

Government stalls labelling reforms

Health Canada proposals for higher impact labels turned down by central federal agencies.

A decade has passed since the current health warning labels first appeared on cigarette packages. For six of those ten years, Health Canada has been developing improvements to those labels. This summer, that work hit a roadblock when Health Canada's request to draft regulations to require the new labels was turned down by the central agencies of the federal government.

Improved warning labels are long overdue. Even 6 years ago, when Health Canada launched public consultations on renewing these messages, it was well understood that these labels were 'wearing out' after repeated exposure.

Improved warning labels are available. Several rounds of new labels (including front-of-package and inside-package information) have been developed and focus-tested with smokers and young people in all regions of Canada. Years of study, millions of dollars and extensive engagement with stakeholders has been invested.

A significant setback. In August 2010, Health Canada quietly informed its provincial colleagues (who were anxious to see the promotion of national quitlines through the renewed warnings) that there would be no change "for the foreseeable future." When this decision

TOBACCO STRATEGY

Plan for scarier cigarette labels snuffed as focus shifts to contraband

Federal decision upsets provincial minister who wanted 'quit line' printed on package

BY GLORIA GALLOWAY/OTTAWA

After more than six years of study, design and focus groups, the federal government has halted its plan to require tobacco companies to update the warnings on the side of cigarette packages with larger and more grotesque images.

Health Canada told provinces and territories attending

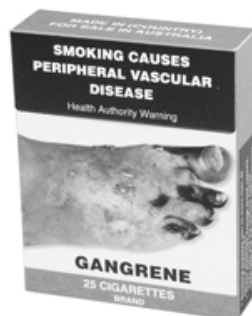
industry.

The decision to walk away from the complex task of changing and enhancing the nine-year-old messages that are emblazoned on cigarette packages comes after the expense of much time, effort and millions of dollars of public money.

The move surprised the provinces, which had been looking forward to the estab-

was made public a few weeks later, the government's position was softened only slightly. The warnings are "not off the table," the Health Minister told CBC television on September 20th—but neither are they moving forward.

The federal government has said that it has decided instead to focus on combating contraband. As important as addressing contraband is, it is not clear why the government cannot do both—especially considering that the contraband file is not managed by Health Canada, but is the responsibility of the RCMP, the Border Services Agency and Revenue Canada. ■



Canada falls behind

In 2000, Canada was at the forefront of tobacco package labelling, and considered a world leader. Today, the standard of health warning offered to Canadian smokers falls behind that in many other countries.

Australia plans to have plain packaging in place by 2012

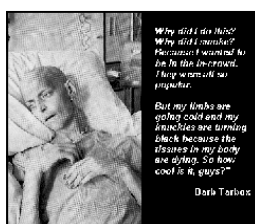
Uruguay currently requires that warning labels cover 80% of the front and back of the package.

Findings from Health Canada research Bigger, bolder, more powerful messages

*Composite prototype health warning
developed by PSC and based on Health
Canada research, 2003-2008*

2003

Research with low literacy smokers recommends the use of testimonials and more emotionally salient images.



2004

Consultation with public provides recommendations on the use of an image of Barb Tarbox.



2005

Research on layout recommends integrating message with image.



2003—2008

Feedback from dozens of focus groups supports use of more emotional messaging.

2003-2009

Scores of potential messages are developed and refined.



2008

Research on 75%, 90% and 100% health warnings finds that the biggest warnings are most effective.

2008

"Calls to action" are researched to find effective way to drive smokers to quitlines.



Tobacco warnings by the numbers:

The current cigarette warnings first appeared on packages in December 2000. Canada was the first country to require picture-based health warnings.

- In 2000, Canada's warnings were the largest in the world, taking up **50%** of both principal display spaces.

- **16** warnings are currently required on Canadian tobacco packages.
- Since 2000, **20 billion** packages of cigarettes have been sold in Canada.
- Each of the 16 warnings has been printed from **842 million** times and seen more than **20 billion** times.
- **14** countries now have cigarette warning labels that are larger than those required in Canada.
- A typical Canadian smoker reports buying about **300** packages of cigarettes per year, and will see each of the 16 warnings about **340** times (once every time they open the package).
- **34** other jurisdictions have implemented picture warnings, **7** of which have renewed their warnings at least once.

