

# Plain packaging of tobacco products: a review of the evidence



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# 1. Executive summary

This paper presents the findings of research over two decades and across five countries on the topic of plain packaging. It includes the results of 24 published experimental studies which have examined the likely impact of plain packaging on young people and current smokers (Section 5)<sup>i</sup>. It also summarises the results of research papers that analyse industry arguments about barriers to legislation resulting from international law and trade agreements (Section 7).

The main findings from this compilation of literature are as follows:

- In a worldwide environment of increasing prohibition of tobacco advertising and sponsorship, the cigarette pack has become the key marketing tool employed by the tobacco industry to attract and retain customers. (Section 3)
- The tobacco industry uses cigarette pack technologies and innovations in design to communicate particular attributes about each brand and by extension the personality and social status of its users. (Section 4)
- Current pack colours and imagery can dilute the impact of graphic health warnings. (Section 5.2.1)
- Unregulated package colouring and imagery contribute to consumers' misperceptions that certain brands are safer than others. Removing colours from cigarette packs and misleading terms such as 'smooth', 'gold' and 'silver' would reduce false beliefs about the harmfulness of cigarettes. (Section 5.2.2)
- Adults and adolescents perceive cigarettes in plain packs to be less appealing, less palatable, less satisfying and of lower quality compared to cigarettes in current packaging. Plain packaging would also affect young people's perceptions about the characteristics and status of the people who smoke particular brands. (Section 5.2.3)
- Plain packaging featuring larger graphic health warnings (75% front of pack) will both reduce the appeal of the pack and strengthen the impact of the warnings. (Section 5.2.4)
- British American Tobacco has claimed that the legislation will not be effective, pointing to the results of an international analysis it has commissioned (and provided data for) on the impact of health warnings on sales. Health warnings have a different objective to plain packaging and monthly variations in sales data are not an appropriate indicator of effectiveness. In any case the data on which this analysis is based is highly selective and the specifications of the modelling incorrect in at least one important respect. (Section 7.1).
- The Alliance of Australian Retailers alleges that plain packaging would damage retailer business, increasing transaction time at the counter due to difficulties in differentiating between brands. The AAR suggests that as a result, customers would switch to discount outlets. However, any loss of convenience at retail outlets will apply equally to discount and convenience outlets. Measures including labelling of the containers where packs are stored and brand names printed on packs in a clear font style and size would assist retailers to quickly identify and retrieve particular brands. (Section 6.3 and 7.2)
- The tobacco industry claims plain packaging represents an acquisition of intellectual property and as such is prohibited under the terms of various international trade agreements. The industry has suggested the Australian Government would be forced to compensate the industry

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<sup>i</sup> V4 27.05.11. We intend to add to this review results of several more studies that we are informed are close to publication.

in billions of dollars. Papers by experts in constitutional and trademark law on the other hand suggest that international agreements permit governments to restrict use of trademarks to protect public health. They advise that plain packaging will not be an acquisition of intellectual property, as the Government does not intend to use the logos or brand imagery; it will simply be restricting the use of these marketing tools on cigarette packages. If Courts were to rule that restriction of use of trademarks was an acquisition of property, then the legislation has been drafted to allow the use of trademarks with limitations. (Section 7.3)

- Plain packaging has been carefully considered and researched in Australia and overseas for some 20 years, but contrary to claims by tobacco companies it has *not* been abandoned as a policy option. The paper provides links to statements by parliamentarians in New Zealand, the United Kingdom and the European Union, which are all either undertaking public consultation on plain packaging or have named plain packaging among proposals for future tobacco control strategies. (Section 7.4)
- Companies have claimed that the legislation will reduce price and competition in the market. Opinions of industry analysts about the likely effects on competition are mixed. As pointed out by Deloitte MCS, future governments have open to them the option of further increasing excise and customs duty on tobacco products should average prices of tobacco products fall. (Section 7.5)
- Tobacco industry claims that plain packaging will increase illicit trade are exaggerated and misleading. The industry's estimation of the current size of the illicit market in Australia (15.9%) is based on one very small survey (949 people) with a very low response rate. The Government's National Drug Strategy Household Survey of more than 23,000 people suggests that only about 0.2% of Australians (1.2% of smokers) use unbranded tobacco products 'half the time or more'. The Australian Government's draft plain packaging legislation specifies that anti-counterfeiting markings will be permitted on plain packaging, and the Australian Taxation Office and the Australian Customs and Border Protection Service should and no doubt will continue to vigorously pursue technologies and other surveillance and enforcement strategies to prevent the evasion of excise and customs duty in this country. (Section 7.6)

In summary there are strong grounds for believing that current packaging glamourises smoking and that tobacco products packaged in a standardised colour, typeface and form would:

- improve the effectiveness of health warnings
- reduce misconceptions about relative harmfulness of various brands and
- reduce the overall appeal of smoking

The intensity of opposition to plain packaging legislation by tobacco companies suggests that tobacco industry executives believe that such measures *will* reduce sales and company profits.

## 2. Introduction

Tobacco products are unique among consumer items in that they cause the premature death of every second long-term user. While it is impractical to ban the purchase of a product that so many people find so difficult to quit, governments the world over have accepted that it is unethical to encourage use of tobacco and appropriate to legislate to prevent all forms of its promotion. Despite the efforts of governments to comprehensively discourage smoking, innovation in packaging has resulted in continuing promotion of tobacco products.

On the 29th April 2010 the Australian Government announced<sup>[1]</sup> two of its major responses to the recommendations<sup>[2]</sup> of its Preventative Health Taskforce<sup>[3]</sup> which had set out a comprehensive package of measures to ‘make Australia the healthiest country by the year 2020’. A proposal to mandate plain packaging for all tobacco products sold in Australia was the centrepiece of the Government’s response. Plain packaging recognises Australia’s commitment as a signatory to the World Health Organization Framework Convention on Tobacco Control<sup>[4]</sup> and has been widely applauded by health agencies both in Australia and internationally. It has also been vigorously opposed by the tobacco industry which has commissioned a number of reports that set out its objections to the proposal.

This paper compiles and wherever possible provides electronic links to more than 130 publications relevant to the topic of plain packaging. It briefly summarises discussion of packaging in the marketing literature (Section 3) and documents numerous examples of increasing reliance by the tobacco industry on packaging as a marketing tool (Section 4). These are drawn both from trade press and from internal company documents released as part of settlement of legal action between tobacco companies and attorneys general in the United States under the terms of which all company documents—both historical and contemporary, both in the US and in overseas subsidiaries—are released on a continuing basis.<sup>ii</sup> It summarises the findings of 24 published studies conducted to carefully and systematically test and quantify the likely impact of plain packaging (Section 5). It records the reactions of various expert groups to the Australian Government’s announcement about plain packaging (Section 6). Finally it describes research relevant to some of the major arguments against plain packaging, providing links to submissions by tobacco companies and others opposing such legislation as well as research papers that analyse industry arguments about various unintended consequences it envisages for retailers and government (Section 7).

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<sup>ii</sup> These have been comprehensively catalogued by several US universities and are easily searchable online. See <http://legacy.library.ucsf.edu/>

### 3. Packaging in the marketing mix

Packaging 'act(s) as a promotional tool in its own right.'

Palmer A. The product. In Palmer, AJ, eds, In: Principles of marketing. 2000 (p215).[5]

The 'product package is the communication life-blood of the firm' or the 'silent salesman' that reaches out to customers.'

Underwood and Ozanne (p208).[6]

'... if you smoke, a cigarette pack is one of the few things you use regularly that makes a statement about you. A cigarette pack is the only thing you take out of your pocket 20 times a day and lay out for everyone to see. That's a lot different than buying your soap powder in generic packaging.'

