of Electronics and Information Technology either suo moto, or on receiving a complaint. The committee will identify the publisher of the online curated content, issue a notice providing a reasonable opportunity to explain the failure and require appropriate modifications to the content.



PECA 2019 & its Application to OTT

The Government of India banned e-cigarettes/nicotine products in India by passing the Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage and Advertisement) Act, 2019 or PECA 2019. The act prohibits the production, manufacture, import, export, transport, sale, distribution, storage and advertisement of electronic cigarettes in the interest of public health to protect the people from harm.

The section 4 (ii) of PECA 2019 prohibit the direct or indirect advertisement of e-cigarettes. No person shall, directly or indirectly, advertise electronic cigarettes or take part in any advertisement that directly or indirectly promotes the use of electronic cigarettes. Whoever contravenes the provisions of section 4 (ii), shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to an elakh rupees, or with both. For the second or subsequent offence, with imprisonment for a term which may extend to three years and with fine which may extend to five lakh rupees.



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Consumer Protection Act, 2019 & Its application to OTT

It mandates that "surrogate advertisement" which means an advertisement for goods, product or service, whose advertising is otherwise prohibited or restricted by law cannot be done. by circumventing such prohibition or restriction and portraying it to be an advertisement for other goods, product or service, the advertising of which is not prohibited or restricted by law. CCPA can impose penalty of upto 10 lakh rupees on manufacturers, advertisers and endorsers for any misleading advertisements. For subsequent contraventions, CCPA may impose a penalty of upto 50 lakh rupees. The Authority can prohibit the endorser of a misleading advertisement from making any endorsement for upto 1 year and for subsequent contravention, prohibition can extend upto 3 years.

CONSUMER BROTECTION BROTECTION ACT

Provisions of other acts and regulations applicable to OTT platforms in India

- Consumer Protection Act, 2019
- Emblems and Names (Prevention of Improper Use) Act, 1950
- Indecent Representation of Women (Prohibition) Act, 1986
- Indian Penal Code 1860
- Information Technology Act, 2000
- Juvenile Justice (Care and Protection of Children) Act 2015
- Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989

Juvenile Justice (Care and Protection of Children) Act 2015 & Application on OTT

"S.77. Whoever gives, or causes to be given, to any child any

- intoxicating liquor or
- any narcotic drug or
- tobacco products or
- psychotropic substances,

except on the order of a duly qualified medical practitioner shall be punishable with imprisonment of up to seven years and a fine up to one lakh rupees.



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TOBACCO REPORTER

India can lead COP10 to a science backed policy for Tobacco Control



At an eminent ET Edge conference themed, "The Need to Adopt Solutions Backed by Science" medical experts stressed the need for effective global and local tobacco control public health policies, given the alarming number of tobacco consumers and smokers globally. India can attempt to back scientific data and analysis, to form a foundation in the upcoming Conference of Parties (COP10) session of the WHO Framework Convention on Tobacco Control (WHO-FCTC) in November 2023.

WHO hails Mauritius, Netherlands for tobacco control measures but global risks remain



Mauritius and the Netherlands have been commended by the WHO for fully implementing all the UN health agency's MPOWER tobacco control measures, a milestone only previously achieved by Brazil and Turkey. However, a new report highlights that 2.3 billion people across 44 countries lack protection from tobacco control measures, exposing them to health risks and economic burdens. Furthermore, some countries still lack complete smoking bans in healthcare facilities despite tobacco use remaining a significant public health threat, leading to 1.3 million deaths annually from passive smoking alone, as per the UN agency's warning.

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7 in 10 by at least one tobacco control measure people protected: WHO



A recent report by the World Health Organization, supported by Bloomberg Philanthropies, reveals that approximately 5.6 billion people, constituting 71% of the global population, are currently protected by at least one effective policy designed to reduce tobacco-related fatalities. This initiative is aimed at safeguarding individuals from second-hand smoke, and it highlights that nearly 40% of countries worldwide have implemented regulations for smoke-free indoor public areas. This global effort signifies a significant step in reducing the health risks associated with tobacco, benefiting a vast majority of the world's population.

Bengaluru honoured with \$150K global award for tobacco control efforts

Bengaluru is one o the five cities that on Wednesday received a prestigious \$150,000 award from the World Health



Organisation for its tobacco control efforts, particularly reduction of smoking in public places. Bengaluru received the award for its efforts in tobacco control, specifically, reducing smoking in public places and improving compliance with existing mandates on public smoking bans.

India needs separate taxation policy to control smokeless tobacco: Lancet

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The Lancet report suggests increasing taxation on smokeless tobacco (SLT) to combat its prevalence, as it is the most cost-effective method for reducing its use. Different tax treatment is

deemed necessary to control the smokeless tobacco issue in the country, emphasizing the effectiveness of taxation measures in public health efforts.

Ban smoking and vaping in school to protect young people: WHO



The WHO advocates for nicotine- and tobacco-free schools to ensure children's well-being. Such policies prevent youth smoking initiation, foster a healthier and more productive student body, shield young people from second-hand smoke toxins, reduce cigarette litter, and minimize cleaning expenses. WHO urges countries to make indoor public places smoke-free in line with the WHO Framework Convention on Tobacco Control's Article 8 for overall public health protection.

