

## Facebook issued legal notice for violating Indian tobacco control laws

*Failure of the social networking website "Facebook" to remove pages and groups relating to various tobacco products, brands and articles is now likely to land the company in legal trouble.*

Chandigarh September 1, 2009 /[India PRwire](#)/ -- Failure of the social networking website "Facebook" to remove pages and groups relating to various tobacco products, brands and articles is now likely to land the company in legal trouble.

Well-known social activist and crusader for public health causes, Hemant Goswami, has issued a legal notice to Facebook to remove all pages and groups relating to promotion of any kind of tobacco product or which promotes its consumption. Hemant who is also a notified member of the "National Steering Committee on Tobacco Control" formed by the Union Ministry of Health and Family Welfare said, "Apparently Facebook claims to have a policy of not advertising tobacco products through paid advertisement on its website; however this claim remains ineffective as it allows all brands and tobacco products to be promoted through member pages and groups. Not only this; contrary to the claims, Facebook allows promotion of smoking culture through advertisements. We have sent a copy of links of such examples which are considered an offence under the Indian law to M/s Facebook."

In the notice, served to Facebook Inc. and Facebook Ireland Limited, faxed to its California office (+1-6505434801), Hemant has alleged that, "many pages on [www.facebook.com](#) promote various cigarette brands and the concept of smoking. All such pages are visible on all computers, and all terminals installed in India through which the site Facebook.com is accessed. Such pages are also advertised through Facebook and are displayed on the pages of facebook users." The notice warns the owners and managers of Facebook of their legal liabilities and reads, "The advertisers M/s Facebook and owners of the company are also equally liable and responsible for any such advertisements."

The Indian law on tobacco control, "Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003" provides for imprisonment up to five years for violating the provisions relating to prohibition of promotion or advertisement of tobacco products and brands. Section 5 of the legislation reads,

**Section 5:** (1) No person engaged in, or purported to be engaged in the production, supply or distribution of cigarettes or any other tobacco products shall advertise and no person having control over a medium shall cause to be advertised cigarettes or any other tobacco products through that medium and no person shall take part in any advertisement which directly or indirectly suggests or promotes the use or consumption of cigarettes or any other tobacco products.

(2) No person, for any direct or indirect pecuniary benefit, shall—

(a) display, cause to display, or permit or authorise to display any advertisement of cigarettes or any other tobacco product; or

(b) sell or cause to sell, or permit or authorise to sell a film or video tape containing advertisement of cigarettes or any other tobacco product; or

(c) distribute, cause to distribute, or permit or authorise to distribute to the public any leaflet, hand-bill or document which is or which contains an advertisement of cigarettes or any other tobacco product;

**Section 22** of the legislation provides, "Whoever contravenes the provision of section 5 shall, on conviction, be punishable— (a) in the case of first conviction, with imprisonment for a term which may extend to two years or with fine which may extend to one thousand rupees or with both, and (b) in the case of second or subsequent conviction with imprisonment for a term which may extend to five years and with fine which may extend to five thousand rupees."

"We are very serious in our pursuit to end this kind of promotion of tobacco brands and tobacco products on social networking site like Facebook. To achieve this we will do everything possible. Governments across the globe are spending billions to end tobacco and have joined hands by way of the international treaty called "Framework

Convention on Tobacco Control (FCTC)” to end the menace, but it is unfortunate that small opportunistic companies allow promotion of tobacco products for petty gains. Such companies need to be punished and civil damages too should be claimed from them to offset any profits these people might be making.” Hemant Goswami emphasised.

Article 14 of FCTC, the treaty signed and ratified by 156 countries, calls for complete prohibition of cross border advertisement or promotion of tobacco products and makes it obligatory on all 156 countries which have ratified the treaty to enforce the laws.

#### **Notes to Editor**

Tobacco Free India Coalition

[A coalition of civil society organisation working for enforcement of tobacco control laws.]

Telephone: +91-172-5165555

Mobile: +91-9417868044

#### **For more information, please contact:**

##### **Amit Gulati**

Convenor

(L) +91-172-5165555, (M) +91-9417868044, (F) +91-172-5185600

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