Brown and Williamson employee(p5).[7]

The concept of a mix of marketing functions was conceived by Professor Neil Borden of the Harvard Business School. Perhaps the best known definition of this mix is that proposed by McCarthy who talked of the four Ps of marketing.[8] Packaging differentiates brands, being particularly important in homogenous consumer products such as cigarettes.[9]<sup>iii</sup> Colours and typeface have long been known to elicit particular responses in consumers, often shaped by strong social and cultural forces. Imagery and symbols also exert powerful effects, linking desirable attributes with particular brands. The world's most popular cigarette brand, Marlboro,[10] can readily be identified through its iconic red chevron. Sociologically, a symbol acts as a stimulus eliciting a particular response based on people's understanding of meaning. The heraldic coats of arms on Benson and Hedges packs for instance is an abstract wordless symbol that imparts notions of status and attested quality.[11]

With the increasing prevalence of tobacco advertising and sponsorship bans throughout the world, the pack has fast become the most important promotional vehicle for reaching potential and current smokers.[12] [13] [14] [15] [16] [17] [18]

The Government of Norway introduced what was the world's most comprehensive ban on advertising in 1975, and yet a qualitative study conducted in 2003 of young adult Norwegian smokers aged 18–23 (born five to ten years after the ban came into place) highlights how the tobacco industry continues to market to this demographic through persuasive cigarette pack design. The study showed how cigarette brands and cigarette package designs gave meaning to personal characteristics, to social identity and to positions in hierarchies of status. In the young smokers' accounts, brands appeared to add 'an extra dimension to the social meaning of smoking in their daily life'.[19]

More recently several nations have banned the open display of tobacco products in retail locations. These jurisdictions have reasoned:

'Power walls and counter top displays are highly visible and eye-catching. They present an unavoidable and unfortunate spill of promotional imagery and product reminders to vulnerable consumers including young people, former smokers ... and smokers of all ages who are trying to quit'(p8).[20]

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<sup>iii</sup> Portions of this material are drawn from: Freeman B, Chapman S and Rimmer M. Review: the case for the plain packaging of tobacco products. *Addiction* 2008;103:580–90. Available from [http://tobacco.health.usyd.edu.au/assets/pdfs/tobacco-related-papers/Addiction\\_generic.pdf](http://tobacco.health.usyd.edu.au/assets/pdfs/tobacco-related-papers/Addiction_generic.pdf)

With removal of point of sale as an opportunity for promotion, British American Tobacco and Philip Morris[21] have predicted that, in the future, pack design alone will drive brand imagery.[22] Unless governments impose further restrictions on packaging, bans on the retail display of tobacco will encourage a further shift in industry investment towards innovative pack design, with the pack functioning as the only remaining vehicle for product promotion.

Unique among industries, the tobacco industry has long claimed that it has no interest in attracting new customers (i.e. non-smokers) but is interested only in stimulating brand-switching and in maintaining brand loyalty in current customers.[23] However internal industry documents candidly acknowledge the vital importance of attracting new (predominantly young) smokers.[22] [24] [25] [26] [27] [28] These documents confirm that companies have invested heavily in pack design in order to communicate specific messages to specific demographic groups including young people.[18] [22] In the early 1990s a presenter addressing marketing staff at Philip Morris remarked that smokers:

‘are ready for change’ and ‘once exposed to innovative {packaging} especially young adults see their current packaging as dated and boring’(p2).[29]

The presenter went on to encourage...

‘Packs aimed at younger women should be ‘slick, sleek, flashy, glittery, shiny, silky, bold’(p9).[29]

Pack design doesn’t just communicate the ‘personality’ of a cigarette brand to the smoker... it also allows smokers to project these characteristics to others when they handle and display the package throughout their daily routines.[18] Just as designer clothing, accessories and cars serve as social cues to style, status, values and character, so too can cigarette packs signify a range of attributes about users. As ‘badge products’, cigarettes can reinforce the characteristics conjured by brand image.[18] [7] [30] [31] [32] [33] This behaviour not only affects the single consumer but also exerts a powerful effect on their friends, associates and even casual contacts. Consumer theory and research has demonstrated that incidental brand encounters (ICBEs) powerfully affect buying patterns in ways in which the consumer is not fully aware. A series of four studies by Ferraro, Bettmand and Chartrand published in the Journal for Consumer Research in 2008 for instance found that repeated exposure to simulated ICBEs:

‘increases choice of the focal brand among people not aware of the brand exposure, that perceptual fluency underlies these effects and these effects are moderated by perceivers’ automatic responses to the type of user observed with the brand.’(p729). [34]

## 4. Recent trends in cigarette packaging

In the early 1900s before the advent of television and radio, collectable cigarette cards were a major form of in-pack promotion.[35] Restrictions on advertising of tobacco through the mass media have prompted manufacturers to a contemporary return to the package as the primary source of promotion.

‘If your brand can no longer shout from billboards, let alone from the cinema screen or the pages of a glossy magazine ... it can at least court smokers from the retailer’s shelf, or from wherever it is placed by those already wed to it.’ (p17)[13]

Many articles in the tobacco industry trade magazine, *World Tobacco*, in recent times have urged manufacturers to use packaging as an advertising tool[36] [37] [38] [14] [15] [16] [17] and advances in printing technology have enabled manufacturers to take promotion through packaging to a whole new level. Recent developments include printing of on-pack imagery on the inner frame card,[39] outer film and tear tape,[14] and the incorporation of holograms, collectable art, metallic finishes,[40] multi-fold stickers,[16] photographs, and retro images in pack design.[41] [42] [43]

‘With the uptake of printed inner frame cards what we will increasingly see is the pack being viewed as a total opportunity for communications—from printed outer film and tear tape through to the inner frame and inner bundle. Each pack component will provide an integrated function as part of a carefully planned brand or information communications campaign’ (p37).[39]

Innovations in cigarette packaging include not just embellishments to the pack, but also the incorporation of design features on cigarettes themselves.



**Figure 1** A cigarette printed with the colours of the Dutch soccer team  
Source: Raf de Ryck (private collection)

Examples of innovation in packaging in Australia include the following:

- During 2000–02 a series of subtle changes to cigarette packs and trademarks were observed on both Benson & Hedges and Winfield cigarette packs.[44] When researchers called the company to enquire about the changes, an employee said they were ‘playing with the logo because we can’t do any advertising any more’ (p154).[44]
- In February 2006, one month prior to the adoption of picture-based warnings on tobacco packages, Peter Stuyvesant cigarettes were being sold in ‘trendy retro-style tins’ which, unlike soft packets of cigarettes with on-pack printed warnings, had health warning stickers that were easily peeled off (p151)[45] (Figures 2 and 3). Retailers reported that the tins were very popular with younger smokers.





**Figure 2** Peter Stuyvesant cigarettes packed in a tin container with a removable warning  
Source: Quit Victoria



**Figure 3** Another Peter Stuyvesant tin  
Source: Quit Victoria

- British American Tobacco Australia (BATA) introduced split Dunhill packs in October 2006.[46] The pack could be split along a perforated line to create two mini packs, easily shared between two smokers perhaps unable to afford a full pack (Figure 4). Once split, one of the two packs did not bear the mandatory graphic health warning.[47]<sup>iv</sup>

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<sup>iv</sup> BATA removed the packets from the market when it was found to be in breach of tobacco product labelling laws.



**Figure 4** Split package of Dunhill cigarettes  
Source: Quit Victoria

- When the descriptive terms ‘light’ and ‘mild’ were prohibited, and cigarette tar yields were scheduled to be replaced with qualitative information about harmful constituents, the industry responded by developing colour-coded packages with new terms: ‘Now your Horizon customers can get their favourite brand in an exciting new look pack. With new descriptors and clearer numbers all our packs are much easier to identify. Research proves that your customers will find the new pack more appealing and a lot easier to recognize’ (p214).[48]

Legislation mandating plain packaging that covered all aspects of the design of sticks and every part of the pack (including inserts, cardboard and cellophane wrap) would effectively standardise the appearance of all brands of tobacco products, greatly reducing the status-signalling role and appeal of cigarettes.[49]



**Figure 5** An example of cigarettes in proposed plain packaging as proposed by health groups in 2010  
Source: VicHealth Centre for Tobacco Control

## 5. Results of research into the effects of plain packaging

As plain packs have never been legislated, evidence about their possible impact necessarily derives from experimental studies where subjects have typically been presented with both branded and mocked-up plain packs and asked about associations and preferences.

