



SUBMISSION of the WORLD HEALTH ORGANIZATION

RE: AUSTRALIA PLAIN PACKAGING LEGISLATION

The World Health Organization (WHO) Secretariat welcomes the Australian Government's proposed plain packaging of tobacco products as articulated in the exposure draft of the Tobacco Plain Packaging Bill 2011 and the affiliated Consultation Paper. WHO is of the view that the implementing the proposed legislation aiming to prevent tobacco advertising and/or promotion on tobacco product packaging will achieve its stated goals of: reducing the attractiveness and appeal of tobacco products to consumers, particularly young people; increasing the noticeability and effectiveness of mandated health warnings; and reducing the ability of the tobacco product packaging to mislead consumers about the harms of smoking.

WHO strongly supports the Australian Government's proposal on plain packaging and agrees with the conclusion that through the achievement of the aforementioned aims in the long term, as part of a comprehensive suite of tobacco control measures, this legislation will contribute to curbing the initiation of tobacco use, reducing tobacco consumption, and decreasing incidences of relapse in those who cease to consume tobacco. In this regard WHO would also like to note its support for, and agreement with, the submission of the Convention Secretariat of the WHO Framework Convention on Tobacco Control.

Tobacco epidemic

WHO views tobacco use as one of the greatest threats to public health the world has ever faced. Tobacco consumption currently kills nearly six million people a year through direct use and the deadly effects of second-hand smoke – that averages to one person dying every six seconds. Globally, one in 10 adults succumbs to diseases caused by tobacco use. Tobacco is without doubt the single most preventable cause of death in the world today. It is the only legal consumer product that kills up to half of those who use it as intended and recommended by the manufacturer.

Tobacco is the fourth most common risk factor for disease worldwide, and a prominent risk factor for 6 of the 8 leading causes of death in the world. The economic costs of tobacco use are equally devastating. In addition to the high public health costs of treating tobacco-caused diseases, tobacco kills people at the height of their productivity, depriving families of breadwinners and nations of a healthy workforce. Tobacco users are also less productive while they are alive due to increased illness and debilitating disease. Yet, tobacco use remains common throughout the world due to aggressive, widespread marketing practices by tobacco companies, including targeted and precisely designed tobacco product packaging aiming to initiate and maintain addiction among consumers.

WHO Framework Convention on Tobacco Control

The WHO Framework Convention on Tobacco Control (WHO FCTC) - the first treaty negotiated under the auspices of WHO - explicitly addresses and provides WHO Member States a direct response to the globalization of the tobacco epidemic. The WHO FCTC, with 173 Contracting Parties to date, articulates a number of evidence-based measures designed to reduce tobacco prevalence and curb tobacco-related morbidity and mortality. Australia's ratification of the WHO FCTC in 2004 provides the international legal basis for implementation of the plain packaging legislation currently under deliberation. In this regard, the provisions of the WHO FCTC relevant to the establishment of plain tobacco product packaging are as follows:



Article 5

General obligations

1. Each Party shall develop, implement, periodically update and review comprehensive multisectoral national tobacco control strategies, plans and programmes in accordance with this Convention and the protocols to which it is a Party.
2. Towards this end, each Party shall, in accordance with its capabilities:
 - (a) establish or reinforce and finance a national coordinating mechanism or focal points for tobacco control; and
 - (b) adopt and implement effective legislative, executive, administrative and/or other measures and cooperate, as appropriate, with other Parties in developing appropriate policies for preventing and reducing tobacco consumption, nicotine addiction and exposure to tobacco smoke.

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Article 11

Packaging and labelling of tobacco products

14. Each Party shall, within a period of three years after entry into force of this Convention for that Party, adopt and implement, in accordance with its national law, effective measures to ensure that:
 - (a) tobacco product packaging and labelling do not promote a tobacco product by any means that are false, misleading, deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions, including any term, descriptor, trademark, figurative or any other sign that directly or indirectly creates the false impression that a particular tobacco product is less harmful than other tobacco products. These may include terms such as “low tar”, “light”, “ultra light”, or “mild”;

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Article 13

Tobacco advertising, promotion and sponsorship

1. Parties recognize that a comprehensive ban on advertising, promotion and sponsorship would reduce the consumption of tobacco products.
2. Each Party shall, in accordance with its constitution or constitutional principles, undertake a comprehensive ban of all tobacco advertising, promotion and sponsorship. This shall include, subject to the legal environment and technical means available to that Party, a comprehensive ban on cross-border advertising, promotion and sponsorship originating from its territory. In this respect, within the period of five years after entry into force of this Convention for that Party, each Party shall undertake appropriate legislative, executive, administrative and/or other measures and report accordingly in conformity with Article 21.