WHO and tobacco control partners urge countries not to partner or work with the tobacco industry



WHO is concerned by the ongoing efforts of the tobacco industry to manipulate scientific research, public opinion, policymaking, and media to promote nicotine and tobacco products. WHO calls on Member States to refrain from collaborating with or accepting funds from the industry or its affiliated organizations to safeguard public health.

India and the global battle against tobacco on OTT platforms



India's government should maintain its commitment to public health by addressing indirect tobacco marketing on

social media alongside regulating OTT platforms. This includes tackling tobacco companies' youth-targeted brand extensions on platforms like Facebook and Instagram. Stronger measures are necessary to counter the tobacco industry's persistent attempts to attract young consumers and replace those lost to tobacco-related illnesses.

OTT Platforms now comply with Tobacco-Control Disclaimers, Marking a shift from Previous Reluctance



The COTPA Act, effective from September 1, now mandates warnings about tobacco in web series and films on over-the-top (OTT) platforms. It has been found that all OTT platforms have started broadcasting tobacco control disclaimers in their programs. However, there is still a long way to go in broadcasting health spots and health messages.

In Downtown New York, 'Cigfluencers' light up a new kind of cigarette, New York Times



Meg Superstar Princess coined "Cigfluencing" in her newsletter, highlighting how tobacco companies historically used coolness to market cigarettes. Now, established brands like Marlboro do not rely on traditional advertising due to tobacco laws limiting outdoor promotion and social media platforms banning tobacco-related ads across most of the country.

Eight countries in the Americas ban electronic cigarettes

Venezuela's recent ban on electronic cigarettes has prompted several countries in the Americas to align with the WHO's Framework Convention on Tobacco Control (FCTC) in order to safeguard public health from emerging tobacco products, reflecting a growing regional commitment to tobacco control measures.



New warning about minors using vaping, e-cigarette products

Amid back-to-school season, health advocates and officials are sounding a fresh alarm on the serious implications of vaping and e-cigarettes. A recent CDC study reveals a nearly 50% spike in e-cigarette sales from 2020 to 2022, primarily driven by flavoured products targeting minors. Approximately 2.5 million juveniles are estimated to use e-cigarettes, while an alarming increase in nicotine content poses serious threats to youth development. Advocates and school nurses urge parents to engage in candid conversations with their children about vaping hazards and advocate for broader bans on e-cigarette sales.

FDA (and others) should integrate the relationship between cannabis and tobacco use



The FDA seeks public input on its strategic goals for the Centre for Tobacco Products (CTP). Notably, the proposal lacks consideration of the impact of cannabis and cannabis-tobacco co-use on

tobacco product regulation and applying tobacco regulatory lessons to inform future cannabis regulation. The CTP must consider the individual and additive health effects of tobacco and cannabis co-use in all its decision-making and include proactive identification of best practices from tobacco regulatory science that can inform cannabis regulation.

Haryana: CPs, and DMs directed to ensure ban on commercial use of hookah

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Haryana's Home Secretary, TVSN Prasad, has instructed Commissioners of Police and District Magistrates to prohibit hookah service in bars, hotels, and restaurants due to health concerns. Traditional, noncommercial use of hookah is exempted. The ban addresses the mixing of tobacco and prohibited substances,

CPs, DMs directed to ensure ban on commercial use of hookah

his order, the Home Sec- his order, the Home Sec- y said it was observed the hookah bars, which of hookah (narghile) with m	added that offer human and prohibited narcotic sub sames were also mixed with tobacco in these bars. Observing that the popu- larity of fluvourd hookahs had risen significantly among adolescents, he said the availability of multiple flavours, less harshness of moke and misconceptions hat hookah poss sechardo hat hookah poss sechardo negligible risk were pro- ooting its usage.	as herbs are served without nicotine, the smoke may y contain toxicants such as a carbon monoxide, poly- cyclic aromatic hydrocar- bons, volatile aldehydes and heavy metals. These prod- toto

emphasizing health risks, especially among adolescents, who are attracted to flavoured hookahs and have misconceptions about its safety.

Send us your feedback, comments and suggestions at rctcupdates@gmail.com,

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CSIR develops tobacco variety with 40-50% less nicotine

An institution of the Council of Scientific and Industrial Research (CSIR) has developed a variety of tobacco with nicotine content lashed by 40-50 % to reduce its health consequences. The institute aims to



reduce the nicotine content further by 60-70%.

FDA takes 'momentous' step toward banning menthol cigarettes and flavoured cigars

The US FDA proposed a groundbreaking rule to ban menthol in cigarettes and flavoured cigars, a move hailed by public health experts as potentially saving hundreds of thousands of lives. This momentous step aims to curb tobacco-related health risks and improve public health.

Tobacco control: Study finds significant association between implementation of policies and prevalence



The Anushthana study by the Institute of Public Health assessed the implementation of the Cigarette and Other Tobacco Products Act (COTPA) in India. It found a notable correlation between policy implementation

and tobacco use prevalence, highlighting the importance of effectively enforcing tobacco control measures to reduce tobacco consumption in the country.

Karnataka to ban hookah bar, tobacco products for people below 21 years of age

The Karnataka aovernment, under Health Minister Dinesh Gundu Rao, is set to ban hookah bars and the sale of cigarettes and other tobacco products to individuals under



21. Amendments to the Cigarettes and Other Tobacco Products Act (COTPA) will facilitate these changes, and efforts will be made to curb drug consumption in hookah bars through cooperation with local organizations and law enforcement agencies.

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