### 5.1 History of international research on plain packaging

In 1995 an expert panel provided to the Canadian Department of Health a comprehensive review of the likely effects of plain packaging entitled *When Packages Can't Speak: Possible Impacts of Plain and Generic Packaging of Tobacco Products*.<sup>[50]</sup>

To that time, four sets of studies had been conducted on plain packaging of cigarettes:

- the so-called Marlboro study (Trachtenberg, 1987)<sup>[51]</sup>
- the New Zealand study set (Beede and Lawson, 1992<sup>[52, 53]</sup>; Beede et. al., 1991<sup>[54]</sup>)
- the Australian study (Centre for Behavioural Research in Cancer, 1992)<sup>[55]</sup> and
- the University of Toronto study (Centre for Health Promotion, 1993)<sup>[56]</sup>.

The expert panel found that all four studies produced some evidence to support the hypothesis that plain and generic packaging made cigarettes less attractive and appealing. No comparable study providing contrary evidence was known to exist.<sup>[50]</sup>

The research objectives of the Canadian expert panel were:

- to assess the potential impact of plain and generic packaging of cigarettes on the likelihood of smoking uptake;
- to assess the potential impact of plain and generic packaging of cigarettes on the recognition and recall of health warning messages on cigarette packages;
- to assess the potential impact of plain and generic packaging of cigarettes on the likelihood of cessation of smoking;
- to evaluate alternative designs for plain and generic packaging of cigarettes in terms of their potential impact on the uptake or cessation of smoking; and
- to project possible industry responses to plain and generic packaging by examining historical evidence and theory of competition regarding the actions of companies in industries characterized by increasing commoditization.

To tackle these five overall objectives, the Expert Panel conceived, conducted and analysed findings of a battery of six different studies employing five methodological approaches.<sup>[50]</sup>

<b>Study</b>	<b>Method</b>
1) National Survey of adolescents	Survey - direct questioning / within-subject design
2) Word Image Survey	Survey - direct questioning / within-subject design
3) Visual Image Experiment	Experiment - direct questioning / within and between-subject design
4) Recall and Recognition Experiment	Experiment - direct questioning / between-subject design
5) Conjoint Experiment	Experiment - indirect questioning / within-subject design
6) Analysis of Industry Effects	Analysis of precedents of industry competitive & strategy activities in commodity industries

The national survey of adolescents showed that teenagers were highly aware of cigarette brands. Around 90% were able to recognize the two major Canadian brands even when brand names were

removed from packaging, with teenagers who were experimenting with smoking on average able to recognise 2.9 brands and regular/frequent teenage smokers 5.9. For all brands, ‘package approaches’ were the first thing mentioned by the majority of respondents who correctly identified the brand as methods by which companies promoted awareness of brands. While teenagers rarely admit to the likelihood of promotional strategies affecting them, a surprisingly large proportion reported that having cigarettes available only in plain packaging would bother them a lot (23.8%). Many respondents believed that having cigarettes available only in plain and generic packages would have an effect on the number of teenagers who would start smoking. More than one third (35.8%) believed that a few less would start smoking and 13.5% believed that a lot fewer would start smoking. Almost forty percent (38.2%) believed that plain packaging would prompt more teenagers to stop smoking.

The word image survey aimed to assess the associations teenagers made about products and about smokers through comparing the packaging of a popular and less well-known brand to plain packaging. The current, branded packaging was associated with a more positive image than the plain white packaging. The researchers concluded that while plain packaging would not prevent cigarettes from being used to convey an image of being a teen smoker, packaging cigarettes in plain and generic packages would reduce the abilities of brands to differentiate themselves from each other and therefore the ability to link personal image with the brand. To the extent that teens attempt to use a particular cigarette brand as a badge of their own self-image, a particular brand would become a less useful instrument.[50] [57]

The visual image experiment showed that teens are much less likely to associate specific brands with specific types of people when packs are plain, and even less so when plain packs also featured a photo of a lung.[50] The researchers conclude that

Denuding cigarette packages of major elements of their brand markings (other than their name) appears to limit teenagers' capacity to associate specific images with specific brands. Under these circumstances, these brands lose their badge value and self-defining characteristics. When these characteristics represent key motivators in teenagers' decisions to smoke, then it seems reasonable to conclude that plain and generic packaging can be a useful strategy in attempting to demarket cigarettes to teenagers because it would make it more difficult to build or maintain brand equity.(Section 6.3.4, p 101)

The recall and recognition experiment found that at least one warning, ‘Smoking can kill you,’ was better recalled when it was on the plain package where the rest of the package had fewer ‘competing’ messages. The teens favourite brand, du Maurier, was recalled less when it was in a plain package as opposed to the familiar red package.

Conjoint analysis is a multivariate technique used specifically to understand how consumers develop preferences for products and services based on the simple premise that consumers evaluate the utility of a product or service idea (real or hypothetical) by combining the separate amounts of utility provided by each attribute. While price was found to be the most important contributor to decisions about smoking, researchers concluded that plain packaging would also influence decisions about uptake of smoking and quitting.

On the basis of a detailed analysis of the findings of all five of these studies—see chart 1, pages 152–155, the expert panel concluded:

Virtually all the findings of these five studies converge on the following conclusions. Plain and generic packaging of tobacco products (all other things being equal), through its impact on image formation and retention, recall and recognition, knowledge, and consumer attitudes and perceived utilities, would likely depress the incidence of smoking uptake by non-smoking teens, and increase the incidence of smoking cessation by teen and adult smokers. This impact would vary across the population. The extent of change in incidence is impossible to assess except through field experiments conducted over time.[50] p158

Since the Canadian expert review, further research has been conducted in Canada,[58] [59] [60] [61] [62] [63] the United States,[64] Australia,[65] [66] [67] [68] the United Kingdom[69] New

Zealand[70] and across countries.[71] This research has focussed on the effects of plain packaging on awareness, recall and impact of health warnings,[53] [55] [61] on perceptions of riskiness of tobacco products,[62] [69] [71] and on the appeal of brands and products.[52] [54] [58] [65] [66] [67] [70] [68] [63] [64] [68]

## **5.2 Summary of results of research by theme**

In a review of evidence on the effects of plain packaging conducted up to 2009 Hammond concludes:[72]

The evidence indicates three primary benefits of plain packaging: increasing the effectiveness of health warnings, reducing false health beliefs about cigarettes, and reducing brand appeal especially among youth and young adults. Overall, the research to date suggests that 'plain' packaging regulations would be an effective tobacco control measure, particularly in jurisdictions with comprehensive restrictions on other forms of marketing.

The following four sections summarise the findings of studies to date—both before and since Hammond's review— that have examined these major potential benefits of plain packaging.

### **5.2.1 Effects of plain packaging on effectiveness of health warnings**

Plain pack research shows consistently that pack brand imagery distracts from and therefore reduces the impact of health warnings. Students have an enhanced ability to recall health warnings on plain packs.[53] [61] Health warnings on plain packs are seen as being more serious than the same warnings on branded packs, suggesting that brand imagery diffuses the overall impact of health warnings.[60] A multi-country tobacco survey examining the effectiveness of warnings showed that smokers in Canada, who were at the time of the study exposed to large, picture-based warnings, were significantly more likely to report thinking about the health risks of smoking, to stop from having a cigarette, and to think about quitting because of the health warnings.[73] The same study also showed that the larger and more prominent a health warning, the more likely it was to be recalled. Plain packaging would enable the warning size to be further increased and allow for additional information elaborating on warnings and about smoking cessation to be printed on packs.

