

PUBLIC CONSULTATION

THE NETHERLANDS - STANDARD PACKAGING

INTRODUCTION

The evidence regarding the success of the introduction of Plain Packaging for tobacco consumer products demonstrates a complete failure of the policy in countries having adopted the measure.

CONSULTATION RESPONSE

The Consumer Packaging Manufacturers Alliance (CPMA) has, for many years, predicted the ineffectiveness of excessive packaging regulation of consumer products and particularly campaigned against this within the tobacco sector.

The Anniversary of the First Year of Plain Packaging or more accurately the banning of brands for tobacco products in the United Kingdom was on the 20th May 2018. The result of the banning of trade names, logos, graphics, colours, restrictions to pack shape construction and the limitation of the number and volume of tobacco product per pack has been a **total policy failure**.

Additional countries having introduced such measures now include France, The Republic of Ireland, New Zealand and Australia with many more considering the introduction of Plain Packaging.

Mike Ridgway Director of the CPMA states that the policy failure comes as no surprise - in Australia the ban is over 5 years old and the trend reveals also the failure of the measure over this period of time. The objective of introducing the legislation in Australia was to achieve a reduction in smoking levels, increase the awareness of health warnings and to reduce the attractiveness of smoking to young people. The Australian experience according to the National Drug Strategy Household Survey (NDSHS), supported by research from the RMIT University of Melbourne, has seen no statistical decrease in overall daily smoking rates and therefore has failed to meet the declared objectives. The position in France is equally revealing and has seen an increase in cigarette sales since January 2017. The French Minister of Health going further also acknowledged that plain packaging *'does not lead smokers to stop smoking'*. (Mme Agnes Buzyn - Health Minister - Assemblée Nationale - 2017).

The consequences of the banning of brands has been very serious for the packaging industry resulting in the closure of all factories in the UK producing cigarette packs. These were located in Bradford, Portsmouth and Bristol resulting in many apprentice trained skilled operatives being made redundant.

For the packaging industry this precedent for increased regulation moving into other market sectors is of concern. The introduction of minimum pricing for alcohol in Scotland is the start of market intervention and the 'slippery slope' into packaging health warnings followed by graphical warnings leading to restrictions on logos, branding in a similar way to that of tobacco. These restrictions would be a further attack on brands and a threat to the Intellectual Property rights of the brand owners.

The other far reaching aspect of brand banning is that once complexity is taken out of the packaging specification, the opportunities to produce counterfeit products become simpler as now witnessed across the whole of the UK with evidence of findings in Scotland, Birmingham, Manchester and London. The CPMA has warned about this feature and loss of product authenticity to the consumer has now become a reality in the market place. This is in addition to the illicit tobacco trade in non-duty paid tobacco which is seeing a continual steady increase in its market share.

These levels in Australia, confirmed by the latest national statistics, now indicate that the illicit trade has reached 15.0% of total consumption. The UK is fast approaching this figure resulting in revenue losses to the Exchequer estimated at £3.0 billion per annum. This is compared to actual current total revenues received of (Excise Duty and VAT) returns of £11.5 billion in a year from the sales of tobacco products supported by official Trading Standards and the tax authority (HMRC).

More worrying, following the introduction of plain packaging, is the trend for smokers to resort to illegal tobacco with estimates that now over 25% of smokers seek out and buy untaxed tobacco including counterfeit products.

To summarise - the conclusion is that the unintended consequence of this attack on brands shows that Plain Packaging is not achieving the original health objectives identified; it supports the illicit trade by opening the door to counterfeiting and encouraging the consumer to buy untaxed tobacco to the detriment of the country as a whole. Branding rights on packaging are an essential component for an open fair trading business environment allowing competition, product innovation and increasing consumer choice.

HARM REDUCED PRODUCTS

It is accepted that Harm Reduced Products (HRM's) are now being marketed around the world with medical evidence that they play a significant role in reducing the harmful effects of smoke inhalation and other factors linked to traditional tobacco smoking. The proposed regulations that attempt to umbrella and link these HRM products to cigarettes and loose tobacco is misleading and confusing to the consumer and to those choosing to move towards these new products. In addition proposals to introduce plain packaging and design limitations will potentially adversely influence consumer choice when adopting a change in purchasing habit and decision. These regulatory proposals should be resisted by governments.

COUNTERFEIT PRODUCTS AND ILLICIT TRADE

The counterfeiting of branded packs have always been in existence for many years but with authentic packaging containing enhancements to the design accepted that the every year; in the UK the Government has lost over £43.5 billion since 2000 and annually some £3.0 billion. This is becoming an international criminal activity with links to other serious crime and financial corruption.

Counterfeit products are open to tobacco contamination through the introduction of non-authorised substances, excessive tar content and other foreign-bodies e.g. animal droppings and human excrement.

The introduction of Plain Packaging is increasingly being assessed as being a disproportionate attack on a brand, destroying intellectual property of the logo and brand name leading to encouraging the counterfeiter to replicate legitimate product by sub-standard alternatives to the detriment of the consumer.

SUMMARY

The increasing penetration of counterfeit product into the UK is closely linked to Organised Criminal Gangs whose operations extended into other areas of criminal activity including people carrying, prostitution, drug trade and terrorism. The UK police authorities were concerned about the links to other crimes being financed by the illicit tobacco trade at an early stage in the debate about plain packaging and now need the extra resources to tackle the problem.

**PACKAGING COMBATS THE COUNTERFEITER -
but PLAIN PACKAGING ASSISTS THE COUNTERFEITER**

END

**Mike Ridgway
Director - CPMA
21st May 2019**