- In 2010, Uruguay's warnings were the largest in the world (at **80%** of each principal display panel).
- **2** countries have expressed interest in 2010 in requiring plain packaging (Australia and the United Kingdom).

Candy-flavoured cigarillos remain on market

Tobacco companies defy law

On July 5th, 2010, the federal *Cracking Down on Tobacco Marketing Aimed at Youth Act* came into force. The sale of little cigars that were sweetened and scented and sold in individual packages became illegal.

On July 6th (and every day thereafter) sweetened and scented little cigars continued to be sold across Canada.

What went wrong?

The government gave a 9 month grace period between the time the law was officially passed and before it came into effect. Tobacco companies used this time to reformulated their products to slip through the cracks in the new law.

The law applied only to cigars that (a) had filters and (b) had less than 1.4 grams of tobacco. The companies removed the filters, and replaced them with more tobacco, ensuring that their products met both criteria. This allowed them to be marketed as 'cigars' and not 'little cigars'. The flavour ban does not apply to cigars.

The new law may nonetheless have had some beneficial effects:

- In eastern Canada, the products are no longer available in affordable (and attractive) single units, that are sold without any health warnings. This is possibly a result of parallel provincial legislation in the region.

- It is possible that the unfiltered versions of these products are less attractive to starter smokers, who were the primary users of these products.

The government has not yet signaled how it will respond to the companies. The Prime Minister has called on retailers and manufacturers to "respect both their legal obligations and the spirit of the legislation" and promised that the law would be revised if necessary. No official response has been made since that time, however, and Health Canada has not initiated any consultations on ways to strengthen the law.

The waiting game.

It will be years before we will be able to measure the impact of the companies' blatant circumvention of this public health law. Smoking surveys and market data are only made public some period after the actual smoking behaviour or product sales.

Federal government policy which requires scientific evidence on the scope of a problem before limiting the actions of commercial companies is a persistent problem for tobacco control. The lack of a precautionary principle for tobacco control has resulted in a refusal to remove candy flavourings from chewing tobacco until the problem becomes worse and may mean that candy-flavoured chewing tobacco remains on the market for years to come. ■

Before and after

Top: Cherry scented **Prime Time** sold prior to July 5, 2010.

Bottom: Grape-scented **Prime Time Plus** sold after July 5, 2010.



Health Canada has not extended the ban on flavourings to oral tobacco, even though flavouring chewing tobacco with 'apple', 'citrus', 'cherry' and similar youth-friendly flavours likely contributes to young people becoming addicted to these products.



Two Years and \$300 million later Tobacco farming on the rise

In 2008, the federal government promised \$286 million to help farmers "exit" tobacco growing. Mismanagement of the program has resulted in the money being used instead to reinvigorate tobacco farming in Ontario.

THE TOBACCO 'BUY-OUT' THAT DIDN'T

The bait: In the summer of 2008, the federal government reached an out-of-court settlement with two tobacco companies related to smuggling-related activities in the 1990. Virtually all of the money received by the federal government in that year was immediately assigned to the Tobacco Transition Program. This program was presented as a way to assist tobacco farmers to **exit** the tobacco growing business and to transition to other forms of economic activity. By March 31, 2009, \$286 million had been provided to about 1,000 tobacco farmers.

The switch: A loophole was built into the buy-out scheme that allowed recipients of payments to continue to grow tobacco, provided they did so as employees instead of owner-entrepreneurs. Beginning in 2009, many tobacco farmers took advantage of this loophole and

restructured their businesses, on paper at least, often becoming employees of license holders such as family friends or members.

Many farmers who exploited this loophole did not, as intended, "exit the industry" but remained tobacco producers.

A DE-FACTO SUBSIDY

Federal payments to tobacco farmers arguably functioned as a subsidy to tobacco farming.

The infusion of cash into the tobacco farming sector allowed farmers to restructure their businesses and to reduce their debt and overhead.

Tobacco farming, struggling under debt and low prices before the transition program, became more economically viable after this large federal investment.

Farmers can grow tobacco at a lower cost than would have been the case if they had not received payments that offset their capital costs.