### **5.2.2 Effects of plain packaging on perceptions of harmfulness**

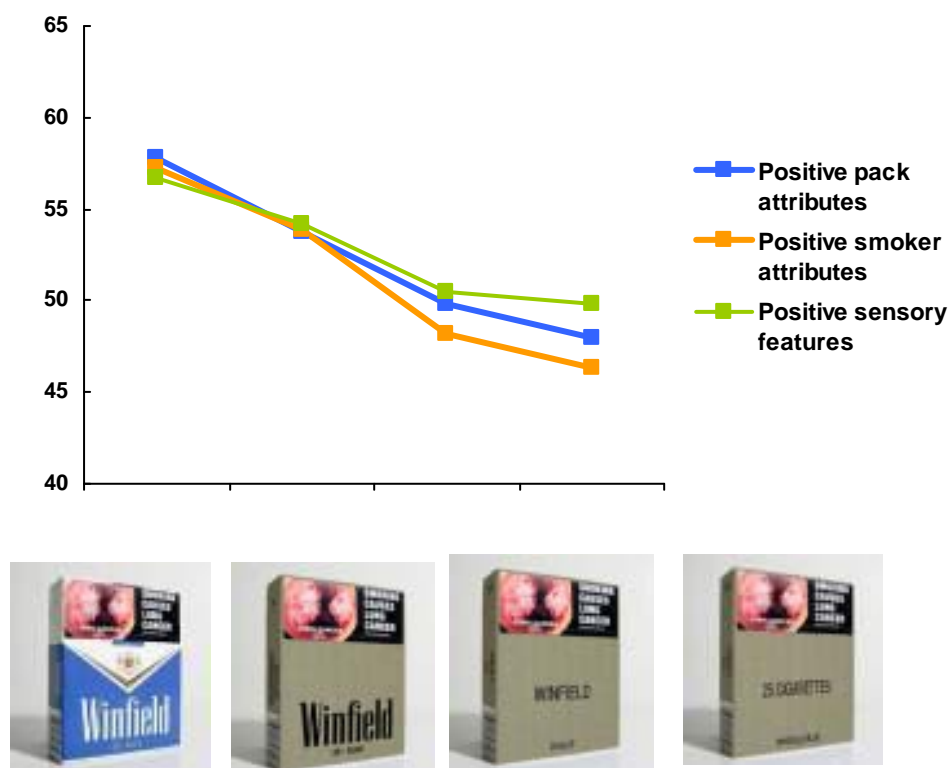
Unregulated package colouring and imagery contributes to consumer misperceptions that certain brands are safer than others.[18] [21] [62] [74] The colour of packs is also associated with perceptions of risk and brand appeal: compared with Marlboro packs with a red logo, Marlboro packs with a gold logo were rated as lower health risk by 53% and easier to quit by 31% of adult smokers in a UK study.[69] A study of 8243 smokers from the US, the UK, Canada and Australia in 2006 similarly found that smokers of 'gold, silver, blue or purple brands were more likely to believe that their own brand might be a little less harmful' compared to smokers of red or black brands.[71] Researchers in both studies concluded that removing colours from packs (plain packaging), as well as terms such as 'smooth' 'gold' and 'silver' would significantly reduce false beliefs.

### **5.2.3 Effects of plain packaging on appeal of product**

The appeal of tobacco products can be understood in terms of the appeal of the pack or more broadly as perceptions about the sensory appeal of the product (in terms of taste, smoothness etc) or more broadly still in terms of the types or characteristics of people likely to use particular brands.

An Australian study published in 2008 involving more than 800 adult smokers examined the effects of the appeal of tobacco products of progressively reducing the amount of pack branding design information. As illustrated in Figure 6 below, the plainest packs were seen as less attractive (brand/pack characteristic), smokers of the packs were seen as significantly less stylish and sociable

(smoker characteristic) and the cigarettes in the packs were thought to be less satisfying and of lower quality (sensory perception).[66]



**Figure 6** Level of attractiveness of increasingly plainer tobacco packaging

Source: Wakefield MA, Germain D and Durkin SJ. How does increasingly plainer cigarette packaging influence adult smokers' perceptions about brand image? An experimental study. *Tobacco Control* 2008;17:416–21.[66]

A similarly designed study involving adolescents published in 2009 found that progressively removing brand elements such as colour, branded fonts and imagery from cigarette packs, resulted in adolescent smokers seeing packs as less appealing, having more negative expectations of cigarette taste and rating attributes of a typical smoker of the pack less positively.[67]

A Canadian study (results of which were published in papers on line in March 2011[63] and a US study published in April 2011[64]) examined the effects of removal of brand imagery on young female smokers aged 18 to 25 years. Participants were asked to view images of female-oriented brands

- as currently packaged
- in the same packs with brand names but without descriptors and
- in plain white packs once again with brand names but without descriptors.

They were then asked to rate each pack for appeal, taste, health risks and tar levels. In the Canadian study, the highest-rated female pack, *Capri Cherry*, was rated 'more appealing than other brands' by almost 67% of participants. The researchers found that removing descriptors and colours from packs substantially reduced the appeal of female-oriented brands for female smokers: for example, the appeal of *Capri Cherry* fell from 67% to 17% among women who viewed plain packs without the word 'Cherry'. Plain packs were also associated with significantly fewer positive characteristics than fully branded packs, including glamour, being slim, popular, attractive and sophisticated. Of

particular note, young women in the plain pack condition were significantly less likely to believe that smoking helps people stay slim compared to participants in the no descriptors condition.[63] Findings were similar in the US study. Among smokers who requested a pack at the end of the study, female branded packs were three times more likely to be selected than plain packs. Researchers concluded:

‘Plain packaging and removing descriptors such as ‘slims’ from cigarette packs may reduce smoking susceptibility among young women.’[64]

#### **5.2.4 Combined effect of plain packaging and health warnings**

*Is it possible that the appeal of tobacco products could be reduced simply by increasing the size of health warnings rather than by removing branding elements through plain packaging?*

As outlined above, plain packaging undermines the positive image of brands, increases the negative aspects of brand image and reduces positive taste expectations. And as has been found in extensive research on the effect of health warnings, larger health warnings are more noticeable, memorable and therefore more likely to elicit cessation-related attitudes and behaviours<sup>v</sup>. An Australian study funded by the National Health and Medical Research Council, results of which were presented at the 2011 meeting of the Society for Research in Tobacco and Nicotine specifically explored the question of whether removing the colour and design features of packaging was more effective than increasing the size of health warnings in reducing the appeal of brands.[68] The study found that once packs were plain, increasing the size of the front-of-pack health warnings from 30% to 70% or more did not further reduce brand appeal. While other research indicates that larger health warnings are likely to be more noticeable and memorable to consumers, in this study plain packaging was much more effective than increasing the size of health warnings in reducing the appeal of the brand.

*Given the dual objective of*

- a. preventing companies from packaging tobacco products in a way that increases their appeal particularly to young people and*
- b. informing consumers as effectively as possible about the health risks of smoking,*

*what then is the optimal size of health warnings on cigarettes in plain packaging?*

A New Zealand study published in Tobacco Control in 2010 provides some guidance here.[70] The study examined the combined effects of health warnings and plain packaging on the likelihood of young adults 18 to 30 years engaging in behaviours known to be linked to cessation. Smokers in this study were asked which pack they would be most and least likely to choose each time they were repeatedly presented with four cigarette packets featuring different branding and warning size combinations. Packs with the greatest number of branding elements were still preferred even when the warnings were increased from 30 to 50%. However they were less likely to be chosen with a 75% warning. Plain packets with 75% health warnings were significantly more likely to elicit stronger cessation-linked intentions (to reduce the amount smoked; increase quit attempts; increase help-seeking to quit) than were branded packs with a 30% front-of-pack warnings.

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<sup>v</sup> See <http://www.smoke-free.ca/warnings/Research.htm> for a detailed compilation of evidence.