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Furthermore, guidelines explaining and expanding on the provisions in Articles 11 and 13 of the WHO FCTC have been adopted by the Conference of the Parties to the WHO FCTC and recommend that Parties consider the introduction of plain packaging:

Guidelines for implementation of Article 11 of the WHO Framework Convention on Tobacco Control - Plain packaging

46. Parties should consider adopting measures to restrict or prohibit the use of logos, colours, brand images or promotional information on packaging other than brand names and product names displayed in a standard colour and font style (plain packaging). This may increase the noticeability and effectiveness of health warnings and messages, prevent the package from detracting attention from them, and address industry package design techniques that may suggest that some products are less harmful than others.

Guidelines for implementation of Article 13 of the WHO Framework Convention on Tobacco Control - Packaging and product features

15. Packaging is an important element of advertising and promotion. Tobacco pack or product features are used in various ways to attract consumers, to promote products and to cultivate and promote brand identity, for example by using logos, colours, fonts, pictures, shapes and materials on or in packs or on individual cigarettes or other tobacco products.

16. The effect of advertising or promotion on packaging can be eliminated by requiring plain packaging: black and white or two other contrasting colours, as prescribed by national authorities; nothing other than a brand name, a product name and/or manufacturer's name, contact details and the quantity of product in the packaging, without any logos or other features apart from health warnings, tax stamps and other government-mandated information or markings; prescribed font style and size; and standardized shape, size and materials. There should be no advertising or promotion inside or attached to the package or on individual cigarettes or other tobacco products.

Tobacco product packaging as a vehicle to initiate and maintain addiction

A strong and irrefutable body of evidence demonstrates that product packaging serves as one of the tobacco industry's central vehicles to promote initiation and maintain use of their lethal products among consumers. The tobacco industry allocates tens of millions of dollars each year to advertising and promotional campaigns, including carefully crafted logos, colour schemes and graphics, aiming to target vulnerable segments within the population, including women and children. Detailed analyses of tobacco industry documents have revealed that tobacco companies view product packaging as a critical marketing strategy in communicating brand image. In this regard, tobacco product packaging has become the leading promotional tool for tobacco companies, particularly as countries thoroughly implement their international commitments under the WHO FCTC to prohibit all forms of tobacco advertising, promotion, and sponsorship. As Parties to the WHO FCTC intensify their efforts to eliminate tobacco advertising, the tobacco industry focuses on tobacco product packaging as the critical link between product promotion and profits and the essential consumer.



Though it may not seem intuitive, product packaging – and in particular tobacco product packaging – is one of the most effective marketing opportunities in commercial sales and is exploited regularly by the tobacco industry. In the hands of a tobacco user, tobacco product packs are constantly being opened and repeatedly and publically displayed. This high degree of social visibility has led to cigarettes being recognized as “badge products,” whereby users identify with the personality and character of the product and its brand image. Tobacco companies are acutely aware that cigarette brands enjoy the highest brand loyalty of all consumer products, with less than 10% of consumers changing brands annually. Coupled with the fact that brand choices are generally made early in the life of a smoker, the tobacco industry has not missed the significance of recruiting young consumers to their brands. Brand imaging is a crucial factor in distinguishing between competitive products, leading the tobacco industry to rely heavily on tobacco product packaging in communicating and reinforcing brand imagery. Again, this reinforces the importance of product packaging to the tobacco industry as tobacco advertising restrictions continue to be implemented in accordance with the WHO FCTC.

The importance of packaging has been noted with alarm in internal tobacco industry documents, where the industry articulates its recognition that, as tobacco control efforts continue to gain traction, the product may have to sell itself through its packaging. As packaging transforms into the sole device through which consumers can identify preferred brands, understanding exactly how consumer perception of tobacco packaging affects perception of its contents is vital to expanding current markets and accessing new ones. It is for this reason that tobacco companies continue to analyze and redesign packaging, to ensure that brand families are visibly pronounced and discernable from competitors.

Intricate tobacco packaging identification research by tobacco companies reiterates the considerable importance the industry places on tobacco product packaging. Internal industry documents detail how pack recognition research was conducted by the tobacco industry using concealed cameras on consumers in retail stores. In these “experiments,” as prospective customers entered areas where tobacco products were being sold, photoelectric beams activated hidden cameras, which then recorded the movement of consumers’ eyes and their final purchases. Through exhaustive analysis of thousands of films, tobacco companies were able to determine which package, which design, and what combination of colors held the most appeal and purchase incentive for consumers. This is just one example of the lengths to which tobacco companies will go in order to monitor and alter tobacco product packaging to ensure its continuous and increasing appeal to target audiences.