A SWEET DEAL FOR BIG TOBACCO

The resulting ability of tobacco manufacturers to buy cheaper tobacco was only one way that this program benefitted tobacco manufacturers. The program also involved changes to the tobacco

'Colossal waste of money'

\$286M BUYOUT GONE TO ASHES

Tory tobacco plan backfires

By TOM BLACKWELL

When the federal government offered \$286-million in buyouts to Ontario's tobacco growers last year, the vast majority took the payments, designed to usher them out of a fast-shrinking industry. Given an average of \$275,000 each, they were supposed to plant

another crop, or maybe even try a different line of work entirely, federal ministers said at the time.

The Tobacco Transition Program has not worked out that way. In the first season since the government issued those payments, just as much tobacco has been harvested as the year before, and as many

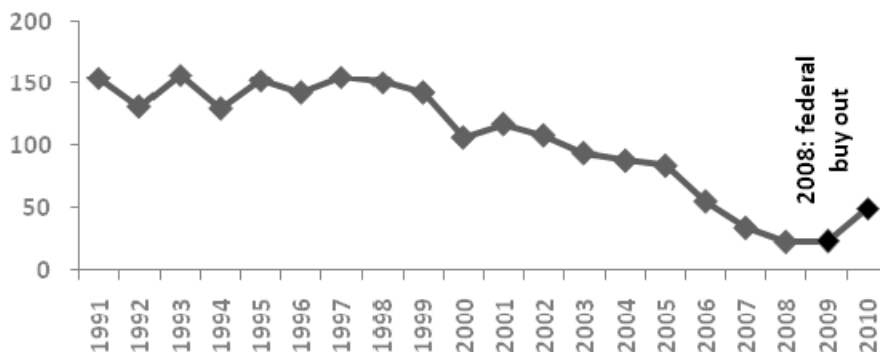
marketing board and gave tobacco companies direct control over crops through contracts with individual farmers, something they had been requesting.

In 2010, there were 260 tobacco growers in Canada. They grew about 23 tonnes in 2008 (49 million pounds) of tobacco, **more than twice the amount grown in the year before the exit program was implemented** (23 million pounds in 2008).

Tax payers were told that \$300 million would help get rid of tobacco farming. The opposite happened. ■

PSC continues to follow this issue closely, and to work to ensure adequate public and parliamentary attention to the issue. We have filed official complaints with the Auditor General and other bodies.

Millions of pounds of tobacco sold by Ontario tobacco farmers, 1991 - 2009



A new wave of political interest (but not yet in Canada)

Plain Packaging

Although plain packaging of tobacco products has not been on the Canadian political agenda for over 15 years, the idea is gaining currency in international quarters and two significant countries have recently signaled their intent to proceed with this important reform.

In April 2010, Australia Prime Minister Kevin Rudd announced that within two years tobacco products in Australia would be sold without logos, brand images or colours. In November 2010, U.K. Secretary of State for Health, Andrew Lansley said he would be looking at the idea of plain packaging.

Tobacco packages are lifestyle advertisements for smoking

Packaging is a very effective advertising vehicle for tobacco companies because of the high social visibility of tobacco products.

Unlike most other consumer products, cigarettes remain in the package in which they are sold. These packages are used and displayed in public in ways that creates an endorsement by the smoker in front of friends, family and social networks.

With increased constraints on traditional advertising, tobacco companies are increasingly relying on the cigarette package to function as its entire marketing strategy: the cigarette package both generates and conveys brand imagery.

Tobacco packages deceive

Tobacco companies use marketing to reduce health concerns of smokers in order to prevent them from quitting. Products, packages, brand names and colours are used to deceive smokers into thinking that smoking is not as harmful as health authorities say, and to falsely suggest that smokers can reduce the risks to their health while continuing to smoke.

Tobacco packages undermine health warnings

Since graphic health warning messages were required on cigarette packages, tobacco companies have modified their packaging to reduce the impact of these warnings. Bevelled edges, slide-packs, and smaller packages serve to reduce the noticeability and readability of the messages.