## **6. Expert responses to the proposal for plain packaging**

On the 7th April 2011 the Australian Government released a consultation paper[75] and draft exposure legislation for the Tobacco Plain Packaging Bill 2011[76] prior to scheduled consideration of the bill in the winter session of the Australian Parliament.[77]

### **6.1 Health sector response to proposed legislation**

The Government's announcement about its intention to introduce plain packaging received overwhelming support from the health sector, with spokespeople describing the announcement as 'the most important national development in tobacco control since tobacco advertising was banned in the '90s'[78] and commenting that it was 'difficult to exaggerate the importance' of such reforms.[79] [80]

On release of the exposure bill, Professor Mike Daube, President of the Public Health Association of Australia remarked:

'The tobacco industry has responded to this move more ferociously to anything in tobacco control in 20 years and I think that sends out a signal, if the tobacco industry is so worried about it, then we've got to be on the right track.'[81]

Professor of public health and former editor of the British Medical Journal's *Tobacco Control* Simon Chapman commented:

'I think it's impossible to underestimate the global importance of this announcement. I can't think of any other consumer good anywhere in the world where governments have said this is entirely how you must package this product for consumers, and I think that's really appropriate because the number of people who are killed by tobacco every year globally and in Australia is astronomical.'[82]

Outgoing director of the Cancer Council Victoria and President of the International Union Against Cancer Professor David Hill stated:

'There is no greater barometer to the likely success of a proposed tobacco control initiative than the response of the tobacco industry...I commend the Australian government for its courage in tackling this vital public health issue and I urge all members of Parliament to take this opportunity to save the lives of thousands of young Australians by passing this legislation. It is time to say enough.'[83]

New Zealand Associate Health Minister Tariana Turia responded to the Australian release of draft legislation on 7 April 2011 stating:

'We are very supportive of today's announcement by Australian health minister Nicola Roxon and it is my expectation that New Zealand will inevitably follow their lead and look to introduce the plain packaging of tobacco products.'[84]

Cynthia Callard, Executive Director of Physicians for a Smoke-Free Canada remarked:

'The benefits of plain and standardized packaging for tobacco products are well established. This is a health measure supported at the international level by the World Health Organization's global public health treaty, the Framework Convention on Tobacco Control.'[85]

### **6.2 Financial market response**

While health groups and experts praised the move, financial markets appeared to view the legislation as a big risk for industry profitability. Investment bank, Citigroup, immediately issued a statement expressing the view that plain packaging was the 'biggest regulatory threat to the industry, as packaging is the most important way tobacco companies have to communicate with the consumer and differentiate their products.'[86] In January and March 2011 it continued to warn investors about the threat posed by packaging reforms.[87, 88]



### **6.3 Tobacco industry response**

Imperial Tobacco stated at the time of the Government's announcement that it would 'make every effort to protect its brands and associated intellectual property and including, if necessary, take legal action.'<sup>[89]</sup> , and repeated this position on the release of the draft legislation.

'Plain packaging has not been introduced in any country in the world and there is no evidence to support the government's claim that this will reduce smoking,' the company said in a statement.<sup>[90]</sup>

Presumably in anticipation of the legislation, Philip Morris International launched an entire [website](#)<sup>vi</sup> dedicated to plain packaging months prior to the announcement. The website features video interviews with retailers from Australia and the UK, an animated clip on why plain packaging will fail, and pages promoting the views that plain packaging won't work, violates trademark rights and will increase illicit trade. In response to the release of draft legislation, a spokesman for Philip Morris told AAP that plain packaging would:

'fuel the illicit trade in tobacco products.' 'We'll continue to oppose plain packaging in every way possible because of those serious issues that the government hasn't taken into account when pursuing this policy'.<sup>[90]</sup>

British American Tobacco's website also includes a position statement on plain packaging.<sup>[91]</sup> In addition to arguing that such legislation would not be effective, BAT claims:

'Generic packaging would make it harder to prevent smuggled and counterfeit products entering a market, eroding government tax revenue and disrupting efforts to tackle the illegal trade in tobacco products that plays a significant role in funding international crime and terrorism'.

In response to the Government's release of the exposure bill, a BAT Australasia spokesperson stated that such legislation will result in claims for compensation that would be borne by taxpayers.<sup>[92]</sup>

#### **Extensive requests under Freedom of Information legislation**

In October 2010 the Australian Senate Estimates Committee was informed that an unnamed tobacco company had made at least 19 requests through Freedom of Information provisions for information about Government deliberations on plain packaging going back to 1992.<sup>[93]</sup>

#### **Alliance of Australian Retailers**

In addition to their direct representations about the proposed legislation, British American Tobacco Australia, Philip Morris and Imperial Tobacco Australia also collaborated to fund a mass-media counter-campaign by the Alliance of Australian Retailers, an organisation established shortly before the commencement of the 2010 election campaign. The aim of the campaign was to stop the introduction of plain packaging.<sup>[94]</sup> Advertisements featuring portrayals of concerned retailers saying that plain packaging wouldn't work and would damage their business appeared in newspapers, on television and radio.<sup>vii</sup> Days after the launch of the campaign, several major retailers withdrew their support for the Alliance. Retailer Woolworths revoked its membership of the Australasian Association of Convenience Stores (AACS) over the campaign and demanded that its \$15,000 in annual fees be returned.<sup>[95]</sup> The AACS which includes companies Caltex, Shell, BP and Coles withdrew its support after Coles (which chairs the board of the AACS) objected to having been misled about the nature of the campaign.<sup>[95]</sup>

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<sup>vi</sup> <http://www.plain-packaging.com>

<sup>vii</sup> The ads can be viewed here: <http://australianretailers.com.au/latestnews.html>

On 10 September 2010, ABC television program *Lateline* revealed the contents of leaked internal documents, e-mails and contracts which showed the full extent of tobacco industry influence on the Alliance of Australian Retailers campaign.[96] On the day the Alliance was formed it received funds from Imperial Tobacco Australia (\$1 million), British American Tobacco Australia (\$2.2 million) and Philip Morris (\$2.1 million). Documents also showed that Philip Morris Australia sought from the lobbying and public relations firm, the Civic Group, advice and assistance for a campaign to stop plain packaging laws during the federal election. The Victorian Health Promotion Foundation (VicHealth) and the Public Health Association of Australia responded by calling on the Australian Government to legislate for complete bans on all tobacco industry advertising and to force tobacco companies to release full details of lobbying, political donations and marketing plans and budgets.[97]

## 7. Research relevant to major industry arguments against plain packaging

Health groups argue that the harmfulness and addictiveness of tobacco products is sufficient to warrant restriction of all forms of promotion. Packaging is clearly a form of promotion and therefore should not be allowed. However, plain packaging has been vigorously opposed by tobacco companies on each occasion that the idea has been proposed.<sup>viii</sup>

Industry arguments against plain packaging have included firstly that there is a lack of evidence that it would result in reduced smoking; secondly that it would be difficult for retailers resulting in loss of sales to discount outlets; thirdly that such legislation would breach international agreements concerning intellectual property and that for this reason the idea has been abandoned by all the countries that have previously considered it; that it and finally that it would facilitate illicit trade.

Research relevant to each of the industry's major claims about unintended consequences is described below.

### 7.1 Won't work

As indicated in Section 4 above, plain packaging has not yet been introduced anywhere in the world, so conclusions about its likely effectiveness have to be based on knowledge about the effects of packaging in general, and studies testing the reactions of respondents exposed to different packaging options under experimental conditions.

On the 4<sup>th</sup> May 2011, British American Tobacco released a report[98] prepared for it by consulting firm Deloitte described as an independent assessment of the effects of regulation of packaging on tobacco consumption. This detailed 98-page report[99] purports to assess the direct impact of what was termed 'pack space appropriation' on consumption of tobacco products, and also to describe a number of unintended consequences of such legislation.

The Deloitte report argues that legislation mandating health warnings has not been effective because it has failed to reduce the consumption of tobacco products in Australia and therefore that plain packaging legislation is also unlikely to be effective. It bases this assessment on the results of two analyses:

- i. an econometric analysis of consumption patterns in a number of countries that have introduced health warnings and
- ii. an event study looking at monthly-level consumption data following introduction of improved warnings in Australia.

Consumption is *not* an appropriate indicator of the effectiveness of health warnings which should only be conceived as one *necessary but not a sufficient contributor* to what prompts individuals to take up or stop smoking. In any case, a major error in the assumed timing of introduction of the Australian warnings undermines confidence in the validity of conclusions drawn from the Deloitte modelling—rotating health warnings were first introduced in Australia in 1987 not 1990.