A multitude of additional considerations continue to be examined and calibrated by the tobacco industry to intensify the appeal of its products through their packaging. For example, one common technique developed by tobacco companies using information gained from complex market testing is to employ lighter colours on packaging. These lighter colours promote a consumer perception of lower cigarette strength. This deception leads customers to believe that one tobacco product is less harmful than another, which is demonstrably untrue. In a similar vein, the tobacco industry employs targeted tobacco product packaging to divert attention from the deadly effects of its products, particularly through attempts to mute the effectiveness of health warnings on tobacco packaging.

A plethora of research also demonstrates that tobacco packaging has been used for many years to generate lifestyle images of “glamour” and “independence”, targeting specific demographics and segments of the population. In this way, tobacco product packaging aims not only to convey product characteristics but also influence perceptions of the product and the effect of using it. This vehicle has been and continues to be particularly effective among vulnerable populations, including women and young people.

In the discussion and consideration of tobacco product packaging, it is critical to note that robust studies show that in blind trials, smokers often cannot distinguish between different brands of cigarettes or other tobacco products. This indicates that the tobacco product package is crucial in influencing consumers’ choice and behavior.



Tobacco industry interference

Undoubtedly, and even in the face of overwhelming evidence of its positive impact on public health, the tobacco industry will continue to vehemently lobby in opposition to Australia's proposed plain packaging legislation. As noted here, tobacco product packaging is a critical vehicle for tobacco companies to attract prospective users, and maintain addiction – to both the product and the brand – in current customers. Plain packaging will undermine tobacco companies' ability to attract consumers and, in this way, could affect the tobacco industry's economic interests. It is important to note that political and commercial opposition to effective tobacco control policies is a traditional tactic employed by the tobacco industry. For decades, tobacco companies have operated with the sole purpose of subverting tobacco control policies in order to expand market share. Their own internal documents confirm this and show the lengths to which the industry will go to deter lawmakers from implementing strong, evidence-based tobacco control measures.

WHO continuously witnesses the tobacco industry's interference in health policy development and implementation. WHO considers the tobacco industry to be the greatest threat to the WHO FCTC's implementation and enforcement worldwide. The tobacco industry produces, promotes and profits enormously from a product scientifically proven to be addictive, to cause disease and death and to give rise to a variety of social ills, including increased poverty. To protect its highly profitable business, large tobacco companies systematically use their political and monetary influence to weaken, delay and defeat tobacco control legislation across the globe. Similarly, tobacco companies use sophisticated methods to undermine meaningful health policies, laws and initiatives that are adopted and implemented. This cannot be allowed to happen in this case.

The public health benefits of plain packaging

Research indicates that plain packaging on tobacco products would increase the impact of health warnings, reduce false and misleading messages that deceive customers into believing that some tobacco products are safer than others, and reduce the attractiveness of products to segments of the population specifically targeted by tobacco companies, including young people and women. Given that the majority of smokers begin a lifetime of addiction before the age of 18, plain packaging, coupled with bans on all other forms of tobacco advertising, promotion, and sponsorship, would essentially eliminate the tobacco industry's capacity to appeal to young people. This would translate to a generation that was never exposed to or deceived by any form of tobacco advertising.

Peer-reviewed research shows that plain packaging reduces the attractiveness of tobacco products to potential consumers. In addition to abolishing the industry's ability to utilize the tobacco product package as a promotional vehicle, plain packaging also eliminates an opportunity for the industry to disseminate misinformation and propagate false beliefs concerning the hazardous consequences of tobacco consumption. For decades, the tobacco industry has used words like "mild", "light" and "low tar", lighter colours and other tactics on tobacco packaging to mislead consumers about the level of risk to which they are exposed. Plain packaging eliminates communication of false messages regarding disparate levels of harm among similar tobacco products.

Plain packaging also amplifies the effectiveness of health warnings. There is strong data showing that the absence of colours, designs, logos and brand elements from tobacco packaging can increase the impact of health warnings and increase consumers sensitivity to the risks of tobacco use in ways that are unachievable through the use of traditional tobacco product packs.

Finally, the tobacco industry would be responsible for implementing plain packaging, incurring no cost to the Government, similar to the costs associated with the inclusion of health warnings on tobacco packaging.



Plain packaging would fundamentally shift tobacco product packaging away from being a promotional vehicle for the tobacco industry to being nothing more than product containers. WHO has concluded that when implemented, the Tobacco Plain Packaging Bill 2011 will close a major avenue for the tobacco industry to market and promote its lethal products. WHO is of the view that this stringent restriction on tobacco packaging will substantially reduce tobacco consumption and, in turn, reduce the national burden of disease attributed to noncommunicable diseases.

In view of the scientific and legal bases for the interventions articulated in the exposure draft of Australia's Tobacco Plain Packaging Bill 2011, the WHO Secretariat strongly supports the proposed legislation.