The importance of standardizing package shapes

Cigarettes were once sold uniformly in slide-and-shell packages, but in recent years tobacco companies have launched novelty packages and other redesigns to grab attention, convey imagery and reduce the noticeability of warnings. It is now well accepted that standardized package shape is an important component of plain packaging.

Domestic and International Law support plain packaging.

The federal *Tobacco Act* contains explicit bans on 'lifestyle' or 'deceptive' tobacco advertising. It also provides the federal government with the authority to mandate how cigarettes are packaged and sold. Using this law, the Canadian government could respond to recent initiatives by tobacco companies to use the tobacco package as a vehicle for lifestyle and deceptive advertising by requiring all tobacco products to be sold in plain packaging.

The Framework Convention on Tobacco Control (FCTC) is a global tobacco treaty negotiated through the World Health Organizations which was ratified by Canada in November 2004. Countries, like Canada, which are parties to the treaty, agree to adopt international standards for controls on tobacco advertising and packaging. In November 2008, guidelines to the FCTC were adopted which recommend plain packaging as a way to control tobacco promotions and as a way to improve health warnings.

An urgent challenge

While Health Canada was working on the renewal of health warning messages, many Canadian health agencies decided to delay actions to promote plain packaging. As a result, the issue has fallen from public view.

In 2011, this will likely change. New health warnings are badly needed, and will be made more effective if they are accompanied by a removal of brand imagery from tobacco packaging. ■

For more information:

www.smoke-free/plain-packaging



2010

The year in review

January

Provincial ban on smoking in cars when children are present comes into force in **New Brunswick**.

Newfoundland ban on tobacco displays comes into effect.

February

2010 licenses to grow tobacco are issued to 260 **Ontario** farmers, more than twice as many as in 2009.

March

Newfoundland and Labrador Court of appeal rejects a proposed class action suit against Imperial Tobacco (the "Sparkes" case).

April

Vancouver passes bylaw to ban smoking on city's beaches.

CMAJ publishes report on impact of smoke-free laws on hospital admissions, which records a drop of 17% in the crude rate of admissions for heart attacks, a 33% decrease in rates of admission for respiratory conditions and a 39% decrease because of cardiovascular conditions.

The Bill and Melinda Gates Foundation pulls a grant from the federal development agency International Development Research Council (IDRC) after it was revealed that its Chair, Barbara McDougall, concurrently sat on the board of directors of Imperial Tobacco Canada Ltd.

Federal and provincial governments reach a (secretly negotiated) settlement with **JTI-Macdonald** and its previous owner, RJ Reynolds. The tobacco companies agree to pay \$550 million to provincial and federal governments.

Peterborough establishes policies to ensure some of its public housing is smoke-free.

Australia announces it will implement plain packaging by July 2012.

May

Winnipeg bans smoking within 50 metres of city-owned gaming fields.

The **Supreme Court** grants leave for an appeal of the B.C. Court's decision to include the federal government as a third-party in the province's health care cost recovery litigation against tobacco companies.

June

Health Canada and **Pfizer** issue stronger warnings about Champix.

July

Flavoured cigarillos are taken off the shelves when the **federal and Ontario ban on flavoured little cigars** comes into effect on July 5 — and then put back on again as the companies redesign their products to circumvent the law.

The **City of Ottawa** launches information campaign to support smoke-free outdoor spaces.

Manitoba bans smoking in cars when children are present.

September

Saskatchewan's ban on smoking in cars when children are present comes into effect.

Saskatchewan bans smoking in indoor workspaces (the last province to do so).

Saskatchewan bans smoking on school grounds.



Health Canada delays anticipated renewal of health warning messages.

Kelowna bans smoking at parks and beaches.

Vancouver's ban on smoking on city's beaches and parks comes into effect.



October

Nova Scotia convenience store owner Bob Gee convinces a provincial court judge that a law banning tobacco displays in retail stores violates freedom of expression laws.

Saskatchewan confirms that tobacco sales in pharmacies will be banned, but delays the implementation of the measure until April 1, 2011.

November

The Fourth Conference of the Parties to the **Framework Convention on Tobacco Control** meets in Uruguay.

UK Secretary of Health says he is considering requiring plain packaging of tobacco products.

December

House of Commons **Standing Committee on Health** probes reasons for delay in new health warnings.

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