Tucked away in Section 2.2.1 of Appendix B is a disclosure that indicates just how selective the data is that BAT has provided Deloitte for its analysis:

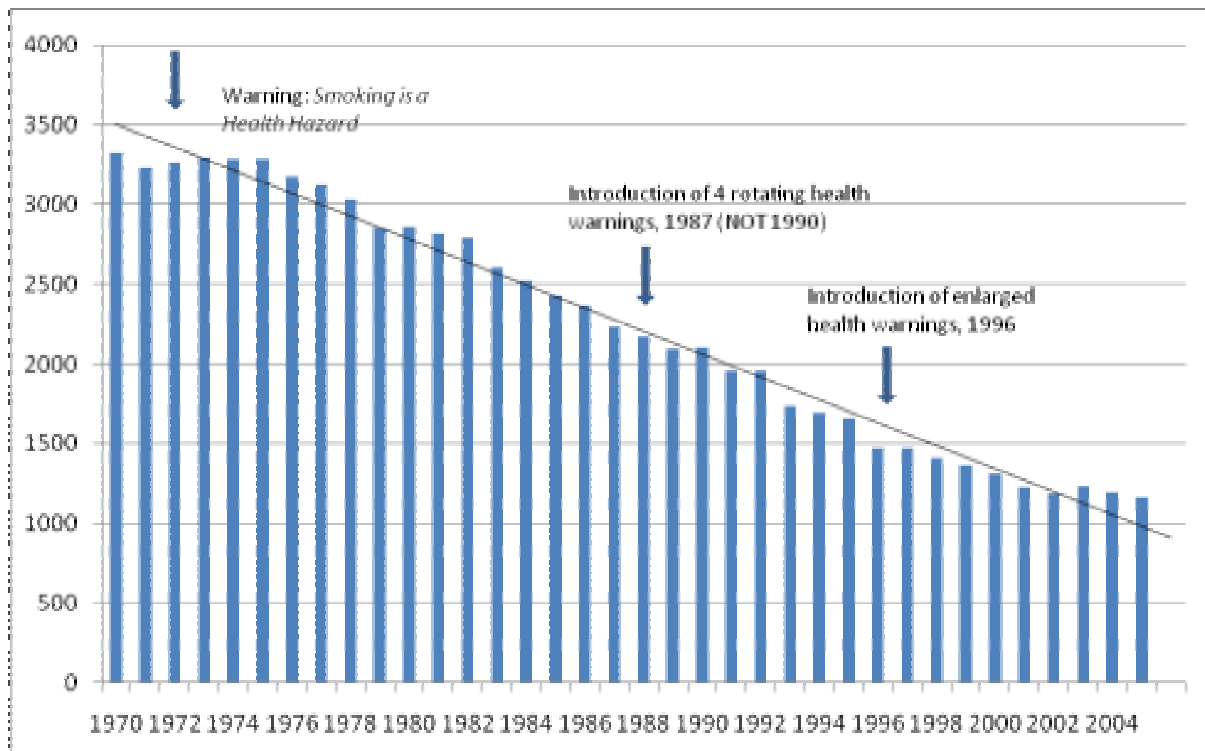
*Monthly brand-level consumption data for Australia has (sic) been provided by Nielsen. Since actual consumption volumes are not available, actual duty-paid*

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<sup>viii</sup> For a compilation of responses by tobacco companies to each of the various government inquiries see <http://www.smoke-free.ca/plain-packaging/industry-response.htm>

shipment volumes have been used for analysis. Due to data limitations, notable **brands with the most consistent data have been selected**. Monthly volumes have been converted to a quarterly series for structural analysis. Deloitte. 2011,[99] page71

Deloitte’s finding that sales of a selection of BAT products (the only products included in the analysis) did not decline more steeply than usual over particular periods does not prove that the market as a whole did not decline over those same periods. Interestingly, government data on *all* dutied tobacco products do in fact tell a somewhat different story, with total *per capita* weight of tobacco products subject to excise and customs duty declining more than what would be predicted by the trend-line following the introduction of the first three sets of warnings on cigarette packaging in Australia—refer Figure 7.



**Figure 7** Excise and customs duty receipts Australia 1970 to 2005\*—grams per person aged 16+ yrs

Sources:

Overseas Trade, ABS Catalogue no 78 8535 5, 1958-59 to 1962-63, Table 33 p793 1963-64 to 1967-8, Table 35, p 1050, 1968-69 to 1972-3, Table 32 p632; 1972-73 to 1976-77, Table 22 p 112.

Excise data for Australian Tobacco Products, supplied by John Broweleit, ABS Dec 1994, and Zigmont Mackinois, June 96 and Sept 96

Excise data for Australian tobacco products, supplied by International Trade Section, Australian Bureau of Statistics, March and Sep 1998.

Import clearance data for Australian Tobacco Products, 1981/2 to 1993/4, supplied by John Broweleit, International Trade, ABS Feb 1995, and Michael Ashly, Sept 1996

Customs data for Australian tobacco products, supplied by International Trade Section, Australian Bureau of Statistics, September and September, 1998

Population data from ABS Australian Demographic Statistics from Catalogue 3101.0

\*Last year for which excise data has been published—see AIHW 2007[100]

A large body of research has demonstrated that enhanced consumer information on tobacco packets have made warnings more noticeable and have increased awareness of the health risks of

smoking in Australia[101] [102] [103] [104] [105] [106] [107-109] [110] Canada, [111, 112] and the UK.[113]<sup>ix</sup>

As outlined in Section 5 above, there are strong grounds for believing that current packaging glamourises smoking and that plain packaging would improve the effectiveness of health warnings, reduce misconceptions about relative harmfulness of various brands and reduce the overall appeal of tobacco products in terms of perceived attractiveness of the pack, expectations about and experience of taste and perceptions about the kinds of people believed to be likely to use particular brands. The effects could be expected to be particularly strong among young people establishing their identity and image among their peers.

Senior staff of tobacco companies are not required to be expert in or spend time on the analysis of public policy out of academic interest. They do however have a fiduciary duty to company shareholders. Anyone paid on the basis of sales or in part with share parcels would have a personal financial interest in company sales and profitability. The intensity of opposition to plain packaging and improved health warnings by tobacco companies—and the time and money companies have invested in efforts to delay their introduction[115]— suggest that tobacco industry executives *do* believe that such measures will accelerate reductions in sales and company profits.

## **7.2 Will be difficult for retailers**

The Alliance of Australian Retailers has stated that plain packaging would make it more time-consuming for retailers to find cigarette packets when customers come in to make a quick purchase. With an erosion of convenience to the purchaser, the Alliance fears that more customers would turn to cheaper discount outlets.

Deloitte acknowledges that small to medium retailers believe that plain packaging will result in a shift in business to larger outlets. This argument ignores the fact that small retailers will still be located more conveniently to smokers than will large retailers. It also ignores the fact that staff in supermarkets and tobacconists will face exactly the same challenges in identifying and selecting stock. As Deloitte points out in its review of research on possible unintended consequences of plain packaging legislation, commentators such as the UK Department of Health have pointed out that stock management could be assisted and transaction times minimised through use of branded bulk containers and alphabetical ordering.

The draft legislation released by the Government[75] proposed that the brand name be large enough to be seen by retailers.

## **7.3 Represents an acquisition of intellectual property**

The major objection to plain packaging by tobacco companies internationally is the idea that it represents an acquisition of intellectual property and as such would be prohibited under the terms of various international trade agreements, a theme covered in all the submissions by companies to government inquiries.[116]

One of the most vocal opponents of the proposed legislation in Australia has been the Institute of Public Affairs. The Institute has received widespread media coverage for its views that plain

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<sup>ix</sup> In May 2009 the International Tobacco Control Policy Evaluation Project released a comprehensive assessment of the impact of health warnings internationally. The ITC Project is an ongoing international study that now covers 19 countries around the world.

114. Fong GT, Cummings KM, Borland R, Hastings G, Hyland A, Giovino GA, et al. The conceptual framework of the International Tobacco Control (ITC) Policy Evaluation Project. *Tobacco Control* 2006;15(suppl. 3):iii3-iii11. Available from: [http://tc.bmjournals.com/cgi/content/abstract/15/suppl\\_3/iii3](http://tc.bmjournals.com/cgi/content/abstract/15/suppl_3/iii3)

packaging legislation is equivalent to acquiring the intellectual property of tobacco companies and that the Government would be forced to compensate tobacco companies to the tune of ‘\$3 billion dollars annually.’[117]

The \$3b mentioned in the Institute’s report appears to be very roughly calculated based on the amount of total turnover of sales of tobacco products in Australia less Government tax revenue. It assumes that the Government would have to compensate not just for profits forgone but for the total value of sales. It makes no attempt to net off the costs of production and distribution which would of course no longer be incurred if products were no longer sold. In any case, the Institute’s views about government liability were quickly dismissed, with one senior law expert from Monash University commenting that this line of argument was:

‘so weak, it’s non-existent. There is no right to use a trademark given by the World Trade Organization agreement. There is a right to prevent others using your trademark but that does not translate into a right to use your own trademark.’[118]

The Institute’s arguments were also comprehensively rebutted in a seminar organised by the Intellectual Property Research Institute of Australia.[119] As explained at the seminar and expanded on in an article in the Australian Intellectual Property Law Bulletin, governments are permitted to amend their intellectual property laws to protect public health. Plain packaging does not equate to acquiring the intellectual property of tobacco companies. Governments do not intend to use the logos and tobacco companies will still maintain full rights to their logos and brand imagery; they will simply no longer be able to use these marketing tools on cigarette packages.[120]

In an article by an investigative journalist in 2003[121] a spokesperson for the Institute of Public Affairs was reported as confirming that the Institute received funding from British American Tobacco and Philip Morris.[122]

The draft legislation proposes that in the event (which the Government considers unlikely) that preventing the use of trademarks is found to be contrary to Section 51 (xxxi) of the Constitution, then trademarks would be allowed but would have to conform to restrictions (for instance on size and placement) that would be specified in regulations.

## ***7.4 Has been considered and the idea abandoned in other countries***

The idea of plain packaging was first conceived in Canada in the late 1980s after tobacco control groups considered testimony in a legal challenge to Canadian legislation banning tobacco advertising during which an Imperial Tobacco executive agreed that smokers were generally unable to discriminate between brands when blind-tested and that packaging was vital.[123]

‘It’s very difficult for people to discriminate blind-tested. Put it in a package and put a name on it, then it has a lot of product characteristics’ (p1).[123]

This corroborated an earlier comment made by a British American Tobacco official that ‘one of every two smokers is not able to distinguish in blind (masked) tests between similar cigarettes ... for most smokers and the decisive group of new, younger smokers, the consumer’s choice is dictated more by psychological, image factors than by relatively minor differences in smoking characteristics’ (p5).[124]

Proposals for plain packaging were put to and considered by governments on several occasions over the following two decades<sup>x</sup>. On each occasion the proposals have been vigorously opposed with dire warnings about legal action. A major report by Canadian group Physicians for a Smokefree Canada has documented extensive information about efforts by the tobacco industry to pursue the trademark issue as a key plank of a global strategy to oppose plain packaging.[125] While this

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<sup>x</sup> See Timeline by Physicians for a Smokefree Canada, <http://www.smoke-free.ca/plain-packaging/history.htm>

strategy was successful in forestalling legislation in New Zealand in 1993 and Canada and Australia in 1995, the report notes...

What the companies did not tell the Australian Senate was that 2 years previously they had sought and received advice that they had 'no basis for any legal challenge' and that the British government had told them they 'did not have a case.' Nor did they mention that their arguments had been soundly refuted by WIPO only months earlier.(p 23)[125]

For the full analysis, see <http://www.smoke-free.ca/plain-packaging/documents/2009/packagingphoneyipclaims-june2009-a4.pdf>

In the wake of increased scrutiny of these legal arguments[125] and following the Australian Government's announcements, several countries are re-examining proposals for plain packaging.

In November 2011 the UK Health Secretary Andrew Lansley issued a policy document suggesting that 'the government will look at whether the plain packaging of tobacco products could be an effective way to reduce the number of young people taking up smoking and to help those who are trying to quit smoking.'[126] On 9 March 2011, the UK government released a tobacco control plan which repeated its statement of intention to consider plain packaging. [Healthy Lives, Healthy People: A Tobacco Control Plan for England](#) [127]

'We will consult on options to reduce the promotional impact of tobacco packaging, including plain packaging, before the end of 2011.'[127] p 22

In its response to the report of the Maori Affairs Committee which some months previously had recommended plain packaging,[128] the New Zealand Government stated on the 14th March 2011:

'The Government is monitoring Australia's progress on its proposal to legislate for plain packaging of tobacco products in 2012, and will consider the possibility of New Zealand aligning with Australia. New Zealand Government officials have commenced discussions with respective Australian counterparts on the possible alignment. An initial report back to Cabinet is due by 30 June 2011.'[129] p.7-8

Belgium's Health Minister has also recently expressed support for plain packaging. In response to a question in parliament he stated:

*'With plain packaging, only the brand name is displayed in a standard format. The impact of such labelling to reduce the attractiveness [130] and increase the impact of health warning messages, especially for young new smokers, has been shown in several studies. ...I continue to support such measures, including at the European level.'* (unofficial translation) [Transcript of remarks](#) [131]

And in December 2010 French parliamentarian, Yves Bur, introduced a bill to implement plain packaging.[132]

## **7.5 Will reduce price and competition in the tobacco market**

The Deloitte international report[99] provides a useful review of the reports commissioned on this topic by Philip Morris and Japan Tobacco International. The Philip Morris-sponsored study by LECG consulting concluded that plain packaging will lead to price competition and as a result lower prices across the whole market.[133] This would occur due to reduced product differentiation and the entry of unbranded products. The Europe Economics study by contrast predicted that prices would fall only for premium brands, with growing and niche brands likely to be hit the hardest. Little information is available internationally about what happens to consumption of tobacco products when prices fall. This has been a rare occurrence over the past four decades. LECG's estimate of an increase of between 2.6% and 16.6% in sales (assuming a 4.8% to 19.2% fall in prices) appears to be assuming price sensitivity of between +0.54 and +0.86%. This is substantially higher than the accepted estimates of price sensitivity in the event of price *increases* which range between about –

0.3 and – 0.5%[134] and would appear to be an estimate based on brand shifting rather than the likely effects across a whole market. That is, while it is plausible that sales of a particular brand might increase by 3% if it becomes 5% cheaper and if its competitors remain at the same price, it does not follow that sales of all products would increase by 5% if all products became 3% cheaper. This is particularly so in an environment which increasingly limits opportunities for smoking. Reductions in prices are likely to be most severe in premium brands which are commonly smoked by less price-sensitive smokers. The Europe Economics study[135] concluded that while the short term impact was likely to be lower prices, in the longer term prices could increase as ‘market power and loss of innovation effects began to dominate’ Deloitte[99] p 42.

Whatever happens, as Deloitte acknowledges, price reductions could easily be offset by the Government further increasing excise and customs duties on tobacco products.

## **7.6 Will facilitate illicit trade**

Several companies have argued that plain packaging would facilitate illicit trade and increase use of illicit products among minors.[91]

Between the 20<sup>th</sup> and early May 2011 the Alliance of Australian Retailers (AAR) ran A4-sized advertisements in several Australian newspapers warning that illicit tobacco products were “being smoked by children as young as 14 years old”; that 15.9% of tobacco products used in Australia are illicit (that is products on which neither excise or customs duty has been paid); and that revenue forgone on these products would amount to over \$1.1b—see Figure 8.

The claims about teenage smoking are based on data from the National Drug Strategy Household Survey[136] which found in 2007 that 4.5% of teenagers aged 14 to 19 years reported having ever tried illicit tobacco products. It should be noted however that fewer than 1% (+/- 50%) indicated that they used it “half the time or more”. The figures quoted in the report relate to 14–19 year olds as a group. Prevalence of use for teenagers of each age (14, 15, 16 and so on) cannot be determined from examination of the report. Detailed examination of the data file on which the report was based however shows that only 1.2% of 14-year-olds reported *ever* having tried unbranded loose tobacco. Most importantly, examination of that file reveals that **no 14-year-olds at all reported currently smoking unbranded loose tobacco.**

Not only is the claim in the first of the advertisements depicted in Figure 8 outrightly false, it is also disingenuous. Sales of cigarettes to school-children have certainly declined over the last 20 years, however it is notable that in 2008 almost 12% of students aged 12 to 15 years who regularly smoked, reported that they acquired their last packet of cigarettes by purchasing it from a retailer such as a supermarket, milk bar, petrol station or convenience store—i.e. one of the sorts of stores that the AAR represents! Almost 15% of 14-year-olds reported that it would be “easy” or “very easy” for them to buy cigarettes from such retailers.[137]

The estimate of the proportion of tobacco products used in Australia that are illegal (used in the second advertisement depicted in Figure 8) is based on a report prepared for the three major tobacco companies by Deloitte,[138] a report which has been heavily criticised by several public health specialists who argue that it is simply not credible that one in every seven cigarettes in Australia comes out of an unmarked plastic bag. The response rates for the survey on which the report is based appears to be only around 25%, substantially lower than the very high percentages of people who typically agree to take part in surveys sponsored by government or charitable agencies. The total estimated amount of tobacco smoked appears to be calculated by looking at the amount purchased by those who exclusively smoke illicit tobacco and applying this figure to *all* users. And yet results of the National Drug Strategy Household Survey indicate that most people who have ever used illicit tobacco products no longer use them, and many that do still use them only use them occasionally. While the Deloitte estimates of the average quantity of illicit tobacco used are such that all (100%) of the 15.7% of smokers who purchased illicit tobacco in the last year were using on



average 25 illicit cigarettes each day for 365 days of the year, the Government's National Drug Strategy Household Survey in 2007[136] found that only 0.2% of Australians<sup>xi</sup>—that equates to 1.2% of current smokers—used illicit tobacco products half the time or more. Even allowing for illicit users smoking somewhat more than average, this would make illicit tobacco about 2–3% of the total market—substantially lower than the 15.9% being touted by BAT and the Alliance of Australian Retailers.

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<sup>xi</sup> Refer to Table 4.2 on page 26 of the report at <http://www.aihw.gov.au/publications/index.cfm/title/10674>

# 14 year olds smoking?

Highly organised criminal networks are reported to smuggle illegal tobacco into Australia - and it's being smoked by children as young as 14 years old.\* We believe the federal government's policy for plain packaging of cigarettes will only make it easier for criminals to sell cheap counterfeit cigarettes. It's a problem that cannot be ignored.

Why isn't the government listening? Plain packaging is plain dangerous.  
Find out more at [www.australianretailers.com.au](http://www.australianretailers.com.au)



**18+**  
Minimum age for sale

The AAR is a self-funded, non-profit organisation with 12,000 members across Australia and NZ. It supports the legal and ethical tobacco industry and is not affiliated with any tobacco company. The AAR is a member of the Australian Retailers Association (ARA) and the Australian Retailers Association (ARA) and is a member of the Australian Retailers Association (ARA) and the Australian Retailers Association (ARA).  
\*Source: 2010 National Drug Strategy Household Survey, Australian Institute of Health and Welfare (AIHW)

# 15.9% illegal

In Australia, the trade in illicit tobacco including counterfeit cigarettes is equivalent to an estimated 16% of the legal market and is largely controlled by highly organised criminal networks in a multi-million dollar black market. We believe the federal government's policy for plain packaging of cigarettes will only make it easier for these criminals to sell cheap counterfeit cigarettes and make massive illegal profits at the expense of all Australians.

Why isn't the government listening? Plain packaging is plain dangerous.  
Find out more at [www.australianretailers.com.au](http://www.australianretailers.com.au)



The AAR is a self-funded, non-profit organisation with 12,000 members across Australia and NZ. It supports the legal and ethical tobacco industry and is not affiliated with any tobacco company. The AAR is a member of the Australian Retailers Association (ARA) and the Australian Retailers Association (ARA) and is a member of the Australian Retailers Association (ARA) and the Australian Retailers Association (ARA).  
\*Source: 2010 National Drug Strategy Household Survey, Australian Institute of Health and Welfare (AIHW)

# \$1.12 billion lost taxes in 2010

Last year in Australia, approximately \$1.12 billion\* of federal tobacco excise tax revenue was lost because organised criminal networks smuggled and sold illegal tobacco including counterfeit cigarettes. This money could have been spent on programs important to Australians - without raising taxes. We believe the federal government's policy for plain packaging of cigarettes will only make it easier for these criminals to sell cheap counterfeit cigarettes and make massive illegal profits at the expense of all Australians.

Why isn't the government listening? Plain packaging is plain dangerous.  
Find out more at [www.australianretailers.com.au](http://www.australianretailers.com.au)

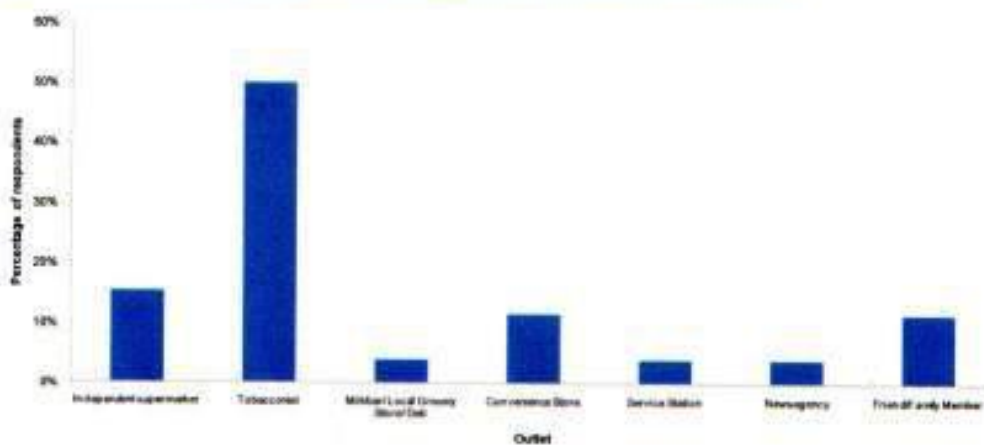


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\*Source: 2010 National Drug Strategy Household Survey, Australian Institute of Health and Welfare (AIHW)

**Figure 8** Advertisements placed in Melbourne Age and other Australian newspapers, 20<sup>th</sup> April to early May 2011

The third AAR advertisement shown in Figure 8 states that “\$1.12b of federal tobacco excise tax revenue was lost because organised criminal networks smuggled and sold illegal tobacco including counterfeit cigarettes”. Based on data from the National Drug Strategy Household Survey about the frequency of use among those who still use unbranded tobacco products, the revenue forgone would be more like \$100m. The Deloitte report from which this estimate is drawn indicated that people smoking chop chop and other unbranded tobacco products were no longer buying it from local markets as had been the case some years ago, but were now predominantly buying it from ordinary tobacco retailers. No respondents to the survey reported purchasing product from informal dealers; 70% of respondents reported that they purchased illicit tobacco ordinary retailers including those the AAR represents and, most frequently, specialist tobacconists (50%)—see Figure 9. If use of illicit tobacco is as widespread as the tobacco industry claims, then Australian retailers including those represented by the AAR must be purchasing at least 12% of the products they sell from ‘criminal gangs’.

Figure 9: Identified major supply outlets for unbranded tobacco products (2009-2010)



Source: Roy Morgan Research 2009; Roy Morgan Research 2010a

Source: report by Deloitte. Commissioned by BATA Ltd, Philip Morris Ltd and Imperial Tobacco Australia Ltd, Supply of Illicit Tobacco, 2011, p22

Draft legislation released by the Australian Government[75] specifies that anti-counterfeiting measures would be allowed on packs including alphanumeric codes, covert markings and forensic-level differentiation of the content of the cardboard and other material.

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